

**UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT**

Docket # _____

STIPULATION WITHDRAWING PREMATURE APPEAL

It appearing that the above appeal is premature because some claims are still pending in the District Court, i.e., _____
FRCP 54(b), and no certification has been granted, WHEREFORE,

The undersigned hereby stipulate that the above-captioned appeal is hereby withdrawn without costs and without attorneys' fees pursuant to Rule 42(b) of the Federal Rules of Appellate Procedure. This stipulation shall not preclude any appeal from a final judgment, i.e., adjudicating all the claims and the rights and liabilities of all the parties, or an appeal following certification, FRCP 54(b), in accordance with Circuit requirements. See, e.g., *L.B. Foster v. America Piles*, 138 F. 3d 81(2d Cir. 1998); *Harrison v. Harris Corp.*, 947 F. 2d 627, 630-631 (2d Cir. 1991) (requiring brief, reasoned explanation.)

The undersigned further stipulate that a signature on this document by facsimile shall be sufficient as an original.

Dated:

Attorney for Appellant

Dated:

Attorney for Appellee

Counsel: Please print name and
firm under signature.