

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT**
Civil Action No. 2:16-cv-16-wks

VERMONT RAILWAY, INC.,)	
Plaintiff,)	
)	
v.)	Notice of Appeal
)	
TOWN OF SHELBURNE and)	
JOE COLANGELO in his capacity)	
as Town Manager and)	
Zoning Enforcement Officer,)	
Defendants.)	

NOTICE OF INTERLOCUTORY APPEAL

Notice is hereby given that TOWN OF SHELBURNE, Defendant in the above named case, hereby appeals to the United States Court of Appeals for the Second Circuit from the United States District Court’s Opinion and Order—denying Defendant’s motion for preliminary injunction; granting Plaintiff’s motion for judgment on the pleadings with respect to Defendant’s Counterclaim Counts III-V; and granting in part Plaintiff’s request for a declaratory judgment—entered in this action on the 29th day of June, 2016.

As this case has not been resolved fully, Defendant only appeals the denial of its motion for preliminary injunction. *See* 28 U.S.C. § 1292(a) (“[T]he courts of appeal shall have jurisdiction of appeals from: (1) Interlocutory orders of the district courts of the United States . . . granting, continuing, modifying, refusing or dissolving injunctions, or refusing to dissolve or modify injunctions, except where a direct review may be had in the Supreme Court . . .”); *see, e.g., Omega Importing Corp. v. Petri-Kine Camera Co., Inc.*, 451 F.2d 1190 (2d Cir. 1971) (reversing the denial of a temporary injunction); *Ames v. Associated Musicians of Greater N.Y., Local 802, AFM*, 359 F.2d 777 (2d Cir. 1966) (per curiam) (affirming the



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denial of a motion for preliminary injunction). Defendant reserves its remaining appeal rights until the entry of a final judgment. *See* 28 U.S.C. § 1291.

Dated in Burlington, Vermont this 28th day of July, 2016.

Respectfully submitted,
TOWN OF SHELBURNE
By and through its counsel,

/s/ Claudine C. Safar, Esq.
Claudine C. Safar, Esq.
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CERTIFICATE OF SERVICE

I, Claudine Safar, Esq., attorney for the Town of Shelburne, hereby certify that on July 28, 2016 I electronically filed the Town's *Notice of Interlocutory Appeal* with the Clerk of the Court using the CM/ECF system which will send notification of such filings to the following: Eric A. Poehlmann, Esq. and Marc B. Heath, Esq.

Dated in Burlington, Vermont this 28th day of July, 2016.

Respectfully Submitted,
TOWN OF SHELBURNE
By and through its counsel,

/s/ Claudine C. Safar, Esq.
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