

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

_____)	
T-Peg, Inc. and Timberpeg East, Inc.)	
)	
Plaintiffs,)	
)	
v.)	No. C-03-462-M
)	
Stanley J. Isbitski and Vermont Timber Works, Inc.)	
)	
Defendants.)	
_____)	

PLAINTIFFS' ANSWER AND AFFIRMATIVE DEFENSES TO COUNTERCLAIMS

NOW COME the Plaintiffs, T-Peg, Inc. and Timberpeg East, Inc. ("Timberpeg"), by and through their attorneys, Devine, Millimet & Branch, Professional Association, and respectfully answer the counterclaims of Defendant Vermont Timber Works, Inc. and assert affirmative defenses as follows:

Jurisdiction and Venue

1. Timberpeg admits the allegations in paragraph 1 of the Counterclaim.
2. Timberpeg admits the allegations in paragraph 2 of the Counterclaim.
3. Timberpeg admits venue in this district is proper, but otherwise denies the allegations and characterizations in paragraph 3 of the Counterclaim.

Count I
Abuse of Process

4. Timberpeg admits the allegations in paragraph 4 of the Counterclaim.
5. Timberpeg denies the allegations in paragraph 5 of the Counterclaim.
6. Timberpeg denies the allegations in paragraph 6 of the Counterclaim, and further states that the allegations in the Complaint speak for themselves, and denies any characterization of the allegations of the Complaint in paragraphs 6(a) through (m).

7. Answering paragraph 7 of the Counterclaim, Timberpeg admits that its representatives visited the Isbitski property and viewed the Timberpeg plans on file at the Town of Salisbury Building Department, and denies the remaining allegations in paragraph 7.

8. Timberpeg denies the allegations in paragraph 8 of the Counterclaim.

9. Timberpeg denies the allegations in paragraph 9 of the Counterclaim.

Count II
Wanton, Malicious And/Or Oppressive Conduct

10. Timberpeg repeats and realleges its answers to paragraphs 1 through 9 of the Counterclaim as if restated in full herein.

11. Timberpeg denies the allegations in paragraph 11 of the counterclaim.

Affirmative Defenses

1. The Counterclaims fail to state claims upon which relief may be granted.

2. The Counterclaims are barred by the doctrine of unclean hands.

3. As discovery has not commenced, Timberpeg reserves its right to assert additional affirmative defenses as discovery makes apparent.

WHEREFORE, in addition to the affirmative relief requested in its Complaint, Timberpeg respectfully requests that this Court:

A. Enter judgment in Timberpeg's favor against Defendant Vermont Timber Works, Inc. on the Defendant's Counterclaims;

B. Award Timberpeg its reasonable attorneys' fees and costs incurred; and

C. Grant such other and further relief as this Court deems just, equitable and proper.

Timberpeg requests a trial by jury on all claims so triable.