

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

T-Peg, Inc. and Timberpeg East, Inc.)	
)	
Plaintiff,)	
)	
v.)	No. C-03-462-M
)	
Vermont Timber Works, Inc. and Douglas Friant,)	
)	
Defendants.)	

MEMORANDUM IN SUPPORT OF PLAINTIFFS’ BILL OF COSTS

NOW COME the plaintiffs, T-Peg, Inc. and Timberpeg East, Inc. (“Timberpeg”), by and through their attorneys, Devine, Millimet & Branch, Professional Association, and pursuant to Local Rule 54.1 respectfully submit the following Memorandum in Support of Plaintiffs’ Bill of Costs.

1. On August 18, 2006, the United States Court of Appeals for the First Circuit issued an opinion and judgment remanding the above-captioned action to this Court for further proceedings. In conjunction with issuing its decision, the First Circuit Court of Appeals also mandated that the Appellees, Vermont Timber Works, Inc. and Douglas Friant (collectively “VTW”), be taxed the costs of the appeal mounted by Timberpeg.

2. Pursuant to FRAP 39, the cost for docketing the notice of appeal is taxable in the district court for the benefit of the party entitled to costs on appeal. In this case, Timberpeg incurred a cost of \$255.00 for docketing the appeal with this Court. FRAP 39 further provides that the fee for filing the notice of appeal is taxable in the district court.

3. The Bill of Costs filed in conjunction with this Memorandum itemizes the docketing fee Timberpeg paid in connection with its appeal to the First Circuit.

4. The bill of costs must be filed within 14 days after entry of judgment. See FRAP 39(d). The First Circuit opinion and judgment issued on August 18, 2006, so Timberpeg's bill of costs is timely.

5. Timberpeg asked VTW to pay this cost without requiring Timberpeg to file the bill of costs and this Memorandum, but Timberpeg has not received a response from VTW. See L.R. 7.1.

6. Given the nature of the relief sought by this Memorandum, Timberpeg has not sought the assent of VTW. L.R. 7.1(c).

WHEREFORE, Timberpeg respectfully requests that this Court:

- A. Tax \$255.00 to VTW for the cost Timberpeg incurred in this Court for its appeal to the First Circuit Court of Appeals and order VTW to pay same to Timberpeg; and
- B. Grant such other and further relief as this Court deems just and equitable.

Respectfully submitted,

T-PEG, INC. AND TIMBERPEG EAST, INC.

By their attorneys,

DEVINE, MILLIMET & BRANCH,
PROFESSIONAL ASSOCIATION

Dated: August 31, 2006

/s/ Jonathan M. Shirley

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CERTIFICATE OF SERVICE

I, Jonathan M. Shirley, hereby certify that true and correct copies of the foregoing Memorandum in Support of Plaintiffs' Bill of Costs was served upon W.E. Whittington, Esq., counsel for the defendants, via electronic transmission in accordance with the Court's Administrative Procedures for Electronic Case Filing on August 31, 2006.

/s/ Jonathan M. Shirley

Jonathan M. Shirley (#16494)