

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.)	
_____)	

**ASSENTED-TO MOTION FOR RECONSIDERATION
OF DECEMBER 7 ORDER**

NOW COME the plaintiffs, T-Peg, Inc. and Timberpeg East, Inc. (“Timberpeg”), by and through their attorneys, Devine, Millimet & Branch, Professional Association, and respectfully submit this Assented-To Motion for Reconsideration of this Court’s Order of December 7 and state as follows:

1. On December 7 Timberpeg received electronic notification of an order issued by this Court, and received paper notification on December 17. A copy is attached hereto as Exhibit A. Timberpeg now requests reconsideration.
2. The Order pertained to Timberpeg’s response to a pleading filed by the defendant Vermont Timberworks, Inc. (“VTW”) entitled “Objection to Plaintiff’s Expert Testimony.” Though styled as an objection, that pleading was actually the principal pleading on that particular issue. VTW, in other words, was not objecting to a motion

Timberpeg filed, but rather was submitting VTW's challenge to Timberpeg's proposed expert testimony.

3. Timberpeg filed a response to that objection, believing that an objection to the objection would be improper in form. It appears, however, that this Court viewed Timberpeg's responsive pleading as a reply, which, under the local rules, requires leave of court.

4. Timberpeg believes that this Court misunderstood the nature of Timberpeg's response to VTW's objection. Timberpeg's response is not a reply, but rather in the nature of an objection to a principal motion. Accordingly, Timberpeg respectfully requests that this Court reconsider the Order, and accept Timberpeg's response as originally filed. Timberpeg's original response is attached hereto as Exhibit B, and Timberpeg respectfully requests that this Court file and docket that response.

5. Counsel for VTW, W.E. Whittington, Esquire, has been contacted and assents to the relief requested herein.

6. Due to the discretionary nature of the relief requested herein, no accompanying memorandum of law is necessary.

WHEREFORE, Timberpeg respectfully requests that this Court:

A. Reconsider its Order rejecting Timberpeg's response to VTW's challenge to plaintiff's expert testimony;

B. File and docket Timberpeg's response, a copy of which is attached hereto as Exhibit B; and

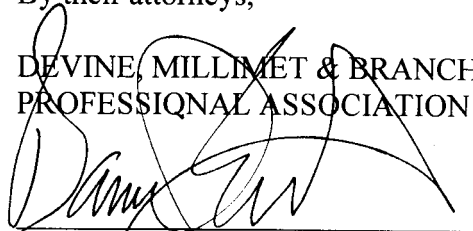
C. Grant such further and other relief as this Court deems just, equitable and proper.

Respectfully submitted,

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

By their attorneys,

DEVINE, MILLIMET & BRANCH,
PROFESSIONAL ASSOCIATION



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Dated: December 20, 2004

Of Counsel:

Stephen S. Woods, Esquire (#8240)

General Counsel for Plaintiffs

Timberpeg East, Inc.

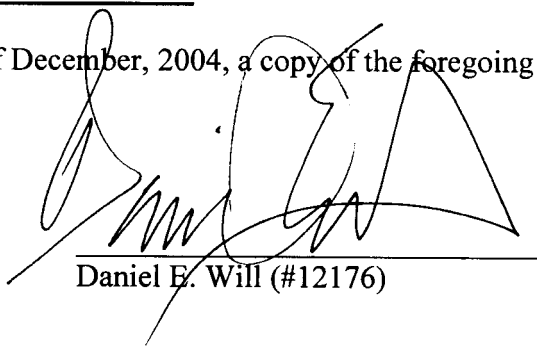
c/o 68 Lyme Road

Hanover, NH 03755

(603) 643-6200

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of December, 2004, a copy of the foregoing was forwarded to W.E. Whittington, Esquire.



Daniel E. Will (#12176)