

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE

T-PEG, INC and )  
TIMBERPEG EAST, INC., )  
Plaintiffs, )  
 )  
vs. ) No. 03-CV-462-M  
 )  
VERMONT TIMBER WORKS, INC., )  
And DOUGLAS FRIANT, )  
Defendants. )

DEFENDANTS' MOTION TO CONTINUE TRIAL  
AND RELATED PRE-TRIAL DATES AND FILINGS  
[NON-ASSENTED]

Defendants, Vermont Timber Works, Inc. ("VTW") and Douglas Friant ("Friant"), move to continue trial, and the following related pre-trial dates and filings, based on the medical requirements of their counsel:

<u>Scheduled Date</u>	<u>Event</u>	<u>Status/Requested Postponement</u>
1/31/05	Pretrial materials	Done, but depending on motion rulings, it may be appropriate to re-submit
2/14/05	Objections	Request postponement until 3/30/05
2/18/05	Final Pre-Trial conference	Request postponement until April 2005, but not April 13-22
3/01/05	Trial	Request postponement until May 2005

In support of this motion, defendants state:

1. The undersigned counsel has been diagnosed with cancer and on February 3 had surgery scheduled for February 15. Counsel is informed that after surgery he will likely need to take approximately four weeks off of work, and thereafter he will likely be able to work on a reduced schedule (i.e., to handle routine motion practice), and he should be able to handle a trial by May 2005. Defendants (and counsel) want to complete this case as soon as possible.

2. Counsel is a sole practitioner, and it would be completely impractical for defendants to engage new counsel to handle the case on the current schedule.

3. In addition, there are numerous outstanding motions, the determinations on which may significantly reduce the outstanding issues. Rulings on these motions would enable both sides to revise and re-submit their pre-trial materials in a manner which would likely be of greater benefit to the Court.

4. In accordance with Local Rule 7.2(d), counsel certifies that he has notified defendants of this motion, and they concur with it.

5. No legal memorandum is submitted with this motion as the issues are non-legal and the relief is in the discretion of the Court.

6. The undersigned e-mailed a copy of this motion to plaintiffs' counsel, and a request for assent, the morning of February 4, but counsel advised he would not be able to respond by the end of the day. Because defendants want to bring this motion to the Court's attention promptly, they are filing it, indicating non-assent to the relief requested.

Date: February 4, 2005

VERMONT TIMBER WORKS, INC.  
and DOUGLAS FRIANT,  
Defendants,

By: W. E. Whittington  
Their Attorney

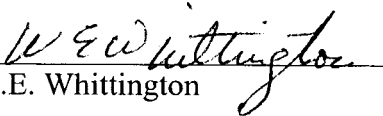
W. E. Whittington (Bar No. 6916)  
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CERTIFICATE OF SERVICE

I hereby certify that on February 4, 2005, I served the foregoing pleading on the following counsel of record, by first class mail:

Daniel E. Will, Esq.  
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Stephen S. Woods, Esq.  
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W.E. Whittington