

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
Ft. Lauderdale Division

Case No.:

02-60257

STATE CONTRACTING & ENGINEERING
CORPORATION, a Florida Corporation,

Plaintiff,

vs.

CONDOTTE AMERICA, INC., a Florida corporation,
f/k/a RECCHI AMERICA, INC.;
THE MURPHY CONSTRUCTION CO.,
a Florida corporation; THE HARDAWAY COMPANY,
a Georgia corporation; HUBBARD CONSTRUCTION
COMPANY, a Florida corporation;
BALFOUR BEATTY CONSTRUCTION,
INC., a Delaware corporation; COMMUNITY
ASPHALT CORP., a Florida corporation; and, HANSON
PIPE & PRODUCTS SOUTHEAST, INC., f/k/a JOELSON
CONCRETE PIPE COMPANY, INC.

Defendants.

CIV - HURLEY
MAGISTRATE JUDGE
LYNCH

ORIGINAL COMPLAINT

For its Complaint, the Plaintiff, STATE CONTRACTING & ENGINEERING CORPORATION, states as follows:

JURISDICTION AND PARTIES

1. The Plaintiff, STATE CONTRACTING & ENGINEERING CORPORATION ("SCEC"), is a corporation organized under the laws of the state of Florida having its principal place of business in Hollywood, Broward County, Florida.
2. The Defendant, CONDOTTE AMERICA, INC. f/k/a RECCHI AMERICA, INC. (hereinafter "CONDOTTE" or "COMPETING CONTRACTOR"), is a corporation organized under the

laws of the state of Florida, having its principal place of business in Coral Gables, Miami-Dade County, Florida. Upon information and belief, CONDOTTE is engaged in the business of road construction and related projects throughout the state of Florida, including the Southern District of Florida.

3. The Defendant, THE MURPHY CONSTRUCTION CO. (hereinafter "MURPHY" or "COMPETING CONTRACTOR"), is a Florida corporation having its principal place of business in the city of West Palm Beach, Palm Beach County, Florida. Upon information and belief, MURPHY is engaged in the business of road construction and related projects throughout the state of Florida, including the Southern District of Florida.
4. The Defendant, The HARDAWAY COMPANY (hereinafter "HARDAWAY" or "COMPETING CONTRACTOR"), is a Georgia corporation having a place of business address located in Columbus, Georgia. Upon information and belief, HARDAWAY is engaged in the business of road construction and related projects throughout the state of Florida, including the Southern District of Florida.
5. The Defendant, HUBBARD CONSTRUCTION COMPANY (hereinafter "HUBBARD" or "COMPETING CONTRACTOR"), is a Florida corporation having a place of business address located in Winter Park, Florida. Upon information and belief, HUBBARD is engaged in the business of road construction and related projects throughout the state of Florida, including the Southern District of Florida.
6. The Defendant, BALFOUR BEATTY CONSTRUCTION, INC. (hereinafter "BALFOUR" or "COMPETING CONTRACTOR"), is a Delaware corporation having a place of business address located in Atlanta, Georgia. Upon information and belief, BALFOUR is engaged in

the business of road construction and related projects throughout the state of Florida, including the Southern District of Florida.

7. The Defendant, COMMUNITY ASPHALT CORP., (hereinafter "COMMUNITY" or "COMPETING CONTRACTOR"), is a Florida corporation having a principal place of business address located in Hialeah, Miami-Dade County, Florida. Upon information and belief, COMMUNITY is engaged in the business of road construction and related projects throughout the state of Florida, including the Southern District of Florida.
8. The Defendant, HANSON PIPE & PRODUCTS SOUTHEAST, INC., f/k/a JOELSON CONCRETE PIPE COMPANY, INC. (hereinafter "HANSON" or "COMPETING CONTRACTOR"), is a corporation organized under the laws of the state of Florida, having its principal place of business in Venice, Florida. Upon information and belief, HANSON is engaged in the business of road construction and related projects throughout the state of Florida, including the Southern District of Florida.
9. This is an action arising under the Patent Laws of the United States, Title 35 U.S.C. §281 *et seq.*
10. The Court has jurisdiction pursuant to 28 U.S.C. §§ 1331; 1338.
11. Venue is proper in this District under 28 U.S.C. §§1391(b), 1391(c) and 1400(b).

GENERAL ALLEGATIONS

12. SCEC is engaged in the business of heavy and highway construction.
13. Since at least as early as May 9, 1997 and no later than February 19, 2002, SCEC was the owner of all substantial right, title and interest in and to U.S. Pat. No. 5,234,288 ('288) and U.S. Pat. No. 5,429,455 ('455), including the inventions disclosed therein. The '288 patent

is directed to a method for constructing an integrated column and pile and was duly and legally issued on August 10, 1993. The '455 patent is directed to an apparatus comprising an integrated column and pile and was duly and legally issued on July 4, 1995. SCEC has also since at least as early as May 9, 1997, and no later than February 19, 2002, been assigned the right under the '288 and '455 patents to sue for patent infringement occurring prior to SCEC acquiring ownership in and to the patents including the inventions disclosed therein.

14. The COMPETING CONTRACTORS, and each of them, have infringed and/or are infringing the '288 patent and the '455 patent by making, using, offering to sell and selling an integrated column and pile; a method for forming an integrated column and pile; a ground supported structure comprising an integrated column and pile; and a column embodying the patented inventions, and will continue to do so unless enjoined by this Court.
15. SCEC has given written notice to the COMPETING CONTRACTORS, and each of them, of their infringement of the '288 and '455 patents in suit.

DEMAND FOR JUDGMENT

WHEREFORE, SCEC demands judgment as follows:

- (a) That Defendants, their agents, servants, employees, and attorneys and all persons acting on behalf of the Defendants or in concert with them, be permanently enjoined from:
 - a. Directly or indirectly infringing any of claims 1, 2 and 3 of U.S. Patent No. 5,234,288 during its term;
 - b. Directly or indirectly infringing any of claims 1, 2 and 3 of U.S. Patent No. 5,429,455 during its term;
 - c. Directly or indirectly manufacturing, using, offering to sell, selling, or importing any

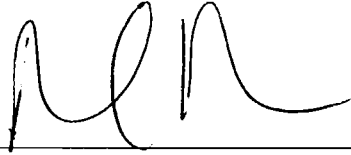
method or product containing or relying in any manner on an integrated column and pile as claimed in the patents;

- d. Aiding or abetting or in any way contributing to the infringement of any of the claims set out above or in the manufacturing, using, offering to sell, selling, or importing any method or product containing or relying in any manner on an integrated column and pile as claimed in the patents.
- (b) That all structures incorporating SCEC's inventions be removed and/or modified so as to effectively terminate the unauthorized use of the SCEC's inventions in violation of its exclusive patent rights;
- (c) That SCEC be awarded damages incurred as a result of Defendants' unlawful acts complained of herein, such damages including without limitation all such relief as is accorded the prevailing party under 35 U.S.C. 284.
- (d) That said patent infringement damages be trebled due to the willful nature of Defendants' acts of infringement, and that a reasonable attorneys' fee be awarded to Plaintiff;
- (e) That the Defendants be required to account for damages in the form of either lost profits or a reasonable royalty as proved at trial;
- (f) That the Court assess interest and costs; and
- (g) That SCEC have such other relief as this Court deems proper.

DEMAND FOR A JURY TRIAL

Plaintiff demands a jury trial on all issues so triable.

Dated: 2/20/02



RICHARD S. ROSS, ESQ.

Attorney for Plaintiff

State Contracting and Engineering Corp.

Fla. Bar No. 436,630

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The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by the rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the filing of a civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

02-60257
CIV. HURLEY

I (a) PLAINTIFFS STATE CONTRACTING & ENGINEERING CORP.

DEFENDANTS CONDOTTE AMERICA, INC.; THE MURPHY CONSTRUCTION CO.; THE HARDAWAY COMPANY; HUBBARD CONSTRUCTION COMPANY; BALFOUR BEATTY CONSTRUCTION, INC.; COMMUNITY ASPHALT CORP.; HANSON PIPE & PRODUCTS SOUTHEAST, INC.

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF BROWARD
 (EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT MIAMI-DADE
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED **MAGISTRATE JUDGE**

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
 RICHARD S. ROSS, ESQ.
 4801 S. UNIVERSITY DR., #3070, FT. LAUD.
 FLORIDA 33328 (954) 252-9110

ATTORNEYS (IF KNOWN) STEFAN V. STEINER.
 HOLLAND & KNIGHT LLP, 400 NORTH ASHLEY
 DRIVE, SUITE 2300, TAMPA, FL 33602
 (813) 227-8500

(d) CIRCLE COUNTY WHERE ACTION AROSE:

DADE, MONROE, BROWARD, PALM BEACH, MARTIN, ST. LUCIE, INDIAN RIVER, OKEECHOBEE, HIGHLANDS

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)

35 USC §281 et seq.

DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY

IVa. 5 days estimated (for both sides) to try entire case.

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

A CONTRACT	A TORTS	B FORFEITURE/PENALTY	A BANKRUPTCY	A OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Water Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 A PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patents <input type="checkbox"/> 840 Trademark B SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395#) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DRWC/DRWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) A FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 28 USC 7809	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Annuity <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input checked="" type="checkbox"/> 890 Other Statutory Actions
A REAL PROPERTY	A CIVIL RIGHTS	B PRISONER PETITIONS		
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus <input checked="" type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input checked="" type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights		

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Refiled
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A **CLASS ACTION** UNDER F.R.C.P. 23 **DEMAND \$** _____ **JURY DEMAND:** YES NO

VIII. RELATED CASE(S) IF ANY (See instructions):

JUDGE Dimitrouleas DOCKET NUMBER 97-7014-CIV
 This is a protective complaint until prior action is final.

DATE 2/20/02 SIGNATURE OF ATTORNEY OF RECORD [Signature]

UNITED STATES DISTRICT COURT S/F I-2 REV. 6/90 FOR OFFICE USE ONLY: Receipt No. 524572 Amount: 1500 Date Paid: 2/21/02 N/IFP: _____