

Ryan Fountain

From: Ryan Fountain <RyanFountain@aol.com>
Sent: Thursday, September 16, 2010 6:23 PM
To: David.Irmscher@bakerd.com; 'James.brotherson@bakerd.com'
Subject: Forest River v. Heartland: Rule 65(b)(1)(B) Notice

Gentlemen:

I attempted to contact both of you today, starting with Dave around 9:00 am this morning, and left voice messages which have not yet been returned. Under the possible exigencies of the situation, I am also attempting to reach you via email.

Briefly, the "word on the street" is that an announcement will be made tomorrow that Heartland has been sold to Thor. While such rumors are often little more than rumors, in this case sufficient details of the transaction have been conveyed that it could be bona fide. Following up on my comments at the Hearing on Tuesday, Forest River is concerned that the assets of Heartland may be dissipated before a judgment can be collected. Specifically, it is my expectation that the sale of Heartland will be via an asset purchase agreement, rather than a stock transfer, and the payment received would be immediately transferred to the stockholders, leaving Heartland an empty shell. That would seem to be a violation of Indiana's fraudulent transfers laws, among other things. **Further, the transfer of assets would include transfer of many of the documents and things which we have already served production requests for but not received. That would seem to be a violation of federal rules of civil procedure against spoliation of evidence.**

If the rumor is not accurate, of course, then we need do nothing. However, if the rumor is accurate, then we must either take immediate steps to avoid these injuries to Forest River or I must prepare to file a motion for a temporary restraining order. Under the circumstances, I may need to seek an order from the Court without giving you any further notice. Accordingly, I am contacting you again to request that you call me to discuss this immediately, as required by Fed. R. Civ. P. 65(b)(1)(B). I can be reached at 574-258-9296 this evening and tomorrow morning.

Ryan M. Fountain