

UNITED STATES DISTRICT COURT
Northern District of Indiana
South Bend Division

HEARTLAND RECREATIONAL)
VEHICLES, LLC,)
Plaintiff,)
)
)
v.)
)
FOREST RIVER, INC.,)
Defendant.)

CASE NO.: 3:08-cv-490 RLM-CAN

**HEARTLAND'S RESPONSES TO
FOREST RIVER'S FIFTH REQUESTS FOR PRODUCTION**

Heartland Recreational Vehicles, LLC ("Heartland"), pursuant to Rule 34 of the Federal Rules of Civil Procedure, hereby responds to Forest River, Inc.'s ("Forest River") Fifth Requests for Production to Heartland as follows:

1. Heartland objects to these requests to the extent that they call for the production of documents that contain confidential information, proprietary information, or trade secrets.

Heartland will provide such documents, if relevant, subject to the current protective order or subject to the entry of an additional, more appropriate protective order, if one is necessary.

2. Heartland objects to these requests to the extent that they call for the production of information and documents protected from disclosure by the attorney work product doctrine, the attorney-client privilege, and any other applicable doctrines or privileges.

3. Heartland objects to these requests to the extent that they are not restricted as to time, and/or are not limited to the conditions or circumstances substantially similar to those that are the subject of this action. Such requests are overly broad, unduly burdensome, and seek documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

5. Heartland objects to these requests, instructions, and definitions to the extent that they seek to impose upon Heartland obligations beyond those required by the Local Rules and the Federal Rules of Civil Procedure.

6. Heartland objects to Forest River's instruction regarding the production of electronically-stored information to the extent that it requires that "the electronic form so produced shall have the same functionality and electronic format as that item is used and maintained by Heartland in its regular course of business." Should the manipulation, navigation, organization, sorting, or correlating of any electronic information require the installation or use of a computer program or application separate from the electronic information itself, such a production method is not possible, or is in the very least unduly burdensome. Furthermore, to the extent that no benefit derives from having the document in electronic rather than hard-copy format, the document will be provided in hard-copy format.

7. These general objections apply to and are deemed incorporated into each and every response below to Forest River's Requests for Production.

RESPONSES TO SPECIFIC REQUESTS

REQUEST NO. 38: Documents sufficient to show the monthly inventory of finished goods (as that term is understood under Generally Accepted Accounting Principles and not including therein any products that were previously sold, delivered, or consigned by Heartland and then bought back or otherwise obtained from a dealer or customer after that product was initially ordered by the customer or dealer) from July 1, 2008 through July 31, 2009.

RESPONSE: Heartland objects to this request because it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible, relevant evidence, particularly in light of the Court's order limiting discovery into Heartland's sales information to the period spanning from August 22, 2008 to December 2, 2008. (DE # 112, p. 3.) Heartland also objects to

this request to the extent it seeks information or documents that are unreasonably duplicative or cumulative of documents already provided to Forest River. Finally, Heartland reiterates its objection to this request to the extent that it calls for the production of documents that contain confidential information, proprietary information, or trade secrets.

REQUEST NO. 39: Documents sufficient to show the monthly "buy-back inventory" (meaning the inventory of finished goods which were repurchased, returned, or otherwise obtained back from a customer or dealer after that product was initially ordered by the customer or dealer) from July 1, 2008 through July 31, 2009.

RESPONSE: Heartland objects to this request because it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible, relevant evidence, particularly in light of the Court's order limiting discovery into Heartland's sales information to the period spanning from August 22, 2008 to December 2, 2008. (DE # 112, p. 3.) Heartland also objects to this request to the extent it seeks information or documents that are unreasonably duplicative or cumulative of documents already provided to Forest River. Finally, Heartland reiterates its objection to this request to the extent that it calls for the production of documents that contain confidential information, proprietary information, or trade secrets.

REQUEST NO. 40: Documents sufficient to show which, if any, of the invoices designated HR-F 0001535-5113 or referenced on document Heartland/FR 0005114 were for sales out of the inventory of finished goods.

RESPONSE: Heartland objects to this request because it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible, relevant evidence. Heartland also objects to this request to the extent it seeks information or documents that are unreasonably

duplicative or cumulative of documents already provided to Forest River. Finally, Heartland reiterates its objection to this request to the extent that it calls for the production of documents that contain confidential information, proprietary information, or trade secrets.

REQUEST NO. 41: Documents sufficient to show which, if any, of the invoices designated HR-F 0001535-5113 or referenced on document Heartland/FR 0005114 were for sales out of the "buy-back inventory."

RESPONSE: Heartland objects to this request because it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible, relevant evidence. Heartland also objects to this request to the extent it seeks information or documents that are unreasonably duplicative or cumulative of documents already provided to Forest River. Finally, Heartland reiterates its objection to this request to the extent that it calls for the production of documents that contain confidential information, proprietary information, or trade secrets.

REQUEST NO. 42: The monthly financial statements of July 2008 through July 2009 which were referred to in document Heartland/FR 0005114 under tab "Mfg-Selling-Admin" as the basis for the calculations made therein.

RESPONSE: Heartland objects to this request because it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible, relevant evidence. Heartland also objects to this request to the extent it seeks information or documents that are unreasonably duplicative or cumulative of documents already provided to Forest River. Finally, Heartland reiterates its objection to this request to the extent that it calls for the production of documents that contain confidential information, proprietary information, or trade secrets. Subject to and without waiving these objections, Heartland will produce relevant, applicable financial statements relied

upon by Heartland in formulating its calculations.

REQUEST NO. 43: The monthly financial statement of plaintiff Heartland for December 2009, corresponding to the financial statements referred to in Request No. 42.

RESPONSE: Heartland objects to this request because it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible, relevant evidence. Heartland also objects to this request to the extent it seeks information or documents that are unreasonably duplicative or cumulative of documents already provided to Forest River. Heartland also specifically objects to this request to the extent that it seeks financial statements for periods outside the relevant context of this matter. Finally, Heartland reiterates its objection to this request to the extent that it calls for the production of documents that contain confidential information, proprietary information, or trade secrets.

REQUEST NO. 44: The quarterly financial statements of Q3 08 through Q1 09, as referred to in document Heartland/FR 0005114 under tab "BOM" as the basis for the calculations made therein, and the corresponding quarterly financial statements of plaintiff Heartland for Q2 09 through Q4 09.

RESPONSE: Heartland objects to this request because it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible, relevant evidence. Heartland also objects to this request to the extent it seeks information or documents that are unreasonably duplicative or cumulative of documents already provided to Forest River. Heartland also specifically objects to this request to the extent that it seeks financial statements for periods outside the relevant context of this matter. Finally, Heartland reiterates its objection to this request to the extent that it calls for the production of documents that contain confidential information,

proprietary information, or trade secrets. Subject to and without waiving these objections, Heartland will produce relevant applicable financial statements relied upon by Heartland in formulating its calculations.

REQUEST NO. 45: To the extent not previously requested from Heartland, documents sufficient to show the nature and amount of the actual expenses incurred as "Manufacturing Expense," Selling Expense," and "General & Administrative Expense" for each of the monthly periods of time referred to in document Heartland/FR 0005114 under tab "Mfg-Selling-Admin."

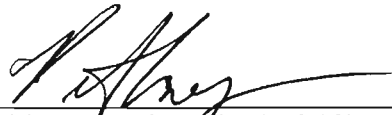
RESPONSE: Heartland objects to this request because it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible, relevant evidence. Heartland also objects to this request to the extent it seeks information or documents that are unreasonably duplicative or cumulative of documents already provided to Forest River. Finally, Heartland reiterates its objection to this request to the extent that it calls for the production of documents that contain confidential information, proprietary information, or trade secrets.

REQUEST NO. 46: To the extent not previously requested from Heartland, documents sufficient to show the nature and amount of the actual expenses incurred as "Manufacturing Expense," Selling Expense," and "General & Administrative Expense" for each of the monthly periods of time referred to in document Heartland/FR 0005114 under tab "Mfg-Selling-Admin" which were paid to the shareholders of plaintiff Heartland or to any related corporation or business entity having any common shareholders, partners, or owners.

RESPONSE: Heartland objects to this request because it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible, relevant evidence. Heartland also objects to this request to the extent it seeks information or documents that are unreasonably

duplicative or cumulative of documents already provided to Forest River.

BAKER & DANIELS LLP

By: 
David P. Irmscher (#15026-02)
Abigail M. Butler (#22295-02)
Peter A. Meyer (#27968-53)
111 East Wayne, Suite 800
Fort Wayne, Indiana 46802
Tel: 260.424.8000
Fax: 260.460.1700
david.irmscher@bakerd.com
abigail.butler@bakerd.com

ATTORNEYS FOR PLAINTIFF,
HEARTLAND RECREATIONAL
VEHICLES, LLC

CERTIFICATE OF SERVICE

The undersigned counsel for plaintiff Heartland Recreational Vehicles, LLC, hereby certifies that a copy of the foregoing HEARTLAND'S RESPONSES TO FOREST RIVER'S FIFTH REQUESTS FOR PRODUCTION was served on the 2nd day of August, 2010, via U.S. Mail.

Ryan M. Fountain
420 Lincoln Way West
Mishawaka, Indiana 46544-1902

ATTORNEY FOR DEFENDANT
FOREST RIVER, INC.

BAKER & DANIELS LLP

