

UNITED STATES DISTRICT COURT
Northern District of Indiana
South Bend Division

HEARTLAND RECREATIONAL)	
VEHICLES, LLC,)	
Plaintiff,)	
)	CASE NO.: <u>3:08-cv-490</u>
v.)	
)	
FOREST RIVER, INC.,)	JURY DEMAND
Defendant.)	

FOREST RIVER’S RULE 37 CERTIFICATE IN CONNECTION WITH MOTION FOR LEAVE TO FILE SUR-REPLY IN OPPOSITION TO HEARTLAND’S MOTION FOR PROTECTIVE ORDER QUASHING SUBPOENAS TO NON-PARTIES [DOCKET#57]

The undersigned counsel certifies he made a good faith effort to resolve the discovery dispute of the subject motion for leave to sur-reply without the need for Court action through the actions set forth below.

On November 4, 2009, Heartland filed its Reply (Docket Entry 71), thereafter Forest River investigated the truth of the new allegations made therein and discovered the contents of the Patent Collateral Agreement. On Monday, November 9, the undersigned contacted David Irscher, counsel of record for Heartland, via telephone and discussed the impact of that document. A copy of that Agreement was sent via fax to Mr. Irscher on that date as well. On Wednesday, November 11, the undersigned counsel called Mr. Irscher to discuss both the addition of Fifth Third as a party and the present motion for sur-reply. At Mr. Irscher’s request, further discussion of those topics was deferred until 8:30 a.m. on Thursday, November 12, 2009 so that Mr. Irscher could conduct further legal research on the issues. That deferral was agreed to, and the undersigned did confer with Mr.

Irmscher on these issues starting at 8:30 today, in a discussion which lasted over 21 minutes. In the end, while Heartland did not contest the authenticity of the new document, Heartland would not consent to allowing the new document to be presented to the Court in a sur-reply.

Dated: November 12, 2009

Respectfully submitted,

s/Ryan M. Fountain

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ATTORNEY FOR DEFENDANT

Certificate of Service:

I certify that a copy of the foregoing document was served upon the Plaintiff in this case by depositing that copy with the United States Postal Service for delivery via First Class mail, postage pre-paid, on November 12, 2009, addressed for delivery to the following counsel for that party:

David P. Irmscher
Baker & Daniels
111 East Wayne, Suite 800
Fort Wayne, IN 46802

s/Ryan M. Fountain

Ryan M. Fountain