

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

HEARTLAND RECREATIONAL VEHICLES,)	
LLC)	
)	
Plaintiff,)	
)	Case No. 3:08-CV-490 AS CAN
vs.)	
)	
FOREST RIVER, INC.)	
)	
Defendant.)	

JOINT STATUS REPORT

In response to the Court's February 9, 2010 Order, Heartland Recreational Vehicles, LLC ("Heartland") and Forest River, Inc. ("Forest River") hereby report as follows:

1. On February 4, 2010, the Court issued an Opinion and Order referring all non-dispositive pretrial matters and motions, including Forest River's Motion to Compel Document Production from Heartland and Baker & Daniels (DE 88), to the Magistrate Judge.

2. The Court granted the Defendant's Nominal Objection to Expert and Motion for Amendment of Scheduling Order (DE 82) and the Amendment to Forest River's Nominal Objection to Expert and Motion for Amendment of Scheduling Order (DE 89) to the extent that they sought additional time to object to the expert testimony of Jay Taylor. To the extent that they sought leave to perform additional discovery, the Court directed the Magistrate Judge to address those issues, including the setting of new deadlines for the parties to complete discovery. The Court also directed the Magistrate Judge to set new deadlines for completing briefing on Heartland's Motion for Summary Judgment (DE 78), filed on December 21, 2009.

3. Heartland and Baker & Daniels filed their joint response to Forest River's Motion to Compel on February 18, 2010. (DE 93.) That response opposes Forest River's Motion to Compel in nearly all material respects. Forest River's reply brief to that Motion is due on March 1, 2010.

4. On February 24, 2010, Forest River filed a Second Motion to Compel. Briefing on that Motion to Compel will not be completed until mid-March.

5. Heartland understands that Forest River wishes to take further deposition testimony from Gregory Cooper and Gerard Gallagher. Forest River asserts that it actually seeks to complete the depositions of those witnesses. Forest River contends that it expressly continued those depositions because the witnesses did not comply with the subpoenas issued prior to the start of their depositions. Forest River further contends that the unproduced documents are still missing. Those documents are the subject of Forest River's motion to compel (DE 88).

6. Forest River expects to file two motions to exclude evidence. One of the expected motions to exclude concerns testimony about Racetrack RV and Loveall RV. If that motion is denied, then the depositions of those businesses are expected to be needed by Forest River for responding to the summary judgment motion. Similarly, depending upon the results of the three pending discovery motions (DE #'s 74, 88, 96), other witness depositions may be needed.

7. After Forest River completes the depositions of Gregory Cooper and Gerard Gallagher, Heartland may need to supplement Jay Taylor's expert report so that it properly reflects this additional discovery, in accordance with its duties under Fed. R. Civ. P. 26(a)(2)(D) and 26(e). Heartland states that it will complete any supplementation of Taylor's expert report within fourteen days of the completion of the Cooper and Gallagher depositions. Forest River

may choose to re-depose Jay Taylor in light of the supplementation of the expert report. Forest River agrees to complete that deposition of Jay Taylor within fourteen days of its receipt of Taylor's supplemented expert report. In addition, Forest River contends that Taylor's testimony may be mooted by its second expected motion to exclude evidence, which seeks the exclusion of information related to the prosecution of the patent in suit.

8. Heartland and Forest River believe that they can cooperate to complete any additional needed discovery of presently known witnesses, including the deposition of Gregory Cooper, the deposition of Gerard Gallagher, the potential amendment of Jay Taylor's Expert Report, and the potential deposition of Jay Taylor, in approximately ninety (90) days. Therefore, the parties request that the Court set a discovery deadline of May 25, 2010 for those witnesses.

9. Heartland also requests that the deadline for submitting Jay Taylor's expert report be extended to the date of his supplemental report. Forest River contends that report may be already barred as untimely, as set forth in DE#86. Heartland asserts that Heartland and Forest River agreed to extend the deadline for the submission of Jay Taylor's report so that the report could incorporate the testimony of the attorneys prosecuting the patent in suit. Until the issue regarding the timeliness of Jay Taylor's report is decided, Heartland and Forest River request that the new deadline for objecting to the expert testimony of Jay Taylor be set for June 10, 2010.

10. Because Heartland filed its Motion for Summary Judgment under the impression that discovery had been mostly, if not entirely, completed, its current form may need to be revised in light of any additional facts and information yielded by discovery occurring after December 21, 2009. Therefore, Heartland asks that it be permitted to file an Amended Motion

for Summary Judgment or to renew the current motion and that the deadline for such action be set for June 10, 2010.

11. The parties believe that this proposed schedule is reasonable and attainable, and the parties intend to work diligently to complete this schedule. However, depending on the Court's rulings with respect to currently pending and potentially forthcoming discovery motions, the parties may need to request an extension of these deadlines in the future.

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