

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION**

STEPHEN SNOW,)	
)	
Plaintiff,)	
)	
vs.)	3:18-cv-00127-PPS
)	
FOREST RIVER, INC., <i>et al.</i> ,)	
)	
Defendants.)	

OPINION AND ORDER

On October 30, 2018, I issued a rule to show cause ordering the parties to file memoranda regarding whether this Court properly has subject matter jurisdiction over this controversy. [DE 24.] Specifically, the amended complaint alleges diversity jurisdiction under 28 U.S.C. § 1332(a)(1), but the total sales prices of the RV was \$64,645.80, and I was unsure how the amount in controversy exceeds \$75,000. Both Plaintiff, Stephen Snow, and Defendant, Forest River, Inc., filed memoranda. [DE 25, 26.]

Plaintiff claims he has met the jurisdictional minimum because he is seeking punitive damages under state law. [DE 26 at 2.] “[W]here punitive damages are relied upon to satisfy the amount in controversy requirement, the court must first determine whether punitive damages are available under state law.” *LM Ins. Corp. v. Spaulding Enters. Inc.*, 533 F.3d 542, 551 (7th Cir. 2008). Plaintiff has alleged a cause of action

pursuant to Missouri's Unfair or Deceptive Trade Practices Act, § 407.020, which provides for the award of punitive damages pursuant to § 407.025. [Am. Compl., DE 14 at 9-11; *see* Mo. Rev. Stat. § 407.025.] Where, like here, punitive damages are available, subject matter jurisdiction exists unless it is "legally certain" that the plaintiff will be unable to recover the requisite jurisdiction amount. *LM Ins.*, 533 F.3d at 551 (citing *Del Vecchio v. Conseco, Inc.*, 230 F.3d 974, 978 (7th Cir. 2000)). I cannot say it is legally certain that Plaintiff will be unable to recover the jurisdictional amount in this case.

Accordingly, the amount in controversy requirement has been satisfied and this Court properly has subject matter jurisdiction over this controversy.

ENTERED: November 27, 2018.

/s/ Philip P. Simon
PHILIP P. SIMON, JUDGE
UNITED STATES DISTRICT COURT