

IN THE SUPREME COURT OF THE STATE OF NEVADA

FIRST STREET FOR BOOMERS &
BEYOND, INC.; AITHR DEALER,
INC.;

Petitioner,

v.

THE EIGHTH JUDICIAL DISTRICT
COURT, IN AND FOR THE COUNTY
OF CLARK, STATE OF NEVADA,
AND THE HONORABLE CRYSTAL
ELLER, DISTRICT JUDGE,

Respondents,

And

ROBERT ANSARA, as Special
Administrator of the Estate of SHERRY
LYNN CUNNISON, Deceased;
ROBERT ANSARA, as Special
Administrator of the Estate of
MICHAEL SMITH, Deceased heir
to the Estate of SHERRY LYNN
CUNNISON, Deceased; and DEBORAH
TAMANTINI individually, and heir to
the Estate of SHERRY LYNN
CUNNISON, Deceased; HALE
BENTON, Individually; HOMECLICK,
LLC; JACUZZI INC., doing business as
JACUZZI LUXURY BATH;
BESTWAY BUILDING &
REMODELING, INC.; WILLIAM
BUDD, Individually and as BUDDS
PLUMBING; DOES 1 through 20; ROE
CORPORATIONS 1 through 20; DOE
EMPLOYEES 1 through 20; DOE

CASE NO.

Electronically Filed
Aug 17 2021 01:32 p.m.

District Court No. A-16-731244-C
Clerk of Supreme Court
Dept. No. XIX

MANUFACTURERS 1 through 20;
DOE 20 INSTALLERS 1 through 20;
DOE CONTRACTORS 1 through 20;
and DOE 21 SUBCONTRACTORS 1
through 20, inclusive,

Real Parties in Interest.

**From the Eighth Judicial District Court
The Honorable Crystal Eller District Judge**

APPENDIX VOLUME 2 TO PETITION FOR WRIT OF MANDAMUS

Philip Goodhart
Nevada Bar No. 5332
Meghan M. Goodwin
Nevada Bar No. 11974
THORNDAL ARMSTRONG DELK
BALKENBUSH & EISINGER
1100 East Bridger Avenue
Las Vegas, NV 89101-5315
Mail To:
P.O. Box 2070
Las Vegas, NV 89125-2070
Tel.: (702) 366-0622
png@thorndal.com
mmg@thorndal.com

*Attorneys for Petitioner, firstSTREET For Boomers & Beyond, Inc.; AITHR
Dealer, Inc.;*

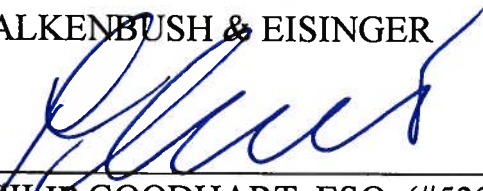
INDEX

<u>Document Name</u>	<u>Date Filed</u>	<u>Page</u>
Plaintiffs' Complaint	02/03/2016	PA0001 – PA0013
Plaintiffs' Fourth Amended Complaint	06/20/2017	PA0014 – PA0029
Plaintiffs' Order Striking Defendant Jacuzzi Inc. d/b/a Jacuzzi Luxury Bath's Answer as to Liability Only	11/18/2020	PA0030 – PA0063
Plaintiffs' Renewed Motion to Strike Defendant First Street for Boomers & Beyond, Inc.'s & AITHR Dealer, Inc.'s Answer to Plaintiffs' Fourth Amended Complaint	10/09/2020	PA0064 – PA0096
Appendix to Plaintiffs' Renewed Motion to Strike Defendant First Street for Boomers & Beyond, Inc.'s & AITHR Dealer, Inc.'s Answer to Plaintiffs' Fourth Amended Complaint	10/09/2020	PA0097 – PA0385
Court Minutes Regarding Motions to Strike	03/04/2019	PA0386 – PA0388
Court Minute Order Regarding Motions to Strike	03/12/2019	PA0389 – PA0390
Defendants First Street and AITHR's Opposition to Plaintiffs' Renewed Motion to Strike Defendants First Street and AITHR's Answer to Plaintiff's Fourth Amended Complaint	11/06/2020	PA0391 – PA0711
Plaintiffs' Reply in Support of Plaintiffs' Renewed Motion to Strike Defendant First Street for Boomers & Beyond, Inc.'s & AITHR Dealer, Inc.'s Answer to Plaintiffs' Fourth Amended Complaint	11/13/2020	PA0712 – PA0917
Transcript of Hearing Regarding Motion to Strike	12/16/2020	PA0918 – PA1005
Court Minute Order Regarding Plaintiffs' Renewed Motion to Strike Defendants First Street and AITHR's Answer to Plaintiff's Fourth Amended Complaint	12/28/2020	PA1006 – PA1009

Plaintiffs' Order Striking First Street for Boomers & Beyond, Inc.'s & AITHR Dealer, Inc.'s Answer to Plaintiffs' Fourth Amended Complaint	12/31/2020	PA1010 – PA1024
--	------------	-----------------

DATED this 16th day of August, 2021.

THORNDAL ARMSTRONG DELK
BALKENBUSH & EISINGER



PHILIP GOODHART, ESQ. (#5332)
MEGHAN M. GOODWIN, ESQ. (#11974)
1100 East Bridger Avenue
Las Vegas, Nevada 89101
Attorneys for Petitioners firstSTREET For
Boomers & Beyond, Inc. and AITHR Dealer, Inc.

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On August 16, 2021, I caused to be served a true and correct copy of the foregoing APPENDIX VOLUME 2 TO PETITION FOR WRIT OF MANDAMUS upon the following by the method indicated:

- × **BY U.S. MAIL:** by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Las Vegas, Nevada addressed as set forth below:

Honorable Crystal Eller
Eighth Judicial District Court, Dept. XIX
Regional Justice Center
200 Lewis Avenue
Las Vegas, NV 89155

- × **BY ELECTRONIC SUBMISSION:** submitted to the above-entitled Court for electronic filing and service upon the Court's Service List for the above-referenced case.

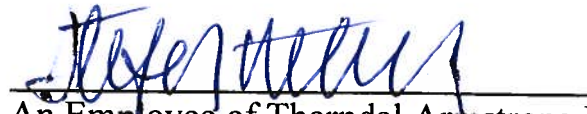
Benjamin P. Cloward, NV Bar No. 11087
RICHARD HARRIS LAW FIRM
801 S. Fourth Street
Las Vegas, NV 89101
(702) 444-4444
Benjamin@RichardHarrisLaw.com
catherine@richardharrislaw.com
Attorneys for Plaintiffs

Graham Reese Scofield, Esq., *Admitted Pro Hac Vice*
CHARLES ALLEN LAW FIRM
3575 Piedmont Road NE
Building 15, Suite L-130

Atlanta, GA 30305
(404) 419-6674
graham@charlesallenlawfirm.com
Attorneys for Plaintiff Robert Ansara

D. Lee Roberts, Jr., NV Bar No. 8877
Brittany M. Llewellyn, NV Bar No 13527
Johnathan T. Krawcheck, *Admitted Pro Hac Vice*
WEINBERG, WHEELER, HUDGINS,
GUNN & DIAL, LLC
6385 South Rainbow Blvd., Suite 400
Las Vegas, Nevada 89118
(702) 938-3838
lroberts@wwhgd.com
bllewellyn@wwhgd.com
jkrawcheck@wwhgd.com
Attorneys for Defendant Jacuzzi Inc. dba
Jacuzzi Luxury Bath

Daniel F. Polsenberg, Esq.
Joel D. Henriod, Esq.
Abraham G. Smith, Esq.
LEWIS ROCA ROTHGERBER CHRISTIE LLP
3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV
(702) 949-8200
DPolsenberg@LRRC.com
JHenriod@LRRC.com
ASmith@LRRC.com
Attorneys for Defendant Jacuzzi Inc. dba
Jacuzzi Luxury Bath


An Employee of Thorndal Armstrong Delk
Balkenbush & Eisinger

Deposition of:

Michael A. Dominguez

Volume II, Pages 143 - 269

NRCP 30(b)(6) for Jacuzzi Luxury Bath

Case:

Robert Ansara, et al. v. First Street for Boomers & Beyond, Inc., et al.
A-16-731244-C

Date:

09/21/2018



OASIS
REPORTING SERVICES

400 South Seventh Street • Suite 400, Box 7 • Las Vegas, NV 89101
702-476-4500 | www.oasisreporting.com | info@oasisreporting.com

COURT REPORTING | NATIONAL SCHEDULING | VIDEOCONFERENCING | VIDEOGRAPHY

Page 143	Page 145
<p>1 DISTRICT COURT</p> <p>2 CLARK COUNTY, NEVADA</p> <p>3</p> <p>4 ROBERT ANSARA, as Special) Administrator of the Estate of) 5 SHERRY LYNN CUNNISON, Deceased; et) al.,) 6 Plaintiffs,)) 7 vs.)) No. A-16-731244-C 8 FIRST STREET FOR BOOMERS & BEYOND,) 9 INC.; et al.,)) 10 Defendants.)) 11 AND RELATED CROSS-ACTIONS.) 12 13 (Complete Caption On Following Page) 14 15 16 V O L U M E II 17 Videotaped Deposition of MICHAEL A. DOMINGUEZ, 18 Rule 30(b)(6) Corporate Designee for Jacuzzi, taken on 19 behalf of the Plaintiffs, at 600 Anton Boulevard, 20 Suite 1400, Costa Mesa, California, commencing at 21 10:01 a.m., on Friday, September 21, 2018, before 22 CATHERINE ELISE NADEAU, CSR No. 11528, RPR. 23 24 25</p>	<p>1 APPEARANCES OF COUNSEL:</p> <p>2</p> <p>3 For Plaintiffs:</p> <p>4 CHARLES ALLEN LAW FIRM 5 BY: CHARLES H. ALLEN, ESQUIRE 6 3575 Piedmont Road, NE 7 Building 15, Suite L-130 8 Atlanta, Georgia 30305 9 404.419.6674 10 -and- 11 RICHARD HARRIS LAW FIRM 12 BY: BENJAMIN P. CLOWARD, ESQUIRE 13 801 South Fourth Street 14 Las Vegas, Nevada 89101 15 702.444.4444 16 17 For Defendant/Cross-Defendant Jacuzzi Brands LLC: 18 SNELL & WILMER LLP 19 BY: JOSHUA D. COOLS, ESQUIRE 20 3883 Howard Hughes Parkway 21 Suite 1100 22 Las Vegas, Nevada 89169 23 702.784.5200 24 25</p>
Page 144	Page 146
<p>1 DISTRICT COURT</p> <p>2 CLARK COUNTY, NEVADA</p> <p>3</p> <p>4 ROBERT ANSARA, as Special) Administrator of the Estate of) 5 SHERRY LYNN CUNNISON, Deceased;) MICHAEL SMITH individually, and) 6 heir to the Estate of SHERRY LYNN) CUNNISON, Deceased; and DEBORAH) 7 TAMANTINI individually, and heir to) the Estate of SHERRY LYNN CUNNISON,)) 8 Deceased;)) 9 Plaintiffs,)) 10 vs.)) No. A-16-731244-C 11 FIRST STREET FOR BOOMERS & BEYOND,) 12 INC.; AITHR DEALER, INC.; HALE) BENTON, Individually, HOMECLICK,) 13 LLC.; JACUZZI LUXURY BATH, doing) business as JACUZZI INC.; BESTWAY) BUILDING & REMODELING, INC.;) 14 WILLIAM BUDD, Individually and as) BUDDS PLUMBING; DOES 1 through 20;) 15 ROE CORPORATIONS 1 through 20; DOE) EMPLOYEES 1 through 20; DOE) 16 MANUFACTURERS 1 through 20; DOE) INSTALLERS 1 through 20; DOE) 17 CONTRACTORS 1 through 20; and DOE) 21 SUBCONTRACTORS 1 through 20,) 18 inclusive,)) 19 Defendants.)) 20 AND RELATED CROSS-ACTIONS.) 21 22 23 24 25</p>	<p>1 APPEARANCES: (Continued)</p> <p>2</p> <p>3 For Defendants/Cross-Defendants First Street for</p> <p>4 Boomers & Beyond, Inc. and AITHR Dealer, Inc.:</p> <p>5 THORNDAL ARMSTRONG DELK BALKENBUSH & EISINGER 6 BY: MEGHAN M. GOODWIN, ESQUIRE 7 1100 East Bridger Avenue 8 P.O. Box 2070 9 Las Vegas, Nevada 89125 10 702.366.0622 11 12 Videographer: 13 GIGI FADICH 14 OASIS REPORTING SERVICES 15 702.476.4500 16 17 Also Present: 18 RON TEMPLER 19 (Corporate representative for Jacuzzi) 20 21 22 23 24 25</p>

Page 147			Page 149	
1	I N D E X		1	EXHIBITS FOR IDENTIFICATION: (Continued)
2			2	
3	DEPONENT	EXAMINED BY PAGE	3	35 9.17.18 Defendant/Cross-Defendant Jacuzzi 227
4	MICHAEL A. DOMINGUEZ	MR. ALLEN 151	4	Inc.'s Objections to Plaintiffs' Notice
5	Volume II	260	5	to Take Continued Videotaped Deposition(s)
6	MS. GOODWIN	244	6	of 30(b)(6) for Jacuzzi, with attachments,
7	MR. COOLS	259	7	32 pages
8			8	36 6.20.17 Fourth Amended Complaint, with 229
9			9	an attachment, 16 pages
10	EXHIBITS FOR IDENTIFICATION:		10	37 3.7.18 Defendant Jacuzzi Inc.'s Amended 229
11	22 Jacuzzi Walk-In Bathtubs advertisement,	157	11	Answer to Plaintiffs' Fourth Amended
12	"Luxurious Safety," 6 pages		12	Complaint, with an attachment, 10 pages
13	23 Jacuzzi Walk-In Hot Tub advertisement,	158	13	
14	"Your Own Personal Fountain of Youth,"		14	DOCUMENTS PREVIOUSLY MARKED:
15	2 pages, (double-sided document)		15	16 10.1.11 Manufacturing Agreement, 19 pages
16	24 Jacuzzi advertisement, 1 page	159	16	20 Installation and Operation Instructions,
17	25 Jacuzzi Walk-In Bathtubs advertisement,	161	17	26 pages, (double-sided document)
18	"Luxurious Safety," 1 page		18	21 "Pass the gift of safety on to your
19	26 Jacuzzi Walk-In Bathtubs advertisement,	163	19	friends or family and get \$200," 12 pages,
20	"Designed for Seniors," 1 page		20	(double-sided document)
21	27 Jacuzzi Walk-In Tubs advertisement,	163	21	
22	1 page		22	
23			23	
24			24	
25			25	
Page 148			Page 150	
1	EXHIBITS FOR IDENTIFICATION: (Continued)		1	COSTA MESA, CALIFORNIA; FRIDAY, SEPTEMBER 21, 2018
2			2	10:01 A.M.
3	28 Jacuzzi advertisement, "The only complaint 164		3	-oOo-
4	our customers have had is...they'd wished		4	THE VIDEOGRAPHER: Today is Friday,
5	they had done it sooner," 1 page		5	September 21st, 2018. The time is approximately
6	29 "Many Boomers have witnessed the challenges 165		6	10:01 a.m. Your court reporter is Catherine Nadeau.
7	of their own aging parents. Some of them		7	And I am your videographer, Gigi Fadich. We are
8	fear being 'put up' like towels in a linen		8	here on behalf of Oasis Reporting Services.
9	closet. You just don't 'put up' people,"		9	Today's witness is Michael A. Dominguez,
10	1 page		10	and we are here in the case of Robert Ansara versus
11	30 "But there's no need to put up with that at 167		11	First Street for Boomers & Beyond.
12	all as our goal is to keep you safe and		12	Will counsel please state your appearance
13	stay where you are," 1 page		13	and the court reporter will administer the oath.
14	31 "AARP says 89% of the 76 million boomers 168		14	MR. ALLEN: It's Charles Allen for the
15	want to stay in their homes. Why wait to		15	plaintiff.
16	modify your bathroom, when you can benefit		16	Ben.
17	now and be able to age gracefully in place?"		17	MR. CLOWARD: Oh. Ben Cloward for plaintiff.
18	1 page		18	Sorry.
19	32 Jacuzzi advertisements, 16 pages 169		19	MR. ALLEN: That's okay.
20	33 12.30.13 Jacuzzi invoice, 1 page 182		20	MS. GOODWIN: Meghan Goodwin on behalf of
21	34 Copyright 2002 pages from The Measure of 216		21	defendants First Street and AITHR.
22	Man and Woman, Human Factors in Design,		22	MR. COOLS: Joshua Cools on behalf of Jacuzzi
23	3 pages		23	Inc.
24			24	THE DEPONENT: Michael A. Dominguez on behalf of
25			25	Jacuzzi.

Page 151	Page 153
<p>1 -oOo-</p> <p>2 MICHAEL A. DOMINGUEZ,</p> <p>3 having been first duly sworn, was</p> <p>4 examined and testified further as</p> <p>5 follows:</p> <p>6 -oOo-</p> <p>7 EXAMINATION (Continued)</p> <p>8 Q BY MR. ALLEN: Good morning.</p> <p>9 A Good morning.</p> <p>10 Q Good to see you again.</p> <p>11 A Good to see you as well.</p> <p>12 Q Since we last met we -- anyway, we decided</p> <p>13 we're -- to part ways and some things have happened</p> <p>14 with the court and we're back here to finish your</p> <p>15 deposition.</p> <p>16 Okay?</p> <p>17 A Okay.</p> <p>18 Q I think the court's given me I guess four</p> <p>19 hours to complete your depo. I don't expect to take</p> <p>20 that much time.</p> <p>21 A Okay.</p> <p>22 Q What I'd like to do is kind of start off</p> <p>23 where we finished, pick up where we left off --</p> <p>24 A Okay.</p> <p>25 Q -- maybe more of that.</p>	<p>1 to produce to Jacuzzi the advertising that they were</p> <p>2 going to use; is that true?</p> <p>3 MR. COOLS: Object to form.</p> <p>4 THE DEPONENT: That is correct.</p> <p>5 Q BY MR. ALLEN: Okay. And the idea there is</p> <p>6 for Jacuzzi to review to determine if they felt</p> <p>7 anything is inaccurate or inappropriate; is that --</p> <p>8 MR. COOLS: Object to --</p> <p>9 Q BY MR. ALLEN: -- is that true?</p> <p>10 MR. COOLS: Object to form.</p> <p>11 THE DEPONENT: That is correct.</p> <p>12 Q BY MR. ALLEN: And are you aware of any</p> <p>13 advertising produced to Jacuzzi that -- by First</p> <p>14 Street that Jacuzzi had any issue with as far as</p> <p>15 accuracies of the advertising?</p> <p>16 MR. COOLS: Object to form.</p> <p>17 THE DEPONENT: There was some advertisement</p> <p>18 submitted in to Jacuzzi for review.</p> <p>19 MR. ALLEN: Okay.</p> <p>20 THE DEPONENT: And we would expect, you know,</p> <p>21 based on our manufacturing agreement that the claims</p> <p>22 or testimonies are accurate. And we would review</p> <p>23 the advertisements according to our brand</p> <p>24 guidelines, product claims and specifications.</p> <p>25 Q BY MR. ALLEN: Okay. So the brand</p>
Page 152	Page 154
<p>1 So I've got a complete set of the first set</p> <p>2 of exhibits. They're printed out. And you and I</p> <p>3 were on Exhibit 16 when the deposition was</p> <p>4 suspended. And I had -- my notes have us on the</p> <p>5 Bates No. 1591, which is page 4.</p> <p>6 And the -- I guess the question -- at least</p> <p>7 to kind of summarize a couple of questions and try</p> <p>8 to move forward with you.</p> <p>9 Okay?</p> <p>10 A Okay.</p> <p>11 Q I understand from the review of the</p> <p>12 testimony, talking the first time, that based</p> <p>13 upon this manufacturing agreement, Exhibit 16, that</p> <p>14 Jacuzzi expected First Street to live up to the</p> <p>15 contract; is that true?</p> <p>16 A That's correct.</p> <p>17 Q Okay. And they expect, because it's in the</p> <p>18 contract or the manufacturing agreement, to be</p> <p>19 accurate with their advertising?</p> <p>20 A That's correct.</p> <p>21 Q Okay. The statistics they used or the</p> <p>22 claims in the ads, that's an expectation of Jacuzzi</p> <p>23 that those will be accurate?</p> <p>24 A That's correct.</p> <p>25 Q Okay. And you also expected First Street</p>	<p>1 guidelines, product claims and specifications, is</p> <p>2 that what you said?</p> <p>3 A That's correct.</p> <p>4 Q Okay. Gotcha. And when you talk about</p> <p>5 brand guidelines, that's -- explain, what do you</p> <p>6 mean by that?</p> <p>7 A The use of our trademarks, our logos,</p> <p>8 fonts, colors, placements of our product.</p> <p>9 Q Okay. And when you talk about product</p> <p>10 claims, what do you mean by that?</p> <p>11 A The product itself has specifications,</p> <p>12 feature sets to understand they are accurate claims,</p> <p>13 because they are hydrotherapy products that have</p> <p>14 different features between Product One and Product</p> <p>15 Two.</p> <p>16 Q All right. And any expectations?</p> <p>17 A Yes. We expect that the advertisements</p> <p>18 that's provided to us for review is accurate</p> <p>19 according to the manufacturing agreement of First</p> <p>20 Street.</p> <p>21 Q Okay. And was there any advertising</p> <p>22 submitted to Jacuzzi that Jacuzzi turned down for</p> <p>23 being inaccurate?</p> <p>24 A I know that some advertisements were</p> <p>25 submitted. I'm not too sure what the communication</p>

Page 267	Page 269
<p>1 A No.</p> <p>2 Q Okay. Did Jacuzzi receive any questions</p> <p>3 from the installers or from the homeowner</p> <p>4 questioning how it was installed or help installing</p> <p>5 it?</p> <p>6 A No.</p> <p>7 Q And if --</p> <p>8 Okay. I think that's got it.</p> <p>9 MR. COOLS: The witness will read and sign.</p> <p>10 THE DEPOSITION OFFICER: Thank you.</p> <p>11 MR. ALLEN: Read and sign. Fine.</p> <p>12 Thank you.</p> <p>13 THE VIDEOGRAPHER: Video deposition off the</p> <p>14 record at 1:12 p.m., conclusion of disk 2 and</p> <p>15 conclusion of the deposition for Michael A.</p> <p>16 Dominguez.</p> <p>17 (The deposition concluded at 1:12 p.m.)</p> <p>18 --oOo--</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 STATE OF CALIFORNIA)</p> <p>2 COUNTY OF ORANGE^{ss.})</p> <p>3</p> <p>4 I, CATHERINE ELISE NADEAU, Certified Shorthand</p> <p>5 Reporter, Certificate No. 11528, do hereby certify:</p> <p>6 That the foregoing proceedings were taken</p> <p>7 before me at the time and place therein set forth, at</p> <p>8 which time the witness was put under oath by me;</p> <p>9 That the testimony of the witness and all</p> <p>10 objections made at the time of the examination were</p> <p>11 recorded stenographically by me and were thereafter</p> <p>12 transcribed;</p> <p>13 That the foregoing is a true and correct</p> <p>14 transcript of my shorthand notes so taken.</p> <p>15 I further certify that I am neither counsel for</p> <p>16 nor related to any party to said action.</p> <p>17 Dated this 2nd day of September 2018.</p> <p>18</p> <p>19</p> <p>20</p> <p>21 _____</p> <p>22 CATHERINE ELISE NADEAU</p> <p>23 Certified Shorthand Reporter No. 11528, RPR</p> <p>24</p> <p>25</p>
Page 268	
<p>1</p> <p>2 I have read the foregoing deposition</p> <p>3 transcript and by signing hereafter approve same.</p> <p>4</p> <p>5 EXECUTED this ____ day of _____, 2____,</p> <p>6 at _____,</p> <p>7 (City) (State)</p> <p>8</p> <p>9</p> <p>10 _____</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT “9”

- [Close Window](#)
- [Print This Page](#)
- [Expand All](#) | [Collapse All](#)

Case: 00398408

Case Number	00398408	Date/Time Opened	9/26/2016 11:32 AM
Contact Name	[REDACTED]	Case Owner	[REDACTED]
Account Name	Jacuzzi Consumers Master Account	Case Record Type	Extended
Warranty	LW50 BDG073	Contact Email	
Model Description	FS 5229 C LH SLN HTR SKT WH	Contact Phone	[REDACTED]
Part Number		Case Age	(1)
Case Origin	Phone	Early Warning	
Sub-Origin		Serial # (Text)	
Email Origin		Part Number (Text)	
Brand	JB	Type	

Case Summary

Case Title	[REDACTED] - Jacuzzi Consumers Master Account - - Inquiry/Process transaction - 2016-09-26
Priority	Medium
Status	Closed
Case Reason	Service Request
Subject	Parts only. Tub takes too long to drain.
Description	tub has problems draining- wife [REDACTED] got injured tub takes a long long time to drain out- about 20 min -last time it took 47 min to drain, she could not wait, felt stuck and tried to crawl out of the tub but fell and hurt herself -she wants a tub that is going to drain faster and feels there has been this defect since it was installed

Quality Metrics

UFC Category	Plumbing	Feedback	Complaint
UFC Component	Drain assembly	Feedback Detail	Product
UFC Sub-Component	Unidentified	Early Warning Comments	tub would not drain and customer felt stuck so she decided to try to climb out of tub. She banged her head directly on tile and has bruises.
UFC Behavior	Inop/Intermittent	Early Warning	
Warranty		EW Date	
		Observed Symptom/Issue	
		Sub-component	

Service

Balance Due	Claim Date
Date Service Center Contacted	Claim Number

JACUZZI002945

Current Servicing
Dealer/Customer Name

Current Servicing
Dealer/Agent Number

Current Servicing
Dealer/Contact Name

Service Date

Tech onsite ☐

Training Required ☐

Service Liability

Charge Back

Order Date 9/26/2016

Order Number 353790

Shipping Carrier FedEx

Tracking Number [REDACTED]

Track Order Track Order

Replacement Serial #

Concierge Services

Date Customer
Contacted

Quantity


System Information

Created By [REDACTED], 9/26/2016 11:32 AM

Date/Time Closed 9/27/2016 3:16 PM

Last Modified By [REDACTED], 9/27/2016 3:16 PM

Escalated ☐

Source 

Contact Information

Account Information

Account Name [REDACTED]

Account Owner No Reply

Email

Phone [REDACTED]

Contact Preference

Mobile

Declined to provide
Email ☐

Home Phone

Prospectid

Address Information

Billing Address United States

Mailing Address United States

Nearest D1 ISP Map Map Closest ISP (D1)

Nearest Spa Service
Center Map Closest Spa Service Center

Historical - Read Only - Update to proper Billing and Mailing Fields

Address 1 [REDACTED]

Address 2

City [REDACTED]

State [REDACTED]

Zip [REDACTED]

Country

SmartTub Information

Account Id

Receive Smart Tub
Emails ☐

Terms of Service Opt

JACUZZI002946

IoT Contact ☐

Out ☐

Pardot URL

Messaging Opt Out ☐

Additional Information

Email Opt Out ☐

Do Not Call ☐

Fax Opt Out ☐

System Information

Created By [REDACTED] 11/30/2016 3:43 AM

Last Modified By [REDACTED] 12/14/2016 10:23 PM

Case Comments

9/26/2016 11:32 AM

User [REDACTED]

Public ☐

- she really does not want to sue for this but wants the tub to drain faster.

Comment Explained drain could be clogged and she needs to consult her plumber or AITHR. We will send a drain kit as a 1x courtesy

Case History

9/27/2016 3:16 PM

User [REDACTED]

Action Changed Status from On Hold - Waiting on Colleague to Closed. Closed.

9/27/2016 3:15 PM

User [REDACTED]

Action Changed Subject from tub takes too long to drain to Parts only. Tub takes too long to drain..

9/27/2016 3:13 PM

User [REDACTED]

Action Changed Case Record Type from General to Extended.

9/26/2016 11:54 AM

User [REDACTED]

Action Changed Description.

9/26/2016 11:42 AM

User [REDACTED]

Action Changed Description.

9/26/2016 11:41 AM

User [REDACTED]

Action Changed Status from New to On Hold - Waiting on Colleague.

9/26/2016 11:32 AM

User [REDACTED]

Action Created.

Chatter

Text Posts

JACUZZI002947

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT “10”

ROBERT ANSARA

VS

FIRST STREET FOR BOOMERS & BEYOND

Case No. A-16-731244-C



NOREEN ROUILLARD

July 19, 2019

ADVANCED REPORTING SOLUTIONS

801-746-5080 | office@advancedrep.com | advancedrep.com

SALT LAKE | 159 West Broadway, Broadway Lofts, Suite 100 | Salt Lake City, Utah 84101

PROVO | 3507 North University Avenue, Suite 350-D | Provo, Utah 84604

ST. GEORGE | 20 North Main Street, Suite 301 | St. George, Utah 84770



IN THE DISTRICT COURT IN AND FOR
CLARK COUNTY, STATE OF NEVADA

-ooOoo-

ROBERT ANSARA, as Special)
Administrator of the)
Estate of SHERRY LYNN)
CUNNISON, Deceased;) Case No. A-16-731244-C
MICHAEL SMITH, individually,) Dept No. II
and heir to the Estate of)
SHERRY LYNN CUNNISON,)
Deceased; and DEBORAH)
TAMANTINI, individually,)
and heir to the Estate of)
SHERRY LYNN CUNNISON,)
Deceased,)
Plaintiffs,)
v.)
FIRST STREET FOR BOOMERS &)
BEYOND, INC.; AITHR DEALER,)
INC.; HALE BENTON,)
individually; HOMECCLICK,)
LLC; JACUZZI INC., doing)
business as JACUZZI LUXURY)
BATH; BESTWAY BUILDING AND)
REMODELING, INC.; WILLIAM)
BUDD, individually and as)
BUDDS PLUMBING; et al.,)
Defendants.)

Video Deposition of NOREEN ROUILLARD

Taken on July 19, 2019
At 10:04 a.m.

At RICHARDS BRANDT MILLER & NELSON
299 South Main Street

Salt Lake City, Utah 84110

Reported by: Deirdre Rand, RPR, CSR, CCR

<div>1A P P E A R A N C E S</div> <div>2For the Plaintiffs:</div> <div>3BENJAMIN P. CLOWARD</div> <div>4RICHARD HARRIS LAW FIRM</div> <div>5801 South Fourth Street</div> <div>6Las Vegas, Nevada 89101</div> <div>7702-444-4444</div> <div>8benjamin@richardharrislaw.com</div> <div>9For the Defendants:</div> <div>10PHILIP GOODHART</div> <div>11THORNDAL ARMSTRONG DELK BALKENBUSH &</div> <div>12EISINGER</div> <div>131100 East Bridger Avenue</div> <div>14P.O. Box 2070</div> <div>15Las Vegas, Nevada 89125</div> <div>16702-366-0622</div> <div>17png@thorndal.com</div> <div>18Attorney for FirstStreet, AITHR,</div> <div>19and Hale Benson</div> <div>20BRITTANY W. LLEWELLYN</div> <div>21WEINBERG WHEELER HUDGINS GUNN & DIAL</div> <div>226385 South Rainbow Road, Suite 400</div> <div>23Las Vegas, Nevada 89118</div> <div>24702-938-3848</div> <div>25blllewellyn@wwhgd.com</div> <div>Attorney for Jacuzzi</div> <div>For the Witness:</div> <div>RUSSELL C. FERICKS</div> <div>RICHARDS BRANDT MILLER & NELSON</div> <div>299 South Main Street, Suite 1500</div> <div>Salt Lake City, Utah 84110</div> <div>801-531-2000</div> <div>russell-fericks@rbmn.com</div> <div>The Videographer:</div> <div>STEPHANIE LARGIN</div> <div>-ooOoo-</div>	<div>1E X H I B I T S</div> <div>2</div> <div>3EXHIBIT DESCRIPTIONPAGE</div> <div>41Salesforce.com report of incident8</div> <div>5(Jacuzzi002945 to 002948)</div> <div>62Jacuzzi Walk-In Tub packet11</div> <div>7(LBP 0001, WP0001 to 0011,</div> <div>8WP 0030 to 0031)</div> <div>93Photographs (TUBPHOTO0007 to 0009)13</div> <div>104Photographs14</div> <div>115Letter re: Free Bathroom Safety14</div> <div>12Assessment for Noreen Rouillard</div> <div>13from Safe Step Walk-in Tubs</div> <div>14-ooOoo-</div>
<div>1I N D E X</div> <div>2WITNESSPAGE</div> <div>3NOREEN ROUILLARD</div> <div>4</div> <div>5Examination by Mr. Cloward..... 5</div> <div>6Examination by Mr. Goodhart..... 21</div> <div>7Examination by Ms. Llewellyn..... 28</div> <div>8Further Examination by Mr. Cloward..... 29</div> <div>9</div> <div>10-ooOoo-</div>	<div>1P R O C E E D I N G S</div> <div>2NOREEN ROUILLARD,</div> <div>3called as a witness, and having been first duly sworn to</div> <div>4tell the truth, the whole truth, and nothing but the</div> <div>5truth, testified as follows:</div> <div>6(Before commencing, Exhibits No. 1 through 5 were</div> <div>7marked for identification.)</div> <div>8EXAMINATION</div> <div>9BY MR. CLOWARD:</div> <div>10Q. How are you today, Ms. Rouillard?</div> <div>11A. I'm fine. Thank you.</div> <div>12Q. Okay. Well, I'm going to be as fast as I</div> <div>13possibly can to get own your way. Okay?</div> <div>14A. Good idea.</div> <div>15Q. All right.</div> <div>16Have you had your deposition taken before?</div> <div>17A. No.</div> <div>18Q. Okay. So it's just kind of an</div> <div>19answer-question, question-answer session. The nice</div> <div>20reporter to my right, she's typing down all of my</div> <div>21questions along with your answers.</div> <div>22A. Okay.</div> <div>23Q. And if there are any objections that are made,</div> <div>24she'll also type down those objections.</div> <div>25A. Okay.</div>

Page 26	Page 28
<p>1 Q. No? Okay.</p> <p>2 Does your tub have -- I think some of them had</p> <p>3 some type of aromatherapy where you could get different</p> <p>4 scents in the tub. Do you have that?</p> <p>5 A. I think ours do, but I've never done it.</p> <p>6 Q. All right. What about lights? Does -- can</p> <p>7 you change the color of the lights or the ambient</p> <p>8 lighting or anything like that, do you know?</p> <p>9 A. I don't know that.</p> <p>10 Q. Okay.</p> <p>11 A. I use it often, two or three times a week, but</p> <p>12 I -- I just -- what I do now, I go in and I take a book</p> <p>13 with me.</p> <p>14 Q. Oh. Okay.</p> <p>15 A. And I have a little lamp on the back row on</p> <p>16 the top of it. And I sit and read and then I shut that</p> <p>17 off and then I wash myself and get out.</p> <p>18 Q. Okay.</p> <p>19 Have you ever had any problems slipping or</p> <p>20 losing your grip on the foot well in the tub where your</p> <p>21 feet are?</p> <p>22 A. No. I have a pad with little bubbles.</p> <p>23 Q. Okay. Was that something that you bought for</p> <p>24 yourself or was that something that was delivered with</p> <p>25 the tub?</p>	<p>1 A. Yes.</p> <p>2 Q. Do you think the tub has delivered to you what</p> <p>3 the salespeople said it would deliver to you?</p> <p>4 A. Yes, I do.</p> <p>5 Q. Would you recommend this tub to other people?</p> <p>6 A. Yes.</p> <p>7 MR. GOODHART: I don't think I have any other</p> <p>8 questions. Thank you very much. I appreciate it.</p> <p>9 THE WITNESS: You're welcome.</p> <p>10 EXAMINATION</p> <p>11 BY MS. LLEWELLYN:</p> <p>12 Q. Good morning.</p> <p>13 A. Good morning.</p> <p>14 Q. Just a couple more questions for you.</p> <p>15 A. Okay.</p> <p>16 Q. After this incident you said you contacted a</p> <p>17 gentleman who came out and worked with the pipes. Was</p> <p>18 that what you said?</p> <p>19 A. He's working as a handyman in the condo.</p> <p>20 Q. Okay. So I just wanted to clarify that. He's</p> <p>21 someone who works for your condo community?</p> <p>22 A. Yes.</p> <p>23 Q. Like a maintenance person?</p> <p>24 A. Uh-huh.</p> <p>25 Q. Yes? Okay.</p>
Page 27	Page 29
<p>1 A. It came with the tub.</p> <p>2 Q. Have you had any problems slipping off of the</p> <p>3 seat?</p> <p>4 A. No.</p> <p>5 Q. Okay.</p> <p>6 Have you had any instances where you may have</p> <p>7 turned the jets up a little bit too high on your back</p> <p>8 and they pushed you forward off the seat a little bit?</p> <p>9 A. I don't think so.</p> <p>10 Q. All right.</p> <p>11 A. I'm sorry, I may have, but it wouldn't be</p> <p>12 something I would expect.</p> <p>13 Q. Okay.</p> <p>14 So in all the time that you've been using this</p> <p>15 tub since it was installed about three years ago -- a</p> <p>16 little bit less than three years ago, and in using it</p> <p>17 two to three times a week, you've never slipped in the</p> <p>18 tub, have you?</p> <p>19 A. No.</p> <p>20 Q. Okay. Have you ever been concerned about</p> <p>21 slipping in the tub?</p> <p>22 A. No, not with the pad.</p> <p>23 Q. All right.</p> <p>24 Do you think the tub has lived up to your</p> <p>25 expectations?</p>	<p>1 Do you know what he did in the piping or was</p> <p>2 it just like a clog or --</p> <p>3 A. I think it was a clog of some kind --</p> <p>4 Q. Okay.</p> <p>5 A. -- that had gotten stuck in there.</p> <p>6 Q. Okay. And your understanding was that the tub</p> <p>7 wasn't draining because of that clog that the handyman</p> <p>8 fixed?</p> <p>9 A. Yes.</p> <p>10 Q. Yes? That's a yes?</p> <p>11 A. Yes.</p> <p>12 MS. LLEWELLYN: Okay. I don't have any other</p> <p>13 questions for you.</p> <p>14 THE WITNESS: Okay.</p> <p>15 MS. LLEWELLYN: Thank you very much for coming</p> <p>16 out today.</p> <p>17 THE WITNESS: You're welcome.</p> <p>18 FURTHER EXAMINATION</p> <p>19 BY MR. CLOWARD:</p> <p>20 Q. Just a couple follow-up questions just really</p> <p>21 quick. Can you tell us a little bit about the pad with</p> <p>22 bubbles? What does that look like? I don't think I've</p> <p>23 seen one of those.</p> <p>24 A. Well, I don't know. It's about this big.</p> <p>25 (Witness gestures.)</p>

Page 30	Page 32
<p>1 Q. Okay.</p> <p>2 A. And it's a clear color plastic. And there are</p> <p>3 like bubbles all the way across the whole thing.</p> <p>4 Q. Are there --</p> <p>5 A. So that you put down on the tub and then you</p> <p>6 step on it and walk so there's nothing to slip on.</p> <p>7 Q. Oh, okay. And was that something that came</p> <p>8 installed in the tub or is that something that you and</p> <p>9 your husband had to put in the tub?</p> <p>10 A. I honestly do not remember. I'm sorry. I got</p> <p>11 it right away because I didn't want to step in it and</p> <p>12 slide.</p> <p>13 Q. Okay. You were concerned about potentially</p> <p>14 sliding without that?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Do you feel like that bubbles insert</p> <p>17 helps to prevent that?</p> <p>18 A. Yes. That's what I bought -- I guess I did go</p> <p>19 out and buy it the next day. I could have done</p> <p>20 something. It's been so long ago, I really don't --</p> <p>21 can't give you an honest answer, but I got it somewhere</p> <p>22 and I like it and I use it every time I'm in the tub.</p> <p>23 Q. Okay. Fair to say you bought that because you</p> <p>24 were worried about slipping?</p> <p>25 A. Yes.</p>	<p>1 could send that to?</p> <p>2 MR. CLOWARD: Yes. Area code 801-913-5668.</p> <p>3 MR. FERICKS: All right.</p> <p>4 And Philip?</p> <p>5 MR. CLOWARD: Ben. Oh, sorry.</p> <p>6 MR. GOODHART: Actually, I think it would be</p> <p>7 probably easier on you if you just text it to Ben. And</p> <p>8 we've done this before, and I know Ben will text it to</p> <p>9 us immediately. I don't have a problem with that.</p> <p>10 MR. FERICKS: All right.</p> <p>11 MR. GOODHART: In fact, I was going to</p> <p>12 recommend that maybe we try to get a picture of the mat</p> <p>13 as well.</p> <p>14 MR. CLOWARD: Great.</p> <p>15 MR. GOODHART: Thank you for asking that.</p> <p>16 MR. FERICKS: So that's a cell -- that's a</p> <p>17 cell phone number.</p> <p>18 MR. CLOWARD: Correct, that's my cell.</p> <p>19 MR. FERICKS: All right. Brittany, same</p> <p>20 thing? Do you want it directly or --</p> <p>21 MS. LLEWELLYN: No, I can just receive it from</p> <p>22 Ben as well.</p> <p>23 MR. FERICKS: All right.</p> <p>24 MS. LLEWELLYN: Thank you.</p> <p>25 MR. GOODHART: We trust Ben. He's a good guy.</p>
Page 31	Page 33
<p>1 Q. Okay.</p> <p>2 And did you use the tub first without that and</p> <p>3 then you realized that it was too slippery and that's</p> <p>4 what caused you to go out and buy that?</p> <p>5 A. I don't remember. And I should have changed</p> <p>6 that. I don't remember that I bought it, whether that</p> <p>7 it came with the tub, but I had it in the first couple</p> <p>8 of days.</p> <p>9 Q. Okay.</p> <p>10 My understanding is that --</p> <p>11 MR. CLOWARD: Mr. Fericks, did you pick</p> <p>12 Ms. Rouillard up today?</p> <p>13 MR. FERICKS: I did.</p> <p>14 BY MR. CLOWARD:</p> <p>15 Q. Would it be okay if your attorney -- and he</p> <p>16 would have to agree as well -- to just take a photograph</p> <p>17 of that? Would that be okay?</p> <p>18 A. Photograph of what?</p> <p>19 Q. Of the insert, the bubble thing.</p> <p>20 A. Yeah.</p> <p>21 Q. Would that be okay with you?</p> <p>22 A. If he's willing to do it, yeah.</p> <p>23 Q. Okay. I sincerely appreciate that from both</p> <p>24 of you. Thank you.</p> <p>25 MR. FERICKS: Do you have a text or a number I</p>	<p>1 Like I said before, he's the smart one in the group.</p> <p>2 THE WITNESS: And I forgot to say I have</p> <p>3 another one of those in the shower. In the other</p> <p>4 bathroom. So I'm used to having them. So I don't think</p> <p>5 that there was anything spectacular when I got it, it</p> <p>6 was just common sense.</p> <p>7 BY MR. CLOWARD:</p> <p>8 Q. Okay.</p> <p>9 A. I didn't want to fall.</p> <p>10 Q. Yeah.</p> <p>11 Okay. Well, thank you again. I appreciate</p> <p>12 it. I know this is not fun coming and being deposed.</p> <p>13 We appreciate your time. Thank you very much,</p> <p>14 sincerely.</p> <p>15 A. You're welcome. I hope I can be a help.</p> <p>16 MR. GOODHART: You have. Thank you very much.</p> <p>17 We appreciate it.</p> <p>18 (Deposition concluded at 10:34 a.m.)</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

Advanced Reporting Solutions
801-746-5080

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT “11”



1 **REQT**

2 BENJAMIN P. CLOWARD, ESQ.
3 Nevada Bar No. 11087

4 **RICHARD HARRIS LAW FIRM**

5 801 South Fourth Street
6 Las Vegas, Nevada 89101
7 Phone: (702) 444-4444
8 Fax: (702) 444-4455
9 E-Mail: Benjamin@RichardHarrisLaw.com
10 *Attorneys for Plaintiffs*

11 **DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 ROBERT ANSARA, as Special Administrator of the
14 Estate of SHERRY LYNN CUNNISON, Deceased;
15 ROBERT ANSARA, as Special Administrator of the
16 Estate of MICHAEL SMITH, Deceased heir to the
17 Estate of SHERRY LYNN CUNNISON, Deceased;
18 and DEBORAH TAMANTINI individually, and heir
19 to the Estate of SHERRY LYNN CUNNISON,
20 Deceased,

21 Plaintiffs,

22 vs.

23 FIRST STREET FOR BOOMERS & BEYOND,
24 INC.; AITHR DEALER, INC.; HALE BENTON,
25 Individually, HOMECLICK, LLC; JACUZZI INC.,
26 doing business as JACUZZI LUXURY BATH;
27 BESTWAY BUILDING & REMODELING, INC.;
28 WILLIAM BUDD, Individually and as BUDDS
PLUMBING; DOES 1 through 20; ROE
CORPORATIONS 1 through 20; DOE
EMPLOYEES 1 through 20; DOE
MANUFACTURERS 1 through 20; DOE 20
INSTALLERS 1 through 20; DOE CONTRACTORS
1 through 20; and DOE 21 SUBCONTRACTORS 1
through 20, inclusive,

Defendants.

CASE NO.: A-16-731244-C
DEPT NO.: II

PLAINTIFF ROBERT
ANSARA'S SIXTH SET OF
REQUESTS FOR
PRODUCTION OF
DOCUMENTS TO
DEFENDANT,
FIRST STREET FOR
BOOMERS & BEYOND, INC.

1 AND ALL RELATED MATTERS
2

3 **PLAINTIFF ROBERT ANSARA'S SIXTH SET OF REQUESTS FOR**
4 **PRODUCTION OF DOCUMENTS TO DEFENDANT,**
5 **FIRST STREET FOR BOOMERS & BEYOND, INC.**

6 Plaintiff, ROBERT ANSARA, as Special Administrator of the Estate of SHERRY LYNN
7 CUNNISON, Deceased; by and through his Attorney, BENJAMIN P. CLOWARD, ESQ. of the
8 RICHARD HARRIS LAW FIRM, pursuant to Rule 34, Nevada Rules of Civil Procedure,
9 requests that Defendant, FIRST STREEET FOR BOOMERS & BEYOND, INC. ("FIRST
10 STREET"), produce for inspection and copying, within thirty (30) days of service of this Request
11 for Production of Documents, at the RICHARD HARRIS LAW FIRM, 801 South Fourth Street,
12 Las Vegas, Nevada 89101, all documents in the possession, custody, or control of Defendant or
13 otherwise available to Defendant, which are responsive to the requests contained in the numbered
14 paragraphs below. Please specify which documents are produced in response to each of the
15 numbered paragraphs.

16 These requests shall be deemed continuing so as to require further and supplemental
17 production should the requested party obtain additional documents which are responsive to this
18 request subsequent to the time of initial production and inspection.

19 **PREAMBLE**

20 As used in these requests, the following terms are to be interpreted in accordance with
21 these definitions:

- 22 1. "Plaintiff" refers to, without limitation, the above-named Plaintiffs, as well as
23 Plaintiffs' attorney, agent, or representative.
- 24 2. "Complaint" refers to the Complaint filed by Plaintiff in this action.
- 25 3. "Defendant," "you," or "your" refers to, without limitation, Jacuzzi, Inc., and all
26 business entities with which it is or has been affiliated, together with any
27 predecessor, successor, parent, or subsidiary entity as well as any officer, director,
28 employee, attorney, agent, or representative of it or any such other business entity
previously described herein, and others who are in possession of or may have

1 obtained information for or on behalf of it with regard to the subject matter of this
2 case.

3 4. "Person" means any natural person (whether living or deceased), company,
4 corporation, partnership, proprietorship, firm, joint venture, association,
5 governmental entity, agency, group, organization, other entity, or group of
6 persons.

7 5. "Document" means every writing or record of every type and description that is or
8 has been in your possession, custody, or control or of which you have knowledge,
9 including but not limited to correspondence, memoranda, tapes, stenographic or
10 handwritten notes, studies, publications, books, pamphlets, pictures, drawings and
11 photographs, films, microfilms, voice recordings, maps, reports, surveys, minutes
12 or statistical compilations, or any other reported or graphic material in whatever
13 form, including copies, drafts, and reproductions. "Document" also refers to any
14 other data compilations from which information can be obtained, and translated,
15 if necessary, by you through computers or detection devices into reasonably usable
16 form. The term "document(s)" also includes, but is not limited to, all duplicates,
17 carbon copies or any other copies of original documents, including copies with
18 handwritten notes, revisions or interlineations.

19 6. "Communication" means e-mail, SMS message, MMS message, fax, letter, social
20 media post, instant message, recorded audio, or, recorded video.

21 7. Terms in the singular shall be deemed to include the plural and terms in the plural
22 shall be deemed to include the singular.

23 8. Use of feminine pronouns shall be deemed to include the masculine and neuter;
24 use of masculine pronouns shall be deemed to include the feminine and neuter;
25 and use of neuter pronouns shall be deemed to include the masculine and feminine.

26 9. "Identify": With respect to a document means set forth the following information,
27 regardless of whether such document is in your possession, if known: a general
28 description thereof (e.g., letter, memorandum, report, etc.); a brief summary of its

1 contents, or a description of the subject matter it concerns; the name and address
2 of the persons, if any, who drafted, prepared, compiled or signed it; and any other
3 descriptive information necessary in order to describe it adequately in a subpoena
4 duces tecum or in a motion or request for production thereof. With regard to a
5 person, the term "identify" means set forth the person's name, last known address
6 and telephone number, occupation, last known address and telephone number of
7 the person's place of employment, and a summary of the relevant knowledge
8 possessed by such person.

9 10. "And" and "or," as used herein, shall be construed disjunctively or conjunctively
10 as necessary to bring within the scope of these interrogatories or requests any
11 information that might otherwise be construed to be outside their scope.

12 11. "Evidencing" and or "relating to," as used herein, mean and include, in whole or
13 in part, referring to, with respect to, concerning, connected with, commenting on,
14 responding to, showing, describing, analyzing, reflecting and constituting.

15 12. If any document requested formerly was in your possession or subject to your
16 control but no longer is in your possession or subject to your control, state when
17 and what disposition was made of the document or documents.

18 13. The term "occurrence" means the incident complained out in the Plaintiff's
19 complaint.

20 14. If you assert the attorney-client privilege, work-product doctrine, or other privilege
21 or exclusion as to any document requested by any of the following specific
22 interrogatories or requests, please identify the document in sufficient detail to
23 permit the Court to reach a determination in the event of a Motion to Compel.

24 15. When the terms: Jacuzzi Walk-In Bathtub, Jacuzzi Tub, Walk-In Tub, Walk-In
25 Bathtub or similarly phrased words are used, the Plaintiffs mean the 5229 Walk-
26 in Bathtub Series or the bathtub that was utilized by Sherry Cunnison.

27 The above definitions and instructions are incorporated herein by reference and should be
28 utilized in responding to the following requests.

1 UNLESS OTHERWISE NOTED, THE DOCUMENTS, RECORDS, AND DATA
2 REQUESTED ARE THOSE THAT APPLY TO AND/OR COVER ANY PART OF THE
3 TIME PERIOD FROM JANUARY 1, 2008, TO THE DATE OF YOUR RESPONSE.

4 **DOCUMENTS TO BE PRODUCED**

5 **REQUEST NO. 132.** Please produce all documents reflecting that you provided, offered, or sold,
6 bathmats to customers of any and all Jacuzzi walk-in tub produced from January 1, 2008 to
7 present.

8 **REQUEST NO. 133.** Please produce all documents reflecting items, including bathmats or other
9 accessories or product modifications like Kahuna grip, LX07000, Cajun grip, etc., that you sold
10 or provided or are aware were sold, provided, offered or marketed to customers using any/all
11 Jacuzzi walk-in tub products.

12 **REQUEST NO. 134.** Please produce all customer satisfaction surveys (front and back) left with
13 customers to fill out from January 1, 2008 to present, regardless of content of survey.

14 **REQUEST NO. 135.** Please produce all customer satisfaction cards (front and back) left with
15 customers to fill out from January 1, 2008 to present, regardless of content of survey.

16
17 DATED THIS 26th day of July, 2019.

18 **RICHARD HARRIS LAW FIRM**

19
20 /s/ Benjamin P. Cloward
21 BENJAMIN P. CLOWARD, ESQ.
22 Nevada Bar No. 11087
23 801 South Fourth Street
24 Las Vegas, Nevada 89101
25 *Attorney for Plaintiffs*
26
27
28

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), the amendment to EDCR 7.26, and Administrative Order 14-2, I hereby certify that on this 28th day of July, 2019, I caused to be served a true copy of the foregoing, **PLAINTIFF ROBERT ANSARA'S SIXTH SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO DEFENDANT, FIRST STREET FOR BOOMERS & BEYOND, INC.** as follows:

☐ U.S. Mail—By depositing a true copy thereof in the U.S. mail, first class postage prepaid and addressed as listed below; and/or

☐ Facsimile—By facsimile transmission pursuant to EDCR 7.26 to the facsimile number(s) shown below; and/or

☒ Electronic Service — in accordance with Administrative Order 14-2 and Rule 9 of the Nevada Electronic Filing and Conversion Rules (N.E.F.C.R.).

Meghan M. Goodwin, Esq.
Philip Goodhart, Esq.
Thorndal Armstrong Delk Balkenbush & Eisinger
1100 East Bridger Ave.
Las Vegas, NV 89101-5315
Telephone: 702-366-0622
Fax: 702-366-0327
E-mail: MMG@thorndal.com
E-mail: png@thorndal.com

Mail to:
P.O. Box 2070
Las Vegas, NV 89125-2070
Attorneys for Defendants/Cross-Defendants Firststreet for Boomers and Beyond, Inc. and Aithr Dealer, Inc.

Vaughn A. Crawford, Esq.
Joshua D. Cools, Esq.
SNELL & WILMER LLP
3883 Howard Hughes Pkwy.,
Suite 1100
Las Vegas, NV 89159
Telephone: 702-784-5200
Fax: 702-784-5252
E-mail: jcools@swlaw.com

D. Lee Roberts, Esq.
Brittany M. Llewellyn, Esq.
Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC
6385 S. Rainbow Blvd., Suite 400
Las Vegas, Nevada 89118
Fax: 702.938.3864
E-mail: lroberts@wwhgd.com
E-mail: bllewellyn@wwhgd.com

Attorneys for Defendant/Cross-Defendant, Jacuzzi, Inc. dba Jacuzzi Luxury Bath

/s/ Nicole M. Griffin
An employee of RICHARD HARRIS LAW FIRM

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT “12”



1 **REQT**

2 BENJAMIN P. CLOWARD, ESQ.
3 Nevada Bar No. 11087

4 **RICHARD HARRIS LAW FIRM**

5 801 South Fourth Street
6 Las Vegas, Nevada 89101
7 Phone: (702) 444-4444
8 Fax: (702) 444-4455
9 E-Mail: Benjamin@RichardHarrisLaw.com
10 *Attorneys for Plaintiffs*

11 **DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 ROBERT ANSARA, as Special Administrator of the
14 Estate of SHERRY LYNN CUNNISON, Deceased;
15 ROBERT ANSARA, as Special Administrator of the
16 Estate of MICHAEL SMITH, Deceased heir to the
17 Estate of SHERRY LYNN CUNNISON, Deceased;
18 and DEBORAH TAMANTINI individually, and heir
19 to the Estate of SHERRY LYNN CUNNISON,
20 Deceased,

21 Plaintiffs,

22 vs.

23 FIRST STREET FOR BOOMERS & BEYOND,
24 INC.; AITHR DEALER, INC.; HALE BENTON,
25 Individually, HOMECLICK, LLC; JACUZZI INC.,
26 doing business as JACUZZI LUXURY BATH;
27 BESTWAY BUILDING & REMODELING, INC.;
28 WILLIAM BUDD, Individually and as BUDDS
PLUMBING; DOES 1 through 20; ROE
CORPORATIONS 1 through 20; DOE
EMPLOYEES 1 through 20; DOE
MANUFACTURERS 1 through 20; DOE 20
INSTALLERS 1 through 20; DOE CONTRACTORS
1 through 20; and DOE 21 SUBCONTRACTORS 1
through 20, inclusive,

Defendants.

CASE NO.: A-16-731244-C
DEPT NO.: II

PLAINTIFF ROBERT
ANSARA'S FOURTH SET OF
REQUESTS FOR
PRODUCTION OF
DOCUMENTS TO
DEFENDANT, AITHR
DEALER, INC.

1 AND ALL RELATED MATTERS
2

3 **PLAINTIFF ROBERT ANSARA'S FOURTH SET OF REQUESTS FOR PRODUCTION**
4 **OF DOCUMENTS TO DEFENDANT, AITHR DEALER, INC.**

5 TO: AITHR DEALER, INC., Defendant
6 TO: MEGHAN M. GOODWIN, ESQ., of THORNDAL ARMSTRONG DELK
7 BALKENBUSH & EISINGER, its attorney

8 Plaintiff, ROBERT ANSARA, as Special Administrator of the Estate of SHERRY LYNN
9 CUNNISON, Deceased; by and through his Attorney, BENJAMIN P. CLOWARD, ESQ. of the
10 RICHARD HARRIS LAW FIRM, pursuant to Rule 34, Nevada Rules of Civil Procedure,
11 requests that Defendant, AITHR DEALER, INC. ("AITHR"), produce for inspection and
12 copying, within thirty (30) days of service of this Request for Production of Documents, at the
13 RICHARD HARRIS LAW FIRM, 801 South Fourth Street, Las Vegas, Nevada 89101, all
14 documents in the possession, custody, or control of Defendant or otherwise available to
15 Defendant, which are responsive to the requests contained in the numbered paragraphs below.
16 Please specify which documents are produced in response to each of the numbered paragraphs.

17 These requests shall be deemed continuing so as to require further and supplemental
18 production should the requested party obtain additional documents which are responsive to this
19 request subsequent to the time of initial production and inspection.

20 **PRELIMINARY STATEMENT AND DEFINITIONS**

21 These requests are requesting documents or information relevant to this case only. In each
22 request for document, we are requesting documents or information which were controlling or in
23 effect at or around the time of the incident.

24 The following Preliminary Statement and Definitions apply to each of the Requests set
25 forth hereinafter and are deemed to be incorporated therein:

- 26 a) The singular number and the masculine gender, as used herein, also mean the plural,
27 feminine or neuter, as may be appropriate.
28 b) The term 'complaint' shall refer to the Complaint, as amended, in this action and filed
by Plaintiff.

- 1 c) The term “Defendant” shall refer to AITHR DEALER, INC. (hereinafter “**Defendant**”
- 2 or “**AITHR**”), its agents, employees, attorneys, accountants, investigators, partners,
- 3 representatives and insurance companies.
- 4 d) The term “document” as used in these Requests means all written, recorded or graphic
- 5 matters, however produced or reproduced and includes, but is not limited to, any
- 6 record, report, paper, writing, book, letter, note, memorandum, correspondence,
- 7 agreement, contract, journal, ledger, summary, minute of meeting, photograph,
- 8 interoffice communication, telegram, schedule, diary, log, memorandum of telephone
- 9 or in-person communication, meeting or conversation, Telex, cable, tape, transcript,
- 10 recording, photograph, picture or film, computer printout, program or data of other
- 11 graphic, symbolic, recorded or written materials of any nature whatsoever. Any
- 12 document, as hereinabove defined, which contains any comment, notation, addition,
- 13 insertion or marking of any kind which is part of another document, is to be considered
- 14 a separate document.
- 15 e) The term “electronic stored information” (or “**ESI**”) shall be afforded the broadest
- 16 possible definition and includes (by way of example and not as an exclusive list)
- 17 potentially relevant information, electronically, magnetically, or optically stored as:
- 18
 - 19 a. Digital communications (e.g. e-mail, voice mail, instant message);
 - 20 b. Word processed documents (e.g. Word or WordPerfect documents and
 - 21 drafts);
 - 22 c. Spreadsheets and tables (e.g. Excel, Lotus 123)
 - 23 d. Accounting Application Date (e.g. Quickbooks, Money, Peachtree data
 - 24 files)
 - 25 e. Image and Facsimile Files (e.g. .pdf, .tiff, .jpg, .gif images)
 - 26 f. Sound Recordings (e.g. .wav, .mp3, .mp4 files)
 - 27 g. Video and Animation (e.g. .avi and .mov files)
 - 28 h. Databases (e.g. Access, Oracles, SQL Server date, SAP);
 - i. Contact and Relationship Data (e.g. Outlook, ACT!)
 - j. Calendar and Diary Applications Data (e.g. Outlook PST, Yahoo, Google,
 - blog tools)
 - k. Online Access Data (e.g. Temporary Internet Files, History, Cookies)
 - l. Presentations (e.g. PowerPoint, Corel Presentations)
 - m. Network Access and Server Activity Logs
 - n. Project Management Application Data
 - o. Computer Aided Design/Drawing Files
 - p. Back Up and Archival Files (e.g. Zip, .GHO)
- f) The term “evidence” shall mean any statement, utterance, or document that
- demonstrates or might demonstrate a fact or an opinions related to any issue in the
- case.
- g) The term “fact” as used in these Requests shall include, without limitation, every

1 matter occurrence, act, event, transaction, occasion, instance, circumstance,
2 representation or other happening, by whatever name it is known.

3 h) The term “person” as used herein shall be deemed to mean any natural person, firm,
4 association, partnership, corporation or any other form of legal entity or governmental
body, unless the context otherwise dictates.

5 i) The term(s) “relate to”, “relates to”, “relating to”, and “related to” shall refer to,
6 reflect, discuss, show, constitute or connected in any way logically or factually with
the matter discussed.

7 j) The term “video recordings” shall refer to all evidence in which an event was captured
8 by cameras, either digital or otherwise, with the ability to reverse the footage and later
9 play it back in a manner reflecting a true and accurate account of what was captured
by the recording camera.

10 k) The term “writing(s)” shall refer to any document or information identified in
11 definition d) or e), electronic or otherwise.

12 l) The term(s) “you” and “your” shall refer to RESPONDING PARTY, AITHR, and
13 anyone acting on its behalf, including, but not limited to, its agents, employees,
14 attorneys, accountants, investigators, partners, representatives and insurance
companies.

15 m) These requests apply to all documents or information in Defendant’s possession,
16 custody or control (including documents or information that Defendant has the
17 effective power of attorney to obtain) at the present time, and to those documents or
18 information in the possession of Defendant’s agents, employees, representative,
19 investigators, or attorneys. These requests shall be deemed continuing, and shall apply
to documents that come into the possession, custody or control of any of the foregoing
persons or entities after the date of initial response, production, or disclosure.

20 n) The term “identify” or request to “state the identity” as used in these Interrogatories
21 shall call for the following information:

22 With respect to a person:

- 23 1) His full name;
- 24 2) His last known business and residence address.
- 25 3) His last known business and residence telephone numbers;
- 26 4) His last know job title and capacity;
- 27 5) His relationship to you, by blood or marriage, including former marriages;
- 28 6) Whether any statement pertaining to any matter involved in this litigation, whether
written or oral, or by recording device or by court reporter, or whether signed or
unsigned, has been taken from him, and if so, how many such statements, and as
to each statement, state the identity of thereof.

With respect to each document:

- 1) Its nature (e.g., letter, memorandum, etc.);
- 2) Its title;
- 3) The date it bears;
- 4) The date it was sent;
- 5) The date it was received;
- 6) The identity of all persons who prepared it or participated in anyway in its preparation;
- 7) The identity of the person sending it and who such person represented at that time;
- 8) The identity of the person to whom it was sent;
- 9) The identity of the person who presently has custody of it and its present location;
- 10) Its subject matter and its substance;
- 11) Whether the document is claimed to be privileged;
- 12) If you exercise the option to produce business records pursuant to NRCP 34(c), please answer, nonetheless, subparts (1) through (9) hereof in regard to each pertinent Interrogatory.

With respect to “communication”:

- 1) The maker;
- 2) The receiver;
- 3) When made;
- 4) Where made;
- 5) The identity of all persons present when made;
- 6) The mode of communication;
- 7) The subject matter and substance;
- 8) Whether the communication is claimed to be privileged.

With respect to each “fact”:

- 1) The date and time it occurred;
 - 2) The place where it occurred;
 - 3) The identity of each person present;
 - 4) An identification of the subject matter, nature and substance of the fact.
- o) With respect to each document or communication identified and claimed to be privileged, state the type of privilege claimed and its basis.
- p) If you object in whole or in part to any of the following Interrogatories, please state in complete detail the basis for your objection and all the facts in which you rely to support your objection.
- q) When the terms: Jacuzzi Walk-In Bathtub, Jacuzzi Tub, Walk-In Tub, Walk-In Bathtub or similarly phrased words are used, the Plaintiffs mean the 5229 Walk-in Bathtub Series or the bathtub that was utilized by Sherry Cunnison.

DOCUMENTS TO BE PRODUCED

REQUEST NO. 107. Please produce all documents reflecting that you provided, offered, or sold, bathmats to customers of any and all Jacuzzi walk-in tub produced from January 1, 2008 to present.

REQUEST NO. 108. Please produce all documents reflecting items, including bathmats or other accessories or product modifications like Kahuna grip, LX07000, Cajun grip, etc., that you sold or provided or are aware were sold, provided, offered or marketed to customers using any/all Jacuzzi walk-in tub products.

REQUEST NO. 109. Please produce all customer satisfaction surveys (front and back) left with customers to fill out from January 1, 2008 to present, regardless of content of survey.

REQUEST NO. 110. Please produce all customer satisfaction cards (front and back) left with customers to fill out from January 1, 2008 to present, regardless of content of survey.

DATED THIS 26th day of July, 2019.

RICHARD HARRIS LAW FIRM

/s/ Benjamin P. Cloward
BENJAMIN P. CLOWARD, ESQ.
Nevada Bar No. 11087
801 South Fourth Street
Las Vegas, Nevada 89101
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), the amendment to EDCR 7.26, and Administrative Order 14-2, I hereby certify that on this 28th day of July, 2018, I caused to be served a true copy of the foregoing **PLAINTIFF ROBERT ANSARA'S FOURTH SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO DEFENDANT, AITHR DEALER, INC.** as follows:

☐ U.S. Mail—By depositing a true copy thereof in the U.S. mail, first class postage prepaid and addressed as listed below; and/or

☐ Facsimile—By facsimile transmission pursuant to EDCR 7.26 to the facsimile number(s) shown below; and/or

☒ Electronic Service — in accordance with Administrative Order 14-2 and Rule 9 of the Nevada Electronic Filing and Conversion Rules (N.E.F.C.R.).

Meghan M. Goodwin, Esq.
Philip Goodhart, Esq.
Thorndal Armstrong Delk Balkenbush & Eisinger
1100 East Bridger Ave.
Las Vegas, NV 89101-5315
Telephone: 702-366-0622
Fax: 702-366-0327
E-mail: MMG@thorndal.com
E-mail: png@thorndal.com

Mail to:
P.O. Box 2070
Las Vegas, NV 89125-2070
Attorneys for Defendants/Cross-Defendants Firststreet for Boomers and Beyond, Inc. and Aithr Dealer, Inc.

Vaughn A. Crawford, Esq.
Joshua D. Cools, Esq.
SNELL & WILMER LLP
3883 Howard Hughes Pkwy.,
Suite 1100
Las Vegas, NV 89159
Telephone: 702-784-5200
Fax: 702-784-5252
E-mail: jcools@swlaw.com

D. Lee Roberts, Esq.
Brittany M. Llewellyn, Esq.
Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC
6385 S. Rainbow Blvd., Suite 400
Las Vegas, Nevada 89118
Fax: 702.938.3864
E-mail: lroberts@wwhgd.com
E-mail: bllewellyn@wwhgd.com

Attorneys for Defendant/Cross-Defendant, Jacuzzi, Inc. dba Jacuzzi Luxury Bath

/s/ Nicole M. Griffin
An employee of RICHARD HARRIS LAW FIRM

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT “13”



1 **RFA**

2 BENJAMIN P. CLOWARD, ESQ.
3 Nevada Bar No. 11087

4 **RICHARD HARRIS LAW FIRM**

5 801 South Fourth Street
6 Las Vegas, Nevada 89101
7 Phone: (702) 444-4444
8 Fax: (702) 444-4455

9 E-Mail: Benjamin@RichardHarrisLaw.com
10 *Attorneys for Plaintiff*

11 **DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 ROBERT ANSARA, as Special Administrator
14 of the Estate of SHERRY LYNN CUNNISON,
15 Deceased; MICHAEL SMITH, individually,
16 and heir to the Estate of SHERRY LYNN
17 CUNNISON, Deceased; and DEBORAH
18 TAMANTINI, Individually; and heir to the
19 Estate of SHERRY LYNN CUNNISON,
20 Deceased,

21 Plaintiff,

22 vs.

23 FIRST STREET FOR BOOMERS &
24 BEYOND, INC.; AITHR DEALER, INC.;
25 HALE BENTON, Individually;
26 HOMECLICK, LLC; JACUZZI INC., doing
27 business as JACUZZI LUXURY BATH;
28 BESTWAY BUILDING & REMODELING,
INC.; WILLIAM BUDD, Individually and as
BUDDS PLUMBING; DOES 1 through 20;
ROE CORPORATIONS 1 through 20; DOE
EMPLOYEES 1 through 20; DOE
MANUFACTURERS 1 through 20; DOE 20
INSTALLERS 1 through 20; DOE
CONTRACTORS 1 through 20; and DOE 21
SUBCONTRACTORS 1 through 20,
inclusive,

Defendants.

CASE NO.: A-16-731244-C
DEPT NO.: II

PLAINTIFF ROBERT ANSARA, as
Special Administrator of the ESTATE
OF SHERRY LYNN CUNNISON,
THIRD SET OF REQUESTS FOR
ADMISSION TO DEFENDANT,
FIRST STREET FOR BOOMERS &
BEYOND, INC.

1 AND ALL RELATED MATTERS
2

3 **PLAINTIFF ROBERT ANSARA, as Special Administrator of the ESTATE OF SHERRY**
5 **LYNN CUNNISON, THIRD SET OF REQUESTS FOR ADMISSION TO DEFENDANT,**
6 **FIRST STREET FOR BOOMERS & BEYOND, INC.**

7 **TO: FIRST STREET FOR BOOMERS & BEYOND, INC., Defendant.**

8 **TO: MEGHAN M. GOODWIN, ESQ., of THORNDAL ARMSTRONG DELK**
9 **BALKENBUSH & EISINGER, its attorney.**

10 Plaintiff, ROBERT ANSARA, by and through his attorneys, BENJAMIN P. CLOWARD,
11 ESQ., of the RICHARD HARRIS LAW FIRM pursuant to Rule 36, Nevada Rules of Civil
12 Procedure, request that Defendant, FIRST STREET FOR BOOMERS & BEYOND, INC., by and
13 through its agent, representative, or employee, respond in writing within thirty (30) days after
14 service to the requests for admission hereinafter set forth and admit to the truth of the following
15 facts for the purpose of this action only, and subject to all pertinent objections to admissibility
16 which may be interposed at the trial.

17 These requests shall be deemed continuing so as to require further and supplemental
18 production should the requested party obtain additional documents which are responsive to this
19 request subsequent to the time of initial production and inspection.

20 **INSTRUCTIONS AND DEFINITIONS**

21 (1) "PLAINTIFF" shall refer to ROBERT ANSARA, an individual, his agents, attorneys,
22 accountants, investigators, partners, representatives, and insurance companies.

23 (2) "DEFENDANT" shall refer to FIRST STREET FOR BOOMERS & BEYOND, INC.
24 (hereinafter "FIRSTSTREET"), its agents, employees, attorneys, accountants, investigators,
25 partners, representatives and insurance companies.

26 (3) "YOU" and "YOUR" shall refer to RESPONDING PARTY, FIRSTSTREET, and
27 anyone acting on its behalf, including, but not limited to, its agents, employees, attorneys,
28 accountants, investigators, partners, representatives and insurance companies.

1 (4) "PERSON" refers to the plural as well as the singular, and includes a natural person,
2 firm, association, organization, partnership, business, trust, corporation or public entity.

3 (5) "SUBJECT PROPERTY" refers to the area where the incident/injury took place, as
4 set forth in Plaintiff's Complaint, as amended.

5 (6) "DOCUMENT" in the plural as well as the singular, shall refer to the original or a
6 copy of handwriting, typewriting, printing, photostating, photographing, and every other means
7 of recording upon any tangible thing and form of communicating or representation, including
8 letters, words, pictures, sounds or symbols or combinations of them.

9 (7) "WORK" refers to any work, activity, operation, or use of machinery, and/or any other
10 physical efforts, whether or not paid for, as performed by any person.

11 (8) "IDENTIFY" means:

12 (a) When used in reference to a natural PERSON means to state such person's full
13 name, telephone number, last known home and business address (including the city, state and zip
14 code), last known business affiliation, employer and position therewith and the latest date such
15 information was true;

16 (b) When used in reference to a BUSINESS, FIRM, PARTNERSHIP, JOINT
17 VENTURE, COMPANY or CORPORATION, to state, to the extent known, its full name, state
18 of incorporation or creation, address of its principal place of business and its principal activities
19 or products;

20 (c) When used in reference to a DOCUMENT, to state, to the extent known, the
21 name, date and author of the DOCUMENT and to supply a sufficient detailed description,
22 including contents of the documents that would satisfy a request for production of documents.

23 (9) "RELATE TO", "RELATES TO", "RELATING TO", and "RELATED TO" shall
24 refer to, reflect, discuss, show, constitute or connected in any way logically or factually with the
25 matter discussed.

26 (10) "COMPLAINT" shall refer to the Complaint, as amended, in this action and filed by
27 Plaintiff ROBERT ANSARA against Defendants, bearing Case Number A-16-731244-C.
28

1 (11) "VIDEO RECORDINGS" shall refer to all evidence in which an event was captured
2 by cameras, either digital or otherwise, with the ability to reverse the footage and later play it
3 back in a manner reflecting a true and accurate account of what was captured by the recording
4 camera.
5

6 **REQUESTS FOR ADMISSION**

7 **REQUEST NO. 15:** Admit that You have been using the bathmat product identified in
8 ROUILLARD 001 – ROUILLARD 004 since at least September 2016.
9

10 **REQUEST NO. 16:** Admit that You provide the bathmat product identified in ROUILLARD
11 001 – ROUILLARD 004 to Noreen Rouillard.

12 DATED this 26th day of July, 2019.
13

14 **RICHARD HARRIS LAW FIRM**

15 /s/ Benjamin P. Cloward
16 BENJAMIN P. CLOWARD, ESQ.
17 Nevada Bar No. 11087
18 801 South Fourth Street
19 Las Vegas, Nevada 89101
20 *Attorneys for Plaintiff*
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of RICHARD HARRIS LAW FIRM and that on this 28th day of July, 2019, I served a copy of the foregoing, **PLAINTIFF ROBERT ANSARA, as Special Administrator of the ESTATE OF SHERRY LYNN CUNNISON, THIRD SET OF REQUESTS FOR ADMISSION TO DEFENDANT, FIRST STREET FOR BOOMERS & BEYOND, INC.,** in Ansara, Robert, et al. v. First Street for Boomers & Beyond, Inc., et al., Clark County District Court Case No. A-16-731244-C, as follows:

- ☐ U.S. Mail—By depositing a true copy thereof in the U.S. mail, first class postage prepaid and addressed as listed below; and/or
- ☐ Facsimile—By facsimile transmission pursuant to EDCR 7.26 to the facsimile number(s) shown below; and/or
- ☒ Electronic Service — in accordance with Administrative Order 14-2 and Rule 9 of the Nevada Electronic Filing and Conversion Rules (N.E.F.C.R.).

Meghan M. Goodwin, Esq.
Philip Goodhart, Esq.
Thorndal Armstrong Delk Balkenbush & Eisinger
1100 East Bridger Ave.
Las Vegas, NV 89101-5315
Telephone: 702-366-0622
Fax: 702-366-0327
E-mail: MMG@thorndal.com
E-mail: png@thorndal.com

Mail to:
P.O. Box 2070
Las Vegas, NV 89125-2070
Attorneys for Defendants/Cross-Defendants Firststreet for Boomers and Beyond, Inc. and Aithr Dealer, Inc.

Vaughn A. Crawford, Esq.
Joshua D. Cools, Esq.
SNELL & WILMER LLP
3883 Howard Hughes Pkwy.,
Suite 1100
Las Vegas, NV 89159
Telephone: 702-784-5200
Fax: 702-784-5252
E-mail: jcools@swlaw.com

D. Lee Roberts, Esq.
Brittany M. Llewellyn, Esq.
Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC
6385 S. Rainbow Blvd., Suite 400
Las Vegas, Nevada 89118
Fax: 702.938.3864
E-mail: lroberts@wwhgd.com
E-mail: bllewellyn@wwhgd.com

Attorneys for Defendant/Cross-Defendant, Jacuzzi, Inc. dba Jacuzzi Luxury Bath

/s/ Nicole M. Griffin
An employee of RICHARD HARRIS LAW FIRM

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT “14”



1 **RFA**

2 BENJAMIN P. CLOWARD, ESQ.
3 Nevada Bar No. 11087

4 **RICHARD HARRIS LAW FIRM**

5 801 South Fourth Street
6 Las Vegas, Nevada 89101
7 Phone: (702) 444-4444
8 Fax: (702) 444-4455

9 E-Mail: Benjamin@RichardHarrisLaw.com
10 *Attorneys for Plaintiff*

11 **DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 ROBERT ANSARA, as Special Administrator
14 of the Estate of SHERRY LYNN CUNNISON,
15 Deceased; MICHAEL SMITH, individually,
16 and heir to the Estate of SHERRY LYNN
17 CUNNISON, Deceased; and DEBORAH
18 TAMANTINI, Individually; and heir to the
19 Estate of SHERRY LYNN CUNNISON,
20 Deceased,

21 Plaintiff,

22 vs.

23 FIRST STREET FOR BOOMERS &
24 BEYOND, INC.; AITHR DEALER, INC.;
25 HALE BENTON, Individually;
26 HOMECCLICK, LLC; JACUZZI INC., doing
27 business as JACUZZI LUXURY BATH;
28 BESTWAY BUILDING & REMODELING,
INC.; WILLIAM BUDD, Individually and as
BUDDS PLUMBING; DOES 1 through 20;
ROE CORPORATIONS 1 through 20; DOE
EMPLOYEES 1 through 20; DOE
MANUFACTURERS 1 through 20; DOE 20
INSTALLERS 1 through 20; DOE
CONTRACTORS 1 through 20; and DOE 21
SUBCONTRACTORS 1 through 20,
inclusive,

Defendants.

CASE NO.: A-16-731244-C

DEPT NO.: II

PLAINTIFF ROBERT ANSARA, as
Special Administrator of the ESTATE
OF SHERRY LYNN CUNNISON,
SECOND SET OF REQUESTS FOR
ADMISSION TO DEFENDANT
AITHR DEALER, INC.

1 AND ALL RELATED MATTERS
2

3 **PLAINTIFF ROBERT ANSARA, as Special Administrator of the ESTATE OF SHERRY**
5 **LYNN CUNNISON, SECOND SET OF REQUESTS FOR ADMISSION TO**
6 **DEFENDANT AITHR DEALER, INC.**

7 **TO: AITHR DEALER, INC., Defendant.**

8 **TO: MEGHAN M. GOODWIN, ESQ., of THORNDAL ARMSTRONG DELK**
9 **BALKENBUSH & EISINGER, its attorney.**

10 Plaintiff, ROBERT ANSARA, by and through his attorneys, BENJAMIN P. CLOWARD,
11 ESQ., of the RICHARD HARRIS LAW FIRM pursuant to Rule 36, Nevada Rules of Civil
12 Procedure, request that Defendant, AITHR DEALER, INC., by and through its agent,
13 representative, or employee, respond in writing within thirty (30) days after service to the requests
14 for admission hereinafter set forth and admit to the truth of the following facts for the purpose of
15 this action only, and subject to all pertinent objections to admissibility which may be interposed
16 at the trial.
17

18 These requests shall be deemed continuing so as to require further and supplemental
19 production should the requested party obtain additional documents which are responsive to this
20 request subsequent to the time of initial production and inspection.
21

22 **INSTRUCTIONS AND DEFINITIONS**

23 (1) "PLAINTIFF" shall refer to ROBERT ANSARA, an individual, his agents, attorneys,
24 accountants, investigators, partners, representatives, and insurance companies.

25 (2) "DEFENDANT" shall refer to AITHR DEALER, INC. (hereinafter "AITHR"), its
26 agents, employees, attorneys, accountants, investigators, partners, representatives and insurance
27 companies.
28

1 (3) “YOU” and “YOUR” shall refer to RESPONDING PARTY, AITHR, and anyone
2 acting on its behalf, including, but not limited to, its agents, employees, attorneys, accountants,
3 investigators, partners, representatives and insurance companies.

5 (4) “PERSON” refers to the plural as well as the singular, and includes a natural person,
6 firm, association, organization, partnership, business, trust, corporation or public entity.

7 (5) “SUBJECT PROPERTY” refers to the area where the incident/injury took place, as
8 set forth in Plaintiff’s Complaint, as amended.

9 (6) “DOCUMENT” in the plural as well as the singular, shall refer to the original or a
10 copy of handwriting, typewriting, printing, photostating, photographing, and every other means
11 of recording upon any tangible thing and form of communicating or representation, including
12 letters, words, pictures, sounds or symbols or combinations of them.

13 (7) “WORK” refers to any work, activity, operation, or use of machinery, and/or any other
14 physical efforts, whether or not paid for, as performed by any person.

15 (8) “IDENTIFY” means:

16 (a) When used in reference to a natural PERSON means to state such person’s full
17 name, telephone number, last known home and business address (including the city, state and zip
18 code), last known business affiliation, employer and position therewith and the latest date such
19 information was true;

20 (b) When used in reference to a BUSINESS, FIRM, PARTNERSHIP, JOINT
21 VENTURE, COMPANY or CORPORATION, to state, to the extent known, its full name, state
22 of incorporation or creation, address of its principal place of business and its principal activities
23 or products;

24 (c) When used in reference to a DOCUMENT, to state, to the extent known, the
25 name, date and author of the DOCUMENT and to supply a sufficient detailed description,
26 including contents of the documents that would satisfy a request for production of documents.

27
28

(9) “RELATE TO”, “RELATES TO”, “RELATING TO”, and “RELATED TO” shall refer to, reflect, discuss, show, constitute or connected in any way logically or factually with the matter discussed.

(10) “COMPLAINT” shall refer to the Complaint, as amended, in this action and filed by Plaintiff ROBERT ANSARA against Defendants, bearing Case Number A-16-731244-C.

(11) “VIDEO RECORDINGS” shall refer to all evidence in which an event was captured by cameras, either digital or otherwise, with the ability to reverse the footage and later play it back in a manner reflecting a true and accurate account of what was captured by the recording camera.

REQUESTS FOR ADMISSION

REQUEST NO. 13: Admit that You have been using the bathmat product identified in ROUILLARD 001 – ROUILLARD 004 since at least September 2016.

REQUEST NO. 14: Admit that You provide the bathmat product identified in ROUILLARD 001 – ROUILLARD 004 to Noreen Rouillard.

DATED THIS 26th day of July, 2019.

RICHARD HARRIS LAW FIRM

/s/ Benjamin P. Cloward
BENJAMIN P. CLOWARD, ESQ.
Nevada Bar No. 11087
801 South Fourth Street
Las Vegas, Nevada 89101
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of RICHARD HARRIS LAW FIRM and that on this 28th day of July, 2019, I served a copy of the foregoing, **PLAINTIFF ROBERT ANSARA, as Special Administrator of the ESTATE OF SHERRY LYNN CUNNISON, SECOND SET OF REQUESTS FOR ADMISSION TO DEFENDANT AITHR DEALER, INC.** in Ansara, Robert, et al. v. First Street for Boomers & Beyond, Inc., et al., Clark County District Court Case No. A-16-731244-C, as follows:

☐ U.S. Mail—By depositing a true copy thereof in the U.S. mail, first class postage prepaid and addressed as listed below; and/or

☐ Facsimile—By facsimile transmission pursuant to EDCR 7.26 to the facsimile number(s) shown below; and/or

☒ Electronic Service — in accordance with Administrative Order 14-2 and Rule 9 of the Nevada Electronic Filing and Conversion Rules (N.E.F.C.R.).

Meghan M. Goodwin, Esq.
Philip Goodhart, Esq.
Thorndal Armstrong Delk Balkenbush & Eisinger
1100 East Bridger Ave.
Las Vegas, NV 89101-5315
Telephone: 702-366-0622
Fax: 702-366-0327
E-mail: MMG@thorndal.com
E-mail: png@thorndal.com
Mail to:
P.O. Box 2070
Las Vegas, NV 89125-2070
*Attorneys for Defendants/Cross-Defendants
firstSTREET for Boomers and Beyond, Inc. and
AITHR Dealer, Inc. and Defendant, Hale Benton*

Vaughn A. Crawford, Esq.
Morgan Petrelli, Esq.
Snell & Wilmer, LLP
3883 Howard Hughes Pkwy.,
Suite 1100
Las Vegas, NV 89159
Telephone: 702-784-5200
Fax: 702-784-5252
E-mail: vcrawford@swlaw.com
E-mail: mpetrelli@swlaw.com

D. Lee Roberts, Esq.
Brittany M. Llewellyn, Esq.
Weinberg, Wheeler, Hudgins, Gunn &
Dial, LLC
6385 S. Rainbow Blvd., Suite 400
Las Vegas, Nevada 89118
Fax: 702.938.3864
E-mail: lroberts@wwhgd.com
E-mail: bllewellyn@wwhgd.com

*Attorneys for Defendant/Cross-
Defendant, Jacuzzi, Inc. dba Jacuzzi
Luxury Bath*

/s/ Nicole M. Griffin

An employee of RICHARD HARRIS LAW FIRM

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT “15”

WEINBERG WHEELER
HUDGINS GUNN & DIAL

RSPN

D. Lee Roberts, Jr., Esq.

lroberts@wwhgd.com

Nevada Bar No. 8877

Brittany M. Llewellyn, Esq.

bllewellyn@wwhgd.com

Nevada Bar No. 13527

Johnathan T. Krawcheck, Esq.

jkrawcheck@wwhgd.com

Admitted Pro Hac Vice

WEINBERG, WHEELER, HUDGINS,

GUNN & DIAL, LLC

6385 South Rainbow Blvd., Suite 400

Las Vegas, Nevada 89118

Telephone: (702) 938-3838

Facsimile: (702) 938-3864

Attorneys for Defendant/Cross-Defendant

Jacuzzi Inc. doing business as Jacuzzi Luxury Bath

DISTRICT COURT
CLARK COUNTY, NEVADA

ROBERT ANSARA, as Special Administrator
of the Estate of SHERRY LYNN CUNNISON,
Deceased; MICHAEL SMITH individually,
and heir to the Estate of SHERRY LYNN
CUNNISON, Deceased; and DEBORAH
TAMANTINI individually, and heir to the Estate
of SHERRY LYNN CUNNISON, Deceased,

Plaintiffs,

vs.

FIRST STREET FOR BOOMERS & BEYOND,
INC.; AITHR DEALER, INC; HALE BENTON,
individually; HOMECLICK, LLC; JACUZZI
INC. doing business as JACUZZI LUXURY
BATH; BESTWAY BUILDING &
REMODELING, INC.; WILLIAM BUDD,
individually and as BUDDS PLUMBING; DOES
1 through 20; ROE CORPORATIONS 1 through
20; DOE EMPLOYEES 1 through 20; DOE
MANUFACTURERS 1 through 20; DOE 20
INSTALLERS 1 through 20; DOE
CONTRACTORS 1 through 20; and DOE 21
SUBCONTRACTORS 1 through 20, inclusive,

Defendants.

AND RELATED CASES

Case No.: A-16-731244-C

Dept. No.: II

**JACUZZI INC., doing business as
JACUZZI LUXURY BATH RESPONSES
TO PLAINTIFF ROBERT ANSARA'S
EIGHTH REQUEST FOR PRODUCTION
OF DOCUMENTS**



1 **JACUZZI INC. ("JACUZZI LUXURY BATH")**, by and through its attorneys,
2 WEINBERG, WHEELER, HUDGINS, GUNN AND DIAL, LLC, hereby responds to Robert Ansara's
3 Eighth Requests for Production as follows:

4 **GENERAL OBJECTIONS**

- 5 1. In responding to Plaintiffs' Requests, Jacuzzi does not waive, or intend to waive,
6 but rather intends to preserve and is preserving:
- 7 a. all objections as to competency, relevancy, materiality and admissibility;
8 b. all rights to object on any ground to the use in any proceeding, including
9 trial of this or any other action, of any of the responses or documents
10 referenced herein;
11 c. all objections as to vagueness and ambiguity; and
12 d. all rights to object on any ground to future discovery requests.
- 13 2. Jacuzzi objects to Plaintiffs' Requests to the extent they seek information
14 protected from discovery by the attorney client privilege, the work product doctrine, or any other
15 judicially recognized protection or privilege applicable to any requested information.
- 16 3. Jacuzzi objects to Plaintiffs' Requests to the extent they purport to impose on
17 Jacuzzi obligations greater than those existing under the Nevada Rules of Civil Procedure.
- 18 4. Jacuzzi objects to Plaintiffs' Requests to the extent they purport to apply to
19 persons and entities not parties to this action or purport to require Jacuzzi to produce information
20 which is not within its possession, custody, or control.
- 21 5. Jacuzzi objects to Plaintiffs' Requests to the extent they seek information which is
22 not relevant to the subject matter involved in the pending action, nor admissible or reasonably
23 calculated to lead to the discovery of admissible evidence.
- 24 6. Jacuzzi objects to Plaintiffs' Requests to the extent they seek the disclosure of
25 information which constitutes trade secrets or proprietary or confidential business information.
- 26 7. Jacuzzi incorporates the foregoing General Objections into each and every
27 objection and/or individualized response contained herein and set forth below.
- 28



1 8. Jacuzzi objects generally to Plaintiffs' Requests to the extent they are dependent
2 on an assumptions that are inconsistent with the facts of this case.

3 9. Jacuzzi objects to Plaintiffs' introductory paragraphs, wherein certain terms are
4 defined and wherein certain instructions are provided. Requests for Production ought to be
5 complete in and of themselves without the need for referring to lengthy definitions. In
6 responding to Plaintiffs' Requests, Jacuzzi will give the word its plain, ordinary meaning and not
7 such overly broad and all-inclusive meanings as stated by Plaintiffs.

8 10. To the extent that Plaintiff has requested documents and communications
9 responsive to vague discovery requests and/or search terms, these requests are unduly
10 burdensome. The ensuing search has resulted in the generation of thousands of pages of potential
11 results and Jacuzzi has narrowed those documents to the extent possible in the time frame
12 allotted. Jacuzzi will not proceed with the review of these documents without court intervention
13 requiring Plaintiffs to contribute costs for the review.

14 **RESPONSES TO REQUESTS FOR PRODUCTION OF DOCUMENTS**

15 **REQUEST NO. 129:**

16 Please produce all documents reflecting that you provided, offered, or sold, bathmats to
17 customers of any and all Jacuzzi walk-in tub produced from January 1, 2008 to present.

18 **RESPONSE:**

19 Jacuzzi objects to this request because it is vague, ambiguous, overbroad and unduly
20 burdensome, because it requires production not limited in scope to the subject Walk-In Bathtub
21 or Plaintiffs' allegations of defect, and imposes an undue burden on defendant that is not
22 commensurate with the information sought. The request seeks information that is not relevant to
23 the issues in this action and is not likely to lead to the discovery of relevant or admissible
24 evidence. Lastly, Jacuzzi objects to this request because it imposes an undue burden on
25 defendant that is not commensurate with the information sought: a search of Jacuzzi's electronic
26 mail accounts for the term "Kahuna" returned 33,998 potential results. Subject to and without
27 waiving said objections, and subject to the General Objections above, Jacuzzi responds as
28 follows: The model 5229 walk-in tub has been shipped with a bathmat for optional use since



approximately March of 2016. Responding further, please see: JACUZZI004727-005033, JACUZZI005282, JACUZZI005706, JACUZZI005395-JACUZZI005417, JACUZZI005668-005688, JACUZZI005693, JACUZZI005706, REV JACUZZI005935-REV JACUZZI005939, REV JACUZZI005953-REV JACUZZI005957, REV JACUZZI005999-REV JACUZZI006103, REV JACUZZI006123-REV JACUZZI006127, REV JACUZZI006139-REV JACUZZI006145, REV JACUZZI006175-REV JACUZZI006186, REV JACUZZI006197-REV JACUZZI006213, REV JACUZZI006218-REV JACUZZI006222, REV JACUZZI006259-REV JACUZZI006263, REV JACUZZI006283-REV JACUZZI006311, REV JACUZZI006337-REV JACUZZI006340, REV JACUZZI006426-REV JACUZZI006434, REV JACUZZI006472-REV JACUZZI006474, REV JACUZZI006480-REV JACUZZI006482, REV JACUZZI006591-REV JACUZZI006603, JACUZZI006863- JACUZZI006894, JACUZZI006903- JACUZZI006906. Jacuzzi continues in its search for relevant information and information responsive to discovery propounded in this action, and will produce further information if located.

REQUEST NO. 130:

Please produce all documents reflecting items, including bathmats or other accessories or product modifications like Kahuna grip, LX07000, Cajun grip, etc., that you sold or provided or are aware were sold, provided, offered or marketed to customers using any/all Jacuzzi walk-in tub products.

RESPONSE:

Jacuzzi objects to this request because it is vague, ambiguous, overbroad and unduly burdensome, because it requires production not limited in scope to the subject Walk-In Bathtub or Plaintiffs' allegations of defect, and imposes an undue burden on defendant that is not commensurate with the information sought. Jacuzzi further objects to the phrase "other accessories or product modifications" as it is vague and ambiguous. The request seeks information that is not relevant to the issues in this action and is not likely to lead to the discovery of relevant or admissible evidence. Jacuzzi further objects to this Request as overly broad, in that the Interrogatory is not limited in time. Lastly, Jacuzzi objects to this request because it imposes an undue burden on defendant that is not commensurate with the information



1 sought: a search of Jacuzzi's electronic mail accounts for the term "Kahuna" returned 33,998
2 potential results. Subject to and without waiving said objections, and subject to the General
3 Objections above, Jacuzzi responds as follows: The model 5229 walk-in tub has been shipped
4 with a bathmat for optional use since approximately March of 2016. "LX07000" is an internal
5 product number for the Kahuna mat. Jacuzzi is not aware of a product called "Cajun grip," but
6 believes the term was an incorrect spelling of "Kahuna." Responding further, please see:
7 JACUZZI004727-005033, JACUZZI005282, JACUZZI005706, JACUZZI005395-
8 JACUZZI005417, JACUZZI005668-005688, JACUZZI005693, JACUZZI005706, REV
9 JACUZZI005935-REV JACUZZI005939, REV JACUZZI005953-REV JACUZZI005957, REV
10 JACUZZI005999-REV JACUZZI006103, REV JACUZZI006123-REV JACUZZI006127, REV
11 JACUZZI006139-REV JACUZZI006145, REV JACUZZI006175-REV JACUZZI006186, REV
12 JACUZZI006197-REV JACUZZI006213, REV JACUZZI006218-REV JACUZZI006222, REV
13 JACUZZI006259-REV JACUZZI006263, REV JACUZZI006283-REV JACUZZI006311, REV
14 JACUZZI006337-REV JACUZZI006340, REV JACUZZI006426-REV JACUZZI006434, REV
15 JACUZZI006472-REV JACUZZI006474, REV JACUZZI006480-REV JACUZZI006482, REV
16 JACUZZI006591-REV JACUZZI006605, REV JACUZZI006607-REV JACUZZI006609,
17 JACUZZI006863- JACUZZI006894, JACUZZI006903- JACUZZI006906.

18 Jacuzzi continues in its search for relevant information and information responsive to
19 discovery propounded in this action, and will produce further information if located.

20 **REQUEST NO. 131:**

21 Please produce all customer satisfaction surveys (front and back) left with customers to
22 fill out from January 1, 2008 to present, regardless of content of survey.

23 **RESPONSE:**

24 Jacuzzi objects to this request because it is vague, ambiguous, overbroad and unduly
25 burdensome, because it requires production not limited in scope to the subject Walk-In Bathtub
26 or Plaintiffs' allegations of defect, and imposes an undue burden on defendant that is not
27 commensurate with the information sought. The request seeks information that is not relevant to
28 the issues in this action and is not likely to lead to the discovery of relevant or admissible



1 evidence. Subject to and without waiving said objections, and subject to the General Objections
2 above, Jacuzzi responds as follows: Please see JACUZZI006895-JACUZZI006902, and
3 documents produced as FIRST005187-FIRST006865. Jacuzzi is not presently aware of any
4 responsive customer satisfaction surveys (front and back) left with customers to fill out that are
5 not included in the above-referenced document sets, but continues in its search for relevant
6 information and information responsive to discovery propounded in this action, and will produce
7 further information if located.

8 **REQUEST NO. 132:**

9 Please produce all customer satisfaction cards (front and back) left with customers to fill
10 out from January 1, 2008 to present, regardless of content of survey.

11 ///

12 ///

13 ///

14 ///

15 ///

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28

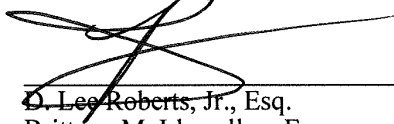


RESPONSE:

Jacuzzi objects to this request because it is vague, ambiguous, overbroad and unduly burdensome, because it requires production not limited in scope to the subject Walk-In Bathtub or Plaintiffs' allegations of defect, and imposes an undue burden on defendant that is not commensurate with the information sought. The request seeks information that is not relevant to the issues in this action and is not likely to lead to the discovery of relevant or admissible evidence. Subject to and without waiving said objections, and subject to the General Objections above, Jacuzzi responds as follows: Please see JACUZZI006895-JACUZZI006902, and documents produced as FIRST005187-FIRST006865. Jacuzzi is not presently aware of any responsive customer satisfaction surveys (front and back) left with customers to fill out that are not included in the above-referenced document sets, but continues in its search for relevant information and information responsive to discovery propounded in this action, and will produce further information if located.

Dated this 21st day of August, 2019.

WEINBERG, WHEELER, HUDGINS,
GUNN & DIAL, LLC


D. Lee Roberts, Jr., Esq.
Brittany M. Llewellyn, Esq.
Johnathan T. Krawcheck, Esq.
6385 South Rainbow Blvd., Suite 400
Las Vegas, Nevada 89118

*Attorneys for Defendant/Cross-Defendant
Jacuzzi Inc. doing business as
Jacuzzi Luxury Bath*



CERTIFICATE OF SERVICE

I hereby certify that on the 27 day of August, 2019, a true and correct copy of the foregoing **JACUZZI INC., doing business as JACUZZI LUXURY BATH RESPONSES TO PLAINTIFF ROBERT ANSARA'S EIGHTH REQUEST FOR PRODUCTION OF DOCUMENTS** was electronically **filed and served** on counsel through the Court's electronic service system pursuant to Administrative Order 14-2 and N.E.F.C.R. 9, via the electronic mail addresses noted below, unless service by another method is stated or noted:

Benjamin P. Cloward, Esq.
RICHARD HARRIS LAW FIRM
801 South Fourth Street
Las Vegas, NV 89101
Telephone: 702-444-4444
Facsimile: 702-444-4455

Email: Benjamin@RichardHarrisLaw.com

Attorneys for Plaintiffs

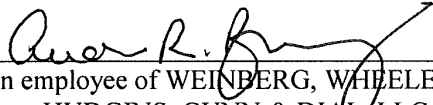
Meghan M. Goodwin, Esq.
mgoodwin@thorndal.com
THORNDAL ARMSTRONG DELK
BALKENBUSH & EISINGER
1100 East Bridger Avenue
Las Vegas, NV 89101-5315
Telephone: 702-366-0622
Facsimile: 702-366-0327

Mail to:
P.O. Box 2070
Las Vegas, NV 89125-2070

*Attorneys for Defendants/Cross-Defendants
Firststreet for Boomers and Beyond, Inc.;
Aithr Dealer, Inc. and Hale Benton*

Vaughn A. Crawford, Esq.
vcrawford@swlaw.com
Morgan Petrelli, Esq.
mpetrelli@swlaw.com
SNELL & WILMER LLP
3883 Howard Hughes Pkwy., Suite 1100
Las Vegas, NV 89159
Telephone: 702-784-5200
Facsimile: 702-784-5252

*Attorneys for Defendant/Cross-Defendant
Jacuzzi Inc. doing business as
Jacuzzi Luxury Bath*


An employee of WEINBERG, WHEELER,
HUDGINS, GUNN & DIAL, LLC

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT “16”

From: Martinez, Audrey </O=JACUZZI ORGANIZATION/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AUDREY MARTINEZ66B76F91>
To: Davis, Joseph N.
Sent: 9/24/2014 5:51:12 PM
Subject: Non Skid Options
Attachments: 5229 Non Skid Options 92014.pptx

Buonasera Joey. Here are the non-skid options we discussed the other day. I wanted to get your approval before sending. Thank you.

Audrey Martinez

Marketing Manager- Aging In Place Bathing



www.jacuzzi.com

13925 City Center Drive, Suite 200/ Chino Hills, CA 91709

909.247.2582 (o) 909.762.3203 (c)

This email and any attachments are confidential and may be legally privileged. If you are not the intended recipient, please notify the author by replying to this email message, and then delete all copies of the email on your system. If you are not the intended recipient, you must not disclose, distribute, copy, print or use this email in any manner. Email messages and attachments may contain viruses. Although we take precautions to check for viruses, we make no assurances about the absences of viruses. We accept no liability and suggest that you carry out your own virus

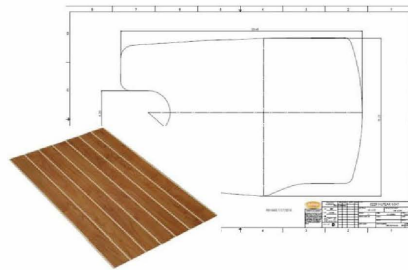
JACUZZI006666
REV JACUZZI006766

PA0200



5229 Non Skid Options

All Jacuzzi® Walk in Bathtubs and Showers exceed the voluntary American Society for Testing and Materials Standard Consumer Safety Specification for Slip-Resistant Bathing Facilities (ASTM F462 – 79)



#1 Recommended Option

Liquiguard SolidStepCote

What: Water-based coating that dries clear and creates non-slip texture
Cost: +/- \$40 per application
Available: At once
Note: Field application only. Cannot be applied at the plant. Subjective application, unable to replicate in factory.

#2 Recommended Option

NuTeak Mat

What: NuTeak synthetic mat, custom cut to fit tub floor
Cost: +/- \$95
Available: 4 weeks
Note: Tested to exceed voluntary standard. Material appropriate for use in this application.

#3 Recommended Option

Vinyl Mat

What: Suction cup backed traditional mat, custom cut to fit tub floor
Cost: +/- \$25
Available: 6 months
Challenge: If mat isn't removed often to dry, blisters in acrylic may occur. Requires testing and tooling development.

JACUZZI LUXURY BATH

JACUZZI006667

REV JACUZZI006767

From: Martinez, Audrey </O=JACUZZI ORGANIZATION/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AUDREY MARTINEZ66B76F91>
To: Baehr, Rich; Bachmeyer, Kurt; Torres, Ray
Sent: 6/27/2013 5:20:22 PM
Subject: RE: Emailing: Test various Non Skid Patterns for compliance to ASTM F-462 , 5229 slip resistance

You guys are very funny:)

Audrey Martinez
Marketing Manager- Aging In Place Bathing

www.jacuzzi.com
13925 City Center Drive, Suite 200 / Chino Hills, CA 91709
909.247.2582 (o) 909.762.3203 (c)

This email and any attachments are confidential and may be legally privileged. If you are not the intended recipient, please notify the author by replying to this email message, and then delete all copies of the email on your system. If you are not the intended recipient, you must not disclose, distribute, copy, print or use this email in any manner. Email messages and attachments may contain viruses. Although we take precautions to check for viruses, we make no assurances about the absences of viruses. We accept no liability and suggest that you carry out your own virus checks.

-----Original Message-----

From: Baehr, Rich
Sent: Thursday, June 27, 2013 9:43 AM
To: Bachmeyer, Kurt; Torres, Ray; Martinez, Audrey
Subject: RE: Emailing: Test various Non Skid Patterns for compliance to ASTM F-462 , 5229 slip resistance

My 2 cents

A while back when we had units from Brazil they had a rougher bottom on the units. We had several complaints from mostly older people that it hurt their feet, to the point that we started toning down the non skid

Below is a possible solution

<http://www.slipxsolutions.com/tub-tattoos-clownfish>

-----Original Message-----

From: Bachmeyer, Kurt
Sent: Thursday, June 27, 2013 11:34 AM
To: Torres, Ray; Martinez, Audrey
Cc: Demeritt, William; Peetz, Chris; Baehr, Rich; Davis, Joseph N.
Subject: RE: Emailing: Test various Non Skid Patterns for compliance to ASTM F-462 , 5229 slip resistance

I'm not sure we are done here; we're compliant which is great but are we meeting the needs and safety requirements of this particular demographic? Seems to me if we want to be the leader in this category we would want to eliminate slippage of any kind now and in the future. My two cents.

Kurt Bachmeyer

Director of Customer Service

www.jacuzzi.com
14525 Monte Vista Avenue / Chino, CA 91710
909.247.2187 (o) 909.606.4270 (f)

This email and any attachments are confidential and may be legally privileged. If you are not the intended recipient, please notify the author by replying to this email message, and then delete all copies of the email on your system. If you are not the intended recipient, you must not disclose, distribute, copy, print or use this email in any manner. Email messages and attachments may contain viruses. Although we take precautions to check for viruses, we make no assurances about the absences of viruses. We accept no liability and suggest that you carry out your own virus checks.

-----Original Message-----

From: Torres, Ray
Sent: Thursday, June 27, 2013 8:24 AM
To: Martinez, Audrey
Cc: Bachmeyer, Kurt; Demeritt, William; Peetz, Chris; Baehr, Rich; Davis, Joseph N.
Subject: Emailing: Test various Non Skid Patterns for compliance to ASTM F-462 , 5229 slip resistance

JACUZZI006669

REV JACUZZI006769

PA0268

Audrey,

Here are the two test reports, one is our generic test on a shower pan which is the worst case sheet draw in thickness coefficient of friction .05. (.04 is the passing standard). This is the pattern we use as a master on all jacuzzi bottoms today. The second report is a deep draw on the 5229 walk in tub, the coefficient of friction is .10 double that of the pan which is exactly what we thought it would be. In fact I have never seen a .10 average in all my years. That is darn good!

Anyways, when you send out the reports only send page one which is the conclusion page. Do not send out the actual data as it sometimes with slick lawyers, (not picking on bill) could challenge results.

Anyways great news on the bottom. Where do I charge my fees?

Thanks

ray

This email and any attachments are confidential and may be legally privileged. If you are not the intended recipient, please notify the author by replying to this email message, and then delete all copies of the email on your system. If you are not the intended recipient, you must not disclose, distribute, copy, print, or use this email in any manner. Email messages and attachments may contain viruses. Although we take precautions to check for viruses, we make no assurances about the absence of viruses. We accept no liability and suggest that you carry out your own virus checks.

JACUZZI006670

REV JACUZZI006770

PA0200

From: Norm Murdock <norm.murdock@aihremodelers.com>
To: Martinez, Audrey; 'DAVE MODENA'
Sent: 7/10/2013 11:10:29 AM
Subject: Discussion Topics for Tonight/Tomorrow

Sorry, should have sent these sooner! Some of these may be a follow-up from Bob & Joey's visit to VA...

General business:

- Higher quality, higher flow faucet – Norm/Todd to test this week
- Foot spinner launch?
- Anti-scald valve improvement
- Dual drain for rapid draining of tub
- Greater slip resistance needed for our senior users
- Update on current tub problems – color matching, poor skirt panel fitting
- Tub-to-shower conference prototype... everything on schedule? Pricing update?
- Jacuzzi WF financing
- Large bariatric tub & small shower tub needed... can/will Jacuzzi develop these for us? Timeline?
- Jacuzzi wall system
- "Next generation" WIT with instant fill/drain
- Other Jacuzzi products that we could offer our customers – comfort height toilets, etc
- Warranty issues/customer service follow-through & communications with our customers
- Installer certifications as authorized service agents

Conference:

- Jacuzzi Presentation – who, what, time allotment, etc
- "Wish list" of features/options I would like to include in the tub you will be shipping to conference:
 - o New End Panel
 - o New Adjustable Anti Scald
 - o New easy-to-adjust feet
 - o Heated Seat (conceptual)
 - o New & improved ¾" high flow faucet
 - o New Door bumper (on door edge)
 - o New & improved pneumatic push buttons (easier to push/less "sticking")
 - o New spinning foot massaging jets
 - o 2nd grab bar on tub shelf next to seat
 - o New & improved skirt panel
 - o New & improved door with easier to operate door closing mechanism
 - o Dual drain/fast drain (conceptual)
 - o New & improved slip resistant bottom (more aggressive texture, ASTM certification on our tub)
 - o New "Bio-lock" anti-bacterial resistance
- Also, assuming we are moving forward with the large & small tub options, it would be great to show some initial concepts/designs of what these may look like as "teasers" for our group.
- Please also ship in a Jacuzzi comfort height toilet.

Norm Murdock, CAPS, CSA
Vice President



Phone: 303-222-3207

Cell: 602-403-6267

Email: norm.murdock@firststreetonline.com

Website: www.firststreetinc.com, www.firststreetonline.com

JACUZZI006671

REV JACUZZI006771

PA0180

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT “17”

Snell & Wilmer

LLP
LAW OFFICES
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, Nevada 89169
702.784.5200

Vaughn A. Crawford, Nevada Bar No. 7665
Joshua D. Cools, Nevada Bar No. 11941
SNELL & WILMER L.L.P.
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, NV 89169
Telephone: (702) 784-5200
Facsimile: (702) 784-5252
Email: vcrawford@swlaw.com
Email: jcools@swlaw.com

Attorneys for Defendant/Cross-Defendant
JACUZZI INC. doing business
as JACUZZI LUXURY BATH

DISTRICT COURT

CLARK COUNTY, NEVADA

ROBERT ANSARA, as Special Administrator
of the Estate of SHERRY LYNN CUNNISON,
Deceased; MICHAEL SMITH individually,
and heir to the Estate of SHERRY LYNN
CUNNISON, Deceased; and DEBORAH
TAMANTINI individually, and heir to the
Estate of SHERRY LYNN CUNNISON,
Deceased,

Plaintiffs,

vs.

FIRST STREET FOR BOOMERS &
BEYOND, INC.; AITHR DEALER, INC.;
HALE BENTON, individually; HOMECCLICK,
LLC; JACUZZI INC. doing business as
JACUZZI LUXURY BATH; BESTWAY
BUILDING & REMODELING, INC.;
WILLIAM BUDD, individually and as
BUDDS PLUMBING; DOES 1 through 20;
ROE CORPORATIONS 1 through 20; DOE
EMPLOYEES 1 through 20; DOE
MANUFACTURERS 1 through 20; DOE 20
INSTALLERS 1 through 20; DOE
CONTRACTORS 1 through 20; and DOE 21
SUBCONTRACTORS 1 through 20, inclusive,

Defendants.

AND ALL RELATED CLAIMS.

Case No.: A-16-731244-C
Dept. No.: XVIII

**DEFENDANT/CROSS-DEFENDANT
JACUZZI INC.'S RESPONSE TO
PLAINTIFF DEBORAH TAMANTINI'S
FIRST SET OF INTERROGATORIES**

Defendant/Cross-Defendant JACUZZI INC. doing business as Jacuzzi Luxury Bath
("Defendant"), by and through its attorneys of record, Snell & Wilmer L.L.P., responds to Plaintiff

Deborah Tamantini's ("Plaintiff") First Set of Interrogatories as follows:

GENERAL OBJECTIONS

Defendant objects to each interrogatory to the extent they require the identification of documents already produced in this matter. Such documents are as accessible to Plaintiff as they are to Defendant.

Defendant responds to interrogatories, subject to the following additional reservations:

(a) The right to object on any ground whatsoever to the admission into evidence or other use of any of these responses at the trial of this action or any other proceeding in this action or any other action;

(b) The right to object on any ground whatsoever at any time to any demand for further responses to interrogatories, or any other discovery procedures involving or relating to the subject matter of the interrogatories;

(c) The right at any time to revise, correct, add to or clarify, any of the responses set forth herein; and

(d) The responses contained herein are based upon information presently known and ascertained by Defendant. The responses herein are without prejudice to utilizing subsequently discovered documents or information; and Defendant reserves the right to amend, add to, delete from, or in any other manner modify these responses after it has completed its discovery and investigation efforts and ascertained all relevant facts.

RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 1:

Please identify the person or persons responding to these Interrogatories. Please identify in your answer each person who has provided information in connection with these interrogatory answers.

RESPONSE:

The information used in preparing these responses came from a variety of sourced and was gathered and compiled with the assistance of counsel. Pursuant to NRCP 33, these interrogatory responses are under oath by William Demeritt, Vice President and Director of Risk Management.

1 Defendant objects to this Interrogatory on the grounds that it seeks information protected
2 by the work product doctrine and/or attorney client privilege.

3 **INTERROGATORY NO. 2:**

4 Identify any and all persons who have knowledge of the events following the incident, or
5 have knowledge of the facts relevant to, or are related to the incident, or who have investigated
6 the incident, including their name, address and telephone number and, further, describe in detail
7 how this incident occurred.

8 **RESPONSE:**

9 Please see Defendant's Initial Disclosures and subsequent Supplemental Disclosures. As
10 Plaintiff knows, Defendant has participated in two inspections of the subject Jacuzzi Walk-In
11 Bathtub. On June 13, 2014, Ray Torres, a former Jacuzzi employee; Anthony Lovallo, Jacuzzi's
12 in-house counsel; and Casey Perkins, Jacuzzi's counsel; were present at the first inspection. At
13 the second inspection on October 19, 2016, Plaintiffs' counsel took a record of all who were there
14 to inspect the tub. On behalf of Jacuzzi, this included Ron Templer, Jacuzzi's in-house attorney;
15 Joshua Cools, counsel of record; Mike Dominguez, a Jacuzzi engineer; and Tony Stremel, an
16 expert retained by Jacuzzi. Mr. Torres is no longer employed with Jacuzzi. His last known
17 contact information is 15590 Lucia Lane, Moreno Valley, CA 92551, (951) 243-7468. All other
18 individuals may be contacted through Jacuzzi's counsel of record.

19 Defendant objects to this Interrogatory to the extent it requests a description of "how this
20 incident occurred," because no one, other than Ms. Cunnison, has personal knowledge of the
21 circumstances of the incident.

22 **INTERROGATORY NO. 3:**

23 Identify when the subject Jacuzzi Walk-In Bathtub was originally designed and developed,
24 specifying the dates of each modification thereto and the nature of the modifications.

25 **RESPONSE:**

26 Defendant first made the subject Jacuzzi® Walk-In Bathtub in or about the year 2012.
27 Between 2012 and 2014, there have been some minor changes to the tub, but there were no
28 modifications to the subject Jacuzzi® Walk-In Bathtub related to the vague defect claims asserted

1 in this case.

2 Defendant objects to this Interrogatory as overbroad, unduly burdensome, and without
3 reasonable limitation in scope because it is seeking information unrelated to the subject incident
4 and claims. If Plaintiff identifies specific components or design characteristics of the tub at issue,
5 Defendant can identify any relevant modifications, but as stated above, Jacuzzi is unaware of any
6 modifications related to Plaintiffs' claims. Additionally, the interrogatory seeks confidential and
7 proprietary information that will not be disclosed without a protective order.

8 **INTERROGATORY NO. 4:**

9 What are the names, present addresses, and company positions of each person involved in
10 the design and the design verification of the subject Walk-In-Tub, including but not limited to,
11 employees in engineering, quality assurance, quality control, reliability, general management,
12 sales, marketing, finance who specifically contributed to the subject design.

13 **RESPONSE:**

14 Defendant identifies Mike Dominguez as a person with knowledge regarding the design
15 and design verification of the subject Jacuzzi® Walk-In Bathtub. Mr. Dominguez may be
16 contacted through Jacuzzi's counsel of record.

17 Defendant objects to this Interrogatory as overbroad and unduly burdensome. The design
18 and development of any product is an evolutionary process. Accordingly, Defendant is unable to
19 identify each and every person and department that may have been involved in the design and
20 design verification. Since numerous individuals were involved in these activities, it is unduly
21 burdensome for Defendant to attempt to identify all such persons. If Plaintiff identifies specific
22 components or aspects of design that are the subject of their inquiry, Defendant will endeavor
23 produce names of key person(s) involved in the design and design verification of those specific
24 components.

25 **INTERROGATORY NO. 5:**

26 Did any other company or individuals, who are not employees of Defendant design or
27 develop the subject Jacuzzi Walk-In-Tub or components thereof for the Defendant? If so, please
28 identify the name and address of each such company or individual.

RESPONSE:

Defendant cannot adequately respond to this interrogatory considering the vague defect claims asserted by Plaintiffs. Defendant states that there are some third-parties that manufacture specific components of the subject Jacuzzi® Walk-In Bathtub, and were involved in their development. Upon entry of a protective order and identification of specific components Plaintiffs believe are relevant to their claims, Defendant will supplement its response.

Defendant objects to this interrogatory because it is overly broad without reasonable limitation in scope, unduly burdensome, and seeks information irrelevant to the subject matter of this action and is not likely to lead to the discovery of relevant or admissible evidence. The interrogatory is vague and ambiguous. The interrogatory seeks confidential and proprietary information that will not be disclosed without a protective order.

INTERROGATORY NO. 6:

Please identify all documents concerning the design and development of the subject Jacuzzi Walk-In-Tub.

RESPONSE:

Defendant identifies the documents previously disclosed in Jacuzzi's initial disclosures and supplements, including:

Installation and Operation Instructions Manual, Jacuzzi® 5229 Walk-In Bathtub Series, 2013	JACUZZI 000001-20
DWO Geberit Installation Manual, 2012.	JACUZZI 000021-22
DWO Geberit Pin Drawing for Fitting No. 241.789.21.1. Subject to Protective Order. Will be produced upon entry of appropriate Protective Order.	JACUZZI 000023
MT31 Geberit Installation Instructions	JACUZZI 000024-27

Upon entry of an appropriate protective order, Defendant will produce the following:

Drawing LW19000_Shell FS5229 RH Walk In	JACUZZI001349
Drawing LW32827_Grab Bar Assembly	JACUZZI001350

Drawing LW47000RevD_SHL T&D FS 5229 RH SLN	JACUZZI001351-1352
Drawing LW48000RevB_SHL Bond FS 5229 RH	JACUZZI001353-1354
Drawing LX22000_Piping Suction	JACUZZI001355
Drawing LX24000B_Piping Discharge	JACUZZI001356-1357
Drawing LX25000_Piping Airline	JACUZZI001358
Drawing LX26000A_Piping Blower	JACUZZI001359-1360
Drawing LX27000_Two Pt Quarter Turn Door Latch	JACUZZI001361-1368
Drawing LX62000_Door Assembly	JACUZZI001369
Drawing LX82000_Skirt Access Panel	JACUZZI001370
Drawing LX91827A_Handle_Sub	JACUZZI001371

Defendant objects to the Interrogatory as overbroad in that it is not limited to any particular aspects of the design of the subject tub. Accordingly, Defendant has limited its responses to design aspects criticized by Plaintiffs, which include the size of the tub, the inward swinging door, the placement of grab bars, and the drain.

INTERROGATORY NO. 7:

Identify the Defendant's employee who is the most knowledgeable about the design and development of the subject Jacuzzi Walk-In-Tub.

RESPONSE:

Defendant identifies Mike Dominguez as a person with knowledge as to the design and development of the subject Jacuzzi® Walk-In Bathtub. Mr. Dominguez is an engineer employed by Jacuzzi and may be contacted through Jacuzzi's counsel of record.

Defendant objects to this Interrogatory in its use of the term "person most knowledgeable." The design and development of any product is an evolutionary process that

1 involves many different individuals. The term “person most knowledgeable” suggests someone
2 that there is one person that has the most knowledge about the design and development of the
3 subject bathtub. Further, the terminology carries with it the baggage of prior versions of
4 NRCP 30 and FRCP 30, which no longer require the production of a “person most
5 knowledgeable” for deposition, but rather a corporate representative prepared to speak on specific
6 topics. Defendant is unable to identify the one person who is “most knowledgeable.”

7 **INTERROGATORY NO. 8:**

8 Please identify all tests or studies performed by the Defendant or by any independent
9 laboratory relating to the subject Jacuzzi Walk-In-Tub’s safety and design. For each such test or
10 study, state:

- 11 (a) the date it was performed;
- 12 (b) the name, company position, and present address of the person responsible for the
13 test or study;
- 14 (c) the method used;
- 15 (d) the purpose of the test or study; and
- 16 (e) the results of the test or study

17 **RESPONSE:**

- 18 (a) IAPMO Compliance Test: IAPMO Certification Listing.pdf
 - 19 1. September 2012
 - 20 2. IAPMO R&T Lab, 5001 East Philadelphia Street, Ontario, California
21 91761
 - 22 3. Test Standards
 - 23 i. ASME A112.15-2012
 - 24 ii. CSA B45 Series-2002 (R2013)
 - 25 4. Complied with test standard
- 26 (b) ETL Compliance Test: ETL Certification Listing.pdf
 - 27 1. September 2012
 - 28 2. Intertek, 25800 Commercentre Dr, Lake Forest, CA 92630 (Kathryn Jones)

3. Test Standards

- i. UL 1795 UL Standard for Safety Hydromassage Bathtubs
- ii. CSA C22.2 No. 218.2:2015 Hydromassage Bathtub Appliances

(c) Co-efficiency of Friction Test: ASTM F 462-79 (R2007).pdf

- a. June 2013
- b. IAPMO R&T Lab, 5001 East Philadelphia Street, Ontario, California 91761
- c. Test protocol ASTM F 462-79 (R2007)
- d. Complied with test standard

(d) Door Mechanism Life Cycle Test: Door Life Cycle.pdf

- 1. December 2012
- 2. SCO Monte Vista Ave, Chino, CA 91710
- 3. Test Protocol: Force Failure Analysis/Life Cycle Testing
- 4. First Article Accepted

Upon entry of an appropriate protective order, Defendant will produce the following:

Door Life Cycle	JACUZZI001372-1375
ETL Certification Listing	JACUZZI001376-1441
IAPMO Certification Listing	JACUZZI001442-1446
IAMPO Lab Test Report_ASTM F 462-79	JACUZZI001447-1449

Defendant objects to this Interrogatory as overbroad because it is seeking information beyond the implication of the subject incident and claims outside the scope of NRCP 26(b). Defendant has limited its response to those tests it believes are relevant to Plaintiffs' claims. If Plaintiff seeks additional responses, they must clarify design elements or a scope of tests at issue, which are relevant to the subject incident and claims.

///

///

1 **INTERROGATORY NO. 9:**

2 If the tests or studies identified in your answer to the foregoing interrogatory resulted in
3 any change or modifications to the subject Jacuzzi Walk-In-Tub's, please state the nature of the
4 change or modification and the reason for such change or modification.

5 **RESPONSE:**

6 No changes or modifications were needed.

7 Defendant objects to this Interrogatory as overbroad because it is seeking information
8 beyond the implication of the subject incident and claims and outside the scope of NRCP 26(b).
9 Defendant has limited its response to those modifications it believes are relevant to Plaintiffs'
10 claims. If Plaintiff seeks additional responses, they must clarify design elements or a scope of
11 modifications at issue, which are relevant to the subject incident and claims.

12 **INTERROGATORY NO. 10:**

13 State verbatim the content of any warnings or instructions on all written material that is
14 included in the packaging of a new Jacuzzi Walk-In-Tub which is the subject of this litigation.
15 Alternatively, provide a copy of such written material.

16 **RESPONSE:**

17 Pursuant to NRCP 33(d), Defendant directs Plaintiff to Installation and Operation
18 Instructions Manual, Jacuzzi 5229 Walk-In Bathtub Series, 2013, produced in Defendant's Initial
19 Disclosure Statement as JACUZZI 000001-20. Additional warnings are posted on the bathtub,
20 but are not related to the vague defect claims that have been asserted.

21 **INTERROGATORY NO. 11:**

22 Please state whether the Defendant has ever received notice, either verbal or written, from
23 or on behalf of any person claiming injury or damage from his use of a Jacuzzi Walk-In Tub
24 which is the subject of the litigation.

25 If so, please state:

- 26 (a) the date of each such notice;
- 27 (b) the name and last known address of each person giving such notice; and
- 28 (c) the substance of the allegations of such notice

RESPONSE:

Defendant is only aware of the claims of injury brought by Plaintiffs' attorney. This response is limited to injury claims made prior to the subject incident and to the subject Jacuzzi® Walk-In Bathtub model that are similar to the vague claims that have been asserted in this action.

Defendant objects because the interrogatory is overly broad without reasonable limitation in scope, unduly burdensome, and seeks information irrelevant to the subject matter of this action and is not likely to lead to the discovery of relevant or admissible evidence. The interrogatory is vague and ambiguous. The interrogatory seeks information protected from disclosure by the right of privacy of third parties.

INTERROGATORY NO. 12:

Has the Defendant ever been named as a defendant, respondent or other involuntary participant in a lawsuit or other proceeding arising out of personal injuries or damage in connection with a Jacuzzi Walk-In-Tub?

If so, please state as to each:

- (a) the court or other forum in which it was filed;
- (b) the names of all parties or named participants;
- (c) the case number or other identifying number, letters or name assigned to the action or other proceeding;
- (d) the name and last known address of each person claiming injury or damage therein;
- (e) the names and last known address of all known counsel of record participating in such action or proceeding; and
- (f) the date of the alleged injury or damage

RESPONSE:

Other than this suit, Defendant has never been named as a defendant, respondent or other involuntary participant in a lawsuit or other proceeding arising out of personal injury in connection with the subject Jacuzzi® Walk-In Bathtub involving claims similar to the claims presented in this action. This response is limited to information potentially relevant to the vague

1 defect claims asserted by plaintiffs.

2 Defendant objects to this interrogatory because it is overly broad without reasonable
3 limitation in scope, unduly burdensome, and seeks information irrelevant to the subject matter of
4 this action and is not likely to lead to the discovery of relevant or admissible evidence. The
5 interrogatory is vague and ambiguous. Defendant objects to this request as overbroad to the
6 extent it would include unrelated claims, such as property damage claims or claims unrelated to
7 the vague defects claimed to have caused plaintiffs' injuries. Such claims are outside the scope of
8 Rule 26(b) and not included in Defendant's response.

9 **INTERROGATORY NO. 13:**

10 Please identify each and every law, rule, regulation, standard, statute, ordinance, or other
11 requirement or recommendation established by any Nevada state or federal governmental body or
12 officer that deals with, defines, limits or specifies the manufacture, design or use of the subject
13 Jacuzzi Walk-In-Tub or similar products, with specific reference to:

- 14 (a) the name or title of the governmental body or officer responsible for the
- 15 establishment, enactment, or promulgation;
- 16 (b) the title, including chapter, section, and paragraph numbers;
- 17 (c) the date of establishment, enactment, or promulgation; and
- 18 (d) the subject matter addressed

19 **RESPONSE:**

20 The subject Jacuzzi® Walk-In Tub is subject to:

- 21 1. Specification Use Jacuzzi® Walk-In-Tub: Clark County Building Code.pdf
- 22 a. Clarke County, Nevada
- 23 b. Administrative Code, Chapter 22.02
 - 24 i. 22.02.475 Required Electrical Inspections
 - 25 ii. 22.02.480 Required Plumbing Inspections
 - 26 iii. 22.02.485 Required Mechanical Inspections
- 27 c. 2014
- 28 d. Inspection Requirements

2. Plumbing Codes for Jacuzzi® Walk-In-Tub: 2012 Uniform Plumbing Code.pdf

- a. Southern Nevada Amendments
- b. 2012 Uniform Plumbing Code, UPC (IAPMO)
 - i. Section 310.4 Use of Vent and Waste Pipes
 - ii. Section 608.5 Drains
 - iii. Section 707.10 Fittings
- c. 2012
- d. Plumbing Requirements

3. Electrical Codes for Jacuzzi® Walk-In-Tub: 2011 National Electrical Code.pdf

- a. Southern Nevada Amendments
- b. 2012 National Electrical Code, NEC (NFPA)
 - i. Section 210.23 Permissible Loads
 - ii. Section 230.70 General
 - iii. Section 680.42(B) Bonding
- c. 2011
- d. Electrical Requirements

Defendant directs Plaintiff to the following codes:

2011 National Electrical Code	JACUZZI001455-1471
2012 Uniform Mechanical Code	JACUZZI001472-1479
2012 Uniform Plumbing Code	JACUZZI001480-1493
Clark County Building Code	JACUZZI001494-1587

Defendant objects to this Interrogatory as overbroad and unduly burdensome to the extent that it includes "similar products." By virtue of the nature and design of bathtubs, all bathtubs have similar designs in some respects. Therefore it is unduly burdensome to identify every law, rule, regulation, standard, statute, ordinance, or other requirement or recommendation that is applicable to every bathtub. Additionally, such a request seeks information that is outside the

1 scope of Rule 26.

2 **INTERROGATORY NO. 14:**

3 If the subject Jacuzzi Walk-In-Tub was not designed and manufactured to meet applicable
4 federal standards or codes, state the reason(s) therefor.

5 **RESPONSE:**

6 Defendant believes the Jacuzzi® Walk-In Bathtub was designed and manufactured to
7 meet all applicable federal standards and codes.

8 **INTERROGATORY NO. 15:**

9 State whether or not the subject Jacuzzi Walk-In-Tub is or was listed by Underwriter's
10 Laboratories or a similar listing or approving organization. If so, please provide a copy of the
11 Underwriter's Laboratories procedures or other applicable documents or the status of such listing
12 attempts. If not, state the reasons for it not being listed.

13 **RESPONSE:**

14 Upon entry of an appropriate protective order, Jacuzzi will produce WIT Tub Standards
15 Certificate of Listing [Bates number JACUZZI001450-1454]. Defendant further directs Plaintiffs
16 to its response to Interrogatory No. 8.

17 Defendant objects because the interrogatory is overly broad without reasonable limitation
18 in scope, unduly burdensome, and seeks information irrelevant to the subject matter of this action
19 and is not likely to lead to the discovery of relevant or admissible evidence. The Interrogatory is
20 vague and ambiguous.

21 **INTERROGATORY NO. 16:**

22 State whether any standard or code organization or body ever refused to approve or list the
23 subject Jacuzzi Walk-In-Tub. If so, provide the names of all such organizations and the
24 particulars regarding each refusal.

25 **RESPONSE:**

26 No standard or code organization or body ever refused to approve or list the subject
27 Jacuzzi® Walk-In Bathtub.

28 ///

1 **INTERROGATORY NO. 17:**

2 State whether or not the Defendant has been engaged within the past 24 months, alone or
3 with other manufacturers or organizations, in developing or attempting to develop a standard for
4 the subject Jacuzzi walk in tub or similar Jacuzzi Walk-In-Tub. If so, provide the name of the
5 anticipated listing organization, all other manufacturers, organizations and bodies involved in the
6 process, the date such attempt originated and copies of all documents Defendant generated
7 received or reviewed in connection with developing such standards.

8 **RESPONSE:**

9 Defendant follows standards for products it designs and/or manufactures. The standard
10 for walk-in-tubs is from IAPMO. It has not been engaged within the last 24 months with "other
11 manufacturers or organizations" in developing different or additional standard for the subject
12 Jacuzzi® walk in tub or "similar" Jacuzzi® Walk-In-Tub.

13 Defendant objects to this Interrogatory as confusing and vague as to the phrase
14 "developing or attempting to develop a standard for the subject Jacuzzi® walk in tub or similar
15 Jacuzzi® Walk-In-Tub."

16 **INTERROGATORY NO. 18:**

17 State the year the Defendant first manufactured a Jacuzzi Walk-In-Tub intended for use by
18 the elderly, folks with mobility issues or folks with weight or other limiting medical conditions.

19 **RESPONSE:**

20 Defendant first manufactured the subject model Jacuzzi® Walk-In Bathtub in or about the
21 year 2012.

22 Defendant objects to the use of the phrase "intended for use by the elderly, folks with
23 mobility issues or folks with weight or other limiting medical conditions" because it implies that
24 Jacuzzi designed the subject Jacuzzi Walk-In Bathtub solely for a specific customer population.
25 The subject Jacuzzi Walk-In Bathtub was designed to provide an option for customers wishing to
26 purchase a walk-in bathtub with a seat instead of the traditional Jacuzzi tubs which require a
27 person to step over the side of the tub.

28 ///

1 **INTERROGATORY NO. 19:**

2 State if at any time any employee, agent, customer or end user complained of or objected
3 to the design of the subject Jacuzzi walk in tub or similar model with respect to the means used to
4 provide safety. If so, provide copies of all relevant documents in your possession.

5 **RESPONSE:**

6 Limiting its response to information potentially relevant to the vague defect claims
7 asserted by plaintiffs, Defendant states it is only aware of the claims brought by Plaintiffs'
8 attorney.

9 Defendant objects because the interrogatory is overly broad without reasonable limitation
10 in scope, unduly burdensome, and seeks information irrelevant to the subject matter of this action
11 and is not likely to lead to the discovery of relevant or admissible evidence. The interrogatory is
12 vague and ambiguous. The interrogatory seeks information protected from disclosure by the right
13 of privacy of third parties.

14 **INTERROGATORY NO. 20:**

15 What are the names, present addresses, and company positions of each person involved in
16 the design and the design verification of the Walk-In-Tub, including but not limited to employees
17 in engineering, quality assurance, quality control, reliability, general management, sales,
18 marketing, finance who specifically contributed to the subject design.

19 **RESPONSE:**

20 See Defendant's response to Interrogatory No. 4.

21 **INTERROGATORY NO. 21:**

22 Please identify each and every law, rule, regulation, standard, statute, ordinance, or other
23 requirement or recommendation established by any Nevada state or federal governmental body or
24 officer that deals with, defines, limits or specifies the manufacture or use of the Walk-In-Tub or
25 similar products, with specific reference to:

26 (a) the name or title of the governmental body or officer responsible for the
27 establishment, enactment, or promulgation;

28 (b) the title, including chapter, section, and paragraph numbers;

1 (c) the date of establishment, enactment, or promulgation; and (d) the subject matter
2 addressed.

3 **RESPONSE:**

4 See Defendant's response to Interrogatory 13.

5 **INTERROGATORY NO. 22:**

6 Do you contend that the Plaintiff misused or abused the subject Jacuzzi Walk-In-Tub
7 and/or applied a use that was neither intended nor reasonably foreseeable by you, or was
8 otherwise contributorily negligent? If so, please state the particulars therefor.

9 **RESPONSE:**

10 Defendant contends that Ms. Cunnison could not have gotten stuck in the subject Jacuzzi
11 Walk-In Tub if she was using it properly. Discovery is ongoing, and the extent to which
12 Ms. Cunnison's misuse, abuse, medical condition, or otherwise contributory negligence may have
13 caused or contributed to the subject incident is still under investigation. Defendant will
14 supplement this response consistent with its obligation under NRCP 26(e).

15 **INTERROGATORY NO. 23:**

16 Do you contend that the Plaintiffs subject Walk-In-Tub was altered, modified or changed
17 in any way that you neither recommended nor expected, other than ordinary wear and tear, after it
18 left your hands? If so, please state the particulars therefor.

19 **RESPONSE:**

20 The current condition of the tub is substantially different than when it left Defendants'
21 possession, including but not limited to cutting off the door, installation of a drain and
22 accessories, and broken pieces. Defendant was not given the opportunity to fully inspect the tub,
23 including but not limited to the drainage pipes affixed to the tub, while it was still in the
24 decedent's home despite Defendant's multiple requests for an inspection prior to its removal by
25 plaintiffs. As such, Defendant does not currently know what evidence may have been lost or
26 destroyed in the removal. Discovery is ongoing, and the extent to which the Walk-In Bathtub
27 was altered, modified or changed is still under investigation. Defendant will supplement this
28 response consistent with its obligation under NRCP 26(e).

1 **INTERROGATORY NO. 24:**

2 Do you contend that any person, partnership, corporation or other entity that is not a
3 named party in the within cause is, or may be, responsible in any way for all or part of the
4 damages alleged by the Plaintiff? If so, please identify:

- 5 (a) the name and last known address of each;
6 (b) a brief description of the facts known to the Defendant in support of such
7 contention as to each such party named in answer to this Interrogatory; and
8 (c) the name and last known address of each person known to you who has or claims
9 to have knowledge of any facts relating to this contention

10 **RESPONSE:**

11 Defendant contends that Ms. Cunnison's misuse of the tub, and/or her medical condition,
12 are the cause of Plaintiffs' damages. Discovery is ongoing, and the extent to which any person,
13 partnership, corporation or other entity may be responsible for damages claimed by Plaintiffs is
14 still under investigation. Defendant will supplement this response consistent with its obligation
15 under NRCP 26(e).

16 **INTERROGATORY NO. 25:**

17 Do you contend that any intervening or superseding act or event occurred so as to relieve
18 you of liability or responsibility for the damage sustained by the Plaintiff? If so, please state the
19 particulars therefor.

20 **RESPONSE:**

21 Defendant contends that it has no liability to Plaintiffs for their alleged damages.
22 Defendant contends that Ms. Cunnison's misuse of the tub, and/or medical condition, are the
23 cause of Plaintiffs' damages. Discovery is ongoing, and the extent to which any intervening or
24 superseding act or event occurred is still under investigation. Defendant will supplement this
25 response consistent with its obligation under NRCP 26(e).

26 **INTERROGATORY NO. 26:**

27 Please identify each of your employees and/or agents who has conducted any analysis or
28 investigation of subject Jacuzzi Walk-In-Tub or conducted any interviews with other persons who

1 claim to have knowledge of facts in connection with the subject incident.

2 **RESPONSE:**

3 Plaintiffs' counsel or representatives have been present for all of Jacuzzi's inspections of
4 the subject Walk-In Bathtub. In its response to Interrogatory No. 2, Defendant identified the
5 individuals who were present for the inspections. Defendant has no other non-privileged
6 information responsive to Plaintiff's Interrogatory.

7 Defendant objects to the Interrogatory to the extent that it requests any information
8 protected by the attorney work product doctrine or materials protected by attorney-client
9 privilege.

10 **INTERROGATORY NO. 27:**

11 Please identify each person known to you, and not otherwise previously named in answers
12 to these Interrogatories, who has, or claims to have, knowledge of any discoverable matter
13 relating to the within cause.

14 **RESPONSE:**

15 All such persons have been named in Defendant's Initial Disclosures and subsequent
16 Supplemental Disclosures, as well as individuals who have been identified in depositions and
17 records obtained to date.

18 **INTERROGATORY NO. 28:**

19 Please identify each and every person or entity you believe should or could be a party to
20 this action.

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 **RESPONSE:**

2 Defendant contends that Plaintiffs' claims are meritless and is unaware, at this time, of any
3 person or entity that should be named as a party.

4 DATED this 19th day of June, 2017.

5 SNELL & WILMER L.L.P.

6
7 By: Joshua D. Cools

Vaughn A. Crawford
Nevada Bar No. 7665
Joshua D. Cools
Nevada Bar No. 11941
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, NV 89169

11 Attorneys for Defendant/Cross-Defendant
JACUZZI INC. doing business
as JACUZZI LUXURY BATH

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On this date, I caused to be served a true and correct copy of the foregoing **DEFENDANT/CROSS-DEFENDANT JACUZZI INC.'S RESPONSE TO PLAINTIFF DEBORAH TAMANTINI'S FIRST SET OF INTERROGATORIES** by the method indicated below, addressed to the following:

XXXXX Odyssey E-File & Serve

Benjamin P. Cloward, NV Bar No. 11087
RICHARD HARRIS LAW FIRM
801 S. Fourth Street
Las Vegas, NV 89101
Telephone: (702) 444-4444
Facsimile: (702) 444-4455
Email: Benjamin@RichardHarrisLaw.com
Attorneys for Plaintiffs

Scott R. Cook, NV Bar No. 5265
Jennifer L. Micheli, NV Bar No. 11210
KOLESAR & LEATHAM
400 South Rampart Blvd., Suite 400
Las Vegas, NV 89145
Telephone: (702) 362-7800
Facsimile: (702) 362-9472
Email: scook@klnevada.com
Attorneys for Third-Party Defendant
THE CHICAGO FAUCET COMPANY

Joseph P. Garin, NV Bar No. 6653
LIPSON, NEILSON, COLE,
SELTZER & GARIN, P.C.
9900 Covington Cross Drive, Suite 120
Las Vegas, NV 89144
Telephone: (702) 382-1500
Facsimile: (702) 382-1512
Email: jgarin@lipsonneilson.com
Attorneys for Defendants/Cross-
Defendants/Cross-Claimants
WILLIAM BUDD, individually and as
BUDDS PLUMBING

Michael E. Stoberski, NV Bar No. 4762
Daniela Labounty, NV Bar No. 13169
OLSON, CANNON, GORMLEY
ANGULO & STOBERSKI
9950 West Cheyenne Avenue
Las Vegas, NV 89129
Telephone: (702) 384-4012
Facsimile: (702) 383-0701
Email: mstoberski@ocgas.com
Email: dlabounty@ocgas.com
Attorneys for Defendant/Cross-Claimant
Third Party Plaintiff
HOMECLICK, LLC

Stephen J. Erigero, NV Bar No. 11562
Timothy J. Lepore, NV Bar No. 13908
ROPERS, MAJESKI, KOHN & BENTLEY
3753 Howard Hughes Pkwy., Suite 200
Las Vegas, NV 89169
Telephone: (702) 954-8300
Facsimile: (213) 312-2001
Email: stephen.erigero@rmkb.com
Email: timothy.lepore@rmkb.com
Attorneys for Defendant/Cross-
Defendant/Cross-Claimant
BESTWAY BUILDING
& REMODELING, INC.

1 Christopher J. Curtis, NV Bar No. 4098
2 Meghan M. Goodwin, NV Bar No. 11974
3 THORNDAL, ARMSTRONG, DELK
4 BALKENBUSH & EISINGER
5 1100 East Bridger Avenue
6 Las Vegas, NV 89101-5315
7 Mail to: P.O. Box 2070
8 Las Vegas, NV 89125-2070
9 Telephone: (702) 366-0622
10 Facsimile: (702) 366-0327
11 Email: cjc@thorndal.com
12 Email: mmg@thorndal.com
13 Attorneys for Defendants/Cross-Defendants
14 FIRST STREET FOR BOOMERS &
15 BEYOND, INC. AND AITHR DEALER,
16 INC.

17 DATED this 19th day of June, 2017.


An Employee of Snell & Wilmer LLP.

4817-5709-3191.5

VERIFICATION

I, William Demeritt, declare as follows:

1. I am the Vice President and Director of Risk Management for Jacuzzi Inc.
2. I verify that I have read **DEFENDANT/CROSS-DEFENDANT JACUZZI INC.'S RESPONSE TO PLAINTIFF DEBORAH TAMANTINI'S FIRST SET OF INTERROGATORIES**, and know the contents thereof; that based on information and belief the responses contained therein are, just and true.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

DATED this 13 day of ~~June~~ June, 2017.



WILLIAM DEMERITT

4840-8233-7098

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT “18”

Snell & Wilmer

L.L.P.
LAW OFFICES
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, Nevada 89169
702.784.5200

Vaughn A. Crawford, Nevada Bar No. 7665
Joshua D. Cools, Nevada Bar No. 11941
SNELL & WILMER L.L.P.
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, NV 89169
Telephone: (702) 784-5200
Facsimile: (702) 784-5252
Email: vcrawford@swlaw.com
Email: jcools@swlaw.com



Attorneys for Defendant/Cross-Defendant
JACUZZI INC. doing business
as JACUZZI LUXURY BATH

DISTRICT COURT

CLARK COUNTY, NEVADA

ROBERT ANSARA, as Special Administrator
of the Estate of SHERRY LYNN CUNNISON,
Deceased; MICHAEL SMITH individually,
and heir to the Estate of SHERRY LYNN
CUNNISON, Deceased; and DEBORAH
TAMANTINI individually, and heir to the
Estate of SHERRY LYNN CUNNISON,
Deceased,

Plaintiffs,

vs.

FIRST STREET FOR BOOMERS &
BEYOND, INC.; AITHR DEALER, INC.;
HALE BENTON, individually; HOMECLICK,
LLC; JACUZZI INC. doing business as
JACUZZI LUXURY BATH; BESTWAY
BUILDING & REMODELING, INC.;
WILLIAM BUDD, individually and as
BUDDS PLUMBING; DOES 1 through 20;
ROE CORPORATIONS 1 through 20; DOE
EMPLOYEES 1 through 20; DOE
MANUFACTURERS 1 through 20; DOE
INSTALLERS 1 through 20; DOE
CONTRACTORS 1 through 20; and DOE 21
SUBCONTRACTORS 1 through 20, inclusive,

Defendants.

AND ALL RELATED CLAIMS.

Case No.: A-16-731244-C
Dept. No.: XVIII

**DEFENDANT/CROSS-DEFENDANT
JACUZZI INC.'S AMENDED
RESPONSE TO PLAINTIFF DEBORAH
TAMANTINI'S FIRST SET OF
INTERROGATORIES**

Defendant/Cross-Defendant JACUZZI INC. doing business as Jacuzzi Luxury Bath
("Defendant"), by and through its attorneys of record, Snell & Wilmer L.L.P., submits its Amended

Response to Plaintiff Deborah Tamantini's ("Plaintiff") First Set of Interrogatories.

GENERAL OBJECTIONS

Defendant objects to each interrogatory to the extent they require the identification of documents already produced in this matter. Such documents are as accessible to Plaintiff as they are to Defendant.

Defendant responds to interrogatories, subject to the following additional reservations:

(a) The right to object on any ground whatsoever to the admission into evidence or other use of any of these responses at the trial of this action or any other proceeding in this action or any other action;

(b) The right to object on any ground whatsoever at any time to any demand for further responses to interrogatories, or any other discovery procedures involving or relating to the subject matter of the interrogatories;

(c) The right at any time to revise, correct, add to or clarify, any of the responses set forth herein; and

(d) The responses contained herein are based upon information presently known and ascertained by Defendant. The responses herein are without prejudice to utilizing subsequently discovered documents or information; and Defendant reserves the right to amend, add to, delete from, or in any other manner modify these responses after it has completed its discovery and investigation efforts and ascertained all relevant facts.

RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 1:

Please identify the person or persons responding to these Interrogatories. Please identify in your answer each person who has provided information in connection with these interrogatory answers.

RESPONSE:

The information used in preparing these responses came from a variety of sourced and was gathered and compiled with the assistance of counsel. Pursuant to NRCP 33, these interrogatory responses are under oath by William Demeritt, Vice President and Director of Risk Management.

1 Defendant objects to this Interrogatory on the grounds that it seeks information protected
2 by the work product doctrine and/or attorney client privilege.

3 **INTERROGATORY NO. 2:**

4 Identify any and all persons who have knowledge of the events following the incident, or
5 have knowledge of the facts relevant to, or are related to the incident, or who have investigated
6 the incident, including their name, address and telephone number and, further, describe in detail
7 how this incident occurred.

8 **RESPONSE:**

9 Please see Defendant's Initial Disclosures and subsequent Supplemental Disclosures. As
10 Plaintiff knows, Defendant has participated in two inspections of the subject Jacuzzi Walk-In
11 Bathtub. On June 13, 2014, Ray Torres, a former Jacuzzi employee; Anthony Lovallo, Jacuzzi's
12 in-house counsel; and Casey Perkins, Jacuzzi's counsel; were present at the first inspection. At
13 the second inspection on October 19, 2016, Plaintiffs' counsel took a record of all who were there
14 to inspect the tub. On behalf of Jacuzzi, this included Ron Templer, Jacuzzi's in-house attorney;
15 Joshua Cools, counsel of record; Mike Dominguez, a Jacuzzi engineer; and Tony Stremel, an
16 expert retained by Jacuzzi. Mr. Torres is no longer employed with Jacuzzi. His last known
17 contact information is 15590 Lucia Lane, Moreno Valley, CA 92551, (951) 243-7468. All other
18 individuals may be contacted through Jacuzzi's counsel of record.

19 Defendant objects to this Interrogatory to the extent it requests a description of "how this
20 incident occurred," because no one, other than Ms. Cunnison, has personal knowledge of the
21 circumstances of the incident.

22 **INTERROGATORY NO. 3:**

23 Identify when the subject Jacuzzi Walk-In Bathtub was originally designed and developed,
24 specifying the dates of each modification thereto and the nature of the modifications.

25 **RESPONSE:**

26 Defendant first made the subject Jacuzzi® Walk-In Bathtub in or about the year 2012.
27 Between 2012 and 2014, there have been some minor changes to the tub, but there were no
28 modifications to the subject Jacuzzi® Walk-In Bathtub related to the vague defect claims asserted

1 in this case.

2 Defendant objects to this Interrogatory as overbroad, unduly burdensome, and without
3 reasonable limitation in scope because it is seeking information unrelated to the subject incident
4 and claims. If Plaintiff identifies specific components or design characteristics of the tub at issue,
5 Defendant can identify any relevant modifications, but as stated above, Jacuzzi is unaware of any
6 modifications related to Plaintiffs' claims. Additionally, the interrogatory seeks confidential and
7 proprietary information that will not be disclosed without a protective order.

8 **INTERROGATORY NO. 4:**

9 What are the names, present addresses, and company positions of each person involved in
10 the design and the design verification of the subject Walk-In-Tub, including but not limited to,
11 employees in engineering, quality assurance, quality control, reliability, general management,
12 sales, marketing, finance who specifically contributed to the subject design.

13 **RESPONSE:**

14 Defendant identifies Mike Dominguez as a person with knowledge regarding the design
15 and design verification of the subject Jacuzzi® Walk-In Bathtub. Mr. Dominguez may be
16 contacted through Jacuzzi's counsel of record.

17 Defendant objects to this Interrogatory as overbroad and unduly burdensome. The design
18 and development of any product is an evolutionary process. Accordingly, Defendant is unable to
19 identify each and every person and department that may have been involved in the design and
20 design verification. Since numerous individuals were involved in these activities, it is unduly
21 burdensome for Defendant to attempt to identify all such persons. If Plaintiff identifies specific
22 components or aspects of design that are the subject of their inquiry, Defendant will endeavor
23 produce names of key person(s) involved in the design and design verification of those specific
24 components.

25 **INTERROGATORY NO. 5:**

26 Did any other company or individuals, who are not employees of Defendant design or
27 develop the subject Jacuzzi Walk-In-Tub or components thereof for the Defendant? If so, please
28 identify the name and address of each such company or individual.

RESPONSE:

Defendant cannot adequately respond to this interrogatory considering the vague defect claims asserted by Plaintiffs. Defendant states that there are some third-parties that manufacture specific components of the subject Jacuzzi® Walk-In Bathtub, and were involved in their development. Upon entry of a protective order and identification of specific components Plaintiffs believe are relevant to their claims, Defendant will supplement its response.

Defendant objects to this interrogatory because it is overly broad without reasonable limitation in scope, unduly burdensome, and seeks information irrelevant to the subject matter of this action and is not likely to lead to the discovery of relevant or admissible evidence. The interrogatory is vague and ambiguous. The interrogatory seeks confidential and proprietary information that will not be disclosed without a protective order.

INTERROGATORY NO. 6:

Please identify all documents concerning the design and development of the subject Jacuzzi Walk-In-Tub.

RESPONSE:

Defendant identifies the documents previously disclosed in Jacuzzi's initial disclosures and supplements, including:

Installation and Operation Instructions Manual, Jacuzzi® 5229 Walk-In Bathtub Series, 2013	JACUZZI 000001-20
DWO Geberit Installation Manual, 2012.	JACUZZI 000021-22
DWO Geberit Pin Drawing for Fitting No. 241.789.21.1. Subject to Protective Order. Will be produced upon entry of appropriate Protective Order.	JACUZZI 000023
MT31 Geberit Installation Instructions	JACUZZI 000024-27

Upon entry of an appropriate protective order, Defendant will produce the following:

Drawing LW19000_Shell FS5229 RH Walk In	JACUZZI001349
Drawing LW32827_Grab Bar Assembly	JACUZZI001350

Drawing LW47000RevD_SHL T&D FS 5229 RH SLN	JACUZZI001351-1352
Drawing LW48000RevB_SHL Bond FS 5229 RH	JACUZZI001353-1354
Drawing LX22000_Piping Suction	JACUZZI001355
Drawing LX24000B_Piping Discharge	JACUZZI001356-1357
Drawing LX25000_Piping Airline	JACUZZI001358
Drawing LX26000A_Piping Blower	JACUZZI001359-1360
Drawing LX27000_Two Pt Quarter Turn Door Latch	JACUZZI001361-1368
Drawing LX62000_Door Assembly	JACUZZI001369
Drawing LX82000_Skirt Access Panel	JACUZZI001370
Drawing LX91827A_Handle_Sub	JACUZZI001371

Defendant objects to the Interrogatory as overbroad in that it is not limited to any particular aspects of the design of the subject tub. Accordingly, Defendant has limited its responses to design aspects criticized by Plaintiffs, which include the size of the tub, the inward swinging door, the placement of grab bars, and the drain.

INTERROGATORY NO. 7:

Identify the Defendant's employee who is the most knowledgeable about the design and development of the subject Jacuzzi Walk-In-Tub.

RESPONSE:

Defendant identifies Mike Dominguez as a person with knowledge as to the design and development of the subject Jacuzzi® Walk-In Bathtub. Mr. Dominguez is an engineer employed by Jacuzzi and may be contacted through Jacuzzi's counsel of record.

Defendant objects to this Interrogatory in its use of the term "person most knowledgeable." The design and development of any product is an evolutionary process that

1 involves many different individuals. The term “person most knowledgeable” suggests someone
2 that there is one person that has the most knowledge about the design and development of the
3 subject bathtub. Further, the terminology carries with it the baggage of prior versions of
4 NRCP 30 and FRCP 30, which no longer require the production of a “person most
5 knowledgeable” for deposition, but rather a corporate representative prepared to speak on specific
6 topics. Defendant is unable to identify the one person who is “most knowledgeable.”

7 **INTERROGATORY NO. 8:**

8 Please identify all tests or studies performed by the Defendant or by any independent
9 laboratory relating to the subject Jacuzzi Walk-In-Tub’s safety and design. For each such test or
10 study, state:

- 11 (a) the date it was performed;
- 12 (b) the name, company position, and present address of the person responsible for the
13 test or study;
- 14 (c) the method used;
- 15 (d) the purpose of the test or study; and
- 16 (e) the results of the test or study

17 **RESPONSE:**

- 18 (a) IAPMO Compliance Test: IAPMO Certification Listing.pdf
 - 19 1. September 2012
 - 20 2. IAPMO R&T Lab, 5001 East Philadelphia Street, Ontario, California
21 91761
 - 22 3. Test Standards
 - 23 i. ASME A112.15-2012
 - 24 ii. CSA B45 Series-2002 (R2013)
 - 25 4. Complied with test standard
- 26 (b) ETL Compliance Test: ETL Certification Listing.pdf
 - 27 1. September 2012
 - 28 2. Intertek, 25800 Commercentre Dr, Lake Forest, CA 92630 (Kathryn Jones)

- 1 3. Test Standards
- 2 i. UL 1795 UL Standard for Safety Hydromassage Bathtubs
- 3 ii. CSA C22.2 No. 218.2:2015 Hydromassage Bathtub Appliances
- 4 (c) Co-efficiency of Friction Test: ASTM F 462-79 (R2007).pdf
- 5 a. June 2013
- 6 b. IAPMO R&T Lab, 5001 East Philadelphia Street, Ontario, California
- 7 91761
- 8 c. Test protocol ASTM F 462-79 (R2007)
- 9 d. Complied with test standard
- 10 (d) Door Mechanism Life Cycle Test: Door Life Cycle.pdf
- 11 1. December 2012
- 12 2. SCO Monte Vista Ave, Chino, CA 91710
- 13 3. Test Protocol: Force Failure Analysis/Life Cycle Testing
- 14 4. First Article Accepted

15 Upon entry of an appropriate protective order, Defendant will produce the following:

16 Door Life Cycle	JACUZZI001372-1375
17 ETL Certification Listing	JACUZZI001376-1441
18 IAPMO Certification Listing	JACUZZI001442-1446
19 IAMPO Lab Test Report_ASTM F 462-79	JACUZZI001447-1449

22 Defendant objects to this Interrogatory as overbroad because it is seeking information
23 beyond the implication of the subject incident and claims outside the scope of NRCP 26(b).
24 Defendant has limited its response to those tests it believes are relevant to Plaintiffs' claims. If
25 Plaintiff seeks additional responses, they must clarify design elements or a scope of tests at issue,
26 which are relevant to the subject incident and claims.

27 ///

28 ///

1 **INTERROGATORY NO. 9:**

2 If the tests or studies identified in your answer to the foregoing interrogatory resulted in
3 any change or modifications to the subject Jacuzzi Walk-In-Tub's, please state the nature of the
4 change or modification and the reason for such change or modification.

5 **RESPONSE:**

6 No changes or modifications were needed.

7 Defendant objects to this Interrogatory as overbroad because it is seeking information
8 beyond the implication of the subject incident and claims and outside the scope of NRCP 26(b).
9 Defendant has limited its response to those modifications it believes are relevant to Plaintiffs'
10 claims. If Plaintiff seeks additional responses, they must clarify design elements or a scope of
11 modifications at issue, which are relevant to the subject incident and claims.

12 **INTERROGATORY NO. 10:**

13 State verbatim the content of any warnings or instructions on all written material that is
14 included in the packaging of a new Jacuzzi Walk-In-Tub which is the subject of this litigation.
15 Alternatively, provide a copy of such written material.

16 **RESPONSE:**

17 Pursuant to NRCP 33(d), Defendant directs Plaintiff to Installation and Operation
18 Instructions Manual, Jacuzzi 5229 Walk-In Bathtub Series, 2013, produced in Defendant's Initial
19 Disclosure Statement as JACUZZI 000001-20. Additional warnings are posted on the bathtub,
20 but are not related to the vague defect claims that have been asserted.

21 **INTERROGATORY NO. 11:**

22 Please state whether the Defendant has ever received notice, either verbal or written, from
23 or on behalf of any person claiming injury or damage from his use of a Jacuzzi Walk-In Tub
24 which is the subject of the litigation.

25 If so, please state:

- 26 (a) the date of each such notice;
27 (b) the name and last known address of each person giving such notice; and
28 (c) the substance of the allegations of such notice

1 **RESPONSE:**

2 Defendant is only aware of the claims of injury brought by Plaintiffs' attorney. This
3 response is limited to injury claims made prior to the subject incident and to the subject Jacuzzi®
4 Walk-In Bathtub model that are similar to the vague claims that have been asserted in this action.

5 Defendant objects because the interrogatory is overly broad without reasonable limitation
6 in scope, unduly burdensome, and seeks information irrelevant to the subject matter of this action
7 and is not likely to lead to the discovery of relevant or admissible evidence. The interrogatory is
8 vague and ambiguous. The interrogatory seeks information protected from disclosure by the right
9 of privacy of third parties.

10 **INTERROGATORY NO. 12:**

11 Has the Defendant ever been named as a defendant, respondent or other involuntary
12 participant in a lawsuit or other proceeding arising out of personal injuries or damage in
13 connection with a Jacuzzi Walk-In-Tub?

14 If so, please state as to each:

- 15 (a) the court or other forum in which it was filed;
16 (b) the names of all parties or named participants;
17 (c) the case number or other identifying number, letters or name assigned to the action
18 or other proceeding;
19 (d) the name and last known address of each person claiming injury or damage
20 therein;
21 (e) the names and last known address of all known counsel of record participating in
22 such action or proceeding; and
23 (f) the date of the alleged injury or damage

24 **RESPONSE:**

25 Other than this suit, Defendant has never been named as a defendant, respondent or other
26 involuntary participant in a lawsuit or other proceeding arising out of personal injury in
27 connection with the subject Jacuzzi® Walk-In Bathtub involving claims similar to the claims
28 presented in this action. This response is limited to information potentially relevant to the vague

1 defect claims asserted by plaintiffs.

2 Defendant objects to this interrogatory because it is overly broad without reasonable
3 limitation in scope, unduly burdensome, and seeks information irrelevant to the subject matter of
4 this action and is not likely to lead to the discovery of relevant or admissible evidence. The
5 interrogatory is vague and ambiguous. Defendant objects to this request as overbroad to the
6 extent it would include unrelated claims, such as property damage claims or claims unrelated to
7 the vague defects claimed to have caused plaintiffs' injuries. Such claims are outside the scope of
8 Rule 26(b) and not included in Defendant's response.

9 **INTERROGATORY NO. 13:**

10 Please identify each and every law, rule, regulation, standard, statute, ordinance, or other
11 requirement or recommendation established by any Nevada state or federal governmental body or
12 officer that deals with, defines, limits or specifies the manufacture, design or use of the subject
13 Jacuzzi Walk-In-Tub or similar products, with specific reference to:

- 14 (a) the name or title of the governmental body or officer responsible for the
15 establishment, enactment, or promulgation;
16 (b) the title, including chapter, section, and paragraph numbers;
17 (c) the date of establishment, enactment, or promulgation; and
18 (d) the subject matter addressed

19 **RESPONSE:**

20 The subject Jacuzzi® Walk-In Tub is subject to:

- 21 1. Specification Use Jacuzzi® Walk-In-Tub: Clark County Building Code.pdf
22 a. Clarke County, Nevada
23 b. Administrative Code, Chapter 22.02
24 i. 22.02.475 Required Electrical Inspections
25 ii. 22.02.480 Required Plumbing Inspections
26 iii. 22.02.485 Required Mechanical Inspections
27 c. 2014
28 d. Inspection Requirements

2. Plumbing Codes for Jacuzzi® Walk-In-Tub: 2012 Uniform Plumbing Code.pdf

- a. Southern Nevada Amendments
- b. 2012 Uniform Plumbing Code, UPC (IAPMO)
 - i. Section 310.4 Use of Vent and Waste Pipes
 - ii. Section 608.5 Drains
 - iii. Section 707.10 Fittings
- c. 2012
- d. Plumbing Requirements

3. Electrical Codes for Jacuzzi® Walk-In-Tub: 2011 National Electrical Code.pdf

- a. Southern Nevada Amendments
- b. 2012 National Electrical Code, NEC (NFPA)
 - i. Section 210.23 Permissible Loads
 - ii. Section 230.70 General
 - iii. Section 680.42(B) Bonding
- c. 2011
- d. Electrical Requirements

Defendant directs Plaintiff to the following codes:

2011 National Electrical Code	JACUZZI001455-1471
2012 Uniform Mechanical Code	JACUZZI001472-1479
2012 Uniform Plumbing Code	JACUZZI001480-1493
Clark County Building Code	JACUZZI001494-1587

Defendant objects to this Interrogatory as overbroad and unduly burdensome to the extent that it includes "similar products." By virtue of the nature and design of bathtubs, all bathtubs have similar designs in some respects. Therefore it is unduly burdensome to identify every law, rule, regulation, standard, statute, ordinance, or other requirement or recommendation that is applicable to every bathtub. Additionally, such a request seeks information that is outside the

1 scope of Rule 26.

2 **INTERROGATORY NO. 14:**

3 If the subject Jacuzzi Walk-In-Tub was not designed and manufactured to meet applicable
4 federal standards or codes, state the reason(s) therefor.

5 **RESPONSE:**

6 Defendant believes the Jacuzzi® Walk-In Bathtub was designed and manufactured to
7 meet all applicable federal standards and codes.

8 **INTERROGATORY NO. 15:**

9 State whether or not the subject Jacuzzi Walk-In-Tub is or was listed by Underwriter's
10 Laboratories or a similar listing or approving organization. If so, please provide a copy of the
11 Underwriter's Laboratories procedures or other applicable documents or the status of such listing
12 attempts. If not, state the reasons for it not being listed.

13 **RESPONSE:**

14 Upon entry of an appropriate protective order, Jacuzzi will produce WIT Tub Standards
15 Certificate of Listing [Bates number JACUZZI001450-1454]. Defendant further directs Plaintiffs
16 to its response to Interrogatory No. 8.

17 Defendant objects because the interrogatory is overly broad without reasonable limitation
18 in scope, unduly burdensome, and seeks information irrelevant to the subject matter of this action
19 and is not likely to lead to the discovery of relevant or admissible evidence. The Interrogatory is
20 vague and ambiguous.

21 **AMENDED RESPONSE:**

22 Jacuzzi directs Plaintiffs to WIT Tub Standards Certificate of Listing, which it has
23 determined is not subject to a protective order, [Bates numbers JACUZZI001450-1454] produced
24 with Jacuzzi's Ninth Supplemental Disclosure Statement. Defendant further directs Plaintiffs to
25 its response to Interrogatory No. 8.

26 Defendant objects because the interrogatory is overly broad without reasonable limitation
27 in scope, unduly burdensome, and seeks information irrelevant to the subject matter of this action
28 and is not likely to lead to the discovery of relevant or admissible evidence. The Interrogatory is

1 vague and ambiguous.

2 **INTERROGATORY NO. 16:**

3 State whether any standard or code organization or body ever refused to approve or list the
4 subject Jacuzzi Walk-In-Tub. If so, provide the names of all such organizations and the
5 particulars regarding each refusal.

6 **RESPONSE:**

7 No standard or code organization or body ever refused to approve or list the subject
8 Jacuzzi® Walk-In Bathtub.

9 **INTERROGATORY NO. 17:**

10 State whether or not the Defendant has been engaged within the past 24 months, alone or
11 with other manufacturers or organizations, in developing or attempting to develop a standard for
12 the subject Jacuzzi walk in tub or similar Jacuzzi Walk-In-Tub. If so, provide the name of the
13 anticipated listing organization, all other manufacturers, organizations and bodies involved in the
14 process, the date such attempt originated and copies of all documents Defendant generated
15 received or reviewed in connection with developing such standards.

16 **RESPONSE:**

17 Defendant follows standards for products it designs and/or manufactures. The standard
18 for walk-in-tubs is from IAPMO. It has not been engaged within the last 24 months with "other
19 manufacturers or organizations" in developing different or additional standard for the subject
20 Jacuzzi® walk in tub or "similar" Jacuzzi® Walk-In-Tub.

21 Defendant objects to this Interrogatory as confusing and vague as to the phrase
22 "developing or attempting to develop a standard for the subject Jacuzzi® walk in tub or similar
23 Jacuzzi® Walk-In-Tub."

24 **INTERROGATORY NO. 18:**

25 State the year the Defendant first manufactured a Jacuzzi Walk-In-Tub intended for use by
26 the elderly, folks with mobility issues or folks with weight or other limiting medical conditions.

27 **RESPONSE:**

28 Defendant first manufactured the subject model Jacuzzi® Walk-In Bathtub in or about the

1 year 2012.

2 Defendant objects to the use of the phrase “intended for use by the elderly, folks with
3 mobility issues or folks with weight or other limiting medical conditions” because it implies that
4 Jacuzzi designed the subject Jacuzzi Walk-In Bathtub solely for a specific customer population.
5 The subject Jacuzzi Walk-In Bathtub was designed to provide an option for customers wishing to
6 purchase a walk-in bathtub with a seat instead of the traditional Jacuzzi tubs which require a
7 person to step over the side of the tub.

8 **INTERROGATORY NO. 19:**

9 State if at any time any employee, agent, customer or end user complained of or objected
10 to the design of the subject Jacuzzi walk in tub or similar model with respect to the means used to
11 provide safety. If so, provide copies of all relevant documents in your possession.

12 **RESPONSE:**

13 Limiting its response to information potentially relevant to the vague defect claims
14 asserted by plaintiffs, Defendant states it is only aware of the claims brought by Plaintiffs'
15 attorney.

16 Defendant objects because the interrogatory is overly broad without reasonable limitation
17 in scope, unduly burdensome, and seeks information irrelevant to the subject matter of this action
18 and is not likely to lead to the discovery of relevant or admissible evidence. The interrogatory is
19 vague and ambiguous. The interrogatory seeks information protected from disclosure by the right
20 of privacy of third parties.

21 **INTERROGATORY NO. 20:**

22 What are the names, present addresses, and company positions of each person involved in
23 the design and the design verification of the Walk-In-Tub, including but not limited to employees
24 in engineering, quality assurance, quality control, reliability, general management, sales,
25 marketing, finance who specifically contributed to the subject design.

26 **RESPONSE:**

27 See Defendant's response to Interrogatory No. 4.

28 **INTERROGATORY NO. 21:**

1 Please identify each and every law, rule, regulation, standard, statute, ordinance, or other
2 requirement or recommendation established by any Nevada state or federal governmental body or
3 officer that deals with, defines, limits or specifies the manufacture or use of the Walk-In-Tub or
4 similar products, with specific reference to:

- 5 (a) the name or title of the governmental body or officer responsible for the
6 establishment, enactment, or promulgation;
7 (b) the title, including chapter, section, and paragraph numbers;
8 (c) the date of establishment, enactment, or promulgation; and (d) the subject matter
9 addressed.

10 **RESPONSE:**

11 See Defendant's response to Interrogatory 13.

12 **INTERROGATORY NO. 22:**

13 Do you contend that the Plaintiff misused or abused the subject Jacuzzi Walk-In-Tub
14 and/or applied a use that was neither intended nor reasonably foreseeable by you, or was
15 otherwise contributorily negligent? If so, please state the particulars therefor.

16 **RESPONSE:**

17 Defendant contends that Ms. Cunnison could not have gotten stuck in the subject Jacuzzi
18 Walk-In Tub if she was using it properly. Discovery is ongoing, and the extent to which
19 Ms. Cunnison's misuse, abuse, medical condition, or otherwise contributory negligence may have
20 caused or contributed to the subject incident is still under investigation. Defendant will
21 supplement this response consistent with its obligation under NRCP 26(e).

22 **INTERROGATORY NO. 23:**

23 Do you contend that the Plaintiffs subject Walk-In-Tub was altered, modified or changed
24 in any way that you neither recommended nor expected, other than ordinary wear and tear, after it
25 left your hands? If so, please state the particulars therefor.

26 **RESPONSE:**

27 The current condition of the tub is substantially different than when it left Defendants'
28 possession, including but not limited to cutting off the door, installation of a drain and

accessories, and broken pieces. Defendant was not given the opportunity to fully inspect the tub, including but not limited to the drainage pipes affixed to the tub, while it was still in the decedent's home despite Defendant's multiple requests for an inspection prior to its removal by plaintiffs. As such, Defendant does not currently know what evidence may have been lost or destroyed in the removal. Discovery is ongoing, and the extent to which the Walk-In Bathtub was altered, modified or changed is still under investigation. Defendant will supplement this response consistent with its obligation under NRCP 26(e).

INTERROGATORY NO. 24:

Do you contend that any person, partnership, corporation or other entity that is not a named party in the within cause is, or may be, responsible in any way for all or part of the damages alleged by the Plaintiff? If so, please identify:

- (a) the name and last known address of each;
- (b) a brief description of the facts known to the Defendant in support of such contention as to each such party named in answer to this Interrogatory; and
- (c) the name and last known address of each person known to you who has or claims to have knowledge of any facts relating to this contention

RESPONSE:

Defendant contends that Ms. Cunnison's misuse of the tub, and/or her medical condition, are the cause of Plaintiffs' damages. Discovery is ongoing, and the extent to which any person, partnership, corporation or other entity may be responsible for damages claimed by Plaintiffs is still under investigation. Defendant will supplement this response consistent with its obligation under NRCP 26(e).

INTERROGATORY NO. 25:

Do you contend that any intervening or superseding act or event occurred so as to relieve you of liability or responsibility for the damage sustained by the Plaintiff? If so, please state the particulars therefor.

RESPONSE:

Defendant contends that it has no liability to Plaintiffs for their alleged damages.

1 Defendant contends that Ms. Cunnison's misuse of the tub, and/or medical condition, are the
2 cause of Plaintiffs' damages. Discovery is ongoing, and the extent to which any intervening or
3 superseding act or event occurred is still under investigation. Defendant will supplement this
4 response consistent with its obligation under NRCP 26(e).

5 **INTERROGATORY NO. 26:**

6 Please identify each of your employees and/or agents who has conducted any analysis or
7 investigation of subject Jacuzzi Walk-In-Tub or conducted any interviews with other persons who
8 claim to have knowledge of facts in connection with the subject incident.

9 **RESPONSE:**

10 Plaintiffs' counsel or representatives have been present for all of Jacuzzi's inspections of
11 the subject Walk-In Bathtub. In its response to Interrogatory No. 2, Defendant identified the
12 individuals who were present for the inspections. Defendant has no other non-privileged
13 information responsive to Plaintiff's Interrogatory.

14 Defendant objects to the Interrogatory to the extent that it requests any information
15 protected by the attorney work product doctrine or materials protected by attorney-client
16 privilege.

17 **INTERROGATORY NO. 27:**

18 Please identify each person known to you, and not otherwise previously named in answers
19 to these Interrogatories, who has, or claims to have, knowledge of any discoverable matter
20 relating to the within cause.

21 **RESPONSE:**

22 All such persons have been named in Defendant's Initial Disclosures and subsequent
23 Supplemental Disclosures, as well as individuals who have been identified in depositions and
24 records obtained to date.

25 **INTERROGATORY NO. 28:**

26 Please identify each and every person or entity you believe should or could be a party to
27 this action.

28 ///

1 **RESPONSE:**

2 Defendant contends that Plaintiffs' claims are meritless and is unaware, at this time, of any
3 person or entity that should be named as a party.

4 DATED this 8th day of December, 2017.

5 SNELL & WILMER L.L.P.

6
7 By: 

8 Vaughn A. Crawford
9 Nevada Bar No. 7665
10 Joshua D. Cools
11 Nevada Bar No. 11941
12 3883 Howard Hughes Parkway, Suite 1100
13 Las Vegas, NV 89169

14 Attorneys for Defendant/Cross-Defendant
15 JACUZZI INC. doing business
16 as JACUZZI LUXURY BATH
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On this date, I caused to be served a true and correct copy of the foregoing **DEFENDANT/CROSS-DEFENDANT JACUZZI INC.'S AMENDED RESPONSE TO PLAINTIFF DEBORAH TAMANTINI'S FIRST SET OF INTERROGATORIES** by the method indicated below, addressed to the following:

XXXXXX Odyssey E-File & Serve

Benjamin P. Cloward, NV Bar No. 11087
RICHARD HARRIS LAW FIRM
801 S. Fourth Street
Las Vegas, NV 89101
Telephone: (702) 444-4444
Facsimile: (702) 444-4455
Email: Benjamin@RichardHarrisLaw.com
Attorneys for Plaintiffs

Charles H. Allen (*pro hac vice*)
Charles Allen Law Firm
950 East Paces Ferry Road, Suite 1625
Atlanta, GA 30326
Telephone: (404) 973-0076
Email: callen@charlesallenlawfirm.com
Attorneys for Plaintiffs

Scott R. Cook, NV Bar No. 5265
Jennifer L. Micheli, NV Bar No. 11210
KOLESAR & LEATHAM
400 South Rampart Blvd., Suite 400
Las Vegas, NV 89145
Telephone: (702) 362-7800
Facsimile: (702) 362-9472
Email: scook@klnevada.com
Attorneys for Third-Party Defendant
THE CHICAGO FAUCET COMPANY

Michael E. Stoberski, NV Bar No. 4762
Daniela Labounty, NV Bar No. 13169
OLSON, CANNON, GORMLEY
ANGULO & STOBERSKI
9950 West Cheyenne Avenue
Las Vegas, NV 89129
Telephone: (702) 384-4012
Facsimile: (702) 383-0701
Email: mstoberski@ocgas.com
Email: dlabounty@ocgas.com
Attorneys for Defendant/Cross-Claimant
Third Party Plaintiff
HOMECLICK, LLC

Stephen J. Erigero, NV Bar No. 11562
Timothy J. Lepore, NV Bar No. 13908
ROPER, MAJESKI, KOHN & BENTLEY
3753 Howard Hughes Pkwy., Suite 200
Las Vegas, NV 89169
Telephone: (702) 954-8300
Facsimile: (213) 312-2001
Email: stephen.erigero@rmkb.com
Email: timothy.lepore@rmkb.com
Attorneys for Defendant/Cross-Defendant/Cross-Claimant
BESTWAY BUILDING
& REMODELING, INC.

1 Joseph P. Garin, NV Bar No. 6653
 2 LIPSON, NEILSON, COLE,
 3 SELTZER & GARIN, P.C.
 4 9900 Covington Cross Drive, Suite 120
 5 Las Vegas, NV 89144
 6 Telephone: (702) 382-1500
 7 Facsimile: (702) 382-1512
 8 Email: jgarin@lipsonneilson.com
 9 Attorneys for Defendants/Cross-
 10 Defendants/Cross-Claimants
 11 WILLIAM BUDD, individually and as
 12 BUDDS PLUMBING
 13
 14 Christopher J. Curtis, NV Bar No. 4098
 15 Meghan M. Goodwin, NV Bar No. 11974
 16 THORNDAL, ARMSTRONG, DELK
 17 BALKENBUSH & EISINGER
 18 1100 East Bridger Avenue
 19 Las Vegas, NV 89101-5315
 20 Mail to: P.O. Box 2070
 21 Las Vegas, NV 89125-2070
 22 Telephone: (702) 366-0622
 23 Facsimile: (702) 366-0327
 24 Email: cjc@thorndal.com
 25 Email: mmg@thorndal.com
 26 Attorneys for Defendants/Cross-Defendants
 27 FIRST STREET FOR BOOMERS &
 28 BEYOND, INC. AND AITHR DEALER,
 INC.

DATED this 8th day of December, 2017.


 An Employee of Snell & Wilmer L.L.P.

4839-4209-7496.1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT “19”

1 **INTR**

2 MEGHAN M. GOODWIN, ESQ.
3 Nevada Bar No. 11974
4 THORNDAL ARMSTRONG DELK
5 BALKENBUSH & EISINGER
6 Mailing Address: PO Box 2070
7 Las Vegas, Nevada 89125-2070
8 1100 East Bridger Avenue
9 Las Vegas, NV 89101-5315
10 Mail To:
11 P.O. Box 2070
12 Las Vegas, NV 89125-2070
13 Tel.: (702) 366-0622
14 Fax: (702) 366-0327
15 mmg@thorndal.com

16 Attorneys for Defendants/Cross-
17 Defendants, FIRSTSTREET FOR
18 BOOMERS AND BEYOND, INC.,
19 and AITHR DEALER, INC.

20 **DISTRICT COURT**

21 **CLARK COUNTY, NEVADA**

22 ROBERT ANSARA, as Special Administrator of
23 the Estate of SHERRY LYNN CUNNISON,
24 Deceased; MICHAEL SMITH individually, and
25 heir to the Estate of SHERRY LYNN
26 CUNNISON, Deceased; and DEBORAH
27 TAMANTINI individually, and heir to the Estate
28 of SHERRY LYNN CUNNISON, Deceased,

Plaintiffs,

vs.

FIRST STREET FOR BOOMERS & BEYOND,
INC.; AITHR DEALER, INC.; HALE
BENTON, Individually; HOMECCLICK, LLC;
JACUZZI INC., doing business as JACUZZI
LUXURY BATH; BESTWAY BUILDING &
REMODELING, INC.; WILLIAM BUDD,
Individually and as BUDDS PLUMBING; DOES
1 through 20; ROE CORPORATIONS 1
through 20; DOE EMPLOYEES 1 through 20;
DOE MANUFACTURERS 1 through 20; DOE
20 INSTALLERS 1 through 20; DOE
CONTRACTORS 1 through 20; and DOE 21
SUBCONTRACTORS 1 through 20, inclusive,

CASE NO. A-16-731244-C
DEPT. NO. 2

**DEFENDANT, FIRSTSTREET FOR
BOOMERS AND BEYOND, INC.'S
ANSWERS TO PLAINTIFF, ROBERT
ANSARA'S FIRST SET OF
INTERROGATORIES**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Defendants.

HOMECLICK, LLC,

Cross-Plaintiff,

vs.

FIRST STREET FOR BOOMERS & BEYOND,
INC.; AITHR DEALER, INC.; HOMECLICK,
LLC; JACUZZI LUXURY BATH, doing
business as JACUZZI INC.; BESTWAY
BUILDING & REMODELING, INC.;
WILLIAM BUDD, individually, and as BUDDS
PLUMBING,

Cross-Defendants.

HOMECLICK, LLC, a New Jersey limited
liability company,

Third-Party Plaintiff,

vs.

CHICAGO FAUCETS, an unknown entity,

Third-Party Defendant.

BESTWAY BUILDING & REMODELING,
INC.,

Cross-Claimant,

vs.

FIRST STREET FOR BOOMERS & BEYOND,
INC.; AITHER DEALER, INC.; HALE
BENTON, individually; HOMECLICK, LLC;
JACUZZI LUXURY BATH, dba JACUZZI
INC.; WILLIAM BUDD, individually and as
BUDD'S PLUMBING; ROES I through X,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Cross-Defendants.
WILLIAM BUDD, individually and as BUDDS PLUMBING,
Cross-Claimants,
vs.
FIRST STREET FOR BOOMERS & BEYOND, INC.; AITHR DEALER, INC.; HALE BENTON, individually; HOMECLICK, LLC; JACUZZI INC., doing business as JACUZZI LUXURY BATH; BESTWAY BUILDING & REMODELING, INC.; DOES 1 through 20; ROE CORPORATIONS 1 through 20; DOE EMPLOYEES 1 through 20; DOE MANUFACTURERS 1 through 20; DOE 20 INSTALLERS, 1 through 20; DOE CONTRACTORS 1 through 20; and DOE 21 SUBCONTRACTORS 1 through 20, inclusive,
Cross-Defendants.
FIRSTSTREET FOR BOOMERS & BEYOND, INC.; and AITHR DEALER, INC.,
Cross-Claimants,
v.
HOMECLICK, LLC; CHICAGO FAUCETS; and WILLIAM BUDD, individually and as BUDD'S PLUMBING,
Cross-Defendants.

DEFENDANT, FIRSTSTREET FOR BOOMERS AND BEYOND, INC.'S ANSWERS TO PLAINTIFF, ROBERT ANSARA'S FIRST SET OF INTERROGATORIES

TO: ROBERT ANSARA, Plaintiff; and

TO: RICHARD HARRIS LAW FIRM, attorneys for Plaintiff:

Pursuant to the requirements of Rule 33 of the Nevada Rules of Civil Procedure, Defendant, FIRSTSTREET FOR BOOMERS AND BEYOND, INC., by and through its undersigned attorneys, the law firm of THORNDAL ARMSTRONG DELK BALKENBUSH & EISINGER, hereby responds to Plaintiff's First Set of Interrogatories in the following manner:

INTERROGATORY NO.:

1. Please identify the person or persons responding to these Interrogatories. Please identify in your answer each person who has provided information in connection with these interrogatory answers.

ANSWER: Stacy Hackney, General Counsel, firstSTREET for Boomers & Beyond, Inc. 1998 Ruffin Mill Road, Colonial Heights, Virginia 23834. 804-524-9888.

2. Identify any and all persons who have knowledge of the events following the incident, or have knowledge of the facts relevant to, or are related to the incident, or who have investigated the incident, including their name, address and telephone number and, further, describe in detail how this incident occurred.

ANSWER: Objection. This Interrogatory is compound. This Answering Defendant has no personal knowledge how the subject incident occurred. Please see this Answering Defendant's NRCP 16.1 Initial Document Production and Witness List, and all supplements thereto, specifically, "Witness List," identified as follows:

1. Robert Ansara, as Special Administrator of the Estate of Sherry Lyn Cunnison
c/o Benjamin P. Cloward, Esq.
Richard Harris Law Firm
801 S. 4th Street
Las Vegas, Nevada 89101 (702)444-4444
2. Robert Ansara, as Special Administrator of the Estate of Michael Smith,
c/o Benjamin P. Cloward, Esq.
Richard Harris Law Firm
801 S. 4th Street
Las Vegas, Nevada 89101 (702)444-4444

- 1 3. Deborah Tamantini individually, and heir to the Estate of Sherry Lyn Cunnison
2 c/o Benjamin P. Cloward, Esq.
3 Richard Harris Law Firm
4 801 S. 4th Street
5 Las Vegas, Nevada 89101 (702)444-4444
- 6 4. Corporate Representative(s) and/or Custodian of Records
7 Firststreet for Boomers & Beyond, Inc. c/o Meghan M. Goodwin, Esq.
8 THORNDAL ARMSTRONG DELK BALKENBUSH & EISINGER
9 1100 E. Bridger Avenue Las Vegas, NV 89101 (702) 366-0622
- 10 5. Corporate Representative(s) and/or Custodian of Records
11 AITHR Dealer Inc c/o Meghan M. Goodwin, Esq.
12 THORNDAL ARMSTRONG DELK BALKENBUSH & EISINGER
13 1100 E. Bridger Avenue Las Vegas, NV 89101 (702) 366-0622
- 14 6. Corporate Representative(s) and/or Custodian of Records
15 The Chicago Faucet Company
16 c/o Scott R. Cook, Esq.
17 Kolesar & Leatham
18 400 South Rampart Blvd., Suite 400
19 Las Vegas, Nevada 89145 (702) 362-7800
- 20 7. Corporate Representative(s) and/or Custodian of Records
21 Homeclick, LLC
22 c/o Michael E. Stoberski, Esq.
23 OLSON, CANNON, GORMLEY, ANGULO & STOBERSKI
24 9950 W. Cheyenne Avenue Las Vegas, NV 89129 (702) 384-4012
- 25 8. Corporate Representative(s) and/or Custodian of Records
26 Jacuzzi Brands, LLC
27 c/o Vaughn A. Crawford, Esq. SNELL & WILMER LLP
28 3883 Howard Hughes Parkway, Suite 1100 Las Vegas, NV 89169
(702) 784-5200
9. Corporate Representative(s) and/or Custodian of Records
Bestway Building & Remodeling, Inc.
c/o Stephen J. Erigero
Ropers, Majeski, Kohn & Bentley
3753 Howard Hughes Pkwy, Suite 200 Las Vegas, NV 89169
(702) 954-8300
10. Corporate Representative(s) and/or Custodian of Records
Budd's Plumbing
c/o Joseph P. Garin, Esq.
Lipson, Neilson, Cole, Selzer & Garin
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144 (702) 382-1500

11. William Bud
c/o Joseph P. Garin, Esq.
Lipson, Neilson, Cole, Selzer & Garin
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144 (702) 382-1500
12. Corporate Representative(s) and/or Custodian of Records
Clark County Coroner
1704 Pinto Lane
Las Vegas, NV 89106
(702) 455-3210
13. Timothy Dutra, M.D., Coroner
Kristen Peters, Coroner Investigator
Daniel S. Isenschmid, Ph.D., D-ABFT, Forensic Toxicologist
Clark County Coroner
1704 Pinto Lane
Las Vegas, NV 89106
14. Hale Benton
1176 Ponce de Leon Avenue
Las Vegas, NV 89123-1458
(702) 498-9012
15. Corporate Representative(s) and/or Custodian of Records
Palm Eastern Cemetery
7600 S. Eastern Avenue
Las Vegas, NV 89123
(702) 464-8500
16. Corporate Representative(s) and/or Custodian of Records
Las Vegas Fire & Rescue
500 N. Casino Center Boulevard
Las Vegas, NV 89101
(702) 383-2888
17. Corporate Representative(s) and/or Custodian of Records
MedicWest Ambulance
9 W. Delhi Avenue
North Las Vegas, NV 89032 (702) 650-9900
18. Carlos Fonseca, Paramedic MedicWest Ambulance
9 W. Delhi Avenue
North Las Vegas, NV 89032
(702) 650-9900

- 1 19. Brennan Demille, EMT Intermediate
2 MedicWest Ambulance
3 9 W. Delhi Avenue
4 North Las Vegas, NV 89032
5 (702) 650-9900
- 6 20. Corporate Representative(s) and/or Custodian of Records
7 Sunrise Hospital & Medical Center
8 3186 S. Maryland Parkway
9 Las Vegas, NV 89109
10 (702) 731-8000
- 11 21. Muhammad A. Syed, M.D. Sunrise Hospital & Medical Center
12 3186 S. Maryland Parkway
13 Las Vegas, NV 89109
14 (702) 731-8000
- 15 22. James Walker, D.O.
16 Sunrise Hospital & Medical Center
17 3186 S. Maryland Parkway
18 Las Vegas, NV 89109 (702) 731-8000
- 19 23. Kitty Ho Cain, M.D.
20 Sunrise Hospital & Medical Center
21 3186 S. Maryland Parkway
22 Las Vegas, NV 89109
23 (702) 731-8000
- 24 24. Lindsey C. Blake, M.D.
25 Sunrise Hospital & Medical Center
26 3186 S. Maryland Parkway
27 Las Vegas, NV 89109
28 (702) 731-8000
- 29 25. Holman Chan, M.D.
30 Sunrise Hospital & Medical Center
31 3186 S. Maryland Parkway
32 Las Vegas, NV 89109
33 (702) 731-8000
- 34 26. Hany F. Ghali, M.D.
35 Sunrise Hospital & Medical Center
36 3186 S. Maryland Parkway
37 Las Vegas, NV 89109
38 (702) 731-8000
- 39 27. Sayed Z. Qazi, M.D.
40 Sunrise Hospital & Medical Center

- 1 3186 S. Maryland Parkway
2 Las Vegas, NV 89109
(702) 731-8000
- 3 28. Muhammad Bhatti, M.D.
4 Sunrise Hospital & Medical Center
5 3186 S. Maryland Parkway
6 Las Vegas, NV 89109
(702) 731-8000
- 7 29. Wayne Jacobs, M.D.
8 Sunrise Hospital & Medical Center
9 3186 S. Maryland Parkway
Las Vegas, NV 89109
(702) 731-8000
- 10 30. Yekaterina K.hronusova, M.D.
11 Sunrise Hospital & Medical Center
12 3186 S. Maryland Parkway
13 Las Vegas, NV 89109
702) 731-8000
- 14 31. Mark Vandenbosch, M.D.
15 Sunrise Hospital & Medical Center
16 3186 S. Maryland Parkway
Las Vegas, NV 89109
(702) 731-8000
- 17 32. Chris J. Fischer, M.D.
18 Sunrise Hospital & Medical Center
19 23186 S. Maryland Parkway
20 Las Vegas, NV 89109
(702) 731-8000
- 21 33. Shirin Rahman, M.D.
22 Sunrise Hospital & Medical Center
23 3186 S. Maryland Parkway
Las Vegas, NV 89109
(702) 731-8000
- 24 34. Sean D. Beaty, M.D.
25 Sunrise Hospital & Medical Center
26 3186 S. Maryland Parkway
27 Las Vegas, NV 89109
(702) 731-8000
- 28 35. Joshua Owen, M.D.
Sunrise Hospital & Medical Center

- 1 3186 S. Maryland Parkway
2 Las Vegas, NV 89109
3 (702) 731-8000
- 4 36. Rafael Valencia, M.D.
5 Sunrise Hospital & Medical Center
6 3186 S. Maryland Parkway
7 Las Vegas, NV 89109 (702) 731-8000
- 8 37. David P. Gorczyca, M.D.
9 Sunrise Hospital & Medical Center
10 3186 S. Maryland Parkway
11 Las Vegas, NV 89109
12 (702) 731-8000
- 13 38. Dean P. Berthoty, M.D.
14 Sunrise Hospital & Medical Center
15 3186 S. Maryland Parkway
16 Las Vegas, NV 89109
17 (702) 731-8000
- 18 39. Robert N. Berkley, M.D.
19 Sunrise Hospital & Medical Center
20 3186 S. Maryland Parkway
21 Las Vegas, NV 89109
22 (702) 731-8000
- 23 40. Corporate Representative(s) and/or Custodian of Records
24 Davis Funeral Homes & Memorial Park
25 6200 S. Eastern Avenue
26 Las Vegas, NV 89119
27 (702) 736-6200
- 28 41. Kristen Peters, Investigator
Clark County Coroner 1704 Pinto Lane
Las Vegas, NV 89106
(702) 455-3210
42. Jesse Blanchard, Paramedic
MedicWest Ambulance
9 W. Delhi Avenue
North Las Vegas, NV 89032
(702) 650-9900
43. Victor Montecerin, Paramedic
MedicWest Ambulance
9 W. Delhi Avenue
North Las Vegas, NV 89032

- 1 (702) 650-9900
- 2 44. Jimmy Chavez, Paramedic
- 3 MedicWest Ambulance
- 4 9 W. Delhi Avenue
- 5 North Las Vegas, NV 89032 (702) 650-9900
- 6
- 7 45. Luke Crawford, EMT Intermediate
- 8 MedicWest Ambulance
- 9 9 W. Delhi Avenue
- 10 North Las Vegas, NV 89032
- 11 (702) 650-9900
- 12
- 13 46. Jenna Lamperti, EMT Intermediate
- 14 MedicWest Ambulance
- 15 9 W. Delhi Avenue
- 16 North Las Vegas, NV 89032
- 17 (702) 650-9900
- 18
- 19 47. Jacob Stamer, EMT
- 20 MedicWest Ambulance 9 W. Delhi Avenue
- 21 North Las Vegas, NV 89032
- 22 (702) 650-9900
- 23
- 24 48. Corporate Representative(s) and/or Custodian of Records
- 25 Las Vegas Metropolitan Police Department
- 26 400 S. Martin Luther King Boulevard
- 27 Las Vegas, NV 89106
- 28 (702) 828-3111
49. Officer, Matthew Scanlon
- Las Vegas Metropolitan Police Department
- 400 S. Martin Luther King Boulevard
- Las Vegas, NV 89106
- (702) 828-3111
50. Officer, Kevin Lemire
- Las Vegas Metropolitan Police Department
- 400 S. Martin Luther King Boulevard
- Las Vegas, NV 89106
- (702) 828-3111
51. Officer, Matthew Shake
- Las Vegas Metropolitan Police Department
- 400 S. Martin Luther King Boulevard
- Las Vegas, NV 89106
- (702) 828-3111

- 1 52. Officer, Keith Bryant
2 Las Vegas Metropolitan Police Department
3 400 S. Martin Luther King Boulevard
4 Las Vegas, NV 89106
5 (702) 828-3111
- 6 53. Officer, Shakeel Abdal-Karim
7 Las Vegas Metropolitan Police Department
8 400 S. Martin Luther King Boulevard
9 Las Vegas, NV 89106
10 (702) 828-3111
- 11 54. Officer, B. Van Pamel
12 Las Vegas Metropolitan Police Department
13 400 S. Martin Luther King Boulevard
14 Las Vegas, NV 89106
15 (702) 828-3111
- 16 55. Sergeant, Dana Pickerel
17 Las Vegas Metropolitan Police Department
18 400 S. Martin Luther King Boulevard
19 Las Vegas, NV 89106
20 (702) 828-3111
- 21 56. Sergeant, Allen Larsen
22 Las Vegas Metropolitan Police Department
23 400 S. Martin Luther King Boulevard
24 Las Vegas, NV 89106
25 (702) 828-3111
- 26 57. Corporate Representative(s) and/or Custodian of Records
27 Clark County Fire Department
28 575 E. Flamingo Road
Las Vegas, NV 89119
(702) 455-7311
- 29 58. Nicholas Stahlberger, Paramedic
30 Clark County Fire Department
31 575 E. Flamingo Road
32 Las Vegas, NV 89119
33 (702) 455-7311
- 34 59. William Lewis
35 5354 Camden Avenue
36 Las Vegas, NV 89122
37 (702) 580-0017
- 38 60. Michael Zuvar

1 746655 Willow Drive
2 Doyle, CA 96109
(775) 560-7791

3 61. Michael Showalter
4 5500 Celestial Way
5 Citrus Heights, CA 95610
(831) 595-1015 (cell)
6 (916) 903-7186 (home)

7 62. Michael Showalter
8 5500 Celestial Way
9 Citrus Heights, CA 95610
(916) 903-7186

10 63. Scott Cunnison
11 23840 Southpoint Drive
Denham Springs, LA 70726

12 64. James T. Cunnison
13 418 Burnham Street
Hampton, VA 23669

14 65. John S. Cunnison
15 501 S.W. 16th Street
16 Blue Springs, MO 64015

17 Further, Scott Meek of Forensic Engineering Consultants, LLC participated in an inspection
18 of the subject tub on October 19, 2016. 5861 Pine Avenue, Suite B, Chino Hills, CA 91709.

19 3. Identify when the subject Jacuzzi Walk-In-Tub was originally designed and
20 developed, specifying the dates of each modification thereto and the nature of the modifications.

21 **ANSWER:** Objection. The terms “design,” “develop,” and “modification” are vague and
22 ambiguous. This Answering Defendant did not design, develop, or modify the subject Jacuzzi Walk-
23 In Tub.

24
25 4. What are the names, present addresses, and company positions of each person
26 involved in the design and the design verification of the subject Walk-In-Tub manufactured for
27 FIRST STREET, including but not limited to, employees in engineering, quality assurance, quality
28 control, reliability, general management, sales, marketing, finance who specifically contributed to the

1 subject design.

2 **ANSWER:** Objection. This Interrogatory is compound, and vague and ambiguous with respect to
3 the phrase “specifically contributed to the subject design.”. This Answering Defendant did not
4 design, perform design verification, or contribute to the subject design of the subject Walk-In Tub.

5 5. Did any other company or individuals, who are not employees of Defendant FIRST
6 STREET or Jacuzzi, Inc. design or develop the subject Jacuzzi Walk-In-Tub or components thereof
7 for the Defendants? If so, please identify the name and address of each such company or individual.

8 **ANSWER:** Objection. The terms “design,” “develop,” and “components” are vague and
9 ambiguous. This Answering Defendant did not design or develop the subject Jacuzzi Walk-In Tub
10 or any components thereof. Therefore, this Answering Defendant has no knowledge regarding any
11 additional company or individuals who designed or developed the subject Jacuzzi Walk-in Tub or
12 components thereof, aside from Jacuzzi and the prior Defendants to this litigation.
13

14 6. Please identify all documents concerning the design and development of the subject
15 Jacuzzi Walk-In-Tub.
16

17 **ANSWER:** Objection. The terms “design” and “development” are vague and ambiguous. This
18 Answering Defendant did not design or develop the subject Jacuzzi Walk-In Tub.
19

20 7. Identify the Defendant FIRST STREET’s employee who is the most knowledgeable
21 about the design, development, and specifications of the subject Jacuzzi Walk-In-Tub.

22 **ANSWER:** Objection. The terms “most knowledgeable,” “design,” “development,” and
23 “specifications” are vague and ambiguous. The employees of this Answering Defendant did not
24 design or develop the subject Jacuzzi Walk-In Tub.
25

26 8. Please identify all tests or studies performed by the Defendant or by any independent
27 laboratory relating to the subject Jacuzzi Walk-In-Tub’s safety and design. For each such test or
28 study, state:

- 1 (a) the date it was performed;
- 2 (b) the name, company position, and present address of the person responsible
- 3 for the test or study;
- 4 (c) the method used;
- 5 (d) the purpose of the test or study; and
- 6 (e) the results of the test or study
- 7

8 **ANSWER:** Objection. This Interrogatory is vague with respect to time and subject matter. This

9 Answering Defendant did not design or manufacture the subject Jacuzzi Walk-In Tub, therefore no

10 tests were performed by this Answering Defendant.

11 9. If the tests or studies identified in your answer to the foregoing interrogatory

12 resulted in any change or modifications to the subject Jacuzzi Walk-In-Tub's, *[sic]* please state the

13 nature of the change or modification and the reason for such change or modification.

14

15 **ANSWER:** N/A

16 10. State verbatim the content of any warnings or instructions on all written material that

17 is included in the packaging of a new Jacuzzi Walk-In-Tub which is the subject of this litigation.

18 Alternatively, provide a copy of such written material.

19

20 **ANSWER:** Objection. The documents pertaining to this Interrogatory speak for themselves. This

21 Answering Defendant is not in possession of any information responsive to this request, as Jacuzzi

22 prepares said documents and packages its products. Further, Jacuzzi Walk-In-Tubs ordered through

23 this Answering Defendant are shipped directly from Jacuzzi to the installer and/or purchaser.

24 11. Please state whether the Defendant FIRST STREET has ever received notice, either

25 verbal or written, from or on behalf of any person claiming injury or damage from his use of a

26 Jacuzzi Walk-In-Tub which is the subject of the litigation.

27

28 If so, please state:

- 1 (a) The date of each such notice
2 (b) The name and last known address of each person giving such notice; and
3 (c) The substance of the allegations of such notice.

4 **ANSWER:** Objection. This Interrogatory is overbroad with respect to timeframe, subject matter,
5 and the term "damage." This Answering Defendant has received notice of the following incidents:
6

- 7 1. Leonard Baize, served June 28, 2016. Mr. Baize alleged he was sold a tub too small for him
8 after being advised by the sales representative that he would fit.
9 2. Mack Smith, received notice of claim January 2017. The claimants allege Mr. Smith drowned
10 in the tub. This Answering Defendant is not aware of any further facts or the current status
11 of this claim.

12 12. Has the Defendant FIRST STREET ever been named as a defendant, respondent or
13 other involuntary participant in a lawsuit or other proceeding arising out of personal injuries or
14 damage in connection with a Jacuzzi Walk-In-Tub?
15

16 If so, please state as to each:

- 17 (a) the court or other forum in which it was filed;
18 (b) the names of all parties or named participants;
19 (c) the case number or other identifying number, letters or name assigned to the
20 action or other proceeding;
21 (d) the name and last known address of each person claiming injury or damage
22 therein;
23 (e) the names and last known address of all known counsel of record
24 participating in such action or proceeding; and
25 (f) the date of the alleged injury or damage
26
27

28 **ANSWER:** This Interrogatory is overbroad with respect to timeframe, subject matter, and the term

1 “damage.” This Answering Defendant has received notice of the following incidents:

2 1. Leonard Baize, filed in the 128th Judicial District Court, Orange County, Texas on June 17,
3 2016. He named R.G. Galls, Aging in the Home Remoderlers (sic), Inc. (AIHR),
4 firstSTREET for Boomers and Beyond, Inc. (firstSTREET), and Jacuzzi, Inc. as
5 Defendants.

6 2. Walter O'Donnell, filed in the Court of Common Pleas of Allegheny County, Pennsylvania
7 in February 2016. He named firstSTREET and Aging in the Home Remodelers as
8 Defendants for a claimed tub leak causing property damage.

9 13. Please identify each and every law, rule, regulation, standard, statute, ordinance, or
10 other requirement or recommendation established by any Nevada state or federal governmental
11 body or officer that deals with, defines, limits or specifies the manufacture, design or use of the
12 subject Jacuzzi Walk-In-Tub or similar products, with specific reference to:
13

- 14
- 15 (a) the name or title of the governmental body or officer responsible for the
 - 16 establishment, enactment, or promulgation;
 - 17 (b) the title, including chapter, section, and paragraph numbers;
 - 18 (c) the date of establishment, enactment, or promulgation; and
 - 19 (d) the subject matter addressed
- 20

21 **ANSWER:** Objection. This Interrogatory calls for an expert opinion and legal conclusion. This
22 Answering Defendant did not design or manufacture the subject Jacuzzi Walk-In Tub.

23 14. If the subject Jacuzzi Walk-In-Tub was not designed and manufactured to meet
24 applicable federal standards or codes, state the reason(s) therefor.

25 **ANSWER:** Objection. This Interrogatory calls for an expert opinion and legal conclusion. This
26 Answering Defendant did not design or manufacture the subject Jacuzzi Walk-In Tub.

27 15. State whether or not the subject Jacuzzi Walk-In-Tub is or was listed by
28

1 Underwriter's Laboratories or a similar listing or approving organization. If so, please provide a copy
2 of the Underwriter's Laboratories procedures or other applicable documents or the status of such
3 listing attempts. If not, state the reasons for it not being listed.

4 **ANSWER:** Objection. This Interrogatory is vague and ambiguous with respect to "similar listing or
5 approving organization." This Answering Defendant did not design or manufacture the subject
6 Jacuzzi Walk-In Tub.

8 16. State whether any standard or code organization or body ever refused to approve or
9 list the subject Jacuzzi Walk-In-Tub. If so, provide the names of all such organizations and the
10 particulars regarding each refusal.

11 **ANSWER:** Objection. This Interrogatory calls for an expert opinion and legal conclusion. Further,
12 it is vague and ambiguous with respect to the term "standard or code organization or body." This
13 Answering Defendant did not design or manufacture the subject Jacuzzi Walk-In Tub.

15 17. State whether or not the Defendant FIRST STREET has been engaged within the
16 past 24 months, alone or with other manufacturers or organizations, in developing or attempting to
17 develop a standard for the subject Jacuzzi walk in tub or similar Jacuzzi Walk-In-Tub. If so, provide
18 the name of the anticipated listing organization, all other manufacturers, organizations and bodies
19 involved in the process, the date such attempt originated and copies of all documents Defendant
20 generated received or reviewed in connection with developing such standards.

22 **ANSWER:** Objection. This Interrogatory is vague and ambiguous with respect to the phrase
23 "developing or attempting to develop a standard for the subject jacuzzi walk in tub." Further, this
24 Interrogatory calls for expert opinion. This Answering Defendant did not design or manufacture the
25 subject Jacuzzi Walk-In Tub and has not been engaged within the past 24 months in developing any
26 "standards" for the subject tub.

28 18. State the year the Defendant FIRST STREET first entered into an agreement with

1 Jacuzzi, Inc. to manufacture a Jacuzzi Walk-In-Tub.

2 **ANSWER:** This Answering Defendant did not manufacture Jacuzzi Walk-In Tubs. Please see this
3 Answering Defendant's NRCP 16.1 Initial Document Production and Witness List, specifically
4 Exhibit "D," bates numbered FIRST00005-FIRST000022 and Exhibit "E," bates numbered
5 FIRST000023, Manufacturing Agreement, executed by Jacuzzi on September 31, 2011 and executed
6 by firstSTREET on September 29, 2011.

7
8 19. State if at any time any employee, agent, customer or end user complained of or
9 objected to the design of the subject Jacuzzi walk in tub or similar model with respect to the means
10 used to provide safety. If so, provide copies of all relevant documents in your possession.

11 **ANSWER:** Objection. This Interrogatory is vague, ambiguous and unintelligible with respect to the
12 term "means used to provide safety." This Answering Defendant seeks clarification to the term
13 "means used to provide safety" to adequately respond.

14
15 20. What are the names, present addresses, and company positions of each person
16 involved in the design and the design verification of the Walk-In-Tub, including but not limited to
17 employees in engineering, quality assurance, quality control, reliability, general management, sales,
18 marketing, finance who specifically contributed to the subject design.

19
20 **ANSWER:** This Interrogatory is duplicative. See response to Interrogatory No. 4 by this
21 Answering Defendant.

22 21. Please identify each and every law, rule, regulation, standard, statute, ordinance, or
23 other requirement or recommendation established by any Nevada state or federal governmental
24 body or officer that deals with, defines, limits or specifies the manufacture or use of the Walk-In-
25 Tub or similar products, with specific reference to:

- 26
27 (a) the name or title of the governmental body or officer responsible for the
28 establishment, enactment, or promulgation;

- 1 (b) the title, including chapter, section, and paragraph numbers;
2 (c) the date of establishment, enactment, or promulgation; and
3 (d) the subject matter addressed.

4 **ANSWER:** This Interrogatory is duplicative. See response to Interrogatory No. 13 by this
5 Answering Defendant.

6 22. Do you contend that the Plaintiff misused or abused the subject Jacuzzi Walk-In-
7 Tub and/or applied a use that was neither intended nor reasonably foreseeable by you, or was
8 otherwise contributorily negligent? If so, please state the particulars therefor.

10 **ANSWER:** Objection. This Interrogatory calls for expert opinion, legal conclusion, invades
11 attorney-client privilege, and invades attorney work product doctrine. This Answering Defendant
12 has no personal knowledge as to how the subject incident occurred.

14 23. Do you contend that the Plaintiffs subject Walk-In-Tub was altered, modified or
15 changed in any way that you neither recommended nor expected, other than ordinary wear and tear,
16 after it left your hands? If so, please state the particulars therefor.

17 **ANSWER:** Objection. This Interrogatory calls for an expert opinion and/or legal conclusion. This
18 Answering Defendant was never in possession of the subject Walk-In-Tub as it was shipped directly
19 from Jacuzzi to installer Bestway Building & Remodeling, Inc., therefore this Answering Defendant
20 has no personal knowledge as to the condition of the tub.

22 24. Do you contend that any person, partnership, corporation or other entity that is not
23 a named party in the within cause is, or may be, responsible in any way for all or part of the damages
24 alleged by the Plaintiff? If so, please identify:

- 25 (a) the name and last known address of each;
26 (b) a brief description of the facts known to the Defendant in support of such
27 contention as to each such party named in answer to this Interrogatory; and
28

1 (c) the name and last known address of each person known to you who has or
2 claims to have knowledge of any facts relating to this contention.

3 **ANSWER:** This Answering Defendant has no personal knowledge as to any "person, partnership,
4 corporation or other entity," aside from Sherry Cunnison and/or the Defendants to this litigation,
5 including Jacuzzi, Homeclick, Bestway Building, Chicago Faucet, and Budd's Plumbing.

6 25. Do you contend that any intervening or superseding act or event occurred so as to
7 relieve you of liability or responsibility for the damage sustained by the Plaintiff? If so, please state
8 the particulars therefor.

10 **ANSWER:** Objection. This Interrogatory calls for a legal conclusion and expert opinion. This
11 Answering Defendant contends it has no liability for the subject incident as this Answering
12 Defendant did not design, manufacture, install, or ever have possession of the subject tub. This
13 Answering Defendant has no personal knowledge of the facts pertaining to the subject incident.
14 Discovery is ongoing and this Answer to Interrogatory will be supplemented.

16 26. Please identify each of your employees and/or agents who has conducted any
17 analysis or investigation of subject Jacuzzi Walk-In-Tub or conducted any interviews with other
18 persons who claim to have knowledge of facts in connection with the subject incident.

19 **ANSWER:** Objection. This Interrogatory seeks to invade attorney-client privilege and attorney
20 work product doctrine. Scott Meek of Forensic Engineering Consultants, LLC participated in an
21 inspection of the subject tub on October 19, 2016. 5861 Pine Avenue, Suite B, Chino Hills, CA
22 91709.

24 27. Please identify each person known to you, and not otherwise previously named in
25 answers to these Interrogatories, who has, or claims to have, knowledge of any discoverable matter
26 relating to the within cause.

28 **ANSWER:** All such individuals have been identified in these Interrogatories and this Answering

1 Defendant's NRCP 16.1 Initial Document Production and Witness List, and all supplements
2 thereto.

3 28. If you are covered by a policy(ies) of liability insurance at the time of the incident
4 herein complained of, please state the name and address of the named insured(s), the name and
5 address of the company issuing said policy(ies), the policy number(s), the effective dates of said
6 policy(ies), and the limits of coverage provided by such policy(ies).

7
8 **ANSWER:** Please see this Answering Defendant's NRCP 16.1 Initial Document Production and
9 Witness List, specifically Exhibit "G," Commercial Liability Policy FIRST000025 – FIRST000224;
10 and Exhibit "H," Commercial Umbrella Policy, FIRST0000226 – FIRST0000279.

11 29. Please identify each and every person or entity you believe should or could be a party
12 to this action.

13
14 **ANSWER:** This Answering Defendant is not aware of any person or entity, other than the
15 Plaintiffs and the Defendants to this action, including Jacuzzi, Homeclick, Bestway Building,
16 Chicago Faucet, and Budd's Plumbing.

17 30. Please identify each and every person or entity who was involved in the creation,
18 development, or any revisions of the specifications identified as Exhibit A-1 and/or Exhibit A-2 in
19 the Manufacturing Agreement between FIRST STREET and Jacuzzi, Inc. (Bates stamped
20 JACUZZI001588 – JACUZZI001606).

21
22 **ANSWER:** On behalf of this Answering Defendant, Mark Gordon, CEO; Dave Modena, Senior
23 Vice President; and Stacy Hackney, General Counsel; firstSTREET for Boomers & Beyond, Inc.
24 1998 Ruffin Mill Road, Colonial Heights, Virginia 23834.

25 31. Please identify each and every person or entity who was involved in the creation,
26 development, or marketing of the phrase DESIGNED FOR SENIORS WALK-IN TUB.

27
28 **ANSWER:** Objection. This Interrogatory is vague, ambiguous and overbroad with respect to time

1 and subject matter. "Designed for Seniors" is a registered trademark, registered to this Answering
2 Defendant dating back to April 2008.

3 32. Please identify each and every person or entity who was involved in the creation,
4 development of any marketing or advertising for the subject Jacuzzi Walk-In-Tub in any form,
5 including but not limited to, brochures, print, internet, magazine, e-mail, trade associations, AARP,
6 or other mailers.

7
8 **ANSWER:** Objection. This Interrogatory is vague, ambiguous, and overbroad with respect to time
9 and subject entities. Within this Answering Defendant's company, the following individuals have
10 been involved in developing marketing or advertising the subject Jacuzzi Walk-In Tub:

- 11 1. Mark Gordon, CEO, firstSTREET
- 12 2. Kris Martin, Print Media Manager, firstSTREET
- 13 3. Phil Goodhart, VP Marketing, firstSTREET
- 14 4. John Fleming, VP Marketing, firstSTREET
- 15 5. Steve Parker, VP Direct Marketing Division, firstSTREET
- 16 6. Dave Modena, Senior Vice President, firstSTREET

17
18 33. Please identify each and every medical professional who endorsed or were cited in
19 any marketing or advertising in any form for the subject Jacuzzi Walk-In-Tub.

20
21 **ANSWER:** This Answering Defendant did not generate any marketing or advertising materials that
22 were endorsed by or cited any medical professionals.

23 ...

24 ...

25 ...

26 ...

27 ...

28 ...

34. Please identify each and every medical professional who was involved in the design of the Walk-In-Tub.

ANSWER: This Answering Defendant did not design the Walk-In Tub.

DATED this 10th day of October, 2018.

THORNDAL ARMSTRONG DELK
BALKENBUSH & EISINGER

MEGHAN M. GOODWIN, ESQ.
Nevada Bar No. 11974
1100 East Bridger Avenue
Las Vegas, Nevada 89101
Attorneys for Defendants/Cross-Defendants,
FIRSTSTREET FOR BOOMERS AND BEYOND,
INC., and AITHR DEALER, INC.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 10th day of October, 2018, service of the above and foregoing DEFENDANT, FIRSTSTREET FOR BOOMERS AND BEYOND, INC.'S ANSWERS TO PLAINTIFF, ROBERT ANSARA'S FIRST SET OF INTERROGATORIES was made upon each of the parties via electronic service through the Eighth Judicial District Court's Odyssey E-File and Serve system.

Benjamin P. Cloward, Esq.
Richard Harris Law Firm
801 South Fourth Street
Las Vegas, Nevada 89101
Attorneys for Plaintiffs

Charles Allen Law Firm, P.C.
3575 Piedmont Road, NE
Building 15, Suite L-130
Atlanta, Georgia 30305
Attorneys for Plaintiffs

Vaughn A. Crawford, Esq.
Joshua D. Cools, Esq.
Snell & Wilmer LLP
3883 Howard Hughes Pkwy., Ste. 1100
Las Vegas, Nevada 89169
Attorneys for Defendant,
JACUZZI INC. dba JACUZZI
LUXURY BATH

Hale Benton
26479 West Potter Drive
Buckeye, AZ 85396
Via U.S. Mail



An employee of THORNDAL ARMSTRONG
DELK BALKENBUSH & EISINGER


DECLARATION

Stacy L Hackney, a representative of Defendant, FIRSTSTREET FOR BOOMERS AND BEYOND, INC., under penalty of perjury, declares and says:

That s/he is the representative of Defendant, FIRSTSTREET FOR BOOMERS AND BEYOND, INC., in the above-entitled matter, that s/he has read the foregoing Defendant, FIRSTSTREET FOR BOOMERS AND BEYOND, INC.'s Answers to Plaintiff's First Set of Interrogatories and knows the contents thereof, and that the same is true of his/her own knowledge, except for those matters therein contained upon information and belief and as to those matters, s/he believes them to be true.

Pursuant to NRS 53.045, I declare under penalty of perjury that the contents of the foregoing are true and correct.

DATED this 10th day of October, 2018.


Stacy L. Hackney, a representative of
Defendant, FIRSTSTREET FOR
BOOMERS AND BEYOND, INC.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT “20”



- [Close Window](#)
- [Print This Page](#)
- [Expand All](#) | [Collapse All](#)

Case: 00166521

Contact Name	Case Owner	Regina Reyes
Account Name	Asset	
Brand	Warranty	
	Serial # (Text)	
	Part Number	
	Part Number (Text)	

Additional Information

Status	Closed	Type	
Case Reason		Case Origin	Legacy RightNow
Case Sub-Reason		Priority	Medium
Subject	Wife slips on the seat and the floor...referred Tracey to contact Regina Reyes. suggested they use nonskid mats will speak to ray t as well.		
Description			

Resolution Information

Category	Product
Product Issue	Product Component
Other Product Issue	Other Reason
Case Resolution	

System Information

Created By	Hilton Calderon, 12/18/2012 10:23 PM	Last Modified By	Regina Reyes, 1/7/2013 5:48 PM
Business Hours	Default	Entitlement Name	
Accepted Date/Time		Case Record Type	Legacy

Case Comments

1/7/2013 5:48 PM

User	Regina Reyes
Public	<input type="checkbox"/>
Comment	From: Reyes, Regina Sent: Monday, January 07, 2013 9:40 AMTo: 'Nick Fawkes'Cc: Bachmeyer, Kurt; Fore, Jonathan; Martinez, AudreySubject: RE: Arnouville, Manuel - Serial #BDFDK9Hi Nick, I discussed this internally and at this time we will not have any plans to change the surface to make it more abrasive. If the nonskid bath stickers will be used by the customer we would only recommend they apply them to the floor and not the seat. Regards,

12/27/2012 5:51 PM

1/7/2013 5:48 PM

User	Regina Reyes
Public	<input type="checkbox"/>
Comment	per Ray, we do not have any plans on changing the surface. if they use the non skid stickers they should not use them on the seat, only the floor.

12/21/2012 8:22 PM

User	Regina Reyes
Public	<input type="checkbox"/>
Comment	Thanks Nick. I_♦♦m passing this on to Ray, our Director of Engineering to see what he has to say.

JACUZZI005858

REV JACUZZI005958

PA0389

User	Regina Reyes	12/21/2012 8:00 PM
Public	<input type="checkbox"/>	User Regina Reyes
Comment	Hi Regina, I was wondering if you heard back from Ray on this one. Thank you, Megan	Public <input type="checkbox"/>
12/21/2012 8:22 PM		Comment
User	Regina Reyes	Hi Tracey, Sorry for the delay, this is one that I have been pondering how to address and the only thing I can come up with is that maybe they apply some non skid bath mats or stickers. We don't have an accessory to supply and we have not heard of this before, but I will check. Regina Reyes
Public	<input type="checkbox"/>	
Comment	From: Nick Fawkes [mailto:nick.fawkes@aihremodelers.com] Sent: Friday, December 21, 2012 12:16 PM To: Reyes, Regina Subject: Re: Arnouville, Manuel - Serial #BDFDK9 Regina this is Xbox wanted to let you know that we actually hear this complaint more and more often and the numbers increasing installations. I would highly recommend that we consider putting something a little bit more abrasive Not only on the floor but also on the seats as we have had customers call concerned that they slip off the seat so wouldn't be a bad thing to consider adding to the new job just my thoughts. Sent from my iPhone	12/18/2012 10:23 PM
12/18/2012 10:23 PM		User Regina Reyes
User	Regina Reyes	Public <input type="checkbox"/>
Public	<input type="checkbox"/>	From: Tracey Dierkens [mailto:tracey.dierkens@aihremodelers.com] Sent: Monday, December 17, 2012 10:07 AM To: First Street Support Cc: Todd Stout; nick.fawkes@aihremodelers.com Subject: Arnouville, Manuel - Serial #BDFDK9 Customers tub was installed on 12/13, and they say the wife slips on the seat and the floor. Nick would like to know if there is anything you can do to help the customer out? They are not using the tub because they are afraid she will fall. Arnouville, Manuel & Patricia 5010 N Bayou Black Drive Gibson, LA 70356 (985)575-3695 Thank you! Tracey Dierkens 303-222-3200 303-222-3204 Direct
Comment	From: Calderon, Hilton On Behalf Of First Street Support Sent: Tuesday, December 18, 2012 2:20 PM To: Tracey Dierkens; First Street Support Cc: Todd Stout; nick.fawkes@aihremodelers.com Subject: RE: Arnouville, Manuel - Serial #BDFDK9 Importance: High Tracey, This is the first time I heard of this type of complain, you will need to direct this issue with our manager: Regina Reyes. As far as I know the floor has a nonslip pattern design that prevents the user from slipping but the seat is plain, it has no slip pattern design. Regards, Hilton Calderon Technical Services Consultant	Comment

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT “21”



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DISTRICT COURT
CLARK COUNTY, NEVADA

ROBERT ANSARA, as Special Administrator of the
Estate of SHERRY LYNN CUNNISON, Deceased;
ROBERT ANSARA, as Special Administrator of the
Estate of MICHAEL SMITH, Deceased heir to the
Estate of SHERRY LYNN CUNNISON, Deceased; and
DEBORAH TAMANTINI individually, and heir to the
Estate of SHERRY LYNN CUNNISON, Deceased,

Plaintiffs,

vs.

FIRST STREET FOR BOOMERS & BEYOND, INC.;
AITHR DEALER, INC.; HALE BENTON, Individually,
HOMECLICK, LLC; JACUZZI INC., doing business as
JACUZZI LUXURY BATH; BESTWAY BUILDING &
REMODELING, INC.; WILLIAM BUDD, Individually
and as BUDDS PLUMBING; DOES 1 through 20; ROE
CORPORATIONS 1 through 20; DOE EMPLOYEES 1
through 20; DOE MANUFACTURERS 1 through 20;
DOE 20 INSTALLERS 1 through 20; DOE
CONTRACTORS 1 through 20; and DOE 21
SUBCONTRACTORS 1 through 20, inclusive,

Defendants.

AND ALL RELATED MATTERS

CASE NO.: A-16-731244-C
DEPT NO.: II

AFFIDAVIT OF NICK
FAWKES

STATE OF COLORADO)
) ss:
COUNTY OF ARAPAHOE)

I, NICK FAWKES, being first duly sworn, depose and states:

1. That I have first-hand knowledge of the facts stated within this affidavit and if called upon to testify to same in a court of competent jurisdiction, I would do so.
2. That I am over the age of 18 years old and am competent to testify in this matter.



1 3. Between 06/01/11 and 05/01/15, I worked for AIHR/firstSTREET as
2 a General MANAGER [job title].

3 4. As part of my job duties I worked with AIHR/firstSTREET Project Managers who
4 were responsible for working with new consumers/customers who had purchased a Jacuzzi
5 walk-in tub.

6 5. I also coordinated with crews working in the homes of consumers/customers to
7 install the walk-in tubs after they had been purchased.

8 6. I had direct contact with the consumers/customers myself.

9 7. I also had installation crew/team members that contacted me regarding conversations
10 they had directly with consumers/customers.

11 8. I was personally aware of the facts and circumstances surrounding the Sherry
12 Cunnison incident.

13 9. I was aware that she became stuck twice inside one of the Jacuzzi walk-in tubs.

14 10. The first time Sherry became stuck it was due to a faulty drain.

15 11. I was informed by Annie Doubek that Sherry called and described having to "dive
16 underneath" the water to get the drain to operate.

17 12. Annie Doubek was a project manager.

18 13. In addition to Annie Doubek, there were approximately 4-8 [specify
19 number] project managers.

20 14. I regularly communicated with the project managers as part of my job duties as the
21 General MANAGER [job title].

22 15. Around the time of the first incident, after being notified by Annie that Sherry
23 became stuck, I reviewed the note that Annie created in the Lead Perfection software.

24 16. Annie had noted that Sherry was overweight in the note.

25 17. I specifically recall coaching Annie about not putting such personal detail in the
26 notes.

27 18. Recently, I reviewed a copy of the Lead Perfection notes that were provided to me
28 by attorney Benjamin Cloward, Esq., attached as **Exhibit B**.



1 19. I do not see the additional detail I remember Annie putting in the note around the
2 time of the incident.

3 20. I was aware that Sherry was able to get out of the tub after getting stuck the first time
4 and that AIHR/firstSTREET provided her with a drain handle to assist her in the future.

5 21. I became aware of Sherry getting trapped a second time, but unfortunately, learned
6 that she died shortly after being found.

7 22. Other customers complained about various problems associated with the walk-in
8 tubs.

9 23. Some of those customer complaints included the tub door being too narrow, the tub
10 being too slippery, the water pressure being too forceful, and other safety-related complaints.

11 24. When I would learn of these concerns, I would relay them to both Jacuzzi and
12 AIHR/firstSTREET.

13 25. One of the concerns we routinely saw was that the tub seat and floor were too
14 slippery.

15 26. I personally relayed this (the slippery seat and floor complaint) and other concerns
16 directly to AIHR/firstSTREET Vice-President Dave Modena.

17 27. On December 21, 2012, I sent an email to Regina Reyes, one of the Customer
18 Service Managers at Jacuzzi expressing my concerns.

19 28. That email is attached as **Exhibit A** to this affidavit.

20 29. Around the same time I sent the email to Regina Reyes, I recall having a conference
21 call with Dave Modena that also included Mark Gordon, the President and CEO of
22 firstSTREET, where the safety issues outlined above were discussed.

23 30. The calls and complaints that were made by consumers/customers were entered into
24 a CRM (Customer Relationship Management) software program called Lead Perfection.

25 31. I am also aware that AIHR/firstSTREET recorded the conversations between the
26 consumers/customers using two different programs, Ring Central and Five9.

27 32. Prior to ending my employment relationship with AIHR/firstSTREET, I obtained a
28 copy of some of the calls made regarding the Cunnison matter.



- 1 33. I provided those calls to Benjamin Cloward on July 8, 2020.
- 2 34. During the time I worked there, call recordings were kept indefinitely.
- 3 35. Safety concerns were discussed on almost a weekly basis with me and Vice-
- 4 President Dave Modena.
- 5 36. These discussions began as early as 2011 when AIHR/firstSTREET began the
- 6 relationship with Jacuzzi to sell the walk-in tubs and increased as the tub installations began to
- 7 increase.
- 8 37. I talked with Dave Modena and Mark Gordon about many safety concerns associated
- 9 with the tub in addition to the slipperiness issue.
- 10 38. These discussions took place from late 2011 to the time I ceased my relationship
- 11 with AIHR/firstSTREET.
- 12 39. That this affidavit is made in good faith and not for any improper purpose or to
- 13 protract litigation.

14 FURTHER YOUR AFFIANT SAYETH NAUGHT.

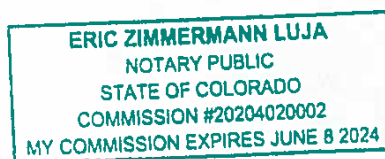
15 DATED THIS 22 day of September, 2020.

16 
17 NICK FAWKES

18 SUBSCRIBED AND SWORN to before me

19 this 22 day of September, 2020.

20 
21 NOTARY PUBLIC in and for said County and State



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT “A”

User **Regina Reyes**
Public ☐
Comment **Hi Regina, I was wondering if you heard back from Ray on this one. Thank you, Megan**

12/21/2012 8:22 PM

User **Regina Reyes**
Public ☐
Comment **From: Nick Fawkes
[mailto:nick.fawkes@aihremodelers.com] Sent:
Friday, December 21, 2012 12:16 PMTo: Reyes,
ReginaSubject: Re: Arnouville, Manuel - Serial
#BDFDK9 Regina this is Xbox wanted to let you
know that we actually hear this complaint more
and more often and the numbers increasing
installations. I would highly recommend that we
consider putting something a little bit more
abrasive Not only on the floor but also on the
seats as we have had customers call concerned
that they slip off the seat so wouldn't be a bad
thing to consider adding to the new job just my
thoughts. Sent from my iPhone**

12/18/2012 10:23 PM

User **Regina Reyes**
Public ☐
Comment **From: Calderon, Hilton On Behalf Of First Street
SupportSent: Tuesday, December 18, 2012 2:20
PMTo: Tracey Dierkens; First Street SupportCc:
Todd Stout;
nick.fawkes@aihremodelers.comSubject: RE:
Arnouville, Manuel - Serial #BDFDK9Importance:
HighTracey, This is the first time I heard of this
type of complain, you will need to direct this issue
with our manager: Regina Reyes. As far as I know
the floor has a nonslip pattern design that
prevents the user from slipping but the seat is
plain, it has no slip pattern design. Regards, Hilton
CalderonTechnical Services Consultant**

12/21/2012 8:00 PM

User **Regina Reyes**
Public ☐
Comment **Hi Tracey, Sorry for the delay, this is one that I
have been pondering how to address and the only
thing I can come up with is that maybe they apply
some non skid bath mats or stickers. We don't
have an accessory to supply and we have not
heard of this before, but I will check. Regina Reyes**

12/18/2012 10:23 PM

User **Regina Reyes**
Public ☐
Comment **From: Tracey Dierkens
[mailto:tracey.dierkens@aihremodelers.com] Sent:
Monday, December 17, 2012 10:07 AMTo: First
Street SupportCc: Todd Stout;
nick.fawkes@aihremodelers.comSubject:
Arnouville, Manuel - Serial #BDFDK9Customers
tub was installed on 12/13, and they say the wife
slips on the seat and the floor. Nick would like to
know if there is anything you can do to help the
customer out? They are not using the tub because
they are afraid she will fall.Arnouville, Manuel &
Patricia5010 N Bayou Black DriveGibson, LA
70356(985)575-3695Thank you!Tracey
Dierkens303-222-3200303-222-3204 Direct**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT “B”

Job Detail

© 2007 RJR Technology, LLC

General	Dates	Service	Pmts	To Do	Comments	Notes	Docs	Permits	Commissions	Job Cost	Chg Orders	Financing
---------	-------	---------	------	-------	----------	-------	------	---------	-------------	----------	------------	-----------

Cunnison, Sherry #12116 Status: Complete/Paid Stat Dt: 01/31/2014 ☐ Sale Batch ☐ Inst Batch

[Job Cost Sheet](#) [Invoice](#) [ZZNew](#)

Entered On	Entered By	Updated On	Updated By	Notes
				Dave,
				We received a call from Ashley Smith who is the claims adjuster for All State.
				She stated the customer was in the tub and the drain malfunctioned and she couldn't get out and passed away in the tub.
4/11/2014 12:09:06 PM	Dierkens, Tracey	4/11/2014 12:10:21 PM	Dierkens, Tracey	She said the customers attorneys and our attorneys are working on this, but she needs information from us.
				She would like a copy of all the paperwork.
				Do you know about this, and what would you like me to do?
				Thank you!
				Ashley Smith - 866-234-0284
4/11/2014 12:00:41 PM	Davidson, Ashley	4/11/2014 12:01:33 PM	Davidson, Ashley	Ashley Smith from Allstate called in regarding the tub- customer got stuck in it and passed away- Allstate would like at the paperwork from the job. Asked Tracey for help- she is emailing corporate.
				Hello Haley,
3/7/2014 9:32:06 AM	Johnson, Rose	3/7/2014 9:32:09 AM	Johnson, Rose	The phone number for customer Sherry Cunnison in Las Vegas, NV, is (702) 435-5790. No alternate phone number was listed. Sorry, that's all the contact info we were given.
				Thank you, Rose Johnson
3/6/2014 3:57:29 PM	Johnson, Rose	3/6/2014 3:57:36 PM	Johnson, Rose	The electrician and USA Services has been trying to contact Sherry Cunnison since her tub install date to schedule the final inspection. The last we heard from a family member was that she has been in the hospital, that was over a month ago and we have not been able to reach her. We need to get our electrician reimbursed because the permit has already been pulled. Let me
				New














< >

Entered On	Entered By	Updated On	Updated By	Notes
				know if you can help?
				Haley Herelovich Permit Manager USA Services Inc.
2/18/2014 9:07:04 AM	Johnson, Rose	2/18/2014 9:09:08 AM	Johnson, Rose	Rec'd W-9 from Budd's Plumbing via fax. I will submit W-9 to Debbie Bragg at corporate today so repair invoice #6847 can be paid in a timely manner.
2/17/2014 10:51:15 AM	Johnson, Rose	2/17/2014 10:51:49 AM	Johnson, Rose	Faxed the below letter and a blank W-9 form to Budd's Plumbing at (702) 294-1060. They will sign form and fax back to our office. February 17th, 2014 Budd's Plumbing 1624 Carse Boulder City, VN 89005 Hello, I've enclosed a blank W-9 form with instructions on how to fill this form out. Please provide the required information, then sign and date the W-9 form. Please fax the completed form back to our office at (303) 953-7084 so that corporate can pay your invoice #6847 for \$135.00 in a timely manner. Thank you, Rose Johnson Production Coordinator
2/17/2014 10:50:37 AM	Johnson, Rose	2/17/2014 10:50:53 AM	Johnson, Rose	Sherry - called to get Shane's number, the electrician. the county inspector was there and was very rude, but he could not get the panel off the front of the tub to inspect. I called Caitlin and she is calling Shane to call Sherry
2/12/2014 11:20:30 AM	Doubek, Annette	2/12/2014 11:22:59 AM	Doubek, Annette	Approved Second Half Commission. \$715.05 to be paid this week.
2/11/2014 12:35:50 PM	Yeatts, Katy	2/11/2014 12:36:31 PM	Yeatts, Katy	called to check in - heater is working, tempering valve could turned up. I will have Joe stop by next time he is in Vegas.
2/10/2014 10:33:00 AM	Doubek, Annette	2/10/2014 10:34:49 AM	Doubek, Annette	Ms. Cunnison called Saturday about the temperature of her water, I reminded her that the heater will only work if the jets are running, she could not recall if the jets were on or not. She is going to try it again, she also said she did not get a manual with the tub. I mailed one to her today.
2/10/2014 7:13:17 AM	Doubek, Annette	2/10/2014 7:14:25 AM	Doubek, Annette	Joe,
2/6/2014 8:35:03 AM	Davidson, Ashley	2/6/2014 8:35:16 AM	Davidson, Ashley	Good morning. May I please get updates on the following warranties. I do not have any schedule dates for them so if you have some please let me know, if not may we get them scheduled as soon as possible please?
			<u>New</u>	

< >

Entered On	Entered By	Updated On	Updated By	Notes
				<ul style="list-style-type: none"> • Borgaard, Mary in Las Vegas, NV- Issue is caulking. I have requested many updates on this and have not received a schedule date back. Last time I talked to you, you thought she had an open Jacuzzi warranty but there is not one that I know of. Please let me know when you can get this scheduled. • Cunnison, Sherry in Las Vegas, NV- Issue is the drain; customer cannot turn the handle. We will need to install a handle on the drain for easier turning. Please let me know when you can get this scheduled. • Compton, Jaqueline in Las Vegas, NV- Issue is the front panel; electrical inspector needs the caulking removed to do the inspection and then the skirt will need to be re-caulked. Please let me know when you can get this scheduled. <p>I know we are shooting for you to be in Vegas the week of 2/17 for a couple installs (Howe and Norton) - as of right now they look like they have only been ordered. Maybe you could get these warranty jobs done while you are down there if you don't have them scheduled or completed already?</p> <p>If I don't hear back from you on the above warranties by 2/10/14 I will be hiring someone local to do the work. If the issue was due to installation issues, I may have to charge you back, just so you are aware.</p> <p>Best Regards,</p> <p>Ashley Davidson Customer Care Coordinator</p> <p>Joe,</p> <p>My apologies it looks like Ms. Sherry Cunnison has already been taken care of. We just need dates for the Borgaard's and Compton's. ?</p> <p>Best Regards,</p> <p>Ashley Davidson Customer Care Coordinator</p> <p>Job is closed</p> <p>Mrs. called me last night to say she could not get the lever attached for the drain, I called Bill at Bud's plumbing and he said he would call her to set up an appointment to install for her. I will let her know.</p> <p>Joe went over and took the screen off the faucet and cleaned it out, now the sink works fine.</p>
1/31/2014 3:33:59 PM	Britton, Marcia	1/31/2014 3:34:06 PM	Britton, Marcia	
1/31/2014 8:57:40 AM	Doubek, Annette	1/31/2014 8:58:27 AM	Doubek, Annette	
1/30/2014 7:54:02 AM	Doubek, Annette	1/30/2014 7:54:31 AM	Doubek, Annette	
1/29/2014 2:56:10 PM	Doubek, Annette	1/29/2014 3:17:43 PM	Doubek, Annette	
			<u>New</u>	

< >

Entered On	Entered By	Updated On	Updated By	Notes	
				Ms Cunnison called again, she does not have any water pressure in her kitchen sink. LM for Joe to call me, hoping he can go over and check it out for her. Joe is going to call her	
1/29/2014 2:05:33 PM	Doubek, Annette	1/29/2014 2:14:51 PM	Doubek, Annette	Ms. Cunnison called and said she could not the drain opener to turn, I am sending her a lever overnight, I will call her tomorrow to make sure it works for her. tub serial #BDHVDW	
1/28/2014 10:14:40 AM	Johnson, Rose	1/28/2014 10:15:08 AM	Johnson, Rose	Called Mrs. and confirmed electrician completed all work on 1/27/2014.	
1/27/2014 3:23:28 PM	Doubek, Annette	1/27/2014 3:28:30 PM	Doubek, Annette	satisfaction call - looks good, not happy with holes where the shower was, screw holes filled with putty / caulking. Rest of it looks good. Will get shower curtain, will look nice. She will call me after she uses the tub.	
1/27/2014 3:21:51 PM	Doubek, Annette	1/27/2014 3:22:25 PM	Doubek, Annette	Joe called - job is complete, customer signed and paid balance. Joe thinks we will be hearing from her til the end of time.	
1/27/2014 11:43:48 AM	Doubek, Annette	1/27/2014 11:44:52 AM	Doubek, Annette	customer called to confirm balance due and she is a nervous wreck, thinks they are tearing her house apart and will not leave a professional job, I assured her that Joe will take good care of her home and leave a nice finished product. she will call again.	
1/27/2014 10:13:22 AM	Doubek, Annette	1/27/2014 10:14:20 AM	Doubek, Annette	Joe called, said that Ms Cunnison could barely get in and out of the tub, but she is going ahead with the installation, Joe thinks it could be a troublesome customer, I would agree from past communications with her.	
1/27/2014 8:52:11 AM	Doubek, Annette	1/27/2014 8:59:41 AM	Doubek, Annette	arrival call - not there yet - texted Joe for ETA will let Mrs know. Joe says about 8:30. notified customer	
1/24/2014 9:14:55 AM	Doubek, Annette	1/24/2014 9:19:02 AM	Doubek, Annette	confirmation call - arrival between 8-10. Worried about everything, her tile floor, leaks, etc... gave her my number again so she can call with questions.	
1/13/2014 10:55:21 AM	Doubek, Annette	1/13/2014 10:55:32 AM	Doubek, Annette	sent revised pics and measure to Joe.	
1/13/2014 10:54:08 AM	Doubek, Annette	1/13/2014 10:55:10 AM	Doubek, Annette	need LH white tub - we got down to Vegas without the revised pics and docs, for the changed bathroom. I will investigate to find out how this happened. checked with Joe to see if he has a LH White, told Mrs we will try to get it by end of month.	
1/10/2014 12:47:37 PM	Doubek, Annette	1/10/2014 12:47:47 PM	Doubek, Annette	We have the permit, all the wires are ran but since it's a shower we need to be there same day as install for final inspection. We'll have our tech there on 1/13	
				Jamin Pollack	
1/10/2014 10:04:51 AM	Doubek, Annette	1/10/2014 10:17:00 AM	Doubek, Annette	confirmation call for Monday 1/13. LM - annuity paperwork was not correct, will be 7-10 days from yesterday for her to get her money. She assures me balance due will be paid prior to month end. We are going ahead with the install on 1/13.	
1/7/2014 1:49:10 PM	Stout, Sebastian	1/7/2014 1:49:13 PM	Stout, Sebastian	FYI, the garage has a shear wall that goes to the roof and no attic access to fish wires in garage. Customer refused conduit so we are cutting and trimming out	
			<u>New</u>		

< >

Entered On	Entered By	Updated On	Updated By	Notes
				an access in the garage. Please notate in your system, we'll have the customer sign off approving it, I guess shes' quite the fireball.
				Please call the customer and let her know ASAP and update me.
				Thanks
				Jamin Pollack USA Services Inc.
1/7/2014 1:45:16 PM	Doubek, Annette	1/7/2014 1:46:09 PM	Doubek, Annette	called to remind her of her install date for 1/13. after a while she did recall talking with Joe - she is concerned that her annuity money will not be in the bank by the 13th - I told her I would call and check with her on the 10th.
1/7/2014 12:16:09 PM	Stout, Sebastian	1/7/2014 12:16:54 PM	Stout, Sebastian	Approved based on distances on line asked for pics
1/7/2014 12:12:08 PM	Stout, Sebastian	1/7/2014 12:12:13 PM	Stout, Sebastian	Bathroom changed from the guest bathroom to the master bathroom, therefore the run of wire increased to 78ft. The panel is on the exterior of the home, we'll have to run conduit into the garage and pipe around some cabinets to get into the attic and then run 60ft over to the master bedroom bathroom and drop down to the shower area and wire up our outlets, we need an extended run and to come back on day of install to complete final connections.
				Jamin Pollack USA Services Inc.
				Emailed USA
12/31/2013 1:09:18 PM	Stout, Sebastian	12/31/2013 1:09:23 PM	Stout, Sebastian	
12/31/2013 12:55:03 PM	Doubek, Annette	12/31/2013 12:55:20 PM	Doubek, Annette	Joe confirmed install date with customer for 1/13
12/27/2013 2:05:06 PM	Doubek, Annette	12/27/2013 2:09:06 PM	Doubek, Annette	sent draw, measure and pics to Joe - will give to Tracey to order if Joe does not have a White Right on hand
12/2/2013 11:34:55 AM	Doubek, Annette	12/2/2013 11:35:31 AM	Doubek, Annette	created WO based on revised contract and photos - did not e-mail Joe or hand file to Sebastian customer has requested January installation.
11/5/2013 2:11:55 PM	Yeatts, Katy	11/5/2013 2:12:07 PM	Yeatts, Katy	Approved First Half Commission. \$699.65 to be paid this week.
10/30/2013 11:32:21 AM	Ortiz, Chrystal	10/30/2013 11:32:40 AM	Ortiz, Chrystal	Okay to release first half commission
10/21/2013 11:06:02 AM	Doubek, Annette	10/21/2013 11:06:53 AM	Doubek, Annette	created folder, uploaded docs into LP, processed down payment in TC and LP, put status on hold, customer requests January install date. did not order tub.
10/21/2013 8:35:15 AM	Stout, Todd	10/21/2013 8:35:18 AM	Stout, Todd	10/19/13: TUB: Price=13993.00, Sale, \$13,993, cash deal, paint back wall. didn't leave deposit amount on voice mail. (8:23 am MST - rep left vm) TRT
			<u>New</u>	

< >

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT “22”



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DISTRICT COURT
CLARK COUNTY, NEVADA

ROBERT ANSARA, as Special Administrator of the
Estate of SHERRY LYNN CUNNISON, Deceased;
ROBERT ANSARA, as Special Administrator of the
Estate of MICHAEL SMITH, Deceased heir to the
Estate of SHERRY LYNN CUNNISON, Deceased; and
DEBORAH TAMANTINI individually, and heir to the
Estate of SHERRY LYNN CUNNISON, Deceased,

Plaintiffs,

vs.

FIRST STREET FOR BOOMERS & BEYOND, INC.;
AITHR DEALER, INC.; HALE BENTON, Individually,
HOMECLICK, LLC; JACUZZI INC., doing business as
JACUZZI LUXURY BATH; BESTWAY BUILDING &
REMODELING, INC.; WILLIAM BUDD, Individually
and as BUDD'S PLUMBING; DOES 1 through 20; ROE
CORPORATIONS 1 through 20; DOE EMPLOYEES 1
through 20; DOE MANUFACTURERS 1 through 20;
DOE 20 INSTALLERS 1 through 20; DOE
CONTRACTORS 1 through 20; and DOE 21
SUBCONTRACTORS 1 through 20, inclusive,

Defendants.

AND ALL RELATED MATTERS

CASE NO.: A-16-731244-C
DEPT NO.: II

AFFIDAVIT OF ANNIE
DOUBEK

STATE OF FLORIDA)
) ss:
COUNTY OF PINELLAS)

I, ANNIE DOUBEK, being first duly sworn, depose and states:

1. That I have first-hand knowledge of the facts stated within this affidavit and if called upon to testify to same in a court of competent jurisdiction, I would do so.
2. That I am over the age of 18 years old and am competent to testify in this matter.



1 3. Between July of 2013 and September of 2015, I worked for AIHR/firstSTREET as a
2 Project Manager.

3 4. As part of my job duties I regularly communicated with consumers/customers who had
4 purchased a Jacuzzi walk-in tub.

5 5. In late 2013 and early 2014, I received several phone calls from Sherry Cunnison.

6 6. Sherry had purchased a Jacuzzi walk-in tub.

7 7. I was assigned to Sherry's file and was her point of contact for AIHR/firstSTREET.

8 8. I had approximately six conversations with her over a span of four months.

9 9. During one of the calls Sherry informed me that she had gotten stuck in the tub because
10 the drain was not properly functioning.

11 10. Sherry further described that she had to "dive underneath" the water to try and
12 get the drain to work.

13 11. As part of my job I would enter details of calls or messages from consumers/
14 customers into Lead Perfection.

15 12. When consumers/customers would call with concerns, I would relay that to Nick
16 Fawkes and Todd Stout.

17 13. There were complaints by consumers/customers about a variety of issues ranging
18 from the tub took too long to fill to the tub took too long to drain.

19 14. One of the complaints that was received was that the tub was too slippery.

20 15. The group of Project Managers spoke about the customer complaints as a group
21 often.

22 16. The Supervisors and the Project Managers spoke about the customer complaints
23 at least once a week during weekly meetings.

24 17. The Supervisors provided guidance to the Project Managers on how to respond
25 to the customers about the most common complaints received.

26 18. That this affidavit is made in good faith and not for any improper purpose or to
27 protract litigation.

28 FURTHER YOUR AFFIANT SAYETH NAUGHT.

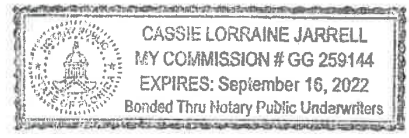
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED THIS 10 day of September, 2020.

Annie Doubek
ANNIE DOUBEK

SUBSCRIBED AND SWORN to before me
this 10th day of September, 2020.

Cassie Lorraine Jarrell
NOTARY PUBLIC in and for said County and State



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

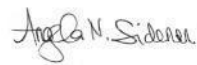
EXHIBIT “23”

1 DISTRICT COURT
2 CLARK COUNTY, NEVADA
3 ROBERT ANSARA, as Special
4 Administrator of the Estate of
5 SHERRY LYNN CUNNISON, Deceased;
6 MICHAEL SMITH individually, and heir
7 to the Estate of SHERRY LYNN CUNNISON,
8 Deceased; and DEBORAH TAMANTINI
9 individually, and heir to the
10 Estate of SHERRY LYNN CUNNISON,
11 Deceased,
12 Plaintiffs,
13 vs. CASE NO. A-16-731244-C
14 DEPT. NO.
15 FIRST STREET FOR BOOMERS &
16 BEYOND, INC.; AITHR DEALER, INC.;
17 HALE BENTON, Individually, HOMECCLICK,
18 LLC.; JACUZZI LUXURY BATH, d/b/a
19 JACUZZI, INC.; BESTWAY BUILDING &
20 REMODELING, INC.; WILLIAM BUDD,
21 Individually and as BUDDS PLUMBING;
22 DOES 1 through 20; ROE CORPORATIONS
23 1 through 20; DOE EMPLOYEES 1 through
24 20; DOE MANUFACTURERS 1 through 20; DOE
25 20 INSTALLERS 1 through 20; DOE
CONTRACTORS 1 through 20; and DOE 21
SUBCONTRACTORS 1 through 20, inclusive,
Defendants.
* * * * *
VIDEOTAPED DEPOSITION OF DAVID MODENA
* * * * *
December 11, 2018
Richmond, Virginia
Job No. 508962
Reported By: Angela N. Sidener, CCR, RPR

<p style="text-align: right;">Page 2</p> <p>1 Videotaped deposition of DAVID MODENA, Rule 2 30(b)(6) Designee for Defendants FIRST STREET FOR BOOMERS 3 AND BEYOND, INC. and AITHR DEALER, INC., taken by and before 4 Angela N. Sidener, CCR, RPR, and Notary Public in and for 5 the Commonwealth of Virginia at large, pursuant to Rules 26 6 and 30(b)(6) of the Rules of Civil Procedure, and by Notice 7 to Take Deposition; commencing at 10:31 a.m., December 11, 8 2018, at Regus, 919 East Main Street, Suite 1000, Richmond, 9 Virginia 23219.</p> <p>10 11 Appearances: 12 RICHARD HARRIS LAW FIRM 13 By: BENJAMIN P. CLOWARD, ESQ. 14 801 South Fourth Street 15 Las Vegas, Nevada 89101 16 Counsel for Plaintiffs 17 THORNDAL ARMSTRONG 18 By: PHILIP GOODHART, ESQ. 19 1100 East Bridger Avenue 20 Las Vegas, Nevada 89101-5315 21 Counsel for Defendants 22 First Street for Boomers and Beyond, Inc. 23 and AITHR Dealer, Inc. 24 STACY LANDIS HACKNEY, ESQ. 25 In-House Counsel for First Street for Boomers and Beyond, Inc. and AITHR Dealer, Inc. SNELL & WILMER, LLP By: JOSHUA D. COOLS, ESQ. 3883 Howard Hughes Parkway, Suite 1100 Las Vegas, Nevada 89159 Attorney for Defendant Jacuzzi Brands, LLC</p> <p>Also Present: Laura Cooney, Videographer</p>	<p style="text-align: right;">Page 3</p> <p>1 2 I N D E X 3 4 DEPONENT 5 DAVID MODENA 6 Examination By: Page 7 Direct Mr. Cloward 4 8 9 10 EXHIBITS RETAINED BY PLAINTIFFS' COUNSEL 11 No. Description Page 12 1 Binder of Documents Produced by 65 First Street for Boomers and Beyond 13 14 2 Electronic PDF File of Original 113 Contents in Leave-Behind Folder 15 16 17 18 19 20 21 22 23 24 25</p>
<p style="text-align: right;">Page 4</p> <p>1 THE VIDEOGRAPHER: This is the beginning of 2 disc number 1 in the videotaped deposition of David Modena. 3 We are on the record on December 11, 2018, at 10:31 a.m. 4 Counsel have agreed to waive the usual videographer's 5 introduction. 6 Would you please introduce yourselves, 7 starting with Plaintiff's Counsel, and the court reporter 8 will please swear in the witness. 9 MR. CLOWARD: My name is Ben Cloward, and I 10 represent the plaintiff. 11 MR. GOODHART: This is Philip Goodhart, and I 12 represent First Street and AITHR Dealers. 13 MS. HACKNEY: Stacy Hackney, counsel for 14 AITHR Dealer and First Street. 15 MR. COOLS: Joshua Cools, counsel for 16 Jacuzzi, Inc. 17 DAVID MODENA, 18 having been duly sworn, testified as follows: 19 DIRECT EXAMINATION 20 BY MR. CLOWARD: 21 Q Good to go. How are you today, sir? 22 A Very good. Thanks. 23 Q What -- what do you prefer to be called? 24 A Just call me Dave. 25 Q Okay.</p>	<p style="text-align: right;">Page 5</p> <p>1 A Dave's good. 2 Q Dave, I appreciate that. My name is Ben, and I 3 represent the plaintiffs. As I'm sure you're aware, this is 4 what's called a Rule 30(b)(6) deposition. And what that 5 means is you've been designated as kind of the corporate 6 spokesperson to speak on behalf of the companies designated 7 in the notice. Are you aware of that? 8 A Yes. 9 Q Okay. And so I always like to just give a couple 10 admonitions. I'm sure you've been deposed before. 11 A Not -- not -- no, I don't think so. 12 Q First time? 13 A Probably so. I don't -- I can't recall to this 14 level, yes -- so, no. 15 Q Hopefully it will be a decent experience for you. 16 A It's going to be. 17 Q Try not to make it too rough on you. But as the 18 designee, the corporate designee, because you're speaking on 19 behalf of the company, at times I may ask a question and 20 maybe you have a personal opinion about a specific topic, 21 but you know that the company does it a different way, I 22 mean no disrespect by this at all, I'm not interested to 23 know your personal opinion, because your testimony is 24 binding on the company. You know, that's what I'm 25 interested in.</p>

<p style="text-align: right;">Page 26</p> <p>1 Q -- you've done a nice job addressing kind of the</p> <p>2 warranty claims or the, you know, performance issues.</p> <p>3 A Uh-huh.</p> <p>4 Q How about we focus now on kind of the safety</p> <p>5 aspect of the tub. How often and what types of claims are</p> <p>6 called in on that?</p> <p>7 A Very, very few that I can -- I just don't remember</p> <p>8 many at all, honestly. I don't -- I just -- the issues were</p> <p>9 normally the warranty or the installation. I just didn't</p> <p>10 hear about those. There may -- there may have been a couple</p> <p>11 of -- I mean, there's just -- that wasn't an occurrence that</p> <p>12 happened very often at all.</p> <p>13 Q So if it -- I mean, if it didn't happen often at</p> <p>14 all, you would probably remember the ones that did happen,</p> <p>15 right? They would kind of --</p> <p>16 A You would think so.</p> <p>17 Q So they didn't stand out when you --</p> <p>18 A Well, I just -- I honestly just can't think of</p> <p>19 particular ones in general because it just did not happen</p> <p>20 that -- I mean, you would have people raising concerns about</p> <p>21 certain things, but an actual injury? I just don't -- I'm</p> <p>22 just not -- I can't recall. I don't remember incidents,</p> <p>23 anything like this that come up to that point.</p> <p>24 Q So is it fair to say that -- that the Cumison</p> <p>25 case is the only incident you recall?</p>	<p style="text-align: right;">Page 27</p> <p>1 A To this level, for sure. But I -- I feel like</p> <p>2 there must have been a couple, but, as honest I can be, I</p> <p>3 just don't recall incidents like this. I -- concerns -- you</p> <p>4 know, people addressing maybe other concerns about their tub</p> <p>5 or something like that, you'd get into those, but an actual</p> <p>6 injury? I don't -- I -- I feel like there must have been</p> <p>7 one or two. I just -- I couldn't tell you who they were and</p> <p>8 when they were, if it was before that point in time.</p> <p>9 Q Were you informed of, say, for instance, when a</p> <p>10 lawsuit is filed?</p> <p>11 A Normally. Normally, I would have -- I would have</p> <p>12 known. I would -- normally it would have come in. It would</p> <p>13 always go into our in-house legal counsel. That's where it</p> <p>14 went first. And then typically our in-house counsel would</p> <p>15 approach me with making sure we had all the information in</p> <p>16 our files and turned over to the right people, so, normally,</p> <p>17 yes.</p> <p>18 Q Okay. And is this the only -- the only case that</p> <p>19 First Street is aware of?</p> <p>20 A I can't answer that, because, again, legal -- our</p> <p>21 in-house counsel would probably be -- probably could answer</p> <p>22 that better than myself. I'm just not able to tell you that</p> <p>23 there were two or three more that I can think of like this.</p> <p>24 Q Okay. Well, I'm entitled to have the most -- I</p> <p>25 guess, the information.</p>
<p style="text-align: right;">Page 28</p> <p>1 A Sure.</p> <p>2 MR. CLOWARD: If you're relying on your</p> <p>3 memory, maybe what we could do is take a break and have</p> <p>4 Ms. Hackney testify. Is that -- is that okay?</p> <p>5 MR. GOODHART: Or I can -- we can take a</p> <p>6 break and I can re-educate my witness on certain things.</p> <p>7 MR. CLOWARD: I mean, that's -- if that's</p> <p>8 what's -- what's necessary.</p> <p>9 MR. GOODHART: Yeah. That's fine with me.</p> <p>10 MR. CLOWARD: It's a topic in the --</p> <p>11 MR. GOODHART: I understand. I just have not</p> <p>12 been objecting and have not been trying to coach the witness</p> <p>13 in any way, shape, or form. But you know as well as I do,</p> <p>14 you know, sometimes memories fade and things like that, but</p> <p>15 I can certainly have a discussion with Mr. Modena and</p> <p>16 Ms. Hackney, and we can clear this up for you.</p> <p>17 MR. CLOWARD: Yeah.</p> <p>18 MR. GOODHART: And just so I'm clear on your</p> <p>19 question, you're asking him even up through to today --</p> <p>20 MR. CLOWARD: Yeah.</p> <p>21 MR. GOODHART: -- about any type of claims of</p> <p>22 any injuries that have taken place --</p> <p>23 MR. CLOWARD: Yeah.</p> <p>24 MR. GOODHART: -- in a Jacuzzi product?</p> <p>25 MR. CLOWARD: Correct.</p>	<p style="text-align: right;">Page 29</p> <p>1 MR. GOODHART: Okay. All right. Why don't</p> <p>2 we take two minutes and we'll clear it up for you.</p> <p>3 MR. CLOWARD: Okay. Do you want me to leave</p> <p>4 or --</p> <p>5 MR. GOODHART: No. We can just go out there.</p> <p>6 MR. CLOWARD: Okay.</p> <p>7 MR. GOODHART: That's fine. Thank you.</p> <p>8 THE VIDEOGRAPHER: We are going off the</p> <p>9 record at 11:01 a.m.</p> <p>10 (Recess from 11:01 a.m. to 11:07 a.m.)</p> <p>11 THE VIDEOGRAPHER: We are back on the record</p> <p>12 at 11:07 a.m.</p> <p>13 BY MR. CLOWARD:</p> <p>14 Q Dave, have you had a chance to talk with your</p> <p>15 counsel, both in-house and outside counsel?</p> <p>16 A Yes.</p> <p>17 Q Okay. Were you able to discuss, I guess, the</p> <p>18 other reasonably significant events that you're --</p> <p>19 A Uh-huh.</p> <p>20 Q -- that First Street is aware of?</p> <p>21 A Right. Right.</p> <p>22 Q Okay.</p> <p>23 A Yeah.</p> <p>24 Q So what other reasonably significant events are --</p> <p>25 is First Street aware of?</p>

<p style="text-align: right;">Page 30</p> <p>1 A After the Cunnison is -- because I think I was 2 working a little bit prior -- prior to the Cunnison -- up to 3 that point, I think I was more concerned about that, but -- 4 in answering that, but there -- there had been two, one in 5 Texas, Baez or something, and I was -- I wasn't directly 6 notified on that one, but eventually so -- and that went to 7 legal counsel, and -- not even sure that was an injury -- 8 we're not sure that's even an injury case.</p> <p>9 The -- probably the more significant one is Max 10 Smith, I believe, which is in Georgia, and that was well 11 after the fact, as well, so that was something that would 12 have gone to our legal counsel. First Street was notified 13 and then, thus, I would have been notified at that time.</p> <p>14 Q Okay. So --</p> <p>15 A Those are the two situations, which, one, we're 16 not even sure was an injury incident.</p> <p>17 Q Okay. So it's fair to say you now recall, I 18 guess, those -- those incidents. You recall being told 19 about those incidents at some point?</p> <p>20 A Well, the one -- certainly the one in Georgia. 21 That's probably the one that would -- the more significant 22 issue that was obviously an injury-related type issue. The 23 one in Texas, we weren't sure about, so to say I absolutely 24 a hundred percent remember that one, it sounds familiar. 25 You know, it -- the -- I was -- and I've looked at</p>	<p style="text-align: right;">Page 31</p> <p>1 it since then, too, since -- in prepping for this, too, as 2 well, and the notes were even unclear on it, as well, so it 3 was -- it's one that I could see if I was notified of -- it 4 was relatively unclear what had even happened so it --</p> <p>5 Q So you reviewed some notes about that prior to the 6 deposition?</p> <p>7 A We looked at it just recently. I was -- this was 8 just going through probably those two situations and -- and, 9 actually, our notes were relatively -- they were not that 10 forthcoming on what had actually happened.</p> <p>11 Q Is there a reason you weren't able to recall 12 reviewing those notes five minutes ago?</p> <p>13 A Well, I thought we were -- actually, I was going 14 to bring that up, because that's the Baez thing, the one -- 15 that's -- because that is the one that I remember that, 16 because I looked at it recently, but when I looked at the 17 notes, and -- it wasn't in our -- in our LP system that I 18 talked about earlier. There really wasn't much in there, so 19 that's why I was having a hard time.</p> <p>20 We didn't -- it didn't show up as a -- as a -- you 21 know, an injury report, so I was like -- I knew that that 22 was potentially an issue that we could discuss, but I 23 couldn't find anything in the note that even shows it as an 24 injury, so I didn't -- didn't designate it as an injury type 25 of an incident --</p>
<p style="text-align: right;">Page 32</p> <p>1 Q Okay. And did you --</p> <p>2 A -- in my mind.</p> <p>3 Q Did you review notes in the system, as well, 4 regarding the Smith case?</p> <p>5 A Yes. But there, again, in our system, because 6 most of this, once it gets turned over -- once Denver sort 7 of turns it over, there's not much in there, as well.</p> <p>8 Q Okay. You knew there was a death, though, right?</p> <p>9 A Yes.</p> <p>10 Q You were informed --</p> <p>11 A Yes.</p> <p>12 Q -- of that?</p> <p>13 A Yes. Yes.</p> <p>14 Q Is there a reason why you didn't remember that 15 five minutes ago?</p> <p>16 A Well, again, I was thinking about up to that 17 point. I thought that's how I'd answered it. I thought we 18 were just trying to -- up to that point, what we were aware 19 of.</p> <p>20 Q Okay. So why don't you tell me all of the 21 incidents that you're aware of at any point, safety 22 incidents.</p> <p>23 A Those would be it.</p> <p>24 Q Just those three?</p> <p>25 A That I would be aware of.</p>	<p style="text-align: right;">Page 33</p> <p>1 Q Okay. Tell me about the system in Denver. What 2 is the system?</p> <p>3 A It's called a CRM system. That's just a customer 4 retention system. That's pretty common to any home 5 improvement company, you -- you -- any lead that comes into 6 the organization, it then is given an ID, and that -- that 7 person's information is put into the system and it's tracked 8 all the way through. So from the date that customer either 9 calls in from an ad, or in this -- I think with -- the 10 Cunnison case actually was an Internet, I think, lead, and 11 they may have submitted a form and then we'd get back in 12 touch with them.</p> <p>13 But that creates a file, and so at that point, 14 anytime anything happens after that, you -- you make -- you 15 make your -- there's a central place that customer has an ID 16 and you go in and you put that information in. It's dated, 17 time stamped, and it stays.</p> <p>18 Q Who has access to that database?</p> <p>19 A The primary users at the Denver office. I would 20 have access to it. People that would need to be able to run 21 reports, things like that, because it's not only just for 22 putting data in or information in, but it -- for pulling 23 information out, sales history, things like that.</p> <p>24 So in the Denver office, you would probably have a 25 handful of people that -- that have access to that, at that</p>

<p style="text-align: right;">Page 114</p> <p>1 And further this deponent saith not.</p> <p>2 (Whereupon this deposition was suspended at 1:18 p.m.)</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 115</p> <p>1 COMMONWEALTH OF VIRGINIA AT LARGE, to wit:</p> <p>2 I, Angela N. Sidener, CCR, RPR, and Notary</p> <p>3 Public in and for the Commonwealth of Virginia at large, and</p> <p>4 whose commission expires November 30, 2022, do certify that</p> <p>5 the aforementioned appeared before me, was sworn by me, and</p> <p>6 was thereupon examined by counsel; and that the foregoing is</p> <p>7 a true, correct, and full transcript of the testimony</p> <p>8 adduced.</p> <p>9 I further certify that I am neither related</p> <p>10 to nor associated with any counsel or party to this</p> <p>11 proceeding, nor otherwise interested in the event thereof.</p> <p>12 Given under my hand and notary seal at</p> <p>13 Richmond, Virginia, this 14th day of December, 2018.</p> <p>14</p> <p>15 </p> <p>16</p> <p>17 Angela N. Sidener, CCR, RPR</p> <p>18 Notary Registration No. 7378859</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>																																																																																																																																																								
<p style="text-align: right;">Page 116</p> <p>1 ERRATA SHEET</p> <p>2</p> <p>3</p> <p>4</p> <p>5 I declare under penalty of perjury that I have read the</p> <p>6 foregoing _____ pages of my testimony, taken</p> <p>7 on _____ (date) at</p> <p>8 _____ (city), _____ (state),</p> <p>9</p> <p>10 and that the same is a true record of the testimony given</p> <p>11 by me at the time and place herein</p> <p>12 above set forth, with the following exceptions:</p> <p>13</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;">Page</th> <th style="width: 10%;">Line</th> <th style="width: 40%;">Should read:</th> <th style="width: 40%;">Reason for Change:</th> </tr> </thead> <tbody> <tr><td>14</td><td></td><td></td><td></td></tr> <tr><td>15</td><td></td><td></td><td></td></tr> <tr><td>16</td><td></td><td></td><td></td></tr> <tr><td>17</td><td></td><td></td><td></td></tr> <tr><td>18</td><td></td><td></td><td></td></tr> <tr><td>19</td><td></td><td></td><td></td></tr> <tr><td>20</td><td></td><td></td><td></td></tr> <tr><td>21</td><td></td><td></td><td></td></tr> <tr><td>22</td><td></td><td></td><td></td></tr> <tr><td>23</td><td></td><td></td><td></td></tr> <tr><td>24</td><td></td><td></td><td></td></tr> <tr><td>25</td><td></td><td></td><td></td></tr> </tbody> </table>	Page	Line	Should read:	Reason for Change:	14				15				16				17				18				19				20				21				22				23				24				25				<p style="text-align: right;">Page 117</p> <p>1 ERRATA SHEET</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;">Page</th> <th style="width: 10%;">Line</th> <th style="width: 40%;">Should read:</th> <th style="width: 40%;">Reason for Change:</th> </tr> </thead> <tbody> <tr><td>2</td><td></td><td></td><td></td></tr> <tr><td>3</td><td></td><td></td><td></td></tr> <tr><td>4</td><td></td><td></td><td></td></tr> <tr><td>5</td><td></td><td></td><td></td></tr> <tr><td>6</td><td></td><td></td><td></td></tr> <tr><td>7</td><td></td><td></td><td></td></tr> <tr><td>8</td><td></td><td></td><td></td></tr> <tr><td>9</td><td></td><td></td><td></td></tr> <tr><td>10</td><td></td><td></td><td></td></tr> <tr><td>11</td><td></td><td></td><td></td></tr> <tr><td>12</td><td></td><td></td><td></td></tr> <tr><td>13</td><td></td><td></td><td></td></tr> <tr><td>14</td><td></td><td></td><td></td></tr> <tr><td>15</td><td></td><td></td><td></td></tr> <tr><td>16</td><td></td><td></td><td></td></tr> <tr><td>17</td><td></td><td></td><td></td></tr> <tr><td>18</td><td></td><td></td><td></td></tr> <tr><td>19</td><td></td><td></td><td></td></tr> <tr><td>20</td><td></td><td></td><td></td></tr> <tr><td>21</td><td></td><td></td><td></td></tr> <tr><td>22</td><td></td><td></td><td></td></tr> <tr><td>23</td><td></td><td></td><td></td></tr> <tr><td>24</td><td></td><td></td><td></td></tr> <tr><td>25</td><td></td><td></td><td></td></tr> </tbody> </table> <p>23 Date: _____</p> <p>24 Signature of Witness _____</p> <p>25 Name Typed or Printed _____</p>	Page	Line	Should read:	Reason for Change:	2				3				4				5				6				7				8				9				10				11				12				13				14				15				16				17				18				19				20				21				22				23				24				25			
Page	Line	Should read:	Reason for Change:																																																																																																																																																						
14																																																																																																																																																									
15																																																																																																																																																									
16																																																																																																																																																									
17																																																																																																																																																									
18																																																																																																																																																									
19																																																																																																																																																									
20																																																																																																																																																									
21																																																																																																																																																									
22																																																																																																																																																									
23																																																																																																																																																									
24																																																																																																																																																									
25																																																																																																																																																									
Page	Line	Should read:	Reason for Change:																																																																																																																																																						
2																																																																																																																																																									
3																																																																																																																																																									
4																																																																																																																																																									
5																																																																																																																																																									
6																																																																																																																																																									
7																																																																																																																																																									
8																																																																																																																																																									
9																																																																																																																																																									
10																																																																																																																																																									
11																																																																																																																																																									
12																																																																																																																																																									
13																																																																																																																																																									
14																																																																																																																																																									
15																																																																																																																																																									
16																																																																																																																																																									
17																																																																																																																																																									
18																																																																																																																																																									
19																																																																																																																																																									
20																																																																																																																																																									
21																																																																																																																																																									
22																																																																																																																																																									
23																																																																																																																																																									
24																																																																																																																																																									
25																																																																																																																																																									

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

(Flash drive will be hand-delivered to Court)

(Dropbox Link to documents will be
provided to all recipients identified on
Certificate of Service)

EXHIBIT “24”



**THORNDAL
ARMSTRONG**
DELK BALKENBUSH & EISINGER
A PROFESSIONAL CORPORATION
ATTORNEYS
www.thorndal.com

PETITIONERS' APPENDIX TAB 5

[Skip to Main Content](#) [Logout](#) [My Account](#) [Search Menu](#) [New Calendar Search](#) [Refine Search](#) [Close](#)

Location : All Courts [Help](#)

REGISTER OF ACTIONS

CASE No. A-16-731244-C

Robert Ansara, Plaintiff(s) vs. First Street for Boomers & Beyond
Inc, Defendant(s)

§
§
§
§
§
§

Case Type: **Product Liability**
Date Filed: **02/03/2016**
Location: **Department 2**
Cross-Reference Case Number: **A731244**

PARTY INFORMATION

Lead Attorneys

Defendant **Aithr Dealer Inc**

Christopher John Curtis

Defendant **Benton, Hale**

Philip Goodhart

Defendant **First Street for Boomers & Beyond Inc**

Christopher John Curtis

PA0386

Defendant	Homeclick LLC	Michael E Stoberski
Defendant	Jacuzzi Inc <i>Doing Business</i> As Jacuzzi Luxury Bath	Vaughn A. Crawford <i>Retained</i>
Plaintiff	Ansara, Robert <i>Now Known</i> As Robert Ansara Personal Rep of the Estate of Michael Smith	Benjamin P. Cloward <i>Retained</i> 702-385-1400(W)
Plaintiff	Estate of Sherry Lynn Cunnison	Benjamin P. Cloward
Plaintiff	Tamantini, Deborah	Benjamin P. Cloward
Trust	Estate of Sherry Lynn Cunnison	Benjamin P. Cloward

EVENTS & ORDERS OF THE COURT

03/04/2019 **Minute Order** (10:00 AM) (Judicial Officer Scotti, Richard F.)

Minutes

03/04/2019 10:00 AM

- Order RE: Pending Motions The Court sets down an Evidentiary Hearing on the issue of sanctions for March 28, 2019, 10:30 AM (3 hours). The Court hereby lifts any Stay that existed in this case. The parties should proceed with any further discovery until and unless the Court Orders otherwise. In the upcoming sanctions order the Court is inclined to impose some monetary sanctions, at the very least, and re-allocate the fees and costs related to discovery. A tentative new Discovery Deadline is March 21. The Court shortens Notice for any further Depositions that either side needs to take to one week. Protective orders, if really necessary, may be sought on one day notice and heard by telephone conference. Plaintiff is permitted to take a further deposition of the corporate representatives of Jacuzzi and First Street, regarding Chopper, marketing and advertising, and the First Street dealers that existed between 2008 and the date of the incident. Plaintiff is entitled to locate and depose Chopper if that has not been done already. Plaintiff is entitled to take the depositions of the First Streets Dealers. The parties are directed to again cooperate in good faith to conduct the forensic review previously ordered by the Discovery Commissioner-if it still has not been complete-and, of course, the scope shall be all incidents involving a Jacuzzi walk-in tub with inward opening doors, for the time period of January 1, 2008, through the date of filing of the complaint, where a person slipped and fell, whether or not there was an injury, whether or not there was any warranty claim, and whether or not there was a lawsuit. This case is still set to be tried on the Court's April 22 five-week stack. The Court will entertain a Stipulation to continue if the parties collectively want a continuance. The Court requests the parties to identify, by filed brief (no more than two (2) pages); (1) What discovery has been conducted in this case since February 4, 2019; (2) The names of any relevant customers of Jacuzzi/First Street that have died; (3) What additional discovery Plaintiff would need to conduct if the Court were not to strike Defendants Answers; and (4) any new developments that the Court should know about. Please provide this by Thursday March 8, 2019. At this time the Court believes that an

PA0387

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Product Liability

COURT MINUTES

March 12, 2019

A-16-731244-C Robert Ansara, Plaintiff(s)
vs.
First Street for Boomers & Beyond Inc, Defendant(s)

March 12, 2019 10:00 AM Minute Order

HEARD BY: Scotti, Richard F. **COURTROOM:** Chambers

COURT CLERK: Elizabeth Vargas

PARTIES PRESENT: Minute Order- No parties present.

JOURNAL ENTRIES

- The Court is continuing to plod through the voluminous materials the parties provided on the Motion to Strike. The Court appreciates the preparation that the parties may have undertaken for the upcoming Evidentiary Hearing. Now that the Court has further and very arduously studied all of the Exhibits, the Court has reached the ultimate conclusion at this time that neither Jacuzzi nor First Street engaged in any egregious bad faith conduct, or intentional violation of any discovery Order, or conduct intended to harm Plaintiff. This is not to say that there are not other serious issues that the Court is considering - as stated by the Court in the prior Minute Order. Nevertheless, there is no longer any need to conduct an Evidentiary Hearing, and the same is hereby VACATED.

The Court continues to prepare its detailed analysis of the discovery issues in this case.

Incidentally, the Court's prior reference to the "Chopper incident" should read "Chopper communications."

The Court appreciates the parties' patience as this work proceeds.

Please continue trial preparations.

CLERK'S NOTE: A copy of this Minute Order has been emailed to the following: Benjamin Cloward, Esq. (bcloward@richardlawfirm.com), Christopher Curtis, Esq. (ccurtis@thorndal.com), Philip Goodhart, Esq. (png@thorndal.com), Michael Stoberski (mstoberski@ocgas.com) and Vaughn

PRINT DATE: 03/12/2019

Page 1 of 2

Minutes Date: March 12, 2019

Crawford, Esq. (vcrawford@swlaw.com). //ev 3/12/19

Evidentiary Hearing is necessary to determine whether, and the extent to which, sanctions might be assessed against Jacuzzi and/or First Street for failure to timely disclose the Chopper incident. The Court will elaborate on this more in the upcoming sanctions Order. CLERK'S NOTE: This Minute Order has been electronically served to all registered parties for Odyssey File & Serve. /lg

[Return to Register of Actions](#)



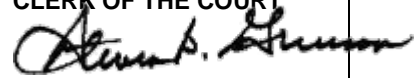
**THORNDAL
ARMSTRONG**
DELK BALKENBUSH & EISINGER

A PROFESSIONAL CORPORATION

ATTORNEYS

www.thorndal.com

PETITIONERS' APPENDIX TAB 6



OPPM

PHILIP GOODHART, ESQ.
Nevada Bar No. 5332
MEGHAN M. GOODWIN, ESQ.
Nevada Bar No. 11974
THORNDAL ARMSTRONG DELK
BALKENBUSH & EISINGER
Mailing Address: PO Box 2070
Las Vegas, Nevada 89125-2070
1100 East Bridger Avenue
Las Vegas, NV 89101-5315
Mail To:
P.O. Box 2070
Las Vegas, NV 89125-2070
Tel.: (702) 366-0622
Fax: (702) 366-0327
png@thorndal.com
mmg@thorndal.com

Attorneys for Defendants/Cross-
Defendants, FIRSTSTREET FOR
BOOMERS AND BEYOND, INC.,
and AITHR DEALER, INC.

DISTRICT COURT

CLARK COUNTY, NEVADA

ROBERT ANSARA, as Special Administrator of
the Estate of SHERRY LYNN CUNNISON,
Deceased; MICHAEL SMITH individually, and
heir to the Estate of SHERRY LYNN
CUNNISON, Deceased; and DEBORAH
TAMANTINI individually, and heir to the Estate
of SHERRY LYNN CUNNISON, Deceased,

Plaintiffs,

vs.

FIRST STREET FOR BOOMERS & BEYOND,
INC.; AITHR DEALER, INC.; HALE
BENTON, Individually; HOMECCLICK, LLC;
JACUZZI INC., doing business as JACUZZI
LUXURY BATH; BESTWAY BUILDING &
REMODELING, INC.; WILLIAM BUDD,
Individually and as BUDDS PLUMBING; DOES
1 through 20; ROE CORPORATIONS 1
through 20; DOE EMPLOYEES 1 through 20;
DOE MANUFACTURERS 1 through 20; DOE

CASE NO. A-16-731244-C
DEPT. NO. 2

**DEFENDANTS FIRSTSTREET AND
AITHR'S OPPOSITION TO
PLAINTIFFS' RENEWED MOTION
TO STRIKE DEFENDANTS
FIRSTSTREET AND AITHR'S
ANSWER TO PLAINTIFFS' FOURTH
AMENDED COMPLAINT**

Hearing Date:
Hearing Time:

20 INSTALLERS 1 through 20; DOE
CONTRACTORS 1 through 20; and DOE 21
SUBCONTRACTORS 1 through 20, inclusive,

Defendants.

HOMECLICK, LLC,

Cross-Plaintiff,

vs.

FIRST STREET FOR BOOMERS & BEYOND,
INC.; AITHR DEALER, INC.; HOMECLICK,
LLC; JACUZZI LUXURY BATH, doing
business as JACUZZI INC.; BESTWAY
BUILDING & REMODELING, INC.;
WILLIAM BUDD, individually, and as BUDDS
PLUMBING,

Cross-Defendants.

HOMECLICK, LLC, a New Jersey limited
liability company,

Third-Party Plaintiff,

vs.

CHICAGO FAUCETS, an unknown entity,

Third-Party Defendant.

BESTWAY BUILDING & REMODELING,
INC.,

Cross-Claimant,

vs.

FIRST STREET FOR BOOMERS & BEYOND,
INC.; AITHER DEALER, INC.; HALE
BENTON, individually; HOMECLICK, LLC;
JACUZZI LUXURY BATH, dba JACUZZI

1 INC.; WILLIAM BUDD, individually and as
2 BUDD'S PLUMBING; ROES I through X,

3 Cross-Defendants.

4 WILLIAM BUDD, individually and as BUDDS
5 PLUMBING,

6 Cross-Claimants,

7 vs.

8 FIRST STREET FOR BOOMERS & BEYOND,
9 INC.; AITHR DEALER, INC.; HALE
10 BENTON, individually; HOMECLICK, LLC;
11 JACUZZI INC., doing business as JACUZZI
12 LUXURY BATH; BESTWAY BUILDING &
13 REMODELING, INC.; DOES 1 through 20;
14 ROE CORPORATIONS 1 through 20; DOE
15 EMPLOYEES 1 through 20; DOE
16 MANUFACTURERS 1 through 20; DOE 20
17 INSTALLERS, 1 through 20; DOE
18 CONTRACTORS 1 through 20; and DOE 21
19 SUBCONTRACTORS 1 through 20, inclusive,

20 Cross-Defendants.

21 FIRSTSTREET FOR BOOMERS & BEYOND,
22 INC.; and AITHR DEALER, INC.,

23 Cross-Claimants,

24 v.

25 HOMECLICK, LLC; CHICAGO FAUCETS;
26 and WILLIAM BUDD, individually and as
27 BUDD'S PLUMBING,

28 Cross-Defendants.

1 **DEFENDANTS FIRSTSTREET AND AITHR'S OPPOSITION TO PLAINTIFFS'**
2 **RENEWED MOTION TO STRIKE DEFENDANTS FIRSTSTREET AND**
3 **AITHR'S ANSWER TO PLAINTIFFS' FOURTH AMENDED COMPLAINT**

4 Defendants firstSTREET and AITHR (collectively referred to as “firstSTREET”) hereby
5 file their Opposition to Plaintiffs’ Renewed Motion to Strike Defendants’ firstSTREET and
6 AITHR’s Answer to Plaintiffs’ Fourth Amended Complaint. This Opposition is based on the
7 following Memorandum of Points and Authorities, the exhibits attached hereto, the pleadings and
8 papers on file herein, and any oral argument this Court may consider.

9 **MEMORANDUM OF POINTS AND AUTHORITIES**

10 **I**

11 **INTRODUCTION**

12 This is Plaintiffs’ second attempt to strike firstSTREET’s Answer. As with the first motion,
13 which this Court denied, this is nothing more than yet another clever attempt by counsel to
14 manufacture a situation that does not exist to avoid litigating a complicated case by seeking
15 terminating sanctions for which there is no basis.

16 As with the first motion, this is simply an attempt to “piggyback” firstSTREET onto the
17 shoulders of Jacuzzi¹ without recognizing that Jacuzzi IS NOT firstSTREET and that firstSTREET
18 IS NOT Jacuzzi. firstSTREET’s role with the Jacuzzi Walk In Tub (“tub”) Ms. Cunnison
19 purchased was to market and advertise the tub to consumers in the hopes of obtaining customer
20 leads. firstSTREET would then provide dealers, such as AITHR, with the customer lead. The
21 dealer would then contact the customer and schedule an in-home presentation. Once scheduled,
22 the dealer would send out a sales representative to the customer’s home and, utilizing sales
23 materials developed by firstSTREET, attempt to secure a sale. Once the sale was finalized, the
24 dealer would coordinate the installation of the tub with various subcontractors in the dealers’
25 territory. Jacuzzi, on the other hand, was solely responsible for the design, testing and
26 manufacturing of the tub. **See Exhibit 1**, Affidavit of David Modena at ¶3.

27 Plaintiffs’ current motion is based entirely on their claim that firstSTREET failed to comply
28 with NRCP 16.1. It does not appear to be based on any alleged improper discovery responses, or

¹ Plaintiffs have been successful in having Jacuzzi’s Answer Stricken re liability only.

1 inadequate discovery responses, as Plaintiffs have not filed a single Motion to Compel or any other
2 Discovery Motion with the Discovery Commissioner against Defendants firstSTREET and
3 AITHR. Unlike Jacuzzi, there are no Orders from this Court, or the Discovery Commissioner, that
4 firstSTREET has violated. Moreover, Plaintiffs have not cited to a single Nevada case that supports
5 their argument that firstSTREET's Answer should be stricken simply because Plaintiffs believe that
6 it should have voluntarily produced certain documents and records.

7 II

8 BACKGROUND FACTS²

9 This is a *product liability* action involving vague claims that a Jacuzzi® model no. 5229
10 Walk-In Tub (the "tub") was defectively designed or that the warnings related to the tub were
11 insufficient. In October 2013, Decedent Sherry Cunnison ("Decedent") purchased the tub from
12 Defendant AITHR Dealer, Inc. ("AITHR"). During the sales presentation and prior to signing the
13 contract, Ms. Cunnison was warned that she would be a "very tight fit" in the tub. In fact, the
14 salesperson, Hale Benton, has testified that after he advised Ms. Cunnison that she might be a tight
15 fit, she indicated that she was aware of this, but that she was going to be losing weight and that the
16 walk-in tub was part of her weight loss plans. **See Exhibit 2**, deposition of Hale Benton, at 41:16-
17 21. Mr. Benton even went so far as to have Ms. Cunnison initial the contract affirming that these
18 concerns had been brought up with her and that she nevertheless wanted to proceed with the
19 purchase. **See Exhibit 3**.

20 Even after Mr. Benton's comments, as well as Ms. Cunnison's son's alleged concerns about
21 the price, Ms. Cunnison selected the tub and it was installed in her home on January 27, 2014. Ms.
22 Cunnison used the tub several times between the date of the installation and the date of this
23 incident. Ms. Cunnison's boyfriend at the time, William Lewis, has testified that when they lived
24 together she would shower every day. **See Exhibit 4** at 41:17 He has also testified that he was fully
25 aware of Ms. Cunnison's purchase of the tub, that she had used the tub, and that not once did she

26
27 ² firstSTREET understands, and appreciates, that this Court is intimately familiar with this case, but
28 there are still certain undisputed facts that the Court needs to understand when ruling on this
motion.

1 ever complain about having any problems at all with the tub (no drain issues, no door issues, and
2 no slipping issues) prior to this incident. *Id.* at 19:14 to 20:10.

3 Plaintiffs allege that about a month after installation, Ms. Cunnison was using the tub and
4 somehow became stuck and unable to exit.³ On February 21, 2014, at the request of Mr. Lewis, a
5 well-being check was performed and Ms. Cunnison was found in the tub by emergency personnel.⁴
6 While she was being extricated from the tub, the emergency personnel broke her left humerus
7 bone. She was eventually removed from the tub and transported to Sunrise Hospital. Over the next
8 several days, Ms. Cunnison's vital signs were closely monitored and she received numerous medical
9 consultations. Ultimately, on February 25, 2014, her treating doctors determined that she was stable
10 enough to repair her shoulder, and underwent an open reduction internal fixation of left distal
11 humeral shaft for her perioperative fracture. Ms. Cunnison developed sepsis following this
12 surgery and died at the hospital on February 27, 2014.⁵

13 Since the original Complaint was filed on February 3, 2016, Plaintiffs' claims and allegations
14 have materially changed. First, Plaintiffs claimed the incident was due to a defective draining system
15 that trapped Ms. Cunnison in the tub. Specifically, the original Complaint alleged that the incident
16 occurred when Ms. Cunnison "attempted [sic] exit the Jacuzzi walk-in tub by pulling the plug to let
17 the water drain, allowing her to open the Jacuzzi walk in tub's door and exit. The drain would not
18 release trapping SHERRY in the tub for 48 hours."⁶ Plaintiffs maintained that particular product
19 defect theory in the First and Second Amended Complaints. Since firstSTREET and AITHR were
20 in the chain of commerce for the tub, they were included as Defendants for the product liability
21 claims. When testing unequivocally proved that claim meritless, Plaintiffs changed their product
22 liability theory to vague references regarding the grab bars and inward opening door.

23 Plaintiffs Fourth Amended Complaint continued to allege causes of action against all
24

25 ³ See Plaintiffs' Fourth Amended Complaint, ¶ 27-29, attached as **Exhibit 5**.

26 ⁴ **Exhibit 5**, ¶ 31.

27 ⁵ **Exhibit 5**, ¶ 35.

28 ⁶ See Plaintiffs' Initial Complaint, ¶ 24, attached as **Exhibit 6**.

1 Defendants for negligence and strict product liability for defective design, manufacture, or failure to
2 warn, claiming that Defendants' actions were the cause of Ms. Cunnison's. Paragraph 40 of the
3 Fourth Amended Complaint refers to the dangerous condition as "the inability to get back up or
4 exit the tub if Plaintiff fell." Once again, firstSTREET and AITHR were included as Defendants
5 due to the allegation that they were the "retailers" of the defective product. However, unlike the
6 three previous Complaints, Plaintiffs for the first time included what appears to be allegations of
7 improper advertising and marketing in the claim for "Punitive Damages".⁷ **See Exhibit 5**, at
8 paragraphs 77 through 84.

9 III

10 DISCOVERY HISTORY

11 firstSTREET and AITHR submitted its initial NRCP 16.1 disclosures on August 4, 2017.
12 They produced their entire file for Ms. Cunnison – including the sales contract, all invoices, and LP
13 Notes. A first Supplement was submitted on September 20, 2018 and included many of the sales
14 and marketing materials used by firstSTREET and AITHR. A second supplement was produced on
15 November 5, 2018 and included over 900 pages of emails relating to the development of
16 firstSTREET's marketing and advertising campaign for the tub. A third supplement was produced
17 on December 26, 2018 that included more than 3300 pages of emails some of which made
18 reference to customer concerns over the slipperiness of the tub floor. Plaintiffs' counsel was
19 advised that firstSTREET had taken the position that any email that post-dated Ms. Cunnison's
20 death was not relevant to the claims asserted against firstSTREET, and would not be produced.

21 On January 18, 2019, a fourth supplement was produced. These included the names and
22 territories of other dealers (which was discussed in detail at firstSTREET's NRCP 30(b)(6)
23 deposition taken on December 11, 2018) as well as documents that were responsive to Plaintiffs'
24 written discovery. On January 25, 2019, a fifth supplement was produced.

25 On April 3, 2019, firstSTREET produced its sixth supplement that included all emails that
26

27 ⁷ Since the filing of the Fourth Amended Complaint, Plaintiffs have dismissed, without prejudice,
28 Defendants Bestway Building Building & Remodeling; Homeclick; William Budd and Budds
Plumbing; and Chicago Faucet Company.

1 post-dated Ms. Cunnison's death that addressed marketing and advertising issues, as well as
2 customer concerns over the slipperiness of the tub floor. As part of this production, firstSTREET
3 produced several customer surveys that had been provided to Jacuzzi in October 2014 discussing
4 concerns over the slipperiness of the tub floor. The emails also included discussions with Jacuzzi
5 concerning how to alleviate customer concerns by applying a "Kahuna Grip" to the surface.

6 These emails were produced less than 30 days after this Court's original minute order on
7 Plaintiffs' First Motion to Strike, wherein for the first time, this Court clarified that the scope of
8 discovery shall be - "incidents involving a Jacuzzi walk in tub with inward opening doors, for the
9 time period of January 1, 2008 through the date of the filing of the Complaint, where a person
10 slipped and fell, **whether or not there was an injury**, whether or not there was any warranty
11 claim, and whether or not there was a lawsuit." (Emphasis added). **See Exhibit 7.**

12 Then, on August 21, 2019, in response to Plaintiffs' Request for Production of Documents,
13 firstSTREET produced all surveys in its possession, regardless of the complaint. Even though
14 firstSTREET believed this was overbroad, it nevertheless produced hard copies of all surveys
15 firstSTREET itself sent out (pre-2015) as well as a *searchable Excel Spreadsheet* of all the
16 surveys conducted by a third party vendor – Guild (post 2015).

17 Plaintiffs and Defendants firstSTREET and AITHR have disputed the nature and extent
18 of the production required, and have engaged in, at best, two (2) distinct EDCR 2.34 Conferences
19 to discuss (1) a Privilege Log for Defendants' Second Supplemental Early Case Conference
20 Production; and (2) Plaintiffs demand for documents that post-date Plaintiffs date of loss. With
21 respect to the documents that post-dated Ms. Cunnison's death, the parties have had two separate
22 EDCR 2.34 Conferences. The first during the NRCP 30(b)(6) deposition of firstSTREET on
23 December 18, 2018 and the second during the witness deposition of Ruth Curnutte on August 7,
24 2019. During each of these discussions, firstSTREET and AITHR unequivocally advised Plaintiffs
25 that they would not be producing any documents that post-dated Plaintiffs' incident. Yet, in spite
26 of the position taken by firstSTREET and AITHR, Plaintiffs did not file a single motion with the
27 Discovery Commissioner seeking clarification on this position.

28 ///

1 IV

2 **firstSTREET AND AITHR HAVE NOT WITHHELD CRITICAL INFORMATION**

3 Plaintiffs claim that firstSTREET and AITHR have withheld critical information that
4 should have been produced as part of their NRCP 16.1 disclosures. First
5 STREET and AITHR dispute this claim and assert that they have produced all documents in their
6 possession that have been required to be produced under NRCP 16.1, and that they have
7 responded to all written discovery requests. The following will attempt to go through each
8 allegation and claim asserted by Plaintiffs in their motion.

9 **A. Fawkes Allegations**

10 The newest allegations appear to originate from Plaintiffs communications with a former
11 officer of AITHR – Nick Fawkes⁸. Leaving aside the issue as to whether or not this was proper
12 given Mr. Fawkes former position with AITHR, firstSTREET and AITHR dispute the implication
13 that it either withheld or destroyed documents and information.

14 **1. Telephone Recordings and LP Notes**

15 firstSTREET received Plaintiffs counsel’s letter of representation on, or about April 18,
16 2014. **See Exhibit 1**, Affidavit of David Modena at ¶8. Upon receipt of the letter, AITHR’s
17 General Manager, Nick Fawkes, was told to retain anything and everything related to Sherry
18 Cunnison in AITHR’s files, including, but not limited to, all recorded calls, emails, lead info, sales
19 info, notes, and documents. Mr. Fawkes was further instructed to ensure that nothing related to
20 Ms. Cunnison was destroyed. On May 1, 2014, Mr. Fawkes provided corporate counsel with all
21 documents that AITHR had relative to Ms. Cunnison. Mr. Fawkes also provided corporate counsel
22 with a summary of AITHR’s communications with Ms. Cunnison, including a summation of the
23 allegedly faulty drain handle. **See Exhibit 8**⁹. As this Court can plainly see, missing from this
24

25 ⁸ Interestingly, Plaintiffs “interviewed” Mr. Fawkes in early July 2020, and actually received the
26 recordings on July 8, 2020, yet never produced them until they filed the instant motion on October
27 9, 2020 – 3 months later.

28 ⁹ **This email was not produced by firstSTREET in this litigation because it is a privileged communication between corporate counsel and officers of firstSTREET and AITHR. By producing this email as an exhibit to this Opposition, firstSTREET in no way waives this**

1 summation is any reference to Ms. Cunnison begin trapped in the tub, having to “dive under”, or
2 having any other issue with the tub as referenced in the Affidavits of Mr. Fawkes and Ms. Doubek.
3 All of the information and documentation from Mr. Fawkes was subsequently turned over to
4 defense counsel.

5 Moreover, none of the materials provided by Mr. Fawkes included a voice recording of Ms.
6 Cunnison, or any reference to this “other” incident of being trapped in the tub. The first time
7 firstSTREET and AITHR learned of this recording was when this instant motion was filed.
8 However, when one listens to the recording of Ms. Cunnison produced by Plaintiff in their motion,
9 it is evident that it is virtually identical to the LP note dated 1/31/2014. **See Exhibit 9.** Moreover,
10 in listening to the tone of Ms. Cunnison’s voice, it is evident that she is neither upset nor in any
11 type of distress. She is simply asking if someone can come out and help her attach the drain lever
12 she had requested two days earlier.

13 What is most interesting about this video (Plaintiffs Exhibit 24), but not explained by
14 Plaintiffs, is that when one watches the “video” of Ms. Cunnison’s message, it is evident that the
15 video is a recording of someone’s cell phone. In other words, Ms. Cunnison’s message was left on
16 the cell phone voicemail of some unidentified person. Then, when you read the LP note for
17 1/31/14 it appears as though Ms. Cunnison had “called last night”. This entry is made by Annie
18 Doubek. This would logically imply that Ms. Cunnison called Ms. Doubek’s cell phone and left the
19 message. What this then evidences is that since this call did not come in on AITHR’s call system,
20 there would never have been a recording on the Five9 system.

21 Another interesting issue that is unanswered is why is this information about the cell phone
22 voicemail message not contained in Ms. Doubek’s affidavit? It is not even referenced in Mr.
23 Fawkes’ affidavit. So, where did this voicemail message come from? Who recorded the cell phone
24 while the voicemail was playing? Moreover, when examining the beta information for the video of
25 the cell phone taken while the voicemail is playing, it is apparent that the video of the cell phone
26 was made on 4/30/14 – 6 weeks after Ms. Cunnison’s death. Yet there are no answers from
27

28 **privilege for this communication, or any other communication between corporate counsel
and officers of firstSTREET and AITHR.**

1 Plaintiffs, Mr. Fawkes, or even Ms. Doubek as to why this video was ever made in the first place,
2 and why it was not provided to firstSTREET and AITHR when requested on April 21, 2014.¹⁰

3 Plaintiffs appear to infer that firstSTREET has nefariously deleted LP notes that were
4 harmful to its defense. firstSTREET vehemently denies these unfounded assertions/allegations. In
5 fact, once an entry is made into LP notes it cannot be altered, changed, revised or deleted. **See**
6 **Exhibit 1**, at ¶7.

7 In Mr. Fawkes affidavit, he states that he instructed/coached Annie Doubek to revise an
8 LP log entry (Plaintiffs Exhibit 21, Fawkes Affidavit at ¶17). If such instruction or coaching actually
9 took place it would have been a clear violation of AITHR's policies. **See Exhibit 1**, at ¶7 and ¶9.
10 Whether such an instruction or coaching actually took place is called into question not only by the
11 fact that LP notes could not be altered once inputted, but also by Annie Doudek's affidavit.
12 Significantly, this alleged event is not referenced anywhere in Ms. Doubek's affidavit. Ms. Doubek
13 never attests to being instructed or coached by Mr. Fawkes. Ms. Doubek never attests to deleting,
14 revising or altering an LP note. The obvious answer – it did not happen.

15 As noted, Mr. Fawkes statement the he coached Ms. Doubek and had her change the log
16 entry would be a clear violation of AITHR's policies. Yet Ms. Doubek never complained to any
17 superiors about this activity? When Ms. Doubek and Mr. Fawkes assembled Ms. Cunnison's file for
18 preservation they reviewed the LP notes and most certainly would have brought this to counsel's
19 attention. Nevertheless, that never happened because there has been no deletion of LP notes or
20 editing of LP notes.

21 **2. Five9 and RingCentral Allegations**

22 Mr. Fawkes' affidavit also makes reference to Five9 and RingCentral, and Plaintiffs infer
23 from this information that firstSTREET is in possession of numerous recordings of customer
24 complaints and concerns. The fact of the matter, as opposed to Plaintiffs' conspiracy fantasy, is that
25 Mr. Fawkes was in no way responsible for the use or integration of either of these programs, and

26
27 ¹⁰ For conspiracy buffs, one could wonder if it is just coincidence that this video is taken by some
28 unknown person shortly after a representation letter is received? Could there have been
communications from someone outside of AITHR to preserve this, and perhaps other information,
yet, not disclose that information to AITHR and firstSTREET?

1 would have little, if any knowledge, of them other than that they existed. Five9 was utilized by
2 AITHR and firstSTREET to receive inbound sales calls from toll free numbers published in
3 various direct to consumer advertising materials. The contract with Five9 states that Five9 will only
4 keep recorded calls for thirty (30) days after the call came in. During the time period that the
5 firstSTREET / Jacuzzi Manufacturing Agreement was in place, no recordings were not offloaded
6 to any server owned or utilized by firstSTREET or AITHR. Since notes for all calls were made and
7 recorded in the LP notes, there was no need to offload these recordings. **See Exhibit 1**, at ¶10.

8 RingCentral is a cloud based company phone system that was used by firstSTREET and
9 AITHR for inter office communications. Under this system, calls could be immediately sent to the
10 proper person based on the caller's entry of an extension for that individual. This is similar to "on
11 premise" systems where the caller would hear a pre-recorded greeting and be allowed to enter an
12 extension number, as opposed to going through a live receptionist. The "auto recording" feature
13 provided by RingCentral, if it was requested, was not made available to firstSTREET and AITHR
14 until late August 2015. **See Exhibit 1**, at ¶11.

15 **3. firstSTREET NRCP 30(b)(6) Deposition**

16 For the second time (the first being Plaintiffs Original Motion to Dismiss that was denied),
17 Plaintiffs try to argue that David Modena, firstSTREET and AITHR's NRCP 30(b)(6) designee has
18 been misleading or untruthful. *See* page 15, line 16 of Plaintiffs motion. Again, Plaintiffs fail to give
19 the Court the full picture, electing to pick out snippets of deposition testimony taken out of context
20 to support their conspiracy theories.

21 Prior to the NRCP 30(b)(6) deposition of firstSTREET and AITHR, Plaintiffs' counsel
22 submitted a list of topics on which examination is sought.¹¹ There Plaintiffs listed 53 different topic
23 areas. One of the topic "areas" is entitled "**OTHER SIMILAR INCIDENTS TESTIMONY**",¹²
24 and covers topic numbers 48, 50, 51 and 52. Under each of these topic areas Plaintiffs limited the
25 area of inquiry to "*prior incidents involving slips and falls while using or while exiting or*
26

27 ¹¹. *See Exhibit 10*

28 ¹² *See Exhibit 10*, at 11:14 to 12:11.

1 *entering any Jacuzzi products including not only the fall itself, but also the inability of an*
2 *end user to remove themselves after having had fallen inside the tub.”*

3 When Plaintiffs’ counsel first asked Mr. Modena questions about slips and falls causing
4 injury, Mr. Modena limited his response to incidents that pre-dated Plaintiffs loss ***because that is***
5 ***exactly what Plaintiffs limited him to in the deposition notice.*** For example, when responding
6 to a question concerning whether a significant complaint would reach his attention, Mr. Modena
7 responded:

8 A: ... it could be the situation like with the Cunnisons that was extremely
9 serious and very rare. ***I don’t – I can’t – I’m not sure if we – I can remember***
10 ***one even prior to that like that...***¹³

11 * * *

12 Q: So they didn’t stand out when you –

13 A: Well, I just – I honestly just can’t think of particular ones in general
14 because it just did not happen that – I mean, you would have people raising
15 concerns about certain things, but an actual injury? I just don’t – I’m just not – I
16 can’t recall. ***I don’t remember incidents, anything like this that come up to***
17 ***that point.*** (emphasis added).¹⁴

18 When asked about other potential incidents, Mr. Modena again qualified his answer to
19 those that took place prior to Ms. Cunnison’s loss.

20 A: ...but an actual injury? I don’t – I – I feel like there must have been one or
21 two. I just – I couldn’t tell you who they were and when they were, if it was before
22 that point in time.¹⁵

23 It was at this point in time where it became evident that Plaintiffs’ counsel was seeking to
24 question Mr. Modena beyond the topic areas that were designated in the NRCP 30(b)(6) deposition
25 notice. In light of this fact, firstSTREET’s counsel took a break to “re-educate” Mr. Modena on
26 ***post-loss*** incidents on which firstSTREET had been advised. This is evident by the discussion, on

27 ¹³ See **Exhibit 11**, at 22:10-16.

28 ¹⁴ *Id.*, at 26:17-23.

¹⁵ *Id.*, at. 27:5-8.