

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
Dec 16 2021 02:43 p.m.
Elizabeth A. Brown
Clerk of Supreme Court
District Court No.
A-16-731244-C
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**

**SUPPLEMENTAL APPENDIX TO PETITIONERS' REPLY BRIEF IN
SUPPORT OF PETITION FOR WRIT OF MANDAMUS**

Philip Goodhart
Nevada Bar No. 5332
Meghan M. Goodwin
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Dealer, Inc.;*

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| Plaintiff Robert Ansara's Fifth Request for Production of Documents to Defendant, First Street for Boomers & Beyond, Inc. | 07/03/2019 | PETITIONER-SA010 – PETITIONER-SA021 |
| Defendant, First Street for Boomers & Beyond, Inc.'s Response to Plaintiff Robert Ansara's Fifth Request for Production of Documents | 08/23/2019 | PETITIONER-SA022 – PETITIONER-SA039 |

DATED this 16th day of December, 2021.

THORNDAL ARMSTRONG DELK
BALKENBUSH & EISINGER

/s/ Philip Goodhart

PHILIP GOODHART, ESQ. (#5332)
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1100 East Bridger Avenue
Las Vegas, Nevada 89101-5315
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 December 16, 2021, I caused to be served a true and correct copy of the foregoing SUPPLEMENTAL APPENDIX TO PETITIONERS' REPLY BRIEF IN SUPPORT OF 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.

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NOTE – DEFENDANTS HOMECCLICK, LLC; BESTWAY BUILDING & REMODELING, INC.; WILLIAM BUDD, Individually and as BUDDS PLUMBING have previously been dismissed from this lawsuit, but the caption has not been amended/revised to reflect this. Therefore there has been no service on these parties.

/s/ Stefanie Mitchell

An Employee of Thorndal Armstrong Delk
Balkenbush & Eisinger



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ARMSTRONG**
DELK BALKENBUSH & EISINGER

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ATTORNEYS

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**PETITIONERS'
SUPPLEMENTAL
APPENDIX TAB 1**



REQT

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

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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 ALL RELATED MATTERS

CASE NO.: A-16-731244-C

DEPT NO.: II

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

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

Plaintiff Robert Ansara, as Special Administrator for 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 in the above-styled civil action (hereinafter, "Plaintiffs"), by and through their counsel of record, and pursuant to Rule 34, Nevada Rules of Civil Procedure, request that Defendant Jacuzzi, Inc., produce for inspection and copying, within thirty (30) days of service of this Request for Production of Documents, at the RICHARD HARRIS LAW FIRM, 801 South Fourth Street, Las Vegas, Nevada 89101, all documents in the possession, custody, or control of Defendant or otherwise available to Defendant, which are responsive to the requests contained in the numbered paragraphs below. Please specify which documents are produced in responses to each one of the numbered paragraphs.

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

In responding to these requests, the responding Defendant must furnish all requested materials not subject to a valid objection which is possessed by, in the custody of, or in the control of it or any of its attorneys, consultants, representatives, or other agents. If the responding Defendant is unable to fully respond to any of these requests, it must respond to them to the fullest extent possible, specifying the reasons for inability to response to the remainder.

PREAMBLE

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

1. "Plaintiff" refers to, without limitation, the above-named Plaintiffs, as well as Plaintiffs' attorney, agent, or representative.
2. "Complaint" refers to the Complaint filed by Plaintiffs in this action.
3. "Defendant," "you," or "your" refers to, without limitation, Jacuzzi, Inc., and all business entities with which it is or has been affiliated, together with any

predecessor, successor, parent, or subsidiary entity as well as any officer, director, 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 obtained information for or on behalf of it with regard to the subject matter of this case.

4. "Person" means any natural person (whether living or deceased), company, corporation, partnership, proprietorship, firm, joint venture, association, governmental entity, agency, group, organization, other entity, or group of persons.
5. "Document" means every writing or record of every type and description that is or has been in your possession, custody, or control or of which you have knowledge, including but not limited to correspondence, memoranda, tapes, stenographic or handwritten notes, studies, publications, books, pamphlets, pictures, drawings and photographs, films, microfilms, voice recordings, maps, reports, surveys, minutes or statistical compilations, or any other reported or graphic material in whatever form, including copies, drafts, and reproductions. "Document" also refers to any other data compilations from which information can be obtained, and translated, if necessary, by you through computers or detection devices into reasonably usable form. The term "document(s)" also includes, but is not limited to, all duplicates, carbon copies or any other copies of original documents, including copies with handwritten notes, revisions or interlineations.
6. "Communication" means e-mail, SMS message, MMS message, fax, letter, social media post, instant message, recorded audio, or, recorded video.
7. Terms in the singular shall be deemed to include the plural and terms in the plural shall be deemed to include the singular.
8. Use of feminine pronouns shall be deemed to include the masculine and neuter; use of masculine pronouns shall be deemed to include the feminine and neuter; and use of neuter pronouns shall be deemed to include the masculine and feminine.

- 1 9. "Identify": With respect to a document means set forth the following information,
2 regardless of whether such document is in your possession, if known: a general
3 description thereof (e.g., letter, memorandum, report, etc.); a brief summary of its
4 contents, or a description of the subject matter it concerns; the name and address
5 of the persons, if any, who drafted, prepared, compiled or signed it; and any other
6 descriptive information necessary in order to describe it adequately in a subpoena
7 duces tecum or in a motion or request for production thereof. With regard to a
8 person, the term "identify" means set forth the person's name, last known address
9 and telephone number, occupation, last known address and telephone number of
10 the person's place of employment, and a summary of the relevant knowledge
11 possessed by such person.
- 12 10. "And" and "or," as used herein, shall be construed disjunctively or conjunctively
13 as necessary to bring within the scope of these interrogatories or requests any
14 information that might otherwise be construed to be outside their scope.
- 15 11. "Evidencing" and or "relating to," as used herein, mean and include, in whole or
16 in part, referring to, with respect to, concerning, connected with, commenting on,
17 responding to, showing, describing, analyzing, reflecting and constituting.
- 18 12. If any document requested formerly was in your possession or subject to your
19 control but no longer is in your possession or subject to your control, state when
20 and what disposition was made of the document or documents.
- 21 13. The term "occurrence" means the incident complained out in the Plaintiff's
22 complaint.
- 23 14. If you assert the attorney-client privilege, work-product doctrine, or other privilege
24 or exclusion as to any document requested by any of the following specific
25 interrogatories or requests, please identify the document in sufficient detail to
26 permit the Court to reach a determination in the event of a Motion to Compel.
- 27 15. When the terms: Jacuzzi Walk-In Bathtub, Jacuzzi Tub, Walk-In Tub, Walk-In
28 Bathtub or similarly phrased words are used, the Plaintiffs mean the 5229 Walk-

1 in Bathtub Series or the bathtub that was utilized by Sherry Cunnison.

2 16. "FirstStreet" refers to, without limitation, FIRSTSTREET FOR BOOMERS &
3 BEYOND, INC, and all business entities with which it is or has been affiliated,
4 together with any predecessor, successor, parent, or subsidiary entity as well as
5 any officer, director, employee, attorney, agent, or representative of it or any such
6 other business entity previously described herein, and others who are in possession
7 of or may have obtained information for or on behalf of it with regard to the subject
8 matter of this case.

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

11 **UNLESS OTHERWISE NOTED, THE DOCUMENTS, RECORDS, AND DATA**
12 **REQUESTED ARE THOSE THAT APPLY TO AND/OR COVER ANY PART OF THE**
13 **TIME PERIOD FROM JANUARY 1, 2008, TO THE PRESENT.**

14 **DOCUMENTS TO BE PRODUCED**

15 **REQUEST NO. 68.**

16 Produce documents showing any design changes You made to any Jacuzzi walk-in tub
17 after the subject incident.

18 **REQUEST NO. 69.**

19 Produce documents showing any action You took or measures You implemented in
20 response to the subject incident which was intended to minimize the likelihood of an occurrence
21 similar to the subject incident from occurring other than measures relating to the design of the
22 subject walk-in tub. This request seeks documents relating to any procedural change, policy
23 change, or any other similar change which You made in response to the subject incident.

24 **REQUEST NO. 70.**

25 Produce documents showing any changes You made to Your policies or procedures
26 regarding the investigation, handling, or response to any claim of bodily injury involving walk-
27 in tubs which were made after the subject incident.

1 **REQUEST NO. 71.**

2 Produce any documents showing changes, alterations, or adjustments to Your marketing
3 materials for Jacuzzi Walk-In Tubs which were made after the subject incident.

4 **REQUEST NO. 72.**

5 Produce any documents showing changes, alterations, or adjustments to Your marketing
6 guidelines for Jacuzzi Walk-In Tubs which were made after the subject incident.

7 **REQUEST NO. 73.**

8 Produce any documents showing changes, alterations, or adjustments to Your advertising
9 guidelines to any distributor of Jacuzzi Walk-In Tubs which were made after the subject incident.

10 **REQUEST NO. 74.**

11 Produce any documents showing changes, alterations, or adjustments to any user manuals
12 for any Jacuzzi Walk-In Tub which were made after the subject incident.

13 **REQUEST NO. 75.**

14 Produce any communications between You and FirstStreet which relate to any changes to
15 marketing methods or advertising materials for Jacuzzi Walk-In Tubs which were made after the
16 subject incident.

17 **REQUEST NO. 76.**

18 Produce any communications between You and FirstStreet which relate to any changes to
19 Your required marketing methods or advertising materials regarding Jacuzzi walk-in tubs which
20 were made after the subject incident.

21 **REQUEST NO. 77.**

22 Produce documents relating to the 911 Call system discussed by the parties at the
23 September 19, 2018 hearing before the Discovery Commissioner. *See* generally, Sept. 19, 2018,
24 Transcript of Proceedings at 14-16. This request seeks documents, including internal and external
25 communications, regarding Your analysis and/or Your decision-making process relating to the
26 implementation of the 911 call system.

27 **REQUEST NO. 78.**

28 Please produce documents evidencing Your development, design, pre-implementation

1 analysis, and implementation of the 911 Call system which was discussed by the parties at the
2 September 19, 2018, hearing before the Discovery Commissioner. *See* generally, Sept. 19, 2018,
3 Transcript of Proceedings at 14-16.

4 **REQUEST NO. 79.**

5 Please produce all marketing materials – in any form of media – which include any
6 reference to the 911 Call system which was discussed by the parties at the September 19, 2018
7 hearing before the Discovery Commissioner. *See* generally, Sept. 19, 2018, Transcript of
8 Proceedings at 14-16.

9 **REQUEST NO. 80.**

10 Please produce all communications between You and FirstStreet regarding the 911 Call
11 system which was discussed by the parties at the September 19, 2018, hearing before the
12 Discovery Commissioner. *See* generally, Sept. 19, 2018, Transcript of Proceedings at 14-16.

13 **REQUEST NO. 81.**

14 Produce a copy of the specifications for the “sit-down seats for shower stalls” referenced
15 during the deposition of the NRCP 30(b)(6) designee, Michael A. Dominguez. *See* Michael A.
16 Dominguez Depo. Tran., at Vol. I, 10:10.

17 **REQUEST NO. 82.**

18 Section 2.G of the Manufacturing Agreement between FirstStreet and Jacuzzi, Bates-
19 stamped as Jacuzzi001588 thru Jacuzzi001606, refers to “Additional Products” for which Jacuzzi
20 granted a written trademark to FirstStreet. Please provide any and all documents related to the
21 “Additional Products” that Jacuzzi granted a written trademark agreement to FirstStreet.

22 **REQUEST NO. 83.**

23 Section 2.A of the Manufacturing Agreement between FirstStreet and Jacuzzi, Bates-
24 stamped as Jacuzzi001588 thru Jacuzzi001606, refers to the development and placement of
25 advertisements in “various sources and media, including but not limited to direct mail, Internet,
26 catalog, television, radio and print media.” Please produce all advertisements regarding Jacuzzi
27 walk-in tubs that You placed, distributed, or otherwise caused to be circulated in Clark County,
28

1 Nevada through “various sources and media, including but not limited to, direct mail, Internet,
2 catalog, television, radio and print media.”

3 DATED THIS 29th day of November, 2018.

4 **RICHARD HARRIS LAW FIRM**

5 /s/ Benjamin P. Cloward

6 BENJAMIN P. CLOWARD, ESQ.

7 Nevada Bar No. 11087

8 801 South Fourth Street

9 Las Vegas, Nevada 89101

10 *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 29th day of November, 2018, I caused to be served a true copy of the foregoing **PLAINTIFF ROBERT ANSARA'S FOURTH REQUEST FOR PRODUCTION OF DOCUMENTS TO JACUZZI INC., doing business as JACUZZI LUXURY BATH** 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

☐ Hand Delivery—By hand-delivery to the addresses listed 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.).

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/s/ Catherine Barnhill
An employee of RICHARD HARRIS LAW FIRM



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PETITIONERS' SUPPLEMENTAL APPENDIX TAB 2



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, HOMECCLICK, 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 FIFTH SET OF
REQUESTS FOR
PRODUCTION OF
DOCUMENTS TO
DEFENDANT,
FIRST STREET FOR
BOOMERS & BEYOND, INC.

AND ALL RELATED MATTERS

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

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

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

PREAMBLE

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

1. "Plaintiff" refers to, without limitation, the above-named Plaintiffs, as well as Plaintiffs' attorney, agent, or representative.
2. "Complaint" refers to the Complaint filed by Plaintiff in this action.
3. "Defendant," "you," or "your" refers to, without limitation, Jacuzzi, Inc., and all business entities with which it is or has been affiliated, together with any predecessor, successor, parent, or subsidiary entity as well as any officer, director, 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

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

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

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

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

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

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

9. "Identify": With respect to a document means set forth the following information, regardless of whether such document is in your possession, if known: a general 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.

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

DOCUMENTS TO BE PRODUCED

REQUEST NO. 95. Defendant *firstSTREET*'s NRCP 30(b)(6) witness, Dave Modena, testified at his deposition that he was aware of customer complaints or concerns regarding the slipperiness of certain Jacuzzi walk-in tubs. See generally, Deposition of Dave Modena - Vol. I, pp.40-59, December 11, 2018. Mr. Modena testified that there were e-mails exchanged between Jacuzzi and AITHR/*firstSTREET* relating to customer complaints regarding the slipperiness of the tub. See, Deposition of Dave Modena - Vol. I, 47:1-51:1, December 11, 2018. Please produce all communications between You and AITHR, Jacuzzi, or any dealer relating to customer complaints or concerns about the slipperiness of any Jacuzzi walk-in tubs. This request seeks information relating to the slipperiness of the walk-in tub surface, whether the floor or the seat.

REQUEST NO. 96. Defendant *firstSTREET*'s NRCP 30(b)(6) witness, Dave Modena, testified at his deposition that he was aware of customer complaints or concerns regarding the slipperiness of certain Jacuzzi walk-in tubs. See generally, Deposition of Dave Modena - Vol. I, pp.40-59, December 11, 2018. Mr. Modena testified that there were e-mails exchanged between Jacuzzi and AITHR/*firstSTREET* relating to customer complaints regarding the slipperiness of the tub. See, Deposition of Dave Modena - Vol. I, 47:1-51:1, December 11, 2018. Please produce all Documents relating to customer complaints or concerns made to You, directly or indirectly, regarding the slipperiness of any Jacuzzi walk-in tubs from 2008 to present. This request seeks such communications regardless of the method communication (e.g., direct communications from the user, or indirect communications from some customer service management company, marketing company, dealer, salesperson, or any other source.). This request seeks information relating to the slipperiness of the walk-in tub surface, whether the floor or the seat.

REQUEST NO. 97. Please produce all communications between You and AITHR, Jacuzzi, or any dealer relating to the decision to provide, sell, or otherwise making available the product referred to as "Kahuna Grip" by Dave Modena during his December 11, 2018 deposition.

REQUEST NO. 98. Please produce all communications between You and a customer or end-user (or family member, friend, counsel, agent, representative, or any other person acting on behalf

1 of a customer or end-user) of a Jacuzzi walk-in tub relating to the decision to provide, sell, or
2 otherwise making available the product referred to as “Kahuna Grip” by Dave Modena during his
3 December 11, 2018 deposition.

4 **REQUEST NO. 99.** Produce all communications between You and Jacuzzi, AITHR, or any
5 dealer pertaining to the decision to provide, sell, or otherwise make available any products other
6 than Kahuna Grip which were intended to decrease the likelihood of physical injury or bodily harm
arising from the use of a Jacuzzi walk-in tub.

7 **REQUEST NO. 100.** Please produce all communications You have received, directly or
8 indirectly, from a customer or end-user (or family member, friend, counsel, agent, representative,
9 or any other person acting on behalf of a customer or end-user) of a Jacuzzi walk-in tub
10 regarding the slipperiness of the tub’s **seat** and Your responses thereto. This request seeks such
11 information regardless of the method You became aware of the communication (e.g., directly
12 from the user, indirectly from some customer service management company, from a marketing
13 company, a dealer, a salesperson, or any other source.).

14 **REQUEST NO. 101.** Please produce all documents **relating to** communications You have
15 received, directly or indirectly, from a customer or end-user (or family member, friend, counsel,
16 agent, representative, or any other person acting on behalf of a customer or end-user) of a Jacuzzi
17 walk-in tub regarding the slipperiness of the tub’s **seat** and Your responses thereto. This request
18 seeks such information regardless of the method You became aware of the communication (e.g.,
19 directly from the user, indirectly from a customer service management company, from a marketing
company, a dealer, a salesperson, or any other source.).

20 **REQUEST NO. 102.** Please produce all Documents You created in the ordinary course of
21 business which arose out of You becoming aware of any customer or end-user (or family member,
22 friend, counsel, agent, representative, or any other person acting on behalf of a customer or end-
23 user) concern or complaint regarding the slipperiness of a Jacuzzi Walk-In tub’s **seat**.

24 **REQUEST NO. 103.** Please produce all documents pertaining to a customer or end-user (or
25 family member, friend, counsel, agent, representative, or any other person acting on behalf of a
26 customer or end-user) slipping off of the seat (or allegedly slipping off of the seat) of a Jacuzzi
walk-in tub from 2008 to present.

27 **REQUEST NO. 104.** Please produce all communications You have received, directly or
28 indirectly, from a customer or end-user (or family member, friend, counsel, agent, representative,

1 or any other person acting on behalf of a customer or end-user) of a Jacuzzi walk-in tub regarding
2 the slipperiness of the tub's **floor** and Your responses thereto. This request seeks such information
3 regardless of the method You became aware of the communication (e.g., directly from the user,
4 indirectly from some customer service management company, from a marketing company, a
5 dealer, a salesperson, or any other source.).

6 **REQUEST NO. 105.** Please produce all documents **relating to** communications You have
7 received, directly or indirectly, from a customer or end-user (or family member, friend, counsel,
8 agent, representative, or any other person acting on behalf of a customer or end-user) of a Jacuzzi
9 walk-in tub regarding the slipperiness of the tub's **floor** and Your responses thereto. This request
10 seeks such information regardless of the method You became aware of the communication (e.g.,
11 directly from the user, indirectly from a customer service management company, from a marketing
12 company, a dealer, a salesperson, or any other source.).

13 **REQUEST NO. 106.** Please produce all Documents You created in the ordinary course of
14 business which arose out of You becoming aware of any customer or end-user (or family member,
15 friend, counsel, agent, representative, or any other person acting on behalf of a customer or end-
16 user) concern or complaint regarding the slipperiness of a Jacuzzi Walk-In tub's **floor**.

17 **REQUEST NO. 107.** Please produce all documents pertaining to a customer or end-user slipping
18 on the floor (or allegedly slipping on the floor) of a Jacuzzi walk-in tub from 2008 to present.

19 **REQUEST NO. 108.** Please produce all communications You received, directly or indirectly,
20 from a customer or end-user (or family member, friend, counsel, agent, representative, or any other
21 person acting on behalf of a customer or end-user) of a Jacuzzi walk-in tub regarding concerns or
22 complaints relating to any actual or potential issues pertaining the ingress and egress of the tub;
23 and Your responses thereto. This request seeks such information regardless of the method You
24 became aware of the communication (e.g., directly from the user, indirectly from some customer
25 service management company, from a marketing company, a dealer, a salesperson, or any other
26 source.).

27 **REQUEST NO. 109.** Please produce all documents **relating to** communications You have
28 received, directly or indirectly, from a customer or end-user (or family member, friend, counsel,
agent, representative, or any other person acting on behalf of a customer or end-user) of a Jacuzzi
walk-in tub regarding concerns or complaints about any actual or potential risks pertaining to
ingress or egress issues of the tub and Your responses thereto. This request seeks such information

1 regardless of the method You became aware of the communication (e.g., directly from the user,
2 indirectly from a customer service management company, from a marketing company, a dealer, a
3 salesperson, or any other source.).

4 **REQUEST NO. 110.** Please produce all Documents You created in the ordinary course of
5 business which arose out of You becoming aware of any customer or end-user concern or
6 complaint about any actual or potential risks pertaining to ingress or egress issues of the tub.

7 **REQUEST NO. 111.** Please produce all documents pertaining to a customer or end-use of a
8 Jacuzzi walk-in tub getting stuck (or allegedly getting stuck) in a Jacuzzi walk-in tub from 2008
9 to present.

10 **REQUEST NO. 112.** Please produce all communications You have received, directly or
11 indirectly, from a customer or end-user (or family member, friend, counsel, agent, representative,
12 or any other person acting on behalf of a customer or end-user) of a Jacuzzi walk-in tub regarding
13 the placement of the tub's grab-bars and Your responses thereto. This request seeks such
14 information regardless of the method You became aware of the communication (e.g., directly from
15 the user, indirectly from some customer service management company, from a marketing
16 company, a dealer, a salesperson, or any other source.).

17 **REQUEST NO. 113.** Please produce all documents **relating to** communications You have
18 received, directly or indirectly, from a customer or end-user (or family member, friend, counsel,
19 agent, representative, or any other person acting on behalf of a customer or end-user) of a Jacuzzi
20 walk-in tub regarding the placement of the tub's grab-bars and Your responses thereto. This
21 request seeks such information regardless of the method You became aware of the communication
22 (e.g., directly from the user, indirectly from a customer service management company, from a
23 marketing company, a dealer, a salesperson, or any other source.).

24 **REQUEST NO. 114.** Please produce all Documents You created in the ordinary course of
25 business which arose out of You becoming aware of any customer or end-user concern or
26 complaint regarding the placement of a Jacuzzi Walk-In tub's grab-bars.

27 **REQUEST NO. 115.** Please produce all documents pertaining to a customer or end-user of a
28 Jacuzzi walk-in tub being unable to reach a grab bar (or allegedly being unable to reach a grab bar)
in a Jacuzzi walk-in tub from 2008 to present.

REQUEST NO. 116. Any documents You made in the ordinary course of business in response
to, or which arose out of, any customer or end-user contending or alleging that a Jacuzzi Walk-In

1 tub was defective (or somehow did not meet the user's expectations) due to the slipperiness of the
2 tub surface (whether the floor or seat).

3 **REQUEST NO. 117.** Any documents You made in the ordinary course of business in response
4 to, or which arose out of, any customer or end-user contending or alleging that a Jacuzzi Walk-In
5 tub was defective (or somehow did not meet the user's expectations) in any way the customer or
6 end user's ability to ingress or egress in or out of the tub.

7 **REQUEST NO. 118.** Any documents You made in the ordinary course of business in response
8 to, or which arose out of, any customer or end-user contending or alleging that a Jacuzzi Walk-In
9 tub presented an unexpected a risk of bodily injury or physical harm.

10 **REQUEST NO. 119.** Produce all communications You received, directly or indirectly, from any
11 customer or end-user (or family member, friend, counsel, agent, representative, or any other person
12 acting on behalf of a customer or end-user) of a Jacuzzi Walk-In bathtub in which the customer
13 or end-user contends, alleges, or states a concern that a Jacuzzi Walk-In tub was presented any
14 type of risk of bodily injury or physical harm.

15 **REQUEST NO. 120.** Produce all communications You received, directly or indirectly, from any
16 customer or end-user (or family member, friend, counsel, agent, representative, or any other person
17 acting on behalf of a customer or end-user) of a Jacuzzi Walk-In bathtub in which the customer
18 or end-user contends that a Jacuzzi walk-in tub did not meet the user's expectations due to concerns
19 regarding a risk of bodily injury or physical harm.

20 **REQUEST NO. 121.** Please produce all communications between You and Audrey Martinez of
21 Jacuzzi, Inc. regarding any complaint, allegation, or concern from a customer or user (or family
22 member, friend, representative, or agent communicating on behalf of a customer or end-user) of
23 a Jacuzzi Walk-In bathtub that a Jacuzzi Walk-In bathtub presented any actual or possible risk
24 that did cause, or could cause, bodily injury or physical harm.

25 **REQUEST NO. 122.** Please produce all communications between You and Jacuzzi, Inc.
26 regarding any complaint, allegation, or concern from a customer or user (or family member, friend,
27 representative, or agent communicating on behalf of a customer or end-user) of a Jacuzzi Walk-In
28 bathtub that a Jacuzzi Walk-In bathtub presented any actual or possible risk that did cause, or could
cause, bodily injury or physical harm.

1 **REQUEST NO. 123.** Please produce all communications between You and AITHR or any other
2 dealer regarding any complaint, allegation, or concern from a customer or user (or family member,
3 friend, representative, or agent communicating on behalf of a customer or end-user) of a Jacuzzi
4 Walk-In bathtub that a Jacuzzi Walk-In bathtub presented any actual or possible risk that did cause,
5 or could cause, bodily injury or physical harm.

6 **REQUEST NO. 124.** Please produce all Documents, informational brochures, pamphlets,
7 marketing materials, guides, instructions, manuals, warnings, or any other similar document which
8 was given to any customer or end-user regarding the 9-1-1 system – regardless of whether such 9-
9 1-1 system is a Jacuzzi product.

10 **REQUEST NO. 125.** Please produce any communications between You and any dealer relating
11 to any dealer's sales methods, procedures, or policies related to the marketing and sales of Jacuzzi
12 Walk-In tubs to customers or end-users.

13 **REQUEST NO. 126.** Please produce any communications between You and any dealer relating
14 to any dealer's sales methods pertaining to the marketing and sales of Jacuzzi Walk-In tubs to
15 customers or end-users.

16 **REQUEST NO. 127.** Please produce any communications between You and any dealer relating
17 to any dealer's sales methods pertaining the marketing and sales of Jacuzzi Walk-In tubs to
18 customers or end-users.

19 **REQUEST NO. 128.** Please produce any communications between You and Jacuzzi or any dealer
20 relating to any dealer or dealer sales representative's in-home sales methods, policies, or
21 procedures.

22 **REQUEST NO. 129.** Please produce any Documents in Your possession or control relating to
23 dealer or dealer sales representative in-home sales methods, policies, or procedures.

24 **REQUEST NO. 130.** Please produce all documents in Your possession relating to representing
25 any bonus, deferred compensation or incentive compensation plans, programs, perks or
26 agreements between any dealer and any sales-representatives.
27
28

1 **REQUEST NO. 131.** Please produce all documents in Your possession relating to any sales
2 incentive plans, contests or commission plans, including individual goals, payout targets, achieved
3 goals and payouts for dealer sales representatives.

4 DATED THIS 3rd 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 3rd day of July, 2019, I caused to be served a true copy of the foregoing, **PLAINTIFF ROBERT ANSARA'S FIFTH 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.).

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Philip Goodhart, Esq.
Thorndal Armstrong Delk Balkenbush & Eisinger
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Attorneys for Defendant/Cross-Defendant, Jacuzzi, Inc. dba Jacuzzi Luxury Bath

/s/ Nicole M. Griffin

An employee of RICHARD HARRIS LAW FIRM



**THORNDAL
ARMSTRONG**
DELK BALKENBUSH & EISINGER

A PROFESSIONAL CORPORATION

ATTORNEYS

www.thorndal.com

**PETITIONERS'
SUPPLEMENTAL
APPENDIX TAB 3**

1 **RSPN**

2 PHILIP GOODHART, ESQ.

3 Nevada Bar No. 5332

4 MICHAEL C. HETHEY, ESQ.

5 Nevada Bar No. 5668

6 MEGHAN M. GOODWIN, ESQ.

7 Nevada Bar No. 11974

8 THORNDAL ARMSTRONG DELK

9 BALKENBUSH & EISINGER

10 Mailing Address: PO Box 2070

11 Las Vegas, Nevada 89125-2070

12 1100 East Bridger Avenue

13 Las Vegas, NV 89101-5315

14 Mail To:

15 P.O. Box 2070

16 Las Vegas, NV 89125-2070

17 Tel.: (702) 366-0622

18 Fax: (702) 366-0327

19 png@thorndal.com

20 mch@thorndal.com

21 mmg@thorndal.com

22 Attorneys for Defendants/Cross-

23 Defendants, FIRSTSTREET FOR

24 BOOMERS AND BEYOND, INC.,

25 AITHR DEALER, INC., and HALE BENTON

26 **DISTRICT COURT**

27 **CLARK COUNTY, NEVADA**

28 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

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

**DEFENDANT, FIRSTSTREET FOR
BOOMERS AND BEYOND, INC.'S
RESPONSE TO PLAINTIFF
ROBERT ANSARA'S FIFTH SET OF
REQUESTS FOR PRODUCTION OF
DOCUMENTS**

1 through 20; DOE EMPLOYEES 1 through 20;
2 DOE MANUFACTURERS 1 through 20; DOE
3 20 INSTALLERS 1 through 20; DOE
4 CONTRACTORS 1 through 20; and DOE 21
5 SUBCONTRACTORS 1 through 20, inclusive,

6 Defendants.

7 HOMECLICK, LLC,

8 Cross-Plaintiff,

9 vs.

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

17 Cross-Defendants.

18 HOMECLICK, LLC, a New Jersey limited
19 liability company,

20 Third-Party Plaintiff,

21 vs.

22 CHICAGO FAUCETS, an unknown entity,

23 Third-Party Defendant.

24 BESTWAY BUILDING & REMODELING,
25 INC.,

26 Cross-Claimant,

27 vs.

28 FIRST STREET FOR BOOMERS & BEYOND,
INC.; AITHER DEALER, INC.; HALE

1 BENTON, individually; HOMECLICK, LLC;
2 JACUZZI LUXURY BATH, dba JACUZZI
3 INC.; WILLIAM BUDD, individually and as
4 BUDD'S PLUMBING; ROES I through X,

5 Cross-Defendants.

6 WILLIAM BUDD, individually and as BUDDS
7 PLUMBING,

8 Cross-Claimants,

9 vs.

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

22 Cross-Defendants.

23 FIRSTSTREET FOR BOOMERS & BEYOND,
24 INC.; and AITHR DEALER, INC.,

25 Cross-Claimants,

26 v.

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

Cross-Defendants.

1 **DEFENDANT, FIRSTSTREET FOR BOOMERS AND BEYOND, INC.'S RESPONSE**
2 **TO PLAINTIFF ROBERT ANSARA'S FIFTH SET OF REQUESTS FOR**
3 **PRODUCTION OF DOCUMENTS**

4 TO: ROBERT ANSARA, Plaintiff; and

5 TO: RICHARD HARRIS LAW FIRM, attorneys for Plaintiff:

6 COMES NOW Defendant, FIRSTSTREET FOR BOOMERS AND BEYOND, INC., by
7 and through its attorneys, the law firm of THORNDAL ARMSTRONG DELK BALKENBUSH
8 & EISINGER, and hereby responds to Plaintiff's Fifth Set of Requests for Production of
9 Documents as follows:

10 **REQUEST NO.:**

11 95. Defendant firstSTREET's NRCP 30(b)(6) witness, Dave Modena, testified at his
12 deposition that he was aware of customer complaints or concerns regarding the slipperiness of
13 certain Jacuzzi walk-in tubs. See generally, Deposition of Dave Modena – Vol. I, pp.40-59,
14 December 11, 2018. Mr. Modena testified that there were e-mails exchanged between Jacuzzi and
15 AITHR/firstSTREET relating to customer complaints regarding the slipperiness of the tub. See
16 Deposition of Dave Modena – Vol. I, 47:1-51:1, December 11, 2018. Please produce all
17 communications between You and AITHR, Jacuzzi, or any dealer relating to customer complaints
18 or concerns about the slipperiness of any Jacuzzi walk-in tubs. This request seeks information
19 relating to the slipperiness of the walk-in tub surface, whether the floor or the seat.

20 **RESPONSE:** All documents responsive to this request that Defendant firstSTREET has been
21 able to locate have previously been produced as part of Defendant firstSTREET's NRCP 16.1
22 Early Case Conference Production and all Supplements thereto.

23 96. Defendant firstSTREET's NRCP NRCP 30(b)(6) witness, Dave Modena, testified
24 at his deposition that he was aware of customer complaints or concerns regarding the slipperiness
25 of certain Jacuzzi walk-in tubs. See generally, Deposition of Dave Modena – Vol. I, pp.40-59,
26 December 11, 2018. Mr. Modena testified that there were e-mails exchanged between Jacuzzi and
27 AITHR/firstSTREET relating to customer complaints regarding the slipperiness of the tub. See
28 Deposition of Dave Modena – Vol. I, 47:1-51:1, December 11, 2018. Please produce all
 Documents relating to customer complaints or concerns made to You, directly or indirectly,

1 regarding the slipperiness of any Jacuzzi walk-in tubs from 2008 to present. This request seeks such
2 communications regardless of the method communication (e.g., direct communications from the
3 user, or indirect communications from some customer service management company, marketing
4 company, dealer, salesperson, or any other source.). This request seeks information relating to the
5 slipperiness of the walk-in tub surface, whether the floor or the seat.

6 **RESPONSE:** All documents responsive to this request that Defendant firstSTREET has been
7 able to locate have previously been produced as part of Defendant firstSTREET's NRCP 16.1
8 Early Case Conference Production and all Supplements thereto.

9 97. Please produce all communications between You and AITHR, Jacuzzi, or any
10 dealer relating to the decision to provide, sell, or otherwise making available the product referred to
11 as "Kahuna Grip" by Dave Modena during his December 11, 208 deposition.

12 **RESPONSE:** All documents responsive to this request that Defendant firstSTREET has been
13 able to locate have previously been produced as part of Defendant firstSTREET's NRCP 16.1
14 Early Case Conference Production and all Supplements thereto.

15 98. Please produce all communications between You and a customer or end-user (or
16 family member, friend, counsel, agent, representative, or any other person acting on behalf of a
17 customer or end-user) of a Jacuzzi walk-in tub relating to the decision to provide, sell, or otherwise
18 making available the product referred to as "Kahuna Grip" by Dave Modena during his December
19 11, 2018 deposition.

20 **RESPONSE:** All documents responsive to this request that Defendant firstSTREET has been
21 able to locate have previously been produced as part of Defendant firstSTREET's NRCP 16.1
22 Early Case Conference Production and all Supplements thereto.

23 99. Produce all communications between You and Jacuzzi, AITHR, or any dealer
24 pertaining to the decision to provide, sell, or otherwise making available any products other than
25 Kahuna Grip which were intended to decrease the likelihood of physical injury or bodily harm
26 arising from the use of a Jacuzzi walk-in tub.

27 **RESPONSE:** All documents responsive to this request that Defendant firstSTREET has been
28 able to locate have previously been produced as part of Defendant firstSTREET's NRCP 16.1

1 Early Case Conference Production and all Supplements thereto.

2 100. Please produce all communications You have received, directly or indirectly, from a
3 customer or end-user (or family member, friend, counsel, agent, representative, or any other person
4 acting on behalf of a customer or end-user) of a Jacuzzi walk-in tub regarding the slipperiness of
5 the tub's seat and Your responses thereto. This request seeks such information regardless of the
6 method You became aware of the communication (e.g., directly from the user, indirectly from
7 some customer service management company, from a marketing company, a dealer, a salesperson,
8 or any other source).

9 **RESPONSE:** All documents responsive to this request that Defendant firstSTREET has been
10 able to locate have previously been produced as part of Defendant firstSTREET's NRCP 16.1
11 Early Case Conference Production and all Supplements thereto.

12 101. Please produce all documents relating to communications You have received,
13 directly or indirectly, from a customer or end-user (or family member, friend, counsel, agent,
14 representative, or any other person acting on behalf of a customer or end-user) of a Jacuzzi walk-in
15 tub regarding the slipperiness of the tub's seat and Your responses thereto. This request seeks such
16 information regardless of the method You became aware of the communication (e.g., directly from
17 the user, indirectly from a customer service management company, from a marketing company, a
18 dealer, a salesperson, or any other source).

19 **RESPONSE:** All documents responsive to this request that Defendant firstSTREET has been
20 able to locate have previously been produced as part of Defendant firstSTREET's NRCP 16.1
21 Early Case Conference Production and all Supplements thereto.

22 102. Please produce all Documents You created in the ordinary course of business which
23 arose out of You becoming aware of any customer or end-user (or family member, friend, counsel,
24 agent, representative, or any other person acting on behalf of a customer or end-user) concern or
25 complaint regarding the slipperiness of a Jacuzzi Walk-In tub's seat.

26 **RESPONSE:** All documents responsive to this request that Defendant firstSTREET has been
27 able to locate have previously been produced as part of Defendant firstSTREET's NRCP 16.1
28 Early Case Conference Production and all Supplements thereto.

1 103. Please produce all documents pertaining to a customer or end-user (or family
2 member, friend, counsel, agent, representative, or any other person acting on behalf of a customer
3 or end-user) slipping off of the seat (or allegedly slipping off of the seat) of a Jacuzzi walk-in tub
4 from 2008 to present.

5 **RESPONSE:** All documents responsive to this request that Defendant firstSTREET has been
6 able to locate have previously been produced as part of Defendant firstSTREET's NRCP 16.1
7 Early Case Conference Production and all Supplements thereto.

8 104. Please produce all communications You have received, directly or indirectly, from a
9 customer or end-user (or family member, friend, counsel, agent, representative, or any other person
10 acting on behalf of a customer or end-user) of a Jacuzzi walk-in tub regarding the slipperiness of
11 the tub's floor and Your responses thereto. This request seeks such information regardless of the
12 method You became aware of the communication (e.g., directly from the user, indirectly from
13 some customer service management company, from a marketing company, a dealer, a salesperson,
14 or any other source).

15 **RESPONSE:** All documents responsive to this request that Defendant firstSTREET has been
16 able to locate have previously been produced as part of Defendant firstSTREET's NRCP 16.1
17 Early Case Conference Production and all Supplements thereto.

18 105. Please produce all documents relating to communications You have received,
19 directly or indirectly, from a customer or end-user (or family member, friend, counsel, agent,
20 representative, or any other person acting on behalf of a customer or end-user) of a Jacuzzi walk-in
21 tub regarding the slipperiness of the tub's floor and Your responses thereto. This request seeks
22 such information regardless of the method You became aware of the communication (e.g., directly
23 from the user, indirectly from some customer service management company, from a marketing
24 company, a dealer, a salesperson, or any other source).

25 **RESPONSE:** All documents responsive to this request that Defendant firstSTREET has been
26 able to locate have previously been produced as part of Defendant firstSTREET's NRCP 16.1
27 Early Case Conference Production and all Supplements thereto.

28 / / /

1 106. Please produce all Documents You created in the ordinary course of business which
2 arose out of You becoming aware of any customer or end-user (or family member, friend, counsel,
3 agent, representative, or any other person acting on behalf of a customer or end-user) concern or
4 complaint regarding the slipperiness of a Jacuzzi Walk-In tub's floor.

5 **RESPONSE:** All documents responsive to this request that Defendant firstSTREET has been
6 able to locate have previously been produced as part of Defendant firstSTREET's NRCP 16.1
7 Early Case Conference Production and all Supplements thereto.

8 107. Please produce all documents pertaining to a customer or end-user slipping on the
9 floor (or allegedly slipping on the floor) of a Jacuzzi walk-in tub from 2008 to present.

10 **RESPONSE:** All documents responsive to this request that Defendant firstSTREET has been
11 able to locate have previously been produced as part of Defendant firstSTREET's NRCP 16.1
12 Early Case Conference Production and all Supplements thereto.

13 108. Please produce all communications You received, directly or indirectly, from a
14 customer or end-user (or family member, friend, counsel, agent, representative, or any other person
15 acting on behalf of a customer or end-user) of a Jacuzzi walk-in tub regarding concerns or
16 complaint relating to any actual or potential issues pertaining the ingress and egress of the tub; and
17 Your responses thereto. This request seeks such information regardless of the method You became
18 aware of the communication (e.g., directly from the user, indirectly from some customer service
19 management company, from a marketing company, a dealer, a salesperson, or any other source).

20 **RESPONSE:** All documents responsive to this request that Defendant firstSTREET has been
21 able to locate have previously been produced as part of Defendant firstSTREET's NRCP 16.1
22 Early Case Conference Production and all Supplements thereto.

23 109. Please produce all documents relating to communications You have received,
24 directly or indirectly, from a customer or end-user (or family member, friend, counsel, agent,
25 representative, or any other person acting on behalf of a customer or end-user) of a Jacuzzi walk-in
26 tub regarding concerns or complaints about any actual or potential risks pertaining to ingress or
27 egress issues of the tub and Your responses thereto. This request seeks such information regardless
28 of the method You became aware of the communication (e.g., directly from the user, indirectly

1 from a customer service management company, from a marketing company, a dealer, a salesperson,
2 or any other source).

3 **RESPONSE:** All documents responsive to this request that Defendant firstSTREET has been
4 able to locate have previously been produced as part of Defendant firstSTREET's NRCP 16.1
5 Early Case Conference Production and all Supplements thereto.

6 110. Please produce all Documents You created in the ordinary course of business which
7 arose out of You becoming aware of any customer or end-user concern or complaint about any
8 actual or potential risks pertaining to ingress or egress issues of the tub.

9 **RESPONSE:** All documents responsive to this request that Defendant firstSTREET has been
10 able to locate have previously been produced as part of Defendant firstSTREET's NRCP 16.1
11 Early Case Conference Production and all Supplements thereto.

12 111. Please produce all documents pertaining to a customer or end-use of a Jacuzzi walk-
13 in tub getting stuck (or allegedly getting stuck) in a Jacuzzi walk-in tub from 2008 to present.

14 **RESPONSE:** All documents responsive to this request that Defendant firstSTREET has been
15 able to locate have previously been produced as part of Defendant firstSTREET's NRCP 16.1
16 Early Case Conference Production and all Supplements thereto.

17 112. Please produce all communications You have received, directly or indirectly, from a
18 customer or end-user (or family member, friend, counsel, agent, representative, or any other person
19 acting on behalf of a customer or end-user) of a Jacuzzi walk-in tub regarding the placement of the
20 tubs grab-bars and Your responses thereto. This request seeks such information regardless of the
21 method You became aware of the communication (e.g., directly from the user, indirectly from
22 some customer service management company, from a marketing company, a dealer, a salesperson,
23 or any other source).

24 **RESPONSE:** All documents responsive to this request that Defendant firstSTREET has been
25 able to locate have previously been produced as part of Defendant firstSTREET's NRCP 16.1
26 Early Case Conference Production and all Supplements thereto.

27 / / /

28 / / /

1 113. Please produce all documents relating to communications You have received,
2 directly or indirectly, from a customer or end-user (or family member, friend, counsel, agent,
3 representative, or any other person acting on behalf of a customer or end-user) of a Jacuzzi walk-in
4 tub regarding the placement of the tub's grab-bars and Your responses thereto. This request seeks
5 such information regardless of the method You became aware of the communication (e.g., directly
6 from the user, indirectly from a customer service management company, from a marketing
7 company, a dealer, a salesperson, or any other source).

8 **RESPONSE:** All documents responsive to this request that Defendant firstSTREET has been
9 able to locate have previously been produced as part of Defendant firstSTREET's NRCP 16.1
10 Early Case Conference Production and all Supplements thereto.

11 114. Please produce all Documents You created in the ordinary course of business which
12 arose out of You becoming aware of any customer or end-user concern or complaint regarding the
13 placement of a Jacuzzi Walk-In tub's grab-bars.

14 **RESPONSE:** All documents responsive to this request that Defendant firstSTREET has been
15 able to locate have previously been produced as part of Defendant firstSTREET's NRCP 16.1
16 Early Case Conference Production and all Supplements thereto.

17 115. Please produce all documents pertaining to a customer or end-user of a Jacuzzi
18 walk-in tub being unable to reach a grab bar (or allegedly being unable to reach a grab bar) in a
19 Jacuzzi walk-in tub from 2008 to present.

20 **RESPONSE:** All documents responsive to this request that Defendant firstSTREET has been
21 able to locate have previously been produced as part of Defendant firstSTREET's NRCP 16.1
22 Early Case Conference Production and all Supplements thereto.

23 116. Any documents You made in the ordinary course of business in response to, or
24 which arose out of, any customer or end-user contending or alleging that a Jacuzzi Walk-In tub was
25 defective (or somehow did not meet the user's expectations) due to the slipperiness of the tub
26 surface (whether the floor or seat).

27 / / /

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1 **RESPONSE:** All documents responsive to this request that Defendant firstSTREET has been
2 able to locate have previously been produced as part of Defendant firstSTREET's NRCP 16.1
3 Early Case Conference Production and all Supplements thereto.

4 117. Any documents You made in the ordinary course of business in response to, or
5 which arose out of, any customer or end-user contending or alleging that a Jacuzzi Walk-In tub was
6 defective (or somehow did not meet the user's expectations) in any way the customer or end user's
7 ability to ingress or egress in or out of the tub.

8 **RESPONSE:** All documents responsive to this request that Defendant firstSTREET has been
9 able to locate have previously been produced as part of Defendant firstSTREET's NRCP 16.1
10 Early Case Conference Production and all Supplements thereto.

11 118. Any documents You made in the ordinary course of business in response to, or
12 which arose out of, any customer or end-user contending or alleging that a Jacuzzi Walk-In tub
13 presented an unexpected a risk of bodily injury or physical harm.

14 **RESPONSE:** All documents responsive to this request that Defendant firstSTREET has been
15 able to locate have previously been produced as part of Defendant firstSTREET's NRCP 16.1
16 Early Case Conference Production and all Supplements thereto.

17 119. Produce all communications You received, directly or indirectly, from any customer
18 or end-user (or family member, friend, counsel, agent, representative, or any other person acting on
19 behalf of a customer or end-user) of a Jacuzzi Walk-In bathtub in which the customer or end-user
20 contends, alleges, or states a concern that a Jacuzzi Walk-In tub was presented any type of risk of
21 bodily injury or physical harm.

22 **RESPONSE:** All documents responsive to this request that Defendant firstSTREET has been
23 able to locate have previously been produced as part of Defendant firstSTREET's NRCP 16.1
24 Early Case Conference Production and all Supplements thereto.

25 120. Produce all communications You received, directly or indirectly, from any customer
26 or end-user (or family member, friend, counsel, agent, representative, or any other person acting on
27 behalf of a customer or end-user) of a Jacuzzi Walk-In bathtub in which the customer or end-user
28 contends that a Jacuzzi walk-in tub did not meet the user's expectations due to concerns regarding

1 a risk of bodily injury or physical harm.

2 **RESPONSE:** All documents responsive to this request that Defendant firstSTREET has been
3 able to locate have previously been produced as part of Defendant firstSTREET's NRCP 16.1
4 Early Case Conference Production and all Supplements thereto.

5 121. Please produce all communications between You and Audrey Martinez of Jacuzzi,
6 Inc. regarding any complaint, allegation, or concern from a customer or user (or family member,
7 friend, representative, or agent communicating on behalf of a customer or end-user) of a Jacuzzi
8 Walk-In bathtub that a Jacuzzi Walk-In bathtub presented any actual or possible risk that did cause,
9 or could cause, bodily injury or physical harm.

10 **RESPONSE:** All documents responsive to this request that Defendant firstSTREET has been
11 able to locate have previously been produced as part of Defendant firstSTREET's NRCP 16.1
12 Early Case Conference Production and all Supplements thereto.

13 122. Please produce all communications between You and Jacuzzi, Inc. regarding any
14 complaint, allegation, or concern from a customer or user (or family member, friend,
15 representative, or agent communicating on behalf of a customer or end-user) of a Jacuzzi Walk-In
16 bathtub that a Jacuzzi Walk-In bathtub presented any actual or possible risk that did cause, or could
17 cause, bodily injury or physical harm.

18 **RESPONSE:** All documents responsive to this request that Defendant firstSTREET has been
19 able to locate have previously been produced as part of Defendant firstSTREET's NRCP 16.1
20 Early Case Conference Production and all Supplements thereto.

21 123. Please produce all communications between You and AITHR or any other dealer
22 regarding any complaint, allegation, or concern from a customer or user (or family member, friend,
23 representative, or agent communicating on behalf of a customer or end-user) of a Jacuzzi Walk-In
24 bathtub that a Jacuzzi Walk-In bathtub presented any actual or possible risk that did cause, or could
25 cause, bodily injury or physical harm.

26 **RESPONSE:** All documents responsive to this request that Defendant firstSTREET has been
27 able to locate have previously been produced as part of Defendant firstSTREET's NRCP 16.1
28 Early Case Conference Production and all Supplements thereto.

1 124. Please produce all Documents, informational brochures, pamphlets, marketing
2 materials, guides, instructions, manuals, warnings, or any other similar document which was given
3 to any customer or end-user regarding the 9-1-1 system – regardless of whether such 9-1-1 system
4 is a Jacuzzi product.

5 **RESPONSE:** Defendant firstSTREET did not advertise or promote the use of a 9-1-1 system as
6 part of the sale of the Jacuzzi Walk-In-Tub. Rather, the 9-1-1 system was a “gift” or “bonus” to
7 customers that purchased the Jacuzzi Walk-In-Tub during a certain time period (July 2014 through
8 October 2015) and was reflected in various print ads wherein the potential customer was told “Ask
9 how you can get a FREE \$200 gift. Attached as Exhibit A is a sample print ad with the \$200 gift,
10 which during the relevant time period would have been the 9-1-1 system. All documents responsive
11 to this request will be produced.

12 125. Please produce any communications between You and any dealer relating to any
13 dealer’s sales methods, procedures, or policies related to the marketing and sales of Jacuzzi Walk-In
14 tubs to customers or end-users.

15 **RESPONSE:** All documents responsive to this request that Defendant firstSTREET has been
16 able to locate have previously been produced as part of Defendant firstSTREET’s NRCP 16.1
17 Early Case Conference Production and all Supplements thereto.

18 126. Please produce any communications between You and any dealer relating to any
19 dealer’s sales methods pertaining to the marketing and sales of Jacuzzi Walk-In tubs to customers
20 or end-users.

21 **RESPONSE:** All documents responsive to this request that Defendant firstSTREET has been
22 able to locate have previously been produced as part of Defendant firstSTREET’s NRCP 16.1
23 Early Case Conference Production and all Supplements thereto.

24 127. Please produce any communications between You and any dealer relating to any
25 dealer’s sales methods pertaining the marketing and sales of Jacuzzi Walk-In tubs to customers or
26 end-users.

27 **RESPONSE:** All documents responsive to this request that Defendant firstSTREET has been
28 able to locate have previously been produced.

1 128. Please produce any communications between You and Jacuzzi or any dealer relating
2 to any dealer or dealer sales representative's in-home sales methods, policies, or procedures.

3 **RESPONSE:** All documents responsive to this request that Defendant firstSTREET has been
4 able to locate have previously been produced as part of Defendant firstSTREET's NRCP 16.1
5 Early Case Conference Production and all Supplements thereto.

6 129. Please produce any Documents in Your possession or control relating to dealer or
7 dealer sales representative in-home sales methods, policies or procedures.

8 **RESPONSE:** All documents responsive to this request that Defendant firstSTREET has been
9 able to locate have previously been produced as part of Defendant firstSTREET's NRCP 16.1
10 Early Case Conference Production and all Supplements thereto.

11 130. Please produce all documents in Your possession relating to representing any
12 bonus, deferred compensation or incentive compensation plans, programs, perks or agreements
13 between any dealer and any sales-representatives.

14 **RESPONSE:** There was no bonus, deferred compensation or incentive compensation plans,
15 programs, perks or agreements between Defendant firstSTREET and any dealer and any sales-
16 representatives, and therefore, there are no documents responsive to this request.

17 131. Please produce all documents in Your possession relating to any sales incentive
18 plans, contests or commission plans, including individual goals, payout targets, achieved goals and
19 payouts for dealer sales representatives.

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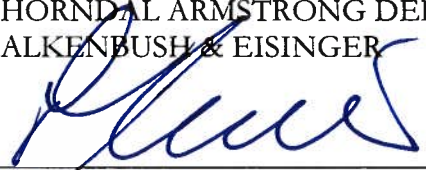
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1 **RESPONSE:** There was no sales incentive plans, contests or commission plans, including
2 individual goals, payout targets, achieved goals and payouts between Defendant firstSTREET and
3 any dealer sales representatives., and, therefore, there are no documents responsive to this request.

4 DATED this 23rd day of August, 2019.

5 THORNDAL ARMSTRONG DELK
6 BALKENBUSH & EISINGER

7 
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16 Attorneys for Defendants/Cross-Defendants,
17 FIRSTSTREET FOR BOOMERS AND BEYOND,
18 INC., AITHR DEALER, INC., and HALE
19 BENTON
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1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that on the 23rd day of August, 2019, service of the above and
3 foregoing DEFENDANT, FIRSTSTREET FOR BOOMERS AND BEYOND, INC.'S
4 RESPONSE TO PLAINTIFF ROBERT ANSARA'S FIFTH SET OF REQUESTS FOR
5 PRODUCTION OF DOCUMENTS was made upon each of the parties via electronic service
6 through the Eighth Judicial District Court's Odyssey E-File and Serve system.

7
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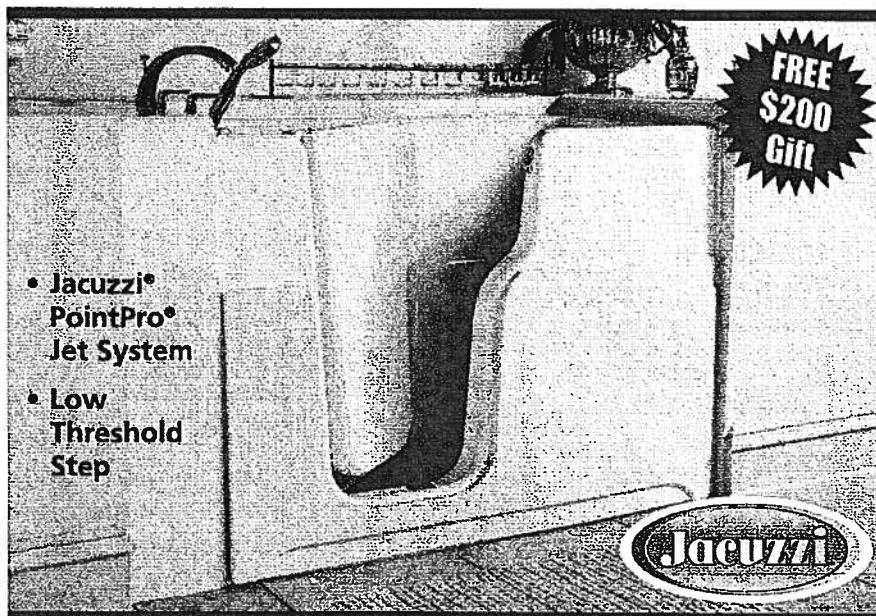
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18 _____
19 An employee of THORNDAL ARMSTRONG
20 DELK BALKENBUSH & EISINGER
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**THORNDAL
ARMSTRONG**
DELK BALKENBUSH & EISINGER
A PROFESSIONAL CORPORATION
ATTORNEYS
www.thorndal.com

EXHIBIT A

Enjoy A Bath Again... Safely and Affordably

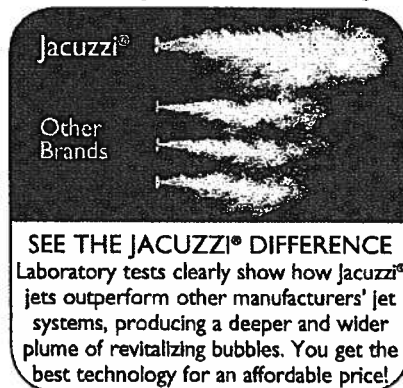


*The Jacuzzi® Walk-In tub is luxurious,
feature-packed and affordable*

There is nothing like the simple pleasure of taking a warm bath. The cares of the day seem to fade away, along with the aches and pains of everyday life. Unfortunately for many aging Americans with mobility issues, slipping into a bath can result in slipping onto the floor. The fear of falling has made the simple act of bathing and its therapeutic benefits a thing of the past until now. Jacuzzi®, the company that perfected hydrotherapy, has created a walk-in tub that offers more than just safe bathing, peace-of-mind and independence, it can actually help you feel better.

Unlike traditional bathtubs, this Walk-In Tub features a leak-proof door that allows you to simply step into the tub rather than stepping precariously over the side. It features a state-of-the-art acrylic surface, a raised seat, and the controls are within easy reach. No other Walk-In Tub features the patented Jacuzzi® PointPro® jet system. These high-volume, low-pressure pumps feature a perfectly balanced water to air ratio to massage thoroughly yet gently,

Some swirl, some spiral, some deliver large volumes of water and others target specific pressure points. They are all arranged in precise locations designed



to deliver a therapeutic massage, yet they are fully adjustable so that your bathing experience can be completely unique.

Why spend another day wishing you could enjoy the luxury and pain-relieving benefits of a safe, comfortable bath? Call now and you'll get an unsurpassed limited lifetime warranty. Knowledgeable product experts are standing by to help you learn more about this product. Call Today!

What To Look For in a Walk-In Tub:

Five major considerations to help make an informed decision before buying a Walk-In Tub:

- ➡ **Quality** - A walk-in tub is a major investment. You want to find a quality tub that will last for decades. Look for one that's 100% leak-proof, mold-resistant, full metal frame construction and one that's American made.
- ➡ **Warranty** - Ask for a lifetime "no leak guarantee." The best tubs offer a lifetime warranty on both the tub and the operating system.
- ➡ **Pain Relieving Therapy** - Find a tub that has both water and air jet therapy to soak away your aches and pains preferably with a perfectly balanced water to air mix. This tub is the first to offer a specialized foot massage experience. Its unique spinning motion provides optimal therapy to feet and legs. Best of all, you get it at no additional charge.
- ➡ **Comfort** - Insist on ergonomic design, easy-to-reach controls.
- ➡ **Endorsements** - Only consider tubs that are ETL or UL listed. Also look for a tub tested to IAPMO standards and that's USPC Certified.

Jacuzzi® Walk-In Tub

Call Toll Free NOW
Ask how you can get
a FREE \$200 gift

1-800-000-0000

Call now Toll-Free and mention your special promotion code XXXXX.

Third-party financing available with approved credit.
Aging in the Home Remodelers Inc.
is neither a broker nor a lender.
Not available in Hawaii and Alaska
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