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**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

DESIGN BASICS, LLC; PLAN §
PROS, INC.; and CARMICHAEL & §
DAME DESIGNS, INC., §

Plaintiff, §

Case No.: 1:16-cv-00364

vs. §

JURY DEMANDED

MICHAEL SHRADER, d/b/a, Palladian §
Home Design, Palladian Home Designs, §
Palladian Blueprints, Palladian Drafting & §
Design Services, Palladian Architectural §
Drafting & Design Services, and Palladian §
Design/Build, §

Defendant. §

ORIGINAL COMPLAINT

Plaintiffs, Design Basics, LLC, Plan Pros, Inc., and Carmichael & Dame Designs, Inc., file this Complaint against Michael Shrader, doing business as Palladian Home Design, Palladian Home Designs, Palladian Blueprints, Palladian Drafting & Design Services, Palladian Architectural Drafting & Design Services and Palladian Design/Build (“Shrader”), and for their causes of action allege the following:

Parties

1. Design Basics, LLC, is a Nebraska Limited Liability Company with its principal place of business in Omaha, Nebraska. Under Articles of Merger executed on July 1, 2009, Design Basics, LLC, is the successor by merger to Design Basics, Inc., and as such is the owner of all assets (including copyrights, trade and service names, trade and service marks, and all

causes of action) that Design Basics, Inc., owned as of that date. Design Basics, LLC, and its predecessor (Design Basics, Inc.) will hereinafter be referred to as “Design Basics.”

2. Design Basics is engaged in the business of creating, marketing, publishing and licensing the use of “architectural works” (as that term is defined in the Copyright Act and the Architectural Works Copyright Protection Act of 1990, both codified at 17 U.S.C. § 101 et seq.) and technical drawings depicting such architectural works.

3. Plan Pros, Inc. (“Plan Pros”), is a corporation organized under the laws of Nebraska with its principal office in Omaha, Nebraska.

4. Plan Pros is engaged in the business of creating, marketing, publishing and licensing the use of “architectural works” (as that term is defined in the Copyright Act and the Architectural Works Copyright Protection Act of 1990, both codified at 17 U.S.C. § 101 et seq.) and technical drawings depicting such architectural works.

5. Carmichael & Dame Designs Inc. (“Carmichael & Dame”), is a corporation organized under the laws of Texas with its principal office located in Omaha, Nebraska.

6. Carmichael & Dame is engaged in the business of creating, marketing, publishing and licensing the use of “architectural works” (as that term is defined in the Copyright Act and the Architectural Works Copyright Protection Act of 1990, both codified at 17 U.S.C. § 101 et seq.) and technical drawings depicting such architectural works.

7. Defendant Shrader, is an Indiana resident doing business as Palladian Home Design, Palladian Home Designs, Palladian Blueprints, Palladian Drafting & Design Services, Palladian Architectural Drafting & Design Services and Palladian Design/Build. Upon information and belief, Shrader resides and does business at 6155 Guion Road, Indianapolis,

Indiana 46254. Shrader's principal business activity is the operation of a residential design studio.

Jurisdiction and Venue

8. This Court has subject matter jurisdiction of this case under 28 U.S.C. §§ 1331 and 1338(a) because this action arises under federal copyright law, 17 U.S.C. § 101 *et seq.*

9. Venue is proper in this District under 28 U.S.C. § 1400(a) because the defendant may be found in this District. Furthermore, or in the alternative, venue is proper in this District under 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to the claims at issue occurred in this District; and defendant resides and does business in this District.

Factual Background

10. Plaintiffs are building design firms which create, market, and license the use of "architectural works" (as that term is defined in the Copyright Act and the Architectural Works Copyright Protection Act of 1990 (the "AWCPA")) and technical drawings depicting architectural works. Plaintiffs own copyrights protecting the architectural works and technical drawings they have created.

11. Plaintiffs are the authors and the owners of copyrights in hundreds of works which have been registered with the United States Copyright Office, including Design Basics' Plan No. 1380 – Paterson (U.S. Copyright Registration Nos. 314-024 & 694-094); Design Basics' Plan No. 1752 – Lancaster (U.S. Copyright Registration Nos. 371-204, 694-094 & 756-041); Design Basics' Plan No. 2332 – Corinth (U.S. Copyright Registration Nos. 485-066, 694-088 & 710-606); Carmichael & Dame's Plan No. 9169 – Kempton Court (U.S. Copyright Registration Nos. 867-084 & 867-087); and Plan Pros' Plan No. 29303 – Bloom (U.S. Copyright Registration Nos. 1-397-448 & 1-412-560) (the "Copyrighted Works").

12. The Copyrighted Works have been published in various Design Basics, Plan Pros, and Carmichael & Dame plan books and publications. A chart that identifies some of those plan books that published the Copyrighted Works is attached as Exhibit A. The Copyrighted Works have also been published by Design Basics on the internet at www.designbasics.com.

13. The Copyrighted Works constitute original material that is copyrightable under federal law.

14. Plaintiffs are currently, and at all relevant times have been, the sole owner of all right, title and interest in and to the works described in paragraphs 10-12 above.

15. On or about July 8, 2013, Plaintiffs first became aware that Shrader had violated their copyrights in one or more distinct ways, when Plaintiffs discovered that Shrader had illegally redrawn Design Basics' Plan No. 2332 - Corinth for a local home builder.

16. Shrader has infringed the Copyrighted Works and other Design Basics', Plan Pros', and Carmichael & Dame's copyrighted works on one or more occasions by, *inter alia*, creating one or more derivative works from said plans for one or more of his customers.

17. The illicit acts of Shrader, described in paragraphs 13-14 were done without permission or license from Plaintiffs, in violation of Plaintiffs' exclusive copyrights in said works.

18. Shrader has regularly and systematically infringed Plaintiffs' copyrights and those of other designers and architects in original architectural works, and has induced others, including individual homeowners, contractors and other entities and individuals engaged in the business of home building to infringe Plaintiffs' copyrights in its original architectural works, to the profit of Shrader, contractors and other home builders, and to Plaintiffs' detriment.

19. Upon information and belief, Shrader has infringed the copyrights in other original architectural works of Plaintiffs, the scope and breadth of which infringing activities will be ascertained during the course of discovery.

20. Plaintiffs' home designs, including the Copyrighted Works, have been marketed for years on a nationwide basis, including in this District, by means of plan books and other publications and also by means of the internet, including many websites.

21. Shrader has been actually aware of Plaintiffs and the works that Plaintiffs market. At all times material to this case, Shrader has had a reasonable opportunity to have viewed the Copyrighted Works.

22. Upon information and belief, Shrader has violated and continues to violate Plaintiffs' exclusive rights in the Copyrighted Works (including the right to reproduce, the right to prepare derivative works and the right to sell), by copying, publishing, distributing, advertising, marketing, selling and/or constructing in the marketplace, plans, drawings and houses which were copied or otherwise derived from the Copyrighted Works.

Cause of Action for Non-Willful Copyright Infringement

Count 1

23. Plaintiffs re-allege and incorporate, as if fully set forth herein, paragraphs 1 through 22 above.

24. Shrader, without knowledge or intent, infringed Plaintiffs' copyrights in one or more of the works identified and described above, by scanning, copying, and/or reproducing unauthorized copies thereof, in violation of 17 U.S.C. §106(1), and on information and belief, has done so with others of Plaintiffs' works which are as yet undiscovered.

Count 2

25. Plaintiffs re-allege and incorporate, as if fully set forth herein, paragraphs 1 through 22 above.

26. Shrader, without knowledge or intent, infringed Plaintiffs' copyrights in one or more of the works identified and described above, by publicly displaying, on his web site(s) and elsewhere, for purposes of advertising and marketing, unauthorized copies and/or or derivatives thereof, in violation of 17 U.S.C. §106(5), and on information and belief, has done so with others of Plaintiffs' works which are as yet undiscovered.

Count 3

27. Plaintiffs re-allege and incorporate, as if fully set forth herein, paragraphs 1 through 22 above.

28. Shrader, without knowledge or intent, infringed Plaintiffs' copyrights in one or more of the works identified and described above, by creating derivatives therefrom, in violation of 17 U.S.C. §106(2), and on information and belief, has done so with others of Plaintiffs' works which are as yet undiscovered.

Count 4

29. Plaintiffs re-allege and incorporate, as if fully set forth herein, paragraphs 1 through 22 above.

30. Shrader, without knowledge or intent, infringed Plaintiffs' copyrights in one or more of the works identified and described above, by inducing others to build one or more houses based upon copies or derivatives of said works, in violation of 17 U.S.C. §106(1), and on information and belief, has done so with others of Plaintiffs' works which are as yet undiscovered.

Alternative Causes of Action for Willful Copyright Infringement

Count 5

31. Plaintiffs re-allege and incorporate, as if fully set forth herein, paragraphs 1 through 22 above.

32. Alternatively, Shrader willfully infringed Plaintiffs' copyrights in one or more of the works identified and described above, by scanning, copying, and/or reproducing unauthorized copies thereof, in violation of 17 U.S.C. §106(1), and on information and belief, has done so with others of Plaintiffs' works which are as yet undiscovered.

Count 6

33. Plaintiffs' re-allege and incorporate, as if fully set forth herein, paragraphs 1 through 22 above.

34. Alternatively, Shrader willfully infringed Plaintiffs' copyrights in one or more of the works identified and described above, by publicly displaying, on his web site(s) and elsewhere, for purposes of advertising and marketing, unauthorized copies or derivatives thereof, in violation of 17 U.S.C. §106(5), and on information and belief, has done so with others of Plaintiffs' works which are as yet undiscovered.

Count 7

35. Plaintiffs re-allege and incorporate, as if fully set forth herein, paragraphs 1 through 22 above.

36. Alternatively, Shrader willfully infringed Plaintiffs' copyrights in one or more of the works identified and described above, by creating derivatives there from in violation of 17 U.S.C. §106(2), and on information and belief, has done so with others of Plaintiffs' works which are as yet undiscovered.

Count 8

37. Plaintiffs re-allege and incorporate, as if fully set forth herein, paragraphs 1 through 22 above.

38. Alternatively, Shrader willfully infringed Plaintiffs' copyrights in one or more of the works identified and described above, by inducing others to build one or more houses based upon copies or derivatives of said works, in violation of 17 U.S.C. §106(1), and on information and belief, has done so with others of Plaintiffs' works which are as yet undiscovered.

Jury Demand

39. Pursuant to Federal Rule of Civil Procedure 38, Plaintiffs' respectfully demand a trial by jury of all issues so triable.

WHEREFORE, Design Basics, LLC, Plan Pros, Inc., and Carmichael & Dame Designs, Inc., demand that judgment be entered in its favor and against Michael Shrader as follows:

- a. For an accounting by Michael Shrader of his activities in connection with his infringements of Plaintiffs' copyrights in and to the above-described works, as well as of the gross profits and revenue attributable to his infringement(s);
- b. For Plaintiffs' actual damages, in an amount to be determined at trial;
- c. For Shrader's direct and indirect profits attributable to his infringements, including but not limited to those direct and indirect profits derived from the construction, advertising, promotion, marketing, and sale of infringing structures, in an amount to be determined at trial;
- d. In the alternative and at Plaintiffs' option, post-verdict, Plaintiffs' seek an award of statutory damages in lieu of actual damages for the infringement

of any one or more of its works, described above, in an amount to be determined at trial;

- e. Plaintiffs' actual attorney fees, court costs, taxable costs, and the cost associated with the retention, preparation and testimony of expert witnesses;
- f. For both temporary and permanent injunctions barring Shrader, his agents, employees and/or servants, from infringing Plaintiffs' copyrights in any manner whatsoever, including the advertising, marketing, construction, and sale of infringing structures, and further barring Shrader from publishing through any visual media, and from selling, marketing or otherwise distributing copies of Plaintiffs' plans and/or derivatives thereof;
- g. An order requiring Shrader to produce, for impounding during the pendency of this action and for destruction thereafter, all house plans and elevations which infringe Plaintiffs' copyrights, including all photographs, blueprints, film negatives, magnetic tapes, digitally scanned and/or stored images, and all machines and devices by which such infringing copies may be reproduced, viewed or disseminated, which are in the possession of, or under the direct or indirect control of Shrader; and
- h. For such other relief as the Court determines to be just and equitable.

Respectfully submitted,

/s/ John D. LaDue

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Sean J. Quinn (29441-71)

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