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**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF INDIANA  
FORT WAYNE DIVISION**

DESIGN BASICS, LLC; PLAN §  
PROS, INC.; and W.L. MARTIN HOME §  
DESIGNS LLC, §

Plaintiffs, §

Case No.: 1:16-cv-00181

vs. §

**JURY DEMANDED**

FIRESIDE HOMES INC; FIRESIDE §  
DEVELOPMENT COMPANY, LLC d/b/a §  
Fireside Homes Development Company; §  
HEARTH HOMES, INC.; WILLIES §  
DEVELOPMENT CORPORATION; and §  
OAKBROOK HOMES, INC. d/b/a §  
Juniper Homes, Oakbrook Homes, Willie’s §  
Oakbrook Homes and Riverview Lumber §  
And Building Supply Co., Inc., §

Defendants. §

**ORIGINAL COMPLAINT**

Plaintiffs, Design Basics, LLC, Plan Pros, Inc., and W.L. Martin Home Designs LLC, file this Complaint against Fireside Homes Inc (“FHI”); Fireside Development Company, LLC, doing business as Fireside Homes Development Company (“FDC”); Hearth Homes, Inc. (“HHI”); Willies Development Corporation (“WDC”); and Oakbrook Homes, Inc., doing business as Juniper Homes, Oakbrook Homes, Willie’s Oakbrook Homes And Riverview Lumber And Building Supply Co., Inc. (“OHI”) (collectively “Defendants”), 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 Nebraska corporation with its principal place of business 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 AWCPA) and technical drawings depicting such architectural works.

5. W.L. Martin Home Designs LLC is a Florida limited liability company with its principal place of business in Jacksonville, Florida. W.L. Martin Home Designs LLC will hereinafter be referred to as “WLM.”

6. WLM 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. At all relevant times, FHI was a corporation organized under the laws of the State of Indiana with its principal place of business in Elkhart County, Indiana. FHI may be served through its registered agent, Timothy Miller, 21920 C.R. 45, Goshen, Indiana 46526.

8. At all relevant times, FDC was a limited liability company organized under the laws of the State of Indiana with its principal place of business in Elkhart County, Indiana. FDC may be served through its registered agent, Timothy Miller, 61333 County Rd 11, Goshen, Indiana 46526.

9. At all relevant times, HHI was a corporation organized under the laws of the State of Indiana with its principal place of business in Elkhart County, Indiana. HHI may be served through its registered agent, Timothy Miller, 21920 County Road 45, Goshen, Indiana 46528.

10. At all relevant times, WDC was a corporation organized under the laws of the State of Indiana with its principal place of business in Elkhart County Indiana. WDC may be served through its registered agent, James Heinen, 30677 Old US 20 West, Elkhart, Indiana 46514.

11. At all relevant times, OHI was a corporation organized under the laws of the State of Indiana with its principal place of business in Elkhart County Indiana. OHI may be served through its registered agent, James Heinen, 30677 Old US 20 West, Elkhart, Indiana 46514.

### **Jurisdiction and Venue**

12. This Court has subject matter jurisdiction of this case under 28 U.S.C. § 1338 because this action arises under federal copyright law, 17 U.S.C. § 101 et seq.

13. Venue is proper in this District under 28 U.S.C. § 1400(a) because Defendants 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 Defendants reside and do business in this District.

**Factual Background**

14. Design Basics, Plan Pros, and WLM are building design firms that 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. Both firms own copyrights protecting the architectural works and technical drawings they have created.

15. Design Basics is the author and the owner of all copyrights in the following works, each of which has been registered with the United States Copyright Office:

| Title                        | Registration Certificate No.    |
|------------------------------|---------------------------------|
| Plan No. 2226 – Wycliffe     | VA 434-195, 889-020 & 1-926-485 |
| Plan No. 2245 – Tyndale      | VA 434-205, 710-606 & 1-924-168 |
| Plan No. 2377 – Leighton     | VA 485-142, 757-614 & 1-942-396 |
| Plan No. 2578 – Kaiser       | VA 524-251, 710-606 & 1-928-399 |
| Plan No. 2761 – Mayberry     | VA 513-792, 710-606 & 1-926-488 |
| Plan No. 2907 – Ashley       | VA 624-090, 624-091 & 826-741   |
| Plan No. 2952 – Francis      | VA 624-098, 624-099 & 784-226   |
| Plan No. 8030 – Burton Place | VA 729-255 & 748-980            |
| Plan No. 8093 – Kirby Farm   | VA 729-218 & 729-227            |

16. Plan Pros is the author and the owner of all copyrights in the work titled Plan No. 29087 – Mannelly, which has been registered with the United States Copyright Office as Registration Certificate Nos. VA 1-434-070 & 1-907-856.

17. WLM is the author and the owner of all copyrights in the works titled: Plan No. 24173 – Nichols, which has been registered with the United States Copyright Office as Registration Certificate No. VA 1-042-017; and Plan No. 24081 – Given, which has been registered with the United State Copyright Office as Registration Certificate No. VA 1-174-371.

18. The foregoing works described in paragraphs 15-17 above will be referred to collectively as the “Copyrighted Works.”

19. The Copyrighted Works have been published in various Design Basics, Plan Pros, and WLM plan books and publications, and on websites such as [www.designbasics.com](http://www.designbasics.com) and [www.wlmartinhomes.com](http://www.wlmartinhomes.com).

20. Each of the Copyrighted Works constitutes original material that is copyrightable under federal law.

21. Design Basics is currently, and at all relevant times has been, the sole owner of all right, title and interest in and to the works described in paragraph 15 above.

22. Plan Pros is currently, and at all relevant times has been, the sole owner of all right, title and interest in and to the works described in paragraph 16 above.

23. WLM is currently, and at all relevant times has been, the sole owner of all right, title and interest in and to the works described in paragraph 17 above.

24. Defendants have been engaged, at least in part, in the business of creating, publishing, distributing and advertising residential home designs through traditional print media, on the internet on sites such as [www.firesidehomesinc.com](http://www.firesidehomesinc.com), [www.hearthhomesinc.com](http://www.hearthhomesinc.com), and in marketing, advertising, constructing and selling homes built according to such designs.

25. Defendants have published, distributed, marketed and advertised certain architectural designs for single family residential homes, each consisting of a floor plan and exterior elevations, that Defendants have identified and marketed under the following model names: The Concept Home, Model 1400, Model 1200, Model 1600, Model 1650, Model 1700, Model 1900, Model 1800, Model 1300, Model 1478, Model 1759, Model 1971, and Model 2295.

26. Design Basics', Plan Pros', and WLM's house 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.

27. Defendants have been actually aware of Design Basics, Plan Pros, and WLM and the works that Design Basics, Plan Pros, and WLM market. At all times material to this case, Defendants have had a reasonable opportunity to have viewed the Copyrighted Works. Defendants have purchased or otherwise obtained Design Basics, Plan Pros, and WLM plan books.

28. Defendants have violated and continue to violate Design Basics', Plan Pros', and WLM's exclusive rights in each of 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, examples of which include:

- a. Defendants' "The Concept Home" (and any predecessors, copies or derivatives of that model under the same name or a different name) infringes the Design Basics' Plan No. 2226 – Wycliffe (and any predecessor or derivative thereof).
- b. Defendants' "Model 1600" and "Model 1650" (and any predecessors, copies or derivatives of these models under the same name or different names) infringe the Design Basics' Plan No. 2377 – Leighton (and any predecessor or derivative thereof).
- c. Defendants' "Model 1400" (and any predecessors, copies or derivatives of that model under the same name or a different name) infringes the Design Basics' Plan No. 8093 – Kirby Farm (and any predecessor or derivative thereof).

- d. Defendants' "Model 1200" (and any predecessors, copies or derivatives of that model under the same name or a different name) infringes the Plan Pros' Plan No. 29087 – Mannelly (and any predecessor or derivative thereof).
- e. Defendants' "Model 1900" (and any predecessors, copies or derivatives of that model under the same name or a different name) infringes the Design Basics' Plan No. 2578 – Kaiser (and any predecessor or derivative thereof).
- f. Defendants' "Model 1800" (and any predecessors, copies or derivatives of that model under the same name or a different name) infringes the Design Basics' Plan No. 2952 – Francis (and any predecessor or derivative thereof).
- g. Defendants' "Model 1300" (and any predecessors, copies or derivatives of that model under the same name or a different name) infringes the WLM's Plan No. 24173 – Nichols (and any predecessor or derivative thereof).
- h. Defendants' "Model 1478" (and any predecessors, copies or derivatives of that model under the same name or a different name) infringes the Design Basics' Plan No. 2761 – Mayberry (and any predecessor or derivative thereof).
- i. Defendants' "Model 1759" (and any predecessors, copies or derivatives of that model under the same name or a different name) infringes the WLM's Plan No. 24081 – Given (and any predecessor or derivative thereof).
- j. Defendants' "Model 1971" (and any predecessors, copies or derivatives of that model under the same name or a different name) infringes the Design Basics' Plan No. 2245 – Tyndale (and any predecessor or derivative thereof).
- k. Defendants' "Model 2295" (and any predecessors, copies or derivatives of that model under the same name or a different name) infringes the Design Basics' Plan No. 8030 – Burton Place (and any predecessor or derivative thereof).
- l. Defendants' "Model 1700" (and any predecessors, copies or derivatives of that model under the same name or a different name) infringes the Design Basics' Plan No. 2907 – Ashley (and any predecessor or derivative thereof).

**Cause of Action**

**Copyright Infringement**

29. Design Basics, Plan Pros, and WLM complain of Defendants for copyright infringement, and incorporates paragraphs 1 through 28 above by reference.

30. Defendants' construction and sale of houses and creation of associated design and construction drawings based on Design Basics' Copyrighted Works has infringed and continues to infringe Design Basics' copyrights in the Copyrighted Works.

31. Defendants' construction and sale of houses and creation of associated design and construction drawings based on Plan Pros' Copyrighted Works has infringed and continues to infringe Plan Pros' copyrights in the Copyrighted Works.

32. Defendants' construction and sale of houses and creation of associated design and construction drawings based on WLM's Copyrighted Works has infringed and continues to infringe WLM's copyrights in the Copyrighted Works.

33. Defendants' creation and publication of non-pictorial representations based on Design Basics' Copyrighted Works have infringed and are infringing Design Basics' copyrights in the Copyrighted Works.

34. Defendants' creation and publication of non-pictorial representations based on Plan Pros' Copyrighted Works have infringed and are infringing Plan Pros' copyrights in the Copyrighted Works.

35. Defendants' creation and publication of non-pictorial representations based on WLM's Copyrighted Works have infringed and are infringing WLM's copyrights in the Copyrighted Works.



36. Design Basics is entitled to recover the actual damages it suffered as a result of the foregoing infringement, and all of Defendants' profits from such infringement, pursuant to 17 U.S.C. § 504(b).

37. Plan Pros is entitled to recover the actual damages it suffered as a result of the foregoing infringement, and all of Defendants' profits from such infringement, pursuant to 17 U.S.C. § 504(b).

38. WLM is entitled to recover the actual damages it suffered as a result of the foregoing infringement, and all of Defendants' profits from such infringement, pursuant to 17 U.S.C. § 504(b).

39. In the alternative to the actual damages and infringer profits sought above, Design Basics is entitled to an award of statutory damages for all infringements of Design Basics' Copyrighted Works, as permitted by 17 U.S.C. § 504(c).

40. In the alternative to the actual damages and infringer profits sought above, Plan Pros is entitled to an award of statutory damages for all infringements of Plan Pros' Copyrighted Works, as permitted by 17 U.S.C. § 504(c).

41. In the alternative to the actual damages and infringer profits sought above, WLM is entitled to an award of statutory damages for all infringements of WLM's Copyrighted Works, as permitted by 17 U.S.C. § 504(c).

42. Pursuant to 17 U.S.C. § 505, Defendants are liable for plaintiffs' costs and reasonable attorneys' fees incurred in this action.

43. In addition, Design Basics, Plan Pros, and WLM are entitled to preliminary and permanent injunctions pursuant to 17 U.S.C. § 502 prohibiting Defendants from further

infringement of their copyrights, including but not limited to the further use of infringing plans, creation or use of derivative plans, and construction, sale or rental of infringing structures.

44. Furthermore, this Court should issue an order pursuant to 17. U.S.C. § 503 directing the United States Marshal's Service to (a) impound all copies of the Copyrighted Works, in possession of Defendants or their agents or contractors in violation of Plaintiffs' exclusive rights, and (b) upon final hearing of this case, to destroy or otherwise dispose of those copies.

#### **Conditions Precedent**

45. With respect to all counts, Design Basics, Plan Pros, and WLM generally aver that all conditions precedent to their rights of recovery have occurred or been performed, or have been waived or excused by Defendants.

#### **Jury Demand**

46. Pursuant to Federal Rule of Civil Procedure 38, Design Basics, Plan Pros, and WLM respectfully demand trial by jury of all issues so triable.

WHEREFORE, PREMISES CONSIDERED, Design Basics, LLC, Plan Pros, Inc., and W.L. Martin Home Designs LLC pray that Defendants be cited to appear and answer; and that upon final trial they each have and recover from Defendants as set forth above, that they have permanent injunctive relief against Defendants as requested herein, and that they have such and other relief as they may show themselves to be entitled.

Respectfully submitted,

/s/ Sean J. Quinn

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