

STATE OF INDIANA	)	MARION SUPERIOR COURT NO. 1
	)	COMMERCIAL DOCKET
	)	SS:
COUNTY OF MARION	)	CAUSE NO.
RE-BATH, LLC	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
ALTERNATIVE CONSTRUCTION	)	
CONCEPTS, LTD. d/b/a RE-BATH®	)	
DESIGNS OF INDIANAPOLIS,	)	
STEVEN O'REILLEY, and DEBORAH	)	
O'REILLEY	)	
	)	
Defendants.	)	



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**VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF AND DAMAGES**

Plaintiff Re-Bath, LLC (referred to herein at times as “Re-Bath” and “Company”), by and through counsel, for its action for injunctive relief and damages against Defendants Alternative Construction Concepts, Ltd. d/b/a Re-Bath® Designs of Indianapolis, Steven O’Reilley and Deborah O’Reilley (collectively, “Defendants”), hereby alleges and states as follows:

**NATURE OF THE ACTION**

1. Re-Bath brings this action to enjoin Defendants from using Re-Bath’s confidential and trade secret information, trademarks and logos to compete against Re-Bath, and from further breaching certain post termination obligations and covenants.
2. Unless an injunction is issued immediately, Re-Bath will suffer the irreparable harm of lost goodwill of its franchisees and customers and the actual and threatened misappropriation of its trade secrets and confidential information.

### **PARTIES AND JURISDICTION**

3. Re-Bath is a Delaware limited liability company with its principal place of business located in Phoenix, Arizona.

4. Defendant Alternative Construction Concepts, Ltd. d/b/a Re-Bath® Designs of Indianapolis (“ACC”) is an Indiana corporation with its principal place of business located at 6038 North Keystone Avenue, Indianapolis, Indiana 46220.

5. Defendant Steven O’Reilley is President, owner and registered agent of ACC and is an individual residing at 6255 MacAtuck Drive, Indianapolis, Indiana 46220.

6. Defendant Deborah O’Reilley is Vice President and owner of ACC and is an individual residing at 6255 MacAtuck Drive, Indianapolis, Indiana 46220.

7. As citizens of Indiana, ACC, Steven O’Reilley and Deborah O’Reilley are subject to the jurisdiction of this Court.

8. Because this controversy is related to and arises out of Defendants’ actions in Indiana, Defendants are also subject to the jurisdiction of this Court.

9. Venue is preferred in Marion County, Indiana, because Steven O’Reilley and Deborah O’Reilley (collectively, the “O’Reilley’s”) reside in Marion County, and because the principal office of ACC is located in Marion County.

### **BACKGROUND FACTS**

10. Re-Bath is a bathroom remodeling franchise company based in Tempe, Arizona that offers franchisees the right to use its trademarks, goodwill, concepts, operating systems, confidential information, method of operation and technical expertise and know-how (the “System”) to operate a bathroom remodeling business wherein the franchisee markets,

distributes, sells and installs Re-Bath's bathroom remodeling products in a specific and exclusive territory.

11. Since its founding in 1978, Re-Bath has invested significant resources in order to develop and maintain high operating standards and system-wide uniformity, increase the demand for its bathroom remodeling products and services rendered by all of the franchisees under the System, and protect Re-Bath's reputation and goodwill.

12. For these reasons, Re-Bath requires interested franchisees to agree to specific terms, conditions and restrictive covenants before granting the franchisee the right to use Re-Bath's proprietary System and access to Re-Bath's products.

ACC's Franchise Agreement with Re-Bath

13. ACC became an Indiana franchisee of Re-Bath in 1997, and, most recently, signed a Renewal Franchise Agreement with Re-Bath on or about December 1, 2013 (the "Agreement"), whereby, among other things, Re-Bath conferred on Defendants the right to use the System to operate a bathroom remodeling business in the following Indiana counties: Monroe, Marion, Morgan, Johnson, Shelby, Brown, Bartholomew, Hancock, Hamilton, Tipton, Howard, Clinton, Boone, Hendricks and Montgomery (the "Territory").

14. A true and accurate copy of the Agreement is attached hereto as **Exhibit A**.

15. In their role as owners of ACC, the O'Reilly's also executed the Agreement on December 1, 2013, and are bound and may be found personally liable for violation of any of the obligations and/or covenants set forth in Articles 19, 22, 26 and 34 of the Agreement.

16. As a franchisee, Re-Bath gave Defendants access to certain confidential and trade secret information, some of which is documented in a comprehensive operating manual (the "Manual"), to assist Defendants in opening and operating their franchise.

17. The Manual is approximately 1,400 pages in length and provides detailed information on the standards, techniques, and procedures that must be followed to ensure that the franchise network is providing uniform and superior installation and customer service.

18. For example, the Manual provides detailed procedures and tips for generating sales and lead conversion learned by Re-Bath over years of operating the franchise that are specific to the bathroom remodeling business.

19. The Manual also sets out confidential information regarding marketing plans and tips covering all marketing tactics, product knowledge, installation tips, and customer service best practices.

20. This comprehensive Manual is the result of the compilation of years of industry and franchise experience.

21. Anyone with access to this Manual would receive substantial economic value as he or she would be able to set up and run a competing bathroom remodeling business much more quickly and without normal initial investment required to get such a business up and running.

22. Re-Bath takes great effort to maintain the confidentiality of the Manual. It is not distributed outside of the Re-Bath corporate office other than to authorized franchisees.

23. Return of any and all copies of the Manual is a requirement upon any termination or expiration of a franchise.

24. In the Agreement, Defendants understood “that [they would] receive specialized training and valuable Confidential Information concerning the System that is not readily available to the public. The Company’s business is substantially dependent upon the confidentiality of such information.” Ex. A, Art. 26(A).

25. Defendants further acknowledged and expressly agreed that Re-Bath is the sole and exclusive owner of, and has vested rights to the Confidential Information:

Franchisee shall, and Franchisee shall cause each of the Owners to, hold this information in trust and confidence for the use and benefit solely for the business contemplated herein and will not disclose any Confidential Information to any person or entity for any purpose, or use it for personal gain or otherwise in competition with the Company or other Re-Bath Franchisees during the term of this Agreement and for two years after Termination, provided that any trade secrets that may legally be protected for more than two years after Termination, shall continue to be protected thereafter.

*Id.*, Art. 26(A).

26. In addition to the confidentiality provisions, Defendants acknowledged in the Agreement that “[e]very detail of the System is important to Franchisee, the Company, and other Re-Bath franchisees in order to develop and maintain high operating standards and system-wide uniformity, increase the demand for the Bathroom Remodeling Products and services rendered by all of the franchisees under the System, and protect the Company’s reputation and good will.”

*Id.*, Art. 5(A).

27. As such, Defendants agreed to “operate the Franchise in strict conformity with the standards, techniques and procedures as the Company may, from time to time, prescribe in the Manual . . . or otherwise in writing.” *Id.*, Art. 5(A)(1).

28. Article 5(A)(8)(c) of the Agreement further required Defendants to operate their showroom “in accordance with the Company’s standards and specifications, as outlined in the Manual.”

Default and Termination of Agreement

29. By letter dated November 14, 2016, Re-Bath prescribed certain new specifications for franchisee showrooms – namely, that certain products be displayed. These specifications were also incorporated into the Manual.

30. Defendants were given until March 31, 2017, to update their showroom in accordance with those specifications.

31. On May 5, 2017, Re-Bath's independent auditor<sup>1</sup> conducted an audit of Defendants' showroom and identified at least seven (7) products that were not displayed.

32. By letter dated May 23, 2017, Defendants were issued a default notice detailing the showroom default and given thirty (30) days to cure.

33. Subsequently, Re-Bath granted the entire franchise network an extension of time to cure until September 29, 2017. Defendants were specifically instructed at that time to cure the default, install the missing products, take photographs of the displayed products in the showroom, and send the photographs to Re-Bath.

34. Re-Bath gave Defendants multiple opportunities to comply with these obligations beyond September 29, 2017, but they failed to do so.

35. Having failed to cure the default, Re-Bath terminated the Agreement pursuant to Article 24(B)(5) on January 22, 2018. As of January 22, 2018, Defendants no longer had a right to operate under the Re-Bath name, hold themselves out to be a Re-Bath franchisee, use any of the Re-Bath trademarks or tradenames and were required to comply with other post-termination obligations and covenants, as described below.

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<sup>1</sup> Pursuant to Article 5(B) of the Agreement, Re-Bath had the right to enter and inspect Defendants' showroom for the purpose of examining and inspecting the manner in which Defendants and their employees were utilizing and installing Re-Bath's bathroom remodeling products.

Defendants' Violation of Post-Termination Obligations and Covenants

36. In addition to the requirements set forth above, the Agreement includes certain post-termination obligations and covenants.

37. Defendants' post-termination obligations included, among other things, to:

- a) discontinue the use of any Re-Bath trademarks, trade names, service marks, trade dress, trade styles, logos, designs, and other identifying symbols;
- b) turn over the Manual and any other confidential and proprietary materials or information of Re-Bath;
- c) discontinue operating in any manner that might give the public the impression that it is still a franchisee of, or affiliated in any way, with Re-Bath;
- d) provide Re-Bath with copies of all uncompleted customer contracts, and remit the customer deposits and assign all of its right, title, and interest in and to any or all of such contracts to Re-Bath;
- e) provide a complete customer list for the franchise, including the customers' name, address, and telephone number, in an electronic format; and
- f) promptly transfer and assign to Re-Bath, within ten (10) days following the date of termination, any websites or domain names registered by or on behalf of the franchise that contain the word "Re-Bath," "Re-Bath" or any variation thereof, as well as all local telephone numbers used by it on any RE-BATH branded advertising at any time during its operation of a Re-Bath franchise.

*Id.*, Art. 25.

38. To further protect Re-Bath's confidential information and other legitimate business interests of Re-Bath, Defendants also agreed to abide by certain post-termination covenants.

39. In particular, Defendants acknowledged and agreed as follows:

Franchisee and each of the Owners who is a party to this Agreement covenants and agrees that, in the event of Termination (excluding Termination caused by abandonment), it, he or she will not, for a period of one year thereafter, directly or indirectly, engage in or have any interest as an owner, partner, director, officer, employee, member, manager, consultant, representative, or in any other capacity, in or with Competing Business located within the Territory or 50 miles of the Territory.

*Id.*, Art. 26(C).

40. "Competing Business" is defined in the Agreement as "any similar or competing business that offers products or services similar to or identical to the Bathroom Remodeling Products or services" of Re-Bath. *Id.*, Art. 26(B).

41. Defendants also agreed "that the time periods of geographic restrictions set forth in this Article are reasonable and necessary to protect Re-Bath's legitimate business interests and that these covenants are necessary to permit Re-Bath the opportunity to resell and/or develop a new Franchise in the Territory if this Agreement is terminated or expires." *Id.*, Art. 26(E).

42. In its January 22, 2018 notice of termination of the Agreement, Re-Bath reminded Defendants of their post-termination obligations and covenants, including each of those set forth above.

43. Re-Bath sent another notice on March 5, 2018, demanding compliance with these obligations and covenants and providing instructions to Defendants to transfer their Facebook page to Re-Bath.



44. Defendants wholly and intentionally have disregarded each and every one of these obligations and covenants.

45. Re-Bath has learned that Defendants have continued to use or access Re-Bath's confidential, proprietary, and trade secret information in the course and furtherance of Defendants' business following termination of the Agreement.

46. Specifically, Defendants continue to operate its ACC bathroom remodeling business under the name "Re-Bath Designs of Indianapolis" and out of the same location it operated its Re-Bath franchise under the Agreement.

47. Defendants' showroom at 6038 North Keystone Avenue, Indianapolis, Indiana 46220 continues to prominently display "Re-Bath" signs and a "Re-Bath" awning over the door.



48. Defendants also continue to use the same websites and Facebook page it used to advertise its Re-Bath franchise to promote and market its new business.

49. Defendants' websites are located at the domains <http://www.rebathdesigns.com> and <http://www.indianapolisbathroomremodel.com>, and their Facebook account is registered under the username "Re-Bath Designs of Indianapolis." See ACC's Facebook profile, at <https://www.facebook.com/ReBathDesignsofIndianapolis/>.

50. Defendants have uploaded posts to the Facebook page 16 times following termination of the franchise on January 22, 2018.

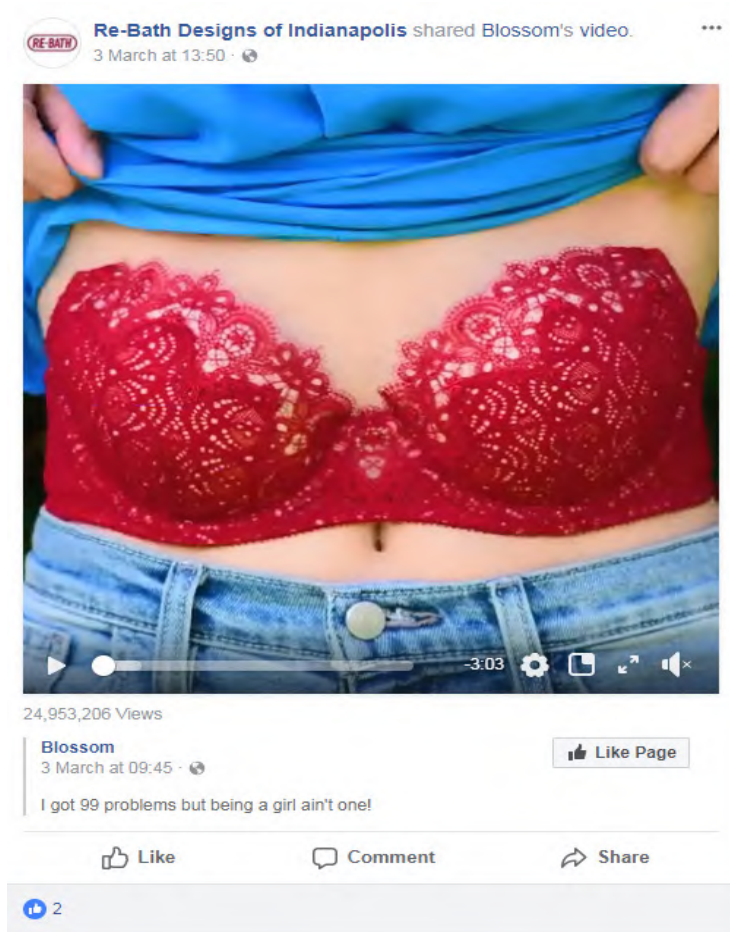
51. For example, on March 3, 2018, Defendants posted new business hours:



See <https://www.facebook.com/ReBathDesignsofIndianapolis/>.

52. The content of the other 15 post-termination Facebook posts have nothing to do with bathroom remodeling and are damaging to the reputation and goodwill of Re-Bath.

53. For example, on March 3, 2018, Defendants posted a video titled "Blossom: I got 99 problems but being a girl ain't one!":



*Id.*

54. Re-Bath has also learned that Defendants created and have been using an Instagram account to advertise its business under the name “IndyRebath,” even though the use of Instagram is expressly prohibited under the requirements set forth in the Manual. *See* ACC’s Instagram profile, at <https://www.instagram.com/indyrebath/?hl=en>.

55. Defendants describe their business as “Re-Bath Designs a family owned [business] since 1997,” and claim to “do full bathroom remodeling:”

We can do a tub to shower conversion, walk in tubs, shower doors, and more. Our high quality Durabath SSP solid surface polymer comes with a life time warranty.

General Information

- \* Re-Bath Bathtub Liners are custom manufactured DuraBath SSP liners to fit perfectly over your old ugly bathtub. Professional installation is completed in just ONE day and ready for use that night.
- \* Our patented installation technology and unmatched inventory of over 900 cataloged bathtub molds guarantee a perfect watertight fit.
- \* We also do walk in showers and can do tub to shower conversions in just one day.
- \* We have the largest selection of colors and styles available.

See, ACC's Facebook "About" page, at

[https://www.facebook.com/pg/ReBathDesignsofIndianapolis/about/?ref=page\\_internal](https://www.facebook.com/pg/ReBathDesignsofIndianapolis/about/?ref=page_internal).

56. In addition to the aforementioned violations, Defendants continue to use Re-Bath's trademarks and logos on its websites, social media pages and premises to clearly suggest an affiliation between Defendants and Re-Bath.

57. Defendants have also not returned the Manual and have wrongfully maintained possession of Re-Bath contracts, websites, Facebook page and telephone numbers while they continue to operate their bathroom remodeling business.

58. All conditions precedent to the bringing of this action have occurred, have been performed, or have been waived.

**COUNT I**  
**BREACH OF CONTRACT**

59. Re-Bath incorporates the foregoing paragraphs herein.

60. The Agreement is a valid and enforceable contract executed by Re-Bath and Defendants.

61. The Agreement contains a number of post-termination obligations and covenants with which Defendants must comply.

62. Defendants' non-competition obligations do not expire until January 22, 2019.

63. Defendants have breached and continue to breach the Agreement by, among other things:

- a) continuing to use Re-Bath's trademarks, trade names, service marks, trade dress, trade styles, logos, designs, and/or other identifying symbols following termination of the Agreement;
- b) continuing to suggest an affiliation between Re-Bath and Defendants following termination of the Agreement;
- c) continuing to operate a bathroom remodeling business in the same Territory it served as a Re-Bath franchisee, in violation of the covenants contained therein;
- d) failing to return the Manuals and other materials containing Re-Bath's confidential and proprietary information following termination of the Agreement;
- e) failing to turn over pending Re-Bath customer contracts and otherwise assisting Re-Bath with the transition of these uncompleted jobs;
- f) failing to provide a complete customer list for the franchise, including the customers' name, address, and telephone number, in an electronic format following termination of the Agreement;
- g) failing to transfer and assign to Re-Bath any websites, domain names and Facebook accounts registered by or on behalf of the franchise that contain the word "Re-Bath," "Re-Bath" or any variation thereof, as well as all local telephone numbers used by it on a Re-Bath branded advertising at any time during its operation of a Re-Bath franchise; and

h) creating, registering and/or using an Instagram account by or on behalf of the Re-Bath franchise.

64. As a result of Defendants' willful and intentional actions, Defendants have caused and, unless restrained and enjoined by this Court, will continue to cause irreparable harm and injury to Re-Bath.

65. Re-Bath has no adequate remedy at law.

**COUNT II**  
**TRADEMARK INFRINGEMENT**  
**(15 U.S.C. § 1114)**

66. Re-Bath incorporates the foregoing paragraphs herein.

67. Re-Bath owns four federal registrations for Re-Bath marks in connection with its bathroom remodeling products, namely, U.S. Reg. Nos. 0,992,199; 4,759,234; 4,759,235; and 4,759,238 (the "Registrations").

68. The Registrations serve as prima facie evidence of the validity of the registered marks and of Re-Bath's ownership of the marks and exclusive right to use the marks in commerce pursuant to 15 U.S.C. § 1115(a).

69. Defendants have used a copy of the registered marks in connection with the sale, offering for sale, distribution and advertising of goods and services in a manner likely to cause confusion, or to cause mistake; or to deceive.

70. Defendants' conduct constitutes trademark infringement in violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114.

71. Defendants' willful and intentional actions have caused, and unless restrained or enjoined by this Court, will continue to cause irreparable harm and injury to Re-Bath.

72. Re-Bath has no adequate remedy at law.

**COUNT III**  
**TRADEMARK INFRINGEMENT, UNFAIR COMPETITION AND FALSE DESIGNATION OF ORIGIN**  
**(15 U.S.C. § 1125(A) AND COMMON LAW)**

73. Re-Bath incorporates the foregoing paragraphs herein.

74. Re-Bath has spent substantial sums to promote, and has generated substantial revenue and recognition from, its Re-Bath trademarks and logos, which are distinctive.

75. The distinctive Re-Bath marks and logos have become impressed upon the minds of the trade and public as identifying Re-Bath's products and services, as part of a national franchise, and consumers understand the marks and logos to indicate the source or origin of such products and services provided in association with the bathroom remodeling products and services of Re-Bath.

76. Re-Bath has developed a large and valuable national franchise through its use of the Re-Bath marks and logos, and the reputation and goodwill in those marks is of great value to Re-Bath.

77. Defendants have used in commerce the Re-Bath marks and logos without Re-Bath's consent or authorization.

78. Such use of the Re-Bath marks and logos is likely to confuse consumers into believing that Defendants' bathroom remodeling products and services are associated with, endorsed by or sponsored by Re-Bath, when they are not.

79. Defendants' conduct constitutes trademark infringement, false designation of origin and unfair competition in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a), and common law.

80. As a result of Defendants' willful and intentional acts, Re-Bath has incurred attorneys' fees and expenses.

81. Defendant has caused and, unless restrained and enjoined by this Court, will continue to cause irreparable harm, damage and injury to Re-Bath.

82. Re-Bath has no adequate remedy at law.

**COUNT IV**  
**FALSE ADVERTISING**  
**(15 U.S.C. § 1125(A))**

83. Re-Bath incorporates the foregoing paragraphs herein.

84. Defendants falsely state or suggest to consumers directly and/or through the use of the internet and social media that their bathroom remodeling business is affiliated with Re-Bath. That statement is false.

85. Defendants falsely state or suggest that photographs displayed on their social media depict bathroom remodeling jobs completed by their business. That statement is false. The photographs depict jobs completed by a Re-Bath franchise, formerly operated by Defendants.

86. Defendants falsely state or suggest that customers' testimonials on their websites relate to bathroom remodeling jobs completed by their business. Those statements are false. The testimonials relate to jobs completed by a Re-Bath franchisee, formerly operated by Defendants.

87. These statements are likely to deceive consumers and influence the purchasing decision of consumers because, among other things, these statements imply that the same goods and services can be supplied by Defendants, and that Defendants operate a well-regarded business. These characteristics are often important to consumers.

88. Defendants have caused these false statements to enter interstate commerce by posting them on their websites.



89. Defendants' willful and intentional actions have caused, and unless restrained or enjoined by this Court, will continue to cause irreparable harm and injury to Re-Bath.

90. Re-Bath has no adequate remedy at law.

**COUNT V**  
**MISAPPROPRIATION OF TRADE SECRETS**  
**(INDIANA UNIFORM TRADE SECRETS ACT, IND. CODE § 23-2-3-1, ET SEQ.)**

91. Re-Bath incorporates the foregoing paragraphs herein.

92. Re-Bath possesses certain trade secret information not generally known to, or readily ascertainable by, others that provides significant economic advantage to anyone desiring to set up and run a competing bathroom remodeling business, some of which is set forth in its Manual, as discussed above.

93. Re-Bath takes reasonable steps to maintain the secrecy of this information by maintaining control over its circulation, requiring each franchise to agree to and abide by certain confidentiality provisions, requiring each franchisee in turn to have its employees execute a similar confidentiality agreement, and demanding the return of all copies of the Manual upon the termination or expiration of any franchise.

94. The Agreement executed by Defendants require that Defendants use this information solely for the business purposes contemplated in the agreements and not disclose the information to anyone else or use it to compete with Re-Bath during the term of the Agreement and for a two-year period thereafter.

95. Defendants were advised in Re-Bath's correspondence dated January 22, 2018, that upon termination of their franchise, they must immediately return all copies of the Manual to Defendants and that Defendants could not use any of the Company's confidential or trade secret information for any purpose thereafter.

96. Defendants have not returned the Manual.

97. Defendants continue to directly compete against Re-Bath by operating a bathroom remodeling business out of the same showroom it previously operated as a Re-Bath franchise.

98. Defendants have wrongfully retained Re-Bath's trade secret information.

99. Upon information and belief, Defendants have wrongfully used Re-Bath's trade secret information, including but not limited to information set forth in the 1,400 page detailed operating Manual, to operate a competing business, thereby severely diminishing Re-Bath's ability to sell this territory to another franchisee.

100. Defendants' conduct constitute misappropriation of trade secrets pursuant to Ind. Code § 23-2-3-1, *et seq*,

101. As a result of Defendants' willful and intentional actions, Defendants have caused and, unless restrained and enjoined by this Court, will continue to cause irreparable harm and injury to Re-Bath.

102. Re-Bath has no adequate remedy at law.

**COUNT VII**  
**REQUEST FOR PRELIMINARY AND PERMANENT INJUNCTIVE RELIEF AGAINST DEFENDANTS**

103. Re-Bath incorporates the foregoing paragraphs herein.

104. Defendants' conduct, as set forth in the foregoing paragraphs, constitutes a violation of their legal and contractual duties to Re-Bath.

105. Re-Bath has suffered, and will continue to suffer, irreparable harm if Defendants are not preliminarily ordered to refrain from directly or indirectly using Re-Bath's confidential, proprietary, and trade secret information, including, but not limited to, trademarks and logos, to compete against Re-Bath; prohibiting Defendants from continuing to use websites and social

media accounts belonging to Re-Bath; and prohibiting Defendants from directly or indirectly competing against Re-Bath.

106. Re-Bath's business will suffer immediate harm if the request for injunctive relief is denied. By contract, Defendants will suffer little harm as they would merely be upholding the obligations that Defendants previously agreed to honor as consideration for their franchise with Re-Bath.

107. The public interest will not be disserved by entry of the requested injunction.

**WHEREFORE**, Re-Bath respectfully requests that this Court enter an order for Re-Bath and against Defendants, granting the following relief:

1. The entry of a temporary restraining order and preliminary and permanent injunction enjoining Defendants and their respective agents, representatives, servants, employees, attorneys, officers, directors, shareholders, licensees, affiliates, joint venturers, parents, subsidiaries, related corporations and companies, and all others in privity or acting in concert with them, from directly or indirectly:

- a) using Re-Bath's trademarks, trade names, service marks, trade dress, trade styles, logos, designs, and/or other identifying symbols, and any confusingly similar marks and logos;
- b) suggesting an affiliation between Re-Bath and Defendants;
- c) engaging in any other activity constituting unfair competition or trademark infringement;
- d) engaging in false advertising;

- e) operating a competing bathroom remodeling business within Defendants' former franchise territory or within fifty (50) miles thereof for a period of one year following expiration of the Agreement; and
- f) maintaining, using or disclosing Re-Bath's Manual and Confidential Information.

2. The entry of an order demanding Defendants to immediately transfer and assign to Re-Bath, within ten (10) days following the date of termination, any websites or domain names registered by or on behalf of the franchise that contain the word "Re-Bath," "Re-Bath" or any variation thereof, as well as all local telephone numbers used by it on any Re-Bath branded advertising at any time during its operation of a Re-Bath franchise.

3. The entry of an order demanding Defendants to immediately transfer and assign to Re-Bath all social media accounts registered or used by or on behalf of the franchise.

4. The entry of an order demanding Defendants to immediately return all Manuals and Confidential Information to Re-Bath.

5. The entry of an order demanding Defendants to immediately turn over copies of all pending Re-Bath customer contracts to Re-Bath, and to provide the status of each contract.

6. Enter judgment in favor of Re-Bath and against Defendants on all Counts.

7. Compensatory damages, exemplary damages for willful misappropriation of trade secrets, costs, prejudgment interest, attorneys' fees, and punitive damages; and

8. All other just and proper relief.

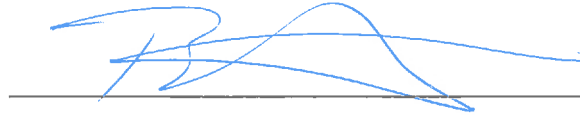
#### **JURY TRIAL DEMAND**

Re-Bath requests a jury trial on all questions of fact raised by its Complaint.

**VERIFICATION**

I, Brad Hiller, Chief Executive Officer of Re-Bath, LLC, do hereby affirm, under the penalties for perjury, that the facts alleged in the foregoing Verified Complaint for Injunctive Relief and Damages are true and correct to the best of my knowledge, information and belief.

RE-BATH, LLC

A handwritten signature in blue ink is written over a solid horizontal line. The signature is stylized and appears to be the initials 'BR' followed by a long, sweeping flourish that extends to the right and then loops back down to the line.

Dated: March 16, 2018

Respectfully submitted,

ICE MILLER LLP

/s/ Andrew J. Miroff

Andrew J. Miroff, Atty. No. 21749-49  
Christina L. Fugate, Atty. No. 27218-49  
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*Counsel for Re-Bath, LLC*

ICE MILLER LLP  
One American Square, Suite 2900  
Indianapolis, Indiana 46282-0200  
(317) 236-2100

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing has been hand-delivered on March 19, 2018, at the following addresses:

Alternative Construction Concepts, Ltd.  
d/b/a Re-Bath Designs of Indianapolis  
c/o Steven O'Reilley, Registered Agent  
6038 North Keystone Avenue  
Indianapolis, Indiana 46220

Steven O'Reilley  
6255 MacAtuck Drive  
Indianapolis, Indiana 46220

Deborah O'Reilley  
6255 MacAtuck Drive  
Indianapolis, Indiana 46220

The undersigned further certifies that a copy of the foregoing was emailed on March 19, 2018, to the following party:

P. Adam Davis  
DAVIS & SARBINOFF LLC  
adavis@d-slaw.com

/s/ Andrew J. Miroff  
Andrew J. Miroff, Atty. No. 21749-49  
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