

INDIANA COMMERCIAL COURT

STATE OF INDIANA)
) SS: IN THE MARION SUPERIOR COURT
COUNTY OF MARION) CAUSE NO.

BATESVILLE CASKET COMPANY,)
LLC,)
)
) Plaintiff,)
)
) v.)
)
RYAN ACKERMAN,)
)
) Defendant.)

VERIFIED COMPLAINT FOR EMERGENCY TEMPORARY, PRELIMINARY, AND PERMANENT INJUNCTIVE RELIEF AND DAMAGES

Plaintiff, Batesville Casket Company, LLC (“Batesville” or “Plaintiff”), by counsel, and for its Verified Complaint against Defendant, Ryan Ackerman (“Ackerman” or “Defendant”), alleges as follows:

INTRODUCTION AND NATURE OF THE ACTION

1. Batesville brings this action seeking emergency, temporary, preliminary, and permanent injunctive relief to stop Ackerman’s further misappropriation of Batesville’s trade secrets and confidential information and the irreparable harm he is causing. Ackerman, in the last few months of his employment before quitting to join a competitor and since then, committed the following acts:

- Stole numerous files with confidential customer, pricing, discount, territory, business strategy and goals, and other proprietary information, including pricing tools and formulas and what a forensic investigation strong suggests is an entire

folder of 177 files, by saving them from his work computer to a Staples Relay UFD USB Device, serial number 2005284482165DA3442B (“USB Device”).

- Plugged the USB Device into his Batesville laptop on at least April 28 and 29, 2023, and accessed confidential company files that were on the USB Device.
- Refused to return the USB Device or make it available for inspection and remediation despite Batesville’s demand.
- Deleted and/or moved more than several dozen company (not just personal) files from his Batesville laptop around the same time in April 2023, and continued to do up until June 23, 2023, the date of his resignation letter.
- Emailed company files and information to his personal Verizon email account (rackerman33@verizon.net) during his employment, and accessed his personal yahoo email account (rguy110@yahoo.com) on his Batesville laptop on June 23, 2023, the date he gave notice of his resignation.
- Used a Verizon texting program to send Batesville files to his personal device and to preserve them on his personal phone.
- Falsely represented in writing that he did not have in his possession Batesville’s confidential information, trade secrets, other company information and property.

2. Virtually all of the files he took are confidential and would be valuable to a competitor such as Victoriaville & Co. USA, Inc. (“Victoriaville”), Ackerman’s new employer. Many constitute or contain trade secrets. All of the files are proprietary to Batesville, and, as such, he was obligated (a) to not take them, and (b) to return them, by two contracts he signed, the *Employment Agreement* (“Employment Agreement,” **Exhibit 1**) and *Inventions, Improvements,*

Copyrights and Trade Secrets Agreement (“Trade Secrets Agreement,” **Exhibit 2**, and collectively, “Agreements”).

3. Batesville is continuing its investigation of Ackerman’s actions during his employment and since, but its findings so far—and the response from Ackerman and his new employer—require immediate and emergency relief to stop further misappropriation of trade secrets. Immediate injunctive relief is all the more necessary because of Ackerman’s false, inconsistent, and shifting representations. Ackerman in June 2023 signed a certificate attesting he did not have any Batesville files, property, or confidential information. Later, Ackerman through counsel claimed he is “not aware” of possessing any confidential information or trade secrets, a sly denial that strains credulity in light of the forensic findings. After that, Ackerman admitted that he took Batesville files when confronted with details of his wrongful activities, but provided unwarranted excuses.

4. Batesville also brings this action and seeks emergency relief to prevent further breaches of Ackerman’s restrictive covenants and to cure his breaches of the fiduciary duty of loyalty. Ackerman is not only working for Victoriaville in the same sales capacity and in the same geographic area as he did for Batesville, in violation of his contractual obligation to refrain from doing so, but has failed to provide sufficient assurances that he will not solicit Batesville customers. In light of Ackerman’s theft of confidential information and trade secrets, refusal to return Batesville’s confidential information and property, confirmed contract breaches, and his position working for a competitor in the same job and same area, it is inevitable he will continue to breach his restrictive covenants and further misappropriate Batesville’s confidential information and trade secrets. In addition, Batesville seeks monetary damages to the extent calculable to remedy Ackerman’s unlawful conduct as set forth in those and other claims.

PARTIES AND JURISDICTION

5. Plaintiff, Batesville Casket Company, LLC, is an Indiana limited liability company with its headquarters and principal place of business at 1 Batesville Boulevard, Batesville, Indiana 47006. Batesville also owns and operates several facilities and affiliates throughout Indiana, including in Marion County via Batesville Logistics LLC.

6. Defendant, Ryan Ackerman, is an individual residing at 153 Mulberry Drive, Holland, Pennsylvania, 18966.

7. Marion County is a forum designated in the exclusive forum provision of Ackerman's Employment Agreement, and Ackerman consented to personal jurisdiction in Indiana. **Exhibit 1**, Employment Agreement ¶ 36.

8. This Court has jurisdiction over this matter because the harm from and results of Ackerman's tortious acts and contract breaches are felt in Indiana, and Batesville, his former employer, is based in Indiana. Jurisdiction in Commercial Court is proper because this case involves "[t]rade secrets, non-disclosure, non-compete, or employment agreements," and "Business related torts, such as claims of unfair competition...." Indiana Commercial Court Rule 2(C) & (E)(9).

BACKGROUND FACTS

Batesville's Business and Operations

9. Batesville was founded more than a century ago in Batesville, Indiana. It is a recognized leader in the North American death care industry. Batesville assists funeral professionals meet the needs of grieving families and start them on the path to healing with innovative products and solutions, affordable pricing, and a commitment to the community.

10. Batesville's high-quality products and superior service have resulted in earning the highest ranking—number one in quality and innovation from Funeral Services Insider—by funeral professionals for more than 15 consecutive years.

11. Batesville's business is national in scope, with more than 90 customer service centers and warehouses across the country and one of the largest private fleets in North America, ensuring timely delivery of products.

12. Batesville sells a comprehensive portfolio of burial and cremation products, memorial keepsakes and options, and innovative technology solutions to licensed funeral directors. Batesville also provides customers access to seasoned professionals in the industry that have a deep knowledge and commitment to funeral service. It offers training and other resources to funeral customers.

13. The funeral industry is highly competitive both for larger national funeral home customers as well as locally owned independent funeral homes. No company can take its customers for granted. Competitors continually try to win and keep customers, in particular, independent accounts (i.e., family and locally owned funeral homes), which is the account segment Ackerman handled the most during his employment with Batesville. Sales and marketing efforts, including customer relationships, are key for industry players. Batesville has invested significant money, time, and resources into developing its goodwill with customers.

Batesville's Significant Protectable Interests
in Trade Secrets, Confidential Information, and Goodwill

14. Batesville's business involves the collection, generation, use, and protection of proprietary, confidential or competitively-sensitive information and materials concerning the operations, processes, technologies, and experience for providing goods in the death care industry, including characteristics of customers, sales, and billing practices; service methodologies; pricing

structures and pricing computations; expected margins; information about company cost structure, operations, business methods, and future marketing plans; and business strategies, along with compilations of such information that include data and facts generated, maintained, and used by Batesville to obtain a competitive advantage over those, such as competitors, who do not know or use such information (“Confidential Information”), including trade secrets. Among other things, the Confidential Information includes documents and information regarding Batesville’s funeral home customers, including merchandising, advertising, promotions, marketing, selling, client lists, prospect lists, price and discount lists, sales figures, and market research, and decision-maker information.

15. Batesville’s Confidential Information derives independent economic value by virtue of the fact that it is not generally known to, and not readily ascertainable through proper means by, other persons who could obtain economic value from its disclosure or use.

16. Batesville’s relationships with its customers typically last for a significant period of time and are the result of substantial effort, time, resources, and goodwill. Much of Batesville’s success derives from its ongoing and longstanding relationships with and retention of these customers as well as its employees. Batesville invests tremendous time and effort into developing and maintaining these relationships, and Batesville relies on repeat business and workforce stability as part of its business model. Batesville maintains extraordinary goodwill with its customers and employees, allowing the company to be successful in a competitive industry.

17. Batesville invests significant resources into creating, developing, and managing its workforce, including substantial and extensive training on a periodic basis as well as generous compensation. As appropriate, Batesville employees are privy to certain of the company’s

Confidential Information and trade secrets, including client information that would be extremely valuable to competitors.

18. Batesville has invested significant resources and money to compile, develop, and maintain its Confidential Information and trade secrets.

19. Batesville Confidential Information and trade secrets are neither generally known outside of Batesville nor readily ascertainable by others.

20. Batesville has taken reasonable steps to protect the secrecy of its Confidential Information and trade secrets, including but not limited to restricting access to Batesville's password-protected computer network; restricting internal access to such information to a limited pool of employees who have a "need to know" the information to perform their duties; addressing the importance of Confidential Information in the company's policies and Code of Ethical Business Conduct, including non-disclosure, and requiring all employees to review and abide by the policy; requiring annual training on the Code of Ethical Business Conduct, including handling Confidential Information, and to recertify the acknowledgment of the Code; requiring the use of strong passwords for user accounts on computers and email accounts; using only secure connections (VPN) to protect servers when accessing information remotely; and requiring employees (including Ackerman) to agree to employment agreements with restrictive covenants and provisions concerning confidentiality and the return of company files and property.

Ackerman's Employment and Access to Confidential Information

21. Ackerman began his employment with Batesville on or around June 16, 2008.

22. Ackerman always worked in sales at Batesville, primarily managing the accounts of existing customers and, if possible, developing new business. Throughout his long career at Batesville, Ackerman used, dealt with, and/or had access to Confidential Information and trade

secrets about many of Batesville's customers, the company's current and future strategy and plans, and secret discount and margin information, including pricing formula tools. His title at the time of the termination of his employment was Account Executive. Ackerman's assigned customers were located in Pennsylvania, New Jersey, Maryland, Delaware, and Virginia. Ackerman was responsible for more than 100 Batesville customers, as well as potential customers, at the time of his resignation.

23. Employees holding sales positions at Batesville are key to developing and maintaining client relationships and goodwill and handling aspects of the client experience. They are responsible for selling Batesville's products and services to the client, growing the relationship, and then remaining involved with the client for the duration of the relationship.

24. In his position with Batesville, Ackerman: (a) had access to and knowledge of Batesville's Confidential Information and trade secrets, (b) had access to and knowledge of confidential client information and developed close relations with customers; and (c) was provided special training, developed special skills and expertise as well as "know-how" relating to company and industry practices.

25. By way of example, Ackerman had access to and knowledge of the following types of Confidential Information and trade secrets: pricing data (including discounts) and margins for customers generally and in the spreadsheets covering years of proprietary data that Batesville collected, collated, categorized, recorded, used, and analyzed; strategy and marketing plans and efforts on markets, territories, customers, and products; and spreadsheets with revenue and cost details along with corresponding margins, listed by clients. Ackerman had access to Confidential Information about customers, including their history with Batesville, and he received Confidential Information regarding expansion and sales growth strategies, including targeted and prospective

customers. Access to such information would allow competitors like Victoriaville to unfairly undercut Batesville's pricing, refine marketing and sales strategy in light of Batesville's internal operations, and target Batesville customers and market areas for poaching. Batesville invests substantial time and resources in developing and protecting all of this Confidential Information. Batesville's Confidential Information and trade secrets, including the detailed customer, pricing, discount, and margin information described above, would be extremely valuable to a competitor of Batesville. A competitor's possession and use of Batesville's Confidential Information and trade secrets, in turn, would cause irreparable harm to Batesville.

Ackerman's Agreements

26. In light of Ackerman's access to Batesville's Confidential Information and trade secrets, his close contact with its customers, the relationships he developed with customers and fellow employees, and the substantial resources Batesville invested in Ackerman and his success for the company, Batesville protected its legitimate business interests by requiring Ackerman to agree to certain restrictions on his activities during and after his employment, including restrictions on competition, customer and employee solicitation, and the use or disclosure of Confidential Information and trade secrets.

27. Batesville would not have given Ackerman access to its Confidential Information and trade secrets but for his consent to the Agreements and the restrictive covenants and obligations contained therein.

28. As a condition of employment and for other good and valuable consideration, on or around June 14, 2010, Ackerman entered into the Employment Agreement with Batesville Casket Company, Inc., which later converted its legal form to Batesville Casket Company, LLC. A true and correct copy of the Employment Agreement is attached as **Exhibit 1**.

29. Paragraph 17 of the Employment Agreement states as follows regarding

Batesville's property and Ackerman's obligations:

Company Property. All records, files, drawings, documents, data in whatever form, equipment, and the like relating to, or provided by, the Company, shall be and remain the sole property of the Company. Upon termination of employment, Employee shall immediately return to the Company all such items without retention of any copies and without additional request by the Company.

30. Paragraph No. 18 of the Employment Agreement states as follows regarding

Batesville's Confidential Information:

Confidential Information. Employee acknowledges that the Company and its affiliated entities (herein collectively referred to as "Companies") possess certain trade secrets as well as other confidential and proprietary information which they have acquired or will acquire at great effort and expense. Such information may include, without limitation, confidential information, whether in tangible or intangible form, regarding the Companies' products and services, marketing strategies, business plans, operations, costs, current or prospective customer information (including customer identities, contacts, requirements, creditworthiness, preferences, and like matters), product concepts, designs, prototypes or specifications, research and development efforts, technical data and know-how, sales information, including pricing and other terms and conditions of sale, financial information, internal procedures, techniques, forecasts, methods, trade information, trade secrets, software programs, project requirements, inventions, trademarks, trade names, and similar information regarding the Companies' business(es) (collectively referred to herein as "Confidential Information"). Employee further acknowledges that, as a result of Employee's employment with the Company, Employee will have access to, will become acquainted with, and/or may help develop, such Confidential Information. Confidential Information shall not include information readily available in the public so long as such information was not available through fault of the Employee or wrong doing by any other individual.

31. Paragraph No. 19 of the Employment Agreement addresses the use of Confidential

Information and the fact that it is the sole and exclusive property of Batesville:

Restricted Use of Confidential Information. Employee agrees that all Confidential Information is and shall remain the sole and exclusive property of the Company and/or its affiliated entities. Except as may be expressly authorized by the Company in writing, Employee agrees not to disclose, or cause any other person or entity to disclose, any Confidential Information to any third party while employed by the Company and for as long thereafter as such information remains confidential (or as limited by applicable law). Further, Employee agrees to use such Confidential

Information only in the course of Employee's duties in furtherance of the Company's business and agrees not to make use of any such Confidential Information for Employee's own purposes or for the benefit of any other entity or person.

32. Paragraph No. 21 of the Employment Agreement states, in relevant part, as follows regarding Ackerman's non-solicitation obligations:

Non-Solicitation. During Employee's employment and for a period of twenty-four (24) months thereafter, Employee agrees not to directly or indirectly engage in the following prohibited conduct:

- (a) Solicit, offer products or services to, or, accept orders, for any Competitive Products or otherwise transact competitive business with, any customer or entity with whom Employee had contact or transacted any business on behalf of the Company (or any Affiliate thereof) during the twenty-four (24) month period preceding Employee's date of separation or about whom Employee possessed, or had access to, confidential and proprietary information;
- (b) Attempt to entice or otherwise cause any third party to withdraw, curtail or cease doing business with the Company (or any Affiliate thereof), specifically including customers, vendors, independent contractors and other third party entities;
- (c) Disclose to any person or entity the identities, contacts or preferences of any customers of the Company (or any Affiliate thereof), or the identity of any other persons or entities having business dealings with the Company (or any Affiliate thereof);
-
- (f) Communicate or indicate in any way to any customer of the Company (or any Affiliate thereof), prior to formal separation from the Company, any interest, desire, plan, or decision to separate from the Company; or
- (g) Otherwise attempt to directly or indirectly interfere with the Company's business, the business of any of the Companies or their relationship with their employees, consultants, independent contractors or customers.

33. Paragraph No. 22 of the Employment Agreement states, in relevant part, as follows regarding Ackerman's non-competition obligations:

Limited Non-Compete. For the above-stated reasons, and as a condition of employment to the fullest extent permitted by law, Employee agrees during the Relevant Non-Compete Period not to directly or indirectly engage in the following competitive activities:

- (a) Employee shall not have any ownership interest in, work for, advise, consult, or have any business connection or business or employment relationship in any competitive capacity with any Competitor unless Employee provides written notice to the Company of such relationship prior to entering into such relationship and, further, provides sufficient written assurances to the Company's satisfaction that such relationship will not jeopardize the Company's legitimate interests or otherwise violate the terms of this Agreement;
- (b) Employee shall not engage in any research, development, production, sale or distribution of any Competitive Products, specifically including any products or services relating to those for which Employee had responsibility for the twenty-four (24) month period preceding Employee's date of separation;
- (c) Employee shall not market, sell, or otherwise offer or provide any Competitive Products within Employee's Geographic Territory (if applicable) or Assigned Customer Base, specifically including any products or services relating to those for which Employee had responsibility for the twenty-four (24) month period preceding Employee's date of separation; and
- (d) Employee shall not distribute, market, sell or otherwise offer or provide any Competitive Products to any customer of the Company with whom Employee had contact or for which Employee had responsibility at any time during the twenty-four (24) month period preceding Employee's date of separation.

34. Paragraph No. 23 of the Employment Agreement provides the following definitions, in relevant part:

Non-Compete Definitions. For purposes of this Agreement, the Parties agree that the following terms shall apply:

- (a) "Assigned Customer Base" shall include all accounts or customers formally assigned to Employee within a given territory or geographical area or contacted by Employee at any time during the twenty-four (24) month period preceding Employee's date of separation;

- (b) “Affiliate” includes any parent, subsidiary, joint venture, sister company, or other entity controlled, owned, managed or otherwise associated with the Company;
- (c) “Competitive Products” shall include any product or service that directly or indirectly competes with, is substantially similar to, or serves as a reasonable substitute for, any product or service in research, development or design, or manufactured, produced, sold or distributed by the Company;
- (d) “Competitor” shall include any person or entity that offers or is actively planning to offer any Competitive Products and may include (but not be limited to) any entity identified on the Company's Illustrative Competitor List, attached hereto as Exhibit A, which shall be amended from time to time to reflect changes in the Company's business and competitive environment (updated competitor lists will be provided to Employee upon reasonable request);
- (e) “Geographic Territory” shall include any territory formally assigned to Employee as well as all territories in which Employee has provided any services, sold any products or otherwise had responsibility at any time during the twenty-four (24) month period preceding Employee’s date of separation;
- (f) “Relevant Non-Compete Period” shall include the period of Employee's employment with the Company as well as a period of twenty-four (24) months after such employment is terminated, regardless of the reason for such termination provided, however, that this period shall be reduced to the greater of (i) twelve (12) months or (ii) the total length of Employee's employment with the Company, including employment with any parent, subsidiary or affiliated entity, if such employment is less than twenty-four (24) months;
- (g) “Directly or indirectly” shall be construed such that the foregoing restrictions shall apply equally to Employee whether performed individually or as a partner, shareholder, officer, director, manager, employee, salesperson, independent contractor, broker, agent, or consultant for any other individual, partnership, firm, corporation, company, or other entity engaged in such conduct.

35. The Competitor List on Exhibit A of the Employment Agreement lists the Victoriaville Group, a former name of Ackerman’s current employer, Victoriaville.

36. Paragraph No. 14 of the Employment Agreement requires Ackerman to reaffirm in writing his post-employment obligations, to provide the name and address of his new employer,

and to supplement such information as required during the term of any restrictive covenant in the Agreement.

37. Paragraph No. 12 of the Employment Agreement requires 30 days' notice of termination of employment without cause.

38. Ackerman also agreed to non-disclosure and safeguarding obligations for confidential information and trade secrets in the Trade Secrets Agreement, which he executed on or about June 16, 2008 with Hillenbrand Industries, Inc., predecessor-in-interest to Batesville's parent company. See Exhibit 2. In Paragraph 2 of the Trade Secrets Agreement, he agreed:

I will carefully guard the trade secrets or confidential information of Company, and I will not, while in the employ of Company or at any other time thereafter, disclose to anyone, directly or indirectly, nor use the benefit of for myself or third parties, any of Company's trade secrets or confidential information without the written consent of the Company.

39. In Paragraph 3 of the Trade Secrets Agreement, Ackerman agreed:

Upon leaving the employ of Company, I will not take with me, without written consent of Company, any property of Company in any form or media whatsoever, including electronic information or data in or on any media or at any location, including in the term "property" but not limited to any engineering or manufacturing drawing, blueprint or other reproduction, technical or manufacturing data, tables and calculations, letters, ledgers, customer lists, bills of material, or copies thereof, or any papers, records, discs or other media containing confidential information pertaining to the business, operations or financial affairs of Company and I will return to Company any of the same then in my possession. I will hold all such property in my possession in trust and will make no use of such property for the benefit of others in violation of the trust.

Ackerman's Unlawful Conduct

40. On June 23, 2023, Ackerman provided written notice of his resignation from Batesville, effective seven days later on June 30, 2023, rather than the 30 days required by his Employment Agreement. Ackerman's letter noted he would be joining Victoriaville as of July 3,

2023, and included Victoriaville’s New York address. His letter further claimed: “You are advised that I have no intention of violating any of my post-employment obligations to Batesville.”

41. Batesville has learned through investigation, including the use of forensic experts, that Ackerman placed numerous Batesville files and data on the USB Device in the time period leading up to the end of his employment on June 30, 2023. Forensic findings strongly indicated Ackerman copied an entire folder with several dozen files from his Batesville laptop to the USB Device. *See* Affidavit of Brett Creasy (“Forensics Aff.”) ¶ 6, **Exhibit 3**. Many if not all of the files contain or constitute Confidential Information and Trade Secrets, and all of them are Batesville’s property.

42. Ackerman, via counsel, has admitted that he has numerous Batesville files and data on the USB Device, yet he refuses to return the USB Device or make it available for inspection and remediation.

43. Ackerman’s USB Device has numerous Batesville files. Forensics Aff. ¶¶ 6–7. He accessed the following on his Batesville laptop from the files’ location on the USB Device on April 28 and 29, 2023. *Id.*

- (1) Philadelphia restructure file.xlsx: Spreadsheet containing confidential and trade secrets information regarding Batesville’s Philadelphia-area sales strategy, including customer-specific sales volume, both actual and projected, revenue, and growth. Additionally, the spreadsheet includes performance metrics for Ackerman and other Batesville sales representatives, a list of customer account reassignments made based on internal segmentation strategy, and strategic information and details about the customers and Batesville’s plans to grow business with them.

- (2) Concerns.msg: An email from Ackerman expressing concerns and including two spreadsheets with Confidential Information and Trade Secrets:
- At Risk Compliance Accounts 10.7.19 – Action Required.xlsx: Lists Batesville customer accounts “at risk” of non-compliance with its sales contracts, including customer-specific contract length, contract end dates, compliance metrics, sales volume, and incentives—i.e., fixture installation costs and discount information.
 - VPP Territory review sent 10.7.19.xlsx: Lists customer accounts regardless of “at-risk” status, including customer-specific contract lengths, start and end dates, renewal dates, compliance metrics, sales volume, both actual and projected, revenue, segmentation, and incentive information—i.e., fixture installation costs, discount, and consignment information.
- (3) Eastern Shore Customers with Sales Rep csc Allentown now august 2022.xlsx: A list of customers in Eastern Shore region as of August 2022, including confidential access codes to funeral homes and assigned sales representatives
- (4) account transfers effective 10.1.20.xlsx: Data on customer-specific segmentation and information regarding consignment and fixturing agreements for a list of customer accounts assigned to Ackerman as of October 1, 2020.

- (5) Potential acct transfers 10.28.msg: An internal Batesville email from Ackerman with detailed customer-specific volume, revenue, anticipated growth, and customer feedback.
- (6) Territory 2021.xls: A list of 144 customers in Ackerman's territory for fiscal year 2021, including their contact information (i.e., address).
- (7) transfers Chad House TY (Sept 2018) v4.xlsx: Customer-specific sales volume and revenue data for customer accounts reassigned from Batesville sales representative Chad H. House to Ackerman and other sales representatives as of September 2018.
- (8) accounts final going to laser 2-13.15.xlsx: Customer-specific sales volume and revenue for customer accounts assigned to Philadelphia region with assignments to Ackerman and other Batesville sales representatives as of February 13, 2015.

All of those files contain or constitute Confidential Information and trade secrets.

44. Ackerman's copying of the folder from his Batesville laptop indicates the entire folder with approximately 177 files, called "Philly TY EH" (the "Philly Folder"), likely now is found on the USB Device. Forensics Aff. ¶ 8. The files contained years of pricing, discount, territory, and margin data for Batesville customers as well as other strategic information. The timespan ranges from 2015 through 2023. For example, the folder included the following files.

- (1) 2023 Territory.xlsx: A list of customer accounts assigned to Ackerman for the year 2023 taken from the location "C:\Users\ackery10\OneDrive - Hillenbrand, Inc\Desktop\Philly TY EH\Territory FY2023" and accessed on May 12, 2023.

- (2) Fusion ty.xlsx: A list 173 customer location with contact names, phone numbers, delivery information, and customer classification information.
- (3) Potential inside sales Ackerman territory.xlsx: A list customer accounts assigned to Ackerman at the time and being considered for reassignment based on Batesville's internal segmentation.
- (4) October 1 2020 master transfer list - John Wall moves.xlsx: A list of customer accounts transferred from various Batesville sales representatives to other representatives and departments, around October 1, 2020, based on Batesville's internal segmentation. It contains confidential and trade secrets information, including, but not limited to, customer-specific segmentation information, volume, and revenue.
- (5) top rev accts show down amt yr to yr.pdf: A list of Batesville's "top revenue" customers assigned to Ackerman, effective October 10, 2019, which includes confidential and trade secrets information, including customer-specific segmentation information, volume, revenue, and growth.
- (6) FY20 Q1 Pricing Program Training Deck Follow Up.ppt: An overview of a confidential pricing program, including program objectives, customer-tier-specific pricing and discount information, and internal marketing strategy and tactics.

Forensics Aff. ¶ 8. All of those files contain or constitute Confidential Information and trade secrets.

45. The data in each file Ackerman continues to misappropriate and retain is Confidential Information and proprietary. Each individual file constitutes a trade secret of

Batesville, and the group of files collectively as a whole constitutes trade secrets. The historical and current information is a roadmap for a competitor such as Victoriaville to target funeral home customers and prospects of Batesville using non-public information. For example, the data allows a competitor to calculate and then undercut Batesville pricing, to know and take advantage of the profitability and buying preferences of Batesville customers, and to know when Batesville contracts are expiring so as to time pitches. Even information and data from several years ago is non-public and valuable to a competitor because it allows a company like Victoriaville to see trends in Batesville's business and customer relationships and then target its poaching efforts accordingly.

46. In light of Ackerman's admission that he used the USB Device for years (*see below*, ¶ 75), there are certainly far more Batesville files and much more Confidential Information and trade secrets on the USB Device than what the initial forensic investigation has been able to determine. Batesville cannot know the full extent and details of the other Batesville Confidential Information and property on the USB Device until it obtains it and provides it to forensic experts for review and inspection, which necessitates emergency injunctive relief.

47. Ackerman engaged in other unlawful and suspicious activity. In the days and weeks leading up to Ackerman's resignation, he accessed unusual amounts and types of files with Confidential Information, conduct that was not necessary for his job generally and in light of the timing of his resignation.

48. For example, on June 19, 2023, he accessed the following files. Forensics Aff. ¶ 9.

- (1) Dual Disposition List - August 2022.xlsx: This documents contains a confidential, internal schedule for the development and implementation of

Batesville product features; and was taken from the folder “2023 coreline adjustment.”

- (2) [REDACTED] updated Net Price Quick Reference (NetPQR) 5.1.23.pdf: This document is marked “CONFIDENTIAL” and contains confidential information, including pricing and discount information for Batesville products, effective May 1, 2023. A “CONFIDENTIAL INFORMATION” provision reiterates this information is “proprietary,” “confidential,” and “may not be shared with any person or entity not employed by your funeral home.”
- (3) Key Close Messages - External - FINAL 2.1.23.pdf : This document is marked “CONFIDENTIAL & PROPRIETARY,” for “INTERNAL USE ONLY,” and contains confidential, talking points for Batesville employees to use in response to customer questions about corporate transaction information.

Each of these contain and/or constitute Confidential Information and trade secrets of Batesville.

49. On June 20, 2023, Ackerman again accessed the “Dual Disposition List – August 2022” file. He also accessed at least the following four pricing files from his laptop. Forensics Aff.

¶ 10.

- (1) US Internal Master Price Pages 8999.pdf: This document is marked “CONFIDENTIAL” and contains confidential information, including pricing and discount information for Batesville products, effective October 1, 2022. A “*CONFIDENTIAL INFORMATION*” provision reiterates this

information is “proprietary,” “confidential,” and “may not be shared with any person or entity not employed by your funeral home.”

- (2) US Internal Master Price Pages 8999 20210811113659.pdf: This document contains confidential information, including pricing and discount information for Batesville products, effective October 1, 2021. A confidentiality provision expressly provides this information is “proprietary,” “confidential,” and “may not be shared with any person or entity not employed by your funeral home.”
- (3) 2021 US Internal Master Price Pages 8999-1.pdf: This document contains confidential information, including pricing and discount information for Batesville products, effective October 1, 2020. A confidentiality provision expressly provides this information is “proprietary,” “confidential,” and “may not be shared with any person or entity not employed by your funeral home.”
- (4) US Internal Master Price Pages 8999 20180809091452.pdf: This document contains confidential information, including pricing and discount information for Batesville products, effective October 1, 2018. A confidentiality provision expressly provides this information is “proprietary,” “confidential,” and “may not be shared with any person or entity not employed by your funeral home.”
- (5) Net Price Quick Reference.pdf: This document is marked “CONFIDENTIAL” and contains confidential information, including customer-specific pricing information for Batesville products, effective

October 1, 2022. A “**CONFIDENTIAL INFORMATION**” provision reiterates this information is “proprietary,” “confidential,” and “may not be shared with any person or entity not employed by your funeral home.”

Each of these contain and/or constitute Confidential Information and trade secrets of Batesville.

50. On June 21, 2023, Ackerman three separate times accessed a file (Forensics Aff. ¶ 10) containing Confidential Information and trade secrets, including customer-specific pricing and discount information, about a major Batesville customer in Pennsylvania. He also again accessed the file, “Key Close Messages - External - FINAL 2.1.23.pdf,” on this date.

51. On June 23, 2023, Ackerman accessed yet another pricing file from his laptop. Forensics Aff. ¶ 12. At 2:25:00 PM, he accessed a file with a name including “[] Net Price Quick Reference 5.3.23.pdf” from the location “C:\Users\ackery10\OneDrive - Hillenbrand, Inc\Desktop\2023 NPQR.” This document is marked “CONFIDENTIAL” and contains confidential information, including customer-specific pricing and discount information for Batesville products. A “CONFIDENTIAL INFORMATION” provision reiterates this information is “proprietary,” “confidential,” and “may not be shared with any person or entity not employed by your funeral home.” (Batesville omits from public access the customer name from this and other file names, and will a Notice of Exclusion under the Rules on Access to Court Records.)

52. These files all contain and constitute Confidential Information and Trade Secrets. In light of the fact that Ackerman had decided to submit his resignation a few days after accessing these, there was no legitimate business need for him to review several years’ worth of pricing and margin data, customer ordering history, and other non-public information, all of which constituted Confidential Information and trade secrets.

53. Not only did Ackerman have no legitimate business reason to be accessing that volume and type of information in the days before his resignation, Ackerman also engaged in anti-forensic activity, which suggests he was transferring those files to himself. Specifically, Ackerman deleted his Google Chrome internet browser history for the period from March 31, 2023, to the end of his employment. Forensics Aff. ¶ 13. This means that a forensic investigation cannot determine the extent of file transfers he conducted using either of his two personal email accounts—rackerman33@verizon.net, and ryguy110@yahoo.com—which he could have accessed on his Batesville laptop. However, despite Ackerman’s deletions, forensic investigation revealed that he did access his yahoo email from his Batesville computer via the Microsoft Edge browser on June 23, 2023, the date he gave notice of his resignation. Forensics Aff. ¶ 14.

54. Ackerman sent emails from his Batesville account to his rackerman33@verizon.net email account. Forensics Aff. ¶ 15. Sending files with the Verizon program leaves a record of the Batesville file in the Verizon system, which is accessible to the account holder, which is Ackerman. *Id.* ¶ 18.

55. On January 13, 2023 at 10:05 a.m., he forwarded an email from his work email to his personal Verizon email rackerman33@verizon.net with the subject “FW: photoboard n01.” Forensics Aff. ¶ 15. The email has an attachment named “N01 Military Photo Board.pdf” which contains a photo of a casket named “N01.” *Id.* ¶ 15. On November 21, 2022 at 02:07 p.m., he forwarded an email from his work email to his personal Verizon email with the subject “FW: Ackerman, Ryan A shared ‘DeBaptiste burial tributes guide proof’ with you.” The email contains a chain between Mr. Ackerman, Nathan Mirabella at Batesville, and Wendy Wise at Batesville, regarding proofs for DeBaptiste burial tributes. *Id.* ¶ 15. Once again, there was no legitimate business reason for Ackerman to sending Batesville files and data to his personal email.

56. Ackerman also used a Verizon multimedia messaging program to send Batesville files to his personal Verizon account 2678859619@vzwpix.com. Forensics Aff. ¶ 16. Ackerman used this program to send the following emails:

- (1) 05/12/2023 10:28 AM – email from ryan.ackerman@batesville.com to 2678859619@vzwpix.com with attachment named “y33 imperial.jpg.”
- (2) 02/06/2023 10:57 AM – email from ryan.ackerman@batesville.com to 2678859619@vzwpix.com.
- (3) 01/10/2023 11:19 AM – email from ryan.ackerman@batesville.com to 2678859619@vzwpix.com with attachment named “Argo Sell Sheet - May 2022 (1).pdf.”
- (4) 01/05/2023 12:45 PM – email from ryan.ackerman@batesville.com to 2678859619@vzwpix.com with attachment named “trayview 29.pdf.”

Forensics Aff. ¶ 16. Each of those files are proprietary to Batesville. Several of the emails had been deleted (Forensics Aff. ¶ 17), so Batesville at this time cannot determine the full extent of the misappropriation.

57. Ackerman also printed about two dozen Batesville files between April 12, 2023, and the end of his employment. Forensics Aff. ¶ 19. These contain and/or constitute Confidential Information and trade secrets. The printed files included:

- (1) More than ten files with confidential information about one of Batesville’s biggest customers in Pennsylvania;
- (2) Files with confidential and proprietary pricing data—including pricing tools and formulas—for two other Batesville customers;

- (3) Business plan documents for 2023 with trade secret and proprietary information; and
- (4) Documents showing customer contract expiration data, which lets a competitor know when to target Batesville's customers and a competitor's prospects.

58. However, Ackerman only returned a few of those printed documents in the boxes he provided to Batesville upon his resignation. Ackerman's retention of any the printed documents is a violation of his contractual obligations.

59. After Ackerman submitted his resignation on June 23, 2023, Batesville inquired about Ackerman's position at Victoriaville, including what his territorial responsibilities would include. Ackerman did not answer that question.

60. Ackerman informed Batesville he was undergoing a medical procedure on June 23, 2023, and would be unavailable. However, company records and forensics show that he was still accessing files on that date, including confidential pricing information. Forensics Aff. ¶ 12.

61. During Ackerman's exit interview on June 27, 2023, Ackerman declined to provide specifics about his job at Victoriaville, only claiming he has no intent to violate the terms of his employment agreement.

62. During that meeting, Batesville reinforced that Ackerman must return and not take any Batesville files and company property.

63. On June 30, 2023, Ackerman signed a Termination Certificate, which certified that he did not have, and has not failed to return, Batesville Confidential Information, trade secrets, and other data and files. A genuine and authentic copy of the Termination Certificate is attached as **Exhibit 4**.

64. As set forth above, Batesville has now determined that Ackerman's representations on the Termination Certificate were knowingly false at the time he made it.

65. Batesville never authorized Ackerman to take and not return the data, files, Confidential Information, and trade secrets on the USB Device, in personal emails, on printed copies, or via other method Batesville may yet discover.

Batesville's Attempts to Obtain Assurances and the Responses from Ackerman and Victoriaville

66. On June 30, 2023, Batesville sent a letter (with a copy of his Agreements) to Ackerman reminding him of his obligations under the Agreements, requesting written affirmation of his post-employment obligations, and again asking for specifics about his job at Victoriaville. On the same date, Batesville sent a letter to Victoriaville informing it of Ackerman's obligations to Batesville and including copies of his Agreements. A genuine and authentic copy of the letters are attached as **Exhibit 5**.

67. Victoriaville is a competitor of Batesville. The company has been expanding its presence in the United States, especially in and near the areas where Ackerman dealt with Batesville customers during his employment.

68. Based in Quebec, Canada, Victoriaville claims on its website it is the third-largest manufacturer of hardwood caskets and "one of the most important distributors of funeral products" in North America. Victoriaville sells many if not all of the same products as Batesville, including caskets, urns, and memorialization products.

69. Victoriaville has been expanding into the United States based on its press releases and website. In 2017, the company acquired a New York funeral products company. In June 2021, Victoriaville announced a merger with Legacy Tribute, Inc., which distributed caskets and funeral products across New England, and announced a new "Victoriaville & Co. (USA)" name.

In September 2021, Victoriaville announced a “strategic partnership” with Sauder Funeral Products, an Ohio company with nearly 2,400 employees. The partnership entailed Victoriaville taking over assembly, sales, and distribution of products, while Sauder will continue to make components. In January 2023, Victoriaville announced an investment in a 67,000 square foot manufacturing facility in Cleveland, Ohio, its first such facility in the United States.

70. In response to Batesville’s letters, counsel for both Ackerman and Victoriaville issued a response on July 6, 2023. **Exhibit 6** (“Ackerman First Response”). The response represented that Ackerman “is not aware of any Batesville trade secrets or confidential information in his possession.” The response also argued that customer identity, contact information, and pricing are well known and thus not protectable. The letter took issue with various restrictive covenants.

71. At no point in the response letter did Ackerman disclose the Confidential Information and property he had taken and retained on the USB Device, let alone the existence of the USB Device.

72. Thereafter, counsel for Batesville and Ackerman/Victoriaville had phone communications in an attempt to resolve the dispute. At no time during these calls did counsel for Ackerman and Victoriaville disclose the fact that Ackerman had taken and retained Batesville Confidential Information and property or even the existence of the USB Device.

73. On July 27, 2023, Batesville, by counsel, sent a demand letter to counsel for Ackerman and Victoriaville with details of its forensic investigation and findings to date regarding Ackerman’s misappropriation of Confidential Information, trade secrets, and property. **Exhibit 7**. The letter made several demands, including that Mr. Ackerman must make the USB Device, email and cloud accounts, and his personal phone available for forensic inspection and review. The letter

also demanded that Ackerman and Victoriaville describe any use of Batesville's files, data, property, Confidential Information, and trade secrets in a sworn declaration.

74. On July 31, 2023, counsel for Ackerman and Victoriaville issued another response. **Exhibit 8** ("Second Response"). The Second Response stated that Ackerman would continue to retain the documents he took from Batesville, and Ackerman did not agree to a forensic inspection and remediation of the USB Device, his accounts, and his phone. Instead, he offered to copy "any old files" and return them on a drive and then delete them, or delete them—without specifying what those are or revealing what else is on the USB Device. The Second Response described the purloined documents as "documents he needs to insure he does not solicit or do business with Batesville customers with whom he did business in this last year years at Batesville." This statement indicates to Batesville that Ackerman will continue to use and review Batesville documents and information, including Confidential Information and trade secrets, while working for Victoriaville.

75. The letter made several other representations that are not correct, are inconsistent with known facts, or cannot be verified due to Ackerman's anti-forensic conduct. The letter claims Ackerman for years has been using the USB Device to preserve documents against the chance of a computer crash until he began using Microsoft OneDrive to backup and save documents about five years ago, "as a consequence of which Mr. Ackerman no longer needed to use the USB drive as the backup for documents he needed to do the job." Ex. 8, Second Response, p. 2. However, Batesville began using a Microsoft OneDrive several years ago, and Ackerman used the USB Device with his Batesville laptop many times after that, including more than a dozen times in 2021 and multiple times on April 28 and 29, 2023.

76. The letter claims Ackerman saved a spreadsheet of his assigned customers to the USB Device with dates when he did business in order to comply with a customer non-solicitation restriction. Ex. 8, Second Response, p. 2. However, Ackerman put far more files on the USB device than just a single spreadsheet, and the files he took contain customers from both within and outside the final two years of his employment. Forensics Aff. ¶¶ 6-8. In addition, the files he took have more than just customer names for alleged compliance; they contain pricing information unique to certain customers, including discounts, margins, and goals, as well as pricing tools and formulas. Moreover, Ackerman’s legal obligations to Batesville do not permit him to engage in “self-help” by taking company property, Confidential Information, and trade secrets without Batesville’s knowledge or permission so he can make a determination about compliance.

77. The letter also reveals that Ackerman has shared customer information with Victoriaville. It notes that Ackerman informed Victoriaville that one of the customers the company intended to assign him was one he had serviced at Batesville. Ex. 8, Second Response, p. 2. While Ackerman is to be commended for not soliciting and targeting that Batesville customer, the letter made clear Ackerman will continue reviewing the files he took from Batesville in order to do his job and will continue to share Confidential Information and trade secrets about Batesville’s business with Victoriaville.

78. The letter also claims that the files Ackerman deleted or moved from his Batesville laptop were personal items. That is not consistent with the forensic findings, which found that Batesville business files were no longer present on the laptop, including those with the following file names:

- (1) US-Batesville Cremation Pricing Tool_FY23 V5.xlsm. This was last accessed on May 30, 2023;

- (2) 2023-06-20 14_58_43-Family Choices Personalization Brochure – U.S. March 2021-1.pdf and 12 more page.png. This was last accessed on June 20, 2023;
- (3) AMP'd UP File.xlsx. This was last accessed on June 14, 2023; and
- (4) 2023-06-05 12_45_16-Batesville Connect and 3 more pages – Work – Microsoft? Edge.png. This was last accessed on June 5, 2023.

Forensics Aff. ¶ 20. In addition, Ackerman's deletion of browser history on the Batesville laptop makes it difficult to verify his claims.

79. Finally, the Second Response tries to argue that every company tries to and does obtain pricing information of its competitors. The implication seems to be that since some companies, even Batesville, obtain pricing information of other companies, then it is acceptable for Ackerman to retain all the pricing files he took while he continues to work for Victoriaville.

80. Because Ackerman and Victoriaville have refused to cooperate by making the USB Device available and providing sufficient assurances, Batesville has no choice but to seek all available legal remedies, including emergency, temporary, and preliminary injunctive relief.

81. Ackerman used improper means to acquire Batesville's Confidential Information and trade secrets, including accessing company files without a legitimate business purpose and with the intent to harvest the data, and by using the USB Device and other means to take the Confidential Information and trade secrets with him as he left Batesville's employment despite pledging in writing that he was not doing so. Ackerman further has disclosed and used Batesville's Confidential Information and trade secrets without Batesville's express or implied consent while employed at Victoriaville for the purpose of carrying out his sales duties there, and he acquired

Batesville's Confidential Information and trade secrets under circumstances giving rise to a duty to maintain their secrecy, including the Agreements he signed.

82. Ackerman's misappropriation of Confidential Information and trade secrets threaten Batesville's goodwill and the long-standing valuable employee and customer relationships the company has fostered and developed over the many years of its operation. Ackerman's misappropriation also puts the incalculable value of the Confidential Information and trade secrets at risk. This conduct, which began while Ackerman was still employed at Batesville, together with his many false and misleading statements to date, directly violate, or threaten to imminently violate, Ackerman's statutory and contractual obligations, including those in the Agreements. The damage to Batesville if Ackerman is permitted to keep misappropriating, using, accessing, and disclosing Batesville Confidential Information and Trade Secrets, to unfairly compete, and to solicit or service Batesville customers (or imminently or inevitably threaten to do so) has already resulted, and will continue to result in, immeasurable and irreparable harm to Batesville. Accordingly, Batesville lacks an adequate remedy at law, and the harm it is suffering, and will continue to suffer, cannot be remedied purely by money damages.

83. Ackerman's actions are intentional, willful, and malicious and/or in bad faith.

84. To the extent required, Batesville pleads its claims in the alternative.

LEGAL CLAIMS

COUNT I – MISAPPROPRIATION OF TRADE SECRETS UNDER THE INDIANA UNIFORM TRADE SECRETS ACT

85. Batesville realleges and incorporates by reference the allegations set forth in foregoing paragraphs as if fully set forth herein.

86. Batesville's Confidential Information and trade secrets are not generally available to the company's competitors and derive independent economic value from not being known to,

and not being readily ascertainable by proper means by, other persons who could obtain economic value from the information's disclosure or use.

87. Batesville has taken reasonable steps to protect the secrecy of its Confidential Information and trade secrets, including but not limited to restricting access to Batesville's password-protected computer network; restricting internal access to such information to a limited pool of employees who have a "need to know" the information to perform their duties; addressing the importance of Confidential Information in the company's policies and Code of Ethical Business Conduct, including non-disclosure, and requiring all employees to review and abide by the policy; requiring annual training on the Code of Ethical Business Conduct, including handling Confidential Information, and recertification of the acknowledgment of the Code; requiring the use of strong passwords for user accounts on computers and email accounts; using only secure connections (VPN) to protect servers when accessing information remotely; and requiring employees to agree to employment agreements with restrictive covenants and provisions concerning confidentiality and the return of company files and property.

88. Certain of Batesville's Confidential Information described herein constitutes trade secrets under the IUTSA, Ind. Code § 24-2-3-1, *et seq.*

89. Ackerman intentionally and willfully misappropriated Batesville trade secrets and/or received and is in possession of Batesville trade secrets under circumstances by which he knows or has reason to know that the trade secrets were acquired by improper means.

90. There is a continuing threat of further misappropriation and misuse of Batesville trade secrets. Unless injunctive relief is granted, the continued disclosure of Batesville trade secrets is inevitable.

91. Ackerman's misappropriation and use of Batesville trade secrets has caused and will continue to cause irreparable harm and damage to Batesville.

92. Batesville is entitled to injunctive relief to protect against the continued and/or imminent threat of Ackerman's further misappropriation, use, and/or disclosure of Batesville trade secrets because such misappropriation, use, and/or disclosure will continue to cause Batesville substantial and irreparable harm for which there is no adequate remedy at law. Given the circumstances, the Court can and should compel affirmative acts to protect Batesville's trade secrets, including making the USB Device, email accounts, and Ackerman's personal phone available for a forensic review and remediation.

93. Batesville is also entitled to damages for the harm caused by Ackerman's misappropriation, use, and/or disclosure of Batesville trade secrets, including profits lost as a result of Ackerman's misconduct and consequential damages.

94. Ackerman's conduct was willful, malicious, and in bad faith so as to justify an award of punitive damages in an amount that is twice the amount of actual damages, and an award of attorneys' fees under the IUTSA.

WHEREFORE, Batesville respectfully requests this Court enter judgment in its favor and against Ackerman as follows:

- (1) Temporarily, preliminarily, and permanently enjoining Ackerman (and all persons or entities in active concert or participation with him, including Victoriaville) from making any use of, publishing, disclosing, misappropriating, or authorizing anyone else to publish or disclose, to any other person or entity, any of Batesville's trade secrets or Confidential Information.
- (2) Temporarily, preliminarily, and permanently enjoining Ackerman from engaging in activity that would make it inevitable he would further misappropriate, disclose, and use Batesville trade secrets in any form, including sales activity or other duties on behalf of Victoriaville or any other

Batesville competitor that would wrongfully benefit from having Batesville's trade secrets or Confidential Information.

- (3) Temporarily, preliminarily, and permanently ordering Ackerman to make available to Batesville for inspection and remediation of Batesville trade secrets and Confidential Information the USB Device, Ackerman's email accounts, and Ackerman's personal phone.
- (4) Temporarily, preliminarily, and permanently ordering Ackerman to return to Batesville—and not analyze, review, alter, disclose, modify, copy, use, delete or destroy—all tangible expressions and hard copies of Batesville's trade secrets and Confidential Information in Ackerman's possession, custody, and/or control.
- (5) Temporarily, preliminarily, and permanently ordering Ackerman to identify all persons and/or entities to whom he published and/or disclosed, and all persons and/or entities whom Ackerman authorized to publish and/or disclose, any of Batesville's trade secrets and Confidential Information.
- (6) For all available damages, including actual damages, punitive damages, and an amount representing Ackerman's unlawful gain from misappropriation of Batesville trade secrets.
- (7) For reasonable attorneys' fees and the costs of this lawsuit.
- (8) An order awarding Batesville pre- and post-judgment interest.
- (9) For such other and further relief as this Court may deem just and proper.

**COUNT II – BREACH OF CONTRACT– CONFIDENTIALITY
PARAGRAPH 19 OF THE EMPLOYMENT AGREEMENT**

95. Batesville realleges and incorporates by reference the allegations set forth in foregoing paragraphs as if fully set forth herein.

96. Batesville and Ackerman entered into the Employment Agreement on or around June 21, 2010, as a condition of Ackerman's employment and for other good and valuable consideration.

97. The Employment Agreement is a valid and enforceable contract between Batesville and Ackerman, and is supported by adequate consideration.

98. Paragraph No. 19 of the Employment Agreement prohibits Ackerman from disclosing Batesville Confidential Information to any third party.

99. Paragraph No. 19 of the Employment Agreement restricts Ackerman's use of Confidential Information to duties in furtherance of Batesville's business, and prohibits him from using Confidential Information for his own purposes or for the benefit of any other entity or person

100. The restrictions on use and disclosure of Confidential Information remain in effect.

101. Batesville performed every obligation it owed to Ackerman under the Employment Agreement, and Ackerman received all the benefits and consideration relating to his employment with Batesville in exchange for signing the Employment Agreement and agreeing to be bound by its terms.

102. Ackerman has disclosed Batesville Confidential Information to third parties, i.e., Victoriaville, in violation of the Employment Agreement.

103. Ackerman has used Batesville Confidential Information for purposes other than his duties in furtherance of Batesville's business, and Ackerman has used Batesville Confidential Information for his own purposes and the purposes of his employer, Victoriaville.

104. Ackerman's conduct, or threatened and imminent continued conduct, is in direct violation of Paragraph No. 19 of the Employment Agreement.

105. Ackerman's breach of contract was and is willful, malicious, and done in bad faith.

106. As a direct and proximate result of Ackerman's breach, Batesville has suffered and will continue to suffer irreparable harm, including but not limited to loss of competitive and valuable Confidential Information and trade secrets, unfair competition, and loss of customers, as well as the company's substantial investment in developing its clientele, and other non-monetary losses.

107. To the extent calculable, Batesville has suffered substantial damages as a result of Ackerman's conduct, entitling Batesville to an award of damages permitted by applicable law, including but not limited to compensatory damages, disgorgement of Ackerman's compensation or profits, punitive damages, pre-judgment and post-judgment interest, and attorney's fees and costs of this suit, and any other just and proper relief.

108. Pursuant to the Employment Agreement, Batesville is entitled to preliminary and permanent injunctive relief to enforce Ackerman's contractual obligations as well as to recover damages incurred as a result of Ackerman's breach.

WHEREFORE, Batesville respectfully requests this Court enter judgment in its favor and against Ackerman as follows:

- (1) Temporarily, preliminarily, and permanently enjoining Ackerman (and all persons or entities in active concert or participation with him, including Victoriaville) from making any use of, publishing, disclosing, misappropriating, or authorizing anyone else to publish or disclose, to any other person or entity, any of Batesville's trade secrets or Confidential Information.
- (2) Temporarily, preliminarily, and permanently enjoining Ackerman from engaging in activity that would make it inevitable he would further misappropriate, disclose, and use Batesville trade secrets or Confidential Information in any form, including sales activity or other duties on behalf of Victoriaville or any other Batesville competitor that would wrongfully benefit from having Batesville's trade secrets.
- (3) Temporarily, preliminarily, and permanently ordering Ackerman to return to Batesville, and not analyze, alter, disclose, modify, copy, use, delete or destroy, all tangible expressions of Batesville's trade secrets and Confidential Information in his possession, custody and/or control.
- (4) Temporarily, preliminarily, and permanently ordering Ackerman to identify all persons and/or entities to whom he published and/or disclosed, and all persons and/or entities whom Ackerman authorized to publish and/or disclose, any of Batesville's trade secrets and Confidential Information.
- (5) For all available damages, monetary, compensatory, and punitive.

- (6) For reasonable attorneys' fees and the costs of this lawsuit.
- (7) An order awarding Batesville pre- and post-judgment interest.
- (8) For such other and further relief as this Court may deem just and proper.

**COUNT III – BREACH OF CONTRACT– RETURN OF COMPANY PROPERTY
PARAGRAPH 17 OF THE EMPLOYMENT AGREEMENT**

109. Batesville realleges and incorporates by reference the allegations set forth in foregoing paragraphs as if fully set forth herein.

110. Batesville and Ackerman entered into the Employment Agreement on or around June 21, 2010, as a condition of Ackerman's employment and for other good and valuable consideration.

111. The Employment Agreement is a valid and enforceable contract between Batesville and Ackerman, and is supported by adequate consideration.

112. Paragraph No. 17 of the Employment Agreement requires Ackerman, upon termination, to immediately return to Batesville all records, files, drawings, data in whatever form, equipment and the like relating to, or provided by, Batesville, as such items are the sole property of Batesville.

113. Batesville performed every obligation it owed to Ackerman under the Employment Agreement, and Ackerman received all the benefits and consideration relating to his employment with Batesville in exchange for signing the Employment Agreement and agreeing to be bound by its terms.

114. Ackerman since his termination has retained and failed to return files, documents, data, and other Batesville property.

115. Ackerman's conduct is in direct violation of Paragraph No. 17 of the Employment Agreement.

116. Ackerman's breach of contract was and is willful, malicious, and done in bad faith.

117. As a direct and proximate result of Ackerman's breach, Batesville has suffered and will continue to suffer irreparable harm, including but not limited to loss of competitive and valuable Confidential Information and trade secrets, unfair competition, and loss of customers, as well as the company's substantial investment in developing its clientele, and other non-monetary losses.

118. To the extent calculable, Batesville has suffered substantial damages as a result of Ackerman's conduct, entitling Batesville to an award of damages permitted by applicable law, including but not limited to compensatory damages, disgorgement of Ackerman's compensation or profits, punitive damages, pre-judgment and post-judgment interest, and attorney's fees and costs of this suit, and any other just and proper relief.

119. Pursuant to the Employment Agreement, Batesville is entitled to preliminary and permanent injunctive relief to enforce Ackerman's contractual obligations as well as to recover damages incurred as a result of Ackerman's breach.

WHEREFORE, Batesville respectfully requests this Court enter judgment in its favor and against Ackerman as follows:

- (1) Temporarily, preliminarily, and permanently ordering Ackerman (and all persons or entities in active concert or participation with him, including Victoriaville) to immediately return to Batesville all records, files, drawings, data in whatever form, equipment and the like relating to, or provided by, Batesville.
- (2) Temporarily, preliminarily, and permanently enjoining Ackerman from making any use of, publishing, disclosing, misappropriating, or authorizing anyone else to publish or disclose, to any other person or entity, any of Batesville's property in whatever form.

- (3) Ordering Ackerman to identify all persons and/or entities with whom he shared or to whom he provided any of Batesville's property in whatever form, including all records, files, drawings, data in whatever form, equipment and the like.
- (4) All available monetary damages, including but not limited to lost profits, compensatory damages, punitive damages, costs, and attorneys' fees.
- (5) An order awarding Batesville pre- and post-judgment interest.
- (6) Any and all other just and proper relief in favor of Batesville.

**COUNT IV – BREACH OF CONTRACT– CONFIDENTIALITY
PARAGRAPH 2 OF THE TRADE SECRETS AGREEMENT**

120. Batesville realleges and incorporates by reference the allegations set forth in foregoing paragraphs as if fully set forth herein.

121. Batesville and Ackerman entered into the Trade Secrets Agreement on or around June 16, 2008, as a condition of Ackerman's employment and for other good and valuable consideration.

122. The Trade Secrets Agreement is a valid and enforceable contract between Batesville and Ackerman, and is supported by adequate consideration.

123. Paragraph No. 2 of the Trade Secrets Agreement prohibits Ackerman from disclosing to anyone Batesville Confidential Information during and after his employment without Batesville's written consent.

124. Paragraph No. 2 of the Trade Secrets Agreement prohibits Ackerman from using Batesville Confidential Information for himself or third parties during and after his employment without Batesville's written consent.

125. The restrictions on use and disclosure of Confidential Information remain in effect.

126. Batesville performed every obligation it owed to Ackerman under the Trade Secrets Agreement, and Ackerman received all the benefits and consideration relating to his employment with Batesville in exchange for signing the Trade Secrets Agreement and agreeing to be bound by its terms.

127. Ackerman has disclosed Batesville Confidential Information to third parties, i.e., Victoriaville, in violation of the Trade Secrets Agreement.

128. Ackerman has used Batesville Confidential Information for his own purposes and the purposes of his employer, Victoriaville.

129. Ackerman's conduct, or threatened and imminent continued, conduct is in direct violation of Paragraph No. 2 of the Trade Secrets Agreement.

130. Ackerman's breach of contract was and is willful, malicious, and done in bad faith.

131. As a direct and proximate result of Ackerman's breach, Batesville has suffered and will continue to suffer irreparable harm, including but not limited to loss of competitive and valuable Confidential Information and trade secrets, unfair competition, and loss of customers, as well as the company's substantial investment in developing its clientele, and other non-monetary losses.

132. To the extent calculable, Batesville has suffered substantial damages as a result of Ackerman's conduct, entitling Batesville to an award of damages permitted by applicable law, including but not limited to compensatory damages, disgorgement of Ackerman's compensation or profits, punitive damages, pre-judgment and post-judgment interest, and attorney's fees and costs of this suit, and any other just and proper relief.

133. Batesville is entitled to preliminary and permanent injunctive relief to enforce Ackerman's contractual obligations as well as to recover damages incurred as a result of Ackerman's breach.

WHEREFORE, Batesville respectfully requests this Court enter judgment in its favor and against Ackerman as follows:

- (1) Temporarily, preliminarily, and permanently enjoining Ackerman (and all persons or entities in active concert or participation with him, including Victoriaville) from making any use of, publishing, disclosing, misappropriating, or authorizing anyone else to publish or disclose, to any other person or entity, any of Batesville's trade secrets or Confidential Information.
- (2) Temporarily, preliminarily, and permanently enjoining Ackerman from engaging in activity that would make it inevitable he would further misappropriate, disclose, and use Batesville trade secrets or Confidential Information in any form, including sales activity or other duties, on behalf of Victoriaville or any other Batesville competitor that would wrongfully benefit from having Batesville's trade secrets.
- (3) All available monetary damages, including but not limited to lost profits, compensatory damages, punitive damages, costs, and attorneys' fees.
- (4) Disgorgement of any benefits, profits, or other unjust enrichment improperly maintained by Ackerman and Victoriaville.
- (5) An order awarding Batesville pre- and post-judgment interest.
- (6) Any and all other just and proper relief in favor of Batesville

**COUNT V – BREACH OF CONTRACT– RETURN OF COMPANY PROPERTY
PARAGRAPH 3 OF THE TRADE SECRETS AGREEMENT**

134. Batesville realleges and incorporates by reference the allegations set forth in foregoing paragraphs as if fully set forth herein.

135. Batesville and Ackerman entered into the Trade Secrets Agreement on or around June 16, 2008, as a condition of Ackerman's employment and for other good and valuable consideration.

136. The Trade Secrets Agreement is a valid and enforceable contract between Batesville and Ackerman, and is supported by adequate consideration.

137. Paragraph No. 3 of the Trade Secrets Agreement prohibits Ackerman from taking any property (including electronic information or data) belonging to Batesville upon the end of his employment.

138. Paragraph No. 3 of the Trade Secrets Agreement requires Ackerman to return to Batesville all company property upon the end of his employment.

139. Paragraph No. 3 of the Trade Secrets Agreement prohibits Ackerman from using Batesville property for the benefit of others.

140. Batesville performed every obligation it owed to Ackerman under the Trade Secrets Agreement, and Ackerman received all the benefits and consideration relating to his employment with Batesville in exchange for signing the Trade Secrets Agreement and agreeing to be bound by its terms.

141. Ackerman at the end of his employment took Batesville property.

142. Ackerman since the end of his employment has refused to return Batesville property.

143. Ackerman since the end of his employment has used Batesville property for the benefit of others.

144. Ackerman's conduct, or threatened and imminent continued conduct, is in direct violation of Paragraph No. 3 of the Trade Secrets Agreement.

145. Ackerman's breach of contract was and is willful, malicious, and done in bad faith.

146. As a direct and proximate result of Ackerman's breach, Batesville has suffered and will continue to suffer irreparable harm, including but not limited to loss of competitive and

valuable Confidential Information and trade secrets, unfair competition, and loss of customers, as well as the company's substantial investment in developing its clientele, and other non-monetary losses.

147. To the extent calculable, Batesville has suffered substantial damages as a result of Ackerman's conduct, entitling Batesville to an award of damages permitted by applicable law, including but not limited to compensatory damages, disgorgement of Ackerman's compensation or profits, punitive damages, pre-judgment and post-judgment interest, attorney's fees and costs of this suit, and any other just and proper relief.

148. Batesville is entitled to preliminary and permanent injunctive relief to enforce Ackerman's contractual obligations as well as to recover damages incurred as a result of Ackerman's breach.

WHEREFORE, Batesville respectfully requests this Court enter judgment in its favor and against Ackerman as follows:

- (1) Temporarily, preliminarily, and permanently enjoining Ackerman (and all persons or entities in active concert or participation with him, including Victoriaville) to immediately return to Batesville all records, files, drawings, data in whatever form, equipment and the like relating to, or provided by, Batesville.
- (2) Temporarily, preliminarily, and permanently enjoining Ackerman from making any use of, publishing, disclosing, misappropriating, or authorizing anyone else to publish or disclose, to any other person or entity, any of Batesville's property in whatever form.
- (3) Temporarily, preliminarily, and permanently ordering Ackerman to make available to Batesville and its experts the USB Device, Ackerman's email accounts, and personal phone for the purpose of inspection and remediation of Batesville's trade secrets and Confidential Information.
- (4) Temporarily, preliminarily, and permanently ordering Ackerman to identify all persons and/or entities with whom he shared or to whom he provided any of Batesville's property in whatever form, including all records, files, drawings, data in whatever form, equipment and the like

- (5) All available monetary damages, including but not limited to lost profits, compensatory damages, punitive damages, costs, and attorneys' fees.
- (6) Disgorgement of any benefits, profits, or other unjust enrichment improperly maintained by Ackerman and Victoriaville.
- (7) An order awarding Batesville pre- and post-judgment interest.
- (8) Any and all other just and proper relief in favor of Batesville.

**COUNT VI – BREACH OF CONTRACT– NON-SOLICITATION
PARAGRAPH 21 OF EMPLOYMENT AGREEMENT**

149. Batesville realleges and incorporates by reference the allegations set forth in foregoing paragraphs as if fully set forth herein.

150. Batesville and Ackerman entered into the Employment Agreement on or around June 21, 2010, as a condition of Ackerman's employment and for other good and valuable consideration.

151. The Employment Agreement is a valid and enforceable contract between Batesville and Ackerman, and is supported by adequate consideration.

152. Paragraph No. 21 of the Employment Agreement prohibits Ackerman from directly or indirectly soliciting, offering products or services to, or accepting orders for Competitive Products or otherwise transacting competitive business with, any customer or entity with whom he had contact or transacted any business on behalf of Batesville during the final 24 months of his employment, or about whom he possessed, or had access to, confidential and proprietary information.

153. Paragraph No. 21 of the Employment Agreement prohibits Ackerman from directly or indirectly attempting to entice or otherwise cause any third party, including customers, to withdraw, curtail or cease doing business with the Company.

154. Paragraph No. 21 of the Employment Agreement prohibits Ackerman from directly or indirectly disclosing to any person or entity the identities, contacts, or preferences of any customers of Batesville, or the identity of any other persons or entities having business dealings with the Company.

155. Paragraph No. 21 of the Employment Agreement prohibits Ackerman from directly or indirectly attempting to directly or indirectly interfere with Batesville's business or its relationship with its employees, consultants, independent contractors or customers.

156. Ackerman has directly or indirectly: solicited Batesville customers; attempted to entice Batesville customers to withdraw, curtail, or cease doing business with Batesville; disclosed to Victoriaville the identities, contacts, or preferences of any customers of Batesville; and attempted to interfere with Batesville's business and/or its relationship with costumers—or has threatened to imminently and inevitably commit such actions in violation of his contractual obligations.

157. Ackerman's conduct and continued conduct is in direct violation of Paragraph No. 21 of the Employment Agreement.

158. Ackerman's breach of contract was and is willful, malicious, and done in bad faith.

159. As a direct and proximate result of Ackerman's breach, Batesville has suffered and will continue to suffer irreparable harm, including but not limited to loss of competitive and valuable Confidential Information and trade secrets, unfair competition, and loss of customers, as well as the company's substantial investment in developing its clientele, and other non-monetary losses.

160. To the extent calculable, Batesville has suffered substantial damages as a result of Ackerman's conduct, entitling Batesville to an award of damages permitted by applicable law,

including but not limited to compensatory damages, disgorgement of Ackerman's compensation or profits, punitive damages, pre-judgment and post-judgment interest, and attorney's fees and costs of this suit, and any other just and proper relief.

161. Pursuant to the Employment Agreement, Batesville is entitled to preliminary and permanent injunctive relief to enforce Ackerman's contractual obligations as well as to recover damages incurred as a result of Ackerman's breach.

WHEREFORE, Batesville respectfully requests this Court enter judgment in its favor and against Ackerman as follows:

- (1) Temporarily, preliminarily, and permanently enjoining for the period of twenty-four months from the date of the Court's order Ackerman (and all persons or entities in active concert or participation with him, including Victoriaville) from directly or indirectly soliciting, offering products or services to, or accepting orders for Competitive Products or otherwise transacting competing business with, any customer or entity with whom he had contacted or transacted business on behalf of Batesville during the final 24 months of his employment, or about whom he possessed, or had access to, confidential and proprietary information.
- (2) Temporarily, preliminarily, and permanently enjoining for the period of twenty-four months from the date of the Court's order Ackerman from directly or indirectly enticing, attempting to entice, or otherwise causing any third party, including Batesville customers, to withdraw, curtail, or cease doing business with Batesville.
- (3) Temporarily, preliminarily, and permanently enjoining for the period of twenty-four months from the date of the Court's order Ackerman from directly or indirectly disclosing to any person or entity, the identities, contacts, or preferences of any Batesville customers, persons, or entities having business dealings with the Company.
- (4) Temporarily, preliminarily, and permanently enjoining for the period of twenty-four months from the date of the Court's order Ackerman from directly or indirectly interfering or attempting to interfere with Batesville's business or its relationship with its employees, consultants, independent contractors or customers.
- (5) All available monetary damages, including but not limited to lost profits, compensatory damages, punitive damages, costs, and attorneys' fees.

- (6) Disgorgement of any benefits, profits, or other unjust enrichment improperly maintained by Ackerman and Victoriaville.
- (7) An order awarding Batesville pre- and post-judgment interest.
- (8) Any and all other just and proper relief in favor of Batesville.

**COUNT VII – BREACH OF CONTRACT– NON-COMPETITION
SECTION 22 OF THE EMPLOYMENT AGREEMENT**

162. Batesville realleges and incorporates by reference the allegations set forth in foregoing paragraphs as if fully set forth herein.

163. Batesville and Ackerman entered into the Employment Agreement on or around June 21, 2010, as a condition of Ackerman’s employment and for other good and valuable consideration.

164. The Employment Agreement is a valid and enforceable contract between Batesville and Ackerman, and is supported by adequate consideration.

165. Paragraph No. 22 of the Employment Agreement prohibits Ackerman from working for in any competitive capacity a Competitor unless Ackerman provides written notice to Batesville and sufficient written assurances to Batesville’s satisfaction that such relationship will not jeopardize Batesville’s legitimate interests or otherwise violate the terms of the Employment Agreement.

166. Paragraph No. 22 of the Employment Agreement prohibits Ackerman from engaging in the sale or distribution of any Competitive Products, specifically including any products or services relating to those for which Ackerman had responsibility during the twenty-four (24) month period preceding Employee's date of separation.

167. Paragraph No. 22 of the Employment Agreement prohibits Ackerman from marketing, selling, or otherwise offering or providing any Competitive Products within

Ackerman's Geographic Territory or Assigned Customer Base, specifically including any products or services relating to those for which Ackerman had responsibility during the twenty-four (24) month period before the end of his employment.

168. Paragraph No. 22 of the Employment Agreement prohibits Ackerman from distributing, marketing, selling, or otherwise offering or providing any Competitive Products to any customer of the Company with whom Ackerman had contact or for which Ackerman had responsibility at any time during the twenty-four (24) month period before the end of his employment.

169. Ackerman has violated one or more of the non-compete provisions of Paragraph 22 and/or threatens to imminently and inevitably breach such provisions.

170. Ackerman's conduct and continued conduct is in direct violation of Paragraph No. 22 of the Employment Agreement.

171. Ackerman's breach of contract was and is willful, malicious, and done in bad faith.

172. As a direct and proximate result of Ackerman's breach, Batesville has suffered and will continue to suffer irreparable harm, including but not limited to loss of competitive and valuable Confidential Information and trade secrets, unfair competition, and loss of customers, as well as the company's substantial investment in developing its clientele, and other non-monetary losses.

173. To the extent calculable, Batesville has suffered substantial damages as a result of Ackerman's conduct, entitling Batesville to an award of damages permitted by applicable law, including but not limited to compensatory damages, disgorgement of Ackerman's compensation or profits, punitive damages, pre-judgment and post-judgment interest, and attorney's fees and costs of this suit, and any other just and proper relief.

174. Pursuant to the Employment Agreement, Batesville is entitled to preliminary and permanent injunctive relief to enforce Ackerman's contractual obligations as well as to recover damages incurred as a result of Ackerman's breach.

WHEREFORE, Batesville respectfully requests this Court enter judgment in its favor and against Ackerman as follows:

- (1) Temporarily, preliminarily, and permanently enjoining for the period of twenty-four months from the date of the Court's order Ackerman from working for a competitor to Batesville in the same or similar capacity as Ackerman worked for Batesville.
- (2) Temporarily, preliminarily, and permanently enjoining for the period of twenty-four months from the date of the Court's order Ackerman from directly or indirectly accepting employment with, working for, or acting in any other capacity for any competitor to Batesville, if such employment, work, or capacity likely would inevitably use and/or disclose any of Batesville's trade secrets or Confidential Information.
- (3) Temporarily, preliminarily, and permanently enjoining for the period of twenty-four months from the date of the Court's order Ackerman from engaging in the sale or distribution of any Competitive Products, specifically including any products or services relating to those for which Ackerman had responsibility during the twenty-four month period preceding Ackerman's resignation date.
- (4) Temporarily, preliminarily, and permanently enjoining for the period of twenty-four months from the date of the Court's order Ackerman from marketing, selling, or otherwise offering or providing any Competitive Products within Ackerman's Geographic Territory or Assigned Customer Base, specifically any products or services related to those for which Ackerman had responsibility during the twenty four month period preceding Ackerman's resignation date.
- (5) All available monetary damages, including but not limited to lost profits, compensatory damages, punitive damages, costs, and attorneys' fees.
- (6) Disgorgement of any benefits, profits, or other unjust enrichment improperly maintained by Ackerman and Victoriaville.
- (7) An order awarding Batesville pre- and post-judgment interest.
- (8) Any and all other just and proper relief in favor of Batesville.

COUNT VIII – BREACH OF FIDUCIARY DUTY

175. Batesville realleges and incorporates by reference the allegations set forth in foregoing paragraphs as if fully set forth herein.

176. During his employment with Batesville, Ackerman owed Batesville fiduciary duties, including the duty of loyalty and to provide his best efforts.

177. Following his employment with Batesville, Ackerman owed Batesville fiduciary duties, including to refrain from misappropriating Batesville’s Confidential Information and trade secrets.

178. Ackerman breached his duties by, among other things, misappropriating and stealing Batesville files, data, property, Confidential Information, and trade secrets.

179. Ackerman’s conduct was meant to benefit himself and his next employer, Victoriaville, a competitor of Batesville, at the expensive of Batesville.

180. As a result of Ackerman’s wrongful conduct, Batesville has been damaged and is entitled to recover all available damages, including disgorgement of Ackerman’s revenue or profits, compensatory damages, punitive damages, and attorneys’ fees.

WHEREFORE, Batesville respectfully requests this Court enter judgment in its favor and against Ackerman as follows:

- (1) Temporarily, preliminarily, and permanently enjoining Ackerman (and all persons or entities in active concert or participation with him, including Victoriaville) from making any use of, publishing, disclosing, misappropriating, or authorizing anyone else to publish or disclose, to any other person or entity, any of Batesville’s trade secrets or Confidential Information.
- (2) Temporarily, preliminarily, and permanently enjoining Ackerman from engaging in activity that would make it inevitable he would further misappropriate, disclose, and use Batesville trade secrets or Confidential Information in any form, including sales activity or other duties, on behalf

of Victoriaville or any other Batesville competitor that would wrongfully benefit from having Batesville's trade secrets.

- (3) All available monetary damages, including but not limited to lost profits, compensatory damages, punitive damages, costs, and attorneys' fees.
- (4) Disgorgement of any benefits, profits, or other unjust enrichment improperly maintained by Ackerman.
- (5) An order awarding Batesville pre- and post-judgment interest.
- (6) Any and all other just and proper relief in favor of Batesville.

COUNT IX – UNFAIR COMPETITION

181. Batesville realleges and incorporates by reference the allegations set forth in foregoing paragraphs as if fully set forth herein.

182. Ackerman has unfairly competed against Batesville by, among other things, misappropriating and using Confidential Information and trade secrets, for his own benefit and the benefit of Victoriaville, to unfairly compete and solicit Batesville customers, holding a competitive position with a competitor of Batesville (i.e., Victoriaville) and engaging in competitive services in violation of his legal duties, making false statements to Batesville regarding his purported compliance with his legal duties—all to the detriment of Batesville.

183. Ackerman's actions were willful and wanton, and carried out with a callous disregard for the interests and rights of Batesville.

184. As a direct and proximate result of the Ackerman's actions, Batesville has suffered and will continue to suffer irreparable harm, including but not limited to loss of competitive Confidential Information and trade secrets, unfair competition, loss of customers, and other monetary and non-monetary losses. Such irreparable harm is a basis for Batesville to obtain preliminary and permanent injunctive relief against Defendants.

185. To the extent calculable, Batesville has suffered substantial damages as a result of Ackerman's conduct, entitling Batesville to an award of damages permitted by applicable law, including but not limited to compensatory damages, punitive damages, pre-judgment and post-judgment interest, and attorney's fees and costs of this suit, and any other just and proper relief.

WHEREFORE, Batesville respectfully requests this Court enter judgment in its favor and against Ackerman as follows:

- (1) Temporarily, preliminarily, and permanently enjoining for the period of twenty-four months from the date of the Court's order Ackerman from working for a competitor to Batesville in the same or similar capacity as Ackerman worked for Batesville.
- (2) Temporarily, preliminarily, and permanently enjoining for the period of twenty-four months from the date of the Court's order Ackerman from directly or indirectly accepting employment with, working for, or acting in any other capacity for any competitor to Batesville, if such employment, work, or capacity likely would inevitably use and/or disclose any of Batesville's trade secrets or Confidential Information.
- (3) Temporarily, preliminarily, and permanently enjoining for the period of twenty-four months from the date of the Court's order Ackerman from engaging in the sale or distribution of any Competitive Products, specifically including any products or services relating to those for which Ackerman had responsibility during the twenty-four month period preceding Ackerman's resignation date.
- (4) Temporarily, preliminarily, and permanently enjoining for the period of twenty-four months from the date of the Court's order Ackerman from marketing, selling, or otherwise offering or providing any Competitive Products within Ackerman's Geographic Territory or Assigned Customer Base, specifically any products or services related to those for which Ackerman had responsibility during the twenty four month period preceding Ackerman's resignation date.
- (5) All available monetary damages, including but not limited to lost profits, compensatory damages, punitive damages, costs, and attorneys' fees.
- (6) Disgorgement of any benefits, profits, or other unjust enrichment improperly maintained by Ackerman and Victoriaville.
- (7) An order awarding Batesville pre- and post-judgment interest.

(8) Any and all other just and proper relief in favor of Batesville.

COUNT X – UNJUST ENRICHMENT

186. Batesville realleges and incorporates by reference the allegations set forth in foregoing paragraphs as if fully set forth herein.

187. Through the actions alleged herein, including the misappropriation of Confidential Information as well as his retention of and refusal to return Batesville property, Ackerman has been unjustly enriched by, among other things, the value of Batesville’s Confidential Information and property, the ability to unfairly compete, an unfair advantage in solicitation and targeting of Batesville customers.

188. These benefits were obtained improperly, unlawfully, and under circumstances under which it would be unjust for Ackerman to retain said benefits.

189. As a matter of equity, Ackerman should be required to disgorge any and all benefits he has unjustly received, including all revenues, profit, commissions, compensation, and income resulting from the improper and unlawful conduct alleged herein, and/or to pay to Batesville an amount equal to said unjust enrichment.

WHEREFORE, Batesville respectfully requests this Court enter judgment in its favor and against Ackerman as follows:

- (1) All available monetary damages, including but not limited to lost profits, compensatory damages, punitive damages, costs, and attorneys’ fees.
- (2) Disgorgement of any benefits, profits, or other unjust enrichment improperly maintained by Ackerman and Victoriaville.
- (3) An order awarding Batesville pre- and post-judgment interest.
- (4) Any and all other just and proper relief in favor of Batesville.

COUNT XI– CONVERSION

190. Batesville realleges and incorporates by reference the allegations set forth in foregoing paragraphs as if fully set forth herein.

191. Ackerman has wrongfully exercised dominion and control over property belonging to Batesville for his own benefit in violation of Indiana Code § 35-43-4-3.

192. Namely, Ackerman has stolen Batesville’s property, including its proprietary and Confidential Information.

193. Ackerman has wrongfully obtained, retained, shared and used, and continues to share and use that information in order to solicit Batesville’s customers to unfairly compete with Batesville.

194. Batesville has suffered and continues to suffer damages as a result of Ackerman’s acts.

195. The foregoing constitutes the unlawful conversion of property by Ackerman, to the ongoing and irreparable injury of Batesville, entitling Batesville to injunctive relief and damages.

196. The foregoing conduct by Ackerman constitutes conversion entitling Batesville to compensatory damages, treble damages and attorney’s fees pursuant to Indiana’s Crime Victim Relief Act, Ind. Code § 34-24-3-1.

WHEREFORE, Batesville respectfully requests this Court enter judgment in its favor and against Ackerman as follows:

- (1) A finding and judgment that Ackerman is liable for converting Batesville’s property, including its trade secrets and Confidential Information.
- (2) Temporarily, preliminarily, and permanently ordering Ackerman (and all persons or entities in active concert or participation with him, including Victoriaville) to immediately return to Batesville all records, files, drawings, data in whatever form, equipment and the like relating to, or provided by, Batesville.

- (3) All available monetary damages, including but not limited to compensatory damages, treble damages and attorney's fees pursuant to Indiana's Crime Victim Relief Act, Ind. Code § 34-24-3-1.
- (4) An order awarding Batesville pre- and post-judgment interest.
- (5) Any and all other just and proper relief in favor of Batesville.

PRAYER FOR RELIEF

WHEREFORE, Batesville requests judgment in its favor and against Ackerman, as well as the following relief against Ackerman:

- (a) Enter a temporary restraining order, and preliminary and permanent injunction, against Ackerman:
 - (1) Enjoining Ackerman and all persons or entities in active concert or participation with him (including Victoriaville) from making any use of, publishing, disclosing, misappropriating, or authorizing anyone else to publish or disclose, to any other person or entity, any of Batesville's trade secrets or Confidential Information;
 - (2) Enjoining Ackerman from engaging in activity that would make it inevitable he would further misappropriate, disclose, and use Batesville trade secrets in any form, including sales activity or other duties on behalf of Victoriaville or any other Batesville competitor that would wrongfully benefit from having Batesville's trade secrets or Confidential Information;
 - (3) Ordering Ackerman to make available to Batesville and its experts for inspection and remediation of Batesville data, files, property, Confidential Information, and trade secrets, the USB Device, his

personal email accounts, and his personal phone pursuant to a forensic protocol;

- (4) Ordering Ackerman to return to Batesville—and not analyze, review, alter, disclose, modify, copy, use, delete or destroy—all tangible expressions and hard copies of Batesville’s trade secrets, Confidential Information, and Batesville property in Ackerman’s possession, custody, and/or control;
- (5) Ordering Ackerman to identify all persons and/or entities to whom he published and/or disclosed, and all persons and/or entities whom Ackerman authorized to publish and/or disclose, any of Batesville’s trade secrets and Confidential Information;
- (6) Prohibiting Ackerman for a period of 24 months from directly or indirectly soliciting, offering products or services to, or accepting orders, for any Competitive Products or otherwise transact competitive business with any Batesville customer whom Ackerman had contact or transacted any business on behalf of Batesville during the twenty-four (24) month period preceding the end of his employment or about whom Ackerman possessed, or had access to, confidential and proprietary information;

- (7) Prohibiting Ackerman for a period of 24 months from directly or indirectly disclosing to any person, including Victoriaville, the identities, contacts, or preferences of Batesville customers;
- (8) Prohibiting Ackerman for a period of 24 months from directly or indirectly attempting to directly or indirectly interference with Batesville's business or its relationship with its customers;
- (9) Prohibiting Ackerman for a period of 24 months from directly or indirectly marketing, selling, or otherwise offering or providing Competitive Products for Victoriaville within his Geographic Territory or Assigned Customer Base;
- (10) Prohibiting Ackerman for a period of 24 months from directly or indirectly distributing, marketing, selling or otherwise offering or providing any Competitive Products to any customer of Batesville with whom Ackerman had contact or which Ackerman had responsibility at any time during the twenty-four (24) month period preceding the end of his employment.

(b) In a preliminary and/or permanent injunction, entry of an equitable extension of the terms of the restrictive covenants to ensure Batesville is made whole and receives the benefit of its bargain in the Agreements.

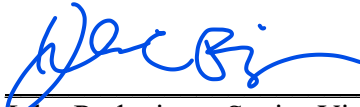
(c) Award Batesville monetary damages, compensatory damages, statutory damages, exemplary damages, punitive damages, and nominal damages as may be proven at trial.

- (d) Disgorgement of any benefits, profits, or other unjust enrichment improperly obtained by Ackerman.
- (e) An order awarding Batesville pre- and post-judgment interest.
- (f) Award Batesville such other and further relief as this Court deems just and proper.

VERIFICATION

I affirm, under the penalties for perjury, that the foregoing factual representations (other than those attributed to other persons) are true to the best of my knowledge, information and belief based on information provided or known to Batesville Casket Company, LLC, by its employees and/or agents.

Batesville Casket Company, LLC



John Parlapiano, Senior Vice President of Sales

Date: 9/11/2023

Respectfully submitted,

OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.

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