

Filing # 109273009 E-Filed 06/23/2020 01:44:43 PM

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL DISTRICT  
IN AND FOR PALM BEACH COUNTY, FLORIDA

VAN KIRK & SONS, INC.,

CASE No. \_\_\_\_\_

Plaintiff,

GENERAL JURISDICTION DIVISION

v.

JOSEPH BROOKS and  
JESSICA BROOKS,

Defendants.  
\_\_\_\_\_ /

COMPLAINT

COMES NOW Plaintiff, VAN KIRK & SONS, INC., (“Van Kirk”) and sues Defendants, JOSEPH BROOKS and JESSICA BROOKS (collectively as “Brooks” or “Defendants”) and alleges:

GENERAL ALLEGATIONS

1. This is an action for damages in excess \$30,000.00 exclusive of interest, costs and attorneys’ fees.
2. Van Kirk & Sons, Inc. is a Florida corporation conducting business in Palm Beach County, Florida.
3. Joseph Brooks is an individual residing in Palm Beach County, Florida.
4. Jessica Brooks is an individual residing in Palm Beach County, Florida.
5. Venue and Jurisdiction are proper in Palm Beach County, Florida where the Defendants reside.
6. All conditions precedent to maintaining the instant causes of action have been performed, excused or waived.

COUNT I- LIBEL / DEFAMATION

7. Van Kirk entered into a contract with Brooks to construct a new swimming pool at their home located at 3264 Lakeview Boulevard Delray Beach, FL 33445 (the "Project").

8. During the Project, Van Kirk discovered that Brooks utilized other contractors and/or workers to perform work on the Project.

9. Brooks performed this work utilizing Van Kirk's building permit and without the proper inspections.

10. Van Kirk notified Brooks of their unlawful actions and material breach of contract.

11. Thereafter, Brooks negligently or intentionally published for public viewing, false defamatory statements about Van Kirk, including but not limited to, allegations that Van Kirk is a "scam"; Van Kirk did not deliver what they promised; Van Kirk submitted plans incorrectly; and Van Kirk was negligent. The defamatory statement is attached hereto as *Exhibit "A"*.

12. Brooks published the false defamatory statement to Google review.

13. There was no reasonable factual basis for Brooks to make such statements about Van Kirk and either acted negligently in so doing or with actual malice.

14. Brooks' publishing of these defamatory statements was willful and intentional and done for the purpose of harassing, vexing, and annoying Van Kirk.

15. At all times material hereto, Van Kirk was a locally known and recognized pool builder. Van Kirk has at all times enjoyed a good name and good reputation as a pool builder.

16. Van Kirk has suffered monetary damages exceeding \$75,000.00 as a result of the publication of the false defamatory statements. Van Kirk has lost customers and business as a result of Brooks' statements.

17. On May 29, 2020, Van Kirk notified Brooks by certified mail and email identifying the false and defamatory statements. A copy of the notice is attached hereto as *Exhibit "B"*.

18. Brooks has failed or refused to withdraw or stop publishing these false and defamatory statements.

**WHEREFORE**, Plaintiff, VAN KIRK & SONS, INC. demands judgment in its favor and against Defendants, JOSEPH BROOKS and JESSICA BROOKS, for monetary damages, pre and post judgment interest, costs, and for such other and further relief as the Court deems just and proper under the circumstances.

Respectfully submitted this 23rd day of June, 2020.

**JASON D. KATZ P.A.**

/s/ Jason D. Katz  
Jason D. Katz, Esq.  
Florida Bar No. 013593  
Jason@jkatzlaw.com  
3325 S. University Drive, Suite 210  
Davie, FL 33328  
Tel: (954) 494-5732  
Fax: (954) 530-0926  
*Attorneys for Van Kirk & Sons Pools*

*Exhibit "A"*



Joe Brooks

1 review



☆☆☆☆☆ a month ago

**Critical:** Professionalism, Punctuality, Quality, Responsiveness, Value

Please do not fall victim to this scam. Don't be fooled by the flashy videos and sales tactics. Just because they are high on google doesn't mean they are good. We have been dealing with this company for 9 months, and still don't have anything but a bunch of excuses. Not only did they not deliver what they promised, but they also submitted the plans incorrectly. Now our job is on 'hold' because of their negligence.



**Exhibit "B"**



**JASON D. KATZ**  
ATTORNEY AT LAW

*Reply to:*

JASON D. KATZ  
Board Certified Construction Attorney  
3325 S. University Drive, Suite 210  
Davie, Florida 33328  
Telephone: (954) 494-5732  
Facsimile: (954) 589-0798  
jason@JKatzlaw.com

May 29, 2020

**VIA EMAIL (jbrooks279@gmail.com) and**  
**CERTIFIED MAIL ARTICLE NO.**  
**7018 0040 0000 2917 9998**

Joseph and Jessica Brooks  
3264 Lakeview Boulevard  
Delray Beach, FL 33445

**Re: Google Review regarding Van Kirk & Sons, Inc.**  
**Project: Brooks Residence**  
**3264 Lakeview Boulevard**  
**Delray Beach, FL 33445**

**CEASE AND DESIST**

Dear Mr. Brooks:

As you should be aware, the law firm of Jason D. Katz, P.A. represents Van Kirk & Sons, Inc. ("Van Kirk") in connection with the above referenced matter. Please direct all communications regarding this matter to my attention.

It has come to our attention that you have submitted a Google review of Van Kirk approximately one month ago (the "Review"). The Review is attached hereto for your reference. Your review contains false, libelous and defamatory statements. You have made false statements directed at Van Kirk's trustworthiness, ethics and competency as a contractor. Such statements are defamatory and actionable.

I also notified you previously of your material breaches of contract. As you are aware, you violated Florida law by utilizing other contractors or workers to perform work on the Project – under Van Kirk's building permit. You also owe Van Kirk \$3,223.60. I have enclosed that prior letter for your reference.

Demand is hereby made: (1) that you immediately cease and desist making any derogatory statements about Van Kirk in person, over the telephone, or through the

internet; (2) that you immediately remove your false, libelous and defamatory Review from Google and any other website you may have posted the Review; and (3) that you immediately make payment to Van Kirk and cease and desist using Van Kirk's permit at the above-reference Project.

If you fail to abide by this demand on or before **June 12, 2020**, I will recommend that Van Kirk file a lawsuit against you for defamation, damages, and injunctive relief. Van Kirk will seek all remedies provided under Florida Law. If you are represented by legal counsel, please forward them a copy of this letter and ask them to contact me at once. I appreciate your prompt attention to this important matter.

PLEASE GOVERN YOURSELF ACCORDINGLY.

Sincerely yours,

**JASON D. KATZ, P.A.**



Jason Katz, Esq.

cc: *Van Kirk & Sons, Inc.*

NOT A CERTIFIED COPY



**Joe Brooks**

1 review



☆☆☆☆☆ a month ago

**Critical:** Professionalism, Punctuality, Quality, Responsiveness, Value

Please do not fall victim to this scam. Don't be fooled by the flashy videos and sales tactics. Just because they are high on google doesn't mean they are good. We have been dealing with this company for 9 months, and still don't have anything but a bunch of excuses. Not only did they not deliver what they promised, but they also submitted the plans incorrectly. Now our job is on 'hold' because of their negligence.



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