

Shalaby v. Newell Rubbermaid, et al. -

Case summary: Plaintiff was using Bernzomatic MAPP cylinder to light a campfire. The torch tip tapped against a piece of firewood with a force estimate of less than three foot-pounds. The cylinder exploded and severely injured Plaintiff. Plaintiff's family witnessed injuries moments after the explosion. Torch handle fracture groove did not break and torch handle was not damaged, as typical to this type of breach.

PROTO

**U.S. District Court  
Southern District of California (San Diego)  
CIVIL DOCKET FOR CASE #: 3:07-cv-02107-MMA-BLM**

Shalaby et al v. Newell Rubbermaid Inc et al  
Assigned to: Judge Michael M. Anello  
Referred to: Magistrate Judge Barbara Lynn Major  
Case in other court: Northern District of California,  
06cv7026-MJJ  
Cause: 28:1441 Petition for Removal- Personal Injury

Date Filed: 10/30/2007  
Jury Demand: Both  
Nature of Suit: 365 Personal Inj. Prod.  
Liability  
Jurisdiction: Diversity

**Plaintiff**

**Andrew Shalaby**  
*an individual*

represented by **Mark D Epstein**  
Alborg Veiluva and Epstein  
200 Pingle Avenue  
Suite 410  
Walnut Creek , CA 94596  
(925)939-9880  
Fax: (925)939-9915  
Email: mepstein@avelaw.com  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Michael J Veiluva**  
Alborg Veiluva & Epstein LLP  
200 Pringle Avenue  
Suite 410  
Walnut Creek , CA 94596  
(925)939-9880  
Fax: (925)939-9915  
Email: mveiluva@avelaw.com  
**ATTORNEY TO BE NOTICED**

**Plaintiff**

**Sonia Dunn-Ruiz**  
*an individual*

represented by **Mark D Epstein**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Michael J Veiluva**  
(See above for address)  
**ATTORNEY TO BE NOTICED**

V.

**Defendant****Newell Rubbermaid Inc**  
*a Delaware corporation*represented by **J Phillip Moorhead**  
Keller Price and Moorhead  
229 Avenue I  
2nd Floor  
Redondo Beach , CA 90277  
(310)540-1332  
Fax: (310)540-8480  
Email: jpm@kplmlawyers.com  
*TERMINATED: 06/20/2008*  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED***Shelley Gershon Hurwitz**  
Holland and Knight LLP  
633 West Fifth Street  
Suite 2100  
Los Angeles , CA 90071-2040  
(213)896-2476  
Fax: (213)896-2450  
Email: shelley.hurwitz@hklaw.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED***Beth Schneider Naylor**  
Frost Brown Todd LLC  
2200 PNC Center  
201 East Fifth Street  
Cincinnati , OH 45202  
(513)651-6726  
*PRO HAC VICE*  
*ATTORNEY TO BE NOTICED***Douglas R. Dennis**  
Frost Brown Todd LLC  
2200 PNC Center  
201 E. Fifth Street  
Cincinnati , OH 45202  
(213)651-6727  
*PRO HAC VICE*  
*ATTORNEY TO BE NOTICED***Defendant****The Home Depot Inc**represented by **J Phillip Moorhead**  
(See above for address)  
*TERMINATED: 06/20/2008*  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Shelley Gershon Hurwitz**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Douglas R. Dennis**  
(See above for address)  
*PRO HAC VICE*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Rubbermaid Inc**

represented by **J Phillip Moorhead**  
(See above for address)  
*TERMINATED: 06/20/2008*  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Shelley Gershon Hurwitz**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Douglas R. Dennis**  
(See above for address)  
*PRO HAC VICE*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Irwin Industrial Tool Company Inc**

represented by **J Phillip Moorhead**  
(See above for address)  
*TERMINATED: 06/20/2008*  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Shelley Gershon Hurwitz**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Douglas R. Dennis**  
(See above for address)  
*PRO HAC VICE*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Bernzomatic**  
*an Unincorporated Division of Irwin*  
*Industrial Tool Company*

represented by **J Phillip Moorhead**  
(See above for address)  
*TERMINATED: 06/20/2008*  
*LEAD ATTORNEY*

*ATTORNEY TO BE NOTICED*

**Shelley Gershon Hurwitz**

(See above for address)

*LEAD ATTORNEY*

*ATTORNEY TO BE NOTICED*

**Douglas R. Dennis**

(See above for address)

*PRO HAC VICE*

*ATTORNEY TO BE NOTICED*

**ThirdParty Defendant**

**Western Industries Inc**

represented by **Lowell T Carruth**  
McCormick Barstow Sheppard Wayte  
and Carruth  
PO Box 28912  
5 River Park Place East  
Fresno , CA 93729-8912  
(559)433-1300  
Fax: (559)433-2300  
Email:  
lowell.carruth@mccormickbarstow.com

*LEAD ATTORNEY*

*ATTORNEY TO BE NOTICED*

**ThirdParty Defendant**

**Worthington Industries**

represented by **Cathleen Shu-Chia Huang**  
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Walnut Creek , CA 94596  
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*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Richard Allen Ergo**

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(925)935-3300

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*LEAD ATTORNEY*

*ATTORNEY TO BE NOTICED*

**ThirdParty Defendant**

**Bernzomatic**  
*an Unincorporated Division of Irwin  
 Industrial Tool Company*

represented by **J Phillip Moorhead**  
 (See above for address)  
*TERMINATED: 06/20/2008  
 LEAD ATTORNEY  
 ATTORNEY TO BE NOTICED*

**Shelley Gershon Hurwitz**  
 (See above for address)  
*LEAD ATTORNEY  
 ATTORNEY TO BE NOTICED*

**Cross Defendant**

**Worthington Cylinder Acquisition,  
 LLC**

represented by **Cathleen Shu-Chia Huang**  
 (See above for address)  
*ATTORNEY TO BE NOTICED*

**Cross Defendant**

**Worthington Cylinder Corporation**

represented by **Cathleen Shu-Chia Huang**  
 (See above for address)  
*ATTORNEY TO BE NOTICED*

**Cross Claimant**

**Western Industries Inc**

represented by **Lowell T Carruth**  
 (See above for address)  
*LEAD ATTORNEY  
 ATTORNEY TO BE NOTICED*

**Cross Claimant**

**Worthington Cylinder Acquisition,  
 LLC**

represented by **Cathleen Shu-Chia Huang**  
 (See above for address)  
*ATTORNEY TO BE NOTICED*

**Cross Claimant**

**Worthington Cylinder Corporation**

represented by **Cathleen Shu-Chia Huang**  
 (See above for address)  
*ATTORNEY TO BE NOTICED*

V.

**Cross Defendant**

**Western Industries Inc**

represented by **Lowell T Carruth**  
 (See above for address)  
*LEAD ATTORNEY  
 ATTORNEY TO BE NOTICED*

Date Filed	#	Docket Text

10/30/2007	<a href="#">1</a>	Case transferred in with jury demand from Northern District of California; Case Number 06CV7026-MJJ. Original file certified copy of transfer order and docket sheet received, filed by Andrew Shalaby and Sonia Dunn-Ruiz.t/w Answer (Attachments: # <a href="#">1</a> Transfer Case Part 2# <a href="#">2</a> Transfer Case Part 3# <a href="#">3</a> Transfer Case Part 4# <a href="#">4</a> Transfer Letter)(letter mailed)(lao) (Entered: 11/05/2007)
10/30/2007	<a href="#">2</a>	NOTICE re <a href="#">1</a> Case Transferred In - District Transfer, (Attachments: # <a href="#">1</a> Transfer Case Part 6# <a href="#">2</a> Transfer Case Part 7# <a href="#">3</a> Transfer Case Part 8# <a href="#">4</a> Transfer Case Part 9# <a href="#">5</a> Transfer Case Part 10)(lao) (Entered: 11/05/2007)
10/30/2007	<a href="#">3</a>	NOTICE re <a href="#">1</a> Case Transferred In - District Transfer, (Attachments: # <a href="#">1</a> Transfer Case Part 12# <a href="#">2</a> Transfer Case Part 13# <a href="#">3</a> Transfer Case Part 14# <a href="#">4</a> Transfer Case Part 15# <a href="#">5</a> Transfer Case Part 16)(lao) (Entered: 11/05/2007)
10/30/2007		ANSWER to Complaint (Notice of Removal) by The Home Depot, Inc.(lao) (Entered: 11/05/2007)
11/20/2007	<a href="#">4</a>	Notice and ORDER setting Early Neutral Evaluation for 1/16/2008 10:00 AM in chambers before Magistrate Judge Louisa S Porter. Signed by Magistrate Judge Louisa S Porter on 11/19/07. (aje) (Entered: 11/20/2007)
12/07/2007	<a href="#">5</a>	ANSWER to Third-Party Complaint with Jury Demand and CROSSCLAIM for Indemnification against Worthington Cylinder Acquisition, LLC, Worthington Cylinder Corporation by Western Industries Inc. (Attachments: # <a href="#">1</a> Cross-claim for Indemnification# <a href="#">2</a> Exhibit A to Cross-claim# <a href="#">3</a> Exhibit B to Cross-claim# <a href="#">4</a> Exhibit C to Cross-claim)(Carruth, Lowell) Modified on 12/10/2007 to edit text (aje). (Entered: 12/07/2007)
12/07/2007	<a href="#">6</a>	CERTIFICATE OF SERVICE by Western Industries Inc re <a href="#">5</a> Answer to Complaint, Crossclaim,, (Carruth, Lowell) (aje). (Entered: 12/07/2007)
12/14/2007	<a href="#">7</a>	Summons on Cross-Claim Issued as to Worthington Cylinder Acquisition, LLC, Worthington Cylinder Corporation. (aje) (Entered: 12/14/2007)
01/04/2008	<a href="#">8</a>	ORDER regarding attendance of Corporate Counsel at the ENE Conference. The Court's Notice and Order re the ENE dated 11/19/07 specifically states that corporate counsel and or retained outside corporate counsel shall not appear on behalf of a corporation as the party who has the authority to negotiate and enter into a settlement. Signed by Judge Louisa S Porter on 1/4/08. (bar) (Entered: 01/04/2008)
01/04/2008	<a href="#">9</a>	ORDER Regarding Attendance of Corporate Counsel at the Early Neutral Evaluation. Signed by Magistrate Judge Louisa S Porter on 1/4/08. (Attachments: # <a href="#">1</a> Letter Re: Corporate Counsel at the ENE)(aje) (Entered: 01/04/2008)
01/16/2008	<a href="#">10</a>	Stipulation and Order Regarding PROTECTIVE ORDER. Signed by Judge Thomas J. Whelan on 1/14/08. (aje) (Entered: 01/17/2008)
01/16/2008	12	Minute Entry for proceedings held before Judge Louisa S Porter : Early Neutral Evaluation Conference held on 1/16/2008. Order to follow.(Plaintiff Attorney Mark Epstein).(Defendant Attorney Phillip Moorhead; Lowell Carruth; Cathleen Huang). (rfm) (Entered: 01/29/2008)

01/17/2008	<a href="#">11</a>	SCHEDULING ORDER: Telephonic Settlement Conference set for 3/24/2008 at 9:30 AM before Magistrate Judge Louisa S Porter; Expert witness deadline 3/28/08; Discovery deadline 6/27/08; Expert discovery deadline 8/8/08; Mandatory Settlement Conference set for 7/28/2008 at 10:00 AM before Magistrate Judge Louisa S Porter; Motion deadline 9/12/08; Proposed Pretrial Order due by 1/5/2009; Final Pretrial Conference set for 1/12/2009 10:30 AM in Courtroom 7 before Judge Thomas J. Whelan. Signed by Magistrate Judge Louisa S Porter on 1/16/08. (aje) (Entered: 01/17/2008)
01/29/2008	<a href="#">13</a>	PRO HAC VICE APPOINTED: Beth Schneider Naylor appearing for Defendant Newell Rubbermaid Inc. Local counsel J. Phillip Moorhead. (aje) (Entered: 01/30/2008)
02/22/2008	<a href="#">14</a>	ORDER Rescheduling Mandatory Settlement Conference. The Mandatory Settlement Conference currently set for 7/28/08 is rescheduled to 7/21/08 at 10:00 a.m. in the chambers of Magistrate Judge Louisa S. Porter. Signed by Magistrate Judge Louisa S Porter on 2/21/08. (aje) (Entered: 02/25/2008)
03/24/2008	16	Minute Entry for proceedings held before Judge Louisa S Porter : Settlement Conference held on 3/24/2008. Order to follow.(Plaintiff Attorney Mark Epstein).(Defendant Attorney J Phillip Moorhead)(Other Attorney Lowell Carruth; Cathleen Shu-Chia Huang). (rfm) (Entered: 04/02/2008)
03/27/2008	<a href="#">15</a>	ORDER following Telephonic Settlement Conference held 3/24/2008 at 9:30 AM. Based on discussions with counsel, the Court hereby confirms the dates set forth in its orders dated January 17, 2008 and February 22, 2008. Signed by Judge Louisa S Porter on 03/27/08. (joeh)(kaj). (Entered: 03/28/2008)
06/20/2008	<a href="#">17</a>	NOTICE by Bernzomatic of <i>Substitution of Attorney; Proposed Order</i> (Hurwitz, Shelley) Modified on 6/23/2008, notified attorney of S/ and not to file proposed orders (aje). (Entered: 06/20/2008)
07/03/2008	<a href="#">18</a>	PRO HAC VICE APPOINTED: Douglas R. Dennis appearing for Defendants Rubbermaid Inc, Irwin Industrial Tool Company Inc, Bernzomatic, Newell Rubbermaid Inc, The Home Depot Inc. (All non-registered users served via U.S. Mail Service).(leh) (Entered: 07/07/2008)
07/07/2008	<a href="#">19</a>	ANSWER to <a href="#">5</a> Answer to Complaint, Crossclaim,, by Worthington Cylinder Acquisition, LLC, Worthington Cylinder Corporation.(Huang, Cathleen) Modified on 7/9/2008, notified attorney of S/ (cap). (Entered: 07/07/2008)
07/07/2008	<a href="#">20</a>	CROSSCLAIM FOR INDEMNIFICATION against Western Industries Inc, filed by Worthington Cylinder Acquisition, LLC, Worthington Cylinder Corporation.(Huang, Cathleen) Modified on 7/9/2008, notified attorney of S/ (cap). (Entered: 07/07/2008)
07/07/2008	<a href="#">21</a>	ORDER Regarding Attendance of Insurance Representative at Mandatory Settlement Conference. Signed by Magistrate Judge Louisa S Porter on 7/7/2008. (Attachments: # <a href="#">1</a> Letters)(All non-registered users served via U.S. Mail Service).(cap)(kaj). (Entered: 07/08/2008)
07/08/2008	<a href="#">22</a>	Joint MOTION for Extension of Time to Complete Discovery of <i>Expert Witnesses</i> by Bernzomatic. (Hurwitz, Shelley) (cap). (Entered: 07/08/2008)

07/14/2008	<a href="#">23</a>	Minute Order: Magistrate Judge Louisa S Porter recuses herself from the above-entitled action. The new Magistrate Judge assigned is Magistrate Judge Barbara Lynn Major. The mandatory Settlement Conference set for July 21, 2008 before Judge Porter is hereby VACATED. New case number 07cv2107-W(BLM). Motion <a href="#">22</a> referred to Magistrate Judge Barbara Lynn Major. (jjh) (Entered: 07/16/2008)
07/16/2008	<a href="#">24</a>	ORDER granting <a href="#">22</a> Joint Motion for Extension of Time to Complete Discovery. Signed by Magistrate Judge Barbara Lynn Major on 7/16/2008. (All non-registered users served via U.S. Mail Service).(cap) (cap). (kaj). (Entered: 07/16/2008)
07/17/2008	<a href="#">25</a>	ANSWER to Complaint ( <i>Cross-claim</i> ) of <i>Worthington</i> by Western Industries Inc.(Carruth, Lowell) (cap). (Entered: 07/17/2008)
07/22/2008	<a href="#">26</a>	ORDER Setting Mandatory Settlement Conference. Confidential Settlement Statements Required no later than 8/27/08. If the case is settled in its entirety before the scheduled date of the conference, counsel and any unrepresented parties must still appear in person, unless a written joint motion confirming the complete settlement of the case is submitted no fewer than twenty-four hours before the scheduled conference. ( Mandatory Settlement Conference set for 9/3/2008 09:30 AM before Magistrate Judge Barbara Lynn Major.) Signed by Magistrate Judge Barbara Lynn Major on 7/21/08. (All non-registered users served via U.S. Mail Service).(cap)(kaj). (Entered: 07/22/2008)
07/30/2008	<a href="#">27</a>	Ex Parte MOTION to Continue <i>Mandatory Settlement Conference</i> by Bernzomatic. (Attachments: # <a href="#">1</a> Declaration)(Hurwitz, Shelley) (cap). (Entered: 07/30/2008)
08/07/2008	<a href="#">28</a>	ORDER Granting <a href="#">27</a> Joint Ex Parte Application to Continue Mandatory Settlement Conference. The Mandatory Settlement Conference set for 9/3/08 at 9:30 a.m. is hereby continued to 10/14/08 at 9:00 a.m. Signed by Magistrate Judge Barbara Lynn Major on 8/7/08. (All non-registered users served via U.S. Mail Service).(cap) (av1). (Entered: 08/07/2008)
08/08/2008	<a href="#">29</a>	ORDER Resetting Time of Mandatory Settlement Conference. The Mandatory Settlement Conference set for 10/14/08 at 9:30 a.m. is hereby vacated. ( Mandatory Settlement Conference set for 10/14/2008 01:30 PM before Magistrate Judge Barbara Lynn Major.) Signed by Magistrate Judge Barbara Lynn Major on 8/8/08. (All non-registered users served via U.S. Mail Service). (cap) (av1). (Entered: 08/08/2008)
08/13/2008	<a href="#">30</a>	ORDER Granting Ex Parte Requests to be Excused From Personal Appearance Requirement. Western Industries it not required to have a personal representative present on behalf of the company at the Mandatory Settlement Conference. Western Industries is, however, required to have an insurance representative present with full settlement authority. The Newell Defendants' excess liability insurer, AIG, is not required to have a representative present at the Mandatory Settlement Conference. However, AIG shall have a representative with full settlement authority available by phone during the conference. Signed by Magistrate Judge Barbara Lynn Major on 8/13/08. (All non-registered users served via U.S. Mail Service).(cap) (av1). (Entered: 08/13/2008)

		08/13/2008)
08/19/2008	<a href="#">31</a>	Joint MOTION for Extension of Time to Complete Discovery ( <i>Expert Discovery Cutoff and Motion Deadline</i> ) and Stipulation by Andrew Shalaby, Sonia Dunn-Ruiz. (Veiluva, Michael) (cap). (Entered: 08/19/2008)
08/26/2008	<a href="#">32</a>	ORDER Granting <a href="#">31</a> Joint Motion To Continue Dates. Signed by Magistrate Judge Barbara Lynn Major on 8/26/08. (All non-registered users served via U.S. Mail Service).(cap) (av1). (Entered: 08/26/2008)
08/27/2008	33	STRICKEN FROM DOCKET PER ORDER OF CHAMBERS (cap). (Entered: 08/27/2008)
09/03/2008	34	Minute Entry before Magistrate Judge Barbara Lynn Major: ( Telephonic Case Management Conference set for 9/4/2008 02:30 PM in chambers of Magistrate Judge Barbara Lynn Major.)(Tape #n/a).(Plaintiff Attorney n/a).(Defendant Attorney n/a).(mnb) (Entered: 09/03/2008)
09/04/2008	37	Minute Entry for proceedings held before Magistrate Judge Barbara Lynn Major:Case Management Conference held on 9/4/2008. Order to follow.(Tape #n/a).(Plaintiff Attorney Mark Epstein).(Defendant Attorney Shelley Hurwitz). (mnb) (Entered: 09/12/2008)
09/05/2008	<a href="#">35</a>	ORDER Setting Hearing Date and Requiring Exchange of Settlement Offers. Defendants shall file a motion re <a href="#">33</a> on or before 9/12/08. Plaintiff's opposition to the motion shall be filed on or before 9/19/08. Defendant's reply shall be files on or before 9/26/08. A hearing on the motion is set for 10/2/08 at 9:00 a.m. Signed by Magistrate Judge Barbara Lynn Major on 9/5/08. (All non-registered users served via U.S. Mail Service).(cap) (Entered: 09/08/2008)
09/12/2008	<a href="#">36</a>	MOTION Leave to Designate Expert Witness Jason Lusk by Bernzomatic. (Attachments: # <a href="#">1</a> Memo of Points and Authorities, # <a href="#">2</a> Declaration, # <a href="#">3</a> Exhibit, # <a href="#">4</a> Authorities in Support of Motion)(Hurwitz, Shelley)(cap). (Entered: 09/12/2008)
09/19/2008	<a href="#">38</a>	RESPONSE in Opposition re <a href="#">36</a> MOTION Leave to Designate Expert Witness Jason Lusk filed by Andrew Shalaby, Sonia Dunn-Ruiz. (Epstein, Mark) Modified on 9/23/2008, notified atty of s/; no proof of service (cap). (Entered: 09/19/2008)
09/19/2008	<a href="#">39</a>	AFFIDAVIT in Opposition re <a href="#">36</a> MOTION Leave to Designate Expert Witness Jason Lusk ( <i>Declaration of Mark D. Epstein</i> ) filed by Andrew Shalaby, Sonia Dunn-Ruiz. (Attachments: # <a href="#">1</a> Exhibit A, # <a href="#">2</a> Exhibit B, # <a href="#">3</a> Exhibit C)(Epstein, Mark) Modified on 9/23/2008, notified atty of s/; to re-file (cap). (Entered: 09/19/2008)
09/23/2008	<a href="#">40</a>	REPLY to <a href="#">38</a> Response in Opposition to Motion re <a href="#">36</a> MOTION Leave to Designate Expert Witness Jason Lusk filed by Bernzomatic. (Hurwitz, Shelley) Modified on 9/24/2008 to add document link and modify text (cap). (Entered: 09/23/2008)
09/23/2008	<a href="#">41</a>	RESPONSE in Opposition re <a href="#">36</a> MOTION Leave to Designate Expert Witness Jason Lusk filed by Andrew Shalaby, Sonia Dunn-Ruiz. (Epstein, Mark) (cap). (Entered: 09/23/2008)

09/23/2008	<a href="#">42</a>	AFFIDAVIT in Opposition re <a href="#">36</a> MOTION Leave to Designate Expert Witness Jason Lusk ( <i>Declaration of Mark D. Epstein</i> ) filed by Andrew Shalaby, Sonia Dunn-Ruiz. (Attachments: # <a href="#">1</a> Exhibit A, # <a href="#">2</a> Exhibit B, # <a href="#">3</a> Exhibit C)(Epstein, Mark) (cap). (Entered: 09/23/2008)
09/23/2008	<a href="#">43</a>	CERTIFICATE OF SERVICE by Andrew Shalaby, Sonia Dunn-Ruiz re <a href="#">41</a> Response in Opposition to Motion, <a href="#">42</a> Affidavit in Opposition to Motion (Epstein, Mark) (cap). (Entered: 09/23/2008)
10/10/2008	<a href="#">44</a>	MOTION for Summary Judgment <i>on Third-Party Complaint</i> by Bernzomatic. (Attachments: # <a href="#">1</a> Memo of Points and Authorities, # <a href="#">2</a> Affidavit John Stipancich, # <a href="#">3</a> Declaration Shelley Hurwitz, # <a href="#">4</a> Exhibit to Shelley Hurwitz Declaration, # <a href="#">5</a> Appendix of Authorities, # <a href="#">6</a> Exhibit to Appendix of Authorities)(Hurwitz, Shelley) (cap). (Entered: 10/10/2008)
10/10/2008	<a href="#">45</a>	MOTION for Summary Judgment <i>on First Amended Complaint</i> by Bernzomatic. (Attachments: # <a href="#">1</a> Memo of Points and Authorities, # <a href="#">2</a> Declaration of Shelley Hurwitz, # <a href="#">3</a> Exhibit to Declaration of Shelley Hurwitz, # <a href="#">4</a> Appendix of Authorities, # <a href="#">5</a> Exhibit to Appendix of Authorities)(Hurwitz, Shelley) (cap). (Entered: 10/10/2008)
10/10/2008	<a href="#">46</a>	MOTION to Exclude <i>Plaintiffs from Relying on Expert Opinions Not Timely Disclosed in Opposition to Summary Judgment</i> by Bernzomatic. (Attachments: # <a href="#">1</a> Memo of Points and Authorities, # <a href="#">2</a> Declaration of Shelley Hurwitz) (Hurwitz, Shelley) (cap). (Entered: 10/10/2008)
10/10/2008	<a href="#">47</a>	Ex Parte MOTION for Leave to File Excess Pages by Bernzomatic. (Hurwitz, Shelley) (cap). (Entered: 10/10/2008)
10/10/2008	<a href="#">48</a>	NOTICE by Worthington Industries <i>THIRD PARTY DEFENDANT WORTHINGTON INDUSTRIES INC.'S NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT</i> (Ergo, Richard) Modified on 10/15/2008, atty notified of s/ (cap). (Entered: 10/10/2008)
10/10/2008	<a href="#">49</a>	MOTION for Summary Judgment <i>THIRD PARTY DEFENDANT WORTHINGTON INDUSTRIES, INC'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT</i> by Worthington Industries. Modified on 10/15/08, atty notified of s/ (Ergo, Richard) (cap). (Entered: 10/10/2008)
10/10/2008	<a href="#">50</a>	DECLARATION re <a href="#">49</a> MOTION for Summary Judgment <i>THIRD PARTY DEFENDANT WORTHINGTON INDUSTRIES, INC'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT</i> , <a href="#">48</a> Notice (Other) <i>DECLARATION OF CATHLEEN S. HUANG IN SUPPORT</i> by ThirdParty Defendant Worthington Industries. (Ergo, Richard) Modified on 10/15/2008, notified atty document to be filed as an attachment (cap). (Entered: 10/10/2008)
10/10/2008	<a href="#">51</a>	NOTICE by Worthington Industries re <a href="#">49</a> MOTION for Summary Judgment <i>THIRD PARTY DEFENDANT WORTHINGTON INDUSTRIES, INC'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT</i> , <a href="#">50</a> Declaration, <a href="#">48</a> Notice (Other) <i>SEPARATE STATEMENT OF UNDISPUTED FACTS IN SUPPORT OF</i>

		<i>DEFENDANT WORTHINGTON INDUSTRIES, INC.'S MOTION FOR SUMMARY JUDGMENT</i> (Ergo, Richard) Modified on 10/15/2008, notified atty of s/ (cap). (Entered: 10/10/2008)
10/10/2008	<a href="#">52</a>	NOTICE by Worthington Industries <i>NOTICE OF MOTION AND MOTION TO EXCLUDE TESTIMONY BY DR. VREDENBURGH</i> (Ergo, Richard) Modified on 10/15/2008, notified atty certificate of service is does not contain signature (cap). (Entered: 10/10/2008)
10/10/2008	<a href="#">53</a>	MOTION to Exclude <i>THIRD PARTY DEFENDANT WORTHINGTON INDUSTRIES, INC.'S MOTION TO EXCLUDE TESTIMONY BY DR. VREDENBURGH</i> by Worthington Industries. (Ergo, Richard) Modified on 10/15/2008, notified atty of s/ (cap). (Entered: 10/10/2008)
10/10/2008	<a href="#">54</a>	NOTICE by Worthington Industries <i>THIRD PARTY DEFENDANT WORTHINGTON INDUSTRIES, INC.'S NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT (AGAINST BERNZOMATIC)</i> (Ergo, Richard) (cap). (Entered: 10/10/2008)
10/10/2008	<a href="#">55</a>	MOTION for Summary Judgment <i>THIRD PARTY DEFENDANT WORTHINGTON INDUSTRIES, INC.'S MOTION FOR SUMMARY JUDGMENT (AGAINST BERNZOMATIC)</i> by Worthington Industries. (Ergo, Richard) Modified on 10/15/2008, notified atty of s/ (cap). (Entered: 10/10/2008)
10/10/2008	<a href="#">56</a>	NOTICE by Worthington Industries re <a href="#">54</a> Notice (Other), <a href="#">55</a> MOTION for Summary Judgment <i>THIRD PARTY DEFENDANT WORTHINGTON INDUSTRIES, INC.'S MOTION FOR SUMMARY JUDGMENT (AGAINST BERNZOMATIC) SEPARATE STATEMENT OF UNDISPUTED FACTS IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT (AGAINST BERNZOMATIC)</i> (Ergo, Richard) Modified on 10/15/2008, notified atty of s/ (cap). (Entered: 10/10/2008)
10/10/2008	<a href="#">57</a>	NOTICE by Worthington Industries <i>THIRD PARTY DEFENDANT WORTHINGTON INDUSTRIES, INC.'S NOTICE OF MOTION AND MOTION TO EXCLUDE PLAITNIFFS' EXPERT ROBERT ANDERSON</i> (Ergo, Richard) Modified on 10/15/2008, notified atty of s/ (cap). (Entered: 10/10/2008)
10/10/2008	<a href="#">58</a>	MOTION to Exclude <i>THIRD PARTY DEFENDANT WORTHINGTON INDUSTRIES, INC.'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO EXCLUDE PLAINTIFFS' EXPERT ROBERT ANDERSON</i> by Worthington Industries. (Ergo, Richard) Modified on 10/15/2008, notified atty of s/ (cap). (Entered: 10/10/2008)
10/10/2008	<a href="#">59</a>	DECLARATION re <a href="#">57</a> Notice (Other), <a href="#">54</a> Notice (Other) <i>DECLARATION OF STEVEN GENTRY IN SUPPORT OF THIRD PARTY DEFENDANT WORTHINGTON INDUSTRIES, INC.'S MOTION TO SUMMARY JUDGMENT (AGAINST BERNZOMATIC) AND MOTION TO EXCLUDE PLAINTIFFS' EXPERT ROBERT ANDERSON</i> by ThirdParty Defendant Worthington Industries. (Ergo, Richard) Modified on 10/15/2008, notified atty document should be filed as an attachement (cap). (Entered: 10/10/2008)
10/10/2008	<a href="#">60</a>	DECLARATION re <a href="#">58</a> MOTION to Exclude <i>THIRD PARTY DEFENDANT</i>

		<i>WORTHINGTON INDUSTRIES, INC.'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO EXCLUDE PLAINTIFFS' EXPERT ROBERT ANDERSON DECLARATION OF RICHARD A. ERGO IN SUPPORT</i> by ThirdParty Defendant Worthington Industries. (Ergo, Richard) Modified on 10/15/2008, notified atty document should be filed as an attachment; of s/ (cap). (Entered: 10/10/2008)
10/10/2008	<a href="#">61</a>	DECLARATION re <a href="#">58</a> MOTION to Exclude <i>THIRD PARTY DEFENDANT WORTHINGTON INDUSTRIES, INC.'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO EXCLUDE PLAINTIFFS' EXPERT ROBERT ANDERSON DECLARATION OF THOMAS EAGAR IN SUPPORT</i> by ThirdParty Defendant Worthington Industries. (Attachments: # <a href="#">1</a> Exhibit 1-3, # <a href="#">2</a> Exhibit 4-6, # <a href="#">3</a> Exhibit 7-9)(Ergo, Richard) Modified on 10/15/2008, notified atty document should be filed as an attachment (cap). (Entered: 10/10/2008)
10/10/2008	<a href="#">62</a>	DECLARATION re <a href="#">53</a> MOTION to Exclude <i>THIRD PARTY DEFENDANT WORTHINGTON INDUSTRIES, INC.'S MOTION TO EXCLUDE TESTIMONY BY DR. VREDENBURGH</i> , <a href="#">55</a> MOTION for Summary Judgment <i>THIRD PARTY DEFENDANT WORTHINGTON INDUSTRIES, INC.'S MOTION FOR SUMMARY JUDGMENT (AGAINST BERNZOMATIC)</i> , <a href="#">58</a> MOTION to Exclude <i>THIRD PARTY DEFENDANT WORTHINGTON INDUSTRIES, INC.'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO EXCLUDE PLAINTIFFS' EXPERT ROBERT ANDERSON DECLARATION OF CATHLEEN S. HUANG IN SUPPORT</i> by ThirdParty Defendant Worthington Industries. (Attachments: # <a href="#">1</a> Exhibit A-C, # <a href="#">2</a> Exhibit D, # <a href="#">3</a> Exhibit E-H, # <a href="#">4</a> Exhibit I-O)(Ergo, Richard) Modified on 10/15/2008, notified atty that document should be filed as an attachment (cap). (Entered: 10/10/2008)
10/13/2008	<a href="#">63</a>	DECLARATION re <a href="#">58</a> MOTION to Exclude <i>THIRD PARTY DEFENDANT WORTHINGTON INDUSTRIES, INC.'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO EXCLUDE PLAINTIFFS' EXPERT ROBERT ANDERSON SUPPLEMENTAL DECLARATION OF CATHLEEN S. HUANG IN SUPPORT OF WORTHINGTON'S MOTION TO EXCLUDE PLAINTIFFS' EXPERT ROBERT ANDERSON</i> by ThirdParty Defendant Worthington Industries. (Huang, Cathleen) Modified on 10/15/2008, notified atty that document should be filed as an attachment (cap). (Entered: 10/13/2008)
10/14/2008	<a href="#">66</a>	NOTICE by Worthington Industries re <a href="#">62</a> Declaration,, <a href="#">63</a> Declaration, <a href="#">58</a> MOTION to Exclude <i>THIRD PARTY DEFENDANT WORTHINGTON INDUSTRIES, INC.'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO EXCLUDE PLAINTIFFS' EXPERT ROBERT ANDERSON NOTICE OF LODGEMENT IN SUPPORT OF THIRD PARTY DEFENDANT WORTHINGTON'S MOTION TO EXCLUDE PLAINTIFFS' EXPERT ROBERT N. ANDERSON</i> (Huang, Cathleen) Modified on 10/17/2008, notified atty of wrong s/ (cap). (Entered: 10/14/2008)
10/14/2008	<a href="#">67</a>	Minute Entry for proceedings held before Magistrate Judge Barbara Lynn Major:Mandatory Settlement Conference held on 10/14/2008. Case did not settle.(Tape #n/a).(Plaintiff Attorney Michael Veiluva; Mark Epstein; Sonia

		Dunn-Ruiz; Andrew Shalaby).(Defendant Attorney Shelley Hurwitz; Mxine Schroll; Beth Naylor) (Other: Lowell Carruth; Mark Stevens; Tim Doney; Richard Ergo).(mnb) (Entered: 10/15/2008)
10/17/2008	<a href="#">68</a>	Joint MOTION to Continue <i>STIPULATION TO CONTINUE WORTHINGTON'S MOTION HEARINGS</i> by Worthington Industries. (Huang, Cathleen) (cap). (Entered: 10/17/2008)
10/21/2008	<a href="#">69</a>	Discrepancy Order by Judge Thomas J. Whelan accepting document: Supplemental Declaration from Third Party Defendant Worthington Industries, non-compliance with local rule Supplemental documents require court order. (All non-registered users served via U.S. Mail Service).(cap) (av1). (Entered: 10/22/2008)
10/21/2008	<a href="#">70</a>	SUPPLEMENTAL DECLARATION of Cathleen S. Huang re <a href="#">58</a> MOTION to Exclude <i>THIRD PARTY DEFENDANT WORTHINGTON INDUSTRIES, INC.'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO EXCLUDE PLAINTIFFS' EXPERT ROBERT ANDERSON</i> by ThirdParty Defendant Worthington Industries. Filed Nunc Pro Tunc to 10/14/08. (cap) (av1). (Entered: 10/22/2008)
10/23/2008	<a href="#">71</a>	ORDER Granting <a href="#">68</a> Joint Motion to Continue Hearing Date. The hearing on Third-Party Defendant Worthington Industries, Inc.'s motions to exclude Plaintiffs' experts and motions for summary judgment is set for 12/1/08. Signed by Judge Thomas J. Whelan on 10/23/08. (All non-registered users served via U.S. Mail Service).(cap) (av1). (Entered: 10/24/2008)
11/06/2008	<a href="#">72</a>	NOTICE of Joinder by Western Industries Inc re <a href="#">54</a> Notice (Other), <a href="#">56</a> Notice (Other), Notice (Other), <a href="#">55</a> MOTION for Summary Judgment <i>THIRD PARTY DEFENDANT WORTHINGTON INDUSTRIES, INC.'S MOTION FOR SUMMARY JUDGMENT (AGAINST BERNZOMATIC)</i> (O'Neil, Carol) (Entered: 11/06/2008)
11/06/2008	<a href="#">73</a>	NOTICE of Joinder by Western Industries Inc re <a href="#">49</a> MOTION for Summary Judgment <i>THIRD PARTY DEFENDANT WORTHINGTON INDUSTRIES, INC.'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT</i> , <a href="#">50</a> Declaration, <a href="#">48</a> Notice (Other), <a href="#">51</a> Notice (Other), Notice (Other) (O'Neil, Carol) (Entered: 11/06/2008)
11/06/2008	<a href="#">74</a>	NOTICE of Joinder by Western Industries Inc re <a href="#">52</a> Notice (Other), <a href="#">53</a> MOTION to Exclude <i>THIRD PARTY DEFENDANT WORTHINGTON INDUSTRIES, INC.'S MOTION TO EXCLUDE TESTIMONY BY DR. VREDENBURGH</i> , <a href="#">62</a> Declaration,, (O'Neil, Carol) (Entered: 11/06/2008)
11/06/2008	<a href="#">75</a>	NOTICE of Joinder by Western Industries Inc re <a href="#">57</a> Notice (Other), <a href="#">61</a> Declaration, <a href="#">59</a> Declaration, <a href="#">70</a> Declaration, <a href="#">66</a> Notice (Other), Notice (Other), <a href="#">69</a> Discrepancy Order Accepting Document, <a href="#">62</a> Declaration,, <a href="#">63</a> Declaration,, <a href="#">60</a> Declaration, <a href="#">58</a> MOTION to Exclude <i>THIRD PARTY DEFENDANT WORTHINGTON INDUSTRIES, INC.'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO EXCLUDE PLAINTIFFS' EXPERT ROBERT ANDERSON</i> (O'Neil, Carol) (Entered: 11/06/2008)
11/07/2008	<a href="#">76</a>	AFFIDAVIT of Service for Third Party Defendant Western Industries, Inc.'s

		Notice of Joinders (See Document Nos. 72, 73, 74 and 75 e-filed November 6, 2008) served on Beth Schneider Naylor and Douglas R. Dennis on November 6, 2008, filed by Western Industries Inc. (O'Neil, Carol) (Entered: 11/07/2008)
11/07/2008	<a href="#">77</a>	ORDER Transferring Case. The following cases are hereby transferred from the calendar of Judge Whelan to the calendar of the Honorable Michael M. Anello. The Magistrate Judge will remain the same. All pending motion dates, and pretrial and trial dates in the cases shall remain in place. However, parties in these cases are advised they may be contacted with respect to rescheduling any pending dates. (Judge Michael M. Anello added; Judge Thomas J. Whelan no longer assigned to case) New Case Number: 07cv2107-MMA(BLM). Signed by Judge Thomas J. Whelan on 10/31/2008.(leh) (Entered: 11/07/2008)
11/07/2008	78	ORDER Setting Hearing on Motions: The following motions are reset for hearing on February 1, 2009 at 2:30 p.m. in Courtroom 5 before Judge Anello: <a href="#">55</a> MOTION for Summary Judgment <i>THIRD PARTY DEFENDANT WORTHINGTON INDUSTRIES, INC.'S MOTION FOR SUMMARY JUDGMENT (AGAINST BERNZOMATIC)</i> , <a href="#">44</a> MOTION for Summary Judgment <i>on Third-Party Complaint</i> , <a href="#">49</a> MOTION for Summary Judgment <i>THIRD PARTY DEFENDANT WORTHINGTON INDUSTRIES, INC'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT</i> , <a href="#">45</a> MOTION for Summary Judgment <i>on First Amended Complaint</i> . (amk) (Entered: 11/07/2008)

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