

SOLNICK & LEVIN, LLC  
BY: MINDY C. LEVIN, ESQUIRE  
ATTORNEY I.D. NO: 65823  
THE PAVILION, SUITE 635  
261 OLD YORK ROAD  
JENKINTOWN, PA 19046  
215-481-9979

ANDREW GELTZER  
6010 Lower Mountain Road  
New Hope, PA 18938

Plaintiff

v.

THERMADYNE INDUSTRIES, INC.  
101 South Hanley Road  
St. Louis, MO 63103

and

THERMADYNE HOLDING  
CORPORATION, INC.  
16052 Swingle Ridge Road, Suite 300  
St. Louis, MO 63017

and

VICTOR EQUIPMENT COMPANY  
2800 Airport Road  
Denton, TX 76207

and

N&N SUPPLY COMPANY, INC.  
5909-17 Ditman Street  
Philadelphia, PA 19135

Defendants

**COMPLAINT - CIVIL ACTION  
(PRODUCT LIABILITY - 2P)**

"NOTICE"

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

PHILADELPHIA BAR ASSOCIATION  
Lawyer Referral and Information Service  
One Reading Center  
Philadelphia, PA 19107  
Phone: (215) 238-1701

ATTORNEYS FOR PLAINTIFF

JURY TRIAL DEMANDED.

AN ASSESSMENT OF DAMAGES HEARING  
IS REQUIRED.

COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY

JANUARY TERM, 2006

NO. 002016

FILED  
PRO SE  
MAY 2 / 2006  
J. WEISS

2006 MAY 22 AM 9:38  
PRO SE

"AVISO"

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion hace falta ascantar una comparencia escrita en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra a de su persona. Sea avisado que si usted no se defiende la corte tomara medidas y puede continuar las demanda en contra suya sin previo aviso o notificacion. Ademas la corte puede decidir a favor del demandante y requiere que usted cumpla as las provisiones de esta demanda. Usted puede dinero o sus propiedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO MEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA A DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

ASOCIACION DE LICENCIADOS DE FILADELPHIA  
Servicio De Referencia E Informacion Legal  
One Reading Center  
Filadelfia, Pennsylvania 19107  
Telefono: (215) 238-1701

SOLNICK & LEVIN, LLC  
BY: MINDY C. LEVIN, ESQUIRE  
ATTORNEY I.D. NO: 65823  
THE PAVILION, SUITE 335  
261 OLD YORK ROAD  
JENKINTOWN, PA 19046  
215-481-9979

ATTORNEYS FOR PLAINTIFF

JURY TRIAL DEMANDED.

AN ASSESSMENT OF DAMAGES HEARING  
IS REQUIRED.

ANDREW GELTZER  
6010 Lower Mountain Road  
New Hope, PA 18938

Plaintiff

v.

THERMADYNE INDUSTRIES, INC.  
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COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY

JANUARY TERM, 2006

NO. 002016

**COMPLAINT - CIVIL ACTION**  
**(PRODUCT LIABILITY - 2P)**

1. Plaintiff, Andrew Geltzer, is an adult individual who currently resides at 6010 Lower Mountain Road, New Hope, Pennsylvania.
2. Defendant, Thermadyne Industries, Inc., is a corporation with a principal place of business located at 101 South Hanley Road, St. Louis, Missouri.
3. Defendant, Thermadyne Holding Corporation, Inc., is a corporation with a principal place of business located at 16052 Swinglet Ridge Road, Suite 300, St. Louis, Missouri.
4. Defendant, Victor Equipment Company, is a corporation with a principal place of business located at 2800 Airport Road, Denton, Texas.

5. Defendant, N & N Supply Company, Inc., is a corporation with a principal place of business located at 5909-17 Diuman Street, Philadelphia, Pennsylvania.
6. At all times material hereto, Defendants acted by and through their agents, servants and/or employees who, in turn, were acting within the scope of their employment.
7. At all times material hereto, Defendants and/or their predecessors in interest were engaged in the design, fabrication, manufacture, assembly, marketing and sale of various equipment and machinery including a TurboTorch self-lighting torch, model number TL-44.
8. At all times material hereto, Plaintiff, Andrew Geltzer was a licensed master plumber. During the his work as a licensed master plumber, Plaintiff had occasion to use a TurboTorch self-lighting torch, model number TL-44 (hereinafter "torch") which was designed, fabricated, assembled, manufactured, marketed and sold by Defendants and/or their predecessors in interest.
9. On or about February 13, 2004, at approximately 2:30 p.m, Plaintiff was operating the aforesaid torch in a manner reasonably foreseeable and intended by Defendants. 245 - 2106
10. On the aforesaid date and at the aforesaid time, Plaintiff was seriously injured when he was attempting to use the torch when the torch released a ball of fire when he pushed on the self-igniting button.
11. As a direct and proximate result of the foregoing accident, Plaintiff, Andrew Geltzer, sustained painful and severe injuries, which included but were not limited to first and second degree burns to his face, left ear and hands.

12. As a direct and proximate result of the foregoing accident, Plaintiff, Andrew Geltzer, has suffered and may continue to suffer from physical pain and mental suffering, disfigurement, great inconvenience in carrying out his daily activities, a loss of life's pleasures and enjoyment, and he may suffer pain and inconvenience into the future.

13. As a direct and proximate result of the foregoing accident, Plaintiff, Andrew Geltzer, has suffered a loss of earnings and may suffer a loss of earning potential.

14. As a direct and proximate result of the foregoing accident, Plaintiff, Andrew Geltzer, has undergone otherwise unnecessary medical treatment and has incurred otherwise unnecessary medical expenses.

**COUNT I - NEGLIGENCE**  
**ANDREW GELTZER v. DEFENDANTS**

15. Plaintiff hereby incorporates by reference paragraphs one through fourteen of this Complaint as though fully set forth herein at length.

16. The foregoing accident and all of the injuries and damages set forth herein sustained by Plaintiff were the direct and proximate result of the negligent, careless, wanton, and reckless manner in which Defendants designed, fabricated, manufactured, assembled, marketed and sold the TurboTorch self-lighting torch, model number TL-44 including, but not limited, to the following:

- a) Failing to provide proper and adequate warnings and instructions under the circumstances;
- b) Designing a torch which released a ball of fire when the self-igniting button was pushed;

- c) Manufacturing a torch which released a ball of fire when the self-igniting button was pushed;
- d) Utilizing a design which allowed a ball of fire to be released when the self-igniting button was pushed;
- e) Failing to provide an appropriate means igniting the torch to prevent accidents such as the one in which Plaintiff was involved;
- f) Utilizing a design which was reasonably foreseeable would result in the type of injuries sustained by Plaintiff;
- g) Failing to utilize a design which allowed for the safe operation of the torch;
- h) Utilizing a dangerous and defective self-igniting mechanism under the circumstances; and
- i) Other negligence which may be discovered during the course of litigation.

17. As a direct and proximate result of Defendants' negligence, Plaintiff, Andrew Geltzer, suffered the injuries and damages previously set forth.

WHEREFORE, Plaintiff, Andrew Geltzer, demands judgment against Defendants, Thermadyne Industries, Inc., Thermadyne Holding Corporation, Inc., Victor Equipment Company, and N & N Supply Company, Inc., in an amount in excess of Fifty Thousand (\$50,000.00) Dollars, plus of damages for delay, interest, attorney's fees, costs, and any other relief which this Honorable Court may deem just and fair.

COUNT II - BREACH OF WARRANTY  
ANDREW GELTZER v. DEFENDANTS

18. Plaintiff hereby incorporates by reference paragraphs one through seventeen of this Complaint as though fully set forth herein at length.

19. The aforementioned torch, which was designed, fabricated, assembled, manufactured, marketed and sold by Defendants and/or their predecessors in interest, was designed, fabricated, assembled, manufactured, marketed and sold with various defects, as set forth herein, which amounted to a breach of the express and/or implied warranties of merchantability given by Defendants or allowed by law, in that the torch was not fit for the ordinary and intended purposes for which it was intended to be used and, upon information and belief, did not conform to the promises or facts stated on the torch's container, label, packaging and/or packaged material(s).

20. The aforementioned torch, which was designed, fabricated, assembled, manufactured, marketed and sold by Defendants and/or their predecessors in interest, was designed, fabricated, assembled, manufactured, marketed, and sold with various defects, as set forth herein, which amounted to a breach of the express and/or implied warranties of fitness for a particular purpose given by Defendants and/or allowed by law, in that the Defendants knew or should have known the purpose for which the torch was to be used, knew or should have known that the Plaintiff and others similarly situated were relying on Defendants' skill and judgment to furnish a suitable torch for the purposes for which it was sold and the torch was not fit for the uses and purposes for which it was sold.

21. As a direct and proximate result of Defendants' breach of warranties, as described above, Plaintiff, Andrew Geltzer, suffered the injuries and damages previously set forth.

WHEREFORE, Plaintiff, Andrew Geltzer, demands judgment against Defendants, Thermadyne Industries, Inc., Thermadyne Holding Corporation, Inc., Victor Equipment Company, and N & N Supply Company, Inc., in an amount in excess of Fifty Thousand (\$50,000.00) Dollars, plus of damages for delay, interest, attorney's fees, costs, and any other relief which this Honorable Court may deem just and fair.

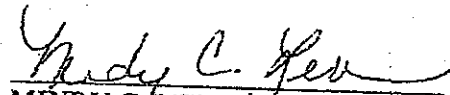
**COUNT III - STRICT LIABILITY**  
**ANDREW GELTZER v. DEFENDANTS**

22. Plaintiffs hereby incorporate by reference paragraphs one through twenty-one of this Complaint as though fully set forth herein at length.
23. The subject torch was defectively designed and/or manufactured in that it left Defendants' control lacking adequate safety features and/or warnings or instructions.
24. The subject torch was defectively designed and/or manufactured in that, *inter alia*, a ball of fire was released when the operator of the torch pressed the self-igniting button.
25. The subject torch was placed into the stream of commerce in a defective, and unreasonably dangerous, condition by Defendants.
26. The subject torch was intended to and did in fact reach Plaintiff without substantial change in the condition in which it was manufactured, sold and distributed.
27. Plaintiff used the subject torch in its reasonably expected and intended manner.
28. As a direct and proximate result of the defective and unreasonably dangerous condition of the subject torch, Plaintiff, Andrew Geltzer sustained the injuries and damages previously set forth.

WHEREFORE, Plaintiff, Andrew Geltzer, demands judgment against Defendants, Thermadyne Industries, Inc., Thermadyne Holding Corporation, Inc., Victor Equipment Company, and N & N Supply Company, Inc., in an amount in excess of Fifty Thousand (\$50,000.00) Dollars, plus of damages for delay, interest, attorney's fees, costs, and any other relief which this Honorable Court may deem just and fair.

SOLNICK & LEVIN, LLC


BY:

  
MINDY C. LEVIN, ESQUIRE  
Attorney for Plaintiff



VERIFICATION

I, Mindy C. Levin, Esquire, hereby verify that I am counsel for Plaintiff in the foregoing matter and that the statements made in the foregoing Complaint are true and correct to the best of my knowledge, information and belief. I understand the statements therein are made subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities.

  
Mindy C. Levin, Esquire

SOLNICK & LEVIN, LLC  
BY: MINDY C. LEVIN, ESQUIRE  
ATTORNEY I.D. NO: 65823  
THE PAVILION, SUITE 635  
261 OLD YORK ROAD  
JENKINTOWN, PA 19046  
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Defendants

COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY

JANUARY TERM, 2006


NO. 002016

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 22<sup>nd</sup> day of May, 2006, a true and correct copy of the foregoing Complaint was served on the following via hand-delivery:

Dana Hinerman Augustine, Esquire  
Bodell, Bove, Grace & Van Horn  
One Penn Square West, Sixth Floor  
30 South 15<sup>th</sup> Street  
Philadelphia, PA 19102

SOLNICK & LEVIN, LLC

By:   
MINDY C. LEVIN, ESQUIRE  
Attorney for Plaintiff

**CT CORPORATION**  
A WoltersKluwer Company

**Service of Process  
Transmittal**

06/21/2007  
Log Number 512337028

**TO:** Dale Matschullat  
Newell Rubbermaid Inc.  
10 B. Glenlake Parkway, Suite 600  
Atlanta, GA, 30328

**RE:** Process Served in California

**FOR:** NEWELL OPERATING COMPANY (Domestic State: DE)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

**TITLE OF ACTION:** Richard Glenn and Mary Glenn, Pltfs. vs. Newell Operating Company, etc., et al., Dfts.

**DOCUMENT(S) SERVED:** Summons, Complaint, Cause of Action, Attachment, Declaration, Civil Case Cover Sheet, Case Information Sheet, Questionnaire

**COURT/AGENCY:** Superior Court County of Ventura, CA  
Case # 56200700285785CUPLVTA

**NATURE OF ACTION:** Product Liability Litigation - Manufacturing Defect - Personal Injuries- defective Bernzomatic Turbo Torch failed causing an uncontrollable flame

**ON WHOM PROCESS WAS SERVED:** C T Corporation System, Los Angeles, CA

**DATE AND HOUR OF SERVICE:** By Process Server on 06/21/2007 at 13:51

**APPEARANCE OR ANSWER DUE:** Within 30 days after service

**ATTORNEY(S) / SENDER(S):** David L. Shain  
Ferguson Case Orr Paterson LLP  
1050 South Kimball Road  
Ventura, CA, 93004  
805-659-6800

**ACTION ITEMS:** SOP Papers with Transmittal, via Fed Ex 2 Day, 790767719004

**SIGNED:** C T Corporation System  
**PER:** Dianne Christman  
**ADDRESS:** 818 West Seventh Street  
Los Angeles, CA, 90017  
**TELEPHONE:** 213-337-4615

Page 1 of 1 / DC

Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of the package only, not of its contents.

06/21/11:51 PM  
87**SUMMONS**  
(CITACION JUDICIAL)**NOTICE TO DEFENDANT:**  
(AVISO AL DEMANDADO):

Newell Operating Company dba Bernzomatic Corporation, and Does 1 to 20, Inclusive

**YOU ARE BEING SUED BY PLAINTIFF:**  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):  
Richard Glenn, and Mary Glenn

SUM-100

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)VENTURA  
SUPERIOR COURT  
FILED

JUN 21 2007

MICHAEL D. PLANET  
CLERK OF COURT  
DENISE M. LUGO

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.courtinfo.ca.gov/selfhelp/espanol](http://www.courtinfo.ca.gov/selfhelp/espanol)), en la biblioteca de leyes de su condado o en la corte que le queda más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.courtinfo.ca.gov/selfhelp/espanol](http://www.courtinfo.ca.gov/selfhelp/espanol)) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:

(El nombre y dirección de la corte es):  
**SUPERIOR COURT OF CALIFORNIA, COUNTY OF VENTURA**  
800 South Victoria Avenue  
Ventura, CA 93006-6489CASE NUMBER:  
(Número del Caso):

56-2007-00285785-CU-PL-VTA

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

David L. Shain (Bar # 109190) James Q. McDermott (Bar # 192572)

Phone No. (805) 659-6800

Fax No. (805) 659-6818

DATE:

(Fecha)

JUN 21 2007

Clerk, by \_\_\_\_\_  
(Secretario)Deputy  
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010))

(SEAL)

**NOTICE TO THE PERSON SERVED: You are served**

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☒ on behalf of (specify):

under: ☐

CCP 416.10 (corporation)

☐ CCP 416.20 (defunct corporation)☐ CCP 416.40 (association or partnership)☐ other (specify):

4. ☐ by personal delivery on (date):

NEWELL OPERATING COMPANY  
dba BERNZOMATIC CORPORATION

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <b>David L. Shain (State Bar # 109190)</b> <b>James Q. McDermott (State Bar # 192572)</b> <b>Ferguson Case Orr Paterson LLP</b> <b>1050 South Kimball Road, Ventura, CA 93004</b> TELEPHONE NO: (805) 659-6800 FAX NO. (Optional): (805) 659-6818 E-MAIL ADDRESS (Optional): dshain@fcoplaw.com ATTORNEY FOR (Name): <b>Plaintiffs Richard Glenn and Mary Glenn</b>		PLD-PI-001 FOR COURT USE ONLY VENTURA SUPERIOR COURT <b>FILED</b> <b>JUN 21 2007</b> MICHAEL L. PLETCH Clerk of Court <b>DENISE M. LU</b>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF VENTURA STREET ADDRESS: <b>800 South Victoria Avenue</b> MAILING ADDRESS: <b>P.O. Box 6489</b> CITY AND ZIP CODE: <b>Ventura 93006-6489</b> BRANCH NAME: <b>Ventura Courthouse</b>		
PLAINTIFF: <b>Richard Glenn and Mary Glenn</b> DEFENDANT: <b>Newell Operating Company dba Bernzomatic Corporation</b>		
<input checked="" type="checkbox"/> DOES 1 TO 20 <b>COMPLAINT—Personal Injury, Property Damage, Wrongful Death</b> <input type="checkbox"/> AMENDED (Number): Type (check all that apply): <input type="checkbox"/> MOTOR VEHICLE <input checked="" type="checkbox"/> OTHER (specify): <b>Products Liability</b> <input type="checkbox"/> Property Damage <input type="checkbox"/> Wrongful Death <input checked="" type="checkbox"/> Personal Injury <input type="checkbox"/> Other Damages (specify): Jurisdiction (check all that apply): <input type="checkbox"/> ACTION IS A LIMITED CIVIL CASE Amount demanded <input type="checkbox"/> does not exceed \$10,000 <input type="checkbox"/> exceeds \$10,000, but does not exceed \$25,000 <input checked="" type="checkbox"/> ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000) <input type="checkbox"/> ACTION IS RECLASSIFIED by this amended complaint <input type="checkbox"/> from limited to unlimited <input type="checkbox"/> from unlimited to limited		
CASE NUMBER: <b>56-2007-00285785-CU-PL-VTA</b>		D.C.M./TRACK ASSIGNMENT: <input type="checkbox"/> UNLAWFUL DETAINER <input type="checkbox"/> ECONOMIC <input checked="" type="checkbox"/> STANDARD <input type="checkbox"/> UNINSURED MOTORIST <input type="checkbox"/> TRACT COORD TO NOTIFY READ THE VENTURA COUNTY LOCAL RULES THAT GOVERN COMPLIANCE WITH FAST TRACT ASSIGNED COURT <b>U1</b>

1. Plaintiff (name or names): **Richard Glenn and Mary Glenn**  
 alleges causes of action against defendant (name or names): **Newell Operating Company dba Bernzomatic Corporation**

2. This pleading, including attachments and exhibits, consists of the following number of pages: **6**

3. Each plaintiff named above is a competent adult

a. ☐ except plaintiff (name):

- (1) ☐ a corporation qualified to do business in California
- (2) ☐ an unincorporated entity (describe):
- (3) ☐ a public entity (describe):
- (4) ☐ a minor ☐ an adult
  - (a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
  - (b) ☐ other (specify):
- (5) ☐ other (specify):

b. ☐ except plaintiff (name):

- (1) ☐ a corporation qualified to do business in California
- (2) ☐ an unincorporated entity (describe):
- (3) ☐ a public entity (describe):
- (4) ☐ a minor ☐ an adult
  - (a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
  - (b) ☐ other (specify):
- (5) ☐ other (specify):

☐ Information about additional plaintiffs who are not competent adults is shown in Attachment 3.

PLD-PI-001

SHORT TITLE:

Glenn v. Newell Operating Company dba Bernzomatic Corporation, et al.

CASE NUMBER:

4. ☒ Plaintiff (name): Richard Glenn and Mary Glenn  
is doing business under the fictitious name (specify):

and has complied with the fictitious business name laws.

5. Each defendant named above is a natural person

- a. ☒ except defendant (name): Newell Operating Company

(1) ☐ a business organization, form unknown(2) ☒ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):

- c. ☐ except defendant (name):

(1) ☐ a business organization, form unknown(2) ☐ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):

- b. ☐ except defendant (name):

(1) ☐ a business organization, form unknown(2) ☐ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):

- d. ☐ except defendant (name):

(1) ☐ a business organization, form unknown(2) ☐ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):

☐ Information about additional defendants who are not natural persons is contained in Attachment 5.

6. The true names of defendants sued as Does are unknown to plaintiff.

- a. ☒ Doe defendants (specify Doe numbers): 1-20 were the agents or employees of other named defendants and acted within the scope of that agency or employment.

- b. ☒ Doe defendants (specify Doe numbers): 1-20 are persons whose capacities are unknown to plaintiff.

7. ☐ Defendants who are joined under Code of Civil Procedure section 382 are (names): Doe I operates a business in Ventura County where it sold the product at issue to plaintiff Richard Glenn's employer.

8. This court is the proper court because

a. ☐ at least one defendant now resides in its jurisdictional area.

b. ☐ the principal place of business of a defendant corporation or unincorporated association is in its jurisdictional area.

c. ☒ injury to person or damage to personal property occurred in its jurisdictional area.

d. ☐ other (specify):

9. ☐ Plaintiff is required to comply with a claims statute, and

a. ☐ has complied with applicable claims statutes, or

b. ☐ is excused from complying because (specify):

SHORT TITLE:

PLD-PI-001

Glenn v. Newell Operating Company dba Bernzomatic Corporation, et al.

CASE NUMBER:

10. The following causes of action are attached and the statements above apply to each (each complaint must have one or more causes of action attached):

- a. ☐ Motor Vehicle  
b. ☐ General Negligence  
c. ☐ Intentional Tort  
d. ☒ Products Liability  
e. ☐ Premises Liability  
f. ☒ Other (specify):  
Loss of consortium.

11. Plaintiff has suffered

- a. ☒ wage loss  
b. ☐ loss of use of property  
c. ☒ hospital and medical expenses  
d. ☒ general damage  
e. ☐ property damage  
f. ☒ loss of earning capacity  
g. ☐ other damage (specify):

12. ☐ The damages claimed for wrongful death and the relationships of plaintiff to the deceased are

- a. ☐ listed in Attachment 12.  
b. ☐ as follows:

13. The relief sought in this complaint is within the jurisdiction of this court.

14. Plaintiff prays for judgment for costs of suit, for such relief as is fair, just, and equitable; and for

- a. (1) ☒ compensatory damages  
(2) ☒ punitive damages

The amount of damages is (in cases for personal injury or wrongful death, you must check (1)):

- (1) ☒ according to proof  
(2) ☐ in the amount of \$.

15. ☒ The paragraphs of this complaint alleged on information and belief are as follows (specify paragraph numbers):  
EX-1 and EX-2

Date: June 19, 2007

David L. Shain

(TYPE OR PRINT NAME)



(SIGNATURE OF PLAINTIFF OR ATTORNEY)

PLD-PI-001 (Rev. January 1, 2007)

COMPLAINT—Personal Injury, Property  
Damage, Wrongful Death

Page 3 of 3

LexisNexis® Automated California Judicial Council Forms

SHORT TITLE: Glenn v. Newell Operating Company dba Bernzomatic Corporation, et al.	CASE NUMBER:  
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PLD-PI-001(5)

FIRST

(number)

## CAUSE OF ACTION—Products Liability

Page 4

ATTACHMENT TO ☒ Complaint ☐ Cross - Complaint  
(Use a separate cause of action form for each cause of action.)

Plaintiff (name): Richard Glenn

Prod. L-1. On or about (date): January 3, 2006 plaintiff was injured by the following product:

Plaintiff was working as a plumber in front of 1010 Grand View Avenue, Ojai, CA. While soldering copper pipes with a Bernzomatic Turbo Torch affixed to a MAPP gas cylinder, the product failed, causing a powerful and uncontrolled flame to be directed at plaintiff's face and chest.

Prod. L-2. Each of the defendants knew the product would be purchased and used without inspection for defects. The product was defective when it left the control of each defendant. The product at the time of injury was being

☒ used in the manner intended by the defendants.

☒ used in the manner that was reasonably foreseeable by defendants as involving a substantial danger not readily apparent. Adequate warnings of the danger were not given.

Prod. L-3. Plaintiff was a

☐ purchaser of the product.

☒ user of the product.

☐ bystander to the use of the product.

☐ other (specify):

PLAINTIFF'S INJURY WAS THE LEGAL (PROXIMATE) RESULT OF THE FOLLOWING:

Prod. L-4. ☒ Count One—Strict liability of the following defendants who

a. ☒ manufactured or assembled the product (names): Newell Operating Company dba Bernzomatic Corporation

☒ Does 1 to 20.

b. ☒ designed and manufactured component parts supplied to the manufacturer (names): Newell Operating Company dba Bernzomatic Corporation

☒ Does 1 to 20.

c. ☒ sold the product to the public (names): Newell Operating Company dba Bernzomatic Corporation

☒ Does 1 to 20.

Prod. L-5. ☒ Count Two—Negligence of the following defendants who owed a duty to plaintiff (names): Newell Operating Company dba Bernzomatic Corporation

☒ Does 1 to 20.

Prod. L-6. ☒ Count Three—Breach of warranty by the following defendants (names): Newell Operating Company dba Bernzomatic Corporation

☒ Does 1 to 20.

a. ☒ who breached an implied warranty

b. ☒ who breached an express warranty which was

☒ written ☐ oral

Prod. L-7. ☐ The defendants who are liable to plaintiffs for other reasons and the reasons for the liability are ☐ listed in Attachment-Prod. L-7 ☐ as follows:



SHORT TITLE: Glenn, et al. v. Newell Operating Company dba Bernzomatic Corporation, et al	CASE NUMBER: PLD-PI-001(2)
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SECOND  
(number)

## CAUSE OF ACTION—Loss of Consortium

Page 5

ATTACHMENT TO ☒ Complaint ☐ Cross - Complaint

(Use a separate cause of action form for each cause of action.)

GN-1. Plaintiff (name): Mary Glenn

alleges that defendant (name): Newell Operating Company dba Bernzomatic Corporation

☒ Does 1 to 20

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant negligently caused the damage to plaintiff

on (date): January 3, 2006

at (place): 1010 Grand View Avenue, Ojai, California, County of Ventura.

(description of reasons for liability):

Plaintiff incorporates the allegations of the First Cause of Action as though fully set forth herein.

Plaintiff Richard Glenn and plaintiff Mary Glenn are, and at all times herein, were husband and wife.

Prior to the injuries, plaintiff Richard Glenn was able to and did perform his duties as a spouse. Subsequent to the injuries and as a proximate result thereof, he has been unable to perform the necessary duties as a spouse, in that he no longer can perform the work and services usually performed by him in the care, maintenance and management of the family home. He will be unable to perform such work, services and duties in the future. Additionally, his ability to provide companionship and solace to plaintiff Mary Glenn has been diminished. By reason thereof, he has been diminished. By reason thereof, Mary Glenn has been deprived and will be deprived of the consortium of her spouse, including the performance of her spouse's necessary duties, as well as companionship and solace, all to her damage.

PLD-PI-001(6)

SHORT TITLE:

Glenn v. Newell Operating Company dba Bernzomatic Corporation, et

CASE NUMBER

## Exemplary Damages Attachment

Page 6

ATTACHMENT TO ☒ Complaint ☐ Cross - Complaint

EX-1. As additional damages against defendant (name): Newell Operating Company dba Bernzomatic Corporation

Plaintiff alleges defendant was guilty of

☒ malice☐ fraud☐ oppression

as defined in Civil Code section 3294, and plaintiff should recover, in addition to actual damages, damages to make an example of and to punish defendant.

EX-2. The facts supporting plaintiff's claim are as follows:

Plaintiffs reallege and incorporate all allegations set forth above. Plaintiffs are informed and believe that at all times herein mentioned, defendants, and each of them, knew that the product herein described was defective in design and manufacture, and that said defects increased the risk of serious injury and death to users in normal use. Despite this knowledge, and notwithstanding the defendants' ability to redesign and manufacture the product without such defects, at minimal cost, defendants decided, despicably, and in willful and conscious disregard of the safety of such persons, to place the product on the market.

EX-3. The amount of exemplary damages sought is

a. ☒ not shown, pursuant to Code of Civil Procedure section 425.10.b. ☐ \$

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): David L. Shain (State Bar # 109190) James Q. McDermott (State Bar # 192572) Ferguson Case Orr Paterson LLP 1050 South Kimball Road, Ventura, CA 93004 BAR NO.: ATTORNEY FOR (Name): <u>Plaintiffs Richard Glenn and Mary Glenn</u> SUPERIOR COURT OF CALIFORNIA, COUNTY OF VENTURA <input type="checkbox"/> 800 S. VICTORIA AVE., VENTURA CA. 93009 <input type="checkbox"/> 3855-F ALAMO ST. SIMI VALLEY, CA. 93063-2110 PLAINTIFF/PETITIONER: Richard Glenn and Mary Glenn DEFENDANT/RESPONDENT: Newell Operating Company dba Bernzomatic Corporation, et al. <b>DECLARATION FOR COURT ASSIGNMENT</b> (Family Law and Unlawful Detainer and all other General Civil actions ONLY)		TELEPHONE NO.: (805) 659-6800 FAX NO.: (805) 659-6818 FOR COURT USE ONLY VENTURA SUPERIOR COURT <b>FILED</b> <b>JUN 21 2007</b> MICHAEL L. ... <b>DENISE M. LUG</b> CASE NUMBER:
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Family Law, Domestic Violence, Paternity, Harassment, Unlawful Detainer, and all other General Civil actions presented for filing MUST be accompanied by this declaration.

The undersigned declares that the above entitled matter is filed for proceedings in the:

- ☐ East County Division, 3855-F Alamo St., Simi Valley, CA 93063 (Based upon Zip Code designation.)
- |                                |                                |                                |                                |   |
|--------------------------------|--------------------------------|--------------------------------|--------------------------------|---|
| <input type="checkbox"/> 91301 | <input type="checkbox"/> 91302 | <input type="checkbox"/> 91304 | <input type="checkbox"/> 91307 | <input type="checkbox"/> 91320 - Excluding Family Law         |
| <input type="checkbox"/> 91360 | <input type="checkbox"/> 91361 | <input type="checkbox"/> 91362 | <input type="checkbox"/> 91377 | <input type="checkbox"/> 93020 <input type="checkbox"/> 93021 |
| <input type="checkbox"/> 93062 | <input type="checkbox"/> 93063 | <input type="checkbox"/> 93064 | <input type="checkbox"/> 93065 | <input type="checkbox"/> 91363                                |

- ☒ Ventura Division, 800 S. Victoria Ave., Ventura, CA 93009 (Venue does NOT fall within the Zip Codes above but is within Ventura County.)

For the checked reason:

- |  |  |
|--|--|
| <input type="checkbox"/> Contract                      | Performance in the division is expressly provided for                                    |
| <input type="checkbox"/> Equity                        | The cause of action arose within the division  |
| <input type="checkbox"/> Eminent Domain                | The property is located within the division  |
| <input type="checkbox"/> Family Law                    | Plaintiff, defendant, petitioner or respondent resides within the division               |
| <input type="checkbox"/> Harassment                    | Plaintiff, defendant, petitioner or respondent resides with the division                 |
| <input type="checkbox"/> Mandate                       | The defendant functions wholly within the division                                       |
| <input type="checkbox"/> Name Change                   | The petitioner resides within the division   |
| <input type="checkbox"/> Paternity                     | Plaintiff, defendant, petitioner or respondent resides within the division.              |
| <input checked="" type="checkbox"/> Personal Injury    | The injury occurred within the division or the defendant resides within the division     |
| <input type="checkbox"/> Personal Property             | The property is located within the division or the defendant resides within the division |
| <input type="checkbox"/> Prohibition                   | The defendant functions wholly within the division                                       |
| <input type="checkbox"/> Review                        | The defendant functions wholly within the division                                       |
| <input type="checkbox"/> Title to Real Property        | The property is located within the division  |
| <input type="checkbox"/> Unlawful Detainer             | The property is located within the division  |
| <input type="checkbox"/> Domestic Violence             | Plaintiff, defendant, petitioner or respondent resides within the division               |
| <input type="checkbox"/> Civil not otherwise specified |  |

(Venue Rule Applicable)

The address of the accident, performance, party, detention, place of business, or other factor which qualifies this case for filing in the division:

Name: Ojai, California, County of Ventura Address: 1010 Grand View Ave., Ojai, CA, County of Ventura

Upon information and belief, I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: June 19, 2007

David L. Shain  
Signature of Attorney/Party

Mandatory Form:  
VN027 (Rev. 01/01/04)

### DECLARATION FOR COURT ASSIGNMENT

LexisNexis® Automated California County Forms

<b>ATTORNEY OF PARTY WITHOUT ATTORNEY (Name and Address)</b> David L. Shain (State Bar # 109190) James Q. McDermott (State Bar # 192572) Ferguson Case Orr Paterson LLP 1050 South Kimball Road, Ventura, California 93004 E-MAIL ADDRESS dshain@fcoplaw.com ATTORNEY FOR (Name): Plaintiffs Richard Glenn and Mary Glenn		<b>Telephone Number</b> (804) 659-6800 <b>FAX NO.:</b> (805) 659-6818	VN010 FOR COURT USE ONLY SUPERIOR COURT <b>FILED</b> JUN 21 2007 MICHAEL D. FLETCHER CLERK OF COURT DENISE M. LUGO
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF VENTURA</b> <input checked="" type="checkbox"/> 800 SOUTH VICTORIA AVE. VENTURA, CA 93009 <input type="checkbox"/> 3855 - F ALAMO ST. SIMI VALLEY, CA 93063-2110		<input type="checkbox"/> Civil Limited Case	
<b>PLAINTIFF/PETITIONER</b> Richard Glenn and Mary Glenn <b>DEFENDANT/RESPONDENT</b> Newell Operating Company dba Bernzomatic Corporation, et al		<b>CASE NUMBER:</b>	
<b>CASE INFORMATION SHEET</b>			

1. CASE TYPE CATEGORY: (If multiple counts, select principal count.)

- |  |  |
|--|--|
| <input type="checkbox"/> Unlawful Detainer                           | <input type="checkbox"/> Contracts                                 |
| <input type="checkbox"/> Collections                                 | <input type="checkbox"/> Negligence/Personal Injury/Wrongful Death |
| <input type="checkbox"/> Bills and Notes                             | <input type="checkbox"/> Automobile Negligence                     |
| <input type="checkbox"/> Subrogation                                 | <input checked="" type="checkbox"/> Products Liability             |
| <input type="checkbox"/> Uninsured Motorist                          | <input type="checkbox"/> Other: _____                              |
| <input type="checkbox"/> Medical Malpractice: Licensing Agency _____ | Medical License# _____   |

2. TRACK ASSIGNMENT REQUESTED:

- ☐ Unlawful Detainer - Case to be completed within 90 days.  
☐ Economic Litigation Case (Limited Civil) - Case to be completed within 1 year.  
☐ Uninsured Motorist - Case to be tracked at 180 days.  
☒ Standard (Unlimited Civil) - Case to be completed within 1 year.  
☐ Complex - Time limits determined by Judge. Requests for Complex track are submitted to assigned judge, the plaintiff will be notified.

3. MEDIATION INFORMATION (Case description) For purpose of assignment to mediation, the following case types qualify:

- |  |  |
|--|--|
| <input type="checkbox"/> Neighbor-to-Neighbor Dispute<br><input type="checkbox"/> Homeowner's Association and CC&R Dispute<br><input type="checkbox"/> Business/Partnership Dispute and/or Dissolution Dispute<br><input type="checkbox"/> Real Estate Dispute<br><input type="checkbox"/> Breach of Contract (Not Money/Collections)<br><input type="checkbox"/> I Volunteer for Mediation, dispute not included in above. (Personal injury cases are ineligible for mediation) | <input type="checkbox"/> Sexual Harassment<br><input type="checkbox"/> Employment Dispute<br><input type="checkbox"/> Discrimination<br><input type="checkbox"/> Repair/Remodel Dispute<br><input type="checkbox"/> Code Enforcement Dispute |
|--|--|

- b. I have engaged in voluntary mediation within the past 90 days. Date of mediation: \_\_\_\_\_  
 Mediator's Name and Address: \_\_\_\_\_

4. JURY TRIAL DEMANDED: ☒ Yes ☐ No ESTIMATED TRIAL TIME: 5-7 Days

5. Is this action related to any other action pending in any other court? ☐ Yes ☒ No  
 If "yes", a. Court in which action is pending: \_\_\_\_\_  
 b. Title of Action: \_\_\_\_\_ c. Case number: \_\_\_\_\_

If you later become aware of a related case, file and serve a notice of related case. You can use Judicial Council

NOTE: Reverse side of this form must be completed in full.

VN010 Mandatory Form  
 (Rev 07/01/06)

CASE INFORMATION SHEET

LexisNexis®

**NOTICE TO PLAINTIFFS:** The Court requires that the following information be provided in order that this case may be properly managed pursuant by the Delay Reduction Rules mandated by the Legislature and the Judicial Council.

1. Set forth a concise statement of the nature of the case.

On January 3, 2006, plaintiff Richard Glenn was working as a plumber in front of 1010 Grand View Avenue, Ojai, CA. While soldering copper pipes with a Bernzomatic Turbo Torch affixed to a MAPP gas cylinder, the product failed, causing a powerful and uncontrolled flame to be directed at Glenn's face and chest.

2. Give a concise description of the injury, damages and/or loss the Plaintiff claims to have suffered.

Plaintiff Richard Glenn sustained personal injuries, including severe burns to his face, chest and arms, requiring numerous surgeries, and a lengthy period of hospitalization and rehabilitation.

Plaintiff Mary Glenn, wife of Richard Glenn, is making a claim for loss of consortium.

3. List all general and special damages claimed, including but not limited to, medical expenses (past and future), loss of earnings, property damages, and any other specific monetary damages that apply in your particular case.

Currently, plaintiff Richard Glenn has incurred medical specials in the amount of approximately \$924,887 and loss of earnings. Future medical specials and lost earnings are anticipated.

4. Set forth any equitable relief sought by Plaintiff