

**BEFORE THE
UNITED STATES JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION**

In re: BernzOmatic and Worthington
Branded Torch Products Liability Litigation

MDL No. _____

**BRIEF IN SUPPORT OF MOTION OF PLAINTIFFS KURTIS M. BAILEY
AND JASON LOU PERALTA FOR TRANSFER OF ACTIONS TO THE
CENTRAL DISTRICT OF CALIFORNIA PURSUANT TO 28 U.S.C. § 1407
FOR COORDINATED OR CONSOLIDATED PRETRIAL PROCEEDINGS**

Pursuant to 28 U.S.C. § 1407 and Rule 7.2(a) of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, Plaintiffs Jason Lou Peralta (Arizona) and Kurtis M. Bailey (Illinois) respectfully submit this memorandum of law in support of their motion for transfer of all currently filed federal cases in this litigation, and any subsequent "tag along" cases involving similar claims, to the United States District Court for the Central District of California, where the case, Marmont v. BernzOmatic, et al., 2:17-cv-01358, before the Honorable Judge John A. Kronstadt, is pending. This transferee court is suggested on the basis that it appears the District Court located in Los Angeles, California, has the most available resources to entertain the coordinated actions, while the other district courts are located in less metropolitan areas, with exception of Chicago.

I. BACKGROUND

This motion for transfer involves six actions pending in five different jurisdictions across the United States asserting common factual allegations and involving overlapping claims and legal

issues. There are several pages on the Court's Pacer docket of other products liability actions involving the same subject products manufactured by the same defendants and their affiliates, therefore Plaintiff expects additional actions to be filed in federal courts alleging similar claims.

A. Subject Products.

Each of the six cases listed on the Schedule of Actions is a products liability case involving a fuel container, commonly called a "one pound NRT" cylinder. "NRT" means "non-refillable tall." The same defendants in each of these six actions designed, marketed, manufactured and sold each of the subject fuel containers.

Five of the six fuel cylinders involved in the six related actions was operated by a brass screw-on torch apparatus that mounted to the top of the cylinder. Each of these torch units contained a safety feature, known as a "fracture groove." The fracture groove feature was described by the defendants on their internet postings as follows:

Fracture Groove: A designed in failure point in the torch, so that when the torch & cylinder are dropped, the fracture groove will fail prior to the cylinder center bushing failing. If the center bushing fails, then an extremely large 8 to 10 foot flame will erupt from the cylinder. Examples of torches with a fracture groove are: UL2317, JT680, JT681, JT539, TS4000, TS7000.

The same defendants in these five actions designed, marketed, manufactured and sold each of the subject torch apparatuses. The defects of these subject torch attachments is secondary, as the defects with the subject fuel containers themselves is core to all six of these products liability actions.

A. Plaintiffs.

The various plaintiffs in these related litigations have all filed civil actions alleging product defects of the same of the NRT fuel cylinders. In addition, the two moving plaintiffs (Peralta and Bailey) further allege that the torch units containing the safety fracture groove features have also

failed. The primary product defect pertains to the fuel containers which have failed in all six of these related actions, causing severe injuries to the plaintiffs, and the death of one plaintiff (Ms. Marmont, in the case to which this transfer has been requested, pending in Los Angeles).

B. Defendants.

The defendants are all affiliates of one-another. Defendant, “BernzOmatic” was an unincorporated division of Irwin Industrial Tool company and Newell Operating Company.” (Please note that the name “BernzOmatic” has a capital “O” in the original text.) Most of the subject products in this action contain the brand name “BernzOmatic”. Irwin Industrial Tool Company is owned by Newell Operating Company. In the year 2011 Bernzomatic sold its assets to Worthington Industries. Yet another company, Western Industries, used to manufacture the subject fuel containers for BernzOmatic, but in 2004 it sold its interests or assets to Worthington Industries as well. Worthington Industries has several subsidiaries that produce, market, and distribute these subject products. The corporate status and identity of each entity was investigated on November 10, 2017, and is as follows:

1. Irwin Industrial Tool Company is incorporated in Ohio. As of November 10, 2017 the agent and registration information was posted as follows:

Corporation Service Company 50 West Broad Street Suite 1330 Columbus, OH 43215 Effective Date: 11/10/2016 Contact Status: Active

2. Newell Operating Company is incorporated in Delaware. As of November 10, 2017 the agent and registration information was posted as follows:

Current Entity Name: NEWELL OPERATING COMPANY DOS ID #: 318446 Initial DOS Filing Date: NOVEMBER 23, 1971 County: DELAWARE Jurisdiction: DELAWARE Entity Type: FOREIGN BUSINESS CORPORATION Current Entity Status: ACTIVE
<u>DOS Process:</u> C/O Corporation Service Company 80 State Street Albany, New York, 12207-2543
<u>Principal Executive Office:</u> Newell Operating Company 6655 Peachtree Dunwoody Road Atlanta, Georgia, 30328
<u>Registered Agent:</u> Corporation Service Company 80 State Street Albany, New York, 12207-2543

3. Newell Brands, Inc. is incorporated in Delaware. As of November 10, 2017 the agent and registration information was posted as follows:

File Number: 2118347 Entity Name: NEWELL BRANDS INC.	Incorporation date: 2/23/1987 Residency: DELAWARE
<u>Registered Agent Information:</u> Corporation Service Company 251 Little Falls Drive Wilmington, DE 19808 Phone: 302-636-5401	

4. Worthington Industries, Inc. is incorporated in Ohio. As of November 10, 2017 the agent and registration information was posted as follows:

Entity Number:	1037038
Business Name:	WORTHINGTON INDUSTRIES, INC.
Filing Type:	CORPORATION FOR PROFIT
Status:	Active
Original Filing Date:	08/24/1998
Location:	COLUMBUS County: FRANKLIN State: Ohio

<u>Agent/Registrant Information:</u> Dale T. Brinkman 200 Old Wilson Bridge Road Columbus, OH 43085 Effective Date: 02/12/2004

5. Worthington Cylinder Corporation is incorporated in Ohio. As of November 10, 2017 the agent and registration information was posted as follows:

Entity Number:	590252
Business Name:	WORTHINGTON CYLINDER CORPORATION
Filing Type:	CORPORATION FOR PROFIT
Status	Active:
Original Filing Date:	02/26/1982
Expiry Date	
Location:	COLUMBUS County: FRANKLIN State: OHIO

<u>Agent/Registrant Information:</u> Dale T. Brinkman 200 Old Wilson Bridge Road Columbus, OH 43085 Effective Date: 02/12/2004 Contact Status: Active

6. Worthington Cylinder Corporation, LLC is located in Ohio. As of November 10, 2017 the agent and registration information was posted as follows:

Entity Number:	1971002
Business Name:	WORTHINGTON CYLINDER CORPORATION, LLC
Filing Type:	DOMESTIC LIMITED LIABILITY COMPANY
Status:	Active
Original Filing Date:	10/22/2010
Location:	COLUMBUS County: FRANKLIN State: OHIO

Dale T. Brinkman 200 Old Wilson Bridge Rd. Columbus, OH 43085 Effective Date: 10/22/2010 Contact Status: Active

7. Worthington Cylinder Wisconsin, LLC is located in Wisconsin. As of November 10, 2017 the agent and registration information was posted as follows:

Entity ID: W047037 Registered Effective Date: 08/17/2004 Status: Registered Entity Type: Foreign LLC Foreign Organization Date: 08/09/2004 Foreign State OH	Status Date: 08/17/2004
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<u>Principal Office:</u> 200 OLD WILSON BRIDGE RD COLUMBUS , OH 43085

<u>Registered Agent Office:</u> C T Corporation System 301 S. Bedford St. Suite 1 Madison , WI 53703

RELATIONSHIP OF THE DEFENDANTS

BernzOmatic was an American manufacturing company founded by one Otto Bernz in 1876. The company manufactured handheld torches and accessories, especially gas burner torches using fuel cylinders containing butane, propane, MAPP gas, and oxygen for soldering, brazing, and welding. In the 1940's Otto Bernz Co. relocated to Rochester, New York and changed its name to BernzOmatic. In 1982, BernzOmatic became a division of Newell (now Newell Rubbermaid).

Newell Rubbermaid purchased Irwin Industrial Tool Company in the year 2002.

Irwin Industrial Tool Company sold the BernzOmatic brand torches and cylinders for a

period of time, but Plaintiff is unsure of the time frame. It appears that Irwin Industrial Tool Company sold BernzOmatic brand torches and cylinders from approximately 2002 to approximately July 2011, when BernzOmatic sold its assets to Worthington Industries, as explained further below.

Newell Rubbermaid Company, which is an affiliate or subsidiary of Newell Operating Company, owned Irwin Industrial Tool Company, which in turn owned BernzOmatic during the relevant years of production of the subject products. Western Industries appears to have been the underlying manufacturer for BernzOmatic until the year 2004, when it sold its assets to Worthington Industries.

Worthington Industries, Inc. Manufactured fuel cylinders containing MAPP and Propane Fuel for BernzOmatic from approximately September 2004 to the date it acquired BernzOmatic assets, July 2011. Since 2011 Worthington has manufactured all of the subject cylinder and torch apparatus products. In addition, Worthington also allegedly purchased the assets of Coleman, another manufacturer of the subject cylinders, therefore it is believed that Worthington is now the sole manufacturer and distributor of the subject products, including all fuel cylinders marketed and sold at Home Depot, Lowes, Osh, Sears, and various other national outlets. Many of these subject cylinders carry brand names of their distributors, but are manufactured by Worthington Industries and its subsidiaries.

Worthington Cylinder Corporation is an indirect subsidiary of Worthington Industries, Inc. It had acquired certain assets from Western Industries in September 2004. Western Industries had manufactured the BernzOmatic brand fuel cylinders for a period of years up to September 2004, and then Worthington Cylinder Corporation began manufacturing these products from September 2004 onward, for Worthington Industries, as stated above.

Worthington Cylinder Corporation, LLC is another subsidiary of Worthington Industries and involved in the manufacturing, marketing, and distribution of the subject products.

Worthington Cylinder Wisconsin, LLC is another subsidiary of Worthington Industries and involved in the manufacturing, marketing, and distribution of the subject products.

On Worthington Industries' Annual Report for the year 2012, Worthington disclosed its purchase of BernzOmatic assets as follows:

On July 1, 2011, we purchased substantially all of the net assets (excluding accounts receivable) of the BernzOmatic business ("Bernz") of Irwin Industrial Tool Company, a subsidiary of Newell Rubbermaid, Inc. Bernz is a leading manufacturer of handheld torches and accessories. The acquired net assets became part of our Pressure Cylinders operating segment upon closing of the transaction.

From July 2011 onward Worthington cylinder Wisconsin began manufacturing, marketing, selling and distributing the BernzOmatic-brand torches and fuel cylinders.

C. Alleged Product Defects

In each of these six cases it is alleged that these fuel cylinders are unreasonably weak and have failed. Defendants disclose that they are aware the fuel cylinders, regardless of their fuel contents, have a weak and vulnerable area, located at the narrow neck between the torch mount threads and the horizontal domed surface, which they call a "center bushing." This disclosure is quoted from their website posting, in which they acknowledge the following:

If the center bushing fails, then an extremely large 8 to 10 foot flame will erupt from the cylinder. (Please see full quote under the fracture groove definition as quoted above.)

However, several of these cylinders have also failed spontaneously and exploded, such as in the Marmont case, as well as another case in Canada (Murray Shadblot v. Bernzomatic, not included

in this motion because the case is in Canada). The subject cylinders and the nature of their failures are as shown below:



The Coleman brand cylinders which were purchased by Worthington are not known to fail, therefore it is believed that the design of those products may establish the remedy for the products defect described. This will be one of several common discovery issues in all six of these related actions.

II. ARGUMENT

The actions listed on the Schedule of Actions meet the requirements for transfer pursuant to 28 U.S.C. § 1407, and therefore, transfer of the above-referenced actions is warranted.

Section 1407 authorizes the transfer of two or more civil actions, pending in different districts, for coordinated or consolidated pretrial proceedings, when (1) the "actions involv[e] one or more common questions of fact;" (2) transfer "will be for the convenience of parties and witnesses;" and (3) transfer "will promote the just and efficient conduct of such actions."

"The multidistrict litigation statute, 28 U.S.C. § 1407, was enacted as a means of conserving judicial resources in situations where multiple cases involving common questions of fact were filed in different districts." *Royster v. Food Lion (In re Food Lion)*, 73 F.3d 528, 53132 (4th Cir. 1996). Two critical goals of Section 1407 are to promote efficiency and consistency. *Illinois Municipal Retirement Fund v. Citigroup, Inc.*, 391 F.3d 844, 852 (7th Cir. 2004). The statute "was [also] meant to 'assure uniform and expeditious treatment in the pretrial procedures in multidistrict litigation'" and "[w]ithout it, 'conflicting pretrial discovery demands for documents and witnesses' might 'disrupt the functions of the Federal courts.'" *In re Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217, 1230 (9th Cir. 2006) (quoting H.R. Rep. No. 1130, 90th Cong., 2d Sess. 1 (1968), *reprinted in* 1968 U.S.C.C.A.N. 1898, 1899). The alternative to appropriate transfer is "multiplied delay, confusion, conflict, inordinate expense and inefficiency." *Id.* (quoting *In re Plumbing Fixture Cases*, 298 F. Supp. 484, 495 (J.P.M.L. 1968)).

These actions assert overlapping claims, based on multiple common factual allegations, and will involve common legal theories and themes as well. Consolidated pretrial treatment under Section 1407 will assist the parties and the courts in avoiding duplicative and conflicting rulings on the common issues in dispute. Granting this motion will also serve the convenience of the parties and witnesses and promote the just and efficient resolution of the litigation.

A. These Cases Involve Common Questions of Fact.

The first element of the Section 1407 transfer analysis is whether there are one or more common questions of fact. *See* 28 U.S.C. § 1407. The statute, however, does not require a "complete identity or even [a] majority" of common questions of fact to justify transfer. *In re Zyprexa Prods. Liab. Litig.*, 314 F. Supp. 2d 1380, 1381 (J.P.M.L. 2004).

Each of these six actions presents a common question of fact as to whether the subject fuel cylinders suffer from a design defect. Each action asserts that the fuel cylinders are unreasonably weak and fail under conditions that the average user and consumer would never expect. On the Pacer docket there are several pages of these "Bernzomatic" products liability actions alleging severe burn injuries and horrific deaths. The cases post onto Pacer with regular frequency. For this reason it is anticipated that tag-along cases will continue to follow.

In most of these failed fuel cylinder actions, the safety fracture groove feature of the torch apparatuses which mount to the fuel containers have failed to operate so as to prevent failure of the fuel cylinders. In addition, it is alleged that in each instance where a fracture groove has failed to operate to prevent cylinder failure, the fuel cylinder was held by the cylinder unit itself, enabling the inadvertent application of force to the tip of the torch to exert pressure onto the vulnerable brazed bushing, causing it to breach and discharge the hazardous fuel contents. Generally, the fuel cylinders are incapable of breach when the products are held by the torch handle itself, because force application to the tip of the torch is not capable of reaching the center bushing of the cylinder when the points of differential forces are both located above the center bushing. However, the defects are not limited to allegations of weakness of the center bushing

area, but generally, are alleged to exist in the torch design and materials. It is alleged that the fuel cylinders are simply constructed out of metal which is too thin and too weak to withstand foreseeable forces, and are designed and assembled hazardously.

B. Transfer Will Serve the Convenience of the Parties and Prevent Duplicative Discovery.

The convenience of the parties and prevention of duplicative discovery also favor transfer. See 28 U.S.C. § 1407. If these cases continue to proceed separately, there will be substantial duplicative discovery because of the many overlapping issues of fact and law. Multiple cases could involve the repetitive depositions of the same defense representatives, other current and former employees, and expert witnesses, as well as production of the same records, and responses to duplicative interrogatories and document requests in jurisdictions around the country. See, e.g., *In re: Pilot Flying J Fuel Rebate Contract Litigation* (No. II), 11 F. Supp. 3d 1351, 1352 (J.P.M.L. 2014) ("Centralization will avoid repetitive depositions of Pilot's officers and employees and duplicative document discovery regarding the alleged scheme"). Absent transfer, the federal court system will be forced to administer - and Defendants will be compelled to defend - these related actions across multiple venues, all proceeding on potentially different pretrial schedules and subject to different judicial decision-making and local procedural requirements. Moreover, each plaintiff will be required to monitor and possibly participate in each of the other similar actions to ensure that Defendants do not provide inconsistent or misleading information.

C. Protective Orders Will Extend to All Parties.

In most or all of the six related actions, as well as most or all of the many historical actions posted on Pacer, confidentiality stipulations and orders were issued to protect the defendants' trade secrets. As of recent, Defendants (Worthington) have alleged that the presentation of protected documents to Federal Judges presiding in other cases constituted violations of various protective orders. A dispute is pending on one of these cases in which a document alleged to be protected under a protective order issued by a court in San Diego had been given to a Magistrate Judge, in camera, in another case in Illinois. In another instance, a Federal Judge in Arizona opined that a document subject to his protective order could not be shared with a Federal Judge presiding over another action involving the same products and defendants. MDL therefore benefits all parties and the Court by extending protective orders to all parties and counsels in these actions.

D. Transfer Will Promote the Just and Efficient Conduct of These Actions.

The Panel recognizes multiple factors as informing whether the just and efficient conduct of a litigation will be advanced by transfer, including: (i) avoidance of conflicting rulings in various cases; (ii) prevention of duplication of discovery on common issues; (iii) avoidance of conflicting and duplicative pretrial conferences; (iv) advancing judicial economy; and (v) reducing the burden on the parties by allowing division of workload among several attorneys. See, e.g., *In re: Endangered Species Act Section 4 Deadline Litig.*, 716 F.Supp.2d 1369, 1369 (J.P.M.L. 2010); *In re Bristol Bay, Alaska, Salmon Fishery Antitrust Litigation*, 424 F. Supp. 504, 506 (J.P.M.L. 1976).

All of these factors will be advanced by transfer here. At least six different plaintiffs' firms from around the country already represent plaintiffs in these cases. Under this status quo, at least six different federal district courts will be ruling on the many common factual and legal issues presented in these cases. The presence of numerous counsel, plaintiffs, and courts currently involved in this litigation in the various regions of the country creates a clear risk of conflicting rulings, with the potential to generate significant confusion and conflict among the parties, as well as inconsistent obligations on the defendants.

The prospect of inconsistent rulings also encourages forum and judge shopping (including, for example, manipulation of non-congruent discovery limits, approaches to electronically stored information, and protective order issues). By contrast, a single MDL judge coordinating pretrial discovery and ruling on pretrial motions in all of these federal cases at once will help reduce witness inconvenience, the cumulative burden on the courts, and the litigation's overall expense, as well as minimizing this potential for conflicting rulings. *In re: Xarelto (Rivaroxaban) Prods. Liab. Litig.*, 2014 WL 7004048, at * 1 ("Issues concerning the development, manufacture, regulatory approval, labeling, and marketing of Xarelto thus are common to all actions. Centralization will eliminate duplicative discovery; prevent inconsistent pretrial rulings; and conserve the resources of the parties, their counsel and the judiciary."); *In re Tylenol Mktg., Sales Pracs. and Prods. Liab. Litig.*, 936 F.Supp.2d at 1379 ("Centralization will ... prevent inconsistent pretrial rulings (on Daubert issues and other matters)").

Transfer also will reduce the burden on the parties by allowing more efficient and centralized divisions of workload among the numerous attorneys already involved in this litigation, as well as those who join later. Plaintiffs themselves will reap efficiencies from being

able to divide up the management and conduct of the litigation as part of a unified MDL process through a plaintiffs' steering committee or similar mechanism, instead of each plaintiffs' firm separately litigating its own cases on distinct and parallel tracks. *In re Phenylpropanolamine (PPA) Prods. Liab. Litig.*, 173 F.Supp.2d at 1379; *In re Tylenol Mktg., Sales Pracs. and Prods. Liab. Litig.*, 936 F.Supp.2d at 1379 ("Centralization will ... conserve the resources of the parties, their counsel, and the judiciary.").

Accordingly, transfer to a single district court is appropriate for the just and efficient resolution of these cases.

E. The Proper Transferee Forum Is the Docket of Judge Kronstadt

The *Marmont v. Bernzomatic* case has been assigned to Judge John Kronstadt in Los Angeles. Movants believe that the panel should assign the litigation to him since the Central District of California best meets the objective of a forum that advances "the convenience of the parties and will promote the just and efficient conduct" of these actions. 28 U.S.C. § 1407. The Central District of California best meets these requirements because:

1. Judge Kronstadt is already intimately familiar with the products, defects, and defendants, and has before him a comprehensive scope of evidence as compared to the other five actions.
2. The Central District of California is especially equipped to handle this matter given its experience handling other multidistrict litigations, and appears to have the greatest resources of the six courts.

III. Conclusion

The two moving plaintiffs respectfully request that the Panel transfer these six matters to the Central District of California. The Central District is particularly well suited to handle the actions described herein, as well as any similar "tag along" cases subsequently.

Dated: December 11, 2017

s/Andrew W. Shalaby

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**BEFORE THE
UNITED STATES JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION**

In re: Bernzomatic and Worthington Branded
Torch Products Liability Litigation

MDL No. _____

Proof of Service

I hereby certify that a copy of the foregoing Motion, Brief, Schedule of Actions and this Certificate of Service was served by First Class Mail on December 9, 2017, to the following:

<u>Peralta v. Bernzomatic, 17-cv-3195 (Movant)</u> Clerk, District Court of Arizona Sandra Day O'Connor U.S. Courthouse, 401 W. Washington St., Suite 130, SPC 1 Phoenix, AZ 85003-2118	<u>Bailey v. Bernzomatic, 16-cv-7548 (Movant)</u> Clerk, District Court, Northern Dist. Illinois Stanley J. Roszkowski United States Courthouse 327 South Church Street Rockford, IL 61101
<u>Klimek v. Worthington, 15-cv-9373</u> Clerk, District Court, Northern Dist. Illinois Everett McKinley Dirksen United States Courthouse 219 South Dearborn Street Chicago, IL 60604	<u>Marmont v. Bernzomatic, 16-cv-0848</u> Clerk, District Court, Central Dist. California 50 W 1st Street, Suite 4311 Los Angeles, CA 90012-4565
<u>Lofton v. Worthington Industries, 17-cv-1358</u> Clerk, District Court of South Carolina U.S. District Court P.O. Box 835 Charleston, SC 29402	<u>Tatum v. Worthington, 17-cv-00065</u> Clerk, District Court, Middle Dist. Georgia 201 West Broad Avenue Albany, Georgia 31701
<u>Peralta v. Bernzomatic, 17-cv-3195</u> <u>Representing Plaintiff (Movant)</u> East Bay Law Andrew W. Shalaby 7525 Leviston Ave El Cerrito, CA 94530 Tel. 510-551-8500 fax 510-725-4950 email: andrew@eastbaylaw.com	<u>Peralta v. Bernzomatic, 17-cv-3195</u> <u>Representing Plaintiff (Movant)</u> [reserved]

<p><u>Peralta v. Bernzomatic, 17-cv-3195,</u> <u>Representing all defendants</u></p> <p>Bowles & Verna Jason J. Granskog, Richard A. Ergo. 2121 N. California Blvd., Suite 875 Walnut Creek, CA 94596 Tel. 925-935-3300 Fax: 925-935-0371 email: raergo@bowlesverna.com; jgranskog@bowlesverna.com</p>	<p><u>Peralta v. Bernzomatic, 17-cv-3195,</u> <u>Representing all defendants</u></p> <p>Mr. J. Osborne, Ms. J. Anderson Jones, Skelton & Hochuli, P.L.C. 40 North Central Avenue, Suite 2700 Phoenix, Arizona 85004 Telephone: (602) 263-1700 Fax: (602) 200-7843 josborne@jshfirm.com janderson@jshfirm.com</p>
<p><u>Bailey v. Bernzomatic, 16-cv-7548</u> <u>Representing Plaintiff (Movant)</u></p> <p>East Bay Law Andrew W. Shalaby 7525 Leviston Ave El Cerrito, CA 94530 Tel. 510-551-8500 fax 510-725-4950 email: andrew@eastbaylaw.com</p>	<p><u>Bailey v. Bernzomatic, 16-cv-7548,</u> <u>Representing Plaintiff (Movant)</u></p> <p>John Nelson Law Offices Mr. John M. Nelson 1318 East State Street Rockford, IL 61104-2228 Tel. (815) 964-8800 Fax: (815) 965-4573 email: jmnconst1318@yahoo.com</p>
<p><u>Bailey v. Bernzomatic, 16-cv-7548,</u> <u>Representing all defendants</u></p> <p>Bowles & Verna Jason J. Granskog, Richard A. Ergo 2121 N. California Blvd., Suite 875 Walnut Creek, CA 94596 Tel. 925-935-3300 Fax: 925-935-0371 email: raergo@bowlesverna.com; jgranskog@bowlesverna.com</p>	<p><u>Bailey v. Bernzomatic, 16-cv-7548,</u> <u>Representing all defendants</u></p> <p>Goldberg Segalla LLP Mr. James W. Ozog, Esq. 311 S. Wacker Drive, Suite 2450 Chicago, IL 60606 Tel. 312-572-8406 Fax: 312-572-8401 email: jozog@goldbergsegalla.com</p>
<p><u>Klimek v. Worthington, 15-cv-9373,</u> <u>representing Plaintiffs</u></p> <p>The Accurso Law Firm Mr. Louis Accurso, Mr. Burton Haigh 4646 Roanoke Parkway Kansas City, MO 64112 Tel. 816-561-3900 email: sdonovan@accursolaw.com; bhaigh@accursolaw.com</p>	<p><u>Klimek v. Worthington, 15-cv-9373,</u> <u>representing Plaintiffs</u></p> <p>The Accurso Law Firm Mr. Andrew H Mccue 4646 Roanoke Parkway Kansas City, MO 64112 (816) 561-3900 email: amccue@accursolaw.com</p>
<p><u>Klimek v. Worthington, 15-cv-9373,</u> <u>representing Plaintiffs</u></p> <p>Hetherington Karpel Bobber & Miller LLC Mr. Joseph Hetherington 120 N. LaSalle Street, Suite 2810 Chicago, IL 60602 Tel. 312-878-6680 email: jhetherington@hkbmlaw.com</p>	<p><u>Klimek v. Worthington, 15-cv-9373,</u> <u>representing Plaintiffs</u></p> <p>Bellas & Wachowski Mr. Peter C. Wachowski 15 North Northwest Highway Park Ridge, IL 60068 (847) 823-9030 email: peter@bellas-wachowski.com</p>

<p><u>Klimek v. Worthington, 15-cv-9373, representing Irwin Industrial Tool (Bernzomatic)</u></p> <p>Frost Brown Todd Mr. D. Dennis, Ms. Beth Naylor 3300 Great American Center 301 East Fourth Street Cincinnati, OH 45202 Tel. 513-651-6726, 513-651-6800 email: ddennis@fbtlaw.com; bnaylor@fbtlaw.com</p>	<p><u>Klimek v. Worthington, 15-cv-9373, representing Irwin Industrial Tool (Bernzomatic)</u></p> <p>Swanson, Martin & Bell, LLP Ms. K. Cooke, Ms. B. Gilhooly 330 N. Wabash Suite 3300 Chicago, IL 60611 Tel. 312-321-3513 email: kcooke@smbtrials.com; bgilhooly@smbtrials.com</p>
<p><u>Klimek v. Worthington, 15-cv-9373, representing Western Industries</u></p> <p>Foley & Lardner Mr. J. Garlough 321 North Clark Street Suite 2800 Chicago, IL 60654 Tel. 312-832-4500 email: jgarlough@foley.com</p>	<p><u>Klimek v. Worthington, 15-cv-9373, representing Western Industries</u></p> <p>Law Offices Of Gunty & McCarthy Ms. P. Kelly, Mr. P. O'Flaherty Jr. 150 W. Wacker Drive Suite 1025 Chicago, IL 60606 Tel. (312) 541-0022 email: patricia.kelly@guntymccarthy.com; paul.oflaherty@guntymccarthy.com</p>
<p><u>Marmont v. BernzOmatic, et al., 16-cv-0848, Representing Plaintiff</u></p> <p>Gary A Dordick Law Offices Mr. Gary A. Dordick 509 S Beverly Drive Beverly Hills, CA 90212 310-551-0949 855-299-4444 (fax) email: gary@dordicklaw.com</p>	<p><u>Marmont v. BernzOmatic, et al., 16-cv-0848, Representing Plaintiff</u></p> <p>Eisenberg Law Firm Ms. Cara L Eisenberg 509 South Beverly Drive Beverly Hills, CA 90212-4414 310-551-0949 855-299-4444 (fax) email: cle@eisenberglawfirm.com</p>
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed December 11, 2017, at El Cerrito, California.

s/Andrew W. Shalaby
Andrew W. Shalaby