



**Office of the Sheriff
New Castle County, Delaware**

Samuel D. Pratcher, Jr.
Sheriff

Louis L. Redding City/County Bldg.
800 N. French Street
Wilmington, DE 19801
Office: 302-395-8450, Fax: 302-395-8460

LOWNDES COUNTY, GEORGIA
FILED IN OFFICE

2017 APR -7 AM 10:32

Beth C. Greene
CLERK OF SUPERIOR STATE
JUVENILE COURTS

3/29/2017

AFFIDAVIT OF SERVICE

STATE OF DELAWARE)

) SS

NEW CASTLE COUNTY)

**Court Case # 2017SCV109
Sheriff # 17-002867**

JOHN LARRY TATUM AND LOUISE H. TATUM

vs

WORTHINGTON CYLINDER CORPORATION, ET AL

Ronald Fioravanti, being duly sworn, deposes that he/she is a Deputy Sheriff and avers that he/she served upon and left personally upon Registered Agent Representative **Amy McLaren** at **CORPORATION TRUST COMPANY 1209 N. ORANGE STREET WILMINGTON, DE 19801** on 3/24/2017 at 1:00 PM a copy of SUMMONS AND COMPLAINT for **THE FOUNTAINHEAD GROUP, INC.**

The Deponent further avers that he/she knew the person so served to be the same person as mentioned in the Out of State document.

Fees Paid: \$80.00

Ronald Fioravanti, Deputy Sheriff

STATE OF DELAWARE)

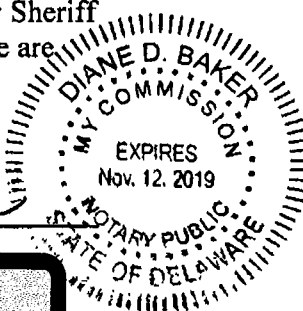
) SS

NEW CASTLE COUNTY)

BE IT REMEMBERED that on 3/29/2017 personally came before me, the Subscriber, a Notary Public of the State of Delaware, Ronald Fioravanti, a Deputy Sheriff of New Castle County and State of Delaware, and stated that the facts stated above are true and correct.

SWORN AND SUBSCRIBED before me, the date and year aforesaid.

Diane D. Baker
Notary Public



SHERIFF'S ENTRY OF SERVICE

REORDER #15-0810

CLYDE CASTLEBERRY CO., COVINGTON, GA 30015

Civil Action #: 2017SCV109Superior Court ☐State Court ☒Date Filed: 03/20/2017

Georgia, LOWNDES COUNTY

Attorney's Address
 James R. Miller
 Langdale Vallotton, LLP
 P.O. Box 1547
 Valdosta, GA 31603

John Larry Tatum and

Louise H. Tatum

Plaintiff

VS.

Name and Address of Party to be Served.
 The Fountainhead Group, Inc.
 The Corporation Trust Company, Reg. Agent
 1209 Orange Street
 Wilmington, DE 19801

Worthington Cylinder Corporation
 Worthington Cylinder Corporation, LLC,
~~Worthington Cylinders Wisconsin, LLC,~~
 The Fountainhead Group, Inc., and
 The Fountainhead Group, L.L.C.

Defendants

~~Defendant~~

SHERIFF'S ENTRY OF SERVICE

PERSONAL

☐ I have this day served the defendant _____ personally with a copy of the within action and summons.

NOTORIOUS

I have this day served the defendant _____ by leaving a copy of the action and summons at his most notorious place of abode in this County.

☐ Delivered same into hands of _____ described as follows:
 age, about _____ years; weight _____ pounds; height, about _____ feet and _____ inches, domiciled at the residence of defendant.

TACK & MAIL CORPORATION

Served the defendant _____
☐ by leaving a copy of the within action and summons with _____ in charge of the office and place of doing business of said Corporation in this County.

NON EST

☐ I have this day served the above styled affidavit and summons on the defendant(s) by posting a copy of the same to the door of the premises designated in said affidavit, and on the same day of such posting by deposition a true copy of same in the United States Mail, First Class in an envelope properly addressed to the defendant(s) at the address shown in said summons, with adequate postage affixed thereon containing notice to the defendant(s) to answer said summons at the place stated in the summons.

☐ Diligent search made and defendant _____ not to be found in the jurisdiction of this Court.

This _____ day of _____, 20____.

SHERIFF DOCKET _____ PAGE _____

WHITE - CLERK CANARY - PLAINTIFF PINK - DEFENDANT

Deputy

2017 APR 22 PM 2:26

SHERIFF'S OFFICE



**Office of the Sheriff
New Castle County, Delaware**

Samuel D. Pratcher, Jr.
Sheriff

Louis L. Redding City/County Bldg.
800 N. French Street
Wilmington, DE 19801
Office: 302-395-8450, Fax: 302-395-8460

LOWNDES COUNTY, GEORGIA
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2017 APR -7 AM 10:32

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3/29/2017

AFFIDAVIT OF SERVICE

STATE OF DELAWARE)

) SS

NEW CASTLE COUNTY)

Court Case # 2017SCV109
Sheriff # 17-002867

JOHN LARRY TATUM AND LOUISE H. TATUM

vs

WORTHINGTON CYLINDER CORPORATION, ET AL

Ronald Fioravanti, being duly sworn, deposes that he/she is a Deputy Sheriff and avers that he/she served upon and left personally upon Registered Agent Representative **Amy McLaren** at **CORPORATION TRUST COMPANY 1209 N. ORANGE STREET WILMINGTON, DE 19801** on 3/24/2017 at 1:00 PM a copy of SUMMONS AND COMPLAINT for **THE FOUNTAINHEAD GROUP, L.L.C.**.

The Deponent further avers that he/she knew the person so served to be the same person as mentioned in the Out of State document.

Fees Paid: \$80.00

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STATE OF DELAWARE)

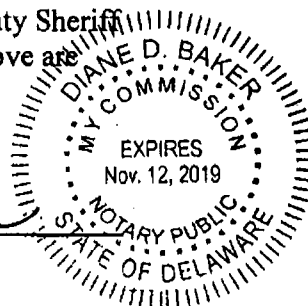
) SS

NEW CASTLE COUNTY)

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SWORN AND SUBSCRIBED before me, the date and year aforesaid.

Notary Public



SHERIFF'S ENTRY OF SERVICE

REORDER #15-0810

CLYDE CASTLEBERRY CO., COVINGTON, GA 30015

Civil Action #: 2017SCV109Superior Court ☐
State Court ☒Date Filed: 03/20/2017Georgia, **LOWNDES COUNTY**Attorney's Address
James R. Miller
Langdale Vallotton, LLP
P.O. Box 1547
Valdosta, GA 31603

John Larry Tatum and

Louise H. Tatum

Plaintiff

VS.

Name and Address of Party to be Served.
The Fountainhead Group, L.L.C.
The Corporation Trust Company, Reg. Agent
1209 Orange Street
Wilmington, DE 19801Worthington Cylinder Corporation,
Worthington Cylinder Corporation, LLC,
~~Worthington Cylinders Wisconsin, LLC,~~
The Fountainhead Group, Inc., and
The Fountainhead Group, L.L.C.
Defendants

Garnix LLC

SHERIFF'S ENTRY OF SERVICE

PERSONAL

☐ I have this day served the defendant _____ personally with a copy of the within action and summons.

NOTORIOUS

☐ I have this day served the defendant _____ by leaving a copy of the action and summons at his most notorious place of abode in this County.☐ Delivered same into hands of _____ described as follows:
age, about _____ years; weight _____ pounds; height, about _____ feet and _____ inches, domiciled at the residence of _____ defendant.

CORPORATION

☒ Served the defendant _____ a corporation by leaving a copy of the within action and summons with _____ in charge of the office and place of doing business of said Corporation in this County.

TACK & MAIL

☐ I have this day served the above styled affidavit and summons on the defendant(s) by posting a copy of the same to the door of the premises designated in said affidavit, and on the same day of such posting by deposition a true copy of same in the United States Mail, First Class in an envelope properly addressed to the defendant(s) at the address shown in said summons, with adequate postage affixed thereon containing notice to the defendant(s) to answer said summons at the place stated in the summons.☐ Diligent search made and defendant _____ not to be found in the jurisdiction of this Court.This 29 day of March, 2017.

SHERIFF DOCKET _____ PAGE _____

WHITE - CLERK CANARY - PLAINTIFF PINK - DEFENDANT

Deputy

LOWNDES COUNTY, GA.
FILED IN OFFICE

IN THE STATE COURT OF LOWNDES COUNTY
STATE OF GEORGIA

17 MAR 20 PM 12:44

JOHN LARRY TATUM,
and LOUISE H. TATUM
Plaintiffs,

Beth C. Johnson
CLERK OF SUPERIOR COURT

vs.

CIVIL ACTION FILE NO 2017SCV109

WORTHINGTON CYLINDER
CORPORATION, WORTHINGTON
CYLINDER CORPORATION, LLC,
WORTHINGTON CYLINDERS
WISCONSIN, LLC, THE
FOUNTAINHEAD GROUP, INC., and
THE FOUNTAINHEAD GROUP, L.L.C.
Defendants.

SUMMONS

**TO: Worthington Cylinder Corporation
Dale T. Brinkman, Registered Agent
200 Old Wilson Bridge Road
Columbus, Ohio 43085**

You are hereby summoned and required to file with the Clerk of said Court and serve upon **JAMES R. MILLER**, attorney for the Plaintiffs, **JOHN LARRY TATUM** and **LOUISE H. TATUM**, whose address is **Post Office Box 1547, 1007 North Patterson Street, Valdosta, Georgia 31603-1547**, an Answer to the Complaint which is herewith served upon you, within 30 days after service of this Summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint.

This 20th day of March, 2017.


Clerk of Court for Lowndes County

LOWNDES COUNTY, GA.
FILED IN OFFICE
IN THE STATE COURT OF LOWNDES COUNTY
STATE OF GEORGIA
17 MAR 20 PM 12:44

JOHN LARRY TATUM,
and LOUISE H. TATUM
Plaintiffs,

vs.

WORTHINGTON CYLINDER
CORPORATION, WORTHINGTON
CYLINDER CORPORATION, LLC,
WORTHINGTON CYLINDERS
WISCONSIN, LLC, THE
FOUNTAINHEAD GROUP, INC., and
THE FOUNTAINHEAD GROUP, L.L.C.
Defendants.

Becky C. Lheron
CLERK OF SUPERIOR COURT

CIVIL ACTION FILE NO.

2017SCV1109

SUMMONS

**TO: Worthington Cylinder Corporation, LLC
Dale T. Brinkman, Registered Agent
200 Old Wilson Bridge Road
Columbus, Ohio 43085**

You are hereby summoned and required to file with the Clerk of said Court and serve upon **JAMES R. MILLER**, attorney for the Plaintiffs, **JOHN LARRY TATUM** and **LOUISE H. TATUM**, whose address is **Post Office Box 1547, 1007 North Patterson Street, Valdosta, Georgia 31603-1547**, an Answer to the Complaint which is herewith served upon you, within 30 days after service of this Summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint.

This 20th day of March, 2017.


Clerk of Court for Lowndes County

LOWNDES COUNTY, GA.
IN THE STATE COURT OF LOWNDES COUNTY FILED IN OFFICE
STATE OF GEORGIA

17 MAR 20 PM 12:43

JOHN LARRY TATUM,
and LOUISE H. TATUM
Plaintiffs,

vs.

WORTHINGTON CYLINDER
CORPORATION, WORTHINGTON
CYLINDER CORPORATION, LLC,
WORTHINGTON CYLINDERS
WISCONSIN, LLC, THE
FOUNTAINHEAD GROUP, INC., and
THE FOUNTAINHEAD GROUP, L.L.C.
Defendants.

Beth C. Thomas
CLERK OF COURT
CIVIL ACTION FILE NO. *2017SCV109*

SUMMONS

**TO: Worthington Cylinders Wisconsin, LLC
Dale T. Brinkman, Registered Agent
200 Old Wilson Bridge Road
Columbus, Ohio 43085**

You are hereby summoned and required to file with the Clerk of said Court and serve upon JAMES R. MILLER, attorney for the Plaintiffs, JOHN LARRY TATUM and LOUISE H. TATUM, whose address is Post Office Box 1547, 1007 North Patterson Street, Valdosta, Georgia 31603-1547, an Answer to the Complaint which is herewith served upon you, within 30 days after service of this Summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint.

This 20th day of March, 2017.

[Signature]
Clerk of Court for Lowndes County

IN THE STATE COURT OF LOWNDES COUNTY
STATE OF GEORGIA

LOWNDES COUNTY, GA.
FILED IN OFFICE

17 MAR 20 PM 12:43

JOHN LARRY TATUM,
and LOUISE H. TATUM
Plaintiffs,

vs.

WORTHINGTON CYLINDER
CORPORATION, WORTHINGTON
CYLINDER CORPORATION, LLC,
WORTHINGTON CYLINDERS
WISCONSIN, LLC, THE
FOUNTAINHEAD GROUP, INC., and
THE FOUNTAINHEAD GROUP, L.L.C.
Defendants.

CIVIL ACTION FILE NO.

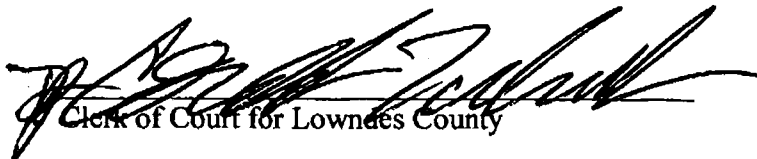
Beth C. Greene
CLERK OF COURT
2017CIV09

SUMMONS

**TO: The Fountainhead Group, Inc.
The Corporation Trust Company, Registered Agent
1209 Orange Street
Wilmington, Delaware 19801**

You are hereby summoned and required to file with the Clerk of said Court and serve upon **JAMES R. MILLER**, attorney for the Plaintiffs, **JOHN LARRY TATUM** and **LOUISE H. TATUM**, whose address is **Post Office Box 1547, 1007 North Patterson Street, Valdosta, Georgia 31603-1547**, an Answer to the Complaint which is herewith served upon you, within 30 days after service of this Summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint.

This 20th day of March, 2017.


Clerk of Court for Lowndes County

LOWNDES COUNTY, GA.
IN THE STATE COURT OF LOWNDES COUNTY
-STATE OF GEORGIA-

FILED IN OFFICE
17 MAR 20 PM 12:43

JOHN LARRY TATUM,
and LOUISE H. TATUM
Plaintiffs,

vs.

WORTHINGTON CYLINDER
CORPORATION, WORTHINGTON
CYLINDER CORPORATION, LLC,
WORTHINGTON CYLINDERS
WISCONSIN, LLC, THE
FOUNTAINHEAD GROUP, INC., and
THE FOUNTAINHEAD GROUP, L.L.C.
Defendants.

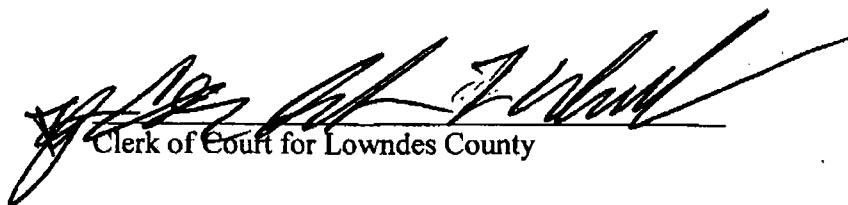
Beth C. Greene
CLERK OF SUPERIOR COURT
CIVIL ACTION FILE NO. 2017CV1109

SUMMONS

TO: The Fountainhead Group, L.L.C.
The Corporation Trust Company, Registered Agent
1209 Orange Street
Wilmington, Delaware 19801

You are hereby summoned and required to file with the Clerk of said Court and serve upon JAMES R. MILLER, attorney for the Plaintiffs, JOHN LARRY TATUM and LOUISE H. TATUM, whose address is Post Office Box 1547, 1007 North Patterson Street, Valdosta, Georgia 31603-1547, an Answer to the Complaint which is herewith served upon you, within 30 days after service of this Summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint.

This 20th day of March, 2017.


Clerk of Court for Lowndes County

LOWNDES COUNTY, GA.
FILED IN OFFICE

IN THE STATE COURT OF LOWNDES COUNTY
STATE OF GEORGIA

17 MAR 20 PM 12:43

JOHN LARRY TATUM,
and LOUISE H. TATUM
Plaintiffs,

Becky C. Greene
CLERK OF SUPERIOR COURT

CIVIL ACTION FILE NO.

2017SC1109

vs.

WORTHINGTON CYLINDER
CORPORATION, WORTHINGTON
CYLINDER CORPORATION, LLC,
WORTHINGTON CYLINDERS
WISCONSIN, LLC, THE
FOUNTAINHEAD GROUP, INC., and
THE FOUNTAINHEAD GROUP, L.L.C.
Defendants.

COMPLAINT

Plaintiff JOHN LARRY TATUM, by and through his undersigned counsel, hereby files this Complaint for damages against WORTHINGTON CYLINDER CORPORATION, WORTHINGTON CYLINDER CORPORATION, LLC, WORTHINGTON CYLINDERS WISCONSIN, LLC, THE FOUNTAINHEAD GROUP, INC., and THE FOUNTAINHEAD GROUP, L.L.C., showing this Court the following:

PARTIES, JURISDICTION, AND VENUE

1.

Plaintiffs are residents of Lowndes County, Georgia.

2.

Defendant Worthington Cylinder Corporation ("WCC") is a for-profit corporation organized and existing under the laws of the State of Ohio.

3.

WCC may be served with this Complaint by serving its registered agent, Dale T. Brinkman, at 200 Old Wilson Bridge Road, Columbus, Ohio 43085.

4.

Once served with process, WCC will be subject to the jurisdiction and venue of this Court.

5.

Defendant Worthington Cylinder Corporation, LLC ("WCC-LLC") is a for-profit limited liability company organized and existing under the laws of the State of Ohio.

6.

WCC-LLC may be served with this Complaint by serving its registered agent, Dale T. Brinkman, at 200 Old Wilson Bridge Road, Columbus, Ohio 43085.

7.

Once served with process, WCC-LLC will be subject to the jurisdiction and venue of this Court.

8.

Defendant Worthington Cylinders Wisconsin, LLC ("Worthington Wisconsin") is a for-profit limited liability company organized and existing under the laws of the State of Ohio.

9.

Worthington Wisconsin may be served with this Complaint by serving its registered agent, Dale T. Brinkman, at 200 Old Wilson Bridge Road, Columbus, Ohio 43085.

10.

Once served with process, Worthington Wisconsin will be subject to the jurisdiction and venue of this Court.

11.

Defendant The Fountainhead Group, Inc. ("Fountainhead Inc.") is a for-profit corporation organized and existing under the laws of the State of Delaware.

12.

Fountainhead Inc. may be served with this Complaint by serving its registered agent, The Corporation Trust Company, at 1209 Orange Street, Wilmington, Delaware 19801.

13.

Once served with process, Fountainhead Inc. will be subject to the jurisdiction and venue of this Court.

14.

Defendant The Fountainhead Group, L.L.C. ("Fountainhead LLC") is a for-profit limited liability company organized and existing under the laws of the State of Delaware.

15.

Fountainhead LLC may be served with this Complaint by serving its registered agent, The Corporation Trust Company, at 1209 Orange Street, Wilmington, Delaware 19801.

16.

Once served with process, Fountainhead LLC will be subject to the jurisdiction and venue of this Court.

17.

Venue and jurisdiction are proper in this court pursuant to the Georgia Long-Arm Statute, O.C.G.A. §9-10-90, et seq.

THE CYLINDER

18.

WCC, WCC-LLC, and Worthington Wisconsin are affiliated companies.

19.

At all material times hereto, WCC, WCC-LLC, and Worthington Wisconsin (hereinafter collectively referred to as "Worthington") were engaged in the business of manufacturing and distributing, among other products, liquefied petroleum gas cylinders for use in portable propane appliances.

20.

This case involves a portable propane tank purchased and used by Plaintiff John Larry Tatum. Photographs of the propane tank in question (the "Cylinder") are attached as Exhibit A hereto and are hereby incorporated into and made a part of this Complaint.

21.

The Cylinder is a portable cylinder constructed of steel and intended to hold approximately 1 lb. of liquid propane gas when full.

22.

Worthington manufactured the Cylinder in approximately March of 2014.

23.

Worthington owed an obligation to all potential users of their products to manufacture and distribute those products without damaged or defective components.

24.

Worthington, either directly or by and through its wholesalers, distributors, authorized agents, and retailers, placed the Cylinder into the stream of commerce, knowing and intending that the

Cylinder would be sold at a retail location and used by a consumer in one or more portable propane appliances.

25.

Worthington expressly and impliedly warranted that the Cylinder was merchantable and fit for its intended use.

THE INSECT FOGGER

26.

Fountainhead Inc. and Fountainhead LLC are affiliated companies.

At all material times hereto, Fountainhead Inc. and Fountainhead LLC (hereinafter collectively referred to as "Fountainhead") were engaged in the business of manufacturing and distributing, among other products, propane-powered insect foggers.

27.

Photographs of the Black Flag propane insect fogger in question (the "Fogger") are attached as Exhibit B hereto and are hereby incorporated into and made a part of this Complaint.

28.

The Fogger is a portable device fueled by propane gas. It is intended for use by consumers to kill mosquitoes, flies, and other insects.

29.

The Fogger is designed to use the heat from ignited propane gas to vaporize liquid insecticide contained within the unit and to then emit that vaporized insecticide to kill mosquitoes, flies, and other insects in the areas where it is sprayed.

30.

The Fogger was advertised as safe for use at backyard picnics, barbeques, outdoor parties, pool parties, and special events.

31.

Black Flag is a trademark or trade name licensed by Fountainhead for use in the marketing and selling of its propane insect foggers.

32.

Fountainhead owes an obligation to all potential users of its products to manufacture and distribute those products without manufacturing defects and without design defects.

33.

Fountainhead, by and through one or more wholesalers, distributors, authorized agents, and retailers, placed the Fogger into the stream of commerce, knowing and intending that the Fogger would be sold at a retail location and used by a consumer to kill insects.

34.

Fountainhead expressly and impliedly warranted that the Fogger was merchantable and fit for its intended use.

THE INCIDENT

35.

On April 11, 2015, Plaintiff Larry Tatum decided to use the Fogger at his home in Lowndes County, Georgia, to kill swarms of mosquitoes infesting his yard.

36.

Mr. Tatum had owned and used Black Flag propane insect foggers in the past.

37.

The Fogger was a brand new unit that had not been used prior to the incident that occurred on April 11, 2015.

38.

Immediately prior to using the Fogger on April 11, 2015, Mr. Tatum attached the Cylinder to the Fogger by screwing the threaded outlet of the Cylinder into the threaded nut assembly of the Fogger.

39.

To the best of his recollection, Mr. Tatum had not used the Cylinder previously, and it was completely full.

40.

Because it was windy on that day, Mr. Tatum initially had difficulty getting the Fogger to light.

41.

To avoid the gusts of wind, Mr. Tatum took the Fogger just inside the opening to his garage. He left the overhead garage door completely open, ensuring that the area was well ventilated.

42.

Mr. Tatum set the Fogger on the pavement between his legs. He turned the propane valve to the "on" position and leaned over to press the ignition button.

43.

When Mr. Tatum pressed the Fogger's ignition button, an explosion occurred, and the unit burst into flames.

44.

The flames burned Mr. Tatum's ankles badly, and the force of the explosion caused him to fall to the ground. He landed on his backside, injuring his right buttock and lower back.

45.

While Mr. Tatum sought to get off the ground and stand back up, the Fogger continued to burn.

46.

Mr. Tatum was ultimately able to stand back up, after which he looked for and found an old blanket in his garage. He then used the blanket to extinguish the flames.

47.

At the time of the incident, Mr. Tatum was using the Fogger and the Cylinder as instructed.

DEFECTS IN CYLINDER

48.

The Cylinder contains a valve which regulates the flow of gas from the Cylinder. When closed, it prevents the flow of gas. When opened or activated, it permits the flow of gas.

49.

The valve is surrounded by a ring-shaped gasket made of rubber or a similar substance (the "O-ring").

50.

The valve is designed to be opened by having a nipple on an appliance depress a pin that, when depressed, opens the valve.

51.

When the valve is opened by a nipple on an appliance, the O-ring forms the primary seal

around that nipple. That seal prevents gas from escaping through or at the point of the connection. . . .

52.

The seal formed by the O-ring is the primary mechanism for preventing propane gas from leaking at the connection where the Cylinder is attached to or assembled with an appliance.

53.

The O-ring had multiple cracks in it, which prevented an airtight seal from forming. The cracks permitted gas to escape at the connection when the valve on the Cylinder was open.

54.

The cracks in the O-ring were mechanically induced. The cracks were present when Mr. Tatum purchased the Cylinder.

DEFECTS IN FOGGER

55.

The Fogger is designed with a plastic housing on it that obscures the connection between a connected propane tank and the threaded nut assembly on the Fogger.

56.

The plastic housing prevents the user from performing a visual check of the connection between the propane tank and the Fogger itself.

57.

Due to the inability to perform a visual check of the area of the connection, the user cannot confirm that the propane tank is properly screwed into the nut assembly on the Fogger.

58.

The plastic housing also prevents the user from performing a "soapy water test" for a gas leak.

59.

In a "soapy water" test, the connection is sprayed with soapy water. If bubbles form in the soapy water, the bubbles provide a visual indication to the user that a gas leak exists.

60.

As a direct and proximate result of Fountainhead's design defect, Plaintiff John Larry Tatum suffered severe burns and other injuries.

61.

As a direct and proximate result of Fountainhead's failure to warn of the limitations caused by the plastic housing design, Plaintiff John Larry Tatum suffered severe burns and other injuries.

COUNT I – STRICT LIABILITY
(Worthington)

62.

The allegations contained in Paragraphs 1 through 61 of Plaintiffs' Complaint are hereby incorporated by reference and made a part hereof as if each such allegation was fully set forth herein.

63.

At the time of the incident which injured Mr. Tatum, the Cylinder was being used in its intended manner and in a reasonably foreseeable manner.

64.

When Plaintiff John Larry Tatum ignited the Fogger, an explosion occurred, and the Fogger and Cylinder were engulfed in flames. This caused Mr. Tatum to suffer serious burns to his ankles and injury to this buttocks and lower back.

65.

John Larry Tatum is a member of that class of persons reasonably expected to use and be

affected by the Cylinder.

66.

The injuries and damages to Plaintiff John Larry Tatum occurred because Worthington manufactured, sold, and distributed the Cylinder with cracks in the O-ring.

67.

The damaged O-ring was a proximate cause of Plaintiff John Larry Tatum's injuries.

COUNT II – STRICT LIABILITY
(Fountainhead)

68.

The allegations contained in Paragraphs 1 through 67 of Plaintiffs' Complaint are hereby incorporated by reference and made a part hereof as if each such allegation was fully set forth herein.

69.

At the time of the incident which injured Mr. Tatum, the Fogger was being used in its intended manner and in a reasonably foreseeable manner.

70.

When Plaintiff John Larry Tatum ignited the Fogger, an explosion occurred, and the Fogger and Cylinder became engulfed in flames. This caused Mr. Tatum to suffer serious burns to his ankles and injuries to this buttocks and lower back.

71.

John Larry Tatum is a member of that class of persons reasonably expected to use and be affected by the Fogger.

72.

The injuries and damages to Plaintiff John Larry Tatum occurred because Fountainhead

designed and manufactured the Fogger with a plastic casing that obscured the connection between the propane tank and the threaded connection on the Fogger itself. This prevented the user from being able to conduct a visual check on the connection or to perform a "soapy water" test.

73.

The injuries and damages to Plaintiff John Larry Tatum occurred because Fountainhead did not warn users about the dangers, risks, and limitations associated with the design of the plastic casing on the Fogger.

74.

The design of the Fogger was a proximate cause of Plaintiff John Larry Tatum's injuries.

75.

The failure to warn was a proximate cause of Plaintiff John Larry Tatum's injuries.

COUNT III – NEGLIGENCE
(Worthington)

76.

The allegations contained in Paragraphs 1 through 75 of Plaintiffs' Complaint are hereby incorporated by reference and made a part hereof as if each such allegation was fully set forth herein.

77.

Worthington failed to exercise ordinary care by manufacturing and selling a propane cylinder with a damaged O-ring.

78.

Worthington failed to exercise ordinary care when Worthington sold and distributed a product which Worthington knew or should have known would leak propane gas, which created a substantial risk of injury to the user of the product.

85.

Fountainhead's negligent acts and omissions proximately caused serious burns and other injuries to Plaintiff John Larry Tatum.

86.

As a result of Fountainhead's negligence, Plaintiff John Larry Tatum is entitled to recover all available damages allowed under Georgia law.

COUNT V -- BREACH OF IMPLIED WARRANTY
(Worthington)

87.

The allegations contained in Paragraphs 1 through 86 of Plaintiffs' Complaint are hereby incorporated by reference and made a part hereof as if each such allegation was fully set forth herein.

88.

Worthington designed, manufactured, marketed, distributed, and supplied the Cylinder.

89.

At the time that Worthington manufactured, marketed, distributed, and supplied the Cylinder, it knew of the use for which the Cylinder was intended and impliedly warranted it to be of merchantable quality and to be safe and fit for such use.

90.

Plaintiff John Larry Tatum used the Cylinder for its intended purpose.

91.

Plaintiff John Larry Tatum could not have known about the nature of the risks and side effects associated with the Cylinder until after using it.

92.

Contrary to defendant's implied warranty, the Cylinder was not of merchantable quality and was not safe or fit for its intended uses and purposes.

COUNT VI – BREACH OF IMPLIED WARRANTY
(Fountainhead)

93.

The allegations contained in Paragraphs 1 through 92 of Plaintiffs' Complaint are hereby incorporated by reference and made a part hereof as if each such allegation was fully set forth herein.

94.

Fountainhead designed, manufactured, marketed, distributed, and supplied the Fogger.

95.

At the time that Fountainhead manufactured, marketed, distributed, and supplied the Fogger, it knew of the use for which the Fogger was intended and impliedly warranted it to be of merchantable quality and to be safe and fit for such use.

96.

Plaintiff John Larry Tatum used the Fogger for its intended purpose.

97.

Plaintiff John Larry Tatum could not have known about the nature of the risks and side effects associated with the Fogger until after using it.

98.

Contrary to defendant's implied warranty, the Fogger was not of merchantable quality and was not safe or fit for its intended uses and purposes.

COUNT VII– LOSS OF CONSORTIUM
(All Defendants)

99.

The allegations contained in Paragraphs 1 through 98 of Plaintiffs' Complaint are hereby incorporated by reference and made a part hereof as if each such allegation was fully set forth herein.

100.

Louise H. Tatum is the wife of John Larry Tatum.

MEDICAL EXPENSES OF JOHN LARRY TATUM

107.

The allegations of paragraphs 1 through 106 of Plaintiffs' Complaint are hereby incorporated by reference and made a part hereof, as if each such allegation was set forth herein.

108.

As a direct and proximate result of the aforesaid actions of Worthington and Fountainhead, Plaintiff John Larry Tatum has incurred substantial medical expenses for treatment of his injuries, and he will likely incur future medical expenses.

109.

By reason of the foregoing, Plaintiff John Larry Tatum is entitled to recover from Worthington and Fountainhead an amount sufficient to compensate him for his past and future medical expenses incurred as a result of this incident in an amount as may be shown by the evidence and proven at trial.

WHEREFORE, Plaintiff demands the following:

- (a) That process issue and service be had on WCC, WCC-LLC, Worthington Wisconsin, Fountainhead Inc., and Fountainhead LCC;
- (b) The judgment be granted in favor of Plaintiffs and against WCC, WCC-LLC, and Worthington Wisconsin on Counts I, III, V, and VII;
- (c) The judgment is granted in favor of Plaintiffs and against Fountainhead Inc. and Fountainhead LLC on Counts II, IV, VI, and VII;
- (d) The judgment be granted in favor of Plaintiffs and against WCC, WCC-LLC, Worthington Wisconsin, Fountainhead Inc., and Fountainhead LLC for the personal injuries sustained by Plaintiff John Larry Tatum, including, without limitation, past,

present and future pain and suffering in such an amount as shall be shown by the evidence and proven at trial;

- (e) That judgment be granted in favor of the Plaintiff and against WCC, WCC-LLC, Worthington Wisconsin, Fountainhead Inc., and Fountainhead LLC as payment for the past medical expenses of Plaintiff, plus any other existing or future medical expenses in such an amount as shall be shown by the evidence and proven at trial;
- (f) That a jury trial be had on all issues so triable;
- (g) That Plaintiffs recover the cost of this action; and
- (h) That such other and further relief be granted as this Court may deem just and proper.

This the 20th day of March, 2017.

LANGDALE VALLOTTON, LLP


JAMES R. MILLER
Georgia Bar No. 435910

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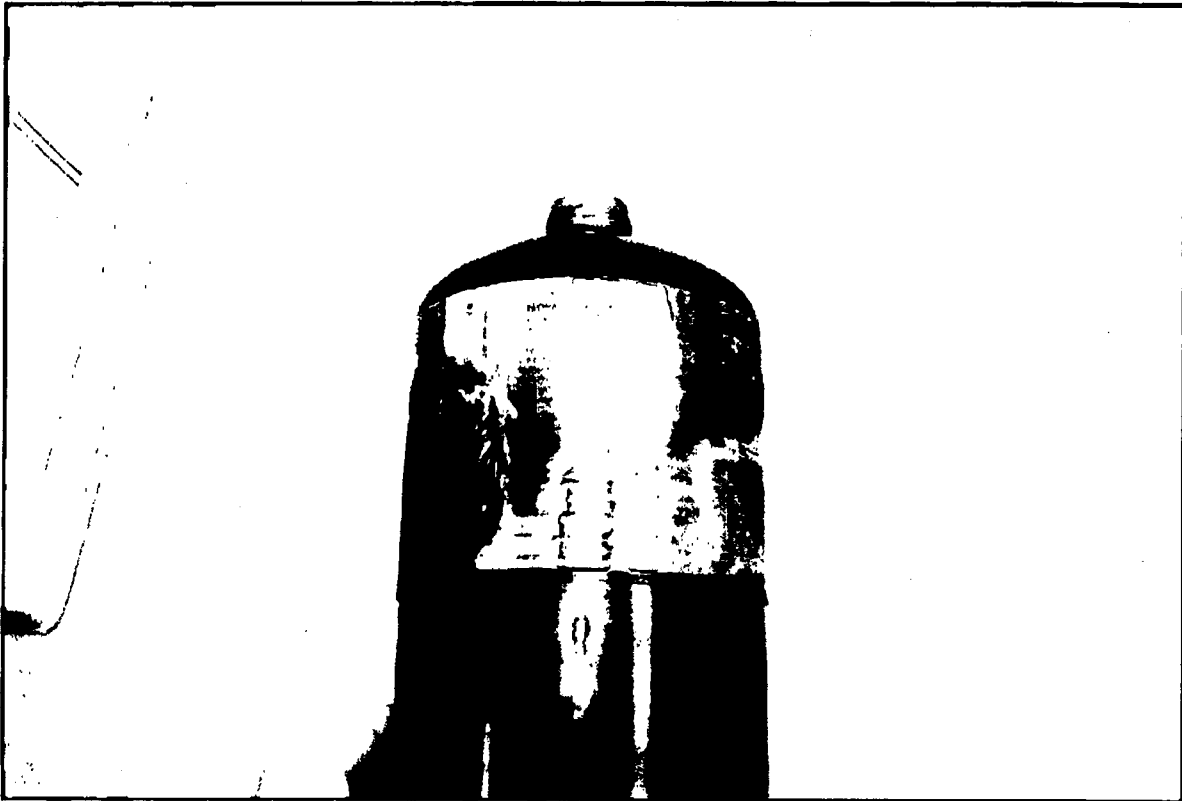
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LAWRENCE, & SHENTON

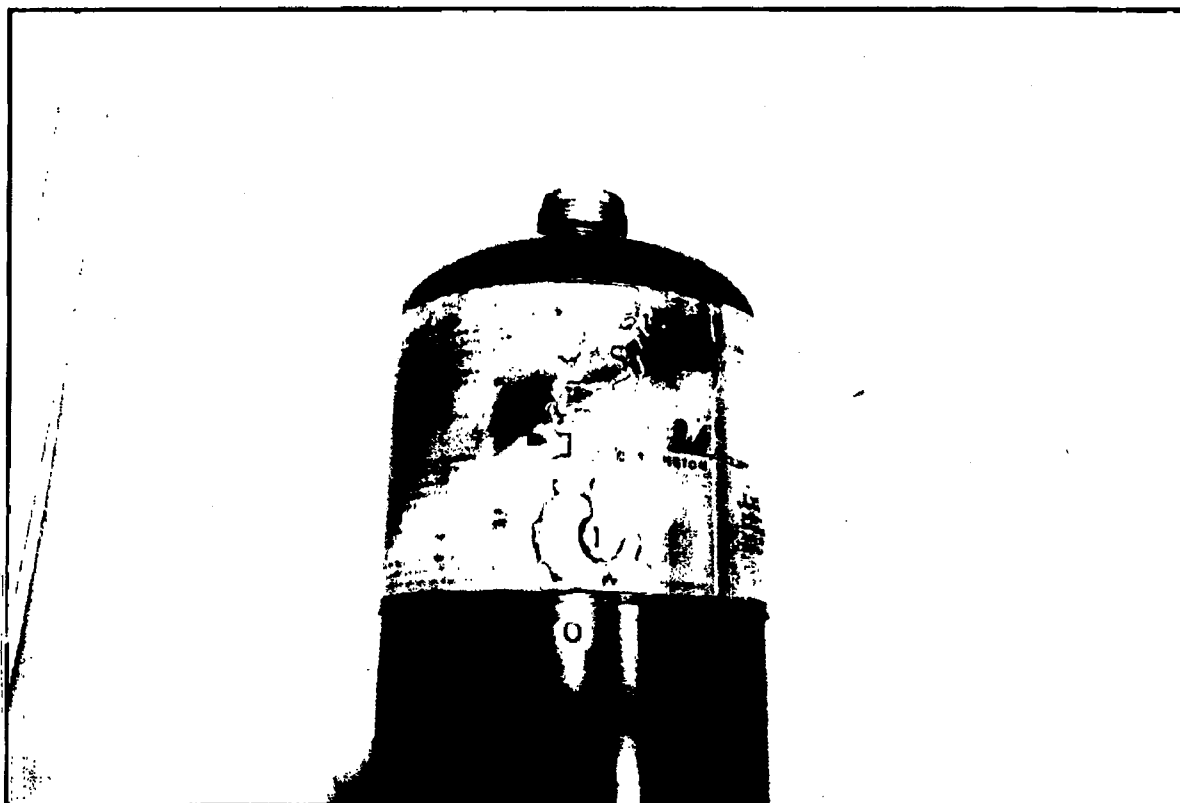

JUSTIN PURVIS
Georgia Bar No. 533856

*signed with express
permission by James R. Miller*

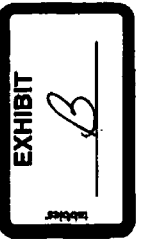
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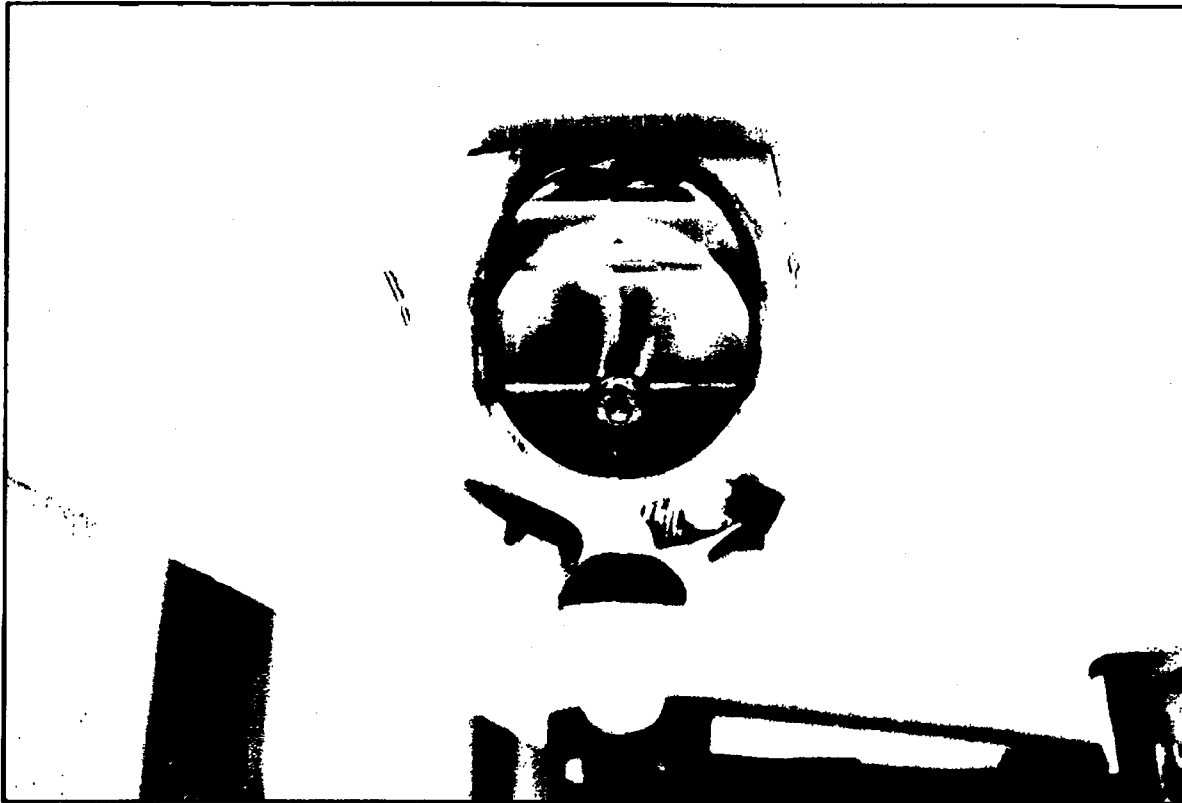




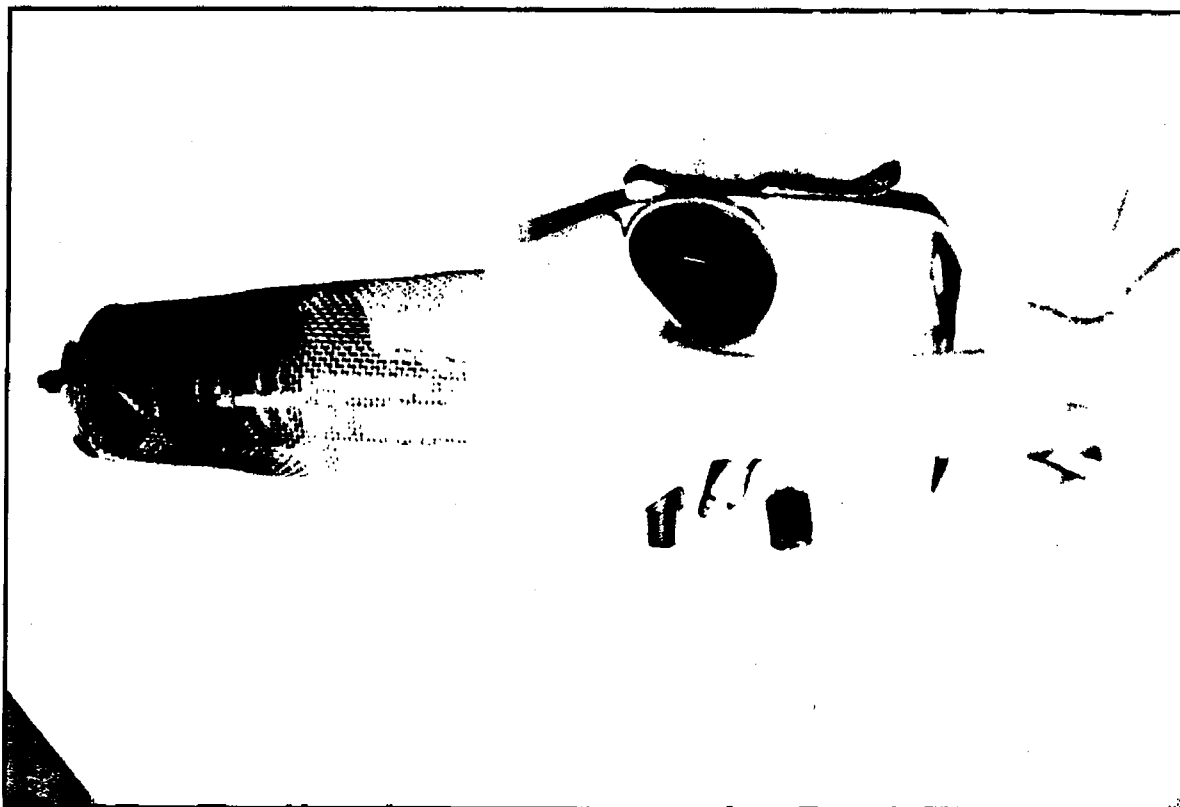













Consent to Removal

I, Timothy Doney, am Associate General Counsel for Worthington Cylinder Corporation and Worthington Cylinders Wisconsin, LLC ("Worthington Defendants") and hereby notify the Court and all parties of record that the Worthington Defendants consent to removal of the case styled John Larry Tatum v. The Fountainhead Group, LLC et al. State Court of Lowndes County, Civil Action File No. 2017-SCV-109 to the United States District Court For the Middle District of Georgia, Valdosta Division.



Timothy Doney
Associate General Counsel
Worthington Cylinder Corporation and Worthington
Cylinders Wisconsin, LLC.
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