

FILED

MAY 19 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ANDREW W. SHALABY; SONIA  
DUNN-RUIZ,

Plaintiffs - Appellants,

v.

NEWELL RUBBERMAID, INC.; THE  
HOME DEPOT, INC.; IRWIN  
INDUSTRIAL TOOL COMPANY, INC.;  
BERNZOMATIC,

Defendants-cross-claimants -  
Appellees,

and

WESTERN INDUSTRIES, INC.;  
WORTHINGTON INDUSTRIES,

Cross-defendants - Appellees,

No. 09-56331

D.C. No. 3:07-cv-02107-MMA-  
BLM

ORDER

Appeal from the United States District Court  
for the Southern District of California  
Michael M. Anello, District Judge, Presiding

Argued and Submitted April 7, 2010

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Pasadena, California

Before: FRIEDMAN,\* D.W. NELSON, and REINHARDT, Circuit Judges.

This memorandum disposition, filed on May 17, 2010, is amended as follows:

(1) The citation found on page 3, lines 8–9, should instead read as follows:

*Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579, 589, 592–93 (1993).

(2) The citation found on page 5, line 3, should instead read as follows:

*Stephen*, 134 Cal. App. 4th at 1373.

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\* The Honorable Daniel M. Friedman, United States Circuit Judge for the Federal Circuit, sitting by designation.