

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

DEPOSITORS INSURANCE COMPANY)
(A SUBSIDIARY OF NATIONWIDE)
INSURANCE) AS SUBROGEE OF)
MICHAEL AND MELISSA UNGER,)

Plaintiff,)

vs.)

HAMILTON BEACH/PROCTOR-SILEX,)
INC.,)

Defendant.)

Case No.: 3:08-cv-00125-DRH-DGW

MOTION TO CONTINUE

Comes now defendant Hamilton Beach/Proctor-Silex, Inc., and for its Motion to Continue the initial pre-trial scheduling and discovery conference and presumptive trial month of this matter states as follows:

1. At the present time, this matter has been set by the Honorable Judge David Herndon for presumptive trial month of April, 2009.
2. However, the initial pre-trial scheduling and discovery conference in this matter was not set until July 21, 2008.
3. Although written discovery has been exchanged between the parties in this matter, the parties have yet to file any responses, as they are not technically due until 30 days after the initial pre-trial and scheduling conference, making the initial discovery responses not due until August 21, 2008.

4. This matter is a complex products liability case in which it is alleged that a Hamilton Beach/Proctor-Silex, Inc. toasting station was the cause and origin of a fire that resulting over \$400,000.00 in property damage to the home of the Ungers, the subrogees of Depositors Insurance Company.
5. The product itself will need to be inspected, tested and examined by a number of different expert witnesses and there will likely be a number of expert witnesses on both sides, both as to the product itself, and as to the cause, origin and spread of the fire in the home.
6. In addition, there will be a number of fact witnesses that will need to be deposed, possibly ten or more, and a possible total of six or more expert witnesses on both sides.
7. Because of the complicating factors of the case, the nature of the litigation and the allegations in the Complaint, this is a matter which will require additional time beyond April, 2009 in order to be ready for trial.
8. Therefore, counsel for defendant requests that Judge Herndon revisit the issue of the presumptive trial month in this matter, and set the case for a presumptive trial month sometime in late 2009, in order to allow sufficient time for the parties to depose all of the fact witnesses, experts, and prepare other dispositive motions.

WHEREFORE, defendant Hamilton Beach/Proctor-Silex, Inc. requests the Court grant its Motion to Continue and for any further relief the Court deems just and proper.

/s/William S. Thomas

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AFFIDAVIT OF SERVICE

I, the undersigned, certify that copy of the foregoing has been electronically served on all counsel of record via the Court's CM/ECF system, or U.S. mail for parties not registered with CM/ECF, on this 21st day of July, 2008.

Mr. Matthew C. Zittel
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Under penalties of perjury as provided by law, I certify that the statements in this affidavit are true.

/s/William S. Thomas