IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

DEPOSITORS INSURANCE COMPANY a subsidiary of NATIONWIDE INSURANCE as subrogee of MICHAEL and MELISSA UNGER,	)	
Plaintiff,	)	
v.	)	Case No. 3:08-cv-00125-WDS-DGW
HAMILTON BEACH/PROCTOR-SILEX, INC.,	)	Honorable Chief Judge Herndon
Defendant.	)	Donald G. Wilkerson, Magistrate Judge

MOTION TO COMPEL

NOW COMES the Plaintiff, DEPOSITORS INSURANCE COMPANY a/s/o MICHAEL and MELISSA UNGER, by and through its attorneys, SNECKENBERG, THOMPSON & BRODY, LLP, and hereby moves this Honorable Court to compel the Defendant to produce the documents and materials requested in the Plaintiff's Supplemental Requests for Production. In support of this motion, Plaintiff states as follows:

Depositors Insurance Company v. Hamilton Beach/Proctor-Silex, Inc.

1. Attached hereto is a copy of the Plaintiff's Supplemental Requests for Production (copy attached hereto as "Exhibit A").

2. The Defendant responded with an objection and has refused to produce any of the materials related to the exemplar toasters which are clearly relevant to the Plaintiff's theories and analysis, as well as its expert's examinations and determinations on this case.

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3. Despite the Plaintiff's repeated and recent requests for compliance, the Defendant has refused to produce any of these materials based upon an argument that these exemplars are not the exact toaster oven involved in this occurrence.

4. The Plaintiff's experts, however, have obtained exemplar toasters and these exemplar toasters were the subject of a recall because they were presenting a hazard of fire when not properly turning off, and this mode of failure is identical to the theories in this case. The Plaintiff's expert has obtained and inspected the exemplar toasters which were the subject of the recall, and he has determined that the relevant elements and parts related to the cause of this fire appear to be identical to the relevant elements and parts of the exemplar toasters.

5. Therefore, in order to confirm this information, the schematic drawings, parts listings and documentation concerning the exemplar toasters is necessary and clearly relevant to the inspections, analysis and work being performed by the Plaintiff's experts. Any materials produced in this regard would certainly remain in confidence and within any Protective Orders on this case to be used solely for the purposes of this litigation and to remain within the possession of our experts.

6. The Plaintiff hereby requests that the Defendant be compelled to produce the remaining documents and materials requested in the Plaintiff's Supplemental Requests for Production so that these materials can be reviewed by the Plaintiff's experts and a final report can then be prepared on behalf of the Plaintiff.

WHEREFORE, the Plaintiff, DEPOSITORS INSURANCE COMPANY a/s/o MICHAEL and MELISSA UNGER, hereby requests that this Honorable Court grant this Motion to Compel, and require that the Defendant fully comply with the outstanding

Supplemental Request for Production and to produce all documentation within the next fourteen (14) days so that the Plaintiff's expert can review these materials and finalize his opinions and report.

/s/ STUART M. BRODY

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