

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. )

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

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

Defendant. )

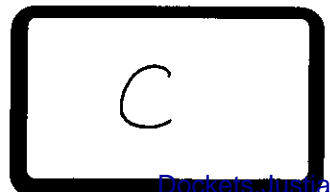
***DEFENDANT'S FIRST INTERROGATORIES DIRECTED TO  
PLAINTIFF***

COMES NOW defendant Hamilton Beach/Proctor-Silex, Inc., ("HBPS"), by and through undersigned counsel, and exhibit the following Interrogatories to be answered by Plaintiff Depositors Insurance Company (A Subsidiary Of Nationwide Insurance) As Subrogee Of Michael And Melissa Unger, under oath and in accordance with Illinois Rules of Civil Procedure within thirty (30) days.

**DEFINITIONS AND INSTRUCTIONS**

1. "Document" includes any written or recorded information however produced or reproduced, including writings, drawings, graphs, charts, information stored in a computer including e-mails, photographs, videotapes, phone records, and other data compilations from which information can be obtained or translated.

2. "Plaintiff," "you," and "your" shall mean the Plaintiff in this action, Depositors Insurance Company (A Subsidiary Of Nationwide Insurance) As Subrogee Of Michael And Melissa Unger, Michael Unger, Melissa Unger, and/or anyone acting on Depositors' behalf, including their attorneys and any experts retained by Plaintiff or its attorneys.



3. The "Incident" refers to the fire that occurred on January 23, 2006, which is the basis of Plaintiff's Complaint in this action.

4. "Identify," when referred:

- (a) To a person means to state his or her full name and present or last known business or residential address;
- (b) To a public or private corporation, partnership, association, or other organization or to a governmental agency means to state its full name and present or last known pertinent business address;
- (c) To a statement means to identify who made it, who took or recorded it, and all others, if any, present during the making thereof; to state when, where, and how it was taken or recorded, and to identify who has present or last known possession, custody, or control thereof;
- (d) To a document means to give a reasonably detailed description thereof, including, if applicable, when, where, and how it was made; to identify who made it; and to identify who has present or last known possession, custody, or control thereof; and
- (e) To any other tangible thing means to give a reasonably detailed description thereof, including, if applicable, when, where, and how it was made; to identify who made it; and to identify who has present or last known possession, custody, or control thereof.

5. Whenever listing or identification of documents is requested in these interrogatories, plaintiff may, as to each document to be listed or identified, and in lieu of such listing or identification, attach copies to the answers or state when and where he will produce such document for inspection and copying by the defendant.

6. If an interrogatory is objected to in part, the objected to part or scope should be identified, the reasons for the objection fully stated, and a complete answer to the remaining portions provided.

### **INTERROGATORIES**

1. Please state the name and age of each resident at 12530 Tree Line Drive, Highland, Illinois at the time of the Incident.

**Answer:**

2. State the name and address of each person who claims or whom Plaintiff or anyone on Plaintiff's behalf knows or believes to have been an eyewitness to the Incident, to have

knowledge of the facts and circumstances of the Incident or of the events leading up to it or following it, to have knowledge of the purchase, installation, maintenance, service, and or repair of the toaster oven, to have knowledge of relevant facts relating to this case, to have been in the residence within the 24 hours preceding the incident, or to have used the toaster oven within one year of the incident.

**Answer:**

3. Has Plaintiff made any statement, in any form, regarding the Incident? If so, state whether written or oral, the date, time and place made, by whom and to whom made, the words used, and the name and address of each person who has custody of each such statement (or attach a copy of each statement). If any document reflecting such a statement has been lost or destroyed, describe the statement and the circumstances of its loss or destruction.

**Answer:**

4. Has Plaintiff obtained a witness statement regarding the Incident, or other relevant matter in this case? If so, state whether written or oral, the date, time and place made, by whom and to whom made, the words used, and the name and address of each person who has custody of each such statement (or attach a copy of each statement). If any document reflecting such a statement has been lost or destroyed, describe the statement and the circumstances of its loss or destruction.

**Answer:**

5. If you or your attorneys have obtained witness statements or have had conversations, dealings, or conferences with any employee, officer, director, or representative of HBPS, please describe each and every such statement, conference, discussion, conversation, or dealing, and state the name, address, and telephone number of the employee or representative of HBPS who was involved.

**Answer:**

6. Identify any party having any involvement with the purchase, installation, service, maintenance and/or repair of the toaster oven.

**Answer:**

7. List any problems/issues you perceived, encountered or experienced with the performance of the toaster oven prior to the Incident and indicate if you contacted anyone to correct those problems/issues, if those problems/issues were ultimately addressed or corrected, and if so, by whom.

**Answer:**

8. In regards to Plaintiff's residence at 12530 Tree Line Drive, Highland, Illinois, identify the date on which Michael and Melissa Unger purchased the residence, the date when the original construction of the residence was completed, the name and address of the previous owner(s), the architect and/or design engineer for the residence, the general contractor for the construction of the residence, the electrical contractor for the residence, any modifications made to the electrical system of the residence, the date(s) modifications to the electrical system of the residence were made, and the individuals who made the modifications to the electrical system of the residence.

**Answer:**

9. State whether any governmental agency, including but not limited to fire and police departments, responded to or investigated the Incident. If so, please state the name of each of the governmental agencies, the names of the personnel who responded or investigated, the address of such agencies, the date of the investigation, and the dates of their reports, if any.

**Answer:**

10. Please list every product defect and/or component part defect which you allege contributed in any way to the Incident, and which you allege was caused, in whole or in part, by any acts of defendant HBPS.

**Answer:**

11. List every act of negligence you allege was committed, whether by an agent of any defendant or any defendant themselves, which you allege contributed in any way to the Incident made the basis of this lawsuit.

**Answer:**

12. If you contend that Defendant HBPS is liable for the Incident by reason of failure to comply with any applicable standard, please state what each standard is, the exact reference thereto by title, author, publisher, edition, and date, whether it is contained in a

statute, ordinance, or administrative regulation and if so, give the exact citation thereof; and what activity, act, or omission to act by defendant you allege constituted a violation of such standard.

**Answer:**

13. With regard to each and every allegation of defective design which you have made in this suit, if any, please state with specificity any alternative design or methods of manufacture which you contend to be better, safer, or more integrally sound than that utilized on the toaster oven in question, the estimated cost of such alternative designs or methods of manufacture, and the name, address, and telephone number of each person who has proposed that such alternative design or methods of manufacture would have been better, safer, or more integrally sound than that employed on the toaster oven in question.

**Answer:**

14. At any time has any test, inspection, or examination been done of the toaster oven or the components thereof, any other reasonably similar toaster oven system or components part thereof, or the scene of the Incident in question? If so, please state the date each such test, inspection, or examination was performed, identify each person, company, or entity performing such test, inspection, or examination, identify all persons present when each test, inspection, or examination was performed, state the nature of each test, inspection, or examination, state the results of each test, inspection, or examination, identify each and every record, report, narrative, summary, and any other documents or tangible things relating to, generated, or caused to be generated by each such test, inspection, or examination; and identify all persons now having custody of any written reports concerning each test, inspection, or examination.

**Answer:**

15. Were any photographs, digital images, motion pictures, videotapes, films, maps, drawings, diagrams, measurements, surveys, or other descriptions prepared in connection with or in any way relating to the Incident, including, without limitation, any photographs made of the Plaintiff's residence and property, the toaster oven, component parts thereof, the scene of the Incident, or any other reasonably similar toaster oven system or component parts thereof? If so, please state what is depicted by each, the date on which each such depiction was made, the name and address of the photographer/ recorder or originator of each such depiction; and the name and address of the person who now has custody of each such depiction.

**Answer:**

16. Does Michael or Melissa Unger claim to have lost any time from work due to the Incident? If so, state the name and address of each employer, the number of hours and dates of any days lost, and the amount of alleged income lost.

**Answer:**

17. Provide a complete employment history for Michael or Melissa Unger for the ten (10) years immediately before the happening of the Incident alleged in the Complaint up until the time of your answering these interrogatories, and for each separate period of employment include the name and current address of the employer, dates of employment, title of the position held by Plaintiff, a general description of the nature and type of duties performed by Plaintiff, and Plaintiff's beginning salary and salary upon termination.

**Answer:**

18. Was the toaster oven plugged into a power strip at the time of the incident? If so, state whether or not the power strip was plugged into a ground fault circuit interrupter (GFI) receptacle, the manufacturer, model number, and purchase date of the power strip, the last known user of the toaster oven, the date and time the toaster oven was last used, the item(s) prepared in the toaster oven on the last day of use, the manufacturer, model number, and purchase date of all other electrical devices plugged into the aforementioned power strip, the last known user of each electrical device; and the date and time each electrical device was last used. If not, state how the toaster oven was connected to the residence's electrical system, and whether or not the toaster oven was plugged into a ground fault circuit interrupter (GFI) receptacle.

**Answer:**

19. Describe the terms (including the settlement amounts) of any and all settlement agreements or releases entered into by Plaintiff, or anyone on Plaintiff's behalf, with any party other than HBPS, concerning the Incident.

**Answer:**

20. Has Michael or Melissa Unger ever been convicted of a felony or a crime involving dishonesty or a false statement? If so, describe the offense or offenses, when and where committed, under what name or names they were convicted, and in what city, county, and state.

**Answer:**

21. Provide the name and address of every lay witness you intend to call at trial, and state the subjects on which each witness will testify.

**Answer:**

22. Identify every independent expert witness you intend to call at trial, and for each, state that person's name and address, identify the subjects on which each independent expert witness will testify, and state the opinions that plaintiffs expect to elicit from each independent expert witness.

**Answer:**

23. Identify each controlled expert witness who will testify at trial, and state each controlled expert witness' name and address, the subject matter on which each such witness will testify, the conclusions and opinions of each such witness and the basis therefore, the qualifications of each listed witness; and provide any reports prepared by the witness relative to this cause of action.

**Answer:**

24. Provide the name and address of each opinion witness who will offer any testimony and state the subject matter on which the opinion witness is expected to testify, the conclusions and/or opinions of the opinion witness and the basis therefore, including reports of the witness, if any, the qualification of each opinion witness, including a Curriculum Vitae and/or resume, if any, and the identity of any written reports of the opinion witness regarding this occurrence.

**Answer:**

25. Please list every basis and all facts supporting your contention, as alleged in the Complaint, that the toaster oven "caused" the subject fire, the toaster oven was "unreasonable dangerous and defective," and the toaster oven was "an unreasonably dangerous product as manufactured by defendant."

**Answer:**



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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 \_\_\_\_ day of \_\_\_\_\_, 2008.

Mr. Matthew C. Zittel  
5 Park Place Professional Centre  
Belleville, Illinois 62226

Stuart M. Brody  
Attorney for Plaintiff  
161 N. Clark, Suite 3575  
Chicago, IL 60601

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

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