

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

AUNT SALLY'S PRALINE SHOP, INC.

CIVIL ACTION

VERSUS

NO. 06-7674

UNITED FIRE & CASUALTY
COMPANY

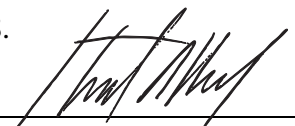
SECTION "K"(5)

ORDER AND OPINION

Before the Court is the motion to continue the trial presently scheduled for September 29, 2008, filed on behalf of defendant United Fire & Casualty Company ("United Fire")(Doc. 76). Defendant seeks to continue the September 29, 2008, trial contending that Allen Schons, the regional claims manager for United Fire Group, will be unavailable for the because he will be recovering from open-heart surgery to be performed on September 16, 2008. Having reviewed the pleadings, memoranda, deposition of Mr. Schons, and relevant law, the Court, for the reasons assigned, **DENIES** the motion.

Mr. Schons appeared as a representative of United Fire at a 30(B)(6) deposition taken on June 9, 2008. Prior to beginning the deposition, counsel stipulated that the deposition was being taken "for discovery and all other purposes." (Doc. 81, p. 3). The Court has reviewed the deposition. It appears based on the witnesses involvement in this matter that Mr. Schons is not an essential witness. When Mr. Schons was asked on cross examination by counsel for United Fire what his role was at the deposition, Mr. Schons responded "[i]t was just to respond to a couple of questions that Leni had sent over and she asked my advice." Doc. 81, p. 57. By his own statement Mr. Schons is not an essential witness whose presence is necessary at trial. Defendant has failed to demonstrate good cause for the requested continuance. Accordingly, the Court denies the motion to continue the trial.

New Orleans, Louisiana, this 16th day of September, 2008.



STANWOOD R. DUVAL, JR.
UNITED STATES DISTRICT JUDGE

