IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS
DEC 4 - 1969
JAMES N. COUNEY, CLERK
BY Margaret Lawson

CLARENCE BOREL	)	
	)	
VS.	)	CIVIL ACTION NO. 6449
	)	
FIBREBOARD PAPER PRODUCTS CORPORATION ET AL	)	

MOTION FOR LEAVE TO INTERVENE

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now National Surety Corporation, a corporation existing under and by virtue of law, and moves for leave to intervene in the above styled and numbered cause, and in support of this motion alleges:

I

This lawsuit is a claim for damages because of injuries to the plaintiff, Clarence Borel.

II

At the time of the said injuries Clarence Borel was an employee of Fuller-Austin Insulation Company, and National Surety Corporation was the workman's compensation insurer under the laws of the State of Texas for the said employer. By way of a compromise settlement said National Surety Corporation paid to Clarence Borel the sum of $8,000.00 and in addition thereto paid medical and hospital expenses of $5,081.10, for a total of $13,081.10 in compromise settlement of claim made against the said National Surety Corporation for the injuries mentioned in Paragraph Number I.

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III

By virtue of Section 6A, Article 8304, V. A. T. S., the National Surety Corporation is subrogated to the rights of the plaintiff herein to the extent of its payment under the compensation law, and in effect the National Surety Corporation actually owns a portion of the cause of action herein asserted.

IV

This intervention will not in any manner delay the trial of the case and will not raise any jurisdictional or venue questions.

V

Copy of the proposed complaint in intervention is attached hereto.

WHEREFORE, premises considered, National Surety Corporation prays that it be granted leave to intervene herein.

Respectfully submitted,

615 San Jacinto Building
Beaumont, Texas 77701

George E. Murphy, Attorney for Intervenor, National Surety Corporation

C E R T I F I C A T E

A copy of the foregoing Motion was sent to the following attorneys of record:

Mr. Ward Stephenson, Attorney at Law
Stephenson, Thompson & Morris
Stephenson Building
Orange, Texas 77630

Attorneys for Plaintiff

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Mr. Ben L. Reynolds, Attorney at Law
Royston, Rayzor & Cook
877 San Jacinto Building
Houston, Texas 77002

Mr. George E.Duncan, Attorney at Law
Wells, Duncan, Beard, Greenberg & Hunt
Beaumont Savings Building
Beaumont, Texas 77701

Attorneys for Defendant Pittsburgh-Corning Corporation

Mr. George A. Weller, Attorney at Law
Weller, Wheelus & Green
P. O. Box 350
Beaumont, Texas 77704

Attorney for Defendant Fibreboard Paper Products Corporation

Mr. Dale Dowell, Attorney at Law
707 Beaumont Savings Building
Beaumont, Texas 77701

Attorney for Defendant Owens-Corning Fibreglass Corporation

Mr. Gordon R. Pate, Attorney at Law
1119 Beaumont Savings Building
Beaumont, Texas 77701

Mr. W. N. Arnold, Jr., Attorney at Law
Fulbright,Crooker, Freeman, Bates & Jaworski
Bank of the Southwest Building
Houston, Texas 77002

Attorney for the Armstrong Contracting & Supply Company

James W. Mehaffy, Sr., Attorney at Law
Keith, Mehaffy & Weber
1400 San Jacinto Building
Beaumont, Texas 77701

Attorney for Standard Asbestos Manufacturing & Insulating Company

Chas. S. Pipkin, Attorney at Law
Strong, Nelson, Pipkin & Parker
P. O. Box 632
Beaumont, Texas 77704

Attorney for Defendant Combustion Engineering, Inc.

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Mr. John G. Tucker, Attorney at Law
Orgain, Bell & Tucker
Beaumont Savings Building
Beaumont, Texas 77701

Gerald P. Coley, Attorney at Law
Vinson, Elkins, Searles & Connerly
First City National Bank Building
Houston, Texas 77002

Attorney for Defendant Unarco Industries, Inc.

Robert E. Barnes, Jr., Attorney at Law
2315 Calder Avenue
Beaumont, Texas

Attorney for Defendant Ruberoid Company

George E. Murphy, Attorney for Intervenor, National Surety Corporation

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CLARENCE BOREL

VS.

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CIVIL ACTION NO. 6449

COMPLAINT IN INTERVENTION

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now National Surety Corporation, hereinafter styled Intervenor, complaining of all defendants herein, and for its complaint in intervention would show the court the following:

I

The Intervenor is a business corporation duly organized by law and authorized to do business in the State of Texas. Plaintiff and defendants herein have entered general appearance, thereby vesting in this Court jurisdiction over their persons. Both plaintiff and defendants may be served with summons and complaints by serving the same upon their respective attorneys of record.

II

Plaintiff was an employee of Fuller-Austin Insulation Company during the time he suffered the injuries, or some of the injuries, made the basis of this suit. During such time National Surety Corporation was workman's compensation insurer of Fuller-Austin Insulation Company under the laws of the State of Texas.

III

By way of compromise settlement agreement dated June 4, 1969, National Surety Corporation did pay to Clarence Borel, the

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plaintiff herein, the sum of $8,000.00, and in addition thereto paid the sum of $5,081.10 for medical and hospital expenses of the said Clarence Borel, for a total of $13,081.10 in compromise settlement of compensation for injuries received by him while in the employ of Fuller-Austin Insulation Company. These are the same injuries made the basis of this suit.

IV

By virtue of Section 6a, Article 8307, V. A. T. S., the said National Surety Corporation is subrogated to the right of plaintiff herein, to the extent of its payment as aforesaid.

V

The intervenor herein adopts such allegations as the plaintiff has heretofore made or will in the future make, and further it says that the injuries to Clarence Borel proximately were caused by the negligence of the agents, servants, or employees of the defendants herein.

VI

By virtue of law, the intervenor is entitled to assert this, its cause of action in the name of the workman, and this it desires to do. This complaint in intervention is for the purpose only of enforcing the intervenor's subrogation rights, and is not to be read to the jury.

VII

Further, in connection with this complaint in intervention, the intervenor would show that it is entitled to recover a reasonable attorney's fee in connection with the assertion of its subrogation rights and these attorney's fees may be fixed by the court.

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WHEREFORE, premises considered, intervenor prays that the plaintiff and defendants be served with a copy of this Complaint in Intervention and that upon final hearing hereof it do have and recover of and from the defendants the sum of $13,081.10, together with a reasonable attorney fee and for costs of court. Intervenor prays for such other and further relief to which it may show itself entitled.

Respectfully submitted,

615 San Jacinto Building
Beaumont, Texas 77701

George E. Murphy, Attorney for Intervenor, National Surety Corporation

C E R T I F I C A T E

A copy of the foregoing Complaint in Intervention was sent to the following attorneys of record:

Mr. Ward Stephenson, Attorney at Law
Stephenson, Thompson & Morris
Stephenson Building
Orange, Texas 77630

Attorneys for Plaintiff

Mr. Ben L. Reynolds, Attorney at Law
Royston, Rayzor & Cook
877 San Jacinto Building
Houston, Texas 77002

Mr. George E. Duncan, Attorney at Law
Wells, Duncan, Beard, Greenberg & Hunt
Beaumont Savings Building
Beaumont, Texas

Attorneys for Defendant Pittsburgh-Corning Corporation

Mr. George A. Weller, Attorney at Law
Weller, Wheelus & Green
P. O. Box 350
Beaumont, Texas 77704

Attorney for Defendant Fibreboard Paper Products Corporation

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Mr. Dale Dowell, Attorney at Law
707 Beaumont Savings Building
Beaumont, Texas 77701

Attorney for Defendant Owens Corning Fibreglass Corporation

Mr. Gordon R. Pate, Attorney at Law
1119 Beaumont Savings Building
Beaumont, Texas 77701

Mr. W. N. Arnold, Jr., Attorney at Law
Fulbright, Crooker, Freeman, Bates & Jaworski
Bank of the Southwest Building
Houston, Texas 77002

Attorney for the Armstrong Contracting & Supply Company

James W. Mehaffy, Sr., Attorney at Law
Keith, Mehaffy & Weber
1400 San Jacinto Building
Beaumont, Texas 77701

Attorney for Standard Asbestos Manuracturing & Insulating Company

Chas. S. Pipkin, Attorney at Law
Strong, Nelson, Pipkin & Parker
P. O. Box 632
Beaumont, Texas 77704

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Orgain, Bell & Tucker
Beaumont Savings Building
Beaumont, Texas 77701

Gerald P. Coley, Attorney at Law
Vinson, Elkins, Searls & Connerly
First City National Bank Building
Houston, Texas 77002

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Robert E. Barnes, Jr., Attorney at Law
2315 Calder Avenue
Beaumont, Texas

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IN THE MATTER OF

CLARENCE BOREL
VS.
FIBREBOARD PAPER PRODUCTS CORPORATION ET AL

MOTION FOR LEAVE TO INTERVENE
(NATIONAL SURETY CORPORATION)

GEORGE E. MURPHY
ATTORNEY AT LAW
615 SAN JACINTO BUILDING
BEAUMONT, TEXAS 77701

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