JGT:DFG - 6/24/69

IN THE UNITED STATES DISTRICT COURT

IN AND FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

FILED
JUL 1 1969
James R. Cooney, Clerk, U. S. Court
By Virginia K. Jones DEPUTY

SAMUEL R. POTTER §

VS. §

FIBREBOARD PAPER PRODUCTS CORPORATION, ET AL § CIVIL ACTION 6329

MOTION FOR LEAVE TO INTERVENE

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW The Charter Oak Fire Insurance Company, a corporation, duly incorporated under the laws of Connecticut, 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 allegedly received by the plaintiff, Samuel R. Potter.

II.

At the time of the said alleged injuries, Samuel R. Potter was an employee of The Babcock & Wilcox Company and The Charter Oak Fire Insurance Company was the workmen's compensation insurer under the laws of the State of Texas, for the said employer. By way of agreed judgment in the District Court of Orange County, Texas, the said The Charter Oak Fire Insurance Company paid to Samuel R. Potter the sum of $7500.00 in compromise settlement of claims made against the said The Charter Oak Fire Insurance Company for the injuries mentioned in Paragraph I.

III.

By virtue of Section 6A, Article 8307, V. A. T. S., The Charter Oak Fire Insurance Company is subrogated to the rights of the plaintiff herein to the extent of its payment under the compensation law and for


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its expenses, and in effect The Charter Oak Fire Insurance Company actually owns a portion of the cause of action herein asserted.

IV.

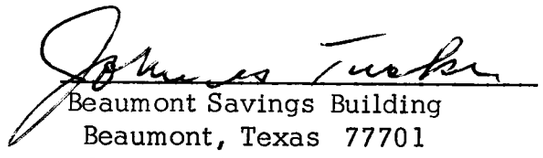
This intervention will not in any manner delay the trial of the case and will not raise any jurisdiction or venue questions.

V.

A copy of the proposed complaint in intervention is attached hereto.

WHEREFORE, premises considered, The Charter Oak Fire Insurance Company prays that it be granted leave to intervene herein.

Respectfully submitted,



Beaumont Savings Building
Beaumont, Texas 77701
Attorney for Intervener,
The Charter Oak Fire Insurance
Company

CERTIFICATE

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

Mr. Ben L. Reynolds
Royston, Rayzor & Cook
877 San Jacinto Building
Houston, Texas 77002
Attorney for Defendant Eagle-Incher Industries, Inc.

Mr. John D. Rienstra
707 Beaumont Savings Building
Beaumont, Texas 77701
Attorney for Defendant Owens-Corning Fiber Glass Corporation


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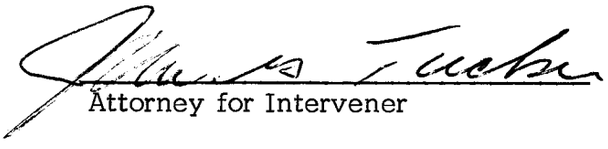
Mr. George Weller
Weller, Wheelus & Green
P. O. Box 350
Beaumont, Texas 77704
Attorney for Defendant Fibreboard Paper Products Corporation

Mr. Charles S. Pipkin
Strong, Pipkin, Nelson & Parker
P. O. Box 1632
Beaumont, Texas 77704
Attorney for Defendants Combustion Engineering, Inc. and Refractory & Insulation Corporation

Mr. George Duncan
Wells, Duncan, Beard, Greenberg & Hunt
Beaumont Savings Building
Beaumont, Texas 77701
Attorney for Defendants Pittsburgh Plate Glass Company and Pittsburgh Corning Corporation

Mr. Gordon R. Pate
1119 Beaumont Savings Building
Beaumont, Texas 77701
Attorney for Defendants Johns-Manville Sales Corporation, Johns-Manville Products Corporation, and Johns-Manville Fiber Glass, Inc.

Mr. Ward Stephenson
Stephenson, Thompson & Morris
Stephenson Building
Orange, Texas
Attorneys for Plaintiff


Attorney for Intervener


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IN THE UNITED STATES DISTRICT COURT

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| SAMUEL R. POTTER | | |
| | § | |
| VS. | | |
| | § | CIVIL ACTION 6329 |
| FIBREBOARD PAPER PRODUCTS CORPORATION, ET AL | § | |

COMPLAINT IN INTERVENTION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW The Charter Oak Fire Insurance Company, hereinafter styled Intervener, and for its complaint in intervention would show the Court the following:

I.

The intervener is a business corporation duly organized under the laws of Connecticut and duly 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 herein.

II.

Plaintiff was an employee of The Babcock & Wilcox Company during the time he suffered the injuries, or some of the injuries, made the basis of this suit. During such time, The Charter Oaks Fire Insurance Company was the workmen's compensation insurer of The Babcock & Wilcox Company under the laws of the State of Texas.

III.

By way of agreed judgment in the District Court of Orange County, Texas, The Charter Oak Fire Insurance Company did pay to Samuel R. Potter, the plaintiff herein, the sum of $7500.00 as compensation for injuries


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received by him while an employee of The Babcock & Wilcox Company, and intervener also incurred and paid costs of $117.90. 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 The Charter Oak Fire Insurance Company is subrogated to the right of plaintiff hefein, to the extent of its payment as aforesaid.

V.

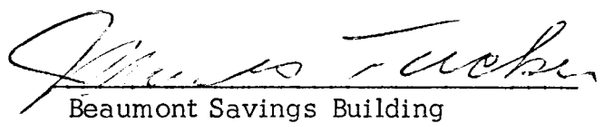
By virtue of law, the intervener is entitled to assert this, its cause of action in the name of the workman, and this it desires to do. This complaint in intervention is for the purpose only of enforcing the intervener's subrogation rights, and is not to be read to the jury.

VI.

Further, in connection with this complaint in intervention, the intervener 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.

WHEREFORE, premises considered, the intervener 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 plaintiff and said defendants the total sum of $7,617.90, together with a reasonable attorney's fee, and costs of court. The intervener prays for such other and further relief to which it may show itself justly entitled.

Respectfully submitted,



Beaumont Savings Building
Beaumont, Texas 77701
Attorney for Intervener,
The Charter Oak Fire Insurance
Company


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CERTIFICATE

A copy of the foregoing complaint in intervention was sent to the following attorneys of record:

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Stephenson Building
Orange, Texas

Attorney for Plaintiff

Mr. Ben L. Reynolds
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Attorney for Defendant Owens-Corning Fiber Glass Corporation

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Attorney for Defendants Combustion Engineering, Inc. and Refractory & Insulation Corporation

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#4-

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Beaumont, Texas 77701

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Attorney for Intervener, The Charter Oak Fire Insurance Company


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ORGAIN, BELL & TUCKER
ATTORNEYS AT LAW
BEAUMONT, TEXAS


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