JGT:DFG - 6/24/69

IN THE UNITED STATES DISTRICT COURT

IN AND FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

FILED

M JUL 7 1969 19

James R. Cooney, Clerk, U. S. Court

By Margaret Stevens DEPUTY

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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Attorney for Defendant Owens-Corning Fiber Glass Corporation

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Attorney for Defendant Fiberboard Paper Products Corporation

Mr. Charles S. Pipkin
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Attorney for Defendants Combustion Engineering, Inc. and Refractory & Insulation Corporation

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Mr. Gordon R. Pate
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Attorney for Defendants Johns-Manville Sales Corporation, Johns-Manville Products Corporation, and Johns-Manville Fiber Glass, Inc.

Attorney for Intervener, The Charter Oak Fire Insurance Company

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CIVIL ACTION 6329

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VS.

FIBREBOARD PAPER PRODUCTS CORPORATION, ET AL

COMPLAINT IN INTERVENTION

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