NO. 13,916

CLAUDE J. TOMPLAIT

VS.

THE TRAVELERS INSURANCE COMPANY, ET. AL.

MOTION FOR SUMMARY JUDGMENT

FILED
18 Day of Feb 1965
at 1:45 P M
ETHEL BURTON
U.S. District Court, Orange County, Texas
By Vida Langford Deputy
Received Writ of Pgs 37
Issued Copies

MARCUS & WELLER
ATTORNEYS AT LAW
GOOCHUE BUILDING
BEAUMONT, TEXAS

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NO. 13,916

CLAUDE J. TOMPLAIT	)	IN THE DISTRICT COURT OF
VS.	)	ORANGE COUNTY, TEXAS
THE TRAVELERS INSURANCE COMPANY, ET. AL.	)	128TH JUDICIAL DISTRICT

MOTION FOR SUMMARY JUDGMENT

COMES NOW the defendant, Texas Employers' Insurance Association, and files this, its motion for summary judgment herein, under the provisions of Rule 166-A of the Texas Rules of Civil Procedure, and as grounds therefor respectfully shows to the court:

I.

This is a suit for workmen's compensation benefits based on injury from occupational disease allegedly sustained by plaintiff while in the course of his employment with Armstrong Contracting and Supply Corporation, the first distinct manifestation thereof being in July, 1961. This defendant has filed a sworn denial, as provided by Rule 93 (n) (6) of the Texas Rules of Civil Procedure, that it was the insurer of Armstrong Contracting and Supply Corporation at such time, reference being made to such pleading.

II.

Attached hereto and made a part hereof is a certificate issued by Les Moreland, Secretary of the Industrial Accident Board of the State of Texas, and given under the seal of said Board, wherein it is certified that this defendant did not provide any coverage for said Armstrong Contracting and Supply Corporation from January 1, 1961 through December 31, 1962, but that such coverage was based

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on policies issued to Armstrong Contracting and Supply Corporation by The Travelers Insurance Company, such certificate being marked Exhibit A for identification.

III.

This defendant says that since it was not the insurance carrier for plaintiff's employer during the period or at the time he alleges the occupational disease causing or bringing about his incapacity manifested itself, it is entitled to a summary judgment herein providing that plaintiff recover nothing from it herein.

WHEREFORE, this defendant moves and prays this Honorable Court to set a hearing on this motion for summary judgment, ten (10) days after notice to the opposing parties, and that a summary judgment be entered herein that plaintiff take nothing by his suit herein as against this defendant, and that it be permitted to go hence without day.

Respectfully submitted,

MARCUS & WELLER
P. O. BOX 350
BEAUMONT, TEXAS

BY: David E. Marcus
ATTORNEYS FOR DEFENDANT, TEXAS EMPLOYERS' INSURANCE ASSOCIATION

The Tomplait v. Combustion Engineering Case File (1962-1969), Motion for summary judgment
ACL Doc 10867 · Page 3 of 5
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ORDER

On this, the 18th day of February, 1963, the court hereby sets the foregoing motion for summary judgment for hearing on the 4th day of March, 1963, at 10 o'clock A.M.

James N. Neff
DISTRICT JUDGE PRESIDING

A copy of the foregoing motion for summary judgment and order setting hearing thereof was delivered-mailed, to Messrs. Stephenson, Stephenson & Thompson, Stephenson Building, Orange, Texas, attorneys for plaintiff, Claude J. Tomplait, on the _____ day of February, 1963.

David A. Mann
ATTORNEY FOR DEFENDANT, TEXAS EMPLOYERS' INSURANCE ASSOCIATION

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STATE OF TEXAS X

COUNTY OF TRAVIS X

I, LES MORELAND, Secretary and Custodian of the Records of the Industrial Accident Board of the State of Texas, DO HEREBY CERTIFY that:

ARMSTRONG CONTRACTING AND SUPPLY CORPORATION

1824 NORTH INDUSTRIAL BOULEVARD
DALLAS, TEXAS

311 LEELAND AVENUE
HOUSTON, TEXAS

9140 PREMIER ROW
DALLAS 7, TEXAS

7310 ARDMORE
HOUSTON 21, TEXAS

610 NORTH MEDINA
SAN ANTONIO 7, TEXAS

was for the period of January 1, 1961 through December 31, 1962 a subscriber to the Texas Workmen's Compensation Act under a policy of insurance issued by the Travelers Insurance Company, and which was at all times in force during the period according to the records in this Department in the Subscriber's File captioned:

SUBSCRIBER FILE NUMBER 95284
ARMSTRONG CONTRACTING AND SUPPLY CORPORATION

I FURTHER CERTIFY that according to the records of this Department such Workmen's Compensation Insurance Coverage was based on policies issued to ARMSTRONG CONTRACTING AND SUPPLY CORPORATION by Travelers Insurance Company and not Texas Employers' Insurance Association.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused to be impressed hereon the Seal of the Industrial Accident Board at its offices in the State Insurance Building in Austin, Texas, on this 6th Day of February A.D. 1963.

Les Moreland

LES MORELAND, SECRETARY

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