NO. 13,916

IN THE DISTRICT COURT OF

ORANGE COUNTY, TEXAS.

CLAUDE J. TOMPLAIT

VS.

THE TRAVELERS INSURANCE COMPANY

MOTION FOR SUMMARY JUDGMENT

FILED

1st Day of March 1963

at 8:52, A M.

ETHEL BURTON

Clerk, District Court, Orange County, Texas

By Edna Brown Deputy

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COMES NOW the defendant, The Travelers Insurance Company, and files this its Motion for Summary Judgment under the provisions of Rule 166-A of the Texas Rules of Civil Procedure, and as grounds therefor would show unto the Court the following:

1.

This defendant moves for a summary judgment in this cause, contending that it was not the insurance carrier for the plaintiff's employer as same is defined in the Workmen's Compensation Act at the time the employee was "last injuriously exposed to the hazards" of the disease for which he claims he is entitled to recover workmen's compensation benefits in the present suit. The plaintiff is claiming workmen's compensation benefits for asbestosis and silicosis, and in this connection this defendant would show the Court that the plaintiff's deposition has been taken and that the plaintiff has testified under oath that he was last injuriously exposed to the hazards of such disease in the latter part of 1962. Therefore, under the terms and provisions of the Workmen's Compensation Act, if the claimant is entitled to recover any workmen's compensation benefits, which this defendant does not admit, then same is recoverable against the insurance carrier for the employer in whose employ he was last injuriously exposed to the hazards of such disease, which was not Armstrong Contracting & Supply Corporation for whom The Travelers Insurance Company was the carrier.

WHEREFORE, premises considered, defendant moves and prays this Honorable Court to set a hearing on this Motion for

The Tomplait v. Combustion Engineering Case File (1962-1969), Motion for summary judgment
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Summary Judgment, and that upon a hearing that summary judgment be granted in favor of this defendant and that judgment be entered that the plaintiff take nothing by reason of his claim against The Travelers Insurance Company and that said Company go hence with its costs, and for such other and further relief as it may show itself justly entitled to receive.

Respectfully submitted,

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