NO. 13,816

IN THE DISTRICT COURT OF

ORANGE COUNTY, TEXAS

CLAUDE J. TOMPLAIT

VS.

THE TRAVELERS INSURANCE COMPANY, ET AL.

DEFENDANTS' MOTION FOR PHYSICAL EXAMINATION AND ORDER

FILED

2 day of Oct. 1962

at 2:45 o'clock P. M.

ETHEL BURTON

Clerk, District Court, Jasper County, Texas

By Peg Lam Deputy

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BEAUMONT, TEXAS

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NO. 13,916

CLAUDE J. TOMPLAIT	§	IN THE DISTRICT COURT OF
VS.	§	
THE TRAVELERS INSURANCE COMPANY, ET AL	§	ORANGE COUNTY, TEXAS

MOTION FOR PHYSICAL EXAMINATION

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COME the defendants, Texas Employers Insurance Association, Queen Insurance Company of America, and The Travelers Insurance Company, in the above entitled and numbered cause, and move the Court to enter an order requiring plaintiff to submit to a physical examination by Dr. Thomas A. Lombardo, and as grounds therefor would show the Court the following:

1.

That this is a workmen's compensation suit which has been filed by the plaintiff, Claude J. Tomplait, against the defendants in which the plaintiff is claiming that he has sustained an occupational disease and is entitled to total and permanent workmen's compensation benefits for being totally and permanently disabled.

2.

That this case is currently set for trial for the week of September 14, 1964.

3.

That the Industrial Accident Board of the State of Texas ordered that Claude J. Tomplait be examined by Dr. W. V. Leary in Houston, Texas, and said examination was performed on October 19, 1962; that the said Claude J. Tomplait was examined by Dr. Thomas A. Lombardo on February 2, 1963, for the defendants; and that the defendants do not have the benefit of any medical reports on this plaintiff since February 2, 1963; and that the plaintiff has stated under oath that he has been employed and has been injuriously exposed to asbestosis and silicosis in employments subsequent to

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those alleged in his original petition on file herein; that the defendants have offered to pay the plaintiff's expenses to Houston, Texas, to have him re-examined by a specialist in this field, to-wit, Dr. W. V. Leary, and this examination has been refused by the plaintiff's attorney. The defendants then agreed to pay the plaintiff's expenses to be examined by Dr. Thomas A. Lombardo, and this has been refused by plaintiff's attorney. Therefore, an order of this Honorable Court requiring plaintiff to be examined by Dr. Thomas A. Lomardo is necessary, for the reason that this case is set for trial for September 14, 1964, and in this connection, defendants would respectfully show unto the Court that they are entitled to the benefit and should have the benefit of an up-to-date medical examination of the plaintiff; and in this connection, the defendants suggest that the Court require the plaintiff to submit to an examination by Dr. Thomas A. Lombardo.

4.

Defendants are willing to pay not only for the expenses of said examination but to pay all reasonable and necessary expenses of the plaintiff in attending any examination ordered by the Court.

WHEREFORE, defendants respectfully request that the Court enter an order requiring plaintiff to submit himself at a convenient time to a medical examination by Dr. Thomas A. Lombardo.

TEXAS EMPLOYER INSURANCE ASSOCIATION
MARCUS & WELLER, Attorneys
David C. Marcus

QUEEN INSURANCE COMPANY OF AMERICA
ORGAIN, BELL & TUCKER, Attorneys

THE TRAVELERS INSURANCE COMPANY
STRONG, PIPKIN, STRONG & NELSON, Attorneys
Michael D. Mattheny

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THE STATE OF TEXAS)
COUNTY OF JEFFERSON)

BEFORE ME, the undersigned authority, on this day personally appeared MICHAEL D. MATHENY, one of the attorneys for defendant, The Travelers Insurance Company, in the above entitled and numbered cause, and on his oath stated that the foregoing allegations and statements are true and correct.

Michael D. Matheny

SUBSCRIBED AND SWORN TO BEFORE ME on this 31st day of August, 1964.

Elaine Ritter
Notary Public in and for
Jefferson County, Texas