IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

FILED
AUG 29 1967
M
James R. Cooney, Clerk, U. S. Court
By Emelyn G. Walker
DEPUTY

CLAUDE J. TOMPLAIT	§	
	§	
VS.	§	CIVIL ACTION NO. 5402
	§	
COMBUSTION ENGINEERING, INC., ET AL	§	
	§	

COMPLAINT IN INTERVENTION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Texas Employers' Insurance Association, hereinafter styled Intervenor, complaining of all defendants herein except Johns-Manville Sales Corporation, Johns-Manville Products Corporation and Johns-Manville Fiber Glass, Inc., and for its Complaint in Intervention would show the Court the following:

I.

The intervenor is a business corporation duly organized by law and 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 Johns-Manville Corporation during the time he suffered the injuries, or some of the injuries, made the basis of this suit. During such time, Texas Employers' Insurance Association was the workmen's compensation insurer of Johns-Manville Corporation under the laws of the State of Texas.

III.

By way of agreed judgment in the District Court of Orange County, Texas, Texas Employers' Insurance Association did pay to

Claude Tomplait, the plaintiff herein, the sum of $1,000.00, as compensation for injuries received by him while an employee of Johns-Manville Corporation. 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 Texas Employers' Insurance Association is subrogated to the right of plaintiff herein, to the extent of its payment as aforesaid.

V.

The intervenor herein adopts such allegations as the plaintiff has heretofore made or will in the future make, except as to Johns-Manville Sales Corporation, Johns-Manville Products Corporation, and Johns-Manville Fiber Glass, Inc., and further says that the injuries to Claude J. Tomplait proximately were caused by the negligence of the agents, servants, or employees of the defendants herein except Johns-Manville Sales Corporation, Johns-Manville Products Corporation, and Johns-Manville Fiber Glass, Inc. The intervenor specifically excludes from such allegations the three above-named corporations, and makes no complaint of these.

VI.

By virtue of law, the intervenor 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 intervenor's subrogation rights, and is not to be read to the jury.

VII.

Further, in connection with this complaint in intervention, the intervenor would show that it is entitled to recover a reasonable attorney's fee in connection with the assertion of its subrogation

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rights and these attorney's fees may be fixed by the court.

WHEREFORE, premises considered, the intervenor prays that the plaintiff and defendants, except for Johns-Manville Sales Corporation, Johns-Manville Products Corporation, and Johns-Manville Fiber Glass, Inc., 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 said defendants, excluding the three above-named corporations, the sum of $1,000.00, together with a reasonable attorney's fees, and costs of court. The intervenor prays for such other and further relief to which it may show itself entitled.

Respectfully submitted,

KEITH, MEHAFFY & WEBER,
Attorneys for Intervenor,
Texas Employers' Insurance Association

By _____
Of Counsel

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C E R T I F I C A T E

A copy of the foregoing Complaint in Intervention was sent to the following attorneys of record:

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