IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

FILED

SEP 14 1967 19__

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

By _____ DEPUTY

CLAUDE J. TOMPLAIT

VS.

COMBUSTION ENGINEERING, INC. ET AL

CIVIL ACTION NO. 5402

MOTION FOR LEAVE TO INTERVENE

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now Queen Insurance Company of America, a corporation existing under and by virtue of law, and moves for leave to intervene in the above styled and numbered cause, and in support of this motion alleges:

I.

This lawsuit is a claim for damages because of injuries to the plaintiff, Claude J. Tomplait.

II

At the time of the said injuries, Claude J. Tomplait was an employee of The Aber Company and Queen Insurance Company of America was the workmen's compensation insurer under the laws of the State of Texas, for the said employer. By way of agreed judgment in the District Court of Orange County, Texas, 128th Judicial District, said Queen Insurance Company of America paid to Claude J. Tomplait the sum of $1,500.00 in compromise settlement of claim made against the said Queen Insurance Company of America for the injuries mentioned in paragraph number I.

III

By virtue of Section 6A, Article 8307, V.A. T. S., Queen Insurance Company of America is subrogated to the rights

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of the plaintiff herein to the extent of its payment under the compensation law, and in effect Queen Insurance Company of America actually owns a portion of the cause of action herein asserted.

IV

This intervention will not in any manner delay the trial of the case and will not raise any jurisdictional or venue questions.

V.

A copy of the proposed complaint in intervention is attached hereto.

WHEREFORE, premises considered, Queen Insurance Company of America prays that it be granted leave to intervene herein.

Respectfully submitted,

Attorney for Intervener, Queen Insurance Company of America

615 San Jacinto Building
Beaumont, Texas 77701

C E R T I F I C A T E

A copy of the foregoing Motion was sent to the following attorneys of record:

Mr. Ben L. Reynolds
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Attorney for Defendant EAGLE-INCHER INDUSTRIES, INC.

Mr. John D. Rienstra
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Attorney for Defendant OWENS-CORNING FIBER GLASS CORPORATION

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Mr. Ward Stephenson, Attorney at Law
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Attorneys for Plaintiff

George E. Murphy, Attorney for Intervenor, Queen Insurance Company of America

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IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

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

COMPLAINT IN INTERVENTION

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now Queen Insurance Company of America, hereinafter styled, Intervener, complaining of all defendants herein, and for its Complaint in Intervention, would show the Court the following:

I

The intervener 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 The Aber Company during the time he suffered the injuries, or some of the injuries, made the basis of this suit. During such time Queen Insurance Company of America was workmen's compensation insurer of The Aber Company under the laws of the State of Texas.

III

By way of agreed judgment in the District Court of Orange County, Texas, Queen Insurance Company of America

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did pay to Claude J. Tomplait, the plaintiff herein, the sum of $1,500.00 as compensation for injuries received by him while in the employ of The Aber Company. 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 Queen Insurance Company of America 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, and further it says that the injuries to Claude J. Tomplait proximately were caused by the negligence of the agents, servants, or employees of the defendants herein.

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

WHEREFORE, premises considered, intervenor prays that the plaintiff and defendants be served with a copy of this

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Complaint in Intervention and that upon final hearing hereof it do have and recover of and from the defendants the sum of $1,500.00, together with a reasonable attorney fee and for costs of court. Intervenor prays for such other and further relief to which it may show itself entitled.

Respectfully submitted,

George E. Murphy, Attorney
for Intervenor, Queen Insurance
Company of America

615 San Jacinto Building
Beaumont, Texas 77701

CERTIFICATE

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

Mr. Ward Stephenson, Attorney at Law
Stephenson, Thompson & Morris
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Orange, Texas

Attorney for Plaintiff

Mr. Ben L. Reynolds, Attorney at Law
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Attorney for Defendant EAGLE-INCHER INDUSTRIES, INC.

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Attorney for Defendants COMBUSTION ENGINEERING, INC. and REFRACTORY & INSULATION CORPORATION

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