IN THE UNITED STATES DISTRICT COURT FOR

THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

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

FILED
SEP 25 1967
____M _____ 19____
James R. Cooney, Clerk, U. S. Court
By Virginia R. Lewis DEPUTY

MOTION FOR LEAVE TO INTERVENE

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now The Travelers Insurance Company, 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 Armstrong Contracting & Supply Corporation, and The Travelers Insurance Company was the workmen's compensation insurer under the laws of the State of Texas for the said employer. By way of agreed judgment in Cause No. A-13916 in the District Court of Orange County, Texas, 128th Judicial District, said The Travelers Insurance Company paid to Claude J. Tomplait the sum of $5,000.00 in compromise settlement of claim made against the said The Travelers Insurance Company for the injuries mentioned in paragraph number I, and in addition thereto paid the sum of $12.55 costs assessed by the court in said case.

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III

By virtue of Section 6A, Article 8304, V. A. T. S., The Travelers Insurance Company is subrogated to the rights of the plaintiff herein to the extent of its payment under the compensation law, and in effect The Travelers Insurance Company 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, The Travelers Insurance Company prays that it be granted leave to intervene herein.

Respectfully submitted,

615 San Jacinto Building
Beaumont, Texas 77701

George E. Murphy, Attorney
for Intervenor, The Travelers
Insurance Company

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.

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Attorney for Defendant OWENS-CORNING FIBER GLASS CORPORATION

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George E. Murphy, Attorney for Intervenor The Travelers Insurance Company

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IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

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

COMPLAINT IN INTERVENTION

TO THE HONORABLE JUDGE OF SAID COURT:

Comes Now The Travelers Insurance Company, hereinafter styled Intervenor, complaining of all defendants herein, 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 Armstrong Contracting & Supply Corporation during the time he suffered the injuries, or some of the injuries, made the basis of this suit. During such time The Travelers Insurance Company was workmen's compensation insurer of Armstrong Contracting & Supply Corporation under the laws of the State of Texas.

III

By way of agreed judgment in the District Court of Orange County, Texas, The Travelers Insurance Company did pay

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to Claude J. Tomplait, the plaintiff herein, the sum of $5,000.00 in compromise settlement of compensation for injuries received by him while in the employ of Armstrong Contracting & Supply Corporation, and in addition thereto paid the sum of $12.55 costs assessed by the court in said case. 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 The Travelers Insurance Company 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

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that the plaintiff and defendants 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 defendants the sum of $5,000.00, 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, The Travelers Insurance Company

615 San Jacinto Building
Beaumont, Texas 77701

CERTIFICATE

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

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Attorney for Plaintiff

Mr. Ben L. Reynolds, Attorney at Law
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BEAUMONT DIVISION

CLAUDE J. TOMPLAIT

VS.

COMBUSTION ENGINEERING, INC. ET AL

MOTION FOR LEAVE TO INTERVENE
(THE TRAVELERS INSURANCE COMPANY)

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