| DIST/OFFICE | DOCKET YR. | DOCKET NUMBER | FILING DATE MO. | DAY | YEAR | J | N/S | O | R | R 23 | DEMAND $ 354 OTHER | JUDGE NUMBER | JURY DEM. | DOCKET YR. | DOCKET NUMBER |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1085/4 | 76 | 0111 | 3 | 11 | 76 | 4 | 365 | 2 | 12 | | | 8509 | | 76 | 0111-B |

**PLAINTIFFS**

JESSIE SCHULZ, Administratrix of the Estate of RAYMOND JOSEPH SCHULZ, deceased

**DEFENDANTS**

WESTINGHOUSE ELECTRIC CORPORATION, A Pennsylvania Corporation

vs

CONSOLIDATED FABRICATORS, INC., a Massachusetts Corporation and ~~AUSTIN BUILDING COMPANY, a Texas Corporation~~

Dismissed 5-2-78

Third Party Defendants

**CAUSE**

28 U.S.C. 1332-Diversity of Citizenship and amount in controversy exceeds sum of $10,000, exclusive of interest & costs.
28 U.S.C. 1441-Right of Defendant to remove case to Federal Court

**ATTORNEYS**

Mitchell E. Shamas
Ash & Shamas
P. O. Box 727
Okmulgee, OK 74447
Tulsa Office
587-9318

Robert L. Battoglia (Westinghouse)
Joseph M. Best
Joseph A. Sharp
~~200 Franklin Building~~ 300 Oil Capital Bldg
Tulsa, OK 74103
582-5877

~~Thomas R. Brett 533-1115 (Austin)~~
~~Suite 400, 201 West Fifth~~
~~Tulsa, Oklahoma 74103~~

Alfred B. Knight
310 Beacon Bldg.
Tulsa, OK 74103
584-6007
(Attys for Third Party Deft. Consolidated Fab. Inc.)

George H. Mason
Worcester Plaza
446 Main Street
Worcester, Mass. 01606

| ☐ CHECK HERE IF CASE WAS FILED IN FORMA PAUPERIS | FILING FEES PAID | | | STATISTICAL CARDS | |
|---|---|---|---|---|---|
| | DATE | RECEIPT NUMBER | C.D. NUMBER | CARD | DATE MAILED |
| | | | | JS-5 | 4-1-76 |
| | | | | JS-6 | 1-1-79 |

| DATE | NR. | PROCEEDINGS |
|---|---|---|
| 1976 | | |
| 3-11 | 1. | Petition for removal, filed, from Dist. Court of Tulsa Co., OK. ph |
| 3-11 | 2. | Bond on removal, filed. ph |
| 3-11 | 3. | Notice of filing of petition and bond for removal by Westinghouse Electric Corporation, filed. ph |
| 3-11 | 4. | Deft's application for add. time to file answer, filed. ph |
| 3-11 | 5. | Ack. of the Clerk of the Dist. Ct. in and For Tulsa, Co., State of OK of Receipt of copy of the notice, petition and bond for removal, filed.ph |
| 3-17 | -- | Order, filed, as part of appl., granting Deft. Westinghouse Electric Corporation until 4-12-76 to file their ans. (AEB-J)v -cps. mld. |
| 6-2 | 6. | Answer of def., filed. rm |
| 6-22 | MO | Parties are direct to hold PT conf. on or before 8-5-76 & file PT Order on or before 8-11-76. (AEB-J)s cps by cert ml |
| 9-17 | 7. | Joint Application for additional time to file Pre-trial order, filed. O to J as part of Applic. |
| 9-17 | | Order, as part of appl., filed, granting parties til 12-15-76 to file PT Order. (AEB-J)k cps mld |
| 12-29 | 8. | Deft. Westinghouse Elec. Corp's Motion to bring in third party defts., filed. ph (Otto J) |
| 1977 | | |
| 1-7 | 9. | Order, filed, granting leave to make Consolidated Fabricators, Inc. and Austin Building Co. third party defts. (AEB-J)ph cps mld |
| 1-26 | 10. | Deft. Westinghouse's third party complaint against Consolidated Fabricators, Inc., and Austin Building Co., filed. Summons issued.k |
| 2-16 | 11. | Plea to the jurisdiction & mo/dismiss for failure to state a claim against third-party deft. upon which relief can be granted, filed. hm |
| 2-16 | 12. | Brief of third party deft. Austin Bldg. Co. in support of mo/dismiss, filed. hm |
| 2-17 | MO: | Ordered that parties file response within 10 days to third-party deft. Austin's mo/dismiss. (AEB-J)hm |
| 2-23 | 13 | Deft. and 3rd party pltf. appl. for additional time to file brief. fld O to J. ho |
| 2-24 | 14 | Order, fld granting deft. and 3rd party pltf. ext of time until 3-9-77 to file their response and brief in supp. to 3rd party deft. plea to the jurisdiction and motion to dismiss for failure to state a claim against 3rd party deft. upon which relief can be granted. (AEB-J) cps mld. ho |
| 2-24 | 15 | Affidavit of George Hulsey. fld. ho |
| 3-9 | 16 | Deft & Third Party pltf. Westinghouse Electric Corp. appl. with order for additional time to file brief. fld. O to J. ho |
| 3-11 | | Order, as part of appl. filed, granting deft. Westinghouse til 3-16-77 to respond to deft. Austin Bldg. Co.'s mot. to dismiss. (AEB-J)k cps mld |
| 3-16 | 17 | Brief of deft. and third party pltf., Westinghouse Electric Corp., in response to third party deft. Austin Bldg. Co. motion to dismiss. fld. ho |
| 3-18 | | Ret of USM service of summons & Third Party Compl. fld. served Consolidated Fabricators, Inc., by serving Joseph Grant, Trea. on 2-22-77 in Auburn, Mass.; served Consolidated Fabricators, Inc. by serving Joseph Grant on |

cont.

CIVIL DOCKET CONTINUATION SHEET

| PLAINTIFF | DEFENDANT | DOCKET NO. 76-C-111 |
|---|---|---|
| Jessie Schultz | Westinghouse Electric Corp., et al | PAGE 3 OF 2 ~~XXXXX~~ sheets |

| DATE 1977 | NR. | PROCEEDINGS |
|---|---|---|
| 3-18 | cont. | 3-4-77 in Westboro, Mass.; served Austin Building Co., by serving The Corporation Co., on 1-27-77 in OKC. (USM $12.00) ho |
| 3-22 | 18 | Third Party Deft. Consolidated Fabricators, Inc. answer to third party compl. fld. by Westinghouse Elec. Corp. fld. ho |
| 4-5 | 19. | Reply brief of third party deft. Austin in support of mot. to dismiss, filed.k |
| 5-11 | MO: | Case referred to Magistrate Robert S. Rizley for Findings and Recommendations on all motions. (AEB-J) njb |
| 5-23 | 20. | Pltf. Jessie Schulz request of deft. Westinghouse to inspect and copy, filed. lm |
| 5-27 | MO | Case set for hearing on Deft. Austins Plea to the Jurisdiction and mot. to dismiss third party compl. for failure to state a claim against which relief can be granted, before Mag. on 6-10-77 at 4:00 P.M. (RSR-MAG) not. mld. ho |
| 6-10 | 21 | Third Party Deft. Consolidated Fabricators, Inc. interrog. to Westinghouse Elec. Corp. fld. ho |
| 6-10 | Min | Case called for hrg. on third party deft. Austin's plea to the jurisdiction and mot. to dismiss third party compl. of deft. Westinghouse. Pltf. not present nor represented. Deft. and third party defts. represented. Deft. Austin's motion taken under advisement. Mag. to prepare findings and recommendations. Deft. Consolidated Fabricators directed to file brief in support of mot. to dismiss contained in paragraph I of the Answer within ten (10) days, and deft. Westinghouse to respond thereto 10 days thereafter. (RSR-Mag)k |
| 6-30 | 22.. | Third Party Deft. Consolidated Fabricators Motion to Dismiss, filed. b |
| 6-30 | 23. | Brief in support of third Party Deft., Consol. Fab.'s motion to dismiss, filed. b |
| 6-30 | 24 | Deft. & Third Party Pltf., Westinghouse Elec. Corp. appl. w/order for additional time to ans. interrog. fld. ho O to J. |
| 7-1 | 25 | Third Party Deft., Consolidated Fabricators, Inc., amendment to mot. to dismiss. fld. ho |
| 7-5 | -- | Order, as part of appl., filed, granting deft. & third party pltf. Westinghouse until 7-25-77 to answer interrogs. (AEB-J)k cps mld |
| 7-11 | 26 | Deft. & third party Pltf. Westinghouse Electric Corp. appl. w/order for additional time to file brief. fld. ho O to J. |
| 7-12 | MO | The Court has for consideration the appl. for time to file brief fld. by deft. Westinghouse, and being fully advised in the premises, it is ordered that deft. Westinghouse is granted until 7-21-77 to file its response to mot. to dismiss filed by third party deft. Consolidated Fabricators, Inc. (AEB-J)k cps mld |
| 7-21 | 27 | Deft.& 3rd party Pltf. Westinghouse Electric Corp. appl. for ext. of time to file brief. fld. ho O to J. |
| 7-25 | MO | The Court has for consideration the appl. of deft. Westinghouse for additional time to respond to deft. Consolidated Fabricators' mot. to dismiss, and, being fully advised in the premises, IT IS ORDERED that said appl. should be granted, and deft. Westinghouse is granted until 7-31-77 to file a response to deft. Consolidated's mot. to dismiss. (AEB-J)k cps mld |

CIVIL DOCKET CONTINUATION SHEET

| PLAINTIFF | DEFENDANT | DOCKET NO. _____ PAGE ____ OF ____ PAGES |
|---|---|---|

| DATE 1977 | NR. | PROCEEDINGS |
|---|---|---|
| 7-25 | 28 | Deft. & 3rd party Pltf., Westinghouse Elec. corp. appl. for additional time to ans. interrog. fld. ho O to J. |
| 7-26 | MO: | The Court has for consideration deft. Westinghouse's appl. for time until 8-15-77 to answer interrogatories propounded by third party deft. Consolidated Fabricators, and finds that said appl. should be granted. IT IS SO ORDERED. (AEB-J)k cps mld |
| 7-28 | 29 | Deft. & 3rd party Pltf. brief in response to 3rd party Deft. Consol. Fabricators, Inc. mot. to dismiss. fld. ho |
| 8-8-77 | | Deposition of Jessie Shulz on behalf of deft., filed. ($36.00)g |
| 8-15 | 30 | Deft. Westinghouse's appl. to answer interrogs. propounded by third party deft. Consolidated 8-30-77, filed.k O to J as part of appl |
| 8-17 | | Order as part of appl., fld. granting Deft. & 3rd party Pltf. an ext. of time until 8-30-77 to file ans. to interrog. (AEB-J) cps mld. ho |
| 8-19 | 31 | 3rd party Deft., Consolidated, brief in reply to brief of Deft. & 3rd party Pltf. Westinghouse in response to Consolidateds mot. to dismiss. fld. ho |
| 8-26 | 32 | Deft. & 3rd party Pltf. Westinghouse, ans. to interrog. fld. ho |
| 12-30 | MO | Mag. recommends that third party defts' mots. to dismiss be sustained & said defts. are directed to prepare F&R of the Mag. w/in 10 days. (RSR-Mag)k ntc by KT on 1-3-78 |
| 1978 | | |
| 1-18 | 33. | Findings & Recommendations, filed. Mag. recommends that third party defts' mots. to dismiss be sustained. (RSR-Mag)k cps mld |
| 1-25 | 34. | Deft. Westinghouse's objections to F&R of the Mag. w/ brief incorporated, filed.k |
| 1-25 | MO | Third party defts. are granted 10 days to respond to deft. Westinghouse's objections to F&R of the Mag. (AEB-J)k cps mld |
| 2-3 | 35. | Response to objs. of deft. Westinghouse to F&R of Magistrate,filedm |
| 2-6 | 36 | 3rd Party Deft. Austin Bldg. Co. response to 3rd Party Deft. Westinghouse obj. to the F/R of Mag. fld. ho |
| 2-17 | 37 | 3rd Party Deft. Consolidated Fabricators second set of interrog. to Deft. & 3rd Party Pltf. Westinghouse, fld. ho |
| 3-16 | 38 | Deft. & 3rd Party Pltf. Westinghouse appl. for additional time to ans.interrog. fld. ho O as part of appl. to J. |
| 3-17 | MO: | IT IS ORDERED that Deft. & 3rd Party Pltf. Westinghouse's applic. for add'l time to ans. interrog propounded by 3rd party deft. Consol. Fab. is granted, & parties are given til 4-21-78.(AEB-J)b cps mld to movant |
| 4-19 | 39 | Deft. & 3rd party Pltf. Westinghouse, appl. for ext. of time to ans. interrog., second set, of Consolidated Fab. fld. ho O as part of appl. to J. |
| 4-21 | | Order filed, granting 3rd party Pltf. til 5-21-78, to file answer to interrogatories. (AEB-J)b cps to movant |
| 5-2 | 40 | Order, fld. & entered It is ordered that the Plea to Jurisdiction & mot. to dismiss for failure to state a claim against 3rd party Deft. upon which relief can be granted, fld. by 3rd party Deft., Austin Bldg. Co. is sustained & the obj. of Westinghouse to F/R of the Mag. with reference to said mots. is overruled. Further Ordered that the obj. of Westinghouse to F/R of Mag. as to the mot. to dismiss & amended mot. to dismiss is sustained & said mot. to dismiss & amended mot. to dismiss is referred to the U. S. Mag. for oral argument & F/R. By so ordering, the Ct. makes no indication at this |

CIVIL DOCKET CONTINUATION SHEET

FPI-MAR

| PLAINTIFF | DEFENDANT | DOCKET NO. _____ PAGE ___ OF ___ PAGES |
|---|---|---|

| DATE 1978 | NR. | PROCEEDINGS |
|---|---|---|
| 5-2 | cont. | juncture as to the merits of the mots. & F/R, but due to the obj. premised on the basis that Westing house is entitled to oral argument, the Ct. makes this ruling. (AEB-J)ho c/m |
| 5-5 | MO: | Case is set for hearing before Mag. Rizley for oral argument on 3rd party deft. consolidated Fabricators, Inc.'s motion to dismiss & amended motion to dismiss, on 5-15-78, at 3:00 P.M.(RSR-Mag) b nts by KT |
| 5-15 | Min | Case called for oral argument before the Mag. on deft. Consolidated Fabricators' mot. to dismiss and amended mot. to dismiss. Pltf. neither present nor represented. Defts. represented. Motions taken under advisement. (RSR-Mag)k |
| 5-22 | 41 | Deft. Westinghouse's appl. for ext. until 5-31-78 to answer 2nd set of interrogs. of third party deft. Consolidated Fabricators, fld.k O |
| 5/26 | -- | Order, as part of appl. (pldg 41), fld., granting Deft. and 3rd party pltf. until 5/31/78, to file answers to interrogs. (AEB-J)v -cps. mld. |
| 5-31 | 42 | Deft. & 3rd party Pltf. Westinghouse appl. for ext. of time to ans. 3rd party Deft. Consolidated Fab. interrog. fld. O as part of appl. to J. ho |
| 5-31 | -- | Order, as part of appl., filed, granting deft. Westinghouse until 6-5-78 to answer interrogs. propounded by third party deft. Consolidated Fabricators. (AEB-J)k cpy mld to movant |
| 6-6 | 43 | Deft. Westinghouse ans. to Pltfs. second set of interrog. fld. ho |
| 8-4 | 44 | Findings & Recommendations of the Mag., filed. Mag. recommends that third party deft. Consolidated Fabricators' mot. to dismiss and amended mot. to dismiss third party compl. of deft. Westinghouse should be overruled. (RSR-Mag)k cps mld |
| 8-23 | 45 | Order, filed, that third party deft. Consolidated Fabricators' mot. to dismiss and amended mot. to dismiss third party compl. of deft. Westinghouse Electric Corp. is overruled. (AEB-J)k cps mld |
| 10-11 | MO | Parties are directed to hold a pre-trial conf. on or before 11-29-78 & file an agreed pre-trial order on or before 12-6-78. (AEB-J)k cps mld |
| 12-13 | 46 | Joint appl. for order of dismissal, fld. ho O as part of appl. to J. |
| 12-14 | -- | Order of dismissal with prejudice, filed & entered. (AEB-J)k cps mld |

CIVIL DOCKET CONTINUATION SHEET

FPI-MAR

| PLAINTIFF | DEFENDANT | DOCKET NO. _____<br>PAGE ___ OF ___ PAGES |
|---|---|---|

| DATE | NR. | PROCEEDINGS |
|---|---|---|
| | | |