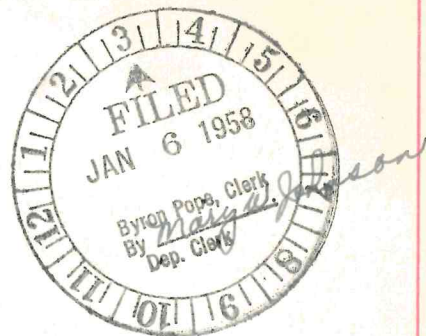


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
NORTHERN DIVISION



JOHN L. LEWIS and JOSEPHINE ROCHE,)
as TRUSTEES of the UNITED MINE WORKERS)
OF AMERICA WELFARE AND RETIREMENT FUND,)

Plaintiffs,)

v.)

JAMES M. PENNINGTON, RALPH E. PHILLIPS)
and BRUCE PHILLIPS, Individually and)
trading as PHILLIPS BROTHERS COAL)
COMPANY, A Partnership,)

Defendants.)

Civil Action No. 3431

C O M P L A I N T

I.

Plaintiffs are Trustees of the United Mine Workers of America Welfare and Retirement Fund of 1950, a trust with its residence and place of business at 907 Fifteenth Street, Northwest, in Washington, District of Columbia. Trustee John L. Lewis is a citizen of the State of Illinois. Trustee Josephine Roche is a citizen of the State of Colorado. The Defendants, James M. Pennington, Ralph E. Phillips and Bruce Phillips, are citizens of the State of Tennessee and are engaged in certain coal mining operations in the State of Tennessee, operating as Phillips Brothers Coal Company, a partnership. Defendants are sued in their own right and as partners in the Phillips Brothers Coal Company. The principal place of business of the Phillips Brothers Coal Company is Oneida, Scott County, Tennessee, with its mailing address at Post Office Box 56, Oneida, Tennessee.

II.

The amount in controversy, exclusive of interest and costs, exceeds Three Thousand Dollars (\$3,000.00).

III.

The United Mine Workers of America Welfare and Retirement Fund of 1950 was created by the National Bituminous Coal Wage Agreement of 1950.

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IV.

Between October 1, 1953 and November 30, 1957, the Defendants, James M. Pennington, Ralph E. Phillips and Bruce Phillips, individually and trading as Phillips Brothers Coal Company, a partnership, of Oneida, Scott County, Tennessee, were engaged in the operation of certain coal mines in and about Oneida, Scott County, Tennessee. On or about October 1, 1953, the Phillips Brothers Coal Company, a partnership, and the United Mine Workers of America entered into the National Bituminous Coal Wage Agreement of 1950 as Amended September 29, 1952. On or about September 8, 1955 said Phillips Brothers Coal Company and the United Mine Workers of America entered into the National Bituminous Coal Wage Agreement of 1950 as Amended effective September 1, 1955. On or about October 22, 1956 said Phillips Brothers Coal Company and the United Mine Workers of America entered into the National Bituminous Coal Wage Agreement of 1950 as Amended effective October 1, 1956. Pursuant to the terms of said Amendment dated September 29, 1952, said Amendment effective September 1, 1955 and said Amendment effective October 1, 1956, the Defendants were required to pay unto the United Mine Workers of America Welfare and Retirement Fund the sum of Forty Cents (40¢) per ton on each ton of coal produced for use or sale.

V.

Between July 1, 1954 through and including November 30, 1957, the said Defendants produced approximately 39,000 tons of coal for use or sale, and as a result thereof, and in accordance with the terms of said National Bituminous Coal Wage Agreement of 1950 as Amended September 29, 1952, said National Bituminous Coal Wage Agreement of 1950 as Amended effective September 1, 1955 and said National Bituminous Coal Wage Agreement of 1950 as Amended effective October 1, 1956, referred to in Paragraph IV of this Complaint, there became due and owing by said Defendants to the Plaintiffs the sum of \$15,600.00. Said Defendants made payment on this amount in the sum of \$1,713.51. Said Defendants made payment on this amount in the sum of \$1,713.51, thereby leaving a balance due and owing by the Defendants to the Plaintiffs of \$13,886.49. The Defendants have neglected or failed to pay such amount.

VI.

Plaintiffs have demanded that the Defendants pay unto them said sum referred to in Paragraph V of this Complaint, but the Defendants have refused and continue to refuse to make said payment.

WHEREFORE, the Plaintiffs pray this Honorable Court to grant them judgment against James M. Pennington, Ralph E. Phillips and Bruce Phillips, individually and trading as Phillips Brothers Coal Company, a partnership, in the amount of THIRTEEN THOUSAND EIGHT HUNDRED EIGHTY-SIX DOLLARS AND FORTY-NINE CENTS (\$13,886.49) with interest, and an additional sum equivalent to Forty Cents (40¢) per ton for all coal produced for use or sale in excess of 39,000 tons covering the period July 1, 1954 through and including November 30, 1957 and subsequent thereto with interest, plus the costs of this action.



R. R. Kramer
904 Burwell Building
Knoxville, Tennessee



Val J. Mitchell
907 Fifteenth Street, N.W.
Washington 5, D. C.



Harold H. Bacon
907 Fifteenth Street, N.W.
Washington 5, D. C.



Charles L. Widman
907 Fifteenth Street, N.W.
Washington 5, D. C.

Attorneys for the Plaintiffs