

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,

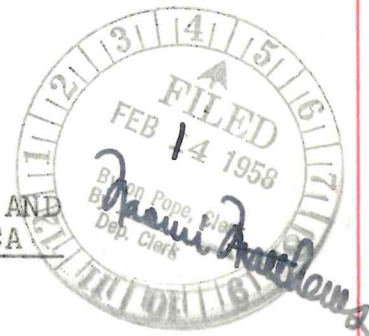
VS.

CIVIL ACTION
NO. 3431

JAMES M. PENNINGTON, RALPH E. PHILLIPS
and BRUCE PHILLIPS, Individually and
trading as PHILLIPS BROTHERS COAL
COMPANY, a partnership,

Defendants.

CROSS-CLAIM AGAINST PLAINTIFFS AND
UNITED MINE WORKERS OF AMERICA



I.

The amount in controversy exceeds, exclusive of interest and costs, the sum of Three Thousand Dollars (\$3,000).

II.

The jurisdiction of this Court is invoked under Title 15, USCA, Sections 1, 2 and 3, and if the validity of the contract mentioned in the foregoing answer is sustained, then in that event, the jurisdiction of the Court is invoked also under Title 29, USCA, Section 185. Jurisdiction is further invoked under Title 29, USCA, Section 158(b).

III.

Cross-plaintiffs here show that after entering into the contracts alleged in the Complaint and during the time that said contracts were in full force and effect, the United Mine Workers of America forcibly closed down the cross-plaintiffs' mining operation and forcibly kept said mine closed over a

period of time, which was accomplished by the presence of a mob comprised of the members^{and/or agents} of the United Mine Workers of America and was done for the purpose of fulfilling the conspiracy in which the United Mine Workers of America was engaged of restraining the shipment of cross-plaintiffs' coal in interstate commerce.

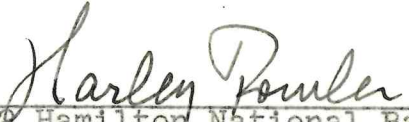
It is further shown that throughout practically the entire time that the alleged contracts were alleged to be in force, the United Mine Workers of America conducted what amounted to a reign of terror which rendered cross-plaintiffs and their employees in a constant state of fear of bodily harm, as armed mobs composed of the members of the United Mine Workers of America intermittently marched through the countryside, closing numerous mines on their forays.

All of the above was to cross-plaintiffs' damage in the amount of One Hundred Thousand Dollars (\$100,000), which amount cross-plaintiffs say should be trebled under the provisions of the Sherman Antitrust Act hereinbefore referred to, being Title 15, USCA, Section 15.

And the cross-plaintiffs say that the acts and deeds aforesaid of the United Mine Workers of America constitute a just claim at common law against said United Mine Workers of America in the amount of One Hundred Thousand Dollars (\$100,000), together with punitive damages in the amount of Two Hundred Thousand Dollars (\$200,000).

WHEREFORE, in accordance with Rule 13(h), cross-plaintiffs pray for an order requiring that the United Mine Workers of America be brought in as cross-defendants hereto and that judgment be entered against the cross-defendants dismissing their complaint herein and that cross-plaintiffs have judgment against the United Mine Workers of America

adjudging said agreements ineffective and awarding judgment against the United Mine Workers of America and in favor of cross-plaintiffs in the amount of Three Hundred Thousand Dollars (\$300,000), together with cost of suit, including a reasonable attorneys' fee; and pray for service of process upon Ed Daniels, James Goddard, and Tom Taylor, residents of Campbell County, Tennessee, as members of the United Mine Workers of America as a class representing said United Mine Workers of America and all members thereof.


1412 Hamilton National Bank Bldg.
Knoxville, Tennessee


Bank of Knoxville Building
Knoxville, Tennessee

Attorneys for Cross-plaintiffs
James M. Pennington, Raymond
E. Phillips, Burse Phillips,
and Ralph E. Phillips and
for the partnership, Phillips
Brothers Coal Company

I certify that a true copy of the foregoing answer and cross-complaint has been served upon Russell R. Kramer, one of the attorneys for the plaintiffs, by leaving the same at his office in the Burwell Building, Knoxville, Tennessee, this 14th day of February, 1958.

