

UNITED STATES OF AMERICA

EASTERN DISTRICT OF TENNESSEE

I, Karl D. Saulpaw, Jr., Clerk of the United States District Court in and for the Eastern District of Tennessee, do hereby certify that the annexed pleadings numbered 1 through 548 are the original papers which constitute the record on appeal in the case s of:

JOHN L. LEWIS AND JOSEPHINE ROCHE,
as Trustees of the United Mine
Workers of America Welfare and
Retirement Fund

HENRY G. SCHMIDT, TRUSTEE
Plaintiffs

v.

Civil No. 3431

JAMES M. PENNINGTON, RALPH E. PHILLIPS
AND BURCE PHILLIPS, Individually and
t/a PHILLIPS BROTHERS COAL COMPANY
a partnership, and

LILLIAN GOAD PHILLIPS
Defendants-Appellants- Appellees

V.

UNITED MINE WORKERS OF AMERICA
Third Party Defendant-Appellee-
Appellant

JOHN L. LEWIS, ET AL
Plaintiffs

V.

Civil No. 3432

HARRY P. STANSBERRY, Individually
and t/a STANSBERRY COAL COMPANY
Defendants-Appellants-Appellees

V.

UNITED MINE WORKERS OF AMERICA
Third Party Defendant-Appellee-
Appellant

JOHN L. LEWIS, ET AL
Plaintiffs

V.

Civil No. 3433

JESSE C. FESLER and NOLA FESLER,
Individually and t/a FESLER COAL COMPANY
Defendants-Appellants-Appellees

V.

UNITED MINE WORKERS OF AMERICA
Third Party Defendant-Appellee-
Appellant.

JOHN L. LEWIS, ET AL
Plaintiffs

V.

Civil No. 3446

U. R. ARNOLD AND MRS. U. R. ARNOLD
Individually and t/a ARNOLD STRIP MINING COMPANY
a partnership, THE ARNOLD COAL COMPANY, INC.
Defendants-Appellants-Appellees

V.

UNITED MINE WORKERS OF AMERICA
Third Party Defendant-Appellee-
Appellant.

JOHN L. LEWIS, ET AL)	
Plaintiffs)	
V.)	Civil No. 3493
TENNCO, INCORPORATED)	
Defendant-Appellant-Appellee)	
V.)	
UNITED MINE WORKERS OF AMERICA)	
Third Party Defendant-Appellee-)	
Appellant.)	
JOHN L. LEWIS, ET AL)	
Plaintiffs)	
V.)	Civil No. 3591
E. C. McPHERSON, Individually and)	
t/a E. C. McPHERSON COAL COMPANY)	
M. W. NORQUEST AND E. C. McPHERSON,)	
Individually and t/a McPHERSON COAL COMPANY)	
Defendants-Appellants-Appellees)	
V.)	
UNITED MINE WORKERS OF AMERICA)	
Third Party Defendant-Appellee-)	
Appellant.)	
DEAN COAL COMPANY, a corporation)	
Plaintiff-Appellant-Appellee)	
V.)	Civil No. 4463
UNITED MINE WORKERS OF AMERICA)	
Defendant-Appellee-Appellant)	
W. R. PARTON D.B.A. W. R. PARTON COAL COMPANY)	
Plaintiff-Appellant-Appellee)	
V.)	Civil No. 4988
UNITED MINE WORKERS OF AMERICA)	
Defendant-Appellee-Appellant.)	

IN TESTIMONY WHEREOF, I have hereunto subscribed my
name and affixed the seal of the aforesaid
Court at Knoxville, Tennessee, this the 12th
day of September A.D. 1966.

KARL D. SAULPAW, JR., CLERK
by- *Mary W. Johnson*
Deputy Clerk.

APPEARANCES:

John A. Rowntree
Fowler, Rowntree & Fowler
Hamilton Bank Building
Knoxville, Tennessee

Robert S. Young
Burwell Building
Knoxville, Tennessee

Attorneys for Defendants=Appellants-
Appellees.

Harrison Combs
Willard P. Owens
900 Fifteenth Street, N. W.
Washington, D. C.

M. E. Boiarsky
Kanawha Valley Bank Building
Charleston, West Virginia

E. H. Rayson
Valley Fidelity Bank Building
Knoxville, Tennessee

Attorneys for United Mine Workers
of America
Appellees-Appellants

CIVIL DOCKET

Nov. 24, 1965 cases to be tried by Court sitting without a jury

No. 3431

UNITED STATES DISTRICT COURT

~~PRE-TRIAL NO. 785~~ Jury demand date: March 24, 1958, by defendants and cross-plaintiffs.

9-30-60

D. C. Form No. 106A Rev. *Amended by 1418 (4-20-66)*

FPI ATLANTA-12-16-55-10M-3777

TITLE OF CASE

ATTORNEYS

JOHN L. LEWIS AND JOSEPHINE ECOCHE, AS TRUSTEES OF THE UNITED MINE WORKERS OF AMERICA WELFARE AND RETIREMENT FUND HENRY C. SCHMIDT, TRUSTEE (amended 8-11-58)

VS.

JAMES M. PENNINGTON, RALPH E. PHILLIPS AND * BRUCE PHILLIPS, Individually and trading as PHILLIPS BROTHERS COAL COMPANY, a partnership * Lillian Goad Phillips substituted 9-30-60

v.

UNITED MINE WORKERS OF AMERICA

Cross Defendant

For plaintiff:

R. E. Kramer
904 Burwell Bldg.
Knoxville, Tenn.

Val J. Mitch
Harold H. Bacon
Charles L. Widman
907 Fifteenth St., N.W.
Washington, D. C. (5)

~~Harley Fowler~~
~~Hamilton Bank Bldg.~~
~~Knoxville, Tennessee~~
Harrison Combs
900 Fifteenth St., N.W.
Washington, D. C.

For defendant:

Jerome G. Taylor
Jerome Templeton
Bank of Knoxville Bldg.
Knoxville, Tennessee

Harley Fowler
Fowler, Rowntree & Fowler
1412 Hamilton Bank Bldg.
Knoxville, Tenn.

STATISTICAL RECORD

COSTS

DATE

NAME OR RECEIPT NO.

REC.

DISB.

J.S. 5 mailed Jan. 1958
Reopened July 1965

Clerk

1958
Jan. 6 Kramer, Dye
McNabb &
Greenwood

15.00

J.S. 6 mailed Aug. 1961
J.S. 6 mailed Aug. 1966

Marshal

Jan. 9 1961 F & E
CD 46.

15.00

Basis of Action: \$13,886.49
Breach of Wage
Agreement.

Docket fee

Aug. 28 Kramer, Dye
McNabb &
Greenwood

5.00

Witness fees

Aug. 28 Fowler,
Rowntree &
Fowler

5.00

Action arose at:

Depositions

Aug. 31 F & E
CD 10.

25.00

10.00

25.00

1966

Aug. 15 J.A. Rowntree
Aug. 15 E.H. Rayson
F&E CD 8

5.00

5.00

10.00

No. 3431

DATE 1958	PROCEEDINGS Mar. No. 3410	Date Order or Judgment Noted
Jan. 6	Complaint filed.	(1)
Jan. 6	Bond for costs filed.	(2)
Jan. 6	Summons issued and handed to U. S. Marshal.	
Jan. 15	Summons for 3 defendants returned served on January 14, 1958, and filed. Lawson, D. W.	(3) 20.00
Jan. 22	Order extending time to and including February 14, 1958, within which to answer complaint, entered in Civil Order Book 14, page 176, and filed.	(4)
Jan. 29	Interrogatories to be propounded to James M. Pennington, filed. Copy served by Atty.	(5)
Feb. 14	Order extending time to reply to interrogatories to and including February 28, 1958, entered in Civil Order Book 14, page 267, & filed.	(6)
Feb. 14	Answer of defendants, counterclaim, and cross-claim against plaintiffs and United Mine Workers of America, filed. Copy served on R. R. Kramer, Atty. by Templeton, Atty.	(7)
Feb. 19	Summons issued for United Mine Workers of America and mailed to W. W. Piper, Attorney, for service through Secretary of State, Nashville, Tenn.	
Feb. 19	Summons for United Mine Workers of America issued and handed to U. S. Marshal.	
Feb. 19	Order that summons be issued for service upon the United Mine Workers of America, entered in Civil Order Book 14 page 284, and filed. Copy of Order mailed to R. R. Kramer, Atty. by Clerk	(8)
Feb. 27	Summons returned served through Secretary of State on United Mine Workers of America on Feb. 26, 1958, and filed.	(9)
Feb. 27	Affidavit of Secretary of State with Registered Return Receipt Card attached filed	(10)
Feb. 28	Reply to Interrogatories served on James M. Pennington by plaintiffs filed. Copy served by Atty.	(11)
Feb. 28	Summons returned executed by serving copy upon Mr. R. R. Kramer, Atty., and by serving copy upon Ed Daniels, Agent, and upon Ed Daniels, James Goddard and Tom Taylor, as members of United Mine Workers of America, on Feb. 24 & 26, 1958, and filed. Lawson, D.M.	(12) 21.90
March 5	Amendment to Answer filed. Copy served by attorney.	(13)
March 14	Motion of Cross-Defendant, United Mine Workers of America, to dismiss the cross-claim, filed. Copy served by Atty.	(14)
March 17	Motion to Vacate Order Granted under Rule 13(h) and to Dismiss the Cross-Claim as to the plaintiff Trustees filed. Copy served by Atty.	(15)
March 17	Brief in Support of plaintiffs' motion to vacate Order filed. Copy served by Atty.	
March 17	Plaintiffs' Answer to Counter-Claim filed. Copy served by Atty.	(16)
Mar. 24	Jury Demand of defendants and cross-plaintiffs, filed. Copy served by Atty.	(17)
Mar. 24	Motion to amend the answer, counterclaim and cross-claim filed by the defendants, filed. Copy served by Atty.	(18)
June 2	Motion to add a party plaintiff, filed. Copy served by attorney.	(19)
June 2	Memorandum in support of motion for adding a party plaintiff, filed. Copy served by attorney. John L. Lewis et al	
July 11	Interrogatories propounded by Defendants to Plaintiffs/Set No. 1, filed. Copy Served by Atty.	(20)
July 11	Interrogatories propounded by defendants, Set No. 1, to United Mine Workers of America, filed. Copy served by Atty.	(21)
July 16	Brief in Support of Motion to Amend Pleadings of Defendants and Cross-Plaintiffs and to Clarify Certain Issues Presented, filed. Copies served by Attorney.	
July 16	Brief in reply to Plaintiffs' Motion to Vacate Order filed. Copies served by Attorney.	

(2)

No. 3431

DATE 1958	PROCEEDINGS	Date Order or Judgment Noted
July 18	Order allowing plaintiffs to and including August 15, 1958, within which to file objections to or answer to the interrogatories filed by the defendants and cross-plaintiffs on July 11, 1958, entered in Civil Order Book 15, page 226, & filed.	(22)
July 18	Order allowing cross-defendant to and including August 15, 1958, within which to file objections to or answers to the interrogatories filed by the defendants and cross-plaintiffs on July 11, 1958, entered in Civil Order Book 15, page 225, and filed.	(23)
Aug. 11	Order that Henry G. Schmidt be named additional party plaintiff without prejudice, entered in Civil Order Book 15 page 319, and filed.	(24)
Aug. 11	Order that cross defendant is given to and including Sept. 1, 1958, within which to file objections to or answers to the interrogatories filed by the defendants and cross-plaintiffs, on July 11, 1958, entered in Civil Order Book 15 page 322 and filed.	(25)
Aug. 11	Order that plaintiffs are given to and including September 1, 1958, within which to file objections to or answers to the interrogatories filed by the defendants and cross-plaintiffs on July 11, 1958, entered in Civil Order Book 15 page 321, and filed.	(26)
Aug. 25	Objections to Interrogatories propounded by defendants to plaintiff Trustees of the United Mine Workers of America Welfare and Retirement Fund filed. Copy served by Atty.	(27)
Aug. 25	Answers to Interrogatories propounded by defendants to plaintiff Trustees of the United Mine Workers of America Welfare and Retirement Fund, filed. Copy served by Atty.	(28)
Aug. 29	Order allowing cross-defendant, United Mine Workers of America, to and including December 10, 1958 within which to file objections to or answers to the interrogatories filed by the defendants and cross-plaintiffs on July 11, 1958, entered in Civil Order Book 15, page 390, and filed.	(29)
Sept. 8	Motion of Cross-Defendant for Oral Argument filed. Copy served by Atty.	(30)
Sept. 8	Statement of the Cross-Defendant, United Mine Workers of America, with reference to its motions for oral argument filed. Copy served by Atty.	
Sept. 18	Brief of United Mine Workers with reference to (a) cross-plaintiffs' brief on motion to amend (b) the questions involved on the motion to dismiss, filed. Copy served by attorney.	
Dec. 10	Order allowing cross-defendant, United Mine Workers of America, and with the consent of the defendants and cross-plaintiffs, to and including January 10, 1959 within which to file objections to or answers to the interrogatories filed by the defendants and cross-plaintiffs on July 11, 1958, entered in Civil Order Book 16, page 24, and filed.	(31)
1959		
Jan. 8	Order granting cross defendant United Mine Workers of America, to and including February 10, 1959, within which to file objections to or answers to interrogatories filed by defendants and cross plaintiffs on July 11, 1958, entered in Civil Order Book 16 page 144, and filed.	(32)
Feb. 10	Order allowing cross-defendant to and including March 10, 1959 within which to file objections to or answers to the interrogatories filed by the defendants and cross-plaintiffs on July 11, 1958, entered in Civil Order Book 16, page 345, and filed.	(33)

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DATE 1959	PROCEEDINGS	Date Order or Judgment Noted
March 6	Order that cross-defendant is given to and including May 1, 1959, within which to file objections to or answers to the interrogatories filed by the defendants and cross-plaintiffs on July 11, 1958, entered in Civil Order Book 16, page 406 and filed.	(34)
April 28	Order that the time within which cross-defendant shall have to answer or object to interrogatories propounded by cross plaintiffs to cross defendant is hereby extended from May 1, 1959, to a date hereafter to be determined by agreement of parties or by order of the Court, entered in Civil Order Book 16 page 622, and filed.	(35)
June 19	Brief of the cross-plaintiffs in reply to brief of the United Mine Workers of America; Response to reply of United Mine Workers of America to cross-plaintiffs' brief on motion to amend, filed. Copy served by attorney.	
June 19	Motion of defendants and cross-plaintiffs for production of documents for inspection copying or photographing, filed. Copy served by attorney.	(36)
June 19	Affidavit in support of motion in defendants and cross-plaintiffs for production of documents by the cross-defendant, United Mine Workers of America, filed. Copy served by Attorney.	(37)
June 26	Additional Motion to Amend the Answer, Counterclaim and Cross-Claim filed by the Defendants, filed. Copy served by Attorney.	(38)
June 30	Order of hearing on various motions of cross-defendant, United Mine Workers of America, and motion to amend answer, counter-claim and cross-claim, and the Court having heard argument of counsel, and having fully considered the same, overruled motion to dismiss of cross-defendant as to lack of service of process; further overruled motion to dismiss on all grounds, without prejudice to the cross-defendants to renew the motion at the pretrial, except ground No. 5 and No. 11, which were sustained; Motion to vacate the order issued under Rule 13(h) and to dismiss cross-claim as to cross-defendants' Trustees denied with the right to movants to renew at the pretrial; motion to amend counter-claim and cross-claim granted with the right of the Union and the Trustees to renew their opposition at the pretrial; motion of the defendants and cross-plaintiff for production of documents for inspection, etc. taken under advisement, allowing attorney for UMW fifteen days in which to attempt to work out the matter by stipulation, otherwise all parties to have discovery completed within ninety days from entry of stipulation on production of documents, entered in Civil Order Book 17, page 138.	(39)
June 30	Memorandum opinion of Robt. L. Taylor, District Judge, overruling various motions in part and sustaining said motions in part; further allowing parties 15 days to stipulate as to motion for production of documents for inspection, which motion was taken under advisement, otherwise parties allowed 90 days from entry of stipulation to have discovery completed; order to be prepared accordingly, filed. Copy mailed attorneys by Clerk.	(40)
July 2	Order allowing UMW 20 days from this date within which to file its answer to the counterclaim and cross-action filed herein against it, entered in Civil Order Book 17, page 156, and filed.	(41)
July 2	Order allowing plaintiffs, John L. Lewis, et al, 20 days from this date within which to file answer to the cross-action filed herein by the defendants and to amend their answer to the counterclaim as amended, entered in Civil Order Book 17, page 157, and filed.	(42)
July 2	Order that the motion to dismiss filed by the cross-defendant, United Mine Workers of America, is overruled except with respect to grounds Numbers V and XI, which are sustained; the Cross-defendant, UMW IS Given leave to renew at the pretrial conference, without prejudice, the grounds in said Motion to Dismiss numbered III, IV, VI and VII; the motion of the plaintiffs filed March 17, 1958, to vacate	(43)

DATE 1959	PROCEEDINGS	Date Order or Judgment Noted
July 2	Cont.-- to vacate the order granted under Rule 13(h) and to dismiss the cross-claim as to the plaintiff Trustees, is denied but the right is reserved to plaintiffs to re-new such motion at the time of the pretrial conference. The motions of the defendants and cross-plaintiffs to amend the answer, counterclaim and cross-claim, filed on March 24, 1958 and June 26, 1959, are allowed and the amendments proposed in said motions shall be considered as having been added to and made a part of the pleadings referred to in said motions. The cross-defendant, UMW is allowed 15 days from June 30, 1959, to attempt to work out a stipulation with respect to the motions of defendants and cross-plaintiffs for the production of documents for inspection, copying or photographing, or to file objections to said motion but the cross-defendant, UMW, is urged to comply with this portion of the order within 10 days if reasonably possible, entered in Civil Order Book 17, page 158, and filed.	
July 16	Objection to motion of defendants and cross-plaintiffs for production of documents for inspection, copying or photographing, filed. Copy served by attorney.	(44)
July 20	Affidavit of John A. Rowntree in support of motion of Cross-Plaintiffs for production of documents and with respect to the necessity for Cross-Plaintiffs to have access to original records of United Mine Workers of America rather than simply a statement of investments to be prepared by the union, filed. Copy served by attorney.	(45)
July 20	Order allowing plaintiffs until August 1, 1959 to move, answer or otherwise make defense to the cross-claim and/or counterclaim as amended, entered in Civil Order Book 17, page 186, and filed.	(46)
July 20	Order allowing United Mine Workers of America, cross-defendant, until August 1, 1959, to move, answer or otherwise make defense to the cross-claim and/or counterclaim as amended, entered in Civil Order Book 17, page 187, and filed.	(47)
July 23	Memorandum in Support of Motion for Production of Documents filed by defendants and cross-plaintiffs, filed. Copy served by attorney	
July 30	Order allowing plaintiffs until August 15, 1959 to move, answer or otherwise make defense to cross-claim and/or counterclaim as amended, entered in Civil Order Book No. 17, page 240, and filed.	(48)
July 30	Order allowing cross-defendant, United Mine Workers of America, until August 15, 1959, to move, answer or otherwise make defense to cross-claim and/or counterclaim as amended, entered in Civil Order Book No. 17, page 241, and filed.	(49)
Aug. 4	Brief in opposition to the defendants' motion for the production and inspection of documents, filed. Copy served by attorney.	
Aug. 4	Affidavit of Harrison Combs in support of opposition to motion for production, inspection and photographing of documents, records, etc., filed.	(50)
Aug. 5	Order that the hearing upon Motion for production of Documents for inspection and copying filed by defendants and cross-plaintiffs be suspended for a period of thirty days entered in Civil Order Book 17, page 266, & filed.	(51)
Aug. 14	Motion of United Mine Workers to strike certain portions of Cross claim, filed. Copy served by	(52)
Aug. 14	Exception to Order entered in this cause, which was signed for entry by the Court on August 5, 1959, entitled "Order Upon Motion for Production of Documents for Inspection and Copying filed by Defendants and Cross-Plaintiffs", filed. Copy served by attorney.	(53)
Aug. 15	Motion of John L. Lewis, et al, Trustees to strike the amendments heretofore filed to the counterclaim in this case, filed. Copy served by Atty.	(54)
Aug. 15	Answer of the United Mine Workers of America to the amended cross-claim filed against it and others, filed. Copy served by Atty.	(55)
Aug. 24	Order allowing defendants and cross-plaintiffs until Sept. 15, 1959 to make response to motions of plaintiffs and cross-defendants to strike certain portions of pleadings entered in Civil Order Book 17, page 338, & filed.	(56)

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DATE	PROCEEDINGS	Date Order or Judgment Noted
1959 Sept. 4	Order extending time to Sept. 10, 1959, in which to file summary, by United Mine Workers of America, entered in Civil Order Book 17, page 379, and filed.	(57)
Sept. 10 1960	Affidavit of John Owens, filed.	(58)
July 5	Plaintiffs' Brief in Support of Motion for Partial Summary Judgment filed. Copies served by attorney.	
July 5	Affidavit of Josephine Roche filed. (Exhibits attached)	(59)
July 5	Affidavit of Val J. Mitch filed. (Exhibits attached)	(60)
July 5	Affidavit of Thomas F. Ryan Jr. filed. (Exhibits attached)	(61)
July 5	Certificate of Service that three preceding affidavits with Exhibits thereto were served on opposing counsel by attorney.	(62)
July 6	Motion for Partial Summary Judgment filed. Copy served by attorney.	(63)
July 14	Order allowing defendants and cross-plaintiffs, James M. Pennington, et al., that the time within which said parties shall have to respond to the motion for partial summary judgment filed by plaintiffs, John L. Lewis, et al., is extended to a date thirty days from and after the date of the filing of said motion for partial summary judgment, entered in Civil Order Book 19, page 128 and filed. Copies mailed to R. R. Kramer and Fowler, Rowntree and Fowler on July 25, 1960, by Clerk.	(64)
Aug. 8	Request of defendants and cross-plaintiffs for a pretrial conference be set 30 days hence, filed. Copy served by attorney.	(65)
Aug. 8	Reply of defendants and cross-plaintiffs to plaintiffs' motion for partial summary judgment, filed. Copy served by attorneys.	
Aug. 8	Statement of contention and issues on behalf of the defendants and cross-plaintiffs, James M. Pennington, et al. filed. Copy served by attorney.	(66)
Aug. 8	Statement of facts, summary sheets and records filed by defendants and cross-plaintiffs, filed.	(67)
Aug. 29	Motion of the plaintiffs, John L. Lewis, et al, to strike from the files the so-called statement of facts which was sworn to by John A. Rowntree, one of counsel for the defendants, and also the volume consisting of three hundred twenty-seven (327) sheets entitled "Summary Sheets and Records" which were filed herein on August 8, 1960 for the following grounds or reasons among others, filed. Copy served by attorney.	(68)
Aug. 29	Objections of United Mine Workers filed. Copy served by attorney.	(69)
Aug. 29	Memorandum Brief of United Mine Workers in support of its objections to and motion to strike, filed. Copy served by attorney.	
Aug. 29	Objections of the the Trustees, John L. Lewis, et al to the Cross-Claim filed. Copy served by attorney.	(70)
Aug. 29	Memorandum Brief of Plaintiffs, John L. Lewis, et al in support of motion to strike, filed. Copy served by attorney.	
Sept. 1	Answers by Cross Defendant, United Mine Workers of America, to Interrogatories Propounded by Defendants and Cross Plaintiffs Heretofore served on this Cross Defendant and also response to certain requests served on this Cross-Defendant on August 8, 1960 filed. Copy served by attorney.	(71)
Sept. 13	Interrogatories to be propounded by defendants and cross-plaintiffs, Set No. 2, to the United Mine Workers of America, filed. Copy served by attorney.	(72)
Sept. 13	Motion of the Cross-Plaintiffs, James M. Pennington, et al, to Amend the Cross-Claim or Counter-Claim in this case to specify the period of time encompassed by the Cross-Claim or Counterclaim, filed. Copy served by attorney.	(73)

(SEE NEXT PAGE)

JOHN L. LEWIS, ET AL
VS.
JAMES M. PENNINGTON, ET AL

3431

(6)
D. C. 110A Rev. Civil Docket Continuation

DATE	PROCEEDINGS	Date Order or Judgment Noted
1960 Sept. 23	Motion for Discovery and Production of documents for inspection, copying, or photographing, by defendants, filed. Copy served by attorney.	(74)
Sept. 23	Interrogatories to be propounded by defendants and cross-plaintiffs, Set No. 3, to United Mine Workers of America, filed. Copy served by Attorney.	(75)
Sept. 26	Order extending time to answer interrogatories Set No. 2, to and including October 3, 1960, entered in Civil Order Book 19 page 441, and filed.	(76)
Sept. 27	Requested Charge of Defendants-/Cross Plaintiffs, James M. Pennington, et al filed. Copy served by attorney.	(77)
Sept. 30	Order substituting Lillian Goad Phillips, Admrx. as defendant and cross plaintiff in the place and stead of Burse Phillips entered in Civil Order Book 19, page 453, & filed.	(78)
Sept. 30	Supplemental Affidavit of Val J. Mitch in Support of Plaintiffs' Motion for Partial Summary Judgment filed. Copy served by attorney.	(79)
Sept. 30	Supplemental Affidavit of Josephine Roche in Support of Plaintiffs' Motion for Partial Summary Judgment filed. Copy served by attorney.	(80)
Sept. 30	Deposition Subpoenas duces tecum for 3 plaintiff's witnesses returned, 1 served September 29, 1960 at Caryville, Tenn., 2 served on September 29, 1960 at Robbins, RFD and Winfield, RFD	
Oct. 5	Order granting cross defendant, United Mine Workers to and including October 19, 1960 to answer Interrogatories No. 2 and 3, with exception of Subdivisions (b) (d) and (e) of Interrogatory No. 1 and to these three sub-sections it is granted to October 19, 1960 within which to file objections, entered in Civil Order Book 19, page 465, & filed.	(81)
Oct. 7	Notice of Taking Depositions filed. Copy served by attorney.	(82)
Oct. 7	Deposition Subpoena duces tecum for 1 defendant witness returned executed personally served at Madisonville, Ky. on October 4, 1960 and filed.	
Oct. 11	Deposition subpoena duces tecum for 1 defendant witness returned personally served on Sept. 30, 1960 at St. Louis, Missouri and filed.	
Oct. 11	Deposition subpoena duces tecum for 1 defendant witness returned personally served on Sept. 30, 1960 at St. Louis, Missouri and filed.	
Oct. 11	Deposition subpoena duces tecum for 1 defendant witness returned personally served on October 3, 1960 at St. Louis, Missouri and filed.	
Oct. 14	Evidentiary Depositions of Raymond Duree, Dino Fratiglioni, George Schmidt and Frank Kreitner, taken on behalf of the defendants filed. Notice to attorneys by Clerk.	(83)
Oct. 17	Order granting United Mine Workers of America to and including October 29, 1960 to answer sets of Interrogatories Nos. 2 and 3, with the exception of sub-divisions (b) (d) and (e) of Interrogatory No. 1 and to these three sub-sections it is granted to and including October 29, 1960 to file objections entered in Civil Order Book 19, page 517, & filed.	(84)
Oct. 17	Interrogatories to be propounded by defendants and cross-plaintiffs, Set No. 4, to United Mine Workers of America filed. Copy served by attorney.	(85)
Oct. 21	Deposition of Mark Eastin filed. Notices to attorneys by Clerk.	(86)
Oct. 26	Motion to Disallow Discovery Deposition filed. Copy served by attorney.	(87)
Oct. 26	Affidavit of John Owens filed.	(88)
Oct. 26	Memorandum Brief in Support of Motion to Disallow Discovery Deposition filed.	
Oct. 27	Order Pursuant to Pretrial filed. Copies mailed attorneys by Clerk.	(89)
Oct. 27	Order denying motion to disallow discovery deposition, entered in Civil Order Book No. 20, page 20, and filed. Copies to attorneys by Clerk.	(90)

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(7)

DATE 1960	PROCEEDINGS	Date Order or Judgment Note
Oct. 31	Objections to interrogatories, set No. 2, Interrogatory numbers 1(b) 1(d) and 1(e) propounded by defendants and cross-plaintiffs to United Mine Workers of America, filed. Copy served by Attorney.	(91)
Oct. 31	Answers by cross-defendant United Mine Workers of America to Interrogatories propounded by defendants and cross-plaintiffs Set No. 2, filed. Copy served by Attorney.	(92)
Oct. 31	Answers to Interrogatories propounded by defendants and cross-plaintiffs, Set No. 3, to United Mine Workers of America, filed. Copies served by Attorney.	(93)
Oct. 31	Answers by cross-defendant United Mine Workers of America to Interrogatories propounded by defendants and cross-plaintiffs, Set No. 4, served on Cross-defendant October 18, 1960, filed. Copy served by Attorney.	(94)
Oct. 31	Memorandum ^{brief} in support of objections to interrogatories, Set No. 2, Number 1(d) filed. Copy served by Attorney.	
Nov. 1	Depositions of Herbert C. McCollum, Merl C. Kelce and R. J. Snider, witnesses on part of defendants and cross plaintiffs filed. Notices to attorneys by Clerk.	(95)
Nov. 4	Exceptions to Order Pursuant to Pre-trial, filed. Copies Served by Attorney.	(96)
Nov. 7	Exceptions of the cross-defendant, United Mine Workers of America, to the Order Pursuant to Pretrial, filed. Copy served by Attorney.	(97)
Nov. 7	Exceptions of the Plaintiffs, John L. Lewis, et al to the order pursuant to pretrial, filed. Copy served by Attorney.	(98)
Nov. 7	Supplemental exceptions to order pursuant to pretrial, filed. Copy served by attorney.	(99)
Nov. 7	Order extending time for presenting to the Court suggested charges to the jury is granted to on or before December 31, 1960, entered in Civil Order Book 20, page 38, and filed.	(100)
Nov. 15	Deposition of James W. Haley, filed. Notice mailed attys by clerk	
Nov. 15	Deposition of Michael F. Widman, Jr., filed. Notice mailed attys by clerk.	
Nov. 15	Deposition of Earnum L. Colton, filed. Notice mailed attys by clerk.	(101)
Nov. 21	Deposition of R. H. Hughes, or his Successor as President of Clinchfield Coal Division of the Pittston Company, filed. Notice mailed attorneys by clerk.	(102)
Nov. 23	Deposition of Robert L. Kaiser and Cyrus S. Eaton filed. Notice mailed Attorneys by Clerk.	(103)
Nov. 25	Notice of interrogatories to be propounded on behalf of defendants and cross-plaintiffs filed. Copy served by attorney.	(104)
Nov. 25	Order granting plaintiffs to file an answer to the counterclaim as amended, such answer to stand in lieu of answer heretofore filed, entered in Civil Order Book 20, page 89, & filed.	(105)
Nov. 25	Amended answer to counterclaim filed. Copy served by attorney.	(106)
Nov. 30	Depositions for Defendants and Cross-Plaintiffs, taken for purpose of Discovery filed. Notices to attorneys by Clerk.	(107)
Nov. 30	Notice of Taking Depositions Pursuant to Rule 30 of the Federal Rules of Civil Procedure filed. Copy served by attorney.	(108)
Dec. 1	Deposition of J. S. Routh Jr., Executive Vice President of The Pittston Company filed. Notices to attorneys by Clerk.	(109)
Dec. 3	Deposition of J. L. Hamilton as Executive Vice President of Island Creek Coal Company filed. Notices to attorneys by Clerk.	(110)
Dec. 6	2 subpoenas duces tecum returned executed, each personally served on December 2, 1960 at Chattanooga, Tennessee, and filed.	

(8)

D. C. 110A Rev. Civil Docket Continuation

DATE 1960	PROCEEDINGS	Date Order or Judgment Noted
Dec 8	Order modifying pretrial order heretofore entered, entered in Civil Order Book 20, page 106, and filed.	(111)
Dec. 12	Deposition of H. D. Waters, or his Successor as Fuel Purchasing Agent for Duke Power Company filed. Notices to attorneys by Clerk.	(112)
Dec. 13	Exhibit showing cases filed by Trustees, filed.	(113)
Dec. 16	Deposition of George H. Love, filed. Notice to attorneys by Clerk.	(114)
Dec. 28	Motion to set the Deposition of the President of United Mine Workers of America and Chairman of the Board of Trustees of United Mine Workers of America Welfare and Retirement Fund filed. Copy served by attorney.	(115)
1961		
Jan. 6	Order that modifications be made to pretrial order as follows: The defendants have until January 31, 1961 to take discovery testimony and plaintiffs have until March 15, 1961 to take discovery testimony; the parties shall file brief dealing with all legal questions, except those bearing on the admissibility of evidence on or before March 30, 1961 and shall file trial briefs bearing on the admissibility of evidence by April 1, 1961; the time for presenting suggested charges to the jury is extended to April 5, 1961; the parties will exchange exhibits, except those to be introduced for impeachment purposes, by April 10, 1961 and will file such exhibits with the Clerk of the Court of the official court reporter at the time of the exchange, entered in Civil Order Book 20, page 173& filed.	(116)
Jan. 9	Interrogatories propounded by cross-defendant, United Mine Workers of America to the defendants and cross-plaintiffs, James M. Pennington and Raymond E. Phillips, filed. Copy mailed by attorneys.	(117)
Jan. 9	Depositions of Elmer C. Hill and Martin Hochdorf, filed. Notice to attorneys by Clerk.	(118)
Jan. 16	Deposition of Judge Charles I. Dawson, filed. Notice to attorneys by Clerk.	(119)
Jan. 16	Agreed Order that the record show the correct name of the defendant and cross plaintiff to be Raymond E. Phillips, entered in Civil Order Book No. 20, page 194 , and filed.	(120)
Jan. 24	Reply to Interrogatories Propounded by Cross Defendant, United Mine Workers of America, to the Defendants and Cross Plaintiffs, James M. Pennington and Raymond E. Phillips filed. Copy served by attorney.	(121)
Jan. 24	Interrogatories Propounded by Defendants and Cross-Plaintiffs, James M. Pennington, et al, Set No. 5, to Cross-Defendant, United Mine Workers of America filed. Copy served by attorney.	(122)
Feb. 2	Stipulation withdrawing interrogatories propounded by defendants and cross-plaintiffs, Set No. 5 to cross-defendant, filed on January 24, 1961, filed.	(123)
Feb. 2	Stipulation with exhibits thereto substituted in lieu of said interrogatories, Set No. 5, filed.	(124)
Feb. 13	Deposition of John L. Lewis filed. Notices to attorneys by Clerk.	(125)
Feb. 24	Additional Interrogatories Propounded by Cross-defendant, United Mine Workers of America to Defendants and Cross-plaintiffs, James M. Pennington and Raymond E. Phillips, filed. Copies served by attorney.	(126)
Mar. 7	Motion of United Mine Workers of America to (1) Reopen the Pretrial Conference; and (2) Modify and Amend the Pretrial Order filed. Copy served by attorney.	(127)
Mar. 7	Brief in Support of Cross-Defendant's Motion to Modify the Pre-Trial Order filed. Copy served by Attorney.	
Mar. 13	Reply to additional interrogatories propounded by cross-defendant United Mine Workers of America to the Defendants and Cross-Plaintiffs James M. Pennington and Raymond E. Phillips filed. Copy served by attorney.	(128)

DATE 1961	PROCEEDINGS	Date Order or Judgment Noted
March 14	Deposition subpoena duces tecum for 1 cross-defendants witness returned executed personally served at Fountain City, Tennessee on March 10, 1961 and filed.	
March 16	Trial brief of defendants and cross-plaintiffs, James M. Pennington, et al. filed. Copy mailed by attorney.	
Mar 20	Order permitting counsel of record to open depositions, whether or not they be sealed, and withdraw exhibits in order to copy Exhibits and use the same for the making of designations of the portions of the record to be read at the trial. Counsel will return same to deposition folder and re-seal same and his receipt therefor will be destroyed by the Clerk, entered in Civil Order Book 20, page 384, and filed.	(129)
April 5	Instructions to the Jury requested by defendants and cross-plaintiffs, James M. Pennington, et al, filed. Copies served by Attorney.	(130)
April 5	Motion of defendants for an order consolidating the claim of plaintiffs against defendants and the claim of cross-plaintiffs against the cross defendant, for trial and dismissing the claim of cross plaintiffs against the cross defendant, filed. Copies served by Attorney.	(131)
Apr. 5	Designation of the portion of the record papers which defendants and cross plaintiffs James M. Pennington, et al, expect to read at the trial, filed. Copies served by Attorney.	(132)
Apr. 6	Response of United Mine Workers of America to Motion of defendants and cross-plaintiffs to dismiss their claim against the plaintiffs and to consolidate plaintiffs' case with cross-plaintiffs' claim against United Mine Workers of America and Motion to Dismiss, filed. Copy served by attorney.	(133)
Apr. 6	Objections of the plaintiff trustee to the entry of an order consolidating the claim asserted by the Trustees in this action with the cross-claim asserted by the defendants against the cross-defendant, United Mine Workers of America, filed. Copy served by attorney.	(134)
Apr. 6	Trial brief of plaintiff Trustees of the United Mine Workers of America, filed. Copy served by attorney.	
Apr. 7	Trial brief on behalf of United Mine Workers of America, filed. Copy served by attorney.	
Apr. 10	REVISED instructions to the jury requested by defendants and cross-plaintiffs, James M. Pennington, et al. filed. (in lieu of instructions filed Apr. 5, 1961)	(135)
Apr. 10	Order that the claim of cross-plaintiffs, James M. Pennington, et al. against cross-defendants, John L. Lewis, et al, Trustees of UMW of America Welfare and Retirement Fund is dismissed; (2) claims of plaintiff, John L. Lewis, et al. in the original complaint against defendants, James M. Pennington, et al. and of the cross-plaintiffs James M. Pennington, et al against cross-defendant, UMW of America, are consolidated for trial, the issues to be decided by the jury; (3) Motion of cross-defendant, UMW of America to dismiss this action is hereby overruled; The exception of the plaintiff Trustee to the action of the Court in consolidating the cases as noted in paragraph 2 hereof is hereby noted and reserved; the exceptions of the cross-defendant United Mine Workers of America to the consolidation of the cases as noted in paragraph 2 hereof and to the action of the Court in overruling its motion to dismiss filed on April 6, 1961, are hereby noted and reserved, entered in Civil Order Book 20, page 495, and filed. ORDER PURSUANT TO PRETRIAL, FILED.	(136)
Apr. 10	4 Subpoenas for 4 defendants and cross plaintiffs witnesses returned executed each personally served at Robbins, Tenn, Campbell Co, Tenn, Anderson County, Tennessee and Elk Valley, Tennessee, all on April 11, 1961 and filed.	(137)
Apr. 13		

DATE

PROCEEDINGS

1961

DATE	PROCEEDINGS	Date Order or Judgment Noted
Apr. 13	Stipulation filed.	(138)
Apr. 13	Motion of the Trustees for Summary Judgment filed. Copy served by attorney.	(139)
Apr. 13	Memorandum on Summary Judgment filed. Copy served by attorney.	
Apr. 13	Suggested Charges for Trustees filed. Copy served by attorney.	(140)
Apr. 13	Suggested Charges of United Mine Workers of America filed. Copy served by attorney.	(141)
Apr. 13	List of Probable Witnesses to be used by the Plaintiff-Trustees filed. Copy served by attorney.	(142)
Apr. 13	List of Probable Witnesses to be used by the Cross-Defendant, United Mine Workers of America filed. Copy served by attorney.	(143)
Apr. 17	Subpoena for 1 defendants and cross-plaintiffs witness returned executed personally served at Helenwood, Tennessee on April 14, 1961 and filed.	
Apr. 17	Subpoena for 1 defendants and cross-plaintiffs witness returned executed personally served at Robbins, Tennessee on April 14, 1961 and filed.	
Apr. 17	Subpoena for 1 defendants and cross-plaintiffs witness returned executed personally served at Jellico, Tennessee on April 13, 1961 and filed.	
Apr. 17	Subpoena duces tecum for 1 defendants and cross plaintiffs witness returned executed personally served at Middlesboro, Ky. on April 11, 1961 and filed.	
Apr. 17	Subpoena for 1 defendants and cross plaintiffs witness returned executed personally served at Williamsburg, Ky. on April 11, 1961 and filed.	
Apr. 17	Subpoena for 1 defendants and cross plaintiffs witness returned executed personally served at Pineville, Ky. on April 11, 1961 and filed.	
Apr. 17	Order of trial to the jury: Plaintiffs' evidence heard in part and the hour of adjournment having arrived, jury respited to 9:00 a.m., Tuesday, April 18, 1961, entered in Civil Order Book No. 20, page 455.	(144)
Apr. 17	Order that the motion of the Trustees for summary judgment be denied without prejudice to renew at conclusion of proof on the merits, entered in Civil Order Book No. 20, page 456, and filed. Copies to attorneys by Clerk.	(145)
Apr. 18	Order of trial continued: Plaintiffs' evidence further heard and hour of adjournment having arrived, jury respited to 9:00 a.m., Wednesday, April 19, 1961, entered in Civil Order Book 20, page 462.	(146)
Apr. 19	Order of trial continued: Plaintiffs' evidence further heard and hour of adjournment having arrived, jury respited to 9:00 a.m., Thursday, April 20, 1961, entered in Civil Order Book 20, page 464.	(147)
Apr. 20	Order of trial continued: Plaintiffs' evidence further heard and hour of adjournment having arrived, jury respited to 9:00 a.m., Friday, April 21, 1961, entered in Civil Order Book 20, page 468.	(148)
Apr. 21	Order of trial continued: Plaintiffs' evidence further heard and hour of adjournment having arrived, jury respited to 10:00 a.m., Tuesday, April 25, 1961, entered in Civil Order Book 20, page 474.	(149)
Apr. 25	Order of trial continued: Plaintiffs' evidence further heard and hour of adjournment having arrived, jury respited to 9:00 a.m., Wednesday, April 26, 1961, entered in Civil Order Book No. 20, page 479.	(150)
Apr. 26	Order of trial continued: Plaintiffs' evidence further heard and hour of adjournment having arrived, jury respited to 9:00 a.m., Monday, May 1, 1961, entered in Civil Order Book No. 20, page 489.	(151)
Apr. 27	Subpoena for 1 cross-defendant's witness returned, personally served at the Department of Interior, Washington, D. C., on April 19, 1961, and filed.	
May 1	Order of trial continued: Plaintiffs' evidence further heard and hour of adjournment having arrived, jury respited to 9:00 a.m., Tuesday, May 2, 1961, entered in Civil Order Book 20, page 494.	(152)
May 2	Order of trial continued: Cross-plaintiffs evidence further heard and hour of adjournment having arrived, jury respited to 9:00 a.m., Wednesday, May 2, 1961, entered in Civil Order Book No. 20, page 496.	(153)

DATE 1961	PROCEEDINGS	Date Order or Judgment Noted
May 3	Order of trial continued: Remainder of cross-plaintiff's evidence heard; Trustee of United Mine Workers of America Welfare and Retirement Fund's motion for instruction to the jury to return a verdict in its favor; and cross-defendant's motion for instruction to jury to return a verdict in its favor considered and overruled by the Court; and hour of adjournment having arrived, jury respited to 9:00 a.m., Friday, May 5, 1961, entered in Civil Order Book No. 20, page 499.	(154)
May 5	Order of trial continued: Original plaintiffs and cross-defendants' motion for partial summary judgment as to all coal companies named as conspirators considered and overruled; motion of original plaintiffs and cross-defendants for a mistrial because of admission of certain evidence, considered and overruled; part of evidence introduced on behalf of original plaintiff and cross-defendant heard, and the hour of adjournment having arrived, jury respited to 9:30 a.m., Monday, May 8, 1961, entered in Civil Order Book No. 20, page 504.	(155)
May 8	Order of trial continued: Further part of evidence introduced on behalf of original plaintiff and cross-defendant heard; and hour of adjournment having arrived, jury respited to 9:00 a.m., Tuesday, May 9, 1961, entered in Civil Order Book No. 20, page 505.	(156)
May 9	Order of trial continued: Further part of evidence introduced on behalf of original plaintiff and cross-defendant heard; and hour of adjournment having arrived, jury respited to 9:00 a.m., Wednesday, May 10, 1961, entered in Civil Order Book No. 20, page 510.	(157)
May 10	Order of trial continued: Further part of evidence introduced on behalf of original plaintiff and cross-defendant heard; and hour of adjournment having arrived, jury respited to 9:00 a.m., Thursday, May 11, 1961, entered in Civil Order Book No. 20, page 517.	(158)
May 11	Order of trial continued: Further part of evidence introduced on behalf of original plaintiff and cross-defendant heard; and hour of adjournment having arrived, jury respited to 9:00 a.m., Friday, May 12, 1961, entered in Civil Order Book No. 20, page 518.	(159)
*** May 12	Order of trial continued: Remainder of evidence introduced on behalf of original plaintiff and cross-defendant heard; Motion of Trustee, United Mine Workers of America Welfare and Retirement Fund, renewed and overruled by the Court; motion of original plaintiffs and cross-defendant on entire record for directed verdict in its favor heard and overruled by the Court; motion of original plaintiff and cross-defendant for directed verdict as to Peabody Coal Company and Pittsburgh-Midway Coal Company, on ground that there is no evidence to sustain the defendant's position that those companies were co-conspirators, heard and overruled by the Court, entered in Civil Order Book No. 20, page 522. (Jury respited to May 16th)	*** (162)
May 16	Order of trial continued: Argument of counsel heard and hour of adjournment having arrived, jury respited to 9:00 a.m., Wednesday, May 17, 1961, entered in Civil Order Book No. 20, page 523.	(163)
May 17	Special Request, filed.	(164)
May 17	Revised suggested charges of United Mine Workers of America, filed.	(165)
May 17	Revised suggested charges for Trustees, filed.	(166)
May 17	Order of trial continued: Charge of the Court heard; and jury not having fully considered of their verdict and the hour of adjournment having arrived, said jury was respited to 9:00 a.m., Thursday, May 18, 1961, entered in Civil Order Book No. 20, page 525.	(167)
May 18	Order of trial continued: Jury not having fully considered of their verdict and the hour of adjournment having arrived, jury respited to 9:00 a.m., Friday, May 19, 1961, entered in Civil Order Book No. 20, page 526.	(168)
*** May 12	Theories which defeat cross-plaintiffs contentions of conspiracy, filed. Copies served by Attorney.	(160)
May 12	Theories upon which plaintiff trustees expect to recover judgment and to defeat defendants' defense, filed. Copies served by Attorney.	(161)

DATE 1961	PROCEEDINGS	Date Order or Judgment Noted
May 19	Order of trial concluded: Jury verdict: Trustees did engage in a combination or conspiracy so as to unreasonably restrain trade or monopolize commerce among the several states, as alleged by the original defendant, Phillips Brothers Co.; Cross-defendant, United Mine Workers of America, did engage in a combination or conspiracy so as to unreasonably restrain trade or monopolize or attempt to monopolize commerce among the several states outside and beyond the exemption created by the antitrust statutes to a labor organization, as alleged by cross-plaintiff, Phillips Brothers Coal Company; Cross-plaintiff, Phillips Brothers Coal Company, was damaged in its business or property as a direct and proximate result of the conspiracy; further find in favor of the cross-plaintiff, Phillips Brothers Coal Company, and fix its damages in the amount of \$90,000.00, entered in Civil Order Book No. 20, page 528.	(169)
May 19	Written Verdict Forms Nos. 1 and 2, filed.	(170)
May 29	Motion of United Mine Workers of America for Judgment in Accordance with Motions for Directed Verdict or in the Alternative Motion for a New Trial, filed. Copy served by attorney.	(171)
May 29	Motion of John L. Lewis, Henry G. Schmidt and Josephine Roche, as Trustees of the United Mine Workers of America Welfare and Retirement Fund, for Judgment in accordance with Motions for Directed Verdict or in the Alternative Motion for a New Trial filed. Copy served by attorney.	(172)
June 20	Brief of the Defendants, James M. Pennington, et al, with respect to the claim of the Trustees for Welfare Royalties, filed. Copy served by attorney.	
June 20	Brief in reply to Motions filed by Plaintiff Trustees and by Cross-Defendant United Mine Workers of America based upon alleged insufficiency of the evidence to support the jury verdict, filed. Copy served by attorney.	
June 20	Brief in reply to the motion of United Mine Workers of America for Judgment in accordance with motions for directed verdict or in the alternative, Motion for a new trial, filed. Copy served by attorney.	
June 20	Brief in reply to the motion of John L. Lewis, Henry G. Schmidt and Josephine Roche, as Trustees of the United Mine Workers of America Welfare and Retirement Fund for judgment in accordance with motions for directed verdict or in the alternative, Motion for a new trial, filed. Copy served by attorney.	
June 20	Petition of Cross-Plaintiffs, James M. Pennington, et al, for allowance of attorneys' fees, filed. Copy served by attorney.	(173)
June 20	Affidavit of John A. Rowntree in support of petition of Cross-plaintiffs, James M. Pennington, et al, for attorneys' fees, filed. Copy served by attorney.	(174)
June 20	Affidavit of Claude K. Robertson in support of petition of cross-plaintiffs, James M. Pennington, et al, for attorneys' fees, filed. Copy served by attorney.	(175)
June 20	Affidavit of Jerome Templeton, attorney for the defendants and cross-plaintiffs, filed. Copy served by attorney.	(176)
June 20	Affidavit of Jerome G. Taylor, attorney for the defendants and cross-plaintiffs, filed. Copy served by attorney.	(177)
June 20	Brief in Support of Plaintiff's Motion for Judgment Notwithstanding the Verdict of the Jury and in the Alternative for a New Trial filed. Copy served by attorney.	
June 20	Brief in Support of United Mine Workers of America's Motion for Judgment Notwithstanding the Jury Verdict and in the Alternative for a New Trial filed. Copy served by attorney.	
June 30	Clerk's copy of Transcript, Volume Nos. 1 thru 19, filed.	
June 30	Exhibits, filed.	
July 11	Plaintiff-Trustees' Reply Brief Concerning the Insufficiency of the Evidence to Support the Jury Verdict filed. Copy served by attorney.	
July 11	Reply Brief of United Mine Workers of America to Briefs filed by Cross-Plaintiffs on Motion for Judgment N. O. V. or in the Alternative for a New Trial filed. Copy served by attorney.	

DATE 1961	PROCEEDINGS	Date Order or Judgment Noted
July 11	Brief of James M. Pennington, et al in Reply to Brief filed by United Mine Workers of America filed. Copy served by attorney.	
July 11	Brief in Reply to Plaintiffs' Brief in Support of Plaintiffs' Motion for Judgment Notwithstanding the Verdict of the Jury and in the Alternative for a New Trial filed. Copy served by attorney.	
July 28	Memorandum brief in opposition to the petition for attorneys' fees of Cross-plaintiffs, James M. Pennington, et al., filed. Copy served by attorney	
July 31	Motion of United Mine Workers of America for judgment in accordance with motions for directed verdict or in the alternative motion for a new trial, heard by the Court and overruled; Motion of John L. Lewis, Henry G. Schmidt and Josephine Roche, as Trustees of the United Mine Workers of America Welfare and Retirement fund, for judgment in accordance with motions for directed verdict heard by the Court and sustained; the Court found that Phillips Brothers Coal Company, were liable from April 1955 thru 1958 for royalties; further found that said company was not liable from October 1953 to April 1955; Petition of cross-plaintiffs, James M. Pennington, et al. for allowance of attorneys' fees heard by the Court and fixed in the sum of \$55,000.00, entered in Civil Order Book 21, page 157 .	(178)
August 2	Judgment that portion of verdict of jury be set aside and Court awards the plaintiffs trustees judgment for royalty upon quantity of coal produced for period from April 25, 1955 to and including December 31, 1958, or a total of 108,560.56 tons at the rate of 40¢ per ton, or the sum of \$43,424.22; the Court overruled the motion for judgment notwithstanding the verdict of the jury and in the alternative for a new trial; Order that cross-plaintiffs recover of cross-defendant, United Mine Workers of America, the sum of \$270,000.00, being three times the amount of damages awarded by the jury and that they also recover the sum of \$55,000.00 attorneys fees, making a total of \$325,000.00; further Order dismissing the counterclaim filed against the Trustees by defendants and cross-plaintiffs; also ordered that costs be taxed after the time for appeal expires or after the disposition of cause on appeal; further Ordered that execution issue in favor of plaintiffs-trustees, against defendants for \$43,424.22 and that execution issue in favor of cross-plaintiffs for the sum of \$325,000.00, entered in Civil Order Book No. 21, page 170, and filed.	(179)
August 4	Opinion of Robt. L. Taylor rendered from the bench July 31, 1961 that since a general conspiracy was charged such evidence was clearly competent as bearing on the question of whether a conspiracy existed during the crucial period; the Court is of the opinion and holds that the motion of U.M.W. for a judgment notwithstanding the verdict of the jury and the alternative motion of U.M.W. for a new trial, and all of the grounds urged in support of these motions, are without merit and are therefor overruled; there is no substantial evidence to support the verdict of the jury that a majority of the Trustees participated in the alleged conspiracy. There is no evidence that either Miss Josephine Roche or Mr. Henry G. Schmidt or Mr. Charles A. Owen, now deceased, (those being the only parties, except Mr. John L. Lewis, who served the trust fund after 1950), had any dealings with large coal operators from which it could be inferred that they agreed, combined or conspired to stabilize coal prices in the bituminous coal industry in interstate commerce; there is no evidence to support the verdict of the jury that Mr. Lewis, for himself and another of the Trustees, entered into the conspiracy so as to bind the Trustees either individually or in their capacity as trustees or to bind the Trust Fund. It follows as a matter of contract that the Trustees are entitled to recover unpaid royalties due them under the contract signed by Phillips Brothers, but the Trustees are not entitled to recover the royalties that accrued before a majority of the employees of Phillips Brothers	(180)

D. C. 110A Rev. Civil Docket Continuation

DATE	PROCEEDINGS	Date Order or Judgment Noted
1961		
Aug. 4	cont'd became members of the Union. The Court fixes attorneys' fees in this case at \$55,000.00, filed.	
Aug. 28	Notice of Appeal by United Mine Workers of America, cross-defendant, filed. Copy served by attorney.	(181)
Aug. 28	Bond for costs on appeal by United Mine Workers of America, filed.	(182)
Aug. 28	Order that pursuant to agreement execution shall not issue upon judgment during the pendency of appeal, entered in Civil Order Book 21, page 197, and filed.	(183)
Aug. 28	Notice of appeal by defendants filed. Copy served by attorney.	(184)
Aug. 28	Cost bond on appeal by defendants filed.	(185)
Oct. 2	Order extending time 90 days from date of filing first notice of appeal, which was August 28, 1961, entered in Civil Order Book 21, page 260, and filed.	(186)
Nov. 21	Certified record on appeal mailed to U. S. Court of Appeals, Cincinnati, Ohio. (Exhibits retained U. S. District Court).	
1964		
Feb. 18	Order allowing Claude K. Robertson to check out transcript in this cause until March 1, 1964, filed.	(187)
Feb. 18	Order allowing Claude K. Robertson to check out 19 volumes of transcript until April 1, 1964, filed.	(188)
1965		
July 6	Opinion and certified copy of judgment of United States Supreme Court, reversing cause with costs to District Court; and Order that petitioner, United Mine Workers of America, recover from James M. Pennington, et al, \$340.39 costs, filed. Notice to attorneys by Clerk.	(189)
July 12	Mandate and opinion of the United States Court of Appeals for the Sixth Circuit, affirming the judgment of the District Court; and Order (certified copy) of the U. S. Court of Appeals that, in accordance with ruling of Supreme Court, setting aside said judgment and directing the District Court to take further proceedings; cost on appeal to be recovered by appellant, United Mine Workers of America, filed. Notice to attorneys by Clerk.	(190)
Aug. 6	Motion for informal preliminary conference filed. Copy served by attorney.	(191)
Oct. 13	Motion to retax costs filed. Copy served by attorney.	(192)
Nov. 19	Motion to consolidate cases for trial, filed. Copy served by attorney.	(193)
Nov. 19	Brief in support of motion to consolidate, filed. Copy served by attorney.	
Nov. 24	Order to consolidate cases for trial; further ordered that the cases be tried by the Court sitting with a jury to commence on June 1, 1966, entered in Civil Order Book 34, page 233, and filed.	(194)
1966		
Feb. 23	Agreed order taxing costs of \$8,070.68, incurred on appeal, against James W. Pennington, Raymond E. Phillips and Lillian Goad Phillips, Admrx. of Estate of Burse Phillips, deceased, for which execution shall issue; and taking under consideration motion of James M. Pennington, et al, to retax balance of costs, entered in Civil Order Book 35, page 238, and filed.	(195)
March 8	Writ of Execution issued and handed U. S. Marshal.	
March 24	Pretrial brief of defendant with respect to the claims against UMW, filed. Copy served by counsel.	
March 25	Stipulation filed. Copy served by counsel.	(196)
April 11	Fieri facias returned, unexecuted. Nothing in district found, and filed.	(197)
April 18	Motion of cross-plaintiff for order authorizing increase in amount of damages claimed in cross-claim against UMW, filed. Copy served by counsel.	(198)
April 18	Brief in support of motion filed. Copy served by attorney.	
April 19	Motion to stay proceedings, filed. Copy served by attorney.	(199)
April 19	Brief of UMW in support of motion to stay proceedings, filed. Copy served by attorney.	

DATE 1966	PROCEEDINGS	Date Order or Judgment Noted
April 19	Brief of James M. Pennington, et al, in reply to Motion of United Mine Workers of America to Stay Proceedings; filed. Copy served by attorney.	
* April 20	Order of hearing on oral motions: Plaintiffs, John L. Lewis, et al's motion for summary judgment heard; motion resisted by defendants; parties agreed to prepare and submit to the Court for approval order sustaining motion but reserving certain rights to defendants to raise certain questions involved in the motion upon the trial of case; plaintiffs' motion to dismiss Third Party Complaint for non-payment of costs heard and overruled pending trial on merits; defendants and Third Party Plaintiffs' motion to amend complaint to increase amount of damages sued for heard and sustained; attorneys to prepare and submit orders to the Court for approval, entered in Civil Order Book 36, pages 231, 232 and 233. Order authorizing increase in amount of damages claimed; further denying United Mine Workers' motion to stay proceedings, entered in Civil Order Book 36, page 242, and filed. Service by Clerk.	(200)
April 22		(201)
May 11	Order pursuant to pretrial, filed. (prepared by attorneys)	(202)
* April 20	Pre-trial brief of United Mine Workers of America, filed. Copy served by attorney.	
May 24	One subpoena returned served on Alonao Cox by leaving with his secretary at Jellico, Tenn. on May 20, 1966, filed. For Defendant Pennington	
May 24	One subpoena returned served on Mrs. Will Hood Wender at Jellico, Tennessee, on May 20, 1966, filed. For Defendant Pennington	
May 24	One subpoena returned unexecuted as to H. B. Wicks who is not to be found in this district, filed. For Defendant Pennington	
May 24	One subpoena returned executed by serving Mrs. J. Shattuck at Clinton, Tenn., on May 20, 1966, filed. For Defendant Pennington	
May 24	One subpoena returned served personally at LaFollette, Tenn., on May 20, 1966, filed. For Defendant Pennington.	
May 24	Subpoena returned executed personally at Williamsburg, Kentucky, on May 20, 1966, filed. For Defendant Pennington	
June 6	Order of trial to the Court, case consolidated with other United Mine Workers cases: Plaintiffs' evidence heard in part and court adjourned to 9:00 a.m., Tuesday, June 7, 1966, entered in Civil Order Book 37, page 1.	(203)
June 7	Order of trial continued: Further part of plaintiffs' evidence heard; court adjourned to 9:00 a.m., Wednesday, June 8, 1966, entered in Civil Order Book 37 page 15.	(204)
June 8	Order of trial continued: Further part of plaintiffs' evidence heard; court adjourned to 9:00 a.m., Thursday, June 9, 1966, entered in Civil Order Book 37, page 22.	(205)
June 9	Order of trial continued: Further part of plaintiffs' evidence heard; court adjourned to 9:00 a.m., Friday, June 10, 1966, entered in Civil Order Book 37, page 26.	(206)
June 10	Order of trial continued: Further part of plaintiffs' evidence heard; court adjourned to 9:00 a.m., Monday, June 13, 1966, entered in Civil Order Book 37, page 29.	(207)
June 13	Order of trial continued: Further part of plaintiffs' evidence heard; court adjourned to 9:00 a.m., Tuesday, June 14, 1966, entered in Civil Order Book 37, page 37.	(208)
June 14	Order of trial continued: Further part of plaintiffs' evidence heard; court adjourned to 9:00 a.m., Wednesday, June 15, 1966, entered in Civil Order Book 37, page 41.	(209)
June 15	Order of trial continued: Further part of plaintiffs' evidence heard; court adjourned to 9:00 a.m., Thursday, June 16, 1966, entered in Civil Order Book 37, page 47.	(210)

DATE 1966	PROCEEDINGS	Date Order or Judgment Noted
June 16	Order of trial continued: Further part of plaintiffs' evidence heard; court adjourned to 9:00 a.m., Friday, June 17, 1966, entered in Civil Order Book 37, page 51.	(211)
June 17	Order of trial continued: Further part of plaintiffs' evidence heard; court adjourned to 9:00 a.m., Monday, June 20, 1966, entered in Civil Order Book 37, page 54.	(212)
June 20	Order of trial continued: Further part of plaintiffs' evidence heard; court adjourned to 9:00 a.m., Tuesday, June 21, 1966, entered in Civil Order Book 37, page 59.	(213)
June 21	Order of trial continued: Remainder of plaintiffs; evidence heard; defendant's motion for judgment of dismissal heard and overruled without prejudice; defendant's evidence heard in part; court adjourned to 9:00 a.m., Wednesday, June 22, 1966, entered in Civil Order Book 37, page 61.	(214)
June 22	Order of trial continued: Defendant's evidence heard in part; court adjourned to 9:00 a.m., Thursday, June 23, 1966, entered in Civil Order Book 37, page 65.	(215)
June 23	Order of trial continued: Further part of defendant's evidence heard; court adjourned to 9:00 a.m., Friday, June 24, 1966, entered in Civil Order Book 37, page 71.	(216)
June 24	Order of trial continued: Further part of defendant's evidence heard; court adjourned to 9:00 a.m., Monday, June 27, 1966, entered in Civil Order Book 37, page 79.	(217)
June 27	Order of trial continued: Further part of defendant's evidence heard; court adjourned to 9:00 a.m., Tuesday, June 28, 1966, entered in Civil Order Book 37, page 85.	(218)
June 28	Order of trial continued: Further part of defendant's evidence heard; court adjourned to 9:00 a.m., Wednesday, June 29, 1966, entered in Civil Order Book 37, page 90.	(219)
June 29	Order of trial continued: Further part of defendant's evidence heard; court adjourned to 9:00 a.m., Thursday, June 30, 1966, entered in Civil Order Book 37, page 94.	(220)
June 30	Order of trial continued: Remainder of defendant's evidence and rebuttal evidence on part of plaintiffs heard; defendant's motion to dismiss causes of action renewed and by reference adopted the motions made at the conclusions of plaintiffs' evidence; motions denied at present time; argument heard; cases taken under advisement by the Court; each party allowed ten days within which to file or submit additional or supplemental briefs and proposed findings of fact and conclusions of law, entered in Civil Order Book 37, page 97. Exhibits filed.	(221)
July 15	Memorandum opinion of the Honorable Robt. L. Taylor, District Judge, in favor of the defendant and against the plaintiffs, on the alleged Sherman Act violation, filed. Copy mailed attorneys by clerk.	(222)
Aug. 1	Final judgment that the cause of action alleged under the Sherman Act and Clayton Act is dismissed with prejudice, and each of said parties take nothing by their respective actions under Federal Law, costs are taxed against the UMW for which execution will issue, if necessary, entered in Civil Order Book 37, page 211, and filed.	(223)
Aug. 1	Motion of UMW for amendment of findings and judgments, filed. Copies served by attorneys	(224)
Aug. 1	Order that the motion of UMW for amendment to the findings of fact and conclusions of law, and the judgments, entered thereon is denied, entered in Civil Order Book 37, page 215 and filed.	(225)
Aug. 15	Motion of Coal Company claimants for order permitting a single appeal and authorizing single record on appeal with respect to any and all appeals from judgment entered in consolidated cases, filed. Copy to attorneys by Clerk.	(226)

DATE 1966	PROCEEDINGS	Date Order or Judgment Note
Aug. 15	Order that single record on appeal be prepared and filed in the Court of Appeals with respect to any and all appeals by either side taken from final judgment or other order entered herein, entered in Civil Order Book 37, page 277 , and filed. Copy to attorneys by Clerk.	(227)
Aug. 15	Notice of appeal by coal companies filed. Notice to attorney by Clerk.	(228)
Aug. 15	Appeal Bond by coal companies filed.	(229)
Aug. 15	Notice of appeal by United Mine Workers of America, filed. Copy to attorney by Clerk.	(230)
Aug. 15	Bond for costs of appeal filed. (United Mine Workers)	(231)
August 15	Original transcript filed. (Vols. 1 through 20)	
August 15	Clerk's copy of Court Reporter's transcript, vols. 1 through 20, filed.	(232)
Sept. 12	Certified record on appeal mailed to Clerk, U. S. Court of Appeals, Cincinnati, Ohio.	