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

AUG - 2 1961

JOHN L. LEWIS, ET AL

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∩

VS

∩

NO. 3431

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JAMES M. PENNINGTON, ET AL

∩

J U D G M E N T

This case came on to be heard before the Honorable Robert L. Taylor, Judge, upon the verdict of the jury, the motion of the plaintiffs-trustees, John L. Lewis, et al, for judgment notwithstanding the verdict of the jury and in the alternative for a new trial, and also upon the motion of the cross-defendant, United Mine Workers of America, for judgment notwithstanding the verdict of the jury and in the alternative for a new trial, together with the petition and supporting affidavits of cross-plaintiffs for the allowance of attorneys' fees, and upon the entire record in the case and the Court having fully considered thereof together with the briefs and arguments of counsel is of the opinion and doth hold and adjudge that there is no material or substantial evidence in this record to support the finding of the jury that the Trustees engaged in a combination or conspiracy so as to unreasonably restrain trade or monopolize or attempt to monopolize commerce among the several states as alleged by the original defendants, James M. Pennington, Raymond E. Phillips, and Lillian Goad Phillips, Administratrix of the Estate of Burse Phillips, deceased, and the partnership known as Phillips Brothers Coal Company.

For reasons stated in a memo delivered from the Bench

Filed 2nd day of Aug. 19 61
Civil
Ent'd. Order Bk. 21 p. 170

JAMES W. PARROTT, CLERK

By Evelyn Fowler Dep. Clk.

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WHEREFORE IT IS ORDERED AND DECREED that the verdict of the jury in so finding be set aside and the Court doth award the plaintiffs-trustees judgment for a portion of the claim asserted herein by them, finding and holding that said Trustees are entitled to have and recover royalty upon the quantity of coal produced for use or sale by the defendants, James M. Pennington, Raymond E. Phillips and Lillian Goad Phillips, Administratrix of the Estate of Burse Phillips, deceased, and the partnership Phillips Brothers Coal Company, only for the period from and after April 25, 1955 to and including December 31, 1958, or a total of 108,560.56 tons, at the rate of Forty Cents (\$0.40) per ton, or the sum of Forty-three Thousand, Four Hundred Twenty-four and 22/100 (\$43,424.22) Dollars.

The Court doth further hold and adjudge that the motion of the cross-defendant, United Mine Workers of America, for judgment notwithstanding the verdict of the jury and in the alternative for a new trial is not well made, and, therefore, the same, and each and every ground of said motion as stated in both alternatives, is overruled.

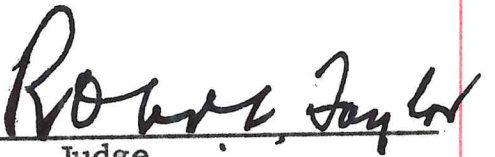
WHEREFORE, IT IS ORDERED AND ADJUDGED that the cross-plaintiffs, James M. Pennington, Raymond E. Phillips and Lillian Goad Phillips, Administratrix of the Estate of Burse Phillips, deceased, and the partnership Phillips Brothers Coal Company, have and recover of the cross-defendant, United Mine Workers of America, in accordance with the applicable statutes, the sum of Two Hundred Seventy Thousand (\$270,000.00) Dollars, being three times the amount of damages awarded by the jury, and also that they have and recover the additional sum of Fifty-five Thousand (\$55,000.00) Dollars which the Court finds to be a reasonable amount of attorneys' fees to be awarded and assessed in accordance with the applicable statutes, thus making a total award in favor of said cross-plaintiffs and against the cross-defendant, United

Mine Workers of America, in the amount of Three Hundred Twenty-five Thousand Dollars (\$325,000.00).

It is further ordered and adjudged pursuant to the previous order of the Court that the counterclaim filed in this case against said Trustees by the defendants and cross-plaintiffs be, and the same hereby is, dismissed.


It is also ordered and adjudged that the costs in this cause shall be taxed after the time for appeal expires or after the disposition of the cause on appeal.

It is further ordered that execution issue in favor of the plaintiffs-trustees, John L. Lewis, et al., against the defendants, James M. Pennington, Raymond E. Phillips and Lillian Goad Phillips, Administratrix of the Estate of Burse Phillips, deceased, and Phillips Brothers Coal Company, for the said sum of Forty-Three Thousand, Four Hundred Twenty-four and 22/100 Dollars (\$43,424.22), and that execution issue in favor of the cross-plaintiffs, James M. Pennington, Raymond E. Phillips, and Lillian Goad Phillips, Administratrix of the Estate of Burse Phillips, deceased, and Phillips Brothers Coal Company, against the said cross-defendant, United Mine Workers of America, for the said sum of Three Hundred Twenty-five Thousand Dollars (325,000.00).

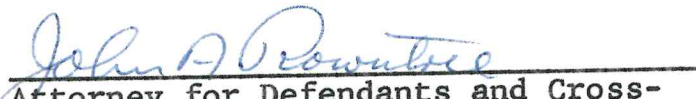


Judge

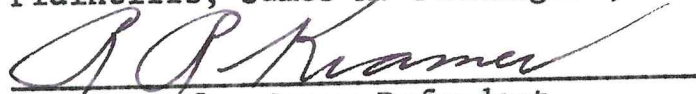
APPROVED FOR FORM:



Attorney for Plaintiffs and Cross-Defendants, John L. Lewis, et al



Attorney for Defendants and Cross-Plaintiffs, James M. Pennington, et al.



Attorney for Cross-Defendant,
United Mine Workers of America