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[¶ 68,683] *United States v. Twentieth Century-Fox Film Corporation; Warner Bros. Pictures Inc.; Warner Bros. Pictures Distributing Corporation; RKO Radio Pictures, Inc.; Republic Pictures Corporation; Republic Productions, Inc.; Columbia Pictures Corporation; Screen Gems, Inc.; Universal Pictures Company, Inc.; United World Films, Inc.; Films, Inc.; and Pictorial Films, Inc.*

In the United States District Court for the Southern District of California, Central Division. Civil Action No. 14354-Y. Filed April 11, 1956.

Case No. 1140 in the Antitrust Division of the Department of Justice.

#### **Sherman Antitrust Act**

**Department of Justice Enforcement and Procedure—Consent Decrees—Modification Pursuant to Terms of Decree—Decrees Vacated.**—Consent decrees entered against three dependents in a Government antitrust action, 1955 TRADE CASES ¶ 68,137 and 68,160, were vacated and the action as to the defendants was dismissed on the motion of the Government. The decrees provided that if any final judgment is entered in the action against any defendant other than the consenting defendants and such judgment is more favorable to any such other defendant than the instant decrees are to the consenting defendants, the consenting defendants will be entitled to a modification of the decrees to substitute the more favorable provisions for corresponding provisions in the instant decrees. A final judgment dismissing the action as to other defendants had been entered.

See *Combinations and Conspiracies*, Vol. 1, ¶ 2005.785; *Department of Justice Enforcement and Procedure*, Vol. 2, ¶ 8301.50, 8321.48, 8341.20, 8361.37, 8421.

<sup>5</sup> *Butcher's Union v. Crescent City Co.*, 111 U. S. 746 (1884), concurring opinions of Mr. Justice Field and Mr. Justice Bradley.

<sup>6</sup> *Apex Hosiery Co. v. Leader* [1940-1943 TRADE CASES ¶ 56,039], 310 U. S. 469, 497-98 (1940).

<sup>7</sup> Even individually conceived refusals to deal may be an element in a violation of § 1 of the Sherman Act. *United States v. Bausch & Lomb* [1944-1945 TRADE CASES ¶ 57,224], 321 U. S. 707, 723 (1944); *Federal Trade Comm'n v. Beech-*

*Nut Co.*, 257 U. S. 441 (1922); Report of The Attorney General's National Committee To Study The Antitrust Laws (1955), at 134; *cf. Dr. Miles Medical Co. v. Parks*, 220 U. S. 373 (1911).

<sup>8</sup> See *Standard Oil of Calif. v. United States* [1948-1949 TRADE CASES ¶ 62,432], 337 U. S. 293, 305 (1949), explaining *International Salt Co. v. United States* [1946-1947 TRADE CASES ¶ 57,635], 332 U. S. 392 (1947).

For the plaintiff: James M. McGrath.

For the defendants: Loeb and Loeb, by Laurence M. Weinberg, Los Angeles, Cal., for Republic Pictures Corporation and Republic Productions, Inc.; and Lillick, Geary & McHose, by Don I. Johnson, Hollywood, Cal., for Films, Inc.

Vacating consent judgments entered in the U. S. District Court, Southern District of California, Central Division, 1955 Trade Cases ¶ 68,137, 68,160; for a prior opinion and consent decree, see 1956 Trade Cases ¶ 68,205, 68,157.

LEON R. YANKWICH, Chief Judge [*In full text*]: The United States of America, plaintiff, having consented with defendants Republic Pictures Corporation and Republic Productions, Inc. to the entry of a final judgment in the above-entitled action, and said final judgment having been entered on September 12, 1955, and provision having been made in said final judgment for the substitution in place thereof of any more favorable judgment rendered with respect to any defendant other than Republic Pictures Corporation, Republic Productions, Inc., Films, Inc., Pictorial Films, Inc., or Warner Bros. Pictures Distributing Corporation, and the Court having rendered judgment against the Government with respect to defendants other than those named above, and having dismissed said action as to them, and said judgment having become final;

Now, Therefore, on motion of the Government, It Is Ordered, Adjudged, and Decreed as follows:

1.eThe judgment as to defendants Republic Pictures Corporation and Republic Productions, Inc., entered September 12, 1955, is hereby vacated and set aside, *nunc pro tunc* as of September 12, 1955.

2.eAt the request of the Government, the action is dismissed as to Republic Pictures Corporation and Republic Productions, Inc.

LEON R. YANKWICH, Chief Judge [*In full text*]: The United States of America, plaintiff, having consented with defendant Films, Inc., to the entry of a final judgment in the above entitled action, and said final judgment having been entered on September 21, 1955, and provision having been made in said final judgment for the substitution in place thereof of any more favorable judgment rendered with respect to any defendant other than Republic Pictures Corporation, Republic Productions, Inc., Films, Inc., Pictorial Films, Inc., and with respect to Warner Bros. Pictures Distributing Corporation, other than a judgment containing no injunctive relief, and the Court having rendered a judgment against the Government with respect to defendants other than those named above, and having dismissed said action as to them and said judgment having become final;

Now, Therefore, upon motion of the Government, It Is Ordered, Adjudged and Decreed as follows:

1.eThe judgment as to defendant Films, Inc. entered September 21, 1955, is hereby vacated and set aside, *nunc pro tunc* as of September 21, 1955.

2.eAt the request of the Government the action is dismissed as to the defendant Films, Inc.

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