

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

FILED

2018 MAR 15 P 2:46

DATHA S. GUNSON, CLERK
KANAWHA COUNTY CIRCUIT COURT

FRONTIER COMMUNICATIONS)
CORPORATION, AND ITS SUBSIDIARIES)
FRONTIER WEST VIRGINIA INC. AND)
CITIZENS TELECOMMUNICATIONS)
COMPANY OF WEST VIRGINIA)
1500 MACCORKLE AVE SE # 500)
CHARLESTON WV 25396-0001)

PLAINTIFF,)

v.)

COMMUNICATIONS WORKERS OF)
AMERICA, AFL-CIO, CLC AND ITS)
DISTRICT 2-13 AND LOCAL 2001)
900 LEE ST E STE 1212)
CHARLESTON WV 25301-1742)

DISTRICT 2-13 VICE PRESIDENT EDWARD)
MOONEY, ADMINISTRATIVE DIRECTOR)
LETHA PERRY, AND ALL OTHER PERSONS,)
KNOWN OR UNKNOWN, SIMILARLY)
SITUATED WITH RESPECT TO THE)
AFOREMENTIONED DEFENDANTS AND)
ACTING IN CONCERT AND PARTICIPATION)
WITH THEM IN THE PRESENT STRIKE)
AND/OR PICKETING,)

DEFENDANTS.)

CIVIL ACTION NO. 18-C-362

PROPOSED TEMPORARY RESTRAINING ORDER

On the 15th day of March, 2018, Plaintiff, Frontier Communications Corporation ("Frontier"), by Richard M. Wallace and Littler Mendelson P.C., its counsel, moved the Court for entry of a temporary restraining order to enjoin Defendants from engaging in certain unlawful violence, property damage, mass picketing, and related misconduct, all as more specifically set forth in Plaintiff's motion and related papers.

WHEREUPON, it appears to the Court that this action was instituted by filing a duly verified complaint with the Clerk of this Court on ~~March~~ 13, 2018. The Court has considered the facts pleaded by Plaintiff in its Verified Complaint.

WHEREUPON, it further appears to the Court from the Certificates of Plaintiff's Attorneys that Plaintiffs have served the Complaint, Motion for Temporary Restraining Order and/or a Preliminary Injunction, supporting Memorandum, and a Notice of Hearing by facsimile transmission upon Defendant CWA, its District 2-13, and its Local 2001 and that telephonic and/or other notice of these filings and of the date, time, place and purpose of the hearing has been provided to the individual defendants.

Having considered the facts pleaded by Plaintiff in its Verified Complaint and the arguments of counsel in support of entering a temporary restraining order, the Court is of the opinion that Plaintiff has made a threshold showing that the Defendants have engaged in unlawful activities relating to the current strike, and that the Plaintiff and the general members of the public at large will suffer irreparable harm if a temporary restraining order is not entered immediately. Moreover, Plaintiff's attorney certifies to the court in writing the efforts which have been made to give notice to Defendants, and the reasons supporting the claim that notice should not be required.

Defendants will certainly have the opportunity to argue against entry of a preliminary injunction at the hearing on March 21, 2018 and the Court may, if appropriate, lift this Order at that time. In any event, this Order will expire within 10 days if it is not converted to a preliminary injunction by further action of the Court.

Based upon the foregoing, the Court has concluded, and hereby **TEMPORARILY ORDERS**, the restraint and enjoinder of Defendant CWA, CWA District 2-13, CWA Local

2001, the individual named Defendants, and any other persons acting in concert or participation with them from conspiring, causing, authorizing, encouraging, instigating, supporting, ratifying and/or arranging with each other or with any other person or persons, organizations or associations, to do, or doing, any of the following:

a) Interfering with the business activities of Frontier, its officers, agents, employees, representatives, contractors, vendors, suppliers, and all others having business with Frontier, by threatening, obstructing, intimidating, or harassing them.

b) Blocking or hindering access to, in any manner whatsoever, the entrance or exit to Frontier's facilities or customer sites, to prevent ingress or egress, or otherwise blocking or hindering in any way the flow of traffic in front of and entering and leaving Frontier's facilities or customers' worksites.

c) Picketing, other than peacefully, and by no more than six (6) picketers at least 15 feet from any entrance to Frontier's property or premises or at any worksite of any Frontier employee or contractor performing Frontier work, in any manner, including at picket change time (this is not to exclude peaceful picketing in accordance with this Order on a public sidewalk in front of any Frontier facility); provided that if a Frontier employee or contractor performing Frontier work is working outside (on the street, above the street, or below the street), there shall be no more than two (2) picketers stationed no closer than ten (10) feet to the work site or the individual performing the work; provided further that if a Frontier employee or contractor performing Frontier work is working at a customer's residence, there shall be no more than two (2) picketers stationed no closer than the greater of ten (10) feet from the residence door or on public property, and any vehicles of the two (2) picketers shall not block ingress or egress or the movement of a Frontier vehicle or Frontier contractor vehicle.

d) Causing physical violence or harm, or making threats of physical violence or harm.

e) Engaging in reckless driving, tailgating, cutting off, attempting to cause vehicular collisions, obstructing traffic, knowingly following any Frontier employee or Frontier contractor or person having business with Frontier other than to a worksite; trapping individuals in vehicles or otherwise blocking physical movement of any individual; following closer than two car lengths from any Frontier employees or Frontier contractor's vehicle unless traffic is stopped or slowed in which case the picketers will not leave their vehicles to approach or surround the Frontier employee or contractor; and having more than two (2) vehicles driven by the picketing employees following the Frontier vehicle or Frontier contractor vehicle.

f) Engaging in sabotage, destruction of or damage to property, or vandalism of any nature.

g) Inducing, instigating, encouraging, ordering, aiding, assisting, or abetting any person or persons in the commission of any one or all of the acts herein enjoined.

It is further **ORDERED**, pursuant to W. Va. Code §§ 61-6-1 and 61-6-3, that the West Virginia State Police periodically patrol the entrances / exits to the property in question and respond immediately to any information or of further assemblages in violation of this Order and to take all necessary steps to suppress conduct in violation of this Order, including assemblages, and to disperse the participants.

It is further **ORDERED** that a certified copy of this Order shall be transmitted to the West Virginia State Police and that they are, commensurate with their duties as provided by statute and case law, hereby **ORDERED** to enforce the same.

It is further **ORDERED** that the Plaintiff's designated agents, so long as they are credible persons, are permitted to serve copies of the Complaint, this Order and any Orders issued herein.

Further, it is **ORDERED** that the Defendant Union (a) shall immediately distribute copies of this Order to its members who are or who may be involved in any picketing at or near Frontier's facilities; and (b) take all reasonable actions to compel its members to comply with the terms of this Order.

It is also **ORDERED** that the Sheriff of Kanawha County, or their designees, promptly effect personal service of process to those known Defendants residing in their respective counties and make proper returns of service based thereon.

It is also **ORDERED** that in addition to the method of service provided by statute, notice of this Order may be given to the Defendants and all others as follows:

- (a) The posting of certified copies of this Order at the entrances or exits of the Plaintiff's premises shall be *prima facie* evidence of notice of this Order and of this injunction, and knowledge thereof, to and by all persons who may commit, or attempt to commit, any acts in violation thereof, at or near Frontier's premises, or any gates or entrances thereof, or at or near Frontier's facilities on public streets, roads or highways adjacent thereto.
- (b) The posting of a certified copy of this Order on any truck, automobile, engine or vehicle, operated by or used in the business of the plaintiff, or operated or used by any person working for or doing business with the plaintiff, shall be *prima facie* evidence of the notice of this Order and of the injunction and knowledge thereof, to and by all person who may commit, or attempt to commit, or act or attempt to

act in violation thereof, respecting the operation or use of any such truck, automobile, engine or vehicle.

This Order shall remain in effect until March 19, 2018, at 5:00 p.m. without further action of the Court.


Objections and exceptions are preserved as to the parties adversely affected by this Order.

It is all so **ORDERED**.

ENTER: 3-15-18


CIRCUIT JUDGE

Prepared by:


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