

Decision No. 43253

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ROCCO DALO, an individual doing business  
under the fictitious firm name and style  
of Rocky's Cafe,

Complainant,

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY,  
a corporation,

Defendant.

ORIGINAL

Case No. 5101

ORDER OF DISMISSAL

The complaint herein, filed June 27, 1949, alleges in substance that complainant operates a cafe; that a bartender employed by complainant was arrested for alleged bookmaking activities at complainant's place of business; that semi-public telephone facilities were removed from the premises by the Los Angeles County Sheriff's Office; that defendant thereafter notified complainant that communication facilities were being discontinued; that complainant was not aware of any activities in violation of law in the use of such instrumentality; that such instrumentality was of a semi-public nature, enclosed in a private booth, and that complainant had no control over the activities of the users of said instrumentality; that defendant's action has caused irreparable damage to complainant's business and reputation, and has worked hardship on the community surrounding complainant's place of business; and, finally, "that because of the damage to his reputation and because of the extreme hardship on his business, that he request of the company to install a telephone facility over which the complainant could exercise control."

The complaint asks that defendant "be enjoined from refusing communication facilities" on complainant's premises.

Pursuant to the Commission's procedural rules, a copy of the complaint was mailed to defendant by way of information, allowing five days within which to point out alleged defects in the complaint. Counsel for defendant took the position that the complaint is defective in that it does not allege that application has been made to defendant for service other than semi-public service, and does not "set forth definitely the exact relief desired." (Procedural Rule 9.)

Under date of July 13, 1949, complainant was advised that reference to the Commission would be delayed for fifteen days, to accord complainant an opportunity to consider whether he desired to file an amended complaint or rely upon the present pleading. There has been no reply to the letter of July 13, 1949.

Good cause appearing, IT IS ORDERED that the complaint in Case No. 5101 is hereby dismissed for failure to state a cause of action and for failure to comply with the Commission's procedural rules.

Dated, San Francisco, California, this 23<sup>rd</sup> day of August, 1949.

R. B. [Signature]  
Justus F. Casper  
Frank [Signature]  
Harold [Signature]  
Commissioners