

IN THE UNITED STATES DISTRICT COURT U.S. DISTRICT COURT DISTRICT OF UTAH – CENTRAL DIVISION	
FILED 2006 MAY -1 A 10: 01	
INTERNATIONAL ASSOCIATION OF UNITED MINE WORKERS UNION, <i>et al.</i> ,  Plaintiffs,  vs.  UNITED MINE WORKERS OF AMERICA, <i>et al.</i> ,  Defendants.	DISTRICT OF UTAH  BY: _____ DEPUTY CLERK  <b>OPINION AND ORDER</b>  Case No. 2:04cv00901  Judge Dee Benson

Various defendants have moved pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure to dismiss the claims asserted against them in the Second Amended Complaint.

### BACKGROUND

C. W. Mining Company (“CWM”) owns and operates a coal mine in the Bear Canyon region of Emery County, Utah. In September 2003, a labor dispute broke out between CWM and some of its miners following the dismissal of miner Bill Estrada. CWM claimed that Mr. Estrada was fired for insubordination after he had been caught falsifying a safety inspection record. Mr. Estrada maintained he was dismissed for confronting CWM supervisors when they threatened disciplinary action against two of his colleagues, Oscar Sosa and Juan Salazar, for alleged infractions of work rules. Following Mr. Estrada’s dismissal, CWM claimed that approximately 75 fellow miners joined Mr. Estrada and walked away from their jobs to stage an illegal wildcat strike. The miners, however, maintained that after they came to Mr. Estrada’s defense, they were then told by a CWM foreman that they had all been fired.

A labor standoff ensued. The miners claimed they were underpaid, exploited and abused. They also claimed that their internal union, the International Association of United Mine

Workers Union ("IAUWU"), was merely an appendage of management and that they had been fired when they attempted to form an independent labor union. CWM maintained that all of its labor practices were fair and that the IAUWU was a legitimate labor union that fully represented the interests of the miners. CWM claimed to have fired several miners because they were illegal immigrants who had falsified documents in order to obtain employment.

The United Mine Workers Association ("UMWA"), a labor union affiliated with the AFL-CIO, quickly intervened on behalf of the striking miners. On September 23, 2003, the UMWA filed a complaint with the National Labor Relations Board ("NLRB") alleging that approximately 80 miners were discharged improperly. On October 22, 2003, the IAUWU filed a complaint with the NLRB against the UMWA alleging unfair labor practices by a labor organization under 29 U.S.C. § 158. The labor standoff continued for approximately eight months until CWM and UMWA settled their claims with the NLRB on July 1, 2004. The settlement provided that the miners be reinstated to their jobs and receive back pay as determined by the NLRB Regional Director.

The labor dispute was highly publicized locally and also received considerable national attention. Both CWM and the miners were interviewed by a variety of media outlets to articulate their respective positions. The Salt Lake Tribune and the Deseret Morning News, Utah's two major daily newspapers, published many articles throughout the course of the dispute. The Salt Lake Tribune published at least nine articles concerning the dispute beginning on September 26, 2003 and ending on July 14, 2004. *See Complaint.* Similarly, the Deseret Morning News published at least nine articles concerning the dispute beginning on October 30, 2003 and ending on July 8, 2004. *See Complaint.* The Militant, a socialist newspaper with limited circulation headquartered in New York City, published at least 55 articles describing the dispute. *See*

Complaint. The Intermountain Catholic newspaper, the Emery County Progress, the Provo Daily Herald, the Price Sun Advocate, and the Salt Lake City Weekly also published numerous articles about the labor dispute.

Following settlement of the NLRB claims, CWM, the IAUWU, and other plaintiffs (collectively "plaintiffs") filed an 80-page complaint in the United States District Court for the District of Utah alleging defamation and other claims against nearly one hundred defendants, including the UMWA, the AFL-CIO, the Socialist Workers Party, The Militant, the Salt Lake Tribune, the Deseret Morning News, the Price Sun-Advocate, Jobs with Justice, the Tapestry Against Polygamy, the Roman Catholic Church, and many of the striking miners. *See* Complaint. Three months later, the plaintiffs filed an amended complaint. *See* Amended Complaint. Several of the defendants, including the Salt Lake Tribune, the Deseret Morning News, and the Militant moved to dismiss the amended complaint pursuant to Rule 12(b)(6) and the Court heard oral argument on these motions on June 14, 2005. The Court found the pleading was insufficiently precise to allow the defendants to respond, but rather than dismiss the case allowed the plaintiffs to file a second amended complaint. The Court stated:

The plaintiffs are to file a second amended complaint. I'll grant leave for that filing, which needs to clearly allege who is being sued for what and by whom.... In its present form the amended complaint is sufficiently vague and insufficiently precise to stand as a complaint upon which relief may be granted and from which this litigation may proceed.

*See* Transcript of June 14, 2005 Hearing, at 69 and 74. Pursuant to the Court's Order, the plaintiffs filed a second amended complaint on July 13, 2005. In their Second Amended Complaint, the plaintiffs reduced the number of defamatory statements alleged against the Salt Lake Tribune from 38 to 10 and against the Deseret Morning News from 30 to 5. Following the plaintiffs' submission of the Second Amended Complaint, the Salt Lake Tribune, the Deseret

Morning News, the Militant, the UMWA, Jobs with Justice, and other individual defendants again moved to dismiss the claims pursuant to Rule 12(b)(6). The Court heard oral argument on these motions on February 17, 2006, and at the conclusion of the hearing announced from the bench its intention to dismiss the claims against the Salt Lake Tribune and the Deseret Morning News. The Court also announced that reasonable attorneys' fees would be awarded to both the Salt Lake Tribune and the Deseret Morning News. The Court now issues the following Opinion and Order articulating its reasons for dismissing the claims against the Salt Lake Tribune and the Deseret Morning News and GRANTING dismissal in part and DENYING dismissal in part with respect to the other defendants.

## ANALYSIS

### I. Motions to Dismiss

Dismissal under Rule 12(b)(6) is proper "only when it appears that the plaintiff can prove no set of facts in support of the claims that would entitle the plaintiff to relief." *Atlantic Richfield Co. v. Farm Credit Bank of Wichita*, 226 F.3d 1138, 1160 (10th Cir. 2000) (citations omitted). Well-pleaded allegations in the complaint are accepted as true and construed in the light most favorable to the non-moving party. *See Id.* (citations omitted). Dismissal for failure to state a claim "[s]hould not be granted unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." *Sutton v. Utah State School for the Deaf and Blind*, 173 F.3d 1226, 1236 (10th Cir. 1999) (citations omitted). The Court will now discuss each claim in turn.

#### A. Defamation

The plaintiffs have brought state law claims for defamation against the Salt Lake Tribune, the Deseret Morning News, The Militant, the individual miners, the UMWA and Jobs With

Justice. To state a claim for defamation under Utah law, a plaintiff must show “that defendants published the statements concerning him, that the statements were false, defamatory, and not subject to any privilege, that the statements were published with the requisite degree of fault, and that their publication resulted in damage.” *West v. Thomson Newspapers*, 872 P.2d 999, 1007-8 (Utah 1994) (Citations omitted).

The Utah Supreme Court provided a careful analysis of defamatory meaning in *Cox v. Hatch*, 761 P.2d 556, 561 (Utah 1988), stating: “The tort of defamation protects only reputation. A publication is not defamatory simply because it is nettlesome or embarrassing to a plaintiff, or even because it makes a false statement about the plaintiff. Thus, an embarrassing, even though false, statement that does not damage one’s reputation is not actionable as libel or slander.” *Id.* To determine whether defamatory meaning exists, the court must consider whether a reasonable reader could reasonably infer defamation. “If no defamatory meaning can reasonably be inferred by reasonable persons from the communication, the action must be dismissed for failure to state a claim. Only if a court first determines that a publication might be considered defamatory by a reasonable person is there a fact issue for the trier of fact.” *Id.*

Context is key in determining defamatory meaning. The Utah Supreme Court has stated, “[I]n determining whether a particular statement fits within the rather broad definition of what may be considered defamatory, the guiding principle is the statement’s tendency to injure a reputation in the eyes of its audience.” *West v. Thomson Newspapers*, 872 P.2d 999, 1008 (Utah 1994). “A court simply cannot determine whether a statement is capable of sustaining a defamatory meaning by viewing individual words in isolation; rather, it must carefully examine the context in which the statement was made, giving the words their most common and accepted

meaning.” *See Id.*, at 1009. Thus a court must consider an entire article to determine whether a reasonable reader could infer defamation.

Editorials are given more latitude than other articles with respect to defamation. An editorial, by definition, contains the opinions of its author. Statements of opinion can only be defamatory if they imply facts that are false and defamatory. The Utah Supreme Court has ruled:

[A]rticle I, sections 1 and 15 [of the Utah Constitution] protect expressions of opinion, and this protection is “abused” when the opinion states or implies facts that are false and defamatory. If the opinion does not state or imply such facts or if the underlying facts are not defamatory, an action for defamation is improper.

*West v. Thomson Newspapers*, 872 P.2d at 1015. In *West*, the Court noted that newspaper editorials are “a traditional source of harsh political invective.” *Id.*, at 1009. “Newspaper readers expect that statements in editorials will be more exaggerated and polemicized than “hard news.” Readers are therefore less likely to form personal animus toward an individual based on statements made in an editorial.” *Id.* The United States Supreme Court has stated, “Under the First Amendment there is no such thing as a false idea. However pernicious an opinion may seem, we depend for its correction not on the conscience of judges and juries but on the competition of other ideas.” *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 339-40 (1974).

Even though defamation is a state law claim, the United States Supreme Court has recognized constitutional boundaries on defamation claims arising from labor disputes. The United States Supreme Court requires plaintiffs to prove malice and actual harm in defamation claims arising from labor disputes. *See Linn v. United Plant Guard Workers of America, Local 114*, 383 U.S. 53 (1966). In *Linn*, an assistant general manager of Pinkerton’s National Detective Agency sued the United Plant Guard Workers of America labor union and a Pinkerton employee for circulating leaflets that stated, in part, “These Pinkerton guards were robbed of pay increases. The Pinkerton manegers (sic) were lying to us-all the time the contract was in effect. No doubt

the Saginaw men will file criminal charges. Somebody may go to jail!” *Id.*, at 56. The petitioner complained the statements were defamatory and that a reader could infer his identity from the reference to a Pinkerton manager in Saginaw, which he was. The Court noted that labor disputes “[a]re frequently characterized by bitter and extreme charges, countercharges, unfounded rumors, vituperations, personal accusations, misrepresentations and distortions. Both labor and management often speak bluntly and recklessly, embellishing their respective positions with imprecatory language.” *Id.*, at 58 (citations omitted). It then ruled, “We therefore limit the availability of state remedies for libel to those instances in which the complainant can show that the defamatory statements were circulated with malice and caused him damage.” *Id.*, at 64-65.

The Court will now consider the defamation claims against each defendant to determine whether a claim has been stated upon which relief may be granted pursuant to Rule 12(b)(6).

# **I. The Salt Lake Tribune and the Deseret Morning News**

Plaintiffs’ defamation claims against the Salt Lake Tribune and the Deseret Morning News fail because the allegedly defamatory statements cannot convey the defamatory meaning required by Utah law or the malice required under *Linn*.

## **A. The Salt Lake Tribune**

### ***1. A Show of Support***

Plaintiffs first claim as set forth in the Second Amended Complaint, paragraph 162, reads as follows:

The Salt Lake Tribune reporter Rhina Guidos said:

- a. For more than seven months, the workers have been locked out of their mining jobs at CW Mining Co., and the workers have been asking for their jobs back “with the right to organize a union,” which was a false assertion that CWM’s workers not only had not exercised their right to form a union, the IAUWU, but that CWM had tried to prevent its workers from organizing a union.

The full article to which this claim refers reads:

**A Show of Support: Utah's Catholic leader speaks out, offers prayers for striking miners; Bishop shows support for miners**

**Rhina Guidos, The Salt Lake Tribune**

HUNTINGTON - Bishop George Niederauer stepped out of his sedan and into the warm spring afternoon along state Road 31 on Tuesday, arriving to show his support for miners who have been on strike here for months. Across the street, a crowd of about 25 of the miners and their families - most of them Mexican immigrants, most of the Catholics - were happy to see that the head of the Salt Lake Catholic Diocese was joining their struggle.

*For more than seven months, the workers have been locked out of their mining jobs at CW Mining Co., also known here as the Co-op mine, and there is no resolution in sight. In the sun and snow of those months, they have been at the entrance of the mine asking for their jobs back, but with better wages, with health insurance for themselves and their families, and with the right to organize a union.*

"I drove two hours to come here and two hours back" to Salt Lake City, Niederauer told them. "But you sacrifice day after day. You are in my prayers, and you are in the prayers of the people."

It is the first time the bishop has made such a visit in Utah. But by joining the strikers on Tuesday, Niederauer said, he is following in the footsteps of other Christians and his predecessors in the church. "I'm not striking out in any radical new way," he said.

He said a prayer for the strikers alongside an image of the Virgin of Guadalupe, housed inside a trailer that the Utah Department of Transportation tried to have removed in April.

As Co-op workers and the owners of the mine - members of the polygamous Kingston clan - left for the day, Niederauer listened to stories from the striking workers, about how little they made, about how their families are suffering.

At San Rafael Mission outside of Huntington, he celebrated a Mass for the workers, their families and the communities that have supported them. Later he shared a meal with them.

"This has been hard," said Jesus Salazar, one of the strikers. "But we have to keep going."

The visit from Niederauer was a boost to the dwindling picket line, as some strikers have left for better paying jobs at other mines.

Valente Leon, a former Co-op worker, said he's making more money at a new job. But just because his life is better, the struggle isn't over, he said. He stopped to shake Niederauer's hand and to ask him to help the strikers. "I will still come by after work to lend them support," Leon said.

Though the Kingstons may not listen to the Catholic bishop of Salt Lake, Niederauer said the purpose of his visit was to speak out for fair wages, for safe working conditions, for the right to associate as workers. "They are all being denied to the workers" at the Co-op mine, he said.



Seminarian Oscar Martinez has been helping with efforts to get the Kingstons and workers talking. So far, he said, it has yielded a letter offering the workers their jobs back, but at the same wages and conditions as before. But striker Alyson Kennedy said they won't go back to the mine until they are treated with dignity and respect. "We will go back, but with our heads held high," she said.

And that's what the church leaders want, too, Martinez said. He hopes that the bishop's visit will facilitate that. "Our role is to accompany them spiritually and to accompany them on this strike," he said. "It is not a battle against this [the Kingston] family."

Rhina Guidos, *A Show of Support*, S.L. Tribune, May 5, 2004, at A1. (emphasis on alleged defamatory statements).

The allegedly defamatory statement within the article cannot convey defamatory meaning. While the plaintiffs have alleged that it was a false assertion that the CWM employees had not exercised their right to organize a union, such an assertion if it exists at all, was implicit, and in any event the article attributes any such assertion to the miners. CWM makes no allegation that the Salt Lake Tribune falsely attributed those claims to the miners. The fact of the matter is the workers actually were asking for their jobs back "with the right to organize a union."

Even if the statements were false, they could not convey defamatory meaning. The article was entitled "*A Show of Support: Utah's Catholic Leader Speaks Out, Offers Prayers for Striking Miners.*" This title declares that Bishop George Niederauer, not the Salt Lake Tribune, had taken a position on the labor dispute. The sentences immediately following the alleged defamation read, "I drove two hours to come here and two hours back' to Salt Lake City, [Bishop] Niederauer told them. 'But you sacrifice day after day. You are in my prayers, and you are in the prayers of the people.'" *Id.* No reasonable reader could conclude that the Salt Lake Tribune intentionally attacked the reputation of CWM or its owners by publishing Bishop Niederauer's perspective on the labor dispute.

CWM has not alleged that the Salt Lake Tribune published this article with the requisite malice under *Linn* nor does the content of the article indicate malice. That the Salt Lake Tribune sought out the employees and described their position suggests that the author and publisher were concerned about the veracity of what they printed. Even if a sentence or paragraph contains false statements, no reasonable reader could conclude that they were published with the requisite intent to injure the plaintiffs.

## ***2. Miners Win Back their Jobs***

Plaintiffs next claim defamation in the statement: "CWM workers 'were fired and locked out' of their jobs at CWM, and Estrada was fired for union-organizing activity." See Second Amended Complaint, ¶ 162.

The full article reads:

**Miners Win Back their Jobs: Huntington workers aren't celebrating, say safety, wages remain an issue; Miners vow to fight for better conditions  
Glen Warchol and Rhina Guidros, The Salt Lake Tribune**

A group of mostly Latino coal miners who became labor movement celebrities after they *were fired and locked out* of a polygamous clan-owned mine 10 months ago have won reinstatement to their jobs. However, the 75 workers at C.W. Mining's Co-op Mine near Huntington in Emery County say their hard-fought settlement with the owners - members of the Kingston clan - is only the first step toward getting the right to work safely for decent wages.

"It's an important step, but we haven't won," said *Bill Estrada, the miner who rallied the others last year after he was fired for union-organizing activity*. He said the settlement reached Thursday through the National Labor Relations Board (NLRB) validated what the miners have been saying all along: The Kingstons fired them illegally. It also entitles the miners to back pay for the time of the lockout in an amount that has yet to be determined.

Workers, however, will return to the same wages, poor benefits and the unsafe working conditions, Estrada said, so a final victory eludes them.

The United Mine Workers of America (UMWA) already has petitioned the NLRB to represent the miners in contract negotiations. An election is expected next month in which the miners will choose between the UMWA, the mine's existing union, the International Association of United Workers, or no union, NLRB Assistant Regional Director Wayne Benson said.

Miners say the International Association of United Workers is a “yellow-dog” or company-run union, but Benson said the NLRB did not gather sufficient evidence to support that allegation.

Telephone calls to C.W. Mining on Friday were not immediately returned. The company has maintained Estrada was fired for insubordination after having been caught falsifying a safety-inspection record. Estrada said the miners’ attention now turns to next months’ union vote. “It will be between the UMWA or the false union of the Kingstons,” he said. “But how can [we] have a union that is owned by the company?”

The UMWA helped the miners rally support around the country and the world. In the months that followed the Sept. 22 lockout, they became labor movement celebrities, speaking at conferences and union functions from Boston to Seattle. The Utah miners received donations and moral support from labor groups in Sweden, Great Britain and New Zealand.

“Wehn we were fired from our jobs, they [the UMWA] said they’d be with us every day until it was over, and they have been,” miner Alyson Kennedy said. “We’re going back stronger, with a lot of support, with a lot of friends and allies,” she said. “We’re going back in a good position for the next stage.”

On Tuesday, the miners and supporters will trek from a park in Huntington to the entrance of the mine. They will decide which workers will return to work in the mine, since many of them have taken jobs elsewhere.

Utah’s Roman Catholic Bishop George Niederauer, who visited the striking miners in May, said they will continue to need public support. Like the union, the diocese has been instrumental in sending monetary and other types of donations for the miners, as well as rallying support around the state. “One of the most important things we in the public should realize is that this is no time to divert our attention away from the situation,” Niederauer said. “We need to keep alert and watching ... It’s important not be lulled into thinking the whole thing has been resolved.”

Glen Warchol and Rhina Guidos, *Miners Win Back Their Jobs*, S.L. Tribune, July 3, 2004, at A1.

(emphasis on alleged defamatory statements).

The plaintiffs have taken pieces of sentences in order to form this puzzling allegation.

The full sentence regarding union-organizing activity reads:

“It’s an important step, but we haven’t won,” said Bill Estrada, the miner who rallied the others last year after he *was fired for union-organizing activity*. He said the settlement reached Thursday through the National Labor Relations Board (NLRB) validated what the miners have been saying all along: The Kingstons fired them illegally.

*Id.* (emphasis added to show alleged defamation). Read in context, it is clear that the Salt Lake Tribune is reporting Mr. Estrada's position in the labor dispute. No reasonable reader could conclude from these sentences that the Salt Lake Tribune intentionally attacked CWM's reputation. Moreover, the Salt Lake Tribune laid out CWM's position within the same article and telephoned CWM to see if it had anything to add. The article states, "Telephone calls to C.W. Mining on Friday were not immediately returned. The company has maintained Estrada was fired for insubordination after having been caught falsifying a safety-inspection record." *Id.* Given the full context of the article, no reasonable reader could infer defamation, much less malice as required by *Linn*.

### ***3. Workers Return to Jobs at Huntington Mine***

Plaintiffs next claim the statement "The workers were allowed to return to work after being fired" defamed them. *See* Second Amended Complaint, ¶ 162. The full article reads:

#### **Workers Return to Jobs at Huntington Mine Rhina Guidos**

After being out of work for nine months over a labor dispute, more than 40 miners quietly returned Tuesday to their jobs in the caverns of a Huntington mine. The issues leading to the dispute remain unresolved. "It was uneventful," said Bill Estrada of his first day back at the Co-op mine.

He said that miners who were locked out last September by their employer C.W. Mining entered their old workplace with stickers on their hard hats bearing the name of the United Mine Workers of America (UMWA), the union they wanted to join.

The dispute over the workers' allegations of low wages, lack of health insurance, and unsafe or unacceptable working conditions ended earlier this month, when the National Labor Relations Board brokered a deal between the laborers and the polygamous Kingston family that owns the Co-op Mine. The company admitted no wrongdoing and *the workers were allowed to return to work after being fired*.

Representatives of the mine did not return phone calls seeking comment.

Next month, the workers could choose to be represented by the UMWA, the International Association of United Workers Union (IAUWU), or no union at all. The workers who picketed the company say the IAUWU - which says it has represented the mine's workers for more than 20 years - is a "yellow-dog" union

run by members of the Kingston family. But the NLRB recognizes that union as a valid organization.

It wasn't easy to return to work making \$6.50 an hour and still without health insurance for himself or his family, said miner Juan Salazar, 28, after a 13-hour workday. Many of the workers have been given 48-hour work schedules this week.

Salazar, a machine operator, said he spent the first day "cleaning" the coal with a shovel. "We went in and we didn't have problems, no one intimidated us," he said. "But we want to attain a real union, one that will change the conditions of the mine."

Miner Alyson Kennedy also went back to work on Tuesday. She spent Saturday watching a refresher course on mining. "It's not clear what's going to happen," she said.

The miners will still be negotiating for back pay, she said. And the conditions are still the same. The women still don't have a separate place to shower or change. She said the company offered her \$1.50 a day if she signed a document accepting the lack of a separate space for female miners. "They said they don't have money [to build separate facilities]," she said.

Like most of the workers, Estrada said he wasn't thrilled about returning to the same conditions that led the miners to strike in the first place. "[W]e have taken a step toward an election," he said. "That's why we're back, because we have the opportunity to change something and we think it will be possible to do it."

Rhina Guidos, *Workers Return to Jobs at Huntington Mine*, S.L. Tribune, July 14, 2004, at B2.

(emphasis on alleged defamatory statements).

Plaintiffs have again selected only a portion of a sentence in their attempt to claim defamation. The whole sentence reads, "The company admitted no wrongdoing and *the workers were allowed to return to work after being fired.*" *Id.* (emphasis on alleged defamatory statement). The article's next sentence reads, "Representative of the mine did not return phone calls seeking comment." *Id.* No reasonable reader could interpret these statements as an intentional attack on the plaintiffs' reputation. CWM had the opportunity to state its position that the miners were not fired. The Salt Lake Tribune states that it inquired as to CWM's position. Not only does the statement fail to cast CWM in a bad light, it is devoid of malice.

#### ***4. Immigrant Miners Take On Kingstons***

Plaintiffs next claim "The Salt Lake Tribune reporter Corey Hilton accused CWM of abusing its workers." See Second Amended Complaint, ¶ 163. The full article reads:

**Immigrant Miners Take On Kingstons: They say the company took advantage of them, paid poorly and fired workers for trying to unionize Mike Gorrell and Rhina Guidos**

HUNTINGTON - Bill Estrada never aspired to be a labor activist before he spent a year digging coal at the Co-op Mine for less than \$6 an hour. Now he spends six hours a day on a picket line at a junction where the mine's access road branches off from state Road 31, a scenic bypass that climbs from the terraced base of Huntington Canyon to the top of the coal-rich Wasatch Plateau.

Estrada is supported by 68 to 75 miners, almost all Latino, who rallied to his cause after he says Co-op fired him Sept. 22 for trying to organize a union. The company maintains Estrada was insubordinate after being caught falsifying a safety inspection record.

His backers include Guillermo Hernandez who, after 22 years with Co-op, earns less than \$8 an hour, with no pension or medical benefits. And Celso Panduro, who contends he cannot afford to celebrate his son Daniel's upcoming third birthday because his \$8 per hour wage barely covers the rent and food bills for his family of five. And Ana Maria Sanchez, a 24 year-old single mom who claims the min-owning Kingston family did not provide separate restrooms or bathing facilities for the three women on the work force.

"We're very united," says Estrada, 37, who migrated from Los Angeles to Price, where his girlfriend had relatives. "That's the one thing the company didn't count on. They thought, 'They're Mexicans. We can get rid of them ... They didn't figure that sooner or later, a group of workers would be able to find out what their rights are and to fight back for what's justifiable and what they deserve."

Charles Reynolds, personnel manager for CW Mining Co., the company's formal name, denies Co-op was taking advantage of the miners, most of whom hail from Sinaloa state in west-central Mexico. "Our company does not discriminate in our hiring in any way. We employ both Hispanic-Americans and anyone else who applies for a job, when we have an available opening," he says.

The miners' case is being investigated by the National Labor Relations Board at the request of the United Mine Workers of America (UMWA). Once vibrant but now struggling, the union has made the Co-op miners a cause celebre. Their plight is evidence to the UMWA that modern workers remain subject to corporate mistreatment that most Americans thought was eradicated long ago - with immigrants still especially vulnerable to exploitation because of their limited English-speaking abilities and fears that deportation will face any complainers who enter the United States illegally.

Seven of the miners received a warm ovation Sept. 30 when they were introduced onstate at a union special convention in Las Vegas. UMWA International President Cecil Roberts then issued a statement calling on American workers to support the miners "as they fight for justice and dignity."