

Salt Lake City-based members of the AFL-CIO's Building Trades local union chapters responded with a food drive. Teaming with Utahns Against Hunger and Utah Jobs with Justice, a worker advocacy group, the union locals delivered four truckloads of canned vegetables, fruit, beans, tortillas, rice and other foodstuffs to the Co-op miners. *"It kind of makes you mad that somebody could abuse people that badly," says Corey Hilton, chairman of the Building Trades Organizing Project. "We don't want any kids going hungry."*

Unless the labor dispute goes on indefinitely, most food needs of the miners and their families should be covered by the Emery County Community Service food bank, operated in Castle Dale by the Southeastern Utah Association of Local Governments. But service coordinator Kathy Thomas says that with 30 families already having come to the food bank for assistance, "we're thinning out. That's a sizable number for a small area like this. We have donation sites all over the county so individuals can donate food if they like."

Thomas says her agency cannot help the miners meet rent payments or utility bills, assistance that will have to come from the UMWA or Catholic relief agencies.

Adding spice to the conflict is the fact that Co-op Mining is widely recognized as a holding of the polygamous Kingston family. Longtime UMWA International board member Mike Dalpiaz, Helper's former mayor, says that because of suspicions about the family's operations, "we are going to open this up and see what the Kingstons are doing on different playing fields. Somebody has to put an end to this."

For his part, Estrada says, "we're fighting this, not because they're a polygamous family but because of what they do at this mine. We want what's fair at that mine."

He says he heard grumbling about the low wages (average pay for a Utah coal miner is \$12 per hour), lack of benefits and potentially dangerous working conditions from the day he started as a miner's helper. It did not take him long to perceive that the mine's so-called union, the International Association of United Workers, was a company concoction designed to preclude employees from airing legitimate grievances.

Estrada eventually became part of a group that arranged a meeting in late August with UMWA labor organizer Jim Stevenson, who urged the group to keep a low profile while electing a "leadership committee" that could advise workers of their rights under the National Labor Relations Act.

"They learned very quickly," Stevenson says of the miners, who Estrada claims stood up to their bosses twice last month when they threatened disciplinary action against two colleagues, Oscar Sosa and Juan Salazar, for alleged infractions of work rules.

Estrada says the showdown over Salazar occurred Sept. 19. When he returned to work the following Monday, a foreman confronted him, wanting Estrada to sign a form acknowledging a failure to perform his duties adequately. Estrada refused and the foreman fired him.

Co-op's Reynolds rejects Estrada's account, contending he knows nothing of "any organizing they were doing. It was simply in response to some problems they were having with him on the job."

The miners and the company disagree over what happened after that, too. The miners maintain that when they came to Estrada's defense, a foreman told them they were all fired. When some tried to return to work the next morning, only a handful of employees on a company checklist were allowed onto the property.

Reynolds contends the employees "simply walked off the job and have not returned."

Either way, the UMWA filed a grievance with the National Labor Relations Board (NLRB) on Sept. 23, accusing Co-op of intimidation and coercion in firing an employee for promoting unionization, creating a sham union controlled by the company and seeking immediate reinstatement of the miners with back pay.

Denver-based NLRB investigator Daniel Robles spent three days in Carbon and Emery counties a week ago, interviewing miners and company officials about the dispute. His boss, assistant regional director Wayne Benson, says that "because a lot of people have lost their jobs and these are important issues, we're giving it our utmost attention." He expects a ruling by mid-November.

Until that decision is rendered, Co-op's Reynolds said he was limited in how much he can say. But in comments to The Salt Lake Tribune and a letter to the Price Sun-Advocate, he argues that the International Association of United Workers union is legitimate, that the company offers health insurance through Ensign Company Group Health Plan to its employees although not all take advantage of it, that seemingly low hourly wages are boosted upward with supplementary pay for jobs well done and performance bonuses, that female employees have access to separate restrooms and bathing facilities, and that the company abides by federal and state safety regulations. Federal Mine Safety and Health Administration records support his last point, showing injury to incidence levels at Co-op mines that are below the national average.

The miners, nevertheless, remain steadfast in their determination to force the company to improve pay scales and working conditions.

While having three young children at home made it difficult for Panduro to stop working, he says he had to "because I couldn't close my eyes any more" to the ill treatment. Sanchez swears her resolve will not waver. "The day we united against the owners, it was because we had hit a wall. Every time we had asked for better working conditions, they told us to keep our heads down and keep working or we could out the door."

Their determination is inspiring to the UMWA's Dalpiaz, who contends that union and nonunion miners alike from Utah's coal country have called him, voicing support for efforts to help the Co-op miners. "It's taken some beat-down immigrant workers to make the rest of society stand up and say we can make changes," he says.

Mike Gorrell and Rhina Guidos, *Immigrant Miners Take On Kingstons*, S.L. Tribune, October 12, 2003, at A1. (emphasis on alleged defamatory statements).

Corey Hilton is Chairman of the Building Trades Organizing Project, not a Salt Lake Tribune reporter. The Salt Lake Tribune cannot be accused of defamation for a statement made by someone they did not employ. Plaintiffs' carelessness in charging the Salt Lake Tribune for these statements is more reckless than any statements published in the article.

Even if Mr. Hilton were a Tribune reporter, this statement cannot convey defamatory meaning. The full sentences reads: "It kind of makes you mad that somebody could abuse people that badly," says Corey Hilton, chairman of the Building Trades Organizing Project. "We don't want any kids going hungry." *Id.* Earlier in the article, the Tribune reported: "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." *Id.* The article also states:

The miners and the company disagree over what happened after that, too. The miners maintain that when they came to Estrada's defense, a foreman told them they were all fired. When some tried to return to work the next morning, only a handful of employees on a company checklist were allowed onto the property. Reynolds contends the employees "simply walked off the job and have not returned."

Id. This article provides balanced analysis and affords a forum for CWM, as well as the miners, to state its views. The language in no way challenges the plaintiffs' reputation, nor does it suggest malice, and thus falls far short of stating a claim for defamation.

5. Union Vote to Exclude Kingston Relatives

Plaintiffs next allege:

The Salt Lake Tribune reporter Steven Oberbeck said, "Late last year, several dozen coal miners ... were fired and locked out of [CWM] after they protested

poor working conditions, low salaries and the lack of benefits. ... [T]he NLRB in July determined the miners were entitled to reinstatement to their jobs ...”

See Second Amended Complaint, ¶ 164. The full article reads:

**Union Vote to Exclude Kingston Relatives
Steven Oberbeck**

Struggling coal miners at the Kingston family-owned Co-Op mine in Huntington now can vote to join the United Mine Workers of America union without fear their voices will be drowned out by co-workers related to the polygamous clan. In a ruling handed down this week, the National Labor Relations Board (NLRB) in Denver determined workers at the mine who are related by blood or marriage to the Kingston family won't be allowed to vote on UMWA representation.

“This [ruling] is a good win for the UMWA, but more importantly, for those miners who waged a long hard fight after standing up for their rights,” said Doug Gibson, a spokesman for the mine workers' union in Washington D.C.

However, the battle may not be over. “We feel the NLRB's ruling is discriminatory against a large portion of workers who deserve to participate,” Co-Op Mine manager Charles Reynolds said. “We intend to appeal the NLRB's decision.”

The company has maintained that the International Association of United Workers Union already represents the miners, but many of the workers describe that organization as a “yellow-dog” union with ties to the Kingstons.

In its ruling, though, the NLRB determined the International Association is a valid labor organization. In a future election, miners will be asked whether they want representation by the International Association, the UMWA or neither.

Late last year, several dozen coal miners, mostly Latinos, were fired and locked out of the polygamous clan-owned mine after they protested poor working conditions, low salaries and the lack of benefits. They're trying to organize under the UMWA.

Mine managers contended the miners refused to return to work after two miners were disciplined for job-related issues. “There was no lockout,” Reynolds said then. “At any time, any of them could have returned.”

But the NLRB in July determined the miners were entitled to reinstatement to their jobs, a ruling that may open the way for the miners to collect back pay for the time they were out of work. The NLRB still is investigating that possibility.

Many of the protesting miners have returned to work, but now they are laboring with the hope the UMWA eventually may be certified as their union and help in future collective bargaining with the company.

“We haven't won yet,” said Bill Estrada, the miner who rallied the others last year after he was fired for union-organizing activity. “The next big thing for us to look forward to will be when the NLRB sets the date for the election.”

Prior to the NLRB's ruling earlier this week, the miners feared Kingston family allies in the work force would vote in favor of the status quo and thwart

their efforts at UMWA representation. "These were people who never applied for employment," Estrada contended. "The family just brought them in."

Gibson at the UMWA said were it not for the NLRB decision, Kingston family members working at the mine could have swayed the vote. In its decision, the NLRB noted that based on the company's records, there were approximately 220 full- and part-time employees at the mine and that 156, or 71 percent, had ties to the family.

The board found there were only 64 employees eligible to vote. Included among that number were many of those who were locked out of the mine in September 2003.

Estrada said support is overwhelming for UMWA representation. "Not all of the 64 [miners] remain at the mine. Some have moved on and are working at other mines. But of those remaining, support is strong for the UMWA," he said.

NLRB Assistant Regional Director Wayne Benson in Denver said if the company wishes to appeal, it must request a review by the NLRB in Washington. The order handed down this week indicates that request for review must be filed by Dec. 2.

Steven Oberbeck, *Union Vote to Exclude Kingston Relatives*, S.L. Tribune, November 20, 2004, at A1. (emphasis on alleged defamatory statements).

Within the context of the article, the alleged statements fail to convey defamatory meaning. Prior to the alleged defamations, Mr. Oberbeck quotes a CWM spokesman extensively and states CWM's position. He writes:

"We feel the NLRB's ruling is discriminatory against a large portion of workers who deserve to participate," Co-Op Mine manager Charles Reynolds said. "We intend to appeal the NLRB's decision." The company has maintained that the International Association of United Workers Union already represents the miners, but many of the workers describe that organization as a "yellow-dog" union with ties to the Kingstons. In its ruling, though, the NLRB determined that the International Association is a valid labor organization. In a future election, miners will be asked whether they want representation by the International Association, the UMWA, or neither.

Id. Plaintiffs' position was afforded more space than the alleged defamation. No reasonable reader could read the alleged statements as being defamatory, much less malicious.

6. Miners Win Back their Jobs; Miners March Back to Work After Settlement, Armed with a Settlement; and Miners Allege Union Busting

Plaintiffs next allege:

The Salt Lake Tribune reporter Glen Warchol said:

- a. CWM workers “were fired and locked out” of their jobs at CWM, and Estrada “rallied the others last year after he was fired for union-organizing activity.”
- b. 49 coal miners “climbed the canyon to demand their jobs back under a federal settlement,” being a statement the workers (actually no more than 30 in number) were demanding their jobs, rather than merely accepting a unilateral offer of re-employment by CWM. He also said the workers “also won ... back pay.”
- c. The NLRB determined miners (who had walked off their jobs in 2003) were entitled to reinstatement to their jobs and, possibly, back pay.

See Second Amended Complaint, ¶ 165. Part (a), which claims defamation in the article *Miners Win Back their Jobs*, is repeated from ¶ 162 of the Complaint. The reasons it fails to state a claim for defamation have been discussed previously.

Part (b) of this allegation stems from an article entitled “*Miners March Back to Work After Settlement, Armed with a Settlement.*” The full article reads:

**Miners March Back to Work After Settlement, Armed with a Settlement:
Miners March to Claim Jobs Won in Deal
Glen Warchol**

HUNTINGTON - *The march to the Co-op Mine on Tuesday was a throwback to better days of Utah union solidarity as 49 coal miners, who for 10 months have protested working conditions at the Kingston-owned mine, climbed the canyon to demand their jobs back under a federal settlement. About 100 cheering supporters, including union miners from around the region, joined in the half-mile march.*

“This is nothing compared with what I’ve seen,” said retired miner Tony Salazar, 76, who blocked the same canyon during a strike in 1949. “We stopped a truck and dumped a load of coal down there. Over toward the Book Cliffs, they burned a bridge to stop the coal from getting out. The union was very strong in those days.”

The protesting Co-op miners, most of them Latino, say the settlement reached last week through the National Labor Relations Board (NLRB) validated their claims that the polygamous Kingston clan fired and locked them out for trying to organize under the United Mine Workers of America (UMWA). *They also won an as-yet undetermined amount of back pay.*

“This is a very happy day for the Co-op miners,” said Bob Butero, a UMWA organizer. But he cautioned the miners and their supporters: “This is not over until these workers are covered by a true labor agreement.”

The mine’s managers contend the miners refused to return to work after two miners were disciplined for job-related issues. “There was no lockout,”

Personnel Manager Charles Reynolds said. "At any time, any of them could have returned."

The miners will be called back for refresher training courses sometime this month, Reynolds said, then returned to their jobs. "The goal is to work with the employees to work out all our concerns."

An election is expected next month in which the miners will choose between the UMWA or the mine's existing union, the International Association of United Workers. The miners say the IAUW is a bogus, Kingston-controlled union.

But Chris Grumvick, the IAUW's representative, says his union is legitimate and that he is not a member of the Kingston family.

Nevertheless, it was the UMWA that represented the miners on their march to regain their jobs - not Grumvick. "I offered them representation. They refused it," he said.

Still, even Butero admits that the upcoming election is no sure thing. It will pivot on who the NLRB decides can cast votes. Owners, managers and supervisors are barred from voting in union elections, but it is a particularly murky situation at the Co-op mine.

The UMWA says the Kingston family members should not vote as workers. The NLRB will have to make a unique call on Kingston workers, Butero said.

"When these [Kingston members] go to work, they are part-owners of the mine," he said. "Can we get the board to take the broader view to see that? We'll see."

Glen Warchol, *Miners March Back to Work After Settlement, Armed With Settlement*, S.L. Tribune, July 7, 2004, at A1. (emphasis on alleged defamatory statements). The allegations stemming from this article are composed of two sentences. The first sentence, concerning the actions of 49 coal miners, is merely a statement of what happened. The plaintiffs contend that only 30 miners participated and that those miners accepted a settlement rather than demanded their jobs back. The disputed number is irrelevant to defamation. Whether the number was 30 or 49, stating a number under these circumstances cannot possibly undermine the plaintiffs' reputation, and therefore is not defamatory. The question of settlement and marching is similarly misplaced. The article states that the miners "climbed the canyon to demand their jobs back under a federal settlement." This statement offers the miners' view of their actions. The miners' perspective cannot defame plaintiffs because it is an opinion. It doesn't concern facts that can be

objectively verified and whose publication could injure the plaintiffs. Moreover, the article attempts to convey the plaintiffs' view of the events as well. It states:

The mine's managers contend the miners refused to return to work after two miners were disciplined for job-related issues. "There was no lockout," Personnel Manager Charles Reynolds said. "At any time, any of them could have returned." The miners will be called back for refresher training courses sometime this month, Reynolds said, then return to their jobs. "The goal is to work with the employees to work out all our concerns."

Id. Considering the entire article, including the substantial portion dedicated to the plaintiffs' position, no reasonable reader could infer defamation, much less malice.

The alleged defamation contained in Part (c) is similarly defective. The full article reads:

Miners Allege Union Busting: They Claim Kingston Mistreatment in Weeks Before Vote; Kingston Miners Complain
Glen Warchol

Coal miners trying to organize a new union at the Co-Op Mine owned by the ploygamous Kingston family on Monday complained of dangerous conditions and worker intimidation at the mine near Huntington. Co-Op miner Bill Estrada alleges workers supporting the United Mine Workers of America have been threatened and, in one case, assaulted.

"They are trying to use anything possible to defeat our attempt to organize with the UMWA," Estrada said. "They are taking desperate measures," including unrealistic work demands, threats to fire workers who cannot prove they are legally in the country and warnings they will close the mine if the UMWA wins the election set for Dec. 16.

The miners also asked federal Mine Safety and Health Administration officials to order the mine's owner, C.W. Mining, to halt what the miners allege are dangerous practices that expose them to cave-ins and inadequate ventilation, Estrada said.

A Co-Op Mine manager did not immediately return phone calls Monday.

The National Labor Relations Board (NLRB) in Denver earlier this month ruled workers at the mine are related by blood or marriage to the Kingston family won't be allowed to participate in the union election.

Co-Op management promised to appeal the decision, but NLRB assistant Regional Director Wayne Benson said he had yet to receive it. Coercion of employees attempting to organize is unlawful, he said. The NLRB has no reason to believe any of the approved voters have questionable social security numbers, Benson said.

The company maintains the miners already are represented by a union, the Utah-based International Association of United Workers. Dissident miners say the United Workers is Kingston created and controlled.

The NLRB agrees the United Workers is a union - but says the miners have the right to choose which union will represent them - if any. Late last year, several dozen coal miners, mostly Latinos, claimed they were fired and locked out of the mine after they protested poor working conditions, low salaries and the lack of benefits.

Mine managers say the miners refused to return to work after two miners were disciplined for job-related issues. *The NLRB determined the miners were entitled to reinstatement to their jobs and, possibly, back pay.*

Based on the company's records, the NLRB found that 156 of the mine's 220 full- and part-time employees had ties to the family. Only 64 employees are eligible to vote.

Glen Warchol, *Miners Allege Union Busting*, S.L. Tribune, November 30, 2004, at E1.

(emphasis on alleged defamatory statements).

The statement that the NLRB found the miners were entitled to back pay and to return to their jobs, even if erroneous, does not attack the plaintiffs' reputation. It cannot seriously be argued that the Tribune planted one such statement within an article with the intent to attack the plaintiffs' reputation. Like the previous articles, this article also articulates the plaintiffs' position. It states:

The company maintains the miners already are represented by a union, the Utah-based International Association of United Workers. Dissident miners say the United Workers is Kingston created and controlled. ... Late last year, several dozen coal miners, mostly Latinos, claimed they were fired and locked out of the mine after they protested poor working conditions, low salaries and the lack of benefits. Mine managers say the miners refused to return to work after two miners were disciplined for job-related issues.

Id. The article provides perspectives from both sides of the labor dispute. No reasonable reader could infer defamation from one sentence describing the NLRB's findings.

7. Striking Latino Miners Have Little to Celebrate This Year

Plaintiffs next allege: "*The Salt Lake Tribune* columnist Tom Wharton falsely described the workers who walked off the job at CWM's mine as "part of an unfortunate American industry habit of exploiting immigrant workers." See Complaint, ¶ 166. The full article reads:

Striking Latino Miners Have Little to Celebrate This Year
Tom Wharton

“When the love of the poor shall one day turn to hate.
When the patience of the workers gives away.
Would be better for you rich if you never had been born’
So they laid Jesus Christ in his grave.”

– Woody Guthrie

HUNTINGTON CANYON - Red Christmas lights surrounded the portrait of the Virgin of Guadalupe inside the weathered old trailer on the road to the Co-op Mine. On the feast day of the Virgin during the height of the Christmas holiday season, the striking miners have little to celebrate.

Like the Greeks, Chines, Italians, Irish and Czechs before them, the mostly poor Latino miners are battling mine owners for basic rights such as safety, a living wage, a pension and health insurance. The striking miners sit inside a trailer donated by a retired coal-country miner. Coffee, leche and tortillas sit at the ready. A deck of worn cards waits for a late-night game.

They may not have heard of Woody Guthrie or his union songs, written in a different time. They might not know about Utah’s own union history, well documented in the nearby Helper Mining and Railroad Museum. But *they are part of an unfortunate American industry habit of exploiting immigrant workers.*

“The piano played a slow funeral tune
And the town was lit up by a cold Christmas moon,
The parents they cried and the miners they moaned,
See what your greed for money has done.”

– Woody Guthrie

Hand-lettered signs, in English and Spanish, tell a story to those who drive past the striking miners. “Co-op Miners Demand Dignity and Respect from the Kingstons” reads one sign, referring to the family that owns the Co-Op Mine.

Talk to folks in Emery County and you will find support for the miners’ cause. While only one mine in the Carbon and Emery coal country - the Deer Creek - remains unionized, the difference in the wages alone speaks to how the workers at the Co-Op are being exploited.

The approximately 75 miners who went on strike Sept. 22 made between \$5.25 and \$7 an hour; other mines in the area pay \$15 to \$20. “Why do they have to be different?” asked Bill Estrada, one of the striking miners. “Why not operate like other companies or offer wages compared with other companies?”

Estrada talked about unsafe conditions in the mines, about injured miners who have had their pay docked when they dared report an accident.

“Oh, you can’t scare me, I’m sticking to the union,
I’m sticking to the union till the day I die.”

– Woody Guthrie

The drama between the mine bosses and the union members plays out like a history lesson from early in the 20th century during the height of the union movement. Estrada talks about hearing threats the mine owners might call immigration officials to scare the workers. The Kingstons have called the sheriff,

reporting illegal trespass. At night they flash their high beams into the faces of those on the picket line.

The miners want their jobs returned and back pay for being illegally fired for union activity. “Any group of people willing to stand up for justice and what’s right, only good things can come,” said Estrada. “We haven’t won. But we trust each other. They never thought we could get together.”

Woody Guthrie would be proud.

Tom Wharton, *Striking Latino Miners Have Little to Celebrate This Year*, S.L. Tribune, December 20, 2003, at B1. (emphasis on alleged defamatory statements).

Defamation cannot rest upon facts that are true. This alleged defamation is a conclusion that the author bases upon facts described in the article. The Plaintiffs do not dispute the truth of the facts upon which the author’s conclusion is based. Among the facts the author uses to support his conclusion are, “The approximately 75 miners who went on strike Sept. 22 made between \$5.25 and \$7 an hour; other mines in the area pay \$15 to \$20;” ““Why do they have to be different?” asked Bill Estrada, one of the striking miners. ‘Why not operate like other companies or offer wages compared with other companies?’” *Id.* Nothing in this article’s underlying facts suggests that a reasonable reader could find them defamatory. The plaintiffs have not claimed that these facts are false and a reasonable person could easily conclude from these undisputed facts that the miners are being exploited.

Even if the facts and their resulting conclusion could be defamatory, the statement that the miners are part of an American industry habit of exploiting immigrant workers is a broad social commentary aimed at industry in general, not the plaintiffs. The author is a newspaper columnist writing a column, not a hard news story. In a recent dissenting opinion, Justice Brennan noted, “While signed columns may certainly include statements of fact, they are also the “well recognized home of opinion and comment.”” *Milkovich v. Lorain Journal Co.*, 497 U.S. 1, 32 (1990) (Brennan, J. dissenting) (citations omitted). Justice Brennan further stated, “Certain

formats - editorials, reviews, political cartoons, letters to the editor - signal the reader to anticipate a departure from what is actually known by the author as fact.” *Id.* Defamation, however, is not a broad sword; it is a scalpel. It is aimed at redressing published comments that are false and harm specific individuals. It cannot be used by businesses to inhibit reporters from drawing broad conclusions on matters of clear social importance.

8. *Victory for Miners*

Plaintiffs next allege:

The Salt Lake Tribune said, “The miners won the right to return to their jobs, [and] get back pay ... For the miners and UMWA, it was a glimpse into the past, where “Historically, immigrant workers were easier for employers to exploit. Today, companies can threaten to turn noncompliant workers over to immigration authorities. ... History, it seems, is repeating itself in Utah’s coal country.”

See Second Amended Complaint, ¶ 167. The full article reads:

Victory for Miners

Mining coal underground is dirty, dangerous, debilitating work. No one should have to do it for \$5.25-\$7 an hour. It is little wonder, then, that the workers at the Co-Op Mine near Huntington tried to organize themselves to negotiate better pay and working conditions. When they talked about forming a union last September, they say, their leader was fired and the rest of them were locked out.

The company - CW Mining, owned by the polygamous Kingston clan - claims that it fired for insubordination the worker who was talking up the union, and the rest of the miners left their jobs in sympathy. They were never locked out, the company says.

The dispute ended up in the lap of the National Labor Relations Board, which finally facilitated a settlement this month. The miners won the right to return to their jobs, get back pay and hold an election to determine whether they will be represented by the United Mine Workers of America, by a rival union affiliated with the company, or by no union at all.

The settlement was a victory for the miners and the UMWA, which had taken the miners’ complaint about unfair labor practices to the NLRB.

For the miners and the UMWA, it was a glimpse into the past. Beginning late in the 19th century, the mines and unions in Utah’s coal country grew up on the backs of immigrant labor. By no coincidence, most of the miners at the Co-Op Mine today are Latinos, many of them Mexicans.

Historically, immigrant workers were easier for employers to exploit, because of language and cultural barriers. Today, companies can threaten to turn

noncompliant workers over to immigration authorities. That is the environment that gave birth to trade unionism, in Utah as well as elsewhere.

In recent decades, however, the state's coal industry around Price has declined, and trade unionism has slowly eroded along a parallel track. U.S. labor unions have discovered, however, that their future lies not far from their roots, in immigrant labor. That pattern is playing itself out near Huntington.

If the miners' claims about low pay and benefits, about inadequate safety training and poor working conditions are as they appear, it is no surprise that they would organize to improve their lot. They have little other recourse.

History, it seems, is repeating itself in Utah's coal country.

S.L. Tribune, Editorial, *Victory for Miners*, July 10, 2004, at A8. (emphasis on alleged defamatory statements).

Because the alleged defamations are contained within an editorial, the facts upon which the allegedly defamatory opinions are based must meet the requirements for defamation in order to sustain a claim of defamation.

The only fact alleged to be defamatory is the statement, "The miners won the right to return to their jobs, [and] get back pay." *Id.* The plaintiffs pulled this statement from the following paragraph:

The dispute ended up in the lap of the National Labor Relations Board, which finally facilitated a settlement this month. *The miners won the right to return to their jobs, get back pay* and hold an election to determine whether they will be represented by the United Mine Workers of America, by a rival union affiliated with the company, or by no union at all.

Id. (emphasis on alleged defamatory statement). Viewed in light of the entire paragraph, no reasonable reader could infer defamation from this statement. First, the preceding statement plainly states that the dispute was settled. Second, the plaintiffs allege that only a portion of a sentence is defamatory. That portion merely states the posture of the settlement. It does not undermine the plaintiffs' reputation, thus it cannot convey defamatory meaning as a matter of law. Finally, it is devoid of malice. No reasonable reader could infer from these statements that the Salt Lake Tribune intended to impugn the plaintiffs' character or reputation.

Conclusions for the Salt Lake Tribune

Plaintiffs' allegations against the Salt Lake Tribune fall far short of the requirements for defamatory meaning, much less malice under *Linn*. The plaintiffs fail to address those portions of the articles which articulate their perspectives. Rather, their complaint seeks to punish the Salt Lake Tribune for publishing any opinions that differ from their own. Because plaintiffs' claims are unfounded and seem aimed only at imposing costs on the Court and intimidating their opponents, the defamation claims against the Salt Lake Tribune are dismissed and plaintiffs are ordered to pay the Salt Lake Tribune a reasonable attorneys' fee.

B. The Deseret Morning News

Plaintiffs also allege that the Deseret Morning News defamed them on several occasions. As with the Salt Lake Tribune, the plaintiffs have failed to include those portions of the articles that undermine their claims. The Court will examine each allegation in turn.

1. Kingstons' Treatment of Miners is Appalling

Plaintiffs claim:

The Deseret Morning News editorial writer Marjorie Cortez said workers' complaints about unsafe working conditions and a move to organize a union cost them their jobs, and that the workers "want a union to represent their interests," meaning IAUWU did not represent the interests of its bargaining unit. She also said "The wages paid these men is an outrage. Some in the labor movement go so far as to call it a human rights violation. At a minimum, these men have been horribly exploited." Cortez published a false statement earlier reported in the *Arizona Republic*, that "two Kingston Clan sons ... were expected to work in the family mine as young as 12 years old."

See Second Amended Complaint, ¶ 169.

The full article reads:

Kingstons' Treatment of Miners is Appalling
Marjorie Cortez