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U.S. DISTRICT COURT
DISTRICT OF UTAH

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

INTERNATIONAL ASSOCIATION OF UNITED WORKERS
UNION; RONALD ELDEN MATTINGLY; VICKIE
MATTINGLY; NEVIN PRATT; INTERNATIONAL
ASSOCIATION OF UNITED WORKERS UNION, LOCAL NO. 1-
02; CHRIS GRUNDTVIG; DANA JENKINS; WARREN PRATT; F.
MARK HANSEN,

C. W. MINING COMPANY d/b/a CO-OP MINING COMPANY;
EARL STODDARD; CHARLES REYNOLDS; DOROTHY
SANDERS; WENDELL OWEN; KEN DEFA; RODNEY
ANDERSON; ROBERT BROWN; CYRIL JACKSON; JARED
STEPHENS; FREDDY STODDARD; JIM STODDARD; SHAIN
STODDARD; ETHAN TUCKER; RANDY DEFA; KEVIN
PETERSON; ELDEN STEPHENS; JOSÉ ORTEGA,

Plaintiffs,

vs.

UNITED MINE WORKERS OF AMERICA; CECIL ROBERTS;
CARLO TARLEY; DAVID PIAZ; MIKE DALPIAZ; BOB
BUTERO; ROBERT GUILFOYLE; LARRY HUESTIS;
FRANCISCO PICADO; JIM STEVENSON; DALLAS WOLF;
ARCHIE ARCHULETA;

GERARDO AGUILAR; RICARDO CHAVEZ; WILLIAM (BILL)
ESTRADA; HECTOR FLORES; NATIVIDAD FLORES; DANIEL
HERNANDEZ; GUILLEMO HERNANDEZ; ALYSON
KENNEDY; BERTHILA LEON; DOMINGO OLIVAS; CELSO
PANDURO; RIGO RODRIGUEZ; GONZALO SALAZAR; JESUS
SALAZAR; JOSE JUAN SALAZAR; ANA MARIA SANCHEZ;
SAMUD VILLA;

AFL-CIO; ANDY LEVIN; AFL-CIO, UTAH CHAPTER; ED
MAYNE; AFSCME COUNCIL 6, AFL-CIO; PHILADELPHIA
COUNCIL AFL-CIO; PATRICK EIDING;

GREATER SOUTHEASTERN MASSACHUSETTS LABOR
COUNCIL; PAPER, ALLIED-INDUSTRIAL, CHEMICAL &
ENERGY WORKERS INTERNATIONAL UNION; PAPER,

**AMENDED
COMPLAINT**

Civil No. 2:04CV00901

Judge Dale A. Kimball

ALLIED-INDUSTRIAL, CHEMICAL AND ENERGY WORKERS
LOCAL +; LOCAL 14, UNITED AUTOMOBILE, AEROSPACE
AND AGRICULTURAL IMPLEMENT WORKERS OF
AMERICA;

SOCIALIST WORKERS PARTY; NORTON SANDLER;
ROBERTO VILLANUEVA; THE MILITANT; ROGER CALERO;
ARGIRIS MALAPANIS; GUY TREMBLAY; CONNIE ALLEN;
KATHERINE BENNETT; JOEL BRITTON; ANNE CARROL;
BECKY ELLIS; GUILLERMO ESQUIVEL; BETSY FARLEY;
CHRIS HOEPFNER; MICHAEL ITALIE; MARTIN KOPPEL;
FRANK MILLER; PAT MILLER; TERI MOSS; ANNE PARKER;
FRANCISCO PICADO; JAY RESSLER; MARCO ANTONIO
RIVERA; TALMAR ROSENFELD; BERNIE SENTER; MAGGIE
TROWE; KAREN TYLER; MAURICE WILLIAMS;

SALT LAKE TRIBUNE PUBLISHING COMPANY, LLC d/b/a
SALT LAKE TRIBUNE; TOM BADEN; TIM FITZPATRICK;
RON MORRIS; MELISSA GALBRAITH; RHINA GUIDOS;
COREY HILTON; PAMELA MANSON; STEVEN OBERBECK;
GLEN WHARCHOL; TOM WHARTON;

DESERET MORNING NEWS MARATHON, LLC d/b/a DESERET
MORNING NEWS; JOHN HUGHES; MARJORIE CORTEZ;
TIFFANY ERICKSON; ELAINE JARVIK; JENNIFER K. NII;

JOBS WITH JUSTICE; UTAH COALITION OF JOBS WITH
JUSTICE; GEORGE NECKEL;

TAPESTRY AGAINST POLYGAMY; ROWENNA ERICKSON;
THE CENTER FOR PUBLIC EDUCATION AND INFORMATION
ON POLYGAMY; CARMEN THOMPSON; HANS G. EHRBAR;

DOES 1-200,

Defendants.

Plaintiffs complain and allege as follows:

PARTIES

1. International Association of United Workers Union (IAUWU) is a labor union incorporated and in good standing in the state of Utah.
2. Ronald Elden Mattingly, Nevin Pratt, and Vickie Mattingly are officers of IAUWU.
3. International Association of United Workers Union, Local 1-02 (IAUWU Local 1-02) is the local union organization selected by the workers employed by C. W. Mining Company at its mine in Bear Canyon, Emery County, Utah as their duly elected bargaining representative.
4. Chris Grundvig, Dana Jenkins, and Warren Pratt are officers of IAUWU Local 1-02.

5. F. Mark Hansen is an attorney and counsel for the preceding named plaintiffs.
6. C. W. Mining Company d/b/a Co-op Mining Company (CWM) is a Utah corporation engaged in the business of mining coal in Emery County, Utah.
7. Earl Stoddard, Dorothy Sanders, and Charles Reynolds are CWM directors and officers.
8. At all pertinent times since July 2004, Reynolds was CWM's mine manager, previously its engineer and personnel manager.
9. At all pertinent times until July of 2004, Wendell Owen was CWM's mine manager.
10. Ken Defa is CWM's mine superintendent.
11. Cyril Jackson is a CWM maintenance supervisor.
12. Rodney Anderson, Robert Brown,, Jared Stephens, Freddy Stoddard, Jim Stoddard, Shain Stoddard, and Ethan Tucker are CWM foremen.
13. Randy Defa, Kevin Peterson, and Elden Stephens are CWM managers.
14. José Ortega is a safety trainer for CWM.
15. United Mine Workers of America (UMWA) is a labor union, and is affiliated with and an associate of AFL-CIO and AFL-CIO, Utah Chapter.
16. Cecil Roberts is the International President of UMWA and is responsible for its actions.
17. Carlo Tarley is the Secretary-Treasurer of UMWA and is responsible for its actions.
18. Mike Dalpiaz and David Piaz are international executive board member and/or officers of UMWA and are responsible for its acts.
19. Larry Huestis and Dallas Wolf are international representatives of UMWA.
20. Bob Butero, Robert Guilfoyle, Francisco Picado, and Jim Stevenson are UMWA union organizers.
21. Archie Archuleta is a former administrator of minority affairs for the Salt Lake City mayor's office, and at all pertinent times was an agent of UMWA.
22. At all pertinent times the following workers or former workers of CWM were agents of UMWA acting within the scope of their authority.
23. Gerardo Aguilar, Ricardo Chavez, William (Bill) Estrada, Hector Flores, Natividad Flores, Daniel Hernandez, Guillermo Hernandez, Alyson Kennedy, Berthila Leon, Domingo Olivas, Celso Panduro, Rigo Rodriguez, Gonzalo Salazar, Jesus Salazar, Jose Juan Salazar, Ana Maria Sanchez, and Samuel Villa are workers or former workers of CWM.

24. AFL-CIO is an association of labor unions, and an association under Utah R. Civ. Proc. 17(d).
25. Ed Mayne is president of AFL-CIO, Utah Chapter and is responsible for its actions.
26. Andy Levin is the director of the AFL-CIO Voice@Work campaign.
27. AFL-CIO Utah Chapter, AFSCME Council 6 AFL-CIO, Philadelphia Council AFL-CIO, and Greater Southeastern Massachusetts Labor Council are associations under U.R.C.P. 17(d).
28. Patrick Eiding is president of Philadelphia Council AFL-CIO and responsible for its acts.
29. Paper, Allied-Industrial, Chemical & Energy Workers International Union and Paper, Allied-Industrial, Chemical and Energy Workers Local + (PACE), and Local 14, United Automobile, Aerospace and Agricultural Implement Workers of America are labor unions.
30. The Socialist Workers Party is a political party within the U.S.A.
31. Norton Sandler is national director of the Socialist Workers 2004 Campaign.
32. Roberto Villanueva is an agent of the Social Workers Party.
33. The Militant is a newspaper owned and/or controlled by the Socialist Workers Party, which is responsible for its content.
34. Argiris Malapanis is the Editor of the Militant and is responsible for its content.
35. Roger Calero is a leader of the Socialist Workers Party and a reporter for The Militant.
36. Guy Tremblay is the Web Administrator of the Militant and is responsible for the contents of its website <http://themilitant.com>.
37. Connie Allen, Katherine Bennett, Joel Britton, Anne Carroll, Becky Ellis, Guillermo Esquivel, Betsy Farley, Chris Hoeppner, Michael Italie, Martín Koppel, Frank Miller, Pat Miller, Teri Moss, Anne Parker, Francisco Picado, Jay Ressler, Marco Antonio Rivera, Talmer Rosenfeld, Bernie Senter, Maggie Trowe, Karen Tyler, and Maurice Williams are reporters for The Militant.
38. The Salt Lake Tribune Publishing Company, LLC d/b/a Salt Lake Tribune is a Utah company with its principal place of business in Salt Lake County, Utah.
39. Tom Baden is executive editor of the Salt Lake Tribune and is responsible for its contents.
40. Tim Fitzpatrick is the Salt Lake Tribune's managing editor, responsible for its content.
41. Ron Morris is the World and State Desks News Editor of the Salt Lake Tribune, responsible for its contents.
42. Melissa Galbraith is the World and State Desks Assistant News Editor of the Salt Lake Tribune and is responsible for its contents.

43. Rhina Guidos, Corey Hilton, Steven Oberbeck, Pamela Manson, and Glen Warchol are reporters for the Salt Lake Tribune.
44. Tom Wharton is a columnist for the Salt Lake Tribune.
45. Deseret Morning News Marathon, LLC d/b/a The Deseret Morning News is a is a Utah company with its principal place of business in Salt Lake County, Utah.
46. John Hughes is the editor of the Deseret Morning News and is responsible for its contents.
47. Marjorie Cortez is an editorial writer for the Deseret Morning News.
48. Tiffany Erickson, Elaine Jarvik, and Jennifer K. Nii are reporters for the Deseret Morning News.
49. Jobs With Justice is a network of coalitions made up of member organizations and individuals, and is an association under Utah R. Civ. Proc. 17(d).
50. The Utah Coalition of Jobs With Justice is is a network of coalitions made up of member organizations and individual, and is an association under Utah R. Civ. Proc. 17(d), and is an associate of Jobs With Justice.
51. George Neckel is the director of the Utah Coalition of Jobs with Justice and is responsible for its acts.
52. Tapestry Against Polygamy (Tapestry) is an organization located in Salt Lake County, Utah, and is responsible for the acts of Rowenna Erickson as described herein.
53. Rowenna Erickson is an individual residing in Salt Lake County, and a manager of Tapestry. Her actions were done as an agent of Tapestry acting within the scope of her authority.
54. The Center for Public Education and Information on Polygamy (CPEIP) is an organization located in Salt Lake County, Utah, and is responsible for the acts of Carmen Thompson as described herein.
55. Carmen Thompson is a principal of CPEIP and the self-professed author of its website. She acted as an agent of CPEIO acting within the scope of her authority.
56. Hans G. Ehrbar is a professor at the Economics Department, University of Utah.
57. Does 1-200 are individuals and organizations whose identities are not yet known to Plaintiffs, who will be named as they are discovered. Many of the Doe defendants are believed to be officers and agents of the named Defendants.

JURISDICTION AND VENUE

58. This court has subject matter jurisdiction pursuant to 29 U.S.C. §185.

59. This court has supplemental subject matter jurisdiction over Plaintiffs' pendant state claims pursuant to 28 U.S.C. §1367(a).

60. Venue is proper in this court pursuant to 29 U.S.C. §185.

FIRST CLAIM FOR RELIEF (Unfair Labor Practices)

61. All preceding and following allegations are incorporated here by reference.

62. Pursuant to 29 U.S.C. §159, IAUWU is and for over 20 years has continuously been the duly elected bargaining representative for the workers of C. W. Mining Company (CWM). Both the NLRB and the UMWA were directly involved in the initial election, and recognized IAUWU as the exclusive bargaining representative of CWM's workers.

63. In September of 2003, UMWA and its agents as further described herein, in violation of IAUWU's rights as the exclusive bargaining representative of CWM's workers, persuaded approximately 75 of CWM's workers to leave their jobs and picket CWM in violation of the National Labor Relations Act and the collective bargaining agreement between CWM and IAUWU, with the object of forcing IAUWU out and UMWA in as the workers' bargaining representative, and with the object of forcing CWM to recognize or bargain with UMWA as the representative of CWM's workers, while IAUWU was certified as the representative of CWM's workers, and where both the National Labor Relations Board and CWM had lawfully recognized IAUWU as the bargaining representative of CWM's workers, and a question concerning IAUWU's representation of CWM's workers could not appropriately be raised under 29 U.S.C. §159. IAUWU invited the workers to use the discharge and grievance procedures under the IAUWU/CWM collective bargaining agreement, but UMWA and its agents persuaded or coerced the workers to ignore the discharge and grievance procedures in order to pursue UMWA's unlawful objective.

64. On or about September 22, 2004 CWM suspended Bill Estrada with intent to terminate for cause. Estrada did not seek IAUWU's help or otherwise challenge his termination through the grievance process of IAUWU's collective bargaining agreement. While management was meeting with Estrada, some of the workers gathered outside. When Estrada left the meeting he falsely told the waiting

workers they had also been fired. This was a material misrepresentation of a presently existing fact, which Estrada made either intentionally or with reckless disregard of its truth or falsity. Estrada intended that the workers would rely on his misrepresentation, which they did reasonably rely on to their detriment by, among other things, leaving their jobs, and engaging in a wildcat strike. At all pertinent times Estrada was UMWA's agent.

65. The workers have claims against UMWA and its agents including Estrada for unfair labor practices, fraud, intentional interference with their present and prospective economic relationships with CWM and IAUWU, civil conspiracy, and possibly other claims. Defendants Aguilar, Chavez, Hector and Natividad Flores, Daniel and Guillermo Hernandez, Kennedy, Leon, Olivas, Panduro, Rodriguez, Gonzalo, Jesus and Jose Juan Salazar, Sanchez, and Villa in particular have cross claims against UMWA and its agents under the above legal theories for lost wages and punitive damages, as well as claims for indemnity on any judgment that may be entered against them in this action. Pursuant to Utah Rules of Professional Conduct 1.6, 1.7, 1.10, and 1.16, this gives rise to an irreconcilable conflict of interest that precludes attorneys from representing UMWA and its agents and also representing the workers in this action.

66. UMWA and its agents as further described herein induced and encouraged workers and former workers of CWM, in violation of the National Labor Relations Act and the collective bargaining agreement between CWM and IAUWU, to engage in a refusal in the course of their employment to use, process, transport, or otherwise handle or work on materials or commodities or to perform services, and to engage in an unauthorized, unlawful "wildcat" strike to further UMWA's unlawful objectives as further described herein.

67. UMWA and its agents as further described herein persuaded and caused workers and/or former workers of CWM, and other supporters of UMWA and the workers as further described herein, to picket CWM in violation of the National Labor Relations Act and the collective bargaining agreement between CWM and IAUWU, with the object of forcing CWM to recognize or bargain with UMWA as the representative of CWM's workers, while IAUWU was certified as the representative of CWM's workers, and where both the National Labor Relations Board and CWM had lawfully recognized IAUWU as the bargaining representative of CWM's workers, and a question concerning IAUWU's representation of CWM's workers could not appropriately be raised under 29 U.S.C. §159, and where such picketing was conducted without a petition under 29 U.S.C. §159(c).

68. UMWA and its agents as further described herein persuaded and caused workers and/or former workers of CWM, and other supporters of UMWA and the workers as further described herein, to engage in secondary picketing of businesses other than CWM located over 120 miles from CWM's place of business, in violation of the National Labor Relations Act and the collective bargaining agreement between CWM and IAUWU, with the object of forcing CWM to recognize or bargain with UMWA as the representative of CWM's workers, while IAUWU was certified as the representative of CWM's workers, and where both the National Labor Relations Board and CWM had lawfully recognized IAUWU as the bargaining representative of CWM's workers, and a question concerning IAUWU's representation of CWM's workers could not appropriately be raised under 29 U.S.C. §159, and where such picketing was conducted without a petition under 29 U.S.C. §159(c).

69. UMWA committed unlawful labor practices under 29 U.S.C. §158(b).

70. UMWA's officers and agents participated in, authorized, and/or ratified the above unlawful acts of UMWA through its agents, and are personally liable as if they had committed the acts themselves.

71. CWM is entitled to an award of damages against UMWA, its officers and agents in an amount to be determined at trial, greater than \$1 million.

72. IAUWU is entitled to an award of damages against UMWA, its officers and agents in an amount to be determined at trial.

SECOND CLAIM FOR RELIEF (Defamation)

73. All preceding and following allegations are incorporated here by reference.

74. As used hereafter "the workers" shall refer to those of the approximately 75 CWM workers and former workers who in September of 2003 ceased working for CWM and since then participated in picketing, speaking engagements, media interviews, and other activities related to having UMWA recognized as the bargaining representative of CWM's workers.

75. There have been a large number of false slanderous and libelous statements about IAUWU, its officers, CWM, its officers, directors, managers, and supervisors, published and republished by Defendants *ad nauseam* as described below.

DIRECT DEFAMATIONS BY UMWA

76. On October 6, 2003, UMWA issued a press release, and published it on its website at <http://www.umwa.org/coop/coop.shtml>, portions of which were also published in the September-October 2003 issue of *United Mine Workers Journal*, stating:

At the United Mine Workers of America (UMWA) Special Convention last week in Las Vegas, UMWA International President Cecil Roberts pledged the union will assist the coal miners ... who were fired from C. W. Mining Company's Bear Canyon Mine ... Seventy-four miners' jobs were terminated after they protested the firing of one of their leaders for seeking union representation. Seven of the fired Co-op miners joined Roberts at the convention hall podium where their spokesman, Jesus H. Salazar JR., described their plight – earning between \$5.25 and \$7.00 per hour with “no health insurance and no benefits in an unsafe, underground mine.” ... “we were unjustly fired for defending our rights and protesting the mine's unsafe working conditions,” Salazar said. “We are determined to fight until this mine becomes UMWA territory and we can put an end to the abuse and extreme level of exploitation we have endured.” ... The Co-op workers struck the mine on Sept. 22 after management ... had suspended one of their co-workers, UMWA supporter William Estrada ... It was the company's third attempt to victimize a UMWA supporter in recent weeks, according to the Co-op miners. “We all walked out in defense of our co-worker,” explained Salazar ... “The company refused to cooperate with us and fired us. We have been locked out because of our pro-union activity.” ... [The worker delegation said] “We are tired of the abuses, lies and trickery of the fake company-led ‘union’ that Co-op has maintained for years in the workplace.

77. On July 2, 2004, UMWA issued a press release, and also published it on its website at <http://www.umwa.org/pressreleases/jul04/070204.shtml>, saying that when miners at CWM halted production in a show of solidarity for Estrada, “Management responded by firing the workers and locking them out.” The press release also repeated the miners' statement that they worked with no health insurance benefits and were forced to work in unsafe conditions that violate MSHA regulations. Tarley said, “Some of the conditions these miners describe to us are reminiscent of the early days of coal mining, when workers were treated more as property than as human beings.”

78. On information and belief, the November-December 2003 issue of *United Mine Workers Journal* publishes similar false and defamatory comments about IAUWA, its officers, CWM, and its officers and supervisors, as will be shown through discovery and at trial.

79. On September 25, 2003 some of the workers participated in a rally in Salt Lake City that was part of the Immigrant Workers Freedom Ride, at which they distributed a flyer prepared by UMWA. Plaintiffs are informed and believe the flyer makes false and libelous statements against CWM and

IAUWU of the same general nature as the defamations described elsewhere in this claim for relief, as will be shown through discovery and at trial.

80. On November 19, 2004, MWA issued a press release, and also published it on its website at <http://www.umwa.org/pressreleases/pressmain.shtml>, saying:

In September 2003, some 70 mostly Latino Co-Op miners walked off their jobs at the mine after ... Estrada was "unjustly" disciplined by management. Subsequently, management locked out all the miners who walked out in support of their co-worker. ... The NLRB ruled in favor of the miners [on an unfair labor practice charge] and ordered C.W. Mining to reinstate the miners with full back pay and a promise that no disciplinary action would be taken against them. ... A large majority of the reinstated miners ... and the UMWA contend [IAUWU] is a 'company union.' ... Learning of the efforts to obtain UMWA representation, C.W. Mining's owners, the Kingston family, added family members to their list of workers. ... The owners responded to the workers' desire for UMWA representation by trying to pad the bargaining unit ...

DEFAMATIONS PUBLISHED BY *THE MILITANT*:

81. The following false and defamatory statements were published in *The Militant*:

a. In an October 6, 2003 article entitled "Utah miners fight for union," Rivera said:

"the Co-Op mine ... is owned by the Kingston family. [It] has drawn considerable notoriety in recent years after being accused of sexual abuse of young women ..." When the workers said they were not going back to work, "The bosses responded to the workers by saying, 'There is already a union here, and what you are doing is illegal,' referring to the company-organized 'union.' The workers at Co-Op recently decided they needed a real union ... " [By which Rivera meant IAUWU is not a real union.] Rivera also said, "Earlier that morning the company had suspended Estrada ... This was the third attempt to victimize a UMWA supporter in recent weeks. ... The company had tried to suspend another worker four days earlier. Some 15 workers found out about this, stopped production, and went together to talk to the bosses. ... The production boss who serves as representative of the company 'union' convened a meeting of the bosses present. Management then announced that the worker would not be suspended ... The company had been successful in suspending another supporter of the UMWA organizing drive the previous week. ... On the morning of September 22, the workers tried to negotiate with the company to get Estrada's job back. The bosses refused. When the workers made it clear no one was returning to work until Estrada got his job back, the company called the sheriff's department. The sheriff proceeded to tell the workers to leave. 'Take them all out of here,' one of the bosses ordered the policeman, according to participants. ... The miners have been told that everyone who participated in the union action ... was fired."

b. In an October 13, 2003 article, "Locked-out coal miners in Utah fight for union," Estrada and Rivera said the miners were "fighting a lockout by C. W. Mining Corp." They also said:

"All 75 miners had walked out of the underground mine, protesting unsafe working conditions and in defense of a co-worker who had been suspended for union activity. The company refused to negotiate with a delegation of workers, fired everybody, and called in the

Emery county sheriff's deputies to kick them off the property. ... On September 26, when miners organized themselves in groups to pick up their paychecks, the Co-op mine bosses had the local sheriff show up again. ... more than once Deputy Sheriff Jorgensen said, 'get out!'"

- c. In an October 20, 2003 article entitled "Utah coal miners set up pickets in fight for freedom," Rivera said:

"On September 22, all 75 miners walked out of this underground mine. They were protesting unsafe working conditions and the suspension of a co-worker for union activity. The company fired and locked out the workers ... " The article also reported that Jaime Rodriguez said, "My cousin was fired on my fourth day on the job because he had been trying many years ago to organize what we are doing today."

- d. In an October 27, 2003 article entitled "Utah miners win support in fight against lockout," Carroll said:

"[T]he lockout of 75 coal miners by the owners of the Co-op mine enters its fourth week ... On September 22 the miners at Co-op walked off their jobs, protesting the suspension of a worker and unsafe job conditions. The company, CW Mining, fired all the workers. The miners were involved in a union-organizing drive. The next day the UMWA filed unfair labor practice ... , stating: The regular hourly workforce ... were discriminated against in regard to hire and tenure of employment by being discharged for protected, concerted activity. It added that the company maintains an employer dominated 'union.'"

The article also reported:

- (i) One miner, whose name was withheld, said the Co-op bosses "sent five men into a mine with only one self-rescuer [an oxygen unit used for safety reasons] to recover mining equipment."
 - (ii) Another miner said, "If you report an accident, you are laid off for three days and your pay is cut."
- e. In a November 3, 2003 article entitled "UMWA union locals in West back locked-out Utah miners," Carroll said:

"On September 22, 75 miners at the Co-op underground coal mine were locked out by the company. ... The miners halted production and gathered at the bosses' office and tried for several hours to negotiate with the company to get the worker's job back. The company refused, called the local sheriff, and ordered the miners off the property. The miners were told that everyone was fired and not allowed back to work. For several weeks before the lockout, the miners had been in contact with the United Mine Workers of America and were having meetings to organize a union. They were responding to unsafe job conditions, low pay, lack of pension and health-care benefits, and abusive treatment by the bosses. The company began threatening and suspending workers in an attempt to intimidate them. At one point the company threatened to bring in the immigration police. ... At the mine there is a company union. All the officers are mine bosses, workers there reported. There are no "union" meetings or elections of "union" officers."

The article also republished the following defamatory statements:

- (i) Ernie Herrera, a former union miner who had worked for 23 years at the nearby Hiawatha mine until it closed, came to the picket line on his own. He got out of his car and exclaimed, "I'm proud of you guys. Everyone knows the Kingstons have been abusing the people at this mine for years. They think they're above the law."
 - (ii) Panduro said, "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 be out the door."
- f. A November 3, 2003 article entitled "UMWA statement backs embattled Utah miners" republished the previously described October 6, 2003 UMWA press release.
- g. In a November 10, 2003 article entitled "Utah students organize support for locked-out Co-op miners," Carrol said:
- "The miners were involved in a union organizing drive before the lockout. They had been talking to ... (UMWA) about the need to get a union organized to help fight the abusive working conditions and low wages. On September 22, the Co-op miners walked off their jobs, protesting the suspension of a worker and unsafe job conditions." The article also repeated part of a letter by the workers stating: "Workers got together and went to management to resolve the problem ... but the company called the sheriff and told workers to leave the property. The company claims workers were not fired, but people could not return to the mine. The next day workers were stopped at the gate, with the police present again, and were told that only 10 people who were on a list would be allowed to work and the rest were fired. ... For the company to try to justify paying any miner \$5.50 an hour only sheds light on their arrogant belief that they have the right to exploit human beings. ... Supplementary pay and bonuses that are tied to production and attendance are only another tool in the company's hand. If a worker refuses to carry out an unsafe work practice they are likely to lose their bonuses and supplementary pay."
- h. In a November 17, 2003 article entitled "Locked-out Utah miners and allies take battle for union to Salt Lake City," Rivera said, "On September 22, miners walked out of this underground mine. They were protesting unsafe working conditions and the suspension of a co-worker for union activity. The company fired and locked out the workers ..." The article also republished the following defamatory statements by others:
- (i) Bertila Leon said, "it is important to stand up against years of injustice. ... We would sometimes force them to fix some unsafe situation if we pushed hard enough, but in general you would point out the problems and the boss would do nothing."

(ii) Stevenson said, "We're going to keep this battle going until they come into the 21st century. The dark days are gone."

I. In a November 24, 2003 article entitled "Salt Lake City unionists donate food and funds to locked-out Co-op miners," Carroll said, "The coal miners have been fired ..." The article also republished the following defamatory statements by others:

(i) Daniel Hernandez said:

"On September 22, the company unjustly fired and locked out 75 miners for standing together in solidarity with a co-worker they had suspended for three days with intent to discharge. The company called the sheriff to order us off the property. We had been talking to the UMWA about organizing a union. The company has a so-called union and all of the officers are bosses."

(ii) "The Co-Op fight represents a basic struggle for decent human rights," said David Brown, chair of the Workmen's Committee of PACE Local 8-758, who attended the meeting. "Our wages in PACE-organized refineries are like what most members of the UMWA make. But the Co-Op miners do not even have the basic rights to live and survive. The Kingstons are taking advantage of these miners."

j. A November 24, 2003 editorial entitled "Support the Co-op miner!" reported

"At the union's recent special convention in Las Vegas, Jesús Salazar, a leader of the Co-Op fight, addressed the delegates and said: "We are here looking for the UMWA's indispensable support because we were unjustly fired for defending our rights and protesting the mine's unsafe working conditions. We are determined to fight until ... we can put an end to the abuse and extreme level of exploitation we have endured."

k. A December 1, 2003 editorial entitled "Solidarity with Utah miners!" said:

The Co-Op miners ... are standing up for their rights in response to the brutal drive that the coal barons are waging nationwide to jack up their profits. On top of the regular exploitation through the system of wage slavery, these profits result from longer work hours, increased levels of coal dust miners breathe, refusal to pay black lung benefits, speed-up and other work rules that result in gratuitous deaths in the mines, disregard for the environment, and efforts to weaken or keep out the union. ... Most of the workers there earn only \$5.25 to \$7 an hour and have no health insurance or retirement benefits. They are forced to work under unsafe conditions in violation of federal mine regulations. The conditions at Co-op were responsible for three deaths in the last half of the 1990s — half of the total coal mine deaths in the state. A UMWA statement notes that in September, as miners were taking steps to organize a union, they were fired en masse after they protested the arbitrary dismissal of one of their co-workers. The mine owners ... are notorious ... for their brutality against workers ... They are widely despised by working people for their abuse of women. For example, one of the directors of the Co-op mine ... was convicted for savagely beating his daughter.

1. A December 1, 2003 article entitled “Coal miners in Utah stand firm on picket line” republished the following defamations:

- (i) The article reported a “Julio Salas” as saying:

“The company had been trying to suspend a number of us to stop our efforts to defend our rights and to form a union. Leading up to that Monday they had interrogated people about our meetings, had tried to disrupt a meeting we organized outside the mine, and had threatened us with all kinds of things—including setting the immigration police on us. The next step was the suspension of a worker named Oscar Sosa, after they had tried to suspend me the previous Friday. In both cases we got the company to either take us back or wipe out the suspension altogether. On the 22nd all the workers went to management. We tried to have a discussion with them to resolve what seemed to be clearly an attempt to fire William Estrada, a maintenance worker. We also had all kinds of other issues to discuss, including safety questions in the mine. But they opted for calling the Sheriff’s Department. ... They basically threw us out of the mine after the cops told the company they would not have room to lock us all up if they arrested us. The cops escorted the workers off the company property ...”

- (ii) Estrada said:

“The company is falsely claiming that the officers of their union are just leads, and are not our bosses. ... [T]hese supposed leads not only organize production, but suspend us, fire us, write our evaluations, give or take away raises, and in general never lift a finger to give us a hand on the job. [Estrada’s crew foreman] is supposed to be the union president, but neither he nor any of the ‘union officers’ have ever explained a single thing about a union to any worker. There isn’t a single case where this ‘union’ has ever defended a worker from company attacks.”

- m. In a December 8, 2003 article entitled “Union miners, oil workers in Utah back Co-op coal strikers,” Rivera said:

“The 74 miners at Co-Op, most of whom are from Mexico, are fighting for decent wages, benefits, job safety, and dignity. Most earned only \$5.25 to \$7 an hour and had no health insurance or retirement benefits. They were forced to work under unsafe working conditions in violation of federal mine regulations. The conditions imposed by the Co-Op bosses were responsible for three deaths on the job in the last half of the 1990s ... CW Mining fired the miners en masse September 22 after they protested the arbitrary suspension of a co-worker ... The mine owners, the Kingstons, are a capitalist family notorious in the region for their brutality against workers they employ in their \$150 million business empire that stretches across six western states. They are also widely despised by working people for their abuse of women. One of the directors of the Co-Op mine, John Kingston, was convicted for savagely beating his daughter ...”

- n. In a December 15, 2003 article entitled “Salt Lake rally boosts striking Co-op miners,” Rivera said, “The labor battle broke out in public on September 22 when the miners walked out to protest

unsafe working conditions and the suspension of a co-worker for union activity. The company, owned by the Kingston family, fired the 74 workers ...”

- o. In a December 22, 2003 article entitled “Utah miners build rally to win broader support for union fight,” Miller said:

“The 75 coal miners are involved in an unfair labor practice strike against CW Mining, also known as Co-Op, for illegally being fired September 22, after they protested the unjust suspension of a co-worker. ... The working conditions imposed by the bosses at Co-Op were responsible for three deaths in the last half of the 1990s—half of the total coal mine deaths in Utah. An October 6 UMWA press release noted that as miners were taking steps to organize a union, they were fired en masse after they protested the arbitrary dismissal of one of their co-workers. ... This clan is widely hated among working people in the region not only for its vicious antilabor practices, but also for its record of convictions of several of its members for abuse of young women in the family who have been forced into polygamous marriages with relatives and beaten when trying to escape.”

- p. In a December 29, 2003 article entitled “Utah solidarity rally backs Co-op miners,” Tyler said:

“The miners ... have drawn the line against the bosses’ profit drive that includes operating the mine under increasingly dangerous conditions. ... The Kingstons are the owners of the Co-Op mine. They are notorious not only for the superexploitation of their employees in their \$150 million empire across six western states, but also for the convictions of prominent members of the clan for abuse of young women in the family forced into polygamous marriages with relatives who have beaten them when they tried to escape.”

- q. A December 29, 2003 article entitled “UMWA” ‘Support Co-op miners strike’” republished a defamatory article published by UMWA, which stated:

74 coal miners at [CWM] were illegally fired from their jobs on Sept. 22, 2003, after they protested the suspension of a co-worker and unsafe job conditions. The mine ... had suspended UMWA supporter William Estrada for refusing to sign a disciplinary warning the week before. At the time, it was the company’s third attempt to victimize a UMWA supporter ... These workers contend they were fired and locked out by the company because of concerted activities and unsafe conditions. ... [They] allege:

- Most workers lack medical insurance ... ;
- Miners are forced to work under unsafe conditions in violation of Mine Safety & Health Administration regulations ... ;
- Workers are forced to use defective and unsafe machinery;
- Workers are not provided adequate training by the company;
- Workers are abused and mistreated by management; and

[Jesus Salazar said] “we were unjustly fired for defending our rights and protesting the mine’s unsafe working conditions. We are determined to fight until ... we can put an end to the abuse and extreme level of exploitation we have endured. We all walked out in defense of our co-worker. “The company refused to cooperate with us and fired us. We have been locked out because of our pro-union activity. ... [Kennedy said] “We are tired of the abuses, lies and trickery of the fake company-led ‘union’ that Co-Op has maintained for years in the workplace.”

- r. In a January 12, 2004 article entitled “Co-op strikers force gov’t to investigate mine safety,” Carroll said:

The company ... locked out the miners September 22 after they had walked off the job to protest the suspension of one of their fellow workers, William Estrada, and unsafe working conditions. The miners were involved in organizing themselves into the United Mine Workers of America (UMWA). ... One of the issues in the strike is the dangerous mining conditions and lack of adequate training for the miners. ... Alejandro Medina ... died after a rib ... fell on him in 1999. MSHA cited the company at the time with four 104d violations, which mean that the bosses knowingly caused the conditions that led to the death. ... [In] Bear Canyon #1, miners have always complained of dangerous roof tops and inadequate roof supports. “This mine is very dangerous,” said Rodríguez. “After roof falls at the entry way, the bosses sent us in through a hole in the return. That is the only entry and only exit now. We were never sure if we were going to come out after we went in. If the roof collapses there, you’re trapped. ... One miner said he told the investigators that he received only two hours of training and was charged \$100 for the class given to him by José Ortega. According to several miners who reported similar problems, the investigators said it is illegal to charge for the eight-hour annual refresher. Another miner said that the initial training he received from Ortega lasted three days, two hours per day, at Ortega’s house. He was charged \$300 and was told by Ortega to say he had gotten 40 hours of new miner training—instead of six—if he was asked by MSHA inspectors or the bosses. ... One miner said he explained to investigators that bosses used intimidation and threats against the workers who complained about unsafe conditions or injuries on a regular basis. He said the crew he was on would ride up the steep mountain into the mine in the back of an open pick up truck driven by a boss. On one shift the crew told the boss to stop at the office for supplies. The boss slammed on the brakes, throwing the crew in the back all around. The miner said he was thrown against the side of the truck jamming his finger. When he described the incident and the injury to the production foreman, he replied, “I don’t want to hear you complaining about your boss or you won’t have a job here anymore,” the miner said. One of the miners interviewed was Jesús Salazar ... “During all the time I have worked at Co-Op, the company has always forced workers to operate unsafe equipment,” Salazar said. “Even after an MSHA inspector tagged equipment out of service, the foremen would order the workers to operate it unrepaired, after the inspector left. Numerous injuries occurred because of it.”

- s. In a January 19, 2004 article entitled “Socialist workers in UMWA, UNITE focus on campaign for solidarity with Utah miners,” Ressler and Farley said:

“The Co-Op strikers ... walked off the job September 22 to meet with management to protest unsafe working conditions and the suspension of a co-worker for union activities. The company responded by calling the sheriff and locking them out. ... The Co-Op miners are standing up for their rights in face of a brutal offensive by the bosses throughout the coal industry.”

- t. In a January 19, 2004 article entitled “Utah miners plan tour in California to win support,” Miller said, “[The workers were] fired illegally on September 22 when they protested the unjust suspension of a co-worker.”

- u. In a January 26, 2004 article entitled "Utah strikers reject mine bosses' ploy of talks without UMWA," Esquivel said:

"The company illegally fired all 75 workers on September 22 when they protested the unjust suspension of a co-worker for union activity. ... The company is demanding that the negotiations be done under the existing "contract" with [IAUWI]. The miners said the company-controlled union is made up of officers who are all bosses and relatives of ... the owners of the mine, and that it never represented the interests of the workers."
- v. A January 26, 2004 article entitled "Socialists in UFCW campaign to win support for miners" republished the following defamatory statements by others:
 - (i) Calero said:

"Miners in general are outraged by the conditions Co-Op miners face: working with defective equipment, arbitrary wage incentives and bonuses, being forced to work while injured. ... Bosses at Co-op told workers they would never be able to do anything. They said the workers would get a raise 'when pigs fly.' "
 - (ii) Dean Hansen and other members of UFCW Local 342 distributed fact sheets at their packing plant. On information and belief, the fact sheets contained defamations substantially similar to those described herein.
- w. In a February 2, 2004 article entitled "Salt Lake picket backs Co-op strike," Esquivel and Moss said:

"[The miners] rejected a ploy by CW Mining ... to report back to work under the same working conditions as before. The bosses' 'offer' included the condition that the workers must accept the company-run union as their bargaining representative and not the UMWA." The article also reported that Olivas said, "We are here because ... we're tired of all the mistreatment, abuses, and lies we've endured for years at Co-Op mine—and all at minimum wage!"
- x. In a February 2, 2004 article entitled "Striking Utah miners on labor tour in Bay Area," Senter said:

"The workforce of 75 at the Co-Op mine was fired to the person by the bosses September 22 for protesting unsafe working conditions, attempting to organize into the United Mine Workers of America (UMWA), and standing up to disciplinary actions by the company against union supporters." The article also reported: "HERE members asked about the company union at the mine where the union officers are the mine bosses. [Juan] Salazar explained that the company created this 'union' just to get in the way of the workers organizing themselves into a real union, the UMWA. "
- y. A February 9, 2004 article by Picado entitled "Colorado miners' locals mobilize for Utah strikers" republished a defamatory statement by Gonzalo Salazar: