

to paint a façade of a legitimate trade union through its structures. The miners also said this lawsuit is a harassment lawsuit aimed at diverting the miners from their fight to win UMWA representation.

ooo In a November 30, 2004 article entitled “Utah miners fighting for union win back pay for 9-month strike,” Bennett said:

C.W. Mining fired 75 miners at Co-Op Sept. 22, 2003, after the bosses got wind of the workers’ union-organizing efforts. ... In June, the NLRB ruled that the miners had been fired illegally. ... The board ordered the company to give the workers their jobs back and included a provision for back pay for lost wages and benefits during the strike. ... In an attempt to stack the elections against the UMWA, the company submitted a list of about 100 people ... including office and managerial personnel.

The article also reported:

(i) Juan Salazar said, ““We are winning back pay for our illegal firings last year from the Co-op mine.” He and other miners said they had word of a back pay order from the NLRB.

(ii) The miners say IAUWU is a company union that has never represented them.

ppp December 7, 2004 article entitled “Labor board: Mine bosses’ relatives can’t vote in union election in Utah, Bennett and Miller said, “On November 2, the labor board said the Co-Op bosses must pay back wages to 47 miners amounting to some \$400,000. In June the NLRB had ruled that the miners were illegally fired from their jobs Sept. 23, 2003, for union activity and ordered C.W. Mining to reinstate the workers. Bennett and Miller said CWM is engaging in harassment of workers “in direct violation of the NLRB ruling forcing the company to take back all the miners who were fired unjustly in September 2003.”

The article also reported:

(i) The miners say IAUWU is “a company outfit.” A number of the miners said harassment and intimidation by management of UMWA supporters is accelerating on the job, and that “this intimidation campaign has stepped up since the recent NLRB rulings.”

(ii) Juan Salazar said CWM “is going after us. They are stepping up their attacks against us miners. They are encouraging miners to get jobs at other mines.”

(iii) Estrada said a majority of CWM’s workers “were people who never applied for employment. The Kingston family owners just brought them in to stack a union election against the miners.”

(iv) Cecil Roberts said, “The owners responded to the workers’ desire for UMWA representation by trying to pad the bargaining unit.”

(v) Panduro, who had been terminated for cause, said, "I was fired because I support the UMWA."

(vi) Kennedy "described escalating harassment against her and other members of her crew." Kennedy described a meeting after the shift where she went to talk to Jackson in the foreman's office. "While we were talking to Jackson, the surface foreman, Kevin Petersen, walked past us and in a belligerent voice said, 'Don't you guys wash your boots, you're getting this floor dirty.' Then Petersen shoved me, nearly knocking me to the concrete floor. ... Citing 'poor work performance, the bosses are trying to disguise the victimization of those of us in the mine advocating the UMWA."

(vii) A committee was set up at the November 21 meeting to help organize visits to every worker eligible to vote at the Co-Op mine to talk about what the bosses are doing on the job. On information and belief, those talks include slanders as will be shown through discovery.

82. The above publications were republished on *The Militant's* web site, <http://themilitant.com>, where they remain available for viewing by the world.

#### **DEFAMATIONS PUBLISHED BY THE SALT LAKE TRIBUNE:**

83. The following defamatory statements were published in the *Salt Lake Tribune*:

- a. A September 26, 2003 article entitled "Tensions mount in dispute at Utah mine" reported:
  - (i) "Union leaders" (on information and belief, meaning UMWA agents believed to include Estrada, Kennedy, Jesus Salazar, and/or Picado) said labor tensions between the operators of CWM and their work force resulted in a lockout of 75 workers.
  - (ii) Jesus Salazar "said the workers were told they were fired and sheriff's deputies ordered them off the property. Later, guards at the mine entrance had a list of miners to keep out."
  - (iii) Picado said IAUWU is a sham, "a totally fake organization that the bosses use to stop the workers from organizing themselves."
  - (iv) Mayne described IAUWU as "a plot," and "a throwback to the '20s," when employers would set up a company union to keep workers from organizing.
  - (v) Picado said the workers were forced to work with injuries and unsafe equipment and were deprived of workers' compensation benefits.
  - (vi) Picado said the workers (who had walked off the job) "are locked out."

- b. An October 12, 2003 article entitled “Immigrant miners take on Kingstons” reported:
- (i) Estrada said CWM fired him September 22, 2004 for trying to organize a union.
  - (ii) The “miners” said that when they came to Estrada’s defense, a foreman told them they were all fired, and when some tried to return to work the next morning, only a handful on a company checklist were allowed onto the property.
  - (iii) Corey Hilton accused CWM of abusing its workers.
  - (iv) Estrada said IAUWU was a company concoction designed to preclude employees from airing legitimate grievances.
  - (v) Panduro said the “workers” united against the owners because the workers hit a wall. He said, “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.”
- c. An October 31, 2003 article, “Co-op Mine workers say dignity at stake in their strike” reported:
- (i) Picado said “We’re here to expose the abuses of mine workers.” This statement falsely implies CWM abuses its workers, and IAUWU is powerless to do anything about it.
  - (ii) Sanchez and Leon said they had to undress in the same rooms as their male workers.
  - (iii) Panduro said medical insurance was not provided for workers or their families, and workers were often exposed to unsafe conditions in the mine.
  - (iv) “The workers” said “the family” set up a fake union, and that they used the fake union to draw money out of workers’ paychecks without providing benefits to workers.
  - (v) Stevenson said CWM was employing “slave labor.”
- d. A December 11, 2003 article entitled “Rally Celebrates Utah’s Role in Labor Movement” reported Sanchez telling a crowd that working conditions at CWM were “bad and dangerous.” On information and belief, Sanchez then made further false and defamatory statements describing so-called “bad and dangerous” working conditions at CWM.
- e. In a December 20, 2003 article entitled “Striking Latino miners have little to celebrate this year,” Wharton falsely described the workers who walked off the job at CWM mine as “part of an unfortunate American industry habit of exploiting immigrant workers.” Wharton also reported the following statements:
- (i) Estrada said working conditions at CWM were “unsafe,” and that injured miners who dared report an accident would have their pay docked.

- (ii) Estrada said miners threatened to call immigration officials to scare the workers.
  - (iii) Estrada said “the Kingstons,” meaning those in charge of CWM, called the sheriff [on picketing workers] reporting illegal trespass.
  - (iv) Estrada said “the miners want their jobs returned and back pay for being illegally fired for union activity.”
- f. In a May 5, 2004 article entitled “A show of support: Utah’s Catholic leader speaks out, offers prayers for striking miners,” Guidos said “For more than seven months, the workers have been locked out of their mining jobs at CW Mining Co.” Guido also said the workers have been asking for their jobs back “with the right to organize a union,” which amounted to 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 article also reported Niederauer as saying the right to fair wages, for safe working conditions, and for the right to associate as workers were all being denied to the workers at CWM.
- g. In a July 3, 2004 article entitled “Miners win back their jobs,” Warchol and Guidos said that CWM workers “were fired and locked out” of their jobs at CWM, and that Estrada “rallied the others last year after he was fired for union-organizing activity.” The article also reported:
- (i) Estrada said “the Kingstons,” meaning those in charge of CWM, had illegally fired the workers who walked off their jobs in September 2003.
  - (ii) The “miners” said IAUWU is a “yellow-dog” or company-run union.
  - (iii) Estrada said, “How can [we] have a union that is owned by the company?” by which Estrada meant IAUWU is owned by CWM.
  - (iv) Kennedy said the worker “were fired from our jobs.”
- h. In a July 7, 2004 article entitled “Miners march back to work after settlement, armed with a settlement,” Warchol said 49 coal miners “climbed the canyon to demand their jobs back under a federal settlement,” falsely implying 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. Warhol said the workers “also won ... back pay.” The article further reported:
- (i) The miners said a settlement between CWM and UMWA validated their claims that CWM fired and locked them out for trying to organize under UMWA.

- (ii) Butero said, "This is not over until these workers are covered by a true labor agreement," although CWM's workers are and always have been covered by a true labor agreement between CWM and IAUWU. In effect, Butero was falsely stating IAUWU's collective bargaining agreement is not a true labor agreement.
- (iii) The "miners" said IAUWU is a bogus, company controlled union.
- i. In a July 10, 2004 article entitled "Victory for miners" ~~the~~ *Salt Lake Tribune* said, "The miners won the right to return to their jobs, [and] get back pay ..." The *Tribune* also said: "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." The article further reported that the "workers" said, "When they talked about forming a union last September ..., their leader was fired and the rest of them were locked out."
- j. In a July 14, 2004 article entitled "Workers return to jobs at Huntington mine," Guidos said "the workers were allowed to return to work after being fired. The article further reported:
  - (i) Estrada said the miners were locked out last September by CWM.
  - (ii) The "workers who picketed the company" said IAUWU is a "yellow-dog union."
  - (iii) Jesus Salazar said "we want to attain a real union," meaning IAUWU is not a real union.
  - (iv) Kennedy said female workers still don't have a separate place to shower or change.
- k. In a September 25, 2004 article entitled "Kingstons' mine sues over strike," Manson said CWM claims it fired one worker who was talking up the UMWA. CWM actually gave Estrada a three day suspension with intent to fire for causes having nothing to do with UMWA. The article further reported:
  - (i) Picketing workers claimed IAUWA is a "yellow-dog" union run by members of the Kingston family.
  - (ii) About 75 workers, most of them Latino, say they were locked out of the Co-op Mine near Huntington in Emery County in September 2003 after talking about organizing themselves to negotiate better pay and working conditions.
- l. An October 3, 2004 article entitled "Kingston clan's mine workers hold rally on one-year anniversary of their lockout" reported:

- (i) The miners said they were locked out of their jobs because their employers heard them talking about forming a union to ask for better wages, benefits and working conditions.
  - (ii) The workers said they have been back on the job after a National Labor Relations Board decision returned them to work. (CWM unilaterally decided to re-hire them.)
  - (iii) The miners say the company plans to stack the union vote in favor of a company-supported organization, the International Association of United Workers Union.
  - (iv) Estrada said, "Now our goal is to win union representation," which was to say that despite IAUWA and its collective bargaining agreement with CWM, the workers do not have union representation.
- m. In a November 20, 2004 article entitled " Union vote to exclude Kingston relatives," Oberbeck said, "Late last year, several dozen coal miners, mostly Latinos, 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 ..." The article also reported:
- (i) Many of the workers described IAUWU as a "yellow-dog" union.
  - (ii) Estrada said the majority of CWM's workforce "were people who never applied for employment. The family just brought them in."
- n. In a November 24, 2004 article entitled "Union vote to exclude Kingston relatives," 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."
- The article also reported:
- (i) Many of the workers describe IAUWU as a "yellow-dog" union.
  - (ii) Estrada said "Kingston family allies in the work force" "were people who never applied for employment. The family just brought them in."
- o. In a November 29, 2004 article entitled "Miners allege union busting," Warchol said the NLRB determined miners (who had walked off their jobs in 2003) were entitled to reinstatement to their jobs and, possibly, back pay. The article also reported:
- (i) Miners "complained of dangerous conditions and worker intimidation" at CWM.

(ii) Estrada said workers supporting UMWA have been threatened and assaulted. He said "They are trying to use anything possible to defeat our attempt to organize with the UMWA. 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 a union election. Estrada also said the mine conducts dangerous practices that expose the workers to cave-ins and inadequate ventilation.

(iii) "Dissident miners" said IAUWU is Kingston created and controlled.

(iv) Late last year, several dozen miners claimed they were fired and locked out of the mine after they protested poor working conditions, low salaries and the lack of benefits.

84. The above publications were republished on the *Salt Lake Tribune*'s web site, <http://www.sltribune.com>, where they remain accessible to the world.

#### **DEFAMATIONS PUBLISHED BY THE *DESERET MORNING NEWS*:**

85. The following defamatory statements were published by the *Deseret Morning News*:

a. An October 30, 2003 article entitled "Coal miners to picket owners of Emery site" reported:

(i) The workers said CWM "exploited, intimidated and abused its workers."

(ii) Estrada said nearly 80 workers staged a walk-out of CWM in late September, protesting meager wages and exploitative conditions, and that CWM had locked them out.

(iii) Estrada said CWM knew the workers had been holding meetings to fight for better wages and working conditions, and "Once they found out about it, they've been intimidating people, saying they're going to close the mine.

(iv) Piaz said "These workers are exploited" and what CWM was doing to the workers "went out with slavery."

(v) Estrada said CWM mine operators were "forcing workers to work overtime, forcing them to do illegal things, operate dangerous equipment.

(vi) The workers told Neckel of dangerous working conditions, defective equipment and forced overtime.

(vii) Neckel said IAUWU does not represent workers' interests.

b. In a December 3, 2003 article entitled "Stand up for the right to unionize," Neckel said that miners at CWM were fighting an uphill battle to win [union] recognition (ignoring the fact they were

already represented by IAUWU), and that when the workers began to organize, CWM began to fire suspected leaders.

- c. In a January 18, 2004 article entitled “Kingstons exploitative, protesters say,” Jarvik said, “The miners [were] fired last September after they complained about what they said were unsafe conditions ...”, and that Estrada “was among about 75 workers who staged a walkout at the Co-op Mine in Huntington and were later fired” because CWM “did not want the miners to unionize.” The article further said the workers were protesting what they said were “exploitative conditions, including defective machinery that has caused injuries, a lack of training and health-care benefits, and meager wages.”
- d. In a March 23, 2004 article entitled “Kingstons’ treatment of miners is appalling ” Cortez said the workers complaints about unsafe working conditions and a move to organize a union cost them their jobs. Cortez also said the workers “want a union to represent their interests,” meaning IAUWU did not represent the interests of its bargaining unit. Cortez also said “The wages paid these men is an outrage. Some in the labor movement go so far to call it a human rights violation. At a minimum, these men have been horribly exploited.” The article further reported:
- (i) “National labor organizers”, meaning UMWA and its organizers, said “Estrada and approximately 74 others were illegally fired from their jobs.”
  - (ii) Cortez republished 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.”
- e. In an April 26, 2004 article entitled “Let workers decide on forming union,” Levin said:
- “Bill Estrada works as a coal miner in the Co-op Mine in Huntington owned by the Kingston family. Bill and his co-workers decided to form a union to win improved job safety standards, earn a living wage and have a say in their working conditions. ... Both [MSHA] and [NLRB] are investigating the miners’ claim that management has violated safety and health laws as well as labor laws. Bill was the leader among his co-workers trying to improve conditions at the mine, and he was fired because of his efforts to form a union with his co-workers. When this happened, the majority of workers at the mine walked out in support of him. When they returned to work the next day, the company refused admittance to the 74 miners who stood together in support of Bill’s efforts.”
- f. A May 2, 2004 article entitled “Miners take on the Kingstons” reported:
- (i) Estrada said after CWM executives learned he and 73 others were attempting to align themselves with UMWA to combat unsafe working conditions, the workers’ move cost all of them their jobs, with CWM using things like claims of negligence to target people.
  - (ii) Neckel said CWM operated with no regard for the safety or well-being of its employees.

- (iii) Neckel said, "They're exploiting people, plain and simple. In my opinion, this looks very much like organized crime."
  - (iv) Estrada said CWM charges its miners for any tools they use, "It comes right out of our pay."
  - (v) Estrada said CWM routinely uses a slave labor force.
- g. A July 03, 2004 article entitled "Striking Huntington miners will return to work July 12" reported the workers claimed they were illegally fired from the mine last September for seeking representation and affiliation with the United Mine Workers of America.
- h. In a July 4, 2004 article entitled "Miners plan to return to their jobs," Tiffany Erickson said:  
"Striking miners in central Utah are now making plans to return to their jobs after being fired and shut out of a polygamous clan-owned coal mine. In nine months of striking, the workers picketed, traveled the country speaking at other union gatherings and gained national and international support for their cause. On Thursday, it all paid off when [NLRB] ordered that their jobs be reinstated, and they plan to march to the mine on Tuesday to inform management they are returning. [UMWA], the group organizing the strike against the Co-op mine in Huntington, is calling the labor board's decision a major breakthrough. They received a draft settlement from the board that orders C. W. Mining Co. to reinstate all miners who were illegally fired. Last September, 75 coal miners were fired from their jobs at the Co-op mine owned by C. W. Mining in Emery County."
- Erickson also falsely said "The labor board's decision also includes a back pay order." The article further reported:
- (i) Kennedy said the miners were fired after contacting the United Mine Workers about getting a union organized at the mine.
  - (ii) Kennedy said a "company union" [referring to IAUWU] has existed at the mine; but all of the owners are bosses and are related to the owners of CWM.
  - (iii) Kennedy said before the "strike" those who contacted UMWA were cornered, harassed and even suspended by the mine's management.
  - (iv) Kennedy said "We are determined to get a real union at this mine, a union contract where the wages and benefits are all negotiated and agreed upon by the workers." This amounts to a statement that the union contract between IAUWU and CWM was not such a contract.
- i. In a July 7, 2004 article entitled "Co-op miners say battle has just begun," Nii said, "Ana Maria Sanchez had only worked at the mine for a month when she was fired for aligning with the pro-unionizers." The article further reported:

- (i) Butero said (regarding CWM's offer to rehire the workers), "This is not a total victory until these workers get covered by a true labor agreement," amounting to a statement that IAUWU's existing collective bargaining agreement is not a true labor agreement.
- (ii) Sanchez said tensions had been brewing and peaked in late September 2003. Sanchez said, "For days before that, even, we were protesting the conditions at the mine – which added fuel to the fire. She said there were no bathroom facilities for female workers, that the roof of the mine was in "cave-in condition" and that workers were not provided with proper safety or work equipment, or if they were, it was at an outrageous price, charged by the company.
- (iii) The workers said IAUWU is nothing more than a "yellow dog," a puppet organization for the owners of CWM.
- (iv) Vogel called CWM a "heinous polygamist engine" of the Kingstons ... They treat women, children and workers like garbage, and the way they've treated these miners is an example of that."
- j. A July 8, 2004 editorial article entitled "Victory is first step for miners" said:

"The miners ... were fired from their jobs last fall for attempting to organize a union to address poor pay and mine safety issues. The National Labor Relations Board has said the mine owners ... fired the miners illegally. The NLRB said the miners should be reinstated ... The NLRB validated the miners' contention that they were fired illegally ... This victory was a result of the miners' dogged determination ... and the assistance of local, state and international union activists, religious leaders and volunteers dedicated to the cause of social justice ..."
- k. An October 1, 2004 article entitled "Miners will mark anniversary with rally" reported that the miners say they were fired and locked out of the mine for seeking UMWA representation.
- l. A November 20, 2004 article entitled "Kingstons are barred from mine union vote" reported:
  - (i) About 50 miners alleged last fall they were fired from the Co-Op Mine for attempting to organize a union to address what they called poor pay and mine safety issues.
  - (ii) Guilfoyle said the "workers can decide for themselves whether to retain the 'phony' company union. ... [CWM was] stacking the voter eligibility list with a bunch of their family members."
  - (iii) UMWA has called IAUWU a front for the mine management.
- m. A December 1, 2004 article entitled "Workers call for changes at Kingston coal mine" reported, a group of the miners accused CWM of unsafe mining practices, including illegal cuts and ventilation problems, and ongoing threats including threats of illegal mass firings, harassment, and physical abuse of coal miners.

86. The above publications were republished on the *Deseret Morning News's* web site, <http://deseretnews.com>, where they remain available for viewing by the world.

**DEFAMATIONS PUBLISHED BY THE *EMERY COUNTY PROGRESS*:**

87. The following defamatory statements were published in the *Emery County Progress*:

- a. In a November 11, 2003 article entitled "Miners Picket," Patsy Stoddard reported:
  - (i) The miners cited low wages, unsafe conditions, intimidation by supervisors, and no health insurance as their reasons for picketing.
  - (ii) Stevenson said when the miners tried to return to work the next day after problems with one fired worker, CWM had a list of miners they would let through to return to work and only for or five miners were named on the list and the others were fired.
  - (iii) Stevenson and the workers said the workers were forced to operate unsafe equipment under unsafe conditions including unstable roof conditions.
  - (iv) Stevenson said, "We want the customers back east to know that they are burning coal mined with slave labor."
  - (v) Stevenson said, "These workers lived in fear, if they were hurt on the job, they couldn't collect workmens' compensation because they were expected to be back on the job or they would lose their jobs even if they were injured."
  - (vi) Stevenson said, "One of the Co-op supervisors stopped the other day and talked to the picketers and told them they were all going to be arrested."
  - (vii) Steven said of IAUWU: "Their company union is illegal and it's phony and operated by the management and none of the workers belong to it. They have taken advantage of these immigrant workers. ... These immigrant workers have been exploited ..."
- b. In a December 23, 2003 article entitled "Co-op Rally Draws Crowd," Bluemel said, "The strike began when a worker complained to the CW Mining management concerning unsafe conditions in the mine and union activity. Two other miners had been disciplined for the same reasons the week before." The article also reported that Dalpiaz said, "These miners work for one of the most brutal companies around. ... Our entire union knows about this strike and they all support us. We need to stop this ruthless treatment of miners."

- c. A February 3, 2004 article entitled "Striking Miners to Hold Rally" reported that Chavez, Kennedy, Juan Salazar and Meza spoke at union meeting in California, where, on information and belief, Kennedy and Salazar published defamations against CWM and IAUWU substantively similar to those described herein. Meza did not even speak at the meeting, and on information and belief, did not support Kennedy or Salazar in their defamations.
- d. In a May 11, 2004 article entitled "Bishop Visits Miners," Patsy Stoddard reported the miners "told of unsafe working conditions and wages well below other coal mines. The miners said they lacked benefits and were forced to work when they were injured. They told the story of a miner with an injured arm who returned to work too soon and the doctor told him because he returned to work too soon the arm would take much longer to heal."
- e. In a July 6, 2004 article entitled "Striking Co-op Miners Receive Hope," Patsy Stoddard said:  
"On September 22, 2003, 75 coal miners were fired from their jobs at the Co-op mine, owned by C. W. Mining. They were fired because they had contacted the UMWA about getting a union organized at the mine. The miners were paid between \$5.25 and \$7.00 an hour with no benefits. A company union has existed at the mine for many years. All of the officers of this "union" are bosses and are related to the Kingstons, the wealthy family that owns the mine. ... Prior to [September 22, 2003], the miners had been talking to UMWA organizers about how to get a real union organized at the mine. Bosses began harassing and suspending the miners for this activity."  
The article also reported the miners said "the draft settlement includes a back pay order.
- f. A November 30, 2004 article entitled "Co-op Mine workers go to MSHA with alleged violations" reported the workers accused CWM of violating safety regulations by mining too far into coal seams without properly bolting the roof of the excavation.

88. The above publications were republished on the *Emery County Progress's* web site, <http://www.ecprogress.com>, where they remain available for viewing by the world.

#### **DEFAMATIONS PUBLISHED BY THE PRICE SUN ADVOCATE**

89. The following defamatory statements were published in the *Price Sun Advocate*:
- a. In a September 30, 2003 article entitled "Co-op miners walk of job, participate in UMWA rally at Price," Shaw reported:
    - (i) When CWM disciplined Estrada, Kennedy said, "We wanted a meeting with management over this problem and some others when we went down to the office after we had heard what was

happening with Billy. They refused to meet with us and told us to go home. They even brought in the Emery County sheriff to back them up.”

(ii) Kennedy said CWM told all employees who walked off the job that they were fired.

(iii) The workers said IAUWU was a “company union,” that the company started the union, and that all the officers of IAUWU are bosses in the mine.

(iv) Kennedy said, “Only a few workers belong to the union. They have begun calling the bosses their ‘lead men’ so that they fit into the union membership.” Estrada also said, ‘Very few workers belong to the union.’”

(v) The workers said a worker was ordered to do something by a boss and then was threatened with the loss of his job for doing it.

(vi) Kennedy said, “One of the problems I saw is that the mine gets its water supply from an area of the mine that is caved in. They sent some workers in there to work on something and most of them cleared out because they could see how dangerous it was.”

b. In a letter published on October 21, 2003 entitled “Miners rebuttal at the Co-op mine,” Estrada, Panduro, Villa, Aguilar, Guillermo Hernandez, Rodriguez, Gonzalo Salazar, Daniel Hernandez, Jesus Salazar, Kennedy, Florez, Sanchez, and Jose Juan Salazar said:

From the end of August through September 22 (when the miners were thrown out of the mine) the company has been carrying out an unlawful campaign of harassment, threats, intimidation and disciplinary actions against the miners at Co-op. This has included threats about deportation, since the great majority of workers are immigrants. It has included direct intimidation in the form of interrogations in the work place (some up to two hours long) and also the increase in disciplinary write-ups for work related issues, which the personnel director admits the company was doing.

When the company got word of a meeting organized by the workers at the Huntington Town Hall they sent four supervisors to disrupt the meeting. The bosses were not able to intervene because the miners changed the venue given the threats made by the company.

The company suspended one union activist after that night and workers elected a leadership committee to meet with the company to get his job back, which they did. A few days later, the company attempted to suspend a worker who had been forced to do fire bossing duties by his supervisor even though he was not certified, which is required by law. This worker stopped production in one section of the mine in order to discuss the problem with management and as a result the worker was not suspended. A few days later the company suspended another union activist because he “forgot to connect a hose on a machine”.

Workers got together and went to management to resolve the problem like they had done the week before 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.

We have been forced to endure terrible working conditions to feed our families while the mines owners rake in large profits for the mine by exploiting the Co-Op miners.

The company has forced workers to put on unsafe equipment - equipment that was deemed unsafe by MSHA inspectors.

On the days leading up to their firing, workers had been forced to work in an unsafe area of the mine with only one way in and out risking the workers lives.

Mechanics routinely reported equipment that was unsafe. Mechanics would tag a truck because of needed servicing or had more serious problems such as brakes. Supervisors would simply ignore the tag and operate the equipment.

The outrageously expensive medical insurance is beyond the reach of the great majority of workers, therefore, there is no insurance to speak of.

Mechanics and other workers are charged every paycheck for tools that are kept on company property. The workers pay for the tools they use and have no control over them. The company keeps the keys to the padlocks on their toolboxes.

Given the wages made, the charges for tools are reminiscent of the old 1900's company stores that would steal workers money for basic necessities.

The training the company refers to is another scam. Workers pay hundreds of dollars for MSHA classes most mine operator provide for free. Contractors in town charge a fraction of what workers pay at Co-Op.

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. Base pay for all miners at Co-Op should be enough for us to provide for our families on any given day.

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 a unsafe work practice they are very likely to lose their bonuses and supplementary pay. Workers are forced to chose every day between their safety and their families' income that week.

- c. A November 13, 2003 article entitled "Strikers have rally at picket line" reported that the workers said when they went to the mine's office to protest the dismissal of a co-worker, they were told to leave and not come back.
- d. In a December 23, 2003 article entitled "Groups rally to support coal miners picket line," Shaw and Bluemel said the strike began when a worker complained to CWM's management concerning unsafe conditions in the mine, that two other miners had been disciplined for the same reason the week before, that a walkout began when workers left the coal production operation in support of the miner making the complaints, and that they were all fired.
- e. In an April 13, 2004 article entitled "Strikers vow to continue Co-op mine picket line," Shaw said the strike began as a protest when Estrada was fired for trying to bring UMWA into the mine, that they were then locked out of the mine, that CWM was interfering with the workers' right to organize, and that IAUWU is a company run labor organization.
- f. A May 25, 2004 article entitled "Strikers file representation petition with NLRB" reported:

- (i) The workers said they had been escorted by sheriff's deputies off mine property and were fired by CWM in violation of U.S. labor law.
  - (ii) Jesus Salazar said, "Hopefully, we will soon be able to exercise our democratic right to choose a real union to represent us," by which he meant IAUWU was not a real union.
  - (iii) The workers said some miners have for years been forced to pay dues to a company dominated "union" [meaning IAUWU].
  - (iv) Dalpiaz said there was an open window period in IAUWU's "so-called contract" [meaning IAUWU's collective bargaining agreement was not a real contract] where a real union [meaning IAUWU is not a real union] can file a representation petition ..."
  - (v) The miners said they were illegally fired by CWM when they stopped work to protest a set up and discharge of Estrada, who they say had contacted UMWA in an effort to improve underground working conditions, the wage scale with no health care benefits, and the constant threat of discharge if any miner contacted any Federal or State agency concerning working conditions or employment laws.
- g. In a July 6, 2004 article "UMWA indicates mine labor dispute resolved," Shaw reported:
- (i) Dalpiaz said "The National Labor Relations Board has ruled in favor of those on the line. They have ruled in the employees' favor." [In fact, NLRB had not made a ruling.]
  - (ii) The workers said they were fired because Estrada had been trying to organize the employees to join the UMWA, and that they were locked out and not allowed back into the mine the next day.
  - (iii) UMWA officials issued a press release saying the NLRB had resolved the labor dispute in the miners' favor, that the NLRB came down on the side of the workers by indicating they were unjustly fired, and that the NLRB had decided the workers would receive back pay.
  - (iv) The workers said the present union (IAUWU) is a company organization, and that all of its officers are management personnel.
- h. In a July 22, 2004 article entitled "National Labor Relations Board conducts Co-op vote hearing at Price," Shaw said, "Many Co-op employees have returned to work after [NLRB] ruled that the workers were let go inappropriately at the CW Mining Company's facility."
- i. A September 30, 2004 article entitled "Mine owners sue media" reported the miners claim IAUWU is a company union run by company managers.

90. The above were republished on the Price *Sun-Advocate's* web site, <http://www.sunad.com>, where they remain available for viewing by the world.

#### **DEFAMATIONS PUBLISHED BY THE PROVO DAILY HERALD:**

91. The following defamatory statements were published in the *Provo Daily Herald*:

- a. An October 13, 2003 article entitled "Miners file complaints against Kingston family mine," distributed by the Associated Press to its affiliates, reported:

A miner who claims he was fired for trying to organize a union is leading a charge against the polygamous Kingston family's Co-op Mining, which he says is mistreating immigrant workers. Bill Estrada, who spent a year digging coal at the Co-op Mine for less than \$6 an hour, now spends six hours a day on a picket line at a junction where the mine's access road branches off from state Road 31 in Huntington Canyon. Estrada, who said Co-op fired him late last month for trying to organize a union, said he is supported by about 75 fellow miners. ... Estrada said he heard grumbling about the low wages (average pay for a Utah coal miner is \$21 per hour), lack of benefits and potentially dangerous working conditions from the day he started as a miner's helper. He said the mine's union, the International Association of United Workers, was a company concoction designed to preclude employees from airing legitimate grievances. ... The miners claim 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.

- b. A May 3, 2004 article entitled "Union drive at Kingston mine a year old" reported:
- (i) Estrada said he and 73 other workers were fired after mine executives learned they were attempting to address unsafe working conditions by aligning themselves with UMWA.
  - (ii) Neckel said, "They're [meaning the of CWM] exploiting people, plain and simple."
  - (iii) Estrada said that CWM charges miners for tools "right out of our pay," and that it routinely uses a slave labor force.

92. The above articles were republished on the Provo *Daily Herald's* web site, <http://harktheherald.com>, where they remain available for viewing by the world.

#### **DEFAMATIONS PUBLISHED BY THE ROMAN CATHOLIC CHURCH:**

93. The following defamations were published in the *Intermountain Catholic*:

- a. In a December 19, 2003 article entitled "In solidarity with those who suffer," Lee said, "More than 70 Co-op miners were locked out of the mine when they walked out Sept. 22 in solidarity with United Mine Workers of America (UMWA) supporter William Estrada, who has been actively

seeking fair union representation in the mine, a safe working environment, and treatment with dignity.” The article also reported:

(i) Gonzalo Salazar said, “If I call in sick for just one day, I lose my bonus for as long as the bosses want me to lose it. They say we have a contract, but I’ve never seen one, and I’ve never signed one. There isn’t any respect for any man or woman in that mine.”

(ii) Gonzalo Salazar also said when miners asked to see their contract, they were told to either get back to work or be fired. He also said he was once physically threatened by one mine boss, and that a higher boss told him if he didn’t call the police, his boss would be disciplined, but no disciplinary action was ever taken. He said, “It means they offer good words, but no good actions to back them up.”

(iii) Cannon said CWM’s workers are “being exploited like slaves so the mine owners can make millions of dollars.”

(iv) Neckels said the mine bosses are taking advantage of the miners.

(v) Dalpiaz called CWM “one of the most brutal employers in the country.”

b. In a December 24, 2003 article entitled “Miners strike powerful Kingston clan for fair practices,” Lee said, “Seventy-four miners’ jobs were terminated after they protested the firing of one of their leaders for union representation. She also said the workers “won’t work in the Co-op mine’s unsafe conditions.” The article also reported:

(i) The workers have distributed flyers [on information and belief, prepared by UMWA] that state the miners are forced to work with injuries, and do not have access to workers’ compensation, that they are expected to use defective and unsafe machinery, and under unsafe conditions in violation of the law and MSHA rules. They also state the miners do not have medical insurance benefits, and that CWM does not provide the necessary tools to do the job without discounting money from the workers’ paychecks.

(ii) Stevens [*sic* should be Stevenson?] said CWM’s unsafe machinery misses regular safety inspections because they are stored in an area in which the inspectors do not go.

(iii) The miners say IAUWU is made up entirely of Kingston family members and mine supervisors.

94. The above defamations were republished on the *Intermountain Catholic’s* web site, <http://icnp.com>.