

95. On December 23, 2003, the Catholic News Service published an article entitled "Utah Catholics among those supporting fired miners" in which it stated, "74 miners went on strike at the Co-op Mine in Huntington this fall and then were immediately fired and replaced by other workers ... The workers went on strike Sept. 22 in support of co-worker William Estrada, who says he was fired for trying to get fair union representation for the workers to ensure safer working conditions and better wages." This false and defamatory publication was published on the Catholic New Service's web site, <http://www.catholicnews.com>.

96. An April 2, 2004 article in the *National Catholic Reporter* entitled "Immigrant miners protest unsafe conditions," republished on its website at

http://ncronline.org/NCR_Online/archives2/2004b/040204/040204f.php, reported:

About 75 miners claim they were locked out of CW Mining Co.'s mine in Huntington, Utah, Sept. 22, after they protested unsafe working conditions and the suspension of William Estrada, a United Mine Workers of America supporter who refused to sign what he said was an unfair disciplinary letter. ... The picketing miners insist that training is inadequate and machinery is unsafe or defective. The federal Mine Safety and Health Administration has known about the situation since 1993 ... Bob Butero, the union's regional organizing director, said typical wages for these workers should have been close to \$20 an hour with a wide range of benefits. Butero noted that the Kingston mine pays a fraction of what other coal mines provide in benefits and compensation, yet "they're selling their coal for the same price that all the mines in the area sell for. They take advantage of these workers and just thumb their noses at any kind of law." ...

Co-op miner Estrada asserts that there was only a "yellow-dog" union run by the Kingston family. Regarding health benefits, he said, "I never heard of it. ... It's the same with the company union, they claim they had a union but most workers were never told about it." ... Estrada said the miners want independent union representation, better working conditions and back pay. He described a setting that harks back to the labor abuses of the early 1900s, with improper ventilation causing dust inhalation, and a common practice of cutting too deep into the coal wall, thus creating an unsafe roof. ...

Regarding regulators Estrada said, "When the inspectors come, they go to the bathhouse and change, they go to the office and have a cup of coffee," giving the foremen underground time to take dangerous equipment offline. ... He said injuries were rarely reported because "they deducted from your pay if you reported an accident." ... Estrada said Co-op miners had to buy their own equipment, so the cost of necessities like hard hats, tools, belts, gloves and safety glasses dug into the meager wages.

97. A July 12, 2004 *Catholic News Service* article entitled "NLRB orders reinstatement, back pay for striking Utah miners," republished in part at the web site <http://www.catholicnews.com/data/briefs/cns/20040712.htm>, said, "In its ruling, the NLRB said the miners were fired illegally, that they deserved to be "reinstated to their former jobs or to substantially equivalent positions, without

prejudice to seniority or any other rights or privileges previously enjoyed, displacing, if necessary, any employees hired to replace them, and that they should receive back pay ...” The full has been posted at the web site <http://www.labor.net.org/news/0704/minlrb.htm>. Estrada is quoted as saying, “ “We went on strike so that we can be treated with dignity, earn fair wages and be fairly represented by a union, not (a union) of the bosses, which the mine has offered us, but of the workers.” The workers also said the union that mine owners said was formed to represent the workers ... is made up largely of the mine bosses.” Father Donald E. Hope said, “What is needed here over the long term is the development of a conscience on the part of the C.W. Mining Co. They need to take the necessary steps to give their workers basic human rights.”

OTHER PRESENTLY KNOWN DEFAMATIONS

98. AFSCME Council 6, AFL-CIO, in its February 2004 calendar of events, said, “ “The miners were all unjustly fired in September for protesting company attacks and protesting against extremely dangerous working conditions. ... These workers [were] formerly objects of numerous abuses and humiliations ...” This statement was available to the world on the internet at the URL <http://www.afscmecouncil6.org/lisa/legislativeweekly/Event%20Archive/February2004Events.htm> .

99. On or about November 29, 2003, Bill Estrada said to KSL News, of IAUWU, that “These officers, they fire, they cut the pay of workers, and these are supposed to be the union officers. So we have filed charges against the company so that this union could be officially decertified so we can organize a real union in the interests of the workers there.” On information and belief, KSL published Estrada’s statements during one or more newscasts, and has republished them on its website at <http://tv.ksl.com/index.php?nid=5&sid=61297> .

100. Beginning in 2003 and continuing to the present, KRCL Radio 90.9FM has maintained on its website at <http://www.krcl.org/miners.htm> an article stating, “Recently, dozens of mostly Latino miners were fired for protesting the firing of a co-worker trying to improve conditions at the Kingston owned Co-Op mine in Huntington. The workers were subjected to low wages, few if any benefits, and unsafe working conditions.” The article also contains links to other defamations published by Jobs With Justice, Utah Jobs With Justice, October 12, 2003, October 31, 2003, and January 27, 2004 articles by the Salt Lake Tribune, and October 30, 2003 and January 18, 2004 articles by the Deseret Morning News, as well as information with which to contact Jim Stevenson of UMWA and George Neckel of

Utah Jobs With Justice. Listeners Community Radio of Utah, Inc. included the links and contact information at least in part to adopt the others' defamations as its own, and to facilitate the republication of those defamations. The February 2, 2004 *The Militant* article, "Salt Lake picket backs Co-Op strike," reported, "Nicole Jones from KRCL radio, which works with Utah's Jobs With Justice, is backing the miners. ... Jones said her group supports this strike ... Jones explained the volume of donations continues to be high through the efforts of 'some people who don't like the Kingstons, others who want to support the miners, and others who are union members who want to help workers trying to organize a union.' "

101. Beginning December 9, 2003 and continuing to the present, the Utah Indymedia (Independent Media Center) has published and maintained on its website, <http://utah.indymedia.org/news/2003/12/6975.php>, an article entitled "Utahns Show Support for Strikers", in which it said:

On September 22, seventy four miners at Huntington's Co-op Coal Mine walked off the job in support of a union supporter, William Estrada, who had refused to sign a disciplinary letter and was suspended. The walkout quickly became a lockout when all the miners were fired. The Co-op Mine is owned by the Kingston family which is reputed to be a polygamist cult. The Kingstons have had a history of defying labor and safety regulations, and in an industry that customarily pays \$15 to \$20 per hour, the Kingstons pay \$5.25-\$7 per hour at the Co-op Mine. Workers are routinely told to sign-off on inspections for which they are not certified or qualified, and are required to purchase personal tools from the company. Much of the existing mining equipment on the site of the mine is said to be in marginal working condition. ... [T]he Kingstons [meaning those in charge of CWM] operate a company union at the Co-op Mine.

102. Beginning December 9, 2003 and continuing to the present, the Utah Indymedia (Independent Media Center) has published and maintained on its website, <http://utah.indymedia.org/news/2003/12/6976.php>, an article by Mel Logan entitled "Your job, your standard of living, your health and safety, and your family are in danger," which said:

These miners were exploited while they were expecting to improve the quality of their family's lives. They are asked to do everything we do but to surrender even more. Besides the low wages they have few benefits, must provide their own tools and are exposed to unsafe and unhealthy conditions, including inhumane treatment. One worker with a compound fracture of his arm was told that he would be terminated if he failed to come to work the next day. They are asked to sacrifice family needs to corporate expectations. There is much more to the story, but you understand why they want to replace their company union for one of their own.

While they were attempting to organize, one was fired for refusing to sign a warning slip he felt was trumped up to punish his organizing activity. The other workers walked out to force his

reinstatement. They were ordered to return to work or be fired. When they returned, only four were allowed to return and the rest were refused. They were locked out!

Logan and Utah Indymedia also accused CWM of “regressing to the dark age of business morality,” and called the workers “exploited.”

103. The previously described article by Mel Logan was republished by People for Peace and Justice of Utah on its website <http://www.utahpeace.org/actionalerts.htm>.

104. Beginning June 21, 2004 and continuing to the present, the Arizona Indymedia (Independent Media Center) has published and maintained on its website,

<http://arizona.indymedia.org/news/2004/06/19718.php>,

an article from the AFL-CIO and Jobs With Justice, in which they said:

Latino Miners Employed by Polygamist Clan Were ‘Represented’ by Company Union, Paid Less Than \$7.00/hr. With No Health Care. ... Seventy-four workers at the Co-Op mine in Huntington, Utah, have been out of work since September 2003, when they were fired after protesting unsafe job conditions and the suspension of a co-worker for union activity. Even the Bush administration's National Labor Relations Board has ruled that their firing was illegal, but the company has yet to reinstate them. ... The Co-Op miners have no health insurance, and work in dangerous conditions which have led to countless injuries and three deaths since 1996. ... In 1979, the National Labor Relations Board (NLRB) recognized the “International Association of United Workers Union” as the sole bargaining agent for the Co-Op mine workers, but this so-called union is completely controlled by the Kingston family. It holds no meetings and its officers are not elected - they are appointed by, and are members of, the Kingston clan.

105. Beginning November 17, 2003 and continuing to the present, the Cleveland Indymedia (Independent Media Center) has published and maintained on its website,

<http://cleveland.indymedia.org/news/2003/11/7215.php>, an article from UMWA that said:

CW MINING CO. WORKERS ARE FIRED FOR DEFENDING THEIR RIGHTS

Miners at Co-Op in Huntington, Utah have been unjustly fired for protesting attacks by the company and because of unsafe working conditions. The company owners, the Kingston family, reportedly have profits of up to a million dollars a month by super exploiting the mainly immigrant workforce.

Facts about CW Mining Company:

- Workers have been LOCKED OUT because of their union activity.
- All workers must be reinstated with back pay.
- Workers are forced to work with injuries without access to workers compensation.
- Bosses abuse and mistreat workers.
- Workers are forced to work under unsafe conditions in violation of the law and Mine Safety and Health Administration (MSHA).
- Workers are forced to use defective and unsafe machinery such as gas-emitting old batteries.
- The bosses use man trips in bad shape, sometimes lacking adequate lighting or faulty breaks.

- Workers are forced to work arbitrary shifts that rule out any kind of normal family life.
- Workers do not have medical insurance to speak of and no retirement benefits.
- There is no bathhouse for the female workers.
- The company does not provide the necessary tools to do the job without discounting money from the workers paychecks.
- The company promotes safety violations by refusing to punish the bosses that break them regularly.
- Company does not provide adequate training for workers.
- Workers are tired of the abuses, lies and trickery of the fake company-led “union” that Co-Op has maintained for years in the work place.

106. On November 20, 2003 Earth Island Institute published in its *Earth Island Journal* the same article described in the preceding paragraph, which is still available on its website <http://earthisland.org/eijournal/newswire.html>.

107. The Immigrant Workers Freedom Ride Coalition published an article entitled “Immigrant Miners Brave the Utah Winter in Strike Against Unfair Labor Practices, still available for reading on its website <http://iwfr.org/utahminers.asp>, in which it said of CWM:

- Workers are forced to work with injuries (sometimes with broken bones)
- Workers have been denied access to workers' compensation.
- Abuse and mistreat of workers is commonplace. Under threat of discipline, they are forced to work under unsafe working conditions in violation of the law and Mine Safety and Health Administration rules (MSHA).
- Miners are forced to use defective and unsafe machinery. The company promotes safety violations by refusing to punish the bosses who violate MSHA rules.
- Miners do not have any medical insurance to speak of ...
- There is no bathhouse for the female workers.
- The mainly immigrant workforce at the mine has been fired for standing up to the owners over union organizing and safety issues.
- The mine is owned by the Kingstons, a family notorious for worker exploitation across six western states and for the convictions of prominent members for abusing young women forced into polygamous marriages.

108. On or about June 9, 2004 The *Joe Hill Dispatch* published an article entitled “Co-op Miners Fight for a Real Union,” in which it said, “With the assistance of the UMWA, the fired miners filed a petition for a representation election against the ‘International Association of United Workers Union (IAUWU),’ an outfit run by the Kingston family, which owns the mine.” The article also reported:

- (i) Estrada said the workers had been illegally fired by the Co-op bosses for union activity.
- (ii) Dalpiaz said, “The NLRB says the miners at Co-op were fired illegally and there will be an election where workers can decide to vote for a real union,” meaning IAUWU is not a real union.

(iii) Jesus Salazar said that IAUWU is a false union, and that the union officers are bosses who are responsible for setting production goals and disciplining and firing workers.

The above defamatory publications were republished on the *Joe Hill Dispatch's* web site, <http://joehilldispatch.org>.

109. Jobs With Justice published the following statements on its website:

(i) At <http://www.jwj.org/updates/2004/01-04.htm> from January of 2004 to the present, Jobs With Justice said:

"80 miners were fired for trying to organize a union, and have been on an unfair labor practice strike for 3 months. These workers, many of whom have worked at the mine for over a decade, make \$5.25-\$7/hour in an industry where the average wage is \$20/hr. Workers are forced to work with injuries, are denied workers' compensation, lack health insurance, and are forced to work under unsafe conditions."

(ii) At <http://www.jwj.org/updates/2004/04-04.htm#ut> from April of 2004 to the present, Jobs With Justice has said:

"The workers were illegally fired from their jobs after they protested the suspension of a co-worker for union activity and for protesting unsafe job conditions. Co-Op workers, mostly Mexican immigrants, are paid only \$5.25-\$7/hour while other miners working in the same canyon earn \$18. The miners have no health insurance and work in dangerous conditions which have led to countless injuries and an astounding 3 deaths since 1996. ... Since then [1979], this so-called union [IAUWU] has been owned, operated, and controlled by the powerful Kingston family. The union holds no meetings and its officers are not elected - they are appointed by and are members of the Kingston clan. ... the company union is a farce ..."

(iii) At <http://www.jwj.org/updates/2004/07-04.htm#ut> from April of 2004 to the present, Jobs With Justice has said, "Last week, the [NLRB] ruled that the miners were fired illegally. ... The workers are negotiating the back pay they are entitled to."

110. Utah Jobs With Justice, with the direction and approval of Neckel, has published the following statements in its website:

(i) At <http://utahjwj.org/index.php?func=news&aid=17> from January 4, 2004 to the present, Neckel and Jobs with Justice have said:

These workers ... contend they were fired and locked out by the company because of concerted activities and unsafe conditions. The Co-Op miners allege:

- Most immigrant workers at the mine earn only between \$5.25 and \$7 an hour;
- Most workers lack medical insurance and retirement benefits;
- 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
- Female workers have no bathhouse.

At the UMWA Special Convention Sept. 29-30 in Las Vegas, International President Cecil Roberts pledged the union will assist the coal miners who were fired from C.W. Mining Company's Co-Op mine. ...

Jesus H. Salazar Jr., described their plight—earning between \$5.25 and \$7 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." ...

"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. ...

... said the Co-Op delegation to the UMWA convention, "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.

(ii) At <http://utahjwj.org/index.php?func=news&aid=18> from May 1, 2004 to the present,

Neckel and Jobs with Justice have said:

The workers were illegally fired from their jobs after they protested the suspension of a co-worker for union activity and for protesting unsafe job conditions. Co-Op workers, mostly Mexican immigrants, are paid only \$5.25-\$7/hour while other miners working in the same canyon earn \$18. The miners have no health insurance and work in dangerous conditions which have led to countless injuries and an astounding 3 deaths since 1996. ... Since then [1979], this so-called union [IAUWU] has been owned, operated, and controlled by the powerful Kingston family. The union holds no meetings and its officers are not elected - they are appointed by and are members of the Kingston clan.

(iii) At http://www.unionvoice.org/jobswithjustice/alert-description.tcl?alert_id=962758 from June

8, 2004 to the present, Jobs with Justice and Utah Jobs With Justice have said:

Since October 2003, Utah JWJ has been building community support for the 74 workers at the Co-Op mine in Huntington, Utah who ... were illegally fired from their jobs after they protested the suspension of a co-worker for union activity and for protesting unsafe job conditions. Co-Op workers, mostly Mexican immigrants, are paid only \$5.25-\$7/hour while other miners working in the same canyon earn \$18. The miners have no health insurance and work in dangerous conditions which have led to countless injuries and an astounding 3 deaths since 1996. ... Since [1979], this so-called union [IAUWU] has been owned, operated, and controlled by the powerful Kingston family. The union holds no meetings and its officers are not elected - they are appointed by and are members of the Kingston clan. ... A mountain of evidence indicating that the Co-Op miners want representation with the UMWA and that the company union is a farce ... country. Utah JwJ has organized several fundraisers for the miners. In December and in February, they organized buses to rally at the mine where they were joined by miners from neighboring states. Earlier this year, Utah JwJ organized a delegation of the miners together with labor leaders, elected officials, and religious leaders to visit Utah Attorney General Mark Shurtleff to encourage him to investigate the Kingston clan's pattern of violating health and safety laws. ... 50 people picketed at ... a Kingston-owned store ... Utah JwJ is planning rallies with the workers on Workers'

Memorial Day and on May Day to raise visibility for the miners' struggle. Through the collective efforts of Eastern Mass. JwJ and Western Mass. JwJ, Co-Op workers Ana Sanchez and Bill Estrada toured Massachusetts to gain support for their strike. The mine workers told their story to the Mass. AFL-CIO, CWA IUE 201, Greater Boston APWU, Boston Teachers Union, several Central Labor Councils, and Interfaith groups throughout the state. Ana Sanchez also spoke at a women's lunch about her struggle as a mother, a woman, and a miner.

On information and belief, at the rallies, meetings, and other events described in the article, UMWA, Jobs With Justice, Utah Jobs With Justice, and their agents published defamatory statements about Plaintiffs substantially similar to the defamations described herein, as will be shown through discovery.

111. The same or a substantially similar article as the previously described October 13, 2003 Provo *Daily Herald* article, with the same defamatory statements, was picked up and distributed by the Associated Press, and was published by KSL on its website <http://tv.ksl.com>.

112. On June 2, 2004, the same or a substantially similar article as the above April 2004 publication by Jobs With Justice was published by the Portland Independent Media Center on its website at <http://portland.indymedia.org/en/2004/06/289910.shtml>.

113. In a July 7, 2004 article published by KUTV on its website <http://kutv.com>, it was reported that the miners claim IAUWU is "a puppet organization for the Kingstons."

114. On its website at <http://www.nbcclabor.org/040324utah.html> from March of 2004 to the present, the Greater Southeastern Massachusetts Labor Council has said:

The lockout started in September when 74 coal miners were illegally fired from their jobs on Sept. 22, 2003 ... According to [UMWA]:

- Most immigrant workers at the mine earn only between \$5.25 and \$7 an hour in an industry that averages \$15 to \$20 per hour;
- 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
- Female workers have no bathhouse.

115. In a June 18, 2004 *Northwest Labor Press* article entitled "Striking Utah miners tour Northwest seeking help from union members," republished on its website at <http://www.nwlaborpress.org/2004/6-18-04UMWA.html>, McIntosh said:

At the Bear Canyon Mine ... (also known as the Co-op Mine), coal miners were working for \$5.25 to \$7 an hour, with no health benefits or pension, with even the price of their tools deducted from their pay, and with dues taken out of their paychecks to support a

company-controlled union. On top of that, they faced constant threat from dangerous working conditions and abusive management. Some of the miners began to complain about safety and talk of joining the United Mine Workers of America (UMWA). In response, management began singling out pro-union workers for discipline. When in September 2003 the company suspended pro-union miner William Estrada ..., workers decided they'd had enough. They went out on strike Sept. 22, 2003, demanding Estrada's reinstatement. ... The company promptly fired the strikers ...

Members of the Kingston family are also apparently among the leaders of the company-dominated union at the Bear Canyon Mine, a union in which stewards double as company foremen. "Company unions" are illegal under the National Labor Relations Act. ... Workers at the mine are made to fill out yellow [IAUWU] forms with a lion logo, authorizing company deductions for dues.

The article also reported:

- (i) UMWA said CWM fired the workers in violation of labor law.
- (ii) Juan Salazar said, "They brought the sheriff to walk us out."
- (iii) Juan Salazar and Kennedy said IAUWU does not have meetings or elections.

116. In a May 9, 2004 "Action Alert" posted by the Philadelphia Council AFL-CIO on its website <http://phillyunions.com/#utahcoal>, Eiding said:

"A group of 70 immigrant workers have been on strike at the C. W. Mining Company's Co-Op Mine since they were illegally fired on September 22, 2003 after protesting the suspension of a co-worker, as well as protesting the unsafe conditions they are forced to work under. These workers are fighting for the right to be represented by the United Mine Workers of America because among other reasons they have been working the mine for between \$5.25 and \$7.00 an hour, most without medical benefits, and under unsafe conditions in violation of Mine Safety and Health Administration regulations."

117. Carmen Thompson and the Center for Public Education and Information on Polygamy republished at least the following articles on its website <http://www.polygamyinfo.com>:

- The October 12, 2003 *Salt Lake Tribune* article "Immigrant miners take on Kingstons."
- The October 13, 2003 Provo *Daily Herald* article "Miners file complaints against Kingston family mine."
- The October 31, 2003 *Salt Lake Tribune* article "Co-op Mine workers say dignity at stake in their strike."
- The July 3, 2004 *Salt Lake Tribune* article "Miners win back their jobs."

118. A March 11, 2004 article in the *Salt Lake City Weekly*, which remains available on its website at http://www.slweekly.com/editorial/2004/feat_2004-03-11.cfm, reported:

"When the company found out we had contacted the UMWA," said Estrada, "they started making threats. They said they'd call the INS [Immigration and Naturalization Service] or the police. They said anyone who considered organizing with the UMWA would be fired." Miners contend that when they tried to return to work Reynolds and two sheriff's deputies met them at the gate. Reynolds, they said, held a list containing names of who could and could

not work that day. Miners claim that only about 10 people were allowed to work. The rest were locked out. After three days of lockout, they allegedly were fired.

"These so-called union officers," said Estrada, "never presented themselves to us as reps. We were told they were bosses. They never filed any grievance against the company. They never came in defense of any worker. There was no election of them as union officers."

Kennedy has a similar story. She says no one ever mentioned the Co-Op mines were unionized when she was first hired. And when the group of miners stood up in defense of Estrada, she said, "the company union representatives took the side of the company. They never, at any time, attempted to back our side or encourage any kind of meeting. They just went along with the bosses." ...

Union representatives always work alongside other workers, but not at the Co-Op mines, claims Estrada. "The district men are not lead men, as they pretend they are," he said. "They're bosses. They deduct pay as a disciplinary measure against workers. They fire people. They don't do things union reps do; they do things bosses do."

Larry Huestis, the International Safety Representative for the UMWA, says that the IAUW has no history with the NLRB. "There is a clear distinction under the [NLRB] between being both a supervisor and a union representative," he said. "You can't wear both hats. In my belief, the company has been fully developed to have a company union in it to keep a legit union out."

Indeed. Ed Mayne, president of Utah's AFL-CIO, told The Salt Lake Tribune shortly after the alleged lockout that he had never heard of the IAUWU. "Sounds like a Kingston plot," he said. "It's almost comical, a throwback to the '20s. Employers would sometimes set up a company union to keep workers from organizing." Other charges state that "approximately 80 employees" (or roughly 80 percent of the regular, hourly workforce), rather than the 30 to 40 who came in defense of Estrada, were discharged for "protected, concerted activities."

...

The group of striking miners at Co-Op contends that they were occasionally forced to work in mines with inadequate roof supports and to operate machinery that the MSHA had deemed inoperable. ...

Juan Salazar had worked on the production crew at Co-Op mines for three years as a face man and shuttle-car driver. During his first year of employment, he says a piece of coal fell and fractured his arm. Even though his arm was in a cast, he says, he was required to work outside, separating rock from coal as it came by on a conveyor belt. "I had to walk up and down very steep stairs to go to work," he said. "And I had to do this for about a month and a half, while I had my cast on." Workers' compensation was never offered, he says.

Kennedy describes encountering different problems with CW Mining. Being only one of the three women working at the mine, she says the company didn't have a women's bathhouse.

"They told me they were planning to put in a shower and a separate place where women could change clothes," she said, "but they never followed through on that. From day one, I just had to find my own place to change clothes."

Eventually, the company offered her and the other two women access to the bosses' bathhouse. But she didn't understand how that bathhouse would be any different. It was, after all, just another men's bathhouse.

She claims the company then designated a room for the women to change their clothes that had a large window with no curtain and a door that wouldn't lock. After a few of the bosses walked in on her, she had a sign made to let them know when she was changing her clothes.

Filthy, she would change clothes, and then walk upstairs to a small bathroom, where she could wash her face.

"But they didn't even have hot water up there," she said. "I had to wash my face with cold water in the middle of winter. I mean, the whole thing was degrading, you know. The bosses just had no respect for the workers there."

119. An October 2003 *Casper Star Tribune* article reported:

(i) Estrada said CWM fired him for trying to organize a union.

(ii) Estrada said IAUWU was a company concoction designed to preclude employees from airing legitimate grievances.

(iii) 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.

120. A January 26, 2004 *Craig Daily Press* (Craig, Colorado) article entitled "Dinner raises \$1,400 to support miners" reported:

Four Co-Op miners, Gonzalo Salazar, Domingo Olivas, Guillermo Hernandez and Arturo Rodriguez, drove from Huntington to attend the dinner ... All the miners agreed they've been taken advantage of because of their ethnicity. Salazar said white miners who refused to tolerate working conditions walked off the job, but Hispanics stayed and put up with it because it's harder for them to find another job. The miners allege they were paid between \$5.25 and \$7 an hour, received no health insurance or benefits, and were forced to work in violation of Mine Safety and Health Administration regulations. Salazar said the miners have been strongly supported by the Roman Catholic Church.

121. In a March 22, 2004 UAW Local 14 article entitled "Utah Miners Strike in Safety/Pay Struggle," Barab said:

"Seventy-four coal miners at C.W. Mining Company's Bear Canyon mine (known also as Co-Op mine) in Huntington, Utah were illegally fired from their jobs on Sept. 22, 2003, after they protested the suspension of a co-worker and unsafe job conditions. ... At the time, it was the company's third attempt to victimize a UMWU supporter, according to the Co-Op miners. ... Estrada and [Ana Lilia] Vilalba are among 75 workers who have been locked out of their mining jobs since they decided to organize to demand better pay and better working conditions. " The article also reported Estrada as saying, "'In coal mines, safety is a big thing. But in this company, if you're in a position to report an accident, you either work while injured or you risk losing your job. If you report an accident, they may accuse you of damaging the equipment and they'll take away your bonus."

122. A June 8, 2004 Washington State Labor Council, AFL-CIO, article entitled "Meet, support striking miners in struggle against Utah clan." published on the website <http://www.wslc.org/reports/06-11-04.htm>, reported:

These underground coal miners, mostly immigrant workers, were being paid between \$5.15 and \$7 an hour with no benefits (while other miners working in the same canyon earn \$18) when on Sept. 22, 2003, every one of the 75 Co-Op miners were fired for protesting the suspension of a co-worker and unsafe conditions on the job. At the time, the miners -- upset

about low wages and dangerous working conditions which had led to countless injuries and three deaths since 1996 -- were having meetings with the United Mine Workers of America to get themselves organized into a real union, unlike a company "union" the bosses had set up to prevent the workers from being organized. ... In 1979, the National Labor Relations Board recognized the "International Association of United Workers Union" as the sole bargaining agent for the Co-Op mine workers. Since then, this so-called union has been owned, operated and controlled by the Kingston family. The union holds no meetings and its officers are not elected; they are appointed by and are members of the Kingston clan. ... [There is] a mountain of evidence indicating that the Co-Op miners want representation with the UMWA and that the company union is a farce ... Utah Jobs with Justice has organized several fundraisers and rallies for the miners. A delegation of labor, community and religious leaders has met with Utah Attorney General Mark Shurtleff to encourage him to investigate the Kingston clan's pattern of violating health and safety laws. ... Come get a firsthand account from two of the Utah miners, Alyson Kennedy and Juan Salazar, at the Portland and Seattle meetings.

On information and belief, at the fundraisers, rallies, and meetings referred to in the article, UMWA, Jobs With Justice, and their agents published slanders substantially similar to the defamations described herein.

123. Ehrbar, a University of Utah Marxist professor of economics, administers a website, <http://archives.econ.utah.edu/archives/marxism/2004w26/msg00131.htm>, where he republishes the July 20, 2004 *Militant* article "Bosses are forced to rehire striking Utah coal miners." Ehrbar maintains another website, <http://www.econ.utah.edu/ehrbar/exploitation/kingston.htm>, where he provides web links to many of the defamations described herein, including the following:

An article by the Immigrant Workers Freedom Ride Coalition entitled "Immigrant Miners Brave the Utah Winter in Strike Against Unfair Labor Practices," at <http://www.iwfr.org/utahminers.asp>.
 Sep - Oct 2003 *UMWA Journal* article, "UMWA Supports Utah Miners' Struggle to Join Union."
 January 19, 2004 *Militant* article, "Utah Miners plan tour in California to win support."
 January 12, 2004 *Militant* article, "Miners force Mine Safety Investigation."
 January 12, 2004 *Militant* article, "Miners get support from UMWA local, salute striking meatpackers."
 December 29, 2003 *Militant* article, "Solidarity Rally Backs Co-op Miners."
 December 29, 2003 *Militant* article, "Editorial: Stakes are high."
 December 22, 2003 *Militant* article, "Miners build rally to win broader support for union fight."
 November 24, 2003 *Militant* article, "SLC Unionists donate food and funds to locked-out Miners."
 November 10, 2003 *Militant* article, "Utah students organize ..."
 November 3, 2003 *Militant* article, "UMWA statement backs embattled ..."
 November 3, 2003 *Militant* article, "UMWA union locals in West back ..."
 October 6, 2003 *Militant* article, "Defend the rights of immigrants."
 October 6, 2003 *Militant* article, "Utah miners fight for union."
 January 18, 2004 *Salt Lake Tribune* article, "Immigrant miners take on Kingstons."
 December 23, 2003 *Emery County Progress* article, "Co-op Rally Draws Crowd."
 December 16, 2003 *Emery County Progress* article, "Solidarity Rally."
 November 11, 2003 *Emery County Progress* article, "Miners Picket."
 December 9, 2003 *Salt Lake Tribune* article, "December dangerous month for coal miners."
 October 31, 2003 *Salt Lake Tribune* article, "Co-op Mine workers say dignity at stake in their strike."
 October 12, 2003 *Salt Lake Tribune* article, "Immigrant miners take on Kingstons."
 September 26, 2003 *Salt Lake Tribune* article, "Tensions mount in dispute at Utah mine."
 Oct 30, 2003 *Deseret Morning News* article, "Coal miners to picket owners of Emery site."
 October 29, 2003 article, "Support Utah Miners."
 October 13, 2003 *Provo Daily Herald* article, "Miners file complaints against Kingston family mine."

During the fall 2003 semester at the University of Utah, Ehrbar taught Economics 5080, "Marxian Economics," during which he published defamations of CWM and IAUWU substantially similar to the defamations described herein. On information and belief, Ehrbar is teaching the same or a similar class during fall 2004. On his website <http://www.econ.utah.edu/ehrbarr/ec5080.htm>, Ehrbar keeps a link to the previous year's course materials, where he republishes defamations of CWM and IAUWU. Among other things, at the URL <http://www.econ.utah.edu/ehrbarr/2003fa.pdf>, Ehrbar has republished his Fall 2003 "Economics 5080 Questions and Answers - All Study Questions," which republishes these libels:

- CWM's owners hired Mexican workers who they thought were as helpless as the children in their clan.
- Through this mining operation the Kingston clan has been able to exploit the mostly Latino workers in order to make millions in profits.
- The company created its own union for the workers, the International Association of United Workers. The main purpose of this so called union was to give the owners control over any worker disputes, and not allow them to have real representation.
- The workers began organizing their own union with the help of the United Mine Workers of America. Then on September 22nd they walked off their jobs to protest their low wages, unsafe working conditions, and the suspension of a fellow worker. Because of this the company fired all the workers. The company then said the workers were not fired, but that they could just not return to their jobs. Basically, they had been locked out.
- In their coalmine in Price, UT, the Kingston clan employs immigrant workers, many of whom ... are undocumented. The Kingston clan benefits from this, because they maintain leverage to extend the working day and to further exploit the workers. The clan doesn't offer any insurance or benefits for the workers ...
- CWM has engaged in "decades of mistreatment of laborers including the following: long work hours, low wages, dangerous working conditions, wrongful termination, and unsanitary health provisions."
- In one of the miner's own words, "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." The workers finally replied to these conditions due to the unlawful termination of Bill Estrada ... mine. After the company learned that Estrada and others planned to join a workers union to protect the workers' rights they fired some of Estrada's colleagues. They then asked Estrada to sign a document stating that his colleagues were fired because they failed to perform their labors adequately. Estrada refused, so the foreman terminated him. ... Upon hearing of Estrada's termination, the workers at the mine left the job site in protest and refused to work. The next day, CW Mining Co. informed the workers that they were all fired.
- Besides not providing medical insurance for workers or their families, the Kingstons often exposed their workers to unsafe conditions in the mine. Many of those picketing, such as Ricardo Chavez, can point to scars from injuries suffered at the Co-op.
- The Kingstons buy up old abandoned mines because with their exceptionally low wages and lax safety measures these mines can be made profitable again. This business model is a threat to all mines that pay halfway decent wages.

- “The more I learn about capitalism the more I think that capitalists have no conscience and this is an example of that to a very serious degree.”
- Coal miners often experience lung cancer and other ailments that often shorten their lives and diminish their earning power. I think this makes the exploitation of the Kingston mine workers more tragic. Not only do they work under very bad conditions for very little money, but their ability to provide for themselves and their families is prematurely cut short.

124. In an April 19, 2004 “Call to Action” published by Utah Progressive Network, Vogt said, “As many of you know, the latest tactic of the Kingston Crime Family to break the strike of the Co-op miners has been to put pressure on UDOT and BLM to revoke the miners’ permit for the picket at the entrance to the mine.”

125. In a January 29, 2004 article published in *Workers World*, republished on its website at <http://www.workers.org/ww/2004/otp0129.php>, the Workers World Party said:

More than 70 coal miners in Huntington, Utah, have been on strike against the Co-Op Mine for almost four months. Most are Mexican immigrants who went on strike to protest flagrant safety violations and harsh disciplinary measures imposed when they tried to organize into the United Mine Workers union. The company retaliated by locking the strikers out.

Company owners, the Kingston family, reportedly make profits of up to \$1 million a month by paying the workers \$5.25 to \$7 an hour.

Working conditions at the Co-Op Mine are dangerous. Miners, who complain of being inadequately trained, are forced to work under unsafe conditions that violate Mine Safety and Health Administration regulations. For instance, they have to use defective and unsafe machinery. When they become injured, they do not have access to workers’ compensation or decent medical insurance. ... Racist abuse and mistreatment by the bosses are routine.

126. The previously November 10, 2003 article in *The Militant* entitled “Utah students organize support for locked-out Co-op miners” reported:

“We set up a table for five days during lunchtime to collect money for the Co-op miners,” said Gokcer Ozgur, a student at the University of Utah ... in an October 24 interview. “All workers have to be organized so these problems of exploitation won’t occur. If these miners in Huntington are organized into a union it will be better for themselves and other workers.”

Ozgur and other members of the Students Labor Action Project on that campus have been distributing fact sheets on the Co-op miners’ fight at their school.

On information and belief, the fact sheet was prepared by UMWA and its agents, and contained statements defamatory of CWM and IAUWU, and those staffing the table slandered CWM and IAUWU, as will be shown through discovery.

127. The above described news articles report that on numerous occasions since September 22, 2003, many of the named defendants including UMWA officers, agents, and supporters, have participated in meetings, rallies, picketing, news media interviews, and other events. On information

and belief, on each of these occasions the persons involved, identified in the above described news articles, published defamatory statements about CWM and IAUWU similar in substance to those described above, as will be shown through discovery.

128. Each web site, URL, and link described above, and each “hit” on those web sites, URLs and links, is a separate and renewed republication of the defamations contained therein.

129. On information and belief, at other times and places Defendants, and one or more of the Doe defendants, have published and will publish other defamatory communications of similar import regarding Plaintiffs as will be shown through discovery. Plaintiffs reserve the right to litigate all defamations by Defendants whether or not specifically plead herein.

130. Defendants’ statements as described above were false.

131. Defendants statements as described above were made with knowledge of their falsity, or with reckless disregard as to their truth or falsity.

132. Defendants’ statements as described above were made with malice.

133. Defendants’ statements imputing wrongful conduct to CWM and otherwise impugning CWM, were directed against, reasonably related to, applied to, had a personal application to, and were of and concerning CWM’s directors, officers, managers and supervisors named as Plaintiffs herein.

134. Defendants’ statements imputing wrongful conduct to IAUWU, and impugning the legitimacy of IAUWU and the independence of its officers, referred to, were directed against, reasonably related to, applied to, had a personal application to, and were of and concerning IAUWU’s officers named as Plaintiffs herein.

135. Defendants’ statements were defamatory. To the extent they imputed criminal conduct on the part of Plaintiffs, and/or imputed to Plaintiffs conduct which is incongruous with the exercise of a lawful business, trade, profession, or office, they were defamatory *per se*.

136. UMWA and its agents, through their various and sundry repeated slanders and libels of CWM and IAUWU, was the original source of the defamations of CWM and IAUWU published and republished by others as described above, making UMWA, and its agents as identified herein, and each of them jointly and severally, personally responsible and liable for all of the defamations described herein.

137. Defendants, and each of them, conspired, planned, directed, instigated, advised, aided, encouraged, supported, participated in, mutually agreed to, and/or ratified the acts of the other

Defendants and the workers as described herein, and are liable as though they had performed the acts themselves.

138. As a direct and proximate result of the foregoing, Plaintiffs have suffered damage to reputation, pecuniary losses and other injuries, which are continuing and ongoing.

139. CWM is entitled to an award of damages against all defendants, and each of them jointly and severally, in an amount to be determined at trial, greater than \$1 million.

140. IAUWU is entitled to an award of damages against all defendants, and each of them jointly and severally, in an amount to be determined at trial.

141. The Plaintiff individuals are each entitled to an award of damages against all defendants, and each of them jointly and severally, in an amount to be determined at trial.

142. The defendants' acts result from willful and malicious conduct manifesting a knowing and reckless indifference toward and a disregard of Plaintiffs' rights. Plaintiffs are entitled to an award of punitive damages against all defendants, and each of them jointly and severally, in an amount to be determined at trial, at least three times compensatory damages.

THIRD CLAIM FOR RELIEF (Intentional Interference with Economic Relations)

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

144. UMWA and its officers, agents, and supporters intentionally interfered with CWM's present and prospective economic relations with its workers, customers, suppliers, bargaining representatives, and others.

145. UMWA and officers, agents, and supporters did so by improper means or for a predominantly improper purpose.

146. Defendants, and each of them, conspired, planned, directed, instigated, advised, aided, encouraged, supported, participated in, mutually agreed to, and/or ratified the acts of the other Defendants and the workers as described herein, and are liable as though they had performed the acts themselves.

147. CWM is entitled to an award of damages against all defendants, and each of them jointly and severally, in an amount to be determined at trial, greater than \$1 million.

148. The acts of defendants result from willful and malicious conduct manifesting a knowing and reckless indifference toward and a disregard of CWM's rights. CWM is entitled to an award of punitive damages against defendants, and each of them jointly and severally, in an amount to be determined at trial at least three times compensatory damages.

FOURTH CLAIM FOR RELIEF
(Intentional Interference with Economic Relations)

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

150. UMWA and officers, agents, and supporters intentionally interfered with IAUWU's present and prospective economic relations with its bargaining unit workers.

151. UMWA and officers, agents, and supporters did so by improper means or for a predominantly improper purpose.

152. Defendants, and each of them, planned, directed, instigated, advised, aided, encouraged, supported, or ratified the acts of the other Defendants and the workers as described herein, and are liable as though they had performed the acts themselves.

153. IAUWU is entitled to an award of damages against all defendants, and each of them jointly and severally, in an amount to be determined at trial.

154. The acts of defendants result from willful and malicious conduct manifesting a knowing and reckless indifference toward and a disregard of IAUWU's rights. IAUWU is entitled to an award of punitive damages against defendants, and each of them jointly and severally, in an amount to be determined at trial at least three times compensatory damages.

FIFTH CLAIM FOR RELIEF
(Negligence / Third Party Tort Rule)

155. All preceding and following allegations are incorporated by reference.

156. Defendants owed Plaintiffs a common law duty of ordinary care to refrain from counseling, advising, assisting, abetting, encouraging, supporting, or aiding UMWA and its agents in committing unfair labor practices and in pursuing frivolous claims against CWM and IAUWU before the National Labor Relations Board (NLRB).

157. One or more of Defendants breached their duty of care.

158. As a direct and proximate result, Plaintiffs have been injured and suffered pecuniary losses in litigating claims before the NLRB.

159. Plaintiffs are entitled to an award of damages against one or more Defendants, in an amount to be determined at trial.

160. One or more of Defendants planned, directed, instigated, advised, aided, encouraged, supported, or ratified the acts of the other Defendants and the workers as described herein, and are liable as though they had performed the acts themselves.

161. The acts of one or more of Defendants and one or more of the Doe defendants are the result of conduct that manifests a knowing and reckless indifference toward, and a disregard of, the rights of Plaintiffs. Plaintiffs are entitled to an award of punitive damages against those defendants in an amount to be determined at trial, at least three times compensatory damages.

SIXTH CLAIM FOR RELIEF (Civil Conspiracy)

162. All preceding and following allegations are incorporated by reference.

163. Defendants collectively comprise a combination of two or more persons, which operated with a meeting of minds to accomplish the unlawful objects described herein.

164. One or more of Defendants committed overt acts directed against Plaintiffs in furtherance of the combination and conspiracy, resulting in injury to Plaintiffs as set forth above.

165. One or more of the Doe defendants a planned, directed, instigated, advised, aided, encouraged, supported, or ratified the acts of the other Defendants and the workers as described herein, and are liable as though they had performed the acts themselves.

166. Plaintiffs are entitled to an award of damages against all defendants, and each of them jointly and severally, in an amount to be determined at trial.

167. The defendants' acts result from willful and malicious conduct manifesting a knowing and reckless indifference toward and a disregard of Plaintiffs' rights. Plaintiffs are entitled to an award of punitive damages against the defendants, and each of them jointly and severally, in an amount at least three times compensatory damages or such other amount as may be determined at trial.

**SEVENTH CLAIM FOR RELIEF
(Injunctive Relief)**


168. All preceding and following allegations are incorporated by reference.

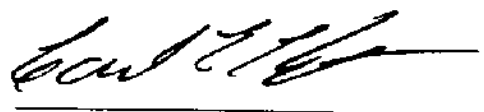
169. The acts of Defendants have caused Plaintiffs irreparable injury for which there is no adequate remedy at law. Plaintiffs are entitled to an order enjoining Defendants from further defamation of Plaintiffs, and from further tortious conduct as alleged above, plus actual damages as may be proven at trial, exemplary damages and reasonable attorney's fees.

WHEREFORE, Plaintiffs pray for relief against Defendants, and each of them jointly and severally, or as their respective liabilities may otherwise lie, as follows:

1. Compensatory damages in favor of each of Plaintiffs in amounts to be determined at trial, including but not limited to damages for injury to reputation and pecuniary damages, and including among other things lost profits to CWM in an amount greater than \$1 million; and
2. Attorney fees and costs incurred by CWM and IAUWU in litigating claims before the NLRB; and
3. Punitive damages in an amount to be determined at trial; and
4. An order enjoining Defendants from further defamation of Plaintiffs, and from further tortious conduct as alleged above; and
5. Attorney fees and costs of this action; and
6. Interest on all amounts as may be provided by law; and
7. Such other and further relief as the Court finds just and equitable.

DATED December 3, 2004


Attorney for IAUWU and its Officers


Attorney for C. W. Mining Company
and its Directors, Officers, and Management