

***Defamations by UMWA***

106. UMWA and its agents made the following publications:

107. On October 6, 2003, UMWA issued a press release, and published it on its website at <http://www.umwa.org/coop/coop.shtml>, portions of which were also published in the September-October 2003 issue of *United Mine Workers Journal*, stating: UMWA published this statement: "At the United Mine Workers of America (UMWA) Special Convention last week in Las Vegas, UMWA International President Cecil Roberts pledged the union will assist the coal miners ... who were fired from C. W. Mining Company's Bear Canyon Mine ... Seventy-four miners' jobs were terminated after they protested the firing of one of their leaders for seeking union representation. [U-01]"

108. On September 25, 2003 some of the workers participated in a rally in Salt Lake City that was part of the Immigrant Workers Freedom Ride, at which they distributed a flyer prepared by UMWA. Plaintiffs are informed and believe the flyer makes false and libelous statements against CWM and IAUWU of the same general nature as the defamations described elsewhere in this claim for relief, as will be shown through discovery and at trial.

109. On information and belief, the November-December 2003 issue of *United Mine Workers Journal* and other issues of that UMWA magazine published similar false and defamatory comments about IAUWU, its officers, CWM, and its officers and supervisors, as will be shown through discovery and at trial.

110. On or about July 2, 2004, UMWA issued a press release, and also published it on its website at <http://www.umwa.org/pressreleases/jul04/070204.shtml>, saying that when miners at CWM halted production in a show of solidarity for William Estrada, "Management responded by firing the workers and locking them out." The press release also repeated the statement that CWM's miners worked with no health insurance benefits and were forced to work in unsafe conditions that violate MSHA regulations. [U-02]

111. On November 19, 2004, UMWA issued a press release, and also published it on its website at <http://www.umwa.org/pressreleases/pressmain.shtml>, saying: "In September 2003, some 70 mostly Latino Co-Op miners walked off their jobs at the mine after ... Estrada was "unjustly" disciplined by management. Subsequently, management locked out all the miners who walked out in support of their co-worker. ... The NLRB ruled in favor of the miners [on an unfair labor practice charge] and ordered C.W. Mining to reinstate the miners with full back pay and a promise

that no disciplinary action would be taken against them. ... A large majority of the reinstated miners ... and the UMWA contend [IAUWU] is a 'company union.' ... Learning of the efforts to obtain UMWA representation, C.W. Mining's owners, the Kingston family, added family members to their list of workers. ... The owners responded to the workers' desire for UMWA representation by trying to pad the bargaining unit ... " [U-03; S-07]

112. Dean Hansen and other members of UFCW Local 342 distributed fact sheets at their packing plant. On information and belief, the fact sheets were prepared by UMWA and contained defamations substantially similar to those described herein. [M-22]

113. "Union leaders" said labor tensions between the operators of CWM and their work force resulted in a lockout of 75 workers. [T-01]

114. At a special convention UMWA International President Cecil Roberts said UMWA would assist the miners "who were fired from C.W. Mining Company's Co-Op mine." [J-04] He later said in a UMWA press release, "Here we are, less than a week away from a vote for union representation, and the mine operator has conveniently decided to fire a significant number of the miners who are eligible voters," He called the firings "blatant retaliation" by the Co-Op owners against the miners for their effort to win UMWA representation. ... "It was only after these miners finally decided to fight to improve their livelihoods through legitimate union representation that the employer started playing hard ball, including threats, intimidation and now firings. This is blatant employer retaliation against these miners." [M-70]

115. Roberts also said, "The owners responded to the workers' desire for UMWA representation by trying to pad the bargaining unit." [M-67] As an officer Roberts approved or ratified UMWA's acts including its defamations in press releases, flyers, and magazine articles.

116. A *United Mine Workers Journal* 2005 calendar said, "Until they decided to rise up against a hostile mine operator, coal miners working at C. W. Mining Co.'s Co-Op Mine near Huntington, Utah, worked often in unsafe conditions and earned just \$5 to \$7 per hour with no health benefits. ... Their situation reminded many of the old days of coal mining when workers had no rights, no security and no dignity. The straw that broke the camel's back came in September 2003 when the operator decided to unjustly discipline a popular rank-and-file leader. Some 70 miners walked out of the mine and refused to work. The operator responded by locking them out, launching a 10-month strike that labor hailed as a 'pivotal battle for the rights of workers.' The striking miners

asked the UMWA for help, and the union responded by filing unfair labor practice charges. The NLRB ruled for the miners, and in July 2004 they returned to work with a right to back pay. [M-71]

117. In ratifying the UMWA July 2, 2004 press release, UMWA Secretary-Treasurer Carlo Tarley said, "Some of the conditions these miners describe to us are reminiscent of the early days of coal mining, when workers were treated more as property than as human beings." [U-02] As an officer Tarley approved or ratified UMWA's acts including its defamations in press releases, flyers, and magazine articles.

118. UMWA board member Mike Dalpiaz said:

- a. "For years, some of these miners have been forced to pay dues to a company dominated 'union' that most of them did not know about until it surfaced during the current labor dispute. ... The miners [actually UMWA] are taking advantage of an required open-window period in the 'so-called contract the Co-op miners toiled under, so a real union can file a representation petition in an attempt to challenge or supplant' [IAUWU]." [M-43; M-44]
- b. "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.] [M-45]
- c. The workers would be returning to the job "because the NLRB has put down in writing its ruling that the miners were fired illegally." [M-47]
- d. At a July 17, 2004 rally sponsored by Jobs With Justice, the Central Labor Council, and the Utah chapter of AFL-CIO, miners "spoke about their ongoing struggle to win union recognition for the United Mine Workers of America." On information and belief, the miners made slanderous statements at the rally substantively similar to the other defamatory statements described herein. Dalpiaz said "these miners have exposed the exploitative conditions at the Kingston-run mine," thereby adopting and ratifying those statements. [M-49]
- e. "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." [E-02]
- f. 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 ... [S-06]
- g. "The National Labor Relations Board has ruled in favor of those on the line. They have ruled in the employees' favor." [S-07]
- h. Dalpiaz called CWM "one of the most brutal employers in the country." [C-01]
- i. "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. [June 9, 2004 *Joe Hill Dispatch*]

As a board member, Dalpiaz approved or ratified UMWA's defamations.

119. UMWA board member David Piaz said "These workers are exploited" and what CWM was doing to the workers "went out with slavery." [D-01] As a board member, Piaz approved or ratified UMWA's defamations.

120. UMWA international representative Larry Huestis said IAUW has no history with the NLRB, and that "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." [X-01] As international representative Huestis approved or ratified UMWA's acts including its defamations in press releases, flyers, and magazine articles.

121. As UMWA international representative, Dallas Wolf approved or ratified UMWA's acts including its defamations in press releases, flyers, and magazine articles.

122. UMWA union organizer Bob Butero said:

- a. "This company has taken advantage of the Co-Op miners for many years. Now they are suing these organizations for trying to help the miners." [M-58]
- b. The day before an October 2, 2004 rally, UMWA Region 4 sent a letter to hundreds of union locals and other organizations and individuals. The letter, signed by Bob Butero, invited everyone to attend the October 2, 2004 anniversary rally. On information and belief, the letter published defamations substantially similar to those described herein. [M-57]
- c. "This is not over until these workers are covered by a true labor agreement." Butero was falsely stating IAUWU's collective bargaining agreement is not a true labor agreement. [T-08]
- d. Regarding CWM's offer to rehire the workers, "This is not a total victory until these workers get covered by a true labor agreement," being a statement that IAUWU's existing collective bargaining agreement is not a true labor agreement. [D-09]
- e. Butero said typical wages for CWM's workers should have been close to \$20 an hour with a wide range of benefits, that CWM 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." ... [C-04]

123. UMWA union organizer Roy Fernandez said letters from CWM to certain workers regarding Social Security Administration notices of their need to correct faulty worker eligibility documentation "is another scare tactic by the company to harass employees." [M-68]

124. UMWA union organizer Robert 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." [D-12]

125. UMWA union organizer Francisco Picado said

- a. IAUWU is a sham, "a totally fake organization that the bosses use to stop the workers from organizing themselves." [T-01]
- b. The workers (who walked off the job) were locked out, and had been forced to work with injuries and unsafe equipment, and were deprived of workers' compensation benefits. [T-01]
- c. "We're here to expose the abuses of mine workers," inferring CWM abuses its workers, and IAUWU is powerless to do anything about it. [T-03]

126. UMWA union organizer Jim Stevenson said:

- a. The workers were forced to operate unsafe equipment under unsafe conditions including unstable roof conditions, and "We want the customers back east to know that they are burning coal mined with slave labor. ... "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. ... 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. ... Their company union [IAUWU] 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." [E-01]
- b. 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. [E-01]
- c. CWM was employing "slave labor." [T-03]
- d. CWM's unsafe machinery misses regular safety inspections because they are stored in an area in which the inspectors do not go. [C-02]

127. "National labor organizers", meaning UMWA and its organizers, said "Estrada and approximately 74 others were illegally fired from their jobs." [D-04]

128. UMWA called IAUWU a front for the mine management. [D-12]

129. At the rallies, meetings, and other events described in the Utah Jobs With Justice article [J-06], UMWA and its agents on information and belief published defamatory statements about Plaintiffs substantially similar to the defamations described herein, as will be shown through discovery.

130. UMWA said CWM fired the workers in violation of labor law. [NLP-01]

131. William Estrada, Alyson Kennedy, the Salazars, and others of CWM's former employees as set forth herein made their defamatory publications as agents of UMWA.

132. "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. Ozgur and other members of the

Students Labor Action Project distributed fact sheets on the Co-op miners' fight at their school. [M-07] 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, acting as UMWA's agents, slandered Plaintiffs as will be shown through discovery.

133. On numerous occasions since September 22, 2003, UMWA's officers and agents have participated in meetings, rallies, picketing, news media interviews, and other events. On information and belief, on these occasions the persons involved published defamatory statements about CWM and IAUWU similar in substance to those described above, as will be shown through discovery.

***Defamations by the Militant:***

134. *The Militant* and its agents made the following publications, not as reports of statements by others, but as their own personal representations.

135. *The Militant* Editor Argiris Malapanis published these statements:

The Co-Op miners ... are standing up for their rights in response to the brutal drive that the coal barons are waging nationwide to jack up their profits. On top of the regular exploitation through the system of wage slavery, these profits result from longer work hours, increased levels of coal dust miners breathe, refusal to pay black lung benefits, speed-up and other work rules that result in gratuitous deaths in the mines, disregard for the environment, and efforts to weaken or keep out the union. ... Most of the workers there earn only \$5.25 to \$7 an hour and have no health insurance or retirement benefits. They are forced to work under unsafe conditions in violation of federal mine regulations. The conditions at Co-op were responsible for three deaths in the last half of the 1990s — half of the total coal mine deaths in the state. A UMWA statement notes that in September, as miners were taking steps to organize a union, they were fired en masse after they protested the arbitrary dismissal of one of their co-workers. The mine owners ... are notorious ... for their brutality against workers ... They are widely despised by working people for their abuse of women. For example, one of the directors of the Co-Op mine, John Kingston, was convicted for savagely beating his daughter. [M-11]

- b. A December 1, 2003 article entitled "Coal miners in Utah stand firm on picket line" falsely reported a "Julio Salas" [CWM did not employ a "Julio Salas"] as saying:  
The company had been trying to suspend a number of us to stop our efforts to defend our rights and to form a union. Leading up to that Monday they had interrogated people about our meetings, had tried to disrupt a meeting we organized outside the mine, and had threatened us with all kinds of things—including setting the immigration police on us. The next step was the suspension of a worker named Oscar Sosa, after they had tried to suspend me the previous Friday. In both cases we got the company to either take us back or wipe out the suspension altogether. On the 22nd all the workers went to management. We tried to have a discussion with them to resolve what seemed to be clearly an attempt to fire William Estrada, a



maintenance worker. We also had all kinds of other issues to discuss, including safety questions in the mine. But they opted for calling the Sheriff's Department. ... They basically threw us out of the mine after the cops told the company they would not have room to lock us all up if they arrested us. The cops escorted the workers off the company property. [M-12]

- c. 74 coal miners at [CWM] were illegally fired from their jobs on Sept. 22, 2003, after they protested the suspension of a co-worker and unsafe job conditions. The mine ... had suspended UMW supporter William Estrada for refusing to sign a disciplinary warning the week before. At the time, it was the company's third attempt to victimize a UMW supporter. [M-17]
- d. The Co-Op bosses have the gall to charge the UMW and a number of its officers and organizers with 'unfair labor practices.' This is after [the NLRB] found in June that the Co-Op miners had been fired illegally and ordered the company to take back the workers. This lawsuit ... is ... an attack on workers' elementary right to organize a union. It's an attack on freedom of the press. It's an attack on free speech. The mine bosses in Utah who filed the suit—along with the so-called International Association of United Workers Union, which miners say convincingly is a creation of the Kingstons to keep out a real union—are trying to silence those who have backed the Co-Op workers' struggle for living wages, safe working conditions, and human dignity. The Kingstons are trying to intimidate us, to prevent us from telling the truth. [M-59]

136. *The Militant Reporter* Connie Allen said, "González and Estrada were two of the 75 miners the bosses fired Sept. 22, 2003, for their efforts to bring the UMW into the mine. ... the [NLRB] ruled they had been fired illegally ... The mine owners operate a company "union" (IAUWU), which has started having meetings to counter the UMW organizing effort." [M-53]

137. *The Militant Reporter* Luis Astorga said, "The Co-Op miners [are] up to threats of wholesale firings by their bosses. ... The NLRB ruled that 47 miners were entitled to back pay for the nearly 10 months they were on strike between September 2003, when they were illegally fired, and July of this year. CWM threatened to fire Kennedy and other workers for failure to meet arbitrary production standards." [M-68]

138. *The Militant Reporter* Katherine Bennett said:

- a. 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 UMW, the company submitted a list of about 100 people ... including office and managerial personnel. [M-66]
- b. 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. CWM is harassing workers "in direct violation of the NLRB ruling forcing the company to take back all the miners who were fired unjustly ..." [M-67]
- c. The strike started in September 2003, after C.W. Mining locked out the 75 workers for demanding safe working conditions and protesting company victimization of UMWA supporters. Miners returned to work in July, after the NLRB ruled the workers had been fired illegally and ordered the company to make an unconditional offer to return to all the strikers. [M-70]
  - d. Following a strike that lasted nearly 10 months, the NLRB ruled the miners were illegally fired and ordered C.W. Mining, owned by the Kingston family, to reinstate every miner. [M-71]
  - e. The struggle erupted on Sept. 22, 2003, when C.W. Mining fired 75 Co-Op miners, after they protested the dismissal of one of their fellow workers and company harassment against other workers who have been part of the union-organizing effort. Most of the workers were paid between \$5.50 and \$7 an hour and did not have medical insurance benefits. The NLRB ruled last June that the miners were fired illegally for union activity. The NLRB also issued a back-pay settlement for damages workers suffered as a result of the company lockout. On November 2, the labor board ruled that the Co-Op bosses must pay back wages to 47 miners amounting to some \$400,000. [M-73]

139. *The Militant Reporter* Joel Britton said:

- a. After nine and a half months on strike, coal miners returned to work at the Co-Op mine here July 12 to face a war by the mine bosses aimed at preventing them from winning representation by the United Mine Workers of America (UMWA). The all-out management offensive during the first week on the job, miners report, included a 12-and-a-half-hour rotating shift schedule; selective enforcement of safety rules; a rapidly accumulating series of verbal and written warnings on trumped-up charges against supporters of the UMWA; and blatant violations of the recent settlement the National Labor Relations Board (NLRB) brokered between the UMWA and the Co-Op owners, which mandated the company to make the strikers an unconditional offer to return to work. ... The National Labor Relations Board ruled that they had been fired illegally and ordered C. W. Mining to reinstate them. The NLRB ruled against Co-Op on unfair labor practice charges filed by the UMWA last September. [M-48]
- b. During the course of a July 20-21, 2004 National Labor Relations Board hearing, Mark Hansen, attorney for IAUWU, "quit pretending there was a distinction between the pro-boss outfit and the company." [M-50]

140. *The Militant Reporter* Roger Calero said:

- a. Miners in general are outraged by the conditions Co-Op miners face: working with defective equipment, arbitrary wage incentives and bonuses, being forced to work while injured. ... Bosses at Co-op told workers they would never be able to do anything. They said the workers would get a raise "when pigs fly." [M-22]
- b. After nine and a half months on strike, coal miners returned to work at the Co-Op mine here July 12 to face a war by the mine bosses aimed at preventing them from winning representation



by the United Mine Workers of America (UMWA). The all-out management offensive during the first week on the job, miners report, included a 12-and-a-half-hour rotating shift schedule; selective enforcement of safety rules; a rapidly accumulating series of verbal and written warnings on trumped-up charges against supporters of the UMWA; and blatant violations of the recent settlement the National Labor Relations Board (NLRB) brokered between the UMWA and the Co-Op owners, which mandated the company to make the strikers an unconditional offer to return to work. ... The National Labor Relations Board ruled that they had been fired illegally and ordered C. W. Mining to reinstate them. The NLRB ruled against Co-Op on unfair labor practice charges filed by the UMWA last September. [M-48]

- c. During the course of a July 20-21, 2004 National Labor Relations Board hearing, Mark Hansen, attorney for IAUWU, "quit pretending there was a distinction between the pro-boss outfit and the company." [M-50]
- d. The strike started in September 2003, after C.W. Mining locked out the 75 workers for demanding safe working conditions and protesting company victimization of UMWA supporters. Miners returned to work in July, after the NLRB ruled the workers had been fired illegally and ordered the company to make an unconditional offer to return to all the strikers. [M-70]

141. *The Militant Reporter* Anne Carroll said:

- a. [T]he lockout of 75 coal miners by the owners of the Co-op mine enters its fourth week ... On September 22 the miners at Co-op walked off their jobs, protesting the suspension of a worker and unsafe job conditions. The company, CW Mining, fired all the workers. The miners were involved in a union-organizing drive (inferring the workers were fired for union activity). [M-04]
- b. On September 22, 75 miners at the Co-op underground coal mine were locked out by the company. ... The miners halted production and gathered at the bosses' office and tried for several hours to negotiate with the company to get the worker's job back. The company refused, called the local sheriff, and ordered the miners off the property. The miners were told that everyone was fired and not allowed back to work. For several weeks before the lockout, the miners had been in contact with the United Mine Workers of America and were having meetings to organize a union. They were responding to unsafe job conditions, low pay, lack of pension and health-care benefits, and abusive treatment by the bosses. The company began threatening and suspending workers in an attempt to intimidate them. At one point the company threatened to bring in the immigration police. ... At the mine there is a company union. There are no "union" meetings or elections of "union" officers." [---05]
- c. The miners were involved in a union organizing drive before the lockout. They had been talking to ... (UMWA) about the need to get a union organized to help fight the abusive working conditions and low wages. On September 22, the Co-op miners walked off their jobs, protesting the suspension of a worker and unsafe job conditions." [M-07]
- d. "The coal miners have been fired ..." [M-09]

- e. The company ... locked out the miners September 22 after they had walked off the job to protest the suspension of one of their fellow workers, William Estrada, and unsafe working conditions. The miners were involved in organizing themselves into the United Mine Workers of America (UMWA) [inferring CWM locked miners out for union activity]. ... One of the issues in the strike is the dangerous mining conditions and lack of adequate training for the miners. ... Alejandro Medina ... died after a rib ... fell on him in 1999. MSHA cited the company at the time with four 104d violations, which mean that the bosses knowingly caused the conditions that led to the death. ... [In] Bear Canyon #1, miners have always complained of dangerous roof tops and inadequate roof supports. [M-18]
- f. All 75 workers at the Co-Op mine ... were fired September 22 for protesting unsafe practices by the bosses on the job, defending co-workers the company victimized for such conduct, and for trying to organize themselves into the UMWA. [M-26]
- g. The miners have been on strike for nearly five months to protest unsafe working conditions and victimization of union supporters by the bosses. [M-27]
- h. The walkout began September 22, when the company fired the workforce of 75 to the person because the workers ... protested unsafe working conditions and demanded the reversal of the suspension of one of the workers and an end to victimization against a number of union supporters on the job. [M-32]
- i. The 75 Co-Op miners were fired to a person on Sept. 22, 2003, for protesting the suspension of a co-worker and unsafe conditions on the job. The miners had been having meetings with the UMWA to get themselves organized into a real union, unlike a company "union" the bosses had set up to prevent the workers from being organized. These underground coal miners were being paid between \$5.15 and \$7.00 an hour with no benefits. [M-41]
- j. The 75 coal miners were fired to the person from their jobs Sept. 22, 2003, by CW Mining, Inc. ... The miners were fired for union activity. They had been talking to the United Mine Workers of America (UMWA) about how to get a union organized at the mine. ... The workers, who are in their majority of Mexican descent, had no health insurance. [M-44]
- k. CWM "began firing the miners most active in trying to bring in the UMWA." [M-46]
- l. On Sept. 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 being paid between \$5.15 and \$7.00 an hour with no benefits. A company union has existed at the mine for many years. Workers have submitted evidence that the officers of this 'union' are bosses and are related to the Kingstons, the wealthy family that owns the mine. ... Prior to that date [09/22/03], 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. They had cornered miners alone underground and questioned them about "the meetings they were having with the UMWA." The bosses also tried to disrupt a meeting the strikers had organized outside the mine, and had threatened workers, most of whom are immigrants from Mexico, with sending the immigration police after them. ... On Sept. 23, 2003, the UMWA filed charges with the NLRB stating that all 75 miners were

- fired illegally for union activity. The national labor board upheld the charge in its ruling. ... The NLRB ordered CWM to reinstate 75 miners who were illegally fired last September. ... The miners also reported that the draft settlement includes a back pay order. [M-47]
- m. Trying to combine the carrot with the stick, the company is continuing to promote an 'Employee of the Month' award, which it started during the strike. Of the eight awards given so far, five have been handed to foremen, all Kingston family members. Empty honors, poverty pleading, threats, and intimidation continue to be the weapons of choice of the Co-Op bosses in their war to prevent the workers from winning representation by the UMWA. [M-52]
- n. Twenty miners at the Co-Op mine here reaffirmed their determination to be represented by [UMWA] at a September 3 meeting of the company "union," workers reported. This was the second meeting of [IAUWU], the outfit run by the Co-op bosses, that UMWA supporters at the mine have attended. After a 10-month strike for UMWA representation that ended in July, the company has felt obliged to organize these monthly "union" meetings to keep up the facade that the IAUWU is a labor organization ... [Besides Chris Grundvig], the other IAUWU officers present were Dana Jenkins and Warren Pratt, vice-president and treasurer of the local, respectively, and Nevin Pratt and Vicky Mattingly, the vice president and treasurer of the "international." All six of these "officers" are relatives of the mine owners, the Kingstons ... The bosses at C.W. Mining ... fired all 75 coal miners at the mine here because they were fighting for safety on the job, against company victimization of fellow workers, and for union representation. The miners turned the lockout into a strike ... The National Labor Relations Board (NLRB) upheld charges filed by the UMWA that the workers had been illegally fired. The NLRB ordered the mine bosses to reinstate all 75 miners ... [M-55]
- o. The NLRB ruled earlier this spring that the Co-Op bosses had fired illegally the 75 miners a year ago for union organizing activity and ordered the company to reinstate the dismissed workers. ... The company owners, the Kingston multimillionaire clan, are using a boss outfit, called the International Association of United Workers Union, to prevent a UMWA victory. ... On display at the information table was the latest article from the UMWA Journal on the union organizing fight at C.W. Mining, also known as Co-Op, and stacks of many newspaper articles that covered the miners' 10-month strike that started Sept. 22, 2003." [On information and belief, the UMWA and newspaper articles published defamations substantially similar to those described herein.] ... 'Forward to a real union!' ... reads the leaflet in English and Spanish [being a statement that IAUWU is not a real union.] ... Most miners at Co-Op are being paid between \$5.25 and \$7 an hour, while wages for underground coal miners average above \$17 across the country. They also work under unsafe job conditions. [M-56]
- p. On Sept. 23, 2003, some 75 miners were locked out and fired by C.W. Mining. ... The firings took place after a number of workers at the mine began organizing to bring in the UMWA in order to win better safety conditions, decent wages, and respect. Getting wind of this effort, the bosses at Co-Op began harassing union supporters, eventually firing one of the leaders of the effort. When workers at the mine protested this victimization, the company called the local sheriff and ordered the workers off the property, locking them out of their jobs. The miners

turned the lockout into a strike and picketed the mine. After nine-and-a-half months on the picket line, ... the miners won their jobs back. The National Labor Relations Board (NLRB) ruled in May that the miners had been fired illegally and ordered C.W. Mining to allow the miners to return. [M-58]

- q. On Sept. 22, 2003, C.W. Mining bosses fired 75 miners after getting wind of the miners' talking to the UMWA about organizing. ... The miners ... were locked out of their jobs after protesting the firing of one UMWA supporter and disciplinary actions against other miners who supported the UMWA organizing effort. ... [worker solidarity] forced the NLRB to uphold UMWA charges that C.W. Mining had fired the workers illegally ... CWM brought in Kingston family members and relatives including managers and office staff, to stack the deck against UMWA's organizing effort. [M-62]
- r. The 75 miners at Co-Op were fired Sept. 22, 2003, for trying to organize with the UMWA and fighting for livable wages and safe working conditions. They turned the lockout into a strike and picketed the mine ... [T]he NLRB upheld the UMWA charge that the workers had been fired illegally. The labor board ordered the company to reinstate all strikers who wanted to return to work. [M-65]

142. *The Militant* Reporter Becky Ellis said, "The 75 striking miners at the Co-Op mine ... were fired September 22 for protesting unsafe practices by the bosses on the job, defending a co-worker the company victimized for demanding safe working conditions, and for trying to win union recognition for the UMWA at the mine." [M-28]

143. *The Militant* Reporter Guillermo Esquivel said:

- a. The company illegally fired all 75 workers on September 22 when they protested the unjust suspension of a co-worker for union activity. [M-21]
- b. The miners rejected a ploy by CW Mining to report back to work under the same working conditions as before. The bosses' "offer" included the condition that the workers must accept the company-run union as their bargaining representative and not the UMWA. [M-23]
- c. On Sept. 22, 2003, [CWM] ... fired all the production workers after they protested unsafe working conditions and demanded the reversal of the suspension of a co-worker. The bosses refused to talk to a delegation of miners and instead called on Emery County sheriff's deputies to kick them off mine property. [M-33]
- d. A UDOT decision to revoke a permit for the miners' picket trailer was "a serious attack instigated by the Co-op bosses on their [the miners'] right to be at the mine's entrance," and that "strikebreakers had spread rumors from the company that it was going to tow away the trailer before the strikers knew about it." [M-36]
- e. The 75 Co-Op miners were fired to a person on Sept. 22, 2003, for protesting the suspension of a co-worker and unsafe conditions on the job. The miners had been having meetings with the UMWA to get themselves organized into a real union, unlike a company "union" the bosses

- had set up to prevent the workers from being organized. These underground coal miners were being paid between \$5.15 and \$7.00 an hour with no benefits. [M-41]
- f. The 75 coal miners here have been on strike for more than seven months. They were fired ... for demanding safe working conditions and representation by the UMWA, and protesting the victimization of union militants by the bosses. ... On April 13, a delegation of Co-op strikers, UMWA officials, and UMWA retirees forced the Utah Department of Transportation and Bureau of Land Management (BLM) to back off from their collusion with the Kingstons in an attempt to remove the strikers' picket trailer. ... Before the BLM decided to renew the strikers' permit for the trailer and picket shack, the Co-op owners had told the 20 or so scabs working in the mine that the picket line was about to come down. [M-42]
  - g. On Sept. 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 being paid between \$5.15 and \$7.00 an hour with no benefits. A company union has existed at the mine for many years. Workers have submitted evidence that the officers of this 'union' are bosses and are related to the Kingstons, the wealthy family that owns the mine. ... Prior to that date [09/22/03], 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. They had cornered miners alone underground and questioned them about "the meetings they were having with the UMWA." The bosses also tried to disrupt a meeting the strikers had organized outside the mine, and had threatened workers, most of whom are immigrants from Mexico, with sending the immigration police after them. ... On Sept. 23, 2003, the UMWA filed charges with the NLRB stating that all 75 miners were fired illegally for union activity. The national labor board upheld the charge in its ruling. ... The NLRB ordered CWM to reinstate 75 miners who were illegally fired last September. ... The miners also reported that the draft settlement includes a back pay order. [M-47]
  - h. The NLRB ordered C.W. Mining, also known as the Co-Op mine, to reinstate the 75 workers the company fired Sept. 22, 2003, because they protested victimization of union supporters by management, and demanded safe working conditions and representation by the UMWA. The NLRB ruled the miners were fired illegally, are eligible for back pay for losses during the strike, and can vote for the union of their choice. ... Workers will have a choice of voting for representation by the UMWA, a company outfit called the International Association of United Workers Union, or no union. ... As a way of keeping workers in line, the Co-Op bosses pay workers an arbitrary 'supplemental bonus' each week, which is a small percentage of hourly wages. [M-54]
  - i. Twenty miners at the Co-Op mine here reaffirmed their determination to be represented by [UMWA] at a September 3 meeting of the company "union," workers reported. This was the second meeting of [IAUWU], the outfit run by the Co-op bosses, that UMWA supporters at the mine have attended. After a 10-month strike for UMWA representation that ended in July, the company has felt obliged to organize these monthly "union" meetings to keep up the facade that the IAUWU is a labor organization ... [Besides Chris Grundvig], the other IAUWU officers



present were Dana Jenkins and Warren Pratt, vice-president and treasurer of the local, respectively, and Nevin Pratt and Vicky Mattingly, the vice president and treasurer of the "international." All six of these "officers" are relatives of the mine owners, the Kingstons ... The bosses at C.W. Mining ... fired all 75 coal miners at the mine here because they were fighting for safety on the job, against company victimization of fellow workers, and for union representation. The miners turned the lockout into a strike ... The National Labor Relations Board (NLRB) upheld charges filed by the UMWA that the workers had been illegally fired. The NLRB ordered the mine bosses to reinstate all 75 miners ... [M-55]

- j. The NLRB ruled earlier this spring that the Co-Op bosses had fired illegally the 75 miners a year ago for union organizing activity and ordered the company to reinstate the dismissed workers. ... The company owners, the Kingston multimillionaire clan, are using a boss outfit, called the International Association of United Workers Union, to prevent a UMWA victory. ... On display at the information table was the latest article from the UMWA Journal on the union organizing fight at C.W. Mining, also known as Co-Op, and stacks of many newspaper articles that covered the miners' 10-month strike that started Sept. 22, 2003." [On information and belief, the UMWA and newspaper articles published defamations substantially similar to those described herein.] ... 'Forward to a real union!' ... reads the leaflet in English and Spanish [being a statement that IAUWU is not a real union.] ... Most miners at Co-Op are being paid between \$5.25 and \$7 an hour, while wages for underground coal miners average above \$17 across the country. They also work under unsafe job conditions. [M-56]
- k. In a NLRB hearing, "Mark Hansen, the attorney for the company union, represented the company's position ..." [M-57]
- l. The bosses fired the 75 Co-Op miners on Sept. 22, 2003, for defending a co-worker who had been dismissed and other UMWA supporters who had been harassed after demanding safety on the job and livable wages. ... The NLRB ... ruled in late spring that the miners had been dismissed illegally ... [This lawsuit] targets the UMWA and 17 of the Co-Op miners for ... trying to organize the workers in a mine the bosses claim had already been organized by their IAUWU outfit. ... The Kingston family has a record of filing such outlandish suits against their adversaries. [M-60]
- m. The miners had met at Panduro's house and discussed that his firing is aimed at all the UMWA backers. ... The Kingstons locked out the 75 miners at Co-Op on Sept. 22, 2003, after the bosses had gotten wind of the UMWA organizing effort and the workers protested the firing of one UMWA backer and disciplinary actions against others aimed at stopping their unionizing efforts. ... In May, the NLRB ruled the miners had been fired illegally ... [M-61]
- n. C.W. Mining fired all 75 miners Sept. 22, 2003, for defending coworkers victimized by the company for their efforts to bring in the UMWA. ... The NLRB ruled the miners had been fired illegally and ordered the company to take them back. [M-63]
- o. The fight at the Co-Op mine was triggered in September 2003 when bosses at the mine fired 75 workers after they protested the termination of one of their co-workers and harassment of other union backers. It had been the third attempt by the Co-Op bosses over two weeks to fire miners

whom the bosses considered supporters of the UMWA. The workers turned the lockout into a strike ... In July, the NLRB ruled the miners had been fired illegally and demanded the strikers be offered their jobs back. The NLRB also awarded the miners back pay. [M-72]

144. *The Militant Reporter* Betsy Farley said, "The Co-Op strikers ... walked off the job September 22 to meet with management to protest unsafe working conditions and the suspension of a co-worker for union activities. The company responded by calling the sheriff and locking them out. ... The Co-Op miners are standing up for their rights in face of a brutal offensive by the bosses throughout the coal industry." [M-19]

145. *The Militant Reporter* Chris Hoepfner said CWM "began firing the miners most active in trying to bring in the UMWA," meaning CWM was firing workers for protected union activity. [M-46]

146. *The Militant Reporter* Michael Italie said, "On Sept. 22, 2003, the bosses at C.W. Mining, known as the Co-Op mine, fired 75 miners after learning that they were talking to the UMWA about organizing. The mine workers were angry about unsafe job condition ... and being paid between \$5.25 and \$7 an hour when wages for underground miners nationwide average at least \$17 per hour. The unionists there turned the company lockout into a strike. ... [NLRB] in June ruled that the company had illegally fired the miners, that it must give them back pay ... The company was forced to allow all the miners who wanted to, to return to their jobs." [M-64]

147. *The Militant Reporter* Martín Koppel said, "On Sept. 22, 2003, the bosses at C.W. Mining, known as the Co-Op mine, fired 75 miners after learning that they were talking to the UMWA about organizing. The mine workers were angry about unsafe job condition ... and being paid between \$5.25 and \$7 an hour when wages for underground miners nationwide average at least \$17 per hour. The unionists there turned the company lockout into a strike. ... [NLRB] in June ruled that the company had illegally fired the miners, that it must give them back pay ... The company was forced to allow all the miners who wanted to, to return to their jobs." [M-64]

148. *The Militant Reporter* Frank Miller said:

- a. The 75 coal miners are involved in an unfair labor practice strike against CW Mining, also known as Co-Op, for illegally being fired September 22, after they protested the unjust suspension of a co-worker. ... The working conditions imposed by the bosses at Co-Op were responsible for three deaths in the last half of the 1990s—half of the total coal mine deaths in Utah. An October 6 UMWA press release noted that as miners were taking steps to organize a union, they were fired en masse after they protested the arbitrary dismissal of one of their co-workers. ... This clan is widely hated among working people in the region not only for its

vicious antilabor practices, but also for its record of convictions of several of its members for abuse of young women in the family who have been forced into polygamous marriages with relatives and beaten when trying to escape. [M-15]

- b. The workers were fired illegally on September 22 when they protested the unjust suspension of a co-worker. [M-20]

149. *The Militant Reporter Pat Miller said:*

- a. Trying to combine the carrot with the stick, the company is continuing to promote an 'Employee of the Month' award, which it started during the strike. Of the eight awards given so far, five have been handed to foremen, all Kingston family members. Empty honors, poverty pleading, threats, and intimidation continue to be the weapons of choice of the Co-Op bosses in their war to prevent the workers from winning representation by the UMWA. [M-52]
- b. The NLRB ordered C.W. Mining to reinstate the 75 workers the company fired Sept. 22, 2003, because they protested victimization of union supporters by management, and demanded safe working conditions and representation by the UMWA. The NLRB ruled the miners were fired illegally, are eligible for back pay for losses during the strike, and can vote for the union of their choice. ... Workers will have a choice of voting for representation by the UMWA, a company outfit called the International Association of United Workers Union, or no union. ... As a way of keeping workers in line, the Co-Op bosses pay workers an arbitrary 'supplemental bonus' each week, which is a small percentage of hourly wages. [M-54]
- c. The bosses fired the miners on Sept. 22, 2003, for defending a co-worker who had been dismissed and other UMWA supporters who had been harassed after demanding safety on the job and livable wages. ... The NLRB ... ruled in late spring that the miners had been dismissed illegally ... [This lawsuit] targets the UMWA and 17 of the Co-Op miners for ... trying to organize the workers in a mine the bosses claim had already been organized by their IAUWU outfit. ... The Kingston family has a record of filing such outlandish suits against their adversaries. [M-60]
- d. 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. CWM is harassing workers "in direct violation of the NLRB ruling forcing the company to take back all the miners who were fired unjustly ..." [M-67]
- e. The NLRB ruled in July that C.W. Mining fired 75 Co-Op miners illegally on Sept. 22, 2003, and ordered the company to take back all workers the bosses locked out ... because of union activity. ... Lawyers have volunteered to work with the union to help turn back the illegal moves being taken by the company by threatening mass firings on December 9. [M-69]

150. *The Militant Reporter Teri Moss said:*

- a. The miners rejected a ploy by CW Mining to report back to work under the same working conditions as before. The bosses' "offer" included the condition that the workers must accept the company-run union as their bargaining representative and not the UMWA. [M-23]

- b. The miners have been on strike for nearly five months to protest unsafe working conditions and victimization of union supporters by the bosses. [M-27]

151. *The Militant* Reporter Jay Ressler said, "The Co-Op strikers ... walked off the job September 22 to meet with management to protest unsafe working conditions and the suspension of a co-worker for union activities. The company responded by calling the sheriff and locking them out. ... The Co-Op miners are standing up for their rights in face of a brutal offensive by the bosses throughout the coal industry." [M-19]

152. *The Militant* Reporter Marco Antonio Rivera said:

- a. "the Co-Op mine ... is owned by the Kingston family. [It] has drawn considerable notoriety in recent years after being accused of sexual abuse of young women ..." The workers at Co-Op recently decided they needed a real union ... [By which Rivera meant IAUWU is not a real union.] Earlier that morning the company had suspended Estrada ... This was the third attempt to victimize a UMWA supporter in recent weeks. ... The company had tried to suspend another worker four days earlier. Some 15 workers found out about this, stopped production, and went together to talk to the bosses. ... The production boss who serves as representative of the company 'union' convened a meeting of the bosses present. Management then announced that the worker would not be suspended ... The company had been successful in suspending another supporter of the UMWA organizing drive the previous week. ... On the morning of September 22, the workers tried to negotiate with the company to get Estrada's job back. The bosses refused. When the workers made it clear no one was returning to work until Estrada got his job back, the company called the sheriff's department. The sheriff proceeded to tell the workers to leave. 'Take them all out of here,' one of the bosses ordered the policeman, according to participants. ... The miners have been told that everyone who participated in the union action ... was fired." [M-01]
- b. The miners were "fighting a lockout by C. W. Mining Corp." "All 75 miners had walked out of the underground mine, protesting unsafe working conditions and in defense of a co-worker who had been suspended for union activity. The company refused to negotiate with a delegation of workers, fired everybody, and called in the Emery county sheriff's deputies to kick them off the property. ... On September 26, when miners organized themselves in groups to pick up their paychecks, the Co-op mine bosses had the local sheriff show up again. ... more than once Deputy Sheriff Jorgensen said, 'get out!'" [M-02]
- c. On September 22, all 75 miners walked out of this underground mine. They were protesting unsafe working conditions and the suspension of a co-worker for union activity. The company fired and locked out the workers. [M-03]
- d. On September 22, miners walked out of this underground mine. They were protesting unsafe working conditions and the suspension of a co-worker for union activity. The company fired and locked out the workers ... [M-08]

- e. "The 74 miners at Co-Op, most of whom are from Mexico, are fighting for decent wages, benefits, job safety, and dignity. Most earned only \$5.25 to \$7 an hour and had no health insurance or retirement benefits. They were forced to work under unsafe working conditions in violation of federal mine regulations. The conditions imposed by the Co-Op bosses were responsible for three deaths on the job in the last half of the 1990s ... CW Mining fired the miners en masse September 22 after they protested the arbitrary suspension of a co-worker ... The mine owners, the Kingstons, are a capitalist family notorious in the region for their brutality against workers they employ in their \$150 million business empire that stretches across six western states. They are also widely despised by working people for their abuse of women. One of the directors of the Co-Op mine, John Kingston, was convicted for savagely beating his daughter ..." [M-13]
- f. The labor battle broke out in public on September 22 when the miners walked out to protest unsafe working conditions and the suspension of a co-worker for union activity. The company, owned by the Kingston family, fired the 74 workers. [M-14]

153. *The Militant Reporter* Talmer Rosenfeld said a UDOT decision to revoke a permit for the miners' picket trailer was "a serious attack instigated by the Co-op bosses on their [the miners'] right to be at the mine's entrance," and that "strikebreakers had spread rumors from the company that it was going to tow away the trailer before the strikers knew about it." [M-36]

154. *The Militant Reporter* Bernie Senter said, "The workforce of 75 at the Co-Op mine was fired to the person by the bosses September 22 for protesting unsafe working conditions, attempting to organize into the United Mine Workers of America (UMWA), and standing up to disciplinary actions by the company against union supporters. ... HERE members asked about the company union at the mine where the union officers are the mine bosses." [M-24]

155. *The Militant Reporter* Maggie Trowe said "Sánchez and Estrada answered questions about the company "union" that the company pretends is a legitimate representative of the workers in order to keep miners from bringing in the UMWA." [M-34]

156. *The Militant Reporter* Karen Tyler said, "The miners ... have drawn the line against the bosses' profit drive that includes operating the mine under increasingly dangerous conditions. ... The Kingstons are the owners of the Co-Op mine. They are notorious not only for the superexploitation of their employees ... but also for the convictions of prominent members of the clan for abuse of young women in the family forced into polygamous marriages with relatives who have beaten them when they tried to escape." [M-16]



157. A November 3, 2003 *The Militant* article, "UMWA statement backs embattled Utah miners" republished the October 6, 2003 UMWA press release described above. [M-06]

158. The May 4, 2004 edition of *The Militant* republished by permission the April 13 *Price Sun Advocate* article, "Strikers vow to continue Co-op mine picket line." [M-38; S-05]

159. *The Militant* Web Administrator Guy Tremblay has caused all of the above statements published in *The Militant* to be published on the internet at <http://themilitant.com>, where they remain available for viewing by the world.

160. *The Militant* posted on its website the original Complaint in this action, thereby republishing each and every defamation described therein.

161. *The Militant* is an avowedly and unabashedly socialist publication. With respect to the matters alleged herein, it did not engage in neutral reporting, but published articles intentionally biased and slanted from a socialist perspective, with the purpose and result of falsely portraying CWM and its agents as exploitative capitalists unconcerned about the welfare of its employees, IAUWU and its officers as CWM's lackeys, the employees who walked off the job as innocent victims, and UMWA as their hero and champion, and with the purpose and result of persuading readers that their publications about Plaintiffs were true.

***Defamations by the Salt Lake Tribune:***

162. *The Salt Lake Tribune* reporter Rhina Guidos said:

- a. For more than seven months, the workers have been locked out of their mining jobs at CW Mining Co, and the workers have been asking for their jobs back "with the right to organize a union," which was a false assertion that CWM's workers not only had not exercised their right to form a union, the IAUWU, but that CWM had tried to prevent its workers from organizing a union. [T-06]
- b. CWM workers "were fired and locked out" of their jobs at CWM, and Estrada was fired for union-organizing activity. [T-07]
- c. The workers were allowed to return to work after being fired. [T-10]

163. *The Salt Lake Tribune* reporter Corey Hilton accused CWM of abusing its workers. [T-02]

164. *The Salt Lake Tribune* reporter Steven Oberbeck said, "Late last year, several dozen coal miners ... were fired and locked out of [CWM] after they protested poor working conditions, low salaries and the lack of benefits. ... [T]he NLRB in July determined the miners were entitled to reinstatement to their jobs ..." [T-13; T-14]

165. *The Salt Lake Tribune* reporter Glen Warchol said:

- a. CWM workers “were fired and locked out” of their jobs at CWM, and Estrada “rallied the others last year after he was fired for union-organizing activity.” [T-07]
- b. 49 coal miners “climbed the canyon to demand their jobs back under a federal settlement,” being a statement the workers (actually no more than 30 in number) were demanding their jobs, rather than merely accepting a unilateral offer of re-employment by CWM. He also said the workers “also won ... back pay.” [T-08]
- c. The NLRB determined miners (who had walked off their jobs in 2003) were entitled to reinstatement to their jobs and, possibly, back pay. [T-15]

166. *The Salt Lake Tribune* columnist Tom 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.” [T-05]

167. *The Salt Lake Tribune* said, “The miners won the right to return to their jobs, [and] get back pay ... For the miners and UMWA, it was a glimpse into the past, where “Historically, immigrant workers were easier for employers to exploit. Today, companies can threaten to turn noncompliant workers over to immigration authorities. ... History, it seems, is repeating itself in Utah’s coal country.” [T-09]

168. 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 by the Deseret Morning News:***

169. The *Deseret Morning News* editorial writer Marjorie Cortez said workers’ complaints about unsafe working conditions and a move to organize a union cost them their jobs, and that the workers “want a union to represent their interests,” meaning IAUWU did not represent the interests of its bargaining unit. She also said “The wages paid these men is an outrage. Some in the labor movement go so far to call it a human rights violation. At a minimum, these men have been horribly exploited.” 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.” [D-04]

170. The *Deseret Morning News* reporter 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. ... [NLRB] ordered that their jobs be reinstated ... [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. ... The labor board's decision also includes a back pay order." [D-08]

171. The *Deseret Morning News* reporter Elaine Jarvik said, "The miners [were] fired last September after they complained about what they said were unsafe conditions ...", and 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." [D-03]

172. The *Deseret Morning News* reporter Jennifer K. Nii said, "Ana Maria Sanchez had only worked at the mine for a month when she was fired for aligning with the pro-unionizers." [D-09]

173. The *Deseret Morning News* said, "The miners ... were fired from their jobs last fall for attempting to organize a union ... 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 ..." [D-10]

174. 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 by Jobs with Justice, Utah Jobs with Justice, and George Neckel:***

175. Jobs With Justice said:

- a. "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." [J-01]
- b. "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 ..." [J-02]

- c. "Last week, the [NLRB] ruled that the miners were fired illegally. ... The workers are negotiating the back pay they are entitled to." [J-03]

176. Utah Jobs With Justice, with the direction and approval of George Neckel, said:

- a. 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. 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. ... The company refused to cooperate with us and fired us. We have been locked out because of our pro-union activity. [J-04]

- b. 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. [J-05]
- c. 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 ... [J-06]

- d. At the rallies, meetings, and other events described in the preceding article [J-06], Jobs With Justice, Utah Jobs With Justice, and their agents on information and belief published defamatory statements about Plaintiffs substantially similar to the defamations described herein, as will be shown through discovery.

177. George Neckel, Director of Utah Jobs With Justice, said:

- a. IAUWU does not represent workers' interests. [D-01]
- b. 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. [D-02]
- c. CWM operated with no regard for the safety or well-being of its employees. "They're exploiting people, plain and simple. In my opinion, this looks very much like organized crime." [D-06; H-02]
- d. Neckel said the mine bosses are taking advantage of the miners. [C-01]

#### ***Defamations by AFL-CIO***

178. Andy Levin, director of the AFL-CIO Voice@Work campaign, 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." [D-05]

179. President of Philadelphia Council AFL-CIO Patrick 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. [May 9, 2004 "Action Alert" posted by Philadelphia Council AFL-CIO on its website <http://phillyunions.com/#utahcoal>]



180. Ed Mayne, President of AFL-CIO, Utah Chapter, said he had never heard of the IAUWU. "Sounds like a Kingston plot. It's almost comical, a throwback to the '20s. Employers would sometimes set up a company union to keep workers from organizing." [T-01, X-01]

181. 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 on the internet at the URL <http://www.afscmecouncil6.org/lisa/legislativeweekly/Event%20Archive/February2004Events.htm>.

182. 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 events referred to in the article, UMWA, Utah Jobs With Justice, and their agents published slanders substantially similar to the defamations described herein.

#### ***Defamations by Others***

183. On February 3, 2004 Rowenna Erickson was a panelist on a panel discussion at the University of Utah Union Building East Ballroom, moderated by Patrick Beecroft of the Student

Labor Action Project. Other panelists included Ana Maria Sanchez, William Estrada, and Susie Porter of the University of Utah Department of History. Erickson is reported to have said "The Kingstons exploit their own people as well as Mexican immigrant workers," and they would be scared if they found out she is siding with the miners since she knows about their "illegal dealings." "They cheat on paying their employees and file fraudulent reports concerning accidents and deaths both in the mine and in their many other enterprises." [M-29] On information and belief, Erickson made other more specific statements defamatory of Plaintiffs as will be shown through discovery.

184. Carmen Thompson and the Center for Public Education and Information on Polygamy committed the following defamations:

a. At <http://www.polygamyinfo.com/action.htm> they said:

Co-Op mine 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. Also working in the mine are members of the wealthy and powerful Kingston clan ... In October 2003, 74 workers at the Kingston-owned Co-Op mine in Huntington, Utah were illegally fired from their jobs after they protested the suspension of a co-worker for union activity and for protesting unsafe job conditions. ... [I]n July, the National Labor Relations Board ordered the Kingston family to reinstate the fired workers with back pay. ... The Co-Op miners are currently supposedly "represented" by a so-called union that is 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.

b. They republished at least the following articles on its website <http://www.polygamyinfo.com>, and are liable for republishing the defamations contained therein.

- October 12, 2003 *Salt Lake Tribune* article "Immigrant miners take on Kingstons."
- October 13, 2003 *Provo Daily Herald* article "Miners file complaints against Kingston family mine."
- October 31, 2003 *Salt Lake Tribune* article "Co-op Mine workers say dignity at stake in their strike."
- July 3, 2004 *Salt Lake Tribune* article "Miners win back their jobs."
- September 25, 2004 *Salt Lake Tribune* article "Kingstons' mine sues over strike"
- October 3, 2004 *Salt Lake Tribune* article "Kingston clan's mine workers hold rally on one-year anniversary of their lockout."
- November 24, 2004 *Salt Lake Tribune* article "Union vote to exclude Kingston relatives"

185. 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.

***Other allegations supporting Plaintiffs' defamation claims:***

186. Taken in context, Defendants' statements as described above were substantially and materially false.

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

188. Defendants' statements as described above were made with malice.

189. 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.

190. 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.

191. 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*.

192. 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.

193. Aguilar, Chavez, Estrada, Flores, González, Daniel and Guillermo Hernandez, Kennedy, Leon, Olivas, Panduro, Rodriguez, Gonzalo, Jesus, and Juan Salazar, Sanchez, Silva, Villa, UMWA and its officers and other agents, *The Militant* and its editors and reporters, PACE, Neckel, Utah Coalition of Jobs with Justice, Jobs with Justice, and one or more of the Doe Defendants, and each of them, conspired, planned, directed, instigated, advised, aided, abetted,

encouraged, supported, participated in, mutually agreed to, and/or ratified the acts of one another as described herein, and are liable as though they had performed the acts themselves.

194. 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.

195. Besides being defamatory *per se*, actual injury in fact to Plaintiffs' reputations is evidenced by published comments of other persons who made conclusions as to Plaintiffs based on the defamatory publications by Defendants. For example:

- a. David Brown of PACE Local 8-758 said, "The Co-Op fight represents a basic struggle for decent human rights. ... [T]he Co-Op miners do not even have the basic rights to live and survive. The Kingstons are taking advantage of these miners." [M-09] Plaintiffs' reputations were was injured in the eyes of Mr. Brown as a direct result of defamations of the type described herein.
- b. "What impressed me about the longshore workers," said Kennedy, "was not the number that came up to say it's really terrible what happened to you ..." [M-24] Plaintiffs' reputations were was injured in the eyes of those who told Kennedy "it's really terrible what happened to you ..." as a direct result of defamations of the type described herein.
- c. A March 1, 2004 letter to the editor in *The Militant* said:  
 "The treatment handed out to the miners seems to us abusive, as they were suspended from their jobs and thrown out into the streets to swell the numbers of the unemployed; in our eyes, these actions by the Co-Op owners are undemocratic and antiquated. These exploiters are holding off the formation of a union, when the right of free association is a right won many years ago and is accepted and recognized by the whole world. This backward attitude shows that they want to go on exploiting and abusing the workers, and violating their rights. ... [T]he bosses are still living in the epoch of the cave-dwellers, and we are obliged to wake them up to reality. ... [CWM is a] feudalistic company, which is backed by the Sheriff and by the system manipulated by the imperialist administration in Washington." [M-30] Plaintiffs' reputations were was injured in the eyes of the letters' authors as a direct result of defamations of the type described herein.
- d. The Atlanta Labor Council adopted a resolution "outlining the unsafe conditions, low wages, and discrimination by the company against the Co-op miners." [M-32] Plaintiffs' reputations were was injured in the eyes of the Atlanta Labor Council as a direct result of defamations of the type described herein.
- e. Andrea Moore-Emmett, president of the Utah chapter of the National Organization for Women, commented at a secondary picket by the workers. "The Kingstons exploit women and children in every possible way. They break labor laws, they don't pay their workers a decent wage. ... It is some of the worst exploitation in the U.S." [M-40] Plaintiffs' reputations were was injured in the eyes of Ms. Moore-Emmett as a direct result of defamations of the type described herein.

- f. The May 18, 2004 *The Militant* article entitled "Co-op miners in Utah target Kingston-owned businesses," was republished by the United States Mine Rescue Association at the website <http://groups.yahoo.com/group/MineRescue/message/1271>.
- g. Mark Downs, a member of International Longshore and Warehouse Union Local 19 in Seattle, said, "At the Co-Op mine there are many young workers who are super-exploited ..." ILWU Local 19 introduced a resolution approved by the Washington State Labor Council, reading in part: "workers ... have been persecuted for trying to affirm their hope to establish a decent and human workplace ... The reality of this persecution has been authenticated by recent decisions of the [NLRB] handed down in support of the workers [M-56] Plaintiffs' reputations were was injured in the eyes of Mr. Downs as a direct result of defamations of the type described herein.
- h. Retired miner Bob Fivecoat said of CWM, "They are trying to get rid of the leaders of this fight. They figure that if they fire them the rest will get in line." [M-68] Plaintiffs' reputations were was injured in the eyes of Mr. Fivecoat as a direct result of defamations of the type described herein.
- i. *The Salt Lake Tribune* reported Catholic Bishop George 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. [T-06] Plaintiffs' reputations were was injured in the eyes of Bishop Neiderauer as a direct result of defamations of the type described herein.
- j. Byron Cannon, a history professor at the University of Utah, said CWM's workers are "being exploited like slaves so the mine owners can make millions of dollars." [C-01] Plaintiffs' reputations were was injured in the eyes of Mr. Cannon as a direct result of defamations of the type described herein.
- k. Father Donald E. Hope of the Catholic Church 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." [C-05] Plaintiffs' reputations were was injured in the eyes of Father Hope as a direct result of defamations of the type described herein.
- l. Beginning in 2003 KRCL Radio 90.9FM 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 contains links to other defamations published by Jobs With Justice, Utah Jobs With Justice, articles by *The Salt Lake Tribune* and the *Deseret Morning News*, as well as information with which to contact Jim Stevenson of UMWA and George Neckel of Utah Jobs With Justice. 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." Plaintiff's reputations were injured in the eyes of Nicole Jones and radio station KRCL as a direct result of defamations of the type described herein.



m. Utah Indymedia (Independent Media Center) published 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 also commented that CWM was "regressing to the dark age of business morality," and called the workers "exploited." Plaintiff's reputations were injured in the eyes of Mr. Logan and Utah Indymedia as a direct result of defamations of the type described herein.

n. Cleveland Indymedia (Independent Media Center) published on its website, <http://cleveland.indymedia.org/news/2003/11/7215.php>, an article from UMW 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.

Plaintiff's reputations were injured in the eyes of Cleveland Indymedia as a direct result of defamations of the type described herein.

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

Plaintiff's reputations were injured in the eyes of the Immigrant Workers Freedom Ride Coalition as a direct result of defamations of the type described herein.

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

Plaintiff's reputations were injured in the eyes of the Greater Southeastern Massachusetts Labor Council as a direct result of defamations of the type described herein.

q. The *Northwest Labor Press* published an article saying:

At the Bear Canyon 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. [NLP-01]

Plaintiff's reputations were injured in the eyes of *The Northwest Labor Press* as a direct result of defamations of the type described herein.

r. Salazar said the miners have been strongly supported by the Roman Catholic Church [CDP-01], showing Plaintiff's reputations were injured in the eyes of many in the Roman Catholic Church as a direct result of defamations of the type described herein.

s. A March 22, 2004 UAW Local 14 article, "Utah Miners Strike in Safety/Pay Struggle" said: "Seventy-four coal miners at C.W. Mining Company's Bear Canyon mine ... 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 UMWA 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."

Plaintiff's reputations were injured in the eyes of UAW Local 14 as a direct result of defamations of the type described herein.

t. Hans Ehrbar, a University of Utah Marxist professor of economics, administered websites, <http://archives.econ.utah.edu/archives/marxism/2004w26/msg00131.htm>, and

<http://www.econ.utah.edu/ehrbar/exploitation/kingston.htm>,

where he republished or provided web links to many of Defendants' defamatory publications described herein, including the following:

- July 20, 2004 *Militant* article, "Bosses are forced to rehire striking Utah coal miners."
- Immigrant Workers Freedom Ride Coalition article, "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 ..."
- 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 ... fight."
- November 24, 2003 *Militant* article, "SLC Unionists donate food and funds to ... 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 ..."
- 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 ... 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 taught a similar class during fall 2004 and plans a similar class in 2005. On his website at

<http://www.econ.utah.edu/ehrbar/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/ehrbar/2003fa.pdf>,

Ehrbar has republished his Fall 2003 "Economics 5080 Questions and Answers - All Study Questions," which republishes comments by students taking the course, stating their conclusions as to Plaintiffs' reputations as a result of studying statements such as the defamations of Defendants described herein, such as the following:

- 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 coal mine 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."
- 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.

Plaintiff's reputations were injured in the eyes of Mr. Ehbar, his students, and on information and belief other faculty and students at the University of Utah as a direct result of defamations of the type described herein.

- u. "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. ... "All workers have to be organized so these problems of exploitation won't occur. [M-07]"

Plaintiff's reputations were injured in the eyes of faculty and students at the University of Utah as a direct result of defamations of the type described herein.

- v. In an April 19, 2004 "Call to Action" Lorna Vogt, Director of Utah Progressive Network, 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." Plaintiff's reputations were injured in the eyes of Ms. Vogt and Utah Progressive Network as a direct result of defamations of the type described herein.



- w. 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. ... 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.

Plaintiff's reputations were injured in the eyes of *Workers World* and the Workers World Party and its members as a direct result of defamations of the type described herein.

- x. Susan Vogel, a managing member of Salt Lake City CodePINK, 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." [D-09] Plaintiff's reputations were injured in the eyes of Ms. Vogel, CodePINK, and its members as a direct result of defamations of the type described herein.
- y. Arturo Chavarria-Balleza sent a letter to Charles Reynolds, saying "We have received copies of the November 22 letters that you sent to employees of your company. These letters were sent to Mexican surname employees threatening to fire these workers. ... After reviewing these letters with our legal staff we feel that you are violating these workers rights." [M-70]
- z. Ed Mayne faxed a letter to Charles Reynolds on December 8, 2004, saying "It has been brought to my attention that just days before a scheduled union election, you have terminated and are threatening mass firings of Co-Op miners. These actions by C.W. Mining are a direct violation of the July 1, 2004 National Labor Relations Board settlement." [M-70]

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

197. 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, greater than \$1 million.

198. 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.

199. 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.

**FOURTH CLAIM FOR RELIEF**  
**(Invasion of Privacy)**

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

201. Defendants gave publicity to matters concerning Plaintiffs that placed Plaintiffs before the public in a false light that would be highly offensive to a reasonable person. Defendants acted with knowledge of, or in reckless disregard as to, the falsity of the publicized matters and the false light in which Plaintiffs would be placed.

202. Aguilar, Chavez, Estrada, Flores, González, Daniel and Guillermo Hernandez, Kennedy, Leon, Olivas, Panduro, Rodriguez, Gonzalo, Jesus, and Juan Salazar, Sanchez, Silva, Villa, UMWA and its officers and other agents, *The Militant* and its editors and reporters, PACE, Neckel, Utah Coalition of Jobs with Justice, Jobs with Justice, and one or more of the Doe Defendants, and each of them, conspired, planned, directed, instigated, advised, aided, abetted, encouraged, supported, participated in, mutually agreed to, and/or ratified the acts of one another as described herein, and are liable as though they had performed the acts themselves.

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

204. IAUWU is entitled to an award of damages against these Defendants, and each of them jointly and severally, in an amount to be determined at trial, greater than \$1 million.

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

206. These 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 these 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**  
**(Intentional Interference with Economic Relations)**

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

208. UMWA and its officers and other agents intentionally interfered with CWM's present and prospective economic relations with its workers, customers, suppliers, bargaining representatives, and others, by improper means or for a predominantly improper purpose.

209. UMWA and officers and other agents intentionally interfered with IAUWU's present and prospective economic relations with its bargaining unit workers, by improper means or for a predominantly improper purpose.

210. Aguilar, Chavez, Estrada, Flores, González, Daniel and Guillermo Hernandez, Kennedy, Leon, Olivas, Panduro, Rodriguez, Gonzalo, Jesus, and Juan Salazar, Sanchez, Silva, Villa, UMWA and its officers and other agents, *The Militant* and its editors and reporters, PACE, Neckel, Utah Coalition of Jobs with Justice, Jobs with Justice, and one or more of the Doe Defendants, and each of them, conspired, planned, directed, instigated, advised, aided, abetted, encouraged, supported, participated in, mutually agreed to, and/or ratified the acts of one another as described herein, and are liable as though they had performed the acts themselves.

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

212. IAUWU is entitled to an award of damages against these Defendants, and each of them jointly and severally, in an amount to be determined at trial.

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

#### **SIXTH CLAIM FOR RELIEF (Negligence)**

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

215. Defendants owed Plaintiffs a duty of care to refrain from interfering with CWM's contractual relations with its employees, including a duty to refrain from counseling, advising, assisting, abetting, encouraging, supporting, or aiding CWM's worker in walking off the job.

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

217. As a direct and proximate result, CWM has been injured and suffered damages including but not limited to lost profits and lost contracts.

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

**SEVENTH CLAIM FOR RELIEF  
(Civil Conspiracy)**

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

220. Defendants Aguilar, Chavez, Estrada, Flores, González, Daniel and Guillermo Hernandez, Kennedy, Leon, Olivas, Panduro, Rodriguez, Gonzalo, Jesus, and Juan Salazar, Sanchez, Silva, Villa, UMW and its officers and other agents, *The Militant* and its editors and reporters, PACE, Neckel, Utah Coalition of Jobs with Justice, Jobs with Justice, Tapestry Against Polygamy, Rowenna Erickson, the Center for Public Education and Information on Polygamy, Carmen Thompson, and one or more of the Doe Defendants, collectively comprise a combination of two or more persons, which operated with a meeting of minds to accomplish the unlawful objects described herein.

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

222. One or more of these 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.

223. Plaintiffs are entitled to an award of damages against these Defendants, and each of them jointly and severally, in an amount to be determined at trial.

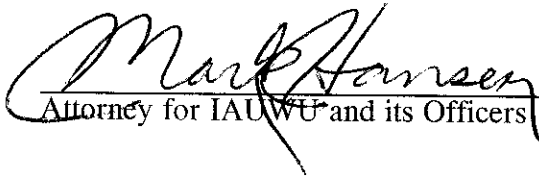
224. These Defendants' acts result from willful and malicious conduct manifesting a knowing and reckless indifference toward and a disregard of Plaintiffs' rights. Plaintiffs are entitled to an award of punitive damages against these Defendants, and each of them jointly and severally, in an amount at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

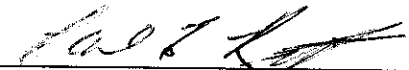
**WHEREFORE**, Plaintiffs pray for relief against Defendants, and each of them jointly and severally, or as their respective liabilities may otherwise lie, as follows:

1. An Order declaring, as alleged in the First Claim for Relief:
  - a. The fraudulent workers violated 18 U.S.C. §1028 and §1546 and 8 U.S.C. §1324a
  - b. The fraudulent workers violated 18 U.S.C. § 1343.

- c. The fraudulent workers, associated with the enterprise participated in the conduct of the enterprise's affairs through a pattern of racketeering activity in violation of 18 U.S.C. §1962(c).
  - d. The fraudulent workers were agents of UMWA acting within the scope of their agency, and therefore UMWA violated 18 U.S.C. §1962(a).
  - e. The fraudulent workers obtained employment with CWM through violations of 18 U.S.C. §1028 and §1546.
  - f. CWM lawfully terminated the fraudulent workers's employment.
2. 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
  3. Punitive damages in an amount to be determined at trial; and
  4. Attorney fees and costs of this action; and
  5. Interest on all amounts as may be provided by law; and
  6. Such other and further relief as the Court finds just and equitable.

DATED July 13, 2005.

  
Attorney for IAUWU and its Officers

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



**ADDENDUM A**  
**SOURCES OF DEFAMATIONS**  
**DESCRIBED IN SECOND AMENDED COMPLAINT**

KEY	DESCRIPTION
C-01	<i>Intermountain Catholic</i> December 19, 2003 article, "In solidarity with those who suffer"
C-02	<i>Intermountain Catholic</i> December 24, 2003 article, "Miners strike powerful Kingston clan for fair practices"
C-03	Catholic News Service December 23, 2003, article, "Utah Catholics among those supporting fired miners"
C-04	<i>National Catholic Reporter</i> April 2, 2004 article, "Immigrant miners protest unsafe conditions"
C-05	<i>Catholic News Service</i> July 12, 2004 article, "NLRB orders reinstatement, back pay for striking Utah miners"
CDP-01	January 26, 2004 <i>Craig Daily Press</i> (Craig, Colorado) article, "Dinner raises \$1,400 to support miners"
D-01	<i>Deseret Morning News</i> October 30, 2003 article, "Coal miners to picket owners of Emery site"
D-02	<i>Deseret Morning News</i> December 3, 2003 article, "Stand up for the right to unionize"
D-03	<i>Deseret Morning News</i> January 18, 2004 article, "Kingstons exploitative, protesters say"
D-04	<i>Deseret Morning News</i> March 23, 2004 article, "Kingstons' treatment of miners is appalling"
D-05	<i>Deseret Morning News</i> an April 26, 2004 article, "Let workers decide on forming union"
D-06	<i>Deseret Morning News</i> May 2, 2004 article, "Miners take on the Kingstons"
D-07	<i>Deseret Morning News</i> July 03, 2004 article, "Striking Huntington miners will return to work July 12"
D-08	<i>Deseret Morning News</i> July 4, 2004 article, "Miners plan to return to their jobs"
D-09	<i>Deseret Morning News</i> July 7, 2004 article, "Co-op miners say battle has just begun"
D-10	<i>Deseret Morning News</i> July 8, 2004 editorial article, "Victory is first step for miners"
D-11	<i>Deseret Morning News</i> October 1, 2004 article, "Miners will mark anniversary with rally"
D-12	<i>Deseret Morning News</i> November 20, 2004 article, "Kingstons are barred from mine union vote"
D-13	<i>Deseret Morning News</i> December 1, 2004 article, "Workers call for changes at Kingston coal mine"
D-14	<i>Deseret Morning News</i>
E-01	<i>Emery County Progress</i> November 11, 2003 article, "Miners Picket"
E-02	<i>Emery County Progress</i> December 23, 2003 article, "Co-op Rally Draws Crowd"
E-03	<i>Emery County Progress</i> February 3, 2004 article, "Striking Miners to Hold Rally"
E-04	<i>Emery County Progress</i> May 11, 2004 article, "Bishop Visits Miners"
E-05	<i>Emery County Progress</i> July 6, 2004 article, "Striking Co-op Miners Receive Hope"
E-06	<i>Emery County Progress</i> November 30, 2004 article, "Co-op Mine workers go to MSHA with alleged violations"
H-01	<i>Provo Daily Herald</i> October 13, 2003 article, "Miners file complaints against Kingston family mine"
H-02	<i>Provo Daily Herald</i> May 3, 2004 article, "Union drive at Kingston mine a year old"
J-01	Jobs With Justice <a href="http://www.jwj.org/updates/2004/01-04.htm">http://www.jwj.org/updates/2004/01-04.htm</a>
J-02	Jobs With Justice <a href="http://www.jwj.org/updates/2004/04-04.htm#ut">http://www.jwj.org/updates/2004/04-04.htm#ut</a>
J-03	Jobs With Justice <a href="http://www.jwj.org/updates/2004/07-04.htm#ut">http://www.jwj.org/updates/2004/07-04.htm#ut</a>
J-04	Jobs With Justice <a href="http://utahjwj.org/index.php?func=news&amp;aid=17">http://utahjwj.org/index.php?func=news&amp;aid=17</a>
J-05	Jobs With Justice <a href="http://utahjwj.org/index.php?func=news&amp;aid=18">http://utahjwj.org/index.php?func=news&amp;aid=18</a>
J-06	Jobs With Justice web site <a href="http://www.unionvoice.org/jobswithjustice/alert-description.tcl?alert_id=962758">http://www.unionvoice.org/jobswithjustice/alert-description.tcl?alert_id=962758</a>
JH-01	June 9, 2004 <i>Joe Hill Dispatch</i> article, "Co-op Miners Fight for a Real Union," also at <a href="http://joehilldispatch.org">http://joehilldispatch.org</a> .
M-01	<i>The Militant</i> October 6, 2003 article, "Utah miners fight for union"

KEY	DESCRIPTION
M-02	<i>The Militant</i> October 13, 2003 article, "Locked-out coal miners in Utah fight for union"
M-03	<i>The Militant</i> October 20, 2003 article, "Utah coal miners set up pickets in fight for freedom"
M-04	<i>The Militant</i> October 27, 2003 article, "Utah miners win support in fight against lockout"
M-05	<i>The Militant</i> November 3, 2003 article, "UMWA union locals in West back locked-out Utah miners"
M-06	<i>The Militant</i> November 3, 2003 article, "UMWA statement backs embattled Utah miners"
M-07	<i>The Militant</i> November 10, 2003 article, "Utah students organize support for locked-out Co-op miners"
M-08	<i>The Militant</i> November 17, 2003 article, "Locked-out Utah miners and allies take battle for union to Salt Lake City"
M-09	<i>The Militant</i> November 24, 2003 article, "Salt Lake City unionists donate food and funds to locked-out Co-op miners"
M-10	<i>The Militant</i> November 24, 2003 editorial entitled "Support the Co-op miner!"
M-11	<i>The Militant</i> December 1, 2003 editorial entitled "Solidarity with Utah miners!"
M-12	<i>The Militant</i> December 1, 2003 article, "Coal miners in Utah stand firm on picket line"
M-13	<i>The Militant</i> December 8, 2003 article, "Union miners, oil workers in Utah back Co-op coal strikers"
M-14	<i>The Militant</i> December 15, 2003 article, "Salt Lake rally boosts striking Co-op miners"
M-15	<i>The Militant</i> December 22, 2003 article, "Utah miners build rally to win broader support for union fight"
M-16	<i>The Militant</i> December 29, 2003 article, "Utah solidarity rally backs Co-op miners"
M-17	<i>The Militant</i> December 29, 2003 article, "UMWA 'Support Co-op miners strike'"
M-18	<i>The Militant</i> January 12, 2004 article, "Co-op strikers force gov't to investigate mine safety"
M-19	<i>The Militant</i> January 19, 2004 article, "Socialist workers in UMWA, UNITE focus on campaign for solidarity with Utah miners"
M-20	<i>The Militant</i> January 19, 2004 article, "Utah miners plan tour in California to win support"
M-21	<i>The Militant</i> January 26, 2004 article, "Utah strikers reject mine bosses' ploy of talks without UMWA"
M-22	<i>The Militant</i> January 26, 2004 article, "Socialists in UFCW campaign to win support for miners"
M-23	<i>The Militant</i> February 2, 2004 article, "Salt Lake picket backs Co-op strike"
M-24	<i>The Militant</i> February 2, 2004 article, "Striking Utah miners on labor tour in Bay Area"
M-25	<i>The Militant</i> February 9, 2004 article by Picado entitled "Colorado miners' locals mobilize for Utah strikers"
M-26	<i>The Militant</i> February 16, 2004 article, "Minnesota union officer visits striking Utah miners"
M-27	<i>The Militant</i> February 23, 2004 article, "Day of Solidarity boosts striking Utah miners"
M-28	<i>The Militant</i> February 23, 2004 article, "Minnesota unionists back Utah miners"
M-29	<i>The Militant</i> March 1, 2004 article by Esquivel entitled "Co-op miners speak to Utah students"
M-30	<i>The Militant</i> March 1, 2004 article printing letters to the editor
M-31	<i>The Militant</i> March 8, 2004 article by Esquivel entitled "Coal strikers in Utah speak to miners' locals in the West"
M-32	<i>The Militant</i> March 15, 2004 article, "Utah coal strikers strengthen picket line"
M-33	<i>The Militant</i> March 22, 2004 article, "Utah miners reject ploy by bosses to undercut coal strike"
M-34	<i>The Militant</i> April 13, 2004 article by Trowe entitled "Boston-area unions hold tour for Co-op strikers"
M-35	<i>The Militant</i> April 20, 2004 article, "Striking miners in Utah press fight for safety on the job"
M-36	<i>The Militant</i> April 27, 2004 article, "Utah miners fight attempt to revoke picket trailer permit"
M-37	<i>The Militant</i> a May 4, 2004 article, "Utah miners score victory, defeat ban on picket trailer"
M-38	<i>The Militant</i> May 4, 2004 article, "Strikers vow to keep Co-op picket line"
M-39	<i>The Militant</i> May 11, 2004 article, "Co-op miners salute victory at Point Blank"

KEY	DESCRIPTION
M-40	<i>The Militant</i> May 18, 2004 article, "Co-op miners in Utah target Kingston-owned businesses"
M-41	<i>The Militant</i> May 25, 2004 article, "Striking Utah miners speak at UMWA locals in west"
M-42	<i>The Militant</i> May 31, 2004 article, "Longshore union on West Coast expands support for Co-op strike"
M-43	<i>The Militant</i> June 7, 2004 article, "UMWA files for union vote at Co-op mine in Utah"
M-44	<i>The Militant</i> June 14, 2004 article, "UMWA strike in Utah wins support from PACE union"
M-45	<i>The Militant</i> June 28, 2004 article, "Utah miners 'On with fight for a real union'"
M-46	<i>The Militant</i> July 6, 2004 article, "Striking Utah coal miners on labor tour in Pacific Northwest"
M-47	<i>The Militant</i> July 20, 2004 article, "Bosses are forced to rehire striking Utah coal miners"
M-48	<i>The Militant</i> August 3, 2004 article, "Back on job, Utah miners face war by Co-op bosses"
M-49	<i>The Militant</i> August 3 2004 article, "Miners rally in Salt Lake City"
M-50	<i>The Militant</i> August 10, 2004 article, "NLRB holds hearing on union vote at Utah mine"
M-51	<i>The Militant</i> August 17, 2004 article, "Utah safety board cites Co-op mine; UMWA backer to get back pay"
M-52	<i>The Militant</i> August 31, 2004 article, "Utah miners in trench war with bosses to win UMWA representation"
M-53	<i>The Militant</i> September 7, 2004 article, "Miners win labor support in Seattle for Utah fight"
M-54	<i>The Militant</i> September 14, 2004 article, "Utah miners plan events to mark one year of union fight"
M-55	<i>The Militant</i> September 21, 2004 article, "Utah miners affirm support for UMWA representation at meeting of boss 'union'"
M-56	<i>The Militant</i> September 28, 2004 article, "Utah miners build October 2 action to mark one year of union fight"
M-57	<i>The Militant</i> October 5, 2004 article, "UMWA: Build Oct. 2 union rally in Utah Back Co-Op miners' organizing struggle"
M-58	<i>The Militant</i> October 12, 2004 article, "Utah miners: 'Bosses' lawsuit won't stop our fight for union"
M-59	<i>The Militant</i> October 12, 2004 editorial entitled "Defend freedom of speech!"
M-60	<i>The Militant</i> October 19, 2004 article, "Utah miners mark one year of union-organizing battle"
M-61	<i>The Militant</i> October 26, 2004 article, "Utah miners demand reinstatement of leader of union-organizing fight"
M-62	<i>The Militant</i> November 2, 2004 article, "Utah coal miners receive messages of solidarity with unionizing struggle"
M-63	<i>The Militant</i> a November 9, 2004 article, "Utah miners fight to reverse firing of UMWA militant"
M-64	<i>The Militant</i> November 16, 2004 article, "N.Y. meeting: The real results of the U.S. election campaign before the vote took place"
M-65	<i>The Militant</i> November 23, 2004 article, "Utah miners and their supporters press labor board to set union vote"
M-66	<i>The Militant</i> November 30, 2004 article, "Utah miners fighting for union win back pay for 9-month strike"
M-67	<i>The Militant</i> December 7, 2004 article, "Labor board: Mine bosses' relatives can't vote in union election in Utah"
M-68	<i>The Militant</i> December 14, 2004 article, "Co-Op miners expose unsafe working conditions; fight bosses' threats to fire UMWA supporters"
M-69	<i>The Militant</i> December 21, 2004 article, "On eve of union vote, Utah miners fight firings of UMWA supporters"
M-70	<i>The Militant</i> December 28, 2004 article, "Utah miners fight mass firings days before union election"
M-71	<i>The Militant</i> January 25, 2005 article, "Labor support grows for Utah miners' union fight"
M-72	<i>The Militant</i> January 31, 2005 article, "Utah miners describe how they were fired for union fight"

KEY	DESCRIPTION
M-73	<i>The Militant</i> February 7, 2005 article, "West Coast unions back Utah miners fighting for reinstatement"
M-74	<i>The Militant</i> February 14, 2005 article, "Utah miners fighting for union speak at 'Harlan County' screening"
M-75	<i>The Militant</i> April 4, 2005 article, "Utah miners protest boss plan to hire replacements for unionists"
NLP-01	June 18, 2004 <i>Northwest Labor Press</i> article, "Striking Utah miners tour Northwest seeking help from union members," also at <a href="http://www.nwlaborpress.org/2004/6-18-04UMWA.html">http://www.nwlaborpress.org/2004/6-18-04UMWA.html</a>
S-01	Price <i>Sun Advocate</i> September 30, 2003 article, "Co-op miners walk of job, participate in UMWA rally at Price"
S-02	Price <i>Sun Advocate</i> October 21, 2003 letter entitled "Miners rebuttal at the Co-op mine"
S-03	Price <i>Sun Advocate</i> November 13, 2003 article, "Strikers have rally at picket line"
S-04	Price <i>Sun Advocate</i> December 23, 2003 article, "Groups rally to support coal miners picket line"
S-05	Price <i>Sun Advocate</i> April 13, 2004 article, "Strikers vow to continue Co-op mine picket line"
S-06	Price <i>Sun Advocate</i> May 25, 2004 article, "Strikers file representation petition with NLRB"
S-07	Price <i>Sun Advocate</i> July 6, 2004 article "UMWA indicates mine labor dispute resolved"
S-08	Price <i>Sun Advocate</i> July 22, 2004 article, "National Labor Relations Board conducts Co-op vote hearing at Price"
S-09	Price <i>Sun Advocate</i> September 30, 2004 article, "Mine owners sue media"
T-01	<i>Salt Lake Tribune</i> September 26, 2003 article, "Tensions mount in dispute at Utah mine"
T-02	<i>Salt Lake Tribune</i> October 12, 2003 article, "Immigrant miners take on Kingstons"
T-03	<i>Salt Lake Tribune</i> October 31, 2003 article, "Co-op Mine workers say dignity at stake in their strike"
T-04	<i>Salt Lake Tribune</i> December 11, 2003 article, "Rally Celebrates Utah's Role in Labor Movement"
T-05	<i>Salt Lake Tribune</i> December 20, 2003 article, "Striking Latino miners have little to celebrate this year"
T-06	<i>Salt Lake Tribune</i> May 5, 2004 article, "A show of support: Utah's Catholic leader speaks out, offers prayers for striking miners"
T-07	<i>Salt Lake Tribune</i> July 3, 2004 article, "Miners win back their jobs"
T-08	<i>Salt Lake Tribune</i> July 7, 2004 article, "Miners march back to work after settlement, armed with a settlement"
T-09	<i>Salt Lake Tribune</i> July 10, 2004 article, "Victory for miners"
T-10	<i>Salt Lake Tribune</i> July 14, 2004 article, "Workers return to jobs at Huntington mine"
T-11	<i>Salt Lake Tribune</i> September 25, 2004 article, "Kingstons' mine sues over strike"
T-12	<i>Salt Lake Tribune</i> October 3, 2004 article, "Kingston clan's mine workers hold rally on one-year anniversary of their lockout"
T-13	<i>Salt Lake Tribune</i> November 20, 2004 article, "Union vote to exclude Kingston relatives"
T-14	<i>Salt Lake Tribune</i> November 24, 2004 article, "Union vote to exclude Kingston relatives"
T-15	<i>Salt Lake Tribune</i> November 29, 2004 article, "Miners allege union busting"
T-16	<i>Salt Lake Tribune</i>
U-01	UMWA 10/06/03 press release
U-02	UMWA 07/02/04 press release
U-03	UMWA 11/19/04 press release
X-01	<i>Salt Lake City Weekly</i> March 11, 2004 article
X-02	<a href="http://www.jwj.org/updates/2004/04-04.htm#ut">http://www.jwj.org/updates/2004/04-04.htm#ut</a>

### CERTIFICATE OF SERVICE

I certify on July 13, 2005 copies of the above were served by first class mail to:

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2712-p.001c second amended complaint