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FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

FEB 28 2005

BY MARKUS B. ZIMMER, CLERK
DEPUTY CLERK

*Attorneys for defendants The Militant and the
Socialist Workers Party*

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

INTERNATIONAL ASSOCIATION OF
UNITED WORKER'S UNION, et al.,

Plaintiffs,

vs.

UNITED MINE WORKERS OF
AMERICA, et al.,

Defendants.

Case No. 2:04CV00901

**MOTION TO DISMISS ALL CLAIMS
AGAINST DEFENDANTS *THE MILITANT*
AND THE SOCIALIST WORKERS PARTY**

Judge Dee V. Benson

Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, defendants *The Militant* and the Socialist Workers Party (collectively "Defendants"), by and through undersigned counsel, move this Court for an order (i) dismissing all of the plaintiffs' claims against them, with prejudice, and (ii) awarding Defendants all of their reasonable attorneys' fees and costs incurred in defending this frivolous action.

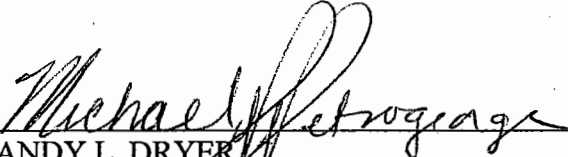
The plaintiffs assert claims of defamation against Defendants arising from a series of articles published by *The Militant* regarding the very public and contentious labor dispute

between the Co-op Mine in central Utah (a mine owned and operated by the Kingston family) and a number of the mine's workers. The articles in question focus primarily on (i) the Co-op Mine workers' allegations regarding the lack of genuine union representation, deplorable and unsafe working conditions, retaliatory and anti-union labor practices, and other egregious and unfair treatment by the Co-op Mine, and (ii) proceedings before the National Labor Relations Board regarding the labor dispute, and the actions of the Mine Safety and Health Administration with respect to safety conditions at the Co-op Mine.

As set forth in the accompanying memorandum in support, and the February 17, 2005, Memorandum in Support of Motion to Dismiss filed by co-defendants *The Salt Lake Tribune*, and *The Desert Morning News*, which is adopted and incorporated by reference as if fully set forth herein, the plaintiffs' claims are meritless and should be dismissed for at least five reasons: (1) *The Militant's* publications are protected by the public interest privilege; (2) *The Militant's* allegedly defamatory statements are not capable of sustaining defamatory meaning, (3) *The Militant's* allegedly defamatory statements are statements of opinion, and not verifiable statements of fact; (4) many of *The Militant's* allegedly defamatory statements are protected by the official proceedings privilege; and (5) with few exceptions, *The Militant's* allegedly defamatory statements are not "of and concerning" the individual plaintiffs.

In addition, because the plaintiffs' true motivation is simply to harass *The Militant* (and other media defendants), squelch its First Amendment rights of free speech and of the press, and deter further reporting about the labor dispute at the Co-op Mine, they should be required to reimburse Defendants their reasonable attorneys' fees and costs incurred in defending this frivolous lawsuit.

DATED this 28th day of February, 2005.



RANDY L. DRYER
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PARSONS BEHLE & LATIMER
*Attorneys for The Militant and the Socialist
Workers Party*

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of February, 2005, I caused to be mailed, first class, postage prepaid, a true and correct copy of the foregoing **MEMORANDUM IN SUPPORT OF MOTION TO DISMISS ALL CLAIMS AGAINST DEFENDANTS *THE MILITANT AND THE SOCIALIST WORKERS PARTY***, to:

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