

# Defeat of Utah coal boss suit a gain for labor

BY ARGIRIS MALAPANIS, EDITOR

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On behalf of the *Militant*, I want to thank the thousands of working people and others, including many trade unionists, who helped score an important victory for the working class and labor movement.

On July 6 Federal Judge Dee Benson in Salt Lake City signed an order dismissing “with prejudice” a retaliatory lawsuit by C.W. Mining against the United Mine Workers of America (UMWA), 16 coal miners who helped lead a nearly three-year-long struggle to win UMWA representation at the company’s Co-Op mine in Utah, and the *Militant*. “With prejudice” means the company cannot refile its case.

We are proud to have shared the same trenches in this fight with the 16 miners, the UMWA, the Socialist Workers Party, many trade unions, and others who were part of or supported this magnificent union organizing struggle.

We would also like to thank two of the miners who helped lead the struggle for a union at Co-Op and the fight against this lawsuit, Alyson Kennedy and Bill Estrada. This week Kennedy and Estrada signed over to the *Militant* the checks for back pay they won from the company because they, along with other miners, had been punitively fired for their union-organizing efforts.

Kennedy's donation of \$15,408.46 and Estrada's of \$9,818.41—totaling over \$25,000—will help the *Militant* continue to report accurately and consistently on social and political struggles by workers and farmers the world over—including efforts to organize unions to fight for livable wages,

safety, and dignity on the job.

“The *Militant* was the only paper that reported week after week, accurately, the facts of our struggle for a union,” said Bill Estrada in an interview. “It never stopped doing that, while coverage by other papers in Utah dropped off. Many miners who fought for UMWA representation at Co-Op, and other workers in the area, followed the *Militant* because of that kind of coverage.”

Estrada said that the fight for a union and against the bosses’ lawsuit “had a big impact on the dozens of miners involved, including me. I appreciated working and fighting alongside these courageous miners. Our struggle strengthened all of us for future battles we’ll be involved in.”

“This fight touched many working people around the world,” said Alyson Kennedy. “I was able to see that during a speaking tour in New Zealand and Australia in July.” Trade unionists and others she met there, as well as in the United States and Canada recently, Kennedy said, had extended solidarity with the union organizing struggle or endorsed the fight to defeat the company’s lawsuit.

“Many of them followed the struggle through the *Militant*,” she said. “I can think of no better way to put that back-pay check to work than to help the *Militant* keep doing what the paper pledges to be on its masthead: ‘A socialist newsweekly published in the interests of working people.’”

Attorneys Randy Dryer and Michael Petrogeorge represented the *Militant* in this successful fight. Dryer and Petrogeorge also

represented the Socialist Workers Party, one of the original 120 defendants sued by C.W. Mining and its affiliated International Association of United Workers Union (IAUWU), which Co-Op miners described as a company union.

The SWP and other defendants were dropped when the complaint was amended last year. But until the suit was dismissed, the company could have asked the court at any time to reinstate one or more of these initial defendants.

### **List of those dismissed**

Exhibit A of the court order lists the nearly 80 defendants, including 15 organizations and 62 individuals, released from all claims by C.W. Mining.

Those released include the UMWA and several of its officers; AFL-CIO; Paper, Allied-Industrial, Chemical & Energy Workers International Union; AFSCME Council 6; United Auto Workers Local 14; Jobs with Justice; 16 miners who helped lead the Co-Op drive; the Socialist Workers Party; Norton Sandler, cited as “a national director of the Socialist Workers 2004 Campaign”; Róger Calero, referred to in the company’s brief as a “leader of the Socialist Workers Party”; and the *Militant*, its editor, and a number of individuals who wrote articles for the paper.

Among those dismissed with prejudice by the court were many defendants dropped in the company’s amended lawsuit—such as the SWP and unions other than the UMWA listed above. The judge’s ruling precludes the company relaunching its case against them too.

C.W. Mining and the IAUWU first filed their civil suit on Sept. 24, 2004, a year after the start of the union-organizing struggle at that mine. (For a summary of central turning points in that struggle see “How Co-Op miners stood up, defeated bosses’ retaliatory suit” in the July 3 issue of the *Militant*.)

The mine owners and IAUWU cited the UMWA, 16 workers at the mine, the *Militant*, and others with “defamation” and other charges for supporting the organizing struggle and reporting what miners said about seeking union representation to win better wages, safer working conditions, and respect on the job. In later amendments to the suit the mine bosses added further charges.

The *Militant* was a prominent target of this lawsuit because of our consistent coverage of the Co-Op miners’ fight for a union and the editorial support we extended to it. Since September 2003, when the battle for union representation began at this mine near Huntington, Utah, we have published 150 articles and 9 editorials on this labor struggle and events related to it, such as the C.W. Mining lawsuit.

The *Militant* has also gained recognition recently for reporting the facts and backing efforts by miners to organize to enforce safety on the job across the United States and other countries. In response to a sharp jump in killings of U.S. coal miners underground early this year, a front-page editorial in the February 6 issue ran the banner headline, “Unionize the mines! Build the UMWA! No miner has to die! Workers need a union to enforce safety.”

“This message has become more urgent as the death toll of coal miners across the country this year reached 36 by last week,” said Alyson Kennedy.

### **Using pen names: a labor right**

In the course of this labor rights battle, the *Militant* made a contribution by explaining and defending the use of pen names. It’s significant in this light that the list of those Judge Benson dismissed with prejudice from the C.W. Mining suit includes pseudonyms used by Co-Op miners and others in writing articles for the *Militant* on this struggle.

When writing articles about a struggle they’re involved in, the *Militant* said in an editorial in the June 19 issue, “workers often

feel the need to use pen names, as did coal miners in Utah who fought to unionize the Co-Op mine.

“In nonunion mines and other workplaces in the United States and elsewhere, workers are often willing to speak out only on condition of anonymity to avoid losing their jobs,” we said. “Coal miners interviewed about unsafe conditions in Alabama mines, for example, were quoted anonymously in the Tuscaloosa News in February because ‘they would face certain punishment or possible termination if they spoke out publicly against their employers.’ ...

“The labor movement,” the *Militant* said, “must defend the right of workers and others to be quoted anonymously or use pseudonyms so they can speak out about dangerous conditions before people die on the job. And we must defend the right of pro-labor and other news media to use these practices to protect workers from retribution by the bosses.”

### **Militant Fighting Fund**

On Oct. 31, 2004, five weeks after C.W. Mining filed its suit, the *Militant* launched the Militant Fighting Fund. It was established to raise money for the *Militant*'s legal defense and to publicize the stakes for all labor in beating back a lawsuit aimed at shutting up unionists and newspapers that report on and champion the workers' cause.

The fund raised \$50,000 within two months and much more in the two years that followed, enabling the *Militant* to retain attorneys and wage a public defense campaign. Volunteers produced a brochure outlining the facts of the case, translated it and other materials into Spanish, French, Swedish, and other languages, and circulated them around the world.

More than 1,000 organizations and individuals endorsed the fund. These include 26 trade union locals, officers of 10 international unions, and nearly 230 officers of union locals.

### **Lawsuit settled**

On May 1, Judge Benson dismissed all charges the company had filed against the 16 Co-Op miners. These included not just the defamation claims but allegations of unfair labor practices, immigration fraud, violation of the federal Racketeer Influenced and Corrupt Organizations Act (RICO), and civil conspiracy.

“Laborers are entitled to their opinions. They are entitled to express those opinions, whether in the midst of a labor dispute or not,” Benson wrote. “Plaintiffs’ allegations against the defendant miners seem to be nothing more than an attempt to intimidate their employees and quell honest discussion concerning labor issues.”

In the same ruling the judge dismissed the case against Utah’s two main dailies, the *Salt Lake Tribune* and *Deseret Morning News*. All that remained of C.W. Mining’s suit were weak defamation allegations against the UMWA, Utah Jobs with Justice, and the *Militant*.

The National Labor Relations Board had also issued a preliminary finding declaring that the company had fired the miners for union activity—despite the bosses’ claim that the workers were dismissed because they were undocumented. The federal labor board had set a date for a hearing on that finding.

Combined with the NLRB’s determination, the May 1 court decision was especially damaging to the company.

Coming amid massive working-class mobilizations for immigrant rights this year, the ruling registered the fact that the 75 miners, most of whom are immigrants from Mexico, and who waged a 10-month-long strike for union representation, had stood off the bosses again. (See “We won battle at Co-Op mine due to strength of our fight and solidarity” in June 5 issue.)

A few weeks after the May 1 ruling, C.W. Mining agreed to drop the lawsuit against

the remaining defendants and settle with the UMWA and fired Co-Op miners. Six workers, including Estrada and Kennedy, were awarded back pay.

The victory registered in defeating this harassment lawsuit—one of the most important labor defense cases in many years—is a cause for celebration by all working people.

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