

Minimum wage in Utah is \$5.15 an hour. Minimum wage buys minimum-wage work—mostly low-end service sector jobs that are the domain of high school or college students and unskilled adults.

Considering that today's minimum wage is more than twice what I earned in my first forays into the world of work 25 years ago, \$5.15 doesn't seem an unreasonable wage for such jobs, even when adjusted for inflation. But it's an appalling wage range for an underground coal miner.

That's right. When Bill Estrada was employed by Co-Op Mine in Huntington, Utah, his hourly wage was \$5.75 an hour after a year on the job.

Estrada was one of the lower-paid employees. Some of the higher-paid employees earned \$8 an hour at the mine, which is owned by the Kingston family. The going rate for mining jobs or other "natural resource production" jobs, according to the Bureau of Labor Statistics' 2002 data, was \$17.22 an hour.

I refer to these men's employment in the past tense because they are no longer employed by the mine. Their complaints about unsafe working conditions and a move to organize a union cost them their jobs. National labor organizers say Estrada and approximately 74 others were illegally fired from their jobs.

One gets the distinct impression that the owners of the Co-Op Mine never figured that anyone would challenge their authority. The miners, who are mostly Mexican nationals, have manned a round-the-clock picket line at the mine since losing their jobs last fall. They believe they deserve a decent wage and safer working conditions. *They want a union to represent their interests.*

If there was ever justification for the need for organized labor, this could be the textbook case. *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.*

Published reports suggest this wasn't an isolated incident. In 2003, the Arizona Republic reported that two Kingston Clan sons who had abandoned the fold were expected to work in the family mine as young as 12 years old.

"As soon as I would get home from public school, we would go work in the mine from 5 p.m. The bosses also worked us on holidays because they knew the state wouldn't be inspecting those days," Louis Brown told the Arizona Republic.

I realize I'm trampling on a lot of sensitive areas here. Organized labor is frowned upon in Utah. I'm sure there are some people (hopefully few) who think it's OK to work young kids in the family coal mine in the name of "parental rights."

Then there's the polygamous lifestyle of the Kingstons or the fact that most of these workers are in the United States illegally.

Still, if this were a movie script, I'd send it back for substantial rewrites because no one in his right mind would believe that any coal miner in the United States of America would earn \$5.75 an hour in 2004.

Polygamy? It's too much for mainstream America to fathom.

For far too long, law enforcers and other government agencies have been reticent to hold polygamists to account for illegal conduct. It's messy business,

although in recent years some prosecutors and agency heads have waded into the issue.

The mine workers in this case were the perfect stooges because they were too afraid to involve the authorities for fear they would be deported. As individuals, they lack the clout that an organized group would have. Many of their complaints have fallen on deaf ears or become mired in federal bureaucracy.

No doubt, if Bill Estrada and co-workers had legal status, they wouldn't be working in a coal mine for less than \$10 an hour. But there's no magic wand to fix the immigration problem, although this case illustrates why it needs fixing and anyone who believes America's service sector could get by fine without the labors of illegal immigrants needs a serious reality check. Workers deserve to be treated with dignity.

The Co-Op miners need that and a whole lot more. They need a bargaining unit to help ensure they are fairly compensated for the dirty dangerous work they have performed. As a matter of human rights, I hope they get one.

Marjorie Cortez, *Kingstons' Treatment of Miners is Appalling*, Deseret Morning News, March 27, 2004, at A15. (emphasis on alleged defamatory statements).

The alleged statements lack defamatory meaning for several reasons. The first allegation concerns the statement that workers "want a union to represent their interests." See Second Amended Complaint, ¶ 169. This statement merely represents the miners' position. It does not attack the plaintiffs' reputation. Furthermore, stating the miners' position lacks the requisite malice under *Linn*. Even plaintiffs' allegation, that this statement meant "IAUWU did not represent the interests of its bargaining unit," does not allege malice. See Complaint, ¶ 169. It simply alleges plaintiffs' counterposition, and this fails to state a claim for defamation.

The second statement calls the wages an outrage and exploitative and says that some have called it a human rights violation. The plaintiffs do not dispute the underlying facts of these claims, namely the wage amounts, which the article reports were \$5.75 an hour. *Id.* As stated earlier, editorialists may draw conclusions on important social issues based on undisputed facts. No reasonable reader could infer malice from an editorialist's conclusion based on an undisputed wage.

The third statement concerns a report published in the Arizona Republic that 12-year old boys were required to work in the mine. No reasonable reader could conclude from this statement that the Deseret Morning News intended to injure the plaintiffs' reputation.

2. Miners Plan to Return to their Jobs

Plaintiffs next claim:

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 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. Minting in Emery County. ... The labor board's decision also includes a back pay order."

See Second Amended Complaint, ¶ 170.

The full article reads:

Miners Plan to Return to Their Jobs

Tiffany Erickson

Striking miners in central Utah are now making plans to return to their jobs after being fired and shut out of a polygamous clan-owned coal mine.

In nine months of striking, the workers picketed, traveled the country speaking at other union gatherings and gained national and international support for their cause. On Thursday, it all paid off when *the National Labor Relations Board ordered that their jobs be reinstated*, and they plan to march to the mine on Tuesday to inform management they are returning.

United Mine Workers of America, 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. They were fired after contacting the United Mine Workers about getting a union organized at the mine, said Alyson Kennedy, a member of the strikers' leadership committee.

"We wanted safer conditions, better pay and benefits; in my opinion no coal miner should have to work for minimum wage," Kennedy said. The miners were paid between \$5.25 and \$7 an hour with no benefits.

A company union has exited at the mine for many years, but all of the officers are bosses and are related to the Kingstons, the wealthy polygamous

family that owns the mine, Kennedy said. Before the strike those who contacted the United Mine Workers of America were cornered, harassed and even suspended by the mine's management, she said.

John Kingston has said previously that the 74 miners fired last September staged an "illegal walkout." A phone number for the Kingstons went unanswered Saturday.

The decision, announced on Thursday, states that any type of intimidation or harassment of pro-union miners by the Co-Op management is illegal.

Though the miners, most of them Mexican immigrant workers, have their jobs back, Kennedy said, the fight is not over yet as they will be returning to poor wages, minuscule benefits and unsafe working conditions.

"We are determined to get a real union at this mine, a union contract where the wages and benefits are all negotiated and agreed upon by the workers," Kennedy said.

United Mine Workers has already petitioned the National Labor Relations Board to allow it to represent the miners in contract negotiations. A union election also is scheduled sometime in August in which the miners will choose to be represented by the United Mine Workers of America, the mine's existing union, the International Association of United Workers or no union.

The labor board's decision also includes a back pay order, the exact details of which are being negotiated and may be settled in court.

Nine months can be a long time to go without pay, but the strikers received donations and support from all over the world, including unions in New Zealand, Australia and Britain, Kennedy said.

"It wasn't easy, but nobody suffered hardship," she said. "We really had solidarity and that's the only way you can do things like this."

Many of the workers got jobs at surrounding mines during the strike while others dedicated all their time to it. Besides large donations from other unions, assistance from the Catholic Church and United Mine Workers, strikers also helped each other out when things got tight.

This Tuesday the strikers will march together to the mine office and then attend a celebration of their victory at Huntington Town Hall. They plan to be back to work on July 12.

Tiffany Erickson, *Miners Plan to Return to their Jobs*, Deseret Morning News, July 4, 2004, B1.

(emphasis on alleged defamatory statements).

Like many of the other alleged defamations, these statements merely express the miners' position in the labor dispute. Within the same article, the Deseret Morning News states the plaintiffs' position as well. Ms. Erickson writes, "John Kingston has said previously that the 74 miners fired last September staged an "illegal walkout." A phone number for the Kingstons went

unanswered Saturday.” *Id.* Given this context, no reasonable reader could infer malice from the alleged defamatory statements. The alleged defamations do not undermine the plaintiffs’ reputation and they contain nothing to suggest malice on the part of the reporter or the Deseret Morning News. For these reasons, the allegation fails to state a claim for defamation.

3. *Kingstons Exploitative, Protestors Say*

Plaintiffs next claim:

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 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.”

See Second Amended Complaint, ¶ 171.

The full article reads:

Kingstons Exploitative, Protestors Say: Fired Miners, Others Say Clan Mistreats Workers
Elaine Jarvik

A dozen fired miners and more than 50 of their supporters waved picket signs Saturday in front of Salt Lake-area businesses owned by the Kingston polygamous clan.

The miners, fired last September after they complained about what they said were unsafe conditions at the Kingston-owned Co-Op mine in Emery County, spend most of their days now picketing at the mine entrance. This weekend they traveled to South Salt Lake to join in a protest at Kingston-owned Standard Restaurant Supply and Spiffy Ice, 3500 S. West Temple St.

“The Kingstons own 160 businesses,” said protester Dave Sharp. “We’re going to do them all.”

Sharp is a member of Utah Jobs With Justice, a coalition of about 20 labor, faith-based and community organizations promoting workers’ rights. In late November the group picketed the Kingston-owned Family Stores on Redwood Rd.

The miners and their allies are also planning a rally on Saturday, Feb. 7, that will draw longshoreman from northern California, students from Los Angeles and miners from around the West, *according to mine worker Bill Estrada. He was among about 75 miners who stages a walkout at the Co-Op Mine in Huntington and were later fired. The company, he said, did not want the miners to unionize.*

The workers are protesting what they say are exploitative conditions, including defective machinery that has caused injuries, a lack of training and health-care benefits, and meager wages. The miners, many of them Mexican immigrants, start at minimum wage, Estrada said, "and to get a raise, you have to beg, sometime to get a raise of 25 cents."

"They're bullies and we don't like bullies," said protester Ken Wulle of Utah Jobs With Justice and the Disabled Rights Action Committee.

The miners are demanding reinstatement of all fired workers, recognition of the United Mine Workers of America as their collective bargaining agent, and back pay for the time they have been on strike.

Across West Temple, Buddy Beck of the Paper, Allied-Industrial, Chemical and Energy Workers union yelled cheers and chants from a bullhorn: "Kingstons, you can run but you can't hide" and "An injury to one is an injury to all."

Saturday's protesters included members representing such disparate unions as the International Brotherhood of Boilermakers and the American Federation of Musicians, as well as students and at least one professor. University of Utah economics professor Hans Ehrbar said that last semester one of the possible term paper topics in his class was "Kingston economics," which he described as "capitalism in an overstated, caricatured form."

"This is not rocket science," said Westminster College student Richard Wagner about the miners' demands. "They want decent wages. And simple human dignity." The Kingston family, he said, "is like a corporation. To not be able to pay a decent living wage doesn't seem honorable."

The Kingstons were unavailable for comment Saturday.

Elaine Jarvik, *Kingstons Exploitative, Protestors Say*, Deseret Morning News, January 18, 2004,

B2. (emphasis on alleged defamatory statements).

This allegation, too, is comprised of pieces from an article and fails to paint a complete picture. The allegation implies that the Deseret Morning News reported that CWM did not want the miners to unionize; however, that statement is attributed to Bill Estrada in the article. The full sentence reads, "The company, he said, did not want the miners to unionize." *Id.* Once again, plaintiffs were given the opportunity to express their position, however, "The Kingstons were unavailable for comment Saturday." *Id.* These statements voice the position of the miners. No reasonable reader could find defamatory meaning from the use of these statements. Viewed in their entirety, these statements fall short of the requirements for stating a claim for defamation.

4, Co-Op Miners Say Battle Has Just Begun

Plaintiffs next claim:

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 pro-unionizers.

See Complaint, ¶ 172.

The full article reads:

Co-op Miners Say Battle Has Just Begun

Jenifer K. Nii

HUNTINGTON - Forty-nine of the 74 workers who were fired from the C.W. Mining Co. nine months ago submitted their acceptance notices on Tuesday to return to work. But, they say, the battle for their rights has just begun.

The National Labor Relations Board issued a settlement agreement late last month, resolving the case filed by the United Mine Workers of America on behalf of the workers. The NLRB is the agency charged with enforcing the National Labor Relations Act. In it, the miners claimed they were illegally fired for seeking representation from the UMW. They also argued that they were intimidated and subjected to hazardous working conditions and low pay.

While they called the NLRB settlement a win, the miners said Tuesday that getting their jobs back is the first step. At a rally at a park here, a group of about 100 people, including workers, union organizers and community groups, marched the workers' reinstatement acceptance notifications up the long hill to the Co-op Mine, chanting "Union Now!"

"We want to let everybody know that we're coming back stronger than on Sept. 22 (the day the workers say they were fired)," said miner Juan Salazar. "Now we know our rights. We will not be intimidated."

Under the terms of the agreement, the miners will return to work Monday, reinstated to their former, or substantially equivalent, jobs. The agreement stipulates that workers can negotiate for back pay, which they say they will do. They also say they will continue to press for union elections, which they expect will be held in August.

"United Mine Workers understands that this struggle, this fight, is nowhere near over, that it is in its infancy," said UMW organizer Bob Butero. "This is not a total victory until these workers get covered by a true labor agreement."

Ana Maria Sanchez had only worked at the mine for a month when she was fired for aligning with the pro-unionizers. However, she said, tensions had been brewing and peaked in late September.

"For days before that, even, we were protesting the conditions at the mine - which added fuel to the fire," Sanchez said, through a translator. Sanchez said there were no bathroom facilities for female workers, that the roof of the mine was

in "cave-in condition" and that workers were not provided with proper safety or work equipment. Or, if they were, she said, "it was at an outrageous price," charged by the company.

The settlement stipulates that the mine does not admit to any unfair labor practice. On Tuesday, C.W. officials continued to assert that their miners are paid fairly and that the mine stands up to safety requirements.

"They have made several allegations, all of which have been investigated by MSHA (the Mine Safety and Health Administration), which concluded that there were no safety violations," said Charles Reynolds, C.W. Mine's personnel manager. "We have an excellent record with MSHA, which can be verified."

In addition, Reynolds said, "Some of the employees who did have complaints brought their complaints to us. The majority did not."

When asked about the miners' wages, Reynolds said workers are paid on a scale, based on skill level and experience. While the scale allows for wages as high as \$18 per hour, Reynolds said that many of the affected workers were closer to the \$5.75 per-hour minimum - which he attributed to workers' lack of experience.

"A lot of these guys, they come in from Mexico totally inexperienced, like I was totally inexperienced," said Chris Grundvig, a C.W. Mine mechanic and International Association of United Workers Union miners' representative. "I don't think any mine in the country would have paid me, or them, \$20 an hour ... They make higher wages once they've been here a while."

C.W. asserts it already has an exclusive collective bargaining agreement with its workers through the IAUWU, and that workers should seek representation there, instead of from the United Mine Workers.

"I offered them representation," said Grundvig. "They don't want it."

Grundvig said C.W.'s IAUWU membership currently includes up to 100 active miners, and he maintained under heavy criticism from the striking miners that the union is a legitimate, legally established association acting on behalf of workers. The strikers alleged that the union is nothing more than a "yellow dog," a puppet organization for its owners, the polygamist Kingston clan.

"Code Pink supports the miners strike against this heinous polygamist engine of the Kingstons," said Susan Vogel, a member of Code Pink, a women-initiated social justice advocacy group. "They treat women, children and workers like garbage, and the way they've treated these miners is an example of that. The dedication and perseverance of these miners should be an example for workers everywhere. They fought to be treated like human beings and demanded a living wage."

Lupe Payan, one of the workers laid off in September, said he found work at another mine nearby. His new job includes benefits, insurance and paid holidays, he said.

"The other mine is more better, safer," Payan said. And, while he supported the workers' push to affiliate with the UMW, Payan said, "I am not coming back (to work at C.W. Mine). No."

Jenifer K. Nii, *Co-Op Miners Say Battle Has Just Begun*, Deseret Morning News, July 7, 2004, E1. (emphasis on alleged defamatory statements).

This statement fails to state a claim for defamation. It was attributed to Ms. Sanchez and it aims to state the position of each party involved in the labor dispute. The alleged defamation consists of one sentence in which Ms. Sanchez states her view of losing employment at CWM. The article devotes seven full paragraphs to the plaintiffs' position. Mr. Grundvig and Mr. Reynolds explain why the plaintiffs took the actions they did. It is disingenuous for plaintiffs to allege defamation based on one sentence in which a party to the labor dispute states her position when the same article plainly states the plaintiffs' position in much greater detail. No reasonable reader would believe this statement attacks the plaintiffs' reputation. Moreover, there is no indication, nor allegation, of malice, as is required under *Linn*.

5. *Victory is First Step for Miners*

Plaintiffs claim:

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 ..."

See Second Amended Complaint, ¶ 173.

The full article reads:

Victory is First Step for Miners

Come Monday, some 50 former employees of C.W. Mining's Co-Op Mine in Emery County will return to work. *The miners, most of them Mexican nationals, were fired from their jobs last fall for attempting to organize a union to address poor pay and mine safety issues.*

The National Labor Relations Board has said the mine owners - members of the Kingston clan - fired the miners illegally. The NLRB said the miners

should be reinstated, that they can negotiate for back pay for the duration of the lockout and then can freely participate in union activities.

These events are positive developments in an ongoing effort to ensure that coal miners have safe working conditions and are fairly compensated. But the miners' saga is far from over. They will require the continuing support of organizations and private citizens who have assisted them and their families since they lost their jobs nearly 10 months ago.

Although *the NLRB validated the miners' contention that they were fired illegally*, they will return to the same working conditions and the same pay which is paltry by industry standards. The miners were paid between \$5.75 to \$7 an hour to work in the underground mine outside Huntington. C.W. Mining Co. officials say the wages paid the miners is commensurate with their work histories. Some of them had no mining experience.

According to the Bureau of Labor Statistics, the prevailing wage for mining or other "natural resource production" jobs in the West is about \$18 an hour.

Company officials dispute the workers' claims that the Co-op Mine is unsafe, citing Mine Safety and Health Administration reviews that concluded there were no safety violations.

Meanwhile, the United Mine Workers of America has petitioned the NLRB to represent the miners in contract negotiations. An election will be conducted later this summer during which the miners will choose between the UMWA, the International Association of United Workers (the existing union at the mine) or no union representation.

While the NLRB settlement is an important step in the miners' ordeal, the agreement includes a "non-admission clause," which means the mine does not admit to any unfair labor practices.

Next week, the miners have an opportunity to start fresh and, one hopes, negotiate a contract with the mine owners that ensure them a living wage and safe working conditions. Considering that *this victory was a result of the miners' dogged determination* (illustrated by their round-the-clock picket at the mine since the lockout began last fall), *and the assistance of local, state and cause of social justice*, ongoing attention will be required to ensure that the Co-op miners achieve the dignity they seek.

Deseret Morning News, Editorial, *Miners Plan to Return to their Jobs*, July 8, 2004, A8.

(emphasis on alleged defamatory statements).

Like previous allegations, this allegation contains sentences picked from the article and conveniently excludes statements favorable to the plaintiffs. Standing alone, the alleged statements fail to attack the plaintiffs' reputation and no reasonable reader could infer defamatory meaning from them.

Even if defamatory meaning and malice could be found, such effects would be dulled when the statements are viewed in context. The allegations conveniently omit references to the plaintiffs' position in the labor dispute, such as, "C.W. Mining Co. officials say the wages paid the miners is commensurate with their work histories. Some of them had no mining experience." *Id.* The article further states, "While the NLRB settlement is an important step in the miners' ordeal, the agreement includes a "non-admission clause," which means the mine does not admit to any unfair labor practices." *Id.* Viewed in context with these statements, no reasonable reader could find defamatory meaning or malice.

Conclusions for the Deseret Morning News

Plaintiffs' allegations against the Deseret Morning News fall short of the requirements in Utah for defamatory meaning, much less malice under *Linn*. Their complaint seems aimed at intimidating the newspaper and any other party that does not agree with their point of view. For these reasons, plaintiffs' claims against the Deseret Morning News are dismissed and the Court orders plaintiffs to pay the Deseret Morning News a reasonable attorneys' fee.

C. The Statements Published by the Salt Lake Tribune and Deseret Morning News are Protected by the Neutral Reportage Privilege

The U.S. Supreme Court restricted the use of a constitutional privilege in cases involving private individuals in *Gertz v. Robert Welch, Inc.*, 418 U.S. 323 (1974). The Court concluded that "the States may define for themselves the appropriate standard of liability for a publisher or broadcaster of defamatory falsehood injurious to a private individual." *Id.*, at 347.

The Utah Supreme Court recently recognized a neutral reportage privilege in *Schwarz v. Salt Lake Tribune*, 2005 WL 1037843 (UT App.). In that case, the Court ruled that "[t]he article is covered by the neutral reportage privilege because it contains "accurate and disinterested

reporting” of the information contained in the record.” *Id.*, quoting *Edwards v. National Audubon Soc’y*, 556 F.2d 113, 120 (2d Cir. 1977). Even if the statements published by the Salt Lake Tribune and Deseret Morning News could convey defamatory meaning, they would be protected by the neutral reportage privilege. In *Edwards*, the Second Circuit Court of Appeals ruled that the neutral reportage privilege shields the press for statements it reports in good faith, whether they are true or false. In that case, the Court stated:

We do not believe that the press may be required under the First Amendment to suppress newsworthy statements merely because it has serious doubts regarding their truth. Nor must the press take up cudgels against dubious charges in order to publish them without fear of liability for defamation. (Citations omitted). The public interest in being fully informed about controversies that often rage around sensitive issues demands that the press be afforded the freedom to report such charges without assuming responsibility for them.

Edwards v. National Audubon Soc’y, 556 F.2d 113, 120 (2d Cir. 1977). The Court then defined the boundaries of the neutral reportage privilege, stating:

The contours of the press’s right of neutral reportage are, of course, defined by the principles that give life to it. Literal accuracy is not a prerequisite: if we are to enjoy the blessings of a robust and unintimidated press, we must provide immunity from defamation suits where the journalist believes, reasonably and in good faith, that his report accurately conveys the charges made. *Time, Inc. v. Pape*, 401 U.S. 279 (1971). It is equally clear, however, that a publisher who in fact espouses or concurs in the charges made by others, or who deliberately distorts these statements to launch a personal attack of his own on a public figure, cannot rely on a privilege of neutral reportage. In such instances he assumes responsibility for the underlying accusations.

Id. (Citations omitted).

Whether the privilege shields the publisher depends upon whether the individual was a public or private figure. In *Gertz*, the U.S. Supreme Court noted that “Public officials and public figures usually enjoy significantly greater access to the channels of effective communication and hence have a more realistic opportunity to counteract false statements than private individuals enjoy. Private individuals are therefore more vulnerable to injury, and the state interest in

protecting them is correspondingly greater.” *Gertz v. Robert Welch, Inc.*, 418 U.S. at 344. The Court then described who would qualify as a public figure, stating:

For the most part those who attain this status have assumed roles of especial prominence in the affairs of society. Some occupy positions of such persuasive power and influence that they are deemed public figures for all purposes. More commonly, those classed as public figures have thrust themselves to the forefront of particular public controversies in order to influence the resolution of the issues involved.

Id., at 345. The Utah Supreme Court later elaborated on the definition of public figures in *Madsen v. United Television, Inc.*, 797 P.2d 1083 (Utah 1990). In *Madsen*, a police officer claimed to have been defamed “by news reports that included allegations that he had a poor record within the police department; that he was in the process of being fired or removed from the department; that in killing Garcia he had acted with disregard of the safety of others and in violation of police standards and rules; and that he had fired his weapon improperly and without good reason in violation of police policies.” *Id.*, at 1084. The district court concluded that the officer qualified as a public official under *Gertz* and granted summary judgment absent a showing of malice, which the Utah Supreme Court affirmed. *Id.* In determining the officer’s status as a public figure, the Court noted:

[I]t is not necessary that one be a public figure for all purposes and at all times. The law recognizes public figures for limited purposes who are sometimes referred to as “vortex public figures” because although they are not pervasive public figures, such as actors and other prominent persons, they have voluntarily or involuntarily been injected into a specific controversy of public interest.

Id. The Court then ruled that the officer was or became a public figure by virtue of the facts and circumstances surrounding the shooting. *Id.*, at 1085.

The plaintiffs qualify as public figures. They were injected into a labor dispute, largely due to their own actions, that greatly affected and interested the public. They had ample access to media outlets and they used those outlets to express their opinions on numerous occasions.

For these reasons, the plaintiffs qualify as public figures. Because the plaintiffs qualify as public figures, the newspapers are entitled to protection from claims of defamation under the neutral reportage privilege so long as their statements did not deliberately distort the truth to attack the plaintiffs.

The present facts parallel those in *Edwards*. *Edwards* involved a defamation suit based on an article in which the New York Times accurately reported “dramatic statements of the National Audubon Society attacking the good faith of prominent scientists supporting continued use of the insecticide DDT.” *Edwards v. National Audubon Soc’y*, 556 F.2d at 115 (2d Cir. 1977). When the New York Times received the names of the scientists the Audubon Society accused of being “paid liars”, it “attempted to secure comments from each of the five accused.” *Id.*, at 117. Three scientists responded, each categorically denying the charges. *Id.* “Having thus in good faith elicited both sides of the story to the best of his ability, [the reporter] wrote the article.” *Id.*, at 118.

The allegations against the Salt Lake Tribune and the Deseret Morning News arise from articles chronicling a lengthy labor dispute. Almost invariably, the authors sought each party’s position. On some occasions, the plaintiffs refused to comment, which the Salt Lake Tribune and Deseret Morning News duly noted. On other occasions, the plaintiffs commented extensively on their position, which both the Salt Lake Tribune and Deseret Morning News reported. The articles clearly reveal that the reporters went to extensive lengths to interview and cull information from the miners, CWM, IAUWU and other parties close to the dispute. Comments and opinions were routinely attributed to the party that offered them. Nothing in the articles suggests that the reporters or their employers, the Salt Lake Tribune and Deseret Morning News, deliberately distorted any information to attack the plaintiffs. Plaintiffs’ naked