

1 E. Mark Hansen, Utah Bar no. 5078
E. Mark Hansen, P.C.
2 431 North 1300 West
Salt Lake City, UT 84116
3 (801) 517-3530

Judge Dale A. Kimball
DECK TYPE: civil
DATE STAMP: 09/24/2004 @ 15:47:17
CASE NUMBER: 2:04CV00901 DAK

Attorney for Plaintiffs International Association of United Workers Union and its Officers

4 Carl E. Kingston, Utah Bar no. 1826
5 3212 South State Street
Salt Lake City, UT 84115
6 Telephone: (801) 486-1458

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

7
8 **IN THE UNITED STATES DISTRICT COURT**
9 **DISTRICT OF UTAH, CENTRAL DIVISION**

10 INTERNATIONAL ASSOCIATION OF UNITED WORKERS UNION;
RONALD ELDEN MATTINGLY; VICKIE MATTINGLY; NEVIN
11 PRATT; INTERNATIONAL ASSOCIATION OF UNITED WORKERS
UNION, LOCAL NO. 1-02; CHRIS GRUNDTVIG; DANA JENKINS;
12 WARREN PRATT;

COMPLAINT

13 C. W. MINING COMPANY d/b/a CO-OP MINING COMPANY;
EARL STODDARD; CHARLES REYNOLDS; DOROTHY SANDERS;
14 WENDELL OWEN; KEN DEFA; RODNEY ANDERSON; CYRIL
JACKSON; CHRIS PETERSEN; JARED STEPHENS; FREDDY
15 STODDARD; JIM STODDARD; SHAIN STODDARD; ETHAN
TUCKER; RANDY DEFA; KEVIN PETERSON; ELDEN STEPHENS;
16 JOSÉ ORTEGA.

Plaintiffs,

17 vs.

18 UNITED MINE WORKERS OF AMERICA; CECIL ROBERTS;
CARLO TARLEY; DAVID PIAZ; MIKE DALPIAZ; BOB BUTERO;
19 LARRY HUESTIS; FRANCISCO PICADO; JIM STEVENSON;
DALLAS WOLF; ARCHIE ARCHULETA;

20 GERARDO AGUILAR; RICARDO CHAVEZ; WILLIAM (BILL)
ESTRADA; HECTOR FLORES; NATIVIDAD FLORES; DANIEL
21 HERNANDEZ; GUILLERMO HERNANDEZ; ALYSON KENNEDY;
BERTHILA LEON; DOMINGO OLIVAS; CELSO PANDURO; RIGO
22 RODRIGUEZ; GONZALO SALAZAR; JESUS SALAZAR; JOSE
JUAN SALAZAR; ANA MARIA SANCHEZ; SAMUD VILLA;

Civil No.

Judge

23 AFL-CIO; ANDY LEVIN; AFL-CIO, UTAH CHAPTER; AFSCME
24 COUNCIL 6; AFL-CIO; PHILADELPHIA COUNCIL AFL-CIO;
PATRICK EIDING;

25 GREATER SOUTHEASTERN MASSACHUSETTS LABOR
26 COUNCIL; PAPER, ALLIED-INDUSTRIAL, CHEMICAL &
ENERGY WORKERS INTERNATIONAL UNION; LOCAL 14.
27

1 UNITED AUTOMOBILE, AEROSPACE AND AGRICULTURAL
2 IMPLEMENT WORKERS OF AMERICA;

3 SOCIALIST WORKERS PARTY; THE MILITANT; ROGER CALERO;
4 ARGIRIS MALAPANIS; GUY TREMBLAY; CONNIE ALLEN; JOEL
5 BRITTON; ANNE CARROL; BECKY ELLIS; GUILLERMO
6 ESQUIVEL; BETSY FARLEY; CHRIS HOEPPNER; FRANK MILLER;
7 PAT MILLER; TERI MOSS; ANNE PARKER; FRANCISCO PICADO;
8 JAY RESSLER; MARCO ANTONIO RIVERA; TALMAR ROSENFELD;
9 BERNIE SENTER; MAGGIE TROWE; KAREN TYLER; MAURICE
10 WILLIAMS;

11 SALT LAKE TRIBUNE; TOM BADEN; TIM FITZPATRICK; RON
12 MORRIS; MELISSA GALBRAITH; RHINA GUIDOS; COREY
13 HILTON; GUEN WHARTON; TOM WHARTON;

14 DESERET MORNING NEWS; JOHN HUGHES; MARJORIE
15 CORTEZ; TIFFANY ERICKSON; ELAINE JARVIK; JENNIFER K.
16 NII;

17 PRICE SUN-ADVOCATE; LYNNDAL JOHNSON; RICHARD SHAW;
18 EMERY COUNTY PROGRESS; PATSY STODDARD; COREY
19 BLUEMEL;

20 JOBS WITH JUSTICE; UTAH JOBS WITH JUSTICE; GEORGE
21 NECKEL;

22 THE ROMAN CATHOLIC CHURCH; THE ROMAN CATHOLIC
23 CHURCH, SALT LAKE CITY, UTAH DIOCESE; GEORGE
24 NIEDERAUER; DONALD E. HOPE; CATHOLIC NEWS SERVICE;
25 THE INTERMOUNTAIN CATHOLIC; BARBARA STINSON LEE;

26 TAPESTRY AGAINST POLYGAMY; ROWENNA ERICKSON; THE
27 CENTER FOR PUBLIC EDUCATION AND INFORMATION ON
28 POLYGAMY; CARMEN THOMPSON; HANS G. EHRBAR;

29 LISTENERS COMMUNITY RADIO OF UTAH, INC.; DONNA
30 LAND MALDONADO; NICOLE JONES; NATIONAL
31 ORGANIZATION FOR WOMEN; UTAH CHAPTER OF THE
32 NATIONAL ORGANIZATION FOR WOMEN; ANDREA
33 MOORE-EMMETT; THE ARIZONA INDYMEDIA; THE
34 CLEVELAND INDYMEDIA; THE UTAH INDYMEDIA; MEL
35 LOGAN; THE OREGON LABOR PRESS PUBLISHING CO., INC.;
36 THE NORTHWEST LABOR PRESS; DON McINTOSH; SALT LAKE
37 CITY CODEPINK; SUSAN VOGEL; UTAH PROGRESSIVE
38 NETWORK; LORNA VOGT; PEOPLE FOR PEACE AND JUSTICE
39 OF UTAH; WORKERS WORLD PARTY; WORKERS WORLD; THE
40 JOE HILL DISPATCH; EARTH ISLAND INSTITUTE, INC.;
41 BYRON CANNON; ERNIE HERRERA; COREY HILTON;

42 DOES 1-200.

43 Defendants.

1 Plaintiffs complain and allege as follows:

2
3 **PARTIES**

4 1. International Association of United Workers Union (IAUWU) is a labor union
5 incorporated and in good standing in the state of Utah.

6 2. Ronald Elden Mattingly is the international president of IAUWU.

7 3. Nevin Pratt is the international vice-president of IAUWU.

8 4. Vickie Mattingly is the international secretary of IAUWU.

9 5. International Association of United Workers Union, Local 1-02 (IAUWU Local 1-02) is
10 the local union organization selected by the workers employed by C. W. Mining Company at its
11 mine in Bear Canyon, Emery County, Utah as their duly elected bargaining representative.

12 6. Chris Grundvig is the president of IAUWU Local 1-02.

13 7. Dana Jenkins is the vice-president of IAUWU Local 1-02.

14 8. Warren Pratt is the secretary of IAUWU Local 1-02.

15 9. C. W. Mining Company d/b/a Co-op Mining Company (CWM) is a Utah corporation
16 engaged in the business of mining coal in Emery County, Utah.

17 10. Earl Stoddard is a director and president of CWM.

18 11. Charles Reynolds is a director and vice president of CWM. At all pertinent times since
19 July 2004, Reynolds was CWM's mine manager, previously its engineer and personnel manager.

20 12. Dorothy Sanders is a director and secretary of CWM.

21 13. At all pertinent times until July of 2004, Wendell Owen was CWM's mine manager.

22 14. Ken Defa is CWM's mine superintendent.

23 15. Cyril Jackson is a CWM maintenance supervisor.

24 16. Rodney Anderson is a CWM production foreman.

25 17. Chris Petersen is a CWM production foreman.

26 18. Jared Stephens is a CWM production foreman.

27 19. Freddy Stoddard is a CWM production foreman.

- 1 20. Jim Stoddard is a CWM production foreman.
- 2 21. Shain Stoddard is a CWM mine foreman.
- 3 22. Ethan Tucker is a CWM production foreman.
- 4 23. Randy Defa is CWM's mine support manager.
- 5 24. Kevin Peterson is CWM's facilities manager.
- 6 25. Elden Stephens is CWM's accounting manager.
- 7 26. José Ortega is a safety trainer for CWM.
- 8 27. United Mine Workers of America (UMWA) is a labor union, and is affiliated with and
9 an associate of AFL-CIO and AFL-CIO, Utah Chapter.
- 10 28. Cecil Roberts is the International President of UMWA and is responsible for its actions.
- 11 29. Carlo Tarley is the Secretary-Treasurer of UMWA and is responsible for its actions.
- 12 30. Mike Dalpiaz is an international executive board member and/or district vice president
13 of UMWA and is responsible for its actions.
- 14 31. David Piaz is an international executive board member of UMWA and is responsible for
15 its actions.
- 16 32. Larry Huestis is an international representative of UMWA.
- 17 33. Dallas Wolf is an international representative of UMWA.
- 18 34. Bob Butero is a union organizer for UMWA.
- 19 35. Francisco Picado is a union organizer for UMWA.
- 20 36. Jim Stevenson is a union organizer for UMWA.
- 21 37. Archie Archuleta is a former administrator of minority affairs for the Salt Lake City
22 mayor's office, and at all pertinent times was an agent of UMWA.
- 23 38. At all pertinent times the following workers or former workers of CWM were agents of
24 UMWA acting within the scope of their authority.
- 25 39. Gerardo Aguilar is a worker of CWM.
- 26 40. Ricardo Chavez is a worker of CWM.
- 27 41. William (Bill) Estrada is a worker of CWM.

- 1 42. Hector Flores is a former worker of CWM.
- 2 43. Natividad Flores is a former worker of CWM.
- 3 44. Daniel Hernandez is a former worker of CWM.
- 4 45. Guillermo Hernandez is a worker of CWM.
- 5 46. Alyson Kennedy is a worker of CWM.
- 6 47. Berthila Leon is a worker of CWM.
- 7 48. Domingo Olivas is a worker of CWM.
- 8 49. Celso Panduro is a worker of CWM.
- 9 50. Rigo Rodriguez is a worker or former worker of CWM.
- 10 51. Gonzalo Salazar is a worker of CWM.
- 11 52. Jesus Salazar is a worker of CWM.
- 12 53. Jose Juan Salazar is a worker of CWM.
- 13 54. Ana Maria Sanchez is a worker of CWM.
- 14 55. Samuel Villa is a former worker of CWM.
- 15 56. AFL-CIO is an association of labor unions, and an association under Utah R. Civ. Proc. 17(d).
- 16 57. Andy Levin is the director of the AFL-CIO Voice@Work campaign.
- 17 58. AFSCME Council 6, AFL-CIO, is an association under Utah R. Civ. Proc. 17(d).
- 18 59. Philadelphia Council, AFL-CIO, is an association under Utah R. Civ. Proc. 17(d).
- 19 60. Patrick Eiding is the president of the Philadelphia Council AFL-CIO and is responsible
20 for its actions.
- 21 61. AFL-CIO, Utah Chapter, is an association under Utah R. Civ. Proc. 17(d).
- 22 62. Ed Mayne is president of AFL-CIO, Utah Chapter and is responsible for its actions.
- 23 63. Greater Southeastern Massachusetts Labor Council is an association under Utah R. Civ.
24 Proc. 17(d).
- 25 64. Paper, Allied-Industrial, Chemical & Energy Workers International Union (PACE) is a
26 labor union.
- 27 65. The Socialist Workers Party is a political party within the U.S.A.

- 1 66. The Militant is a newspaper owned and/or controlled by the Socialist Workers Party,
- 2 which is responsible for its content.
- 3 67. Argiris Malapanis is the Editor of the Militant and is responsible for its content.
- 4 68. Roger Calero is a leader of the Socialist Workers Party and a reporter for The Militant.
- 5 69. Guy Tremblay is the Web Administrator of the Militant and is responsible for the contents
- 6 of its website <http://themilitant.com>.
- 7 70. Connie Allen is a reporter for The Militant.
- 8 71. Joel Britton is a reporter for The Militant.
- 9 72. Anne Carroll is a reporter for The Militant.
- 10 73. Becky Ellis is a reporter for The Militant.
- 11 74. Guillermo Esquivel is a reporter for The Militant.
- 12 75. Betsy Farley is a reporter for the Militant.
- 13 76. Chris Hoepfner is a reporter for The Militant.
- 14 77. Frank Miller is a reporter for The Militant.
- 15 78. Pat Miller is a reporter for The Militant.
- 16 79. Teri Moss is a reporter for The Militant.
- 17 80. Anne Parker is a reporter for The Militant.
- 18 81. Francisco Picado is a reporter for The Militant.
- 19 82. Jay Ressler is a reporter for The Militant.
- 20 83. Marco Antonio Rivera is a reporter for The Militant.
- 21 84. Talmer Rosenfeld is a reporter for the Militant.
- 22 85. Bernie Senter is a reporter for The Militant.
- 23 86. Maggie Trowe is a reporter for The Militant.
- 24 87. Karen Tyler is a reporter for The Militant.
- 25 88. Maurice Williams is a reporter for The Militant.
- 26 89. The Salt Lake Tribune is a daily newspaper published in Salt Lake County, Utah.
- 27 90. Tom Baden is executive editor of the Salt Lake Tribune and is responsible for its contents.

1 91. Tim Fitzpatrick is managing editor of the Salt Lake Tribune and is responsible for its
2 contents.

3 92. Ron Morris is the World and State Desks News Editor of the Salt Lake Tribune and is
4 responsible for its contents.

5 93. Melissa Galbraith is the World and State Desks Assistant News Editor of the Salt Lake
6 Tribune and is responsible for its contents.

7 94. Rhina Guidos is a reporter for the Salt Lake Tribune.

8 95. Corey Hilton is a reporter for the Salt Lake Tribune.

9 96. Glen Warchol is a reporter for the Salt Lake Tribune.

10 97. Tom Wharton is a columnist for the Salt Lake Tribune.

11 98. The Deseret Daily News is a daily newspaper published in Salt Lake County, Utah.

12 99. John Hughes is the editor of the Deseret Daily News and is responsible for its contents.

13 100. Marjorie Cortez is an editorial writer for the Deseret Morning News.

14 101. Tiffany Erickson is a reporter for the Deseret Morning News.

15 102. Elaine Jarvik is a reporter for the Deseret Morning News.

16 103. Jennifer K. Nii is a reporter for the Deseret Morning News.

17 104. Lynnda Johnson is editor for the Price Sun-Advocate and is responsible for its contents.

18 105. Richard Shaw is a reporter for the Price Sun-Advocate.

19 106. Patsy Stoddard is an editor and reporter for the Emery County Progress and is
20 responsible for its contents.

21 107. Corey Bluemel is a staff writer/reporter for the Emery County Progress and also
22 writes for the Price Sun-Advocate.

23 108. Jobs With Justice is a network of coalitions made up of member organizations and
24 individuals, and is an association under Utah R. Civ. Proc. 17(d).

25 109. The Utah Coalition of Jobs With Justice is is a network of coalitions made up of
26 member organizations and individual, and is an association under Utah R. Civ. Proc. 17(d), and
27 is an associate of Jobs With Justice.

1 110. George Neckel is the director of Jobs with Justice, Utah coalition and is responsible
2 for its acts.

3 111. The Roman Catholic Church is a religious organization and is responsible for the acts
4 of George Niederauer as alleged herein.

5 112. The Roman Catholic Church, Salt Lake City, Utah Diocese, is a religious
6 organization and is responsible for the acts of George Niederauer as alleged herein.

7 113. George Niederauer is a Bishop of the Roman Catholic Church, Diocese of Salt Lake
8 City, Utah. His actions as alleged herein were done as an agent of the Roman Catholic Church
9 and his Diocese, acting within the scope of his authority.

10 114. Donald E. Hope is pastor of Notre Dame de Lourdes Parish in Price and Mission
11 San Rafael. His actions as alleged herein were done as an agent of the Roman Catholic Church his
12 Parish, acting within the scope of his authority.

13 115. Catholic News Service is a news publication of the Roman Catholic Church.

14 116. The Intermountain Catholic is a news publication of the Roman Catholic Church,
15 Diocese of Salt Lake City, Utah.

16 117. Barbara Stinson Lee is a reporter for the Intermountain Catholic.

17 118. The Arizona Indymedia (Independent Media Center) is a collective of media makers
18 and outlets, and is an association under Utah R. Civ. Proc. 17(d).

19 119. The Cleveland Indymedia (Independent Media Center) is a collective of media
20 makers and outlets, and is an association under Utah R. Civ. Proc. 17(d).

21 120. The Utah Indymedia (Independent Media Center) is a collective of media makers and
22 outlets, and is an association under Utah R. Civ. Proc. 17(d).

23 121. Mel Logan is a contributor to the Utah Indymedia.

24 122. The Oregon Labor Press Publishing Co., Inc. is a corporation owned by 20
25 AFL-CIO unions and councils.

26 123. The Northwest Labor Press is a newspaper owned by the Oregon Labor Press
27 Publishing Co.

1 124. Don McIntosh is an associate editor of the Northwest Labor Press.

2 125. Tapestry Against Polygamy (Tapestry) is an organization located in Salt Lake
3 County, Utah, and is responsible for the acts of Rowenna Erickson as alleged herein.

4 126. Rowenna Erickson is an individual residing in Salt Lake County, and a manager of
5 Tapestry. Her actions as alleged herein were done as an agent of Tapestry acting within the scope
6 of her authority.

7 127. The Center for Public Education and Information on Polygamy (CPEIP) is an
8 organization located in Salt Lake County, Utah, and is responsible for the acts of Carmen
9 Thompson as alleged herein.

10 128. Carmen Thompson is a principal of CPEIP and the self-professed author of its
11 website. Her actions as alleged herein were done as an agent of CPEIP acting within the scope of
12 her authority.

13 129. Hans G. Ehrbar is a professor at the Economics Department, University of Utah

14 130. National Organization for Women (NOW) is an association under Utah R. Civ. Proc.
15 17(d).

16 131. Listeners Community Radio of Utah, Inc. is a Utah non-profit corporation, that
17 owns and operates radio station KRCL, broadcasting at 90.9 FM.

18 132. Donna Land Maldonado is KRCL's general manager and is responsible for its acts.

19 133. Nicole Jones is KRCL's membership director and is responsible for its acts.

20 134. Utah Chapter of the National Organization for Women is an association under Utah
21 R. Civ. Proc. 17(d), and is affiliated with and an associate of NOW.

22 135. Andrea Moore-Emmett is president of the Utah Chapter of the National Organization
23 for Women.

24 136. Salt Lake City CodePINK is a women-initiated social justice advocacy group.

25 137. Susan Vogel is a managing member and agent of Salt Lake City CodePINK.

26 138. Utah Progressive Network is a coalition of organizations and individuals, and is an
27 association under Utah R. Civ. Proc. 17(d).

- 1 139. Lorna Vogt is the Director of Utah Progressive Network.
- 2 140. People for Peace and Justice of Utah is an association under Utah R. Civ. Proc. 17(d).
- 3 141. The Workers World Party is a socialist political party.
- 4 142. Workers World is a newspaper published by the Workers World Party.
- 5 143. The Joe Hill Dispatch is a news source whose ownership and management have not
6 yet been determined by Plaintiffs, found at the URL <http://www.joehilldispatch.org>.
- 7 144. Earth Island Institute, Inc. is a California corporation.
- 8 145. Byron Cannon is a history professor at the University of Utah.
- 9 146. Ernie Herrera is a former union miner.
- 10 147. Corey Hilton is chairman of the Building Trades Organizing Project.
- 11 148. Does 1-200 are individuals and organizations whose identities are not yet known to
12 Plaintiffs, who will be named as they are discovered. Many of the Doe defendants are believed to
13 be officers and agents of the named Defendants.

14

15 **JURISDICTION AND VENUE**

- 16 149. This court has subject matter jurisdiction pursuant to 29 U.S.C. §185.
- 17 150. This court has supplemental subject matter jurisdiction over Plaintiffs' pendant state
18 claims pursuant to 28 U.S.C. §1367(a).
- 19 151. Venue is proper in this court pursuant to 29 U.S.C. §185.

20

21 **FIRST CLAIM FOR RELIEF** 22 **(Unfair Labor Practices)**

- 23 152. All preceding and following allegations are incorporated here by reference.
- 24 153. Pursuant to 29 U.S.C. §159, IAUWU is and for over 20 years has continuously been
25 the duly elected exclusive bargaining representative for the workers of C. W. Mining Company
26 (CWM). Both the NLRB and the UMWA were directly involved in the initial election, and
27 recognized IAUWU as the exclusive bargaining representative of CWM's workers.

1 154. In September of 2003, UMWA and its agents as further alleged herein, in violation
2 of IAUWU's rights as the exclusive bargaining representative of CWM's workers, persuaded
3 approximately 75 of CWM's workers to leave their jobs and picket CWM in violation of the
4 National Labor Relations Act and the collective bargaining agreement between CWM and IAUWU,
5 with the object of forcing IAUWU out and UMWA in as the workers' bargaining representative,
6 and with the object of forcing CWM to recognize or bargain with UMWA as the representative of
7 CWM's workers, while IAUWU was certified as the representative of CWM's workers, and where
8 both the National Labor Relations Board and CWM had lawfully recognized IAUWU as the
9 bargaining representative of CWM's workers, and a question concerning IAUWU's representation
10 of CWM's workers could not appropriately be raised under 29 U.S.C. §159. IAUWU invited the
11 workers to use the grievance procedures under the IAUWU/CWM collective bargaining agreement,
12 but UMWA and its agents persuaded or coerced the workers to ignore the grievance procedure in
13 order to pursue UMWA's unlawful objective.

14 155. UMWA and its agents as further alleged herein induced and encouraged workers and
15 former workers of CWM, in violation of the National Labor Relations Act and the collective
16 bargaining agreement between CWM and IAUWU, to engage in a refusal in the course of their
17 employment to use, process, transport, or otherwise handle or work on materials or commodities
18 or to perform services, and to engage in an unauthorized, unlawful "wildcat" strike to further
19 UMWA's unlawful objectives as further alleged herein.

20 156. UMWA and its agents as further alleged herein persuaded and caused workers and/or
21 former workers of CWM, and other supporters of UMWA and the workers as further alleged
22 herein, to picket CWM in violation of the National Labor Relations Act and the collective
23 bargaining agreement between CWM and IAUWU, with the object of forcing CWM to recognize
24 or bargain with UMWA as the representative of CWM's workers, while IAUWU was certified as
25 the representative of CWM's workers, and where both the National Labor Relations Board and
26 CWM had lawfully recognized IAUWU as the bargaining representative of CWM's workers, and
27 a question concerning IAUWU's representation of CWM's workers could not appropriately be

1 raised under 29 U.S.C. §159, and where such picketing was conducted without a petition under 29
2 U.S.C. §159(c).

3 157. UMWA and its agents as further alleged herein persuaded and caused workers and/or
4 former workers of CWM, and other supporters of UMWA and the workers as further alleged
5 herein, to engage in secondary picketing of businesses other than CWM located over 120 miles
6 from CWM's place of business, in violation of the National Labor Relations Act and the collective
7 bargaining agreement between CWM and IAUWU, with the object of forcing CWM to recognize
8 or bargain with UMWA as the representative of CWM's workers, while IAUWU was certified as
9 the representative of CWM's workers, and where both the National Labor Relations Board and
10 CWM had lawfully recognized IAUWU as the bargaining representative of CWM's workers, and
11 a question concerning IAUWU's representation of CWM's workers could not appropriately be
12 raised under 29 U.S.C. §159, and where such picketing was conducted without a petition under 29
13 U.S.C. §159(c).

14 158. UMWA committed unlawful labor practices under 29 U.S.C. §158(b).

15 159. UMWA's officers and agents participated in, authorized, and/or ratified the above
16 unlawful acts of UMWA through its agents, and are personally liable as if they had committed the
17 acts themselves.

18 160. CWM is entitled to an award of damages against UMWA, its officers and agents in
19 an amount to be determined at trial, greater than \$1 million.

20 161. IAUWU is entitled to an award of damages against UMWA, its officers and agents
21 in an amount to be determined at trial.

22
23 **SECOND CLAIM FOR RELIEF**
24 **(Defamation)**

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

26 163. As used hereafter "the 'workers' " shall refer to those of the approximately 75 CWM
27 workers and former workers who in September of 2003 ceased working for CWM and participated

1 in picketing, speaking engagements, media interviews, and other activities related to having
2 UMWA recognized as the bargaining representative of CWM's workers.

3 164. There have been a large number of false slanderous and libelous statements about
4 IAUWU, its officers, CWM, its officers, directors, managers, and supervisors, published and
5 republished by Defendants *ad nauseam* as described below.

7 **DIRECT DEFAMATIONS BY UMWA**

8 165. On October 6, 2003, UMWA issued a press release, and published it on its website
9 at <http://www.umwa.org/coop/coop.shtml>, portions of which were also published in the
10 September-October 2003 issue of *United Mine Workers Journal*, stating:

11 At the United Mine Workers of America (UMWA) Special Convention last week in Las
12 Vegas, UMWA International President Cecil Roberts pledged the union will assist the
13 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.

14 Seven of the fired Co-op miners joined Roberts at the convention hall podium where their
15 spokesman, Jesus H. Salazar JR., described their plight - earning between \$5.25 and
16 \$7.00 per hour with "no health insurance and no benefits in an unsafe, underground
mine." ...

17 "... we were unjustly fired for defending our rights and protesting the mine's unsafe
18 working conditions," Salazar said. "We are determined to fight until this mine becomes
UMWA territory and we can put an end to the abuse and extreme level of exploitation
we have endured." ...

19 The Co-op workers struck the mine on Sept. 22 after management ... had suspended one
20 of their co-workers, UMWA supporter William Estrada ... It was the company's third
21 attempt to victimize a UMWA supporter in recent weeks, according to the Co-op miners.
22 "We all walked out in defense of our co-worker," explained Salazar ... "The company
refused to cooperate with us and fired us. We have been locked out because of our pro-
union activity." ...

23 [The worker delegation said] "We are tired of the abuses, lies and trickery of the fake
24 company-led 'union' that Co-op has maintained for years in the workplace.

25 166. On July 2, 2004, UMWA issued a press release, and also published it on its website
26 at <http://www.umwa.org/pressreleases/jul04/070204.shtml>, saying that when miners at CWM
27 halted production in a show of solidarity for Estrada, "Management responded by firing the

1 workers and locking them out.” The press release also repeated the miners’ statement that they
2 worked with no health insurance benefits and were forced to work in unsafe conditions that violate
3 MSHA regulations. Tarley said, “Some of the conditions these miners describe to us are
4 reminiscent of the early days of coal mining, when workers were treated more as property than as
5 human beings.”

6 167. On information and belief, the November-December 2003 issue of *United Mine*
7 *Workers Journal* publishes similar false and defamatory comments about IAUWA, its officers,
8 CWM, and its officers and supervisors, as will be shown through discovery and at trial.

9 168. On September 25, 2003 some of the workers participated in a rally in Salt Lake City
10 that was part of the Immigrant Workers Freedom Ride, at which they distributed a flyer prepared
11 by UMWA. Plaintiffs are not in possession of the flyer, but are informed and believe it contained
12 false and libelous statements against CWM IAUWU of the same general nature as the defamations
13 described elsewhere in this claim for relief, as will be shown through discovery and at trial.

14
15 **DEFAMATIONS IN *THE MILITANT*:**

16 169. The following false and defamatory statements were published in *The Militant*:

17 a. In an October 6, 2003 article entitled “Utah miners fight for union,” Rivera said:

18 “The press here reports that the Co-Op mine is operated by C.W. Mining Co. and is
19 owned by the Kingston family. This family has drawn considerable notoriety in recent
20 years after being accused of sexual abuse of young women through polygamous activity.”
21 Rivera also said that when the workers said they were not going back to work, “The
22 bosses responded to the workers by saying, ‘There is already a union here, and what you
23 are doing is illegal,’ referring to the company-organized ‘union.’ The workers at Co-Op
24 recently decided they needed a real union ...” [by which Rivera meant IAUWU is not
25 a real union]. Rivera also said, “Earlier that morning the company had suspended
26 Estrada ... This was the third attempt to victimize a UMWA supporter in recent weeks.
27 ... 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,

1 the workers tried to negotiate with the company to get Estrada 's job back. The bosses
2 refused. When the workers made it clear no one was returning to work until Estrada got
3 his job back, the company called the sheriff's department. The sheriff proceeded to tell
4 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."

5 b. In an October 13, 2003 article entitled "Locked-out coal miners in Utah fight for union."

6 Estrada and Rivera said the miners were "fighting a lockout by C. W. Mining Corp." They
7 went on to say:

8 "All 75 miners had walked out of the underground mine, protesting unsafe working
9 conditions and in defense of a co-worker who had been suspended for union activity. The
10 company refused to negotiate with a delegation of workers, fired everybody, and called
11 in the Emery county sheriff's deputies to kick them off the property. ... On September
12 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!'"

13 c. In an October 20, 2003 article entitled "Utah coal miners set up pickets in fight for freedom."

14 Rivera said:

15 "On September 22, all 75 miners walked out of this underground mine. They were
16 protesting unsafe working conditions and the suspension of a co-worker for union
17 activity. The company fired and locked out the workers ... " The article also reported
18 that Jaime Rodriguez said, "My cousin was fired on my fourth day on the job because
he had been trying many years ago to organize what we are doing today."

19 d. In an October 27, 2003 article entitled "Utah miners win support in fight against lockout."

20 Carroll said:

21 "[T]he lockout of 75 coal miners by the owners of the Co-op mine enters its fourth week
22 ... On September 22 the miners at Co-op walked off their jobs, protesting the suspension
23 of a worker and unsafe job conditions. The company, CW Mining, fired all the workers.
24 The miners were involved in a union-organizing drive. The next day the UMWA filed
unfair labor practice ... , stating: 'The regular hourly workforce ... were discriminated
against in regard to hire and tenure of employment by being discharged for protected,
concerted activity. It added that the company maintains an employer dominated 'union.' "

25 The article also reported:
26
27

1 (i) One miner, whose name was withheld, said the Co-op bosses "sent five men into a mine
2 with only one self-rescuer [an oxygen unit used for safety reasons] to recover mining
3 equipment."

4 (ii) Another miner said, "If you report an accident, you are laid off for three days and your
5 pay is cut."

6 e. In a November 3, 2003 article entitled "UMWA union locals in West back locked-out Utah
7 miners," Carroll said:

8 "On September 22, 75 miners at the Co-op underground coal mine were locked out by
9 the company. ... The miners halted production and gathered at the bosses' office and
10 tried for several hours to negotiate with the company to get the worker's job back. The
11 company refused, called the local sheriff, and ordered the miners off the property. The
12 miners were told that everyone was fired and not allowed back to work. For several
13 weeks before the lockout, the miners had been in contact with the United Mine Workers
14 of America (UMWA) and were having meetings to organize a union. They were
15 responding to unsafe job conditions, low pay, lack of pension and health-care benefits,
16 and abusive treatment by the bosses. The company began threatening and suspending
17 workers in an attempt to intimidate them. At one point the company threatened to bring
18 in the immigration police. ... At the mine there is a company union. All the officers
19 are mine bosses, workers there reported. There are no "union" meetings or elections of
20 "union" officers."

21 The article also republished the following defamatory statements:

22 (i) Ernie Herrera, a former union miner who had worked for 23 years at the nearby
23 Hiawatha mine until it closed, came to the picket line on his own. He got out of his car and
24 exclaimed, "I'm proud of you guys. Everyone knows the Kingstons have been abusing the
25 people at this mine for years. They think they're above the law."

26 (ii) Panduro said, "The day we united against the owners, it was because we had hit a wall.
27 Every time we had asked for better working conditions they told us to keep our heads down
and keep working or we could be out the door."

f. A November 3, 2003 article entitled "UMWA statement backs embattled Utah miners"
republished the previously described October 6, 2003 UMWA press release.

1 g. In a November 10, 2003 article entitled "Utah students organize support for locked-out Co-op
2 miners," Carrol said:

3 "The miners were involved in a union organizing drive before the lockout. They had been
4 talking to ... (UMWA) about the need to get a union organized to help fight the abusive
5 working conditions and low wages. On September 22, the Co-op miners walked off their
6 jobs, protesting the suspension of a worker and unsafe job conditions." The article also
7 repeated part of a letter by the workers stating: "Workers got together and went to
8 management to resolve the problem ... but the company called the sheriff and told workers
9 to leave the property. The company claims workers were not fired, but people could not
10 return to the mine. The next day workers were stopped at the gate, with the police present
11 again, and were told that only 10 people who were on a list would be allowed to work and
12 the rest were fired. ... For the company to try to justify paying any miner \$5.50 an hour
13 only sheds light on their arrogant belief that they have the right to exploit human beings.
14 ... Supplementary pay and bonuses that are tied to production and attendance are only
15 another tool in the company's hand. If a worker refuses to carry out an unsafe work
16 practice they are likely to lose their bonuses and supplementary pay."

17 h. In a November 17, 2003 article entitled "Locked-out Utah miners and allies take battle for
18 union to Salt Lake City," Rivera said, "On September 22, miners walked out of this
19 underground mine. They were protesting unsafe working conditions and the suspension of a
20 co-worker for union activity. The company fired and locked out the workers ..." The article
21 also republished the following defamatory statements by others:

22 (i) Bertila Leon said, "it is important to stand up against years of injustice. ... We would
23 sometimes force them to fix some unsafe situation if we pushed hard enough, but in general
24 you would point out the problems and the boss would do nothing."

25 (ii) Stevenson said, "We're going to keep this battle going until they come into the 21st
26 century. The dark days are gone."

27 i. In a November 24, 2003 article entitled "Salt Lake City unionists donate food and funds to
locked-out Co-op miners," Carroll said, "The coal miners have been fired ..." The article
also republished the following defamatory statements by others:

(i) Daniel Hernandez said:

"On September 22, the company unjustly fired and locked out 75 miners for standing
together in solidarity with a co-worker they had suspended for three days with intent to

1 discharge. The company called the sheriff to order us off the property. We had been
2 talking to the UMWA about organizing a union. The company has a so-called union and
3 all of the officers are bosses.”

4 (ii) “The Co-Op fight represents a basic struggle for decent human rights,” said David
5 Brown, chair of the Workmen’s Committee of PACE Local 8-758, who attended the meeting.
6 “Our wages in PACE-organized refineries are like what most members of the UMWA make.
7 But the Co-Op miners do not even have the basic rights to live and survive. The Kingstons
8 are taking advantage of these miners.”

9 j. A November 24, 2003 editorial entitled “Support the Co-op miner!” reported

10 “At the union’s recent special convention in Las Vegas, Jesús Salazar, a leader of the Co-Op
11 fight, addressed the delegates and said: “We are here looking for the UMWA’s indispensable
12 support because we were unjustly fired for defending our rights and protesting the mine’s
13 unsafe working conditions. We are determined to fight until ... we can put an end to the
14 abuse and extreme level of exploitation we have endured.”

15 k. A December 1, 2003 editorial entitled “Solidarity with Utah miners!” said:

16 The Co-Op miners, most of whom were born in Mexico, are standing up for their rights
17 in response to the brutal drive that the coal barons are waging nationwide to jack up their
18 profits. On top of the regular exploitation through the system of wage slavery, these profits
19 result from longer work hours, increased levels of coal dust miners breathe, refusal to pay
20 black lung benefits, speed-up and other work rules that result in gratuitous deaths in the
21 mines, disregard for the environment, and efforts to weaken or keep out the union. ...

22 The 74 miners at Co-Op are fighting for decent wages, benefits, job safety, and dignity.
23 Most of the workers there earn only \$5.25 to \$7 an hour and have no health insurance or
24 retirement benefits. They are forced to work under unsafe conditions in violation of federal
25 mine regulations. The conditions at Co-Op were responsible for three deaths in the last
26 half of the 1990s—half of the total coal mine deaths in the state. A UMWA statement notes
27 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, the Kingstons, are a capitalist family notorious in the region for their
brutality against workers they employ in their \$150 million business empire. 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 ...

l. A December 1, 2003 article entitled “Coal miners in Utah stand firm on picket line”
republished the following defamatory statements by others:

1 (i) The article reported a "Julio Salas" as saying:

2 "The company had been trying to suspend a number of us to stop our efforts to defend
3 our rights and to form a union. Leading up to that Monday they had interrogated people
4 about our meetings, had tried to disrupt a meeting we organized outside the mine, and
5 had threatened us with all kinds of things—including setting the immigration police on
6 us. The next step was the suspension of a worker named Oscar Sosa, after they had tried
7 to suspend me the previous Friday. In both cases we got the company to either take us
8 back or wipe out the suspension altogether. On the 22nd all the workers went to
9 management. We tried to have a discussion with them to resolve what seemed to be
10 clearly an attempt to fire William Estrada, a maintenance worker. We also had all kinds
11 of other issues to discuss, including safety questions in the mine. But they opted for
12 calling the Sheriff's Department. ... They basically threw us out of the mine after the
13 cops told the company they would not have room to lock us all up if they arrested us.
14 The cops escorted the workers off the company property ..."

15 In fact, CWM did not employ a "Julio Salas." Either *The Militant's* reporter Marco Antonio
16 Rivera made the story up, or the person he allegedly quoted was Jesus or Juan Salazar.

17 (ii) Estrada said

18 "The company is falsely claiming that the officers of their union are just leads, and are
19 not our bosses. ... [T]hese supposed leads not only organize production, but suspend
20 us, fire us, write our evaluations, give or take away raises, and in general never lift a
21 finger to give us a hand on the job. [Estrada's crew foreman] is supposed to be the union
22 president, but neither he nor any of the 'union officers' have ever explained a single thing
23 about a union to any worker. There isn't a single case where this 'union' has ever
24 defended a worker from company attacks."

25 m. In a December 8, 2003 article entitled "Union miners, oil workers in Utah back Co-op coal
26 strikers," Rivera said:

27 "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 ..."

1 n. In a December 15, 2003 article entitled "Salt Lake rally boosts striking Co-op miners," Rivera
 2 said, "The labor battle broke out in public on September 22 when the miners walked out to
 3 protest unsafe working conditions and the suspension of a co-worker for union activity. The
 4 company, owned by the Kingston family, fired the 74 workers ..."

5 o. In a December 22, 2003 article entitled "Utah miners build rally to win broader support for
 6 union fight," Miller said:

7 "The 75 coal miners are involved in an unfair labor practice strike against CW Mining, also
 8 known as Co-Op, for illegally being fired September 22, after they protested the unjust
 9 suspension of a co-worker. ... The working conditions imposed by the bosses at Co-Op
 10 were responsible for three deaths in the last half of the 1990s—half of the total coal mine
 11 deaths in Utah. An October 6 UMWA press release noted that as miners were taking steps
 12 to organize a union, they were fired en masse after they protested the arbitrary dismissal of
 13 one of their co-workers. ... The Co-Op mine is part of the Kingstons' \$150 million business
 14 empire that stretches across six western states. This clan is widely hated among working
 15 people in the region not only for its vicious antilabor practices, but also for its record of
 16 convictions of several of its members for abuse of young women in the family who have been
 17 forced into polygamous marriages with relatives and beaten when trying to escape."

18 p. In a December 29, 2003 article entitled "Utah solidarity rally backs Co-op miners," Tyler said:

19 "The miners ... have drawn the line against the bosses' profit drive that includes operating
 20 the mine under increasingly dangerous conditions. ... The Kingstons are the owners of the
 21 Co-Op mine. They are notorious not only for the superexploitation of their employees in
 22 their \$150 million empire across six western states, but also for the convictions of prominent
 23 members of the clan for abuse of young women in the family forced into polygamous
 24 marriages with relatives who have beaten them when they tried to escape."

25 q. A December 29, 2003 article entitled "UMWA "Support Co-op miners strike"" republished
 26 a defamatory article published by UMWA, which stated:

27 Seventy-four coal miners at [CWM] were illegally fired from their jobs on Sept. 22,
 28 2003, after they protested the suspension of a co-worker and unsafe job conditions. The
 29 mine, owned by the Kingston family, had suspended UMWA supporter William Estrada
 30 for refusing to sign a disciplinary warning the week before. At the time, it was the
 31 company's third attempt to victimize a UMWA supporter, according to the Co-Op
 32 miners. These workers contend they were fired and locked out by the company because
 33 of concerted activities and unsafe conditions. ... [They] allege:

- Most workers lack medical insurance ... ;
- Miners are forced to work under unsafe conditions in violation of Mine Safety &
 Health Administration regulations ... ;

- 1 • Workers are forced to use defective and unsafe machinery;
- 2 • Workers are not provided adequate training by the company;
- 3 • Workers are abused and mistreated by management; and

4 [Jesus Salazar said] "we were unjustly fired for defending our rights and protesting the
5 mine's unsafe working conditions. We are determined to fight until this mine becomes
6 UMWA territory and we can put an end to the abuse and extreme level of exploitation
7 we have endured. We all walked out in defense of our co-worker. "The company
8 refused to cooperate with us and fired us. We have been locked out because of our
9 pro-union activity. ... [Kennedy said] "We are tired of the abuses, lies and trickery of
10 the fake company-led 'union' that Co-Op has maintained for years in the workplace."

- 11 r. In a January 12, 2004 article entitled "Co-op strikers force gov't to investigate mine safety,"
12 Carroll said:

13 The coal miners have been on strike for three months against CW Mining, also known
14 here as Co-Op. The company, owned by the Kingston family, locked out the miners
15 September 22 after they had walked off the job to protest the suspension of one of their
16 fellow workers, William Estrada, and unsafe working conditions. The miners were
17 involved in organizing themselves into the United Mine Workers of America (UMWA),
18 ... One of the issues in the strike is the dangerous mining conditions and lack of adequate
19 training for the miners. ... Alejandro Medina ... died after a rib ... fell on him in 1999.
20 MSHA cited the company at the time with four 104d violations, which mean that the
21 bosses knowingly caused the conditions that led to the death. ... [In] Bear Canyon #1,
22 miners have always complained of dangerous roof tops and inadequate roof supports.
23 "This mine is very dangerous," said Rodriguez. "After roof falls at the entry way, the
24 bosses sent us in through a hole in the return. That is the only entry and only exit now.
25 We were never sure if we were going to come out after we went in. If the roof collapses
26 there, you're trapped. ... One miner said he told the investigators that he received only
27 two hours of training and was charged \$100 for the class given to him by José Ortega.
According to several miners who reported similar problems, the investigators said it is
illegal to charge for the eight-hour annual refresher. Another miner said that the initial
training he received from Ortega lasted three days, two hours per day, at Ortega's house.
He was charged \$300 and was told by Ortega to say he had gotten 40 hours of new miner
training—instead of six—if he was asked by MSHA inspectors or the bosses. ... One
miner said he explained to investigators that bosses used intimidation and threats against
the workers who complained about unsafe conditions or injuries on a regular basis. He
said the crew he was on would ride up the steep mountain into the mine in the back of
an open pick up truck driven by a boss. On one shift the crew told the boss to stop at the
office for supplies. The boss slammed on the brakes, throwing the crew in the back all
around. The miner said he was thrown against the side of the truck jamming his finger.
When he described the incident and the injury to the production foreman, he replied, "I
don't want to hear you complaining about your boss or you won't have a job here

1 anymore." the miner said. One of the miners interviewed was Jesús Salazar, who has
2 worked at the Co-Op mine for four years as a mechanic. "During all the time I have
3 worked at Co-Op, the company has always forced workers to operate unsafe equipment."
4 Salazar said. "Even after an MSHA inspector tagged equipment out of service, the
foremen would order the workers to operate it unrepaired, after the inspector left.
Numerous injuries occurred because of it."

5 s. In a January 19, 2004 article entitled "Socialist workers in UMWA, UNITE focus on
6 campaign for solidarity with Utah miners," Ressler and Farley said:

7 "The Co-Op strikers ... walked off the job September 22 to meet with management to
8 protest unsafe working conditions and the suspension of a co-worker for union activities.
9 The company responded by calling the sheriff and locking them out. ... The Co-Op
10 miners are standing up for their rights in face of a brutal offensive by the bosses
throughout the coal industry."

11 t. In a January 19, 2004 article entitled "Utah miners plan tour in California to win support,"
12 Miller said. "[The workers were] fired illegally on September 22 when they protested the
13 unjust suspension of a co-worker."

14 u. In a January 26, 2004 article entitled "Utah strikers reject mine bosses' ploy of talks without
15 UMWA," Esquivel said:

16 "The company illegally fired all 75 workers on September 22 when they protested the
17 unjust suspension of a co-worker for union activity. ... The company is demanding that
18 the negotiations be done under the existing "contract" with the company-controlled union,
19 the International Association of United Workers Union. The miners said the
company-controlled union is made up of officers who are all bosses and relatives of the
Kingston family, the owners of the mine, and that it never represented the interests of the
workers."

20 v. A January 26, 2004 article entitled "Socialists in UFCW campaign to win support for miners"
21 republished the following defamatory statements by others:

22 (l) Calero said:

23 "Miners in general are outraged by the conditions Co-Op miners face: working with
24 defective equipment, arbitrary wage incentives and bonuses, being forced to work while
25 injured. ... Bosses at Co-op told workers they would never be able to do anything.
26 They said the workers would get a raise 'when pigs fly.' "

1 (ii) Dean Hansen and other members of UFCW Local 342 distributed fact sheets at their
2 packing plant. [On information and belief, the fact sheets contained statements similar to those
3 alleged herein, defamatory of CWM and IAUWU.]

4 w. In a February 2, 2004 article entitled "Salt Lake picket backs Co-op strike," Esquivel and
5 Moss said:

6 "[The miners] rejected a ploy by CW Mining ... to report back to work under the same
7 working conditions as before. The bosses' 'offer' included the condition that the workers
8 must accept the company-run union as their bargaining representative and not the
9 UMWA." The article also reported that Olivas said, "We are here because ... we're
fired of all the mistreatment, abuses, and lies we've endured for years at Co-Op
mine—and all at minimum wage!"

10 x. In a February 2, 2004 article entitled "Striking Utah miners on labor tour in Bay Area,"
11 Senter said:

12 "The workforce of 75 at the Co-Op mine was fired to the person by the bosses September
13 22 for protesting unsafe working conditions, attempting to organize into the United Mine
14 Workers of America (UMWA), and standing up to disciplinary actions by the company
15 against union supporters." The article also reported: "HERE members asked about the
16 company union at the mine where the union officers are the mine bosses. [Juan] Salazar
explained that the company created this 'union' just to get in the way of the workers
organizing themselves into a real union, the UMWA. "

17 y. A February 9, 2004 article by Picado entitled "Colorado miners' locals mobilize for Utah
18 strikers" republished a defamatory statement by Gonzalo Salazar:

19 "This company fired us unjustly for carrying out union activity. All of the miners
20 decided to come down from our post to protest the unjust suspension of a coworker who
21 they alleged had not done his work correctly. What is really behind our firings is our
22 protests against the unsafe, the bad working conditions in this mine. ... We will not
23 stand any more for the lies and trickery of the so-called union that the bosses have in the
mine. That 'union' is composed of bosses and they are all members of the Kingston
family."

24 z. In a February 16, 2004 article entitled "Minnesota union officer visits striking Utah miners,"
25 Carroll said, "All 75 workers at the Co-Op mine ... were fired September 22 for protesting
26 unsafe practices by the bosses on the job, defending co-workers the company victimized for
27 such conduct, and for trying to organize themselves into the UMWA."

1 aa. In a February 23, 2004 article entitled "Day of Solidarity boosts striking Utah miners." Moss
2 and Carroll said:

3 "The miners have been on strike for nearly five months to protest unsafe working
4 conditions and victimization of union supporters by the bosses ..." They also republished
5 this defamation by Olivas: "No longer should any worker go through the years of
6 exploitation that we have endured. ... We as miners at Co-op have endured decades of
7 exploitation."

8 bb. In a February 23, 2004 article entitled "Minnesota unionists back Utah miners." Ellis said:

9 "The 75 striking miners at the Co-Op mine, most of them Mexican immigrants, were
10 fired September 22 for protesting unsafe practices by the bosses on the job, defending a
11 co-worker the company victimized for demanding safe working conditions, and for trying
12 to win union recognition for the UMWA at the mine."

13 cc. A March 1, 2004 article by Esquivel entitled "Co-op miners speak to Utah students"
14 republished these defamations by others:

15 (i) Sanchez said there CWM has no separate locker room or bathroom facilities for the
16 women miners, and that it is not uncommon for miners to keep working with fractured arms
17 and legs under conditions imposed by the mine owners.

18 (ii) Estrada said:

19 "Safety is an important issue. Three of the last six deaths in coal mines in Utah have
20 taken place at Co-Op, and most accidents go unreported. At Co-Op the company makes
21 deductions from your pay if you report an accident or damage equipment." He also said
22 MSHA recently issued a number of safety citations against CWM only because numerous
23 miners have provided the agency with testimony on unsafe working conditions and lack
24 of proper mine training."

25 (iii) Rowenna Erickson said "the Kingstons" would be scared if they found out she is siding
26 with the miners since she knows about their "illegal dealings." She said, "They cheat on
27 paying their employees and file fraudulent reports concerning accidents and deaths both in the
28 mine and in their many other enterprises."

29 dd. In a March 1, 2004 article printing letters to the editor, *The Militant* and its editor republished
30 the following defamations:

1 "These exploiters are holding off the formation of a union, when the right of free
2 association is a right won many years ago and is accepted and recognized by the whole
3 world. This backward attitude shows that they want to go on exploiting and abusing the
4 workers, and violating their rights. The right to organize in the UMWA is ... a natural
5 right of humanity; the bosses are still living in the epoch of the cave-dwellers, and we are
6 obliged to wake them up to reality. ... To be able to defend this right it is necessary to
7 organize against this feudalistic company, which is backed by the Sheriff and by the
8 system manipulated by the imperialist administration in Washington."

9 ee. A March 8, 2004 article by Esquivel entitled "Coal strikers in Utah speak to miners' locals
10 in the West" republished these defamations:

11 (i) Jesus Salazar said, "'On September 22, we were fired from Co-Op for walking out in
12 defense of a co-worker and demanding safer conditions. "They threw the cops on us and
13 kicked everybody out of mine property."

14 (ii) Panduro said, "At Co-Op the bosses intimidated workers to operate unsafe equipment.
15 They take away your pay if you question anything. Many miners have injured themselves
16 working on machinery that the bosses refuse to fix."

17 ff. In a March 15, 2004 article entitled "Utah coal strikers strengthen picket line," Carroll said:

18 "The walkout began September 22, when the company fired the workforce of 75 to the
19 person because the workers, overwhelmingly from Mexico, protested unsafe working
20 conditions and demanded the reversal of the suspension of one of the workers and an end
21 to victimization against a number of union supporters on the job." The article also
22 reported that the Atlanta Labor Council, on February 11, 2004, adopted a resolution
23 'outlining the unsafe conditions, low wages, and discrimination by the company against
24 the Co-op miners.' "

25 [That resolution necessarily was obtained from defamations by the defendants.]

26 gg. In a March 22, 2004 article entitled "Utah miners reject ploy by bosses to undercut coal strike,"

27 Esquivel said:

"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."

hh. An April 13, 2004 article by Trowe entitled "Boston-area unions hold tour for Co-op strikers"
reported:

1 "Sánchez and Estrada answered questions about the company "union" that the company
2 pretends is a legitimate representative of the workers in order to keep miners from
3 bringing in the UMWA. "The bosses are members of that so-called union," Sánchez
4 explained. "It never represented us or did anything for us."

- 5 ii. In an April 20, 2004 article entitled "Striking miners in Utah press fight for safety on the job,"
6 Carroll and Esquivel said:

7 "Under federal law, inexperienced underground miners are required to take a 32-hour
8 classroom course and an eight-hour orientation at the mine site. Each following year, all
9 miners are required to take an eight-hour refresher course provided by the company. At
10 the Co-Op mine, for many years the company employee giving these classes has been
11 Ortega. Miners report, however, that he has given only about six hours of training on
12 the 32-hour class and as little as two hours on the refresher course at his house, and that
13 for new miner training he charges as much as \$350, in cash only."

- 14 jj. In an April 27, 2004 article entitled "Utah miners fight attempt to revoke picket trailer
15 permit," Esquivel and Rosenfeld reported on a Utah Department of Transportation decision
16 to revoke a permit for the miners' picket trailer, and claimed "this is a serious attack instigated
17 by the Co-op bosses on their right to be at the mine's entrance." They also reported that
18 "strikebreakers had spread rumors from the company that it was going to tow away the trailer
19 before the strikers knew about it."

- 20 kk. In a May 4, 2004 article entitled "Utah miners score victory, defeat ban on picket trailer,"
21 Esquivel reported Juan Salazar as saying:

22 "We beat back the company in their attempt to take away our right to be in front of the
23 mine," and reported several miners as saying "The company put pressure on state agencies
24 to revoke the permit for the picket trailer and circulated rumors among scabs that the picket
25 line itself was about to come down."

- 26 ll. In a May 4, 2004 article entitled "Strikers vow to keep Co-op picket line," *The Militant*
27 republished the April 13 *Price Sun Advocate* article entitled "Strikers vow to continue Co-op
mine picket line," further described below.

- mm. In a May 11, 2004 article entitled "Co-op miners salute victory at Point Blank," Esquivel
republished these defamations:

(l) Gonzalo Salazar said CWM had instigated an attempted ban on the miners' picket trailer.

1 (ii) Many miners said they were never trained on basic safety conditions underground such
2 as mine escape ways, emergency evacuations, roof and ground controls and ventilation plans,
3 hazard recognition, and mine gases. They said instead of 32 hours of classroom instruction
4 required by federal law, the trainer at Co-op only gave four to six hours of classes.

5 nn. In a May 18, 2004 article entitled "Co-op miners in Utah target Kingston-owned businesses."
6 Carroll and Roselfeld reported Moore-Emmett as saying:

7 "The Kingstons exploit women and children in every possible way. They break labor
8 laws, they don't pay their workers a decent wage. Some workers are paid in scrip. It
9 is some of the worst exploitation in the U.S."

10 The article has been republished by the United States Mine Rescue Association at the website
11 <http://groups.yahoo.com/group/MineRescue/message/1271>.

12 oo. In a May 25, 2004 article entitled "Striking Utah miners speak at UMWA locals in west."
13 Carroll and Esquivel said:

14 "The 75 Co-Op miners were fired to a person on Sept. 22, 2003, for protesting the
15 suspension of a co-worker and unsafe conditions on the job. The miners had been having
16 meetings with the UMWA to get themselves organized into a real union, unlike a
17 company "union" the bosses had set up to prevent the workers from being organized.
18 These underground coal miners were being paid between \$5.15 and \$7.00 an hour with
19 no benefits."

20 pp. In a May 31, 2004 article entitled "Longshore union on West Coast expands support for Co-op
21 strike." Esquivel said:

22 "The 75 coal miners here have been on strike for more than seven months. They were
23 fired Sept. 22, 2003, for demanding safe working conditions and representation by the
24 UMWA, and protesting the victimization of union militants by the bosses. ... On April
25 13, a delegation of Co-op strikers, UMWA officials, and UMWA retirees forced the Utah
26 Department of Transportation and Bureau of Land Management (BLM) to back off from
27 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."

qq. In a June 7, 2004 article entitled "UMWA files for union vote at Co-op mine in Utah,"
Esquivel republished these defamations:

1 (i) Dalpiaz said:

2 "For years, some of these miners have been forced to pay dues to a company dominated
3 'union' that most of them did not know about until it surfaced during the current labor
4 dispute. ... The miners [actually, UMWA] are taking advantage of an required
5 open-window period in the 'so-called contract the Co-op miners toiled under, so a real
6 union can file a representation petition in an attempt to challenge or supplant'
7 [IAUWU]."

8 (ii) The miners said the "company union" never represented any of the workers when the
9 company victimized them. They said IAUWU's officers are all bosses and relatives of the
10 owners of the mine ... , who are notorious for superexploitation of its employees, and that
11 they aim to be represented by a "real union" [implying IAUWU is not a real union].

12 (iii) The miners said they were forced to labor under unsafe conditions resulting in injuries
13 and deaths on the job.

14 (iv) Gonzalo Salazar said:

15 "We explained to the scabs why we need a real union. Some signed but others didn't
16 because they were afraid of the threats by the company. Some scabs have told us the
17 company says it would fire any worker if they vote for the UMWA and that Co-Op would
18 rather shut the mine down than recognize the UMWA. ... The scabs also told us that
19 the company is organizing meetings at the bathhouse promising raises of one and two
20 dollars if they side with the company union."

21 rr. In a June 14, 2004 article entitled "UMWA strike in Utah wins support from PACE union,"

22 Carroll said:

23 "The 75 coal miners were fired to the person from their jobs Sept. 22, 2003, by CW
24 Mining, Inc. ... The miners were fired for union activity. They had been talking to the
25 United Mine Workers of America (UMWA) about how to get a union organized at the
26 mine. Strikers say that they were getting paid between \$5.25 and \$7.00 an hour,
27 compared to average wages of about \$15 an hour at underground mines. The workers,
who are in their majority of Mexican descent, had no health insurance." The article also
reported this defamation by Dalpiaz: "For years, some of these miners have been forced
to pay dues to a company dominated 'union' that most of them did not know existed until
it surfaced during the current labor dispute. The miners are taking advantage of a legally
required open-window period in the so-called contract the Co-Op miners toiled under, so
a real union can file a representation petition."

1 ss. In a June 28, 2004 article entitled "Utah miners 'On with fight for a real union'," Britton and
2 Miller said:

3 "With the assistance of the UMWA, the fired miners filed a petition for a representation
4 election against the "International Association of United Workers Union (IAUWU)," an outfit
5 run by the Kingston family, which owns the mine." Britton and Miller also claimed, "On
6 June 3, at the suggestion of UMWA officials following the labor board's reported claim
7 legitimizing the company union, the strikers suspended their picketing on the road leading to
8 the mine."

9 [The article implies UMWA suspended picketing unilaterally and voluntarily. Actually,
10 NLRB had resolved a claim IAUWU filed against UMWA for unlawful labor practices in the
11 form of illegal recognitional picketing, by forcing UMWA to discontinue its unlawful
12 picketing under a settlement agreement in lieu of a NLRB decision against UMWA.] The
13 article also republished these defamations:

14 (i) During a June 5, 2004 cookout and rally, some of the miners, led by Estrada, displayed
15 a banner saying, "On with the fight for a real union." [This was a statement that IAUWU is
16 not a real union.] Estrada said the miners were illegally fired for union activity.

17 (ii) Dalpiaz said, "The NLRB says the miners at Co-op were fired illegally and there will be
18 an election where workers can decide to vote for a real union." [Again claiming IAUWU is
19 not a real union.]

20 (iii) Jesus Salazar said, "The IAUWU 'is a false 'union' that has never supported us. The
21 union officers are bosses who are responsible for setting production goals and disciplining and
22 firing workers."

23 ii. In a July 6, 2004 article entitled "Striking Utah coal miners on labor tour in Pacific
24 Northwest," Carroll and Hoepfner said CWM "began firing the miners most active in trying
25 to bring in the UMWA." The article also republished these defamations:

26 (i) Juan Salazar said, "Because of years of horrible conditions [at CWM] myself and others
27 started to organize into the United Mine Workers of America." Salazar called the conditions
at CWM "brutal," and added, "Workers are forced to work when they are injured. I broke

1 my left arm and was forced to work for a month and a half with a broken arm doing jobs that
2 were dangerous. We have no health insurance. Medical expenses for on-the-job injuries are
3 taken from our checks. And our average pay is \$5 to \$7 an hour while the average for the
4 mining industry is \$15 to \$20 an hour."

5 (ii) Salazar also said, "They tried to fire me, but my co-workers protested and I got my job
6 back. Another co-worker was fired. The company tried to hide behind the charge that the
7 worker wasn't doing his job well but we know it was because of his union activism. When
8 the company realized how solid we were the company said 'fine, you're all fired' and called
9 police to get us off the property."

10 (iii) Kennedy said, "Because of the solidarity we have gotten and the pressure put on the
11 Kingstons (the company owners), the (NLRB) upheld the charge filed Sept. 23, 2003, by the
12 UMWA that the miners were illegally fired for union activity."

13 uu. In a July 20, 2004 article entitled "Bosses are forced to rehire striking Utah coal miners,"
14 Carroll and Esquivel said the NLRB had ordered CWM "to reinstate all of the 75 miners who
15 were illegally fired last September." They went on to say:

16 "On Sept. 22, 2003, 75 coal miners were fired from their jobs at the Co-Op mine, owned
17 by C.W. Mining. They were fired because they had contacted the UMWA about getting
18 a union organized at the mine. The miners were being paid between \$5.15 and \$7.00 an
19 hour with no benefits. A company union has existed at the mine for many years.
20 Workers have submitted evidence that the officers of this 'union' are bosses and are
21 related to the Kingstons, the wealthy family that owns the mine. ... Prior to that date
22 [09/22/03], the miners had been talking to UMWA organizers about how to get a real
23 union organized at the mine. Bosses began harassing and suspending the miners for this
24 activity. They had cornered miners alone underground and questioned them about 'the
25 meetings they were having with the UMWA.' The bosses also tried to disrupt a meeting
26 the strikers had organized outside the mine, and had threatened workers, most of whom
27 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 miners also reported that the draft settlement includes a back pay order."

The article also reported:

(i) Panduro said:

1 "I am one of the 75 miners unjustly fired on Sept. 22, 2003, by Co-Op. We were working
2 for this company under dangerous conditions with low pay and no benefits. ... We have
3 won the right to have a union election and now the company has been forced to give us our
4 jobs back. ... But we're also facing an obstacle in the upcoming election—the company
5 union, which has bosses as members. We have been fighting to get rid of this fake union
6 but the NLRB still recognizes it, even though it only represents the bosses."

7 (ii) Dalpiaz announced the workers would be returning to the job "because the NLRB has put
8 down in writing its ruling that the miners were fired illegally."

9 vv. In an August 3, 2004 article entitled "Back on job, Utah miners face war by Co-op bosses,"

10 Calero and Britton said:

11 "After nine and a half months on strike, coal miners returned to work at the Co-Op mine
12 here July 12 to face a war by the mine bosses aimed at preventing them from winning
13 representation by the United Mine Workers of America (UMWA). The all-out
14 management offensive during the first week on the job, miners report, included a
15 12-and-a-half-hour rotating shift schedule; selective enforcement of safety rules; a rapidly
16 accumulating series of verbal and written warnings on trumped-up charges against
17 supporters of the UMWA; and blatant violations of the recent settlement the National
18 Labor Relations Board (NLRB) brokered between the UMWA and the Co-Op owners,
19 which mandated the company to make the strikers an unconditional offer to return to
20 work. ... The National Labor Relations Board ruled that they had been fired illegally
21 and ordered C. W. Mining to reinstate them. The NLRB ruled against Co-Op on unfair
22 labor practice charges filed by the UMWA last September. ... Despite explicit
23 provisions in this settlement prohibiting threats or harassment of union backers by the
24 company, several miners report the bosses have asked them whether they are being paid
25 by the UMWA to be there. 'What the supervisors are doing is illegal, they are violating
26 the agreement, and we are documenting every incident,' said Juan Salazar."

27 The article also republished these defamations:

(i) Héctor Flores said he was written up for "not having his safety glasses on" while he was
cleaning them during lunch break, and that the section supervisor, Chris Petersen, then went
on to give the same warning to another miner for this "offense."

(ii) Kennedy said Cyril Jackson, a maintenance foreman and Kennedy's supervisor, told her
that mine manager Charles Reynolds had instructed him to write her up for "low work
performance," a trumped-up charge, a day after Kennedy had spoken at a rally where she
"exposed the low wages, lack of benefits, and brutal conditions the Co-Op bosses impose on

1 the miners." She said Jackson told her that if she went to the "proper structure" of the
2 company "union" he believed the charges would be removed from her file.

3 (iii) Estrada said he was singled out first for a verbal and then a written warning on false
4 charges of working unsafely. He also said according to maintenance logs, no preventive
5 maintenance has been done in the mine since the company "locked out 75 miners" who
6 stopped work on September 22. Estrada said, "This lack of preventive maintenance shows
7 the bosses' total disregard for the life and limb of the workers."

8 ww In an August 3 2004 article entitled "Miners rally in Salt Lake City," Miller and Britton
9 reported that at a rally in Salt Lake City on July 17, 2004, sponsored by Jobs With Justice,
10 the Central Labor Council, and the Utah chapter of AFL-CIO, miners Ricardo Chávez, Jesús
11 Galaviz, and Alyson Kennedy "spoke about their ongoing struggle to win union recognition
12 for the United Mine Workers of America." More than 150 trade union officials from across
13 the country, spurred on by Chávez, Galaviz, and Kennedy, chanted slogans supporting
14 UMW (and thereby opposing IAUMW). Chávez and Galaviz's remarks were translated by
15 Archie Archuleta. Dalpiaz said "these miners have exposed the exploitative conditions at the
16 Kingston-run mine." On information and belief, Chávez, Galaviz, Kennedy, and Dalpiaz
17 made slanderous statements at the rally substantively similar to the other defamatory
18 statements described herein.

19 xx. In an August 17, 2004 article entitled "Utah safety board cites Co-op mine; UMW backer
20 to get back pay," Esquivel said:

21 "The Mine Safety and Health Administration (MSHA) in Utah cited C.W. Mining July
22 27 for discriminating against Ricardo Chávez, a union backer at the Co-Op mine,
23 according to miners who saw the citation posted on the company bulletin board at the
24 bathhouse. MSHA ruled the company was in violation of the Mine Safety and Health Act
25 when mine manager Charles Reynolds prevented Chávez from reporting to work July 13
26 on the basis of "lack of training." ... Of the 32 hours of training mandated by MSHA
27 for a new coal miner, Ortega gave Chávez only six hours of instruction and charged him
more than twice the average cost for such a class in the state of Utah. ... Now Chávez
is entitled to receive back wages for the time the company prevented him from working
- July 13 to August 1 - and to reimburse him for the \$150 he spent for the classes. ...

1 Chávez was one of 75 coal miners who were fired to the person by the Co-Op bosses last
2 September because they fought for safety on the job, to end victimization of co-workers,
3 and to win representation by the UMWA. After a lengthy strike, the National Labor
4 Relations Board (NLRB) ruled the miners had been fired illegally ... UMWA supporters
5 at Co-Op say they are confronting blatant discrimination by management on the job.
6 Alejandro Ramírez and Juan Carlos López, for example, have recently received warnings
7 for accumulating too many attendance "occurrences" going back to the time before the
8 strike began ... Another miner who reported to work July 12 was terminated by the
9 company because he didn't show up the next day. His car had broken down, he said.
10 The miners say all these actions violate the NLRB settlement in which the company
11 promised in writing it "will not discharge, give oral or written warnings to, suspend, or
12 otherwise discriminate against you because you engage in concerted activity protected by
13 Section 7 of the Act or other activity on behalf of United Mine Workers of America." "

14 yy. In an August 31, 2004 article entitled "Utah miners in trench war with bosses to win UMWA
15 representation," Carroll and Miller said:

16 "The miners ... say they are making progress in ... challenging the legitimacy of the
17 company 'union,' the so-called International Association of United Workers Union
18 (IAUWU). Miners say they are also documenting and standing up to selective
19 enforcement of safety rules, a series of verbal and written warnings against supporters
20 of the UMWA, and flagrant violations of the recent settlement the National Labor
21 Relations Board (NLRB) negotiated between the UMWA and Co-Op owners, the
22 Kingstons. ... Labor solidarity, they note, was crucial in forcing the company to make
23 an unconditional offer to return to all the strikers, after the NLRB ruled in June that the
24 75 miners had been fired illegally last September. ... In order to give a facelift to the
25 company outfit, officers of the IAUWU organized a "union" meeting on August 6. ...
26 When they [UMWA supporters] arrived, about a dozen people were in the room ...
27 These included Chris Grundvig, Dana Jenkins, and Warren Pratt, who are "officers" of
the IAUWU — president, vice-president, and secretary treasurer, respectively. Nevin
Pratt, IAUWU international vice-president was also there. All four are either bosses or
directly connected to the Kingston family ... Miners report that before the strike that
began Sept. 22, 2003, the IAUWU never had meetings or any real presence in the mine.
The officers of this outfit did nothing to represent the workers and were supervisors at
the mine. The "union" contract and other "union" material were hard to get ... The
Co-Op bosses maintain a complicated system of pay grades, supplemental wages, and
bonuses to keep pay low and workers in line. ... In spite of the IAUWU "contract"
language, many miners report they are not even being paid for the level of work they are
performing, and it is almost unheard of to reach the maximum level of pay. ... The
pro-UMWA miners at the IAUWU meeting said they used the gathering to expose the
pro-company nature of this outfit. "Why do you have bosses as your officers?" one

1 miner asked. ... At one point during the meeting, miners said, the Kingston
2 representatives announced that workers would not be getting paid to attend the 'union'
3 gathering. At that point, the seven surface workers who had come to the meeting early
4 became visibly upset, miners reported. It had been customary, they said, while the strike
5 was going on, for Co-Op to give those who went to the company union meeting two extra
6 hours' pay. ... Alyson Kennedy reported that her crew, which includes several members
7 of the Kingston family, was called into the office on July 28 by Cyril Jackson, a
8 maintenance foreman at the mine. She said that Jackson instructed the miners they were
9 not allowed to say anything about a union, pro or con, on mine property. This is in
10 direct violation of the NLRB agreement signed by the UMWA and C.W. Mining. Other
11 miners also report that the bosses continue to selectively threaten and harass pro-UMWA
12 workers at the mine as the company tries to ... undercut support for the union. ...
13 Trying to combine the carrot with the stick, the company is continuing to promote an
14 'Employee of the Month' award, which it started during the strike. Of the eight awards
15 given so far, five have been handed to foremen, all Kingston family members. Empty
16 honors, poverty pleading, threats, and intimidation continue to be the weapons of choice
17 of the Co-Op bosses in their war to prevent the workers from winning representation by
18 the UMWA. Nevin Pratt told several workers after the company 'union' meeting that not
19 only was the company too poor to give the miners a raise, but that the UMWA was
20 jeopardizing their jobs by insisting on back pay for the nearly 10 months the miners were
21 illegally fired. In a thinly veiled threat, miners said, Pratt told a group of miners that
22 since Mexican workers may not have all their documents in order they would not be
23 eligible for back pay and could jeopardize themselves by insisting on back wages.

16 The article also reported:

17 (i) Chavez said, "What we were told by the 'union' officers was always - before the strike,
18 and now - in defense of the company. Nevin Pratt would respond as if he were speaking
19 directly for the company."

20 (ii) Jesus Salazar said, "We were able to challenge these officials and stand up to them,
21 showing to those miners who did not join the strike that this 'union' is the same as the
22 company."

23 (iii) Kennedy said that she has faced stepped-up harassment by the bosses. Kennedy is given
24 the use of the foremen's bathhouse to change her clothes at the beginning and end of the
25 workday. For 15 minutes before her shift and 30 minutes afterward the bosses' bathhouse is
26 designated "Ladies Only" and Kennedy can use the facility. One day a boss deliberately used
27 the bathroom just before the shift started, forcing Kennedy to wait and be late for her job.

1 Kennedy's boss then reprimanded her verbally for not being on time. Kennedy also said her
2 direct supervisor told her that bosses have filed two written complaints against her, based on
3 the fact she was using the bathhouse five minutes before her designated time.

4 (iv) Estrada said recently a bearing in the tailpiece roller of the conveyor belt wore out and
5 had to be replaced, and the bosses claimed he was responsible, alleging he failed to do proper
6 maintenance on the equipment.

7 zz. In a September 7, 2004 article entitled "Miners win labor support in Seattle for Utah fight,"
8 Allen said: "González and Estrada were two of the 75 miners the bosses fired Sept. 22, 2003,
9 for their efforts to bring the UMWA into the mine. ... the National Labor Relations Board
10 (NLRB) ruled they had been fired illegally ... The mine owners operate a company "union,"
11 the so-called International Association of United Workers Union (IAUWU), which has started
12 having meetings to counter the UMWA organizing effort. The three officers of this phony
13 union, the miners said, are supervisors in the mine. Estrada described how UMWA supporters
14 went to an August 6 IAUWU meeting and exposed the character of the outfit as a boss setup."

15 aaa In a September 14, 2004 article entitled "Utah miners plan events to mark one year of union
16 fight ..." Esquivel and Miller said:

17 "The NLRB ordered C.W. Mining, also known as the Co-Op mine, to reinstate the 75
18 workers the company fired Sept. 22, 2003, because they protested victimization of union
19 supporters by management, and demanded safe working conditions and representation by
20 the UMWA. The NLRB ruled the miners were fired illegally, are eligible for back pay
21 for losses during the strike, and can vote for the union of their choice. The labor board
22 ordered a union election ... Workers will have a choice of voting for representation by
23 the UMWA, a company outfit called the International Association of United Workers
24 Union, or no union. ... As a way of keeping workers in line, the Co-Op bosses pay
25 workers an arbitrary 'supplemental bonus' each week, which is a small percentage of
26 hourly wages. The bosses can take away the bonus for any number of reasons—getting
27 hurt on the job, damaging equipment, attendance, alleged poor work performance,
asserting safety rights or saying something the boss doesn't like, among others—workers
said. This threat of loss of pay is always held over workers' heads.

24 The article also reported:

25 (D) Bill Estrada said, "The Co-Op bosses blatantly harass UMWA supporters at the mine.
26 They are waging this kind of war against us even though all such activity by the bosses is
27 supposed to be illegal. ... When the bosses are not doing the harassment directly, their

1 relatives working at the mine will do it for them. ... Management has a lot of family
2 members working in the mine right now trying to dissuade workers from going with the
3 UMWA, and they obviously organize what they are going to say and do. Out of the blue, one
4 day last week, all of the Kingstons started saying, 'I like working here, I like the conditions
5 at this mine.' They just repeat what the company says."

6 (ii) The miners speaking at the Salt Lake meeting also said that the company is not hiring new
7 workers at the mine, even though the mine is shorthanded, for fear new employees would be
8 partisans of the UMWA in an election. They said all miners are working 12-hour shifts, four
9 days a week, and are routinely asked and pressured to work longer hours and extra days.

10 (iii) Ricardo Chavez said: "A boss sent a co-worker of mine to tell me to stay for a second shift
11 after coming off a 12-hour graveyard shift. They wanted me to work another 15 1/2 hours!"

12 (iv) Kennedy said the bosses and their hirelings routinely harass her verbally. She said she
13 was recently badgered [by the bosses] about her reasons for working at the mine.

14 (v) Panduro said while the bosses alternate the union supporters against whom they direct the
15 most severe harassment, the company continues to operate the mine unsafely, which has a big
16 impact on all workers. He said roof bolters at the mine are paid on a piece-rate basis, which
17 means that an already dangerous job is made more hazardous due to pressure to make more
18 money through speed-up and continuing to work when equipment is broken. He said, "Right
19 now one of the roof bolters doesn't have working torque gauges. An operator doesn't know
20 if he is applying proper torque and securing the roof top correctly. Our crew has reported this
21 to our supervisors, but they expect us to work with the defective equipment regardless. ...

22 The company, with its fake union, is not offering anything for the workers here."

23 bbb In a September 21, 2004 article entitled "Utah miners affirm support for UMWA
24 representation at meeting of boss 'union'," Carrol and Esquivel said:

25 Twenty miners at the Co-Op mine here reaffirmed their determination to be represented by the
26 United Mine Workers of America (UMWA) at a September 3 meeting of the company
27 "union," workers reported. This was the second meeting of the International Association of
United Workers Union (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

1 July, the company has felt obliged to organize these monthly "union" meetings to keep up the
 2 facade that the IAUWU is a labor organization, the miners said. ... [In addition to Chris
 3 Grundvig]. The other IAUWU officers present were Dana Jenkins and Warren Pratt,
 4 vice-president and treasurer of the local, respectively, and Nevin Pratt and Vicky Mattingly,
 5 the vice president and treasurer of the "international." All six of these "officers" are relatives
 6 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, and ... mandated that a vote be held later this year.

7 The article also reported:

8 (i) Jesús Salazar said for the thirty years of IAUWU's existence it has never represented the
 9 workers.

10 (ii) Estrada said, "The company uses existing bonuses and supplementary pay to discipline
 11 workers. For example, if workers report an accident, both are taken away."

12 (iii) Juan Salazar and other miners said they demanded that harassment of the women miners
 13 by the brother of the mine manager be ended. "We do not tolerate disrespecting women
 14 miners," Salazar said. "This is something that has to stop."

15 (iv) The miners said they are seeking UMWA representation because they want a real union,
 16 being a claim that IAUWU is not a real union.

17 (v) The miners said the mine bosses tried to prevent some miners from attending the meeting,
 18 and that the company threatened to take away their holiday pay if they missed work to attend
 19 the meeting.

20 ccc In a September 28, 2004 article entitled "Utah miners build October 2 action to mark one year
 21 of union fight," Carrol and Esquivel said:

22 "The NLRB ruled earlier this spring that the Co-Op bosses had fired illegally the 75
 23 miners a year ago for union organizing activity and ordered the company to reinstate the
 24 dismissed workers. ... The company owners, the Kingston multimillionaire clan, are
 25 using a boss outfit, called the International Association of United Workers Union, to
 26 prevent a UMWA victory. ... On display at the information table was the latest article
 27 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 identical or 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

1 between \$5.25 and \$7 an hour, while wages for underground coal miners average above
2 \$17 across the country. They also work under unsafe job conditions. ...

3 The article also reported:

4 (i) On Saturday, September 11, supporters of UMWA set up an information table at the
5 "Price Alive" street fair in Huntington, Utah. On information and belief, the people
6 manning the table, including Ricardo Chávez, Bill Estrada, Berthila León, and Dallas Wolf,
7 published false and defamatory statements to the public substantively similar to the statements
8 described herein.

9 (ii) Chávez, Estrada, León said they had won their jobs back but not the union nor a decent
10 contract – this although they do have a union, the IAUWU, and a decent contract.

11 (iii) Mark Downs, a retired member of International Longshore and Warehouse Union
12 (ILWU) Local 19 in Seattle, said, "At the Co-Op mine there are many young workers who
13 are super-exploited ..."

14 (iv) ILWU Local 19 introduced a resolution that was approved by the Washington State Labor
15 Council, reading in part: "Whereas, workers who have been trying to negotiate a living wage
16 for the work they do and establish safe working conditions on the job have been persecuted
17 for trying to affirm their hope to establish a decent and human workplace," and "Whereas, the
18 reality of this persecution has been authenticated by recent decisions of the National Labor
19 Relations Board (NLRB) handed down in support of the workers ..."

20 170. The above defamatory publications were republished on *The Militant's* web site,
21 <http://themilitant.com>, where they remain available for viewing by the world.

22
23 **DEFAMATIONS IN THE SALT LAKE TRIBUNE:**

24 171. The following defamatory statements were published in the *Salt Lake Tribune*:

25 a. A September 26, 2003 article entitled "Tensions mount in dispute at Utah mine" reported:
26
27

1 (i) "Union leaders" (on information and belief, meaning UMWA agents believed to include
2 Estrada, Kennedy, Jesus Salazar, and/or Picado) said labor tensions between the operators of
3 CWM and their work force resulted in a lockout of 75 workers.

4 (ii) Jesus Salazar "said the workers were told they were fired and sheriff's deputies ordered
5 them off the property. Later, guards at the mine entrance had a list of miners to keep out."

6 (iii) Picado said IAUWU is a sham, "a totally fake organization that the bosses use to stop the
7 workers from organizing themselves."

8 (iv) Mayne described IAUWU as "a plot," and "a throwback to the '20s," when employers
9 would set up a company union to keep workers from organizing.

10 (v) Picado said the workers were forced to work with injuries and unsafe equipment and were
11 deprived of workers' compensation benefits.

12 (vi) Picado said the workers (who had walked off the job) "are locked out."

13 b. An October 12, 2003 article entitled "Immigrant miners take on Kingstons" reported:

14 (i) Estrada said CWM fired him September 22, 2004 for trying to organize a union.

15 (ii) The "miners" said that when they came to Estrada's defense, a foreman told them they
16 were all fired, and when some tried to return to work the next morning, only a handful on a
17 company checklist were allowed onto the property.

18 (iii) Corey Hilton accused CWM of abusing its workers.

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

21 (v) Panduro said the "workers" united against the owners because the workers hit a wall.
22 He said, "Every time we had asked for better working conditions, they told us to keep our
23 heads down and keep working or we could be out the door."

24 c. An October 31, 2003 article entitled "Co-op Mine workers say dignity at stake in their strike"
25 reported:

26

27

- 1 (i) Picado said "We're here to expose the abuses of mine workers." [This statement carried
2 with it the false implications that abuses of workers occurred at CWM, and that IAUWU was
3 powerless to do anything about it.]
- 4 (ii) Sanchez and Leon said they had to undress in the same rooms as their male workers.
- 5 (iii) Punduro said medical insurance was not provided for workers or their families, and
6 workers were often exposed to unsafe conditions in the mine.
- 7 (iv) "The workers" said "the family", meaning those in charge of CWM, set up a fake union,
8 and that they used the fake union to draw money out of workers' paychecks without providing
9 benefits to workers.
- 10 (v) Stevenson said CWM was employing "slave labor."
- 11 d. A December 11, 2003 article entitled "Rally Celebrates Utah's Role in Labor Movement"
12 reported Sanchez telling a crowd that working conditions at CWM were "bad and dangerous."
13 On information and belief, Sanchez then made further false and defamatory statements
14 describing so-called "bad and dangerous" working conditions at CWM.
- 15 e. In a December 20, 2003 article entitled "Striking Latino miners have little to celebrate this
16 year," Wharton falsely described the workers who walked off the job at CWM mine as "part
17 of an unfortunate American industry habit of exploiting immigrant workers." Wharton also
18 reported the following statements:
- 19 (i) Estrada said working conditions at CWM were "unsafe," and that injured miners who
20 dared report an accident would have their pay docked.
- 21 (ii) Estrada said miners threatened to call immigration officials to scare the workers.
- 22 (iii) Estrada said "the Kingstons," meaning those in charge of CWM, called the sheriff [on
23 picketing workers] reporting illegal trespass.
- 24 (iv) Estrada said "the miners want their jobs returned and back pay for being illegally fired
25 for union activity."
- 26 f. In a May 5, 2004 article entitled "A show of support: Utah's Catholic leader speaks out,
27 offers prayers for striking miners," Guidos said "For more than seven months, the workers

1 have been locked out of their mining jobs at CW Mining Co.” Guido also said the workers
2 have been asking for their jobs back “with the right to organize a union,” which amounted to
3 a false assertion that CWM’s workers not only had not exercised their right to form a union,
4 the IAUWU, but that CWM had tried to prevent its workers from organizing a union. The
5 article also reported Niederauer as saying the right to fair wages, for safe working conditions,
6 and for the right to associate as workers were all being denied to the workers at CWM.

7 g. In a July 3, 2004 article entitled “Miners win back their jobs,” Warchol and Guidos said that
8 CWM workers “were fired and locked out” of their jobs at CWM, and that Estrada “rallied
9 the others last year after he was fired for union-organizing activity.” The article also reported:

10 (i) Estrada said “the Kingstons,” meaning those in charge of CWM, had illegally fired the
11 workers who walked off their jobs in September 2003.

12 (ii) The “miners” said IAUWU is a “yellow-dog” or company-run union.

13 (iii) Estrada said, “How can [we] have a union that is owned by the company?”, by which
14 Estrada meant IAUWU is owned by CWM.

15 (iv) Kennedy said the worker “were fired from our jobs.”

16 h. In a July 7, 2004 article entitled “Miners march back to work after settlement, armed with a
17 settlement,” Warchol said 49 coal miners “climbed the canyon to demand their jobs back
18 under a federal settlement,” falsely implying the workers (actually no more than 30 in number)
19 were demanding their jobs, rather than merely accepting a unilateral offer of re-employment
20 by CWM. Warhol said the workers “also won ... back pay.” The article further reported:

21 (i) The miners said a settlement between CWM and UMWA validated their claims that
22 CWM fired and locked them out for trying to organize under UMWA.

23 (ii) Butero said, “This is not over until these workers are covered by a true labor agreement,”
24 although CWM’s workers are and always have been covered by a true labor agreement
25 between CWM and IAUWU. In effect, Butero was falsely stating IAUWU’s collective
26 bargaining agreement is not a true labor agreement.

27 (iii) The “miners” said IAUWU is a bogus, company controlled union.

1 I. In a July 10, 2004 article entitled "Victory for miners" the *Salt Lake Tribune* said, "The miners
 2 won the right to return to their jobs, get back pay and hold an election to determine whether they
 3 will be represented by the United Mine Workers of America, by a rival union affiliated with the
 4 company, or by no union at all." The *Tribune* also said: "For the miners and UMWA, it was
 5 a glimpse into the past, where "Historically, immigrant workers were easier for employers to
 6 exploit. Today, companies can threaten to turn noncompliant workers over to immigration
 7 authorities. ... History, it seems, is repeating itself in Utah's coal country." The article further
 8 reported that the "workers" said, "When they talked about forming a union last September ...,
 9 their leader was fired and the rest of them were locked out."

10 j. In a July 14, 2004 article entitled "Workers return to jobs at Huntington mine," Guidos said
 11 "the workers were allowed to return to work after being fired. The article further reported:

12 (i) Estrada said the miners were locked out last September by CWM.

13 (ii) The "workers who picketed the company" said IAUWU is a "yellow-dog union."

14 (iii) Jesus Salazar said "we want to attain a real union," which was to say IAUWU is not a
 15 real union.

16 (iv) Kennedy said female workers still don't have a separate place to shower or change.

17 172. The above defamatory publications were republished on the *Salt Lake Tribune's* web
 18 site, <http://www.sltribune.com>, where they remain accessible to the world.

19
 20 **DEFAMATIONS IN THE *DESERET MORNING NEWS*:**

21 173. The following false and defamatory statements were published in the *Deseret*
 22 *Morning News*:

23 a. An October 30, 2003 article entitled "Coal miners to picket owners of Emery site" reported:

24 (i) The workers said CWM "exploited, intimidated and abused its workers."

25 (ii) Estrada said nearly 80 workers staged a walk-out of CWM in late September, protesting
 26 meager wages and exploitative conditions, and that CWM had locked them out.

- 1 (iii) Estrada said CWM knew the workers had been holding meetings to fight for better wages
2 and working conditions, and "Once they found out about it, they've been intimidating people,
3 saying they're going to close the mine.
- 4 (iv) Piaz said "These workers are exploited" and what CWM was doing to the workers "went
5 out with slavery."
- 6 (v) Estrada said CWM mine operators were "forcing workers to work overtime, forcing them
7 to do illegal things, operate dangerous equipment.
- 8 (vi) The workers told Neckel of dangerous working conditions, defective equipment and
9 forced overtime.
- 10 (vii) Neckel said IAUWU does not represent workers' interests.
- 11 b. In a December 3, 2003 article entitled "Stand up for the right to unionize," Neckel said that
12 miners at CWM were fighting an uphill battle to win [union] recognition (ignoring the fact
13 they were already represented by IAUWU), and that when the workers began to organize,
14 CWM began to fire suspected leaders.
- 15 c. In a January 18, 2004 article entitled "Kingstons exploitative, protesters say," Jarvik said,
16 "The miners [were] fired last September after they complained about what they said were
17 unsafe conditions ...", and that Estrada "was among about 75 workers who staged a walkout
18 at the Co-op Mine in Huntington and were later fired" because CWM "did not want the
19 miners to unionize." The article further said the workers were protesting what they said were
20 "exploitative conditions, including defective machinery that has caused injuries, a lack of
21 training and health-care benefits, and meager wages."
- 22 d. In a March 23, 2004 article entitled "Kingstons' treatment of miners is appalling " Cortez said the
23 workers complaints about unsafe working conditions and a move to organize a union cost them
24 their jobs. Cortez also said the workers "want a union to represent their interests," meaning
25 IAUWU did not represent the interests of its bargaining unit. Cortez also said "The wages paid
26 these men is an outrage. Some in the labor movement go so far to call it a human rights violation.
27 At a minimum, these men have been horribly exploited." The article further reported:

- 1 (i) "National labor organizers", meaning UMWA and its organizers, said "Estrada and
2 approximately 74 others were illegally fired from their jobs."
- 3 (ii) Cortez republished a false statement earlier reported in the *Arizona Republic*, that "two
4 Kingston Clan sons ... were expected to work in the family mine as young as 12 years old."
- 5 c. In an April 26, 2004 article entitled "Let workers decide on forming union," Levin said:
6 "Bill Estrada works as a coal miner in the Co-op Mine in Huntington owned by the
7 Kingston family. Bill and his co-workers decided to form a union to win improved job
8 safety standards, earn a living wage and have a say in their working conditions. ... Both
9 [MSHA] and [NLRB] are investigating the miners' claim that management has violated
10 safety and health laws as well as labor laws. Bill was the leader among his co-workers
11 trying to improve conditions at the mine, and he was fired because of his efforts to form
12 a union with his co-workers. When this happened, the majority of workers at the mine
13 walked out in support of him. When they returned to work the next day, the company
14 refused admittance to the 74 miners who stood together in support of Bill's efforts."
- 15 f. A May 2, 2004 article entitled "Miners take on the Kingstons" reported:
16 (i) Estrada said after CWM executives learned he and 73 others were attempting to align
17 themselves with UMWA to combat unsafe working conditions, the workers' move cost all of
18 them their jobs, with CWM using things like claims of negligence to target people.
19 (ii) Neckel said CWM operated with no regard for the safety or well-being of its employees.
20 (iii) Neckel said, "They're exploiting people, plain and simple. In my opinion, this looks
21 very much like organized crime."
22 (iv) Estrada said CWM charges its miners for any tools they use, that "It comes right out of
23 our pay."
24 (v) Estrada said CWM routinely uses a slave labor force.
- 25 g. In a July 4, 2004 article entitled "Miners plan to return to their jobs," Tiffany Erickson said:
26 "Striking miners in central Utah are now making plans to return to their jobs after being
27 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

1 who were illegally fired. Last September, 75 coal miners were fired from their jobs at
2 the Co-op mine owned by C. W. Mining in Emery County."

3 Erickson also falsely said a union election was scheduled in August, and that "The labor
4 board's decision also includes a back pay order." The article further reported:

5 (i) Kennedy said the miners were fired after contacting the United Mine Workers about
6 getting a union organized at the mine.

7 (ii) Kennedy said a "company union" [referring to IAUWU] has existed at the mine, but all
8 of the owners are bosses and are related to the owners of CWM.

9 (iii) Kennedy said before the "strike" those who contacted UMWA were cornered, harassed
10 and even suspended by the mine's management.

11 (iv) Kennedy said "We are determined to get a real union at this mine, a union contract where
12 the wages and benefits are all negotiated and agreed upon by the workers." This statement
13 falsely implied that the existing collective bargaining agreement between IAUWU and CWM
14 was not such a contract.

15 h. In a July 7, 2004 article entitled "Co-op miners say battle has just begun," Nii said, "Ana
16 Maria Sanchez had only worked at the mine for a month when she was fired for aligning with
17 the pro-unionizers." The article further reported:

18 (i) Butero said (regarding CWM's offer to rehire the workers), "This is not a total victory
19 until these workers get covered by a true labor agreement," amounting to a statement that
20 IAUWU's existing collective bargaining agreement is not a true labor agreement.

21 (ii) Sanchez said tensions had been brewing and peaked in late September 2003. Sanchez said,
22 "For days before that, even, we were protesting the conditions at the mine - which added fuel
23 to the fire. She said there were no bathroom facilities for female workers, that the roof of the
24 mine was in "cave-in condition" and that workers were not provided with proper safety or work
25 equipment, or if they were, it was at an outrageous price, charged by the company.

26 (iii) The workers said IAUWU is nothing more than a "yellow dog", a puppet organization
27 for the owners of CWM.

1 (iv) Vogel characterized CWM as a "heinous polygamist engine of the Kingstons," and said
 2 "They treat women, children and workers like garbage, and the way they've treated these
 3 miners as an example of that."

4 I. In a July 8, 2004 editorial article entitled "Victory is first step for miners," *Deseret Morning*
 5 *News* said:

6 "The miners ... were fired from their jobs last fall for attempting to organize a union to
 7 address poor pay and mine safety issues. The National Labor Relations Board has said
 8 the mine owners ... fired the miners illegally. The NLRB said the miners should be
 9 reinstated ... The NLRB validated the miners' contention that they were fired illegally
 10 ... This victory was a result of the miners' dogged determination ... and the assistance
 11 of local, state and international union activists, religious leaders and volunteers dedicated
 12 to the cause of social justice ..."

13 174. The above defamatory publications were republished on the *Deseret Morning News's*
 14 web site, <http://deseretnews.com>, where they remain available for viewing by the world.

15 **DEFAMATIONS IN THE EMERY COUNTY PROGRESS:**

16 175. The following false and defamatory statements were published in the *Emery County*
 17 *Progress* :

18 a. In a November 11, 2003 article entitled "Miners Picket," Patsy Stoddard reported:

19 (i) The miners cited low wages, unsafe conditions, intimidation by supervisors, and no health
 20 insurance as their reasons for picketing.

21 (ii) Stevenson said when the miners tried to return to work the next day after problems with
 22 one fired worker, CWM had a list of miners they would let through to return to work and only
 23 four or five miners were named on the list and the others were fired.

24 (iii) Stevenson and the workers said the workers were forced to operate unsafe equipment
 25 under unsafe conditions including unstable roof conditions.

26 (iv) Stevenson said, "We want the customers back east to know that they are burning coal
 27 mined with slave labor."

1 (v) Stevenson said, "These workers lived in fear, if they were hurt on the job, they couldn't
2 collect workmens' compensation because they were expected to be back on the job or they
3 would lose their jobs even if they were injured."

4 (vi) Stevenson said, "One of the Co-op supervisors stopped the other day and talked to the
5 picketers and told them they were all going to be arrested."

6 (vii) Steven said of IAUWU: "Their company union is illegal and it's phony and operated
7 by the management and none of the workers belong to it. They have taken advantage of these
8 immigrant workers. ... These immigrant workers have been exploited ..."

9 b. In a December 23, 2003 article entitled "Co-op Rally Draws Crowd," Bluemel said, "The
10 strike began when a worker complained to the CW Mining management concerning unsafe
11 conditions in the mine and union activity. Two other miners had been disciplined for the same
12 reasons the week before." The article also reported that Dalpiaz said, "These miners work
13 for one of the most brutal companies around. ... Our entire union knows about this strike and
14 they all support us. We need to stop this ruthless treatment of miners."

15 c. A February 3, 2004 article entitled "Striking Miners to Hold Rally" reported that Chavez,
16 Kennedy, Juan Salazar and Meza spoke at union meeting in California, where, on information
17 and belief, Kennedy and Salazar published defamations against CWM and IAUWU
18 substantively similar to those described herein. Meza did not even speak at the meeting, and
19 on information and belief, did not support Kennedy or Salazar in their defamations.

20 d. In a May 11, 2004 article entitled "Bishop Visits Miners," Patsy Stoddard reported the
21 miners "told of unsafe working conditions and wages well below other coal mines. The
22 miners said they lacked benefits and were forced to work when they were injured. They told
23 the story of a miner with an injured arm who returned to work too soon and the doctor told
24 him because he returned to work too soon the arm would take much longer to heal."

25 e. In a July 6, 2004 article entitled "Striking Co-op Miners Receive Hope," Patsy Stoddard said:
26 "On September 22, 2003, 75 coal miners were fired from their jobs at the Co-op mine,
27 owned by C. W. Mining. They were fired because they had contacted the UMWA about

1 getting a union organized at the mine. The miners were paid between \$5.25 and \$7.00 an
2 hour with no benefits. A company union has existed at the mine for many years. All of the
3 officers of this "union" are bosses and are related to the Kingstons, the wealthy family that
4 owns the mine. ... Prior to [September 22, 2003], 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."

5 The article also reported the miners said "the draft settlement includes a back pay order.

6 176. The above defamatory publications were republished on the *Emery County Progress's*
7 web site, <http://www.ccprogress.com>, where they remain available for viewing by the world.

9 DEFAMATIONS IN THE PRICE SUN ADVOCATE

10 177. The following false and defamatory statements were published in the *Price Sun*
11 *Advocate*:

12 a. In a September 30, 2003 article entitled "Co-op miners walk of job, participate in UMWA
13 rally at Price," Shaw reported:

14 (i) When CWM disciplined Estrada, Kennedy said, "We wanted a meeting with management
15 over this problem and some others when we went down to the office after we had heard what
16 was happening with Billy. They refused to meet with us and told us to go home. They even
17 brought in the Emery County sheriff to back them up."

18 (ii) Kennedy said CWM told all employees who walked off the job that they were fired.

19 (iii) The workers said IAUWU was a "company union," that the company started the union,
20 and that all the officers of IAUWU are bosses in the mine.

21 (iv) Kennedy said, "Only a few workers belong to the union. They have begun calling the
22 bosses their 'lead men' so that they fit into the union membership." Estrada also said, "Very
23 few workers belong to the union."

24 (v) The workers said a worker was ordered to do something by a boss and then was
25 threatened with the loss of his job for doing it.

1 (vi) Kennedy said. "One of the problems I saw is that the mine gets its water supply from an
2 area of the mine that is caved in. They sent some workers in there to work on something and
3 most of them cleared out because they could see how dangerous it was."

4 b. In a letter published on October 21, 2003 entitled "Miners rebuttal at the Co-op mine."
5 Estrada, Panduro, Villa, Aguilar, Guillermo Hernandez, Rodriguez, Gonzalo Salazar, Daniel
6 Hernandez, Jesus Salazar, Kennedy, Florez, Sanchez, and Jose Juan Salazar said:

7 From the end of August through September 22 (when the miners were thrown out
8 of the mine) the company has been carrying out an unlawful campaign of harassment,
9 threats, intimidation and disciplinary actions against the miners at Co-op. This has
10 included threats about deportation, since the great majority of workers are immigrants.
11 It has included direct intimidation in the form of interrogations in the work place (some
12 up to two hours long) and also the increase in disciplinary write-ups for work related
13 issues, which the personnel director admits the company was doing.

14 When the company got word of a meeting organized by the workers at the
15 Huntington Town Hall they sent four supervisors to disrupt the meeting. The bosses were
16 not able to intervene because the miners changed the venue given the threats made by the
17 company.

18 The company suspended one union activist after that night and workers elected a
19 leadership committee to meet with the company to get his job back, which they did. A
20 few days later, the company attempted to suspend a worker who had been forced to do
21 fire bossing duties by his supervisor even though he was not certified, which is required
22 by law. This worker stopped production in one section of the mine in order to discuss
23 the problem with management and as a result the worker was not suspended. A few days
24 later the company suspended another union activist because he "forgot to connect a hose
25 on a machine".

26 Workers got together and went to management to resolve the problem like they had
27 done the week before but the company called the sheriff and told workers to leave the
property.

The company claims workers were not fired, but people could not return to the
mine. The next day workers were stopped at the gate, with the police present again, and
were told that only 10 people who were on a list would be allowed to work and the rest
were fired.

We have been forced to endure terrible working conditions to feed our families while
the mines owners rake in large profits for the mine by exploiting the Co-Op miners.

The company has forced workers to put on unsafe equipment - equipment that was
deemed unsafe by MSHA inspectors.

On the days leading up to their firing, workers had been forced to work in an unsafe
area of the mine with only one way in and out risking the workers lives.

1 Mechanics routinely reported equipment that was unsafe. Mechanics would tag a
2 truck because of needed servicing or had more serious problems such as brakes.
Supervisors would simply ignore the tag and operate the equipment.

3 The outrageously expensive medical insurance is beyond the reach of the great
4 majority of workers, therefore, there is no insurance to speak of.

5 Mechanics and other workers are charged every paycheck for tools that are kept on
6 company property. The workers pay for the tools they use and have no control over
7 them. The company keeps the keys to the padlocks on their toolboxes.

8 Given the wages made, the charges for tools are reminiscent of the old 1900's
9 company stores that would steal workers money for basic necessities.

10 The training the company refers to is another scam. Workers pay hundreds of
11 dollars for MSHA classes most mine operator provide for free. Contractors in town
12 charge a fraction of what workers pay at Co-Op.

13 For the company to try to justify paying any miner \$5.50 an hour only sheds light on
14 their arrogant belief that they have the right to exploit human beings. Base pay for all
15 miners at Co-Op should be enough for us to provide for our families on any given day.

16 Supplementary pay and bonuses that are tied to production and attendance are only
17 another tool in the company's hand. If a worker refuses to carry out a unsafe work
18 practice they are very likely to lose their bonuses and supplementary pay. Workers are
19 forced to chose every day between their safety and their families' income that week.

20 c. A November 13, 2003 article entitled "Strikers have rally at picket line" reported that the
21 workers said when they went to the mine's office to protest the dismissal of a co-worker, they
22 were told to leave and not come back.

23 d. In a December 23, 2003 article entitled "Groups rally to support coal miners picket line."
24 Shaw and Bluemel said the strike began when a worker complained to CWM's management
25 concerning unsafe conditions in the mine, that two other miners had been disciplined for the
26 same reason the week before, that a walkout began when workers left the coal production
27 operation in support of the miner making the complaints, and that they were all fired.

28 e. In an April 13, 2004 article entitled "Strikers vow to continue Co-op mine picket line," Shaw
29 said the strike began as a protest when Estrada was fired for trying to bring UMWA into the
30 mine, that they were then locked out of the mine, that CWM was interfering with the workers'
31 right to organize, and that IAUWU is a company run labor organization.

32 f. A May 25, 2004 article entitled "Strikers file representation petition with NLRB" reported:

- 1 (i) The workers said they had been escorted by sheriff's deputies off mine property and were
2 fired by CWM in violation of U.S. labor law.
- 3 (ii) Jesus Salazar said, "Hopefully, we will soon be able to exercise our democratic right to
4 choose a real union to represent us," by which he meant IAUWU was not a real union.
- 5 (iii) The workers said some miners have for years been forced to pay dues to a company
6 dominated "union" [meaning IAUWU].
- 7 (iv) Dalpiaz said there was an open window period in IAUWU's "so-called contract"
8 [meaning IAUWU's collective bargaining agreement was not a real contract] where a real
9 union [meaning IAUWU is not a real union] can file a representation petition ..."
- 10 (v) The miners said they were illegally fired by CWM when they stopped work to protest a
11 set up and discharge of Estrada, who they say had contacted UMWA in an effort to improve
12 underground working conditions, the wage scale with no health care benefits, and the constant
13 threat of discharge if any miner contacted any Federal or State agency concerning working
14 conditions or employment laws.
- 15 g. In a July 6, 2004 article "UMWA indicates mine labor dispute resolved," Shaw reported:
- 16 (i) Dalpiaz said "The National Labor Relations Board has ruled in favor of those on the line.
17 They have ruled in the employees' favor." [In fact, NLRB had not made a ruling.]
- 18 (ii) The workers said they were fired because Estrada had been trying to organize the
19 employees to join the UMWA, and that they were locked out and not allowed back into the
20 mine the next day.
- 21 (iii) UMWA officials issued a press release saying the NLRB had resolved the labor dispute
22 in the miners' favor, that the NLRB came down on the side of the workers by indicating they
23 were unjustly fired, and that the NLRB had decided the workers would receive back pay.
- 24 (iv) The workers said the present union (IAUWU) is a company organization, and that all of
25 its officers are management personnel.
- 26 h. In a July 22, 2004 article entitled "National Labor Relations Board conducts Co-op vote
27 hearing at Price," Shaw said, "Many Co-op employees have returned to work after the

1 National Labor Relations Board ruled that the workers were let go inappropriately at the CW
2 Mining Company's facility."

3 178. The above defamations were republished on the Price *Sun-Advocate's* web site,
4 <http://www.sunad.com>, where they remain available for viewing by the world.

5
6 **DEFAMATIONS IN THE PROVO DAILY HERALD:**

7 179. The following defamatory statements were published in the Provo *Daily Herald*:

8 a. An October 13, 2003 article entitled "Miners file complaints against Kingston family mine,"
9 distributed by the Associated Press to its affiliates, reported:

10 A miner who claims he was fired for trying to organize a union is leading a charge
11 against the polygamous Kingston family's Co-op Mining, which he says is mistreating
12 immigrant workers. Bill Estrada, who spent a year digging coal at the Co-op Mine for
13 less than \$6 an hour, now spends six hours a day on a picket line at a junction where the
14 mine's access road branches off from state Road 31 in Huntington Canyon. Estrada, who
15 said Co-op fired him late last month for trying to organize a union, said he is supported
16 by about 75 fellow miners. ... Estrada said he heard grumbling about the low wages
17 (average pay for a Utah coal miner is \$21 per hour), lack of benefits and potentially
18 dangerous working conditions from the day he started as a miner's helper. He said the
19 mine's union, the International Association of United Workers, was a company
20 concoction designed to preclude employees from airing legitimate grievances. ... The
21 miners claim that when they came to Estrada's defense, a foreman told them they were
22 all fired. When some tried to return to work the next morning, only a handful of
23 employees on a company checklist were allowed onto the property.

19 b. A May 3, 2004 article entitled "Union drive at Kingston mine a year old" reported:

20 (i) Estrada said he and 73 other workers were fired after mine executives learned they were
21 attempting to address unsafe working conditions by aligning themselves with UMWA.

22 (ii) Neckel said, "They're [meaning the of CWM] exploiting people, plain and simple."

23 (iii) Estrada said that CWM charges miners for tools "right out of our pay," and that it
24 routinely uses a slave labor force.

25 180. The above defamatory articles were republished on the Provo *Daily Herald's* web
26 site, <http://harktheherald.com>, where they remain available for viewing by the world.

27

1
2 **DEFAMATIONS BY THE ROMAN CATHOLIC CHURCH:**

3 181. The following defamations were published in the *Intermountain Catholic*:

4 a. In a December 19, 2003 article entitled "In solidarity with those who suffer," Lee said, "More
5 than 70 Co-op miners were locked out of the mine when they walked out Sept. 22 in solidarity
6 with United Mine Workers of America (UMWA) supporter William Estrada, who has been
7 actively seeking fair union representation in the mine, a safe working environment, and
8 treatment with dignity." The article also reported:

9 (i) Gonzalo Salazar said, "If I call in sick for just one day, I lose my bonus for as long as
10 the bosses want me to lose it. They say we have a contract, but I've never seen one, and I've
11 never signed one. There isn't any respect for any man or woman in that mine."

12 (ii) Gonzalo Salazar also said when miners asked to see their contract, they were told to
13 either get back to work or be fired. He also said he was once physically threatened by one
14 mine boss, and that a higher boss told him if he didn't call the police, his boss would be
15 disciplined, but no disciplinary action was ever taken. He said, "It means they offer good
16 words, but no good actions to back them up."

17 (iii) Cannon said CWM's workers are "being exploited like slaves so the mine owners can
18 make millions of dollars."

19 (iv) Neckels said the mine bosses are taking advantage of the miners.

20 (v) Dalpiaz called CWM "one of the most brutal employers in the country."

21 b. In a December 24, 2003 article entitled "Miners strike powerful Kingston clan for fair
22 practices," Lee said, "Seventy-four miners' jobs were terminated after they protested the firing
23 of one of their leaders for union representation. She also said the workers "won't work in the
24 Co-op mine's unsafe conditions." The article also reported:

25 (i) The workers have distributed flyers [on information and belief, prepared by UMWA] that
26 state the miners are forced to work with injuries, and do not have access to workers'
27 compensation, that they are expected to use defective and unsafe machinery, and under unsafe

1 conditions in violation of the law and MSHA rules. They also state the miners do not have
2 medical insurance benefits, and that CWM does not provide the necessary tools to do the job
3 without discounting money from the workers' paychecks.

4 (ii) Stevens [*sic* should be Stevenson?] said CWM's unsafe machinery misses regular safety
5 inspections because they are stored in an area in which the inspectors do not go.

6 (iii) The miners say IAUWU is made up entirely of Kingston family members and mine
7 supervisors.

8 182. The above defamations were republished on the *Intermountain Catholic's* web site,
9 <http://icnp.com>.

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

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

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

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

1 Co-op miner Estrada asserts that there was only a "yellow-dog" union run by the
2 Kingston family. Regarding health benefits, he said, "I never heard of it. ... It's the
3 same with the company union, they claim they had a union but most workers were never
4 told about it." ... Estrada said the miners want independent union representation, better
5 working conditions and back pay. He described a setting that harks back to the labor
6 abuses of the early 1900s, with improper ventilation causing dust inhalation, and a
7 common practice of cutting too deep into the coal wall, thus creating an unsafe roof. ...
8 Regarding regulators Estrada said, "When the inspectors come, they go to the bathhouse
9 and change, they go to the office and have a cup of coffee," giving the foremen
10 underground time to take dangerous equipment offline. ... He said injuries were rarely
11 reported because "they deducted from your pay if you reported an accident." ... Estrada
12 said Co-op miners had to buy their own equipment, so the cost of necessities like hard
13 hats, tools, belts, gloves and safety glasses dug into the meager wages.

14 185. A July 12, 2004 *Catholic News Service* article entitled "NLRB orders reinstatement,
15 back pay for striking Utah miners," republished in part at the publication's web site
16 <http://www.catholicnews.com/data/briefs/cns/20040712.htm>, said, "In its ruling, the NLRB said
17 the miners were fired illegally, that they deserved to be "reinstated to their former jobs or to
18 substantially equivalent positions, without prejudice to seniority or any other rights or privileges
19 previously enjoyed, displacing, if necessary, any employees hired to replace them," and that they
20 should receive back pay ..." The full article has been posted at the web site
21 <http://www.labor.net.org/news/0704/minlrb.htm>. In the full article, Estrada is quoted as saying,
22 "We went on strike so that we can be treated with dignity, earn fair wages and be fairly
23 represented by a union, not (a union) of the bosses, which the mine has offered us, but of the
24 workers." The workers also said the union that mine owners said was formed to represent the
25 workers, the International Association of United Workers Union, ... is made up largely of the mine
26 bosses." Father Donald E. Hope said, "What is needed here over the long term is the
27 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."

1 OTHER PRESENTLY KNOWN DEFAMATIONS

2
3 186. The labor organization AFSCME Council 6, AFL-CIO, in its February 2004
4 calendar of events, said, "The miners were all unjustly fired in September for protesting company
5 attacks and protesting against extremely dangerous working conditions. ... These workers [were]
6 formerly objects of numerous abuses and humiliations ..." As of the date of this action, this
7 statement was available to the world on the internet at the URL
8 <http://www.afscmecouncil6.org/lisa/legislativeweekly/Event%20Archive/February2004Events.htm>.

9
10 187. On or about November 29, 2003, Bill Estrada said to KSL News, of IAUWU, that
11 "These officers, they fire, they cut the pay of workers, and these are supposed to be the union
12 officers. So we have filed charges against the company so that this union could be officially
13 decertified so we can organize a real union in the interests of the workers there." On information
14 and belief, KSL published Estrada's statements during one or more newscasts, and has republished
15 them on its website at <http://tv.ksl.com/index.php?nid=5&sid=61297>.

16
17 188. Beginning in 2003 and continuing to the present, KRCL Radio 90.9FM has
18 maintained on its website at <http://www.krcl.org/miners.htm> an article stating, "Recently, dozens
19 of mostly Latino miners were fired for protesting the firing of a co-worker trying to improve
20 conditions at the Kingston owned Co-Op mine in Huntington. The workers were subjected to low
21 wages, few if any benefits, and unsafe working conditions." The article also contains links to other
22 defamations published by Jobs With Justice, Utah Jobs With Justice, October 12, 2003, October
23 31, 2003, and January 27, 2004 articles by the Salt Lake Tribune, and October 30, 2003 and
24 January 18, 2004 articles by the Deseret Morning News, as well as information with which to
25 contact Jim Stevenson of UMWA and George Neckel of Utah Jobs With Justice. Listeners
26 Community Radio of Utah, Inc. included the links and contact information at least in part to adopt
27 the others' defamations as its own, and to facilitate the republication of those defamations. The

1 February 2, 2004 *The Militant* article. "Salt Lake picket backs Co-Op strike." reported. "Nicole
2 Jones from KRCL radio, which works with Utah's Jobs With Justice, is backing the miners. ...
3 Jones said her group supports this strike ... Jones explained the volume of donations continues
4 to be high through the efforts of 'some people who don't like the Kingstons, others who want to
5 support the miners, and others who are union members who want to help workers trying to
6 organize a union.' "

7
8 189. Beginning December 9, 2003 and continuing to the present, the Utah Indymedia
9 (Independent Media Center) has published and maintained on its website,
10 <http://uuh.indymedia.org/news/2003/12/6975.php>, an article entitled "Utahns Show Support for
11 Strikers", in which it said:

12 On September 22, seventy four miners at Huntington's Co-op Coal Mine walked off the
13 job in support of a union supporter, William Estrada, who had refused to sign a
14 disciplinary letter and was suspended. The walkout quickly became a lockout when all
15 the miners were fired.

16 The Co-op Mine is owned by the Kingston family which is reputed to be a polygamist
17 cult. The Kingstons have had a history of defying labor and safety regulations, and in
18 an industry that customarily pays \$15 to \$20 per hour, the Kingstons pay \$5.25-\$7 per
19 hour at the Co-op Mine. Workers are routinely told to sign-off on inspections for which
20 they are not certified or qualified, and are required to purchase personal tools from the
21 company. Much of the existing mining equipment on the site of the mine is said to be
22 in marginal working condition. ...

23 [T]he Kingstons [meaning those in charge of CWM] operate a company union at the
24 Co-op Mine.

25
26 190. Beginning December 9, 2003 and continuing to the present, the Utah Indymedia
27 (Independent Media Center) has published and maintained on its website,
28 <http://uuh.indymedia.org/news/2003/12/6976.php>, an article by Mel Logan entitled "Your job,
29 your standard of living, your health and safety, and your family are in danger." in which they said:

30 These miners were exploited while they were expecting to improve the quality of their
31 family's lives. They are asked to do everything we do but to surrender even more.
32 Besides the low wages they have few benefits, must provide their own tools and are

1 exposed to unsafe and unhealthy conditions, including inhumane treatment. One worker
2 with a compound fracture of his arm was told that he would be terminated if he failed to
3 come to work the next day. They are asked to sacrifice family needs to corporate
4 expectations. There is much more to the story, but you understand why they want to
5 replace their company union for one of their own.

6 While they were attempting to organize, one was fired for refusing to sign a warning slip he
7 felt was trumped up to punish his organizing activity. The other workers walked out to force
8 his reinstatement. They were ordered to return to work or be fired. When they returned,
9 only four were allowed to return and the rest were refused. They were locked out!

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

12
13 191. The previously described article by Mel Logan was republished by People for Peace
14 and Justice of Utah on its website <http://www.utahpeace.org/actionalerts.htm>.

15
16 192. Beginning June 21, 2004 and continuing to the present, the Arizona Indymedia
17 (Independent Media Center) has published and maintained on its website,

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

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

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

28
29 193. Beginning November 17, 2003 and continuing to the present, the Cleveland
30 Indymedia (Independent Media Center) has published and maintained on its website.

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

2 **CW MINING CO. WORKERS ARE FIRED FOR DEFENDING THEIR RIGHTS**

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

7 Facts about CW Mining Company:

- 8 • Workers have been LOCKED OUT because of their union activity.
- 9 • All workers must be reinstated with back pay.
- 10 • Workers are forced to work with injuries without access to workers compensation.
- 11 • Bosses abuse and mistreat workers.
- 12 • Workers are forced to work under unsafe conditions in violation of the law and Mine
13 Safety and Health Administration (MSHA).
- 14 • Workers are forced to use defective and unsafe machinery such as gas-emitting old
15 batteries.
- 16 • The bosses use man trips in bad shape, sometimes lacking adequate lighting or faulty
17 breaks.
- 18 • Workers are forced to work arbitrary shifts that rule out any kind of normal family
19 life.
- 20 • Workers do not have medical insurance to speak of and no retirement benefits.
- 21 • There is no bathhouse for the female workers.
- 22 • The company does not provide the necessary tools to do the job without discounting
23 money from the workers paychecks.
- 24 • The company promotes safety violations by refusing to punish the bosses that break
25 them regularly.
- 26 • Company does not provide adequate training for workers.
- 27 • 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.

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

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

- 1 • Workers are forced to work with injuries (sometimes with broken bones)
- 2 • Workers have been denied access to workers' compensation.
- 3 • 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).
- 4 • Miners are forced to use defective and unsafe machinery. The company promotes
safety violations by refusing to punish the bosses who violate MSHA rules.
- 5 • Miners do not have any medical insurance to speak of ...
- 6 • There is no bathhouse for the female workers.
- 7 • The mainly immigrant workforce at the mine has been fired for standing up to the
owners over union organizing and safety issues.
- 8 • 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
9 women forced into polygamous marriages.

10
11 196. On or about June 9, 2004 The *Joe Hill Dispatch* published an article entitled "Co-op
12 Miners Fight for a Real Union." in which it said, "With the assistance of the UMWA, the fired
13 miners filed a petition for a representation election against the 'International Association of United
14 Workers Union (IAUWU),' an outfit run by the Kingston family, which owns the mine." The
15 article also reported:

- 16 (i) Estrada said the workers had been illegally fired by the Co-op bosses for union activity.
- 17 (ii) Dalpiaz said, "The NLRB says the miners at Co-op were fired illegally and there will be
18 an election where workers can decide to vote for a real union," impliedly stating IAUWU is
19 not a real union.
- 20 (iii) Jesus Salazar said that IAUWU is a false union, and that the union officers are bosses
21 who are responsible for setting production goals and disciplining and firing workers.

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

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

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

4 "80 miners were fired for trying to organize a union, and have been on an unfair labor
5 practice strike for 3 months. These workers, many of whom have worked at the mine for
6 over a decade, make \$5.25-\$7/hour in an industry where the average wage is \$20/hr.
7 Workers are forced to work with injuries, are denied workers' compensation, lack health
8 insurance, and are forced to work under unsafe conditions."

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

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

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

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

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

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

- 29 • Most immigrant workers at the mine earn only between \$5.25 and \$7 an hour;
- 30 • Most workers lack medical insurance and retirement benefits;
- 31 • Miners are forced to work under unsafe conditions in violation of Mine Safety &
32 Health Administration regulations ... ;

- 1 • Workers are forced to use defective and unsafe machinery;
- 2 • Workers are not provided adequate training by the company;
- 3 • Workers are abused and mistreated by management; and
- 4 • Female workers have no bathhouse.

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

Jesus H. Salazar Jr., described their plight—earning between \$5.25 and \$7 per hour with "no health insurance and no benefits in an unsafe, underground mine." ...

"We ... were unjustly fired for defending our rights and protesting the mine's unsafe working conditions," Salazar said. "We are determined to fight until this mine becomes UMWA territory and we can put an end to the abuse and extreme level of exploitation we have endured." ...

"We all walked out in defense of our co-worker," explained Salazar ... "The company refused to cooperate with us and fired us. We have been locked out because of our pro-union activity. ...

... said the Co-Op delegation to the UMWA convention. "We are tired of the abuses, lies and trickery of the fake company-led 'union' that Co-Op has maintained for years in the workplace.

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

Neckel and Jobs with Justice have said:

The workers were illegally fired from their jobs after they protested the suspension of a co-worker for union activity and for protesting unsafe job conditions. Co-Op workers, mostly Mexican immigrants, are paid only \$5.25-\$7/hour while other miners working in the same canyon earn \$18. The miners have no health insurance and work in dangerous conditions which have led to countless injuries and an astounding 3 deaths since 1996.

... Since then [1979], this so-called union [IAUWU] has been owned, operated, and controlled by the powerful Kingston family. The union holds no meetings and its officers are not elected - they are appointed by and are members of the Kingston clan.

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

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

Since October 2003, Utah JWJ has been building community support for the 74 workers at the Co-Op mine in Huntington, Utah who ... were illegally fired from their jobs after they protested the suspension of a co-worker for union activity and for protesting unsafe job conditions. Co-Op workers, mostly Mexican immigrants, are paid only \$5.25-\$7/hour while other miners working in the same canyon earn \$18. The miners have no health insurance and work in dangerous conditions which have led to countless injuries and an astounding 3 deaths since 1996. ... Since [1979], this so-called union [IAUWU] has been owned, operated, and controlled by the powerful Kingston family. The union holds no meetings and its officers are not elected - they are appointed by and

1 are members of the Kingston clan. ... A mountain of evidence indicating that the Co-Op
2 miners want representation with the UMWA and that the company union is a farce ...
3 country. Utah JwJ has organized several fundraisers for the miners. In December and in
4 February, they organized buses to rally at the mine where they were joined by miners
5 from neighboring states. Earlier this year, Utah JwJ organized a delegation of the miners
6 together with labor leaders, elected officials, and religious leaders to visit Utah Attorney
7 General Mark Shurtleff to encourage him to investigate the Kingston clan's pattern of
8 violating health and safety laws. ... 50 people picketed at ... a Kingston-owned store ...
9 Utah JwJ is planning rallies with the workers on Workers' Memorial Day and on May
10 Day to raise visibility for the miners' struggle. Through the collective efforts of Eastern
11 Mass. JwJ and Western Mass. JwJ, Co-Op workers Ana Sanchez and Bill Estrada toured
12 Massachusetts to gain support for their strike. The mine workers told their story to the
13 Mass. AFL-CIO, CWA IUE 201, Greater Boston APWU, Boston Teachers Union,
14 several Central Labor Councils, and Interfaith groups throughout the state. Ana Sanchez
15 also spoke at a women's lunch about her struggle as a mother, a woman, and a miner.

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

20 199. The same or a substantially similar article as the previously described October 13,
21 2003 Provo *Daily Herald* article, with the same defamatory statements, was picked up and
22 distributed by the Associated Press, and was published by KSL on its website <http://tv.ksl.com>.

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

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

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

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

- 3 • Most immigrant workers at the mine earn only between \$5.25 and \$7 an hour in an
4 industry that averages \$15 to \$20 per hour;
5 • Most workers lack medical insurance ... ;
6 • Miners are forced to work under unsafe conditions in violation of Mine Safety &
7 Health Administration regulations ... ;
8 • Workers are forced to use defective and unsafe machinery;
9 • Workers are not provided adequate training by the company;
10 • Workers are abused and mistreated by management; and
11 • Female workers have no bathhouse.

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

15 At the Bear Canyon Mine ... (also known as the Co-op Mine), coal miners were
16 working for \$5.25 to \$7 an hour, with no health benefits or pension, with even the price
17 of their tools deducted from their pay, and with dues taken out of their paychecks to
18 support a company-controlled union. On top of that, they faced constant threat from
19 dangerous working conditions and abusive management. Some of the miners began to
20 complain about safety and talk of joining the United Mine Workers of America
21 (UMWA). In response, management began singling out pro-union workers for discipline.
22 When in September 2003 the company suspended pro-union miner William Estrada
23 workers decided they'd had enough. They went out on strike Sept. 22, 2003, demanding
24 Estrada's reinstatement. ... The company promptly fired the strikers ...

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

30 The article also reported:

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

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

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

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

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

18 206. A March 11, 2004 article in the *Salt Lake City Weekly*, which remains available on
19 its website at http://www.slweekly.com/editorial/2004/fcat_2004-03-11.cfm, reported:

20 "When the company found out we had contacted the UMWA," said Estrada, "they
21 started making threats. They said they'd call the INS [Immigration and Naturalization
22 Service] or the police. They said anyone who considered organizing with the UMWA
23 would be fired." ...

24 Miners contend that when they tried to return to work Reynolds and two sheriff's
25 deputies met them at the gate. Reynolds, they said, held a list containing names of who
26 could and could not work that day. Miners claim that only about 10 people were allowed
27 to work. The rest were locked out. After three days of lockout, they allegedly were
28 fired.

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

33 Kennedy has a similar story. She says no one ever mentioned the Co-Op mines were
34 unionized when she was first hired. And when the group of miners stood up in defense
35 of Estrada, she said, "the company union representatives took the side of the company.

1 They never, at any time, attempted to back our side or encourage any kind of meeting.
2 They just went along with the bosses." ...

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

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

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

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

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

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

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

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

38 She claims the company then designated a room for the women to change their clothes
39 that had a large window with no curtain and a door that wouldn't lock. After a few of
40 the bosses walked in on her, she had a sign made to let them know when she was
41 changing her clothes. Filthy, she would change clothes, and then walk upstairs to a small
42 bathroom, where she could wash her face.

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

4 207. An October 2003 *Casper Star Tribune* article reported:

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

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

8 (iii) The miners said that when they came to Estrada's defense, a foreman told them they were
9 all fired, and when some tried to return to work the next morning, only a handful on a
10 company checklist were allowed onto the property.

11
12 208. A January 26, 2004 *Craig Daily Press* (Craig, Colorado) article entitled "Dinner
13 raises \$1,400 to support miners" reported:

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

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

25 "Seventy-four coal miners at C.W. Mining Company's Bear Canyon mine (known also
26 as Co-Op mine) in Huntington, Utah were illegally fired from their jobs on Sept. 22,
27 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. " The article also reported Estrada
as saying, " "In coal mines, safety is a big thing. But in this company, if you're in a
position to report an accident, you either work while injured or you risk losing your job.
If you report an accident, they may accuse you of damaging the equipment and they'll
take away your bonus."

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

4 These underground coal miners, mostly immigrant workers, were being paid between
5 \$5.15 and \$7 an hour with no benefits (while other miners working in the same canyon
6 earn \$18) when on Sept. 22, 2003, every one of the 75 Co-Op miners were fired for
7 protesting the suspension of a co-worker and unsafe conditions on the job. At the time,
8 the miners -- upset about low wages and dangerous working conditions which had led to
9 countless injuries and three deaths since 1996 -- were having meetings with the United
10 Mine Workers of America to get themselves organized into a real union, unlike a
11 company "union" the bosses had set up to prevent the workers from being organized.
12 ... In 1979, the National Labor Relations Board recognized the "International
13 Association of United Workers Union" as the sole bargaining agent for the Co-Op mine
14 workers. Since then, this so-called union has been owned, operated and controlled by
15 the Kingston family. The union holds no meetings and its officers are not elected; they
16 are appointed by and are members of the Kingston clan. ... [There is] a mountain of
17 evidence indicating that the Co-Op miners want representation with the UMWA and that
18 the company union is a farce ... Utah Jobs with Justice has organized several fundraisers
19 and rallies for the miners. A delegation of labor, community and religious leaders has
20 met with Utah Attorney General Mark Shurtleff to encourage him to investigate the
21 Kingston clan's pattern of violating health and safety laws. ... Come get a firsthand
22 account from two of the Utah miners. Alyson Kennedy and Juan Salazar, at the Portland
23 and Seattle meetings.

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

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

32 An article by the Immigrant Workers Freedom Ride Coalition entitled "Immigrant Miners Brave
33 the Utah Winter in Strike Against Unfair Labor Practices," at <http://www.iwfr.org/utahminers.asp>.
34 Sep - Oct 2003 *UMWA Journal* article, "UMWA Supports Utah Miners' Struggle to Join Union."
35 January 19, 2004 *Militant* article, "Utah Miners plan tour in California to win support."
36 January 12, 2004 *Militant* article, "Miners force Mine Safety Investigation."
37 January 12, 2004 *Militant* article, "Miners get support from UMWA local, salute striking meatpackers."
December 29, 2003 *Militant* article, "Solidarity Rally Backs Co-op Miners."
December 29, 2003 *Militant* article, "Editorial: Stakes are high."

1 December 22, 2003 *Militant* article. "Miners build rally to win broader support for union fight."
 2 November 24, 2003 *Militant* article. "SLC Unionists donate food and funds to locked-out Miners."
 3 November 10, 2003 *Militant* article. "Utah students organize ..."
 4 November 3, 2003 *Militant* article. "UMWA statement backs embattled ..."
 5 November 3, 2003 *Militant* article. "UMWA union locals in West back ..."
 6 October 6, 2003 *Militant* article. "Defend the rights of immigrants."
 7 October 6, 2003 *Militant* article. "Utah miners fight for union."
 8 January 18, 2004 *Salt Lake Tribune* article. "Immigrant miners take on Kingstons."
 9 December 23, 2003 *Emery County Progress* article. "Co-op Rally Draws Crowd."
 10 December 16, 2003 *Emery County Progress* article. "Solidarity Rally."
 11 November 11, 2003 *Emery County Progress* article. "Miners Picket."
 12 December 9, 2003 *Salt Lake Tribune* article. "December dangerous month for coal miners."
 13 October 31, 2003 *Salt Lake Tribune* article. "Co-op Mine workers say dignity at stake in their strike."
 14 October 12, 2003 *Salt Lake Tribune* article. "Immigrant miners take on Kingstons."
 15 September 26, 2003 *Salt Lake Tribune* article. "Tensions mount in dispute at Utah mine."
 16 Oct 30, 2003 *Deseret Morning News* article. "Coal miners to picket owners of Emery site."
 17 October 29, 2003 article. "Support Utah Miners."
 18 October 13, 2003 *Provo Daily Herald* article. "Miners file complaints against Kingston family mine."

19 During the fall 2003 semester at the University of Utah, Ehrbar taught Economics 5080,
 20 "Marxian Economics," during which he published defamations of CWM and IAUWU substantially
 21 similar to the defamations described herein. On information and belief, Ehrbar is teaching the same
 22 or a similar class during fall 2004. On his website <http://www.econ.utah.edu/ehrbar/ec5080.htm>,
 23 Ehrbar keeps a link to the previous year's course materials, where he republishes defamations of
 24 CWM and IAUWU in course materials he used for his fall 2003 course, for use again in his fall
 25 2004 Economics 5080/6080 courses.

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

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

32 More than 70 coal miners in Huntington, Utah, have been on strike against the Co-Op
 33 Mine for almost four months. Most are Mexican immigrants who went on strike to
 34 protest flagrant safety violations and harsh disciplinary measures imposed when they tried

1 to organize into the United Mine Workers union. The company retaliated by locking the
2 strikers out.

3 Company owners, the Kingston family, reportedly make profits of up to \$1 million a
4 month by paying the workers \$5.25 to \$7 an hour. Standard union wages range between
5 \$15 and \$20 an hour.

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

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
214. The previously November 10, 2003 article in *The Militant* entitled "Utah students
organize support for locked-out Co-op miners" reported:

28 "We set up a table for five days during lunchtime to collect money for the Co-op
29 miners," said Gokcer Ozgur, a student at the University of Utah in Salt Lake City, in an
30 October 24 interview. "All workers have to be organized so these problems of
31 exploitation won't occur. If these miners in Huntington are organized into a union it will
32 be better for themselves and other workers." Ozgur and other members of the Students
33 Labor Action Project on that campus have been distributing fact sheets on the Co-op
34 miners' fight at their school.

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

38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
215. The above described news articles report that on numerous occasions since
September 22, 2003, many of the named defendants including UMWA officers, agents, and
supporters, have participated in meetings, rallies, picketing, news media interviews, and other
events. On information and belief, on each of these occasions the persons involved, identified in
the above described news articles, published defamatory statements about CWM and IAUWU
similar in substance to those described above, as will be shown through discovery.

1 216. Each web site, URL, and link described above, and each "hit" on those web sites,
2 URLs and links, is a separate and renewed republication of the defamations contained therein.

3
4 217. On information and belief, at other times and places Defendants, and one or more
5 of the Doe defendants, have published other defamatory communications of similar import
6 regarding Plaintiffs as will be shown through discovery.

7
8 218. Defendants' statements as described above were false.

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

11 220. Defendants' statements as described above were made with malice.

12 221. Defendants' statements imputing wrongful conduct to CWM and otherwise
13 impugning CWM, were directed against, reasonably related to, applied to, had a personal
14 application to, and were of and concerning CWM's directors, officers, managers and supervisors
15 including Earl Stoddard, Charles Reynolds, Dorothy Sanders, Wendell Owen, Ken Defa, Rodney
16 Anderson, Cyril Jackson, Chris Petersen, Jared Stephens, Freddy Stoddard, Jim Stoddard, Shain
17 Stoddard, Ethan Tucker, Robert Brown, Randy Defa, Kevin Peterson, and Elden Stephens,

18 222. Defendants' statements imputing wrongful conduct to IAUWU, and impugning the
19 legitimacy of IAUWU and the independence of its officers, referred to, were directed against,
20 reasonably related to, applied to, had a personal application to, and were of and concerning
21 IAUWU's officers Ronald Elden Mattingly, Nevin Pratt, Vickie Mattingly, Chris Grundvig, Dana
22 Jenkins, and Warren Pratt.

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

26 224. UMWA and its agents, through their various and sundry repeated slanders and libels
27 of CWM and IAUWU, was the original source of the defamations of CWM and IAUWU published

1 and republished by others as described above, making UMWA, and its agents as identified herein,
2 and each of them jointly and severally, personally responsible and liable for all of the defamations
3 described herein.

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

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

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

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

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

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

20

21

THIRD CLAIM FOR RELIEF
(Intentional Interference with Economic Relations)

22

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

23

24

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

26

27

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

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

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

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

13
14 **FOURTH CLAIM FOR RELIEF**
15 **(Intentional Interference with Economic Relations)**

16 237. All preceding and following allegations are incorporated here by reference.

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

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

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

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

26 242. The acts of defendants result from willful and malicious conduct manifesting a
27 knowing and reckless indifference toward and a disregard of IAUWU's rights. IAUWU is entitled

1 to an award of punitive damages against defendants, and each of them jointly and severally, in an
2 amount to be determined at trial at least three times compensatory damages.

3
4 **FIFTH CLAIM FOR RELIEF**
(Negligence / Third Party Tort Rule)

5 243. All preceding and following allegations are incorporated by reference.

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

10 245. One or more of Defendants breached their duty of care.

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

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

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

18 249. The acts of one or more of Defendants and one or more of the Doe defendants are
19 the result of conduct that manifests a knowing and reckless indifference toward, and a disregard of,
20 the rights of Plaintiffs. Plaintiffs are entitled to an award of punitive damages against those
21 defendants in an amount to be determined at trial, at least three times compensatory damages.
22

23 **SIXTH CLAIM FOR RELIEF**
(Civil Conspiracy)

24 250. All preceding and following allegations are incorporated by reference.

25 251. Defendants collectively comprise a combination of two or more persons, which
26 operated with a meeting of minds to accomplish the unlawful objects alleged herein.
27

