

“This company fired us unjustly for carrying out union activity. All of the miners decided to come down from our post to protest the unjust suspension of a coworker who they alleged had not done his work correctly. What is really behind our firings is our protests against the unsafe, the bad working conditions in this mine. ... We will not 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.”

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

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

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

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

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

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

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

(ii) Estrada said:

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

(iii) Rowenna Erickson said “the Kingstons” would be scared if they found out she is siding with the miners since she knows about their “illegal dealings.” She said, “They cheat on paying their

employees and file fraudulent reports concerning accidents and deaths both in the mine and in their many other enterprises.”

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

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

- ee. A March 8, 2004 article by Esquivel entitled “Coal strikers in Utah speak to miners’ locals in the West” republished these defamations:

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

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

- ff. In a March 15, 2004 article entitled “Utah coal strikers strengthen picket line,” Carroll said:

“The walkout began September 22, when the company fired the workforce of 75 to the person because the workers ... protested unsafe working conditions and demanded the reversal of the suspension of one of the workers and an end to victimization against a number of union supporters on the job.” The article also reported that the Atlanta Labor Council, on February 11, 2004, adopted a resolution ‘outlining the unsafe conditions, low wages, and discrimination by the company against the Co-op miners.’ “ [That resolution necessarily was obtained from defamations by the defendants.]

- gg. In a March 22, 2004 article entitled “Utah miners reject ploy by bosses to undercut coal strike,” 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:

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

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

“Under federal law, inexperienced underground miners are required to take a 32-hour classroom course and an eight-hour orientation at the mine site. Each following year, all miners are required to take an eight-hour refresher course provided by the company. At the Co-Op mine, for many years the company employee giving these classes has been Ortega. Miners report, however, that he has given only about six hours of training on the 32-hour class and as little as two hours on the refresher course at his house, and that for new miner training he charges as much as \$350, in cash only.”
- jj. In an April 27, 2004 article entitled “Utah miners fight attempt to revoke picket trailer permit,” Esquivel and Rosenfeld reported on a Utah Department of Transportation decision to revoke a permit for the miners’ picket trailer, and claimed “this is a serious attack instigated by the Co-op bosses on their right to be at the mine’s entrance.” They also reported that “strikebreakers had spread rumors from the company that it was going to tow away the trailer before the strikers knew about it.”
- kk. In a May 4, 2004 article entitled “Utah miners score victory, defeat ban on picket trailer,” Esquivel reported Juan Salazar as saying:

“We beat back the company in their attempt to take away our right to be in front of the mine,” and reported several miners as saying “The company put pressure on state agencies to revoke the permit for the picket trailer and circulated rumors among scabs that the picket line itself was about to come down.”
- ll. In a May 4, 2004 article entitled “Strikers vow to keep Co-op picket line,” *The Militant* 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:
 - (i) Gonzalo Salazar said CWM had instigated an attempted ban on the miners’ picket trailer.
 - (ii) Many miners said they were never trained on basic safety conditions underground such as mine escape ways, emergency evacuations, roof and ground controls and ventilation plans, hazard

recognition, and mine gases. They said instead of 32 hours of classroom instruction required by federal law, the trainer at Co-op only gave four to six hours of classes.

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

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

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

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

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

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

"The 75 coal miners here have been on strike for more than seven months. They were fired Sept. 22, 2003, for demanding safe working conditions and representation by the UMWAs, and protesting the victimization of union militants by the bosses. ... On April 13, a delegation of Co-op strikers, UMWAs officials, and UMWAs retirees forced the Utah Department of Transportation and Bureau of Land Management (BLM) to back off from their collusion with the Kingstons in an attempt to remove the strikers' picket trailer. ... Before the BLM decided to renew the strikers' permit for the trailer and picket shack, the Co-op owners had told the 20 or so scabs working in the mine that the picket line was about to come down."

qq. A June 7, 2004 article entitled "UMWAs files for union vote at Co-op mine in Utah" reported:

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

(ii) The miners said the "company union" never represented any of the workers when the company victimized them. They said IAUWU's officers are all bosses and relatives of the owners

of the mine ... , who are notorious for superexploitation of its employees, and that they aim to be represented by a “real union” [implying IAUWU is not a real union].

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

(iv) Gonzalo Salazar said:

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

rr. In a June 14, 2004 article entitled “UMWA strike in Utah wins support from PACE union,” Carroll said:

“The 75 coal miners were fired to the person from their jobs Sept. 22, 2003, by CW Mining, Inc. ... The miners were fired for union activity. They had been talking to the United Mine Workers of America (UMWA) about how to get a union organized at the mine. Strikers say that they were getting paid between \$5.25 and \$7.00 an hour, 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.”

ss. In a June 28, 2004 article entitled “Utah miners ‘On with fight for a real union’,” Britton and Miller said:

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

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

- (i) During a June 5, 2004 cookout and rally, some of the miners, led by Estrada, displayed a banner saying, "On with the fight for a real union." [This was a statement that IAUWU is not a real union.] Estrada said the miners were illegally fired for union activity.
 - (ii) Dalpiaz said, "The NLRB says the miners at Co-op were fired illegally and there will be an election where workers can decide to vote for a real union." [claiming IAUWU is not a real union.]
 - (iii) Jesus Salazar said, "The IAUWU 'is a false 'union' that has never supported us. The union officers are bosses who are responsible for setting production goals and disciplining and firing workers."
- tt. In a July 6, 2004 article entitled "Striking Utah coal miners on labor tour in Pacific Northwest," Carroll and Hoeppner said CWM "began firing the miners most active in trying to bring in the UMW." The article also republished these defamations:
 - (i) Juan Salazar said, "Because of years of horrible conditions [at CWM] myself and others 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 my left arm and was forced to work for a month and a half with a broken arm doing jobs that were dangerous. We have no health insurance. Medical expenses for on-the-job injuries are taken from our checks. And our average pay is \$5 to \$7 an hour while the average for the mining industry is \$15 to \$20 an hour."
 - (ii) Salazar also said, "They tried to fire me, but my co-workers protested and I got my job back. Another co-worker was fired. The company tried to hide behind the charge that the worker wasn't doing his job well but we know it was because of his union activism. When the company realized how solid we were the company said 'fine, you're all fired' and called police to get us off the property."
 - (iii) Kennedy said, "Because of the solidarity we have gotten and the pressure put on the Kingstons (the company owners), the (NLRB) upheld the charge filed Sept. 23, 2003, by the UMW that the miners were illegally fired for union activity."
- uu. In a July 20, 2004 article entitled "Bosses are forced to rehire striking Utah coal miners," Carroll and Esquivel said the NLRB had ordered CWM "to reinstate all of the 75 miners who were illegally fired last September." They went on to say:

"On Sept. 22, 2003, 75 coal miners were fired from their jobs at the Co-Op mine, owned by C.W. Mining. They were fired because they had contacted the UMWA about getting a union organized at the mine. The miners were being paid between \$5.15 and \$7.00 an hour with no benefits. A company union has existed at the mine for many years. Workers have submitted evidence that the officers of this 'union' are bosses and are related to the Kingstons, the wealthy family that owns the mine. ... Prior to that date [09/22/03], the miners had been talking to UMWA organizers about how to get a real union organized at the mine. Bosses began harassing and suspending the miners for this activity. They had cornered miners alone underground and questioned them about 'the meetings they were having with the UMWA.' The bosses also tried to disrupt a meeting the strikers had organized outside the mine, and had threatened workers, most of whom are immigrants from Mexico, with sending the immigration police after them. ... On Sept. 23, 2003, the UMWA filed charges with the NLRB stating that all 75 miners were fired illegally for union activity. The national labor board upheld the charge in its ruling. ... The miners also reported that the draft settlement includes a back pay order."

The article also reported:

(i) Panduro said:

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

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

vv. In an August 3, 2004 article entitled "Back on job, Utah miners face war by Co-op bosses," Calero and Britton said:

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

The article also reported:

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

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

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

xx. In an August 10, 2004 article entitled “NLRB holds hearing on union vote at Utah mine,” Calero and Britton said that during the course of a July 20-21, 2004 National Labor Relations Board hearing, Mark Hansen, attorney for IAUWA, “quit pretending there was a distinction between the pro-boss outfit and the company.”

yy. In an August 17, 2004 article entitled “Utah safety board cites Co-op mine; UMWA backer to get back pay,” Esquivel said:

"The Mine Safety and Health Administration (MSHA) in Utah cited C.W. Mining July 27 for discriminating against Ricardo Chávez, a union backer at the Co-Op mine, according to miners who saw the citation posted on the company bulletin board at the bathhouse. MSHA ruled the company was in violation of the Mine Safety and Health Act when mine manager Charles Reynolds prevented Chávez from reporting to work July 13 on the basis of "lack of training." ... Of the 32 hours of training mandated by MSHA 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. ... Chávez was one of 75 coal miners who were fired to the person by the Co-Op bosses last September because they fought for safety on the job, to end victimization of co-workers, and to win representation by the UMWA. After a lengthy strike, the National Labor Relations Board (NLRB) ruled the miners had been fired illegally ... UMWA supporters at Co-Op say they are confronting blatant discrimination by management on the job. Alejandro Ramírez and Juan Carlos López, for example, have recently received warnings for accumulating too many attendance 'occurrences' going back to the time before the strike began ... Another miner who reported to work July 12 was terminated by the company because he didn't show up the next day. His car had broken down, he said. The miners say all these actions violate the NLRB settlement in which the company promised in writing it 'will not discharge, give oral or written warnings to, suspend, or otherwise discriminate against you because you engage in concerted activity protected by Section 7 of the Act or other activity on behalf of United Mine Workers of America.' " Esquivel also called IAUWU "the company outfit."

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

"The miners ... say they are making progress in ... challenging the legitimacy of the company 'union,' the so-called International Association of United Workers Union (IAUWU). Miners say they are also documenting and standing up to selective enforcement of safety rules, a series of verbal and written warnings against supporters of the UMWA, and flagrant violations of the recent settlement the National Labor Relations Board (NLRB) negotiated between the UMWA and Co-Op owners, the Kingstons. ... Labor solidarity, they note, was crucial in forcing the company to make an unconditional offer to return to all the strikers, after the NLRB ruled in June that the 75 miners had been fired illegally last September. ... In order to give a facelift to the company outfit, officers of the IAUWU organized a "union" meeting on August 6. ... When they [UMWA supporters] arrived, about a dozen people were in the room ... 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 miner asked. ... At one point during the meeting, miners said, the Kingston representatives announced that workers would not be getting paid to attend the 'union' gathering. At that point, the seven surface workers who had come to the meeting early became visibly upset, miners reported. It had been customary, they said, while the strike was going on, for Co-Op to give those who went to the company union meeting two extra hours' pay. ... Alyson Kennedy reported that her crew, which includes several members of the Kingston family, was called into the office on July 28 by Cyril Jackson, a maintenance foreman at the mine. She said that Jackson instructed the miners they were not allowed to say anything about a union, pro or con, on mine property. This is in direct violation of the NLRB agreement signed by the UMWA and C.W. Mining. Other miners also report that the bosses continue to selectively threaten and harass pro-UMWA workers at the mine as the company tries to ... undercut support for the union. ... Trying to combine the carrot with the stick, the company is continuing to promote an 'Employee of the Month' award, which it started during the strike. Of the eight awards given so far, five have been handed to foremen, all Kingston family members. Empty honors, poverty pleading, threats, and intimidation continue to be the weapons of choice of the Co-Op bosses in their war to prevent the workers from winning representation by the UMWA. Nevin Pratt told several workers after the company 'union' meeting that not only was the company too poor to give the miners a raise, but that the UMWA was jeopardizing their jobs by insisting on back pay for the nearly 10 months the miners were illegally fired. In a thinly veiled threat, miners said, Pratt told a group of miners that since Mexican workers may not have all their documents in order they would not be eligible for back pay and could jeopardize themselves by insisting on back wages.

The article also reported:

- (i) Chavez said, "What we were told by the 'union' officers was always – before the strike, and now – in defense of the company. Nevin Pratt would respond as if he were speaking directly for the company,"
- (ii) Jesus Salazar said, "We were able to challenge these officials and stand up to them, showing to those miners who did not join the strike that this 'union' is the same as the company."
- (iii) Kennedy said that she has faced stepped-up harassment by the bosses. Kennedy was given exclusive use of the foremen's bathhouse to change her clothes at the beginning and end of her work shift. Kennedy said a boss once deliberately used the bathroom just before the shift started, forcing Kennedy to be late to work, for which she was reprimanded. Kennedy also said her supervisor told her that bosses have filed two written complaints against her for using the bathhouse before her designated time.

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

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

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

"The NLRB ordered C.W. Mining, also known as the Co-Op mine, to reinstate the 75 workers the company fired Sept. 22, 2003, because they protested victimization of union supporters by management, and demanded safe working conditions and representation by the UMWA. The NLRB ruled the miners were fired illegally, are eligible for back pay for losses during the strike, and can vote for the union of their choice. ... Workers will have a choice of voting for representation by the UMWA, a company outfit called the International Association of United Workers Union, or no union. ... As a way of keeping workers in line, the Co-Op bosses pay workers an arbitrary 'supplemental bonus' each week, which is a small percentage of hourly wages. The bosses can take away the bonus for any number of reasons—getting 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."

The article also reported:

(i) Bill Estrada said:

The Co-Op bosses blatantly harass UMWA supporters at the mine. They are waging this kind of war against us even though all such activity by the bosses is supposed to be illegal. ... When the bosses are not doing the harassment directly, their relatives working at the mine will do it for them. ... Management has a lot of family members working in the mine right now trying to dissuade workers from going with the UMWA, and they obviously organize what they are going to say and do. Out of the blue, one day last week, all of the Kingstons started saying, "I like working here, I like the conditions at this mine." They just repeat what the company says.

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

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

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

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

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

Twenty miners at the Co-Op mine here reaffirmed their determination to be represented by [UMWA] at a September 3 meeting of the company "union," workers reported. This was the second meeting of [IAUWU], the outfit run by the Co-op bosses, that UMWA supporters at the mine have attended. After a 10-month strike for UMWA representation that ended in July, the company has felt obliged to organize these monthly "union" meetings to keep up the facade that the IAUWU is a labor organization ... [Besides Chris Grundvig], the other IAUWU officers present were Dana Jenkins and Warren Pratt, vice-president and treasurer of the local, respectively, and Nevin Pratt and Vicky Mattingly, the vice president and treasurer of the "international." All six of these "officers" are relatives of the mine owners, the Kingstons ... The bosses at C.W. Mining ... fired all 75 coal miners at the mine here because they were fighting for safety on the job, against company victimization of fellow workers, and for union representation. The miners turned the lockout into a strike ... The National Labor Relations Board (NLRB) upheld charges filed by the UMWA that the workers had been illegally fired. The NLRB ordered the mine bosses to reinstate all 75 miners ...

The article also reported:

(i) Jesús Salazar said IAUWU has never represented the workers.

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

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

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

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

ddd In a September 28, 2004 article entitled “Utah miners build October 2 action to mark one year of union fight,” Carrol and Esquivel said:

“The NLRB ruled earlier this spring that the Co-Op bosses had fired illegally the 75 miners a year ago for union organizing activity and ordered the company to reinstate the dismissed workers. ... The company owners, the Kingston multimillionaire clan, are using a boss outfit, called the International Association of United Workers Union, to prevent a UMWA victory. ... On display at the information table was the latest article from the UMWA Journal on the union organizing fight at C.W. Mining, also known as Co-Op, and stacks of many newspaper articles that covered the miners’ 10-month strike that started Sept. 22, 2003.” [On information and belief, the UMWA and newspaper articles published defamations 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 between \$5.25 and \$7 an hour, while wages for underground coal miners average above \$17 across the country. They also work under unsafe job conditions. ...

The article also reported:

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

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

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

(iv) ILWU Local 19 introduced a resolution that was approved by the Washington State Labor Council, reading in part: “workers ... have been persecuted for trying to affirm their hope to establish a decent and human workplace ... the reality of this persecution has been authenticated by recent decisions of the [NLRB] handed down in support of the workers ...”

eee In an October 5, 2004 article entitled “UMWA: Build Oct. 2 union rally in Utah Back Co-Op miners’ organizing struggle,” Carrol said that in the course of a NLRB hearing, “Mark Hansen,

the attorney for the company union, represented the company's position ..." The article also reported:

(i) Panduro spoke at the end of a September 18, 2004 picket here in front of the law offices of Carl Kingston. The picket was organized by Utah Jobs with Justice Co-Op miners solidarity committee organized the September 18 picket. The participants included included four Co-Op miners and members of the Paper, Allied-Industrial, Chemical and Energy Workers International Union (PACE). On information and belief, during the course of that activity Panduro published defamations substantially similar to those described herein.

(ii) The day before the picket, UMWA Region 4 sent a letter to hundreds of union locals and other organizations and individuals. The letter, signed by Bob Buteo, invited everyone to attend the October 2, 2004 anniversary rally. On information and belief, the letter published defamations substantially similar to those described herein.

(iii) During the September 18, 2004 picket, Estrada said, "September 22 marks the one-year anniversary of our strike. On that day last year, 75 miners at the Co-Op mine in Huntington were fired for union activity. ... the National Labor Relations Board was forced to rule that the Co-Op bosses illegally fired us and ordered the mine owners to reinstate everyone."

fff On or about September 30, 2004, *The Militant* posted on its website the original Complaint in this action, thereby republishing each and every defamation described therein.

ggg In an October 12, 2004 article entitled "Utah miners: 'Bosses' lawsuit won't stop our fight for union," Carroll and Miller said the miners had been locked out. They also said:

On Sept. 23, 2003, some 75 miners were locked out and fired by C.W. Mining. ... The firings took place after a number of workers at the mine began organizing to bring in the UMWA in order to win better safety conditions, decent wages, and respect. Getting wind of this effort, the bosses at Co-Op began harassing union supporters, eventually firing one of the leaders of the effort. When workers at the mine protested this victimization, the company called the local sheriff and ordered the workers off the property, locking them out of their jobs. The miners turned the lockout into a strike and picketed the mine. After nine-and-a-half months on the picket line, ... the miners won their jobs back. The National Labor Relations Board (NLRB) ruled in May that the miners had been fired illegally and ordered C.W. Mining to allow the miners to return. ... [The] workers describe [AIUWU] as a phony company outfit." They identified Juan Salazar as "one of the Co-Op miners who has been a leader of the fight for a real union" [which was to say IAUWU is not a real union]. They also falsely said in this lawsuit, "the Kingstons ask that the court enjoin all of the named defendants ... from carrying out further actions in support of the miners."

The article also reported:

(i) The miners said IAUWA is a company union.

(ii) Butero said, ““This company has taken advantage of the Co-Op miners for many years. Now they are suing these organizations for trying to help the miners.”

(iii) Juan Salazar said Kennedy, Chávez and himself did house visits with co-workers and other miners who used to work at Co-Op, and that they “discussed with our co-workers and their families how the fight continues and why all of us should be there October 2.” On information and belief, during these home visits Salazar, Kennedy, and Chávez published defamations substantially similar to those described herein.

(iv) The miners say IAUWU does the bidding of CWM and has failed to represent the workers in every dispute.

hhh An October 12, 2004 editorial entitled “Defend freedom of speech!” said:

The Co-Op bosses have the gall to charge the UMWA and a number of its officers and organizers with ‘unfair labor practices.’ This is after [the NLRB] found in June that the Co-Op miners had been fired illegally and ordered the company to take back the workers. This lawsuit ... is ... an attack on workers’ elementary right to organize a union. It’s an attack on freedom of the press. It’s an attack on free speech. The mine bosses in Utah who filed the suit—along with the so-called International Association of United Workers Union, which miners say convincingly is a creation of the Kingstons to keep out a real union—are trying to silence those who have backed the Co-Op workers’ struggle for living wages, safe working conditions, and human dignity. The Kingstons are trying to intimidate us, to prevent us from telling the truth.

iii In an October 19, 2004 article entitled “Utah miners mark one year of union-organizing battle,” Miller and Esquivel said:

The bosses fired the 75 Co-Op miners on Sept. 22, 2003, for defending a co-worker who had been dismissed and other UMWA supporters who had been harassed after demanding safety on the job and livable wages. ... The NLRB ... ruled in late spring that the miners had been dismissed illegally ... [This lawsuit] targets the UMWA and 17 of the Co-Op miners for ... trying to organize the workers in a mine the bosses claim had already been organized by their IAUWU outfit. ... The Kingston family has a record of filing such outlandish suits against their adversaries.

The article also reported:

(i) Regarding a hearing after CWM suspended Panduro for cause, Estrada said, “It was clear that the hearing was just a show. The bosses were determined to take advantage of the situation to fire one of the leaders of the fight.” Estrada also said, “The government is just giving the Kingstons more openings to harass and threaten us by delaying a union election ...” Estrada said CWM was committing acts of intimidation against union supporters in the mine in direct violation of a settlement agreement.

(ii) Panduro said, "We've been threatened and harassed by this company repeatedly. They took advantage of my being sick and unable to do my job last week to fire me."

jjj In an October 26, 2004 article entitled "Utah miners demand reinstatement of leader of union-organizing fight," Esquivel said:

The miners had met at Panduro's house and discussed that his firing is aimed at all the UMWA backers. ... The Kingstons locked out the 75 miners at Co-Op on Sept. 22, 2003, after the bosses had gotten wind of the UMWA organizing effort and the workers protested the firing of one UMWA backer and disciplinary actions against others aimed at stopping their unionizing efforts. ... In May, the NLRB ruled the miners had been fired illegally ...

The article also reported:

(i) Panduro said, "Panduro. "They are doing this to me [firing him for cause] because I support the UMWA. The bosses are now spreading rumors among workers that I didn't want to work."

(ii) Estrada said the meeting held under the collective bargaining agreement to review CWM's decision to terminate Panduro for cause was "just a show."

(iii) UMWA-supporting miners said the Kingstons are using this lawsuit simply to harass UMWA backers. They also described the IAUWU as a company union.

kkk In a November 2, 2004 article entitled "Utah coal miners receive messages of solidarity with unionizing struggle," Carroll said, "On Sept. 22, 2003, C.W. Mining bosses fired 75 miners after getting wind of the miners' talking to the UMWA about organizing. ... The miners ... were locked out of their jobs after protesting the firing of one UMWA supporter and disciplinary actions against other miners who supported the UMWA organizing effort. ... [worker solidarity] forced the NLRB to uphold UMWA charges that C.W. Mining had fired the workers illegally ..." Carroll said CWM had brought in Kingston family members and relatives including managers and office staff, to stack the deck against UMWA's organizing effort. The article also reported the miners as saying IAUWU "is a company union," and this lawsuit is proof IAUWU "is an outfit run by the bosses, not a workers' union."

lll In a November 9, 2004 article entitled "Utah miners fight to reverse firing of UMWA militant," Esquivel said, "C.W. Mining fired all 75 miners Sept. 22, 2003, for defending coworkers victimized by the company for their efforts to bring in the UMWA. ... The NLRB ruled the miners had been fired illegally and ordered the company to take them back." The article also reported:

(i) Panduro, fired for insubordination, said, "I never refused orders and the company union is not defending me at these grievance meetings ... The IAUWU president at the mine is not defending me," Panduro also said his efforts to win representation by UMWA was the real reason behind his firing.

(ii) The miners said IAUWU "is a boss outfit that has never represented them and has worked on the side of the company against the workers. Proof of that is the fact that the IAUWU is a plaintiff in this lawsuit." Although IAUWU's rank and file, workers at CWM, had elected Chris Grundvig as president of the local union, the miners said it was CWM that replaced Jenkins with Grundvig. The miners also said IAUWU never held meetings and had CWM deduct union dues against miners' wishes, and when CWM and IAUWU signed a contract in 2001, bosses cornered workers one by one and coerced them into signing the contract.

(iii) Estrada said Dana Jenkins, an officer of IAUWU, was a foreman who performed boss's duties, including disciplining workers.

mmm In a November 16, 2004 article entitled "N.Y. meeting: The real results of the U.S. election campaign before the vote took place," Italie and Koppel said,

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

The article also reported:

(i) Villanueva said CWM was engaging in a "war of harassment against the unionists."

(ii) Sandler said this lawsuit "is a harassment and nuisance suit ... designed to take the focus off the fight for a union."

nnn In a November 23, 2004 article entitled "Utah miners and their supporters press labor board to set union vote," Carroll said, "The 75 miners at Co-Op were fired Sept. 22, 2003, for trying to organize with the UMWA and fighting for livable wages and safe working conditions. They turned the lockout into a strike and picketed the mine ... [T]he NLRB upheld the UMWA charge that the workers had been fired illegally. The labor board ordered the company to reinstate all strikers who wanted to return to work. " The article also reported that the miners said IAUWU is a company outfit that has never represented them, that IAUWU is a Kingston-controlled operation, and tries