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

INTERNATIONAL ASSOCIATION OF UNITED WORKERS
UNION; VICKIE MATTINGLY; NEVIN PRATT; INTERNATIONAL
ASSOCIATION OF UNITED WORKERS UNION, LOCAL NO. 1-02;
CHRIS GRUNDTVIG; DANA JENKINS; WARREN PRATT; F.
MARK HANSEN;

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

Plaintiffs,

vs.

UNITED MINE WORKERS OF AMERICA; CECIL ROBERTS;
CARLO TARLEY; DAVID PIAZ; MIKE DALPIAZ; BOB BUTERO;
ROY FERNANDEZ; ROBERT GUILFOYLE; LARRY HUESTIS;
FRANCISCO PICADO; JIM STEVENSON; DALLAS WOLF;

GERARDO AGUILAR; RICARDO CHAVEZ; WILLIAM (BILL)
ESTRADA; HECTOR FLORES; DANIEL HERNANDEZ;
GUILLEMÓ HERNANDEZ; ALYSON KENNEDY; BERTHILA
LEON; DOMINGO OLIVAS; CELSO PANDURO; RIGO
RODRIGUEZ; GONZALO SALAZAR; JESUS SALAZAR; JOSE
JUAN SALAZAR; ANA MARIA SANCHEZ; RAYMUNDO SILVA;
SAMUEL VILLA;

AFL-CIO; ANDY LEVIN; AFL-CIO, UTAH CHAPTER; ED
MAYNE; AFSCME COUNCIL 6, AFL-CIO; PHILADELPHIA
COUNCIL AFL-CIO; PATRICK EIDING;

PAPER, ALLIED-INDUSTRIAL, CHEMICAL & ENERGY
WORKERS INTERNATIONAL UNION; PAPER,
ALLIED-INDUSTRIAL, CHEMICAL AND ENERGY WORKERS
REGION 11 a/k/a DISTRICT 11;

**SECOND
AMENDED
COMPLAINT**

Civil No.
2:04CV00901

Judge Dee Benson

THE MILITANT; ROGER CALERO; ARGIRIS MALAPANIS; GUY TREMBLAY; CONNIE ALLEN; LUIS ASTORGA; KATHERINE BENNETT; JOEL BRITTON; ANNE CARROL; BECKY ELLIS; GUILLERMO ESQUIVEL; BETSY FARLEY; CHRIS HOEPPNER; MICHAEL ITALIE; MARTIN KOPPEL; FRANK MILLER; PAT MILLER; TERI MOSS; JAY RESSLER; MARCO ANTONIO RIVERA; TALMAR ROSENFELD; BERNIE SENTER; MAGGIE TROWE; KAREN TYLER;

SALT LAKE TRIBUNE PUBLISHING COMPANY, LLC d/b/a SALT LAKE TRIBUNE; TOM BADEN; TIM FITZPATRICK; RON MORRIS; MELISSA GALBRAITH; RHINA GUIDOS; COREY HILTON; STEVEN OBERBECK; GLEN WHARCHOL; TOM WHARTON;

DESERET MORNING NEWS MARATHON, LLC d/b/a DESERET MORNING NEWS; JOHN HUGHES; MARJORIE CORTEZ; TIFFANY ERICKSON; ELAINE JARVIK; JENNIFER K. NII;

JOBS WITH JUSTICE; UTAH COALITION OF JOBS WITH JUSTICE; GEORGE NECKEL;

TAPESTRY AGAINST POLYGAMY; ROWENNA ERICKSON; THE CENTER FOR PUBLIC EDUCATION AND INFORMATION ON POLYGAMY; CARMEN THOMPSON; DOES 1-200,

Defendants.

Plaintiffs complain and allege as follows:

PARTIES, JURISDICTION AND VENUE

1. International Association of United Workers Union (IAUWU) is a labor union incorporated and in good standing in the state of Utah.
2. Nevin Pratt and Vickie Mattingly are officers of IAUWU.
3. International Association of United Workers Union, Local 1-02 (IAUWU Local 1-02) is the local union organization selected by the workers employed by C. W. Mining Company at its mine in Bear Canyon, Emery County, Utah as their duly elected bargaining representative.
4. Chris Grundvig, Dana Jenkins, and Warren Pratt are officers of IAUWU Local 1-02.
5. F. Mark Hansen is an attorney and counsel for the preceding named plaintiffs.
6. C. W. Mining Company d/b/a Co-op Mining Company (CWM) is a Utah corporation engaged in the business of mining coal in Emery County, Utah.
7. Earl Stoddard, Dorothy Sanders, and Charles Reynolds are CWM directors and officers.
8. At all pertinent times since July 2004, Reynolds was CWM's mine manager, previously its engineer and personnel manager.

9. At all pertinent times until July of 2004, Wendell Owen was CWM's mine manager.
10. Ken Defa is CWM's mine superintendent.
11. Cyril Jackson is a CWM maintenance supervisor.
12. Rodney Anderson, Robert Brown,, Jared Stephens, Freddy Stoddard, Jim Stoddard, Shain Stoddard, and Ethan Tucker are CWM foremen.
13. Randy Defa, Kevin Peterson, and Elden Stephens are CWM managers.
14. José Ortega is a safety trainer for CWM.
15. United Mine Workers of America (UMWA) is a labor union, and is affiliated with and an associate of AFL-CIO and AFL-CIO, Utah Chapter.
16. Cecil Roberts is the International President of UMWA and is responsible for its actions.
17. Carlo Tarley is the Secretary-Treasurer of UMWA and is responsible for its actions.
18. Mike Dalpiaz and David Piaz are international executive board member and/or officers of UMWA and are responsible for its acts.
19. Larry Huestis and Dallas Wolf are international representatives of UMWA.
20. Bob Butero, Roy Fernandez, Robert Guilfoyle, Francisco Picado, and Jim Stevenson are UMWA union organizers.
21. At all pertinent times the following workers or former workers of CWM were agents of UMWA acting within the scope of their authority.
22. Gerardo Aguilar, Ricardo Chavez, William (Bill) Estrada, Hector Flores, Daniel Hernandez, Guillermo Hernandez, Alyson Kennedy, Berthila Leon, Domingo Olivas, Celso Panduro, Rigo Rodriguez, Gonzalo Salazar, Jesus Salazar, Jose Juan Salazar, Ana Maria Sanchez, Raymundo Silva, and Samuel Villa are workers or former workers of CWM.
23. Aguilar, Chavez, Flores, the Hernandezes, Kennedy, Leon, Olivas, Panduro, Rodriguez, the Salazars, Sanchez, Silva, and Villa have claims against UMWA and its agents including Estrada for unfair labor practices, fraud, intentional interference with present and prospective economic relationships with CWM and IAUWU, civil conspiracy, and for indemnity on any judgment that may be entered against them in this action. Pursuant to Utah Rules of Professional Conduct 1.6, 1.7, 1.10, and 1.16, an irreconcilable conflict of interest precludes attorneys from representing UMWA and its agents and also representing the workers in this action.
24. AFL-CIO is an association of labor unions.

25. Ed Mayne is president of AFL-CIO, Utah Chapter and is responsible for its actions.
26. Andy Levin is the director of the AFL-CIO Voice@Work campaign.
27. AFL-CIO Utah Chapter, AFSCME Council 6 AFL-CIO, and Philadelphia Council AFL-CIO, are associations.
28. Patrick Eiding is president of Philadelphia Council AFL-CIO and responsible for its acts.
29. Paper, Allied-Industrial, Chemical & Energy Workers International Union and Paper, Allied-Industrial, Chemical and Energy Workers Region 11 a/k/a/ District 11 (PACE) are labor unions, and/or associations of labor unions constituting an association.
30. *The Militant* is a newspaper.
31. Argiris Malapanis is the Editor of *The Militant* and is responsible for its content.
32. Guy Tremblay is the Web Administrator of *The Militant* and is responsible for the contents of its website <http://themilitant.com>.
33. Roger Calero is a leader of the Socialist Workers Party and a reporter for *The Militant*.
34. Connie Allen, Luis Astorga, Katherine Bennett, Joel Britton, Anne Carroll, Becky Ellis, Guillermo Esquivel, Betsy Farley, Chris Hoepfner, Michael Italie, Martín Koppel, Frank Miller, Pat Miller, Teri Moss, Jay Ressler, Marco Antonio Rivera, Talmer Rosenfeld, Bernie Senter, Maggie Trowe, and Karen Tyler are reporters for *The Militant*.
35. The Salt Lake Tribune Publishing Company, LLC d/b/a *Salt Lake Tribune* is a Utah company with its principal place of business in Salt Lake County, Utah.
36. Tom Baden is executive editor of the *Salt Lake Tribune* and is responsible for its contents.
37. Tim Fitzpatrick is the *Salt Lake Tribune's* managing editor, responsible for its content.
38. Ron Morris is the World and State Desks News Editor of the *Salt Lake Tribune*, responsible for its contents.
39. Melissa Galbraith is the World and State Desks Assistant News Editor of the *Salt Lake Tribune* and is responsible for its contents.
40. Rhina Guidos, Corey Hilton, Steven Oberbeck, and Glen Warchol are reporters for the *Salt Lake Tribune*, and Tom Wharton is a columnist for the *Salt Lake Tribune*.
41. Deseret Morning News Marathon, LLC d/b/a *The Deseret Morning News* is a Utah company with its principal place of business in Salt Lake County, Utah.
42. John Hughes is the editor of *The Deseret Morning News* and is responsible for its contents.

43. Marjorie Cortez is an editorial writer for *The Deseret Morning News*.
44. Tiffany Erickson, Elaine Jarvik, and Jennifer Nii are reporters for *The Deseret Morning News*.
45. Jobs With Justice is a network of coalitions of member organizations and individuals, and is an association.
46. The Utah Coalition of Jobs With Justice is is a network of coalitions made up of member organizations and individuals, and is an association.
47. George Neckel is director of Utah Coalition of Jobs with Justice and is responsible for its acts.
48. Tapestry Against Polygamy (Tapestry) is an organization located in Salt Lake County, Utah, and is responsible for the acts of Rowenna Erickson as described herein.
49. Rowenna Erickson is an individual residing in Salt Lake County, and a manager of Tapestry. Her actions were done as an agent of Tapestry acting within the scope of her authority.
50. The Center for Public Education and Information on Polygamy (CPEIP) is an organization in Salt Lake County, Utah, and is responsible for the acts of Carmen Thompson as described herein.
51. Carmen Thompson is a principal of CPEIP and the self-professed author of its website. She acted as an agent of CPEIO acting within the scope of her authority.
52. Does 1-200 are individuals and organizations whose identities are not yet known to Plaintiffs, who will be named as they are discovered. Many of the Doe defendants are believed to be officers and agents of the named Defendants.
53. This court has subject matter jurisdiction pursuant to 28 U.S.C. §2201, 8 U.S.C. §1324a, 18 U.S.C. §1964, and 29 U.S.C. §185, and supplemental jurisdiction over Plaintiffs' pendant state claims pursuant to 28 U.S.C. §1367(a).
54. Venue is proper in this court pursuant to 29 U.S.C. §185.

**FIRST CLAIM FOR RELIEF
(Declaratory Relief)**

55. All preceding and following allegations are incorporated here by reference.
56. In late May of 2004 CWM received notice from the Social Security Administration (SSA), that the names and social security numbers of Ricardo Chavez, Berthila Leon, Domingo Olivas, Jesus Salazar, Jose Juan Salazar, Ana Maria Sanchez, and Raymundo Silva (the fraudulent workers), among others, on the employee wage and tax statements did not agree with SSA's records.

57. The fraudulent workers had provided the social security numbers to CWM from what appeared to be legitimate social security cards they presented when applying for work, along with what CWM has since determined to be falsified green cards or other government or documentation of work authorization. The employment applications stated, "In signing this application, I certify that all of the foregoing information is a complete and accurate statement of the facts and understand that, if any misrepresentation, omission or falsification is discovered, it will constitute grounds for dismissal." CWM relied on the employment applications and the validity of the fraudulent workers' social security cards and other documentation in hiring the fraudulent workers.

58. After reviewing the matter, in June of 2004 CWM verbally informed the fraudulent workers of the problem with their social security records, asked them to correct the problem, and gave them several months to take care of the problem.

59. In October of 2004 one of CWM's workers told CWM he was in the United States illegally, and that the fraudulent workers had provided false identification documents to obtain employment and were also aliens illegally in the United States. About the same time, another former CWM employee was arrested and was discovered to be in the United States illegally.

60. After receiving this new information, CWM informed the fraudulent workers in writing of the unresolved problem concerning their records with the SSA and of their co-worker's statement that they had provided invalid documentation and were working illegally, required them to provide valid documentation by December 9, 2004 showing their eligibility to work or face termination of their employment, and provided them with government contact information to correct the problem.

61. The fraudulent workers failed to correct the problem.

62. On December 9, 2004, CWM notified the fraudulent workers that their employment was suspended with intent to discharge for giving false information on their employment applications, giving them an additional four days to correct the problem.

63. The fraudulent workers still failed to correct the problem.

64. CWM then terminated the employment of the fraudulent workers for cause.

65. Under 18 U.S.C. §1028 and §1546, it is unlawful to knowingly use a falsified United States identification document, permit, border crossing card, alien registration receipt card, or other document as evidence of authorized stay or employment in the United States. (8 U.S.C. §1324a(b) allows a social security card to evidence employment authorization.)

66. Pursuant to 28 U.S.C. §2201, Plaintiffs are entitled to an order declaring the fraudulent workers violated 18 U.S.C. §1028 and §1546 and 8 U.S.C. §1324a in applying for work employment with CWM.

67. The fraudulent workers, having devised schemes to obtain money by false pretenses or representations, including a scheme to obtain wages from illegal employment, and a scheme to replace IAUWU with UMWA for the purpose of obtaining more money from their illegal employment, and a scheme to obtain financial contributions from others in support of their other schemes, caused to be transmitted by wire, radio, or television communication in interstate commerce writings, signs, signals, pictures, or sounds for the purpose of executing their schemes as shown by the publications cited in the Second Claim for Relief below.

68. Pursuant to 28 U.S.C. §2201, Plaintiffs are entitled to an order declaring the fraudulent workers violated 18 U.S.C. § 1343.

69. The fraudulent workers' violations of 18 U.S.C. §§1028, 1343, and 1546 and 8 U.S.C. §1324a are predicate acts of "racketeering activity" under 18 U.S.C. §1961(1).

70. Aguilar, Chavez, Estrada, Flores, *González*, Daniel and Guillermo Hernandez, Kennedy, Leon, Olivas, Panduro, Rodriguez, Gonzalo, Jesus, and Juan Salazar, Sanchez, Villa, UMWA and its officers and other agents, and one or more of the Doe Defendants are an "enterprise" under 18 U.S.C. §1961(4) engaged in activities affecting interstate commerce.

71. Pursuant to 28 U.S.C. §2201, Plaintiffs are entitled to an order declaring the fraudulent workers, associated with the enterprise, participated in the conduct of the enterprise's affairs through a pattern of racketeering activity in violation of 18 U.S.C. §1962(c).

72. Pursuant to 28 U.S.C. §2201, Plaintiffs are entitled to an order declaring the fraudulent workers violated 18 U.S.C. §1962(c) as agents of UMWA acting within the scope of their agency, and that UMWA through its agents violated 18 U.S.C. §1962(a).

73. Under 8 U.S.C. § 1324, and §1324a, it is unlawful for CWM to encourage an alien to reside in the United States, knowing or in reckless disregard of the fact that his residence is in violation of law, or after hiring an alien for employment, to continue to employ the alien upon discovering he is an unauthorized alien. Therefore, upon discovering the fraudulent workers were in the United States and employed by CWM in violation of federal law, CWM was legally obligated to terminate their employment.

74. Pursuant to 28 U.S.C. §2201, CWM is entitled to an order declaring that the fraudulent workers obtained employment with CWM through violations of 18 U.S.C. §1028 and §1546, and that under 8 U.S.C. § 1324, and §1324a CWM lawfully terminated the fraudulent workers's employment for providing CWM with falsified social security cards and other U.S. documentation evidencing their authorization to stay and take employment in the United States, and for failing upon legitimate request to provide valid documentation showing their eligibility to work.

SECOND CLAIM FOR RELIEF
(Violation of Labor Agreement) / Unfair Labor Practices)

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

76. Pursuant to 29 U.S.C. §159, IAUWU is and for over 20 years has continuously been the duly elected bargaining representative for the workers of C. W. Mining Company (CWM). Both the NLRB and the UMWA were directly involved in the initial election, and recognized IAUWU as the exclusive bargaining representative of CWM's workers.

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

78. On or about September 22, 2004 CWM suspended Bill Estrada with intent to terminate for cause. Estrada did not seek IAUWU's help or otherwise challenge his termination through the grievance process of IAUWU's collective bargaining agreement. While management was meeting

with Estrada, some of the workers gathered outside. When Estrada left the meeting he falsely told the waiting workers they had also been fired. This was a material misrepresentation of a presently existing fact, which Estrada made either intentionally or with reckless disregard of its truth or falsity. Estrada intended that the workers would rely on his misrepresentation, which they did reasonably rely on to their detriment by, among other things, leaving their jobs, and engaging in a wildcat strike. At all pertinent times Estrada was UMWA's agent.

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

80. UMWA and its agents as further described herein persuaded and caused workers and/or former workers of CWM, and other supporters of UMWA and the workers as further described herein, to picket CWM in violation of the National Labor Relations Act and the collective bargaining agreement between CWM and IAUWU, with the object of forcing CWM to recognize or bargain with UMWA as the representative of CWM's workers, while IAUWU was certified as the representative of CWM's workers, and where both the National Labor Relations Board and CWM had lawfully recognized IAUWU as the bargaining representative of CWM's workers, and a question concerning IAUWU's representation of CWM's workers could not appropriately be raised under 29 U.S.C. §159, and where such picketing was conducted without a petition under 29 U.S.C. §159(c).

81. UMWA and its agents as further described herein persuaded and caused workers and/or former workers of CWM, and other supporters of UMWA and the workers as further described herein, to engage in secondary picketing of businesses other than CWM located over 120 miles from CWM's place of business, in violation of the National Labor Relations Act and the collective bargaining agreement between CWM and IAUWU, with the object of forcing CWM to recognize or bargain with UMWA as the representative of CWM's workers, while IAUWU was certified as the representative of CWM's workers, and where both the National Labor Relations Board and CWM had lawfully recognized IAUWU as the bargaining representative of CWM's workers, and a question

concerning IAUWU's representation of CWM's workers could not appropriately be raised under 29 U.S.C. §159, and where such picketing was conducted without a petition under 29 U.S.C. §159(c).

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

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

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

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

THIRD CLAIM FOR RELIEF (Defamation)

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

87. As used hereafter "the workers" shall refer to those of the approximately 75 CWM workers and former workers who in September of 2003 ceased working for CWM and since then participated in picketing, speaking engagements, media interviews, and other activities related to having UMWA recognized as the bargaining representative of CWM's workers.

88. Defendants collectively have made a plethora of defamatory statements about IAUWU, its officers, CWM, its officers, directors, managers, and supervisors, published and republished by Defendants *ad nauseam* as described below. To avoid excessive repetition of full citations to sources, the sources of written publications are identified by an alphanumeric designation (such as D-03, M-26, etc.) A table identifying the sources is attached as Addendum A.

Defamations by Workers

89. In an October 21, 2003 letter entitled "Miners rebuttal at the Co-op mine," Gerardo Aguilar, William Estrada, Hector Florez, Daniel Hernandez, Guillermo Hernandez, Alyson Kennedy, Rigo Rodriguez, Gonzalo Salazar, Jesus Salazar, Celso Panduro, Ana Maria Sanchez, Jose Juan Salazar, and Samuel Villa said:

From the end of August through September 22 (when the miners were thrown out of the mine) the company has been carrying out an unlawful campaign of harassment, threats, intimidation and disciplinary actions against the miners at Co-op. This has included threats about deportation, since the great majority of workers are immigrants. It has included direct

intimidation in the form of interrogations in the work place (some up to two hours long) and also the increase in disciplinary write-ups for work related issues, which the personnel director admits the company was doing.

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

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

Workers got together and went to management to resolve the problem like they had 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.

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

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

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

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

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

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

Supplementary pay and bonuses that are tied to production and attendance are only another tool in the company's hand. If a worker refuses to carry out a unsafe work practice they are very likely to lose their bonuses and supplementary pay. Workers are forced to chose every day between their safety and their families' income that week. [S-02]

90. Ricardo Chavez said:

- a. "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." [M-52]
- b. "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 ½ hours!" [M-54]
- c. On Saturday, September 11, Chavez and others set up an information table at the "Price Alive" street fair in Huntington, Utah. On information and belief, Chavez published false and defamatory statements substantively similar to the statements described herein. He said they had won their jobs back but not the union nor a decent contract. [M-56]
- d. Salazar, Kennedy, and Chávez visited co-workers and other miners who used to work at Co-Op. On information and belief, during these home visits Salazar, Kennedy, and Chávez published defamations substantially similar to those described herein. [M-58]
- e. Chavez spoke at a rally on July 17, 2004, during which on information and belief he made slanderous statements substantively similar to the statements described herein. [M-49]
- f. Chávez said he was fired for not wearing a safety harness when working on a belt above ground, but that the lead person of his crew had not locked out the belt, a blatant safety violation. "This is discrimination against me because she committed a serious safety violation and continues to work at the mine, but I was fired for not following a safety procedure often ignored by the bosses." [M-72]

91. William Estrada said:

- a. The miners were fighting a lockout by CWM. They had walked out of the mine protesting unsafe working conditions and in defense of himself, who he said had been suspended for union activity. CWM refused to negotiate with a delegation of workers, fired everybody, and called in sheriff's deputies to kick them off the property. They organized in groups to pick up their paychecks, and CWM's mine bosses had the sheriff show up again. [M-02; T-10]
- b. The company is falsely claiming that the officers of their union are just leads, and are not our bosses. ... [T]hese supposed leads not only organize production, but suspend us, fire us, write our evaluations, give or take away raises, and in general never lift a finger to give us a hand on the job. [Estrada's] foreman is supposed to be the union president, but neither he nor any of the 'union officers' have ever explained a single thing about a union to any worker. There isn't a single case where this "union" has ever defended a worker from company attacks. [M-12]
- c. He was a panelist on a February 3, 2004 panel discussion at the University of Utah where he 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 said MSHA recently issued safety citations against CWM only because numerous miners provided the agency with testimony on unsafe working conditions and lack of proper mine training. [M-29] On information and belief, on the same occasion he published other comments defamatory of Plaintiffs, substantially similar to statements set forth herein, as will be shown through discovery.

- d. 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. [M-45]
- e. 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, and that “This lack of preventive maintenance shows the bosses’ total disregard for the life and limb of the workers.” [M-48]
- f. 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. [M-52]
- g. UMWA supporters went to an IAUWU meeting and exposed the outfit as a boss setup. [M-53]
- h. The Co-Op bosses blatantly harass UMWA supporters. 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 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. [M-54]
- i. “The company uses existing bonuses and supplementary pay to discipline workers. For example, if workers report an accident, both are taken away.” [M-55]
- j. On Saturday, September 11, Estrada and others set up an information table at the “Price Alive” street fair in Huntington, Utah. On information and belief, Estrada published false and defamatory statements substantively similar to the statements described herein. He said they had won their jobs back but not the union nor a decent contract. [M-56]
- k. “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.” [M-57]
- l. 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.” He also said, “The government is just giving the Kingstons more openings to harass and threaten us by delaying a union election,” and that CWM was committing acts of intimidation against union supporters in the mine in direct violation of a settlement agreement. [M-60]

- m. A meeting held under the collective bargaining agreement to review CWM's decision to terminate Panduro for cause was "just a show." [M-61]
- n. Dana Jenkins, an officer of IAUWU, was a foreman who performed boss's duties, including disciplining workers. [M-63]
- o. Most of CWM's workers "were people who never applied for employment. The Kingston family owners just brought them in to stack a union election against the miners." [M-67]
- p. CWM was ordering illegal cuts of 55 feet into the coal seam, when the maximum allowed in that mine is 40 feet. [M-68]
- q. CWM failed to make its roof control plan readily available to the miners, and workers are exposed to diesel exhaust fumes from the mechanics shop due to inadequate ventilation. CWM was threatening mass firings of miners, using as a pretext new and arbitrary production standards and claims of improper worker documentation. "We call on all working people ... to support us against the desperate attacks by C.W. Mining ..." [M-68]
- r. At a November 29, 2004 press conference Estrada said, "We miners at the Co-Op mine are here today to ask the Mine Safety and Health Administration (MSHA) to immediately order C.W. Mining to stop unsafe mining practices at their Bear Canyon Mine near Huntington. These unsafe practices include illegal 55 foot cuts where 40 foot cuts are the maximum allowed by law, not having readily available to miners a roof control plan for the #4 mine as required by law, and exposure to diesel exhaust in the outside shop due to inadequate ventilation. ... In the face of the Co-Op miners winning our jobs back after being illegally fired in September last year, winning a back pay ruling, ... (all decisions of the National Labor Relations Board - NLRB), C.W. Mining managers have been threatening mass firings of Co-Op miners. They are using new and arbitrary production standards ... Furthermore, last week one Co-Op supervisor physically shoved one miner and threatened one other. ... These actions by C.W. Mining are a direct violation of the July 1, 2004 National Labor Relations Board settlement." [M-69]
- s. "The company is using what it thinks is its strongest suit to discourage support for the miners and to intimidate those of us who are foreign-born from fighting for a union. No one is going to be fooled by what the company is doing. It is a blatant attempt at intimidation and division." [M-70]
- t. "In 16 months we have been fired twice by the company for union activity." [M-74]
- u. CWM fired him September 22, 2004 for trying to organize a union, and IAUWU was a company concoction designed to preclude employees from airing legitimate grievances. [T-02]
- v. Working conditions at CWM were "unsafe," and injured miners who dared report an accident would have their pay docked. CWM's bosses threatened to call immigration officials to scare the workers. "The Kingstons," meaning those in charge of CWM, called the sheriff [on picketing workers] reporting illegal trespass. The miners were "illegally fired for union activity." [T-05]
- w. Estrada said "the Kingstons," meaning those in charge of CWM, had illegally fired the workers who walked off their jobs in September 2003. "How can [we] have a union that is owned by the company?" by which Estrada meant IAUWU is owned by CWM. [T-07]

- x. "Now our goal is to win union representation," meaning that despite IAUWU and its collective bargaining agreement with CWM, the workers do not have union representation. [T-12]
- y. The majority of CWM's workforce "were people who never applied for employment. The family just brought them in." [T-13; T-14]
- z. Workers supporting UMWA had been threatened and assaulted. "They are trying to use anything possible to defeat our attempt to organize with the UMWA. They are taking desperate measures," including unrealistic work demands, threats to fire workers who cannot prove they are legally in the country and warnings they will close the mine if the UMWA wins a union election. He said the mine conducts dangerous practices that expose the workers to cave-ins and inadequate ventilation. [T-15]
- aa. He said nearly 80 workers staged a walk-out of CWM in late September, protesting meager wages and exploitative conditions, and that CWM had locked them out; that CWM knew the workers had been holding meetings to fight for better wages and working conditions, and "Once they found out about it, they've been intimidating people, saying they're going to close the mine;" and that CWM mine operators were "forcing workers to work overtime, forcing them to do illegal things, operate dangerous equipment." [D-01]
- ab. He said after CWM executives learned he and 73 others were attempting to align themselves with UMWA to combat unsafe working conditions, the workers' move cost all of them their jobs, with CWM using things like claims of negligence to target people. He said CWM charges its miners for any tools they use, "It comes right out of our pay," and that CWM routinely uses a slave labor force. [D-06] [D-06]
- ac. "Very few workers belong to the union [IAUWU]." [S-01]
- ad. He said Co-op fired him late last month for trying to organize a union, that he is supported by about 75 fellow miners, that he heard grumbling about low wages, lack of benefits and potentially dangerous working conditions from the day he started as a miner's helper, and that the mine's union, the International Association of United Workers, was a company concoction designed to preclude employees from airing legitimate grievances. [H-01]
- ae. He and 73 other workers were fired after mine executives learned they were attempting to address unsafe working conditions by aligning themselves with UMWA, that CWM charges miners for tools "right out of our pay," and routinely uses a slave labor force. [H-02]
- af. He was fired for trying to get fair union representation for the workers to ensure safer working conditions and better wages. [C-03]
- ag. There was only a "yellow-dog" union run by the Kingston family. Regarding health benefits, he said, "I never heard of it. ... It's the same with the company union, they claim they had a union but most workers were never told about it." He described improper ventilation causing dust inhalation, and a common practice of cutting too deep into the coal wall, creating an unsafe roof. "When the inspectors come, they go to the bathhouse and change, they go to the office and have a cup of coffee," giving the foremen underground time to take dangerous equipment offline. Injuries were rarely reported because "they deducted from your pay if you reported an

- accident." Co-op miners had to buy their own equipment, so the cost of necessities like hard hats, tools, belts, gloves and safety glasses dug into the meager wages. [C-04]
- ah. "We went on strike so that we can ... be fairly represented by a union, not of the bosses, which the mine has offered us, but of the workers." [C-05]
- ai. "When the company found out we had contacted the UMWA, they started making threats. They said they'd call the INS or the police. They said anyone who considered organizing with the UMWA would be fired. ... These so-called union officers never presented themselves to us as reps. We were told they were bosses. They never filed any grievance against the company. They never came in defense of any worker. There was no election of them as union officers." He said union representatives always work alongside other workers, but not at the Co-op mines. "The district men are not lead men, as they pretend they are. They're bosses. They deduct pay as a disciplinary measure against workers. They fire people. They don't do things union reps do; they do things bosses do." [X-01]
- aj. On or about November 29, 2003, Estrada told KSL News "These officers [of IAUWU], they fire, they cut the pay of workers, and these are supposed to be the union officers. So we have filed charges against the company so that this union could be officially decertified so we can organize a real union in the interests of the workers there."
[http://tv.ksl.com/index.php?nid=5&sid=61297]
- ak. The workers had been illegally fired by the Co-op bosses for union activity. [JH-01]
- al. Ana Sanchez and Bill Estrada toured Massachusetts to gain support for their strike. The mine workers told their story to the Mass. AFL-CIO, CWA IUE 201, Greater Boston APWU, Boston Teachers Union, several Central Labor Councils, and Interfaith groups throughout the state. [J-06] On information and belief, Estrada published defamations during the tour substantially similar to those described herein.
- am. Estrada said CWM fired him for trying to organize a union, and that IAUWU was a company concoction designed to preclude employees from airing legitimate grievances. [October 2003 *Casper Star Tribune* article]
- an. He said, "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." [March 22, 2004 UAW Local 14 article, "Utah Miners Strike in Safety/Pay Struggle"]
- ao. He was fired for trying to organize a union is leading a charge against the polygamous Kingston family's Co-op Mining, which he says is mistreating immigrant workers. [H-01]
- ap. "When the company found out we had contacted the UMWA they started making threats. They said they'd call the INS or the police. They said anyone who considered organizing with the UMWA would be fired."
[http://www.utahgothic.com/features/kingstons/kingston%20dollars.html]

92. Hector 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." [M-48]

93. Daniel Hernandez said, "On September 22, 2003 CWM fired and locked out 75 miners for standing with a co-worker they had suspended for three days with intent to discharge. CWM called the sheriff to order us off the property. We had been talking to the UMWA about organizing a union. The company has a so-called union and all of the officers are bosses." [M-09]

94. Guillermo Hernandez said the miners had been taken advantage of because of their ethnicity, that they were paid between \$5.25 and \$7 an hour, received no health insurance or benefits, and were forced to work in violation of Mine Safety and Health Administration regulations. [CDP-01]

95. Alyson Kennedy said:

- a. 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. [M-17]
- b. "Because of the solidarity we have gotten and the pressure put on the Kingstons, the (NLRB) upheld the charge filed Sept. 23, 2003, by the UMWA that the miners were illegally fired for union activity." [M-46]
- c. 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. [M-48]
- d. Her crew was called into the office on July 28 by Cyril Jackson, a maintenance foreman at the mine, who in direct violation of the NLRB agreement signed by the UMWA and C.W. Mining instructed the miners they were not allowed to say anything about a union, pro or con, on mine property. [M-52]
- e. 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. She said a boss once deliberately used the bathroom just before the shift started, forcing her to be late to work, for which she was reprimanded, and her supervisor told her that bosses filed two written complaints against her for using the bathhouse before her designated time. [M-52]
- f. The bosses and their hirelings routinely harass her verbally. She was recently badgered about her reasons for working at the mine. [M-54]
- g. Salazar, Kennedy, and Chávez visited co-workers and other miners who used to work at Co-Op. On information and belief, during these home visits Salazar, Kennedy, and Chávez published defamations substantially similar to those described herein. [M-58]

- h. She described escalating harassment against her and other members of her crew. She described a meeting where she went to talk to Jackson in the foreman's office. "While we were talking to Jackson, the surface foreman, Kevin Petersen, walked past us and in a belligerent voice said, 'Don't you guys wash your boots, you're getting this floor dirty.' Then Petersen shoved me, nearly knocking me to the concrete floor. ... Citing 'poor work performance, the bosses are trying to disguise the victimization of those of us in the mine advocating the UMWA.'" [M-67]
- i. Kennedy said following weeks of harassment, she filed criminal charges against Kevin Petersen for allegedly shoving her. Four days later, she was called into the company office where her immediate supervisor, Cyril Jackson, and mine manager Charles Reynolds informed her she was suspended for three days with intent to fire. ... On November 22, Charles Reynolds gave out letters to many of the miners saying, "You must provide C.W. Mining Co., on or before December 9, 2004, valid documentation showing your eligibility to work. Failure to provide such documentation will result in your termination. We must verify that any social security number you provide to us is valid." "We have to fight to push them back on this," said Kennedy. "There is no indication that the bosses are backing off of the December 9 threat. And we do know that what they are threatening is illegal." [M-69]
- j. "I presented the NLRB with written statements about how the bosses targeted me by putting me on a graveyard crew of mostly Kingston relatives. They had me build stoppings by myself. They usually have two people or more do this job. It was all a set up to claim I wasn't working fast enough." [M-72]
- k. Kennedy spoke at a rally on July 17, 2004, during which on information and belief she made slanderous statements substantively similar to the statements described herein. [M-49]
- l. The workers "were fired from our jobs." [T-07]
- m. Female workers still don't have a separate place to shower or change. [T-10]
- n. The miners were fired after contacting the United Mine Workers about getting a union organized at the mine. A "company union" [referring to IAUWU] has existed at the mine, but all of the owners are bosses and are related to the owners of CWM. Before the "strike" those who contacted UMWA were cornered, harassed and even suspended by the mine's management. "We are determined to get a real union at this mine, a union contract where the wages and benefits are all negotiated and agreed upon by the workers." [This is a statement that the union contract between IAUWU and CWM was not such a contract.] [D-08]
- o. Kennedy and Juan Salazar spoke at union meeting in California, where, on information and belief, Kennedy published defamations substantively similar to those described herein. [E-03]
- p. When CWM disciplined Estrada, Kennedy said, "We wanted a meeting with management over this problem and some others when we went down to the office after we had heard what was happening with Billy. They refused to meet with us and told us to go home. They even brought in the Emery County sheriff to back them up." She said employees who walked off the job were told they were fired. "Only a few workers belong to the union. They have begun calling the bosses their 'lead men' so that they fit into the union membership. ... One of the problems I saw is that the mine gets its water supply from an area of the mine that is caved in. They sent

some workers in there to work on something and most of them cleared out because they could see how dangerous it was." [S-01]

- q. She said no one ever mentioned the Co-Op mines were unionized when she was first hired. When a group of miners stood up in defense of Estrada, she said, "the company union representatives took the side of the company. They never, at any time, attempted to back our side or encourage any kind of meeting. They just went along with the bosses." She said the company didn't have a women's bathhouse. "They told me they were planning to put in a shower and a separate place where women could change clothes," she said, "but they never followed through on that. From day one, I just had to find my own place to change clothes." Eventually, the company offered her and the other two women access to the bosses' bathhouse. But she didn't understand how that bathhouse would be any different. It was, after all, just another men's bathhouse. She claims the company then designated a room for the women to change their clothes that had a large window with no curtain and a door that wouldn't lock. After a few of the bosses walked in on her, she had a sign made to let them know when she was changing her clothes. Filthy, she would change clothes, and then walk upstairs to a small bathroom, where she could wash her face. "But they didn't even have hot water up there," she said. "I had to wash my face with cold water in the middle of winter. I mean, the whole thing was degrading, you know. The bosses just had no respect for the workers there." [X-01]
- r. IAUWU does not have meetings or elections. [NLP-01]
- s. She spoke at union meeting in California, where, on information and belief, she published defamations substantively similar to those described herein. [E-03]

96. On September 11, 2004, Berthila León and others set up an information table at the "Price Alive" street fair in Huntington, Utah. León said they had won their jobs back but not the union nor a decent contract, and on information and belief, published other false and defamatory statements to the public substantively similar to the statements described herein. [M-56] León later said about CWM's December 2004 termination of workers for cause that a couple of people who had crossed the line during the strike had not been fired and were not asked to provide new documentation. "The company feels sure they have those votes in the election, so they did not fire those workers." [M-70]

97. Domingo Olivas said:

- a. At a fund raiser dinner, Olivas said the miners had been taken advantage of because of their ethnicity, that they were paid between \$5.25 and \$7 an hour, received no health insurance or benefits, and were forced to work in violation of Mine Safety and Health Administration regulations. [CDP-01]
- b. "We are here because ... we're tired of all the mistreatment, abuses, and lies we've endured for years at Co-Op mine—and all at minimum wage!" [M-23] "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." [M-27]

98. Celso Panduro said:

- a. "The day we united against the owners, it was because we had hit a wall. 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." [M-05]
- b. "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." [M-31]
- c. "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." [M-47]
- d. 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. 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. "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." [M-54]
- e. Panduro spoke at a September 18, 2004 picket at the law offices of Carl Kingston. On information and belief, during the course of that activity Panduro published defamations substantially similar to those described herein. [M-57]
- f. "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." [M-60]
- g. "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." [M-61]
- h. Fired for insubordination, Panduro said his efforts to win representation by UMWA was the real reason behind his firing. "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." [M-63]
- i. "I was fired because I support the UMWA." [M-67]
- j. "They fired me because I support the UMWA. When they fired me they claimed I refused orders from my boss, but I didn't. I had been working sick and the boss wanted me to bolt a rooftop that would get me wet and sicker." [M-72]
- k. The "workers" united against the owners because they hit a wall. "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." [T-02]

1. He said medical insurance was not provided for workers or their families, and workers were often exposed to unsafe conditions in the mine. [T-03]

99. Rigo Rodriguez said, "This mine is very dangerous. After roof falls at the entry way, the bosses sent us in through a hole in the return. That is the only entry and only exit now. We were never sure if we were going to come out after we went in. If the roof collapses there, you're trapped." [M-18]

100. Gonzalo Salazar said:

- a. "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." [M-25]
- b. CWM had instigated an attempted ban on the miners' picket trailer. [M-39]
- c. "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." [M-43]
- d. "If I call in sick for just one day, I lose my bonus for as long as the bosses want me to lose it. They say we have a contract, but I've never seen one, and I've never signed one. There isn't any respect for any man or woman in that mine." When miners asked to see their contract, they were told to either get back to work or be fired. He said he was physically threatened by one mine boss, and that a higher boss told him if he didn't call the police, his boss would be disciplined, but no disciplinary action was ever taken. "It means they offer good words, but no good actions to back them up." [C-01]
- e. Gonzalo Salazar, Domingo Olivas, Guillermo Hernandez and Arturo Rodriguez, drove from Huntington to attend the dinner [a fund raising dinner] ... All the miners agreed they've been taken advantage of because of their ethnicity. Salazar said white miners who refused to tolerate working conditions walked off the job, but Hispanics stayed and put up with it because it's harder for them to find another job. The miners allege they were paid between \$5.25 and \$7 an hour, received no health insurance or benefits, and were forced to work in violation of Mine Safety and Health Administration regulations. [CDP-01]

101. Jesus Salazar said:

- a. CWM's employees worked with no health insurance benefits in an unsafe, underground mine. He said they were fired "for defending our rights and protesting the mine's unsafe working

- conditions. 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 'William Estrada]. The company refused to cooperate with us and fired us. We have been locked out because of our pro-union activity." [U-01]
- b. "We are here looking for the UMWA's indispensable support because we were unjustly fired for defending our rights and protesting the mine's unsafe working conditions. We are determined to fight until ... we can put an end to the abuse and extreme level of exploitation we have endured." [M-10]
 - c. "We were unjustly fired for defending our rights and protesting the mine's unsafe working conditions. We are determined to fight until ... 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. The company refused to cooperate with us and fired us. We have been locked out because of our pro-union activity." [M-17]
 - d. "During all the time I have worked at Co-Op, the company has always forced workers to operate unsafe equipment. 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." [M-18]
 - e. "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." [M-31]
 - f. Seven of the fired Co-op miners joined UMWA president Roberts at the convention hall podium where their spokesman, Jesus H. Salazar Jr., described their plight - earning between \$5.25 and \$7.00 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. 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. The company refused to cooperate with us and fired us. We have been locked out because of our pro-union activity." [U-01]
 - f. "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." [M-45]
 - g. "We were able to challenge these [IAUWU] 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." [M-52]
 - h. IAUWU has never represented the workers. [M-55]
 - i. CWM's workers earn between \$5.25 and \$7.00 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. 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. The company refused to cooperate with us and fired us. We have been locked out because of our pro-union activity." [M-10; U-01]

- j. The workers were told they were fired and sheriff's deputies ordered them off the property. Later, guards at the mine entrance had a list of miners to keep out. [T-01]
- k. "We want to attain a real union," meaning IAUWU is not a real union. [T-10]
- l. IAUWU is a false union, and the union officers are bosses who are responsible for setting production goals and disciplining and firing workers. [JH-01]

102. Jose Juan Salazar said:

- a. CWM created IAUWU "just to get in the way of the workers organizing themselves into a real union, the UMWA. " [M-24]
- b. Regarding government action on a trailer permit for picketing workers, "We beat back the company in their attempt to take away our right to be in front of the mine." [M-37]
- c. "Because of years of horrible conditions [at CWM] myself and others started to organize into [UMWA]." 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. 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." [M-46]
- d. "What the supervisors are doing is illegal, they are violating the agreement, and we are documenting every incident."
- f. Juan Salazar said he demanded that harassment of 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." [M-55]
- g. Salazar, Kennedy, and Chávez visited co-workers and other miners who used to work at Co-Op. On information and belief, during these home visits Salazar, Kennedy, and Chávez published defamations substantially similar to those described herein. [M-58]
- h. They had word of a back pay order from the NLRB, and "are winning back pay for our illegal firings last year from the Co-op mine." [M-66]
- i. CWM "is going after us. They are stepping up their attacks against us miners. They are encouraging miners to get jobs at other mines." [M-67]
- j. He spoke at union meeting in California, where, on information and belief, he published defamations substantively similar to those described herein. [E-03]
- k. He a piece of coal fell and fractured his arm, and even though his arm was in a cast, he was required to work. "I had to walk up and down very steep stairs to go to work, and I had to do this for about a month and a half, while I had my cast on." He said workers' compensation was never offered. [X-01]

- l. He "described their plight—earning between \$5.25 and \$7 per hour with "no health insurance and no benefits in an unsafe, underground mine." ... He said, "We were unjustly fired for defending our rights and protesting the mine's unsafe working conditions. 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. The company refused to cooperate with us and fired us. We have been locked out because of our pro-union activity." [J-04]
- m. He said, "They brought the sheriff to walk us out," and said IAUWU does not have meetings or elections. [NLP-01]

103. Ana Maria Sanchez said:

- a. 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. [M-29]
- b. "The bosses are members of that so-called union. It never represented us or did anything for us." [M-34]
- c. She had to undress in the same rooms as her male workers. [T-03]
- d. She told a crowd at a rally that working conditions at CWM were "bad and dangerous." On information and belief, Sanchez then made further false and defamatory statements substantively similar to those described herein. [T-04]
- e. Tensions had been brewing and peaked in late September 2003. "For days before that, even, we were protesting the conditions at the mine – which added fuel to the fire." She said there were no bathroom facilities for female workers, that the roof of the mine was in "cave-in condition" and that workers were not provided with proper safety or work equipment, or if they were, it was at an outrageous price, charged by the company. [D-09]
- f. She was a panelist on a February 3, 2004 panel discussion at the University of Utah where, on information and belief, she published other comments defamatory of Plaintiffs, substantially similar to statements set forth herein, as will be shown through discovery. [M-29]

104. Raymundo Silva said:

- a. "They demanded 200 bolts a shift from me. My boss also made me bring him Gatorade drinks at the mine so I could keep my job." [M-74]
- b. "I saw the bosses laugh at the miners during the strike." The "abuses at the mine" got to him. A boss "yelled at me to clean four faces, to clean four extra cross-cuts. They called me pendejo, a 'dummy.'" "They made me work as a roof bolter in water above my knees and refused to pump it out." [M-75]

105. Former CWM workers whose identities will be obtained through discovery, believed the former CWM workers named as defendants in this action, said:

- a. IAUWU is a fake company-led 'union' that CWM maintained in the workplace. [U-01, U-03]

- b. They worked with no health insurance benefits in unsafe conditions that violate MSHA regulations. [U-02]
- c. One miner said CWM bosses sent five men into a mine with only one self-rescuer [an oxygen unit used for safety reasons] to recover mining equipment. Another said, "If you report an accident, you are laid off for three days and your pay is cut." [M-04]
- d. One miner said he received only two hours of training and was charged \$100 for the class given to him by José Ortega. Several miners who reported similar problems said investigators told them it is illegal to charge for the class. Another miner said the initial training he received from Ortega lasted three days, two hours per day, at Ortega's house, for which 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. [M-18]
- e. Miners say at the Co-Op mine, for many years the company employee giving these classes has been José Ortega, who 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. [M-35]
- f. One miner said 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 a boss's open pickup truck. 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. He was thrown against the side of the truck jamming his finger. When he reported the incident to the production foreman, he was told, "I don't want to hear you complaining about your boss or you won't have a job here anymore." [M-18]
- g. Several miners said, "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." [M-37]
- h. 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. [M-39]
- i. The miners said IAUWU was a "company union" that never represented any workers when CWM victimized them, that 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," meaning IAUWU is not a real union. They said they were forced to labor under unsafe conditions resulting in injuries and deaths on the job. [M-43]
- j. 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. Several miners report the bosses have asked them whether they are being paid by the UMWA to be there. [M-48]

- k. MSHA "cited C.W. Mining July 27 for discriminating against Ricardo Chávez, a union backer at the Co-Op mine. 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 ... and to reimburse him for the \$150 he spent for the classes. UMWA supporters ... 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. " [M-51]
- l. "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. 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. 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, 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. [M-52]

- m. The three officers of this phony union [IAUWU] are supervisors in the mine. [M-53]
- n. 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. This threat of loss of pay is always held over workers' heads. CWM 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. All miners are working 12-hour shifts, four days a week, and are routinely asked and pressured to work longer hours and extra days. [M-54]
- o. Miners said they demanded that harassment of the women miners by the brother of the mine manager be ended. [M-55]
- p. On September 11, 2004, UMWA supporters set up an information table at the "Price Alive" street fair in Huntington, Utah. On information and belief, they published false and defamatory statements to the public substantively similar to the statements described herein. [M-56]
- q. Workers described IAUWU as a company union and a "phony company outfit" that does the bidding of CWM and has failed to represent the workers in every dispute. 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." [M-58]
- r. IAUWU is a company union, the Kingstons are using this lawsuit simply to harass UMWA backers, and this lawsuit is proof IAUWU "is an outfit run by the bosses, not a workers' union." [M-61, M-62]
- s. 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 members elected Chris Grundvig as president of the local union, the miners said it was CWM that placed 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. [M-63]
- t. The miners said IAUWU is a company outfit that has never represented them, that IAUWU is a Kingston-controlled operation, and tries to paint a facade of a legitimate trade union through its structures, and this lawsuit is a harassment lawsuit aimed at diverting the miners from their fight to win UMWA representation. [M-65; M-66]

- u. Harassment and intimidation by management of UMWA supporters was accelerating on the job, that "this intimidation campaign has stepped up since the recent NLRB rulings," and that IAUWU is "a company outfit." [M-67]
- v. A committee was set up at the November 21 meeting to organize visits to every worker eligible to vote to talk about what the bosses were doing on the job. On information and belief, those talks included slanders as will be shown through discovery. [M-67]
- w. "The coal companies are always pushing so hard for production, and that is what causes accidents. Coal miners have to depend on ourselves for safer mines." [M-68]
- x. CWM was ordering illegal cuts of 55 feet into the coal seam, when the maximum allowed in that mine is 40 feet. One miner said a piece of mining equipment makes unbearably loud noises for which miners have to pay for additional ear protection. Another said CWM tells foremen when MSHA inspectors enter the property and organizes to stop miners from carrying out their normal work until the inspectors leave. [M-68]
- y. Workers claimed all IAUWU officers are mine bosses, the company-controlled union is made up of officers who are all bosses and relatives of ... the owners of the mine, and that it never represented the interests of the workers, IAUWU "is a company union," and this lawsuit is proof IAUWU "is an outfit run by the bosses, not a workers' union." [M-05; M-21; M-62]
- z. The workers published a letter stating: "Workers got together and went to management to resolve the problem ... 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. ... For the company to try to justify paying any miner \$5.50 an hour only sheds light on their arrogant belief that they have the right to exploit human beings. ... Supplementary pay and bonuses that are tied to production and attendance are only another tool in the company's hand. If a worker refuses to carry out an unsafe work practice they are likely to lose their bonuses and supplementary pay." [M-07]
- aa. The workers contend they were fired and locked out by the company because of concerted activities and unsafe conditions. The Co-op miners allege:
 - Most workers lack medical insurance ... ;
 - Miners are forced to work under unsafe conditions in violation of Mine Safety & Health Administration regulations ... ;
 - Workers are forced to use defective and unsafe machinery;
 - Workers are not provided adequate training by the company;
 - Workers are abused and mistreated by management; and
 - Female workers have no bathhouse. [M-17]
- ab. The miners said IAUWU is a company union, a creation of the Kingstons to keep out a real union, and they want a real union, meaning IAUWU is not a real union, the mine bosses tried to prevent miners from attending an IAUWU meeting, and the company threatened to take away their holiday pay if they missed work to attend the meeting. [M-55; M-59]

- ac. One miner said a piece of mining equipment makes unbearably loud noises for which miners have to pay for additional ear protection. [M-68]
- ad. Miners say that C.W. Mining has imposed on them an outfit run by the bosses called the International Association of United Workers Union (IAUWU). This "union" works with the company to discipline workers and maintain super-exploitive conditions at the mine. ... Workers say they have documented numerous unsafe practices at the mine. These include lack of safety equipment, dangerously long cuts of coal past supported roof, and jobs such as roof bolting done on a piece-rate basis. ... Co-Op miners said December 5 they had designated two miners as safety representatives—one underground and one surface miner. Workers will report safety violations or problems to them. The next morning, the Co-Op bosses held a meeting with both the midnight and day shift miners. Miners said that superintendent Kenny Defa told them, "We know you formed a safety committee." Defa claimed that according to company policy miners may be disciplined, up to and including being fired, if they report a safety problem to MSHA before reporting it to the company. After the meeting, head maintenance foreman Cyril Jackson pulled aside Bill Estrada, a leader of the UMWA organizing effort, and gave him a disciplinary "occurrence" because he was part of the delegation of Co-Op miners to the MSHA office on November 29. ... [M-69]
- ae. December 9 was the deadline set by the mine bosses for Co-Op miners to provide new "documentation" showing their eligibility to work in this country. Many of the miners have worked at Co-Op for several years, and in some cases for a decade or two. Miners denounced this move by the company to demand immigration documentation one week before the union election as a blatant attempt to intimidate the miners in hopes they won't vote for the UMWA. The workers also said the move is a violation of an agreement brokered by the National Labor Relations Board (NLRB) last summer. [M-70]
- ef. On December 9, 2004, CWM dismissed workers on the pretext they lacked proper work documents. The miners say the real reason for the mass firings, one week before the December 17 union election, was their efforts to win UMWA representation. [M-74]
- ag. The miners said CWM's suspension of William Estrada for cause was the company's third attempt to victimize a UMWA supporter in recent weeks, and that "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. [U-01]
- ah. "Union leaders" (on information and belief, meaning UMWA agents believed to include Estrada, Kennedy, Jesus Salazar, and/or Picado) said labor tensions between the operators of CWM and their work force resulted in a lockout of 75 workers. [T-01]
- ai. The miners said when they came to Estrada's defense, a foreman told them they were all fired, and when some tried to return to work the next morning, only a handful on a company checklist were allowed onto the property. [T-02]
- aj. "The workers" said "the family" set up a fake union, and that they used the fake union to draw money out of workers' paychecks without providing benefits to workers. [T-03]

- ak. Miners said IAUWU is a "yellow-dog" company-run union run by members of the Kingston family, and a puppet organization for CWM's owners. [T-07; T-10; T-11; T-13; T-14; D-09]
- al. The miners said a settlement between CWM and UMWA validated their claims that CWM fired and locked them out for trying to organize under UMWA, and IAUWU is a bogus, company controlled union. [T-08]
- am. The "workers" said, "When they talked about forming a union last September ..., their leader was fired and the rest of them were locked out." [T-09]
- an. Workers said they were locked out of the Co-op Mine in September 2003 after talking about organizing themselves to negotiate better pay and working conditions. [T-11]
- ao. The miners said that they were locked out of their jobs because their employers heard them talking about forming a union to ask for better wages, benefits and working conditions, that they have been back on the job after a NLRB decision returned them to work, and that CWM plans to stack the union vote in favor of a company-supported organization, IAUWU. [T-12]
- ap. Miners "complained of dangerous conditions and worker intimidation" at CWM. [T-15]
- aq. "Dissident miners" said IAUWU is Kingston created and controlled. [T-15]
- ar. Several dozen miners claimed they were fired and locked out of the mine after they protested poor working conditions, low salaries and the lack of benefits, and for seeking representation and affiliation with UMWA, and attempting to organize a union to address what they called poor pay and mine safety issues. [D-07; D-11; D-12; T-15]
- as. The workers said CWM "exploited, intimidated and abused its workers," that there were dangerous working conditions, defective equipment and forced overtime. [D-01]
- at. Workers were protesting what they said were "exploitative conditions, including defective machinery that has caused injuries, a lack of training and health-care benefits, and meager wages." They accused CWM of unsafe mining practices, including illegal cuts and ventilation problems, and ongoing threats including threats of illegal mass firings, harassment, and physical abuse of coal miners. [D-3; D-13]
- au. The miners cited low wages, unsafe conditions, intimidation by supervisors, and no health insurance as their reasons for picketing, and that they were forced to operate unsafe equipment under unsafe conditions including unstable roof conditions. [E-01]
- av. Workers said the strike began when a worker complained to the CW Mining management concerning unsafe conditions in the mine and union activity. Two other miners had been disciplined for the same reasons the week before. [E-02]
- aw. Miners told of unsafe working conditions and wages well below other coal mines. They said they lacked benefits and were forced to work when they were injured. They told of a miner with an injured arm who returned to work too soon and the doctor told him because he returned to work too soon the arm would take much longer to heal. [E-04]
- ax. Miners told the press they were fired from their jobs at CWM because they had contacted the UMWA about getting a union organized at the mine, that a company union has existed at the mine for many years, that all of the officers of this "union" are bosses and are related to the Kingstons, the wealthy family that owns the mine, that they had been talking to UMWA

- organizers about how to get a real union organized at the mine, and that mine bosses began harassing and suspending the miners for this activity," [E-05]
- ay. The workers accused CWM of violating safety regulations by mining too far into coal seams without properly bolting the roof of the excavation. [E-06]
 - az. The workers said IAUWU was a "company union," that the company started the union, and that all the officers of IAUWU are bosses in the mine, and a worker was ordered to do something by a boss and then was threatened with the loss of his job for doing it. [S-01]
 - ba. The workers said when they went to the mine's office to protest the dismissal of a co-worker, they were told to leave and not come back. [S-03]
 - bb. Workers told the press a strike began when a worker complained to CWM's management concerning unsafe conditions in the mine, that two other miners had been disciplined for the same reason the week before, that a walkout began when workers left the coal production operation in support of the miner making the complaints, and that they were all fired. They said the strike began as a protest when Estrada was fired for trying to bring UMWA into the mine, that they were then locked out of the mine, that CWM was interfering with the workers' right to organize, and that IAUWU is a company run labor organization. [S-04; S-05; S-07; M-38]
 - bc. The workers said they had been escorted by sheriff's deputies off mine property and were fired by CWM in violation of U.S. labor law. They said some miners have for years been forced to pay dues to a company dominated "union" [IAUWU]. They said they were illegally fired by CWM when they stopped work to protest a set up and discharge of Estrada, who they say had contacted UMWA in an effort to improve underground working conditions, the wage scale with no health care benefits, and the constant threat of discharge if any miner contacted any Federal or State agency concerning working conditions or employment laws. [S-06]
 - bd. The workers said the present union (IAUWU) is a company organization, run by company managers, and that all of its officers are management personnel. [S-07; S-09]
 - be. The miners claim that when they came to Estrada's defense, a foreman told them they were all fired. When some tried to return to work the next morning, only a handful of employees on a company checklist were allowed onto the property. [H-01]
 - bf. The workers have distributed flyers [on information and belief, prepared by UMWA] that state the miners are forced to work with injuries, and do not have access to workers' compensation, that they are expected to use defective and unsafe machinery, and under unsafe conditions in violation of the law and MSHA rules. They also state the miners do not have medical insurance benefits, and that CWM does not provide the necessary tools to do the job without discounting money from the workers' paychecks. [C-02]
 - bg. The miners say IAUWU is made up entirely of Kingston family members and mine supervisors. [C-02]
 - bh. About 75 miners claim they were locked out of CW Mining Co.'s mine in Huntington, Utah, Sept. 22, after they protested unsafe working conditions and the suspension of William Estrada, a United Mine Workers of America supporter who refused to sign what he said was an unfair disciplinary letter. ... The picketing miners insist that training is inadequate and machinery is

unsafe or defective. The federal Mine Safety and Health Administration has known about the situation since 1993 ... [C-04]

- bi. The workers also said the union that mine owners said was formed to represent the workers ... is made up largely of the mine bosses." [C-05]
- bj. Miners contend that when they tried to return to work Reynolds and two sheriff's deputies met them at the gate. Reynolds, they said, held a list containing names of who could and could not work that day. Miners claim that only about 10 people were allowed to work. The rest were locked out. After three days of lockout, they allegedly were fired. ... The group of striking miners at Co-Op contends that they were occasionally forced to work in mines with inadequate roof supports and to operate machinery that the MSHA had deemed inoperable. ... [X-01]
- bk. These workers ... contend they were fired and locked out by the company because of concerted activities and unsafe conditions. The Co-Op miners allege:

- Most immigrant workers at the mine earn only between \$5.25 and \$7 an hour;
- Most workers lack medical insurance and retirement benefits;
- Miners are forced to work under unsafe conditions in violation of Mine Safety & Health Administration regulations ... ;
- Workers are forced to use defective and unsafe machinery;
- Workers are not provided adequate training by the company;
- Workers are abused and mistreated by management; and
- Female workers have no bathhouse.

"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. [J-04]

- bl. The miners said IAUWU is "a puppet organization for the Kingstons." [July 7, 2004 article by KUTV at <http://kutv.com>]
- bm. The miners said that when they came to Estrada's defense, a foreman told them they were all fired, and when some tried to return to work the next morning, only a handful on a company checklist were allowed onto the property. [October 2003 *Casper Star Tribune* article]
- bn. One miner said, "The day we united against the owners, it was because we had hit a wall. 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." The workers finally replied to these conditions due to the unlawful termination of Bill Estrada ... After the company learned that Estrada and others planed to join a workers union to protect the workers' rights they fired some of Estrada's colleagues. They then asked Estrada to sign a document stating that his colleagues were fired because they failed to perform their labors adequately. Estrada refused, so the foreman terminated him. ... Upon hearing of Estrada's termination, the workers at the mine left the job site in protest and refused to work. The next day, CWM informed the workers that they were all fired. [<http://www.econ.utah.edu/ehrbart/2003fa.pdf>]