

Amazon sues New York to claim immunity from state COVID-19 safety regulations

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On Friday, Amazon filed a lawsuit in federal district court against New York state attorney general Letitia James, claiming that the company is not subject to “state oversight” and is not required to comply with New York’s workplace health and safety laws and regulations as they relate to the coronavirus pandemic.

The lawsuit is a display of boundless arrogance befitting a conglomerate controlled by one of the world’s richest megabillionaires, Jeff Bezos. Amazon’s legal theory is that it is not required to comply with New York safety laws or regulations because those are allegedly superseded or “preempted” by more lenient federal regulations.

Until recently, the federal regulations at issue were promulgated by the Republican Trump administration, which ferociously opposed any measure that would protect workers’ lives at the expense of corporate profits. This policy has been continued in all essential respects by the new Democratic Biden administration, which is currently engaged in an intensifying campaign to reopen schools, carried over without interruption from the Trump administration. Schools are known to contribute dramatically to the spread of the deadly virus.

Amazon seeks a declaratory ruling that it is immune from New York labor laws relating to health and safety regarding the coronavirus and that it is not required to comply with the instructions of New York’s attorney general, which included modest demands that “Amazon disgorge profits, subsidize public bus service, reduce its production speeds and performance requirements,” reinstate employees Amazon had retaliated against, “retain a health and safety consultant to oversee safety and production,” and adopt other safety-related policies.

The tone of Amazon’s 64-page complaint is one of indignation and outrage. Amazon, according to its lawyers, is the real victim, having been subjected to government “overreach” by state authorities who were “usurping” powers purportedly reserved to the federal government. Amazon claims that its rights are being violated by the state’s safety regulations and that the federal court must intervene to protect Amazon.

Amazon is represented in the lawsuit by Gibson Dunn, a global law firm with 1,400 attorneys and 20 offices around the world. Gibson Dunn partners earn an average yearly salary of \$308,000, or around 10 times the average wage of an Amazon warehouse worker.

Despite the length of the complaint and its tone of supreme moral indignation, Amazon’s legal theory is contrary to all common sense. It is not unusual, for example, for states and local municipalities to enact minimum wage laws that are higher than the federal minimum wage of \$7.25 per hour, such as New York’s minimum wage of \$12.50 per hour. According to the logic of Amazon’s theory, those higher minimum wage laws would constitute illegal attempts to

“usurp” the federal minimum.

However, in the American legal system, the fact that a legal theory is fanciful and absurd is no guarantee that it will be rejected, especially if powerful profit interests and an army of corporate lawyers are behind it. Indeed, Amazon is likely emboldened by recent decisions of the US Supreme Court. In November, for example, the far-right majority on the Supreme Court struck down New York state health and safety regulations on the grounds that they supposedly violated “religious liberty.”

Citing a favorable ruling it obtained in a previous lawsuit brought by Amazon employees at the JFK8 warehouse in Staten Island, New York, Amazon argues that the “JFK8 facility is not the source of COVID-19,” that “the public at large cannot avoid COVID-19 simply by avoiding JFK8, its immediate surrounding area, and its employees,” and that “the public risks exposing themselves to COVID-19 nearly anywhere in the country and the world.”

In other words, according to Amazon’s lawyers—Amazon did not cause the coronavirus, and people are going to get the coronavirus whether they work at Amazon or not, so Amazon should not be “penalized” by being subjected to safety requirements that would protect workers’ health and the health of their families.

Even by the degraded standards of American public discourse at present, it is remarkable to watch a giant corporation awash with tens of billions of dollars of profits walk into court in broad daylight and whine about being forced to take the most basic precautions to prevent workers from being infected by a deadly virus.

Among the measures that Amazon complains about being asked to implement are providing employees with adequate hand sanitizer and other cleaning agents, providing suitable time to engage in regular and frequent hand washing, reconfiguring employee stations to permit social distancing, and providing employees with accurate and complete information concerning their possible exposure to COVID-19. According to Amazon’s theory, these basic legal requirements constitute outrageous government “overreach.”

Amazon’s lawsuit appears to have been an effort to get out in front of a civil lawsuit against the company for its flagrant violation of state health and safety laws during the pandemic, which was filed by New York’s attorney general’s office on Tuesday.

Amazon’s race to the courthouse on Friday was in that sense as much a “public relations” maneuver as a legal strategy, as the 64-page complaint extolls at great length Amazon’s supposedly excellent implementation of coronavirus safety measures. Amazon also points to the lack of enforcement actions against other companies, and similarly inadequate measures taken to protect New York state employees, as evidence that it is being singled out for “inconsistent”

enforcement of the applicable regulations.

The Democratic Party, which controls the state of New York from top to bottom, doubtless has its own political reasons for taking Amazon to court, including its anxiety not to be perceived as being rendered totally irrelevant by a giant corporation that considers itself free to ignore state laws and regulations. But no confidence can be placed in the Democratic Party and its appointees to wage any principled struggle against unsafe working conditions at Amazon, especially given the fact that the same party is now leading the national charge to reopen schools.

Even so, the complaint against Amazon by the New York attorney general's office paints a devastating portrait of Amazon's indifference to workers' lives as the pandemic progressed.

"Since at least March 2020 when the COVID-19 outbreak began to devastate New York City," the attorney general's complaint states, "Amazon failed to comply with requirements for cleaning and disinfection when infected workers had been present in its facilities; Amazon failed to adequately identify and notify potential contacts of such infected workers; and Amazon failed to ensure that its discipline and productivity policies, and productivity rates automated by line-speeds, permitted its employees to take the time necessary to engage in hygiene, sanitation, social-distancing, and necessary cleaning practices."

The complaint continues: "When Amazon employees began to object to Amazon's inadequate practices and to make complaints to Amazon management, government agencies, and the media, Amazon took swift retaliatory action to silence workers' complaints."

"Amazon's response to the pandemic continues to be deficient," the complaint continues, pointing to failures "to close all or a portion of its facilities for the requisite ventilation, cleaning, and disinfection when an infected worker has been present in the facility within seven days." By Amazon's own account, according to the complaint, "it has failed to undertake these measures on at least eighty occasions" at one facility alone.

In addition, the attorney general's complaint states, Amazon's "process for identifying and notifying contacts of infected workers was legally deficient." Meanwhile, "during the pandemic, Amazon has continued tracking and disciplining employees based on their productivity rates and their time not engaged in filling customer orders ('time off task'), which has significantly limited employees' ability to take steps that are necessary to maintain social distancing, clean their workstations, and engage in sanitary and hygienic practices necessary to fully protect themselves and co-workers from the spread of the virus."

The complaint concludes that "Amazon has cut corners in complying with the particular requirements that would most jeopardize its sales volume and productivity rates, thereby ensuring outside profits at an unprecedented rate of growth for the company and its shareholders."

Indeed, the attorney general's complaint points to the fact that "Amazon netted more \$130 billion in profits from online sales—representing 35 % growth from its pre-pandemic earnings and a 10% higher growth rate than in prior years—at the expense of its frontline workers who have experienced significant risks of COVID-19 infection while working at Amazon."

The complaint filed by the New York attorney general vindicates completely the exposures of working conditions at Amazon by the *World Socialist Web Site* (WSWS) and the *International Amazon Workers' Voice* (IAWV) from the earliest days of the pandemic,

which promptly raised demands for basic safety measures based on the first-hand accounts of Amazon workers of inadequate cleaning and disinfection, inadequate safety equipment, the refusal to stop non-essential production, and management's refusal to slow down rates and line-speeds.

The WSWS and IAWV has reported extensively on company surveillance of workers and the crackdown against workers who challenged working conditions during the pandemic, as well as the cover-up by Amazon of the extent of infections at its warehouses.

The civil complaint by the state of New York is in that sense remarkably late, as the violations it describes began in March of last year, nearly an entire year ago. The New York authorities have no credible explanation for why Amazon was permitted to engage in this dangerous and illegal conduct for so long, raking in enormous profits, without any action being taken even though workers' lives were on the line.

Nevertheless, the facts laid out in the complaint filed by the New York state authorities only underscore that the fight of Amazon workers against management should not be limited to demanding better pay and safer working conditions, as important as these demands are. Workers must also demand accountability and consequences for all those oligarchs and corporate executives—and their accomplices in the Democratic and Republican parties—who deliberately exposed workers to the risk of infection in pursuit of profit.

The conduct of these individuals led directly to the deaths of workers and their family members and contributed to the spread of a disease that has already claimed almost half a million lives in America alone. The reprehensibility of this conduct is aggravated by the fact that it was motivated by purely pecuniary interests. In other words, there is no reason Amazon could not have implemented adequate safety measures—the company was in no danger of going bankrupt—but greed for profits was prioritized above human life.

All of the ill-gotten gains piled up during the pandemic should be seized, together with control of Amazon itself. With their callous and homicidal conduct, Bezos, his fellow oligarchs, and their accomplices have forfeited any right to run the company. These crimes demonstrate the necessity of workers control, a key demand raised by rank-and-file committees among teachers, autoworkers, and Amazon workers. Workers have now seen what happens when control is left in the hands of the oligarchs.

Amazon workers should reject any demands that they "move on" from these monstrous crimes. The investigation, exposure, and indictment of every responsible individual should not be entrusted to the Democratic Party, but must be taken up by rank-and-file committees of Amazon workers as well as by committees of similarly situated "essential" workers throughout the economy.



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