

Lawsuit against Pilgrim's Pride for COVID-19 work-related deaths may be thrown out with new Texas law

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The World Socialist Web Site urges meatpacking workers to get in touch with us to share news tips, comments and stories of working conditions in your plant, and to learn how to build a rank-and-file committee of workers. Your privacy is of utmost importance and any information given will be kept anonymous. Contact us today.

Meatpacking company Pilgrim's Pride, a subsidiary of Brazilian-based meatpacking company JBS, is seeking to use a newly-signed Texas law to get a wrongful death lawsuit thrown out. The suit, filed in a federal court in Texas in April by relatives of workers who died of COVID-19, claims the company neglected to provide "timely information and training about COVID danger" and provide safety measures and protective equipment to protect workers from the virus, which ultimately led to the deaths of their loved ones.

Since the start of the pandemic, over 58,000 meatpacking workers across the country have been infected by the coronavirus, according to the Food and Environment Reporting Network. At least 297 workers have died.

Among the dead is the husband of Sybil Elijah, who believed she contracted COVID-19 at work at the Pilgrim's Pride facility in Mount Pleasant, Texas and passed it on to him, who was disabled and housebound. He died two days later.

One month later, Elnora Brown, a worker at the same plant, died at the age of 60 after contracting the virus. Her husband, Rayford Brown, believes she contracted COVID-19 at work.

Both Elijah and Brown are suing Pilgrim's Pride and its parent company JBS USA Holdings, Inc. (JUHI). JBS is the largest processor of fresh beef and pork in

the world with annual revenue sales that have averaged more than \$50 billion since 2017.

In June, Republican Texas Governor Greg Abbott signed the Pandemic Liability Protection Act (PLPA), which provides near blanket immunity from business liability and lawsuits for exposing workers to COVID-19 unless it can be proven the business "knowingly failed to warn or remediate a condition" that would be "likely to result in exposure to the disease." To file a lawsuit, a person must provide "reliable scientific evidence" to prove the employer's neglect was the source of the infection.

In short, the bill requires any would-be plaintiff to provide evidence that their employer knew of a workplace danger but did not warn them of it, and they would be likely to be exposed to it and be harmed.

The lawsuit by Elijah and Brown states JBS and Pilgrim's Pride kept their plant open, in the wake of an outbreak in May 2020, and the company knew, or should have been aware, that if it didn't follow OSHA and CDC guidance, "workers would become infected with and some would succumb to COVID-19." "Instead," the lawsuit read, "the Defendants placed profits over safety."

Despite documented evidence of an outbreak at the plant, and the overwhelming evidence that meatpacking plants across the United States were COVID-19 hotspots in the initial stages of the pandemic, JBS is seeking to have the lawsuit dismissed on the grounds that the law retroactively applies to lawsuits filed after March 13, 2020, in which there has not been a final verdict.

In its motion to dismiss the lawsuit, JBS and Pilgrim's Pride bluntly acknowledge and rely on the

overwhelmingly strict protections for companies under the PLPA law. They declare, “The PLPA ... immunizes JUHI from Plaintiffs’ causes of action. [I]f Plaintiffs intend to proceed forward with a lawsuit against JUHI for Mr. Elijah’s and Ms. Brown’s deaths allegedly due to complications from COVID-19, Plaintiffs must refile their lawsuit in strict accordance with the PLPA and satisfy the statute’s heavy burdens established by the Texas Legislature, which includes showing that JUHI acted with actual knowledge while also satisfying a heightened causation standard erected under the PLPA.”

The PLPA law is only of many maneuvers taken by the local, state and federal governments to protect companies from lawsuits from workers who have become ill or have seen their loved ones become ill and die, after being forced to stay on their job or return during the pandemic. The *modus operandi* developed under the Trump administration, and which is now being continued under the Biden administration, is to normalize the pandemic and death, and get people back to pump out profits for businesses and corporations.

As the pandemic began, meatpacking plants and other food processing facilities became hotspots for COVID-19. A report by the Proceedings of the National Academy of Sciences (PNAS), published in December 2020, estimates that 6 to 8 percent of all COVID-19 cases and 3 to 4 percent of all COVID-19 deaths in the US from the start of the pandemic through July 21, 2020 were tied to meat and poultry processing plants. The infection spread to surrounding communities, schools, workplaces, and homes via workers unknowingly contracting and bringing it home.

The Trump administration issued an executive order invoking the Defense Production Act to prevent meatpacking plants from closing, under the guise that they are “critical national infrastructure” and fomenting fears that shutting them down would lead to a meat shortage. While the Biden administration revoked a large number of executive orders issued by Trump, this order remains in force.

The maintenance of production in the meatpacking industry depended upon the crucial assistance of the trade unions, especially the United Food and Commercial Workers union, which worked to prevent the outbreak of strikes and keep workers on the job. In one of the most infamous cases, the UFCW worked

with management to implement a perfect attendance bonus at a Tyson pork plant in Waterloo, Iowa in the initial surge of the pandemic, while management privately took bets on the number of workers who would ultimately become infected.

The Trump administration, moreover, worked closely with meat companies to create a food shortage narrative which was entirely false. In June, the consumer advocacy group Food and Water Watch filed a lawsuit accusing Smithfield Foods, the nation’s largest pork producer, of lying to the public that shutting down their plants to stave off infections would lead to meat shortages.

The stoking of food shortages fears, the advocacy group claims, which kept plants pried open, created the very conditions which led to COVID-19 spreading like wildfire at meatpacking plants, leading to thousands of workers infected and dozens of needless deaths. The Sioux Falls Smithfield plant in South Dakota, for example, was the source of more than half of South Dakota’s active COVID-19 cases in April of last year.

The suit from Food and Water Watch states the US was never in danger of running out of meat, citing government data showing pork inventory held in “cold storage” warehouses was over hundreds of millions of pounds. Estimates from analysts argue pork held in storage could have supplied meat to grocery stores for months, even with plants shut down.

A trove of documents obtained via a public records request by the law firm Public Justice show that Agriculture secretary Sonny Perdue and staff at USDA and the office of then-vice president Mike Pence went to great lengths to stop state governments from temporarily shutting down meatpacking plants to slow and control the spread of COVID-19, potentially saving tens of thousands of workers from contracting the virus and stopping countless unnecessary deaths.



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