

Amazon and New York Officials Take COVID-19 Safety Dispute to Court

By Lisa Nagele-Piazza, J.D., SHRM-SCP

February 18, 2021

Amazon filed a COVID-19-related lawsuit on Feb. 12 arguing that the New York attorney general's office exceeded its authority to regulate workplace safety issues during the pandemic. Four days later, the state attorney general filed suit against the company alleging that the online retail giant violated New York State Labor Law.

The attorney general's office investigated employee reports of workplace safety violations at Amazon facilities in New York City. New York Attorney General Letitia James said Amazon employees are forced to work in unsafe conditions.

"As we seek to hold Amazon accountable for its actions, my office remains dedicated to protecting New York workers from exploitation and unfair treatment in all forms," she said in a Feb. 17 statement.

According to Amazon's complaint, James had directed the company to "immediately agree to a list of demands, many of which have no connection to health and safety and have no factual or legal basis." The company argued that its COVID-19 safety measures "go 'above and beyond' any government requirements or guidance."

We've rounded up articles and resources from *SHRM Online* and other trusted media outlets on the news.

New York Officials Investigated Complaints

Amazon filed its complaint with the U.S. District Court for the Eastern District of New York. The state attorney general's office investigated employees' COVID-19-related safety concerns at a large fulfillment center on Staten Island and a delivery depot in Queens. Among other demands, the complaint said, the attorney general's office wanted Amazon to subsidize bus service, reduce worker productivity requirements and reinstate a worker who claimed he was retaliated against for leading a protest. Amazon said he was fired for violating social-distancing guidelines.

(*The New York Times* (<https://www.nytimes.com/2021/02/12/technology/amazon-letitia-james-coronavirus.html>))

Attorney General Files Lawsuit in State Court

The New York attorney general's office filed its lawsuit with a state court in Manhattan, claiming that Amazon's focus on growth and profit led to its "flagrant disregard" of worker safety during the pandemic. "Throughout the historic pandemic, Amazon has repeatedly and persistently failed to comply with its obligation to institute reasonable and adequate measures to protect its workers," according to the complaint.

(Reuters (<https://www.reuters.com/article/us-amazon-com-complaint-idUSKBN2AH0C2>))

Federal Pre-Emption?

Amazon is asking the federal court to rule that the state attorney general's office doesn't have the authority to regulate workplace safety. The company claims that the federal Occupational Safety and Health Administration (OSHA) is responsible for overseeing workplace safety at the facilities.

(*The Wall Street Journal* (<https://www.wsj.com/articles/amazon-sues-new-york-ag-seeking-to-prevent-state-lawsuit-over-covid-claims-11613159606>))

Amazon Lawsuit Highlights Safety Measures

Amazon's complaint includes a number of examples of how the company has been protecting employees during the pandemic. "Amazon has been intensely focused on COVID-19 safety and has taken extraordinary, industry-leading measures grounded in science, above and beyond government guidance and requirements, to protect its associates from COVID-19," the company said in its complaint.

(*Los Angeles Times* (<https://www.latimes.com/business/story/2021-02-14/amazon-sues-nys-james-saying-covid-demands-went-too-far>))

Amazon Fends Off Other COVID-19-Related Claims

In 2020, workers at the Staten Island warehouse and their family members sued Amazon for public nuisance, breach of the duty to protect the health and safety of employees under New York Labor Law, and failure to timely pay employees for COVID-19 sick leave. The U.S. District Court for the Eastern District of New York ruled that OSHA, rather than the courts, should rule on whether Amazon's workplace policies adequately protected the safety of workers during the pandemic. Courts are not experts in public health or workplace safety matters and lack the expertise OSHA has to oversee compliance with evolving industry guidance, the court noted. "Plaintiffs' claims and proposed injunctive relief go to the heart of OSHA's expertise and discretion," it stated.

(*SHRM Online* (www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/coronavirus-amazon-warehouse-osha.aspx))

OSHA Issues COVID-19 Worker Safety Guidance

On Jan. 29, OSHA issued worker safety guidance for coronavirus protection programs requiring greater input from employees and enhanced mask protections. Implementing a coronavirus protection program is the most effective way to reduce the spread of the virus, OSHA noted.

(*SHRM Online* (www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/coronavirus-oshaworker-safety-guidance.aspx))

HR DAILY NEWSLETTER

News, trends and analysis, as well as breaking news alerts, to help HR professionals do their jobs better each business day.

Email Address

CONTACT US (WWW.SHRM.ORG/ABOUT-SHRM/PAGES/CONTACT-US.ASPX) | 800.283.SHRM (7476)

© 2021 SHRM. All Rights Reserved

SHRM provides content as a service to its readers and members. It does not offer legal advice, and cannot guarantee the accuracy or suitability of its content for a particular purpose.

[Disclaimer \(www.shrm.org/about-shrm/Pages/Terms-of-Use.aspx#Disclaimer\)](http://www.shrm.org/about-shrm/Pages/Terms-of-Use.aspx#Disclaimer)