



Corporate Accountability: The Next Coronavirus Casualty?

As the Coronavirus Spread, Corporations Risked Essential Workers' Lives. Immunizing Businesses from Liability Would Make Them Even More Reckless.

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June 11, 2020 – Corporate lobbyists want Congress to immunize businesses from coronavirus-related lawsuits. The possibility of being held liable via lawsuits, however, provides a powerful incentive for companies to act responsibly. If companies know that they may be held accountable for harm they cause, they are more likely to take steps to prevent that harm. If they have immunity from liability, a key means of holding corporations accountable and ensuring that they protect workers, patients and consumers is lost.

Can we trust corporations on their own to implement adequate protections against spread of the coronavirus? The evidence to date suggests that, in too many cases, the answer is no. Many corporations have failed to provide reasonable protections. When they do act to protect workers and customers, it's too often not until *after* people whose safety they were responsible for were sickened or killed.

That's why safely reopening the economy means Congress must not restrict the right of workers, consumers, and patients to hold businesses accountable for failing to take reasonable steps to ensure safety.

The risks are real. Even as the crisis escalated to more than 25,000 new cases in the U.S. per day, many businesses failed to provide adequate personal protective equipment to [essential frontline workers](#), who are disproportionately [women and people of color](#) and largely underpaid. If businesses are given immunity from liability, they will surely take fewer precautions – and some will be disastrously reckless, as this and other recent reports, including from the [Center for Justice and Democracy](#), show.

Utah, which immunized businesses from coronavirus-related lawsuits, provides a preview of the consequences of eliminating individuals' right to hold companies

accountable for harm. As the state reopened, two businesses instructed their staff to ignore safety guidelines. The result: [68 new coronavirus cases](#) connected to those businesses – and no way for those people to hold the companies accountable.

The 20 companies highlighted in this report – a dozen concentrated in the grocery, meat packing, warehouse / logistics, and office sectors – along with eight nursing homes, are some of the worst that have been reported so far.

GROCERY STORES

By mid-April, thousands of frontline grocery store workers tested positive for the coronavirus, and [dozens died](#). While stores erected plastic barriers between cashiers and shoppers, workers say masks, gloves and other personal protective equipment remain scarce. Many of these workers, especially part-time workers, [lack health insurance](#) and receive scant, if any, paid sick time. Some of the biggest companies, including [Walmart, Kroger and Amazon-owned Whole Foods](#), announced new emergency coronavirus sick leave policies, but required employees to test positive for the virus to access emergency paid sick time – a challenge, to say the least, when [tests were rationed](#) for weeks only to the sickest patients and people with symptoms were often told by their doctors to quarantine themselves at home without testing. (Kroger and Whole Foods later relaxed their policies to allow some employees to qualify without a test on a case-by-case basis.)

Walmart

With 1.5 million workers, Walmart is the largest private employer in the U.S. As shoppers flooded stores to purchase food, household cleaners and bulk supplies, the workers who staff cash registers and stock shelves – whose average wage is about [\\$14 an hour](#) – unexpectedly found themselves [on the frontlines](#) of the coronavirus pandemic.

In early March, workers expressed fear that they [could be fired](#) for using sick time. While the company announced an [emergency sick leave policy](#) in April and extended it through May, workers worried their jobs would not be protected if they took [more than two weeks](#) of sick leave. A 2019 survey found that [88 percent](#) of Walmart workers reported going to work while sick over the course of the preceding year. Employees across the country say that they [lacked the necessary protection](#) and cleaning supplies to keep themselves safe, and that management and customers

were not taking the risk seriously enough. When supplies such as gloves and disinfecting wipes did arrive, they ran out quickly. One employee told BuzzFeed News, “I always tell people, ‘[Don't use a cart](#). We don't have the people to clean them.’ ... You're touching all the hands of the people who touched it over the past few days.”

By mid-April, at least [18 Walmart employees](#) had died.

In early June, [attorneys general](#) representing eleven states and the District of Columbia sent [a letter](#) to Walmart CEO Doug McMillon over its reported failures to protect employees and workers. Illinois Attorney General Kwame Raoul, the lead author of the letter, wrote,

It is unconscionable that Walmart has failed to provide the minimum protections and benefits to its employees that are required of other, smaller employers [...] As millions of Americans rely on Walmart for groceries and necessary supplies during the COVID-19 pandemic, I urge Walmart to take the additional steps needed to ensure the health and safety of employees and customers.

In Colorado, public health officials ordered the shutdown of a Walmart store after [two workers and one worker's spouse died](#) from COVID-19 and at least six others tested positive. The Tri-County Health department outside Denver reportedly heard from employees and customers complaining of “lack of social distancing, too many people in the store at one time, and employees not wearing masks or face coverings.”

In Chicago [two Walmart workers](#) died. A worker's family filed a lawsuit, alleging that managers failed to take reasonable precautions to keep workers safe.

Publix

In Publix supermarkets in Florida, North Carolina and Georgia, employees say managers [prohibited them from wearing masks](#) or gloves and threatened disciplinary action if they refused to remove them. Publix changed its policy [on March 31](#) to allow workers to wear disposable masks, but it did not require workers to do so and provided only some workers with gloves. The company continued to prohibit workers from wearing reusable cloth masks and banned food service workers from wearing any masks. Multiple [coronavirus cases](#) among Publix

employees at several stores in [Florida](#), [North Carolina](#) and [South Carolina](#) have been confirmed.

Kroger

Kroger is the largest grocery chain in the US, with 460,000 workers operating about 2,800 stores. In late March, Kroger warehouse workers in Tennessee staged a spontaneous [wildcat strike](#) after complaining that management was not taking adequate steps to keep workers safe and after a worker tested positive for the virus. The workers of Teamsters Local 667 are mostly African-American. Workers in several other unions have also walked off the job after complaining about unsafe work conditions. At Kroger stores in Michigan, [four employees](#) working for four different locations died of COVID-19.

MEAT PACKING

Meat packing plants have become epicenters of coronavirus outbreaks. A [CDC report](#) released in early May showed nearly 5,000 cases and 20 coronavirus-related deaths connected to meat and poultry processing facilities, while media trackers have [identified double the number](#) of cases and [45 deaths](#). President Trump, meanwhile, has invoked the [Defense Production Act](#) (DPA), in a political maneuver designed to prevent meatpacking plant closures (making a mockery of the real need to use the DPA to produce safety equipment). At least [38 meat packing plants](#) have been forced to close since the beginning of the coronavirus pandemic, including at least seven since Trump's DPA order. Meat processing plant employees are disproportionately [immigrants and people of color](#).

Smithfield Foods

A Smithfield Foods meat packing facility in South Dakota became the [single largest source](#) of the nation's coronavirus cases in mid-April, sickening [over 1,000 people](#) and leading to at least [two deaths](#). The plant, which employs 3,700 workers, including many [immigrants and refugees](#), and accounts for about 5 percent of US pork production, was closed for weeks and is under investigation by [OSHA](#). Workers, who earn about \$14-\$16 an hour, [accused Smithfield](#) of failing to provide sufficient personal protective equipment and ignoring early warning signs that could have avoided the plant shutdown. Before any employees tested positive, union

officials asked management to take [safety measures to protect workers](#), such as staggering shifts and lunch schedules, providing personal protective equipment (PPE), and taking worker's temperatures at entrances.

Meanwhile, at a Wisconsin Smithfield plant that employs over 1,000 workers, managers reportedly [denied worker requests](#) for PPE in March, responding with the excuse that if they provided a mask to one worker, they would have to provide masks to all workers. Another worker was reprimanded for bringing a mask to work. Employees eventually persuaded managers to permit workers to voluntarily wear a mask to work. Since meatpackers work elbow to elbow, the union representing them requested plexiglass barriers be placed between each worker. By mid-April, at least [28 employees](#) had tested positive for the virus and the plant was closed for cleaning.

In a lawsuit, Missouri Smithfield workers alleged that the fast pace of the work means that they risk disciplinary action for missing a piece of meat as it goes by [if they cover their mouths](#) when coughing or sneezing. The lawsuit sought no monetary damages or compensation, and instead was aimed at changing practices at the plant to improve worker safety. Workers say they are discouraged from taking sick leave – as recently as March 30, they were given a disciplinary “point” for taking a sick day – and that the protections company provides are inadequate. Citing Trump’s DPA order, the judge [dismissed the lawsuit](#), saying the federal government, not the courts, is responsible for worker safety.

In a [statement](#) about plant closures, Smithfield CEO Kenneth Sullivan described the circumstance in zero-sum terms, framing the risk to lives of workers and their communities as inevitable, saying: “We have a stark choice as a nation: we are either going to produce food or not, even in the face of COVID-19.”

Tyson Foods

More than [4,500](#) Tyson Foods workers have tested positive and at least 18 of the company's workers died. Tyson Foods is a multinational meat processing corporation that made more than \$2 billion in profits in 2019. Instead of offering fully paid sick leave, which the CDC recommends, the company provided only short-term disability pay at 60 percent of workers' wage. At the end of April, Tyson raised the disability pay percentage to 90 percent.

At one Georgia Tyson plant, at least [four workers](#) died from COVID-19, including one who was told to [come back to work](#) after taking days off because she was sick.

In mid-April, employees in Iowa [filed a complaint](#) alleging the company failed to implement social distancing on the operations floor and break rooms, and that workers were not given adequate PPE. In a letter from Iowa county officials that included [statements from the workers](#), one said, “A coworker vomited at work on the line and management let him continue to work and come back the next day.” At least 180 of the plant’s employees tested positive, and it [was shut down](#).

JBS

JBS, the world’s largest beef and pork processing corporation, is a Brazilian multinational with nine meat processing locations across the U.S., [six of which](#) have experienced coronavirus outbreaks. The plants have become epicenters for the virus, with hundreds of cases connected to them.

At a Colorado plant that continued operations after the national emergency declaration, at least 320 employees tested positive and [eight died](#). Even after health authorities ordered the plant to close for two weeks, the company reportedly [refused to offer tests](#) to workers. When workers returned, the number of cases [surged by 125](#) over a few days. As the virus spread throughout the workforce, the company failed to provide masks for workers until early April. Employees complained they lacked soap for hand washing and that when hand sanitizer ran out it could take days for it to be replaced. The company did not implement social distancing in break rooms until mid-April.

Two workers at a Pennsylvania JBS plant died and at least 19 tested positive. Their co-workers say they died unnecessarily, because [JBS was too slow](#) implementing protections for its employees.

JBS resisted idling its Minnesota hog slaughtering plant, where at least [630 workers tested positive](#) for the virus and one died. “Despite mounting evidence that meat processing workers were especially vulnerable to the spread of the virus, plant managers kept lines running fast,” the Star Tribune reported. “Not until they faced rampant absenteeism and case counts in the hundreds did they scale back production.” Workers say the company’s actions, such as transporting employees together in vans and inconsistently applying sick time requests, worsened the outbreak. Cases connected to the plant amounted to [40% of all cases](#) in the county.

At a Texas JBS plant, employees say managers were [slow to implement](#) safety guidelines and didn't always inform workers when others they work with closely tested positive for the virus. State health officials identified at least [323 cases](#) tied to the plant.

NURSING HOMES

Nursing homes and other long-term care facilities have also become an [epicenter of the virus](#). More than [one third](#) of Americans who have died of coronavirus were [nursing home residents or employees](#). Older Americans are particularly susceptible to the virus, especially individuals with underlying conditions. This vulnerability makes it vital to take every reasonable precaution to protect the people who live and work at these institutions. When workers have been denied PPE and steps to protect residents not taken, the results have been catastrophic.

Life Care Centers of America

With more than 200 facilities across the U.S., Life Care Centers of America, a private, for-profit corporation owned by Tennessee billionaire [Forrest Preston](#), operates one of the largest networks of nursing homes. Across its network, there have been more than 2,000 cases and 250 deaths among its residents and workers. Five of its nursing homes have experienced outbreaks of 100 cases or more, according to [The Washington Post](#).

The first reported coronavirus outbreak occurred in March at Life Care Center of Kirkland in Washington State and resulted in [40 deaths](#). Health inspectors found that the crisis was worsened by multiple failures at the nursing home, including its failure to alert local authorities after an uptick in respiratory illness, its continuing to admit new patients and its failure to cancel a Mardi Gras party.

Following the coronavirus outbreak, federal health inspectors identified breakdowns in safety protocols in [at least 10 facilities](#). Inspectors documented numerous infection control deficiencies that exposed uninfected patients and workers to patients who were infected. The deficiencies included failure to follow hand-washing protocols, not implementing social distancing measures, not sanitizing equipment shared between patients, failure to record fevers, and inconsistent mask wearing. The Washington Post reports that dozens of the

company's facilities were flagged by CMS over the past three years as understaffed and that the company paid [\\$145 million](#) and entered a five-year corporate integrity agreement with the Department of Health and Human Services to settle Department of Justice allegations of putting patients through unnecessary treatments and defrauding Medicare for reimbursement for the treatments.

Andover Subacute and Rehabilitation Center II

At New Jersey's Andover Subacute and Rehabilitation Center II, which previously received poor reviews from health inspectors, chronic shortages of staff and personal protective equipment left [70 dead](#) in the 543-bed facility when the coronavirus hit. Police found 17 bodies piled in bags.

Sapphire Center for Rehabilitation and Nursing of Central Queens

At least [29 died](#) at New York's Sapphire Center for Rehabilitation and Nursing of Central Queens as family members of residents were given scant information about the conditions inside. According to workers, the number of coronavirus deaths among the center's residents was likely much higher. After in-person visits were prohibited and increasing numbers of staff became ill, family members were unable to contact sick residents – an important safeguard for ensuring residents receive adequate care.

Bria of Geneva

At Bria of Geneva in Illinois, 75 of the facility's 91 residents and 37 of its 120 workers contracted the virus. At least [24 residents died](#). The facility's medical director says testing was not available. According to a CMS report from July 2019, the facility was already understaffed prior to the pandemic and workers had been observed failing to observe basic sanitation guidelines, such as changing gloves after changing residents' soiled underwear.

Redwood Springs Healthcare Center

At Redwood Springs Healthcare Center in California, nearly 200 residents and employees tested positive for coronavirus and [20 died](#) as of early May. Employees

say the spread would not have been so severe had they been provided with adequate PPE and that they were being required to come to work in unsafe conditions. “They’re just throwing us under the bus, saying you can come back or voluntarily quit,” one worker said. Another employee was being required to return to work despite testing positive for the virus and while still experiencing symptoms.

Bristol at Tampa Rehabilitation and Nursing Center

At the [Bristol at Tampa](#) Rehabilitation and Nursing Center in Florida, there were at least 38 cases and nine deaths in early May. Workers say managers rationed personal protective equipment and required the reuse of gowns and masks caretakers wear while caring for residents. Employees of other Florida nursing homes reported similar instances of managers hoarding protective equipment, in some cases escalating to confrontation between frontline caretakers who need protection and their bosses, who were rationing the gear.

Hollywood Presbyterian Medical Center

At [Hollywood Presbyterian Medical Center](#) in California, workers say that masks were not regularly provided and when they were, managers required caregivers to reuse them. One maskless worker contracted the illness from a patient she resuscitated and subsequently died. The nurse’s union attributed the death to inadequate PPE and filed a complaint about the death to California’s OSHA. The nurse, “was called to a COVID-19 isolation room while wearing only a surgical mask — not the required N95 respirator, gown, face shield, and booties that her hospital should have given her for her protection,” SEIU 121RN’s president said.

Brookdale Senior Living

At Brookdale Senior Living in New Jersey, an 83-year-old resident with dementia was able to [escape four times](#), the latest in April when police discovered her walking aimlessly at night. She tested positive for coronavirus after she was returned. Ten of the facility’s residents have tested positive so far.

WAREHOUSE / LOGISTICS

As the federal government declared the coronavirus pandemic a national emergency and states ordered citizens to remain at home and leave only for essential reasons, online shopping surged. Due to their key role in supply chains for personal protective equipment and other goods that are necessary for combatting the virus, warehouse, logistics and delivery workers were deemed essential. But many of these workers, who often lack paid sick time and suffered from short supplies of protective equipment for themselves, found themselves risking their lives in crowded conditions packaging profoundly non-essential goods such as [designer sunglasses and shoes](#).

Amazon

As profits have soared amid a [40% increase](#) in orders, at least [19 Amazon warehouses](#) have confirmed coronavirus cases and [at least six](#) Amazon warehouse employees have died. An unofficial tracker estimates that at least 900 employees have tested positive. California managers denied some employees' paid sick leave requests, claiming the new state law granting additional paid sick time to essential workers [did not apply](#) to them. The New York Attorney General's office called Amazon's warehouse safety measures "so [inadequate](#) that they may violate several provisions of the Occupational Safety and Health Act" and other federal and state guidelines. A senior member of Amazon's staff [resigned in protest](#) over the corporation's firing of whistleblowers who exposed the mistreatment of frontline workers during the pandemic and led organizing efforts to improve conditions. The corporation has refused to share information about the total number of coronavirus cases among its employees, claiming the information "[isn't particularly useful](#)."

Amazon's largest outbreak occurred at a Pennsylvania warehouse where lawmakers say more than 100 workers have tested positive and workers say Amazon was "[way too late](#)" in implementing worker protections. Employees say safety measures were inconsistently applied and sometimes ignored when they were first introduced in March. In early April, an employee complained to OSHA that Amazon was not providing disinfectant and that employees awaiting coronavirus test results were still expected to work. Masks were not required and break rooms remained crowded in mid-April, a month after the company's office workers started [working from home](#).

UPS

At UPS, the logistics and package delivery multinational that earned over \$4.4 billion in profits last year, workers started raising concerns about unsafe working conditions in [mid-March](#). Employees say the company's human resource officials dismissed requests from employees in Louisville, Kentucky, to mitigate crowded shuttles and provide gloves as [overreacting](#). A Vermont woman who was fired after she made repeated requests for managers to address unsafe working conditions, including a [lack of soap and personal protective equipment](#) and no social distancing, filed a whistleblower retaliation complaint. A UPS spokesperson asked about the whistleblower asserted that its employees are "allowed" to wear masks. The company insisted it was following CDC guidelines, providing necessary equipment and cleaning, but another employee said, "The cleaning they said was getting done wasn't getting done. Nobody was getting equipment. We weren't getting gloves or cleaning supplies." UPS started providing personal protective equipment and established statewide social distancing measures after the fired whistleblower complained to UPS's head of safety for the district and Vermont's OSHA. The whistleblower was later [given her job back](#), and says that while some conditions have improved, "we're all over the board with social distancing and wearing a mask."

TMG Mail Solutions / Broadridge Financial Solutions

At TMG Mail Solutions, contractor for Broadridge, a financial services corporation that recorded over \$4 billion in revenue in 2019, [at least six workers have died](#). The contractor prints and mails financial documents such as shareholders' proxy statements. Employees earning \$13 an hour and working 12-hours a day, seven days a week during the busy spring proxy season, were pressured to come to work despite their co-workers testing positive for the virus and delays in the provision of masks, gloves and other personal protective equipment. A flyer (written in Spanish) was reportedly circulated among workers discouraging them from wearing gloves or masks unless they were sick or immuno-compromised and stated, "If you don't show up for work [you will not be paid](#) and after two days you will be considered to have abandoned your job." Employees say that by late March and the company still had not mitigated crowded conditions by instituting social distancing measures. Two hundred warehouse employees have filed a [class-action lawsuit](#) against Broadridge and TMG. TMG denies it failed to comply with CDC recommendations.

PFS

PFS, a logistics company with warehouses in Memphis, Tennessee, and Mississippi, fulfills orders for businesses including Pandora jewelry. PFS workers reportedly lacked personal protective equipment, were required to share equipment and were subject to crowded working conditions [as recently as mid-April](#). One temporary employee noted that in late March the company even lacked hand soap in the bathroom. At least two PFS employees have tested positive for the virus. Even when PFS started providing its employees gloves and masks, workers hired through temp agencies who earn \$9 an hour, were not given PPE. As of early May, such protections continued to be optional, not mandatory. The counties where PFS's warehouses are located have collectively reported more than 2,750 infections and 50 deaths.

WHITE COLLAR / OFFICE

Because many white collar and office workers have been able to shift to working from home, they are seen as privileged during the coronavirus pandemic. Many [technology companies](#) were particularly quick to embrace allowing workers to work from home, and these companies seem to be taking the most precautions about allowing workers to return. However, not all businesses were quick to embrace allowing those workers who can do their work from home to do so. As a result, some businesses needlessly subjected employees – including those who had underlying risk factors – to risk exposure by forcing employees to continue coming into offices.

Charter Communications / Spectrum

More than [230 employees](#) of Charter Communications (branded as Spectrum) have tested positive for COVID-19. The cable company continued to require employees to come into offices to work even after the coronavirus outbreak had been declared a pandemic. A Charter engineer [sent an email](#) to senior staff and hundreds of engineers challenging the company's refusal to allow employees to work from home. "Coming into the office now is pointlessly reckless. It's also socially irresponsible," wrote the engineer. "Charter, like the rest of us, should do what is necessary to help reduce the spread of coronavirus. Social distancing has a real slowing effect on the virus — that means lives can be saved." The engineer was given the ultimatum of either continuing to work in the office or using sick time (staff are provided one week per year). He resigned. Charter's peer companies such as AT&T, Verizon, and Comcast have reportedly moved toward allowing employees who can work from

home to do so. The corporation subsequently revised its work from home policies and is now under investigation by the New York State Attorney General's office.

Costco

Costco's corporate headquarters in Washington state is located near Seattle in King County, where most of the state's coronavirus cases occurred. Nevertheless, the company resisted allowing its corporate employees to work from home, claiming [it would be unfair](#) for these workers to protect themselves while the business's frontline retail employees continued working at stores across the country. County [officials urged businesses](#) to let employees work from home in early March. An employee who suffered from diabetes caught the illness and spread it to two of her family members; [all three died](#). Costco started allowing employees to work from home more than a week after the employee's death.

CONCLUSION

These 20 companies are just a few of the most well-known examples of companies that put profit before consumer and worker health during the course of the pandemic. There is no doubt that many companies have acted proactively and responsibly in response to the pandemic. If companies know they cannot be held accountable in court for wrongdoing, it is a virtual certainty that more companies will behave unreasonably and more people will needlessly be harmed.