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## BAD ACTORS OPENING BADLY: WHY LEGAL ACCOUNTABILITY IS SO IMPORTANT

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The economy will not recover and jobs will not return until the public has confidence in the safety of businesses. Most businesses take their health and safety responsibilities seriously and will continue doing everything they can do protect their workers and customers. But if recent history is any guide, far too many do not.

Many essential businesses and services, which have been operating throughout this pandemic, have not followed best practices and have endangered their own workforce. Some employers have allowed workplaces to become disease-ridden infection super-spreaders. And many have not been supportive of sick employees, forcing them to work, threatening dismissal unless they do, and greatly contributing to infection-spread throughout the country. And as more businesses start to reopen, it is clear that some intend to openly flaunt as many safety guidelines as they can get away with.

A recent example that swept through the media illustrates the problem. During Memorial Day weekend, videos and images emerged of partiers crammed into outdoor bars and restaurants at the Lake of the Ozarks tourist destination in Missouri.<sup>1</sup> Twenty-one-year-old Tinara Lynch, whose father's health is compromised with multiple sclerosis, faced a terrifying dilemma when she was called back into work as a server at a Lake of the Ozarks restaurant. As Lynch described it, "I have to choose between going to work and making an income or basically refusing to work and quitting my job and staying with him and keeping him safe ... I'm not in a position where I can't make an income at all." So she returned, "stuck quite literally in the middle of the crowds" as she served customers.<sup>2</sup>

Said St. Louis Mayor Lyda Krewson of the partiers, "Now, these folks will be going home to St. Louis and counties across Missouri and the Midwest, raising concerns about the potential of more positive cases, hospitalizations, and tragically, deaths. It's just deeply disturbing and threatens the progress we've all made together to flatten the curve."<sup>3</sup> Meanwhile, the owners remain defiant, arguing, "No laws were broken. Social distancing is not a crime,"<sup>4</sup> promising that the pool parties will continue.<sup>5</sup> If current laws do not exist to reign in this kind of irresponsible business behavior, accountability through the civil justice may be the only way to deter it from spreading around the country.

For example, workers at several Chicago McDonald's restaurants filed a class action lawsuit against the company seeking not compensation, but rather an injunction to force the company to protect workers. According to the judge in the case, McDonald's has now agreed to try to work out a solution. It is notable that McDonald's has been operating in violation of Centers for Disease Control and Prevention (CDC) guidelines, and the federal Occupational Safety and Health Administration (OSHA) has ignored numerous complaints about unsafe working conditions at McDonald's restaurants. It was not until this lawsuit that McDonald's appears finally willing to change.<sup>6</sup>

Whether the business is a restaurant, retail store, nursing home, gym, or food plant, public confidence in the safety of these workplaces is the key to any recovery. That means legal accountability. As one columnist put it, "How do you feel about buying a package of meat knowing that at the plant where it was packed, OSHA isn't bothering to inspect, the workers are

getting sick and the owners don't have any incentive to keep anyone safe?... Not only is [liability protection] morally indefensible, right now it's also the worst possible way to help the American economy get back on its feet.”<sup>7</sup> Without the backstop of legal liability, we may be headed toward an even worse public health and economic disaster than currently exists.

## SHOPPERS AND DINERS BEWARE

Grocery stores, supermarkets, fast food restaurants, and other businesses deemed “essential” have been at the front lines of this pandemic. Workers at these businesses have struggled to maintain their health and safety as both corporate policies and individual plant bosses have failed to protect them. As a result, shoppers and diners are nervous, and with good reason.<sup>8</sup>

### Supermarkets and Grocers

Throughout this pandemic, many grocers have hidden store and warehouse outbreaks and have kept shoppers in the dark about infection spread.<sup>9</sup> In addition to being sick themselves, low-paid supermarket workers have been threatened with discipline for taking safety precautions like wearing a face mask. Many have been too scared for their jobs to not show up.<sup>10</sup>

The nation’s 40,000 supermarkets are “dominated by a handful of major players, including Walmart, Kroger and Albertsons.”<sup>11</sup> But whether a major chain or smaller supermarket, safety has been a regular problem. The following are just a few examples.

**Walmart.** One Massachusetts store was shut down by local health officials “after obtaining an internal company list showing nearly two dozen employees had tested positive.”<sup>12</sup> At another Massachusetts Walmart, “[s]ick colleagues kept showing up at work. Other employees disappeared without explanation. The store’s longtime greeter was in the hospital and on a ventilator, dying from covid-19.” A Colorado Walmart was closed “after three people with ties to the location died from coronavirus” and “after a series of complaints from employees and shoppers about a lack of social distancing, ... workers not wearing face masks and too many people in the store.”<sup>13</sup> At a Chicago-area store, Wando Evans, 51, an overnight stock and maintenance associate, died along with his colleague Phillip Thomas after “Walmart failed to properly respond to symptoms of COVID-19 among several workers at the store” or to “share this information with workers and to safeguard them with gloves and other protections, or to enforce appropriate distancing.”<sup>14</sup>

**Kroger.** A scared Kroger employee, whose colleagues tested positive, feared discussing the situation with reporters. “‘It scares the hell out of me,’ said the employee, who spoke on the condition of anonymity because he fears retribution. ‘We’re terrified, but what choice we do have? We’re college students or we’re parents trying to raise kids. We need the paychecks.’”<sup>15</sup> “At a Kroger warehouse in Memphis, 200 workers walked out after learning that a co-worker had the virus.... ‘The ones that is here, they so tense they scared to touch the equipment,’ said Maurice Wiggins, a Kroger forklift driver and father of two. (He also said he is being forced to work a 97-hour, seven-day workweek.)”<sup>16</sup>

**Ralph's.** A 25-year-old manager at the Kroeger-owned supermarket was forced to remove his mask so he could smile at customers and not “create panic for no reason.” He feared catching the virus at work and bringing it home to his wife, who is pregnant, and his 4-year-old daughter.<sup>17</sup> Ralph’s supermarket employee Jackie Mayoral said that “managers instructed workers not to talk about sick colleagues around customers; it was only through the union that Mayoral learned more than 20 of her colleagues at the supermarket were infected.”<sup>18</sup>

**Best Market.** Long Island, NY supermarket worker Gladys Cortes was not allowed to leave or stay home after developing a bad cough. “Cortes, a single mother of a young child, died on April 9 of complications from covid-19.” At another Best Market, 63-year-old employee Marian Meszaros “believes a manager waited more than a week to inform her in late April that her co-worker in the cramped meat department had tested positive for the coronavirus.... ‘I have nightmares about this,’ Meszaros said. ‘No one in the store feels safe.’”<sup>19</sup>

**Target.** A manager told Michael Branss, who worked in the back of the store closely to others, not to talk about an infection contracted by a co-worker. When Branss told colleagues to “bring their own masks because the store didn’t always have enough,” he was “reprimanded for talking about the sick employee.” Then he was fired for violating privacy rules. He said, “They punished me for trying to gather information to make a personal safety plan for myself.” In a New Jersey Target store, employee Mary Jo Kalchthaler took a leave of absence “because she felt unsafe at work. ‘There are still people who think Target, Walmart and other food stores are magical kingdoms where everything is sterile and nobody has ever gotten sick, and that’s what they want people to keep thinking.’”<sup>20</sup>

**Whole Foods (owned by Amazon; see also, “Warehouses” below).** At one Los Angeles store, “two employees – who requested anonymity – suspected something was up the morning of April 2. One overheard supervisors tell Amazon shoppers that if workers stood within six feet of another person it could be grounds for termination. The other learned night employees were told not to come in because a deep cleaning was scheduled. When the first employee asked a supervisor if someone had tested positive, he was told to stop spreading rumors.” At Whole Foods, as at Amazon itself, the company has not been transparent about infections. Workers have had to collect their own company-wide infection data. Katie Doan has been collecting Whole Foods cases since April 2 and says “co-workers don’t feel safe; they aren’t able to gauge the risk of reporting for work to their warehouse or store because Amazon won’t tell them how many people are believed to have gotten infected there.” But already, they know that at least 343 Whole Foods workers were infected. This is based on crowdsourced data, so the numbers are likely vastly underestimated. Doan herself was fired “after leaving work without clocking out during a panic attack. ...She was pulled aside by her supervisor for a team huddle last week. There had been another confirmed coronavirus infection at her store, he said.” And at the end of May, “Whole Foods employees, anxious about safety risks, will see the company phase out a \$2 coronavirus-related pay raise.”<sup>21</sup>

**Costco.** At one New York location, where four co-workers tested positive, a supervisor overseeing the registers was coughing and had red eyes but continued to work without gloves, handling cash that was later touched by dozens of employees. In a California store, “employees continue to complain of lax safety measures. Minutes after management announced its fifth

COVID-19 case at the end of March, half of one manager's employees walked off the floor. Most haven't come back.”<sup>22</sup> On March 13 – “two days after California Gov. Gavin Newsom urged residents to avoid large crowds – a store in the state checked in 4,015 Costco cardholders within a span of two hours.”<sup>23</sup> In Texas, two pregnant women “were so concerned about their working conditions they took extended, unpaid leaves,”<sup>24</sup> while in Ohio, “a manager described the ‘carelessness’ of ignoring social distancing protocols,” and in Las Vegas, customers were allowed to “mill around and touch nonessential items like clothes and patio furniture.... A manager in Michigan said elderly hourly workers were made to sanitize an area of the store where an infected employee had been without being told what and why they were cleaning.”<sup>25</sup>

**Trader Joe's.** Seattle workers were told not to wear masks or face discipline. Said 39-year-old Jasmine Kapralova, who had worked at the company for nearly a decade, “Anytime we tried to talk to management about this outbreak, they made it clear they did not want us speaking about it.”<sup>26</sup> When she became sick, she was warned by her manager not to talk about her symptoms on social media.

**Publix.** A manager “did not respond to a query about employees’ claims that they previously had been sent home for wearing masks.”<sup>27</sup>

## Restaurants

While most of the restaurant industry has been shut down by the pandemic, fast food employees have been forced to work, often with little regard to their safety. And in parts of the country restaurants have simply ignored shut down orders, risking both worker and customer health. Even worse, the lifting of stay-at-home orders in some states has now led restaurants and bars to act as if the pandemic had disappeared with no safety standards enforced at all, when in fact the virus is still spreading at epidemic rates. Memorial Day weekend saw images of vacationers crammed into outdoor bars and restaurants at the Lake of the Ozarks Missouri tourist hot spot, endangering their employees who were forced back to work<sup>28</sup> and alarming officials.<sup>29</sup>

Yet some bars and restaurants have been ignoring guidelines for weeks. The story of Knoxville, Tennessee resident Diandra Heck illustrates the pressure some workers are under. Heck, who has chronic asthma, had bartended at Knoxville’s Turkey Creek Calhoun’s for seven years. She volunteered to work to cover the bar but was forced to quit when the restaurant stopped complying with health guidelines and started forcing her to serve customers at the bar.<sup>30</sup>

Crystal Hong, who worked at a Calhoun’s restaurant that was not following guidelines, said employees concerned about their health “were told, you know, ‘If you don’t come back when we tell you to come back, then, you know, we will turn you in as terminated and then you won’t be able to collect unemployment.’”

By May 1, the Knox County Health Department had received 208 complaints of county businesses not following guidelines, 26 of which were from a Copper Cellar Family Restaurant, the company that owns Calhoun’s and multiple other restaurants. Said a Knoxville Service Industry United group co-founder, “From what I understand, it’s just a matter of opinion, that that group feels like they don’t have to adhere to the guidelines.”<sup>31</sup>

**Fast Food.** These restaurants have stayed open throughout the pandemic having been deemed “essential” businesses. But many workers have been forced to work in unsafe conditions, risking their lives for near-minimum wage pay.<sup>32</sup> Even in the best of circumstances, experts say “fast food restaurant presents significant risks with respect to COVID-19. First, the design of the restaurants may make it impossible for employees to maintain six feet of separation.... Second, the nature of customer-facing jobs such as those done by front counter and drive-thru workers makes it impossible for such workers to avoid interacting with significant numbers of people on a daily basis.”<sup>33</sup>

In Illinois, for example, workers say that McDonald’s “failed to provide adequate hand sanitizer, gloves and masks and has not notified its staff when an employee has become infected with the new coronavirus.”<sup>34</sup> Workers filed a class action for injunctive relief to protect workers,<sup>35</sup> which McDonald’s may now be trying to resolve.<sup>36</sup> Similarly, McDonald’s workers at three California locations experienced unsafe working conditions.<sup>37</sup> Cooks and cashiers did not have “soap to clean their hands and were not provided with gloves, masks or hand sanitizers.” Ana Martinez, a cook and drive-through worker at the San Jose McDonald’s, said, ‘We feel underappreciated and undervalued, so my co-workers and I decided to take this step to fight back.’<sup>38</sup>

## Retail Stores

While retail stores have been closed throughout most of the pandemic, some stores forced employees to work anyway, with little regard to their health.

**Michaels.** In some states, the craft stores forced employees to work, with the company insisting they were essential because they serve “people who are bored at home” and are UPS drop-off sites.<sup>39</sup> One employee at a Phoenix store, who spoke on the condition of anonymity, had been “home with a low-grade fever, cough and chest pain but said store managers have not been supportive. ‘Every time I call in sick, there’s just an incredibly disappointed sound on the other end,’ she said. ‘This is not an essential business – nobody in the history of mankind has ever dropped dead from boredom. They need to close their doors.’<sup>40</sup>

**Dillard’s.** The department store forced employees to work, which “sparked concern from employees, social media outrage by community members and a petition drive urging it to close.” Said one worker, “‘Unlike other retailers who care about the safety and well-being of their employees and the guests they serve every day, Dillard’s is choosing to run a blind eye in order to keep money funneling into their greedy pockets.’<sup>41</sup>

## WORKPLACE SUPER-SPREADERS

Factories, warehouses, food processing plants, and other dense workplaces have threatened the health and safety not only of workers but also their families and communities. The products they produce and services they provide have been deemed “essential” so that the rest of us can have things. But behind closed doors, these employees have been exploited and sickened, costing lives and endangering the country.

## **Factories**

Over a dozen Michigan truck assembly workers, working in a plant with no hot water, walked off the job due to infection risk.<sup>42</sup> One worker said that employees had access only to a “couple of bottles of disinfectant, some rags, wipe down when you get there, wipe down when you leave. We do not have enough bathrooms and no hot water.”<sup>43</sup> At two Ford plants, the company stopped production after employees were infected. In Chicago, two workers had the virus and production was stopped. Then it was stopped again “after a nearby parts factory stopped deliveries to Ford because of a coronavirus infection there.”<sup>44</sup>

Before being temporarily shut down, a Boeing plant forced workers into unsafe conditions, leading to deaths and illnesses.<sup>45</sup> Prior to one plant worker’s death, “numerous workers on the factory floor complained to news media about a lack of cleaning supplies and a shortage of cleaning crews.”<sup>46</sup>

## **Call Centers**

In Ohio, non-essential TenPoint Complete call center workers, whose job was to ask customers about their body shop experiences, were told to work anyway irrespective of the health risks.<sup>47</sup>

And hundreds of Spectrum/Charter Communications call center workers have been infected. Some have died. They were “getting sick while adhering to a company policy that has required thousands of them to work in offices and call centers rather than from home.” One engineer was reprimanded and then resigned after sending around an email “with the subject line ‘Coronavirus – Why are we still in the office?’ writing ‘Coming into the office now is pointlessly reckless.... Charter, like the rest of us, should do what is necessary to help reduce the spread of coronavirus.’”<sup>48</sup>

## **Warehouses**

**Amazon.** Some Amazon warehouses have been hit incredibly hard by the pandemic. But “[b]ecause Amazon won’t disclose the overall numbers, workers across more than 200 facilities are crowdsourcing the notifications.”<sup>49</sup> The latest crowdsourced data shows 1,079 infections among warehouse workers including nine deaths.<sup>50</sup> In some cases, whistleblowers trying to alert others about unsafe conditions have been fired.<sup>51</sup> In Kenosha, Wisconsin, at least 32 workers were infected since March.<sup>52</sup> At one large Pennsylvania hot spot, after 60 cases of infection, “Amazon stopped telling workers there the number of new cases.... And complaints about the lack of protections for workers fit a long-running pattern at the company.” In fact, “[S]ome standard safety advice didn’t become common practice at AVP1 for almost two months, according to interviews with six workers, community advocates and elected officials, some of whom asked that their names not be used for fear of retribution.”<sup>53</sup>

In Indianapolis, where seven workers had already died, employees said that “cleaning has been uneven and conditions are often too crowded to allow for proper social distancing.”<sup>54</sup> In addition, the company was making it more difficult for workers who feared for their health and safety to take time off. For these workers, “the risk feels particularly unwarranted, because they process

returned merchandise rather than sending out goods to homebound customers. ‘We’re not essential,’ said a worker. ‘Everyone’s like, why are we not shut down?’’<sup>55</sup> And after a New York whistleblower was fired, “one of the company’s vice presidents recently quit in protest. ‘It’s evidence of a vein of toxicity running through the company culture,’ Tim Bray said in a post on his website. ‘I choose neither to serve nor drink that poison.’’<sup>56</sup>

**PFS.** In one of the company’s makeup and jewelry warehouses, where employees were infected and getting sick, “the workers complained of a crowded environment where they shared devices and weren’t provided personal protective equipment” including face coverings.<sup>57</sup> Temporary workers, who “from the moment [they] entered the building they were close together,” risked their life for \$9 an hour. About two hours before one worker’s shift ended, “a manager huddled workers in her area together for an announcement. ‘He said, ‘Well, we’re just letting y’all know that we have an employee here who tested positive and we are asking everyone here to leave the building immediately and we will clock y’all out,’ the worker recalled.”<sup>58</sup>

## **Meat and Food Processing Plants**

Clearly, meat, food packing, and food processing plants around the country are one of the worst spreaders of Covid-19, and the companies that run them are among the worst offenders.

According to a May 25, 2020 *Washington Post* analysis, “Over the past month, the number of infections tied to three of the country’s biggest meat processors – Tyson Foods, Smithfield Foods and JBS – has gone from just over 3,000 to more than 11,000,” with the largest – Tyson – seeing cases “explode” to 7,000. Just a month ago, that number was under 1,600 per month.<sup>59</sup> Yet even those numbers may underestimate the problem as lack of transparency has been an ongoing problem with this industry.<sup>60</sup>

One Missouri Smithfield Foods pork plant was so dangerous that workers sued to try to improve conditions. Among other problems, there was pressure on workers to not “cover their mouths while coughing or to clean their faces after sneezing, because this can cause them to miss a piece of meat as it goes by, creating a risk of disciplinary action.... [W]orkers are typically required to stand almost shoulder to shoulder, must often go hours without being able to clean or sanitize their hands, and have difficulty taking sick leave.”<sup>61</sup>

Unfortunately, this case was dismissed<sup>62</sup> after President Trump signed an Executive Order<sup>63</sup> at the behest of company bosses, allowing plants to stay open with no additional safety precautions ordered. This “has led to worries among unions and other worker groups. The Agriculture Department has deferred to [the Centers for Disease Control and Prevention] (CDC) and [Occupational Safety and Health Administration] (OSHA) instead of issuing its own rules. OSHA, however, has not imposed mandatory safety rules and instead only issued recommendations.”<sup>64</sup> Trump’s order also “did not address crucial issues like testing, leading many companies to reopen plants or keep them operating without fully assessing whether employees had contracted the virus.”<sup>65</sup> The results are disturbing.

**Tyson.** As company executives lobbied the White House for the Executive Order and “to help protect Tyson from lawsuits,”<sup>66</sup> the company was failing miserably to protect its workers. At one Iowa plant, there were 730 cases of the coronavirus – nearly 60 percent of its employees. At

another, in Waterloo, “there were 1,031 reported cases among about 2,800 workers,”<sup>67</sup> or about a third of the workforce. On April 10, Iowa’s Black Hawk County sheriff said what he witnessed at that specific plant “shook him to the core.”<sup>68</sup> He saw that “[w]orkers, many of them immigrants, were crowded elbow to elbow as they broke down hog carcasses zipping by on a conveyor belt. The few who had face coverings wore a motley assortment of bandannas, painters’ masks or even sleep masks stretched around their mouths. Some had masks hanging around their necks.”<sup>69</sup>

In April, one of the Iowa plants was kept open “over the objections of local officials [at a time when] more than 180 infections have been linked to the plant and officials expect that number to dramatically rise.”<sup>70</sup> And at one North Carolina plant, “Of the 2,200 employees...570 employees tested positive for Covid-19. That’s a quarter of the staff.”<sup>71</sup>

**Smithfield.** In addition to the Missouri plant mentioned above, hundreds of Smithfield pork plant employees have been sick. In Sioux Falls, South Dakota, the Smithfield plant closed after becoming “the number one hotspot in the US, with a cluster of 644 confirmed cases among Smithfield employees and people who contracted it from them. In total, Smithfield-related infections account for 55% of the caseload in the state.”<sup>72</sup> At the same time in Wisconsin, the plant had “more than two dozen confirmed cases” and shut down for cleaning, but “plant workers, fearing reprisal, say much more should have been done.”<sup>73</sup>

**JBS USA.** Enock Benjamin, who was a union steward at a Pennsylvania plant, died after becoming infected due to unsafe working conditions at the plant, including “working in close proximity without adequate protective equipment for weeks” while many workers got infected. As infections rose, “JBS added extra shifts – in the form of a new ‘Saturday kill’ – to take advantage of the rising demand for beef sales at the time.”<sup>74</sup> At a Colorado plant, “managers encouraged them to report for shifts even when they appeared sick.”<sup>75</sup>

**Perdue.** Poultry plant workers went on strike because of unsafe conditions. Said Kendaliyn Granville, who led a 50-worker strike at a Georgia plant, “We’re not getting nothing – no type of compensation, no nothing, not even no cleanliness, no extra pay.... We’re up here risking our life for chicken.”<sup>76</sup> At a Virginia plant, “deboning line worker Mark Tankard said he became worried he could contract the virus and pose a risk to his family” after others tested positive.<sup>77</sup> When he did not show up for work, he was fired. After a newspaper inquiry, “the company has offered to reinstate Mr. Tankard’s job with retroactive pay.”<sup>78</sup>

**Pilgrim’s Pride.** In early April, “[w]orkers protested for more answers from plant managers after someone had tested positive for COVID-19 in their facility.... We have a coworker with a mom with Lupus, we have coworkers that have infant children, some of us have elderly parents, and we could carry this stuff home to them....’ She said they are also concerned because many of the workers in the plant do their jobs shoulder to shoulder, against the CDC’s recommendation of being at least 6 feet apart,” with “the only thing they’ve seen done to protect workers is an increase in the amount of available hand sanitizer.”<sup>79</sup>

**Bornstein Seafoods.** At the Astoria, Oregon plant, 26 workers were infected.<sup>80</sup>

**Mission Foods Tortilla Plant.** Sick workers at this Pennsylvania plant were told they would be fired if they tried to take unpaid leave. Benito Tapia “and his wife, who also works at the plant, said they later tested positive for the virus. At least 109 out of about 500 employees at the plant have tested positive.”<sup>81</sup>

**Built Bar.** Juana Victoria Flores shared a production line with sick workers at this Utah facility, making protein bars. In fact, while 6 percent of staff were infected, the company “did not take the necessary precautions to prevent the virus’ spread.”<sup>82</sup> Flores then got sick as did her daughter, who has Down syndrome and cardiac deficiencies. “The daughter needed to go to University of Utah Hospital, where she remains in critical condition.”<sup>83</sup>

## RECREATION AND TRAVEL

**Gyms.** Such facilities, which are “non-essential” businesses, have opened anyway across the nation, defying state-ordered lockdowns and operating with no consistent safety standards. This has happened in North Carolina,<sup>84</sup> New Jersey,<sup>85</sup> Pennsylvania,<sup>86</sup> and Washington State,<sup>87</sup> among other places. Outside of Philadelphia, “[t]he facilities with the highest profile have been a handful of independently owned gyms with a certain adrenaline-fueled edge, their owners being mostly men,” who say this “isn’t a political statement, but he did start selling T-shirts with the PWRBLD Gym logo and the Gadsden flag, which includes the ‘Don’t Tread on Me’ phrase that dates to the American Revolution and is a favorite among the tea party.”<sup>88</sup> Two Washington State gyms that had remained open in violation of state directives closed “after Washington state Attorney General Bob Ferguson filed consumer protection lawsuits against them,” saying “that by flouting the governor’s orders, the gyms have been endangering lives and gaining an unfair advantage over competitors that closed.”<sup>89</sup>

**Airports.** Workers have been on the pandemic’s front lines since the beginning. As *NPR* reported, “Security personnel, gate agents and other employees come in contact with hundreds of travelers a day. Cleaning crews have to mop up bodily fluids such as vomit, mucus and blood. Many of these workers say they lack gloves and respiratory masks as well as the information they need to protect themselves.”<sup>90</sup> For example, since the pandemic began, “dozens of workers from the three major airports in the New York City area have been infected, and at least 17 have died, union officials said. Those still on the job are afraid they could be next. ...Four of those who died worked for LSG Sky Chefs, a large catering operation at Kennedy International Airport, and two worked for United Catering at Newark Liberty International, their union said. The others had a range of duties, from pushing travelers in wheelchairs to restocking airplane galleys. It’s not clear if they contracted the virus on the job. But workers who got sick said they had been worried about their working conditions.”<sup>91</sup>

**Cruises.** These companies have been among the most flagrant violators of safety guidelines. For example, “On March 8, the CDC alerted Americans to stay away from cruising, citing increased risk of COVID-19. Nonetheless, some cruise ships left port on passenger voyages after the travel advisory. At least eight of those ships logged cases of COVID-19, resulting in at least 309 cases of the disease.... At least three of those people died.” When the *Miami Herald* reported on this on April 23, it said that “as of publication, at least 922 crew members have been infected and at

least 11 have died from COVID-19.”<sup>92</sup> The paper explained, “On March 20, the lead physician on [Carnival’s] Coral Princess wrote passengers a letter. ‘Rest assured that, relatively speaking, Coral Princess is probably one of the safest places in the world to be at this time,’ the doctor wrote. Since then, at least eight passengers and five crew tested positive for COVID-19, and at least two passengers have died from the disease.”<sup>93</sup> Dr. Roderick King, CEO of the Florida Institute for Health Innovation, summed it up by saying, “‘Here’s a situation where you have a global pandemic, and you’re running a business where you essentially have self-contained environments where this disease can proliferate quickly,’ King said. ‘By closing your eyes to it, it’s not only detrimental to your business model and ability to bounce back, but it has huge implications on the broader population.’”<sup>94</sup>

## DEADLY HEALTH CARE

According to the CDC, “More than 60,000 health care workers have been infected, and close to 300 have died from COVID-19,” numbers that far underestimate the problem due to testing and reporting problems.<sup>95</sup> Today, “across the country, many nurses say they still don’t have enough personal protective equipment (PPE) such as masks and gowns and are required to reuse N95 masks and other supplies – practices that were considered substandard before the pandemic. Many hospitals and nursing homes continue to operate with inadequate supplies and are rationing them.”<sup>96</sup> Some nurses have been fired for raising concerns about that lack of protective equipment.<sup>97</sup>

### Nursing Homes

For years, U.S. nursing homes have been plagued by problems like inadequate staffing and poor infection control, which are issues that correlate strongly with high and growing virus rates.<sup>98</sup> According to a *New York Times* database, as of May 9, 2020, “At least 28,100 residents and workers ha[d] died from the coronavirus at nursing homes and other long-term care facilities for older adults in the United States.... The virus so far has infected more than 153,000 at some 7,700 facilities.”<sup>99</sup> While the industry spends millions of dollars lobbying for immunity,<sup>100</sup> hundreds of complaints have been “filed in recent months with the federal government’s Occupational Safety and Health Administration (OSHA) and state worker safety programs approved by the agency.”<sup>101</sup> These complaints were reviewed by *CNN*, which reported,<sup>102</sup>

A flu shot will protect you from coronavirus, a worker reported being told by supervisors at a Rhode Island nursing home, where at least 60 residents were diagnosed with Covid-19 and at least one died.

Keep working, an employee who was vomiting and running a temperature at an Ohio long-term care facility was instructed, according to another worker complaint.

No need to tell authorities, a worker reported being told about the Covid-19 related deaths of colleagues at a Missouri nursing home.

...A CNN review of these records, along with reports made to other government officials and interviews with employees, show that long-term care workers across the country feel their own lives are at risk as they work on the frontlines in facilities that have become hotbeds for Covid-19 – with more than 10,000 deaths nationwide.

Like hospitals, nursing homes have faced severe supply shortages during the pandemic and have been urgently seeking assistance from the government. Worker complaints allege dangerous conditions in which staff members are deprived of basic protective gear and have been told to use coffee filters as masks and wear garbage bags or rain ponchos as medical gowns. The employees say they have been kept in the dark about outbreaks in their own facilities as they care for elderly and frail residents who are particularly susceptible to the disease.

Some of the employees' grievances, CNN found, were made just days or weeks before Covid-19 outbreaks and deaths were announced at the same facilities. Other complaints were lodged after management was allegedly well aware the virus was spreading throughout their facilities.

A May 15, 2020 article told Lakesha Lopez's story, which seems to reflect typical negligent practices of many nursing home bosses. Lopez, "the 40-year-old director of nursing at Bannister Center for Rehabilitation and Health Care, in Providence, [Rhode Island]," was in the hospital with Covid pneumonia, one floor below Bannister's 70-year-old receptionist Ms. Virginia, "who lay tethered to a ventilator, fighting for her life."<sup>103</sup> Virginia later died. While staff had asked administrators for testing early on, they refused. Meanwhile, as one staff person explained, she "had only a surgical mask to bathe and feed residents. 'We didn't have the gowns. We didn't have the goggles. We didn't have the face shields....'"<sup>104</sup>

Similarly, at Maryland's Sagepoint Senior Living Services, staffers "were refused protective gear when they requested it in March and were told not to wear masks because doing so would scare residents. ...As of Wednesday, [May 6] according to state data, 97 residents had tested positive, along with 32 staffers. Thirty-four residents and one longtime employee had died."<sup>105</sup> At Potomac Valley Rehabilitation and Healthcare in Rockville, MD, "staffers pleaded with administrators for protective equipment throughout March, to no avail." In the state overall, "long-term-care facilities accounted for more than 6,000 of the state's coronavirus infections [as of May 6] and 804 confirmed covid-19 deaths."<sup>106</sup>

In Illinois, Andrea Hinich, a military veteran, was fired April 22 for "insubordination" after "refusing to take part in a plan to distribute personal protective equipment, or PPE, to staff without required 'fit testing' ...a federally required safety rule [which is] the process of testing PPE on someone to determine the person knows the right size PPE they require, and that they know how to wear it properly."<sup>107</sup>

At Florida's Cross Landings Health Care & Rehabilitation Center, nursing home administrator licenses were suspended after eight of 35 residents (22.9 percent) tested positive for the virus. "Nursing home staff members worked without masks while unused N95 masks sat in an office.

Some resident rooms lacked hand sanitizer or gloves. A COVID-19 isolation area was placed in the area of least separation – a main hallway to the cafeteria.”<sup>108</sup>

## Hospitals

In Pennsylvania, “anguished” nurses were told to stay quite when a “Pennsylvania hospital risked infecting cancer patients, babies and staff with covid-19.”<sup>109</sup> Dan Coviello, a surgical tech at a Scranton hospital, said, ““Anything you say, anything about the coronavirus or that we don’t have enough equipment at the hospital, they’re pulling you into the office.... In the last week, we have members being pulled in to managers’ offices and they’re giving them coaching because they’re speaking out and they want them to be quiet. ... And some got written discipline. And in those disciplines, which I’ve been in, they said that if they continue to speak out, there will be further discipline up to being fired from the hospital.””<sup>110</sup>

In New York, nurses got infected after being forced to use unsanitized N-95 respirators. One such nurse “eventually tested positive for the virus and says her daughter has also fallen ill. Hospital administrators told her to use her own sick days for leave, she said, and ‘strongly encouraged’ her to return to work after seven days, even though she continued to experience symptoms.”<sup>111</sup>

In Oklahoma, a nurse was wrongfully fired for insisting on wearing a mask. “He said he was told ‘point blank that I can’t wear a mask’ because it ‘could cause fear and anxiety amongst the other nurses and the patients.’ He filed a suit against Oklahoma Heart Hospital South for wrongful termination, claiming that ‘the hospital was more concerned about the perception of due diligence than actually performing due diligence.’”<sup>112</sup>

In Washington, D.C., a hearing-and-speech assistant was fired after she went public about the fact that MedStar Washington Hospital Center repeatedly ignored screening and social distancing safety measures.<sup>113</sup> She was called into a conference room and told by members of management that “it was inappropriate for [her] to post things like this to social media because it made MedStar’s ‘brand’ look bad....”<sup>114</sup> She was then “forced to turn over her hospital identification badge, and all her subsequent work shifts were canceled,” according to a suit she filed against MedStar.<sup>115</sup>

## Pharmacists

As *ProPublica* reports, at CVS and Walgreens, the country’s two largest retail pharmacy chains, “floaters are not given information about whether any employee has gotten sick with the coronavirus at a store when they show up to work there.... Floaters said that they are unaware of what’s happened not only before they’ve come into a store, but also after they’ve departed.” In addition, “Despite the cleanings stipulated by both Walgreens and CVS, employees said that it is difficult to clean stores frequently and that supplies remain scarce. When someone tested positive at one of the CVS stores where the Dallas floater worked, the people in charge of sanitizing it” included the pharmacist.<sup>116</sup>

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