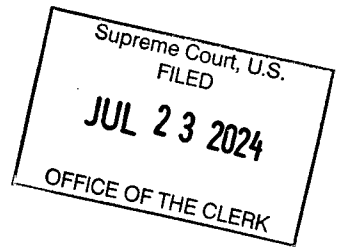


No. 24-82

In the
Supreme Court of the United States



CHRISTINA BROWN,
Petitioner,

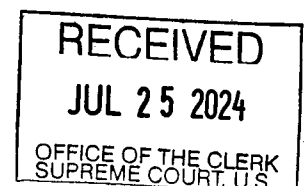
v.

AMAZON HEADQUARTERS, LLC,
A/K/A AMAZON.COM, INC.;
AMAZON LOGISTICS, INC.,
Respondents.

On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For the Fourth Circuit Court

PETITION FOR A WRIT OF CERTIORARI

Christina Brown
Pro se Petitioner
Administrator of the Estate of Poushawn Brown
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QUESTIONS PRESENTED

1. Is illegal work considered legitimate work?
2. Does the Virginia worker's compensation act consider illegal work in the course of the business, trade, or employment?
3. Can an employer that does not have a medical license and admits it is not a health care employer direct an unlicensed employee to practice medicine and perform professional health care work responsibilities that require medical state licensing and medical board certification?
4. Where an employee has succumbed to their death due to performing work outside the usual course of business, or while performing unlawful act on behalf of the employer, and therefore does not have access to the Virginia worker's compensation benefits, can their employer still evade liability in a wrongful death lawsuit because the harm happened at the workplace?

RELATED PROCEEDINGS

This case arises out of the following proceedings:

Fairfax County Circuit Court
Case Number CL-2022- 17556
(Judgment Decision February 21st, 2023)

United States District Court for the Eastern District
of Virginia
Brown v. Amazon.com, Inc. et all affiliate's Case
Number 1:23-cv-00189 MSN-WEF
(Judgment Decision August 4th , 2023)

United States Court of Appeals for the Fourth
Circuit
Brown v. Amazon.com, Inc. et al. affiliate's
Case Number 23-1921
(Judgment Decision February 2nd, 2024)

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Removal Order from Fairfax County Circuit Court, (February 21, 2023) (App. A14)

Order of the United States Court of Appeals for the Fourth Circuit Denying Rehearing En Banc (March 5, 2024) (App. A15)

JURISDICTION

This case was removed from Fairfax County Circuit Court for Diversity Jurisdiction. The United States Supreme Court has authority to review the lower Court's decision. At this present time there is no diversity issue. Amazon's corporate headquarters is located in Arlington, Virginia. On February 21st, 2023, Fairfax County Circuit Court of Virginia signed the removal of the case to The United States District Court Eastern District of Virginia. On August 4th, 2023, The United States District Court Judge Michael S. Nachmanoff denied motion to remand case back to Fairfax County Circuit Court and denied motion to amend and granted defendant's motion to dismiss. The Fourth Circuit Court of Appeals entered its initial decision on February 2nd, 2024. It denied petitioners timely appeal and leave to amend complaint. On March 5th,

2024, The Fourth Circuit Court of Appeals denied petitioners' timely petition for rehearing En Banc. On May 13th, 2024, petitioner filed an application for extension for Writ of Certiorari in the United States Supreme Court. On May 15th, 2024, Extension was granted by the Chief Justice. On June 17th, 2024, petitioner filed an additional extension to August 2nd, 2024. On June 20th, 2024, the extension was granted by the Chief Justice.

STATUTORY PROVISIONS INVOLVED

Code of Virginia Title 65.2. Workers' Compensation Chapter 4. Occupational Diseases § 65.2-402.1. Presumption as to death or disability from infectious disease (App. A16)

Code of Virginia Title 65.2. Workers' Compensation Chapter 4. Occupational Diseases § 65.2-401. "Ordinary disease of life" coverage (App. A17)

Code of Virginia Title 65.2. Workers' Compensation Chapter 4. Occupational Diseases § 65.2-400. "Occupational disease" defined (App. A18)

Code of Virginia Title 54.1. Professions and Occupations Subtitle I. General Provisions Relating to Regulatory Boards Chapter 1. General Provisions § 54.1-111. Unlawful acts; prosecution; proceedings in equity; civil penalty (App. A19)

Code of Virginia Title 8.01. Civil Remedies and Procedure Chapter 21.1. Medical Malpractice Article 1. Medical Malpractice Review Panels; Arbitration of Malpractice Claims § 8.01-81.1. Definitions As used in this chapter: (App.A20)

Code of Virginia Title 65.2. Workers' Compensation
Chapter 1. Definitions and General Provisions
§ 65.2-101. Definitions (App. A21)

Code of Virginia Title 54.1. Professions and
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Code of Virginia Title 32.1. Health Chapter 5.
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INTRODUCTION

The petitioner in this case is Christina Brown who is representing the Administrator of the Estate of the deceased Poushawn Brown. As the Administrator of Estate and the sister of the late Poushawn Brown, I am now here at the Supreme Court to get justice. Poushawn Brown leaves behind a young daughter with special needs and a mother that is bedridden. Poushawn Brown was hired by the defendant, Amazon Logistics in 2018 to work in their warehouse as a package handler and a package sorter. Her job duties consisted of sorting, stowing, and processing packages for delivery to customers that ordered from Amazon. I myself was also employed by the defendant in 2018 and was hired as a picker. In March of 2020 the covid-19 pandemic affected and infected the whole world, and the defendant sporadically made up a department arising from the covid-19 pandemic to accommodate the needs of the economy during the pandemic. Amazon Logistics created this department in late

April of 2020 and referred to this department as the "Safety Covid Department". Poushawn Brown was suddenly moved to the "Safety Covid Department" in June of 2020. Instead of handling and sorting packages, Poushawn was instructed by management to stick Q-tip swabs up other Amazon employee noses and test them for the coronavirus with no covid protective gear (PPE), medical training, medical background, medical license, or medical staff on duty. Poushawn Brown tested all different kinds of employees including amazon warehouse workers, Amazon delivery drivers, Amazon fresh workers, and Amazon prime workers. Poushawn Brown conducted covid tests on over a dozen employees a day. Poushawn simply was just a warehouse worker who knew nothing about medical testing. Poushawn had no medical background and no medical license to legitimately practice medicine in the middle of a pandemic. Amazon Logistics did not supply Poushawn Brown with covid protective gear or with the training to educate her on the proper protocol required to put on, take off, and to discard covid PPE. Amazon Logistics did not supply Poushawn with a medical license nor do they have a medical license themselves. Amazon does not have the authority to even do so. Amazon Logistics is not a health care employer and Amazon Logistics does not contend that they are a health care employer. Amazon Logistics is a warehouse and has a trade of business as a Retail Distribution Fulfillment Center. Poushawn Brown was hired as a package sorter and a package handler not a doctor, nurse, or a health care employee.

Poushawn Brown made several documented complaints to human resources and to the headquarters in Seattle Washington about the

conditions in the warehouse. She also complained about her fear of contracting the covid-19 virus and how there were no medical personnel on duty to relieve Poushawn Brown and other employees from the dangerous conditions. Poushawn even wrote to multiple news stations to shine a light on the unlawful acts that had taken place inside of the warehouse. Nevertheless, my sister Poushawn Brown contracted the covid-19 virus and died. Amazon Logistics has disregarded this civil suit alleging that this is a Worker's Compensation case. This is not a Worker's Compensation case.

This is a Wrongful Death case. Amazon Logistics should have hired nurses and doctors to test their employees. Amazon Logistics took a warehouse worker and turned her into a health care employee overnight and in the middle of a pandemic when the world was shut down. It is common sense that Amazon should have known that it takes years of schooling, training, and licensing to become a physician (Md, Rn, or Lpn). My sister died due to the illegal instruction of Amazon management which was not in the course or trade of her work or what she was hired to do. It was not in the business nor trade of Amazon Logistics to instruct an employee to administer medical testing on other employees. This is a wrongful death case and even in this present moment, Amazon Logistics has not been held accountable for the death of my sister Poushawn Brown. Amazon Logistics has still not been held accountable for breaking the law that resulted in causing her death. Worker's Compensation does not cover illegal work. The Code of Virginia Title 65.2. Workers' Compensation does not cover, define or locate illegal work or address the exclusive remedies

for employers who break the law by instructing employees to do illegal work. Workers' Compensation does not cover work outside the course of employment or outside the trade of Amazon Logistics business. Poushawn Brown is not covered under the Virginia Workers Compensation act, and neither is Amazon. This is a wrongful death lawsuit.

STATEMENT

A. Factual and Procedural Background

1. The plaintiff in this case is Christina Brown representing the Administrator of the Estate of the deceased Poushawn Brown. Poushawn Brown worked for the defendant, which is Amazon Logistics located at 5617 Industrial Dr Springfield, VA 22151. The Amazon distribution Fulfillment Center is a large-scale warehouse facility that specializes in storing, packing, and shipping a wide range of products for the e-commerce giant, Amazon. The center plays a crucial role in the logistics and distribution process, ensuring timely delivery of orders to customers across the region. Amazon is a Trillion Dollar company that delivers packages worldwide.

Poushawn Brown was employed by the defendant in 2018 until her untimely death in 2021. Poushawn Brown was hired as a package sorter and package handler. Her job description and duties ranged from stowing and sorting packages to packing packages and preparing them to be shipped out for delivery for Amazon Logistic customers. In June 2020, the defendant Amazon Logistics sporadically created a new department called the "Safety Covid-19 Department". Poushawn Brown was moved to this

department as a "Safety Champion" which was still located at the Amazon Logistics fulfillment center warehouse DDC3 location in Springfield, Va. Poushawn Brown's duties as a safety champion was to observe and report that all employees had masks on upon entering the building and while inside of the warehouse. She was also responsible for making sure all Amazon employees were socially distancing at least six feet apart.

In late October 2020, Poushawn Brown was instructed by an (L3) which is a Learning ambassador supervisor, to stick Q-tip swabs up other Amazon Logistic employee noses in order to administer the covid-19 tests. Poushawn Brown tested all Amazon employees including Amazon warehouse workers, Amazon prime workers, Amazon fresh workers, and Amazon delivery drivers. Poushawn Brown covid tested anywhere from 15 or more employees a day during her 9-hour shift Sunday-Thursday. Poushawn Brown tested any and all employees that had symptoms of the covid-19 virus, or employees who came in contact of individuals working in the warehouse who tested positive for the covid-19 virus. Poushawn Brown did not have a medical license. Poushawn Brown did not have medical training. Poushawn Brown did not have a medical degree. There were no licensed medical professional physicians or nurses (MD, RN or LPN) on site at the DDC3 warehouse location. During the time that Poushawn Brown was covid testing, Poushawn Brown was not provided any covid-19 personal protective equipment (PPE) by the defendant to illegally and unlawfully practice medicine (covid-19 testing). In the defendants reply to plaintiffs' opposition to defendants' motion to dismiss filed On April 12th,

2023 (refer to page 3), Amazon Logistics does not contend that it is a health care employer, and that Pro Se Christina Brown acknowledges that amazon is not a health care employer.

2. On December 30th, 2022, I Plaintiff Christina Brown and Administrator of the Estate of Poushawn Brown Pro Se filed a Wrongful Death claim against Amazon Logistics and all of its affiliates in the Fairfax County Circuit Court, on grounds of unlawfully practicing medicine, gross negligence and the wrongful death of Poushawn Brown as a result of contracting covid -19 while illegally practicing medicine.

The defendant Amazon Logistics was Served at their headquarters in Seattle Washington on January 11th, 2023.

On February 10th, 2023, Plaintiff Christina Brown, Administrator of the Estate Of Poushawn Brown filed Motion to Default in Fairfax County Circuit Court.

Defendant Amazon Logistics filed a motion to remove the case to The United States District Court Eastern District of Virginia on February 10th, 2023.

February 14th, 2023, Motion for default set for hearing on February 24th, 2023, at 9:00 AM with Judge Azcarate in Fairfax County Circuit Court.

February 17th, 2023, Fairfax County Circuit Court terminated the scheduled hearing on February 24th, 2023, at 9:00am for the motion of default due to Defendants removal to The United States District Court Eastern District Virginia.

February 21st, 2023, Judge Azcarate signed removal order from Fairfax County Circuit Court

Plaintiff Christina Brown, Administrator of the Estate of Poushawn Brown filed a motion for remand

in The United States District Court Eastern District of Virginia on February 27th, 2023. The Defendant Amazon Logistics filed its Motion to Dismiss on March 3rd, 2023, in The United States District Court Eastern District of Virginia.

The Defendant Amazon Logistics opposed the Motion for remand on March 14th, 2023, in the United States District Court Eastern District of Virginia.

Plaintiff Christina brown Administrator of the Estate of Poushawn Brown filed an opposition brief and amended on April 6th, 2023, in The United States District Court Eastern District of Virginia

The defendant Amazon Logistics filed a Reply in support of its Motion to Dismiss on April 12th, 2023, in The United States District Court Eastern District of Virginia.

On April 20th, 2023, plaintiff Christina Brown, Administrator of the Estate of Poushawn Brown motioned The United States District Court Eastern District of Virginia to amend the complaint to include that she is Administrator of the Estate of Poushawn Brown.

The defendant Amazon Logistics asked The United States District Court of Eastern District of Virginia to strike plaintiff's reply on May 4th, 2023.

The defendant Amazon Logistics filed its opposition to that motion on May 4th, 2023, in The United States District Court Eastern District of Virginia.

On August 4th, 2023, The United States District Court Eastern District of Virginia entered its Memorandum Order and Opinion denying plaintiff Christina Brown Administrator of the Estate of Poushawn Brown motion to remand, granted the defendant Amazon Logistics' motion to dismiss,

denied plaintiff Christina Brown Administrator of the Estate of Poushawn Brown motion to amend and denied Amazon's motion to strike.

Plaintiff Christina Brown, Administrator of the estate of Poushawn Brown filed a notice of appeal on August 31st, 2023.

In The United States District Court Eastern District of Virginia, Plaintiff Christina Brown, Administrator of the estate of Poushawn Brown filed Informal Opening Brief in the United States Court of Appeals for the Fourth Circuit on October 23rd, 2023.

The Defendant Amazon Logistics filed an informal brief of Defendants Appellees in the United States Court of Appeals for the Fourth Circuit on November 6th, 2023.

Plaintiff Christina Brown, Administrator of the estate of Poushawn Brown filed an Informal reply brief on November 16th, 2023, in The United States Court of Appeals for the Fourth Circuit.

The United States Court of Appeals for the Fourth Circuit affirmed the judgment of the United States District Court Eastern District of Virginia on February 2nd, 2024.

Plaintiff Christina Brown, Administrator of the Estate of Poushawn Brown petitioned for rehearing En Banc in the United States Court of Appeals for the Fourth Circuit on February 13th, 2024.

On March 5th, 2024, The United States Court of Appeals for the Fourth Circuit denied motion for rehearing En Banc for Plaintiff Christina Brown, Administrator of the estate of Poushawn Brown.

ARGUMENT

Amazon Logistics is responsible for instructing Poushawn Brown to illegally practice medicine without a license. Amazon Logistics instructed Poushawn Brown to administer covid-19 tests on other Amazon employees. Poushawn Brown was hired by the defendant to be a package sorter and package handler. The defendant seems to be confused that just because the world was in the middle of a deadly pandemic that they could randomly become a medical facility or a health care employer and that their employees such as the deceased Poushawn Brown, can suddenly become licensed medical professionals, doctors, and nurses. Amazon Logistics used cardboard boxes outlining a corner in the warehouse fulfillment center and suddenly deemed themselves eligible to practice medicine. Amazon Logistics has stated in the defendants reply to plaintiffs' opposition to defendants' motion to dismiss filed On April 12th, 2023 (refer to page 3), Amazon Logistics does not contend that it is a health care employer, and that Pro Se Christina Brown acknowledges that Amazon is not a health care employer. The defendant acknowledges and is fully aware that they are not a healthcare employer. The defendant seems to also be confused that they can rewrite the Virginia Workers Compensation laws, Title 65.2 of the code of Virginia (Workers' Compensation), Chapter 29 of title 54.1 of the code of Virginia (medicine), Code of Virginia Title 32.1. Health, Code of Virginia Title 8.01. Civil Remedies and Procedure Chapter 21.1. (§ 8.01-581.1), Code of Virginia Title 54.1. Professions and Occupations Subtitle I. General Provisions Relating to

Regulatory Boards Chapter 1, and the Virginia board of Medicine. The defendant has argued that despite whether they were negligent or not, worker's compensation is the exclusive remedy. Worker's compensation is not the exclusive remedy. Poushawn Brown was not in the course of her work or employment nor was Amazon Logistics operating in the trade of their business when she was instructed to illegally practice medicine which ultimately led her to succumb to her death. Amazon logistics is a retail distribution fulfillment center warehouse not a healthcare employer or a medical facility. Poushawn Brown's duties became out of the scope and course of the work and out of the trade of the business of Amazon Logistics the moment she was instructed to covid test other amazon employees. Poushawn Brown's duties as a package sorter and handler and her duties as a safety champion which consisted of observing and reporting that all employees had masks on while maintaining a social distance of at least six feet apart within the warehouse, does not require a medical license. In late October 2020, Amazon Logistics demanded Poushawn Brown to illegally practice medicine by administering (covid 19 testing) nasal swabbing (PCR testing) on other Amazon employees without a medical license, medical background, medical training, or proper covid testing PPE.

The requirement for medical professionals to have a license to practice medicine in the United States dates back to the first medical licensing laws that were enacted by states in the 1870s and 1880s. To practice medicine in the United States, a physician must have a medical degree from an accredited medical school, complete a residency program, pass

the United States Medical Licensing Examination (USMLE), and obtain a medical license from the state in which they intend to practice.

Chapter 29 of Title 54.1 of the Code of Virginia defines medical testing as practicing medicine. Using a swab to collect nasopharyngeal specimens for viral testing meets the broad definition of the “practice of medicine” in Virginia.

“A nasal swab is a test that checks for viruses and bacteria that cause respiratory infections. A nasal swab test can help your provider diagnose the type of infection you have, and which treatment would be best for you. The test may be done by taking a sample of cells from your nostrils or from the nasopharynx. The nasopharynx is the uppermost part of your nose and throat.”

In the state of Virginia only licensed professionals can practice medicine and perform medical testing pursuant to § 54.1-2900 of the Code of Virginia. Chapter 29 of title 54.1 defines the following professionals that can legally practice medicine:

1. Physicians (MD or DO): Medical doctors who have completed their medical education and obtained a license to practice medicine.
2. Nurses (RN, LPN): Registered nurses or licensed practical nurses who have received appropriate training and are authorized to perform certain medical tests and procedures.

3. Medical Technologists: Professionals who have completed a bachelor's degree in medical laboratory science and are certified by a recognized accrediting agency, such as the American Society for Clinical Pathology (ASCP).

4. Medical Laboratory Technicians: Individuals who have completed an associate degree or a certificate program in medical laboratory technology and are certified by a recognized accrediting agency.

This case needs to be set for discovery and a jury trial so it can go on record that a credible state representative from the Virginia Workers Compensation commission can determine whether or not that in the state of Virginia when an employer illegally practices medicine and impersonates a trade of business they are not registered or licensed for, is included in employer and employee coverage under the act. The courts Need to allow a credible state representative from the Virginia Workers Compensation commission to go on record and to also determine whether or not when an employer instructs its employee's to illegally practice medicine or to perform work outside the usual course of the business resulting in injury, disease or death by the work, that Worker's Compensation will cover the injured or deceased employee. Poushawn Brown was illegally practicing medicine (covid testing) even before there was a vaccination available to combat the covid-19 virus. Poushawn Brown was illegally practicing medicine under the instruction of Amazon logistics with no medical license, no medical training, and no licensed medical staff on duty at the warehouse. Amazon Logistics is a very wealthy and

sophisticated company with over a million resources and is more than capable of hiring nurses, doctors, and licensed medical professionals to properly administer covid-19 testing on Amazon Logistic employees. Poushawn Brown contracted the covid-19 virus due to Amazon logistics vile and unlawful actions, which led her to succumb to her death in January of 2021 as a result of it.

The United States Supreme Court ruled on January 14th, 1889, in *Dent v. West Virginia*, 129 U.S. 114 (1889) that any person that wishes to practice medicine must meet the proper requirements. This affirmed the state's authority to require anyone who wants to practice medicine within its borders to obtain a license. This licensing requirement helps to ensure that healthcare providers meet certain standards of education, training, and competency in order to protect the public's health and safety. Without a license, individuals are not legally allowed to practice medicine in that state. The decision affirmed the state's role in protecting the well-being of its citizens by ensuring that healthcare professionals meet certain qualifications and adhere to established standards of care. A quote from a Stephen J. Field opinion Who was a former sitting and participating Supreme Court Justice for The United States Supreme Court, ruled in the *Dent v. West Virginia*, 129 U.S. 114 (1889) case stated the following:

“No one can doubt, of high importance to the community, that health, limb and life should not be left to the treatment of ignorant pretenders and charlatans. It is within the power of the legislature to enact such laws as

will protect the people from ignorant pretenders, and secure them the services of reputable, skilled and learned men... To require this is an exercise of the police power for the protection of the public against incompetents and impostors and is in no sense the creation of a monopoly or special privileges. The door stands open to all who possess the requisite age and good character and can stand the examination which is exacted of all applicants alike.”

The defendant is basically arguing that it does not matter that they were outside of the business and trade and that it does not matter whether they were doing something illegal or not. Either way Amazon Logistics falsely claims that this is a Workers Compensation case simply because it “arose out of employment”. Just because the injury, disease, or death happened because of the physical environment of the workplace, that alone is not a strong enough argument to conclude that worker’s compensation is the exclusive remedy. Amazon logistics cannot rewrite the laws, nor do they have the ability to give out medical degrees to basic warehouse employees.

In *Eastman v. State*, 10 N.E. 97 (Ind. 1887) the Indiana Supreme Court stated the following:

“The practice of medicine and surgery is a vocation that very nearly concerns the comfort, health and life of every person in the land. Physicians and surgeons have committed to their care the most important interests, and it is an almost

imperious necessity that only persons possessing skill and knowledge should be permitted to practice medicine and surgery. For centuries the law has required physicians to possess and exercise skill and learning, for it has mulcted in damages those who pretend to be physicians and surgeons but have neither learning nor skill. It is, therefore, no new principle of law that is asserted by our statute; but, if it were, it would not condemn the statute, for the statute is an exercise of the police power inherent in the State. It is, no one can doubt, of high importance to the community that health, limb and life should not be left to the treatment of ignorant pretenders and charlatans."

The purpose of the statute is to prevent persons who do not possess the necessary qualifications to practice medicine or surgery, from inflicting injury upon the citizens by undertaking to treat diseases, wounds and injuries. It is the plain intention of the statute to keep out of the professions of medicine and surgery all who do not possess learning and skill sufficient to enable them to properly discharge the duties incumbent upon members of those honorable professions, and courts have no right to create an exception which will defeat that intention. It is immaterial whether the person who undertakes to treat diseases or wounds does it for hire or not, for unless he is qualified as the statute requires, one must not undertake the treatment of diseases or wounds at all. The courts cannot divide professional persons into classes and

assert that one class is within the law and the other not, for the law applies to all who assume the responsible duty of treating the sick, or injured citizens, as well those who expect compensation for their services, as those who do not.

Virginia law requires that employers carry Workers' Compensation insurance in order to cover their workers in the event of a work-related injury, disease, and or death. In order for the Virginia Workers Compensation commission and the Virginia Workers Compensation Act to determine whether or not a case is eligible for Workers Compensation, there are three elements that must be considered and true. Those three elements consist of the following.

1. Was the work legal and legitimate

Was the employee employed to perform work that is legal because in order for "work" to be considered "legitimate work" it must be legal.

2. Was the injury, disease, or death a result of "work" in the course of the employment

3. Did the injury, disease, or death arise out of the employment

In this case regarding Poushawn Brown, only one of these elements is true, which concludes that workers compensation is not the exclusive remedy. Just because Poushawn Brown caught a disease that arose out of the employment of Amazon Logistics, that does not mean that she caught a disease in the course of the employment, nor does it mean that the

“work” she was instructed to do by her employer was legal which resulted in her catching a disease and succumbing to her death because of it. Amazon Logistics should not be able to avoid liability simply because there is a “recognizable link” between the disease and Poushawn Brown’s work environment. “Arising out of employment” and “in the course of employment” are separate elements. Arising out of employment is defined by employment and work related injury and or diseases occurring within the time and space boundaries of the employment. However, “in the course of employment” is defined by activity whose purpose is related to the employment and trade of the business. Poushawn Brown was hired to be a package sorter and handler for a distribution fulfillment center warehouse and even when her duties sporadically changed to observing and reporting that all employees had on a mask and social distanced at least six feet apart in the warehouse, she was not performing work activities in the course of her employment or within the trade of the business of Amazon Logistics when they instructed her to illegally covid test other Amazon Logistic employees. Administering PCR (Q-tip nasal swab) covid tests is considered practicing medicine in the state of Virginia and illegally practicing medicine on other employees was never in her job description and it could not have been because she is not a licensed doctor or nurse. In general, Workers’ Compensation benefits are intended to cover employees who are injured while performing their job duties in a legal and legitimate manner. If an employee is injured while engaged in illegal activities at the direction of the employer the injury or disease cannot be covered under the Virginia

Workers' Compensation Act. The Act does not provide coverage for injuries and or diseases sustained while committing illegal acts or engaging in activities that are not within the course of the employee's job responsibilities nor does the act provide coverage for employers that operate employment outside the trade of their business.

In the defendant's informal briefing submitted to the fourth circuit court of appeals on November 6th, 2023, the defendant argues the following.

"A claim for wrongful death against an employer falls within the scope of the Act whenever an injury leading to the decedent's death allegedly arises out of and in the course of her employment. *Id.* (noting that the murder of an employee was an "accident arising out of and in the course of" his employment, interpreting the term "accident" broadly). This standard is satisfied where there allegedly is "a causal connection between the claimant's injury and the conditions under which the employer requires the work to be performed[.]" *Id.* Of particular relevance here, the Virginia Court of Appeals held in *Frey v. Gunston Animal Hosp. & Cincinnati Indemnity Co.* that alleged "exposure to a life-threatening virus" fell within the Act. 39 Va. App. 414, 423, 573 S.E.2d 307, 311 (2002). The Frey Court joined the consensus of other states holding that "persons exposed to a serious risk of contracting a disease which is commonly known to be highly contagious/infectious and potentially deadly, have been 'injured' for the

purpose of receiving compensation under the Act.” Id. at 423-24 (collecting cases).”

The defendant seems to successfully define what an accident means in the terms of injury which is completely unnecessary because it was previously condoned that amazon logistics has no fault coverage which means that the employer will conclude that Workers Compensation is the remedy regardless if they are negligent or not. However, the defendant failed to distinguish the difference between the two separate elements of what it means for an injury, disease and or death to arise out of the employment versus an injury, disease, and or death resulting from work in the course of the employment. The defendant also did not acknowledge the catastrophic difference between the Frey v. Gunston animal hosp. case and the Brown v. Amazon logistics case. The Frey v. Gunston animal hosp. case was absolutely a Workers’ Compensation case because all the elements were present. The work she was doing was legal. Frey had the proper training to be qualified to work at a veterinarian hospital, the injury arose out of her employment, and the injury and alleged disease was a result of work in the course of her employment. This was completely not the case for Poushawn Brown because again when she contracted the disease (covid), she was instructed to illegally practice medicine by covid testing amazon employees without a license which puts Poushawn out of the course of the employment on two grounds. One being that the work she was doing when she contracted covid was illegal and amazon logistics has no legal support to justify that illegal “work” is considered “legitimate work”.

Amazon is a large-scale corporation and cannot hire or post job offerings for illegal work because that is against the law and illegal work does not require a corporation to be registered under a specific trade. The second reason is that Poushawn Brown was hired to be a package sorter and handler not a doctor, nurse, or a medical professional. Therefore, her job duties and the work Amazon Logistics instructed her to do should have been in the scope and course of her employment and the trade of Amazon Logistics business.

In the defendants informal briefing submitted to the fourth circuit court of appeals on November 6th, 2023, the defendant also argued that "The Act still generally applies to claims of "occupational disease," meaning "a disease arising out of and in the course of employment," regardless of the nature of Amazon's business or Poushawn Brown's position at Amazon." One of the mandatory elements that the Virginia worker's Compensation commission uses as a basis to determine when a case falls within the act is whether or not the nature of the business or trade is in the course of the employment or position of the employee. There is no possible way that the nature of amazon's business or trade and Poushawn Brown's position and or "work" can be disregarded in this case. That is the whole point of filing a wrongful death suit because Amazon Logistics needs to be held accountable for disregarding their trade of business and not only Poushawn Brown's position but her wellbeing by instructing her to illegally practice medicine which ultimately led her to succumb to her death. Amazon Logistics proceeds to continue arguing that this claim "boils down to her assertion that her sister died as a result of a disease

to which she was allegedly exposed arising out of and in the course and scope of her employment with Amazon. As such, her exclusive remedy is a claim for workers' compensation." which is not withstanding. This claim boils down to my assertion that my sister died as a result of being instructed to illegally practice medicine which is the causation of contracting the covid-19 virus.

Amazon Logistics refers to The Virginia Court of Appeals' decision in Taylor v. Posey, No. 1042-22-4, to support their argument that this is not a wrongful death lawsuit. Again, Amazon Logistics failed to acknowledge that the three elements that must be true to prove that a case is a Worker's Compensation case are all present and true, whereas in the Poushawn Brown case it is not. The Taylor v. Posey case was absolutely a Workers' Compensation case because despite the causation and alleged negligence of giant and Mr. Posey, all the elements were still present. Mr. Taylor was a manager at a giant grocery store, and he caught covid at his place of work and was in the course of his employment and trade of the business when he contracted the disease. The work he was also doing when catching covid was legal. He had the proper training to be qualified to work as a manager at the giant grocery store and he was managing the store when he contracted the disease which is what he was employed to do for over a decade. The disease arose out of his employment, and the disease was a result of work in the course of his employment. Unlike the Poushawn Brown case, Poushawn Brown was never hired to practice medicine legally and she could not have been because Amazon Logistics had a trade under a distribution and fulfillment center and does

not contend that it is a health care employer. Furthermore, Poushawn Brown is not a licensed doctor, nurse, or medical practitioner and has never been medically trained. Poushawn Brown was hired to be a package sorter and a package handler and Amazon Logistics has no legal support to justify instructing her or any other employee to practice medicine illegally without a license in a fulfillment distribution warehouse. Amazon Logistics has no legal support to fraudulently impersonate a trade of business they do not have a license or registration for. There is a huge catastrophic difference between someone making sure someone is wearing a mask versus a trillion-dollar corporation directing someone to administer unlawful medical testing on other employees in the workplace. The comparison is not even remotely in the same category. A person who is literally just a warehouse worker who has no background in the medical field had no business medical testing over a dozen warehouse employees a day without covid PPE in the middle of a pandemic and Poushawn Brown's unfortunate circumstances cannot be compared to the Frey v. Gunston or the Taylor v. Posey case. It is just preposterous for Amazon Logistics to even have the audacity to do so.

DEFINITIONS

Chapter 29 of Title 54.1 of the Code of Virginia of Medicine defines medical testing as practicing medicine.

Using a swab to collect nasopharyngeal specimens for viral testing meets the broad definition of the. "Practice of medicine" in Virginia.

(National Library of Medicine: U.S. Department of Health and Human Services):

“A nasal swab is a test that checks for viruses and bacteria that cause respiratory infections. A nasal swab test can help your provider diagnose the type of infection you have and which treatment would be best for you. The test may be done by taking a sample of cells from your nostrils or from the nasopharynx. The nasopharynx is the uppermost part of your nose and throat.”

What is a nasal swab?

A nasal swab is a test that checks for viruses and bacteria that cause respiratory infections.

What is it used for?

A nasal swab is used to diagnose certain infections of the respiratory system.

(National Library of Medicine: U.S. Department of Health and Human Services):

Medical test definition:

A test used to help figure out what disease or condition a person has based on their signs and symptoms. Diagnostic tests may also be used to help plan treatment, find out how well treatment is working, and make a prognosis.

(U.S. Department of Health and Human Services
National Institutes of Health
National Cancer Institute):

Definition of a Healthcare Provider:

A licensed person or organization that provides health care services. Examples of health care providers include doctors, nurses, therapists, pharmacists, laboratories, hospitals, clinics, and other health care centers.

The Centers for Disease Control and Prevention (CDC) Guidelines for Covid PPE, the use of PPE when caring for patients with confirmed or suspected Covid-19 published June 3rd, 2020, required that **Healthcare Personnel (HCP)** must:

- Receive comprehensive training on when and what PPE is necessary, how to don (put on) and doff (take off) PPE, limitations of PPE, and proper care, maintenance, and disposal of PPE.
- Demonstrate competency in performing appropriate infection control practices and procedures.

Covid Personal Protective Equipment: N95 or higher respirator, Face shield, goggles, non-sterile gloves, isolation gown, hand sanitizer, surface disinfectant.

Chapter 4 of Occupational Diseases of Title 65.2 of The Code of Virginia (workers compensation)

B. 1. COVID-19 causing the death of, or any health condition or impairment resulting in total or partial disability of, **any health care provider**, as defined in § 8.01-581.1, who as part of the **provider's employment** is directly involved in diagnosing or treating persons known or suspected to have

COVID-19, shall be presumed to be an occupational disease that is covered by this title unless such presumptions are overcome by a preponderance of competent evidence to the contrary. For the purposes of this section, the COVID-19 virus shall be established by a positive diagnostic test for COVID 19 and signs and symptoms of COVID-19 that require medical treatment, as described in subdivision F 2.

2. COVID-19 causing the death of, or any health condition or impairment resulting in total or partial disability of, **any (i) firefighter, as defined in § 65.2-102; (ii) law-enforcement officer, as defined in § 9.1-101; (iii) correctional officer, as defined in § 53.1-1; or (iv) regional jail officer** shall be **presumed to be an occupational disease, suffered in the line of duty**, as applicable, that is covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary. For the purposes of this section, the COVID-19 virus shall be established by a positive diagnostic test for COVID 19, an incubation period consistent with COVID-19, and signs and symptoms of COVID-19 that require medical treatment.

REASON FOR GRANTING THE PETITION

- I. United States court of appeals has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power.**

It is imperative that the United States Supreme Court steps in and exercised its supervisory power in this case, as the lower courts have clearly departed from the accepted and usual course of judicial proceedings. The lower courts also relayed inaccurate misinformation. At the Eastern District Court of Virginia, Judge Michael S. Nachmanoff stated in the Memorandum Order and Opinion that I, Christina Brown administrator of the estate, "apparently" filed a motion for default judgment in Fairfax County Circuit Court on February 12th, 2023 and that there is no evidence that I, Christina Brown, had made such filing, let alone that any entry of default or default judgment had been entered against any of the Amazon entities identified in this action. I, Christina Brown, did in fact file a motion for default judgment in the Fairfax County Circuit Court and it was filed on February 10th, 2023, about an hour before the defendant filed a removal to the Eastern District Court of Virginia. Furthermore, Judge Nachmanoff inaccurately stated that the motion for the default judgment was filed on a Sunday when that is impossible because the court is not open for business on Sundays. The motion for default judgment was also stamped, dated, and added to the case file on February 10th,

at the Fairfax County Circuit Court and it is still on file at that court presently. Whether these mistakes are deliberate or not I will never be sure, but it does make me question the validity of the lower court's ability to make accurate judgements. My ability to present evidence to support this case was disregarded. The lower courts made a decision based off of hearsay and without my overwhelmingly hard evidence. I had two opportunities to be heard in the lower court. Both opportunities for an oral hearing got canceled, one in which I waited 3 Months for just for the hearing to be terminated abruptly the day before without any reasoning or explanation. There have been multiple factors, state laws, federal laws, and regulations that have been broken by Amazon logistics and overlooked and or ignored by the lower courts where deviations from standard legal procedures call for the Supreme Court's intervention to ensure that justice is served, and that the integrity of the legal system is upheld.

II. The United States Supreme Court does not have the discretion to ignore criminal acts of an individual or employer.

The Lower Court's never allowed any record to include evidence or any discovery about Amazon's willful use of unlicensed employees to practice medicine. This court needs to allow records and discovery. Christina Brown, administrator of the Estate of Poushawn Brown has Not had an opportunity to publish any evidence on record about Amazon Logistics' unlawful practices of medicine. It is crucial that I should be allowed to go on record to

provide evidence in order to prove that Amazon logistics violated the Virginia Medical Board, the Virginia Board of Licensing, the CDC, the National Medical Laboratory Testing, and the Virginia Health and Safety Department. The Virginia Workers Compensation act is not a remedy, and this case cannot be ruled in Amazon's favor solely based on Amazon's alleged word. Amazon willfully and recklessly broke multiple State and Federal laws by instructing and demanding their employees to unlawfully practice medicine.

III. Amazon and other corporations in Virginia will be able to essentially get away with murder without being held accountable for the causation and the negligence of their actions by hiding behind worker compensation insurance.

This case is not a Worker's Compensation case. Workers' Compensation is not the exclusive remedy in this case. Amazon is a worldwide and very well renowned corporation. Their commercials run every five minutes on television, and one cannot drive on highways or residential areas without seeing an Amazon delivery truck. One would think that a large worldwide corporation such as Amazon would have hired healthcare professionals to covid test their employees during the pandemic instead of having regular warehouse workers with no medical background and no medical training to test each other. Amazon Logistics knowingly tried to manipulate this case into Virginia Workers Compensation. Amazon Logistics is not a health care employer or provider. Amazon Logistics is a warehouse retail distribution fulfillment center.

Amazon Logistics has not provided any evidence that an unlicensed person in the state of Virginia let alone in the United States can practice medicine without a medical license or medical degree. It has been proven for over 200 years and in several courts that practicing medicine without a license is illegal and unwarranted. Refer to *Dent v. West Virginia*, 129 U.S. 114 (1889). Amazon Logistics was operating out of the course of their business and trade of their profession when they decided to instruct their employees to practice medicine illegally in the middle of a pandemic without any covid PPE or medical training. The Supreme Court must grant this petition because companies like this cannot continue to put employees in harm's way and cause their death as a result of their unlawful actions and hide behind workers compensation. Amazon is a very savvy sophisticated company. They took advantage of their employees let alone the Worker's Compensation system during the pandemic and even now. They are very aware that Poushawn Brown was not a medical professional. They did not care about her wellbeing or the wellbeing of those she illegally practiced medicine on when they instructed her to covid test their employees in the middle of a pandemic for \$14 an hour. When she succumbed to her death from their illegal actions, they alleged that Worker's Compensation is the exclusive remedy. Worker's Compensation is not the exclusive remedy, and the exclusive remedy is to allow this Wrongful Death suit to proceed and hold Amazon Logistics accountable for their unlawful actions. Amazon Logistics should not be able to get away with murder for their own financial gain; this petition needs to be granted.

Amazon Logistics willfully and negligently disregarded Poushawn Brown's wellbeing. The only thing Amazon Logistics cared for was meeting their billion-dollar quota off of the backs of regular civilian employees. My sister had a life and a beautiful young daughter that will never see her mother again because of Amazon's illegal actions. It is no secret that Amazon has an egregious history of violating, breaking, mocking, and impersonating the law for their own benefit. Amazon Logistics took a regular civilian, Poushawn Brown, who was hired to do package handling and package sorting and instructed her to illegally practice medicine on their behalf. Amazon made her illegally covid test other employees at the worst point of the pandemic and she lost her life under the instructions of their illegal actions and now Amazon is cowardly hiding behind Worker's Compensation, claiming it as the exclusive remedy. It is obvious that Poushawn was not in the course of her employment, and neither was Amazon Logistics in the trade of their business. The court needs to grant this petition and send it back to the lower courts to be set for a jury trial to allow discovery, evidence, witnesses, and testimony. My sister Poushawn Brown deserves justice, however anyone who is employed in general is at risk of being disregarded the way Poushawn Brown was in the lower courts and within the workplace. This case could assist those who have been disregarded by greedy large-scale corporations who take advantage of everyday people who are just trying to be productive members of society. This case also has substantial precedential value and could establish a legal precedential basis for future cases especially in the event of another pandemic. Please grant this petition.

CONCLUSION

This Court should grant the petition for certiorari.

/s/ Christina Brown

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Pro se Petitioner