



Update from AAJ Linda A. Lipsen

CEO, AMERICAN ASSOCIATION FOR JUSTICE

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AAJ stands up against demands for COVID-19 blanket immunity

TAKING THE LEAD AGAINST CORPORATE AMERICA'S ATTEMPT TO TAKE ADVANTAGE OF THE COVID-19 PANDEMIC FOR THEIR ANTI-WORKER, ANTI-CONSUMER AGENDA

WASHINGTON UPDATE

AAJ is focused on fighting corporate America's attempts to use the COVID-19 crisis to achieve their anti-worker, anti-consumer agenda. So far, we have fought back their demands for blanket immunity; however, Mitch McConnell has stated that future COVID-19 legislation should include blanket immunity to limit liability for employers and health care workers.

Let me assure you all – we are standing strong against this brazen effort to further the tort reform agenda at the expense of American lives. Below are some highlights of how AAJ is working to protect your practices, your clients' rights, and the future of civil justice.

AAJ fights blanket immunity

In the Senate Judiciary Committee hearing on corporate immunity (May 12), it was made abundantly clear that blanket immunity will not keep workers safe or help businesses reopen. *A bipartisan group of senators questioned the rationale of blanket immunity, including Sen. Mike Lee, (R-UT), Sen. Dick Durbin, (D-IL), Sen. Josh Hawley, (R-MO), and Sen. Chris Coons, (D-DE).* All the witnesses, including representatives of workers and the business community, agreed that clear, enforceable, and science-based public health rules are necessary to safely reopen the economy.

A new national poll (conducted by Hart Research) shows that a majority of voters oppose giving guaranteed immunity to companies in cases involving coronavirus infection, including bipartisan support from a majority of Democrats, Independents, Republicans, and Trump voters. Most respondents said that companies would take fewer precautions to keep people safe if they knew they could not be sued. Read more at www.justice.org/CorporateImmunityPoll.

The American public agrees with AAJ that corporate immunity is an obstacle to economic recovery because some businesses will act irresponsibly without accountability. More workers will get sick, and consumers will not go back to stores and restaurants due to safety concerns. Contrary to U.S. Chamber and corporate propaganda, immunity is not the solution to reopening our economy.

AAJ works with state TLAs on COVID-19 response

AAJ values its partnerships with the state TLAs, and we will continue to work together as we face this unprecedented challenge.

Emergency court orders

When courts implemented social distancing policies, AAJ and the TLAs organized efforts to keep courts functioning remotely. Working with NATLE and the Council of Presidents, we provided courts with solutions, including swearing in of witnesses, remote depositions and hearings, and electronic filing, signatures, and service. It will take time to get back to normal, but we will continue to work to make sure jury trials can continue.

Health care liability

Many state governors and legislatures have limited liability for health care providers and facilities. AAJ and the TLAs have provided lawmakers with principles to protect the rights of COVID and non-COVID patients who are harmed in the course of their treatment. Enacting new health care liability protections is unnecessary because the standard of care automatically shifts during a pandemic. We are working with federal and state lawmakers to ensure that the rights of injured patients and their families are protected.

Employer liability

As states contemplate reopening, AAJ State Affairs and the TLAs are working to ensure that businesses act responsibly to protect workers and consumers. The U.S. Chamber Institute for Legal Reform is aggressively pushing to enact economic immunity legislation in the states. For the economy to reopen, workers and consumers must be safe and healthy. The civil justice system will play an important role in protecting Americans from corporations that put profits ahead of safety.

Patient health records: New rule from HHS

Since 2018, AAJ has been monitoring *Ciox Health LLC v. Azar* in which Ciox

Health, LLC challenged an HHS rule and guidance limiting the fees that medical-records companies can charge to third parties. In January 2020, the D.C. district court in that case issued a memorandum and order on HHS's guidance under the HITECH Act restricting access to third parties.

In April, HHS separately finalized a new electronic medical records rule. One key provision specifies that higher fee rates should not travel to any authorized third party who receives EMRs on behalf of an individual.

AAJ Education held a webinar May 1 on the status of the *Ciox Health* decision and ongoing challenges to price gouging, the new HHS rules on electronic medical records, and an update on what we can do on the agency and litigation fronts. Please email education@justice.org if you're interested in purchasing a recording of this webinar.

AAJ COVID-19 resources

We've launched a COVID-19 rapid response website: covid19.justice.org, which lists AAJ advocacy, education, and community resources, such as new online social and networking opportunities and timely webinars. Since mid-March, nearly 4,000 members have registered for AAJ webinars and webcasts. AAJ is committed to providing resources that will help trial lawyers through this time of need.

AAJ 2020 AC: AMPED-UP

We recently canceled our regularly planned Annual Convention but have launched a new virtual experience for July. AMPED-UP will offer flexible live and on-demand education, crucial connections with a national network of lawyers, and updates to the business and technology solutions you need right now. This three-day virtual event will be held July 13-15, 2020. To learn more and register, please visit www.aajampedup.org.

Fighting for you and your clients

Thank you for your support. Despite these difficult times, AAJ continues to fight all attempts to deny access to justice. We will keep you in the loop on important developments and welcome your input. You can reach me at advocacy@justice.org.