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# **Access to Justice Project**

November 1, 2023

# Agenda

1. Introductions
2. Strategic Priorities
3. Case Study: *Palmer v. Amazon*
4. Case Study: Team Health
5. Q & A



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# Access to Justice Team



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# Access to Justice Team



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# Strategic Priorities



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# Strategic Priorities

1. Defend and expand viability of **disparate impact** as a type of discrimination that courts recognize.
2. Litigate high-impact challenges to **forced arbitration** while continuing to raise awareness and pursue legislative solutions.
3. Defend Article III **standing** to vindicate statutory claims Post-TransUnion
4. Prevent contraction & promote expansion of **class action** mechanism



# Strategic Priorities

5. Right-size the scope of **federal preemption**
6. Combat **court secrecy**. Change the unwritten presumption that litigation is private. Courts belong to the public.
7. Challenge **immunity doctrines and other procedural barriers** that deny incarcerated people access to justice to help dismantle the incarceration and detention industrial complex



## CASE STUDY

# *Palmer v. Amazon*



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# *Palmer v. Amazon*

## OBSTACLES

- Workers sued in federal court, alleging that working conditions at Amazon's JFK8 fulfillment center were failing to prevent the spread of COVID-19
- New York federal judge granted Amazon's motion to dismiss, holding that workers could only go to OSHA, not court
- Second Circuit partially reversed dismissal on October 18, 2022, holding that workers could sue in court



# *Palmer v. Amazon*

## TAKEAWAYS

- When worker health and safety is at risk, workers can go to court for relief instead of depending on OSHA to act
- Legal strategy complemented historical worker organizing effort
- Legal process could not provide immediate relief but was important for establishing worker rights long-term



# *Palmer v. Amazon*

## FUTURE CHALLENGES

- Using disparate impact challenges to complement and catalyze worker organizing
  - Public Justice is representing workers in *Cross v. Amazon*
  - Other disparate impact cases
- Challenging Amazon's use of forced arbitration
  - *Cross v. Amazon*
  - *Miller v. Amazon*
  - *Bissonnette v. LePage Bakeries*



# CASE STUDY

# Team Health



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# Team Health OBSTACLES

- Lawsuit against Team Health alleging Medicaid and Medicare fraud, upcoding
- Everything gets sealed—including portions of complaint, judicial opinions
- Case settles for \$48 million right before trial and record remains sealed
- Brookings Economist represented by Public Justice intervenes to unseal records



# Team Health

## PRECEDENT SET

- District court denied motion to intervene on three grounds.
- Fifth Circuit reverses, establishing:
  1. Members of the public seeking access to court records have Article III standing to intervene, the denial of access to court records is an injury.
  2. Seeking access to sealed court records is a “claim” under Rule 24(b)
  3. In assessing whether the intervention is timely, any delay is measured from when the intervenor should have known his interests were no longer protected—not when the sealing orders were first entered

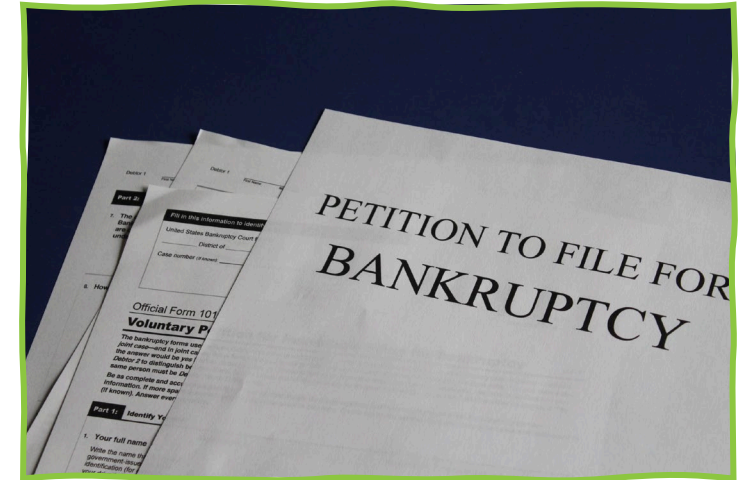




# Team Health

## FUTURE CHALLENGES

- Private equity companies are buying up health care companies left and right
- Corizon gets purchased by private equity and then pulls a Texas Two-Step
- Public Justice's ongoing efforts to fight such abuse of the bankruptcy system and to get related court records unsealed



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# Questions & Answers



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# STAY IN TOUCH

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