



12 Facts About Morgan Lewis, Amazon's Powerful Anti-Union Law Firm

Posted on February 2, 2021 by John Logan

12 Facts About Morgan Lewis, Amazon's Powerful Anti-Union Law Firm

Unless the NLRB upholds Amazon's [recent appeal](#) of a [mail-in ballot](#), almost 6000 Amazon warehouse workers in Bessemer, Alabama (BHM1), which opened in last spring, will vote on whether or not to join the Retail, Wholesale and Department Store Union (RWDSU) between February 8 and March 29, 2021. The union is facing one of the most powerful anti-union law firms in recent U.S. history. The mail-in ballot is Amazon's first NLRB election since 2014, one of the largest NLRB elections in recent years, and if the Bessemer employees were to vote yes, they will become the first unionized workers at the nation's second largest private sector employer, which has a fearsome reputation for intense opposition to unionization. Over the past several years, Amazon management has used a variety of anti-union tactics — including using high-tech surveillance tools, anti-union “heat maps,” and other unregulated technologies — to [monitor employee labor activism](#) and gauge its

vulnerability to union organizing.

As soon as the RWDSU filed for a NLRB election in Bessemer in late November 2020, Amazon engaged the services of a powerful corporate law firm, [Morgan Lewis](#), which is one of the nation's most influential firms specializing in so-called union avoidance activities, one that boasts several former Republican members of the NLRB among its senior attorneys. According to [one legal expert](#), Amazon's decision to hire Morgan Lewis to represent it during the NLRB campaign "shows it's digging in for a fight. That is not a hire you make if you're playing nice," while [Bloomberg Law](#) wrote that Amazon's choice of law firm "signals that the company plans to mount a serious defense against the union's efforts."

Indeed, Amazon appears more engaged with spying on its employees' union activities than any major American corporation since Andrew Carnegie's steel company in the late nineteenth century – though Carnegie read the reports of labor spies personally; so far, there's no evidence that Jeff Bezos takes such a direct interest.

Most labor scholars and activists know that [union avoidance law firms](#) play an often-critical role in helping powerful corporations such as Amazon defeat workers' efforts to form a union. But many scholars and activists know little about Morgan Lewis's background in union avoidance and other activities. Morgan's Lewis's background shows a corporate law behemoth that has stronger links with the anti-union Trump NLRB than any other law firm; a firm whose attorneys were deeply involved in crafting and enacting the anti-union election rules that Amazon is now actively seeking to exploit; a firm whose attorneys have openly advocated the kind of anti-union tactics Amazon is adopting in the Bessemer campaign, including election delay, appealing NLRB rulings in support of mail-in union elections, and bargaining unit manipulation; a firm that has not only helped Amazon remain union free for years, but has helped defend it against worker lawsuits on inadequate Covid-19 safety precautions and discrimination against pro-Black Lives Matter employees; and a firm now trying to forget its extensive links with both the Trump White House and the Trump Organization.

Here are 12 important facts about Amazon's powerful corporate law firm

1. Morgan Lewis has a storied history of opposing unionization: Morgan Lewis is one of the nation's largest and most expensive full-service corporate law firms. It has nearly \$2.3 billion in revenue per year and over 2,200 lawyers around the world, according to Am Law data, including a growing global labor law practice, with five offices in Europe, five in Asian and one in the Middle East. Morgan Lewis was the fourth largest law firm in the United States in 2020, behind only Kirkland & Ellis, Latham & Watkins and Greenberg Traurig. Morgan Lewis has a long history of involvement in high-profile anti-union actions, with a dedicated labor practice section which dates back to the 1950s. By the 1970s, the firm had the most powerful management-side labor practice in the country, one that appeared regularly in the AFL-CIO's "Report on Union Busting", and today it is consistently among the top Big Law firms that "dominate the representation of employers before the NLRB." In the 1980s and 1990s, Morgan Lewis was one of only five big law firms boycotted by students at prominent law schools throughout the nation for its involvement in "union-busting activities." The firm's extensive battles with organize labor include the infamous 1981 PATCO strike; the 1993-1994 baseball strike; the 2009-2010 efforts to oppose bank worker organizing in the wake of the financial crisis; the 2019 General Motors strike; and its key role in advising McDonald's on how to defeat both unionization and the Fight for 15 campaign for higher wages, in which it required franchise managers to sign confidentiality agreements, keeping secret Morgan Lewis's union avoidance Morgan Lewis has also been accused of "union-busting' by the American Postal Workers Union, and in 2020, Morgan Lewis attorneys helped the Philadelphia Museum of Art conduct a robust anti-union campaign. Covering the campaign, Artnet News stated: "As Its Workers Organize, the Philadelphia Museum of Art Management Turns to an Infamous Anti-Union Law Firm."

2. Morgan Lewis attorneys have extensive expertise fighting unions in NLRB elections: The firm has a "NLRB Special Appeals Practice" to "assist clients with **high-stakes issues**" which includes three former senior Republican-nominated members of the NLRB: Harry Johnson, who is leading opposition the Morgan Lewis campaign in Bessemer; Phil Miscimarra, former chair of the virulently anti-union Trump NLRB; and Charles Cohen, who served as a Republican member of the Clinton NLRB and subsequently become a prominent critic of employer "neutrality agreements" and attempts to shorten the NLRB election process and avoid delaying tactics. In October 2020, Morgan Lewis became one of the few management-side labor law firms in the country to have a dedicated lobbying "Special Government Relations Practice" The firm's website states: "Our team remains at the forefront of [labor law] developments, and we regularly testify before the US Congress on key public policy

issues.” One senior Morgan Lewis attorney [explained](#): “We have the insider knowledge of how things work. We know a lot of the personnel” — i.e., senior officials at agencies such as the NLRB and Labor Department.

3. Morgan Lewis attorneys have advocated using NLRB election delaying tactics, opposing mail-in ballots, and bargaining unit manipulation, tactics clearly in evidence in the Alabama campaign: In presentations to corporate clients, Morgan Lewis attorneys have openly stated that delay in NLRB elections benefits employers and hurts unions, and has advocated changes to the bargaining unit that will make organizing more difficult. The firm’s website [states](#): “In addition to assisting employers during union organizing campaigns and related litigation, we help clients promote positive employee relations and **strategically shape bargaining units to minimize potential union organizing victories.**” The firm has organized several webinars during the Covid-19 pandemic - involving one of Amazon’s three main attorneys from Morgan Lewis, former NLRB attorney Nicole Buffalano — that openly advise employers to take full advantage of the additional delay in union elections facilitated by rule changes adopted by the Trump NLRB. At [one webinar](#), Buffalano told employers that the longer NLRB elections campaigns under the Trump NLRB were “enormous” for employers because provide “more time for your [counter]organizing campaign to reach your employees,” i.e., longer for corporations such as Amazon to engage in anti-union activity. Morgan Lewis attorneys have also [instructed employers](#) that under the Trump NLRB rules, employers “have better ability to shape the voting unit” and “may be able to push the election to post-pandemic”

Buffalano and other Morgan Lewis attorneys have also coached corporate clients on how to object to NLRB rulings to hold union elections by mail ballot, rather than by ballots conducted at the workplace, because of the Covid-19 pandemic. Following the Board’s decision to restart elections in March 2020, after a brief pause, union elections have overwhelmingly been conducted by mail ballot; and every NLRB election has been held by mail ballot since the board established its six-factor Covid-19 test for union elections in the *Aspirus Keweenaw* case November 2020. [According to Bloomberg Law](#), “Those results signal that union elections likely will be held by mail for the foreseeable future, with the virus surging as cold weather pushes more activities indoors.” However, Morgan Lewis has encouraged employers to appeal against NLRB decisions for mail-in union ballots. In a [May 2020 webinar](#), Buffalano and other Morgan Lewis attorneys wrote: “**Any employer that believes that it may be vulnerable to union organizing during COVID-19 should now begin gathering evidence in support of its best argument in favor of a regular**

manual-ballot election (or for otherwise delaying the election)." Taking that advice to heart during the Bessemer campaign, in early February, [Amazon](#) appealed the NLRB's decision requiring a mail-in election because of the high incidence of Covid-19 cases in Jefferson County (site of the BHM1 distribution center), Alabama.

Nor is this an isolated example. Other notorious anti-union law firms have offered similar advice when it comes to appealing NLRB postal votes. For example, well-known union avoidance law firm Jackson Lewis, which infamously advised clients that "time is on your side" during NLRB elections in its "*Union kNOw*" newsletter in 2001, [told clients](#) in April 2020 that, "it behooves any employer that may be vulnerable to union organizing... to determine in advance its best argument in favor of a manual ballot election (or for delaying the election) and develop the facts that support the argument now."

During its anti-union webinars, Morgan Lewis attorneys have also [accused unions](#) of trying to "**capitalize on COVID-19 virus fears,**" such as a lack of proper PPE or lack of physical distancing within the workplace, and strikingly similar anti-union rhetoric was later adopted by Amazon management.

4. Morgan Lewis had stronger and more extensive links to the anti-union Trump NLRB than any other single law firm: The current and former chairs of the Trump NLRB, [John Ring and Phil Miscimarra](#), are former and current Morgan Lewis attorneys; another conservative member of the Trump NLRB, Bill Emmanuel, established Morgan Lewis's West Coast labor practice in the 1970s (Dilks, *Morgan, Lewis & Bockious*, 1994); and [Harry Johnson](#), Amazon's lead attorney, along with Miscimarra, wrote many of the anti-union dissenting opinions during the Obama NLRB years which were subsequently adopted by the Trump NLRB under the guidance of Miscimarra, Emanuel and Ring. Since leaving the NLRB, moreover, Johnson and Miscimarra have spoken out in support of anti-union rule changes to the union certification process introduced by the Trump NLRB, and Morgan Lewis has lobbied for these changes, representing anti-union organizations in [amicus briefs before the NLRB](#). **Thus, in the BHM1 election, Amazon is benefiting directly from rules that both current and former Morgan Lewis attorneys played a major role in shaping and enacting.**

5. Morgan Lewis has an extensive background in fighting unions at Amazon: For example, the firm helped Amazon defeat its previous NLRB election, during an organizing campaign by the International Association of Machinists (IAM) union in Middleton, Delaware in 2014. After its crushing election defeat, a spokesperson for [the](#)

IAM said that the workers had “**faced intense pressure from [Amazon] managers and [Morgan Lewis] anti-union consultants hired to suppress this organizing drive**” (<https://time.com/956/how-amazon-crushed-the-union-movement/>). After the election, *New York Times* journalist Steven Greenhouse documented how the campaign had been marred by fraudulent anti-union statements by an Amazon manager). After the Delaware union campaign, moreover, the links between Amazon and Morgan Lewis became solidified. Amazon’s current Director of Corporate Employee relations, Alison Willard, worked for 8 years as a labor and employment relations attorney at Morgan Lewis before becoming Amazon’s associate general counsel for Labor and Employment. Willard joined Amazon a few months after Morgan Lewis attorneys had helped the company defeat the IAM campaign in Delaware.

6. Amazon has distributed anti-union materials to employees at BHM1, which strongly suggest Morgan Lewis’s involvement: Among other actions, Amazon has created an anti-union website for employees, displayed anti-union signs within the distribution center and sent anti-union text messages to the phones of employees). All of these materials contain tried-and-tested anti-union tropes that have been used by firms like Morgan Lewis for decades, and which have effectively become part of “standard operating procedure” for union avoidance law firms. Except for a few direct references to Amazon or BHM1, these same talking points could be found in almost any anti-union campaign. For example, these materials tell employees that the RWDSU is a “business” that is only really interested in dues money (despite the fact that, since Alabama is a “right to work” state, no Amazon worker could be required to pay dues even if the union wins certification); that the union makes promises but cannot guarantee workers better wages or benefits or greater job security and they may end up with “less”; that the union can require them to go out on strike and they wouldn’t be eligible for pay or unemployment benefits during any work stoppage; that getting rid of unions is extremely difficult and that voting in a union is “like a one-way door”; and that the union would prevent them from communicating directly with Amazon supervisors and managers within the BHM1 plant. Since the 1960s, these arguments have been almost routine elements of anti-union campaigns orchestrated by union avoidance firms such as Morgan Lewis. **Indeed, while fighting against an organizing campaign by the Communications Workers of America at a Seattle call center in 2000, Amazon was one the nation’s first corporations to use an anti-union website.**

7. Morgan Lewis has repeatedly represented Amazon in lawsuits against its own workers who claim they have discriminated against or have been cheated

out of wages and benefits: For example, the firm [has helped](#) Amazon defeat law suits by delivery drivers, warehouse workers and others on the company's alleged failure to provide overtime payments, its alleged [misclassification](#) of Amazon flex drivers as independent contractors rather than employees, and its [failure to pay](#) warehouse workers for time spent in mandatory security checks. In May 2020, Amazon, represented by Morgan Lewis, [paid \\$11 million](#) to settle an overtime suit by warehouse workers in California concerning unpaid security searches

In addition to anti-union campaigns and employment discrimination and wage theft law suits, Morgan Lewis has also [represented Amazon](#) on a variety of non-labor issues, such as helping the corporation, which is owned the world's richest individual, to avoid paying taxes in the United States. According to one senior attorney, Morgan Lewis's status as a [full-service corporate law firm](#) gives it an advantage over exclusively management-side labor firms and "is what helps us separate ourselves from the Littlers and Ogletrees of the world."

8. Since the start of the pandemic, Morgan Lewis has defended Amazon against allegations of inadequate Covid-19 safety precautions: Morgan Lewis has [represented Amazon](#) against investigations and legal actions by local and state agencies and public officials - including San Francisco Department of Public Health, Cal OSHA and California Attorney General Xavier Becerra — over its alleged inadequate safety precautions to prevent workers getting infected with Covid-19 in its warehouses. According to the company's own figures, between March and October 2020, almost [20,000 workers tested positive](#) for Covid-19. Public health officials immediately criticized Amazon's analysis of Covid-19 infection rates among its warehouse workers for [omitting key data and providing a misleading picture](#). In November 2020, warehouse workers [filed a lawsuit](#) against Amazon in New York City alleging that these health and safety failures have disproportionately exposed workers for color to Covid-19 infection.

Amazon has been accused of firing and retaliating against workers in New York and Minnesota who have spoken out against a [lack of safety precautions](#) during the Covid-19 pandemic. The conservative [National Law Review](#) accused Amazon's senior management, including its general counsel, of "[using language with frankly racist overtones](#)" to smear one worker who spoke out against unsafe conditions.

9. Morgan Lewis has defended Amazon in lawsuits alleging that it discriminated against pro-Black Lives Matters employees: Morgan Lewis is representing Amazon in a [class action lawsuit](#) in Massachusetts which alleges that it

discriminated against Whole Foods retail workers, risking their lives serving the public during the pandemic, for the “offense” of wearing Black Lives Matter (BLM) face coverings. Amazon acquired the Whole Foods grocery chain for \$13.7 billion in June 2017, and it has subsequently engaged in several anti-union actions at the upmarket food retailer. The workers have argued that Whole Foods policy of disciplining and firing workers for wearing BLM masks is discriminatory and has irreparably harmed the workers who lost their jobs. In response, **Morgan Lewis attorneys argued before a federal judge that the workers’ law suit ought to be dismissed because one Whole Foods employee neglected to mention that she was Black in the lawsuit**. Shortly after these allegations of racial insensitivity (if not racial bias) on the part of senior management, in December 2020, some Amazon shareholders demanded that the company conduct a racial equity and diversity audit, and appoint a worker representative to its board.

10. Morgan Lewis has represented Big Tech, powerful corporations and influential anti-union organizations before the NLRB: In addition to representing Amazon multiple times, Morgan Lewis has represented several other Big Tech firms in proceedings before the NLRB, including Microsoft, Dell and Google. According to Bloomberg Law, John Ring’s Trump NLRB Senate confirmation hearings uncovered a “conflict list littered with Big Tech companies.... Morgan Lewis also represents management in union petitions to organize workers at the General Electric Company, Aramark, DaVita, Google, and Dell, among other large corporations.”

Morgan Lewis has represented powerful corporations and anti-union front organizations: In addition to Big Tech giants, Morgan Lewis has represented several other huge corporations before the NLRB, including General Electric Company, Aramark, DaVita, J.P. Morgan Chase & Co., Pfizer, Boeing, Maersk Line Ltd., Marriott International. and the American Trucking Associations Inc. In every case, it has defended the interests of powerful corporations against those of ordinary workers. In addition, Morgan Lewis attorneys have repeatedly represented, concerning rule changes before the NLRB, the anti-union front organization, Coalition for a Democratic Workforce, an umbrella organization composed of dozens of employer groups that oppose unionization.

11. For over a decade, Morgan Lewis has been the Trump Organization’s favorite law firm: Since 2005, Morgan Lewis played a key role in providing legal representation concerning Trump’s personal finances and those of the Trump Organization, dropping him immediately after he left office on January 20, 2020. Senior Morgan Lewis attorneys, Fred Fielding, Sherri Dillon and others, have

represented former President Trump with his personal tax and financial affairs during his pre-presidential transition period and while in office; Fielding helped establish Trump's controversial trust, while Dillon argued that federal conflict of interests laws "[simply do not apply](#)" to the president.

Corporate law firms are not normally name-dropped in major political news conferences—but Trump and Morgan Lewis were an exception. In article titled, "[Morgan Lewis Partner Basks in Trump's Spotlight—Is That a Good Thing?](#)" the *American Lawyer* wrote, "Enter Sheri Dillon of Morgan, Lewis & Bockius. The tax partner [name-dropped not only her firm](#) but her [colleague Fred Fielding](#) during a press conference for President-elect Donald Trump on Wednesday. **She talked about how Trump engaged her firm, [which worked on his matters](#), their legal opinions and even referred to legal files set out on the stage.**"

Morgan Lewis attorneys played a key role in Trump's finances until to the bitter end. According to *Bloomberg Law*: "Morgan Lewis tax lawyers Sheri Dillon and William Nelson have been among Trump's key legal advisers on the former president's refusal to release his tax returns, and on investigations regarding filings for various Trump businesses. Dillon reportedly was asked to testify in an ongoing probe by New York Attorney General Letitia James into allegations the Trump Organization falsely inflated its assets to get loans and obtain tax benefits." On January 20, as Trump left office, a New York state [judge ordered](#) Morgan Lewis to hand over documents to the New York attorney general's office related to a probe into whether Trump's businesses inflated asset values of a New York estate. Previously, in August 2020, the office of New York State Attorney General (AG) had sued Morgan Lewis, the Trump Organization, Eric Trump and others to have the court [enforce subpoenas](#) in response to the probe. And in late January 2021, the New York AG once again ordered Morgan Lewis to hand over records of communications to state investigators looking into whether the former president's business [manipulated](#) the value of assets for loans and tax breaks. It appears that Morgan Lewis will not easily shed its reputation as the Trump organization's law firm of choice.

12. It's not only Morgan Lewis: Amazon has links to other leading union avoidance firms and experts: Amazon has connections with several other leading anti-union law firms. In June 2020, after widespread criticism of its lackluster response to the Covid-19 pandemic, Amazon hired two corporate health and safety experts from one of the country's biggest and most infamous union avoidance law firms, Jackson Lewis. Together, they have years of experience in teaching corporations how to avoid OSHA and other safety-related charges and on how to oppose health and safety

lawsuits. In 2020, Amazon also hired a senior corporate counsel for labor and employment issues from one of the country's other largest and best-known union avoidance law firms, Ogletree Deakins; and the company [hired a](#) "principal for global labor standards" from Walmart, which, together with Amazon, is arguably the country's single best-known anti-union corporation. In previous years, Amazon has also used the nation's largest union avoidance law firm, [Littler Mendelson](#) and an anti-union training video produced by one of the nation's best-known union avoidance consultant firm, LRI Consulting Services, [among Whole Foods](#) managers and supervisors. Finally, Amazon has repeatedly recruited internal union avoidance experts, even seeking to recruit labor spies and anti-union analysts with background in [federal intelligence work](#).

Indeed, Amazon appears more obsessed with spying on its employees' union activities than any major American corporation since Andrew Carnegie's steel company in the late nineteenth century - though Carnegie read the reports of labor spies personally; so far, there's no evidence that Jeff Bezos takes such a direct interest.

Conclusion: Morgan Lewis's extensive background in so-called union avoidance activities, and its powerful connections at the Trump NLRB, made it the ideal choice to lead Amazon's aggressive counter-organizing campaign in Alabama. These externally orchestrated anti-union campaigns often have a [profound impact](#) on the outcome of union organizing drives. Hiring Morgan Lewis shows Amazon determination to do whatever is necessary to prevent its workers from being able to form a union. The company's history of aggressive opposition to unionization suggests that there is no amount of money that Amazon would not be prepared to pay Morgan Lewis in order to defeat the union campaign. If the RWDSU were to lose the election, it would be an enormous disappointment both for it and for the labor movement nationally. If Amazon were to lose the election, the company would likely view this outcome as an absolute catastrophe. Time will tell if Morgan Lewis's anti-union activities will play a critical role in determining the outcome of the historic union vote at Bessemer.

Author



John Logan