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Amazon Faces Medical Marijuana Lawsuit After Firing Warehouse Worker

The filing comes just as the state Supreme Court is poised to take up the issue of medical marijuana in the workplace

By **Charles Toutant** (https://www.law.com/njlawjournal/author/profile/Charles-Toutant/) | November 08, 2019 at 05:16 PM

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(Photo: Ken Wolter/Shutterstock.com)

Amazon is facing a disability discrimination lawsuit from a New Jersey warehouse worker who was fired for using medical marijuana.

The lawsuit, by a plaintiff identified as D.J.C., **was filed** (https://images.law.com/contrib/content/uploads/documents/399/34551/amazon-statecomplaint.pdf) in Middlesex County Superior Court in October **and removed** (https://images.law.com/contrib/content/uploads/documents/399/34551/amazon-removal.pdf) to federal court Friday. The Amazon filing comes just as the state Supreme Court is poised to **take up the issue**

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The justices announced in June that they will hear an appeal concerning the obligation of employers to accommodate medical marijuana use. The plaintiff in that case, a fired funeral home director, has asked the court to overturn a ruling finding employers are not obligated to accommodate medical marijuana usage.

D.J.C., who worked at the Amazon warehouse in Edison, was prescribed medical marijuana for anxiety and panic disorder. He was ordered to take to a drug test in July 2018, and was notified a month later he was being fired for testing positive, the suit says. When he told company representatives that he was a participant in the state's medical marijuana program, he was told he was being placed on paid leave, according to court papers. He was asked to submit paperwork to request an accommodation but was then told he was terminated for failing to notify the company he was a medical marijuana user, the suit says.

D.J.C. is represented by Walter Dana Venneman of Gill & Chamas in Woodbridge. Amazon's lawyer is August Heckman III of Morgan, Lewis & Bockius.

D.J.C.'s suit says Amazon has a policy of considering rehiring terminated employees after 120 days, even those who are fired for failing drug tests, but he was "blacklisted" by the company and could not get hired at Whole Foods, which is owned by Amazon. His suit seeks to enjoin Amazon from further discriminatory acts as well as reinstatement, compensatory and punitive damages, attorney fees and costs.

Venneman said the current medical marijuana statute makes it illegal to take an adverse employment action against someone for being a medical marijuana user, and he doesn't necessarily feel Supreme Court guidance is needed in his case. Venneman added that his client's circumstances differ from those in the case headed for the Supreme Court because the plaintiff in that case was required to operate a vehicle as part of his job.

"For any employer to have a blanket prohibition on their employees using medical cannabis, I think that is going to be flatly illegal, based on the statute," Venneman said.

Venneman thinks the case will require Amazon to make a reasonable accommodation to employees using medical marijuana, although doing so is difficult since there's no easy way to measure it. The readings that are used to measure impairment from alcohol have no counterpart for measuring marijuana, he said.

An amendment to the medical marijuana law, adopted in July, [bars employers \(https://www.law.com/njlawjournal/2019/09/02/the-employers-medical-marijuana-maze/\)](https://www.law.com/njlawjournal/2019/09/02/the-employers-medical-marijuana-maze/) from taking adverse action based solely a worker's status as a medical cannabis patient. Additionally, the law provides protections for current and prospective employees who test positive for cannabis.

Heckman, the Amazon lawyer, did not return a call about the case.

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