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# What Trump Delivered for Amazon

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Johnathon Ervin stands outside the Amazon warehouse in Palmdale, California from which drivers for his business, Battle-Tested Strategies, delivered millions of packages. *Photographer: Stella Kalinina for Bloomberg Businessweek*



By [Josh Eidelson](#)

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When government officials shut down major roads and highways in Southern California during a record storm in the winter of 2023, it seemed obvious to Johnathon Ervin that his delivery drivers should stay home. Ervin was the owner of Battle-Tested Strategies in Palmdale, one of thousands of small businesses Amazon.com Inc. has hired over the years to deliver its packages. Palmdale is on the north side of Los Angeles County, which was experiencing

an unusual winter storm. Snow circled the Hollywood sign. The mountains near Palmdale received their first blizzard warning in 34 years, and other parts of the county were warned to expect flash floods. Flights to LAX were briefly grounded, beaches and parks shut down, and Disneyland's "Magic Happens" show didn't go on. But the decision about whether to brave the storm wasn't up to Ervin, he says – the manager of Amazon's local warehouse ordered him to send his drivers out.

## WHAT TRUMP DELIVERED FOR AMAZON

### DESCRIPTION

The feds were pushing a landmark case about Amazon's control of its contract drivers. Then the president put Amazon's former lawyer in charge. By Josh Eidelson

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"I was like, 'What are you talking about?'" recalls Ervin, a US Air Force veteran who served in Operation Iraqi Freedom. "The roads are closed." He sent the Amazon rep videos he'd shot on his phone that showed snowy roads blocked off by orange cones, with the flashing lights of a police cruiser standing guard. "He was like, 'Well, we still have to attempt delivery,'" Ervin says. "Central Ops said we must attempt delivery." The manager wouldn't refer Ervin to anyone at Central Ops, he says, and when he stressed that sending out his drivers would put them in danger, the rep kept repeating, "Delivery must be attempted."

Ervin, who was in the middle of an escalating series of conflicts with Amazon says he felt the company was leaving him no choice. If his drivers didn't head out into the storm, Battle-Tested Strategies' contract with Amazon, its sole customer, would be at risk. "We are still going to send your drivers," the manager had told him, according to a lawsuit he later filed in California state court. In the end, he says, his team ended up trying to follow the order. A couple of months later, Amazon informed him it was canceling the contract anyway, and Ervin's business soon went kaput.

"They control everything," he says. "You're just a cog."

In response to a detailed inquiry from *Bloomberg Businessweek*, Amazon spokesperson Sam Stephenson said in a statement: “We closely monitor our nationwide operations 24/7 to help prevent weather-related disruptions from impacting our employees, partners, and customers.” He said the company uses a “best-in-class, Amazon-developed tool” to flag expected severe weather events, “establishes a clear plan” for delivery vendors to make adjustments as needed, and can communicate directly with drivers to ensure they can seek shelter or take breaks, “depending on conditions.” In its statement, Amazon also said that people in Ervin’s position “have full control over their operations” and that “the vast majority of them tell us that they love being entrepreneurs who create good jobs and have a positive impact in their communities.” The company said Ervin is an outlier whose contract was terminated for “repeated safety violations.” In his California lawsuit, Ervin said Amazon’s stated reasons for terminating him were “unsubstantiated,” and that the company cut him off in retaliation for being a whistleblower. In a filing, the company denied “generally and specifically, each and every allegation” in the suit.

Amazon calls businesses like Ervin’s its delivery service partners. Over the past decade, Amazon has built a network of thousands of DSPs to deploy hundreds of thousands of drivers who deliver some 20 million packages daily across 19 countries. This network has played a crucial role in cementing the company’s dominance in speedy deliveries. It’s also made Amazon one of the most extreme examples of a phenomenon that has swept through the American workforce in recent decades, in which ground-level workers core to a given brand – from Google coders to McDonald’s cashiers to Uber drivers – are employed on paper by someone else. Increasingly, companies get to have the cake while off-loading the calories and messy crumbs.

For Amazon, this “Who’s the boss?” arrangement offers a liability shield against complaints both involving workers (auto accidents) and brought by them (wage theft). It’s also made it much simpler for the company to avoid negotiating with drivers who want to organize – or at least that was the case until it parted ways with Battle-Tested Strategies. In 2023, while Amazon was winding down its business with the company, Ervin’s staff signed up to unionize with the Teamsters, setting off a yearslong legal battle to prove that Amazon was legally their boss along with Ervin (what’s known as a joint

employer). The eventual goal: becoming Amazon's first US contract drivers to be deemed its employees, and the nation's first workers to force the company to bargain with them collectively.

The drivers' odds were always long. Four years after employees at an Amazon warehouse in New York City voted to organize, no negotiations have taken place, and Amazon is asking a federal court to override a series of rulings requiring the company to come to the table. But until this spring, the Palmdale drivers were making landmark progress. Even after President Donald Trump was sworn in for a second term last year, the US government kept arguing that Amazon was the boss of Ervin's workers, and that it was obligated to negotiate with them. Then in April, the government moved to end the case on terms favorable to Amazon, under orders from Trump's newly appointed general counsel of the National Labor Relations Board, previously an outside attorney for the company. The NLRB declined to comment on the settlement.



“You’re just a cog,” Ervin says of life as a DSP owner. *Photographer: Stella Kalinina for Bloomberg Businessweek*

Whatever happens next, the trial has gone on long enough to open an unprecedented window into the extent of Amazon's control over its supposed subcontractors. *Businessweek* used Freedom of Information Act requests to obtain thousands of pages of confidential company records secured by the US government via the case. They lay bare Amazon's intimate and intensive regulation of workers it insists aren't its employees, including governing which drivers DSPs can hire, when they work, where they drive, what they say, how they smell and much more. Among the new details the records reveal are the extent to which Amazon emphasizes that drivers are expected to act as ambassadors to its customers; the plethora of ways it tracks drivers' progress and performance, marking in red places where it believes they've lingered too long and showing each DSP owner which of their employees it rates the worst and the scripts and gag rules it gives DSPs about talking to drivers, customers, vendors and the public.

"They're control freaks, because it's central to their business model," says David Weil, the US Department of Labor's head of wage and hour enforcement during the Obama administration. "If you are that deeply involved, congratulations, you have responsibility for the employment relationship." Or, at least, that's how it's supposed to work under the law, says Weil, who's now professor of social policy and economics at Brandeis University. He says he worries that Amazon's apparent victory in the NLRB case, in spite of evidence demonstrating that its control over the operations of its subcontractors is historically extreme, will open the door to other companies micromanaging workers to a similar degree even as they abdicate the responsibilities of an employer. "It will become more and more of a model, to the extent that companies like Amazon are allowed to create this illusion," Weil says.

Amazon says DSPs' independence is very much real. "The DSP Program was founded on the fact that small business owners know their communities best," the company said in its statement. "They make decisions about who they hire and how they operate their businesses, and our contract standards are common across the delivery industry." Amazon also denied wrongdoing in the NLRB case. "We're glad to put it behind us so we can focus on supporting our team, our partners – including Delivery Service Partners – and the communities we collectively serve," the company said.

At trial, an Amazon attorney argued that Ervin was behaving “like George Costanza,” alluding to the *Seinfeld* episode in which the character quits his job and then tries to go back like it never happened. By the time Ervin recognized his drivers’ union, Amazon argued, he knew his contract was being terminated early, so the organizing effort amounted to a poorly veiled revenge plot, one the company says never secured legitimate majority support. Ervin and his former drivers say he just let them choose for themselves.

In interviews, a dozen drivers who’ve worked for other DSPs in three states describe them as Potemkin businesses that enforce Amazon’s extreme rules, constant surveillance and grueling quotas that in some urban areas can reach 30 stops an hour. One says her DSP manager suggested a funnel she could use to pee into a bottle in her van. Others say their managers told them they must precisely follow any route Amazon’s software lays out for them, even if it makes no sense, to help the algorithm learn. (Amazon says that such characterizations “are false, and the views expressed aren’t representative of most DSPs or their employees,” and that drivers don’t have to obey its suggestions on the order of their deliveries.) As with other teaching jobs, the pay isn’t great: Last year, Amazon announced it would contribute an additional \$1.9 billion that it predicted would help DSPs hike drivers’ average pay to nearly \$23 an hour. In contrast, hourly pay for full-time Teamsters drivers at United Parcel Service Inc. ranges from around \$23 to \$48.

While the union fights the NLRB settlement, it has continued trying to organize other Amazon drivers. It’s also pushing for legislation that would upend Amazon’s contracting model in city councils such as New York’s. Workers say the unionization Ervin cleared the way for has boosted their efforts, as have the disclosures he’s helped bring into the public record about Amazon’s behavior and controls. But the most important factor, many say, is the treatment they face day to day. Driver Matt Multari says Amazon forces him and his colleagues to perform with the dexterity of Olympians and the stamina of robots.

“They always hide behind this huge cloud of bureaucracy. They would say, ‘There’s nothing we can do’ ”

Ervin says the rise and fall of his drivers' legal case proves his point: Amazon really the one at the wheel. In his California lawsuit, he's alleging that Amazon controlled him and his business so utterly that even he should have been classified as an Amazon employee. Owning a DSP wasn't real entrepreneurship, he says – it was like being a hapless *Star Trek* ensign who got absorbed into the Borg. “You're not a partner,” Ervin says. “Resistance is futile.”

ERVIN HAD ALWAYS WANTED TO BE HIS OWN BOSS. AS A TEEN IN FLINT, Michigan, where his grandparents raised him after his mom died, he tried and failed to launch a mail-order delivery business. In 1997 he joined the Air Force straight out of high school. He served on active duty for a decade before becoming a reservist and taking a job with a military contractor, which brought him to Kuwait and Iraq. Then, in 2018, Ervin saw an ad from Amazon that he says sounded enticing. The company was seeking “veteran leaders” interested in running their own business and making as much as \$300,000 a year as a DSP. (He says he never managed to make that amount.)

“They recruited me to be a leader,” Ervin says. “I was like, ‘Wow, I like Amazon. They're pretty tip-of-the-spear.’”

Battle-Tested Strategies started delivering to customers in October 2019. Ervin was an early star of the DSP program, scoring high ratings, gracing promotional materials and recruiting more would-be business owners. In 2020, citing Ervin's “proven leadership,” Amazon asked him to transfer his operations from Pasadena to a warehouse it was opening in Palmdale, an hour north of LA. “We would love to have a strong owner like you help us launch DAX8 and be a pioneer in creating a customer and driver obsessed culture in our new location,” an Amazon rep told Ervin in an email viewed by *Businessweek*. He agreed to take on the challenge.

But Ervin says he slowly began to realize the program wasn't what it seemed: The more he tried acting like a leader, the more his relationship with Amazon soured. When he suggested the company adopt the Air Force's standards for protecting troops from excessive heat, Amazon ignored him. When he suggested boosting drivers' health and morale by instituting periodic surprise lower-quota days, one of the Amazon reps he'd been working with rejected th

idea out of hand. “They always hide behind this huge cloud of bureaucracy,” he says. “They would say, ‘There’s nothing we can do.’”

In November 2021, Ervin, who’s Black, filed an internal complaint alleging racial bias by an Amazon manager who he says refused to communicate directly with him and had falsely labeled him “aggressive.” (According to Ervin’s California lawsuit, the manager accused him of “physically cornering” her, “even though they had never been alone together.”) Ervin says Amazon did nothing about his complaint. In its statement, Amazon said that it doesn’t tolerate discrimination or harassment and that it thoroughly investigates such misconduct.

According to Ervin, one day in 2022 when temperatures reached 107F, an Amazon rep complained that his drivers were falling behind on their delivery quotas. When he responded that Amazon had failed to apply its own policy easing workloads during extreme heat, he says, the rep replied that it was too late to change the day’s assignments, and that if some drivers were too sick to perform he’d need to provide written affidavits to prove it. Ervin says when he told the rep some of the day’s cargo would just have to wait, the rep threatened him with breach of contract.



Ervin at work in 2023. Photographer: Dania Maxwell/Los Angeles Times/Getty Images

Around the same time, Ervin's employees began circulating a petition documenting their own workplace grievances, including about the quotas, suggesting the sort of collective action that can turn into a union drive. An Amazon rep called Ervin and told him they'd heard his drivers were planning walkout, then referred him to attorneys from Ogletree, Deakins, Nash, Smoak & Stewart, a law firm specializing in labor strife whose costs Amazon was helping DSPs cover. Ervin called a meeting with his drivers to discuss their grievances, then told them that he would "do my best" to help, but that "my hands are sort of tied," he would later testify.

"Basically, he was just telling us that he's a puppet," and that "his strings are being pulled by Amazon," former employee Rajpal Singh recalled at the NLRB trial. He testified that Ervin added, "If you guys want changes, you guys can form a union."

Starting in late 2022, Amazon tagged Ervin's company with a series of alleged breaches of contract, including failing to pay vendors on time and letting vehicles that should've been out of service stay on the road. He says that the alleged infractions were based on faulty information or caused by Amazon's own mistakes, and that they were clearly retaliating against him and his drivers. Around then, Ervin says, Amazon repeatedly suggested he pull out of his contract, close to a year ahead of schedule. Channeling Charlton Heston, he told the company it could take his DSP "from my cold, dead hands."

In February 2023, Ervin received an email from "DSPuniformstandards@amazon.com" saying Amazon would be slashing its per-package payment rate to Battle-Tested Strategies, because the share of stations obeying Amazon's uniform rules had fallen below 95% for the prior several weeks. "I believe we are being targeted," Ervin wrote back. "What are the standard operating procedures that you're using?" The Amazon account pointed him back to its "program policies." When Ervin said the company wasn't following its own rules, Amazon didn't budge.

"I want to speak to your boss," Ervin said in a follow-up email on March 15. "You folks are purposefully not listening and causing undue stress by not having a proper discussion on this issue. ... I'm telling you I'm being targeted and you're not listening. Who are you? What is your boss's name and phone number?" A month later, Amazon told Ervin it was cutting him loose, effective

in June. Within a week of that news, Ervin had let Teamsters organizers come speak to his drivers at the start of their shift and sign them up on the property. He then became the first DSP owner to negotiate and sign a collective bargaining agreement. He says he saw no reason not to.

In its statement, Amazon denied Ervin's account of pushing for heat protections and reduced workloads and said that he violated its safety rules by failing to maintain air conditioning in his vans. The company said it canned Battle-Tested Strategies for violations including using vehicles with faulty brakes: "Safety is our top priority and when there were clear violations to the contractual obligations to maintain this standard, we did what any reasonable company would do and took action to end their contract, well before they had engaged with the Teamsters." In his California lawsuit, Ervin claims he was the one who raised concerns about faulty A/C in the vehicles and says Amazon failed to address the issue.

In September 2024, Joe Biden's NLRB issued a complaint against Amazon, arguing that the company wielded enough control over Ervin's drivers to be legally considered their boss and that it was therefore obligated to collectively bargain with them once he recognized their union. The landmark federal complaint also accused Amazon of illegally threatening, coercing and retaliating against drivers during the months between their organizing and the dissolution of Battle-Tested Strategies, including by singling out their warehouse for stricter inspections, delaying their deliveries and deploying security guards to the property. (Something it hadn't bothered to do, driver Michael Leib would later testify, when someone was stealing the catalytic converters from their vehicles.)



Former Amazon driver Michael Leib says he was bitten by dogs four times on the job. *Photographer: Stella Kalinina for Bloomberg Businessweek*

A week after Inauguration Day 2025, when Jeff Bezos sat stage left of Tim Cook and Elon Musk and in front of incoming cabinet members, President Trump fired the NLRB general counsel, Jennifer Abruzzo, who'd brought the case alleging Amazon was a joint employer. In a letter *Businessweek* obtained via FOIA, Trump told Abruzzo and another terminated top appointee he was concerned about their "disfavoring the interests of employers large and small and he specifically cited their position on joint employment. To replace Abruzzo on an acting basis, Trump tapped William Cowen, who'd served as a NLRB member under President George W. Bush.

With Cowen in charge, the agency abandoned a slew of claims Abruzzo had been prosecuting, including against Apple Inc. and SpaceX. (Both companies have denied wrongdoing in those matters.) But Cowen forged ahead with son of her initiatives, including the case about Ervin's DSP. In an interview with *Businessweek* late last year, he said companies that want to limit their liability have a simple solution: "If an employer wants to avoid being a joint employer stop sticking your nose in another employer's business." The Palmdale case, he said, presented "a huge question both for the Teamsters and for Amazon." Over the years, he said, other companies have changed their business models

to directly employ workers once the government determined they'd be held liable for their treatment regardless.

People on all sides of the dispute should want to see the case proceed so the question of Amazon's responsibility can get a clear answer, Cowen argued: "It is a big issue, and it has implications all over the country. And if I, for example were to say, 'OK, well, I'm not prosecuting that, I'm not buying into that theory,' that doesn't really get anything resolved."

AMAZON OPENED THE LABOR BOARD TRIAL BY TELLING THE JUDGE IT WAS refusing to comply with the government's subpoenas. "Amazon is not willing to participate in the misuse of the NLRB's processes," attorney Brian Stolzenbach said at the hearing in Los Angeles last September, accusing Cowen's team of subjecting the company to a "fishing expedition" in service of a broader agenda. Amazon announced it wouldn't share the documents the NLRB was seeking to help establish whether it was a joint employer of Ervin's drivers. But with Ervin's cooperation, plenty of evidence came out anyway.

A 2023 version of Amazon's DSP contract entered into evidence showed that the company requires its supposedly independent contractors to adhere not only to Amazon's program policies at the time but also to whatever future on the company unilaterally imposes, which would then become "a part of your company's contract with Amazon as if they were written in their entirety in this Agreement." (Similar provisions are in an earlier version of the contract that Bloomberg News reported on back in 2021.) Amazon also dictates which vendors DSPs can use for everything from oil changes to tire rotations, as well as when and how vendors can be contacted, according to the records released in the case. Amazon assigns which packages drivers deliver and the routes they drive to do it, and instructs DSPs to tell drivers to "trust your delivery route," even if it "may seem circular," because each is designed to minimize "inefficient maneuvers" such as left turns. And it knows how those routes are going, because DSPs must give Amazon access to a vast array of data, including the live locations of their drivers, which it can use "without restriction."

Amazon requires that DSPs make drivers sign nondisclosure agreements, submit to arbitration in the event of a dispute and take drug tests when an Amazon rep deems appropriate. On the job, drivers – each of whom the retailer told DSPs "represents Amazon to our customers" – are required to

wear Amazon polos and Amazon pants or shorts, with the options of an Amazon hat (never to be worn backward) and an Amazon coat. Amazon also requires that drivers be “neat and clean,” including “prevention of unpleasant breath or body odor, modest perfume/cologne, and clean teeth, face/ears, fingernails and hair.” If Amazon isn’t satisfied with a particular driver, it can “deactivate” them, unilaterally terminating their authorization to deliver its packages.

## “The delivery service partners, including BTS, are essentially captive delivery companies”

The documents disgorged by the Battle-Tested Strategies case also suggest how drivers can fall out of favor. According to company records released in the legal case and then obtained by *Businessweek* via FOIA, Amazon also formulates performance rankings of DSP drivers and creates leaderboards for each DSP owner, ranking each of their staff. Amazon’s systems also use bright yellow, orange or red to mark “areas where a driver has spent excessive amounts of time.”

When things go awry, drivers are supposed to call a support hotline staffed by Amazon, not their DSP. A DSP must immediately notify Amazon following “any negative interactions with customers or the general public,” or any other “occurrences that may impact customer trust of your company or of Amazon.” If property is damaged, the DSP is barred from further contact with the property owner after letting the owner know what happened.

Per a 2022 operations manual revealed in the case, Amazon told DSP owners to be careful what they call their company, because “Amazon may require you to change” any name it finds offensive or too close to its own lingo – for instance, using the word “Smile.” And along with providing talking points for DSP owners to use at morning meetings with drivers, it directs them to save time during those huddles for any presentations Amazon wants to make directly to their staff.

The newly revealed documents show that Amazon offers templates for job postings DSPs can use to recruit drivers and that it has to sign off on any new hires hauling its stuff. But it insists that the DSPs avoid saying “Amazon is hiring” and specifies that “Amazon cannot be mentioned” if the job ad refers

to the background checks it requires and insists on reviewing. Amazon can reject candidates DSPs wanted to hire, based on the retailer's own confidential criteria, "because the decision being made is whether the individual is eligible to deliver to Amazon customers' homes." Those who make the cut must undergo a multiday training program facilitated by Amazon.

Amazon choreographs its deliveries with care, listing seven steps and specifying that photos of packages can't include "any part of a human." It says DSP employees should "help validate the customer's investment by greeting them with a smile, being enthusiastic and thanking the customer for choosing Amazon." According to records shared at trial, Ogletree Deakins, the law firm whose costs Amazon subsidized to help DSPs handle labor strife, told Ervin in an email that its attorneys helped "mitigate against" the prospect of unionization and noted: "Since Amazon's requirements and operations are the cause of many if not most of the driver's issues and concerns, we need to work with them to address those and cannot do it without them."

Despite all this, Amazon instructs DSPs to "emphasize to your employees that they work for your company and aren't Amazon employees," and to ensure those drivers are careful on social media to "avoid the mistaken impression that they work for Amazon." DSPs are barred from issuing press releases or promotional materials that mention Amazon without permission.

"The DSPs, including BTS, are essentially captive delivery companies," NLRB attorney Sanam Yasserli told the judge in September. A parade of ex-employees echoed her. One, Leib, recalled learning Ervin needed to go to Amazon to ask for money when Leib wanted a raise (he didn't get it), and said that Amazon promised it would remove one of the houses where dogs bit him from his route, but never did. Another, Deion Steppes, described getting marked down by Amazon for delivering packages too slowly on a day when a customer threatened him with a shotgun. Steppes also recounted being taken off the road by Amazon for not completing a required five-minute training video, struggling for days to log back into Amazon's portal so he could watch it, then going weeks without pay while he waited for Amazon to reactivate him.



Leib with his son. *Photographer: Stella Kalinina for Bloomberg Businessweek*

Later, when Amazon attorney Stolzenbach pressed Steppes to agree that he'd never been an Amazon employee, Steppes responded, "I thought I was employed by Amazon."

Wasn't Ervin's company his employer, the lawyer asked? "I didn't know they were separate entities," Steppes answered.

But wasn't Battle-Tested Strategies the name on his paycheck? At that point, Steppes lifted his hands in the air and said, "I usually get direct deposit."

Drivers across the country tell similar stories in interviews. They say their DS turned out to be powerless to fix their working conditions, such as quotas that some days left them an average of two minutes per stop. In Amazon parlance one "stop" can include multiple drop-offs of packages at a series of nearby homes, or carrying a set of dumbbells up several flights of stairs. Amazon also controls the AI-powered cameras in drivers' vans, which are supposed to flag unsafe driving. Drivers say the cameras can tag them with undue infractions for yawning, or drinking water, or just having breasts that obscure their seatbelt – and generally creep them out. Years after Amazon drivers became notorious for having to urinate in bottles as they hustled to make their assigned deliveries, another testament to the unforgiving quotas, many drivers say the bottle move remains de rigueur. To obstruct the camera's view of their genitals, some say, they rearrange boxes before relieving themselves.

According to records unearthed in the Battle-Tested Strategies case, in talking points Amazon provided to DSP owners about the initial introduction of the cameras, they're instructed to tell drivers, "I can assure you that Amazon has taken privacy seriously with this rollout."

In its statement, Amazon said that drivers are able to use the restroom as needed, that its app tells drivers where they can find a public bathroom, that its routes include several breaks, and that those routes account for geography traffic and the complexity of stops. "There are no fixed quotas, and the vast majority of routes are finished on-time or early," the company said. "DSPs determine how many routes they run, who they assign those routes to, and they're able to work with their teams to adjust stop order if they choose." (The company said its message about telling drivers to trust their delivery routes was a recommendation, not a mandate.) Amazon emphasized that the camer

are meant to protect drivers, saying their footage is “only reviewed by a limited number of trained personnel after a specific safety event” and that they can be turned off during breaks. “DSPs and drivers can dispute any items they feel are an inaccurate representation of events,” the company said. It also said it doesn’t expect drivers to deliver at places where they don’t feel safe, and provides dog avoidance training and a way to flag the presence of dogs in its app.

As for its contract terms, the company said, “DSPs run their own businesses, and the contracts that we have with them are pretty common across the industry to ensure safety and reliability.” It said it doesn’t prevent DSPs from having additional clients beyond Amazon, or from keeping drivers who aren’t allowed to deliver Amazon packages on their payroll doing something else.

When Ervin took the stand last fall, he described the stress of trying to meet Amazon’s daily quotas, knowing his pay per package would drop if the company rated his performance merely “fantastic” rather than what it calls “fantastic-plus.” He recalled Amazon questioning him during drivers’ shifts about why they were falling behind, telling him they’d “stopped too much” and sometimes going over his head to redeploy other drivers to help fulfill their quotas. He testified that his deputy, who went on his behalf to a training held by Ogletree Deakins, told him the instructor there warned that “your contract would be in danger if your drivers unionized.” (Ogletree Deakins didn’t respond to inquiries.)

Ervin also testified that Amazon “coaches” regularly dictated his company’s business targets. “They’d say, ‘We think this is a good goal,’ and I’d say, ‘I don’t,’ and they say, ‘Well, you need to do it anyway,’” he said.

After Ervin testified about Amazon’s extensive access to Battle-Tested Strategies’ financial records, a Teamsters attorney asked, “Do you have reciprocal access to Amazon’s?” Ervin answered, “No.”

During cross-examination, Stolzenbach, the Amazon attorney, pointed out that, though Ervin had told drivers who’d asked about raises that he needed to check with Amazon about getting more money to afford them, nothing in Ervin’s contract stopped him from bringing worker pay up to \$25 an hour by handing them the difference out of his own pocket. Stolzenbach suggested

Amazon's relationship with Ervin had been, in a way, like Ervin's relationship with contractors he hired for various tasks. "When Battle-Tested Strategies contracted for services or products from another company, did Battle-Tested Strategies expect that other company to live up to the contract?" he asked.

"The expectations that I would have if I purchased something would be, yeah they give me the item," Ervin answered. "But I wouldn't bully them."

The agency's prosecutors were closer than they'd ever been to securing a ruling that would hold Amazon liable for its contract drivers. Then they abruptly retreated.

A WEEK BEFORE CHRISTMAS, THE US SENATE CONFIRMED CRYSTAL CAREY, A partner at the management-side law firm Morgan, Lewis & Bockius, to take over for Cowen as the NLRB's general counsel. Carey had represented Amazon as an attorney at Morgan Lewis, where Amazon is still a client. Her nomination drew condemnation from the Teamsters union, whose president had given a high-profile speech at the 2024 Republican National Convention. It also attracted skepticism from Republican Josh Hawley of Missouri, who questioned whether Carey would enforce precedents such as a landmark 202 ruling against her former client Amazon that banned mandatory anti-union "captive audience" meetings. (In the end Hawley voted for her too.)

In a February interview with *Businessweek*, Carey said the ethics agreement she signed when she took the NLRB job didn't require her to recuse herself from Amazon controversies including the Battle-Tested Strategies case, because a year had elapsed since she'd represented the retailer and, though her firm still did, it wasn't doing so in that particular case. Recusal, she said, was "matter-specific." Asked if she considered that standard sufficient, Carey said she'd been "working very closely" with the agency's ethics office and getting its staff's recommendations "to the extent that I have a question."

While Morgan Lewis doesn't represent Amazon in the NLRB case, it's defending the company against Ervin's California lawsuit, which also alleges the company wielded extensive control over Battle-Tested Strategies. (Amazon has gotten that case moved into arbitration.) An NLRB spokesperson declined to comment further.

On April 12, the day before testimony was set to resume in the NLRB trial, one of Carey's attorneys sent the judge a proposed settlement her office had hashed out with Amazon. Under the agreement, Amazon would give Ervin's former drivers two weeks' pay and post a notice at the warehouse promising not to threaten or retaliate against workers there, without conceding anything about whether it employed them. It wouldn't admit any wrongdoing and wouldn't be considered a joint employer.

A hastily organized Zoom hearing the next day gave off light hostage-video vibes. Yasseri, the NLRB lawyer who'd opened the trial with tough talk about accountability, now explained that "at the direction of the general counsel" – Carey – she was seeking approval of the settlement, which Amazon had already blessed. Yasseri's voice quivered, and she mostly looked down at her notes as she spoke. Midway through, she shook her head a bit and paused for a few seconds before saying even though Amazon wouldn't be found liable as a joint employer, that was no reason to reject the settlement, because a finding of liability wouldn't necessarily lead to any specific remedy anyway. While the labor board had ruled that Amazon broke the law elsewhere – including violating a settlement – she noted that there had been no such judgment about that particular Palmdale warehouse.



“I’m telling you I’m being targeted, and you’re not listening,” Ervin told Amazon before the company terminated his contract. *Photographer: Stella Kalinina for Bloomberg Businessweek*

Stolzenbach echoed Yasseri’s arguments, saying it was in the workers’ best interest to get paid now rather than let the case go on several more years as Amazon went through as many appeals as necessary. He added: “If the Court of Appeals didn’t agree with Amazon, Amazon would ask the Supreme Court to consider the case.” Settling would save the agency’s “strained resources” for other cases, he argued.

When it was her turn to speak, Julie Gutman Dickinson, a lawyer for the Teamsters, denounced the settlement as an “ambush,” an “ineffectual” deal that “capitulates” to Amazon, courtesy of a general counsel “ beholden to corporate billionaires including her former client.” Rather than helping triage Gutman Dickinson said, letting Amazon keep evading responsibility for its drivers would undermine labor law enforcement nationwide: “This unilateral settlement makes clear to workers across the country that Amazon is above the law.”

On May 18, the agency judge considering the case ruled that the deal should be approved, noting that under NLRB precedent “the General Counsel’s support for the settlement agreement is an important consideration.” On May 28, the union filed a motion to appeal that ruling to the labor board members in Washington – a panel that is mostly made up of Trump appointees.

The evidence Amazon was a joint employer “is unusually strong,” says Boston University law professor Andrew Elmore, a former section chief in the New York attorney general’s office who’s reviewed hundreds of companies’ vendor and franchise contracts. “I am unaware of any other case that has revealed so much about the relationship” between Amazon and its DSPs, he says. “Failing to arrive at that final determination seems to be a signal to companies that they can go ahead and create contractual relationships like this without fear.”

For now the Teamsters union and its allies are pushing bills in New York City and Chicago that could destabilize the DSP model in a different way, by requiring companies such as Amazon to classify delivery drivers who work within their city limits as direct employees. The New York bill has been sponsored by the majority of the city council and is endorsed by Mayor Zohr; Mamdani’s worker protection agency. Amazon said in its statement that it’s

concerned the New York legislation would endanger jobs and harm customer by “forcing us to consider relocating delivery operations outside of the city.”



Jerome Sloss speaks at a rally on the steps of New York City Hall ahead of the reintroduction of the Delivery Protection Act in February. *Photographer: Alex Moore/International Brotherhood of Teamsters*

In April, hundreds of Amazon drivers and activists – some supporting the bill some opposing it – showed up in Manhattan to hold dueling rallies and then pack the city council’s chambers as lawmakers heard testimony from both sides.

In interviews outside the hearing, several DSP owners said that they saw themselves as partners with Amazon and that the company had been responsive when they suggested changes. “Amazon, they do check to make sure we’re being compliant with all the laws and everything,” said DSP owner Christine Chan. “But I run my own business.” She compared the relationship to fast-food franchising.

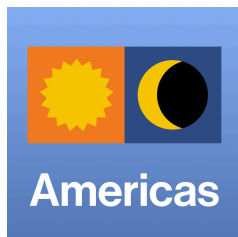
Several delivery workers outside the hearing told *Businessweek* that they’d been paid and encouraged by their DSPs to demonstrate against the bill, and that they were worried they’d lose their jobs if it passed. “I was informed that my livelihood was at stake, and I had to show up,” said one driver, who spoke

on condition of anonymity for fear of retaliation. “It’s hard to get a job out here.”

The rallies took place a couple of weeks after Amazon launched a contest for DSP drivers around the country, offering \$1,000 prizes and “VIP experiences for those with the best stories about why they love their job. The contest rule said winning entries would be chosen based on criteria including “genuine, specific details that feel real and lived-in.” Amazon said in its statement that the contest is meant to celebrate drivers around the country. The company said it has never intended to use workers’ submissions to oppose legislation or legal proceedings.

Some drivers have continued trying to organize with the Teamsters, who’ve announced they’ve signed up majorities of employees at a couple dozen DSPs in California, Georgia, Illinois and New York for union drives. No other DSP owners, however, have agreed to recognize the union, nor has Amazon. Workers say Amazon and DSPs have responded with a barrage of tactics to dissuade them from unionizing, including by deploying anti-union consultants to ride along with drivers, posting propaganda above the warehouses’ urinals and giving away \$20 Amazon gift cards. Ervin and the Teamsters say they hear from other frustrated DSPs who aren’t ready to publicly knock the company. In November a group calling itself DSPs for Equitable and Fair Treatment went public, aiming to organize like-minded business owners, but its organizers remain anonymous for fear of retaliation.

In its statement, Amazon said that the vast majority of DSPs “run successful, profitable businesses,” and that the percentage who voluntarily leave the program “remains in the single digits.” The company said that, to help workers get the truth in the face of pro-union misinformation or intimidation, it brought in experts “to share objective facts about what it actually means to have an external party take their voice.” It said there is “no evidence” showing the Teamsters have secured union cards from majorities of workers at any DSP.

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The Teamsters have filed complaints with the NLRB accusing Amazon of terminating contracts with several DSPs because the workers organized. The fate of those cases now also rests with Carey, whose other recent pivots on the agency's behalf include overriding the United Auto Workers' objections to settle a case over alleged union-busting by Mercedes-Benz Group AG before a high-stakes election in 2024, and abandoning a push by Cowen to overturn a union's defeat at a Wells Fargo & Co. branch because of the bank's alleged illegal interference with workers' rights. (Mercedes-Benz and Wells Fargo have denied wrongdoing, as has Amazon.)

One of the DSP drivers pushing for the New York bill, Jerome Sloss, has spoken in front of City Hall about being homeless while working for Amazon. "There is no way to do it safely and on time," Sloss says. He'd started organizing at his DSP because he realized Amazon's official channel for driver input "might as well be toilet paper that they wipe their ass with," and he figured drivers needed to take matters into their own hands: "Nobody was coming to save us (Amazon said in its statement that it values and acts on driver feedback.)"



“Nobody was coming to save us,” Sloss says. *Photographer: Don Brodie for Bloomberg Businessweek*

Ervin says his ordeal as a DSP owner upended his life and his finances. “I’ve gone through a lot in the last few years,” he said during cross-examination, including losing his house. “I’m a little in shambles, even though it may not look like it.” His California lawsuit alleges he suffered “humiliation” and “anguish” because of his dealings with Amazon. But Ervin says he’s glad he stood up for himself and his drivers: “Those Pearly Gates, whoever’s up there if somebody’s up there, they’re not like, ‘Hey, man, how many packages did you deliver?’”

He says Amazon’s narrow fixation on being “customer-obsessed” comes with major costs. “A lot of my drivers are Amazon customers too. It would be fantastic if Amazon were obsessed with them.”

While navigating the ups and downs of the legal cases, Ervin has also been working to get a new business off the ground, one he calls Battle-Tested Food. He recently got his first big break: He’ll be a popcorn supplier for Walmart Inc.

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