

AMAZON: LEGAL WOES, CRISIS, AND RESILIENCE¹

Jyotsna Bhatnagar and Parul Gupta wrote this case solely to provide material for class discussion. The authors do not intend to illustrate either effective or ineffective handling of a managerial situation. The authors may have disguised certain names and other identifying information to protect confidentiality.

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On December 31, 2019, the World Health Organization (WHO) was informed by China that a pneumonia of an unknown cause had been detected in Wuhan, the most populous city in Central China. On March 11, 2020, the director general of the WHO declared the disease to be a pandemic and, referring to the type of virus and the year of its emergence, it was named COVID-19 (see Exhibit 1).² Consequent to the ever-increasing health risks, stay-at-home mandates, and business closures, when companies across the world were losing business, retail sales surged to a record level for Amazon.com, Inc. (Amazon), adding US\$6 billion³ to the fortune of Jeff Bezos, the chief executive officer of Amazon.⁴ To meet the unprecedented workforce requirements created by this business opportunity, Bezos announced a new hiring drive for its warehouses and delivery network.⁵ Amazon workers expressed their concerns about the hiring of additional employees, as the increased number of workers could further deepen the workplace safety issues at Amazon warehouses through the pandemic. However, Bezos vehemently claimed to be fully committed to workers' safety in the workplace.⁶

Amidst the turbulence caused by COVID-19, Amazon had found itself facing legal battles. Its labour practices were being scrutinized by city authorities for the alleged wrongful termination of a warehouse worker named Christian Smalls, who had led a workers' protest against inadequate workplace safety measures during a pandemic. Was Amazon providing essentials to its customers at the cost of the safety and health of its workers and tech talent? How was Amazon dealing with the COVID-19 crisis? How can Amazon move from a greed/profit perspective to a profit-with-purpose perspective? Would getting ready for a legal battle be the way forward for Amazon?

THE RISING ANGUISH OF WAREHOUSE WORKERS DURING THE PANDEMIC

As the COVID-19 virus continued to spread, Amazon warehouse workers demanded more protective gear and hazard pay for continuing to work under unprecedented hazardous conditions.⁷ During an interview with a leading media outlet, they expressed frustration at Amazon's response to the threat of the pandemic. They argued that the measures taken by Amazon were not adequate for keeping them safe.⁸ Although Amazon made an offer to its warehouse workers to stay at home without the risk of losing their jobs, workers faced limited options. For example, the option of two weeks of paid sick leave was only available to COVID-19-positive workers or those who had been told to quarantine. Other workers were allowed to take unlimited time off in April 2020, but they would not be paid. They had to choose between going to work and risking their health or staying at home and not receiving their pay. Most of the workers continued working, including some of the sick workers, and warehouses remained crowded.⁹

In the absence of adequate supplies of sanitation equipment and masks, workers felt unsafe going to an overcrowded workplace where it was difficult to follow social distancing guidelines. According to workers, even after the first known COVID-19 case had been confirmed at JFK8 fulfillment centre (FC) in New York, workers were expected to continue working the night shifts. Amazon denied this, but¹⁰ Barbara Chandler, an Amazon warehouse employee at JFK8 FC, who had tested positive for COVID-19, said, “They don’t have enough workers to clean the building. Instead they called mandatory overtime for two weeks.”¹¹ The inconsistent safety measures and sanitization supplies in the FCs across the United States generated a feeling of distrust between Amazon workers and management.¹²

PROTESTS AND TERMINATIONS AT AMAZON AMID PANDEMIC PANIC

In March 2020, five-year Amazon employee Smalls quickly entered the media spotlight after his employment was terminated by Amazon. He was reportedly fired for organizing a workers’ protest against the company for not shutting down JFK8 FC on Staten Island after a number of FC workers tested positive for COVID-19. On March 3, 2020, Smalls organized a small walkout over the health and safety concerns of workers, and he accused the company of being untruthful about the number of workers who had tested positive for the virus.¹³ After the protest, he became a focal point of the debate about Amazon’s response to the threat COVID-19 posed to workers’ safety at work.¹⁴

Amazon downplayed the walkout by disputing almost every detail related to the protest, from the number of protestors to the reasons for Smalls’ termination. Amazon claimed that there had been no disruption to JFK8 FC’s operations, as the number of protesting workers was as small as 15. The organizers counterclaimed that more than 60 workers had participated in the protest.¹⁵ Amazon also fervently denied the allegations of the wrongful termination of Smalls, explaining that he was fired for putting the safety of other workers at risk by violating social distancing guidelines, including by coming on-site for the walkout. Amazon claimed that despite multiple warnings, Smalls continued violating social distancing guidelines and caused multiple safety issues at the warehouse, and that his employment was terminated as a result.¹⁶ Contesting the company’s claims about the violation of social distancing guidelines, Smalls argued he had been ordered to quarantine in order to stop him from organizing workers’ protests against unsafe working conditions. Smalls planned to take legal action against Amazon for wrongful termination. He argued that the company did not follow due process for terminations, which was comprised of three steps: the issuance of a verbal warning, documentation, and a write-up. He accused the company of skipping all of the steps in the termination.¹⁷

The frustration of Amazon workers was expressed one more time when over 300 workers had threatened to call in sick on April 25, 2020. Employees participating in the protest demanded Amazon to stagger its shifts to make fewer people available at FC at a time. The workforce demanded that Amazon close its facility immediately, especially those warehouses where employees had tested positive for the virus. They also demanded that Amazon provide compensation to the workforce in the effected locations and paid sick leave to employees with possible coronavirus symptoms, as well as to increase hazard pay and do away with quotas so that employees could take a break from their work to isolate themselves. In a statement, Amazon spokeswoman Lisa Levandowski said that employees’ participation in the April 25, 2020, protest had been “grossly exaggerated” and that many further steps had been put into operation for employees, including “temperature checks, masks, a \$2 minimum wage bump, and more frequent cleaning of doorknobs, touch screens, and other areas.” Amazon also stated that employees could leave and wash their hands at any time without having to worry about performance goals.¹⁸

The tech workers who had covered the live streaming of the call-in-sick protest were also fired. Maren Costa and Emily Cunningham, user-experience designers, were hosts of the live-streaming event and were fired for violating Amazon's internal policy.¹⁹ Supporters of the workers criticized Amazon for terminating these employees, which they felt could intimidate others. Many employees were apprehensive about further vengeance.²⁰ Despite these incidents, Amazon was second on Fortune's list of most admired companies in 2020.²¹

ABOUT AMAZON

Amazon, headquartered in Seattle, Washington, was incorporated by Jeff Bezos in 1994. Founded as an online bookstore, Amazon quickly became the world's largest online "everything store."²² Occupying the position of the leading e-commerce company in the United States in 2019, the online behemoth employed 798,000 full- and part-time employees and earned a net revenue of around \$280.5 billion. Approximately 50 per cent of its global revenue was contributed by online retail sales and just 19 per cent by third-party services. Despite America's stagnant wages and high income and wealth inequality, Amazon continued to grow its workforce—it roughly doubled its headcount between 2015 and 2018.²³ Additionally, the company invested in the grocery business, buying Whole Foods Market Inc. in 2017, which employed 87,000 people at the time.²⁴

AMAZON'S RESPONSE TO AMPLIFIED CONCERNS FOR WORKERS' SAFETY

Amazon called the accusations of unsafe working conditions by its workers unfounded.²⁵ The company contested workers' claims that sanitary supplies were not standard or adequate in all of the warehouses and that antiseptic wipes and hand sanitizer were unevenly available across its network. The company counterclaimed that nothing was more important than the safety of its employees. As stated by an Amazon spokesperson, "We are encouraging those who are unwell to stay home and [are] taking extreme measures to keep people safe in our buildings."²⁶ She added that Amazon had announced a broad set of novel benefits changes for its FC workers, such as double overtime pay and 14 days of paid sick leave for employees who were told to quarantine themselves.²⁷ Responding to workers' safety concerns, David Clark, Amazon's senior vice-president of worldwide operations, announced four new safety measures that included temperature checks on workers as soon as they reported to the workplace, the distribution of face masks to workers, daily monitoring of the new health measures, and ongoing financial investment in workers.²⁸ To audit the safety measures, Bezos made a surprise visit to an undisclosed Amazon FC and a Whole Foods store in the last week of March 2020.²⁹

Appreciating the zeal of Amazon workers to serve the community, the company said in a statement, "Like all businesses grappling with the ongoing coronavirus pandemic, we are working hard to keep employees safe while serving communities and the most vulnerable . . . the truth is the vast majority of employees continue to show up and do the heroic work of delivering for customers every day."³⁰

Amazon was not only concerned with protecting workers' safety but also took action against those who were taking advantage of the situation. The company took a strong stance against price gouging during the pandemic, intervening with an Amazon seller when it discovered the hoarding of masks and essential supplies in early March 2020.³¹ The seller was made to donate all of his 18,000 sanitizers, and Amazon suspended his account. He also came under the scrutiny of the attorney general for price gouging.³²