

<p>CHARGE OF DISCRIMINATION</p> <p><small>This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</small></p>	<p>Charge Presented to: Agency(ies) Charge No(s):</p> <p><input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC</p>
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Oklahoma Human Rights Commission and EEOC
State or local Agency, if any

Name (<i>indicate Mr. Ms. Mrs.</i>) Ms. Michelle Posey	Home Phone (Incl. Area Code) See my representative's contact information below.	Date of Birth [REDACTED]
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Street Address [REDACTED]	City, State and ZIP Code [REDACTED]
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Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I believe Discriminated Against Me or Others. (*If more than two, list under PARTICULARS below.*)

Name Amazon.com, Inc.	No. Employees, Members 50+	Phone No. (Include Area Code) [REDACTED]
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Street Address 9201 S Portland Ave.	City, State and ZIP Code Oklahoma City, OK 73159
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Name	No. Employees, Members	Phone No. (Include Area Code)
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Street Address	City, State and ZIP Code
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<p>DISCRIMINATION BASED ON (<i>Check appropriate box(es).</i>)</p> <p><input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input checked="" type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN</p> <p><input checked="" type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input checked="" type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (<i>Specify below.</i>)</p>	<p>DATE(S) DISCRIMINATION TOOK PLACE</p> <p style="text-align: center;">Earliest Latest</p> <p>April 2020 – December 2020</p> <p><input type="checkbox"/> CONTINUING ACTION</p>
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THE PARTICULARS ARE (*If additional paper is needed, attached extra sheet(s):*)

Please see attached. Ms. Posey is represented by counsel.

<p>I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.</p>	<p>NOTARY – <i>When necessary for State and Local Agency Requirements</i></p>
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<p>I declare under penalty of perjury that the above is true and correct.</p> <p><u>12/4/20</u> Date</p> <p><u>Michelle Posey</u> Charging Party Signature</p>	<p>I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.</p> <p>SIGNATURE OF COMPLAINANT</p> <p>SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (<i>month, day, year</i>)</p>
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<p>CHARGE OF DISCRIMINATION</p> <p>ATTACHMENT</p>	<p>Charge Presented to: Agency(ies) Charge No(s):</p> <p><u> </u> FEPA</p> <p><u> X </u> EEOC</p>
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Attachment to EEOC Charge of Discrimination
 Filed by Charging Party Michelle Posey against Amazon.com, Inc.

Charging Party Michelle Posey is Represented by:

A Better Balance
 40 Worth Street, 10th Floor
 New York, NY 10013
 (212) 430-5982

The particulars are:

On her own behalf, Michelle Posey claims that her employer, Amazon.com, Inc. (“Amazon”), discriminated against her on the basis of disability and sex (pregnancy). Amazon knew of Ms. Posey’s pregnancy-related disability and failed to reasonably accommodate her, despite repeated requests for reasonable workplace accommodations, for several months. Furthermore, Amazon unlawfully and retaliatorily assessed Ms. Posey with disciplinary “points” and/or docked her unpaid time off (“UPT”) for disability-related absences pursuant to its no-fault attendance policy, which gives employees disciplinary “points” and/or draws down their UPT for medically-related absences, even when such absences are for reasons protected by law. Ms. Posey was assessed points because of her pregnancy-related disabilities of epilepsy and a history of pre-term labor, after Amazon refused to engage in an interactive process about disability-related leave. This was in violation of the Americans with Disabilities Act (“ADA”) as amended, the Pregnancy Discrimination Act (“PDA”), and the Oklahoma Anti-Discrimination Act.

Ms. Posey also brings her charge of discrimination on behalf of all workers who have been employed by Amazon and its subsidiaries within the 300 days prior to the filing of this charge of discrimination through the date the charge of discrimination and any resulting litigation is resolved, and who were denied reasonable accommodations and/or who were subjected to adverse employment actions because of absences, tardies, and/or incomplete shifts due at least in part to a disability and/or belonging to a protected category under the law, including pregnancy. Amazon has engaged in systemic discrimination against the class by engaging in a pattern of (1) unreasonably delaying and/or failing to respond to requests for accommodations for employees’ known disabilities and pregnancy-related conditions; and (2) punishing and retaliating against employees with medical needs and disabilities, including but not limited to those related to pregnancy, through its no-fault attendance policy. Amazon has shown bad faith by engaging in a pattern and practice of refusing to engage in the interactive process with employees under its standard operating procedure of unreasonably delaying and/or failing to respond to employees’ requests for reasonable workplace accommodations. Amazon has also engaged in systemic discrimination against the class by using its no-fault attendance policy as a qualification standard in a way that screens out or tends to screen

out individuals with disabilities and medical needs, including those related to pregnancy. Finally, Amazon has engaged in systemic discrimination by treating employees with pregnancy-related medical needs less favorably than non-pregnant employees who are similar in their ability or inability to work.

Ms. Posey seeks monetary damages on behalf of herself and all others similarly situated, including but not limited to lost wages and compensatory damages for emotional distress and mental anguish. Ms. Posey is also seeking equitable and injunctive relief to correct Amazon's discriminatory practices of (1) unreasonably delaying and/or denying reasonable accommodations to workers with disabilities and medical needs, including those related to pregnancy; and (2) unlawfully punishing employees with "points" and/or deducting unpaid time off (UPT) for absences related to protected medical needs and disabilities through its no-fault attendance policy.

I. Factual Background

Ms. Posey began working as a stower at an Amazon Fulfillment Center in Oklahoma City, Oklahoma in or around March 2020. Her job required her to work ten-hour shifts on her feet beside a conveyer belt, lifting and packing heavy boxes of up to 70 pounds onto merchandise racks. Soon after she began working at Amazon, Ms. Posey learned that she was pregnant, with a due date of November 30, 2020. Due to a previous spinal cord injury and a history of epilepsy and preterm labor, Ms. Posey's pregnancy was considered high-risk. In light of these medical conditions and to avoid further complications, Ms. Posey's doctor recommended that she lift no more than fifteen pounds.

Ms. Posey first requested reasonable accommodations on or about April 2020, when she submitted a note from her doctor recommending the fifteen-pound lifting restriction to Amazon Disability and Leave Services (DLS). Amazon denied Ms. Posey's request, allegedly because there were fewer positions available due to social distancing protocols. Upon information and belief, this was not true, as Amazon was hiring new employees for open positions in the warehouse during this time¹ and Ms. Posey believes there were numerous alternative positions available that she could perform with her restrictions. Yet Amazon refused to engage in a conversation or other interactive process with Ms. Posey, summarily denying her request instead.

After Amazon refused to provide Ms. Posey with a position that would allow her to comply with her doctor's recommendations, Ms. Posey was forced to go on an unpaid leave of absence beginning on May 1, 2020. This unpaid leave resulted in significant financial hardship and caused Ms. Posey's family to lose their housing.

¹ See KFOR-TV and K. Querry, *Amazon hiring employees for new Tulsa, Oklahoma City facilities*, KFOR.COM (Aug. 6, 2020 12:02 PM), <https://kfor.com/news/local/amazon-hiring-employees-for-new-tulsa-oklahoma-city-facilities/>.

Upon information and belief, at one point in May, a representative from Amazon called Ms. Posey's doctor, without her permission, and asked him to lift her restrictions. The doctor refused. This is evidence of Amazon's bad faith.

On or about June 2020, Ms. Posey was placed on the schedule and called back to work. To maintain her health and the health of her pregnancy, Ms. Posey's doctor again recommended that she lift no more than fifteen pounds, and Ms. Posey again submitted this accommodation request to Amazon DLS. On June 11, 2020, Amazon denied Ms. Posey's request, alleging that there were no available positions at Ms. Posey's worksite that could meet her restrictions. Upon information and belief, this was not true. Amazon again refused to engage in a conversation or other interactive process with Ms. Posey, summarily denying her request.

In need of income and fearing job loss if she refused, Ms. Posey felt that she had no choice but to return to her previous position as a stower. Her managers continued to insist that she lift heavy boxes and complained that she was moving too slowly, faulting her for not meeting her daily productivity rates. One day near the end of June, Ms. Posey collapsed at work due to dehydration and lost consciousness, and was taken away in an ambulance. Following this incident, Ms. Posey was placed on a brief medical leave of absence.

In or about early July, Ms. Posey developed an infection and became very ill. In order to protect her health and the health of her pregnancy, her doctor recommended that Ms. Posey be placed on bedrest for a month. Consequently, Ms. Posey applied for a leave of absence. Ms. Posey submitted appropriate documentation to Amazon DLS, thereby placing Amazon on notice of her need for leave as an accommodation for her pregnancy-related disability. Thereafter, Ms. Posey she was assigned a caseworker from Amazon's third-party benefits administrator, the Reed Group. Believing that her leave request was being processed, Ms. Posey followed her doctor's recommendation and rested at home. She never heard from the case worker again, despite many efforts to try and reach her. Inexplicably, Amazon refused to take action on Ms. Posey's leave request.

On or about July 29, 2020, Ms. Posey began receiving notices that she had been missing her shifts and was receiving "points" for her absences under Amazon's attendance policy. Unbeknownst to Ms. Posey, she had apparently been scheduled to work, and she was penalized with disciplinary "points" and/or forced to draw from her allotted bank of unpaid time off (UPT) for missing those shifts. Even if Ms. Posey had been aware that she was scheduled to work, there would have been no way for her to indicate that her absences were due to her pregnancy-related disability, as Amazon's process for reporting absences leaves workers with no option to indicate that an absence may be related to a disability, pregnancy, or serious health condition. Upon information and belief, an employee is subject to termination under Amazon's attendance policy if she accrues a certain number of points, and Ms. Posey learned that her point balance was very close to that threshold.

Fearful of losing her job, Ms. Posey went to the warehouse in or about August 2020 to meet with Human Resources and discuss the improper assessment of points. When she arrived, the Human Resources representative was not there. Ms. Posey waited for hours and was eventually escorted out of the building by Amazon security personnel, allegedly because she was a "distraction." To date, Ms. Posey has not received

clarification from Amazon about whether these attendance points were removed from her record and/or whether she has gone into a negative balance with her UPT because of her disability and pregnancy-related absences. She has also never learned whether her leave of absence was formally approved.

In or about the middle of September 2020 – approximately five months after her initial request for reasonable accommodations – Ms. Posey was notified that Amazon *would* honor her workplace restrictions and transfer her to a different position. Desperate to receive income before her baby was born, she returned to work in “single pack,” a position that allowed her to lift no more than fifteen pounds. Yet Ms. Posey continued to experience discriminatory treatment. Upon information and belief, despite having been approved for shorter shifts (at the recommendation of her doctor), Ms. Posey continued to be assessed with points and/or lose her UPT because she was not working a full ten-hour shift. Shortly after she returned to work, Amazon consolidated several job positions and Ms. Posey was again forced to lift more than fifteen pounds. Moreover, Ms. Posey was frequently chastised for going to the bathroom or getting a drink of water without first seeking permission, and her managers threatened to write her up for these behaviors. Ms. Posey transferred job positions several times before she was placed on a leave of absence again in October 2020 at the recommendation of her doctor, due to additional pregnancy complications.

Ms. Posey remained on leave until she gave birth on November 23, 2020. Approximately one week after giving birth, Ms. Posey learned that Amazon had apparently been deducting UPT for the two previous pay periods, during which she had been on approved pre-partum leave.

II. Legal Claims

Ms. Posey’s previous spinal cord injury and history of epilepsy placed her at risk of preterm labor and other complications, making her pregnancy high-risk. These physical impairments meet the definition of disability under the ADA, as they substantially limit the major life activities of standing, lifting, bending, and working – as evidenced by the limitations imposed by Ms. Posey’s doctor.

As a qualified person with a disability, Ms. Posey was entitled to workplace accommodations and/or job-protected leave as reasonable accommodations under the ADA. The circumstances here, including Amazon’s rejection of Ms. Posey’s request for workplace accommodations without any meaningful engagement, unauthorized and inappropriate contact with her medical provider, and failure to act on Ms. Posey’s request for leave – indeed, its failure to communicate with Ms. Posey at all about her leave request for several months – indicate that Amazon unreasonably delayed and/or failed to engage in the interactive process and failed to act in good faith, and thus violated Ms. Posey’s right to receive reasonable accommodations under the ADA. Upon information and belief, Amazon engages in a policy and/or practice of unreasonably delaying and/or failing to respond to requests for accommodations for employees’ known disabilities.

Amazon also systematically discriminates and retaliates against workers with medical needs and disabilities, including but not limited to those related to pregnancy, by unlawfully assessing points and/or deducting UPT for legally-protected absences. Amazon’s assessment of points and/or UPT for Ms. Posey’s qualifying disability-related

absences, without having engaged in the interactive process, also violated her rights under the ADA and PDA, and its refusal to allow her to challenge the assessment of points constitutes bad faith. Amazon's process for reporting absences leaves workers with no option to indicate that an absence may be related to a disability, pregnancy, or serious health condition, indicating that workers whose absences may be protected by law are systematically prevented from communicating this information to Amazon and asserting their rights. Moreover, Amazon's assessment of points and/or UPT for Ms. Posey's absences after she had sought leave for her pregnancy-related disabilities, both in July and November 2020, constituted unlawful retaliation for having exercised her rights under the ADA and PDA.

Finally, Amazon systematically denies workplace accommodations, including time-off and leave for pregnancy-related medical conditions, to pregnant workers that it grants to non-pregnant workers who are similar in their ability or inability to work, thereby treating them less favorably, in violation of the PDA. Amazon's employee handbook indicates that reasonable workplace accommodations may be made for employees with disabilities, but it makes no mention of accommodations for pregnancy. Likewise, Amazon's Leave of Absence policy indicates that employees will be eligible for leave under its policies *only if* the employee has a disability, work-related illness or injury, or a serious health condition as defined by the Family and Medical Leave Act. The omission of pregnancy as a basis for leave unequivocally indicates that pregnancy-related medical needs are treated less favorably than medical needs that are not associated with pregnancy.