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May 11, 2020

SENT BY EMAIL TO: [Nicolesj@amazon.com](mailto:Nicolesj@amazon.com)

Whole Foods Market, Inc.  
John Mackey, Chief Executive Officer  
550 Bowie Street  
Austin, TX 78703

Amazon.com, Inc.  
Jeffrey P. Bezos, President, Chief Executive Officer, and Chairman of the Board  
410 Terry Avenue  
North Seattle, Washington 98109

RE: State Attorneys General COVID-19 Leave and Health and Safety Inquiry

Dear Mr. Mackey and Mr. Bezos,

We, the states of Massachusetts, Connecticut, Delaware, Illinois, Maryland, Michigan, Minnesota, New Mexico, New York, Oregon, Pennsylvania, Washington, and the District of Columbia (collectively, "the States"), are writing to follow up on the information provided by Whole Foods and Amazon (collectively, "the Companies") in their written responses to our letter of March 25 and the subsequent telephone meetings with the Companies' representatives. There are a number of outstanding issues to which we request a written response.

**1. Health and Safety/Disinfection/PPE Measures**

We appreciate the detailed information the Companies have provided about the policies they have adopted for their stores, warehouses, and other locations to prevent exposure and transmission of COVID-19. On paper, these measures appear to be fairly comprehensive. Of course, such policies are only as effective as compliance with them at the store- or warehouse-level. We are dismayed to have heard multiple reports of Amazon warehouses with inadequate PPE and hand sanitizer, inability to practice social distancing, limited opportunity to wash hands, and other deficiencies that put employees at risk. We know that some states have reached out to

you individually to raise particular health and safety concerns in their states and we thank you for your immediate attention to these matters.

To complete our inquiry into the adequacy of the Companies' health and safety protocols, please provide a response that details whether and how the Companies' current policies comply with the following federal government guidance and recommendations:

- The Centers for Disease Control and Prevention's (CDC) Cleaning and Disinfection for Community Facilities: Interim Recommendations for U.S. Community Facilities with Suspected/Confirmed Coronavirus Disease 2019 (COVID-19) (available at [www.cdc.gov/coronavirus/2019-ncov/community/organizations/cleaning-disinfection.html](http://www.cdc.gov/coronavirus/2019-ncov/community/organizations/cleaning-disinfection.html))
- The CDC's Interim Guidance for Businesses and Employers to Plan and Respond to Coronavirus Disease 2019 (COVID-19) (available at [www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html](http://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html))
- The Occupational Safety and Health Administration's (OSHA) Guidance on Preparing Workplaces for COVID-19 (available at [www.osha.gov/Publications/OSHA3990.pdf](http://www.osha.gov/Publications/OSHA3990.pdf)) and/or state plan guidance applicable to worksites within OSHA state plan states.

## 2. **Compliance with State sick leave laws**

The Companies represented in communications with us that they are in compliance with applicable State paid sick leave laws. We accordingly request that the Companies provide a written response to show how its policies are compliant with the paid sick leave laws of Massachusetts, Connecticut, the District of Columbia, Maryland, Michigan, New York, Oregon, and Washington. We request a copy of any written paid sick leave policy for each State (or a narrative response if there is no such written policy) that sets out the minimum paid sick leave available to Company employees in that State, and a description of how that paid sick leave is accrued.

## 3. **Data on Employee COVID-19 Infections and Deaths**

We have requested but not received information on how many of the Companies' workers have been infected with COVID-19, and how many have died from it. Please provide a state-by-state breakdown for each Company with this information.

## 4. **Whole Foods Consumer-Facing Disclosure**

In addition, we have concerns regarding what appear to be serious COVID-19 developments at Whole Foods stores in our States. For example, we have learned through media reports that multiple Whole Foods employees at a store in Washington, DC have tested positive for COVID-19. One report from *WUSA9* independently confirmed 6 positive cases and the other from the *New York Times* reported a possible 16 positive cases, based on a note passed by an employee to a *New York Times* photographer. In Oregon, we likewise learned through local reporting that a

Whole Foods employee in Portland, OR had died from COVID-19. In Massachusetts, we learned through local reporting that a Whole Foods employee in Swampscott, MA had died from COVID-19.

Many of our States' consumer protection laws require businesses to provide truthful information and disclose material information to consumers. Such developments—and Whole Foods' responses to these developments—may be material to consumers and the public, as they implicate health concerns that may arise from shopping at Whole Foods stores as well as Whole Foods' representations regarding the safety of its stores. We are concerned that our Offices and the public are learning of these serious developments through secondhand media reports, rather than hearing directly from Whole Foods. Accordingly, we request that Whole Foods provide a description of its policies and processes, if any, that relate to notifying consumers, the public, and public health authorities of serious COVID-19 developments at Company stores.

## **5. Allegations of Retaliation Against Employees**

Despite assurances by the Companies' representatives in our communications that the Companies do not and would not retaliate against employees who raise concerns about COVID-19 and the Companies' responses to it, there have been disturbing media reports alleging such retaliation by Amazon. These include terminations of employees in New York (Christian Smalls), Minnesota (Faiza Osman and Bashir Mohammed), and Washington (Maren Costa and Emily Cunningham).

Such conduct, if proven, may violate Section 11(c) of the Occupational Safety and Health Act [29 U.S.C. §660(c)], as well as laws in certain of our States that forbid retaliation. Even the perception of retaliation during this public health emergency can serve to silence employees who raise legitimate concerns about health and safety measures, and place those employees, their co-workers, customers, and the public at grave risk.

We urge the Companies, and Amazon in particular, to encourage all employees to raise health and safety concerns and to provide an affirmative assurance of their rights not to be retaliated against for raising these concerns with management, the media or coworkers, or for filing complaints with relevant government agencies and/or assisting in investigations. We also call on the Companies to investigate all allegations of retaliation and to take corrective action (including reinstatement of terminated employees) whenever warranted.

## **6. Unlimited Unpaid Leave**

The Companies touted in their response to the States that they were offering unlimited unpaid leave to employees through the end of April. We ask that the companies extend their unlimited unpaid leave policies for as long as a state or federal state of emergency exists in each of our states. To refuse to do is to place employees in the impossible position of either returning to work while sick or caring for family members or losing one's job.

## 7. Paid Leave

Finally, we are deeply disappointed with the Companies' failure to meet the States' principal request raised in our letter which was to adopt a more generous paid leave policy for employees and independent contractors. The States sought comparable paid leave to that provided under the Families First Corona Response Act. We requested generous paid leave policies in order to curb the spread of the coronavirus during the current pandemic. While we applaud the Companies' change of course to permit paid leave to employees who are symptomatic and seeking a diagnosis, we are disappointed that the Companies have not made more meaningful changes. We remain hopeful that the Companies will yet adopt our recommended policies to advance public health during this pandemic.

Amazon and Whole Foods are occupying a unique space during this crisis, providing millions of Americans with groceries and necessary supplies. We understand that both companies are seeing a significant increase in sales as well, as consumers rely even more on online shopping and buy more groceries as they stay at home. It is incumbent upon Amazon and Whole Foods as businesses and employers not to worsen the emergency by failing to take every possible step to protect their employees and their customers.

We look forward to your responses to the above-requested items.

Sincerely,



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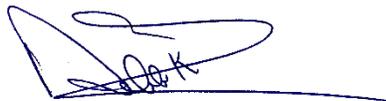
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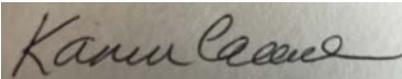
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