

Struggling Amazon Union Hopes To Retool As Election Looms

By Braden Campbell

Law360 (April 26, 2024, 7:47 PM EDT) -- On a cloudy day just after noon in early April 2022, word began trickling out to the Amazon warehouse workers shuffling about in the courtyard outside the National Labor Relations Board's Brooklyn office that the vote count was over. They had done what many but them thought was impossible. They had won a union election at Amazon.



Over two years since the Amazon Labor Union won its election vote, it hasn't expanded beyond the Staten Island warehouse as it once hoped, it's broke, and it hasn't made an inch of progress toward a contract as Amazon contests its legitimacy within a glacial legal regime. (Corbis via Getty/Andrew Lichtenstein)

The assembled workers in their Amazon Labor Union T-shirts smiled, shook hands and hugged. At first, they were subdued. When president Christian Smalls emerged minutes later with other leaders who had observed the count, the gaggle rushed together, including Smalls and other organizers of the 2020 walkout that seeded the union drive, idealists who had gotten jobs at Amazon's JFK8 warehouse to help its workers build a union, and the regular workers who got inspired to join along the way.

The upstart ALU had the attention and hopes of the labor movement following the unexpected win, but a hard road lay ahead.

"We had this really radical vision for how we could move forward, build the organization and expand to other warehouses," said Connor Spence, an ALU co-founder who was then a top deputy. "But also we

were crushed under a lot of pressure at that time. We didn't have a real organization yet."

A little more than two years after the NLRB **concluded the 2,654-2,131 count**, the ALU hasn't expanded beyond the Staten Island warehouse as it once hoped. It's broke, beset by infighting and disconnected from workers, and it hasn't made an inch of progress toward a contract as Amazon contests its legitimacy within a glacial legal regime. But as the union lurches toward its first officer elections, the union's would-be leaders and supporters still hope they can turn it around.

For many observers, the ALU's victory, along with the emergence of union campaigns at big companies like Amazon that followed, was "the most exciting thing to happen in the labor movement" since the explosion of organizing that surrounded the passage of the National Labor Relations Act in 1935, said John Logan, a labor historian at San Francisco State University.

It wasn't just what the workers did that garnered the attention, though organizing Amazon was a feat, Logan said. It was also how they did it.

"It wasn't these multimillion-dollar, top-down, bureaucratic, centralized union campaigns," Logan said. "These were in a very real sense worker-led, worker-driven grassroots campaigns, and some of them were independent unions."

The campaign at Amazon snowballed out of a **sparsely attended walkout** that Smalls led in late March 2020 to protest Amazon's COVID-19 safety policies and a lack of personal protective equipment.

Smalls, who was fired shortly after the protest, allegedly for violating the company's isolation policy, formed The Congress of Essential Workers with his co-organizers and took the protest on the road. Spence, who was working at an Amazon warehouse in New Jersey during the tour, traveled to a rally in New York to pitch Smalls on turning the momentum into a union drive.

"It took some months to get him there, but eventually, in April 2021, we launched our campaign," said Spence, who started working at JFK8 that May.

For the year leading up to the election, they **organized workers inside the facility and outside**, keeping a near-constant presence under a tent beside a public bus stop that many JFK8 workers traversed to and from work, Spence said.

Smalls, already a minor labor celebrity because of his public feud with the country's second-largest employer, became a star following the union's win, hobnobbing with the heads of international unions, testifying before Congress and meeting President Joe Biden. Amid this sudden popularity, the ALU raised hundreds of thousands of dollars from individual supporters and institutions, including major unions.

But trouble brewed away from the spotlight. The small group that bagged the win were burnt out from all-nighters at the bus stop in the lead-up to the JFK8 vote. With an election at another Staten Island warehouse looming, the group strained to balance the ongoing organizing with the need to build out an infrastructure to engage members in a facility with rapid turnover.

And even in the afterglow of victory, there was tension between the leaders, recalled Michelle Valentin Nieves, a former Smalls ally now running to replace him. Valentin Nieves, who had worked at JFK8 since 2019, recalled there was a sense among some "organic workers" that others who had gotten jobs at JFK8 to aid the campaign, known as salts, were crowding them out.

"There was a little bit of a power struggle even back then with the direction that some of the organizing was going," she said.

Looking back, Spence recalled, the union didn't have a chance at LD5, the other Staten Island warehouse. ALU leaders had focused on JFK8 in the months leading up to that election, leaving only a few weeks to give LDJ5 their full attention before workers began voting in late April. Meanwhile, Amazon had been running its anti-union campaign for months. Workers **voted 618-380 not to organize** with the ALU.

The union **suffered another defeat** at its third target, an Albany warehouse called ALB1, in October 2022, and withdrew a petition for an election at a California warehouse a few days later after Amazon claimed it didn't have enough support.

As the failures mounted, the fractures deepened, with Smalls and his closest allies getting most of the

blame. Ronald Boone, another worker on Valentin Nieves' slate, said Smalls' celebrity went to his head, his busy travel and interview schedule irking the small group of organizers he left behind to wrangle a bargaining unit of 8,000 employees. As organizers spoke out, Smalls tightened his grip, Boone said.

"It turned into a dictatorship, where Christian Smalls thought it was just his union," Boone said.

Smalls, who is not running in the election, declined to speak at length for this story, but said in an email that "every union in the world has internal conflict" and that the ALU's isn't news.

"The only vision I and our leadership has [had] since day 1 is getting a contract," Smalls said.

Around the time of the ALB1 loss, ALU leaders including Smalls, Spence and Valentin Nieves met to discuss several issues, including a push to hold officer elections — the union's current leaders were appointed — and frustrations with the union's organizing strategy, according to a 2023 lawsuit by Spence and others **seeking to force a vote**.

Two months later, Smalls presented a new constitution that delayed officer elections until after workers ratified their first collective bargaining agreement, leading several members to walk out, according to the suit. Following that meeting, Spence — who had resigned from leadership for medical reasons — and several other workers formed the ALU Democratic Reform Caucus to push for elections.

After Smalls' camp proposed and then canceled mediation, according to court documents, the caucus sued the ALU in July, claiming federal union oversight law requires an election. The parties reached a deal in December to hold elections this summer. That deal is still on, though Smalls' and Valentin Nieves' camps want to push back a June target.

All the while, Amazon has refused to negotiate with the ALU, arguing at the NLRB that the vote shouldn't count. The NLRB **has not ruled** on the company's challenges, two years after it first raised them. NLRB prosecutors have also brought numerous lawsuits against the company based on charges the ALU filed, alleging that the company has fired supporters and suppressed organizing, among other things.

So far, two groups have announced plans to run in the upcoming election: One group from the caucus, led by Spence, and a group of officers unaffiliated with them, led by Valentin Nieves.

Should Spence's slate win, they plan to retool the union to pressure Amazon to negotiate a contract. Current leaders have taken a "legalistic approach," he said, pinning their hopes on the NLRB ordering Amazon to come to the bargaining table. But if it's to turn things around, the union needs to be proactive, rebuilding support within JFK8 to the point it can credibly threaten to strike, Spence said.

"There's a lot of potential energy in JFK8," Spence said. "It's really about executing a well-thought-out organizing program, and that's something we feel like we have a pretty good idea of how to do."

Spence's slate also plans to launch a deliberate campaign to organize other warehouses and enlist the public to push Amazon to deal, as Starbucks Workers United has done well, he said.

The other camp, who call themselves the Workers First slate, hope to bring the fight to Amazon by rebuilding workers' trust. As the factions have warred, they've neglected the members, and many have soured on the union, Valentin Nieves said.

If they're elected, the slate's first priority will be building a network of stewards — at least two per department per shift — to help workers with day-to-day needs, like securing work accommodations late in pregnancies or collecting workers' compensation. The slate also plans to expand the union's executive board to get more voices from every section of the warehouse into leadership. Once the workers see the benefit of being in a union, they'll be more willing to pressure Amazon to bargain by slowing or stopping the flow of packages through JFK8, Valentin Nieves said.

"There are so many parts to a union," Valentin Nieves said. "It's going to be really difficult for whoever gets into office, whoever it is, to then pick up all the pieces and somehow, magically crazy glue the union back together."

Money is another issue. According to financial disclosures filed with the U.S. Department of Labor last month, the ALU had about \$33,000 in cash and assets at the end of 2023 and owed about \$81,000, mostly in legal bills and rent. The union took in about \$616,000 in donations but reported no dues, and

spent a little over \$700,000.

Valentin Nieves and Spence said they plan to shore up the union's finances through voluntary dues. The union will also continue to rely on public support, which can only be as strong as the union's organizing program, Spence added.

The union's story to date has been disappointing but not unexpected, said Bill Fletcher Jr., a veteran union official and organizer who was briefly brought in to mediate the leadership dispute last summer.

Growing pains are common for independent unions, and the way this group suddenly grew — by winning an election few thought they could — can amplify the pain, Fletcher said.

"It's easy to walk away from it thinking that you're greater than you actually are, as opposed to, we did some good things, we did some not so good things, and there's a little element of luck," Fletcher said.

The sort of civil war that's unfolded can be discouraging to members, but it's not a death sentence, he added. On top of building the infrastructure to organize the membership, the ALU's next leader must project both self-confidence and humility to rebuild trust, he said. And they must reach outside the walls of JFK8 — to the public, community and faith leaders and the media — with their campaign.

"This is a profound struggle around workers' rights and economic justice," Fletcher said. "This has major implications. I think it can be done."

The group also faces a daunting legal obstacle: Amazon's resistance.

Daniel Altchek, a partner at Saul Ewing LLP who advises employers on union dealings, said Amazon appears to be willing to exhaust all legal avenues to undoing the election. It's a long list.

The company is currently arguing that the election was illegitimate because the NLRB put its thumb on the scale for the ALU, among other things. If the board rules against Amazon, the company can then launch an appeal by refusing to bargain with the union. Only when a circuit court enforces an NLRB order to bargain will the company be out of options, which could take years from this point.

Facing fights within and without, the ALU is at a critical juncture, Altchek said.

"They're out of money, and they need an infusion, and things need to settle down for that to happen," Altchek said. "Some of the NLRB proceedings can go forward without the union needing much in the way of money, but other parts of it really can't."

The odds are "massively against" the ALU getting a first contract, said Logan, the labor historian. But that's been the case since the ragtag group first picked this fight three years ago against a deep-pocketed employer bent on keeping unions out.

The situation looks as bleak as ever, but it can change quickly, he said. Logan pointed to Starbucks, where workers are bargaining with the company in earnest after nearly three years. Logan conceded that the Starbucks campaign has the benefit of scale, which the ALU can't replicate unless they expand to other warehouses or another union makes inroads at Amazon.

But even if it never secures a collective bargaining agreement for workers in Staten Island, the ALU's campaign has already been wildly successful because it has inspired a new generation of labor activists by changing what they thought possible, Logan said.

"I don't think that this opportunity will just go up in a puff of smoke," Logan said. "Ten years' time, 15 years' time, when we look back on this moment, we will think 'yes, something fundamentally changed in terms of the labor movement.'"

--Editing by Amy Rowe and Nick Petruncio.