

LOCAL

# Its drivers are contractors. So will Amazon be held liable for a fatal crash in Tacoma?

**BY SHEA JOHNSON**

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The aftermath of a crash Aug. 3 involving a motorcycle and an Amazon delivery van at the intersection of East McKinley Avenue and East 37th Street in Tacoma. Robert Barra, a 43-year-old motorcyclist, was killed.

STRITMATTER KESSLER KOEHLER MOORE *Pierce County Superior Court filing*

The family of a motorcyclist who was killed in August after being struck by an Amazon delivery van in Tacoma is suing the e-commerce giant, claiming that Amazon's focus on speed contributed to the fatal crash and that the company was liable even though its drivers are technically independent contractors.

Robert Barra, 43, died 11 hours following the Aug. 3 crash at the intersection of East McKinley Avenue and East 37th Street, near Oakland High School, according to the lawsuit filed Oct. 12 in Pierce County Superior Court.

Barra was traveling by motorcycle southbound on McKinley Avenue when the van, which was headed north on a preassigned delivery route, “suddenly and without warning” turned left so as to go onto East 37th Street and struck Barra, the suit claimed. Barra was ejected from the motorcycle and thrown against the van before landing on the pavement.

He died from catastrophic injuries after being taken to a local hospital, according to the legal filing.





Robert Barra, 43, was struck and killed by an Amazon delivery van on Aug. 3 in Tacoma while riding a motorcycle. Stritmatter Kessler Koehler Moore *Pierce County Superior Court filing*

The van's driver, an employee with Lakewood-based South Sound Final Mile, LLC, which is an Amazon delivery service partner, has not been charged with a crime, court records show.

The lawsuit alleged that the driver failed to yield the right of way, maintain a proper lookout or safely change lanes. It claimed the driver, who it named as a defendant, was negligent in the crash and that Seattle-based Amazon.com and Amazon Logistics, as well as South Sound Final Mile, were also liable for that negligence, naming all as defendants.

"The devastation wrought upon families who lose their beloveds to poor judgment calls by jittery delivery drivers always in a hurry," the suit stated. "Those consequences cannot, under the concept of vicarious liability, be legally pawned off onto the shoulders of those people and small businesses, whom Amazon has set up to take the fall."

Amazon told The News Tribune on Tuesday that it was aware of the lawsuit and would not comment on the ongoing litigation.

"Our thoughts are with the Barra family and we extend sincere condolences to those mourning his loss," Amazon spokesperson Sam Stephenson said in a statement.

Attorneys representing South Sound Final Mile did not return inquiries seeking comment on the allegations. Legal representation for the van's driver was not listed in court records.

## **AMAZON'S THIRD-PARTY DRIVERS**

[Amazon's Delivery Service Partner program](#), which launched in 2018, enables entrepreneurs to build a business delivering packages to Amazon customers from Amazon delivery stations. The suit claimed that drivers are in a "constant state of rushing" to meet on-time requirements and alleged that Amazon created the "elaborate middle-person program" in order to avoid legal liability for injuries caused to the public in crashes involving deliveries.

"Can you insulate yourself from liability by saying that these people are third-party entities and that you have nothing to do with them?" said Karen Koehler, an attorney representing the plaintiffs with Seattle-based Stritmatter Kessler Koehler Moore.

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Koehler said that Amazon must show it has no control over its independent contractors, but the legal complaint noted that Amazon delivery service partners wear Amazon uniforms, drive Amazon vans, train at Amazon facilities, pick up Amazon packages, follow delivery instructions on an Amazon app and have routes and activities monitored by Amazon.

“Amazon keeps an extraordinary level of control,” Koehler said.

The court filing cited a September 2019 co-investigation by ProPublica and The New York Times that detailed [how Amazon shielded itself from legal liability in crashes involving its contract drivers](#) by requiring delivery service partners to defend, indemnify and hold Amazon harmless. The investigation identified more than 60 crashes in a four-year period that involved Amazon contractors — 10 that were fatal.

The lawsuit filed in Pierce County highlighted a particular finding from the story: In half of the

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fatal crashes that were identified, drivers were making left turns.

In a statement to ProPublica for its piece in 2019, Amazon said it had invested tens of millions of dollars toward safety across its network, including “state-of-the-art telemetrics and advanced safety technology” in so-called “last-mile” vans.

“We require that all delivery service partners maintain comprehensive insurance, including auto liability so if in the rare case an accident does occur, there is coverage for all involved,” Amazon spokeswoman Rena Lunak told ProPublica.

Barra left behind three children, between the ages of 9 and 12, from a prior marriage.

The lawsuit — filed by his wife, Rachel Barra, on behalf of her husband’s estate, herself and the three children — seeks unspecified damages to be proven at trial, including for health care and funeral expenses, loss of emotional support and legal fees.

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