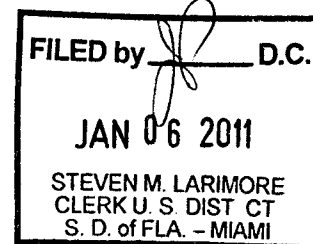


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
CASE NO. 10-CIV-20718-COOKE/BANDSTRA



ALBERT SEGAL, and
MARIANNA CHAPAROVA,

Plaintiffs,

- vs. -

AMAZON.COM, INC.,

Defendant.

PLAINTIFFS' MOTION TO COMPEL AMAZON.COM, INC.'S CORPORATE REPRESENTATIVE'S DEPOSITION, AND PLAINTIFFS' RESPONSE TO DEFENDANT AMAZON.COM, INC.'S MOTION TO COMPEL PLAINTIFFS' DEPOSITIONS, MOTION TO COMPEL PLAINTIFFS TO PROVIDE PERSONAL CONTACT INFORMATION FOR THE OUT-OF-STATE NON-PARTY WITNESSES, AND MOTION TO EXTEND THE FACT DISCOVERY AND DISPOSITIVE MOTION DEADLINES BY FORTY-FIVE DAYS, AND INCORPORATED MEMORANDUM

Pursuant to Federal Rules of Civil Procedure 30(b)(6) and Local Rules 7.1 and 26.1, the *pro se* Plaintiffs, Albert Segal and Marianna Chaparova ("Plaintiffs") request that this Court: (a) compel Defendant Amazon.com, Inc. ("Amazon") to designate its corporate representative to appear for his/her deposition on a date and time certain to answer questions on the topics designated by the Plaintiffs; (b) schedule the Plaintiffs' deposition on a date and time certain after the Plaintiffs have had an opportunity to depose Amazon's corporate representative; (c) deny Amazon's motion to compel Plaintiffs to provide personal contact information for the non-party witnesses and, instead, to allow Amazon to contact the non-party witnesses through Plaintiffs; and (d) deny Amazon's motion to extend the fact discovery and dispositive motion deadlines by forty-five days and, instead, extend such deadlines by no more than thirty days. In support, Plaintiffs state as follows:

MEMORANDUM OF LAW

Amazon has categorically refused to allow Plaintiffs access to documents that are relevant to this case and to allow Plaintiffs to depose its corporate representative on the topics that are clearly on point with the claims raised in the Plaintiffs' Amended Complaint. Yet, it is now demanding that Plaintiffs comply with its unreasonable last-minute deposition requests. In fact, Amazon had also demanded to depose the sixteen non-party witnesses, including those non-party witnesses who reside outside of this jurisdiction, and has insisted on taking all the depositions within the last two weeks of December 2010. Plaintiffs have, in good faith, attempted to work with Amazon to avoid unduly burdening the Court. Unfortunately, Amazon has been unwilling to do the same. *See, e.g.*, Plaintiffs' relevant email correspondence, attached hereto as "Exhibit A."

A. Amazon Should be Compelled to Designate its Corporate Representative to Appear for his/her Deposition to Answer Questions on the Topics Designated by Plaintiffs

Under the circumstances, Plaintiffs are within their right to expect Amazon to produce all of the documents that are relevant to this case and to depose Amazon's corporate representative before having to submit to Amazon's deposition request. For months, since at least early July of 2010, Plaintiffs have been in talks with Amazon about deposing its corporate representative and material witnesses. On or about July 20, 2010, Amazon produced its Rule 26(A)(1) initial disclosures (attached hereto as "Exhibit B"), in which it stated that "[a]n Amazon corporate representative will have knowledge regarding some of the issues raised in the Amended Complaint, the Amazon Marketplace, the Participation Agreement, and other matters shown in Amazon's business records," and that Plaintiffs may contact Amazon's corporate representative only "through undersigned counsel at Carlton Fields, P.A." Plaintiffs relied on these disclosures in requesting that Amazon produce documents relevant to the issues raised in

the Amended Complaint, and in identifying the topics for the deposition of Amazon's corporate representative. At all relevant times, however, the Plaintiffs' discovery requests have been met with hostility. To date, Amazon has refused to comply with its discovery obligations, and has in fact made it very clear that it will not produce any of the documents that the Plaintiffs have requested and to which the Plaintiffs are entitled. *See, e.g.*, Plaintiffs' Motion to Compel Production of Documents [D.E. 39].

The Plaintiffs' request to depose Amazon's corporate representative was clearly stated, with "reasonable particularity," to include the following topics:

- (1) **Amazon's handling of the funds it withholds from the seller-customers.** It is a fact that Amazon systematically "reserves" funds for three-to-four months at a time that belong to third-party sellers (it withheld the Plaintiffs' funds for nearly four (4) months). Amazon does not, and cannot, deny that through this scheme it generates millions of dollars in ill-gotten profits. This issue is indeed relevant to the claims raised in the Plaintiffs' Amended Complaint.
- (2) **"Operational" and "Managerial"** - to the extent that Amazon is exercising its "discretion" to withhold funds, close listings and terminate accounts, which it also does systematically and without justification, and which is also relevant to the claims raised in the Plaintiffs' Amended Complaint [D.E. 22].

See also Plaintiffs' relevant correspondence with Amazon, attached hereto as "Exhibit C."

Again, Amazon's counsel has called this request "wildly overbroad" and has objected to allowing Plaintiffs an opportunity to depose its corporate representative on these relevant topics.

Amazon's objections to deposition topics and relevant email correspondence are attached hereto as "Exhibit D."

Amazon's corporate representative must be required to testify regarding all the relevant information that is known to Amazon. "A deposition pursuant to Rule 30(b)(6) is substantially different from a witness's deposition as an individual. A 30(b)(6) witness testifies as a representative of the entity, his answers bind the entity and he is responsible for providing all the

relevant information known or reasonably available to the entity." *Sabre v. First Dominion Capital, L.L.C.*, No. 01 Civ. 2145, 2001 U.S. Dist. LEXIS 20637, at *2 (S.D. N.Y. Dec. 12, 2001) (citing 8A Charles A. Wright, Arthur R. Miller, Richard L. Marcus, *Federal Practice & Procedure* § 2103 (2d ed. 1994)).

Amazon is a major corporation with virtually unlimited financial resources. It has litigated numerous cases in Florida in the past, and is profiting by conducting business in this jurisdiction. It would not have been unreasonable for Plaintiffs to request that an Amazon's corporate representative's deposition also take place in this jurisdiction. After all, the location of the deposition is "within the discretion of the court and instances of Defendants appearing for depositions at the place of the trial are not unusual." *Financial General Bankshares, Inc. v. Lance*, 80 F.R.D. 22, 23 (D.C. D.C. 1978). It is well established that, where the defendant is in a better position to bear the costs that are associated with traveling to depositions and accustomed to travel for such reasons, courts have allowed plaintiff to conduct depositions at the location of the trial. *See, e.g., Turner v. Prudential Ins. Co. of America*, 119 F.R.D. 381, 383-384 (M.D. N.C. 1988).

Plaintiffs, however, have been more than willing to accommodate Amazon by allowing its corporate representative to be deposed via the telephone, and by properly tape-recording the deposition. Yet, Amazon has remained uncooperative and, while it has recently made an attempt to appear cooperative by stating that it will make its corporate representative available for a telephonic deposition, it has refused to agree to answer questions that are relevant to this case and to bear the expense of setting up a conference call for the deposition. In its most recent email of December 29th, Amazon has reiterated its objection to the Plaintiffs' deposition topics. Amazon's email correspondence of December 29th is attached hereto as "Exhibit E."

It would be a complete waste of the Plaintiffs' time and very limited resources to proceed with the deposition of Amazon's corporate representative without having access to the requested documents and without being allowed to depose Amazon's corporate representative on the above-stated topics. Therefore, Plaintiffs respectfully request that the Court compel Amazon to designate its corporate representative and order that its corporate representative answer questions that relate to the Plaintiffs' designated topics.

B. Plaintiffs' Depositions Should be Scheduled at a Time and Place Certain After the Plaintiffs' Deposition of Amazon's Corporate Representative

Plaintiffs are more than willing to go forward with their depositions in this case because they are confident that these depositions will further substantiate their claims.

However, Amazon's scheduling of the depositions is an obvious attempt to gain a strategic advantage in order to prejudice the Plaintiffs.

The Court's Scheduling Order was issued on August 19, 2010 [D.E. 31]. Hence, Amazon has had at least four (4) months within which to schedule the Plaintiffs' depositions. While Plaintiffs had notified Amazon regarding their intended discovery requests months ago, Amazon remained silent until Saturday, December 4, 2010, at which time it refused to comply with the Plaintiffs' most basic discovery requests, but demanded that the Plaintiffs' depositions take place on December 20 and December 22. By that time, however, Plaintiffs had already made arrangements to visit their family and friends in New Jersey. Plaintiffs' relevant email correspondence with Amazon is attached hereto as "Exhibit F."

As was stated above, Amazon has made it perfectly clear to Plaintiffs that it will not produce any of the documents pursuant to the Plaintiffs' requests, and that it will not voluntarily allow Plaintiffs to depose its corporate representative on the topics that are most relevant to the issues in this case. In its most recent filing [D.E.41], Amazon has also argued that the Court

should “stay” its obligation to respond to the Plaintiffs’ discovery, thereby attempting to further prejudice the Plaintiffs.

Plaintiffs merely insist on a basic level of procedural fairness in scheduling the depositions, and respectfully request the Court to schedule their depositions at a time certain following Amazon's compliance with the Plaintiffs' request for production of documents and the deposition of Amazon's corporate representative on the above-stated topics.

C. Amazon’s Motion to Compel Plaintiffs to Provide Personal Contact Information for the Plaintiffs’ Non-Party Witnesses Should be Denied and, Instead, Amazon Should be Allowed to Contact such Non-Party Witnesses Through Plaintiffs

The Plaintiffs' request that the non-party witnesses be contacted through them is justified. Since filing the Amended Complaint, Plaintiffs have been corresponding with hundreds of persons who have expressed an interest in testifying against Amazon regarding Amazon's fraudulent and otherwise dishonest business practices. Some of the Plaintiffs’ correspondences with potential non-party witnesses are attached hereto as "Exhibit G." Plaintiffs, however, intend to limit their potential non-party witnesses to only the most credible persons in order to conduct this case with efficiency and integrity, and have reassured Amazon that it will have all of the relevant information it needs regarding the non-party witnesses and their intended testimonies. Considering what these persons have been put through by Amazon, it is not unreasonable to ask that neither Amazon nor Amazon's counsel contact them directly. Amazon’s request to depose the non-party witnesses without accepting the Plaintiffs' offer to assist it in gathering relevant information from these witnesses only confirms the Plaintiffs' suspicion about Amazon’s true intention - to harass and intimidate the Plaintiffs’ witnesses. Plaintiffs are not attorneys, but as *pro se* litigants should be allowed to act as

intermediaries between Amazon and the non-party witnesses who intend to testify on the Plaintiffs' behalf.

D. Amazon's Motion to Extend the Fact Discovery and Dispositive Motion Deadlines by Forty-Five Days Should be Denied

Plaintiffs are opposed to Amazon's request to extend the fact discovery and dispositive motion deadlines by forty-five days, but would consent to a more reasonable extension of thirty days. Rule 6 permits an extension of time "for good cause." Fed. R. Civ. P. 6(b)(1)(A). Although Plaintiffs are prepared to consent to a thirty-day extension in light of Amazon's refusal to cooperate with the Plaintiffs' reasonable discovery requests, a forty-five day extension is excessive, and Amazon has not demonstrated good cause for the lengthy extension it now seeks. Further delay prejudices the Plaintiffs by undermining their right to secure a "just and speedy determination" of this action. *See, e.g.*, Fed. R. Civ. P. 1; Wright & Miller, 4B Federal Practice & Procedure § 1165, at 520 & n.5 (3d ed. 2002 & supp. 2010).

CONCLUSION


For the reasons discussed above, Plaintiffs respectfully request the Court to: (a) compel Amazon to designate its corporate representative to appear for his/her deposition on a date and time certain to answer questions on the topics designated by the Plaintiffs; (b) schedule the Plaintiffs' deposition on a date and time certain after the Plaintiffs have had an opportunity to depose Amazon's corporate representative; (c) deny Amazon's motion to compel Plaintiffs to provide personal contact information for the non-party witnesses and, instead, to allow Amazon to contact the non-party witnesses through Plaintiffs; (d) deny Amazon's motion to extend the fact discovery and dispositive motion deadlines by forty-five days and, instead, extend such deadlines by no more than thirty days; and (e) order such other relief as is just and proper.

LOCAL RULE 7.1(a)(3) CERTIFICATION

Pursuant to Local Rule 7.1(a)(3), Plaintiffs certify that they have conferred with Amazon's counsel of record on multiple occasions in an effort to resolve the issues raised in this Motion, but the parties were unable to resolve their differences.

This 5th day of January, 2011.

Respectfully submitted,



Marianna Chaparova, Plaintiff, *pro se*
E-mail: manach101@yahoo.com



Albert Segal, Plaintiff, *pro se*
10490 S.W. 12th Terr., #202
Miami, FL 33174
E-mail: alby1969_98@yahoo.com

CERTIFICATE OF SERVICE

This is to certify that Plaintiffs, Albert Segal and Marianna Chaparova, have this day served upon Amazon's counsels of record the foregoing motion to compel production of documents, via the electronic mail and/or standard U.S. mail.

This 5th day of January, 2011.

Respectfully submitted,


MARIANNA CHAPAROVA, Plaintiff, *pro se*


ALBERT SEGAL, Plaintiff, *pro se*

MAILING LIST

Carlton Fields, P.A.
City Place Tower, Suite 1200
525 Okeechobee Blvd.
West Palm Beach, Florida 33401

Exhibit A

From: alex siegal <alby1969_98@yahoo.com>
To: "Esau, David B." <desau@carltonfields.com>
Sent: Mon, December 6, 2010 5:08:46 PM
Subject: Re: Segal/Chaparova v. Amazon.com (Case No. 10-cv-20718, U.S. District Court for the Southern District of Florida)

Surely you understand that we cannot depose Amazon's corporate representative(s) until after we've received and reviewed the requested documents/materials. Judge Cooke wants us to resolve these pretrial matters without wasting her time with motions. Therefore, we are committed to making every possible effort to resolve our differences with you amicably and hope you are willing to do the same.

If you are willing to have the requested documents produced by December 21st (we will work out the specifics of what must be produced), we should be able to schedule the depositions to take place the first week of January and still meet the January 3rd deadline.

Hope to hear back from you soon! Thanks.

From: alex siegal <alby1969_98@yahoo.com>

To: desau@carltonfields.com

Cc: manach101@yahoo.com

Sent: Wed, December 8, 2010 9:17:21 PM

Subject: Re: Segal/Chaparova v. Amazon.com (Case No. 10-cv-20718, U.S. District Court for the Southern District of Florida)

We have proposed a very narrow and unambiguous request for production of only the most relevant documents. See email below. Please let us know whether Amazon intends to cooperate with our discovery requests and will assist us in our effort to avoid wasting the Court's limited time and resources. Thank you in advance for your anticipated cooperation!

From: alex siegal <alby1969_98@yahoo.com>
To: desau@carltonfields.com
Cc: manach101@yahoo.com
Sent: Mon, December 13, 2010 11:20:06 PM
Subject: Fw: Segal/Chaparova v. Amazon.com (Case No. 10-cv-20718, U.S. District Court for the Southern District of Florida)

Please respond to the e-mail below. Thank you.

----- Forwarded Message -----

From: alex siegal <alby1969_98@yahoo.com>
To: desau@carltonfields.com
Sent: Sun, December 12, 2010 6:31:49 PM
Subject: Re: Segal/Chaparova v. Amazon.com (Case No. 10-cv-20718, U.S. District Court for the Southern District of Florida)

We need to make arrangements to depose Amazon's appointed representative(s) either on January 2nd or January 3rd. While the circumstances may justify deposing Amazon's representative in Miami, Florida (Amazon is engaged in business activities in this jurisdiction, has taken and is continuing to take full advantage of the benefits and protections of the laws of this jurisdiction, would not be overly burdened financially by having to travel here - as you know, we cannot afford to travel to Seattle for a single deposition; moreover, Amazon is represented by counsel in this jurisdiction - surely you do not want to travel to Seattle, Washington, for a single deposition), we are willing to work out an alternative arrangement to conduct the deposition by video or over the phone. We are also willing to conduct the deposition at your office, so that you may appear and examine the witness.

Therefore, Amazon is directed, pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, to designate one or more officers, directors, managing agents, or other persons who consent to testify on its behalf on each of the subject matters set forth in our e-mail below, but specifically related to the claims in our Amended Complaint and Amazon's SEC filings (10-Q and 10-K filings). If you are unclear about the meaning of terms such as "management," "operational" and "financial," you should read those filings. Hope to hear back from you soon!
Thank you.

From: "Esau, David B." <desau@carltonfields.com>
To: alex siegal <alby1969_98@yahoo.com>
Cc: manach101@yahoo.com
Sent: Tue, December 14, 2010 11:18:41 AM
Subject: RE: Segal/Chaparova v. Amazon.com (Case No. 10-cv-20718, U.S. District Court for the Southern District of Florida)

Mr. Segal-

I had other business to attend to yesterday, and I would appreciate the courtesy of allowing me a little time to confer with my client. I will get back to you promptly. Thank you.

From: alex siegal [mailto:alby1969_98@yahoo.com]
Sent: Monday, December 13, 2010 11:20 PM
To: Esau, David B.
Cc: manach101@yahoo.com
Subject: Fw: Segal/Chaparova v. Amazon.com (Case No. 10-cv-20718, U.S. District Court for the Southern District of Florida)

Please respond to the e-mail below. Thank you.

----- Forwarded Message -----

From: alex siegal <alby1969_98@yahoo.com>
To: desau@carltonfields.com
Sent: Sun, December 12, 2010 6:31:49 PM
Subject: Re: Segal/Chaparova v. Amazon.com (Case No. 10-cv-20718, U.S. District Court for the Southern District of Florida)

We need to make arrangements to depose Amazon's appointed representative(s) either on January 2nd or January 3rd. While the circumstances may justify deposing Amazon's representative in Miami, Florida (Amazon is engaged in business activities in this jurisdiction, has taken and is continuing to take full advantage of the benefits and protections of the laws of this jurisdiction, would not be overly burdened financially by having to travel here - as you know, we cannot afford to travel to Seattle for a single deposition; moreover, Amazon is represented by counsel in this jurisdiction - surely you do not want to travel to Seattle, Washington, for a single deposition), we are willing to work out an alternative arrangement to conduct the deposition by video or over the phone. We are also willing to conduct the deposition at your office, so that you may appear and examine the witness.

Therefore, Amazon is directed, pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, to designate one or more officers, directors, managing agents, or other persons who consent to testify on its behalf on each of the subject matters set forth in our e-mail below, but specifically related to the claims in our Amended Complaint and Amazon's SEC filings (10-Q and 10-K filings). If you are unclear about the meaning of terms such as "management," "operational" and "financial," you should read those filings. Hope to hear back from you soon!
Thank you.

From: "Esau, David B." <desau@carltonfields.com>
To: alex siegal <alby1969_98@yahoo.com>
Cc: manach101@yahoo.com
Sent: Fri, December 10, 2010 3:19:15 PM
Subject: RE: Segal/Chaparova v. Amazon.com (Case No. 10-cv-20718, U.S. District Court for the Southern District of Florida)

Mr. Segal-

Per your request below, I will be sending you shortly, via electronic mail, those certain documents and correspondence related to your seller account that were referenced in Amazon's written responses to your requests for production. The set of documents I will be sending you is voluminous, so I'm sure you can understand that it has taken some time to search for, compile, and review them, and to upload them electronically pursuant to your request. Because of the volume, I will be sending them in several email batches.

With respect to your email below: without waiving Amazon's objections (which will be forthcoming in due course), respectfully, the requests below are not more narrow. In fact, they are just as (or more) overbroad, unduly burdensome, and irrelevant as your previous requests. This case and the causes of action in your amended complaint (including the elements of each of your causes of action) are related to your experience with Amazon. They have nothing do with other Amazon customers or sellers. You are not representing those other customers/sellers, and they have no claims or material stake in this litigation. Thus, your "simplifications" below are still overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence as to your causes of action. If you'd like to further narrow your requests below to include only issues relevant to your causes of action, I'd be happy to consider them. Otherwise, I will provide complete written responses and objections to the requests below at a later date. Thank you.

-David

From: alex siegal [mailto:alby1969_98@yahoo.com]
Sent: Wednesday, December 08, 2010 12:19 PM
To: Esau, David B.
Cc: manach101@yahoo.com
Subject: Fw: Segal/Chaparova v. Amazon.com (Case No. 10-cv-20718, U.S. District Court for the Southern District of Florida)

The documents should have been sent to us electronically to begin with, as we requested, and we should have received those documents by December 4th. Can you please email to us all of the documents to which you refer - that are related to our seller account - by this Friday? Also, it is our position that our "other requests" were within the scope of the Federal Rules of Civil Procedure. Nonetheless, we are willing to simplify our request to include production of the following documents:

"Documents" means all materials within the full scope of FRCP 34, including but not limited to: all writings and recordings, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copies or otherwise (including but without limitation to, email and attachments, correspondence, memoranda, notes, diaries, minutes, statistics, letters, telegrams, contracts, reports, studies, checks, statements, tags, labels, invoices, brochures, periodicals, receipts, returns, summaries, pamphlets, books, interoffice and intra-office communications, offers, notations of any sort of conversations, working papers, applications, permits, file wrappers, indices, telephone calls, meetings or printouts, teletypes, facsimiles, worksheets, and all drafts, alterations, modifications, changes and amendments of any of the foregoing), graphic or aural representations of any kind.

(1) Request for production of documents that relate to our claim that Amazon is systematically withholding its seller-customers' funds for reasons unrelated to their performance as sellers on Amazon.com (see, e.g., Am. Compl., ¶¶ 33-35, 47-50); documents that relate to our claim regarding Amazon's fraudulent

intent (see, e.g., Am. Compl. ¶¶ 56-84):

- (a) any documents that relate to those customers whose funds were withheld from them (not disbursed to them) in excess of thirty (30) days during 2008-2010;
- (b) any and all documents that relate to those seller-customers whose accounts were suspended or terminated (those customers who were prohibited from selling on Amazon.com) during 2008-2010;
- (c) any and all documents that relate to Amazon's seller-customers' disputes (disagreement expressed by Amazon's seller-customers over Amazon's decision not to disburse the funds in their "Amazon Seller Account") in re to Amazon's decision to withhold their funds for at least thirty (30) days during 2008-2010; and
- (d) any and all documents Amazon intends to use to defend itself against the above specified claims.

Amazon may redact the customers' personal and financial information.

If any privilege is claimed, you shall indicate whether any documents exist, or whether any communications took place; and also provide the following information for each such document in a "privileged documents log" or similar format:

- (a) the type of document;
- (b) the general subject matter of the document;
- (c) the date of the document;
- (d) the author(s) of the document;
- (e) the addressee(s) and any other recipient(s) of the document; and
- (f) the custodian of the document, where applicable.

(2) Request for production of documents that relate to our claim that Amazon has pocketed and continues to pocket ill-gotten profits as a direct result of its systematic practice of withholding the sellers' funds for extended periods of time (see, e.g., Am. Compl. ¶¶ 68-84, 91-98):

- (a) Amazon's financial records for 2008-2010, including bank statements for accounts it owns or uses to handle the funds it withholds from its seller-customers (funds that it does not disburse to its seller customers) for a period of thirty (30) days or longer (these documents cannot be obtained from Amazon's SEC filings);
- (b) Amazon's financial records, including bank statements for accounts it used to handle our funds during the months of November 2009 - May 2010; and
- (c) any and all documents Amazon intends to use to defend itself against the above specified claims and all other claims in our Am. Compl..

We have narrowed our request for production of documents that are relevant to the claims and defenses in this case and trust that we can resolve this matter without wasting the Court's time and resources. Hope to hear back from you soon! Thank you.

From: "Esau, David B." <desau@carltonfields.com>
To: alex siegal <alby1969_98@yahoo.com>
Sent: Thu, December 16, 2010 9:37:50 AM
Subject: RE: Segal/Chaparova v. Amazon.com (Case No. 10-cv-20718, U.S. District Court for the Southern District of Florida)

I was able to attach all of the documents in one email. You have everything we will be producing. Thank you.

From: alex siegal [mailto:alby1969_98@yahoo.com]
Sent: Wednesday, December 15, 2010 9:08 PM
To: Esau, David B.
Subject: Re: Segal/Chaparova v. Amazon.com (Case No. 10-cv-20718, U.S. District Court for the Southern District of Florida)

Mr. Esau:

We still have not received from you the "several email batches" containing "voluminous" documents, as promised in your e-mail below. You have sent us only one attachment so far, which consisted of mostly duplicate documents (copies of the ones we had produced). Will you be sending us any other documents?

Hope to hear from you soon! Thank you.

Sincerely,
Albert Segal

From: "Esau, David B." <desau@carltonfields.com>
To: alex siegal <alby1969_98@yahoo.com>
Cc: manach101@yahoo.com
Sent: Fri, December 10, 2010 2:19:15 PM
Subject: RE: Segal/Chaparova v. Amazon.com (Case No. 10-cv-20718, U.S. District Court for the Southern District of Florida)

Mr. Segal-

Per your request below, I will be sending you shortly, via electronic mail, those certain documents and correspondence related to your seller account that were referenced in Amazon's written responses to your requests for production. The set of documents I will be sending you is voluminous, so I'm sure you can understand that it has taken some time to search for, compile, and review them, and to upload them electronically pursuant to your request. Because of the volume, I will be sending them in several email batches.

With respect to your email below: without waiving Amazon's objections (which will be forthcoming in due course), respectfully, the requests below are not more narrow. In fact, they are just as (or more) overbroad, unduly burdensome, and irrelevant as your previous requests. This case and the causes of action in your amended complaint (including the elements of each of your causes of action) are related to your experience with Amazon. They have nothing do with other Amazon customers or sellers. You are not representing those other customers/sellers, and they have no claims or material stake in this litigation. Thus, your "simplifications" below are still overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence as to your causes of action. If you'd like to further narrow your requests below to include only issues relevant to your causes of action, I'd be happy to consider them. Otherwise, I will provide complete written responses and objections to the requests below at a later date. Thank you.

-David

Exhibit B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 10-CIV-20718-COOKE/BANDSTRA

ALBERT SEGAL, and
MARIANNA CHAPAROVA,

Plaintiffs,

- vs. -

AMAZON.COM, INC.,

Defendant.

**DEFENDANT AMAZON.COM, INC.'S OBJECTIONS TO PLAINTIFFS' NOTICE OF
TAKING DEPOSITION PURSUANT TO RULE 30(b)(6)**

Defendant Amazon.com, Inc. ("Amazon") hereby serves the following objections to Plaintiffs' Notice of Taking Deposition Pursuant to Rule 30(b)(6) ("Notice")¹:

Deposition Topics: Amazon's management, operational, and financial matters, Amazon's SEC filings, and matters related to Plaintiffs' Amended Complaint.

Objections to Deposition Topics: Amazon objects to the topics in Plaintiffs' Notice on the ground and to the extent that they are vague, ambiguous, unclear, and wildly overbroad, and because they do not describe with reasonable particularity the matters for examination, as required by Fed.R.Civ.P. 30(b)(6). Amazon also objects to the topics in Plaintiffs' Notice on the ground and to the extent that they are not reasonably calculated to lead to the discovery of admissible evidence in that they seek information that goes way beyond the claims or defenses framed by the well-pled pleadings in this case. As framed, these topics include virtually

¹ Plaintiffs never actually served a formal Notice of Taking Deposition; rather, Plaintiffs sent multiple emails to Amazon's counsel requesting a deposition of Amazon's corporate representative, in which Plaintiffs listed and subsequently repeatedly modified their deposition topics. For that reason alone, Plaintiffs' "Notice" is deficient.

everything about the company, on every level of detail, regardless of whether the information has anything to do with this case. Amazon has no reasonable way of identifying a representative (or even multiple representatives) that can even begin to testify as to all of the matters identified in Plaintiffs' Notice. Amazon also specifically objects to the topics in Plaintiffs' Notice to the extent Plaintiffs intend to seek information related to Amazon's other customers or other sellers on the Amazon Marketplace, since that information is not reasonably calculated to lead to the discovery of admissible evidence. Subject to these objections, Amazon will agree to produce a witness for deposition who will be prepared to testify as to matters known to Amazon related specifically to Plaintiffs' seller account in the Amazon Marketplace.

Dated: December 22, 2010

CARLTON FIELDS, P.A.
CityPlace Tower – Suite 1200
525 Okeechobee Boulevard
West Palm Beach, Florida 33401
Telephone: (561) 659-7070
Facsimile: (561) 659-7368

By: /s/ David B. Esau
James B. Baldinger
Florida Bar Number 869899
jbaldinger@carltonfields.com
David B. Esau
Florida Bar Number 650331
desau@carltonfields.com

Counsel for Defendant Amazon.com, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on December 22, 2010, I served the foregoing document via E-Mail and U.S. Mail on the individuals identified on the Service List below.

/s/ David B. Esau
David B. Esau

SERVICE LIST

Albert Segal
Marianna Chaparova
10490 S.W. 12th Terr., Apt# 202
Miami, FL 33174

Exhibit C

From: "Esau, David B." <desau@carltonfields.com>
To: alex siegal <alby1969_98@yahoo.com>
Sent: Tue, July 6, 2010 8:30:23 AM
Subject: RE: Segal/Chaparova v. Amazon.com (Case No. 10-cv-20718, U.S. District Court for the Southern District of Florida)

I'm not sure what "at the appropriate time" means, but just to reiterate, the people identified in your email below do not have any special or unique information relevant to any of the claims in your amended complaint, and **they will not be made available for deposition** (regardless of how much "ample time" you give us). Period.

From: alex siegal [mailto:alby1969_98@yahoo.com]
Sent: Saturday, July 03, 2010 12:14 AM
To: Esau, David B.
Subject: Re: Segal/Chaparova v. Amazon.com (Case No. 10-cv-20718, U.S. District Court for the Southern District of Florida)

At the appropriate time, we will designate the topics, with "reasonable particularity," and will subpoena the named witnesses who can best answer the questions on those topics. The individuals named in my previous e-mail are the only ones who are in exclusive and immediate control of such information. As I stated to you in my previous e-mail, all scheduling and other details will be worked out in due course, and it is our intention to give you ample time (pursuant to the applicable rules) to make the appropriate arrangements with Amazon to schedule the depositions, produce the requested and all other relevant documents, etc.

Fw: Segal/Chaparova v. Amazon.com (Case No. 10-cv-20718, U.S. District Court for the Southern District of Florida)

From: alex siegal
<alby1969_98@yahoo.com>

Add to Contacts

To: desau@carltonfields.com

Cc: manach101@yahoo.com

Please respond to the e-mail below. Thank you.

----- Forwarded Message -----

From: alex siegal <alby1969_98@yahoo.com>

To: desau@carltonfields.com

Sent: Sun, December 12, 2010 6:31:49 PM

Subject: Re: Segal/Chaparova v. Amazon.com (Case No. 10-cv-20718, U.S. District Court for the Southern District of Florida)

We need to make arrangements to depose Amazon's appointed representative(s) either on January 2nd or January 3rd. While the circumstances may justify deposing Amazon's representative in Miami, Florida (Amazon is engaged in business activities in this jurisdiction, has taken and is continuing to take full advantage of the benefits and protections of the laws of this jurisdiction, would not be overly burdened financially by having to travel here - as you know, we cannot afford to travel to Seattle for a single deposition; moreover, Amazon is represented by counsel in this jurisdiction - surely you do not want to travel to Seattle, Washington, for a single deposition), we are willing to work out an alternative arrangement to conduct the deposition by video or over the phone. We are also willing to conduct the deposition at your office, so that you may appear and examine the witness.

Therefore, Amazon is directed, pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, to designate one or more officers, directors, managing agents, or other persons who consent to testify on its behalf on each of the subject matters set forth in our e-mail below, but specifically related to the claims in our Amended Complaint and Amazon's SEC filings (10-Q and 10-K filings). If you are unclear about the meaning of terms such as "management," "operational" and "financial," you should read those filings. Hope to hear back from you soon! Thank you.

From: alex siegal <alby1969_98@yahoo.com>
To: "Esau, David B." <desau@carltonfields.com>
Sent: Wed, December 29, 2010 1:44:31 PM
Subject: Re: Segal/Chaparova v. Amazon.com (Case No. 10-cv-20718, U.S. District Court for the Southern District of Florida)

Mr. Esau -

You have made it perfectly clear to us that we disagree on what this case is about, and have refused to provide us with the documents we need to prepare our case. Amazon needs to make its corporate representative available **in the morning of January 3rd**, and must be prepared to answer questions on topics that relate to the claims in our Amended Complaint, which are **not** limited only to our "experience with Amazon." The topics were made known to you months ago, and yet it was your decision (or perhaps Amazon's) to be uncooperative. Please let us know whether Amazon has now changed its position on this issue.

Let me also point out that, instead of rescheduling our depositions as we requested, you filed a motion to compel us to appear, as well as a motion to extend the pre-trial discovery deadlines. Therefore, you are the one who has chosen to waste the Court's time and resources. While we believe that, under the circumstances, Amazon's corporate representative should be required to appear for her deposition in Miami, we were and still are willing to make it easier for Amazon by conducting the deposition via the telephone. However, your request that we set up and pay for a toll-free number because Amazon "will not pay for the telephone call" is unacceptable. Amazon's representative's deposition will likely take a good part of the day. Once that deposition is done, we will proceed with my deposition and then with Marianna's. Thank you.

Albert Segal

From: alex siegal
To: Esau, David B.
Sent: Sat Dec 25 16:22:42 2010
Subject: Re: Segal/Chaparova v. Amazon.com (Case No. 10-cv-20718, U.S. District Court for the Southern District of Florida)

We have been requesting to depose Amazon's corporate representative for months now. If 9:30 a.m. is too early for Amazon's representative, then we will conduct the deposition over the telephone (tape recorded) at 11:30 EST. You will be able to depose us immediately thereafter. Please let us know whether that's acceptable to Amazon?

From: alex siegal [mailto:alby1969_98@yahoo.com]
Sent: Thursday, December 16, 2010 5:16 PM

To: Esau, David B.
Subject: Re: Segal/Chaparova v. Amazon.com (Case No. 10-cv-20718, U.S. District Court for the Southern District of Florida)

Mr. Esau -

Perhaps you have decided to play games with us because we are not represented by counsel. So, let me reassure you and the partner at your firm who is ultimately responsible for the way this case is handled on your end that your games are not in Amazon's best interest. It would have been wiser for you to be upfront and honest with us from day one; instead you have been disingenuous at best.

Within the next couple of days, we will be filing our motion to compel production because Amazon has taken the position that it will not produce any of the documents that it is required to produce pursuant to the applicable procedural rules. We are entitled to the specific documents we requested (e.g., bank statements related to Amazon's handling of our funds), and are confident that the Court will agree with us.

Our reasons for not being able to attend the depositions on December 20th and 22nd were made clear to you. Unfortunately, as you correctly pointed out, we do not have enough time to file a motion with Judge Cooke to have the depositions rescheduled - you made sure of that. Nonetheless, our reasons for not being able to abide by your schedule are valid. Do not expect us to attend our depositions this week, with less than two weeks' notice, without having adequate time to prepare (especially since we have to spend time drafting and filing motions related to Amazon's refusal to play by the rules). And do not expect us to cancel our plans to visit family for the holidays.

We are requesting, pursuant to the Federal Rules of Civil Procedure, that Amazon designate and produce for a deposition (in a manner convenient to all parties) its corporate representative. For months we have been discussing this issue. Unlike your request to depose us when people go away for the holidays, our repeated requests date back to October. If, however, you believe that there's some rule that gives you preference and that you should be able to depose us before we can depose Amazon's corporate

representative or any other witness, then you should file a motion requesting to have such a preference. Otherwise, January 3rd is a work day, falls on a Monday after all of the holidays, and we expect Amazon's corporate representative to be present for either a telephone or video deposition, at 9:30 a.m. at your firm's Miami office. Our designated topics were clearly stated to you and are related to our Amended Complaint. Perhaps I should try to be even more specific, so how about this: when we say "financial," we mean money taken from a seller account or any other account that Amazon owned and/or used to handle our funds (the proceeds of our sales, and funds it held in "reserve") and transferred to any other account Amazon owns and/or uses to handle such funds; "operational" and "management" to the extent that Amazon is exercising its "discretion" to withhold funds, close listing and terminate accounts. Is that specific enough?

As for your request to depose each and every non-party witness by the end of December (within less than 2 weeks), we will not facilitate your efforts to intimidate and harass the non-party witnesses - Amazon has harmed them enough. It was explained to you that most of the non-party witnesses do not reside in this jurisdiction (or even within 100 miles of this jurisdiction) and cannot be expected, certainly are not required, to travel to Miami so that you can depose them (even if you were allowed to depose 17 people within two weeks, including holidays, which you are not - see FRCP 45). It is also disturbing that you can demand to depose witnesses about whom you know absolutely nothing - you have not asked about the nature of their intended testimony, related documents, or anything else that would otherwise lend credibility to your request, despite our offer to assist. We stand by our offer to provide you with a summary of their intended testimony, and to help you gather relevant documents. We will also update the witness list as soon as we have additional information, and can provide you with a list containing the home city and state for every non-party witnesses on our side, if you would like.

We will not ask the Court to extend the deadlines for fact-discovery, dispositive and other pretrial motions. Thank you.

Sincerely,
Albert Segal

From: alex siegal [mailto:alby1969_98@yahoo.com]

Sent: Wednesday, December 15, 2010 6:40 PM

To: Esau, David B.

Subject: Re: Segal/Chaparova v. Amazon.com (Case No. 10-cv-20718, U.S. District Court for the Southern District of Florida)

You have been advised repeatedly not to schedule our depositions on the dates you specified. Again, we want to make sure you know and understand that we are unavailable to attend the depositions on those dates - we will be out of state visiting family! You should have scheduled our depositions in August, September, October, November, or early enough in December, with adequate notice. You could have also scheduled it for early January, and still be in compliance within the deadlines set forth in Judge Cook's Scheduling Order. From: alex siegal [mailto:alby1969_98@yahoo.com]

Sent: Monday, December 06, 2010 1:22 PM

From: "Esau, David B." <desau@carltonfields.com>
To: alby1969_98@yahoo.com; manach101@yahoo.com
Sent: Wed, December 29, 2010 6:23:49 PM
Subject: Re: Segal/Chaparova v. Amazon.com (Case No. 10-cv-20718, U.S. District Court for the Southern District of Florida)

As I've informed you, Amazon's corporate representative is based in Washington State, and is not available for a deposition until 1:00pm EST (10am PST) on January 3rd.

So that we're not wasting everyone's time (including that of the Amazon witness, who is a very busy person), or causing Amazon to incur additional unnecessary expenses for additional depositions for which you fail to appear, please let me know by 12:00 noon tomorrow whether you intend to take the deposition of the Amazon corporate representative beginning at 1:00pm on January 3rd. Your emails below are not at all clear about your intentions (e.g., your email from yesterday appears to unilaterally cancel all of the depositions scheduled for January 3rd, yet your email from today demands the Amazon witness to appear at an unspecified time during the morning of January 3rd).

Absent affirmative indication from you by noon tomorrow that you intend to take the deposition of Amazon's corporate representative beginning at 1:00pm EST on January 3rd, and a proper deposition notice formalizing same (which you still have not served, and which is required by the Federal Rules to, among other things, protect against just the sort of last minute indecision and mixed signals in your emails below), Amazon's corporate representative will not appear for deposition on January 3rd at all. Amazon stands by its objections to your deposition topics.

Also, Amazon has no intention of paying for phone and transcribing charges for you to conduct a seven hour deposition for your case. If you want the deposition taken, it's your duty to figure out the logistics. Amazon is paying the logistical expenses associated with taking your depositions.

Please also inform me whether you and Ms. Chaparova intend to appear on January 3rd for your depositions at the times indicated in the formal deposition notices I served last week. Again, your emails below are not entirely clear, and I'd like to avoid incurring expenses for depositions for which you do not intend to appear.

Thank you.

From: alex siegal
To: Esau, David B.
Sent: Wed Dec 29 13:44:31 2010
Subject: Re: Segal/Chaparova v. Amazon.com (Case No. 10-cv-20718, U.S. District Court for the Southern District of Florida)
 Mr. Esau -

You have made it perfectly clear to us that we disagree on what this case is about, and have refused to provide us with the documents we need to prepare our case. Amazon needs to make its corporate representative available **in the morning of January 3rd**, and must be prepared to answer questions on topics that relate to the claims in our Amended Complaint, which are **not** limited only to our "experience with Amazon." The topics were made known to you months ago, and yet it was your decision (or perhaps Amazon's) to be uncooperative. Please let us know whether Amazon has now changed its position on this issue.

Let me also point out that, instead of rescheduling our depositions as we requested, you filed a motion to compel us to appear, as well as a motion to extend the pre-trial discovery deadlines. Therefore, you are the one who has chosen to waste the Court's time and resources. While we believe that, under the circumstances, Amazon's corporate representative should be required to appear for her deposition in Miami, we were and still are willing to make it easier for Amazon by conducting the deposition via the telephone. However, your request that we set up and pay for a toll-free number because Amazon "will not pay for the telephone call" is unacceptable. Amazon's representative's deposition will likely take a good part of the day. Once that deposition is done, we will proceed with my deposition and then with Merionne's. Thank you.

with my deposition and then with Marianna's. Thank you.

Albert Segal

From: alex siegal <alby1969_98@yahoo.com>
To: "Esau, David B." <desau@carltonfields.com>
Sent: Thu, December 30, 2010 1:31:42 PM
Subject: Re: Segal/Chaparova v. Amazon.com (Case No. 10-cv-20718, U.S. District Court for the Southern District of Florida)

We have been consistent throughout our correspondence with you regarding our intention to depose Amazon's representative on January 3rd, at 11:30 EST. However, you are refusing to allow us to depose Amazon's representative on the topics that are relevant to this case. As you stated in your email below, "Amazon stands by its objections to [our] deposition topics," which leaves us no choice but to file a motion to resolve this issue, and we will do so in the next week. We are entitled to have access to the documents that we have requested from Amazon, and to be able to depose Amazon's representative in a meaningful way. It would be counterproductive and a complete waste of time and resources to conduct any deposition while Amazon is refusing to comply with the discovery rules and is refusing to answer questions that are most relevant to this case. This case is about Amazon's fraudulent, deceptive and dishonest business practices, and Amazon will answer and account for such conduct. Unfortunately, although not surprisingly, Amazon has absolutely no intention of voluntarily complying with our discovery requests, which is keeping this case from being on track with the Hon. Judge Cooke's Scheduling Order and is causing us to incur additional unnecessary expenses.

Also, since you have already filed a motion to compel our depositions and to extend the discovery deadlines, our depositions will take place pursuant to the Court's ruling on that motion.

From: "Esau, David B." <desau@carltonfields.com>
To: alby1969_98@yahoo.com; manach101@yahoo.com
Sent: Wed, December 29, 2010 6:23:49 PM
Subject: Re: Segal/Chaparova v. Amazon.com (Case No. 10-cv-20718, U.S. District Court for the Southern District of Florida)

As I've informed you, Amazon's corporate representative is based in Washington State, and is not available for a deposition until 1:00pm EST (10am PST) on January 3rd.

So that we're not wasting everyone's time (including that of the Amazon witness, who is a very busy person), or causing Amazon to incur additional unnecessary expenses for additional depositions for which you fail to appear, please let me know by 12:00 noon tomorrow whether you intend to take the deposition of the Amazon corporate representative beginning at 1:00pm on January 3rd. Your emails below are not at all clear about your intentions (e.g., your email from yesterday appears to unilaterally cancel all of the depositions scheduled for January 3rd, yet your email from today demands the Amazon witness to appear at an unspecified time during the morning of January 3rd).

Absent affirmative indication from you by noon tomorrow that you intend to take the deposition of Amazon's corporate representative beginning at 1:00pm EST on January 3rd, and a proper deposition notice formalizing same (which you still have not served, and which is required by the Federal Rules to, among other things, protect against just the sort of last minute indecision and mixed signals in your emails below), Amazon's corporate representative will not appear for deposition on January 3rd at all. Amazon stands by its objections to your deposition topics.

Also, Amazon has no intention of paying for phone and transcribing charges for you to conduct a seven hour deposition for your case. If you want the deposition taken, it's your duty to figure out the logistics. Amazon is paying the logistical expenses associated with taking your depositions.

Please also inform me whether you and Ms. Chaparova intend to appear on January 3rd for your depositions at the times indicated in the formal deposition notices I served last week. Again, your emails below are not entirely clear, and I'd like to avoid incurring expenses for depositions for which you do not intend to appear.

Thank you.

Exhibit D

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 10-CIV-20718-COOKE/BANDSTRA

ALBERT SEGAL, and
MARIANNA CHAPAROVA,

Plaintiffs,

- vs. -

AMAZON.COM, INC.,

Defendant.

DEFENDANT AMAZON.COM, INC.'S RULE 26(A)(1) INITIAL DISCLOSURES

Defendant Amazon.com, Inc. ("Amazon") provides the following initial disclosures pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure:

The following disclosures are made based on the information reasonably available to Amazon at this stage of the proceedings. By making these disclosures, Amazon does not represent that it is identifying every document, tangible thing, or witness possibly relevant to this lawsuit. Nor does Amazon waive its right to object to production of any document or tangible thing disclosed herein on the basis of any privilege, the work-product doctrine, relevancy, undue burden or any other valid objection. Rather, Amazon's disclosures represent a good faith effort to identify information it reasonably believes is relevant to the factual disputes alleged with particularity in the pleadings, as required by Fed. R. Civ. P. 26(a)(1).

Moreover, Amazon's disclosures are made without in any way waiving the following: (1) the right to object on the grounds of competency, privilege, relevancy and materiality, hearsay or any other proper ground, to the use of any such information, for any purpose, in whole or in part, in any subsequent proceeding in this action or any other action; and (2) the right to object on any

and all grounds, at any time, to any other discovery request or proceeding involving or relating to the subject matter of these disclosures. All of the disclosures set forth below are subject to the fore-mentioned objections and qualifications. Amazon reserves its right to supplement these disclosures as allowed or otherwise required by the Federal Rules of Civil Procedure.

(A) the name and, if known, the address and telephone number of each individual likely to have discoverable information that the disclosing party may use to support its claims or defenses, unless solely for impeachment, identifying the subjects of the information.

RESPONSE:

1. Plaintiffs Albert Segal and Marianna Chaparova.

Plaintiffs are expected to have knowledge regarding the allegations in their Amended Complaint.

2. Catherine Ceely.

Catherine Ceely, Manager of Policy and Performance at Amazon.com, Inc., will have knowledge regarding the issues discussed in her declaration in support of Amazon's motion to dismiss or transfer venue, and certain issues related to the Amazon Marketplace and the Participation Agreement. Ms. Ceely may be contacted only through undersigned counsel at Carlton Fields, P.A.

3. Corporate Representative of Amazon.com, Inc.

An Amazon corporate representative will have knowledge regarding some of the issues raised in the Amended Complaint, the Amazon Marketplace, the Participation Agreement, and other matters shown in Amazon's business records. The Amazon corporate representative may be contacted only through undersigned counsel at Carlton Fields, P.A.

(B) a copy of, or a description by category and location of, all documents, data compilations, and tangible things that are in the possession, custody, or control of the party and that the disclosing party may use to support its claims or defenses, unless solely for impeachment.

RESPONSE:

Amazon has in its possession certain documents related to Plaintiffs' Amazon Marketplace account and correspondence regarding that account. It is unclear from the allegations in the Amended Complaint what other documents or categories of documents might

be relevant to the claims or defenses in this case, and Amazon specifically reserves the right to supplement this response if necessary and as appropriate.

(C) a computation of any category of damages claimed by the disclosing party, making available for inspection and copying as under Rule 34 the documents or other evidentiary material, not privileged or protected from disclosure, on which such computation is based, including materials bearing on the nature and extent of injuries suffered.

RESPONSE: Not applicable.

(D) for inspection and copying as under Rule 34 any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment.

RESPONSE: Not applicable.

Dated: July 20, 2010

CARLTON FIELDS, P.A.
CityPlace Tower – Suite 1200
525 Okeechobee Boulevard
West Palm Beach, Florida 33401
Telephone: (561) 659-7070
Facsimile: (561) 659-7368

By: /s/ David B. Esau
James B. Baldinger
Florida Bar No.: 869899
jbaldinger@carltonfields.com
David B. Esau
Florida Bar No.: 650331
desau@carltonfields.com

Counsel for Defendant Amazon.com, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on July 20, 2010, I served the foregoing document via US Mail on the individuals identified on the Service List below.

/s/ David B. Esau

David B. Esau

SERVICE LIST

Albert Segal
Marianna Chaparova
10490 S.W. 12th Terr.
Apt# 202
Miami, FL 33174
(via U.S. Mail)

Re: Segal/Chaparova v. Amazon.com (Case No. 10-cv-20718, U.S. District Court for the Southern District of Florida)

From: alex siegal <alby1969_98@yahoo.com>

Add to Contacts

To: "Esau, David B." <desau@carltonfields.com>

Mr. Esau -

You have made it perfectly clear to us that we disagree on what this case is about, and have refused to provide us with the documents we need to prepare our case. Amazon needs to make its corporate representative available **in the morning of January 3rd**, and must be prepared to answer questions on topics that relate to the claims in our Amended Complaint, which are **not** limited only to our "experience with Amazon." The topics were made known to you months ago, and yet it was your decision (or perhaps Amazon's) to be uncooperative. Please let us know whether Amazon has now changed its position on this issue.

Let me also point out that, instead of rescheduling our depositions as we requested, you filed a motion to compel us to appear, as well as a motion to extend the pre-trial discovery deadlines. Therefore, you are the one who has chosen to waste the Court's time and resources. While we believe that, under the circumstances, Amazon's corporate representative should be required to appear for her deposition in Miami, we were and still are willing to make it easier for Amazon by conducting the deposition via the telephone. However, your request that we set up and pay for a toll-free number because Amazon "will not pay for the telephone call" is unacceptable. Amazon's representative's deposition will likely take a good part of the day. Once that deposition is done, we will proceed with my deposition and then with Marianna's. Thank you.

Albert Segal

Exhibit E

Thu, December 30, 2010 1:31:42 PM

Re: Segal/Chaparova v. Amazon.com (Case No. 10-cv-20718, U.S. District Court for the Southern District of Florida)

From: alex siegal <alby1969_98@yahoo.com>

Add to Contacts

To: "Esau, David B." <desau@carltonfields.com>

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Also, since you have already filed a motion to compel our depositions and to extend the discovery deadlines, our depositions will take place pursuant to the Court's ruling on that motion.

From: "Esau, David B." <desau@carltonfields.com>

To: alby1969_98@yahoo.com; manach101@yahoo.com

Sent: Wed, December 29, 2010 6:23:49 PM

Subject: Re: Segal/Chaparova v. Amazon.com (Case No. 10-cv-20718, U.S. District Court for the Southern District of Florida)

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Thank you.

From: alex siegal

To: Esau, David B.

Sent: Wed Dec 29 13:44:31 2010

Subject: Re: Segal/Chaparova v. Amazon.com (Case No. 10-cv-20718, U.S. District Court for the Southern District of Florida)

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Albert Segal

Exhibit F

From: alex siegal <alby1969_98@yahoo.com>
To: "Esau, David B." <desau@carltonfields.com>
Sent: Wed, December 15, 2010 6:39:37 PM
Subject: Re: Segal/Chaparova v. Amazon.com (Case No. 10-cv-20718, U.S. District Court for the Southern District of Florida)

You have been advised repeatedly not to schedule our depositions on the dates you specified. Again, we want to make sure you know and understand that we are unavailable to attend the depositions on those dates - we will be out of state visiting family! You should have scheduled our depositions in August, September, October, November, or early enough in December, with adequate notice. You could have also scheduled it for early January, and still be in compliance within the deadlines set forth in Judge Cook's Scheduling Order.

From: alex siegal <alby1969_98@yahoo.com>
To: "Esau, David B." <desau@carltonfields.com>
Sent: Thu, December 16, 2010 5:16:15 PM
Subject: Re: Segal/Chaparova v. Amazon.com (Case No. 10-cv-20718, U.S. District Court for the Southern District of Florida)

Mr. Esau -

Perhaps you have decided to play games with us because we are not represented by counsel. So, let me reassure you and the partner at your firm who is ultimately responsible for the way this case is handled on your end that your games are not in Amazon's best interest. It would have been wiser for you to be upfront and honest with us from day one; instead you have been disingenuous at best.

Within the next couple of days, we will be filing our motion to compel production because Amazon has taken the position that it will not produce any of the documents that it is **required** to produce pursuant to the applicable procedural rules. We **are** entitled to the specific documents we requested (e.g., bank statements related to Amazon's handling of our funds), and are confident that the Court will agree with us.

Our reasons for not being able to attend the depositions on December 20th and 22nd were made clear to you. Unfortunately, as you correctly pointed out, we do not have enough time to file a motion with Judge Cooke to have the depositions rescheduled - you made sure of that. Nonetheless, our reasons for not being able to abide by your schedule are valid. Do not expect us to attend our depositions this week, with less than two weeks' notice, without having adequate time to prepare (especially since we have to spend time drafting and filing motions related to Amazon's refusal to play by the rules). And do not expect us to cancel our plans to visit family for the holidays.

We are requesting, pursuant to the Federal Rules of Civil Procedure, that Amazon designate and produce for a deposition (in a manner convenient to all parties) its corporate representative. For months we have been discussing this issue. Unlike your request to depose us when people go away for the holidays, our repeated requests date back to October. If, however, you believe that there's some rule that gives you preference and that you should be able to depose us before we can depose Amazon's corporate representative or any other witness, then you should file a motion requesting to have such a preference. Otherwise, January 3rd is a work day, falls on a Monday after all of the holidays, and we expect Amazon's corporate representative to be present for either a telephone or video deposition, at 9:30 a.m. at your firm's Miami office. Our designated topics were clearly stated to you and are related to our Amended Complaint. Perhaps I should try to be even more specific, so how about this: when we say "financial," we mean money taken from a seller account or any other account that Amazon owned and/or used to handle our funds (the proceeds of our sales, and funds it held in "reserve") and transferred to any other account Amazon owns and/or uses to handle such funds; "operational" and "management" to the extent that Amazon is exercising its "discretion" to withhold funds, close listing and terminate accounts. Is that specific enough?

As for your request to depose each and every non-party witness by the end of December (within less than 2 weeks), we will **not** facilitate your efforts to intimidate and harass the non-party witnesses - Amazon has harmed them enough. It was explained to you that most of the non-party witnesses do not reside in this jurisdiction (or even within 100 miles of this jurisdiction) and cannot be expected, certainly are not required, to travel to Miami so that you can depose them (even if you were allowed to depose 17 people within two weeks, including holidays, which you are not - see FRCP 45). It is also disturbing that you can demand to depose witnesses about whom you know absolutely nothing - you have not asked about the nature of their intended testimony, related documents, or anything else that would otherwise lend credibility to your request, despite our offer to assist. We stand by our offer to provide you with a summary of their intended testimony, and to help you gather relevant documents. We will also update the witness list as soon as we have additional information, and can provide you with a list containing the home city and state for every non-party witnesses on our side, if you would like.

We will not ask the Court to extend the deadlines for fact-discovery, dispositive and other pretrial motions. Thank you.

Sincerely,

Albert Segal

Exhibit G

From: "ArcherREDACTED"
To: "alby1969_98@yahoo.com" <alby1969_98@yahoo.com>
Sent: Sun, December 26, 2010 3:47:46 PM
Subject: Legal case Against Amazon

I will help in any way with the Court case against Amazon. I, my friend, my girlfriend, and even my parents got their accounts suspended for being "related" despite being indifferent sates, with different phone numbers, different SSN numbers, etc. Please let me know the update on the case.

Aaron

From: Robert <REDACTED>
To: alex siegal <alby1969_98@yahoo.com>
Sent: Fri, July 2, 2010 11:45:31 AM
Subject: Re: Amazon withheld funds, closed accounts - USDC lawsuit

Count me in, I'm willing to testify at the trial.

Thank you
REDACTED

From: Carol REDACTE
To: alby1969_98@yahoo.com: service@REDACTED
Sent: Wed, September 22, 2010 2:09:19 PM
Subject: Amazon.com Class Action Suit

Hello everyone,

I am a seller who has occasionally sold on Amazon.com (maybe just a handful of times over the past couple of years). I have 100% positive ratings and even a buyer account (prime membership) AND their credit card. Despite all of this, they are holding onto ~\$500 from the sale of my iPad that has already been delivered and positive feedback received. I am unemployed and needed this money to survive. I logged into to request a disbursement of my funds. Low and behold two days later I get a message stating they needed to hold my funds and review my seller's account. No rhyme or reason for any of it. I wholeheartedly think that something is very wrong with this picture. If you all are still fighting, I'd like to join the fight with you. I am considering contactin media outlets to bring attention to this matter as well.

Thanks,

Carol
REDACTED

Carol
<carol.alexis@REDACTED>
Add to Contacts
To: alby1969_98@yahoo.com

Hi Alex,

"buyboth@REDACTED"

REDACTED

Add to Contacts

To: alex siegal <alby1969_98@yahoo.com>

Dear Albert,

I would be very interested in testifying. Can you please give me more information? I am just as angry with Amazon as you are.

Best regards.

Stewart

REDACTED

Matt REDACTED

<REDACTED>

Add to Contacts

To: alby1969_98@yahoo.com

Amazon is playing the 30 day review game with me right now. They have (presently) \$15,900 of my money frozen. Apparently, they will release these funds on the next 14 day pay dispersal date. I've pulled all of my inventory and am waiting for the payment.

I have sold 140+ items in 2010. My customer review metric is 100% positive. No A-Z Claims.

Matt REDACTED

REDACTED

From: Shateka <REDACTED>

REDACTED

Add to Contacts

To: alby1969_98@yahoo.com

Hello, I too am a victim of Amazon's unfair practices. Although this happened to me 2 years ago I would still like to take action against them because since this has happened my life as before this is not the same. I left my job when I started selling on Amazon because I was making 4-5K per month. Which became my only income. Now I can't find a job and things are terrible. Please let me know what I have to do to be included. Thanks

To: alby1969_98@yahoo.com

Please send me more information regarding our lawsuit - we are in Orange County, Florida (Ninth Judicial District).

Amazon has kept thousands of our dollars, blocked us from selling during the holidays, I can go on.

Are you looking to go class action?

Theresa REDACTED

Fwd: Comment on Non-payment by AMAZON.com

From: Viswanath
<REDACTED>

[Add to Contacts](#)

To: alby1969_98@yahoo.com

Dear Albert,

All of a sudden Amazon withheld the money due to me on the pretext that since no buyer is leaving a feedback, whether good or bad about the transactions. As soon as I got that notice, I immediately wrote to all my past buyers requesting for a "honest" feedback. I immediately received atleast four 5-star feedback, and some buyer who was confused with my request, gave a 1-star feedback.

I threatned Amazon for legal proceedings, hence they immediately froze all transactions on my store and locked my account. I work on a turnout basis and balance future sales based on money flowing in. I was in deep trouble to ship the sudden splurge of sales that happened in the last week prior to freezing my store by Amazon. Immediately following these, my rating started to slip, without any further negative feedbacks. I have no idea how Amazon calculates the store ratings and how the rating can deteriorate even after there have been no sales.

I was obligated to ship all the items that were sold on the last week before the store was frozen, which I did.

That is my story. Please let me know what is your story.

Hello from Amazon.com.

Thank you for contacting us. As you know, due to the status of your account your funds are reserved until we are sure all items have shipped and no A-z Guarantee Claims are received against your account.

As previously stated, your account will be evaluated 90 days after the initial date of block or closure request, which was March 10, 2010. Your funds will be disbursed after June 8, 2010.

As requested you can contact our legal department directly at:

Amazon.com
Legal Dept.
P.O. Box 81226
Seattle, WA 98108-1226

Please contact us at payments-investigate@amazon.com if you have further questions regarding your reserved funds.

Best regards,

Payments Specialist
<http://www.amazon.com>

=====
----- Original message: -----

HI,

As per Seller performance Our account was suspended due to the following reason

*"As you know, your **account** was blocked because your items fit a set of criteria that indicates they may be unauthorized by the intellectual property owners." *

*

*

and we have not been provided with any further details of which items were causing this violation.

On Wed, Mar 10, 2010 at 5:22 PM, Amazon.com Seller Performance Team <seller-performance@amazon.com> wrote:

Hello from Amazon.com.

This message is to inform you that we have blocked your selling account. Your open listings have been cancelled and you may no longer sell on our site. We took this action because it has come to our attention that you have listed items that may be in violation of our policy against intellectual property infringement.

If you still have items to ship, please take appropriate steps to resolve your pending sales. Your Seller Account will remain accessible and you are encouraged to refund or ship pending orders.

Your funds are being reserved in your Amazon.com account for 90 days from the date of your final sale. After 90 days, the funds will be disbursed minus any A-to-Z Guarantee claims or charge-backs. If you have further questions about your funds please write to payments-funds@amazon.com.

While we appreciate your interest, please understand that the closure of an account is a permanent action. Any subsequent accounts that are opened will be closed as well. Thank you for your understanding with our decision.

Regards,

Seller Performance Team
Amazon.com
<http://www.amazon.com>

Susan Schiff

Account specialist
Amazon.com/Ultra Power

--

Susan Schiff
Account specialist
Amazon.com/Ultra Power

--

Susan Schiff
Account specialist
Amazon.com/Ultra Power

Amazon
From: Shateka REDACTED
<REDACTED>
Add to Contacts
To: alby1969_98@yahoo.com

Hello, I too am a victim of Amazon's unfair practices. Although this happened to me 2 years ago I would still like to take action against them because since this has happened my life as before this is not the same. I left my job when I started selling on Amazon because I was making 4-5K per month. Which became my only income. Now I can't find a job and things are terrible. Please let me know what I have to do to be included. Thanks.

Amazon Lawsuit
From: Matt <REDACTED>
Add to Contacts
To: alby1969_98@yahoo.com

Amazon is playing the 30 day review game with me right now. They have (presently) \$15,900 of my money frozen. Apparently, they will release these funds on the next 14 day pay dispersal date. I've pulled all of my inventory and am waiting for the payment.

I have sold 140+ items in 2010. My customer review metric is 100% positive. No A-Z Claims.

Matt REDACTED
PHONE NUMBER REDACTED

Re: Amazon and lawsuit
From: Francis <REDACTED>
Add to Contacts
To: alby1969_98@yahoo.com

Hi there I saw your post about amazon on one or two places and trying to find out how this works or if there is anything we can do. I have been on amazon for about a year now. Anyway,