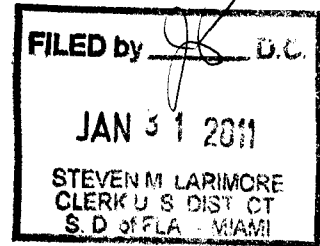


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
CASE NO. 10-CIV-20718-COOKE/BANDSTRA



ALBERT SEGAL, and
MARIANNA CHAPAROVA,

Plaintiffs,

- vs. -

AMAZON.COM, INC.,

Defendant.

**PRO SE PLAINTIFFS', ALBERT SEGAL'S AND MARIANNA CHAPAROVA'S,
REPLY IN SUPPORT OF THEIR MOTION TO COMPEL THE DEPOSITION OF
AMAZON.COM, INC.'S CORPORATE REPRESENTATIVE**

Pro se Plaintiffs, Albert Segal and Marianna Chaparova ("Plaintiffs") hereby submit this Reply in Support of their motion to compel Amazon.com, Inc. ("Amazon") to designate its corporate representative to answer questions that are relevant to this case [D.E. 43], and state:

I. MEMORANDUM OF LAW

This lawsuit addresses Amazon's fraudulent, deceptive, unfair, and unconscionable business practices. As a result of Amazon's unlawful conduct, Plaintiffs have suffered, and continue to suffer to this day. When Amazon deprived Plaintiffs of the means to generate income, Plaintiffs were left to struggle financially, and ended-up falling behind in credit card bills and other obligations. As stated in the Plaintiffs' Amended Complaint [D.E. 22], Amazon has defrauded the Plaintiffs using the same exact scheme it used, and continues to use, to defraud countless other honest and hard-working folks in this State.

While Amazon does not deny that it has systematically engaged in the type of conduct that is at issue here, it wants to conceal from discovery the scope of its fraudulent and otherwise

dishonest business practices, as well as the extent to which it benefits from such practices.

Amazon's Response in Opposition to Plaintiffs' Motion to Compel the Deposition of Amazon's Corporate Representative ("Response") [D.E. 48] seeks to hinder the Plaintiffs' efforts to depose its corporate representative on topics that are clearly relevant to this case.

The Court is well-aware of the facts of this case, including Amazon's relentless attempts to twist the truth by consistently and shamelessly making false statements and misrepresentation about the facts underlying the Plaintiffs' discovery requests. Therefore, Plaintiffs would like to reply very briefly here to Amazon's Response, without repeating the arguments that have been made previously in support of the Plaintiffs' Motion to Compel Production of Documents [D.E. 39] and the instant Motion to Compel the Deposition of Amazon's Corporate Representative ("Motion") [D.E. 43], as follows:

(1) First and foremost, it is important to note that Plaintiffs were willing to work with Amazon in a concerted effort to schedule the deposition of Amazon's representative at a time, and in a manner, that was convenient for Amazon. However, Amazon's initial response was to tell Plaintiffs that they must travel to Seattle, Washington, to depose Amazon's corporate representative. Amazon persisted with this attitude for months.

(2) On December 16, 2010, Plaintiffs emailed Amazon and requested that, pursuant to the Federal Rules of Civil Procedure (FRCP 30(b)(6)), Amazon designate its corporate representative to answer questions that are relevant to this case.¹ Specifically, Plaintiffs stated the following:

¹ The legal authorities on which Amazon purports to rely, including *Beaulieu v. The Board of Trustee of the University of West Florida*, Case No. 3:07-cv-00030-RV-EMT, at 10-11 (N.D. Fla. Oct. 4, 2007), are readily distinguishable on their facts. Here, Plaintiffs have provided a specific notice of deposition that identified with reasonable particularity the matters on which Plaintiffs are requesting examination.

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. . . . 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.

The Plaintiffs' emailed request of December 16th is attached hereto as "Exhibit A."

(2) Second, and equally important, is the fact that Plaintiffs had narrowed their deposition topics, per Amazon's request, and, contrary to Amazon's claim, included the topics with the request that Amazon designate its corporate representative on a specified date to answer questions that relate to the deposition topics. Moreover, Plaintiffs had clarified the meaning of the term "financial" to include "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; and "operational" and "management" to include the extent to which Amazon is "exercising its "discretion" to withhold funds, close listing and terminate accounts." *Id.* Amazon, nevertheless, insisted that the Plaintiffs' designated deposition topics are "irrelevant" to the issues in this case. *See* Amazon's objections to the deposition topics, attached hereto as "Exhibit B."

Interestingly, in Amazon's Response, Amazon's counsel argues that "Amazon still does not know for sure what deposition topics are even at issue in this Motion because the specific topics identified on page three of the Motion – one of which is incomprehensible – did not even

appear in Plaintiffs' December 3rd, December 12th, or December 16th (or any other) emails. *Id.* Since Plaintiffs failed to serve a proper deposition notice, and failed to articulate the deposition topics at issue in this Motion, the Motion should be denied." *See* Amazon's Reply, ¶ 1 at 5.

(3) Another one of Amazon's eyebrow-raising claims is that it is unable to make sense of the Plaintiffs' reference to its "management, operational, and financial matters," when in fact that is the exact language used by Amazon's in its SEC filings. To help Amazon "make sense" of the Plaintiffs' deposition topics, Plaintiffs' further narrowed the topics to relate only to (1) the Plaintiffs' claim that Amazon inappropriately withheld their funds for nearly four months – Plaintiffs have a right to know whether Amazon profited by withholding their funds, and the extent to which Amazon profited, and (2) the extent to which Amazon exercises its discretion to withhold funds, terminate listings, and close accounts. These topics are relevant to each and every one of the seven causes of action in the Plaintiffs' Amended Complaint.²

(4) Amazon states in its Response that it "objected to many of the deposition topics in Plaintiffs' email." *Id.* In fact, Amazon objected to each of the Plaintiffs' deposition topics, and absolutely refused to try to reach an agreement on this issue. At all relevant times, Amazon's justification has been that it disagrees with the Plaintiffs on what this case is about.

Amazon reiterates its objections to the Plaintiffs' designated deposition topics in its Response, when it states that, "even if the Court were inclined to examine the deposition topics in Plaintiffs' Motion (or those scattered across Plaintiffs' numerous emails), Amazon's objections should be sustained because the topics are overbroad and not reasonably calculated to lead to the discovery of admissible evidence." *See* Amazon's Response at 7, 8.

² Amazon, in its recent 10-K filing, emphasizes the importance of focusing on "sustainable growth in free cash flow," and states that its operating cash flows "result primarily from cash received from [its] customers, from sellers, and from non-retail activities. . ." *See* Amazon's SEC (2010) Form 10-K at 23.

(5) Subsequently, Amazon suggests that “Plaintiffs should have taken the deposition, and then sought to compel additional answers, if any, after the deposition.” *Id.* This is appropriate where the corporate deponent has not objected to all of the designated deposition topics. Here, however, Amazon has unequivocally objected to all of the Plaintiffs’ designated deposition topics. Therefore, Plaintiffs were justified in moving to compel Amazon’s representative to answer questions that are relevant to this case.³

It is well settled that a 30(b)(6) witness testifies as “a representative of the entity,” and that “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)). Moreover, under Federal Rule of Civil Procedure 26(b)(1), a party may obtain discovery regarding any non-privileged matter “relevant to the claim or defense of any party.” The rule “has been construed broadly to encompass any matter that bears on, or that reasonably could lead to other matters that could bear on, any issue that is or may be in the case.” *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 349, 351 (1978). Plaintiffs are entitled to ensure that Amazon’s representative provides as much relevant or possibly relevant information as possible.

(6) Plaintiffs were justified in not requesting the Court to extend the pretrial discovery deadlines, per Amazon’s request in mid-December. At that time, Plaintiffs were trying to persuade Amazon to comply with their discovery requests and with the deadlines established by the Court’s Scheduling Order

³ In his December 30th email, Mr. Esau stated the following: “I have no choice but to inform you that Amazon will not produce a witness for deposition on January 3rd. . . .” During the week of December 30th, Plaintiffs had been out-of-state visiting family, and did not have constant access to their email, but did go out of their way to correspond with Mr. Esau on regular basis. In his Reply, Amazon’s counsel makes no mention of this email. *See* “Exhibit C.”

of August 19, 2010 [D.E. 31]. The purpose of having such deadlines is to make the process efficient, and, unlike Amazon, Plaintiffs made a good faith effort to take discovery early. Had Amazon been willing to make a similar good faith effort, there would have been no need to request an extension of the discovery deadlines. Plaintiffs rightfully refused to agree to Amazon's request for a forty-five day extension because 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).

(7) Finally, Amazon's request, in the alternative, to "stay" discovery altogether if the Court determines that the Plaintiffs' discovery requests are reasonable, which they are, is intended to avoid having to account for its unlawful conduct in this jurisdiction. For the reasons stated in the Plaintiffs' Memorandum in Opposition to Amazon's Motion to Dismiss [D.E. 29], venue is proper in this Court under 28 U.S.C. § 1391(a)(2) because a substantial part of the events giving rise to Plaintiffs' claims—namely, Amazon's fraudulent, deceptive, unfair, and unlawful business practices from which it obtains ill-gotten profits—have occurred and continue to occur in this district. Indeed, this fact, as well as each of the Plaintiffs' seven causes of action, is more than adequately pled in the Plaintiffs' Amended Complaint, and at the motion to dismiss stage, "it is axiomatic that those allegations are taken as true. ." *See Linder v. Portocarrero*, 963 F.2d 332, 334 (11th Cir. 1992) (stating that, on a motion to dismiss, the "complaint's allegations must be taken as true and read in the light most favorable to the plaintiffs." *See also Mettler, Inc. v. Ellen Tracy, Inc.*, 648 So. 2d 253, 255 (Fla. 2d DCA 1994).

There is ample evidence in this case of bad faith by Amazon, which is why this case must be tried here. It is a fact that, if this case is transferred to Seattle, Washington, Plaintiffs will be denied their day in court because, unlike Amazon, Plaintiffs have very limited financial resources and cannot afford to litigate their claims in Seattle.

II. CONCLUSION

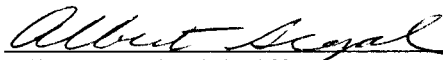
For the reasons stated above and in Plaintiffs' Motion, Plaintiffs respectfully request that the Court **Deny** Amazon's request to stay its discovery obligations and **Grant** Plaintiffs' motion to compel Amazon to designate its corporate representative to appear for his/her deposition on a date and time certain to answer questions on the topics designated by the Plaintiffs .

This 31st 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

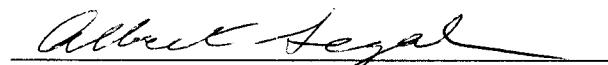
This is to certify that Plaintiffs, Albert Segal and Marianna Chaparova, have this day served upon Amazon's counsels of record the foregoing motion to compel the deposition of Amazon's corporate representative, via the electronic mail and/or standard U.S. mail.

This 31st 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

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

Thursday, December 16, 2010 5:16 PM

From:

"alex siegal" <alby1969_98@yahoo.com>

[Add sender to Contacts](#)

To:

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

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: "Esau, David B." <desau@carltonfields.com>
To: alex siegal <alby1969_98@yahoo.com>
Cc: manach101@yahoo.com
Sent: Thu, December 16, 2010 8:23:41 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 and Ms. Chaparova-

Just so I'm clear as to your position on discovery in this case, and to sum-up what happened this month:

On December 3rd, I requested from you deposition dates in December. On December 4th, when I served you with notices for your depositions for December 20 and 22, I informed you that I would agree to move the depositions to any earlier date in December. You told me that you are not available on December 20 or 22, but you refused to provide (and still have not provided) alternative dates in December prior to the January 3rd Court-Ordered discovery deadline. In other words, you have decided that you are wholly unavailable for deposition during the entire month of December.

You also have refused to provide contact information or deposition dates for any of the non-party witnesses on your witness list, despite my repeated requests for that information, despite the Court's Scheduling Order requiring that information to be included on your witness list, and despite the fact that those depositions must occur (as I have repeatedly requested) before the January 3rd Court-Ordered discovery deadline.

And yet, you are now demanding that Amazon produce a corporate representative on January 2nd (a Sunday during a holiday weekend) or January 3rd (the only business day in January before the Court-Ordered discovery deadline), even though I have told you repeatedly that your deposition topics are overbroad and purport to cover almost everything under the sun about the company (you request a witness knowledgeable about all of "Amazon's management, operational, and financial matters," Amazon's SEC filings, and matters related to your Amended Complaint), making it virtually impossible to identify a witness (or even multiple witnesses) with detailed knowledge of all of your topics.

You have also taken issue with Amazon's document production, but you have not filed a motion to compel or otherwise asked the Court for relief. We obviously have a disagreement as to the scope of documents that are relevant to your case and to which you are entitled under the Federal Rules.

Do I have that right?

Of course, I am not your lawyer, and I cannot give you legal advice, but it sounds like you have 3 options:

Option 1:

You can: (a) appear for your depositions on December 20 and 22 as required by my deposition notices, and (b) provide me with contact information for the witnesses on your witness list and provide deposition dates for those witnesses over the next two weeks (or, alternatively, amend your witness list to remove the witnesses). If you meet both these discovery obligations, I will agree to make an Amazon corporate representative available for deposition, telephonically, on January 3rd as your email requested (although I reserve my right to object to your deposition topics, and I will require a formal deposition notice). If you do not meet these discovery obligations, Amazon will move for sanctions for your failure to show up for your depositions, will move to strike the witnesses from your witness list in totality, and will move for a protective order to prevent the corporate representative deposition from occurring until you agree to participate in deposition discovery.

Option 2:

Alternatively, as the plaintiffs in this case, you can file a motion with the Court to extend the fact-discovery and summary judgment deadlines (January 3 and January 7, respectively) by one month. We can then attempt to coordinate and conduct all of the above-described discovery during the early part of January. Of course, for your depositions next week to be postponed, I need the Court to grant your motion for extension before the depositions, so you might want to file it today. I do not expect that Amazon will oppose any such extension request, but I have to see your motion first before agreeing to anything, and I have to confer with my client. Any such agreement to extend the deadlines, however, will be contingent on you providing contact information and deposition dates for your non-party witnesses (or removing the witnesses from your witness list), and your cooperation in re-scheduling your depositions.

Option 3:

You, as the properly noticed deponents on December 20 and 22, can file a motion for a protective order to prevent your depositions from occurring next week (although I doubt the Court will rule before your scheduled deposition dates). Of course, Amazon will vigorously oppose any such motion, and, among other things, will file its own motion for a protective order to prevent the corporate representative deposition from occurring until you agree to appear for

your own depositions. This is obviously not the route I'd prefer, but it's your case and it's your depositions at issue next week.

I leave it to you to determine which of these options meets your needs. In any event, unless I hear otherwise from the Court, I expect to see you next week for your depositions pursuant to the deposition notices I served two weeks ago. Thank you.

-David

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: "Esau, David B." <desau@carltonfields.com>
To: alex siegal <alby1969_98@yahoo.com>; manach101@yahoo.com
Sent: Mon, December 6, 2010 12:57:37 PM
Subject: RE: Segal/Chaparova v. Amazon.com (Case No. 10-cv-20718, U.S. District Court for the Southern District of Florida)

I'm sorry you feel that way. If you want to depose Amazon's corporate representative, though (as you indicated to me this weekend that you did), that deposition will also need to occur before the court ordered January 3rd deadline, so I'm not sure how your personal attack on me below is not drenched in hypocrisy.

If you are available any time earlier in December, as I indicated in my email from Saturday (below), I am happy to re-schedule. Otherwise, I intend to go forward with the depositions on the dates indicated in my notices (which were sent with adequate notice, per the local rules), and I expect you to attend. Thank you.

From: alex siegal [mailto:alby1969_98@yahoo.com]
Sent: Monday, December 06, 2010 1:22 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)

Judge Cooke issued her Scheduling Order on August 19th. You could have scheduled our depositions in August, September, October, November, or early enough in December, with enough notice that is. Instead, you have chosen to schedule the depositions to take place during a holiday period when people travel to visit their families. Similarly, you waited exactly 30 days from the day you received our request for production to let us know that Amazon will not produce any documents whatsoever. Your tactics are rather transparent and reflect poorly on you and your firm.

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

EXHIBIT C

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

Thursday, December 30, 2010 1:31 PM

From:

"alex siegal" <alby1969_98@yahoo.com>

Add sender to Contacts

To:

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

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.

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 Marianna's. Thank you.

Albert Segal

Thu, December 30, 2010 12:31:54 PM

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

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

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

Since I still have not heard back from you about whether you intend to depose the Amazon corporate representative on January 3rd beginning at 1:00pm, and you still have not served a deposition notice setting that deposition (or provided a clear statement of your intended deposition topics), and given your inconsistent statements in your emails below regarding your intentions even to appear for that deposition, and your previous failure to appear for depositions in this case, I have no choice but to inform you that Amazon will not produce a witness for deposition on January 3rd. I simply do not want to waste more of Amazon's time and money when you won't commit to attend the depositions or serve a proper deposition notice.

If you still wish to depose the Amazon corporate representative in this case, you will now have to petition the court for an extension of the discovery deadline, and serve a proper deposition notice with topics stated with reasonable particularity (as required by the Federal Rules, and as I have requested multiple times).

I still expect you to appear for your depositions on January 3rd at the times indicated in the formal deposition notices I served last week. If you fail to appear (which will be the second time you will have failed to appear for a deposition in this case), I will ask the Court to compel you to repay Amazon's fees and costs associated with your failures to appear, and for potential case-terminating sanctions. The Federal Rules expressly contemplate such sanctions for multiple discovery failures in circumstances such as this. Thank you.

From: Esau, David B.

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

Sent: Thu Dec 30 12:14:36 2010

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

Last chance: Do you, or do you not want to depose Amazon's corporate representative on January 3rd beginning at 1:00pm?

From: Esau, David B.

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

Sent: Wed Dec 29 18:23:49 2010

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)

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: "Esau, David B." <desau@carltonfields.com>
To: alex siegal <alby1969_98@yahoo.com>; manach101@yahoo.com
Sent: Wed, December 22, 2010 5:41:27 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 and Ms. Chaparova-

Amazon's corporate representative is based in Seattle, Washington, so she will not be available at 9:30am EST on Monday, January 3rd. That is 6:30 a.m. Seattle-time (after a holiday weekend), and it's an unreasonable request. If you sign and serve a formal Notice of Taking Deposition, listing your topics all in one place (and not scattered throughout several emails, as they are now), Amazon will agree to make a corporate representative available telephonically for deposition in the afternoon of January 3rd. Amazon's corporate representative will be prepared to testify as to matters related to your seller account with Amazon. Amazon has no way, however, of identifying or preparing a witness (or even multiple witnesses) to testify as to all the other matters identified in the topics in your emails below. Your topics include virtually everything under the sun about the company, on any every level of detail. Thus, please see the attached objections to your current deposition topics. Please set up a conference call dial-in number for the deposition, and let me know which court reporter you intend to use.

Since you are obviously available on the morning of Monday, January 3rd, and intended to be in my Miami office anyway, I am re-scheduling your depositions for that day as well. Please see attached deposition notices. It's not ideal, but since you refused to make yourselves available for deposition during the entire month of December, and failed to show up for your depositions this week, it looks like we have no other choice but to conduct your depositions on January 3rd as well. We can work out later the order and other logistics of conducting the three depositions. See you on January 3rd at 9:00 a.m. Thanks.

-David