

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of)
)
)
AMAZON.COM, INC.)
)
)
)
)
)
Respondent.)

CPSC DOCKET NO.: 21-2

**DECLARATION OF JOHN EUSTICE IN SUPPORT OF COMPLAINT COUNSEL'S
OPPOSITION TO AMAZON'S MOTION TO EXCLUDE THE REBUTTAL EXPERT
REPORT AND TESTIMONY OF MS. SHARON R. WHITE**

I, John Eustice, hereby declare:

1. I am Complaint Counsel in the above-captioned matter.
2. I am over the age of 18 and I am competent to make this Declaration.
3. Attached to this Declaration as Exhibit 1 is a true and correct copy of the transcript of the deposition of Sharon R. White taken on August 9, 2022.
4. Attached to this Declaration as Exhibit 2 is a true and correct copy of the Expert Report by Joseph P. Mohorovic, dated May 9, 2022.
5. Attached to this Declaration as Exhibit 3 is a true and correct copy of the transcript of the deposition of Joseph P. Mohorovic taken on July 20, 2022.
6. On August 8, 2022, at 6:06 PM, Complaint Counsel reproduced 25 documents that had been previously produced to Amazon on June 30, 2022, as part of Ms. White's Rebuttal Expert Report production. In its transmittal to Amazon on August 8, 2022, relating to Ms. White's deposition, Complaint Counsel also included the Protective Order signed by Ms. White in this matter and an email chain confirming her receipt of the Protective Order. Attached to this Declaration as Exhibit 4 is a true and correct copy of the email sent by Complaint Counsel to

Amazon Counsel transmitting these 27 documents on August 8, 2022, with the subject line “Amazon Deposition of Sharon White”.

7. Separately, on August 8, 2022 at 7:14 PM, Complaint Counsel emailed Amazon counsel about an additional production of approximately 1,300 pages of materials that are unrelated to Ms. White’s Rebuttal Expert Report and deposition. Attached to this Declaration as Exhibit 5 is a true and correct copy of the email sent by Complaint Counsel to Amazon Counsel on August 8, 2022, referring to these unrelated materials with the subject line “In the Matter of Amazon.com, Inc – Additional Production”, as well as the confirmation email from the CPSC Workspaces/Watchdox platform indicating that the additional production was transmitted around 7:13 PM.

I declare under penalty of perjury that the foregoing is true and correct.

10/3/22

Date



John Eustice

CERTIFICATE OF SERVICE

I hereby certify that on October 3, 2022, a copy of the foregoing was served upon all parties and participants of record in these proceedings as follows:

By email to the Secretary:

Alberta E. Mills
Secretary
U.S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814
Email: AMills@cpsc.gov

By email to the Presiding Officer:

Judge Carol Fox Foelak
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549
alj@sec.gov

By email to Counsel for Respondent:

Sarah L. Wilson
Stephen P. Anthony
Thomas R. Brugato
Nicholas Griepsma
Rukesh A. Korde
Covington & Burling LLP
One CityCenter
850 Tenth Street, N.W.
Washington, DC 20001-4956
swilson@cov.com
santhony@cov.com



Complaint Counsel for
U.S. Consumer Product Safety Commission

Exhibit 1
(FILED UNDER
SEAL)

Exhibit 2
(FILED UNDER
SEAL)

Exhibit 3
(FILED UNDER
SEAL)

Exhibit 4

From: [Anand, Serena](#)
To: [Wilson, Sarah](#); [Anthony, Stephen](#); [Brugato, Thomas](#); [Mizerak, John](#); mfletcher@cov.com; rkorde@cov.com; [Griepsma, Nick](#)
Cc: [Eustice, John](#); [Wolf, Liana](#); [Mendel, Thomas](#)
Subject: Amazon Deposition of Sharon White
Date: Monday, August 8, 2022 6:06:00 PM

Counsel,

Please find below Complaint Counsel's responses and objections to the requests listed at Attachment A to Respondent's Notice of Deposition of Sharon White.

1. Deponent's complete file concerning this matter, including, but not limited to, any and all academic records, office records, notices, correspondence, emails, memoranda, diagrams, documents, and reports relating to the subject matter of the June 30, 2022 Rebuttal Expert Report.
 - a. Complaint Counsel objects to this request as vague, overly burdensome, disproportionate to the needs of the case, and for seeking privileged information. Complaint Counsel further objects that this seeks information already in Respondent's possession. Subject to and notwithstanding these objections, Complaint Counsel will produce non-privileged responsive documents.
2. Any and all documents, deposition testimony, photos, research, and other materials Deponent reviewed for this matter.
 - a. Complaint Counsel objects to this request as vague, overly burdensome, and disproportionate to the needs of the case. Complaint Counsel further objects that this seeks information already in Respondent's possession. Subject to and notwithstanding these objections, Complaint Counsel will produce non-privileged responsive documents.
3. Any and all documents which the Deponent has reviewed in preparation for the deposition.
 - a. Complaint Counsel objects to this request as vague, overly burdensome, and disproportionate to the needs of the case. Complaint Counsel further objects that this seeks information already in Respondent's possession. Subject to and notwithstanding these objections, Complaint Counsel will produce non-privileged responsive documents.
4. Any and all materials, treatises, articles, reports, or other data relied upon by the Deponent to support her opinion(s) in this matter.
 - a. Complaint Counsel objects to this request as vague. Complaint Counsel further objects that this seeks information already in Respondent's possession. Subject to and notwithstanding these objections, Complaint Counsel will produce non-privileged responsive documents.
5. A recent copy of the Deponent's Curriculum Vitale (sic).
 - a. Complaint Counsel objects that this seeks information already in the CPSC's possession. Subject to and notwithstanding this objection, Complaint Counsel states that the Curriculum Vitae provided by Ms. White with her Rebuttal Expert Report on June 30, 2022, is recent.
6. Copies of any and all demonstrative evidence and exhibits pertaining to the issues in this matter, and those which are relied upon by Deponent for any opinion Deponent expects to

provide in this case.

- a. Complaint Counsel objects to this request as vague, overly burdensome, premature, and disproportionate to the needs of the case. Complaint Counsel is open to negotiating a reasonable schedule of exchange of demonstrative evidence and exhibits.
7. Copies of all agreements and/or contracts by and between Deponent and Complaint Counsel.
 - a. Complaint Counsel objects to this request as vague and disproportionate to the needs of the case. Subject to and notwithstanding this objection, Complaint Counsel states that there are no agreements and/or contracts between Deponent and Complaint Counsel.
8. A list of cases that Deponent has provided deposition testimony or trial testimony in the last four years.
 - a. Complaint Counsel states that Deponent has not provided deposition testimony or trial testimony in the last four years.
9. Copies of the deposition transcripts which Deponent has given in the last five years.
 - a. Complaint Counsel refers Respondent to the response to Request No. 8.
10. Any and all correspondence between Deponent and Complaint Counsel relating to the transmission of facts or data that Deponent considered in forming her opinion(s).
 - a. Complaint Counsel objects to this request as vague, overly burdensome, and disproportionate to the needs of the case. Subject to and notwithstanding these objections, Complaint Counsel will produce non-privileged responsive documents.
11. Any and all correspondence between Deponent and Complaint Counsel relating to any assumptions provided by Complaint Counsel that Deponent relied upon in forming her opinion(s).
 - a. Complaint Counsel objects to this request as vague, overly burdensome, and disproportionate to the needs of the case. Subject to and notwithstanding these objections, Complaint Counsel will produce non-privileged responsive documents.
12. Copies of any notes Deponent created pertaining to this matter whether they were created in paper format, on a computer, or other electronic device.
 - a. Complaint Counsel objects to this request as vague, overly burdensome, disproportionate to the needs of the case, and for seeking privileged information.
13. Copies of any articles and any other publication, whether for agency staff, or an external audience, which were authored or co-authored by Deponent which relate, in any way, to the issues raised in the Deponent's June 30, 2022 Rebuttal Expert Report.
 - a. Complaint Counsel objects to this request as vague, overly burdensome, and disproportionate to the needs of the case. Complaint Counsel further objects that this seeks information already accessible to Respondent or in Respondent's possession.

Respondent can access the non-privileged documents responsive to the foregoing requests via the following link: [REDACTED]

Kind regards,
Serena

Serena Anand

Trial Attorney

U.S. Consumer Product Safety Commission

Division of Enforcement and Litigation | Office of Compliance and Field Investigations

4330 East West Highway | Bethesda, MD 20814

Cell: 202-677-9941 | SAanand@cpsc.gov | www.cpsc.gov

Exhibit 5

From: [Anand, Serena](#)
To: [Wilson, Sarah](#); [Anthony, Stephen](#); [Brugato, Thomas](#); [Mizerak, John](#); mfletcher@cov.com; rkorde@cov.com; [Griepsma, Nick](#); [Ramirez, Diane](#)
Cc: [Eustice, John](#); [Wolf, Liana](#); [Mendel, Thomas](#)
Subject: In the Matter of Amazon.com, Inc - Additional Production
Date: Monday, August 8, 2022 7:14:00 PM

Counsel,

Complaint Counsel is making an additional production today, which ranges from CPSC_AM0014123 to CPSC_AM0015409. The password for the production is: [REDACTED]

Complaint Counsel will be producing a supplemental privilege log soon.

Please let me know if you have any difficulties accessing the files.

Kind Regards,
Serena

Trial Attorney

U.S. Consumer Product Safety Commission

Division of Enforcement and Litigation | Office of Compliance and Field Investigations

4330 East West Highway | Bethesda, MD 20814

Cell: 202-677-9941 | SAanand@cpsc.gov | www.cpsc.gov

From: [Workspaces Notifications](#)
To: [Anand, Serena](#)
Subject: Your secured file has been shared
Date: Monday, August 8, 2022 7:12:46 PM

Your file has been shared



CPSC_AM 007.zip



Sent to:

jmizerak@cov.com , ngriepsma@cov.com , mfletcher@cov.com , dramirez@cov.com ,
jeustice@cpsc.gov , santhony@cov.com , tmendel@cpsc.gov , tbrugato@cov.com ,
rkorde@cov.com , swilson@cov.com

Serena Anand wrote:

Counsel,

Please find attached Complaint Counsel's additional production in In the Matter of Amazon.com, Inc, CPSC 21-2. Password will be sent in a separate email.

Kind Regards,
Serena

Learn more about [Workspaces](#)



Email secured by Check Point