

EXHIBIT 5

From: [Jeffrey Gersh](#)
To: [Christopher Lavin](#)
Cc: [Todd Gregorian](#); [Amazon PersonalWeb Team](#); [Michael Sherman](#); [Monique Gonzaque-Dirks](#)
Subject: RE: PWeb - Amazon
Date: Tuesday, September 14, 2021 6:52:52 PM

**** EXTERNAL EMAIL ****

Chris

Further to my email below, let me remind you that Michael Bubman, counsel for certain secured creditors of PWeb sent a letter by email on or about September 2, 2021, which you were included on, that called out the fact that there is an injunction in place in the LASC receivership action, Case no. 211VECV00575 that prohibits Amazon and anyone else from “commencing, prosecuting, continuing or enforcing any suit, judgment, lien, levy or proceeding against Defendant PersonalWeb...” It seems to me that your continued action to force discovery is a violation of that injunction. If you believe that you/Amazon is entitled to continue with the discovery you are seeking please explain to me on what basis you believe you/Amazon is entitled to do so. As I told you we are in the middle. I again ask that we speak on Friday and try to sort this out.

Regards

JG

Jeffrey F. Gersh

Partner, Stubbs Alderton & Markiles, LLP

[818.444.9222](tel:818.444.9222) (voice/text/fax) | jgersh@stubbsalderton.com

www.stubbsalderton.com | [Attorney Bio](#)

[15260 Ventura Blvd., 20th FL, Sherman Oaks, CA 91403](#)



The information contained in this e-mail message is intended only for the personal and confidential use of the recipient(s) named above. This message may be an attorney-client communication and/or work product and as such is privileged and confidential. If the reader of this message is not the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error and that any review, dissemination, distribution, or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by e-mail, and delete the original message.

From: Jeffrey Gersh

Sent: Tuesday, September 14, 2021 5:34 PM

To: Christopher Lavin <CLavin@fenwick.com>

Cc: Todd Gregorian <TGregorian@fenwick.com>; Amazon_PersonalWeb_Team <Amazon_PersonalWeb_Team@fenwick.com>; Michael Sherman <masherman@stubbsalderton.com>; Monique Gonzaque-Dirks <MGONZAQUEDIRKS@stubbsalderton.com>

Subject: RE: PWeb - Amazon

Chris

Last week I was out for the Jewish holidays and had eye surgery Wednesday so I have not been able to spend too much time reading, including emails as I was getting headaches and from my blurred vision. I certainly had not read your email until the weekend and obviously missed your self-imposed deadline which was slightly more than 24 hours from your email. Your request under the best of circumstances was and would be impossible to meet given the situation with PWeb and the position SAM is in; something we repeatedly discussed.

I am having another eye surgery tomorrow and out for the holiday on Thursday. We are working on assembling docs for you and I am working on getting further responses where appropriate. But I have been

very limited. My office is attempting to locate docs regarding those areas where that atty client privilege was asserted by the client which we are going through and I am told we will have those docs for the client to review Friday, assuming I am ok to read what we have located and then send same to the client for their input on whether we can send those or not. I just request that you bear with us. We are in the middle here and are doing the best we can. Hopefully Friday I will be back on my feet and my eyes will be better.

Regarding the interrogatories I asked that you explain various questions as to what exactly you meant, and you will recall that you said you didn't have to; the interrogatories are clear or that any objection was waived. I simply asked for clarification, and you refused to provide such time and again. I tried to go over each question with you and your response was the same – that the client responses were inadequate and you wanted a narrative response. The docs that you received is all I was provided. I am seeking further information as well from PWeb. I am going to try to get you more information and further respond where we can but I am limited as to what information I have.

I will know more Friday and I would ask that we talk then and figure out a plan and timing for all of this.

Your cooperation is appreciated.

JG

Jeffrey F. Gersh

Partner, Stubbs Alderton & Markiles, LLP

818.444.9222 (voice/text/fax) | jgersh@stubbsalderton.com

www.stubbsalderton.com | [Attorney Bio](#)

15260 Ventura Blvd., 20th FL, Sherman Oaks, CA 91403



The information contained in this e-mail message is intended only for the personal and confidential use of the recipient(s) named above. This message may be an attorney-client communication and/or work product and as such is privileged and confidential. If the reader of this message is not the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error and that any review, dissemination, distribution, or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by e-mail, and delete the original message.

From: Christopher Lavin <CLavin@fenwick.com>

Sent: Thursday, September 9, 2021 11:30 AM

To: Jeffrey Gersh <jgersh@stubbsalderton.com>

Cc: Todd Gregorian <TGregorian@fenwick.com>; Amazon_PersonalWeb_Team <Amazon_PersonalWeb_Team@fenwick.com>

Subject: RE: PWeb - Amazon

WARNING: This email originated outside of Stubbs Alderton & Markiles, LLP. Do not click on any links or attachments unless you know the sender.

Jeff,

We disagree with your below summary of our meet-and-confer call; this e-mail is to summarize that call and correct the record.

At the outset of the call, I stated that PersonalWeb has had our discovery requests for four months since April 2021, was thereafter ordered twice by the Court to respond to them, and has been on notice of the deficiencies in its discovery responses and document production since August 3, 2021. Yet, despite all of this time and this notice, PersonalWeb has provided insufficient responses, or functionally no responses in the instances of the privilege objections, and a minimal production, and not addressed either the past few weeks.

Interrogatories

- As to Interrogatory Nos. 1-10, we reiterated our positions conveyed to you by August 3, 2021 e-mail and August 19, 2021 letter

that the responses are deficient and requested that you provide a complete narrative response and identify the specific documents that are responsive to a particular interrogatory per FRCP. You and I discussed the deficiencies in each interrogatory response. As an example, you and I discussed how the responses to Interrogatory Nos. 1, 2, 6, and 8 do not provide all of the requested information. As another example, you and I discussed how the responses to Interrogatory Nos. 3-4 likewise do not directly respond to the interrogatory and provide all of the requested information. Because Interrogatory Nos. 5 and 7 depend upon the responses to earlier interrogatories, Interrogatory Nos. 5 and 7 need to be re-addressed as well. You stated that you would review the responses, but did not commit to supplement.

- Specifically, as to Interrogatory Nos. 9-10, I again reiterated our request for a substantive response—and not an objection based on privilege—as the Court has ordered. You acknowledged our position, but stated that PersonalWeb instructed you to assert privilege. I stated that we disagreed that PersonalWeb could rely on privilege given the Court’s order.

Requests For Production

- At the top of the discussion, I stated that we believe that PersonalWeb’s document production is deficient, as numerous categories of documents clearly responsive to our requests have not been produced, including, but not limited to:
 - Any PersonalWeb meeting minutes/bylaws;
 - Any promissory notes, including any drafts, executed versions, and amendments thereof, between PersonalWeb and the creditor-investors;
 - Any PersonalWeb internal financial statements, including the supporting documents for income, expenses, assets, liabilities, debits, credits, transfers, deductions, etc.;
 - Any supporting documents concerning PersonalWeb bank statements, such as assets, liabilities, debits, credits, transfers, deductions, etc.;
 - Any supporting documents concerning PersonalWeb tax returns, such as income, revenues, expenses, assets, liabilities, losses, deductions, etc.;
 - Any documents on PersonalWeb assets, including at least on the information contained in the response to Interrogatory No. 3 and regarding the patent litigations that PersonalWeb has identified are now its primary assets, such as any financial analyses, valuations, amounts of any expected recoveries, any securitizations/collateral against the litigations, etc.;
 - Correspondence between PersonalWeb and the creditor-investors, including any demand letters for repayment of promissory notes

You did not deny that such documents would exist, be responsive and have not been produced. I stated that, given the above documents have not been produced, that we overall question the veracity of PersonalWeb’s document production in response to all of our Requests for Production Nos. 1-43. When I asked you how a search for responsive documents was conducted, you stated that you forwarded the requests for production to PersonalWeb and left it to your client to collect and provide you with responsive documents. I stated that we thought that method of collection was insufficient and we would like another, more thorough search to be conducted for responsive documents and to produce any new documents.

- More specifically, we reviewed my August 19, 2021 letter to you, which expanded on an earlier August 3, 2021 e-mail, identifying numerous requests for production that we believe there have been insufficient or no responsive documents produced and you raised with me on the call some of the requests as you felt necessary. You raised a few objections throughout our discussion. First, you complained that the requests were poorly written because they were often duplicative. Second, you repeatedly asked me to define terms in requests that you claimed to not understand. Third, you repeatedly raised one-off examples of documents that you believed would fall within the literal scope of a request but believed shouldn’t have to be produced, seemingly eluding to the burden or lack of relevance (*e.g.*, a receipt for a \$10 McDonalds business lunch, Staples receipt for office supplies from 8 years ago, etc.). In response, I stated that the time to meet and confer regarding scope was four months ago upon receipt of the requests and these points were now belated. Nevertheless, I addressed your objections. I stated, overall, that we want a reasonable and proportional production of documents for the current disposition of this matter and that the current production was not even close. I stated that the requests seek different documents, but that there could be overlap among requests, which indeed is common practice in litigation, but that documents only had to be produced once and there was no additional burden to PersonalWeb. I stated that we believe the requests are intelligible and easily understood, but nonetheless defined terms for you. I further stated that we are not seeking documents at the margins of the requests, that I believe you understood the current disposition of this matter, and requested you give us PersonalWeb’s best document production. You stated that you would review the requests with PersonalWeb, but did not commit to make a supplemental production.

Motion to Compel/For Sanctions

- I notified you that, given the deficient discovery responses (including improper assertions of privilege objections) and incomplete document production despite having had the requests for over four months and receiving two court orders to produce, and us alerting you to the deficiencies on August 3, we intended to move to compel and for sanctions against PersonalWeb and Stubbs

Alderton as the district court previously expressly authorized us to do. After our conference you sent the below email on August 27 stating you would follow up with your client to address the deficiencies, yet you have apparently done nothing despite the passage of two more weeks.

Please provide your response by noon on Friday, September 10.

Regards,
Chris

Chris Lavin
[Fenwick](#) | Associate | +1 415-875-2287 | CLavin@fenwick.com | Admitted to practice in California.

From: Todd Gregorian <TGregorian@fenwick.com>
Sent: Friday, August 27, 2021 6:06 PM
To: Christopher Lavin <CLavin@fenwick.com>; Jeffrey Gersh <jgersh@stubbsalderton.com>
Cc: Amazon_PersonalWeb_Team <Amazon_PersonalWeb_Team@fenwick.com>
Subject: Re: PWeb - Amazon

On Aug 27, 2021, at 9:04 PM, Todd Gregorian <TGregorian@fenwick.com> wrote:

Jeff,

Personalweb made a minimal and deficient production at the deadline, and has produced no additional documents in weeks despite representations stating that you would follow up. This new gambit of claiming confusion about what documents reflect, e.g., financial account information or assets or transfers of PersonalWeb, is just more obstruction. You haven't identified the records PersonalWeb has located but withheld, you left collection entirely to the client and do not even know, and you want instead to engage in an academic discussion, as shown by the fact that you held Chris on the phone for an hour and forty minutes today to discuss the meaning of words in the individual requests. Chris will follow up with a fuller statement of our position, but as counsel of record you have an obligation to ensure compliance with the court's orders and have not done so, and so we plan to move forward with a motion and sanctions request unless there is immediate and complete compliance.

Thank you,
-t

On Aug 27, 2021, at 8:26 PM, Christopher Lavin <CLavin@fenwick.com> wrote:

From: Jeffrey Gersh <jgersh@stubbsalderton.com>
Sent: Friday, August 27, 2021 5:25 PM
To: Christopher Lavin <CLavin@fenwick.com>
Cc: Michael Sherman <masherman@stubbsalderton.com>; James Ponce <jponce@stubbsalderton.com>
Subject: PWeb - Amazon

**** EXTERNAL EMAIL ****

Chris

In follow-up to our lengthy meet and confer call, you told me at the end of the call that despite the fact that we were finally able to meet and confer today and went over some 40+ Request for Production of Docs and 20+ Interrogatories, many of which I asked for and needed explanation from you as to what it was you thought was

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.