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THE HONORABLE ROBERT S. LASNIK

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UNITED STATES DISTRICT COURT

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WESTERN DISTRICT OF WASHINGTON

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AT SEATTLE

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KAELI GARNER, *et al.*,

Case No.: 2:21-cv-00750-RSL

11

Plaintiffs,

DEFENDANTS' MOTION TO COMPEL

12

v.

NOTE ON MOTION CALENDAR:
September 2, 2022

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AMAZON.COM, INC., a Delaware
Corporation, and AMAZON.COM
SERVICES LLC, a Delaware Limited
Liability Company,

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Defendants

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TABLE OF AUTHORITIES

TABLE OF AUTHORITIES
(CONTINUED)

1   Pursuant to Fed. R. Civ. P. 37(a), Amazon moves to compel responses to its First Set of

2 Requests for Production and First and Second Set of Interrogatories.

3   **INTRODUCTION**

4   Plaintiffs are 21 individuals who initiated this lawsuit and seek to be certified to represent

5 both a nationwide class and 17 subclasses in claims based on their interactions with Alexa. *See*

6 Complaint (Dkt. 59) ¶¶ 1, 125. Although the Court dismissed many of those claims (*see* Dkt. 91),

7 for those remaining, the nature of each Plaintiff's interactions with Alexa presents critical issues

8 as to typicality, commonality, adequacy, superiority, and manageability. Fact discovery is

9 scheduled to close on December 16, 2022, with Plaintiffs' (and other witnesses') depositions to

10 begin around October 3. Timely completion of discovery requires Plaintiffs to promptly deliver

11 their long-delayed responses to Amazon's discovery.

12   Amazon first served discovery requests more than five months ago in March 2022. In

13 response to Amazon's requests for production, Plaintiffs have produced to date only 149

14 documents from four custodians. Plaintiffs also have not provided any ESI search term hit report

15 (identifying the number of records for each search term) or disclosed required information about

16 their search methodology. In response to Amazon's interrogatories, Plaintiffs have provided

17 incomplete or non-responsive answers, or Plaintiffs have simply refused to answer. After months

18 of meeting and conferring, Plaintiffs continue to refuse to identify the particular recordings that

19 form the basis of their claims. To ease any burden, Amazon proposed that, instead of written

20 interrogatory responses, Plaintiffs could simply annotate Alexa transcripts to identify which

21 recordings they contend (1) contain a Plaintiff's voice, (2) contain an alleged "conversation"

22 subject to the Washington statute (rather than a word or indiscernible sounds), (3) are confidential

23 or private (as also required subject to statute), (4) correspond to certain Plaintiffs' allegations of

24 recording in the Complaint, and/or (5) are not directed at the Alexa Voice Service. Plaintiffs have

25 refused to provide this critical information, even though they are the only ones who can do so.

26 Without it, Amazon does not know the universe of recordings at issue, and consequently cannot

27 prepare its defenses or address Plaintiffs' suitability as class representatives. Indeed, Plaintiffs'

28 identification of which recordings contain their voices and are the subject of their claims is

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