

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Civil Docket No.: 06 CA 11370 MLW

Christine Varad,
Plaintiff,
v.

Reed Elsevier Incorporated,
d.b.a. *Lexis Nexis Corporation*,
Lexis Nexis Accurint,
Defendant.

FILED
IN CLERKS OFFICE
2006 NOV 17 A 9:51
U.S. DISTRICT COURT
DISTRICT OF MASS.

**PLAINTIFF'S RESPONSE IN OPPOSITION TO DEFENDANT'S MOTION
REQUESTING A STAY OF THE FILING OF AN OPPOSITION TO PLAINTIFF'S
MOTION FOR A SUMMARY JUDGMENT. OR ALTERNATIVELY AN EXTENSION
OF THE TIME TO RESPOND TO PLAINTIFF'S MOTION FOR A SUMMARY
JUDGMENT**

Plaintiff, Christine Varad, hereby notices her response in opposition to defendant, Reed Elsevier, Inc., d.b.a. Lexis Nexis Corporation, Lexis Nexis Accurint, request for a stay of its responsibility to respond to a properly filed motion for a summary judgment against it or in the alternative, a its request for an extension of the time designated by Fed. R. Civ. P. 56 as adequate to respond to such a motion.

The Plaintiff asks this honorable court to consider the defendant's requests as constituting a violation of Fed. R. Civ. P. 11 (b) and as such, requests that should be sanctioned and not rewarded with an additional delay of this court's time or continued harassment of a pro-se Plaintiff.

In support of this response in opposition, the Plaintiff states as follows:

1. On October 29, 2006, Plaintiff filed a motion for a summary judgment and supporting memorandum of law. Reed's motion admits that Fed. R. Civ. P. 56 required a response to that motion by November 13, 2006. As of the date of the instant motion, November 17, 2006, the defendant had made no response to Plaintiff's Motion for a Summary Judgment.

2. Fed. R. Civ. P. 21 provides no genuine basis for the dismissal of the case against defendant, Reed Elsevier, Inc., d.b.a. Lexis Nexis Corporation, Lexis Nexis Accurint, Reed as the sole named defendant. The instant case does not involve multiple named defendants and Reed has not established a necessity for the joinder of an additional defendant for proper adjudication of the claims at issue.

"Rule 21 contains the remedy for misjoinder or nonjoinder that violates other Rules governing multiparty litigation. It ensures that inappropriate joinder of a party, or failure to join a party that should have been joined, need not result in dismissal of the action." *See*: Steven Baicher-McKee, William Jenson, John Corr, *Guide to Federal Rules of Civil Procedure*, 6th Ed., West 2002, page 413.

The defendant's submission of a Rule 21 motion to dismiss the cause of action against Reed Elsevier, Inc., d.b.a. Lexis Nexis Corporation, Lexis Nexis Accurint, Reed as the sole named defendant pursuant to Rule 21 is frivolous, the cause of needless delay and stands in violation Fed. R. Civ. P. 11 (b).

3. Reed's ¶ 6, request for an extension of the time for the filing of a response to the motion for a summary judgment for the reason that it has not been able to fully

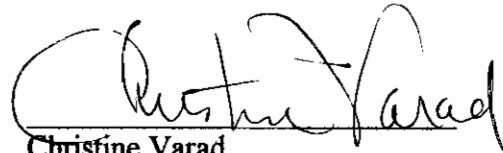
conduct discovery is frivolous and results needless delay, especially where there is no Rule 56(f) motion is pending. “See: Alholm v. American Steamship Co., 144 F.3d 1172, 1177 (8th Cir. 1998) (noting that Rule 56 does not require that discovery be closed before motion can be heard); G & G Fire Sprinklers, Inc. v. Bradshaw, 136 F.3d 587 (9th Cir. 1998) amended and superceded on other grounds, 156 F.3rd 893 (9th Cir. 1998) vacated on other grounds, 526 U.S. 1061, 119 S.Ct. 1450, 143 L.Ed. 2nd 538 (1999) (rejecting argument that plaintiff’s motion for summary judgment “premature” when it was filed more than 20 days after lawsuit was commenced and no motion under Rule 56(f) was pending); Brill v. Lante Corp. 119 F.3rd 1266, 1275 (7th Cir. 1997) (commenting that plaintiff’s argument that summary judgment should not have been granted while discovery remained open is an argument that “hardly concerns us because a party can file a motion for summary judgment at any time, indeed, before discovery has begun”).” See: Steven Baicher-McKee, William Jenson, John Corr, *Guide to Federal Rules of Civil Procedure*, 6th. Ed., West 2002, page 753, note 6.

CONCLUSION

For all the above stated reasons, this Court should deny Defendant’s Motion Requesting a Stay of the Filing of an Opposition to Plaintiff’s Motion for a Summary Judgment, or Alternatively, an Extension of the Time to Respond to Plaintiff’s Motion for a Summary Judgment.

Date: November 17, 2006

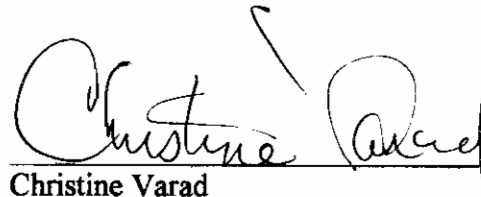
Respectfully submitted,



Christine Varad
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Milton, Massachusetts 02186
781 534 8770

I certify that on this 17th day of November 2006, I caused a copy of PLAINTIFF'S RESPONSE IN OPPOSITION TO DEFENDANT'S MOTION REQUESTING A STAY OF THE FILING OF AN OPPOSITION TO PLAINTIFF'S MOTION FOR A SUMMARY JUDGMENT. OR ALTERNATIVELY AN EXTENTION OF THE TIME TO RESPOND TO PLAINTIFF'S MOTION FOR A SUMMARY JUDGMENT to be served on the attorney of record for defendant Reed Elsevier, Incorporated at the following address of record:

Kristin Cataldo
Donnelly, Conroy and Gelhaar, LLP
One Beacon Street, 33rd Floor
Boston, Massachusetts 02108
617 720 2880



Christine Varad