

**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 DEC 18 A 9:31
U.S. DISTRICT COURT
DISTRICT OF MASS.

**MOTION IN OPPOSITION TO "DEFENDANT'S MOTION FOR DISCOVERY
PURUANT TO Fed.R.Civ.P. 56(f)**

Plaintiff, Christine Varad, hereby notices her opposition to DEFENDANT'S
MOTION FOR DISCOVERY PURSUANT TO Fed.R.Civ.P. 56(f) and hereby requests

that the motion be denied for the following reasons:

1. Plaintiff filed a Motion for a Summary Judgment on October 30, 2006 and Reed had the full opportunity provided by LR 7.1 (B)(2) for either filing a response to the summary judgment motion or alternatively the filing of a timely Fed.R.Civ.P. 56 (e) Motion for Discovery. Reed failed to timely file any response to Plaintiff's motion during the designated LR 7.1 (B)(2) response period, and yet, Reed now expects this Court to granted it special leave to late file it's Opposition to Plaintiff's Motion for a Summary Judgment and as addressed here, a Motion for Discovery Pursuant to Fed.R.Civ.P. 56(e), months after the statutorily designated required filing date has passed. Reed's interests are represented by three experienced attorneys, now of record, and each knew or should have known of

their case related filing responsibilities and each failed to timely act. And yet if this Court granted the instant pro-se litigant similar special treatment, that same legal team would be the first to loudly object.

2. Reed's requests stand in direct contradiction to well settled precedent concerning that discovery issue. 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closed before motion can be heard); *G&G Fire Sprinklers, Inc. v. Bradshaw*, 136 F.3d 587 (9th Cir. 1998) amended and superceded on other grounds, 156 F.3rd 893 (9th Cir. 1998) vacated on other grounds, 526 U.S. 1061, 119 S.Ct. 1450, 143 L.Ed.2nd 538 (1999) (rejecting argument that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(e) 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.
3. There is nothing in the Federal Rules of Civil Procedure to obstruct Reed from currently and continuously attempting to gather the discovery it claims to so desperately need to address factual allegations of Plaintiff's motion for a

summary judgment while the case is active. In fact Reed has admitted that is has made no good faith effort currently to obtain the discovery by filing any of the necessary discovery documents or scheduling any of the claimed necessary depositions. Where Reed has made no good faith effort to obtain the discovery to make it subsequently available for this Court's consideration should their motions be allowed, it seems obvious that the requests for discovery are but improper delay tactics and as such should not be allowed.

4. In addition, the John M. Byrne waiver of process and affidavits make legal claims that Byrne is Director and Senior Corporate Counsel to Seisint, Inc. The State of Florida corporate filings do not support his assertions. His name does not appear in the list of named corporate Directors.

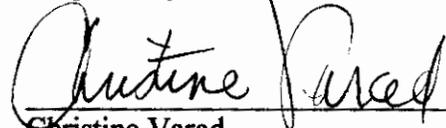
It would appear that attorney John M. Byrne has repeatedly submitted knowingly false statements to this Court concerning his role in connection with Seisint, Inc. See: Exhibit A, Seisint, Inc. Corporate Filings, page 4. Byrne has stated in his "Waiver of Service" statement, and both affidavit documents referenced repeatedly by Reed motions before this Court that he is a Director at Seisint, Inc. The State of Florida corporate filings as to Seisint, Inc. negate the truthfulness of his statements. It would appear that improper delay tactics are routinely employed by this legal team and untimely requests for discovery are merely are but one instance of this behavior.

CONCLUSION

For all of the foregoing reasons, this Court should deny DEFENDANT'S
MOTION FOR DISCOVERY PURUANT TO F.R.Civ.P. 56(f)

December 18, 2006

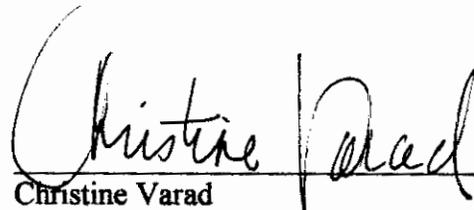
Respectfully submitted,



Christine Varad
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I certify that on this 18th day of December 2006, I caused a copy of
DEFENDANT'S MOTION FOR DISCOVERY PURUANT TO F.R.Civ.P. 56(f) 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