

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CHRISTINE VARAD,)	
)	
Plaintiff,)	C.A. No. 06 CA 11370 MLW
)	
v.)	
)	
REED ELSEVIER INCORPORATED,)	
d/b/a LexisNexis, Lexis Nexis Risk & Information)	
Analytics Group, Inc.,)	
)	
Defendant.)	

**DEFENDANT’S OPPOSITION TO PLAINTIFF’S MOTION TO COMPEL
PRODUCTION OF DOCUMENTS PURSUANT TO FED. R. CIV. P. 37(a)**

Defendant Reed Elsevier Inc. (“Reed”) hereby opposes plaintiff Christine Varad’s (“Plaintiff”) Motion To Compel Production of Documents Pursuant to Fed. R. Civ. P. 37(a) (“Motion”). Plaintiff’s Motion must be denied because (i) Plaintiff has continually failed to abide by the Federal and Local Rules of Civil Procedure, including failing to provide timely Initial Disclosures, which failure was the basis for Reed’s objection to producing documents, and failing to confer with Reed prior to filing her Motion, as required by Local Rule 7.1; and (ii) Plaintiff’s Motion is moot, as Reed, within two days of receiving Plaintiff’s Initial Disclosures, produced documents in response to Plaintiff’s document requests, and timely answered the Amended Complaint once it was filed and served. Accordingly, Plaintiff’s Motion is properly denied. As further grounds for its Opposition, Reed states:

1. On February 23, 2007, Reed served its Initial Disclosures on Plaintiff.
2. On or about March 11, 2007, Plaintiff served via mail her First Request for Production of Documents (“Requests”). Plaintiff did so despite the fact that she had not provided Initial Disclosures.

3. On April 12, 2007, Reed timely responded to Plaintiff's Requests. In its response, Reed generally objected to the Requests on the grounds that the Requests were premature because Plaintiff had not yet served initial disclosures, and stated that "[p]ursuant to Local Rule 26.2(A), Reed will produce non-privileged, responsive documents, subject to the objections set forth herein, once Plaintiff has complied with Fed. R. Civ. P. 26(a)(1)."

4. On April 23, 2007, Reed received Plaintiff's Initial Disclosures. Despite the fact that Plaintiff's Initial Disclosures do not provide all information and documents required by Fed. R. Civ. P. 26(a), on April 25, 2007, Reed produced documents responsive to Plaintiff's Requests. Plaintiff, however, filed her Motion before serving her Initial Disclosures and without conferring with Reed, despite the fact that Reed indicated repeatedly that it would produce documents as soon as Plaintiff served her Initial Disclosures.¹

5. On April 4, 2007, this Court granted Plaintiff's Motion to Amend the Complaint. Plaintiff, however, neither served Reed nor filed the Amended Complaint until April 23, 2007. On May 1, 2007, Reed timely filed its Answer to the Amended Complaint.²

6. Reed has at all times proceeded in good faith. In contrast, Plaintiff stated to this Court in her Motion to Amend the Complaint that the **sole** reason for her seeking to amend the Complaint was to change the d/b/a of Reed (Plaintiff states in her Motion to Amend "[t]he change in the amended complaint is minor and concerns only an amendment correcting the

¹ At no point has Plaintiff attempted to discuss with counsel for Reed any specific response to the Requests. During Plaintiff's deposition, Plaintiff inquired as to why Reed had not yet produced documents, and counsel for Reed explained its reasoning (as set forth above). Counsel for Reed further indicated to Plaintiff that counsel was happy to discuss Reed's response to the Requests, but that the Plaintiff's deposition was not the time to do so, as the purpose of the deposition was for Reed to take Plaintiff's testimony. During the deposition, Plaintiff repeatedly stated that Reed was not acting in good faith, and further refused to answer questions concerning the Complaint or Plaintiff's Affidavit.

² Apparently, Plaintiff believes that attaching the Amended Complaint to her Motion to Amend as an Exhibit, or that producing the Amended Complaint in response to Reed's Request for Production of Documents, is sufficient service of the Amended Complaint. As the Court had not yet ruled on Plaintiff's Motion to Amend and Plaintiff had not filed the Amended Complaint, such events do not constitute service. Nor could Reed respond to the Amended Complaint until it was filed and on the Court's docket.

present misstatement of Reed's fictitious business name or d.b.a. name 'Lexis Nexis Corporation,' 'Lexis Nexis Accurint' with an accurate statement of the [sic] Reed's fictitious or d.b.a. name, 'Lexis Nexis, LexisNexis Risk & Information Analytics Group, Inc.'"). Close examination of the Amended Complaint, however, reveals that Plaintiff has materially altered the allegations in the Amended Complaint. Plaintiff's lack of candor with the Court and Reed speaks for itself.

For the above reasons, Reed respectfully requests that this Court deny Plaintiff's Motion to Compel.

Respectfully submitted,

REED ELSEVIER INC.
By its attorneys,

/s/ Kristin M. Cataldo
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Kristin M. Cataldo (BBO #654033)
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Dated: May 1, 2007

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of May, 2007, I caused a copy of the foregoing to be served on the following by regular mail to Christine M. Varad, P.O. Box 583, Milton, MA 02186.

/s/ Kristin M. Cataldo
Kristin M. Cataldo