

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

FILED
IN CLERKS OFFICE

Civil Docket No.: 06 CA 11370 MLW 7:07 MAY 18 P 1: 08

Christine Varad,
Plaintiff,
v.

U.S. DISTRICT COURT
DISTRICT OF MASS.

Reed Elsevier Incorporated,
d.b.a. *LexisNexis, LexisNexis Risk &
Information Analytics Group, Inc.*,
Defendant.

PLAINTIFF'S LR D. Mass. 37.1 MOTION TO
COMPEL PRODUCTION OF DOCUMENTS
PURSUANT TO Fed. R. Civ. P. 34 and 37(a).

Plaintiff, Christine Varad, hereby motions this court to compel Reed Elsevier Incorporated, d.b.a. *LexisNexis, LexisNexis Risk & Information Analytics Group, Inc.* to produce documents it its possession and control pursuant to Fed.R.Civ.P. 34 and 37(a).

PART I

LR 37.1 (2) Conference Held

A discovery conference was held by telephone on May 15, 2007, at approximately 11:00 A.M., between Plaintiff, Christine Varad and Kristin Cataldo, counsel for defendant, Reed Elsevier, Inc., d.b.a. LexisNexis, LexisNexis Risk & Information Analytics Group, Inc

The following are issues on which agreement was reached:

1. Plaintiff will research the issue of whether State Bar applications documents are publicly available and supplement her responses as necessary with documents in her custody and control.
2. Plaintiff will supplement her Initial Discovery document pursuant to damages.
3. Reed will attempt to determine if it has any policies concerning the validation of database information prior to making such personal information available to others.

4. Reed will attempt to determine if it has contracts with the State of Massachusetts and the State of Maine that are not publicly available.

The following are issues remaining to be decided by the court:

It was not possible to narrow the issues concerning Defendant's discovery responses for the reason that disagreements exist concerning the scope of the discovery in connection with the named Defendant. Reed wants to limit discovery to Accurant databases. Plaintiff disagrees and wants to include any and all LexisNexis databases such as LexisNexis, "Peoplefinder" in her discovery request. Reed wants to provide discovery exclusively concerning Gall & Gall Company. Plaintiff believes that all "customers" receiving personal information on her should be included in a good faith discovery response. Reed provided a report to Gall & Gall Co., but Reed also provided reports to GVB Security & Investigative Corporation and First Data Solutions and all of the reports contained false and defamatory personal information concerning Varad.

Reed provided Varad with a copy of one consumer report as disseminated to third parties referred to as a "Flat Rate Comprehensive Report." But Varad wants discovery concerning all the other reports Reed made available to customers entitled, (1) "Person Search," (2) "People at Work Search," (3) "Assessment Search," and (4) "Custom Comprehensive Search." At least four additional types of reports in connection with personal information on Varad exist and were provided to Reed investigative customers. Reed produced only one report. Varad disagrees that such is sufficient discovery where the contents of all of the reports are material and relevant to the instant action.

PART II

LR 37.1 (3) Nature of Case and Facts Relevant to Discovery Matters to be Decided

Nature of the Case

Varad alleges a violation of her rights under the Fair Credit Reporting Act, 15 U.S.C. 1681 et seq ("FCRA") and unfair and deceptive business practices by Reed Elsevier, Inc., d.b.a.

LexisNexis, LexisNexis Risk and Information Analytics Group, pursuant to the provisions of G.L., c. 93A, § 9, and federal standards as set forth in FTC v. Sperry & Hutchinson Co., 405 U.S. 233, 244 n.5 (1972) concerning data and personal information on Varad as routinely disseminated to customers of *LexisNexis, LexisNexis Risk and Information Analytics Group*, and other interested entities, such as State licensing boards and prospective employers.

Varad became aware that Reed was making false information available to others concerning her and she sought to invoke the protections of the Fair Credit Reporting Act, 15 U.S.C. 1681 et seq (“FCRA”) and obtain a copy of the file containing the false information and to, in an effort based in self-protection, request that Reed correct the false information as made available to others. Reed refused to provide Varad with a copy of her file pursuant to the Fair Credit Reporting Act, 15 U.S.C. 1681 et seq (“FCRA”). Reed unfairly and deceptively claimed that it was not subject to the jurisdiction and requirements of that law. Reed refused to act to correct the false information on Varad contained in its databases claiming that it had obtained the information from valid public database resources. Those public database resources were never specified or identified.

In an effort to stop continuing harm and defamation from occurring on-going basis caused by the dissemination by Reed of patently false personal data and information contained in its databases to others, Varad was forced to file the instant action which contains a claim of defamation in ¶ 12. The parties disagree as to whether Reed’s defamatory acts in disseminating false personal information and data concerning Varad constituted acts of libel per se or acts of libel per quod. Varad claims that Reed’s acts were libel per se and that damages should be based on the acts of negligent publication of false personal information. Reed claims that Varad is entitled to a claim of libel per quod and that Varad is required to prove, “special damages.” Both views concerning damages and the instant claim of defamation are strongly contested.

Facts Relevant to Discovery Matters to be Decided

The facts that are materially relevant to the discovery matters to be addressed by this Court are as follows:

1. Reed was served with a copy of "Plaintiff's First Request for Production of Documents on March 11, 2007. See: Exhibit A.
2. Reed served Varad with "Defendant's Response to Plaintiff's First Request for Production of Documents on April 12, 2007. Such response contained no discovery and Reed cited that it had not been served with Varad's "Initial Disclosure." See: Exhibit B.
3. Reed was served with a copy of Varad's "Initial Disclosure" on April 20, 2007.
4. Reed served Varad with letter dated April 25, 2007 with enclosed documents bates numbered D00033-D00106 making a general, unspecific response to Varad's "First Request for Production of Documents which is equates no identifiable or specific response at all. See: Exhibit C.

PART III

LR 37.1 (4)

- A. Requests for Production of Documents at issue
- B. Defendant's Responses

LR 37.1 (5)

- C. Plaintiff's position concerning each contested item
- D. Supporting legal authority

A. Request No. 1:

All documents, including but not limited to the contents of any "file," concerning Christine Varad in the possession, custody or control of defendant Reed Elsevier, Inc., d.b.a. LexisNexis, LexisNexis Risk and Information Analytics Group, and Seisint, Inc., including but not limited to, any other sub-entity of Reed Elsevier, Inc. known by any other fictitious business or trade name.

B Reed Specific Response No. 1:

Subject to and without waiver of the general objections set forth above, Reed will produce non-privileged, responsive documents of Seisint in its possession, custody and control.

C. Plaintiff's position Request No. 1:

The form of the documents produced by Reed renders the April 25, 2007 general production of discovery documents wholly unresponsive for the reasons that (1) the documents provided are unorganized and unlabeled as intended as responsive to any specific discovery request and (2) discovery production includes no documents specifically responsive to Request No. 1 and, (3) Reed's April 25, 2007 general discovery production contains misleadingly incomplete and disorganized responses equating no response at all for the reason that it is impossible for Varad to decipher which documents Reed intended to respond specifically to request No. 1. See: Exhibit A, Reed's April 25, 2007 letter to Varad, stating: "Enclosed for service please find documents bates numbered D00033 through D00106, responsive to your First Request for Production of Documents in the above-captioned matter."

D. Supporting legal authority

1. Federal Procedure, Lawyers Edition, 10A Fed. Proc., L. Ed. § 26:483:

Form of documents produced: A party who produces documents for inspection must either (1) produce them as they are kept in the usual course of business, or (2) organize and label them to correspond with the categories in the request.

2. "The purposes of discovery and basic considerations of fairness required the defendant to organize the produced documents in a manner clearly indicating which documents respond to specific requests for production." See: T.N. Taube Corp. v. Marine Midland Mortg. Corp. (1991, WD NC) 136 FRD 449, 19 FR Serv 3d 698.

A. Request No. 2:

All documents concerning the policies and routine practices of Reed Elsevier, Inc., LexisNexis, LexisNexis Risk and Information Analytics Group and Seisint, Inc. taken to verify the integrity of data and information to be make available to others.

B. Reed Specific Response No. 2:

Reed objects to this request on the grounds that it seeks information that is not relevant or reasonably likely to lead to discovery of admissible evidence, as Reed was not the entity that provided information concerning the Plaintiff. Reed further objects to this request as it is overbroad and unduly burdensome, in that it seeks all documents concerning policies of Reed and Seisint, and that is vague in that it fails to define "routine practices" and seeks documents "to verify the integrity of data."

C. Plaintiff's position Request No. 2:

This case includes a claim of defamation concerning Varad as a private party in ¶ 12. The element of *negligence* concerning publication of false information concerning Varad to third parties is material to proof of facts concerning that claim and as such Reed's routine policies concerning verification of personal data before publishing it to third parties is relevant to this action and access to discovery related to this claim is by right pursuant to Fed. R. Civ. P. 26(b)(1).

D. Supporting legal authority

1. Fed. R. Civ. P. 26(b)(1):
"In General: Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. For good cause, the court may order discovery of any matter relevant to the subject matter involved in the action. Relevant information need not be admissible at trial if the discovery appears reasonable calculated to lead to the discovery of admissible evidence."
2. F.R.E. 401
"Relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

A. Request No. 3:

All documents and communications concerning each and every database, person, or other source accessed and/or utilized by defendant Reed Elsevier, Inc., LexisNexis, LexisNexis Risk and Information Analytics Group, and Seisint, Inc. to generate information concerning Christine Varad, including but not limited to, a record of each and every inquiry relating to a credit transaction of any kind, the name and address of each and every data source accessed for such information and the names and addresses of information and data recipients concerning each and every inquiry request.

B. Reed Specific Response No. 3:

Reed objects to this request on the grounds that it seeks information that is not relevant or reasonably likely to lead to discovery of admissible evidence, as Reed was not the entity that provided information concerning the Plaintiff. Reed further objects to this request on the grounds that it is overbroad and unduly burdensome, and that it is vague and ambiguous, in that it seeks documents used to "generate information."

C. Plaintiff's position Request No. 3:

This case contains a claim of defamation concerning Varad as a private party in ¶ 12. The element of negligence concerning that claim is material. Proof facts supporting that acts of

negligent publication containing false or misleading information concerning Varad were made to third parties is relevant for the purposes of Fed. R. Civ. P. 26(b)(1). Discovery concerning the databases in the custody and control of Reed containing any information concerning Varad is relevant to the claim in ¶ 12, is reasonably calculated to lead to discovery of admissible evidence and accessible by right pursuant to Fed. R. Civ. P. 26(b)(1).

D. Supporting legal authority

1. Fed. R. Civ. P. 26(b)(1):

“In General: Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. For good cause, the court may order discovery of any matter relevant to the subject matter involved in the action. Relevant information need not be admissible at trial if the discovery appears reasonable calculated to lead to the discovery of admissible evidence.”

2. F.R.E. 401:

“Relevant evidence” means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

A. Request No. 4:

All data and communications concerning Varad obtained by Reed Elsevier, Inc., LexisNexis, LexisNexis Risk and Information Analytics Group and Seisint, Inc. from web site advertised “sub second access” point information and data sources concerning Varad’s historical addresses, associates, relatives, business affiliates and assets, including but not limited to, a record of each and every inquiry relating to a credit transaction of any kind, the name and address of each and every data source accessed for such information and the names and addresses of the recipients of each and every inquiry request.

B. Reed Specific Response No. 4:

Reed objects to this request on the grounds that it is vague and ambiguous, as it is unclear what Plaintiff means by documents allegedly obtained by Reed from “web site advertised” “sub second access.”

C. Plaintiff’s position Request No. 4:

It is specific, not ambiguous or vague, for Varad to base her request for documents on information and business terminology publicly utilized and published by Reed on the Internet.

The business terminology referenced by Request No. 4, references terminology utilized publicly by Reed on the Internet, specifically on Reed’s own web sites, web sites specifically generated

and published to advertise Reed's products and services. The term, "sub second access" was employed by Reed on its Internet postings to describe its product and the information the product is able to access. Reed should not now be allowed to claim that its own business unique terminology is ambiguous or vague.

D. Supporting legal authority

1. F. R. E. 611(a):

"Mode and Order of Interrogation:

(a) Control by Court. The court shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to (1) make the interrogation and presentation effective for the ascertainment of the truth, (2) avoid needless consumption of time, and (3) protect witness from harassment or undue embarrassment."

A. Request No. 5:

All documents and communications, including, but not limited to any contracts, between defendant Reed Elsevier, Inc., LexisNexis, LexisNexis Risk and Information Analytics Group, and Seisint, Inc. and the State of Massachusetts.

B. Reed Specific Response No. 5:

Reed objects to this request on the grounds that it seeks information that is not relevant nor reasonably likely to lead to the discovery of admissible evidence. Reed further objects to this request on the grounds that it is overbroad, in that it is not limited to the allegations in the Complaint.

C. Plaintiff's position Request No. 5:

This case contains a claim of defamation concerning Varad as a private party in ¶ 12 and a claim that defamatory information was disseminated to the State of Massachusetts, Board of Bar Examiners in ¶ 2. The element of negligence concerning that claim is material to proof of facts evidencing acts of negligence in the publication of information concerning Varad to Massachusetts Board of Bar Examiners as specific to those claims and is therefore relevant for the purposes of Fed. R. Civ. P. 26(b)(1). Discovery concerning contracts between Reed and the State of Massachusetts concerning access to database information in the custody and control of Reed containing information concerning Varad is relevant, reasonably calculated to lead to discovery of admissible evidence and accessible by right pursuant to Fed. R. Civ. P. 26(b)(1).

D. Supporting legal authority

1. Fed. R. Civ. P. 26(b)(1):

“In General: Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. For good cause, the court may order discovery of any matter relevant to the subject matter involved in the action. Relevant information need not be admissible at trial if the discovery appears reasonable calculated to lead to the discovery of admissible evidence.”

2. F.R.E. 401

“Relevant evidence” means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

A. Request No. 6:

All documents and communications, including but not limited to any contracts, between defendant Reed Elsevier, Inc., LexisNexis, LexisNexis Risk and Information Analytics Group, and Seisint, Inc. and the State of Maine.

B. Reed Specific Response No. 6:

Reed objects to this request on the grounds that it seeks information that is not relevant or reasonably likely to lead to the discovery of admissible evidence. Reed further objects to this request on the grounds that it is overbroad, in that it is not limited to the allegations in the Complaint.

C. Plaintiff’s position Request No. 6:

This case contains a claim of defamation concerning Varad as a private party in ¶ 12 and a claim that defamatory information was disseminated to the State of Maine, Board of Bar Examiners in ¶ 2. The element of negligence concerning that claim is material to proof of facts evidencing acts of negligence in the publication of information concerning Varad to Maine Board of Bar Examiners as specific to those claims and is therefore relevant for the purposes of Fed. R. Civ. P. 26(b)(1). Discovery concerning contracts between Reed and the State of Maine concerning access to database information in the custody and control of Reed containing information concerning Varad is relevant, reasonably calculated to lead to discovery of admissible evidence and accessible by right pursuant to Fed. R. Civ. P. 26(b)(1).

D. Supporting legal authority

1. Fed. R. Civ. P. 26(b)(1):

“In General: Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. For good cause, the court may order discovery of any matter relevant to the subject matter involved in the action. Relevant information need not be admissible at trial if the discovery appears reasonable calculated to lead to the discovery of admissible evidence.”

2. F.R.E. 401

“Relevant evidence” means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

A. Request No. 7:

All documents and communications concerning Part B of “Defendant’s Initial Disclosures, Documents that Reed May Use to Support Its Claim or Defenses.”

B. Reed Specific Response No. 7:

Subject to and without waiver of the general objections, Reed will produce non-privileged, responsive documents of Seisint in its possession and control.

C. Plaintiff’s position Request No. 7:

The form of the documents produced by Reed renders the April 25, 2007 general production of discovery documents wholly unresponsive for the reasons that (1) the documents provided are unorganized and unlabeled as intended as responsive to any specific discovery request and (2) discovery production includes no documents specifically responsive Request No. 7 and (3) Reed’s April 25, 2007 general discovery production contains misleadingly incomplete and disorganized responses equating no response at all for the reason that it is impossible for Varad to decipher what specific discovery Reed intended as a response to request No. 7. See: Exhibit A, Reed’s April 25, 2007 letter to Varad, stating: “Enclosed for service please find documents bates numbered D00033 through D00106, responsive to your First Request for Production of Documents in the above-captioned matter.”

In addition, Reed impermissibly limits its discovery production of documents to “non-privileged” documents of in the possession and control of Seisint where no specific privilege is claimed or identified and Seisint is not the specifically named defendant.

D. Supporting legal authority

1. Federal Procedure, Lawyers Edition, 10A Fed. Proc., L. Ed. § 26:483:

Form of documents produced: A party who produces documents for inspection must either (1) produce them as they are kept in the usual course of business, or (2) organize and label them to correspond with the categories in the request.

2. “The purposes of discovery and basic considerations of fairness required the defendant to organize the produced documents in a manner clearly indicating which documents respond to specific requests for production.” See: T.N. Taube Corp. v. Marine Midland Mortg. Corp. (1991, WD NC) 136 FRD 449, 19 FR Serv 3d 698.

A. Request No. 8:

All documents and communications concerning Gall & Gall, including but not limited to any contracts, between defendant Reed Elsevier, Inc., LexisNexis, LexisNexis Risk and Information Analytics Group, and Seisint, Inc. and Gall & Gall and any “audits” of Gall & Gall.

B. Reed Specific Response No. 8:

Reed objects to this request to the extent that it is overbroad and that it seeks information that is not relevant or reasonably likely to lead to the discovery of admissible evidence, in that it seeks documents that pertain to individuals not relevant to this litigation. Subject to and without waiver of the foregoing or general objections, Reed will produce non-privileged, responsive documents of Seisint concerning Gall & Gall and Ms. Varad and/or the allegations in the Complaint that are in its possession and control.

C. Plaintiff’s position Request No. 8:

The form of the documents produced by Reed renders the April 25, 2007 general production of discovery documents wholly unresponsive for the reasons that (1) the documents provided are unorganized and unlabeled as intended as responsive to any specific discovery request and (2) discovery production includes no documents specifically responsive Request No. 8 and (3) Reed’s April 25, 2007 general discovery production contains misleadingly incomplete and disorganized responses effectively equating no response at all for the reason that it is impossible for Varad to decipher what specific discovery Reed intended as a response to request

No. 8. See: Exhibit A, Reed's April 25, 2007 letter to Varad, stating: "Enclosed for service please find documents bates numbered D00033 through D00106, responsive to your First Request for Production of Documents in the above-captioned matter."

In addition, Reed impermissibly limits its discovery production of documents to "non-privileged" documents of in the possession and control of Seisint where no specific privilege is claimed or identified and Seisint is not the specifically named defendant.

D. Supporting legal authority

1. Federal Procedure, Lawyers Edition, 10A Fed. Proc., L. Ed. § 26:483:

Form of documents produced: A party who produces documents for inspection must either (1) produce them as they are kept in the usual course of business, or (2) organize and label them to correspond with the categories in the request.

2. "The purposes of discovery and basic considerations of fairness required the defendant to organize the produced documents in a manner clearly indicating which documents respond to specific requests for production." See: T.N. Taube Corp. v. Marine Midland Mortg. Corp. (1991, WD NC) 136 FRD 449, 19 FR Serv 3d 698.

A. Request No. 9:

All documents and communications, including but not limited to contracts between defendant Reed Elsevier, Inc., LexisNexis, LexisNexis Risk and Information Analytics Group, and Seisint, Inc. and Trans Union, Equifax, Experian and/or ChoicePoint.

B. Reed Specific Response No. 9:

Reed objects to this request on the grounds that it is overbroad and that it seeks documents that are not relevant or reasonably likely to lead to the discovery of admissible evidence.

C. Plaintiff's position Request No. 9:

This case includes a claim of defamation concerning Varad as a private party in ¶ 12.

The element of *negligence* concerning publication of false information concerning Varad to third parties is material to proof of facts concerning that claim. Reed asserts *defenses* to the claim of negligent publication of defamatory data and information concerning Varad based on the premise that the defamatory data concerning Varad held within its databases was generated by another

source of publicly available data, citing as proof, data repositories such as *Trans Union, Equifax, Experian and/or ChoicePoint*. Reed's letters to Varad dated April 20, 2006 and May 23 2006 both state the Reed is not a "Consumer Reporting Agency" governed by the Fair Credit Reporting Act and direct Varad to contact *Trans Union, Equifax, Experian* as the likely source of the false personal address information. Reed has itself placed discovery concerning its communications, documents and contracts with *Trans Union, Equifax, Experian and ChoicePoint* at material issue in connection with *claimed defenses* and as such discovery is relevant and access to discovery related to that defense is by right pursuant to Fed. R. Civ. P. 26(b)(1).

D. Supporting legal authority

1. Fed. R. Civ. P. 26(b)(1):
"In General: Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. For good cause, the court may order discovery of any matter relevant to the subject matter involved in the action. Relevant information need not be admissible at trial if the discovery appears reasonable calculated to lead to the discovery of admissible evidence."
2. F.R.E. 401
"Relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

A. Request No. 10:

All documents and communications concerning claims contained in the affidavits of John M. Byrne concerning plaintiff's complaint, including but not limited to, all documents and communications concerning his employment, employment title and employment related responsibilities with defendant Reed Elsevier, Inc., LexisNexis, LexisNexis Risk and Information Analytics Group, and Seisint, Inc.

B. Reed Specific Response No. 10:

Reed objects to this request on the grounds that it is overbroad and that it seeks documents that are not relevant or reasonably likely to lead to the discovery of admissible evidence. Subject to and without waiver of the foregoing general objections, Reed states that it will produce documents sufficient to show Mr. Byrnes's job responsibilities with Seisint. Mr. Byrne is not an employee of Reed.

C. Plaintiff's position Request No. 10:

The form of the documents produced by Reed renders the April 25, 2007 general production of discovery documents wholly unresponsive for the reasons that (1) the documents

provided are unorganized and unlabeled as intended as responsive to any specific discovery request such that the response effectively equates no response at all for the reason that it is not possible for Varad to decipher what specific discovery Reed intended as a response to request No. 10 and (2) no documents specifically responsive Request No. 10 are included in Reed's April 25, 2007 general discovery production response. See: Exhibit A, Reed's April 25, 2007 letter to Varad, stating: "Enclosed for service please find documents bates numbered D00033 through D00106, responsive to your First Request for Production of Documents in the above-captioned matter."

Information concerning John M. Byrne, Esq. is material and relevant where Byrne is designated in Defendant's Initial Disclosure as a person with discoverable information concerning its claims and defenses. See: ¶ 1, *Defendant's Initial Disclosures*. And in addition, Byrne signed the Waiver of Service of Summons regarding the instant Complaint, representing specifically Seisint, Inc. Byrne has submitted two separate affidavits containing false and misleading claims regarding his role as "Director and Corporate Counsel" in connection with Reed or LexisNexis corporate subsidiaries.

D. Supporting legal authority

1. Federal Procedure, Lawyers Edition, 10A Fed. Proc., L. Ed. § 26:483:

Form of documents produced: A party who produces documents for inspection must either (1) produce them as they are kept in the usual course of business, or (2) organize and label them to correspond with the categories in the request.

2. "The purposes of discovery and basic considerations of fairness required the defendant to organize the produced documents in a manner clearly indicating which documents respond to specific requests for production." See: T.N. Taube Corp. v. Marine Midland Mortg. Corp. (1991, WD NC) 136 FRD 449, 19 FR Serv 3d 698.

A. Request No. 11:

All documents and communications concerning Reed Elsevier, Inc., LexisNexis, LexisNexis Risk and Information Analytics Group and Seisint, Inc. and customer service agreements, releases, licenses, forms to be utilized concerning customer requests for data and information contained in the databases of Reed Elsevier, Inc., LexisNexis, LexisNexis Risk and Information Analytics Group and Seisint, Inc.

B. Reed Specific Response No. 11:

Reed objects to this request on the grounds that it is overbroad and that it seeks documents that are not relevant or reasonably likely to lead to the discovery of admissible evidence.

C. Plaintiff's position Request No. 11:

This action includes a claim of defamation concerning Varad as a private party in ¶ 12.

The element of *negligence* concerning publication of false information concerning Varad to third parties is material to proof of facts concerning that claim. Request No. 11 seeks discovery concerning the processes employed by Reed while interacting with customers requesting data and personal information contained in Reed's database files and specifically, the database file Reed maintains on Varad. As such the discovery is material, relevant and reasonably calculated to lead to discovery of admissible evidence and accessible by right pursuant to Fed. R. Civ. P. 26(b)(1).

D. Supporting legal authority

1. Fed. R. Civ. P. 26(b)(1):

"*In General:* Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. For good cause, the court may order discovery of any matter relevant to the subject matter involved in the action. Relevant information need not be admissible at trial if the discovery appears reasonable calculated to lead to the discovery of admissible evidence."

2. F.R.E. 401

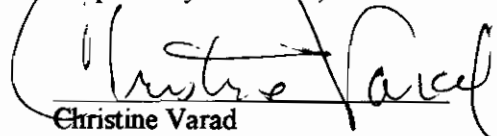
"Relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

CONCLUSION

For all of the foregoing reasons, this Court should compel defendant Reed Elsevier, Inc., LexisNexis, LexisNexis Risk and Information Analytics Group to produce the requested discovery. I certify that the provisions of LR D. Mass. 37 have been complied with.

May 16, 2007

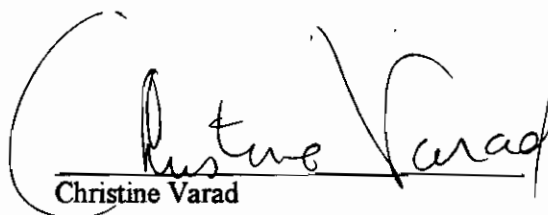
Respectfully submitted,


Christine Varad
P.O. Box 583

Milton, Massachusetts 02186
781 583 7117

I certify that on this 16th day of May 2007, I caused a copy of *PLAINTIFF'S LR D. Mass. 37.1 MOTION TO COMPEL PRODUCTION OF DOCUMENTS PURSUANT TO Fed. R. Civ. P. 34, and 37(a)* 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