

FILED
UNITED STATES DISTRICT COURT IN CLERKS OFFICE
FOR THE DISTRICT OF MASSACHUSETTS

2007 JUL -5 A 10: 10
Civil Docket No.: 06 CA 11370 MLW

U.S. DISTRICT COURT
DISTRICT OF MASS.

Christine. Varad,
Plaintiff,
v.

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

Fed.R.Civ.P. 21 MOTION TO JOIN
the "MAINE BOARD OF BAR EXAMINERS" as a DEFENDANT

Pursuant to Fed.R.Civ.P. 21, Plaintiff Christine Varad respectfully request that the court allow her to join, "Thomas J. Quinn, as Chairperson, Maine Board of Bar Examiners," as a Defendant in the instant action.

Cause of Action, paragraph 2 of Plaintiff's Second Amended Complaint states as follows:

"On April 17, 2006, Plaintiff had requested in writing pursuant to the Fair Credit Reporting Act, FCRA 15 U.S.C. 1681 et seq. and M.G.L. c. 93 § 50-62 inclusive, a complete copy of her file as held by *LexisNexis, LexisNexis Risk and Information Analytics Group*, and as, upon information and belief, disseminated to Steven Gall, Gall and Gall Company, 855 North Dixie Drive, Dayton, Ohio, the Massachusetts Board of Bar Examiners, 77 Franklin Street, Boston, Massachusetts, the Maine Board of Bar Examiners, P.O. Box 140, Augusta, Maine, the National Conference of Bar Examiners, 402 W. Wilson Street, Madison, Wisconsin and others:"

It has recently become clear that the Maine Board of Bar Examiners contracted with the Defendant, LexisNexis, LexisNexis Risk and Information Analytics Group member, Seisint, Inc. to access the "Accurint" database in order to "verify applicants for

bar examination” or check for truthfulness and completeness all data submitted by applicants seeking admission to the Bar in the State of Maine. In the absence of admissible evidence to the contrary, it is reasonable to conclude that agents of the Maine Board of Bar Examiners routinely accessed the Accurint database systems from April of 2004 to the present under contract paid for with public tax dollars by the State of Maine. See: Exhibit A.

Cheryl Cutliffe, Executive Director of the Maine Board of Bar Examiners, has admitted she intentionally acted to delete portions of the computer record of Varad’s February 2007 Bar Examination responses as originally submitted through the employment of a disability accommodation of a court reporter making both a computer record and an audio record of the Plaintiff’s orally dictated examination responses. See: Exhibit B. Ms. Cutliffe deleted portions of the computer record of Plaintiff’s Bar examination responses prior to submitting that computer record for grading and evaluation purposes.

Where the Maine Board of Bar Examiners contracted with the Defendant, LexisNexis, LexisNexis Risk and Information Analytics Group member, Seisint, Inc. to access the “Accurint” database in order to “verify applicants for bar admission,” it is reasonable to conclude that they in fact accessed that database to “verify” the Plaintiff’s application for admission to the Bar in the State of Maine. Where that database contained patently false and defamatory data concerning the Plaintiff’s application for admission to the Bar in the State of Maine, it is reasonable to conclude that Ms. Cutliffe acted pursuant to that data to exclude the Plaintiff from admission to the Bar in the State of Maine by deleting portions of her examination responses to thereby insure a failing test grade. In

addition, the Board has refused to address the issue of making the audio record of the examination available to the Plaintiff as evidence of the original, complete responses.

Fed.R.Civ.P. 21 gives the court a broad discretion to add a party by joinder on such terms as are just. It is fair and equitable to join Thomas J. Quinn, as Chairperson, Maine Board of Bar Examiners as a Defendant for the reason the right to relief in as to Board arises out of the same transactions and occurrences of the instant action. Access to the same false and defamatory database and data or information is at issue; the same corporate database ownership and related responsibilities are at issue, and the same matters concerning professional defamation, loss of professional licensing and employment opportunities and resultant financial damage are at issue.

It is fair and equitable as to all parties concerned for this court to allow the joinder of the Maine Board of Bar Examiners for reasons of judicial economy. "All reasonably related claims for relief by or against different parties should be tried in a single proceeding." See: Mosley v. General Motors Corp., 497 F.2d 1330, 1333 (8th Cir. 1974). The parties should not be forced to file and answer separate lawsuits to preserve their rights pursuant to the jurisdiction and provisions of the laws of the United States such as the Fair Credit Reporting Act and the Americans with Disabilities Act of 1990 if such actions would ultimately address the exact same occurrences as the instant case.

"By its terms, Rule 20(a) only requires a single basis for commonality, in either law or fact, for the joinder to be acceptable." See: Dougherty v Mieczkowski, 661 F. Supp. 267, 278 (D.Del. 1987). The baseline standard of review often applied in considering a Fed.R.Civ.P. 21 request for joinder of a defendant is the standard set out in Fed.R.Civ.P. 20(a) or the discernment of the existence of at least one basis of

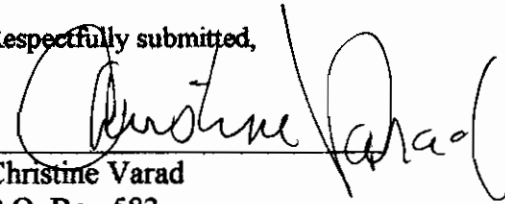
commonality in law or fact with the underlying action presently before the court. Cheryl Cutliffe, Executive Director of the Maine Board of Bar Examiners accessed at least one of the Defendant's databases, "Accurint" in the exact same way, Steven Gall, President of Gall and Gall Company, Inc. accessed that database and both then retrieved the exact same false and defamatory data concerning the Plaintiff and both acted upon the data to defame and damage the Plaintiff. While the actual harms may have been different, (reporting false and defamatory information to an employer as to Gall and Gall Company, Inc. and tampering with an examination to effect a failing grade as to the Maine Board of Bar Examiners) the primary basis for those acts was the same, the information supplied by the Defendant's databases, specifically the "Accurint" product database, concerned the same person, the instant Plaintiff and both resulted in harm to the same Plaintiff.

Varad could not have predicted the actions of Ms. Cutliffe concerning the handling of her February 2007 Bar examination. But where new information has come to light, (See: Exhibits A and B), after the original complaint was filed that indicate that the Maine Board of Bar Examiners should have joined as a defendant, this court may equitably rectify the omission by allowing a joinder of the Board as a defendant. See: Teamsters Local Union No. 116 v. Fargo-Moorhead Automobile Dealers Ass'n, 620 F.2nd 204 (8th Cir. 1980), "If a party should have been joined but was not, the court will simply order appropriate service of process."

For all of the above stated reasons, the Plaintiff, Christine Varad, respectfully requests that this court allow the joinder as a defendant of Thomas J. Quinn, as Chairperson, Maine Board of Bar Examiners," to the instant action.

July 5, 2007

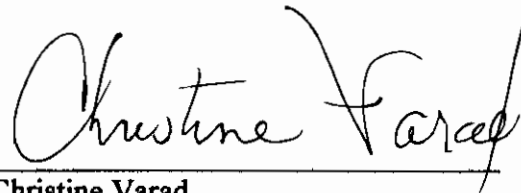
Respectfully submitted,



Christine Varad
P.O. Box 583
Milton, Massachusetts 02186
781 583 7117

I certify that on this 5th day of July 2007, I caused a copy of "Fed.R.Civ.P. 21 MOTION TO JOIN the "MAINE BOARD OF BAR EXAMINERS" as a DEFENDANT," to be served by regular first class mail, postage prepaid, 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