

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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

**DEFENDANT’S MOTION TO QUASH SUBPOENA ISSUED TO “THOMAS J. QUINN, CHAIRPERSON, MAINE BOARD OF BAR EXAMINERS”**

Pursuant to Fed. R. Civ. P. 26(c), defendant Reed Elsevier Inc. (“Reed”) hereby moves to quash the subpoena issued to “Thomas J. Quinn, Chairperson, Maine Board of Bar Examiners” (the “Subpoena”) served by plaintiff Christine Varad (“Plaintiff” or “Varad”) on July 11, 2007.<sup>1</sup> The Subpoena should be quashed because (i) the discovery sought by the Subpoena is not relevant to the claims Plaintiff makes in this litigation nor reasonably calculated to lead to the discovery of admissible evidence, and (ii) discovery has already closed and thus the Subpoena is not timely. In further support of its motion, Plaintiff states as follows:

1. In August 2006, Plaintiff filed this lawsuit claiming that Reed d/b/a “LexisNexis Corporation, Lexis Nexis Accurint” had failed to provide her access to a “file” with regard to information she alleged was provided about her to Gall & Gall Company, Inc. (“Gall & Gall”). Varad claimed that the information provided by Reed was false and resulted in lost employment opportunities. Varad also alleged that Reed provided the same information to others, including the Massachusetts and Maine Board of Bar Examiners. Varad recently amended her complaint to change the name of the defendant to “Reed d/b/a/ LexisNexis, Lexis Nexis Risk &

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<sup>1</sup> Reed is not aware that the Subpoena has actually been served on the deponent.

Information Analytics Group, Inc.”

2. In June 2007, Plaintiff issued a subpoena to “Thomas J. Quinn, Chairperson, Maine Board of Bar Examiners” (the “Board”). Plaintiff has claimed that the Maine Board of Bar Examiners contracted with the defendant to access the “Accurint” database in order to verify information she submitted to the Board in conjunction with her application for admission to the Maine bar. See Plaintiff’s Motion to Join the Maine Board of Bar Examiners as a Defendant (“Motion to Join”), pp. 1-2 [Docket Entry No. 56].

3. Plaintiff’s subpoena was quashed upon motion from the Board, due to Plaintiff’s failure to comply with the Federal Rules of Civil Procedure. [Docket Entry dated 6/27/07].

4. Although the subpoena was quashed, the Board provided a written objection to the request for production of documents which accompanied the subpoena. In its objection, the Board stated that it has not requested or received any information concerning Plaintiff from the defendant Reed, Gall & Gall or from Accurint. See Exhibit 1 to Reed’s Opposition to Motion to Join (Objection of Thomas. J. Quinn and the Maine Board of Bar Examiners To Plaintiff’s Notice of Deposition). Further, during her deposition Plaintiff admitted that she has never passed the bar exam in Maine, Massachusetts, or any other jurisdiction.

5. After the initial subpoena was quashed, on July 5, 2007, Plaintiff filed a Motion to Join the Board as a defendant in this lawsuit. July 18, 2007 Reed opposed the Motion to Join based on several grounds, including that Plaintiff failed to comply with the Local Rules, the allowance of the motion would prejudice Reed because discovery was set to close, and that the Board had nothing to do with the substantive allegations in this lawsuit. The Motion to Join is currently pending.

6. On July 11, 2007, two days before discovery was set to close in this matter,

Plaintiff issued another subpoena to the Board. This new Subpoena now seeks a deposition upon written questions on August 1, 2007, as well as the production of various documents. True and accurate copies of the Subpoena and Notice of Deposition are attached hereto as Exhibit A.<sup>2</sup>

7. The Subpoena should be quashed because, as stated by the Board and as the documents produced show, no information was provided to the Board by Reed, Accurint or Gall & Gall concerning Plaintiff. Document Requests 1 through 4, 9 and 10 to the Subpoena seek documents concerning either information Reed provided to the Board about Plaintiff, or Reed's contracts with the Board. However, because no information was provided to the Board, these requests do not seek information that is relevant to Plaintiff's claims or reasonably likely to lead the discovery of admissible evidence. The remaining document requests in the Subpoena (requests 5 through 9) have nothing to do with this lawsuit, but rather seek documents concerning the scoring of the Maine bar exam and application fees for the exam.<sup>3</sup> The Subpoena likewise seeks deposition testimony (upon written questions) analogous to the document requests. Accordingly, the Subpoena should be quashed.

8. Moreover, in addition to the fact that the Subpoena seeks irrelevant information, the current scheduling order requires that "[t]he parties shall *complete* fact discovery by July 13, 2007." [Docket Entry No. 43, emphasis added]. Thus, discovery closed on July 13, 2007, and Plaintiff has not sought to have the deadline extended.<sup>4</sup> The Subpoena is therefore untimely, as it

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<sup>2</sup> The Subpoena fails to comply with Federal Rules of Civil Procedure 31(a)(3) and 45(a)(2), in that neither the Subpoena nor the Notice of Deposition state the method for recording the deposition testimony, or provide the name or descriptive title and address of the officer before whom the deposition is to be taken.

<sup>3</sup> In her Motion to Join, Plaintiff alleges that the Board allegedly deleted portions of answers she gave during the February 2007 bar exam, causing her to receive a failing score. These allegations, however, are not related to Reed and thus are not proper discovery in this suit.

<sup>4</sup> In fact, discovery was originally set to close in May. During the May 2, 2007 status conference, Plaintiff requested that discovery be extended. Although the Court extended discovery until July 13, 2007, the Court indicated that it would not be inclined to grant any further requests to extend discovery.

seeks a deposition weeks after the close of discovery and less than a month before the deadline to move for summary judgment.

**WHEREFORE**, pursuant to Fed. R. Civ. P. 26(c), Reed respectfully requests that this Court quash the Subpoena to the Maine Board of Bar Examiners, and enter such further relief as this Court deems just and proper.

Respectfully submitted,

REED ELSEVIER INC.  
By its attorneys,

/s/ Kristin M. Cataldo  
T. Christopher Donnelly (BBO #129930)  
Kristin M. Cataldo (BBO #654033)  
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Boston, Massachusetts 02108  
(617) 720-2880

Dated: July 30, 2007

**CERTIFICATE OF SERVICE**

I hereby certify that on this 30<sup>th</sup> day of July, 2007, I caused a copy of the foregoing to be served on Christine M. Varad, P.O. Box 583, Milton, MA 02186 via first class mail.

/s/ Kristin M. Cataldo  
Kristin M. Cataldo

**LOCAL RULE 7.1 CERTIFICATION**

The undersigned counsel for defendant Reed Elsevier Inc. hereby certifies that on July 27, 2007, I telephoned and emailed pro se plaintiff Christine Varad and requested her assent to the subject motion. Ms. Varad would not assent.

/s/ Kristin M. Cataldo  
Kristin M. Cataldo