

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CHRISTINE VARAD,)	
)	
Plaintiff,)	
v.)	CIVIL ACTION
)	NO. 06-11370-MLW
REED ELSEVIER INCORPORATED,)	
d/b/a/ Lexis Nexis, LexisNexis Risk &)	
Information Analytics Group, Inc.,)	
)	
Defendant.)	

**MEMORANDUM OF DECISION AND ORDER
ON PLAINTIFF’S MOTION TO JOIN**

August 3, 2007

DEIN, U.S.M.J.

This matter is presently before the court on the Plaintiff’s Motion to Join the Maine Board of Bar Examiners as a Defendant pursuant to Fed. R. Civ. P. 21 (“Rule 21”) (Docket No. 56). Plaintiff Christine Varad (“Varad” or “Plaintiff”) claims that recently uncovered information shows that the Maine Board of Bar Examiners (“Board”)¹ contracted with the named defendant (“Reed”) “to access the Accurint database in order to verify applicants for bar examination” (Pl.’s Mot (Docket No. 56) at 1-2 (internal quotation omitted)). From this new evidence, she asserts, “it is reasonable to conclude”

¹ While Plaintiff Varad appears to seek to join the “Maine Board of Bar Examiners” in the caption of her motion, she also identifies “Thomas J. Quinn, as Chairperson, Maine Board of Bar Examiners” as the non-joinder party throughout her motion to join. The plaintiff seems to refer to the two parties interchangeably. For the purposes of this motion, the court assumes that the Plaintiff intended to join both parties.

that the Board relied on the “patently false and defamatory data” in the Accurint database to delete her exam answers and exclude her from admission to the Bar. (Id. at 2).

Therefore, Varad contends, it is fair and equitable to join the Board as a defendant pursuant to Rule 21. (Id. at 3).

Rule 21 provides that “[p]arties may be dropped or added by order of the court on motion of any party . . . at any stage of the action and on such terms as are just.” Where the motion to amend comes after responsive pleadings have been served, as in this case, “the standard for adding a party is the same whether the motion is made under Rule 15 or Rule 21 because in both cases the moving party must demonstrate an absence of prejudice to the nonmoving party.” Data Gen. Corp. v. Grumman Sys. Support Corp., 825 F. Supp. 340, 344 (D. Mass. 1993). Furthermore, the court has broad discretion under this rule to grant or deny a motion to join a party. City of Bangor v. Citizens Communications Co., No. Civ. 02-183-B-S, 2003 WL 22003100, at *1 (D. Me. Aug. 21, 2003) (quoting Puricelli v. CNA Ins. Co., 185 F.R.D. 139, 142 (N.D.N.Y. 1999)); see also 4 James Wm. Moore, et al., Moore’s Federal Practice § 21.02(4) (2007).

In the present case, Varad does not meet the standard for a motion to join pursuant to Rule 21. First, her motion unduly prejudices the nonmoving party, Reed, as it was brought only eight days prior to the close of discovery. Varad seeks to join the Board as a defendant almost one year after she alleged in her complaint that “Plaintiff had requested . . . a complete copy of her file as held by Lexis Nexis Accurint, and as, upon information and belief, disseminated to . . . the Maine Board of Bar Examiners.” (Compl.

(Docket No. 1) at 2). The Plaintiff's "recent discovery" does not reveal more than what she had already alleged in her original complaint on August 8, 2006. In light of the fact that discovery has already been extended for two months at plaintiff's request, further delays which would arise from joining an additional defendant and re-opening discovery would result in undue prejudice to Reed, who "has completed discovery and is set to move to summary judgment phase of this litigation." (Def. Opp. (Docket No. 57) at 4).

In addition to being prejudicial, the service of Varad's motion is untimely. Local Rule 15.1(B) requires "[a] party moving to . . . add a new party [to] serve . . . the motion to amend upon the proposed new party at least ten (10) days in advance of filing the motion[.]" Because the standard for adding a party in this case is the same under Rule 15 and Rule 21, Local Rule 15.1(B) is binding on Varad's motion to join. Her failure to serve the Board thus warrants denial of her motion. See Ali v. Univ. of Mass. Med. Ctr., 140 F. Supp. 2d 107, 111 (D. Mass. 2001) (denying motion to add new defendant because plaintiff served his motion on the new defendant on the same day it was filed).

Lastly, the court questions the necessity of joining the Board as a defendant when it has stated on the record that it "did not, and has not, requested or received any information concerning plaintiff Varad" from Reed. (Def. Opp. at Ex. 1). Accordingly, for all the reasons stated herein, the motion to join the Board as a defendant is denied.

 / s / Judith Gail Dein
Judith Gail Dein
United States Magistrate Judge