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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

2007 AUG 27 A 9:56

Civil Docket No.: 06 CA 1137 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 37(b)(2) MOTION FOR SANCTIONS AGAINST THE DEFENDANT  
FOR FAILURE TO COMPLY WITH COURT ORDER TO RESPONDING TO  
PLAINTIFF'S INTERROGATORIES

Plaintiff served Reed on July 1, 2007, by first class mail, with a copy of

"Plaintiff Varad's First Set of Interrogatories Addressed to Defendant, Reed Elsevier  
Incorporated, d.b.a. LexisNexis, LexisNexis Risk and Information Analytics Group, Inc.

Reed did not respond to the request for discovery. See: Exhibit B, Plaintiff Varad's First Set of Interrogatories Addressed to Defendant, Reed Elsevier Incorporated, d.b.a. LexisNexis, LexisNexis Risk and Information Analytics Group, Inc. Reed's failure to produce the court ordered discovery has improperly prejudiced Varad's right to timely access material discovery of facts and evidence in this action.

On August 1, 2007 this Court entered an order granting in part and denying in part Plaintiff's Motion to Compel by ordering Reed to file responses to Varad's discovery requests, (interrogatories) within fourteen days. See: Exhibit A, Court Order, 8/1/2007.

On August 14, 2007, Reed served on Varad a copy of "Defendant's Response to Plaintiff's First Set of Interrogatories." See: Exhibit C, Defendant's Response to Plaintiff's

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*First Set of Interrogatories.* Those responses are non-responsive based on multiple frivolous objections and as such Defendant has violated this Court's order of August 1, 2007 to file responses to Varad's discovery requests within fourteen days. Fed. R. Civ. P. 37 (a) (3) states that an evasive or incomplete disclosure, answer, or response is to be treated as a failure to disclose, answer, or respond. Reed has failed to respond to Varad's request for discovery pursuant to that generally accepted and applied standard. This Court should not that the interrogatory responses made by Nancy Nash, Esq., Deputy Counsel for LexisNexis, "an unincorporated division of Reed, Elsevier, Inc." account for only one database, the Accurint database, and only one corporate group interest, that of Seisint, Inc. Ms. Nash completely fails to make complete response as to all of the other databases owned and operated by the Defendant. Defendant's response falls short of making the statement that LexisNexis does not own or operate multiple additions databases containing public and personal information. In truth, LexisNexis Risk Management owns and operates database products such as Riskwise®, Peoplewise®, and Banko® and LexisNexis maintains and operates a substantial legal research related product database. Discovery concerning all of these products is relevant, material and completely unaccounted for in the present LexisNexis interrogatory responses. For example, the Peoplewise® database is utilized exclusively for pre-employment screening purposes and background checks. See: Exhibit D, *LexisNexis News Release, 9/1/2004*.

Even if this Court were to allow Reed to limit discovery specifically to Seisint, Inc., the present interrogatories responses remain incomplete and unresponsive. Ms. Nash has partly accounted for Seisint, Inc.'s product, the Accurint™ database but she has

failed to provide discovery concerning Seisint, Inc.'s other product, the Securint™ database. See: Exhibit D, *LexisNexis News Release*, 9/1/2004.

In Life Music, Inc. v. Broadcast Music, Inc., D.C.N.Y.1966, 41 F.R.D. 16, many of the party's answers to a set of interrogatories, which it had been ordered by the court to answer, were found inadequate. The court precluded the party from offering evidence on a number of matters and ordered that certain other facts should be regarded as established. Thus it combined sanctions from what are now paragraphs (A) and (B) of Rule 37(b)(2).

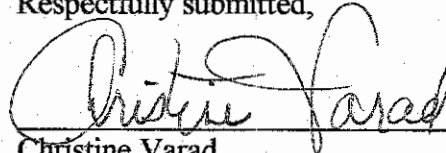
In R. de Bouard & Cie. v. S.S. Ionic Coast, D.C.Tex.1969, 46 F.R.D. 1, where defendant failed to answer interrogatories it was ordered that the reasonableness of plaintiff's charges for the services and disbursements that were the basis for the suit be taken to be established for the purposes of the action. And in Pulliam v. Shelby County, D.C.Tenn.1995, 902 F.Supp. 797, the court imposed the sanction of barring defendants from offering testimony beyond what had been provided in response to discovery requests. Defendants had refused to update answers to interrogatories, to adequately investigate to determine responses to interrogatories and had refused to disclose documents.

#### CONCLUSION

This Court should find that Reed has failed to comply with the Court's August 1, 2007 order compelling it to respond to *Plaintiff Varad's First Set of Interrogatories Addressed to Defendant, Reed Elsevier Incorporated, d.b.a. LexisNexis, LexisNexis Risk and Information Analytics Group, Inc.* Further, this Court should impose appropriate sanctions against Reed for failure to comply with that court order.

August 27, 2007

Respectfully submitted,



Christine Varad

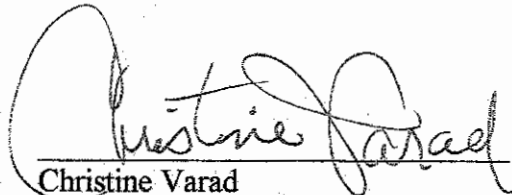
P.O. Box 583

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781 534 8770

I certify that on this 27<sup>th</sup> day of August 2007, I caused a copy of "*FED.R.CIV.P 37(b)(2) MOTION FOR SANCTIONS AGAINST THE DEFENDANT FOR FAILURE TO COMPLY WITH COURT ORDER TO RESPONDING TO PLAINTIFF'S INTERROGATORIES*," 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  
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