

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 FOR SUMMARY JUDGMENT

Pursuant to Fed. R. Civ. P. 56, defendant Reed Elsevier Inc. (“Reed”) hereby moves for summary judgment on all counts in the second amended complaint. As Reed’s memorandum of law in support of its motion for summary judgment details (“Memorandum”), the undisputed facts demonstrate that plaintiff Christine Varad (“Varad”) cannot establish essential elements of her claims, and thus no genuine issue of material fact is presented and summary judgment for Reed on all counts is proper.

The undisputed evidence reveals that prior to this lawsuit, neither Reed nor its alleged d/b/a, Lexis Nexis Risk and Information Analytics Group, Inc. (“Lexis Nexis Risk”), had any interaction whatsoever with Varad. Reed, in fact, is not doing business as Lexis Nexis Risk, and neither Reed nor Lexis Nexis Risk provided any information to Gall & Gall concerning Varad. The entity that did provide information to Gall & Gall concerning Varad – which is not a defendant in this case – is Seisint, Inc. (“Seisint”), a separate corporation owned by Reed. Varad offers no evidence as to why Reed should be held accountable for the alleged actions of a distinct legal entity.

Assuming *arguendo* that Reed was responsible for Seisint’s actions, the evidence

reveals that Varad's contentions do not support a triable issue of fact or law and further that Varad cannot prove the required elements of her claims. As a threshold matter, the Fair Credit Reporting Act 15 U.S.C. 1681 et seq. ("FCRA") is inapplicable here, as the testimony from Gall & Gall reveals that it only used the information from Seisint's Accurint database to confirm Varad's identity, and not for any purpose governed by the FRCA. Thus, Seisint did not act as a "consumer reporting agency" within the meaning of the statute. It follows, therefore, that Seisint's statement that Accurint is not a consumer reporting agency cannot form the basis for a claim under Mass. Gen. Laws c. 93A, as alleged.

Varad's defamation claim fares no better. As an initial matter, the allegedly incorrect information – an address from 1992 – is simply not defamatory. Moreover, the undisputed evidence reveals that F&W, Varad's employer, had no issue with the information provided by Seisint (or any other information in the Applicant Screening Report), and took no adverse action against her. Varad worked the length of her temporary assignment at F&W, and applied for no other positions at F&W. Thus, Varad has no reasonable expectation of proving that an address from 1992 defamed her or caused her "lost professional licensing opportunities." Finally, there is no evidence that Reed provided any information concerning Varad to the Massachusetts or Maine Board of Bar Examiners, and Varad has failed to put forward any evidence to the contrary. Even viewing these facts in a light most favorable to Varad, summary judgment on all counts is warranted.

WHEREFORE, for the reasons detailed in Reed's Memorandum and Statement of Undisputed Facts submitted herewith, Reed respectfully requests that this Court enter

summary judgment in Reed's favor on all counts in the second amended complaint, dismiss this action, and enter such further relief as this Court deems just and proper.

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(E), Reed respectfully requests that this court schedule a hearing on its Motion for Summary Judgment, as it believes that oral argument will assist the court in rendering a fair decision.

REED ELSEVIER INC.

By its attorneys,

/s/ Kristin M. Cataldo
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Dated: August 31, 2007

CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of August, 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