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STATE OF MICHIGAN

COURT OF APPEALS

MASAI AMINITU JENKINS and JOSEPH BENTON III,

Plaintiffs-Appellants,

v

VALARIE ANN LAFORTUNE and BRYAN STEVEN FRANCIS,

Defendants-Appellees.

UNPUBLISHED
September 14, 2026
10:23 AM

No. 376178
Oakland Circuit Court
LC No. 2024-204759-NI

Before: BAZZI, P.J., and PATEL and ACKERMAN, JJ.

PER CURIAM.

In this action arising out of a motor vehicle accident, plaintiffs, Masai Aminitu Jenkins and Joseph Benton III, appeal as of right the order dismissing this action with prejudice for failure to comply with a discovery order. We vacate the order because the trial court abused its discretion by imposing such a harsh sanction without first considering the applicable legal framework, and we remand for further proceedings.

I. BASIC FACTS AND PROCEDURAL HISTORY

On January 4, 2024, plaintiffs filed an automobile negligence suit against defendants, Valarie Ann Lafortune and Bryan Steven Francis, for bodily injuries sustained during a motor vehicle accident. On March 16, 2024, the trial court issued a scheduling order indicating that the cut-off date for discovery was August 1, 2024. On May 2, 2024, defendants answered, generally denying the allegations and raising various affirmative defenses. On May 30, 2024, defendants served plaintiffs with interrogatories and requests for production of pertinent documents.

On August 7, 2024, defendants moved to adjourn all scheduling order dates under MCR 2.503, contending that plaintiffs "have not responded to discovery requests, nor have their depositions taken place," such that defendants "would be severely prejudiced in the preparation of the defense of this case, if this Court does not adjourn all Scheduling Order dates, including Case Evaluation and Trial in this case." On August 8, 2024, the trial court granted defendants' motion

and issued an amended scheduling order providing discovery must be completed by November 1, 2024.

As plaintiffs failed to respond within the 28-day period required under MCR 2.309 and MCR 2.310 to defendants' interrogatories and requests for production of documents and failed to appear for their scheduled dispositions, defendants moved, on October 24, 2024, to compel plaintiffs to respond, to adjourn all dates set forth in the amended scheduling order, and to order plaintiffs' attendance at a deposition or, alternatively, dismiss plaintiffs' claims with prejudice. On November 12, 2024, the trial court entered an order dismissing the underlying action with prejudice, stating:

> Because Plaintiffs failed to respond or oppose the relief requested, and have not shown they are participating in litigating this matter, the Defendants are unduly prejudiced as the discovery cutoff passed on November 1, 2024. There has already been one adjournment due to discovery delays. Dismissal is appropriate pursuant [to *Woods v SLB Prop Mgt*, *LLC*, 277 Mich App 622, 630; 750 NW2d 228 (2008)].

On November 22, 2024, plaintiffs moved to reinstate the case, contending that defense counsel did confer with plaintiffs' counsel to secure disclosure of the discovery as mandated under MCR 2.309(C) and MCR 2.310(C)(3), and that dismissal was "far too harsh a penalty."

On November 27, 2024, defendants responded that their counsel sent a letter to plaintiffs' counsel on August 7, 2024, "specifically [seeking] concurrence prior to filing [] the motion to compel," and plaintiffs neglected to respond to defendants' previous motions and to produce the outstanding discovery. Defendants further provided previous e-mail correspondence attempting to reschedule plaintiffs' depositions after their failure to appear. On December 13, 2024, the trial court reinstated plaintiffs' action but sanctioned plaintiffs' counsel to pay defense counsel $150. The amended scheduling order provided that discovery shall be completed by February 21, 2025.

On May 14, 2025, defendants moved to compel plaintiffs' more specific answers to defendants' interrogatories, or alternatively, dismiss plaintiffs' claims for economic damages, contending that plaintiffs' responses were "inadequate, incomplete, and/or unresponsive," particularly in light of plaintiffs' previous action in the Wayne Circuit Court, and the omission of itemized claims for economic loss. On May 19, 2025, plaintiffs responded generally denying defendants' assertions. Following a mediation regarding discovery, the trial court issued an order on May 22, 2025, providing, "No later than Monday, May 26, 2025, the Plaintiffs shall produce more specific answers to Interrogatory Numbers 2(d), 6 and 9."

On May 28, 2025, defendants moved for dismissal of plaintiffs' action for failure to comply with the May 22, 2025 discovery order, arguing that plaintiffs failed to provide a computation of damages as required under MCR 2.302(A)(1)(f), and plaintiffs neglected to properly supplement their discovery pursuant to MCR 2.302(E). Defendants further stated, "In response to the May 14, 2025[] motion[,] Plaintiffs provided amended answers on the eve of the motion, but the responses did not provide any information regarding Plaintiff[s'] [receipt] of [] benefits nor did it provide a breakdown of the medical bills Plaintiffs will claim at trial." Defendants additionally noted that "[t]his is now the fourth Motion to Compel Defendants have been forced to file," and because of

"Plaintiffs['] repeated failures to provide discovery and abide by the Court's orders, sufficient cause exists to dismiss Plaintiffs' suit in its entirety" under MCR 2.313.

On June 2, 2025, plaintiffs responded that "there was no willful 'failure' to provide discovery," that plaintiffs "provided more specific discovery responses along with a breakdown of each medical expense that was paid," and that "dismissal under these circumstances would be highly prejudicial." Plaintiffs did not provide a copy of their supplemental responses, which purportedly included an itemized list of medical expenses, to their motion.

On June 4, 2025, the trial court held a hearing regarding defendants' motion; the parties advanced arguments consistent with their respective filings. Defendants' counsel acknowledged that plaintiffs sent "something" after filing their response to defendants' motion for dismissal, but the answers were "really non-responsive," and plaintiffs did not clarify what they received in no-fault benefits. Plaintiffs' counsel asserted that the pertinent discovery was disclosed a week before the hearing, to which the trial court responded that the cut-off date for discovery was a "[b]ajillion [sic] years ago." The court further stated that the matter had been previously adjourned on three occasions due to issues with discovery, and it questioned how defense counsel would adequately review the discovery provided on May 30, 2025, when the trial was scheduled in two weeks. When plaintiffs' counsel replied that the delayed discovery was attributable to defendants' request for additional information, the trial court found that explanation "insufficient," and dismissed plaintiffs' action "for the reasons stated by [defense counsel] on the Record and written." Following entry of the corresponding order, this appeal ensued.

II. STANDARD OF REVIEW

"Whether to impose discovery sanctions is entrusted to the discretion of the trial court." *Local Area Watch v Grand Rapids*, 262 Mich App 136, 147; 683 NW2d 745 (2004). "An abuse of discretion occurs when the trial court's decision is outside the range of reasonable and principled outcomes." *Smith v Khouri*, 481 Mich 519, 526; 751 NW2d 472 (2008).

III. DISCOVERY SANCTIONS

Plaintiffs argue that the trial court improperly ordered dismissal as a sanction. We agree.

When a party fails to comply with a discovery order, the trial court maintains broad discretion to prescribe whatever "sanctions as are just." MCR 2.313(A)(6). Such sanctions may include, but are not limited to, ordering a party to pay the reasonable expenses, including attorney fees, of its noncompliance, MCR 2.313(B)(2); barring the disobedient party from supporting or opposing designated claims or defenses, MCR 2.313(B)(2)(b); or dismissing the action entirely, MCR 2.313(B)(2)(c). The mere availability of an extreme sanction under the court rules does not render that sanction appropriate in every case. *Dean v Tucker*, 182 Mich App 27, 32; 451 NW2d 571 (1990). Rather, the trial court must consider "the circumstances of each case to determine if such a drastic sanction is appropriate." *Id*. "Severe sanctions such as default or dismissal are predicated on a flagrant or wanton refusal to facilitate discovery that typically involves repeated violations of a court order." *Swain v Morse*, 332 Mich App 510, 518; 957 NW2d 396 (2020).

Before dismissing a case as a sanction for a discovery violation, the trial court should consider the factors stated in *Dean*, 182 Mich App at 32-33. See *Vicencio v Ramirez*, 211 Mich App 501, 507; 536 NW2d 280 (1995). These factors include:

> (1) whether the violation was [willful] or accidental; (2) the party's history of refusing to comply with previous court orders; (3) the prejudice to the opposing party; (4) whether there exists a history of deliberate delay; (5) the degree of compliance with other parts of the court's orders; (6) attempts to cure the defect; and (7) whether a lesser sanction would better serve the interests of justice. This list should not be considered exhaustive. [*Id*. at 507, citing *Dean*, 182 Mich App at 32-33.]

Additionally, "the record should reflect that the trial court gave careful consideration to the factors involved and considered all of its options in determining what sanction was just and proper in the context of the case before it." *Dean*, 182 Mich App at 32.

In the present case, the trial court did not engage in any meaningful analysis of the *Dean* factors or determine whether a less severe sanction was warranted before ordering dismissal. See *Vicencio*, 211 Mich App at 506-507 ("Before imposing such a sanction, the trial court is *required* to carefully evaluate all available options on the record and conclude that the sanction of dismissal is just and proper.") (emphasis added). Nor did the court consider whether plaintiffs' admittedly delayed supplemental responses sufficiently complied with the discovery order. While the trial court expressed frustration with plaintiffs' previous discovery violations and stated that it was dismissing the action for the reasons set forth in defendants' brief, the court did not conduct the requisite examination on the record, or in its order of dismissal, and in doing so, necessarily abused its discretion. See *id*. ("Here, because the trial court did not evaluate other available options on the record, it abused its discretion in dismissing the case."). See also *Thorne v Bell*, 206 Mich App 625, 635; 522 NW2d 711 (1994) ("The court's failure to evaluate [various discretionary discovery sanction] options on the record before concluding that dismissal of the complaint was warranted constituted error."). But see *Tolas Oil & Gas Exploration Co v Bach Servs & Mfg, LLC*, 347 Mich App 280, 318; 14 NW3d 472 (2023) (holding "the trial court's findings and determinations were sufficient to allow the trial court to dismiss the case under its inherent authority to punish misconduct" when the trial court "carefully considered the relevant factors and determined that dismissal with prejudice was appropriate under the totality of the circumstances.").

While dismissal may ultimately have been an appropriate sanction in light of plaintiffs' prior dismissal and repeated discovery violations, "[d]ismissal is a drastic step that should be taken cautiously," and "[o]ur legal system favors disposition of litigation on the merits." *Vicencio*, 211 Mich App at 506. The trial court's six-minute hearing did not comport with these principles.[1]

[1] Because we conclude that the trial court abused its discretion by ordering dismissal as a sanction, we decline to address plaintiffs' remaining arguments on appeal regarding their substantial compliance with the May 22, 2025 discovery order and the alleged violation of their due-process rights.

Vacated and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Mariam S. Bazzi
/s/ Sima G. Patel
/s/ Matthew S. Ackerman