2026 IL App (1st) 241824-U

No. 1-24-1824

Order filed September 10, 2026

Fourth Division

**NOTICE:** This order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

| | | |
|---|---|---|
| TARIS REAL ESTATE, LLC,<br><br>Plaintiff-Appellant,<br><br>v.<br><br>CHRISTINA BERISH, MATTHEW HAFTER, and THOMPSON COBURN, LLC,<br><br>Defendants-Appellees. | ) | Appeal from the Circuit Court of Cook County<br><br>No. 21 L 7424<br><br>Honorable Mary Colleen Roberts, Judge Presiding. |

JUSTICE NAVARRO delivered the judgment of the court.
Justices Mitchell and Ocasio concurred in the judgment.

**ORDER**

¶ 1 *Held*: The circuit court did not abuse its discretion in dismissing the case pursuant to Illinois Supreme Court Rule 219(c) (eff. July 1, 2002).

¶ 2 Plaintiff, Taris Real Estate, LLC (Taris), appeals from the circuit court's dismissal of the case pursuant to Illinois Supreme Court Rule 219(c) (eff. July 1, 2002), for failing to comply with discovery rules and circuit court orders. For the following reasons, we affirm.

¶ 3 I. BACKGROUND

¶ 4 In 2021, Taris brought suit against Christina Berish, Matthew Hafter, and Thompson Coburn, LLC (collectively, "defendants"), for legal malpractice. Taris alleged that defendants, as Taris's attorneys, failed to take appropriate steps to freeze funds that were in escrow, failed to warn of the potential issues with a referral letter, and generally overbilled for their services while representing Taris in a separate lawsuit.

¶ 5 In December 2022, the circuit court ordered the parties to exchange written discovery requests. Defendants timely served Taris with their first set of interrogatories and their first set of document requests. Taris's responses were due March 23, 2023. Taris served their responses upon defendants on March 30, 2023.

¶ 6 The circuit court ordered written discovery to be completed by June 19, 2023.

¶ 7 On June 20, 2023, defendants filed a motion to compel Taris to comply with their interrogatories and discovery requests. They argued that Taris's interrogatory answers were deficient and Taris failed to produce all the documents sought by defendants. In their motion, they claimed that there had been several Illinois Supreme Court Rule 201(k) (eff. Mar. 17, 2023) conferences with the attorneys for the parties, wherein Taris's attorney had promised to supplement the answers and responses, but had not. Defendants requested the court to order Taris to supplement its answers to interrogatories and to produce all documents requested.

¶ 8 Taris's responses to defendants' first set of interrogatories and requests for documents were attached as exhibits to defendants' motion to compel. Taris had answered several of the interrogatories stating that "[p]ursuant to Illinois Supreme Court Rule 213(e)," it would produce documents "from which a more detailed answer can be derived." Ill. S. Ct. R. 213(e) (eff. Jan. 1, 2018).

¶ 9 On June 28, 2023, the circuit court ordered Taris to provide supplemental answers to several of defendants' first set of interrogatories and to complete production of the document requests by July 7, 2023.

¶ 10 On July 18, 2023, defendants filed a petition for rule to show cause as to why Taris should not be held in civil contempt for failing to comply with the court's July 7, 2023, deadline to answer discovery requests. Defendants attached several exhibits to their petition that showed emails from defendants' attorney to Taris's attorney requesting the outstanding discovery.

¶ 11 On July 25, 2023, the court entered and continued defendants' petition for rule to show cause. It provided a new deadline of August 25, 2023, for Taris to produce the outstanding discovery responses.

¶ 12 On August 31, 2023, defendants' petition for rule to show cause was again entered and continued. The parties were instructed to "meet and confer" with each other regarding Taris's supplemental answers and any other discovery issues.

¶ 13 On October 4, 2023, defendants served one new interrogatory on Taris, asking it to identify the steps it had taken to collect and produce documents, including the devices it had searched.

¶ 14 On October 6, 2023, defendants' petition for rule to show cause was entered and continued.

¶ 15 On November 20, 2023, the court once again entered and continued the petition for rule to show cause. The court also ordered Taris to supplement its answers to interrogatories, and to answer defendants' new interrogatory by December 31, 2023, one year after discovery first opened.

¶ 16 On January 10, 2024, defendants filed a motion to dismiss pursuant to Illinois Supreme Court Rule 219(c) (eff. July 1, 2002). They noted that the legal malpractice case had been filed against them on July 22, 2021, but that the dispute was still in the discovery phase because of

Taris's refusal to comply with discovery requests and circuit court orders. Specifically, defendants noted Taris's failure to comply with the court's June 28, 2023, order granting, in part, defendants' motion to compel, and subsequent orders of the court requiring the production of documents and answers to interrogatories. Defendants alleged that Taris's "deliberate and contumacious disregard" for the court's orders and Taris's discovery obligations warranted the sanction of dismissal.

¶ 17 A hearing was held on defendants' Rule 219(c) motion to dismiss on April 25, 2024, but a transcript of that hearing does not appear in the record.

¶ 18 On May 1, 2024, the circuit court entered an order granting the motion to dismiss with prejudice. In its written order, the court recognized that the "dismissal of a complaint is a drastic solution." It noted, however, that Taris was repeatedly noncompliant with court orders, and that its supplemental responses were insufficient. The court determined that it would "stay the entry of this Order dismissing Plaintiff's Complaint with Prejudice," and grant Taris leave to file amended supplemental responses. Taris was given until July 5, 2024, to file the amended responses with the circuit court. The court stated that if Taris failed to provide supplemental responses to each of the sets of interrogatories "which comply with the findings stated in this Order," it would, on the next court date, enter the order dismissing the complaint with prejudice.

¶ 19 On July 23, 2024, defendants filed a "Statement Identifying Deficiencies in Plaintiff's Supplemental Responses." It stated that instead of filing the supplemental responses in the circuit court as ordered, Taris's attorney had transmitted the responses to defendants' attorney. Defendants alleged that the responses were deficient because they directed defendants to over 2,000 pages of documents and were evasive.

¶ 20 A hearing was held on the deficiency of Taris's responses. The transcript of that hearing does not appear in the record.

¶ 21 On August 16, 2024, the court issued a written order. It stated that Taris failed to file the supplemental responses by July 5, 2024. The court verified that there had been no amended supplemental responses filed in the court. Rather, the only responses in the system were attached as an exhibit to defendants' brief regarding deficiencies in the supplemental answers.

¶ 22 The circuit court noted that it reviewed the two exhibits and "while they address some of the deficiencies identified in the May 1, 2024[,] Order they failed to address all of them." The court highlighted Taris's response to Interrogatory 6, which directed defendants to over 2,000 pages of documents. Given Taris's failure to file the amended responses as directed by the May 1, 2024, order, the court found that it was left with no other recourse but to lift the stay and enter the order dismissing plaintiff's complaint with prejudice.

¶ 23 Taris now appeals.

¶ 24 II. ANALYSIS

¶ 25 On appeal, Taris's sole argument is that the circuit court abused its discretion in dismissing its complaint with prejudice as a sanction because it "did not consider alternative remedies short of dismissal." Defendants maintain that dismissal pursuant to Rule 219(c) was appropriate given the length of time that had transpired and the extent of Taris's noncompliance.

¶ 26 Illinois Supreme Court Rule 219 (eff. July 1, 2002) authorizes a circuit court to impose a sanction, including dismissal of the cause of action, upon any party who unreasonably refuses to comply with any provisions of the court's discovery rules or any order entered pursuant to those rules.

¶ 27 "Dismissal of a cause of action or sanctions which result in a default judgment are drastic sanctions and should be employed when it appears that all other enforcement efforts of the court have failed to advance the litigation." *Sander v. Dow Chemical Co.*, 166 Ill. 2d 48, 67 (1995). "The purpose of imposing sanctions is to coerce compliance with court rules and orders, not to punish the dilatory party." *Id*. at 67-68. "Dismissal of a cause of action for failure to abide by court orders is justified only when the party dismissed has shown a deliberate and contumacious disregard for the court's authority." *Id*. at 68.

¶ 28 "In determining an appropriate sanction, the trial judge must weigh the competing interests of the parties' rights to maintain a lawsuit against the necessity to accomplish the objectives of discovery and promote the unimpeded flow of litigation." *Id*. "Where it becomes apparent that a party has willfully disregarded the authority of the court, and such disregard is likely to continue, the interests of that party in the lawsuit must bow to the interests of the opposing party." *Id*. at 69.

¶ 29 "Reversal of a trial court's decision to impose a particular sanction is only justified when the record establishes a clear abuse of discretion." *Id.* at 67. When abuse of discretion is the applicable standard of review, the question is not whether the reviewing court agrees with the action taken by the circuit court, but rather if the court "acted arbitrarily, without employing conscious judgment, or whether, in view of all the circumstances, the court exceeded the bounds of reason and ignored recognized principals of law so that substantial prejudice resulted." *State Farm Fire & Casualty Co. v. Leverton*, 314 Ill. App. 3d 1080, 1083 (2000).

¶ 30 Generally, before imposing a sanction, the court should consider various factors, such as: (1) the nature of the evidence being sought; (2) the diligence of the adverse party in seeking discovery; (3) the timeliness of the adverse party's objection to the evidence; (4) the surprise to

the adverse party; (5) the prejudicial effect of the evidence in question; and (6) the good faith of the party offering the evidence. *Locasto v. City of Chicago*, 2014 IL App (1st) 113576, ¶ 26.

¶ 31 Additionally, before dismissing an offending party's lawsuit with prejudice, reviewing courts have suggested that the circuit court consider four additional factors before imposing such a drastic sanction: (1) the degree of personal responsibility of the party for the noncompliance; (2) the previous level of compliance with discovery and sanction orders; (3) whether less severe measures are available or, based on the record, would be futile; and (4) whether the offending party has previously been warned about the possibility of a dismissal with prejudice. *Id*. ¶ 35.

¶ 32 Here, Taris contends that the circuit court abused its discretion by failing to consider alternative, less drastic sanctions, before dismissing the case. Taris claims that "at every juncture where the trial court required Taris to supplement or expand [its] discovery responses *** Taris complied," thus the sanction of dismissal was too harsh.

¶ 33 We do not agree that the dismissal was too harsh and do not find that the circuit court abused its discretion in finding Taris had a "deliberate, contumacious or unwarranted disregard for the Court's authority." As the court noted in its initial dismissal order, Taris was noncompliant with several discovery requests and court orders: (1) it did not comply with the written discovery deadline of June 19, 2023; (2) it failed to provide supplemental answers to defendants' first set of interrogatories Nos. 2, 4, 6, 7, 9, and 12-16, and to complete document production by July 7, 2023; (3) it failed to comply with the December 31, 2023, deadline and to answer defendants additional interrogatory; (4) it provided insufficient supplemental answers to defendants' first set of interrogatories; and (5) it provided an insufficient response to the one new interrogatory. See Ill. S. Ct. R. 219(c) (eff. July 1, 2002) ("[w]here a sanction is imposed under this paragraph (c), the

judge shall set forth with specificity the reasons and basis of any sanction so imposed either in the judgment order or in a separate written order.").

¶ 34 Written discovery began in December 2022, and each time Taris failed to sufficiently respond to discovery requests, defendants had to bring it to the attention of the court. See *Locasto*, 2014 IL App (1st) 113576, ¶ 35 (courts should consider the previous level of compliance with discovery before dismissal). Despite the new deadlines, a motion to compel, and a petition for rule to show cause, the court nevertheless noted that the dismissal of a complaint was a drastic solution. It stayed the entry of the dismissal order and granted Taris leave to file amended supplemental responses, thus giving Taris a final opportunity to stave off dismissal with prejudice. See *id.* (courts should consider whether the offending party has previously been warned about the possibility of a dismissal with prejudice).

¶ 35 In its final order, the court noted that Taris failed to file the amended responses by the deadline. After reviewing the exhibits attached to a filing by defendants, the court noted that the supplemental responses directed defendants to over 2,000 pages of documents and lacked substance because there was no specificity in the answers. Given Taris's failure to comply with the initial dismissal order, the court noted that it was "left with no recourse" but to lift the stay and enter the dismissal order with prejudice.

¶ 36 It appears that all other enforcement efforts of the court had failed to advance the litigation. See *Sander*, 166 Ill. 2d at 67 (dismissal of a cause of action should only be employed when it appears that all other enforcement efforts of the court have failed to advance the litigation). First, the court granted defendants' motion to compel Taris to supplement its answers to the interrogatories and to complete its document production. The court then entered and continued defendants' petition for rule to show cause as to why Taris should not be held in contempt for

failing to respond to the written discovery requests on four separate occasions: July 25, 2023, August 31, 2023, October 6, 2023, and November 20, 2023. Finally, when it granted defendants' section 219(c) motion to dismiss, it stayed the entry of the order as a final effort to coerce Taris to comply with the written discovery requests. Each of these enforcement methods proved futile.

¶ 37 There is nothing in the record to indicate that a less severe sanction would have coerced Taris to adequately respond to the written discovery requests. After each enforcement method was employed by the circuit court, Taris continued to show noncompliance. *Harris v. Harris*, 196 Ill. App. 3d 815, 824 (1990) (where offending party continued to show "noncompliance after the imposition of the first sanction," the trial court should not have been convinced that her conduct would have been different in the future). Indeed, Taris does not point to an alternative, less severe sanction that would have coerced it to comply with the circuit court's discovery orders. Based on the record, it appears that any sanction less severe than dismissal would have been futile. See *Locasto*, 2014 IL App (1st) 113576, ¶ 35 (courts should consider whether less severe measures are available or, based on the record, would be futile)

¶ 38 Finally, we note that the court only entered its dismissal order after it had stayed the entry for nearly three months, allowing Taris ample time to file amended responses with the court, and Taris still failed to file those responses. See *id.* (courts should consider whether the offending party was previously warned about the possibility of dismissal with prejudice). We find that where Taris was adequately warned about the possibility of a dismissal with prejudice, and still failed to comply, the circuit properly found that Taris willfully disregarded the court's authority. Where, as here, it becomes apparent that a party's willful disregard for authority is likely to continue, the interests of that party in the lawsuit must bow to the interests of the opposing party. See *Sander*, 166 Ill. 2d at 69.

¶ 39 While the parties had a right to maintain a lawsuit, this was not outweighed by the necessity to accomplish the objectives of discovery and promote the unimpeded flow of litigation. *Id.* at 68 ("[i]n determining an appropriate sanction, the trial judge must weigh the competing interests of the parties' rights to maintain a lawsuit against the necessity to accomplish the objectives of discovery and promote the unimpeded flow of litigation."). Rule 219(c) vests the circuit court with the authority to dismiss a cause of action with prejudice for a plaintiff's repeated violations of the court's orders, and we find that the circuit court did not abuse its discretion in doing so in this case.

¶ 40 III. CONCLUSION

¶ 41 For the foregoing reasons, we affirm the judgment of the circuit court of Cook County.

¶ 42 Affirmed.