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UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

SUSAN ANNE WASSERMAN, Executor of the Estate on behalf of Mary Lou Smith,

Plaintiff-Appellant,

v.

ROBERT JOHN BEGGS; BEGGS LAW OFFICES CO., LPA, et al.,

Defendants-Appellees.

No. 25-3793

Appeal from the United States District Court for the Southern District of Ohio at Columbus.
No. 2:24-cv-03965—Sarah Daggett Morrison, District Judge.

Decided and Filed: October 27, 2026

Before: BOGGS, GILMAN, and BUSH, Circuit Judges.

COUNSEL

ON BRIEF: Susan Anne Wasserman, Los Angeles, California, in propria persona.

OPINION

RONALD LEE GILMAN, Circuit Judge. Susan Anne Wasserman appeals from a district court's order that dismissed her action against Robert John Beggs and the Beggs Law Offices (the Beggs Defendants) with prejudice. She also appeals the court's designation of her as a vexatious litigator, a sanctions measure that entails the imposition of prefiling restrictions. She raises four arguments on appeal: that the district court (1) abused its discretion by dismissing her action against the Beggs Defendants with prejudice, (2) violated her due process

rights by designating her as a vexatious litigator, (3) improperly failed to recuse itself due to "clear bias," and (4) committed "fraud on the court" by not reporting "elder abuse" under Ohio law.

We find none of Wasserman's arguments meritorious. Accordingly, for the reasons set forth below, we **AFFIRM** the district court's order of dismissal with prejudice and its designation of Wasserman as a vexatious litigator subject to prefiling restrictions.

I. BACKGROUND

Wasserman, in her purported capacity as an executor of an Ohio probate estate, brought this action against the Beggs Defendants. She either successfully hired or attempted to hire the Beggs Defendants to represent her in a probate-related matter in the Franklin County Court of Common Pleas, Probate Division, and now claims that he made negligent misrepresentations to her. Although Wasserman originally named several other defendants, including both the Ohio Attorney General and Franklin County itself, all of those defendants were either voluntarily dismissed or otherwise not involved in this appeal by Wasserman.

The Beggs Defendants have informed us of their intent not to participate in this appeal. We nevertheless could have requested briefing from them. *See* Fed. R. App. P. 2(a), 31(a)(2). We have instead determined that Wasserman's brief and our review of the record below provide us with a sufficient framework to evaluate her grounds for appeal.

Seven months after she filed her first complaint in this action, Wasserman was granted leave to file a Second Amended Complaint, and she did so. In response, the Beggs Defendants filed their answer. The district court reviewed the Second Amended Complaint and, invoking its authority under Rule 12(f) of the Federal Rules of Civil Procedure, struck the complaint for failure to comply with Rules 8 and 11. In the court's view, the Second Amended Complaint failed to comply with Rule 8's requirement that a complaint be a "simple, concise, and direct" pleading and consist of "a short and plain statement of the claim showing that the pleader is entitled to relief."

The district court specifically found that the Second Amended Complaint was needlessly lengthy and contained several "immaterial" and "impertinent" allegations. Moreover, Wasserman added several *pro se* coplaintiffs to the Second Amended Complaint, none of whom had signed the pleading, in clear violation of Rule 11(a). The court then gave Wasserman the opportunity to file a Third Amended Complaint that complied with the Federal Rules of Civil Procedure and the court's order.

At the deadline to file the Third Amended Complaint, Wasserman instead filed a Notice of Voluntary Dismissal (hereinafter the Notice), citing Rule 41(a)(1)(A)(i), to dismiss the Beggs Defendants from the action "without prejudice." The Notice was a brief and cursory statement of Wasserman's intent to dismiss the Beggs Defendants without any explanation for why she was seeking the dismissal.

Because the Beggs Defendants had already served an answer in the action, the district court determined that Rule 41(a)(2) applied to the Notice, not Rule 41(a)(1)(A)(i). Rule 41(a)(2) requires a court order prior to the dismissal of an action. *See Wellfount, Corp. v. Hennis Care Ctr. of Bolivar, Inc*., 951 F.3d 769, 772 (6th Cir. 2020) ("[I]f an opposing party has served an answer or a motion for summary judgment, then 'an action may be dismissed at the plaintiff's request only by court order, on terms that the court considers proper.'") (quoting Fed. R. Civ. P. 41(a)(2)).

Given the procedural problems with Wasserman's Notice, the district court presented her with three options on how to proceed: (1) that the court could dismiss the action with prejudice; (2) that Wasserman could file a more detailed motion to dismiss the Beggs Defendants, specifically explaining why they would not suffer plain legal prejudice from the dismissal without prejudice that she was seeking; or (3) that she could withdraw the Notice and file a Third Amended Complaint as originally ordered by the court. In the same order, the court warned Wasserman that it was considering designating her as a vexatious litigator due to her filing of "this frivolous lawsuit" as well as her previous filing of "frivolous cases."

Wasserman replied by filing a brief explaining why the dismissal of the Beggs Defendants without prejudice would help her "close out her residual case load." She also

provided several irrelevant and immaterial details about her probate cases in Franklin County in an effort to persuade the district court that her litigiousness had legitimacy. Even viewing Wasserman's pleading as a more detailed motion to dismiss the Beggs Defendants without prejudice (i.e., the second option offered by the court), she failed to respond specifically to the court's directive that she explain why the Beggs Defendants would not face plain legal prejudice if the action was dismissed without prejudice. The court then determined that this failure to comply with its order warranted dismissal of the action with prejudice.

In the same order, the district court highlighted Wasserman's history of sanctionable conduct in this case as well as in others. The court pointed out that, in the last two years, Wasserman has filed seven cases. In one case, for example, she was ordered to pay sanctions in the form of attorney fees for a frivolous removal from a state-court proceeding, which this court affirmed. *See Weir v. Wasserman*, No. 2:24-cv-3334 (S.D. Ohio Oct. 9, 2024), *aff'd*, No. 25-3208, 2025 WL 3688824 (6th Cir. Dec. 19, 2025). The district court further reiterated that Wasserman's grounds for filing this lawsuit were frivolous.

Next, the district court designated Wasserman as a vexatious litigator and imposed prefiling restrictions on her, including that she be prohibited from filing any new cases in that court without (1) having an attorney who is licensed in the State of Ohio or United States District Court for the Southern District of Ohio first submit a statement that Wasserman is asserting a claim in good faith, or (2) having the court review her proposed complaint prior to filing. The court identified Rule 11(c) and its own inherent powers as the sources of its authority to impose the vexatious-litigator designation and the prefiling restrictions on Wasserman. She now appeals both the dismissal of her action with prejudice and the imposition of prefiling restrictions on her.

II. DISCUSSION

A. Dismissal with prejudice

Wasserman first claims that the district court erred when it dismissed her action with prejudice when she had sought to dismiss the Beggs Defendants without prejudice. We review the court's decision to do so under the abuse-of-discretion standard, which asks if the court "rel[ied] on erroneous findings of fact, appl[ied] the wrong legal standard, misappl[ied] the

correct legal standard, or ma[d]e a clear error in judgment." *Bridgeport Music, Inc. v. Universal-MCA Music Publ'g, Inc*., 583 F.3d 948, 953 (6th Cir. 2009) (citation omitted).

Although Wasserman originally moved to dismiss the Beggs Defendants under Rule 41(a)(1)(A)(i), the district court correctly construed her motion as proceeding under Rule 41(a)(2) because the Beggs Defendants had already filed an answer in the action. Rule 41(a)(1)(A)(i) allows a plaintiff to dismiss an action without a court order via a notice of dismissal "before the opposing party serves either an answer or a motion for summary judgment." Fed. R. Civ. P. 41(a)(1)(A)(i). On the other hand, if a party has already filed an answer or a summary-judgment motion, Rule 41(a)(2) controls, and a party may dismiss an action only upon receipt of a court order. "Unless otherwise specified in the order, a dismissal under [Rule 41(a)(2)] is without prejudice." Fed. R. Civ. P. 41(a)(2). But as recognized by this court in *United States v. 266 Tonawanda Trail* (*One Tract*), 95 F.3d 422 (6th Cir. 1996), "the last sentence of Rule 41(a)(2) implicitly permits the district court to dismiss an action with prejudice in response to a plaintiff's motion to dismiss without prejudice." *Id*. at 425.

Wasserman claims that the Beggs Defendants had yet to file an answer or summary-judgment motion in the action, but the Beggs Defendants had in fact answered the Second Amended Complaint. Even the original version of Wasserman's complaint had been answered by the Beggs Defendants. The district court therefore correctly applied Rule 41(a)(2) to Wasserman's Notice.

We turn next to the question of whether the district court abused its discretion by making the dismissal with prejudice. In *One Tract*, 95 F.3d 422, this court outlined three factors that must be met in making that determination:

> First, the district court must give the plaintiff notice of its intention to dismiss with prejudice. Second, the plaintiff is entitled to an opportunity to be heard in opposition to dismissal with prejudice. Third, the plaintiff must be given an opportunity to withdraw the request for voluntary dismissal and proceed with the litigation. This third requirement is essential because, unlike a dismissal without prejudice, a dismissal with prejudice operates as a rejection of the plaintiff's claims on the merits and res judicata precludes further litigation.

Id. at 425-426 (citation modified).

Here, the district court provided Wasserman with the required "notice of its intention to dismiss with prejudice, along with an opportunity to withdraw the request for voluntary dismissal." *See Mich. Surgery Inv., LLC v. Arman*, 627 F.3d 572, 573 (6th Cir. 2010). It alternatively permitted Wasserman to respond with an explanation for why a dismissal without prejudice of the Beggs Defendants would not cause them to suffer plain legal prejudice. *See Grover ex rel. Grover v. Eli Lilly & Co.*, 33 F.3d 716, 718 (6th Cir. 1994) (explaining that a court abuses its discretion when it dismisses an action without prejudice only if the defendant would suffer "plain legal prejudice" from the dismissal without prejudice, "as opposed to the mere prospect of a second lawsuit.")

The district court's order satisfied the requirements outlined in *One Tract*. Since those requirements were satisfied, Wasserman's failure to explain why a dismissal without prejudice would not have legally prejudiced the Beggs Defendants was a sufficient basis for the court to dismiss the action with prejudice. The court did not abuse its discretion in doing so.

B. Vexatious litigator designation

Wasserman next insists that the district court violated her due process rights by deeming her a vexatious litigator without a hearing. We review a court's order imposing sanctions, including a vexatious-litigator order, under the abuse-of-discretion standard. *See First Bank of Marietta v. Hartford Underwriters Ins. Co*., 307 F.3d 501, 510 (6th Cir. 2002) (citation omitted).

The authority to impose sanctions for conduct that "abuses the judicial process," including the imposition of prefiling restrictions on an attorney, arises from the federal courts' inherent powers. *See BDT Prods., Inc. v. Lexmark Int'l, Inc*., 602 F.3d 742, 751 (6th Cir. 2010); *see also Chambers v. NASCO, Inc*., 501 U.S. 32, 46–50 (1991). Rule 11(c) of the Federal Rules of Civil Procedure further provides that a court may impose sanctions on an attorney if it determines that the attorney has violated Rule 11(b), which, in turn, governs an attorney's representations to the court. *See* Fed. R. Civ. P. 11(c)(1)–(2), 11(b).

Wasserman insists that the balancing test outlined in *Mathews v. Eldridge*, 424 U.S. 319 (1976), required the district court to hold an evidentiary hearing before designating her as a vexatious litigator. *See id.* at 335. According to Wasserman, her private interest (i.e., her right

to litigate on behalf of her last remaining client) was at risk of erroneous deprivation without additional fact-finding in a hearing, while the burden on the court to have a hearing was low. But the court's imposition of prefiling restrictions on Wasserman does not prohibit her from litigating on behalf of her clients, so long as another attorney agrees that she has a good-faith basis for her claims or if the court reviews her complaint in advance. Wasserman cites no authority requiring an evidentiary hearing as a precondition for the court to assess the "suit's good faith or [her] protected status," and we find her argument unpersuasive.

That is not to say that the district court was free to disregard due process concerns altogether when it designated Wasserman as a vexatious litigator. In a previous case where this court considered whether a vexatious-litigator designation complied with the mandates of due process, it outlined the following four circumstances that, if met, would cover the litigator's due process concerns:

> (1) provide notice to the plaintiff; (2) create an adequate record for review, including a listing of all the cases and motions that led the district court to conclude that a vexatious litigator order was needed; (3) make substantive findings as to the frivolous or harassing nature of the litigant's actions; and (4) narrowly tailor the order to closely fit the specific vice encountered.

Clemons v. DeWine, No. 19-3033, 2019 WL 7567197, at *3 (6th Cir. May 1, 2019) (citation modified) (quoting *De Long v. Hennessey*, 912 F.2d 1144, 1147–48 (9th Cir. 1990)). We apply the same four considerations here and conclude that the district court complied with its due process obligations when it designated Wasserman as a vexatious litigator.

As a preliminary matter, the district court informed Wasserman in a show-cause order that it was considering imposing prefiling restrictions on her and designating her as a vexatious litigator. In the same order, the court listed the bevy of cases that Wasserman had filed in the court and in the Ohio state courts, and it highlighted the specific conduct by Wasserman that led to its decision. Specifically, the court pointed out that it had twice awarded attorney fees and costs against Wasserman for improper removal from a state-court proceeding and once imposed sanctions on her for "bad-faith conduct." The court also highlighted the fact that Wasserman had been ordered by a state-court judge to pay $175,000 in attorney fees as sanctions for her conduct in state court.

Wasserman's frivolous reason for commencing this action was also highlighted in the district court's vexatious-litigator order. Although Wasserman told the court that she had filed this lawsuit to "close her case load in Ohio," the court reviewed the record of the case and disagreed. It determined that a material reason for Wasserman filing this lawsuit was to "lob her gripes about how the Franklin County, Ohio Court of Common Pleas, Probate Division . . . handles newly discovered assets of closed estates."

The district court's prefiling restrictions are also narrowly tailored to fit Wasserman's conduct. She was found to have a penchant for filing numerous frivolous cases, so the prefiling restrictions that the court outlined address that specific pattern. *See* Fed. R. Civ. P. 11(c)(4) ("A sanction imposed under this rule must be limited to what suffices to deter repetition of the conduct or comparable conduct by others similarly situated.").

But Wasserman argues that the district court abused its discretion in deeming her a vexatious litigator because she has "protected whistleblower status" as provided to her under the Sarbanes-Oxley Act, 18 U.S.C. § 1514A. She claims to have additional protection under Ohio's Uniform Public Expression Protection Act (UPEPA), Ohio Rev. Code §§ 2747.01–.06, a statute that safeguards individuals from meritless lawsuits designed to chill their free speech and embroil them in costly legal battles. Her purpose in invoking these statutes is unclear, since they are inapplicable and immaterial to this case. The Sarbanes-Oxley Act's anti-retaliation provision applies to whistleblowers in publicly-traded companies. *See Rhinehimer v. U.S. Bancorp Invs., Inc.*, 787 F.3d 797, 804–05 (6th Cir. 2015). And Ohio's UPEPA is inapplicable because Wasserman is not facing a lawsuit that is threatening her for exercising her right to free speech.

Wasserman's arguments on the applicability of either of the above statutory "protections" are difficult to parse at best. But even if these statutes had any relevance to this case, neither would excuse her frivolous conduct in this and other actions. The district court, therefore, did not abuse its discretion in designating Wasserman as a vexatious litigator and imposing prefiling restrictions on her.

C. The district judge's failure to recuse

Wasserman next argues that the district court failed to recuse itself despite clear evidence of bias. Her primary point is that the same district judge who presided over this case also presided over a previous lawsuit in which Wasserman was a party. In that case (*Weir v. Wasserman*, No. 2:24-cv-03334, cited above), she was ordered to pay the opposing party's attorney fees as a sanction. Aside from the fact that Wasserman never sought recusal by the judge in the action below, she has not explained how the court exhibited clear bias or retaliated against her. Because Wasserman raises this issue for the first time on appeal, we review it under the plain-error standard. *See United States v. Roach*, 502 F.3d 425, 441 (6th Cir. 2007).

Wasserman's assertion that the district judge was biased because of the judge's previous involvement in *Weir* is without merit. She has provided no proof for the contention that the court's sanctions order in that case created "an appearance of partiality tied to Robert E. Weir's local ties." Nor did the court rely solely on the "Weir-connected sanctions" in designating her as a vexatious litigator. The court therefore committed no error, plain or otherwise, in not recusing.

D. Failure to report elder abuse

Wasserman's final argument is that the district court "committed fraud on the court" by "failing to act as a mandatory reporter under Ohio Rev. Code § 5101.61." Although Wasserman outlines this argument as a distinct ground for her appeal, she largely abandons the argument in her brief. The filing is bereft of any pertinent information necessary to make an informed ruling on this issue.

Nor has Wasserman explained on what basis the district court committed "fraud on the court." She contends that the court has mandatory duties under Ohio law to report "elder abuse." But she provides no authority to determine if § 5101.61 even applies to the court or, if it does, how the court committed fraud when it purportedly did not comply with § 5101.61. Finally, Wasserman fails to explain how whatever elder abuse she experienced has any relevance to this case.

III. CONCLUSION

For all the foregoing reasons, the district court did not abuse its discretion in dismissing Wasserman's action with prejudice, designating her as a vexatious litigator, and imposing prefiling restrictions on her. We accordingly **AFFIRM** the court's order.