

STATE OF MICHIGAN  
COURT OF APPEALS

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PHILIP H. BLANKFELD,

Plaintiff-Appellant,

v

STEPHEN R. MARDIGIAN, BEST GROUP, INC.,  
BEST WRECKING, INC., BEST GROUP  
MARINE AND SALVAGE, INC. and BEST  
GROUP OF TEXAS, INC.,

Defendants-Appellees.

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UNPUBLISHED

June 29, 1999

No. 205137

Oakland Circuit Court

LC No. 96-522823 CK

Before: Saad, P.J., and Murphy and O'Connell, JJ.

PER CURIAM.

Plaintiff appeals as of right from the order dismissing his complaint and denying his motion for rehearing. We reverse and remand.

Plaintiff argues on appeal that the trial court abused its discretion in granting defendants' motion for dismissal for his discovery violations. We agree. This Court has recognized that dismissal of a claim is a drastic sanction that should be taken cautiously. See *Vicencio v. Ramirez*, 211 Mich App 501, 506; 536 NW2d 280 (1995). Before imposing dismissal as a sanction, the trial court must carefully evaluate all available options on the record and conclude that dismissal is just and proper. *Id.*; *Hanks v SLB Management, Inc.*, 188 Mich App 656, 658; 471 NW2d 621 (1991). Because plaintiff did not violate any court order with respect to discovery and because the trial court failed to evaluate on the record all available options, we conclude that the trial court abused its discretion in dismissing plaintiff's case without first exploring the possibility of imposing a less harsh sanction or ordering plaintiff to comply with discovery. Accordingly, we reverse the trial court's decision to dismiss this case, and we remand this case to the trial court with instructions that the trial court consider all available options for plaintiff's perceived discovery abuses.

In light of our resolution of this case, we need not address plaintiff's claim that the trial court erred in denying his motion for rehearing.

Reversed and remanded. We do not retain jurisdiction.

/s/ Henry William Saad

/s/ William B. Murphy

/s/ Peter D. O'Connell