

STATE OF MICHIGAN  
COURT OF APPEALS

---

TONI MORRIS, MARTELL MORRIS, EVERETT  
JONES and AYNÄ WILLIAMS,

UNPUBLISHED  
September 10, 1999

Plaintiffs-Appellants,

v

No. 199730  
Wayne Circuit Court  
LC No. 96-615796 NI

KATHLEEN CARTER,

Defendant-Appellee.

---

Before: Markman, P.J., and Saad and P.D. Houk,\* JJ.

MEMORANDUM.

Plaintiffs appeal by right from the trial court's order dismissing this automobile negligence action as a sanction for plaintiffs' discovery violations and for violating the trial court's order. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

This Court reviews a trial court's decision to grant discovery sanctions for an abuse of discretion. *Traxler v Ford Motor Co*, 227 Mich App 276, 286; 576 NW2d 398 (1998). Similarly, the decision whether to dismiss the case with or without prejudice is generally a matter within the trial court's discretion. *North v Dep't of Mental Health*, 427 Mich 659, 661; 397 NW2d 793 (1986).

We find no abuse of discretion here. Plaintiffs repeatedly failed to comply with the trial court's orders compelling proper responses to defendant's requests for answers to interrogatories and production of documents. This failure continued despite the court's specific warning that failure to comply with its order would result in dismissal of their claims with prejudice. The reference to dismissal without prejudice in the October 1, 1996 order, apparently due to oversight, did not restrict the trial court's discretion to dismiss the case with prejudice, especially in light of plaintiffs' continued lack of full compliance with defendant's requests weeks after the deadline set by the October 1, 1996 order had passed.

---

\* Circuit judge, sitting on the Court of Appeals by assignment.

Affirmed.

/s/ Stephen J. Markman

/s/ Henry William Saad

/s/ Peter D. Houk