

STATE OF MICHIGAN
COURT OF APPEALS

GEORGE STEVENS,

Plaintiff-Appellant,

v

EQUITY INVESTMENT MANAGEMENT,
L.L.C., and MARIE PASCHE,

Defendants-Appellees.

UNPUBLISHED

November 12, 2002

No. 235201

Leelanau Circuit Court

LC No. 00-005340-CB

Before: Griffin, P.J., and Gage and Meter, JJ.

MEMORANDUM.

Plaintiff appeals as of right the order granting defendants' motion for dismissal under MCR 2.504(B). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Approximately two months after this action was filed, the trial court entered a civil scheduling order providing deadlines for the exchange of witness lists and exhibits, discovery, mediation, case evaluation, motions, and trial briefs. At the final pretrial conference, defendants moved for dismissal based on multiple violations of the scheduling order. Plaintiff failed to provide a witness list, did not comply with a request for the production of documents, failed to attend the case evaluation or file a brief, and did not bring a trial brief to the final hearing. The trial court found that plaintiff exhibited complete ignorance of the scheduling order and dismissed the case with prejudice.

MCR 2.504(B) authorizes a court to enter an involuntary dismissal if a plaintiff fails to comply with a court order. This Court will review a trial court's decision to dismiss for abuse of discretion. *Thorne v Carter*, 149 Mich App 90, 93; 385 NW2d 738 (1986).

Factors to be considered by the court in determining an appropriate sanction include (1) whether the violation was wilful or accidental, (2) the party's history of refusing to comply with discovery, (3) prejudice to defendant, (4) actual notice to the defendant, (5) the party's history of intentional delay, (6) the party's compliance with orders of the court, (7) the party's attempt to cure the defect, and (8) whether a lesser sanction would better serve the interests of justice. *Dane v Tucker*, 182 Mich App 27, 32-33; 451 NW2d 571 (1990).

Although plaintiff argues that counsel's inaction was not wilful, the explanations counsel gave were inadequate. The reasons given showed that counsel totally ignored the scheduling order. The trial court could reasonably find that the violations were repeated and wilful, defendants were prejudiced by the violations, plaintiff did not attempt to cure the defects, and no lesser sanction would better serve the interests of justice.

Affirmed.

/s/ Richard Allen Griffin

/s/ Hilda R. Gage

/s/ Patrick M. Meter