

In The
Supreme Court of the United States

IN RE DEBORAH WALTON,

Petitioner,

ON PETITION FOR A WRIT OF MANDAMUS TO
THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF INDIANAPOLIS

Hon. Judge Sara Evans Barker,
Hon. Judge James R. Sweeney II,
and Hon. Judge James P. Hanlon

APPENDIX

The Petitioner Deborah Walton, Pro Se, respectfully
Petitions for a Writ of Mandamus to the United States
Supreme Court. In the alternative, the Petitioner
respectfully requests that the Court treat this Petition
as a Petition for a Writ of Mandamus.

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Petitioner pro se

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NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with FED. R. APP. P.
32.1

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604
Submitted August 31, 2022*
Decided September 1, 2022

Before

FRANK H. EASTERBROOK, *Circuit Judge*
AMY J. ST. EVE, *Circuit Judge*
CANDACE JACKSON-AKIWUMI, *Circuit Judge*

No. 22-1240

DEBORAH WALTON,
Plaintiff-Appellant,

v.

FIRST MERCHANTS BANK,
Defendant-Appellee.

Appeal from the United States District Court for the
Southern District of Indiana, Indianapolis Division.
No. 1:21-cv-00419-JRS-TAB
James R. Sweeney II, *Judge.*

* We have agreed to decide the case without oral
argument because the appeal is frivolous. FED. R.
APP. P. 34(a)(2)(A).

ORDER

First Merchants Bank forgave without penalty two loans it provided to Deborah Walton. Rather than accept her good fortune, Walton sued the Bank, asserting that it violated the Fair Credit Billing Act, *see* 15 U.S.C. § 1666(a), by not issuing loan statements or accepting payments on the forgiven loans. The district court dismissed Walton's suit as "utterly baseless" and entered judgment on the pleadings in the Bank's favor. On appeal, Walton makes only frivolous arguments. We dismiss the appeal and impose sanctions.

This lawsuit—one of more than 20 that Walton has filed in the Southern District of Indiana—is (at least) the third that she filed against First Merchants Bank. In September 2019, on the eve of trial between the parties in another suit, the Bank forgave two of Walton's loans to end their banking relationship. The Bank stopped issuing Walton loan statements or accepting payments she submitted. The Bank told Walton's attorney (who represented her in the other suit) that it had forgiven the loans and returned her checks. For reasons the record does not reflect, Walton kept trying to make loan payments. After the Bank refused to accept one such payment, she sent a letter on November 14, 2019, disputing that her loans had been "charged off."

The Bank received her letter on November 20 and emailed Walton's attorney the next day to inform him again that it had forgiven Walton's loans and already returned Walton's checks to the attorney. Walton's attorney responded that he represented Walton only in her other suit against the Bank. So on December 12, the Bank wrote to

Walton directly, informed her of its correspondence with her attorney, explained that her loans had been forgiven, assured her that the loan forgiveness would not affect her credit, and then mailed the checks to her directly.

Nearly a year later, on September 14, 2020, Walton sent the Bank a second letter. In this letter, she inquired “why [her] loan payments are not being accepted” and asked for loan statements. The Bank did not respond.

Walton sued the Bank under the Fair Credit Billing Act, 15 U.S.C. § 1666(a), and its implementing regulation, known as “Regulation Z,” 12 C.F.R. § 226.13(b)(1). The Act establishes procedural rights and requirements for consumers seeking to resolve billing errors. She alleged that the Bank violated the Act by failing to resolve her dispute over her payments and the loan statements. The Bank moved both for judgment on the pleadings as well as for sanctions.

The court granted the Bank’s motion for judgment on the pleadings. The court explained that the untimeliness of Walton’s suit was apparent from the face of the complaint, given that she sued on February 23, 2021—more than a year after the Bank allegedly violated the Act. *See* 15 U.S.C. § 1640(e) (one-year statute of limitations). The court added that her allegations failed to state a claim because the pleadings showed that the Bank responded to and resolved her allegations within the statutory timeframe. *See id.* § 1666(a)(3)(A), (B). The court sanctioned Walton for willful abuse of the judicial process and awarded attorney’s fees to the Bank. The court’s determination of how much to award is pending.

Walton makes two frivolous arguments that her suit was timely. First, she imputes unexplained significance to the fact that her November 2019 letter to the Bank was not a dispute letter. But she waived this argument by arguing the opposite in the district court. *See Mahran v. Advocate Christ Med. Ctr.*, 12 F.4th 708, 710 (7th Cir. 2021). In any case, this argument is self-defeating because, without that letter, the Bank had no response obligation at all. *See* 12 C.F.R. § 226.18(b)(1), (c) (requiring creditors to respond within 60 days to disputed charges or errors).

Second, Walton asserts that the limitations period was renewed each time the Bank did not respond to a letter she sent, including her letter of September 14, 2020. But this argument has no legal basis. The Bank did not need to respond to her disputes over errors more than 60 days old, *id.*, and Walton identifies no support that suggests otherwise.

Walton also generally appeals the court's decision to award attorney's fees to the Bank. But we lack jurisdiction to consider this challenge because an attorney-fee award that does not specify an amount is not a final judgment. *See* 28 U.S.C. § 1291; *McCarter v. Ret. Plan for Dist. Managers of Am. Family Ins. Grp.*, 540 F.3d 649, 654 (7th Cir. 2008).

In a separately filed motion before this court, the Bank asks us to sanction Walton for filing a frivolous appeal. FED. R. APP. P. 38. The Bank asserts that Walton's brief includes multiple false representations and reiterates arguments that the district court derided as "utterly baseless." The Bank also highlights Walton's long history of incurring

sanctions for false and frivolous filings in various courts.

Monetary sanctions have not deterred Walton from filing frivolous suits and appeals. More than a decade ago, we warned her that pursuing frivolous litigation would lead to monetary penalties and potentially a *Mack* bar. *Walton v. Claybridge Homeowners Assoc., Inc.*, 433 F. App'x 477, 479–80 (7th Cir. 2011) (citing *Support Systems Int'l, Inc. v. Mack*, 45 F.3d 185, 186 (7th Cir. 1995)). She persists in pursuing frivolous litigation, *see, e.g.*, *Walton v. First Merchants Bank*, 820 F. App'x 450, 456 (7th Cir. 2020); *Walton v. First Merchants Bank*, No. 21-2021, Dkt. 24 (7th Cir. Nov. 5, 2021), and we have imposed monetary sanctions without apparent effect. We now direct the clerks of all federal courts in this circuit to return unfiled any papers that Walton tries to file for two years, other than in cases concerning a criminal prosecution against her or a habeas corpus proceeding. *See Mack*, 45 F.3d at 186.

This appeal is DISMISSED as frivolous. The clerks of all federal courts in this circuit are hereby ORDERED to return unfiled any papers submitted to this court by or on behalf of Deborah Walton, with the exceptions previously noted.

UNITED STATES COURT OF APPEALS FOR
THE SEVENTH CIRCUIT

FINAL JUDGMENT

September 1, 2022

Before

FRANK H. EASTERBROOK, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

CANDACE JACKSON-AKIWUMI, *Circuit Judge*

No. 22-1240

DEBORAH WALTON,
Plaintiff - Appellant

v.

FIRST MERCHANTS BANK,
Defendant - Appellee

Originating Case Information:

District Court No: 1:21-cv-00419-JRS-TAB
Southern District of Indiana, Indianapolis Division
District Judge James R. Sweeney

This appeal is **DISMISSED**, with costs, as frivolous. The clerks of all federal courts in this circuit are hereby **ORDERED** to return unfiled any papers submitted to this court by or on behalf of Deborah Walton, with the exceptions previously noted. The above is in accordance with the decision of this court entered on this date.

/s/ Clerk of Court

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

No. 1:17-cv-01888-SEB-MPB

DEBORAH WALTON,
Plaintiff,
v.

FIRST MERCHANTS BANK,
Defendant.

ORDER

On September 1, 2022, the Seventh Circuit issued an order imposing the following sanction on Plaintiff Deborah Walton for her repeated filing of frivolous suits and appeals in this district: "We now direct the clerks of all federal courts in this circuit to return unfiled any papers that Walton tries to file for two years, other than in cases concerning a criminal prosecution against her or a habeas corpus proceeding."¹ *Walton v. First Merchants Bank*, 2022 WL 3999965, at *2 (7th Cir. 2022) (citing *Support Sys. Int'l, Inc. v. Mack*, 45 F.3d 185, 186 (7th Cir. 1995)). Thus, we need not consider Walton's "Notice to the Court Concerning Future Appeals to the US Supreme Court" [Docket No. 428], and the clerk is directed to return any unfiled papers that Walton

¹ This order was not issued from an appeal in the instant case, but rather out of an appeal of one of the several other cases Walton has brought against First Merchants Bank in the Southern District of Indiana.

attempts to file in this case for two years, per the Seventh Circuit's imposition of a *Mack* bar.

IT IS SO ORDERED.

Date: 9/14/2022

/s/ SARAH EVANS BARKER, JUDGE
United States District Court
Southern District of Indiana

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**SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

No. 1:21-cv-00419-JRS-TAB

DEBORAH WALTON,
Plaintiff,
v.

FIRST MERCHANTS BANK CORP.,
Defendant.

Order

The Seventh Circuit has barred Deborah Walton from filing any papers in all federal courts in the Seventh Circuit for two years, with two exceptions not applicable here. *See Walton v. First Merchants Bank*, No. 22-1240, 2022 WL 3999965 (7th Cir. Sept. 1, 2022). Walton presented a Notice to the Court Concerning Future Appeals to the U.S. Supreme Court on September 12, 2022. Because the Clerk's Office was unaware of the Seventh Circuit's order, it erroneously accepted her papers for filing. Walton's Notice to the Court is now **stricken** from the docket.

SO ORDERED.

Date: 09/15/2022

/s/ James R. Sweeney II, Judge
United States District Court
Southern District of Indiana

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

No. 1:22-cv-01789-JRS-MPB

DEBORAH WALTON,
Plaintiff,
v.

BMO HARRIS BANK,
Defendant.

**ORDER DISMISSING ACTION WITH
PREJUDICE**

Vexatious² litigant Deborah Walton is subject to a filing bar in all courts of the Seventh Circuit as a

² Walton's cases include the following: *Walton v. Clay bridge Homeowners Assoc., et al.*, No. 1:03-cv-00069-LJM-WTL (Mar. 29, 2006), *aff'd* No. 06-1914 (7th Cir. Aug. 2, 2006); *Walton v. Proffitt, et al.*, No. 1:04-cv-02028-LJM-WTL (Apr. 4, 2005); *Walton v. City of Carmel, et al.*, No. 1:05-cv-00902-RLY-TAB (Oct. 15, 2007), *aff'd* No. 07-3728 (7th Cir. Dec. 10, 2008); *Walton v. Rubin & Levin P.C., et al.*, No. 1:05-cv-01132-LJMVSS (Mar. 24, 2006); *Walton v. Health and Hospital Corp of Marion Cty.*, No. 1:06-cv- 01128-LJM-WTL (Mar. 27, 2007); *Walton v. Trans Union LLC*, No. 1:07-cv-00372- WTL-DML (Nov. 3, 2008); *Walton v. Claybridge Homeowners Assoc., Inc., et al.*, No. 1:07-cv-01484-DFH-DML (Mar. 16, 2009); *Walton et al. v. Hyatt & Rosenbaum, P.A., et al.*, No. 1:08-cv-01275-SEB-TAB (Jan. 25, 2010), *appeal dismissed*, No. 10-1245 (July 26, 2010); *Walton v. Springmill Streams Homeowners Association*, No. 1:09-cv- 01136-TWP-DML (Dec. 9, 2010), *aff'd* No. 10-3970 (7th Cir. Aug. 3, 2011); *Walton v. Najjar et al.*, No. 1:09-cv-01495-LJM-DML (Mar. 16, 2009); *Walton v. Chase Home Finance, LLC, et al.*, No. 1:11-cv-00417-JMS-MJD (July 22, 2013); *Walton v. Bank of America et al.*, No. 1:11-cv-00685-

result of her persistent pursuit of frivolous litigation. *See Walton v. First Merchants Bank*, No. 22-1240, 2022 WL 3999965, at *2 (7th Cir. Sept. 1, 2022). Walton presented the instant case to this Court on September 12, 2022. Because the Clerk's Office was unaware of the Seventh Circuit's order, it erroneously accepted Walton's papers and opened the instant case.

Because Walton was prohibited from filing this case and cannot file any other papers in this Court for two years, she cannot prosecute this matter and

SEB-DML (Nov. 30, 2015); *Walton v. Freddie Mac (FHLMC)*, No. 3:12-cv-00116-RLY-WGH (Oct. 16, 2013; *Walton v. Bank of America et al.*, No. 1:14-cv-01237-SEB-DKL (Sept. 23, 2015), *appeal dismissed*, No. 15-3124 (7th Cir. Dec. 14 2015); *Walton v. EOS CCA et al.*, No. 1:15-cv-00822-TWP-DML (Sept. 29, 2017), *aff'd*, No. 17-3040 (7th Cir. Mar. 21, 2018); *Walton v. JP Morgan Chase Bank, NA Home Loans*, No. 1:16-cv-00447-TWP-DML (Apr. 5, 2017); *Walton v. BMO Harris Bank et al.*, No. 1:16-cv-03302-WTL-DLP (Aug. 16, 2018), *aff'd*, No. 18-2877 (7th Cir. Feb. 11, 2019); *Walton v. First Merchants Bank*, No. 1:17-cv-01888-SEB-MPB, *pending, appeal dismissed* No. 18-2724 (7th Cir. Oct. 25, 2018), *appeal dismissed* No. 19-1812 (7th Cir. May 10, 2019), *aff'd in part, remanded* Nos. 19-3370 and 20-1206 (7th Cir. July 8, 2020), *reh'g denied, cert. denied, appeal dismissed* No. 21-2020 (7th Cir. July 23, 2021), *appeal dismissed* No. 21-2021 (7th Cir. Sept. 20, 2021); *Walton v. Equifax, Inc. et al.*, No. 1:18-cv-00225-SEB-DLP (June 11, 2018); *Walton v. First Merchants Bank et al.*, No. 1:18-cv-01784-JRS-DLP (July 3, 2019), *aff'd*, No. 19-1338 (7th Cir. June 28, 2019); *Walton v. Equifax, Inc.*, No. 1:21-cv-00365-JPH-TAB, *pending, appeal dismissed*, No. 22-1225 (7th Cir. Apr. 7, 2022); *Walton v. First Merchants Bank Corp.*, No. 1:21-cv-00419-JRS-TAB (Feb. 14, 2022), *aff'd*, No. 22-1240 (7th Cir. Sept. 1, 2022); *Walton v. Clay bridge Homeowners Assoc. et al.*, No. 1:21-cv-01313 (Oct. 20, 2021), *aff'd*, No. 21-2968 (7th Cir. May 18, 2022).

it must be dismissed. Accordingly, this action is
DISMISSED WITH PREJUDICE.

Judgment consistent with this Order shall now issue.

SO ORDERED.

Date: 9/13/2022

/s/ James R. Sweeney II, Judge
United States District Court
Southern District of Indiana

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

No. 1:21-cv-00365-JPH-TAB

DEBORAH WALTON,
Plaintiff,
v.

EQUIFAX INC.,
Defendant.

ORDER DISMISSING CASE

Plaintiff, Deborah Walton, filed this case in February 2021 alleging Fair Credit Billing Act and Fair Credit Reporting Act violations against BMO Harris Bank, Equifax, Experian, and Trans Union. Dkt. 1; *see* dkt. 42 (amended complaint). Experian and Trans Union have been dismissed by stipulation, dkt. 46; dkt. 58, and the Court granted BMO Harris's motion to dismiss under Federal Rule of Civil Procedure 12(b)(6), dkt. 65. Ms. Walton has filed a motion for clerk's entry of default against the sole remaining defendant, Equifax, dkt. 77, which Equifax opposes, dkt. 80.

On September 1, 2022, the Seventh Circuit sanctioned Ms. Walton in an unrelated appeal for "persist[ing] in pursuing frivolous litigation." *Walton v. First Merchants Bank*, No. 22-1246, doc. 14 at 3 (7th Cir. Sept. 1, 2022) (citing *Support Sys. Intern., Inc. v. Mack*, 45 F.3d 185 (7th Cir. 1995)). That Court "direct[ed] the clerks of all federal courts in

this circuit to return unfiled any papers that Walton tries to file for two years, other than in cases concerning a criminal prosecution against her or a habeas corpus proceeding." *Id.* at 3–4. That order governs this case—the Seventh Circuit did not exclude filings in pending cases from its order that "any papers" be returned unfiled. *See id.*

Ms. Walton is therefore unable to prosecute this case until at least September 1, 2024. Because of that delay, dismissal of this case for failure to prosecute under Federal Rule of Civil Procedure 41(b) is appropriate. *See Bolt v. Loy*, 227 F.3d 854, 856 (7th Cir. 2000) ("A plaintiff's failure to respond that delays the litigation can be a basis for a dismissal for lack of prosecution."); *Tome Engenharia E. Transportes, Ltda v. Malki*, 98 Fed. App'x 518, 520 (7th Cir. Apr. 6, 2004) ("[A] lengthy period of inactivity" can warrant Rule 41(b) dismissal). Indeed, the "power to [dismiss a case for failure to prosecute] is necessary in order to prevent undue delays in the disposition of pending cases." *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630 (1962) (holding that Rule 41(b) dismissals may be made *sua sponte*). Ms. Walton is solely responsible for the delay here—which will last at least two years—because she engaged in persistent frivolous litigation that required sanctions. *Walton*, No. 22-1246, doc. 14 at 3–4; *see Simelton v. Alexander Cnty. Housing Auth.*, 2022 WL 729427 at *2 (7th Cir. Mar. 10, 2022) (affirming dismissal after plaintiff "did not participate in his case for over six months"). Any result other than dismissal would be unfair to Equifax. *See Washington v. Walker*, 734 F.2d 1237, 1239 (7th Cir. 1984) ("[P]rejudice may be presumed from an unreasonable delay.").

Finally, the ordinarily required warning before dismissal under Rule 41(b) is not appropriate here. *See Bolt*, 227 F.3d at 856. The Seventh Circuit's order prevents Ms. Walton from responding to any show cause order and from resuming timely prosecution of this case. *Walton*, No. 22-1246, doc. 14 at 3-4.

In short, the Seventh Circuit's sanction demonstrates that Ms. Walton is responsible for the "clear record of delay" here. *See Collier v. SP Plus Corp.*, 889 F.3d 894, 897 (7th Cir. 2018). Ms. Walton's claim against Equifax is therefore **DISMISSED with prejudice** under Federal Rule of Civil Procedure 41(b). Ms. Walton's motion for entry of default, dkt. [77], and motions for default judgment, dkt. [78]; dkt. [79], are **DENIED as moot**. Final judgment will issue by separate entry.

SO ORDERED.

9/16/22

/s/ James Patrick Hanlon
United States District Judge
Southern District of Indiana

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Date: 9/16/2022

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

No. 1:21-cv-00365-JPH-TAB

DEBORAH WALTON,
Plaintiff,
v.

BMO HARRIS BANK N.A.,
EQUIFAX INC.,
Defendants.

**FINAL JUDGMENT UNDER FEDERAL RULE
OF CIVIL PROCEDURE 58**

Having this day directed the entry of final judgment, the Court now enters **FINAL JUDGMENT** in favor of Defendants and against Plaintiff. This action is dismissed with prejudice.

Date: 9/16/2022

/s/ James Patrick Hanlon
United States District Judge
Southern District of Indiana

Roger A. G. Sharpe, Clerk
U.S. District Court
By: /s/
Deputy Clerk

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