No. _____

In The Supreme Court of the United States

DEBORAH WALTON,

Petitioner,

v.

FIRST MERCHANTS BANK,

Respondent.

On Petition for Writ of Certiorari to the
United States Court of Appeals
for the Seventh Circuit

APPENDIX

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NONPRECEDENTIAL DISPOSITION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. § 226.13(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. 1:21-cv-00419-JRS-TAB

DEBORAH WALTON,
Plaintiff,

v.

FIRST MERCHANTS BANK CORP.,
Defendant.

Entry on Pending Motions

Deborah Walton, no stranger to litigation, has sued First Merchants Bank Corp. ("FMB")—again.[1] Not to be deterred by sanctions awarded against her or warnings about sanctionable conduct in other of her cases, Walton has brought yet another utterly baseless action in this court. Several motions are before the Court: (1) Plaintiff's Motion to Disqualify John McCauley, (ECF No. 11); (2) Plaintiff's Motion to Strike Response to Motion to Disqualify, (ECF No. 17); (3) Plaintiff's Motion to Disqualify Dentons Bingham Greenebaum along with All Attorneys of Record for Fraud Upon the Court, (ECF No. 53); (4) Defendant's Motion for Sanctions, (ECF No. 46); (5) Defendant's Renewed Motion for Sanctions, (ECF No. 67); (6) Defendant's Motion for Judgment on the Pleadings, (ECF No. 65); (7) Defendant's Motion to

[1] Walton has filed more than twenty cases in this district court; this is at least her third case against FMB. Some of her claims in both of her first two lawsuits against FMB have been found frivolous and/or meritless.

Set Summary Judgment Briefing Schedule, (ECF No. 107), and all other pending motions. The Court decides as follows.

Background[2]

Walton had a consumer line of credit that was acquired by FMB (the "loans"). (Third Am. Compl., Parties ¶ 4, Factual Allegations ¶ 5, ECF No. 59.) Walton's loans with FMB were forgiven in September 2019, without penalty. (Answer 3, ECF No. 63.) As a result, FMB stopped issuing Walton monthly bank statements on her loans. (Answer 4, ECF No. 63; Third Am. Compl., Introduction 2 & Factual Allegations ¶ 10, ECF No. 59.)

Because the loans had been forgiven, Walton could no longer make payments on them. (Answer, Factual Allegations ¶ 6, ECF No. 63.) Walton, however, attempted to make payments on the forgiven loans. (Third Am. Compl., Introduction & Factual Allegations ¶ 6, ECF No. 63.) On November 14, 2019, she sent a letter to FMB disputing that her loans were "charged off." (Third Am. Compl., Factual Allegations ¶ 10 & Ex. A, Letter from Deborah Loy to Loan Department, FMB (Nov. 14, 2019), ECF Nos. 59 & 59-1.)

On September 14, 2020, Walton sent FMB a second letter disputing FMB's failure to accept her loan payments and requesting monthly statements on the forgiven loans. (Third Am. Compl., Introduction 2 & Factual Allegations ¶ 11 & Ex. B Letter from Deborah Loy to Legal Department FMB

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[2] The following facts are taken from Walton's Third Amended Complaint and the exhibits thereto as well as from FMB's Answer.

(Sept. 14, 2020), ECF Nos. 59 & 59-2.) The letter also put FMB on notice of Walton's intent to file a lawsuit against it for reporting negative information to credit agencies. (*Id.*) FMB did not respond to Walton's September 14, 2020, letter. (Answer, Factual Allegations ¶ 12, ECF No. 63.)

Walton, proceeding without counsel, sues FMB under the Fair Credit Billing Act ("FCBA"), 15 U.S.C. § 1666 *et seq.*, and its implementing regulation, "Regulation Z." She alleges that FMB violated the FCBA by failing, within thirty days after receiving her notice of disputes in 2019 and 2020, to investigate, correct, or explain where her payments went, why her payment was refused, and why FMB was "reporting negative information to the Credit Agencies." (Third Am. Compl., Factual Allegations ¶ 11, ECF No. 59.) Walton also alleges that FMB violated the FCBA by failing, within two complete billing cycles after receipt of her dispute notices, to either correct the error and transmit to her a notification of the correction, or investigate the error and send her a written explanation. (*Id.* ¶ 12.) She claims that FMB affected her credit with Trans Union, Equifax, and Experian and that her credit has been damaged by FMB's "negative reporting." (*Id.* ¶¶ 13, 16.)

FMB has moved for judgment on the pleadings under Federal Rule of Civil Procedure 12(c). Walton has filed two separate motions to disqualify FMB's counsel. FMB has moved for sanctions against Walton. The motions are fully briefed.

Motion to Disqualify John McCauley and Motion to Strike Response

Consistent with her past practices, Walton moves to disqualify John McCauley, one of FMB's attorneys in this case. Walton argues that, based on McCauley's prior representation of her in another matter, his representation of FMB in this case violates Rules 1.7(a), 1.7(b)(4), and 19 of the Indiana Rules of Professional Conduct. She also argues that because she and McCauley had a business relationship and personal friendship, McCauley has a conflict of interest in this case.

Rule 1.7 of the Indiana Rules of Professional Conduct concerns the conflicts of interest that may arise from a lawyer's representation of current clients. Walton bases her motion on McCauley's *former* representation of her; thus, Rule 1.7 does not apply. Therefore, Walton's Motion to Strike FMB's Response to Walton's Motion to Disqualify John McCauley, (ECF No. 17), is frivolous and is **denied**.

Rule 19 of the Indiana Rules of Professional Conduct concerns a lawyer's duties to former clients. The rule provides: "A lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client gives informed consent, confirmed in writing." Ind. R. Pro. Cond. 19(a). Similarly, the rule provides that "[a] lawyer shall not knowingly represent a person in the same or a substantially related matter in which a firm with which the lawyer formerly was associated had previously represented a client . . . . " Ind. R.

Pro. Cond. 19(b). Neither Rule 19(a) nor (b) applies here because Walton's title insurance coverage case decided by the Indiana Court of Appeals fifteen years ago, *see Walton v. First Am. Title Ins. Co.*, 844 N.E.2d 143 (Ind. Ct. App. 2006), and this present action, alleging violations of the FCBA, are nowhere near the same or substantially related.

Rule 19(c) states that "[a] lawyer who has formerly represented a client in a matter or whose present or former firm has formerly represented a client in a matter shall not thereafter: (1) use information relating to the representation to the disadvantage of the former client . . . ; or (2) reveal information relating to the representation . . . ." Ind. R. Pro. Cond. 19(c). Nothing in the record suggests that Rule 19(c) has been violated. There is no indication that McCauley has used any information relating to the representation of Walton in that title insurance matter that would be disadvantageous to Walton or that McCauley has revealed any information related to that representation at all. Walton further argues McCauley has a conflict of interest based on their prior business relationship and personal friendship. This argument is undeveloped and thus waived. *See M.G. Skinner & Assocs. Ins. Agency v. Norman-Spencer Agency, Inc.*, 845 F.3d 313, 321 (7th Cir. 2017) ("Perfunctory and undeveloped arguments are waived, as are arguments unsupported by legal authority."). Besides, Walton has not shown that McCauley has any conflict of interest.

As a result, Walton's Motion to Disqualify John McCauley must be **denied.**

Motion to Disqualify Dentons Bingham Greenebaum

Walton also moves to disqualify the law firm representing FMB in this matter, Dentons Bingham Greenebaum, along with all attorneys of record for an alleged fraud upon the Court. Her motion is frivolous and baseless and is therefore **denied**.

Walton takes the indefensible position that FMB's lawyers have attempted to commit a fraud on the Court by asserting that certain emails, attached as Exhibits 2 and 4 to FMB's Index of Exhibits to Defendant's Answer to Amended Complaint, (*see* ECF Nos. 43-2 & 43-4; *see also* Answer to Third Am. Compl., Exs. 2 & 4, ECF Nos. 63-2 & 63-4), were sent to her former counsel, Richard Cook, when they "were never sent," (Pl.'s Mot. to Disqualify 2–3, ECF No. 53). Although Walton says Cook is prepared to testify that the emails at issue were never sent to him, her claim appears hollow: she does not offer an affidavit or declaration from him.

To support her baseless fraud claim, Walton cites to display differences between the emails at issue and emails attached to her motion for disqualification. (*See* ECF Nos. 43-2 & 43-4; ECF Nos. 53-2 & 53-4.) Review of the emails demonstrates there is no fraud here: the content of the emails is the same; the display differences are attributable to the different rendering engines and viewing settings among email clients such as Microsoft Outlook and Gmail. *See, e.g.*, https://help.sharpspring.com/hc/enus/articles/115002203011-Why Emails Render Differently in Microsoft Outlook – SharpSpring (last visited Feb. 4, 2022).

There's more. In her Complaint, Walton references the fact that McCauley informed Walton's

legal counsel (Cook) "that if [Walton] went back to the Branch to make [her] loan payment [she] would be arrested for trespassing," (Third Am. Compl., Ex B, ECF No. 59-3), which is one of the statements *made in the emails Walton alleges were never sent.* This is strong corroboration that the November 21, 2019, email was in fact sent to Cook. So much for Walton's allegation that the email was never sent.[3]

Walton needs to stop, think, and exercise restraint before casting such aspersions. Walton owes the Dentons Bingham Greenebaum lawyers an apology.

Walton would do well not to follow through on her threat to report FMB's counsel to the Federal Trade Commission for fraud; her cries of fraud on the court are entirely baseless and appear intended only to harass and abuse FMB and its counsel.

FMB's Motion for Judgment on the Pleadings

FMB moves for judgment on the pleadings under Fed. R. Civ. P. 12(c). A motion for judgment on the pleadings is subject to the same standard as a motion to dismiss under Rule 12(b)(6). *Gill v. City of Milwaukee*, 850 F.3d 335, 339 (7th Cir. 2017). A motion for judgment on the pleadings can be granted when the pleadings establish that the non-movant is not entitled to relief. *ADM All. Nutrition, Inc. v. SGA Pharm Lab, Inc.*, 877 F.3d 742, 746 (7th Cir. 2017). The pleadings "include the complaint, the answer, and any written instruments attached as exhibits." *N. Ind. Gun & Outdoor Shows, Inc. v. City of South Bend*, 163 F.3d 449, 452 (7th Cir. 1998). The Court

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[3] Even if Cook did not receive the subject emails, that alone fails to establish the emails were never sent.

views the facts and inferences in the light most favorable to the nonmovant. *Federated Mut. Ins. Co. v. Coyle Mech. Supply Inc.,* 983 F.3d 307, 313 (7th Cir. 2020).

The pleadings establish that Walton is not entitled to relief. First, to state a claim upon which relief can be granted under the FCBA, "a debtor must allege '(1) the existence of a billing error, (2) timely notification of the billing error, and (3) failure of the bank issuing the card to comply with the procedural requirements of [15 U.S.C. § 1666(a)(A) and (B)].'" *Hill v. Chase Bank USA, N.A.*, No. 2:07-CV-82-RM, 2010 WL 107192, at *5 (N.D. Ind. Jan. 6, 2010) (quoting *Cunningham v. Bank One,* 487 F. Supp. 2d 1189, 1191 (W.D. Wash. 2007)). "An FCBA violation occurs, and the statute of limitations begins to run, when the creditor fails to satisfy its compliance duties within the requisite time frame." *Hill*, 2010 WL 107192, at *7. "A violation of § 1666(a) occurs 31 days after a creditor receives a notice of a claimed billing error and fails to respond properly to that notice or 91 days after notice if the creditor fails to resolve the billing dispute." *Wielicki v. Patient First*, No. 1:08-cv-00609, 2009 WL 10722448, at *5 (N.D. Ohio Feb. 12, 2009). A claim under the FCBA must be brought "within one year from the date of the occurrence of the violation." 15 U.S.C. § 1640(e); *see also* 15 U.S.C. § 1666(a)(A), (B).

Walton sent FMB her first letter challenging the "charging off" of her loans on November 14, 2019, and FMB received that letter on November 20, 2019. FMB had 30 days to respond to that letter and 90 days to resolve that billing dispute. Thus, FMB had until December 20, 2019, to acknowledge Walton's letter and FMB had until January 21, 2020, to

correct or otherwise respond to the billing dispute. As a result, assuming FMB failed to meet any of its obligations under the FCBA, the violations occurred on December 20, 2019, and January 21, 2020. Walton had to commence her action within one year of each of those dates, that is, by December 20, 2020, for the failure to acknowledge her dispute letter, and by January 21, 2021, for the failure to resolve her dispute. Walton did not file this action until February 23, 2021, which was too late. Any FCBA claim based on the November 14, 2019, letter is time barred because Walton failed to bring it "within one year from the date of the occurrence of the violation." 15 U.S.C. § 1640(e).[4]

Besides, to the extent that FMB had any obligation under the FCBA to respond to Walton's November 14, 2019, letter, the pleadings establish that FMB met its obligations by email with Walton's then-counsel Cook on November 21, 2019, advising that the loans had been forgiven, and then corresponding directly with Walton by letter dated December 12, 2019, informing her that the loans had been forgiven. (Answer to Third Am. Compl., Exs. 4 & 6, ECF No. 64-4 & 64-6.) The FCBA may not contain language authorizing the creditor to respond to the obligor's lawyer, but the Indiana Rules of Professional Conduct required FMB to communicate with Cook, whom they knew to be representing Walton in Cause No. 1:17-cv-01888-SEB-MPB, an action involving the same loans at issue in this case,

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[4] Walton concedes this point in her response to the motion for judgment on the pleadings. (Pl.'s Verified Resp. & Objection to FMB's Motion for J. on the Pleadings, 6 ("the statute of limitations had already expired on the November 14, 2019, dispute letter"), ECF No. 71.)

rather than communicate directly with Walton. *See* Ind. R. Pro. Cond. 4.2. Walton's complaint that FMB communicated with her lawyer instead of with her is absurd. And, Walton is wrong to say the email is hearsay: the November 21, 2019, email to Cook is not hearsay because it is not offered for the truth of the matters asserted in the email, but rather, to establish that FMB discharged its obligation to send a written response to Walton under the FCBA. Fed. R. Evid. 801.

Second, with regard to the September 14, 2020, letter to FMB, Walton's claim is barred because that letter simply did not trigger any obligations on FMB to respond under the FCBA. Under 15 U.S.C. § 1666's implementing regulation—"Regulation Z"—to trigger the FCBA's obligations, a notice of billing error must be "received by the creditor . . . no later than sixty days after the creditor transmitted the first periodic statement that reflects the alleged billing error." 12 C.F.R. § 226.13(b)(1); *Walton v. BMO Harris Bank N.A.*, No. 1:21-cv-00365-JPH-TAB, 2022 WL 294055, at *3 (S.D. Ind. Feb. 1, 2022). Walton alleges that the error began "with the periodic statement with a closing date of October 2019." (Third Am. Compl. ¶ 6, ECF No. 59.) Her September 14, 2020, letter came about nine months after expiration of the sixtyday deadline for triggering FMB's FCBA obligations. *See, e.g.*, *Walton*, 2022 WL 294055, at *3 ("[O]nly a timely notice of a billing error will trigger a creditor's obligations under [the] FCBA.") (quotation and citation omitted). Thus, Walton has alleged facts that show her September 14, 2020, letter did not trigger any obligations for FMB under the FCBA, and she is entitled to no relief on her claim. And the

fact that the statute of limitations is no bar to Walton's FCBA claim based on the September 14, 2020, letter does not save that claim.

Walton has alleged that FMB reported negative information to credit agencies. This allegation is wholly conclusory and unsupported by any factual matter; it is therefore insufficient to state a plausible claim. *See, e.g.*, *Brooks v. Ross*, 578 F.3d 574, 581–82 (7th Cir. 2009). Furthermore, the FCBA "seeks to prescribe an orderly procedure for identifying and resolving disputes between a cardholder and a card issuer as to the amount due at any given time," *Gray v. American Exp. Co.*, 743 F.2d 10, 13 (D.C. Cir. 1984); the FCBA does not seek to address negative credit reporting.

In her response to the motion for judgment on the pleadings, Walton asserts that FMB is trying to collect a debt and suggests that FMB is "publishing . . . inaccurate information" to credit agencies. FMB is not trying to collect a debt. FMB has forgiven the loans at issue. Walton has nothing to suggest otherwise. And as stated, she has failed to raise a plausible claim that FMB is reporting inaccurate information to credit agencies about her forgiven loans.

Accordingly, FMB's Motion for Judgment on the Pleadings, (ECF No. 65), is **granted**.

FMB's Motion for Sanctions and Renewed Motion for Sanctions

FMB seeks sanctions against Walton for bringing this frivolous lawsuit against it. On March 19, 2021, FMB served Walton with a draft motion for sanctions and a letter requesting her to voluntarily

dismiss her Complaint with prejudice. (Def. FMB's Notice of Service, ECF No. 20.) Walton did not take FMB up on its request, which led to the May 5, 2021, filing of FMB's motion for sanctions and the May 26, 2021, filing of FMB's renewed motion for sanctions.

FMB seeks sanctions of dismissal of this action, an order requiring Walton to pay its fees incurred in defending this action, and a warning to Walton. Sanctions are appropriate, FMB argues, under both Federal Rule of Civil Procedure 11, which has as its most important purpose "to deter frivolous litigation and abusive practices," *Fred A. Smith Lumber Co. v. Edidin*, 845 F.2d 750, 752 (7th Cir. 1988); *see also Burda v. M. Ecker Co.*, 2 F.3d 769, 773–74 (7th Cir. 1993) (discussing Rule 11's "frivolous" clause, which demands a reasonable inquiry into the facts and law before presenting a pleading, motion, or other paper, and "improper purpose" clause, which forbids bringing actions for "any improper purpose, such as to harass . . . or needlessly increase the costs of litigation"), and as an exercise of the Court's inherent authority to "impose appropriate sanctions to penalize and discourage misconduct," *Ramirez v. T&H Lemont, Inc.*, 845 F.3d 772, 776 (7th Cir. 2016). "Dismissal [under the court's inherent authority] can be appropriate when the plaintiff has abused the judicial process by seeking relief based on information that the plaintiff knows is false." *Id.* (quoting *Secrease v. Western & Southern Life Ins. Co.*, 800 F.3d 397, 401 (7th Cir. 2015)). To impose sanctions under its inherent authority, the Court must find "that the culpable party willfully abused the judicial process or otherwise conducted the litigation in bad faith." *Ramirez*, 845 F.3d at 776.

Despite having the opportunity to respond to the sanctions motions, Walton offers only an "objection" in her brief in response to the motion for judgment on the pleadings without any substantive argument. (Pl.'s Verified Resp. & Obj., ECF No. 71.) Therefore, any argument that she could have made to attempt to justify this baseless action or her purpose in bringing it has been waived. *See M.G. Skinner & Assocs. Ins. Agency v. Norman-Spencer Agency, Inc.*, 845 F.3d 313, 321 (7th Cir. 2017) ("Perfunctory and undeveloped arguments are waived, as are arguments unsupported by legal authority."). The time for responding to FMB's sanctions motions has passed, and Walton has not defended herself against the sanctions request.

FMB forgave Walton's loans. A reasonable person would appreciate that benefit and move on. But not Walton. Instead, she looked the gift horse in the mouth and challenged FMB's decision by trying to make further payments and demanding she receive monthly statements—all on loans that had been forgiven. The fact that Walton knew the loans had been forgiven is inescapable. And Walton complains that FMB ignored her requests and claims she had no choice but to file this lawsuit against it.

Like FMB, the Court has had enough of Walton's malarkey. Her frivolous claims are utterly devoid of any factual or legal merit, and the mere fact that she presses this suit against FMB demonstrates that the suit has no other purpose than to harass FMB and inflict unnecessary litigation costs on FMB. Her baseless claims have burdened this Court and FMB with needless expense. Walton's action has taken valuable judicial resources away from and delayed justice to parties who have nonfrivolous claims. Her

wasteful motions to disqualify and strike further wasted valuable time and resources. The conclusion that Walton has willfully abused the judicial process and conducted this action in bad faith is inescapable.

For these reasons, the Court finds sanctions are warranted under Rule 11 and the Court's inherent authority. FMB's motion for sanctions and renewed motion for sanctions must be **granted.** As a sanction, the Court **orders** Walton to pay all of FMB's attorney's fees incurred in having to defend this frivolous and baseless action. FMB shall submit an itemized statement of attorney's fees by **March 4, 2022**. Walton may respond by **March 18, 2022**, and FMB may reply by **March 28, 2022.**

The Court has already covered sufficient grounds warranting sanctions. But a few other matters bear mention. Since filing this action, Walton has filed a state court suit against FMB and has threatened even more lawsuits against FMB and its counsel. (*See* FMB's Motion for Sanctions, Exs. A, B, & F, Letter from Deborah Walton to John McCauley (Feb. 26, 2021) (threatening more complaints against FMB), Letter from Deborah Walton to Jon McCauley (Mar. 15, 2021) (stating she is preparing her next complaint which will be against McCauley alleging that he engaged in deceptive practices with FMB and suggesting he put his malpractice carrier on notice), *Walton v. First Merchants Bank*, No. 29D02 2104 PL 2935 (Hamilton County Superior Court), ECF Nos. 47-1, 47-2, & 47-6.) Not to mention, FMB has made a good case for finding that Walton purposefully evades legal mailings in order to thwart her litigation opponents and has made another false assertion knowing it was false. (See FMB's Reply in

Support of Renewed Mot. for Sanctions 7–10, ECF No. 78.)

The Court advises Walton that continued abuse of the judicial process may subject her to further monetary and nonmonetary sanctions.

Conclusion

For these reasons, the Court:

(1) **denies** Plaintiff's Motion to Disqualify John McCauley, (ECF No. 11);

(2) **denies** Plaintiff's Motion to Strike Response to Motion to Disqualify, (ECF No. 17);

(3) **denies** Plaintiff's Motion to Disqualify Denton Bingham Greenebaum, (ECF No. 53);

(4) **grants** Defendant's Motion for Sanctions, (ECF No. 46)

(5) **grants** Defendants Renewed Motion for Sanctions, (ECF No. 67); and

(6) **grants** Defendant's Motion for Judgment on the Pleadings, (ECF No. 65), and **dismisses** the Third Amended Complaint **with prejudice;**

(7) **denies as moot** Defendant's Motion to Set Summary Judgment Briefing Schedule, (ECF No. 107);

(8) **denies** all other pending motions as moot; and

(9) **directs** the Clerk to enter final judgment.

SO ORDERED.

Date: 2/14/2022

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

Additional material from this filing is available in the Clerk's Office.