NONPRECEDENTIAL DISPOSITION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 March 9, 2023*
Decided March 13, 2023

Before

FRANK H. EASTERBROOK, *Circuit Judge*

MICHAEL B. BRENNAN, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

No. 21-2797

VASSIL MARINOV,
Plaintiff-Appellant,

v.

FCA US LLC,
Defendant-Appellee.

Appeal from the United States District Court for the Northern District of Indiana, Hammond Division at Lafayette.

No. 4:18-CV-56-TLS-APR

Theresa L. Springmann,
Judge.

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* We have agreed to decide these appeals without oral argument because the briefs and records adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

No. 21-2798

VASSIL MARINOV,
Plaintiff-Appellant,

v.

UNITED AUTO WORKERS,
Defendant-Appellee.

Appeal from the United States District Court for the Northern District of Indiana, Hammond Division at Lafayette.

No. 4:18 CV 59

James T. Moody,
Judge.

No. 21-2799

VASSIL MARINOV,
Plaintiff-Appellant,

v.

FCA US LLC,[†]
Defendant-Appellee.

Appeal from the United States District Court for the Northern District of Indiana, Hammond Division at Lafayette.

Nos. 4:18-CV-75-TLS-APR & 4:18-CV-80-TLS-APR

Theresa L. Springmann,
Judge.

ORDER

Vassil Marinov filed several lawsuits against his employer and his union. During the consolidated litigation in district court, he frivolously relitigated adverse rulings—despite increasingly severe warnings, filing restrictions, and fines designed to deter that behavior. When those penalties did not halt Marinov's misconduct, the district court dismissed his suits as a sanction. That decision was reasonable, and we affirm.

[†] The caption originally referred to this party as "Fiat Chrysler Automotive." The party has since informed us that "FCA US LLC" is the proper title. We have changed the caption to reflect this.

Background

In four separate complaints, Marinov sued his employer and his union for employment discrimination and related issues, including the deduction of union dues from his paycheck. Dissatisfied with the defendants' responses to his discovery requests, Marinov filed several motions to compel further responses. A magistrate judge ruled that most of his requests were either too broad or sought material that the defendants did not possess. For example, Marinov repeatedly sought from the international union materials that, the judge explained, likely belonged to the local union. Over the next few months, Marinov filed new motions that relitigated these adverse rulings.

For the sake of efficiency, the district court reassigned all of Marinov's cases to one magistrate judge, who consolidated them for discovery. Within one week of that reassignment, Marinov moved to challenge the consolidation, renewed his rejected discovery arguments, and requested that the magistrate judge recuse himself. In response, the magistrate judge temporarily ordered Marinov not to file any more motions until all pending ones had been resolved. Disobeying this order, over the next month Marinov filed more motions. Eventually, the magistrate judge denied all the pending motions and reaffirmed the prior discovery orders. The judge then vacated the temporary filing bar on new motions but sternly warned Marinov against filing "repetitious and baseless" motions. Marinov asked the judge to clarify that warning, and the judge obliged:

> Marinov has been unwilling to accept an adverse ruling from the court. Even if he disagrees with the ruling, he must understand that the ruling is final. ... [And i]f an attorney for the defendant, as an officer of the court, states that certain documents do not exist, Marinov must accept that representation.

Despite this clarified warning, Marinov continued to relitigate previously rejected issues (e.g., seeking the recusal of the magistrate judge and production of unavailable documents), leading to monetary sanctions. At first, the magistrate judge sanctioned Marinov $100 for each such motion. Marinov objected to the sanction by repeating his previously rejected arguments and adding that he was not proficient in English and thus had trouble understanding the orders. The judge responded with a more severe sanction of $500 for another frivolous filing. Rather than pay or change his approach, Marinov again objected, repeating that his previous motions were proper. The judge then issued a $1,000 sanction. Ignoring the sanction, Marinov filed yet

another motion to compel. This prompted the judge to reimpose a filing bar, ordering Marinov to stop filing motions until further notice. Undeterred, Marinov filed several more motions.

Because warnings, fines, and filing bars had not worked, the magistrate judge sua sponte recommended dismissal with prejudice as a sanction for Marinov's behavior. The judge then warned Marinov how he may respond to the recommendation: "Marinov is **WARNED** that he may file ONE and ONLY ONE pleading in response to this Recommendation. ... After that ONE pleading has been filed, Marinov may not file any additional pleadings until after the district judge has ruled on this Recommendation." Again, Marinov disobeyed. He filed multiple responses, repeating his discovery objections and challenges to the prior sanctions. The judge gave a final warning: "This is Marinov's **FINAL WARNING**: if he continues to file pleadings in violation of the ... Recommendation, additional sanctions **WILL BE IMPOSED**." Even so, over the next three months, Marinov filed over a dozen motions.

The district judges in each case adopted the magistrate judge's report and, based on the court's inherent authority, dismissed all of Marinov's cases with prejudice. The judges found that Marinov had willfully abused the judicial process, his asserted lack of English proficiency did not excuse his conduct, and lesser sanctions (the warnings and fines) had failed to deter him.

Analysis

On appeal, Marinov contests the district court's decision to dismiss his cases with prejudice as a sanction. A discretionary sanction of dismissal based on the court's inherent power requires a finding that the litigant "willfully abused the judicial process or otherwise conducted the litigation in bad faith," a finding we review for clear error. *Ramirez v. T&H Lemont, Inc.*, 845 F.3d 772, 776 (7th Cir. 2016) (citing *Chambers v. NASCO, Inc.*, 501 U.S. 32, 50 (1991)); *Donelson v. Hardy*, 931 F.3d 565, 569 (7th Cir. 2019).

Marinov first contends that the district court clearly erred in its willful-abuse finding because the court, he says, ignored that he lacked English proficiency and thus could not understand the court's orders or willfully disobey them. But the record amply supports the court's findings that Marinov understood the English language sufficiently and thus willfully disobeyed the orders. We list a few examples. First, Marinov repeatedly accused the defendants of lying in their discovery responses, but to accuse them of lying, he had to have understood what they were saying. Second, after the court consolidated Marinov's cases for discovery, he objected to the consolidation and

sought the magistrate judge's recusal. He thus conveyed that he understood what consolidation meant and who was in charge. Finally, when the magistrate judge clarified his warning against Marinov's "baseless" motions, the judge explained that Marinov's motions reflected his unwillingness "to accept adverse rulings from the court." Marinov later replied that his motions merely challenged the defendants' discovery responses—not the court's decisions. This flyspecking of the court's orders shows a nuanced understanding of (and refusal to accept) their contents. Given these examples, the court did not clearly err by finding that Marinov willfully abused the judicial process by intentionally disobeying court orders.

Marinov also argues that, apart from the district court's findings, the sanction of dismissal with prejudice was too harsh and thus an abuse of discretion. Although dismissal is a "severe sanction," *Martin v. Redden*, 34 F.4th 564, 568 (7th Cir. 2022), it was proportionate here because of the extent of Marinov's misconduct and the inefficacy of lesser sanctions. *See Donelson*, 931 F.3d at 569–70. Marinov's misconduct was prolonged: Over the course of over two years, he filed scores of motions that rehashed matters already decided by the court. And his behavior persisted despite warnings, temporary restrictions on filing, and escalating but largely unpaid monetary sanctions. *See id.* The court put Marinov on notice about the potential consequences if his behavior continued and reasonably concluded that sanctions short of dismissal would not stop Marinov's abusive conduct.

Finally, in his appellate brief, Marinov challenges our prior refusal to recruit counsel for this appeal. We construe this challenge as a motion to reconsider our earlier decision and deny it because the scarce resource of recruited counsel is not appropriate in a case like this that has no possible merit. *See Watts v. Kidman*, 42 F.4th 755, 758, 761, 766 (7th Cir. 2022) (citing *Pruitt v. Mote*, 503 F.3d 647 (7th Cir. 2007) (en banc)).

Therefore, we AFFIRM the judgments of the district court and DENY Marinov's implied motion for reconsideration regarding counsel.

Furthermore, it appears Marinov has not fully paid the sanctions the district court imposed. Until Marinov pays in full this sanction, the clerks of all federal courts in this circuit are directed to return unfiled any papers submitted either directly or indirectly by him or on his behalf. *See In re City of Chicago*, 500 F.3d 582, 585–86 (7th Cir. 2007); *Support Sys. Int'l, Inc. v. Mack*, 45 F.3d 185, 186 (7th Cir. 1995). In accordance with our decision in *Mack*, exceptions to this filing bar are made for criminal cases and for applications for writs of habeas corpus. *See Mack*, 45 F.3d at 186-87. This order will be lifted immediately once Marinov makes full payment. *See City of Chicago*, 500 F.3d

at 585–86. If Marinov, despite his best efforts, is unable to pay in full the sanction, no earlier than two years from the date of this order he is authorized to submit to this court a motion to modify or rescind this order. *See id.*; *Mack*, 45 F.3d at 186.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION AT LAFAYETTE

VASSIL MARKOV MARINOV,

Plaintiff,

v.

FIAT CHRYSLER AUTOMOTIVE,

Defendant.

CAUSE NO.: 4:18-CV-56-TLS-APR

ORDER

This matter is before the Court on the Plaintiff's Motion for Appointment of Counsel [ECF No. 185], filed pro se on June 29, 2021. In the motion, the Plaintiff represents that he has continuing as well as new serious health issues and requests appointment of counsel to represent him in this case.

There is no "constitutional or statutory right to court-appointed counsel" in a federal civil case. *Walker v. Price*, 900 F.3d 933, 938 (7th Cir. 2018) (citing *Pruitt v. Mote*, 503 F.3d 647, 649 (7th Cir. 2007) (en banc)); *see also Ray v. Wexford Health Sources, Inc.*, 706 F.3d 864, 866 (7th Cir. 2013). However, a court may request an attorney to represent a person who is unable to afford counsel in a civil case. *Walker*, 900 F.3d at 938 (citing 28 U.S.C. § 1915(e)(1)). The decision to seek volunteer counsel rests in the discretion of the district court. *Pruitt*, 503 F.3d at 654. The court must consider: "(1) has the indigent plaintiff made a reasonable attempt to obtain counsel or been effectively precluded from doing so; and if so, (2) given the difficulty of the case, does the plaintiff appear competent to litigate it himself?" *Id.* at 654–55 (citing *Farmer v. Haas*, 990 F.2d 319, 321–22 (7th Cir. 1993)).

Twice the Court has recruited pro bono counsel on behalf of the Plaintiff in this case. *See* ECF Nos. 66, 69, 74, 77, 89–91. The first attorney declined to represent the Plaintiff after an initial consultation of several hours, *see* ECF Nos. 84, 85, and the second attorney withdrew his appearance based on an inability to establish a workable attorney-client relationship with the Plaintiff, *see* ECF Nos. 97–99. The Plaintiff then made a third request for a pro bono attorney, which the Magistrate Judge denied. *See* ECF No. 99. The Plaintiff now represents that he continues to be unable to find an attorney able to represent him. However, as noted by the Magistrate Judge, "based on the representations made by [the Plaintiff's second attorney], and noting that a previous attorney also indicated inability to establish an attorney-client relationship with Plaintiff Marinov, it instead appears that Plaintiff Marinov has not accepted counsel able to represent him." ECF No. 99. Thus, the Plaintiff has not made a reasonable attempt to secure counsel. In addition, despite his serious health conditions, the Plaintiff has vigorously litigated this lawsuit as well as two other cases in this Court (4:18-CV-59, 4:18-CV-75/4:18-CV-80) and appears competent to litigate this matter himself.

Accordingly, the Court DENIES the Motion for Appointment of Counsel [ECF No. 185] and DENIES as moot the Motion for Ruling [ECF No. 186].

SO ORDERED on September 3, 2021.

s/ Theresa L. Springmann
JUDGE THERESA L. SPRINGMANN
UNITED STATES DISTRICT COURT

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION AT LAFAYETTE

VASSIL MARKOV MARINOV,

Plaintiff,

v.

FIAT CHRYSLER AUTOMOTIVE,

Defendant.

CAUSE NO.: 4:18-CV-56-TLS-APR

OPINION AND ORDER

This matter is before the Court on a Report and Recommendation [ECF No. 161], filed by Magistrate Judge Andrew P. Rodovich on April 9, 2021. For the reasons set forth below, the Court adopts the Report and Recommendation and dismisses the Plaintiff's Complaint with prejudice as a sanction pursuant to the Court's inherent authority.

PROCEDURAL BACKGROUND

The Plaintiff has filed four separate lawsuits related to his wages as an employee of Fiat Chrysler Automotive (FCA). First, he filed the instant lawsuit against FCA, alleging employment discrimination and harassment based on religion in relation to the withholding of union dues from his paycheck. Next, he filed 4:18-CV-59-JTM-APR against United Auto Worker (UAW), alleging employment discrimination and harassment based on religion in relation to the withholding of union dues from his paycheck and his representation by UAW over his objection. Third, he filed 4:18-CV-75-TLS-APR against FCA, challenging the deduction of union dues from his paycheck. Fourth, he filed 4:18-CV-80-TLS-APR against FCA, challenging FCA's failure to pay him holiday pay and supplemental unemployment benefits.

On March 3, 2020, at the Plaintiff's request, cause numbers 4:18-CV-75 and 4:18-CV-80 were consolidated for all purposes, and all filings were subsequently made in 4:18-CV-75 only. ECF No. 38, 4:18-CV-75. On September 24, 2020, over the Plaintiff's objection, the remaining three cases were consolidated for discovery purposes only. ECF Nos. 102 (consolidating 4:18-CV-56, 4:18-CV-59, 4:18-CV-75), 103, 104. The Plaintiff has also maintained an objection to the consolidation of the three cases for any other purpose. ECF Nos. 18, 19, 98.

Twice, pro bono counsel was recruited at the Plaintiff's request, but neither representation lasted as a result of an inability to establish an attorney-client relationship. ECF Nos. 66, 69, 74, 77, 84, 85, 89–91, 97–99, 101, 115.

ANALYSIS

The Court's review of a Magistrate Judge's Report and Recommendation is governed by 28 U.S.C. § 636(b)(1)(C), which provides as follows:

> Within fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions.

28 U.S.C. § 636(b)(1)(C); *see also* Fed. R. Civ. P. 72(b)(2) ("Within 14 days after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations."). The Plaintiff requested and received two extensions of time to respond due to health issues, with a third request pending. *See* ECF Nos. 162, 163, 178, 180, 187. However, these requests appear to be a strategic effort by the Plaintiff to avoid specifically responding because, despite his health issues, the Plaintiff has filed numerous substantive documents challenging court rulings, requesting discovery, and asking for

court guidance and/or clarification during the same time period. *See* ECF Nos. 164 (4/21/2021), 165 (4/23/2021), 169 (4/28/2021), 171 (5/3/2021), 172 (5/5/2021), 173 (5/7/2021), 174 (5/11/2021), 175 (5/13/2021), 176 (5/17/2021), 177 (5/24/2021). The Court finds that these filings constitute the functional equivalent of an objection and, thus, the review is de novo.

The Magistrate Judge recommends dismissal of this lawsuit (as well as the Plaintiff's other pending lawsuits) as a sanction for the Plaintiff's contempt for the judicial process and discovery abuses. The Magistrate Judge found that the Plaintiff has used his pro se status, his lack of familiarity with the American court system, and the language barrier (English is not his primary language) as an excuse for his refusal to comply with court orders and his abuse of the discovery process. The Magistrate Judge also found that the Plaintiff disregarded repeated efforts by the Court to explain his obligations under the Federal Rules of Civil Procedure.

Although the Report and Recommendation relies on Federal Rule of Civil Procedure 37(b)(2)(A)(v), the Court finds that the sanction of dismissal for the Plaintiff's discovery conduct and failure to follow court orders is properly before the Court on its inherent authority. *See Evans v. Griffin*, 932 F.3d 1043, 1047 (7th Cir. 2019) (finding that neither Federal Rule of Civil Procedure 37(b) nor 37(d) was applicable in relation to a failure to appear for a deposition where there was no discovery order and the plaintiff had not gotten notice of the deposition and, instead, considering whether the sanction was appropriate under the court's inherent authority); *Nat'l Asset Consultants LLC v. Midwest Holdings-Indianapolis, LLC*, No. 1:18-CV-1616, 2021 WL 1196192, at *12–13 (S.D. Ind. Mar. 30, 2021) (finding that Rule 37(b) did not apply where there was no violation of a discovery order but that the court's inherent authority permitted the court to sanction discovery misconduct). Under either Rule 37(b) or the Court's inherent authority, the Court must find that the Plaintiff "acted or failed to act with a degree of culpability

that exceeds simple inadvertence or mistake before it may choose dismissal as a sanction for discovery violations." *Ramirez v. T&H Lemont, Inc.*, 845 F.3d 772, 776 (7th Cir. 2016).

"A court may use its inherent authority to sanction those who show 'willful disobedience of a court order,' act in 'bad faith, vexatiously, wantonly, or for oppressive reasons,' for fraud on the court, delay, disruption, or 'hampering enforcement of a court's order.'" *Fuery v. City of Chicago*, 900 F.3d 450, 463 (7th Cir. 2018) (quoting *Chambers v. NASCO, Inc.*, 501 U.S. 32, 45–46 (1991)). "Any sanctions imposed pursuant to the court's inherent authority must be premised on a finding that the culpable party willfully abused the judicial process or otherwise conducted the litigation in bad faith." *Ramirez*, 845 F.3d at 776; *see Fuery*, 900 F.3d at 463–64 ("The court must first make a finding of 'bad faith, designed to obstruct the judicial process, or a violation of a court order.'" (quoting *Tucker v. Williams*, 682 F.3d 654, 662 (7th Cir. 2012)). "[I]ssuing a judgment is a 'powerful sanction' and one that should be used judiciously after determining that there is 'a clear record of . . . contumacious conduct' after considering 'the egregiousness of the conduct in question in relation to all aspects of the judicial process' and considering whether less drastic sanctions are available." *Fuery*, 900 F.3d at 464 (quoting *Barnhill v. United States*, 11 F.3d 1993, 1367–68 (7th Cir. 1993)). However, it is not necessary for the court to make a finding of prejudice, "[n]or is there a requirement that a district court impose graduated sanctions." *Id.* "The sanction imposed should be proportionate to the gravity of the offense." *Montaño v. City of Chicago*, 535 F.3d 558, 563 (7th Cir. 2008) (citing *Allen v. Chi. Transit Auth.*, 317 F.3d 696, 703 (7th Cir. 2003)).

"Though courts are often less demanding of parties representing themselves, *pro se* litigants do not enjoy 'unbridled license to disregard clearly communicated court orders.'" *Wright v. Lake Cnty. Sheriff's Dep't*, 2:04-CV-524, 2006 WL 978929, at *1 (N.D. Ind. Apr. 10,

2006) (quoting *Downs v. Westphal*, 78 F.3d 1252, 1257 (7th Cir. 1996)). And "*pro se* litigants must follow rules of civil procedure." *Cady v. Sheahan*, 467 F.3d 1057, 1061 (7th Cir. 2006) (citing *McNeil v. United States*, 508 U.S. 106, 113 (1993)); *see also McInnis v. Duncan*, 697 F.3d 661, 665 (7th Cir. 2012) ("[E]ven those who are pro se must follow court rules and directives." (citing cases)).

Under these standards, the Court finds that the Plaintiff's discovery conduct warrants the sanction of dismissal, that the sanction of dismissal is proportionate to the gravity of his offense, and that lesser sanctions would not deter his conduct. At the outset of discovery, the Plaintiff served three requests for production on the Defendant in this case in May 2019. ECF Nos. 45–47. On June 17, 2019, before the response deadline, the Plaintiff filed a motion to compel. ECF No. 48. It is undisputed that the Defendant then timely served discovery responses on June 19, 2019. ECF Nos. 50–52, 64. However, the Plaintiff began a series of filings that continued to seek the same discovery, notwithstanding valid objections and eventually several court rulings.

On July 1, 2019, the Plaintiff filed "replies," disputing the accuracy of the Defendant's discovery responses, insisting that the Defendant possessed the documents, asserting that the Defendant was unnecessarily slowing the normal progress of the case, and providing more detail about the information sought. ECF Nos. 50–52. On July 8, 2019, the Plaintiff filed a motion to compel regarding the Defendant's production of documents; the Plaintiff accuses the Defendant of refusing to provide information and purposefully obstructing discovery and asks the Court to sanction the Defendant. ECF No. 53. On July 9 and 12, 2019, the Plaintiff filed "responses" to the Defendant's discovery requests, raising several objections and asking the Court for relief. ECF Nos. 54–56. On July 25, 2019, before any ruling on the motion to compel, the Plaintiff filed a motion for sanctions, asking the Court to sanction the Defendant for failing to fulfill its legal

obligations, to order the Defendant to produce the requested documents the Plaintiff believed were outstanding, and to order the Defendant to stop producing documents and requesting information on irrelevant topics. ECF No. 57. The same day, the Plaintiff filed a motion asking for an extension of the discovery deadlines so that the Plaintiff could obtain the outstanding discovery and asking the Court to sanction the Defendant for discovery violations. ECF No. 58.

A discovery status conference was held on October 10, 2019. ECF No. 63. On October 17, 2019, in compliance with the Court's order, the Defendant filed the discovery materials it had previously served on the Plaintiff, ECF No. 64,[1] as well as a response to the Plaintiff's motion to compel and motion for sanctions, ECF No. 65. On October 23, 2019, the Plaintiff filed a reply in support of his motions. ECF No. 67. On October 31, 2019, the Plaintiff filed an "objection" to the Defendant's filing of discovery at DE 64, asserting that the Defendant had not complied with the Court's October 10, 2019 Order. ECF No. 70. On November 14, 2019, the Defendant responded to the objection, stating that it timely responded in June to each of the Plaintiff's three discovery requests with proper objections and contending that the Plaintiff had not specified any additional information sought. ECF No. 72.

On November 15, 2019, the Court issued a ruling on the pending discovery matters. ECF No. 73. The Court found that the Plaintiffs' objections to the Defendants' discovery requests at docket entries 54–56 were not before the Court as motions, and the Court denied the first motion to compel [ECF No. 48] as premature. *Id.* at pp. 1–2. Next, the Court denied the motion for sanctions, finding that the Defendant had timely served its discovery responses. *Id.* at pp. 2–3. Finally, the Court granted in part and denied in part the second motion to compel [ECF No. 53], addressing the three categories of documents sought by the Plaintiff. *Id.* at p. 3–4. First, the

[1] Northern District of Indiana Local Rule 26-2(a)(2) requires that all discovery be filed in pro se litigation.

Plaintiff argued that the Defendant had not provided reports of money taken from his salary and given to the Union. *Id.* However, the Court found that the Defendant had provided all of the Plaintiff's pay stub information, which includes after-tax deductions of union dues, and denied the motion as to this request. *Id.* at pp. 3–4. Second, the Plaintiff argued that he had not received "copies of accounting reference for FCA net profit for 2018 year." *Id.* at p. 4. The Court held that the request was ambiguous and that financial information about the Defendant as a whole is outside the scope of this case and denied the motion as to this request. *Id.* Third, the Plaintiff argued that the Defendant had not fully responded to his request for a list of documents containing his personal data given to third parties. *Id.* The Court granted the motion as to this request and ordered the Defendant "to supplement its responses to include a list of what personal data of Plaintiff it provided to third parties, excluding tax-related information provided to government entities." *Id.* Finally, the Plaintiff argued that he had not received information about potential witnesses that is in the custody and control of the Defendant. *Id.* The Court granted the Plaintiff leave to request from the Defendant information seeking the identify of other people who work for the Defendant and may have information about the case. *Id.*

From November 21, 2019, to September 16, 2020, the Court twice attempted to recruit an attorney to represent the Plaintiff pro bono; however, the first attorney declined to represent the Plaintiff and the second attorney withdrew his appearance based on an inability to establish an attorney-client relationship. The Plaintiff filed two documents objecting to the first attorney's decision to decline to represent him, ECF Nos. 86, 87, and filed a motion for reconsideration of the Court's denial of his request for a third pro bono attorney, ECF No. 101.

On September 24, 2020, the Court ordered the three lawsuits consolidated for discovery purposes only. ECF No. 102. On September 30, 2020, the Plaintiff filed objections to the consolidation of this case with 4:18-CV-75 and 4:18-CV-59. *See* ECF Nos. 103, 104.

On October 2, 2020, the Plaintiff filed a motion asserting an inability to provide his witnesses or initial disclosures because he had not received discovery from the Defendant. ECF No. 105. The Plaintiff then reiterated the areas of discovery he was seeking, including the subjects of the motion to compel that was previously denied in relation to his original three discovery requests. *Id.* The Plaintiff again asked that the Defendant be sanctioned for refusing to provide discovery and for "hiding from the Plaintiff and the Court important documents, information, and facts and by that to manipulate this Case." *Id.* at 3.

On November 17, 2020, the Plaintiff filed a motion reiterating that he did not have copies of the documents requested in his three original discovery requests from May 2019 and accusing the Defendant of possessing but refusing to turn over responsive documents. ECF No. 117. The Plaintiff requested a status conference to discuss his three original discovery requests. *Id.*

On November 23, 2020, the Plaintiff requested a sixty-day extension of time to respond to discovery due to health concerns. ECF No. 120. Yet on November 30, 2020, the Plaintiff served a new set of requests for production of documents on the Defendant, much of which was repetitive of his original May 2019 discovery requests. ECF No. 123. On December 11, 2020, the Plaintiff served his initial disclosures. ECF No. 124.

On December 22, 2020, the Plaintiff filed an objection to a November 30, 2020 production of documents by the Defendant, arguing that the Defendant continued to fail to provide discovery responsive to the Plaintiff's three original discovery requests. ECF No. 127. The Plaintiff accused the Defendant of deliberately hiding information and asked the Court to

sanction the Defendant and to order the Defendant to respond to the Plaintiff's original discovery requests as well as his November 30, 2020 discovery requests. *Id.*

Prior to February 1, 2021, the Plaintiff was given two separate warnings concerning his abusive discovery behavior in this case, ECF Nos. 118, 129, as well as warnings in the other cases, ECF Nos. 127, 141, 4:18-CV-59; ECF No. 62, 4:18-CV-75. First, in a November 18, 2020 Order in all three cases, the Court noted that the Plaintiff "has demonstrated either an inability or an unwillingness to abide by normal discovery procedures. Every adverse ruling results in either an objection or some other response by [the Plaintiff]." ECF No. 118 (ECF No. 127, 4:18-CV-59; ECF No. 62, 4:18-CV-75). The Court wrote, "Marinov is **WARNED** that any future repetitive or groundless motions will result in the imposition of sanctions. In particular, any objection to this order will be sanctioned." *Id.* (same). Second, in a January 6, 2021 Order, the Court denied as moot the Plaintiff's December 22, 2020 motion on the basis that the Plaintiff had twice before requested responses to his initial May 2019 discovery requests and already received rulings. ECF No. 129 (citing ECF Nos. 73, 116). The Court wrote, "The plaintiff is **WARNED** that any future repetitive or groundless motions will result in the imposition of sanctions." *Id.*

These warnings prompted the Plaintiff to file a Motion for Clarification on February 1, 2021, ECF No. 132 (ECF No. 148, 4:18-CV-59; ECF No. 75, 4:18-CV-75), to which the Court provided the following clarification on February 2, 2021:

> Because Marinov is proceeding pro se, the court will attempt to clarify the previous orders. However, the pending motion is an example of what the three previous orders intended to prevent. Marinov has been unwilling to accept an adverse ruling from the court. Even if he disagrees with the ruling, he must understand that the ruling is final. He cannot object to it or file the same motion a second (or third) time. If an attorney for the defendant, as an officer of the court, states that certain documents do not exist, Marinov must accept that representation. He cannot make additional requests for evidence which does not exist.

> The court has no intention of restricting the right of Marinov to prepare and present his case. However, a disagreement with a ruling by the court or a pleading filed by an attorney is not a license to file additional pleadings. There is a difference between advocacy and stubbornness. Advocacy is permitted, but stubbornness will be sanctioned.

ECF No. 133 (ECF No. 149, 4:18-CV-59; ECF No. 76, 4:18-CV-75).

On February 18, 2021, monetary sanctions were issued in 4:18-CV-59 after the Plaintiff had filed seven separate motions in that case alone since the February 2, 2021 Order. *See* ECF No. 135 (ECF No. 157, 4:18-CV-59). Additional monetary sanctions were issued in 4:18-CV-59 on February 24, 2021. *See* ECF No. 163, 4:18-CV-59. On February 26, 2021, the Plaintiff filed a motion related to the sanctions award, ECF No. 139 (ECF No. 165, 4:18-CV-59), and, on March 1, 2021, a third monetary sanctions award was ordered in 4:18-CV-59, ECF No. 140 (ECF No. 166, 4:18-CV-59).

On February 8 and March 8, 2021, the Plaintiff filed motions seeking a response to his November 30, 2020 discovery request. ECF Nos. 134, 146. In a March 9, 2021 order requiring the Defendant to respond to the two motions, the Court warned: "The plaintiff is **ORDERED** to refrain from filing motions until further order of this court." ECF No. 147 (ECF No. 176, 4:18-CV-59; ECF No. 92, 4:18-CV-75). After the order was served on the Plaintiff on March 11, 2021, ECF No. 154, the Plaintiff filed 17 new motions in these cases. *See* ECF Nos. 150, 151, 153, 156, 158, 160, 4:18-CV-56; ECF Nos. 179, 180, 187, 188, 190, 192, 4:18-CV-59; ECF Nos. 95, 97, 100, 102, 104, 4:18-CV-75. Included in those filings was a March 22, 2021 motion asking for legal advice, ECF No. 150, and an April 7, 2021 motion for a ruling, ECF No. 160.

The Plaintiff's conduct led to the issuance of the April 9, 2021 Report and Recommendation for dismissal based on the discovery abuses and repeated failure to follow the Court's orders. The Report and Recommendation concluded:

> Marinov is **WARNED** that he may file ONE and ONLY ONE pleading in response to this Recommendation. That pleading should address the issues relating to the dismissal of the lawsuits. After that ONE pleading has been filed, Marinov may not file any additional pleadings until after the district judge has ruled on this Recommendation. Marinov is **WARNED** that sanctions will be imposed if any pleadings are filed in violation of this order. Additionally, the district judge is entitled to consider pleadings filed in violation of this ORDER as further evidence of contemptuous conduct.

R. & R. 4, ECF No. 161. Notwithstanding these warnings, the Plaintiff's subsequent conduct is further evidence of his willful disobedience of the Court's orders. Despite having requested an extension of time to respond to the Report and Recommendation due to health issues, the Plaintiff made the following filings, many of which were also filed in the other cases.

On April 21, 2021, the Plaintiff filed a motion asking for legal guidance, ECF No. 164 (ECF No. 197, 4:18-CV-59; ECF No. 109, 4:18-CV-75), and on April 23, 2021, the Plaintiff filed a motion asking for a 150-day extension of time to complete discovery, reasserting his original three discovery requests, ECF No. 165 (ECF No. 199, 4:18-CV-59; ECF No. 110, 4:18-CV-75). On April 27, 2021, the Magistrate Judge issued an order, reiterating the warnings from the Report and Recommendation, striking the motions for extension of time, and cautioning: "This is Marinov's **FINAL WARNING**: if he continues to file pleadings in violation of the April 9, 2021 Recommendation, additional sanctions **WILL BE IMPOSED**." ECF No. 167 (ECF No. 200, 4:18-CV-59; ECF No. 112, 4:18-CV-75).

Nevertheless, on April 28, 2021 (it is not clear whether the Plaintiff had yet received the April 27, 2021 Order), the Plaintiff filed a five-page motion, reiterating the same arguments for his original discovery requests that had been asserted in his prior filings and seeking the responses that the Defendant was ordered to produce by March 23, 2021. ECF No. 169 (ECF No. 114, 4:18-CV-75). Then, in May 2021, the Plaintiff filed the following objections addressed to the undersigned presiding judge: a five-page motion/objection to the April 27, 2021 order

striking his motion, ECF No. 171 (5/3/2021); an objection to the February 18, 2021 sanctions awarded in the 4:18-CV-59 case, ECF No. 172 (5/5/2021); an objection to the March 1, 2021 sanctions awarded in the 4:18-CV-59 case, ECF No. 173 (5/7/2021); a three-page objection to the February 2, 2021 Order clarifying the November 18, 2020 warning that future repetitive or groundless motions will result in the imposition of sanctions, ECF No. 174 (5/11/2021); and an objection to the grant of the Defendant's motion to stay discovery pending resolution of the Report and Recommendation, ECF No. 175 (5/13/2021). Finally, on May 17 and 24, 2021, the Plaintiff filed motions asking the undersigned for clarification regarding the basis of the Report and Recommendation. ECF Nos. 176, 177. Therein, he raises concerns with certain aspects of the Report and Recommendation, challenging the Magistrate Judge's reliance on his conduct in the other cases while ignoring that the Court consolidated the cases for discovery. ECF Nos. 176, 177.

The history of this case reveals that, when the Defendant represents that certain documents do not exist, the Plaintiff attacks the credibility of the Defendant and its attorneys and makes repeated requests for the same documents, even after rulings by the Court. Moreover, as the discovery issues were unfolding in this case, similar discovery issues were occurring in the 4:18-CV-59 and 4:18-CV-75 cases. After warning the Plaintiff to stop requesting duplicative discovery, the Court provided the Plaintiff with a clarification as well as a warning. When the warning did not deter the Plaintiff, monetary sanctions were imposed in 4:18-CV-59. The Plaintiff continued to file motions in violation of the March 9, 2021 Order instructing him not to file any additional motions. At the time of the Report and Recommendation, the Plaintiff had filed approximately 80 objections or discovery requests between the three cases. R. & R. 2. The Report and Recommendation recommended the sanction of dismissal and provided additional

warnings to file only one response. Yet, the Plaintiff continued to file motions in all three cases, filing at least 31 additional substantive motions or objections. Because the three cases have been consolidated for discovery purposes, it is appropriate to consider the Plaintiff's abusive discovery-related conduct and failure to follow court orders in all three cases when considering an appropriate sanction.[2]

The Court finds that the Plaintiff's conduct both before and after the Report and Recommendation, despite repeated warnings of the consequences, demonstrates willful disobedience of court orders, an abuse of the discovery proceedings, and contempt for the judicial process. Accordingly, dismissal is an appropriate sanction. The Court finds that lesser sanctions would not be effective, especially given that neither repeated warnings to curtail his behavior, the threat of sanctions, nor the imposition of monetary sanctions deterred the Plaintiff's conduct. The Court dismisses this case with prejudice.

CONCLUSION

Therefore, the Court ACCEPTS, as modified, the Report and Recommendation [ECF No. 161] and DISMISSES this case with prejudice pursuant to the Court's inherent authority. As a result, the Court DENIES as moot the following pending motions and objections: 134, 146, 150, 153, 156, 158, 160, 169, 171, 174, 175, 176, 177, 187.

So ORDERED on September 3, 2021.

s/ Theresa L. Springmann
JUDGE THERESA L. SPRINGMANN
UNITED STATES DISTRICT COURT

[2] Although the Plaintiff achieved some success on his motion to compel information regarding the identity of third parties with whom his personal information was shared, *see* ECF Nos. 73, 111, 114, 116, 122, 146, 147, that success does not excuse his abuse of the judicial process that occurred throughout discovery.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

VASSIL MARKOV MARINOV,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 4:18 CV 59
	)	
UNITED AUTO WORKER (UAW),	)	
	)	
Defendant.	)	

OPINION and ORDER

This matter is before the court on Magistrate Judge Andrew P. Rodovich's *sua sponte* report and recommendation that plaintiff Vassil Marinov's case be dismissed for failure to comply with court orders. (DE # 194.) For the reasons set forth below, the court overrules plaintiff's objections and adopts the Report and Recommendation—thus dismissing this case.

I. STANDARD OF REVIEW

When a party objects to a magistrate judge's report and recommendation, the district court "shall make a de novo determination of those portions of the report . . . or recommendations to which objection is made." 28 U.S.C. § 636(b)(1)(C). The district court has discretion to "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." *Id.*; FED. R. CIV. P. 72(b). As plaintiff appears to object to all of the core legal conclusions and factual findings made in the Report and Recommendation (*see e.g.* DE # 204), this court will review Magistrate Judge Rodovich's report de novo. *See* 28 U.S.C. § 636(b)(1)(C).

II. BACKGROUND

Plaintiff filed four separate lawsuits against two defendants, Fiat Chrysler Automotive U.S. LLC (Fiat) and United Auto Worker (UAW). Magistrate Judge Rodovich consolidated plaintiff's cases for purposes of discovery.[1] (DE # 97.)

During the course of discovery, plaintiff requested that the defendant in this case, UAW, disclose documents regarding, among other things: requests for, and disclosure of, his personal information to third parties; any document containing his name and personal information; documentation of all money transferred in his name to pay for union fees; copies of all communications he made to defendant; identification of the people who "ordered [him] to be registered as a member of UAW"; and identification of various people with whom he interacted at work, or who were present during certain meetings. (DE ## 36, 37.) Plaintiff objected to defendant's response to his requests, and sought to compel defendant to disclose all documents relevant to his requests. (DE ## 47, 48.)

Magistrate Judge John E. Martin[2] granted plaintiff's motions in part, and denied his motions in part. (DE # 73.) Magistrate Judge Martin ordered the parties to confer regarding plaintiff's request for information containing his personal information and

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[1] *See Marinov v. Fiat Chrysler Automotive*, 4:18-cv-56-TLS-APR (N.D. Ind. filed Aug. 1, 2018); *Marinov v. Fiat Chrysler Automotive*, 4:18-cv-75-TLS-APR (N.D. Ind. filed Oct. 9, 2018); *Marinov v. Fiat Chrysler Automotive (FCA)*, 4:18-cv-80-TLS-APR (N.D. Ind. filed Nov. 1, 2018).

[2] Magistrate Judge Martin presided over discovery in this case prior to its consolidation for purposes of discovery.

his request for documents showing whether any third party sought or exchanged his personal information with defendant. (*Id.* at 3-4.) The court ordered defendant to produce any existing document showing what fees plaintiff paid to the union, if defendant had not already done so. (*Id.* at 4.) The court also ordered defendant to produce any relevant documents that plaintiff sent to defendant. (*Id.* at 5.) However, the court denied plaintiff's request that defendant identify the individuals who ordered that he join the union, finding that defendant's response to this request was adequate. (*Id.*) The court also denied plaintiff's request that defendant identify various individuals who interacted with him during his employment, finding that this information is more readily accessible from the local union or Fiat. (*Id.* at 5-6.) The court explained how plaintiff could obtain that information via subpoena. (*Id.* at 6.)

Despite Magistrate Judge Martin's rulings on his requests, plaintiff continued to file motions arguing that defendant must disclose: the identities of the people who ordered him to be registered as part of the union, and the identities of the people present at certain meetings or who interacted with him during his employment. (DE ## 78, 89, 92, 98, 106.) Plaintiff also challenged defendant's responses to the requests that Magistrate Judge Martin ordered defendant to provide. (DE ## 81, 92, 98.) Finally, plaintiff filed a motion regarding defendant's answer to a new request: that defendant state whether the various individuals he wished to identify are defendant's employees. (DE ## 80, 98.)

In response to plaintiff's motions, Magistrate Judge Rodovich[3] ordered plaintiff not to file any additional motions until the court ruled on his pending motions. (DE # 109.) Magistrate Judge Rodovich warned plaintiff that his failure to abide by this order would result in sanctions. (*Id.*) Plaintiff failed to comply with this order, despite a reminder from Magistrate Judge Rodovich. (*See* DE ## 114, 117, 118, 120, 124.)

In ruling on plaintiff's discovery motions, Magistrate Judge Rodovich re-affirmed the court's earlier discovery rulings finding that defendant had adequately responded to plaintiff's discovery requests. The court also determined that defendant complied with the court's order that defendant provide additional responses and/or documents. Magistrate Judge Rodovich determined that no additional disclosures from defendant were required, and denied plaintiff's motions. (DE # 125 at 3.)

Magistrate Judge Rodovich then vacated his earlier order prohibiting plaintiff from filing new motions, but warned plaintiff that any future repetitive or groundless motions would result in the imposition of sanctions. (DE ## 127.) Plaintiff filed two motions seeking clarification of this warning. (DE ## 135, 148.) Magistrate Judge Rodovich issued orders addressing plaintiff's concerns. (DE ## 141, 149.) Magistrate Judge Rodovich explained that plaintiff's unwillingness to accept the court's rulings was unacceptable, and warned that plaintiff must not continue to object to the court's rulings or file repetitive motions. (DE # 149.)

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[3] At this point, plaintiff's cases had been consolidated and Magistrate Judge Rodovich presided over discovery.

Less than a week after receiving this warning from the court, plaintiff filed seven objections to defendant's discovery responses, raising arguments that the court had already addressed. (DE ## 150-156.) Accordingly, Magistrate Judge Rodovich imposed monetary sanctions against plaintiff, warning plaintiff that if he continued to refuse to accept the rulings of the court, he would incur greater monetary sanctions, and his case may be dismissed. (DE # 157.) Plaintiff filed a motion challenging the imposition of sanctions (DE # 162), and Magistrate Judge Rodovich imposed additional monetary sanctions, finding that plaintiff was again raising repetitive arguments and refusing to accept the court's discovery rulings as final. (DE # 163.) When plaintiff filed yet another motion making the same arguments regarding defendant's discovery responses, Magistrate Judge Rodovich issued a third round of monetary sanctions. (DE # 166.)

Undeterred, plaintiff filed an additional motion, reiterating his arguments that defendant was required to produce certain documents. (DE # 171.) Magistrate Judge Rodovich ordered plaintiff to refrain from filing any additional motions until the court had an opportunity to address his pending motion. (DE # 176.) Ignoring this order, plaintiff filed several additional motions, including motions arguing that defendant's discovery representations were false or inadequate. (DE # 179, 180, 187, 188, 192, 193.)

Magistrate Judge Rodovich then *sua sponte* issued the Report and Recommendation now before this court. (DE # 194.) The Report and Recommendation relays the above procedural history, and notes that plaintiff is proceeding pro se and that English is not plaintiff's primary language. Magistrate Judge Rodovich found that

plaintiff has attempted to use these latter facts as an excuse for his refusal to comply with court orders. Magistrate Judge Rodovich found that plaintiff has refused to accept defendant's response that requested documents do not exist, and has made repetitive requests for documents despite court rulings on the issue. Finding that plaintiff has been undeterred by repeated warnings and explanations, and by monetary sanctions, Magistrate Judge Rodovich recommended dismissal pursuant to Federal Rule of Civil Procedure 37(b)(2)(A)(v) as the appropriate sanction.

The Report and Recommendation ended with an order that plaintiff only file one motion in response to the Report and Recommendation, and warned plaintiff that his failure to comply with this order may be considered by the district court in ruling on the Report and Recommendation. Plaintiff disregarded this order and filed several motions, including a motion again arguing that defendant had not responded to the same discovery requests for which he already had received rulings. (DE # 197, 198, 199.) Magistrate Judge Rodovich warned plaintiff that if he continued to file motions in violation of the Report and Recommendation's prohibition on filings, sanctions would be imposed. (DE # 200.) This warning notwithstanding, plaintiff filed a number of new motions. (DE ## 204, 205, 206, 207, 208, 209, 210, 212, 213, 214, 215, 216, 217.)

III. DISCUSSION

A. Extension of Time

A few preliminary matters must be addressed prior to proceeding to the merits of the Report and Recommendation. First, plaintiff has requested an additional

extension of time to file his response to the Report and Recommendation.[4] (DE # 214.) Plaintiff argues that he requires additional time in light of lingering health issues after contracting COVID-19, and in order to find people to assist him with his case. He requests an additional 60 or 90-day extension.

The court finds that no additional extension is necessary or warranted. His health and lack of assistance notwithstanding, plaintiff has filed 17 motions since the Report and Recommendation was issued. In these motions, plaintiff substantively addresses his objections to the Report and Recommendation. Furthermore, plaintiff argues that he cannot respond to the Report and Recommendation unless this court requires defendant to disclose the documents he has so persistently attempted to secure – documents that the magistrate judges have determined either do not exist, must be obtained from a third party, or need not be disclosed. Because this court is not inclined to overrule the magistrate judges' discovery rulings, granting plaintiff his requested extension would not help him file an objection. Accordingly, the court will deny his motion for an extension of time.

B. Appointment of Counsel

Plaintiff has also requested the appointment of counsel. (DE # 215.) The court may, in its discretion, appoint counsel under 28 U.S.C. § 1915. In assessing a request for counsel, the court must ask: "(1) has the indigent plaintiff made a reasonable attempt to

[4] This court previously granted plaintiff's request for a 60-day extension. (*See* DE # 196.)

obtain counsel or been effectively precluded from doing so; and if so, (2) given the difficulty of the case, does the plaintiff appear competent to litigate it himself?" *Pruitt v. Mote*, 503 F.3d 647, 654 (7th Cir. 2007) (en banc). In considering whether a plaintiff is competent to litigate a case on his own, the Seventh Circuit has instructed:

> The decision whether to recruit pro bono counsel is grounded in a two-fold inquiry into both the difficulty of the plaintiff's claims and the plaintiff's competence to litigate those claims himself. The inquiries are necessarily intertwined; the difficulty of the case is considered against the plaintiff's litigation capabilities, and those capabilities are examined in light of the challenges specific to the case at hand. The question is not whether a lawyer would present the case more effectively than the pro se plaintiff; if that were the test, district judges would be required to request counsel for every indigent litigant. Rather, the question is whether the difficulty of the case – factually and legally – exceeds the particular plaintiff's capacity as a layperson to coherently present it to the judge or jury himself.

Pruitt, 503 F.3d at 655 (internal citations and quotation marks omitted). There are no "fixed" requirements for determining a plaintiff's competence to litigate his own case, but the court should take into consideration the plaintiff's "literacy, communication skills, educational level, and litigation experience." *Id.* In summary, "[t]he inquiry into the plaintiff's capacity to handle his own case is a practical one, made in light of whatever relevant evidence is available on the question." *Id.*

Applying those factors here, the court finds that plaintiff is competent to litigate this case on his own. While he does not address his educational background in the motion, the court is aware that English is not plaintiff's native language. Plaintiff has

stated in filings for many months now that the people who assisted him with his case have withdrawn their assistance. (*See e.g.* DE # 158, 190.) Nevertheless, plaintiff's subsequent filings demonstrate that he is fully literate and is capable of articulating his position to the court. To date, he has actively pursued this litigation, and his filings have been neatly presented and comprehensible. He demonstrates an awareness and understanding of the facts relevant to his case. It is only now, after three years of litigating this case, when he is faced with dismissal as a sanction, that plaintiff believes that appointment of counsel is necessary. Plaintiff need not understand complicated legal issues in order to present his objections to the Report and Recommendation. This motion, as with many of his other motions filed after the Report and Recommendation, appears to be a stalling tactic. Because plaintiff has demonstrated that he is capable of litigating this case on his own, his motion to appoint counsel will be denied.

C. *Monetary Sanctions*

Plaintiff has filed objections to Magistrate Judge Rodovich's imposition of monetary sanctions. (DE ## 205-207.) Plaintiff's objections are untimely. Pursuant to Federal Rule of Civil Procedure 72, a party must serve and file any objections to a magistrate judge's order or recommendation within 14 days of being served with a copy. Plaintiff was served with a copy of the sanctions orders on February 20, 2021 (DE # 159) and March 4, 2021 (DE ## 174, 177). Accordingly, plaintiff had until March 6, 2021, and March 18, 2021, to file his objections to the sanctions orders. Plaintiff's

objections were filed nearly two months late, in May 2021. Accordingly, his objections will be overruled as untimely filed.

D. Dismissal

The court turns now to Magistrate Judge Rodovich's recommendation that plaintiff's case be dismissed as a sanction for his failure to comply with court orders. The Report and Recommendation cites Federal Rule of Procedure 37(b)(2)(A)(v) as the basis for sanctions; however, plaintiff did not "fail[] to obey an order to provide or permit discovery . . .." Fed. R. Civ. P. 37(b)(2)(A); *see also Evans v. Griffin*, 932 F.3d 1043, 1046 (7th Cir. 2019). Nevertheless, pursuant to the court's inherent authority, the court may impose dismissal as a sanction for failure to comply with the court's orders. *Ramirez v. T&H Lemont, Inc.*, 845 F.3d 772, 776 (7th Cir. 2016) ("Apart from the discovery rule, a court has the inherent authority to manage judicial proceedings and to regulate the conduct of those appearing before it, and pursuant to that authority may impose appropriate sanctions to penalize and discourage misconduct."). "Any sanctions imposed pursuant to the court's inherent authority must be premised on a finding that the culpable party willfully abused the judicial process or otherwise conducted the litigation in bad faith." *Id.* "[T]he facts underlying a district court's decision to dismiss the suit" must be supported by a preponderance of the evidence. *Id.* at 781.

This court finds that plaintiff has demonstrated a willful abuse of the judicial process by persistently refusing to comply with court orders. For example, after Magistrate Judge Martin denied his motion to compel the disclosure of information

regarding various individuals who interacted with him during his employment, and instructed plaintiff to seek this information from Fiat or the local union - providing instructions on how he could do so - plaintiff filed motion after motion arguing that defendant was one entity with the local union and therefore must respond to his discovery requests. Plaintiff continued to make these arguments even after Magistrate Judge Rodovich affirmed Magistrate Judge Martin's rulings. (*See e.g.* DE ## 131, 136, 155, 156, 179.) Plaintiff also continued to argue that defendant was required to produce a document identifying any money taken from his paycheck to pay union fees, long after Magistrate Judge Rodovich ruled that defendant had sufficiently responded to his request and that further information should be obtained from Fiat or the local union. (*See e.g.* DE # 73, 125, 131, 149, 155, 156, 171, 179.) Also illustrative of his failure to comply with court orders is the fact that it took plaintiff more than a year, and several court orders, to provide defendant with initial disclosures. (DE # 34, 97, 123, 132.)

Plaintiff attempts to excuse his willful behavior by citing his pro se status and the fact that English is not his native language. Yet, when plaintiff sought clarification from Magistrate Judge Rodovich, he was provided with an explanation of what behavior the court found unacceptable. Magistrate Judge Rodovich explained which filings were not appropriate, and why. Like Magistrate Judge Rodovich, this court finds that plaintiff's continuous refusal to comply with court orders was born of stubbornness, rather than lack of understanding. Plaintiff's pro se status does not excuse his refusal to comply with court orders. *See McInnis v. Duncan*, 697 F.3d 661, 665 (7th Cir. 2012) ("[E]ven those

who are pro se must follow court rules and directives."); *Collins v. Illinois*, 554 F.3d 693, 697 (7th Cir. 2009) (same).

Plaintiff was ordered on several occasions to stop filing objections, and to wait for a response from the defendant and a ruling from the court, and each time he failed to comply with these orders. Magistrate Judge Rodovich ordered him to file one objection to the Report and Recommendation, and to stop filing motions until he received a ruling from this court. Plaintiff ignored these directives and filed more than a dozen motions. Plaintiff was warned throughout the course of this litigation that his failure to comply with court orders would result in sanctions, including the dismissal of his case. Time and again, plaintiff has demonstrated contempt for court directives. Court warnings and the imposition of monetary sanctions failed to have any deterrent effect on plaintiff's abusive filing practices. Accordingly, the sanction of dismissal is an appropriate and proportionate response to plaintiff's conduct.

IV. CONCLUSION

For the foregoing reasons, the court:

(1) **OVERRULES** plaintiff's objections to the Report and Recommendation;

(2) **ACCEPTS and ADOPTS** Magistrate Judge Rodovich's Report and Recommendation (DE # 194);

(3) **DENIES** plaintiff's Motion Regarding No Answers to Motion of 3/31/21 (DE # 198);

(4) **DENIES** plaintiff's Motion-Objection to Cancel the Recommendation of 4/9/21 (DE # 204);

(5) **DENIES** plaintiff's objections to the imposition of monetary sanctions (DE ## 205-207);

(6) **DENIES** plaintiff's Motion re Report and Recommendations and Motion to Amend (DE ## 212, 213);

(7) **DENIES** plaintiff's motions for extensions of time (DE ## 214, 217);

(8) **DENIES** plaintiff's Motion to Appoint Counsel and Motion Requesting Ruling (DE ## 215, 216);

(9) **DENIES** all other pending motions as moot (DE ## 171, 179, 180, 187, 188, 190, 192); and

(10) **DISMISSES** this case with prejudice.

SO ORDERED.

Date: September 3, 2021

s/James T. Moody
JUDGE JAMES T. MOODY
UNITED STATES DISTRICT COURT

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION AT LAFAYETTE

VASSIL MARKOV MARINOV, Plaintiff, v. FIAT CHRYSLER AUTOMOTIVE, Defendant.	CAUSE NO.: 4:18-CV-75-TLS-APR

ORDER

This matter is before the Court on the Plaintiff's Motion for Appointment of Counsel [ECF No. 130], filed pro se on June 29, 2021. In the motion, the Plaintiff represents that he has continuing as well as new serious health issues and requests appointment of counsel to represent him in this case.

There is no "constitutional or statutory right to court-appointed counsel" in a federal civil case. *Walker v. Price*, 900 F.3d 933, 938 (7th Cir. 2018) (citing *Pruitt v. Mote*, 503 F.3d 647, 649 (7th Cir. 2007) (en banc)); *see also Ray v. Wexford Health Sources, Inc.*, 706 F.3d 864, 866 (7th Cir. 2013). However, a court may request an attorney to represent a person who is unable to afford counsel in a civil case. *Walker*, 900 F.3d at 938 (citing 28 U.S.C. § 1915(e)(1)). The decision to seek volunteer counsel rests in the discretion of the district court. *Pruitt*, 503 F.3d at 654. The court must consider: "(1) has the indigent plaintiff made a reasonable attempt to obtain counsel or been effectively precluded from doing so; and if so, (2) given the difficulty of the case, does the plaintiff appear competent to litigate it himself?" *Id.* at 654–55 (citing *Farmer v. Haas*, 990 F.2d 319, 321–22 (7th Cir. 1993)).

Although the Plaintiff has not previously requested counsel in this case, the Court twice recruited pro bono counsel on behalf of the Plaintiff in his related case, 4:18-CV-56. *See Marinov v. Fiat Chrysler Auto.*, 4:18-CV-56, ECF Nos. 66, 69, 74, 77, 89–91. In that case, the first attorney declined to represent the Plaintiff after an initial consultation of several hours, *see id.* at ECF Nos. 84, 85, and the second attorney withdrew his appearance based on an inability to establish a workable attorney-client relationship with the Plaintiff, *see id.* at ECF Nos. 97–99. The Plaintiff then made a third request for a pro bono attorney, which the Magistrate Judge denied. *See id.* at ECF No. 99. The Plaintiff now represents that he continues to be unable to find an attorney able to represent him. However, as noted by the Magistrate Judge in the related case, "based on the representations made by [the Plaintiff's second attorney], and noting that a previous attorney also indicated inability to establish an attorney-client relationship with Plaintiff Marinov, it instead appears that Plaintiff Marinov has not accepted counsel able to represent him." *Id.* at ECF No. 99. Thus, the Plaintiff has not made a reasonable attempt to secure counsel. In addition, despite his serious health conditions, the Plaintiff has vigorously litigated this lawsuit as well as the two other cases in this Court (4:18-CV-56, 4:18-CV-59) and appears competent to litigate this matter himself.

Accordingly, the Court DENIES the Motion for Appointment of Counsel [ECF No. 130] and DENIES as moot the Motion for Ruling [ECF No. 133].

SO ORDERED on September 3, 2021.

s/ Theresa L. Springmann
JUDGE THERESA L. SPRINGMANN
UNITED STATES DISTRICT COURT

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION AT LAFAYETTE

VASSIL MARKOV MARINOV,

Plaintiff,

v.

FIAT CHRYSLER AUTOMOTIVE,

Defendant.

CAUSE NO.: 4:18-CV-75-TLS-APR
4:18-CV-80-TLS-APR

OPINION AND ORDER

This matter is before the Court on a Report and Recommendation [ECF No. 105], filed by Magistrate Judge Andrew P. Rodovich on April 9, 2021. For the reasons set forth below, the Court dismisses without prejudice the Plaintiff's Complaint in 4:18-CV-75 for lack of subject matter jurisdiction. The Court further adopts the Report and Recommendation and dismisses with prejudice the Plaintiff's Complaint in 4:18-CV-80 as a sanction pursuant to the Court's inherent authority.

PROCEDURAL BACKGROUND

The Plaintiff has filed four separate lawsuits related to his wages as an employee of Fiat Chrysler Automotive (FCA). First, he filed 4:18-CV-56-TLS-APR against FCA, alleging employment discrimination and harassment based on religion in relation to the withholding of union dues from his paycheck. Next, he filed 4:18-CV-59-JTM-APR against United Auto Worker (UAW), alleging employment discrimination and harassment based on religion in relation to the withholding of union dues from his paycheck and his representation by UAW over his objection. Third, he filed the instant lawsuit against FCA, challenging the deduction of union

dues from his paycheck. Fourth, he filed 4:18-CV-80-TLS-APR against FCA, challenging FCA's failure to pay him holiday pay and supplemental unemployment benefits.

On March 3, 2020, at the Plaintiff's request, this cause number and 4:18-CV-80 were consolidated for all purposes, and all filings were subsequently made in this case only. ECF No. 38. On September 24, 2020, over the Plaintiff's objection, the remaining three cases were consolidated for discovery purposes only. ECF Nos. 102 (consolidating 4:18-CV-56, 4:18-CV-59, 4:18-CV-75), 103, 104, 4:18-CV-56. The Plaintiff has also maintained an objection to the consolidation of the three cases for any other purpose. ECF Nos. 5, 6, 49.

Twice, pro bono counsel was recruited at the Plaintiff's request in 4:18-CV-56, and the second attorney entered an appearance in this case as well; however, neither representation lasted as a result of an inability to establish an attorney-client relationship. ECF Nos. 46, 49, 50; ECF Nos. 66, 69, 74, 77, 84, 85, 89–91, 97–99, 101, 115, 4:18-CV-56.

ANALYSIS

Because the Magistrate Judge's recommendation of dismissal as a sanction would be a dismissal on the merits with prejudice, the Court must first resolve the issue of this Court's subject matter jurisdiction in 4:18-CV-75 addressed in its November 9, 2020 Opinion and Order [ECF No. 59]. The Court will then consider the Magistrate Judge's Report and Recommendation.

A. Subject Matter Jurisdiction: 4:18-CV-75

In its November 9, 2020 Opinion, the Court denied the Defendant's motion to dismiss cause number 4:18-CV-75 on the grounds asserted but found that the Court does not have subject matter jurisdiction over this case. The Court ordered the Plaintiff to file a supplemental jurisdictional statement addressing the Court's subject matter jurisdiction, including articulating the legal basis for this Court's federal question jurisdiction. The Court warned the Plaintiff that a

failure to file a statement by the deadline may result in the dismissal of the case for lack of subject matter jurisdiction. The Plaintiff requested an extension of time to respond until the close of discovery. ECF No. 61; the Court denied the request because the Plaintiff did not identify what fact discovery was necessary to respond to the jurisdictional issue. ECF No. 64. The Plaintiff then requested several extensions of time to respond due to health issues, with the most recent request pending. ECF Nos. 70–74, 80, 83, 106, 108, 129, 131, 135. However, those health issues did not prevent him from pursuing discovery and filing numerous other substantive motions in the other two cases. Thus, the requests appear to be a strategic effort by the Plaintiff to avoid specifically addressing the Court's jurisdictional concerns, and the Court will rule without further briefing.

The Court finds that it does not have subject matter jurisdiction in 4:18-CV-75 for the reasons set forth in the Court's November 9, 2020 Opinion and Order. ECF No. 59. To summarize, the Plaintiff has not alleged an amount in controversy sufficient to satisfy diversity jurisdiction, and the Court does not have federal question jurisdiction because there is no private right of action under 29 U.S.C. § 186(c)(4), the NLRB has exclusive jurisdiction over the Plaintiff's wage claim as an unfair labor practice, and there are no allegations to state a hybrid claim under Section 301 of the Labor Management Relations Act. Accordingly, the Plaintiff's Complaint in 4:18-CV-75 is dismissed without prejudice for lack of subject matter jurisdiction.

B. Report and Recommendation: Dismissal as a Sanction

The Court now considers the Magistrate Judge's recommended sanction of dismissal both as to cause number 4:18-CV-80 as well as an alternative basis for dismissal of 4:18-CV-75. The Court's review of a Magistrate Judge's Report and Recommendation is governed by 28 U.S.C. § 636(b)(1)(C), which provides as follows:

> Within fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions.

28 U.S.C. § 636(b)(1)(C); *see also* Fed. R. Civ. P. 72(b)(2) ("Within 14 days after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations."). The Plaintiff requested and received two extensions of time to respond to the Report and Recommendation due to health issues, with a third request pending. *See* ECF Nos. 107, 108, 123, 125, 134. These requests again appear to be a strategic effort by the Plaintiff to avoid specifically responding because, despite his health issues, the Plaintiff has filed numerous substantive documents challenging court rulings, requesting discovery, and asking for court guidance and/or clarification during the same time period. *See* ECF Nos. 109 (4/21/2021), 110 (4/23/2021), 114 (4/28/2021), 116 (5/3/2021), 117 (5/5/2021), 118 (5/7/2021), 119 (5/11/2021), 120 (5/13/2021), 121 (5/17/2021), 122 (5/24/2021). The Court finds that these filings constitute the functional equivalent of an objection and, thus, the review is de novo.

The Magistrate Judge recommends dismissal of this lawsuit (as well as the Plaintiff's other pending lawsuits) as a sanction for the Plaintiff's contempt for the judicial process and discovery abuses. The Magistrate Judge found that the Plaintiff has used his pro se status, his lack of familiarity with the American court system, and the language barrier (English is not his primary language) as an excuse for his refusal to comply with court orders and his abuse of the discovery process. The Magistrate Judge also found that the Plaintiff disregarded repeated efforts by the Court to explain his obligations under the Federal Rules of Civil Procedure.

Although the Report and Recommendation relies on Federal Rule of Civil Procedure 37(b)(2)(A)(v), the Court finds that the sanction of dismissal for the Plaintiff's discovery conduct and failure to follow court orders is properly before the Court on its inherent authority. *See Evans v. Griffin*, 932 F.3d 1043, 1047 (7th Cir. 2019) (finding that neither Federal Rule of Civil Procedure 37(b) nor 37(d) was applicable in relation to a failure to appear for a deposition where there was no discovery order and the plaintiff had not gotten notice of the deposition and, instead, considering whether the sanction was appropriate under the court's inherent authority); *Nat'l Asset Consultants LLC v. Midwest Holdings-Indianapolis, LLC*, No. 1:18-CV-1616, 2021 WL 1196192, at *12–13 (S.D. Ind. Mar. 30, 2021) (finding that Rule 37(b) did not apply where there was no violation of a discovery order but that the court's inherent authority permitted the court to sanction discovery misconduct). Under either Rule 37(b) or the Court's inherent authority, the Court must find that the Plaintiff "acted or failed to act with a degree of culpability that exceeds simple inadvertence or mistake before it may choose dismissal as a sanction for discovery violations." *Ramirez v. T&H Lemont, Inc.*, 845 F.3d 772, 776 (7th Cir. 2016).

"A court may use its inherent authority to sanction those who show 'willful disobedience of a court order,' act in 'bad faith, vexatiously, wantonly, or for oppressive reasons,' for fraud on the court, delay, disruption, or 'hampering enforcement of a court's order.'" *Fuery v. City of Chicago*, 900 F.3d 450, 463 (7th Cir. 2018) (quoting *Chambers v. NASCO, Inc.*, 501 U.S. 32, 45–46 (1991)). "Any sanctions imposed pursuant to the court's inherent authority must be premised on a finding that the culpable party willfully abused the judicial process or otherwise conducted the litigation in bad faith." *Ramirez*, 845 F.3d at 776; *see Fuery*, 900 F.3d at 463–64 ("The court must first make a finding of 'bad faith, designed to obstruct the judicial process, or a violation of a court order.'" (quoting *Tucker v. Williams*, 682 F.3d 654, 662 (7th Cir. 2012)).

"[I]ssuing a judgment is a 'powerful sanction' and one that should be used judiciously after determining that there is 'a clear record of . . . contumacious conduct' after considering 'the egregiousness of the conduct in question in relation to all aspects of the judicial process' and considering whether less drastic sanctions are available." *Fuery*, 900 F.3d at 464 (quoting *Barnhill v. United States*, 11 F.3d 1993, 1367–68 (7th Cir. 1993)). However, it is not necessary for the court to make a finding of prejudice, "[n]or is there a requirement that a district court impose graduated sanctions." *Id.* "The sanction imposed should be proportionate to the gravity of the offense." *Montaño v. City of Chicago*, 535 F.3d 558, 563 (7th Cir. 2008) (citing *Allen v. Chi. Transit Auth.*, 317 F.3d 696, 703 (7th Cir. 2003)).

"Though courts are often less demanding of parties representing themselves, *pro se* litigants do not enjoy 'unbridled license to disregard clearly communicated court orders.'" *Wright v. Lake Cnty. Sheriff's Dep't*, 2:04-CV-524, 2006 WL 978929, at *1 (N.D. Ind. Apr. 10, 2006) (quoting *Downs v. Westphal*, 78 F.3d 1252, 1257 (7th Cir. 1996)). And "*pro se* litigants must follow rules of civil procedure." *Cady v. Sheahan*, 467 F.3d 1057, 1061 (7th Cir. 2006) (citing *McNeil v. United States*, 508 U.S. 106, 113 (1993)); *see also McInnis v. Duncan*, 697 F.3d 661, 665 (7th Cir. 2012) ("[E]ven those who are pro se must follow court rules and directives." (citing cases)).

Under these standards, the Court finds that the Plaintiff's discovery conduct warrants the sanction of dismissal, that the sanction of dismissal is proportionate to the gravity of his offense, and that lesser sanctions would not deter his conduct. At the outset of discovery in 4:18-CV-56, the Plaintiff served three requests for production on FCA in May 2019. ECF Nos. 45–47, 4:18-CV-56. From there, the Plaintiff's willful disobedience of judicial orders and abusive discovery practices unfolded, the details of which are fully set forth in the Court's Opinion and Order of

dismissal entered this date in 4:18-CV-56. In this case, discovery did not begin until after the November 9, 2020 ruling denying the Defendant's motion to dismiss, but similar discovery abuses and disregard for judicial orders quickly arose.

On November 18, 2020, the Court issued an Order in the three cases noting that the Plaintiff "has demonstrated either an inability or an unwillingness to abide by normal discovery procedures. Every adverse ruling results in either an objection or some other response by [the Plaintiff]." ECF No. 62 (ECF No. 118, 4:18-CV-56; ECF No. 127, 4:18-CV-59). The Court wrote, "Marinov is **WARNED** that any future repetitive or groundless motions will result in the imposition of sanctions. In particular, any objection to this order will be sanctioned." *Id.* (same).

On November 23, 2020, the Plaintiff requested a sixty-day extension of time to respond to discovery due to health concerns. ECF No. 70. Yet, on November 30, 2020, the Plaintiff served a first request for production of documents on the Defendant in this case. ECF No. 65. On December 7, 2020, the Plaintiff served a second request for production of documents on Defendant, asking for documents showing the amounts withheld from his salary, for the identities of individuals with information regarding the case, and "accounting references" for the money withheld from his salary. ECF No. 66. And, on December 11, 2020, the Plaintiff served his initial disclosures. ECF No. 67.

Prior to February 1, 2021, the Plaintiff was given five warnings concerning his abusive discovery behavior in the three cases. ECF No. 62 (ECF Nos. 118, 129, 4:18-CV-56; ECF Nos. 127, 141, 4:18-CV-59), including the warning that "any future repetitive or groundless motions will result in the imposition of sanctions." ECF No. 129, 4:18-CV-56. These warnings prompted the Plaintiff to file a Motion for Clarification on February 1, 2021. ECF No. 75 (ECF No. 132,

4:18-CV-56; ECF No. 148, 4:18-CV-59), to which the Court provided the following clarification on February 2, 2021:

> Because Marinov is proceeding pro se, the court will attempt to clarify the previous orders. However, the pending motion is an example of what the three previous orders intended to prevent. Marinov has been unwilling to accept an adverse ruling from the court. Even if he disagrees with the ruling, he must understand that the ruling is final. He cannot object to it or file the same motion a second (or third) time. If an attorney for the defendant, as an officer of the court, states that certain documents do not exist, Marinov must accept that representation. He cannot make additional requests for evidence which does not exist.
>
> The court has no intention of restricting the right of Marinov to prepare and present his case. However, a disagreement with a ruling by the court or a pleading filed by an attorney is not a license to file additional pleadings. There is a difference between advocacy and stubbornness. Advocacy is permitted, but stubbornness will be sanctioned.

ECF No. 76 (ECF No. 133, 4:18-CV-56; ECF No. 149, 4:18-CV-59).

On February 18, 2021, monetary sanctions were issued in 4:18-CV-59 after the Plaintiff had filed seven separate motions in that case alone since the February 2, 2021 Order. *See* ECF No. 78 (ECF No. 157, 4:18-CV-59). Additional monetary sanctions were issued in 4:18-CV-59 on February 24, 2021. *See* ECF No. 163, 4:18-CV-59. On February 26, 2021, the Plaintiff filed a motion related to the sanctions award. ECF No. 84 (ECF No. 165, 4:18-CV-59), and, on March 1, 2021, a third monetary sanctions award was ordered in 4:18-CV-59. ECF No. 85 (ECF Nos. 166, 4:18-CV-59).

On February 8 and March 8, 2021, the Plaintiff filed motions seeking a response to his December 7, 2020 discovery request. ECF Nos. 77, 91. In a March 9, 2021 order requiring the Defendant to respond to the two motions, the Court warned: "The plaintiff is **ORDERED** to refrain from filing motions until further order of this court." ECF No. 92 (ECF No. 147, 4:18-CV-56; ECF No. 176, 4:18-CV-59). After the order was served on the Plaintiff on March 11, 2021, ECF No. 98, the Plaintiff filed 17 new motions in these cases. *See* ECF Nos. 150, 151,

153, 156, 158, 160, 4:18-CV-56; ECF Nos. 179, 180, 187, 188, 190, 192, 4:18-CV-59; ECF Nos. 95, 97, 100, 102, 104, 4:18-CV-75. Included in those filings was a March 22, 2021 motion asking for legal advice, ECF No. 95, and an April 7, 2021 motion for a ruling, ECF No. 104.

The Plaintiff's conduct led to the issuance of the April 9, 2021 Report and Recommendation for dismissal based on the discovery abuses and repeated failure to follow the Court's orders. The Report and Recommendation concluded:

> Marinov is **WARNED** that he may file ONE and ONLY ONE pleading in response to this Recommendation. That pleading should address the issues relating to the dismissal of the lawsuits. After that ONE pleading has been filed, Marinov may not file any additional pleadings until after the district judge has ruled on this Recommendation. Marinov is **WARNED** that sanctions will be imposed if any pleadings are filed in violation of this order. Additionally, the district judge is entitled to consider pleadings filed in violation of this ORDER as further evidence of contemptuous conduct.

R. & R. 4, ECF No. 105. Notwithstanding these warnings, the Plaintiff's subsequent conduct is further evidence of his willful disobedience of the Court's orders. Despite having requested an extension of time to respond to the Report and Recommendation due to health issues, the Plaintiff made the following filings, many of which were also filed in the other cases.

On April 21, 2021, the Plaintiff filed a motion asking for legal guidance. ECF No. 109 (ECF No. 164, 4:18-CV-56; ECF No. 197, 4:18-CV-59), and on April 23, 2021, the Plaintiff filed a motion asking for a 150-day extension of time to complete discovery, reasserting his original three discovery requests, ECF No. 110 (ECF No. 165, 4:18-CV-56; ECF No. 199, 4:18-CV-59). On April 27, 2021, the Magistrate Judge issued an order, reiterating the warnings from the Report and Recommendation, striking the motions for extension of time, and cautioning: "This is Marinov's **FINAL WARNING**: if he continues to file pleadings in violation of the April 9, 2021 Recommendation, additional sanctions **WILL BE IMPOSED**." ECF No. 112 (ECF No. 167, 4:18-CV-56; ECF No. 200, 4:18-CV-59).

Nevertheless, on April 28, 2021 (it is not clear whether the Plaintiff had yet received the April 27, 2021 Order), the Plaintiff filed a five-page motion, reiterating the same arguments for his original discovery requests that had been asserted in his prior filings and seeking the responses that the Defendant was ordered to produce by March 23, 2021. ECF No. 114 (ECF No. 169, 4:18-CV-56). Then, in May 2021, the Plaintiff filed the following objections addressed to the undersigned presiding judge: a five-page motion/objection to the April 27, 2021 order striking his motion, ECF No. 116 (5/3/2021); an objection to the February 18, 2021 sanctions awarded in the 4:18-CV-59 case, ECF No. 117 (5/5/2021); an objection to the March 1, 2021 sanctions awarded in the 4:18-CV-59 case, ECF No. 118 (5/7/2021); a three-page objection to the February 2, 2021 Order clarifying the November 18, 2020 warning that future repetitive or groundless motions will result in the imposition of sanctions, ECF No. 119 (5/11/2021); and an objection to the grant of the Defendant's motion to stay discovery pending resolution of the Report and Recommendation, ECF No. 120 (5/13/2021). Finally, on May 17 and 24, 2021, the Plaintiff filed motions asking the undersigned for clarification regarding the basis of the Report and Recommendation, ECF Nos. 121, 122. Therein, he raises concerns with certain aspects of the Report and Recommendation, challenging the Magistrate Judge's reliance on his conduct in the other cases while ignoring that the Court consolidated the cases for discovery. ECF Nos. 121, 122.

The history of discovery in these cases reveals that, when the Defendant represents that certain documents do not exist, the Plaintiff attacks the credibility of the Defendant and its attorneys and makes repeated requests for the same documents, even after rulings by the Court. Moreover, although the discovery abuses began unfolding first in the 4:18-CV-56 and 4:18-CV-59 cases, once discovery opened in this case, the Plaintiff engaged in the same conduct. After

warning the Plaintiff to stop requesting duplicative discovery in the other cases, the Court provided the Plaintiff with a clarification as well as a warning in all three cases. When the warning did not deter the Plaintiff, monetary sanctions were imposed in 4:18-CV-59. The Plaintiff continued to file motions in violation of the March 9, 2021 Order instructing him not to file any additional motions. At the time of the Report and Recommendation, the Plaintiff had filed approximately 80 objections or discovery requests between the three cases. R. & R. 2. The Report and Recommendation recommended the sanction of dismissal and provided additional warnings to file only one response. Yet, the Plaintiff continued to file motions in all three cases, filing at least 31 additional substantive motions or objections. Because the three cases have been consolidated for discovery purposes, it is appropriate to consider the Plaintiff's abusive discovery-related conduct and failure to follow court orders in all three cases when considering an appropriate sanction.[1]

The Court finds that the Plaintiff's conduct both before and after the Report and Recommendation, despite repeated warnings of the consequences, demonstrates willful disobedience of court orders, an abuse of the discovery proceedings, and contempt for the judicial process. Accordingly, dismissal is an appropriate sanction. The Court finds that lesser sanctions would not be effective, especially given that neither repeated warnings to curtail his behavior, the threat of sanctions, nor the imposition of monetary sanctions deterred the Plaintiff's conduct. The Court dismisses 4:18-CV-80 with prejudice as a sanction under the Court's inherent authority and finds that dismissal as a sanction under the Court's inherent authority is an alternate basis for dismissal of 4:18-CV-75.

[1] Although the Plaintiff achieved some success in 4:18-CV-56 on his motion to compel information regarding the identity of third parties with whom his personal information was shared, *see* ECF Nos. 73, 111, 114, 116, 122, 146, 147, 4:18-CV-56, that success does not excuse his abuse of the judicial process that occurred throughout discovery.

CONCLUSION

Therefore, the Court DISMISSES cause number 4:18-CV-75 without prejudice for lack of subject matter jurisdiction. The Court further ACCEPTS, as modified, the Report and Recommendation [ECF No. 105] and DISMISSES cause number 4:18-CV-80 with prejudice pursuant to the Court's inherent authority. As a result, the Court DENIES as moot the following pending motions and objections in cause number 4:18-CV-75: DE 77, 91, 95, 97, 100, 102, 104, 114, 116, 119, 120, 121, 122, 134, 135.

So ORDERED on September 3, 2021.

s/ Theresa L. Springmann
JUDGE THERESA L. SPRINGMANN
UNITED STATES DISTRICT COURT

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