

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

GEORGIA SARIVALAS,)
)
 Plaintiff,)
)
 v.) No. 1:20-cv-00965-SEB-DML
)
 C R BARD INCORPORATED, et al.)
)
 Defendants.)

Report and Recommendation to
Dismiss Complaint with Prejudice

The magistrate judge reports and recommends to the district judge that the plaintiff's complaint should be dismissed with prejudice because of the plaintiff's failure to comply with court orders and failure to prosecute her claims.

Plaintiff Georgia Sarivalas has been *pro se* in this matter since her counsel withdrew on October 21, 2020 (Dkt. 58). When plaintiff was represented by counsel, she filed multiple motions to extend various case management deadlines (see Dkts. 31, 32, 33, 34, and 48). The court granted all of the requested extensions. Plaintiff failed to comply with the extended deadlines, and, on October 8, 2020, defendants asked the court to enter an order requiring plaintiff to do so (Dkt. 53). Plaintiff did not respond to that motion and, on October 14, 2020, plaintiff's counsel filed their motion to withdraw from the case (Dkt. 54).

On October 21, 2020, the court granted plaintiff's counsel's motion to withdraw and emphasized to Ms. Sarivalas that "even without an attorney, she

remains bound to comply with the deadlines set forth in the case management plan." (Dkt. 58). That order gave Ms. Sarivalas until October 30, 2020, to respond to defendants' motion for an order directing plaintiff to comply with the case management plan. Ms. Sarivalas did not respond to the defendants' motion.

On December 2, 2020, the court issued an order granting in part the defendants' motion (Dkt. 59). The court ordered Ms. Sarivalas to show cause, by January 31, 2021, "that she has complied with all her obligations under the CMP as well as her discovery obligations and absent such compliance, why this case should not be dismissed for failure to prosecute and failure to comply with court orders." Ms. Sarivalas did not respond to the court's order or request an extension of time to do so. Further, the last two court orders mailed to Ms. Sarivalas have been returned as undeliverable. Ms. Sarivalas has not provided her current address to the court. A litigant has a duty to keep the court informed at all times of her current address because, among other reasons, the court's ability to contact a litigant is critical to its ability to transmit its rulings and properly manage its docket.

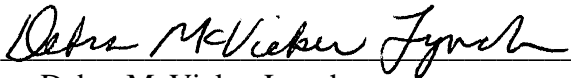
The magistrate judge therefore recommends that Ms. Sarivalas's complaint be dismissed with prejudice because of her failure to prosecute and failure to comply with court orders. *See Link v. Wabash R. Co.*, 370 U.S. 626, 630-31 (1962) ("The authority of a court to dismiss *sua sponte* for lack of prosecution has generally been considered an 'inherent power,' governed not by rule or statute but by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases."); *see also GCIU Employer Retirement Fund v.*

Chicago Tribune Co., 8 F.3d 1195, 1198-1199 (7th Cir. 1993) (internal quotation omitted) (“[A] party cannot decide for itself when it feels like pressing its action and when it feels like taking a break because trial judges have a responsibility to litigants to keep their court calendars as current as humanly possible.”)

Any objection to this report and recommendation that the complaint be dismissed with prejudice must be filed in accordance with 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b). The failure to file objections within fourteen days after service will constitute a waiver of subsequent review absent a showing of good cause for that failure. The parties should not anticipate any extension of this deadline or any other related briefing deadlines.

IT IS SO RECOMMENDED.

Date: 2/11/2021



Debra McVicker Lynch
United States Magistrate Judge
Southern District of Indiana

Distribution:

All ECF-registered counsel of record by email through the court’s ECF system

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