FILED
MAR 3 1 1987
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

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DALE MOTTET and DOROTHY MOTTET, f/k/a DOROTHY YUTZY,

Plaintiffs-Appellants,

vs.

JEFFREY LYNN STEPHEN, CARROL STEPHEN and DOROTHY STEPHEN,

Defendants-Appellees.

Filed March 31, 1987

7-20
86-453

Appeal from the Iowa District Court for Linn County (LA 13336) - William L. Thomas, Judge.

Plaintiffs appeal their lawsuit dismissal pursuant to Iowa Rule of Civil Procedure 134, contending the dismissal was an abuse of the district court's discretion. **AFFIRMED.**

John O. Moeller, Davenport, Iowa, for plaintiffs-appellants.

Wayne C. Collins and Mark L. Zaiger of Shuttleworth & Ingersoll, Cedar Rapids, Iowa, for defendants-appellees.

Considered by Oxberger, C.J., Schlegel, and Hayden, JJ.

The plaintiffs' lawsuit was dismissed pursuant to Iowa Rule of Civil Procedure 134 as a sanction for violation of pretrial discovery orders. The plaintiffs have appealed, contending the dismissal was an abuse of the district court's discretion. We affirm.

The district court has the authority to dismiss litigation as a sanction for failure to comply with a discovery order. Iowa R. Civ. P. 134(b)(2)(c). The decision to impose sanctions for discovery abuse is within the discretion of the trial court and will not be reversed absent an abuse of that discretion. Suckow v. Boone State Bank & Trust Co., 314 N.W.2d 421, 425 (Iowa 1982); Postma v. The Sioux Center News, 393 N.W.2d 314, 318 (Iowa 1986). In order for the trial court to dismiss the action, the noncompliance with discovery must evince willfulness, fault, or bad faith. Suckow v. Boone State Bank & Trust Co., 314 N.W.2d at 425.

The facts and circumstances of this case clearly establish that the trial court acted within its discretion in dismissing the action. The plaintiffs were injured when their car collided with a car driven by one of the defendants and owned by the other two defendants. The plaintiffs filed the present negligence action in May 1985. In June 1985 the defendants submitted interrogatories to the plaintiff. When these interrogatories remained unanswered after several inquiries, the defendants filed a motion to compel discovery on October 28. The district court sustained this motion and ordered the plaintiffs to answer the interrogatories within 30 days after December 10 or to face sanctions as provided by Iowa Rule of Civil Procedure 134. When the plaintiffs still had not answered the interrogatories on January 14, 1986, the defendants moved for dismissal of the lawsuit as a sanction. The court set a hearing on this motion for February 21. When the interrogatories still had not been answered on that

date, and when the plaintiffs failed to appear for the hearing on that date, the district court entered an order dismissing the lawsuit pursuant to Iowa Rule of Civil Procedure 134 as a sanction for violation of pretrial discovery orders. This history of discovery abuse evidences a pattern of willfulness and fault on the part of plaintiffs or their counsel in pursuing the lawsuit.

The district court's order dismissing the lawsuit as a sanction for discovery abuse and failure to comply with a court order was appropriate and is affirmed.

AFFIRMED.