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1 **IN THE SUPREME COURT OF THE STATE OF NEW MEXICO**

2 Opinion Number:

3 Filing Date: January 22, 2026

4 **NO. S-1-SC-40434**

5 **SUZANNE BURNS,**

6 Plaintiff-Petitioner,

7 v.

8 **PRESBYTERIAN HEALTHCARE**
9 **SERVICES and NAVJEET KAUR,**
10 **M.D.,**

11 Defendants-Respondents.

12 **ORIGINAL PROCEEDING ON CERTIORARI**
13 **Joshua A. Allison, District Judge**

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OPINION

GURLEY, Judge.

{1} Plaintiff Suzanne Burns sued Defendants Presbyterian Healthcare Services (PHS) and Dr. Navjeet Kaur for medical malpractice. Months after the expert witness disclosure deadline, and several weeks after the discovery deadline, Plaintiff provided new untimely expert witness opinions on causation in response to Defendants' motions for summary judgment. The untimely expert witness opinions were in the form of an affidavit attached to her response, which the district court found contradicted that expert's prior deposition testimony on the issue. Defendants also filed motions to strike the expert's affidavit. The district court took two, distinct steps: it granted Defendants' motions to strike the new, untimely affidavit, and then granted Defendants' motions for summary judgment for lack of causation. On appeal, Plaintiff argues that striking the affidavit containing the causation opinions was effectively a sanction of dismissal, for which the district court should have considered lesser sanctions. We agree with the Court of Appeals that the district court did not abuse its discretion in granting the motions to strike, but for different reasons. Rather than affirming the exclusion of testimony as a "lesser" sanction for violation of the scheduling order, we hold that the district court properly exercised its inherent authority to enforce its scheduling order. *Burns v. Presbyterian*

1 *Healthcare Servs.*, mem. op. A-1-CA-38594, ¶ 3 (N.M. Ct. App. Jan. 9, 2024)
2 (nonprecedential).¹

3 **I. BACKGROUND**

4 {2} The parties do not dispute the following facts. In June and July of 2014,
5 Plaintiff underwent a series of medical procedures and treatments at Presbyterian
6 Hospital. She had a cholecystectomy (gallbladder removal) on June 26, 2014. The
7 next day she was discharged from the hospital by Dr. Kaur, even though her lab test
8 results were abnormal. Plaintiff returned to the hospital's emergency room three
9 days later and was diagnosed with, and treated for, pneumonia and bilateral
10 pulmonary emboli with a saddle embolus. Six days later, she was discharged a
11 second time. She returned to the hospital's emergency department two days later
12 with abdominal pain. Plaintiff was then diagnosed with a bile leak and spent a total
13 of seven weeks in the hospital undergoing treatment.

14 {3} In June of 2017, Plaintiff filed a complaint for medical negligence against
15 Defendants. The district court issued its scheduling order in December of 2018. The
16 scheduling order provided that Plaintiff was to file expert disclosures by April 1,

¹The referenced Court of Appeals disposition was inadvertently titled and filed as a decision. The disposition should be titled memorandum opinion. The citations within this opinion reference the filing as a memorandum opinion.

1 2019, both parties were to complete pretrial discovery by June 28, 2019, and
2 dispositive motion packets were to be completed by August 23, 2019. The
3 scheduling order specified that it could “be modified only by court order upon a
4 showing of good cause.”

5 {4} Plaintiff first disclosed Dr. Walid Arnaout as an expert witness in discovery
6 responses. During Dr. Arnaout’s deposition, Defendant PHS questioned Plaintiff’s
7 expert about whether Plaintiff had a diagnosable bile leak when she was initially
8 discharged from the hospital and whether the discharge caused her injury. In
9 particular, Dr. Arnaout was asked if he believed the bile leak was diagnosable before
10 Plaintiff was first discharged, resulting in the following questioning and testimony:

11 [Dr. Arnaout]: That’s not what I’m saying. I said she had abnormal liver
12 function tests postop. That should have been investigated to determine
13 if there [was] a bile leak or a bile duct obstruction or something else.

14 [PHS attorney]: Okay. So, when do you believe that she first had a bile
15 leak?

16 [Dr. Arnaout]: I don’t know.

17 [PHS attorney]: Okay. But you definitely -- do you believe that she had
18 a bile leak that could have been diagnosed sooner than it was?

19 [Dr. Arnaout]: Well, she had a bile leak. We know it happened. When
20 it happened, I don’t know. I can’t tell you.

21 [PHS attorney]: So when do you believe it should have been diagnosed?

22 [Dr. Arnaout]: I can’t tell you.

1 [PHS attorney]: Okay. Would her treatment for this bile leak have been
2 any different had it been diagnosed sooner just hypothetically? If it had
3 been diagnosed sooner hypothetically, would the treatment for it have
4 been any different?

5 [Dr. Arnaout]: The first treatment still would have been an ERCP and
6 a stent placement, which is what she had.

7 {5} After the deposition, Plaintiff filed an expert witness disclosure and identified
8 Dr. Arnaout and Dr. Nader Kamangar as witnesses who would “testify that agents
9 of the [D]efendant [PHS] failed to properly diagnose surgical complications and
10 should not have discharged the [P]laintiff from the hospital in the absence of
11 confirming diagnoses and treatment.” Plaintiff did not identify Dr. Arnaout as her
12 causation witness or state that he would testify that discharging Plaintiff caused her
13 injuries. After the close of discovery, Defendants each filed a motion for summary
14 judgment, arguing that Plaintiff did not have evidence of causation. The next day
15 Plaintiff filed an amended expert witness disclosure, adding a paragraph to the
16 summary of Dr. Arnaout’s expected testimony. The amended disclosure stated that
17 Dr. Arnaout would testify “that by discharging Plaintiff on June 27, 2014 and July
18 5, 2014 without following up on the abnormal results of her liver function tests,
19 Defendants breached the standard of care and caused Plaintiff’s injuries and
20 damages.” Plaintiff later responded to the motions for summary judgment and
21 attempted to supplement her expert’s opinions by attaching an affidavit from Dr.

1 Arnaout to the response. In that affidavit, Dr. Arnaout stated, “I believe to a
2 reasonable degree of medical probability that [the bile leak] occurred . . . before
3 [Plaintiff’s] June 27, 2014 discharge” and that “any reasonable investigation into the
4 cause of [Plaintiff’s] elevated bilirubin level on June 27, 2014 would have revealed
5 the bile leak within a couple days.” Defendants then filed separate motions to strike
6 Dr. Arnaout’s affidavit, arguing that the affidavit provided new, contradictory expert
7 opinion evidence for the first time in response to Defendants’ motions for summary
8 judgment.

9 {6} After a hearing on the issue, the district court granted Defendants’ motions to
10 strike, finding that Plaintiff’s expert disclosure was untimely. The expert disclosure
11 was due April 1, 2019, discovery closed June 28, 2019, and Plaintiff never sought
12 leave to amend either the scheduling order or her expert disclosure. The district court
13 noted that this was not a case where new information or evidence had caused
14 Plaintiff’s expert to change or modify his opinions, and consequently Plaintiff did
15 not show good cause to amend the scheduling order. It further found that Defendants
16 would suffer prejudice if Plaintiff was allowed to disclose new expert opinions after
17 the close of discovery. Additionally, the district court found that Dr. Arnaout’s
18 deposition testimony was contrary to his affidavit. When asked directly during his
19 deposition, he could not say if the bile leak was diagnosable before discharge, but in

1 the affidavit, he stated it *was diagnosable* before discharge. The district court struck
2 the affidavit, leaving Plaintiff without proof of causation. Accordingly, the district
3 court granted Defendants' motions for summary judgment.

4 {7} Plaintiff appealed both rulings. *Burns v. Presbyterian Healthcare Servs.*, A-
5 1-CA-38594, mem. op. (N.M. Ct. App. Jan. 9, 2024) (nonprecedential). The Court
6 of Appeals affirmed the district court's order granting both motions. *Id.* ¶ 2. It
7 reasoned that not only was the affidavit untimely, but it was inconsistent with
8 Plaintiff's earlier expert disclosure and Dr. Arnaout's deposition testimony. *Id.* ¶ 3.
9 It determined that the striking of the affidavit was a lesser sanction, *id.*, which did
10 not require a finding of willfulness or the consideration of lesser sanctions. *See*
11 *Gonzales v. Surgidev Corp.*, 1995-NMSC-047, ¶ 31-33, 120 N.M. 151, 899 P.2d
12 594. The Court of Appeals held that the district court did not abuse its discretion.
13 *Burns*, A-1-CA-38594, mem. op. ¶ 1. Based on the holding that the district court did
14 not abuse its discretion in striking the affidavit as a lesser sanction, the Court of
15 Appeals further affirmed the grant of summary judgment, because Plaintiff could
16 provide no evidence of medical causation. *Id.*

17 {8} Plaintiff appealed to this Court, asking us to address whether a lesser sanction
18 that results in dismissal on summary judgment must undergo the same scrutiny
19 applied to a dismissal sanction. As explained below, because the district court did

1 not impose a lesser sanction but instead enforced the scheduling order, we decline
2 to address Plaintiff's question on scrutiny for lesser sanctions and instead affirm the
3 Court of Appeals' memorandum opinion on these different grounds.

4 **II. DISCUSSION**

5 **A. Standard of Review**

6 {9} We review the district court's ruling to strike the affidavit for abuse of
7 discretion. *Reaves v. Bergsrud*, 1999-NMCA-075, ¶ 13, 127 N.M. 446, 982 P.2d 497
8 (noting that a district court's pretrial decisions to manage cases are reviewed for
9 abuse of discretion). "We will find an abuse of discretion when the court's decision
10 is without logic or reason, or . . . clearly unable to be defended." *Surgidev Corp.*,
11 1995-NMSC-047, ¶ 30 (omission in original) (internal quotation marks and citation
12 omitted).

13 **B. The District Court Did Not Abuse Its Discretion When It Granted the**
14 **Motion to Strike**

15 {10} The district court's findings to grant the motions to strike were not
16 unreasonable or "unable to be defended." *Id.* The district court reviewed the parties'
17 motion packets, including Dr. Arnaout's deposition and affidavit; heard lengthy
18 argument on the motions to strike; and explained its findings in a detailed written
19 order. The district court found Plaintiff's initial expert disclosure was inadequate
20 because it lacked specificity—Plaintiff did not identify Dr. Arnaout as her causation

1 expert and did not state Dr. Arnaout's opinion regarding causation. It found Dr.
2 Arnaout's affidavit was offered after multiple scheduling order deadlines and
3 contradicted his prior deposition testimony and opinion. It further noted that Plaintiff
4 did not move the district court to amend the scheduling order or provide good cause
5 for the untimely disclosure. The district court also found that the untimely affidavit
6 was prejudicial to Defendants. Because discovery had already closed, Defendants
7 would have to redepose witnesses, refile dispositive motions, and the jury trial would
8 have to be postponed. The district court found that allowing the affidavit to stand
9 would cause undue delay and additional expense. Viewing these facts in the light
10 most favorable to the district court's ruling, these findings are not clearly against
11 logic or the circumstances of the case. The district court did not abuse its discretion
12 in granting Defendants' separate motions to strike.

13 **C. The District Court Did Not Sanction Plaintiff but Instead Properly Used
14 Its Inherent Authority to Strike the Untimely and Contradictory
15 Affidavit**

16 {11} Plaintiff argues that the trial court in this case inappropriately applied the
17 severe sanction of dismissal. A *discovery sanction* is a “penalty levied by a court
18 against a party or attorney who abuses the discovery process or inexcusably fails to
19 comply with another party’s discovery requests or the court’s discovery orders.”
20 *Sanction*, *Black’s Law Dictionary* (12th ed. 2024). The power to sanction is rooted

1 both in the rules and in the district court’s inherent authority, and is distinct from the
2 district court’s implied authority to manage its docket. Under the New Mexico Rules
3 of Civil Procedure, failure to comply with a scheduling order can result in sanctions.
4 Rule 1-016(F) NMRA. The form of those sanctions is borrowed from Rule 1-
5 037(B)(2)(b)-(c) NMRA, and includes “prohibiting that party from introducing
6 designated matters in evidence” and “striking out pleadings or parts thereof.” District
7 courts also have the inherent authority to impose sanctions. *See State v. Le Mier*,
8 2017-NMSC-017, ¶¶ 18-19, 394 P.3d 959 (explaining that “trial courts shoulder the
9 significant and important responsibility of ensuring the efficient administration of
10 justice” and that “courts may impose meaningful sanctions to effectuate their
11 inherent power and promote efficient judicial administration”).

12 {12} While district courts have specific authority inherently and under the New
13 Mexico Rules of Civil Procedure to issue sanctions, district courts also have broad
14 “implied powers.” *Chambers v. NASCO, Inc.*, 501 U.S. 32, 42 (1991) (internal
15 quotation marks and citation omitted). This power is “governed not by rule or statute
16 but by the control necessarily vested in courts to manage their own affairs so as to
17 achieve the orderly and expeditious disposition of cases.” *Id.* at 43 (internal
18 quotation marks and citation omitted). Our appellate courts have consistently held
19 that district courts have authority to manage their docket. *Lewis ex rel. Lewis v.*

1 *Samson*, 2001-NMSC-035, ¶ 26, 131 N.M. 317, 35 P.3d 972; *State ex rel. N.M. State*
2 *Highway & Transp. Dep’t v. Baca*, 1995-NMSC-033, ¶¶ 11-12, 120 N.M. 1, 896
3 P.2d 1148; *see also Reaves*, 1999-NMCA-075, ¶ 28 (stating “[w]e will not interfere
4 with the trial court’s enforcement of pretrial deadlines. Adherence to such
5 scheduling orders [is] critical in maintaining the integrity of judicial proceedings”
6 (alteration, internal quotation marks, and citation omitted)).

7 {13} Plaintiff points out that Rule 1-016(F) permits the district court to impose
8 sanctions to remedy violations of scheduling orders, and reasons that any action
9 taken to enforce a scheduling order is a sanction. We disagree with Plaintiff. Though
10 Rule 1-016(F) permits sanctions as a method to enforce scheduling orders, it does
11 not follow that all actions to enforce scheduling orders are therefore sanctions.
12 Rather, Rule 1-016(F) is but one source of power in managing scheduling orders,
13 while the implied authority to manage a docket is a separate source of power. The
14 exercise of this power does not as a matter of course constitute a sanction.

15 {14} In the present case, the record shows the district court did not impose a
16 sanction but instead exercised its authority to enforce a scheduling order by granting
17 Defendants’ motions to strike the expert’s untimely affidavit. Specifically, the
18 district court found the affidavit—which was meant to supplement the expert
19 disclosure—was filed over three months after the scheduling order deadline. While

1 trial courts may amend a scheduling order when a party shows good cause, Plaintiff
2 never sought to amend the scheduling order. *See State ex rel. State Highway Dep’t*
3 *v. Branchau*, 1977-NMSC-048, ¶ 9, 90 N.M. 496, 565 P.2d 1013. Instead, Plaintiff
4 bypassed the process for demonstrating good cause—required to amend the
5 scheduling order—when she filed an untimely amendment to the expert disclosure
6 and later attached the affidavit with the expert’s new opinions to her summary
7 judgment response.

8 {15} The district court also found that the untimely affidavit was highly prejudicial
9 to Defendants. Because discovery had already closed, Defendants would have to
10 redepose witnesses, refile dispositive motions, and the jury trial would have to be
11 postponed. The district court found allowing the affidavit to stand would cause
12 undue delay and additional expense. The district court therefore declined to permit
13 an action in violation of the scheduling order for multiple reasons: (1) Plaintiff’s
14 actions were not permitted by the scheduling order, (2) Plaintiff did not attempt to
15 show good cause to amend the scheduling order, and (3) the affidavit would have
16 prejudiced Defendants. This determination was well within the district court’s
17 discretion and authority to manage its docket. Because this ruling was not “without
18 logic or reason,” there was no abuse of discretion in making this determination.

III. CONCLUSION

{16} Plaintiff claims that by striking her expert's affidavit as untimely, the district court in this case imposed the severe sanction of dismissal and in doing so, abused its discretion. However, the record shows that Plaintiff attempted to amend an expert witness disclosure after the scheduling order deadline without requesting an amendment to the scheduling order. Accordingly, we hold that the district court did not sanction Plaintiff by striking the affidavit and instead properly exercised its discretion and inherent authority to enforce the scheduling order. We therefore affirm.

{17} IT IS SO ORDERED.

**CURTIS R. GURLEY, Judge
Sitting by designation**

1 **WE CONCUR:**

2

3 **DAVID K. THOMSON, Chief Justice**

4

5 **MICHAEL E. VIGIL, Justice**

6

7 **BRIANA H. ZAMORA, Justice**

8

9 **KATHERINE WRAY, Judge**

10 **Sitting by designation**