UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO

Ronald Hartke v. Advent Svcs., LLC

Hartke · No. 3:23-cv-301 · Decided November 21, 2025

SUMMARY

The United States District Court for the Southern District of Ohio granted Ronald Hartke's conditional motion to dismiss his Ohio statutory claim under Ohio Revised Code § 1335.11. The court dismissed Count Two without prejudice under Federal Rule of Civil Procedure 21 and declined to condition dismissal on payment of attorneys' fees. The court concluded that Advent Services, LLC would not suffer plain legal prejudice and noted that res judicata and judicial estoppel would limit any attempt to revive the claim.

CASE DETAILS

COURT	United States District Court for the Southern District of Ohio
WRITING FOR THE COURT	Walter H. Rice
JURISDICTION	United States District Court for the Southern District of Ohio
DECIDED	November 21, 2025
DOCKET	3:23-cv-301
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff moved under Federal Rule of Civil Procedure 21 for leave to dismiss without prejudice one statutory claim, without an award of attorneys' fees. The defendant opposed the requested terms and sought fees or dismissal with prejudice.
STANDARD OF REVIEW	Abuse-of-discretion framework governing dismissal or severance under Federal Rule of Civil Procedure 21; the court also applied the plain-legal-prejudice standard used under Rule 41(a)(2).
PRECEDENTIAL VALUE	unpublished federal district court opinion
PARTIES	Ronald Hartke v. Advent Svcs., LLC

TOPICS

motions to dismiss · civil procedure · res judicata · attorney fees · government contracts

PRACTICE AREAS

civil procedure · contracts · government contracts

QUESTIONS PRESENTED

1. Whether Hartke could dismiss fewer than all of his claims under Federal Rule of Civil Procedure 21 rather than Rule 41.
2. Whether dismissal of the Ohio Revised Code § 1335.11 claim without prejudice and without attorneys' fees constituted just terms under Rule 21.
3. Whether Advent would suffer plain legal prejudice from dismissal without prejudice and without an award of attorneys' fees.

HOLDINGS

1. When a plaintiff seeks to dismiss fewer than all claims or parties, Rule 21 is the proper procedural mechanism rather than Rule 41.
2. The Ohio Revised Code § 1335.11 claim could be dismissed without prejudice and without attorneys' fees because those terms did not cause Advent plain legal prejudice.
3. Because the dismissed claim arose from the same factual allegations as the claims remaining in the action, any later attempt to assert the claim would be subject to res judicata, and Hartke's litigation position also supported estoppel against such an attempt.

KEY QUOTATIONS

> *"The purpose of the 'just terms' on dismissal is to ameliorate any 'gratuitous harm' the dismissal may cause the defendant."*

> *"The Sixth Circuit has identified that an award of attorneys' fees is not required when permitting a plaintiff to dismiss their claims."*

> *"Instead, a court should focus on whether a defendant would suffer "plain legal prejudice" as a result of a dismissal without prejudice, as opposed to facing the mere prospect of a second lawsuit."*

FACTUAL BACKGROUND

Hartke worked for Advent as an employee and salesman and helped it secure government contracts, including contracts associated with the federal 8(a) program. After Hartke's employment ended, he sued Advent on several theories, including a claim under Ohio Revised Code § 1335.11. The statutory claim was based on the same underlying facts as Hartke's other claims, and Advent had incurred some expense defending it and preparing for trial.

PROCEDURAL HISTORY

Hartke originally filed the action in the Greene County Common Pleas Court, and Advent removed it to the Southern District of Ohio under 28 U.S.C. § 1441. The federal court exercised diversity jurisdiction. After summary judgment disposed of the declaratory-judgment claim and Advent's remaining counterclaims, Hartke sought dismissal of his Ohio statutory claim under Rule 21. The court granted dismissal without prejudice and declined to impose attorneys' fees.

DISPOSITION

dismissed

CASES CITED

- Philip Carey Mfg. Co. v. Taylor, 286 F.2d 782, 785 (6th Cir. 1961)
- Espinosa v. First Advantage Background Servs. Corp., 343 F.R.D. 414, 415-16 (S.D. Ohio 2023)
- Parchman v. SLM Corp., 896 F.3d 728, 733 (6th Cir. 2018)
- Dix v. Atos IT Solutions & Servs., Inc., No. 1:18-cv-275, 2021 WL 1165762, at *4 & n.4 (S.D. Ohio Mar. 25, 2021)
- Garner v. Fuyao Glass America Inc., No. 3:21-cv-51, 2022 WL 17811406 (S.D. Ohio Dec. 19, 2022)
- Wilkerson v. Brakebill, No. 3:15-cv-435, 2017 WL 401212 (E.D. Tenn. Jan. 30, 2017)
- Arnold v. Heyns, No. 13-14137, 2015 WL 1131767 (E.D. Mich. Mar. 11, 2015)
- Sanders Confectionery Prods., Inc. v. Heller Fin., 973 F.2d 474, 480-85 (6th Cir. 1992)
- New Hampshire v. Maine, 532 U.S. 742, 749 (2001)
- Davis v. Wakelee, 156 U.S. 680, 689 (1895)
- Bridgeport Music, Inc. v. Universal-MCA Music Pub., Inc., 583 F.3d 948, 954 (6th Cir. 2009)
- Grover by Grover v. Eli Lilly & Co., 33 F.3d 716, 717-18 (6th Cir. 1994)
- Kovalic v. DEC Intern., Inc., 855 F.2d 471, 473-74 (7th Cir. 1988)
