

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-14108
Non-Argument Calendar

RAQUEL DOWNING,

Plaintiff-Appellant,

versus

COOK BROTHERS FUNERAL DIRECTORS,
PARROTT FUNERAL HOME,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Georgia
D.C. Docket No. 1:24-cv-02910-WMR

Before JILL PRYOR, NEWSOM, and BRANCH, Circuit Judges.

PER CURIAM:

Raquel Downing, proceeding pro se, appeals the district court's order granting summary judgment to defendants Cook

Brothers Funeral Directors and Parrott Funeral Home,¹ as well as the district court's order directing Downing to pay sanctions to each. Because we find no merit to Downing's objections on appeal, we affirm.

I

This case arises out of the death of Downing's father and the handling of his remains. After Mr. Downing died, Downing hired Cook Brothers to preserve her father's remains and facilitate the body's transport to New York. But Downing falsely represented to Cook Brothers that her father was unmarried and that she was legally authorized to make his arrangements. Soon after, Cook Brothers was contacted by Angela Brathwaite-Bussey, Mr. Downing's widow, who proved that she was, in fact, married to Mr. Downing at the time of his death. Bussey then ordered the body cremated. Cook Brothers obliged and transferred the body to the West Georgia Crematory, where the body was cremated. Parrott, meanwhile, never took possession of Mr. Downing's body or provided any services related to its disposition.

Upon learning that her father's remains were cremated against her wishes, Downing filed a pro se complaint in the United States District Court for the Northern District of Georgia that brought state law tort, breach-of-contract, and consumer protec-

¹ Throughout the record, "Parrott" is sometimes spelled with only one "t" (i.e., "Parrot"). We opt to spell it as Parrott itself does in its briefing—that is, with two t's.

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tion claims against Cook Brothers and Parrott, seeking compensatory and punitive damages. Parrott timely filed an answer that disclaimed any involvement. It attached several exhibits demonstrating its lack of involvement, and it moved for summary judgment and Rule 11 sanctions. Cook Brothers also answered. It admitted that it had Mr. Downing's remains cremated at Bussey's behest, but maintained that Bussey—the surviving spouse—was entitled to direct the disposal of Mr. Downing's remains under Georgia statutory law. *See* Ga. Code Ann. § 31-21-7.

Shortly thereafter, Downing moved for default judgment, claiming that Cook Brothers and Parrott failed to timely answer the complaint. The problem, of course, is that both defendants *had* filed timely answers. Cook Brothers and Parrott therefore responded to Downing's motion for default and noted their timely answers. When Cook Brothers and Parrott alerted Downing of their timely answers, Downing refused to withdraw her motion, so both defendants moved for Rule 11 sanctions. The district court imposed Rule 11 sanctions on Downing, awarded fees to Parrott under Ga. Code Ann. § 9-11-68, and granted Parrott's motion for summary judgment.

Cook Brothers then moved for summary judgment. To its motion, it attached: a Fulton County marriage license application and certificate showing Mr. Downing and Bussey were married in April 2019; Mr. Downing's death certificate showing that he died July 3, 2022; an order from the Fulton County Probate Court stating that Mr. Downing was survived by Bussey; and an affidavit

from an employee, stating (1) that Downing had contacted Cook Brothers about embalming and transporting Mr. Downing's body, (2) that Bussey then reached out and claimed to be the surviving spouse—a fact that Cook Brothers independently verified, and (3) that Cook Brothers and Downing never entered into a valid contract.

Based on that evidence, Cook Brothers argued that it was entitled to summary judgment because the undisputed material facts demonstrated that Bussey was the only person authorized to direct the disposition of Mr. Downing's remains. Under Georgia law, a decedent's spouse has primary authority to determine the disposition of the deceased's remains. *See* Ga. Code Ann. §§ 31-21-7(b)(3)–(4). And because a probate court had held that Bussey was Mr. Downing's surviving spouse, collateral estoppel precluded Downing from arguing otherwise in federal court. In any event, funeral homes are also entitled to rely in good faith on representations made by people who the funeral home reasonably believes hold the right of disposition. *See* Ga. Code Ann. §§ 31-21-7(e)–(f). And Downing had produced no evidence that the marriage was dissolved or invalid or that she had ever entered into a valid contract with Cook Brothers.

The district court granted Cook Brothers's motion for summary judgment. It relied chiefly on the fact that Cook Brothers possessed statutory immunity under Georgia law, *see* Ga. Code Ann. § 31-21-7(f), for relying in good faith on Bussey's representa-

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tion that she had the right to determine the disposition of Decedent's remains. It alternatively held that the probate court order precluded Downing from contesting whether Bussey was Mr. Downing's surviving spouse, and a person's surviving spouse has a superior right to a person's children to determine the disposition of that person's remains. This fact rendered any contract between Cook Brothers and Downing unenforceable as contrary to Georgia law and precluded any argument that Cook Brothers breached a duty to Downing by following Bussey's instructions. As to Downing's remaining claims, the district court held that she had failed to make a prima facie case.

On appeal, Downing contests the district court's award of summary judgment to Parrott and Cook Brothers, as well as the assessment of sanctions against her for requesting default judgment.

II

We review the grant of summary judgment de novo, drawing all inferences in the light most favorable to the non-moving party. *Jarrard v. Sheriff of Polk Cnty.*, 115 F.4th 1306, 1315 n.9 (11th Cir. 2024).

We review the imposition of sanctions for abuse of discretion. *Huggins v. Lueder, Larkin & Hunter, LLC*, 39 F.4th 1342, 1345 (11th Cir. 2022). Arguments not raised in the district court are reviewable only for plain error. *Teel v. Lozada*, 99 F.4th 1273, 1287 n.4 (11th Cir. 2024). To reverse under plain error, we must find (1) an error that is (2) plain and that has (3) affected the objecting

party's substantial rights. *Yates v. Pinellas Hematology & Oncology, P.A.*, 21 F.4th 1288, 1297–98 (11th Cir. 2021). Then, “we ask whether the forfeited error seriously affects the fairness, integrity, or public reputation of judicial proceedings.” *Id.* at 1297. Ultimately, our “decision under plain error review is discretionary.” *Id.* at 1298.

III

A

Summary judgment first. Summary judgment is appropriate “if the movant shows that there is no genuine dispute of material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a).

At the outset, Downing has abandoned any issue on appeal relating to the grant of summary judgment to Parrott because she has not raised any challenge to the district court's holding that Parrott was an improper party to be sued.² Accordingly, we affirm the district court's grant of summary judgment to Parrott. *See Sapuppo v. Allstate Floridian Ins. Co.*, 739 F.3d 678, 682–83 (11th Cir. 2014).

With respect to Cook Brothers, Downing levies a series of threshold procedural objections to the district court's adjudication

² “Although a pro se litigant's filings are construed liberally, they must comply with procedural rules.” *McNair v. Johnson*, 143 F.4th 1301, 1307 (11th Cir. 2025). “Typically, issues not raised in the initial brief on appeal are deemed abandoned.” *United States v. Campbell*, 26 F.4th 860, 871 (11th Cir. 2022) (en banc).

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of Cook Brothers's motion for summary judgment. None is persuasive.

First, Downing contends that the district court's order entering summary judgment was never served on her. But even if that was true, she never explains how this entitles her to relief. And to the extent that she may have been prejudiced by her inability to file an appeal, she was already granted relief when her notice of appeal was deemed timely, thus mooting the issue.

Second, Downing contends that the district court erred by issuing its order a month before it said it would. But she cites to nothing in the record that shows that the district court made such an assurance; and even if the district court did, she provides no legal authority showing that the order would then be erroneous.

Third, Downing contends that she was denied the opportunity to conduct discovery. But nowhere in her response to Cook Brothers's motion for summary judgment did she file an affidavit or declaration stating what additional discovery she would need to oppose its motion; instead, she opposed it on the merits. That strategic decision forecloses her claim. "[T]he party opposing the motion for summary judgment bears the burden of calling to the district court's attention any outstanding discovery," and opposing the motion for summary judgment on the merits accedes "to the entry of judgment on any issue raised in the motion for summary judgment based on the existing record." *City of Miami Gardens v.*

Wells Fargo & Co., 931 F.3d 1274, 1286–88 (11th Cir. 2019). Therefore, Downing failed to carry her burden and acceded to the entry of summary judgment on the issue of liability. *Id.*

Downing’s more substantive objections to the district court’s summary judgment award also fail.

Downing repeatedly asserts that the district court erred by crediting Cook Brothers’s evidence and not her own. But the district court did so only because Downing failed to respond to Cook Brothers’s statement of material facts. Under the district court’s local rules, the party responding to a motion for summary judgment must provide a response to the movant’s statement of undisputed facts that “contain[s] individually numbered, concise, nonargumentative responses corresponding to each of the movant’s numbered undisputed material facts.” N.D. Ga. R. 56.1(B)(2)(a)(1). Failure to do so results in the movant’s facts being admitted. *Id.* 56.1(B)(2)(a)(2). We have blessed the application of similar local rules before and defer to a district court’s application of its own local rules. *Joyce v. Forest River, Inc.*, 172 F.4th 1327, 1330–31 (11th Cir. 2026).

Here, even liberally construing Downing’s filings, she did not file a conforming document under Local Rule 56.1. Downing filed two documents in opposition to Cook Brothers’s motion for summary judgment, but neither of them presented enumerated statements corresponding to Cook Brothers’s statement of facts. The closest thing Downing provided was a three-page section of

her memorandum labelled “Deficiencies in the Statement of Undisputed Material Facts.” But this, too, did not comply with Local Rule 56.1, because nothing in this section directly contradicted Cook Brothers’s alleged facts, stated a valid objection to their admissibility, or rendered them unsupported or inadmissible. *See* N.D. Ga. R. 51.1(B)(2)(a)(2). Because Downing has not shown that the district court made a clear error of judgment in deeming Cook Brothers’s facts admitted, the district court did not abuse its discretion in interpreting and applying its local rules. *See Joyce*, 172 F.4th at 1330.

Relying on Cook Brothers’s statement of material facts, the district court correctly granted summary judgment. Cook Brothers was entitled to rely in good faith on Bussey’s instructions to cremate Mr. Downing’s remains. The assurances provided by Bussey and the Fulton County courts gave Cook Brothers a good-faith basis to believe that Bussey was, in fact, Mr. Downing’s surviving spouse. Because Downing’s claims against Cook Brothers follow from Cook Brothers’s decision to cremate Mr. Downing’s remains at Bussey’s behest, Ga. Code Ann. § 31-21-7(f)’s good-faith provision entitled Cook Brothers to summary judgment on all of Downing’s claims. Because § 31-21-7(f) provides a sufficient basis for granting summary judgment on all of Downing’s claims against Cook Brothers’s, we do not address the district court’s alternative bases for granting summary judgment. *Cf. PDK Labs., Inc. v. U.S. DEA*, 362 F.3d 786, 799 (D.C. Cir. 2004) (Roberts, J., concurring in part and in the judgment) (“[I]f it is not necessary to decide more, it is necessary not to decide more.”).

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In sum, as to Parrott, Downing acquiesced to the district court's grant of summary judgment by failing to meaningfully raise it on appeal. As to Cook Brothers, Downing's asserted procedural errors do not provide a basis for vacatur, the district court did not abuse its discretion in deeming Cook Brothers's facts admitted on summary judgment, and the district court did not err in finding that Cook Brothers was entitled to statutory immunity under Georgia law for relying on Bussey's instructions. Accordingly, we affirm the district court's grant of summary judgment.

B

Next, sanctions. Federal Rule of Civil Procedure 11 allows a district court to impose sanctions against an attorney who files frivolous pleadings or motions. Rule 11's standard is objective. It assesses "reasonableness under the circumstances" and asks "what was reasonable to believe at the time" the potentially sanctionable motion was submitted. *Baker v. Alderman*, 158 F.3d 516, 524 (11th Cir. 1998). Thus, we undertake a two-step inquiry: "(1) whether the party's claims [in the motion] are objectively frivolous; and (2) whether the person who signed the [motion] should have been aware that they were frivolous." *Id.* Rule 11 applies with equal force to pro se litigants. Fed. R. Civ. P. 11(b), (c)(1); *Patterson v. Aiken*, 841 F.2d 386, 386–88 (11th Cir. 1988) (affirming Rule 11 sanctions against a pro se litigant). But we must consider the litigant's pro se status when considering whether her actions were reasonable. *Harris v. Heinrich*, 919 F.2d 1515, 1516 (11th Cir. 1990).

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Downing's motion for default was patently frivolous. But she nonetheless raises one noteworthy argument against the imposition of sanctions. She maintains on appeal that Cook Brothers and Parrott did not comply with the provision of Rule 11 that requires that a motion for sanctions be "made separately from any other motion" and afford her 21 days to cure the defect. Fed. R. Civ. P. 11(c)(2). That is true, but Downing did not make this argument in her initial response to the sanctions. Accordingly, it is waived and we review it only for plain error. *Mike Ousley Prods., Inc. v. WJBF-TV*, 952 F.2d 380, 383 n.4 (11th Cir. 1992).

We hold that, despite the district court's legal error in failing to apply Rule 11(c)(2), Downing cannot meet the plain-error standard on appeal. The district court's error did not affect her substantial rights or "seriously affects the fairness, integrity[,] or public reputation of judicial proceedings," *Yates*, 21 F.4th at 1297–98, because Downing never withdrew her motion for default—even though Cook Brothers and Parrott notified Downing of her incorrect conclusion that neither had timely filed an answer. Accordingly, we cannot conclude that more scrupulous adherence to Rule 11(c)(2) would have likely yielded a different outcome. We therefore affirm the district court's award of sanctions.

The district court also awarded attorney's fees to Parrott under Ga. Code Ann. § 9-11-68 as compensation for the expenses it incurred in responding to Downing's frivolous filings. A claim is frivolous if it "lack[ed] substantial justification" or there was "such a complete absence of any justiciable issue of . . . fact that it could

not be reasonably believed that a court would accept the asserted claim . . . or other position. Ga. Code Ann. § 9-11-68(e)(1)(A)–(B). A federal court sitting in diversity and applying Georgia substantive law may award fees under § 9-11-68. *Showan v. Pressdee*, 922 F.3d 1211, 1223–25 (11th Cir. 2019). And unlike Rule 11, § 9-11-68 has no safe-harbor provision. Accordingly, Downing’s only plausible argument against the imposition of sanctions does not apply to the sanctions levied under § 9-11-68. Furthermore, based on our own independent assessment of the record, we find no reason to conclude that the district court abused its discretion in awarding fees to Parrott under § 9-11-68. We therefore uphold the district court’s fee award to Parrott.

IV

Finding no merit to Downing’s claims on appeal, we affirm the district court’s grants of summary judgment and sanctions.

AFFIRMED.