

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A23-1690**

Ingrid Shoat,
Appellant,

vs.

Sonny Pham,
Respondent.

**Filed July 1, 2024
Reversed and remanded
Harris, Judge
Dissenting, Worke, Judge**

Blue Earth County District Court
File No. 07-CV-23-1216

Ingrid Shoat, Lake Crystal, Minnesota (pro se appellant)

Christopher M. Kennedy, Kennedy & Kennedy, Mankato, Minnesota (for respondent)

Considered and decided by Worke, Presiding Judge; Schmidt, Judge; and
Harris, Judge.

NONPRECEDENTIAL OPINION

HARRIS, Judge

Self-represented appellant challenges the rule 12.02(e) dismissal with prejudice of her invasion-of-privacy claim against respondent. Because appellant sufficiently pleaded a claim upon which relief may be granted (invasion of privacy-intrusion upon seclusion)

and the district court erred in sua sponte granting dismissal under rule 12.02(e) motion to dismiss for failure to state a claim upon which relief can be granted, we reverse and remand.

FACTS

In April 2023, appellant Ingrid Shoat filed a complaint alleging that respondent Sonny Pham invaded her privacy. The complaint alleged that: (1) Pham had been video and audio recording Shoat in the privacy of her home for one year and five months; (2) Pham shared the recording with everyone that works for him and the owner of another business; (3) the owner of the other business started recording Shoat on November 1, 2019, at 10:30 a.m. on his business cameras; (4) Shoat used to work for Pham and was Pham's neighbor; and (5) Shoat moved because of the incident. The complaint did not describe the nature of the recordings or provide any other details, such as specific dates. The complaint requested more than \$50,000 in damages for emotional distress. In May 2023, Pham filed an answer denying the allegations in their entirety, raising the affirmative defense of fraud, and requesting the district court dismiss Shoat's complaint.

In July 2023, the parties appeared for a scheduling conference. Both parties were self-represented. The district court informed the parties "that a hearing to consider entering judgment on the pleadings pursuant to Minn. R. Civ. P. 12.03 and/or dismissal for failure to state a claim pursuant to Minn. R. Civ. P. 12.02(e) would be *sua sponte* scheduled and that the parties should consult with legal counsel about what filings may be appropriate."¹

¹ This is a quote from the district court's order issued on September 13, 2023. The appellate record does not include an order or transcript from the July 31 scheduling conference. Although a transcript would be helpful, a transcript is not required when we are deciding a purely legal issue, which is the case here. *Fischer v. Simon*, 980 N.W.2d 142, 145 (Minn.

Following this hearing, neither party filed any motions or documents in anticipation of the next hearing.

On September 5, 2023, the parties appeared for a motion hearing and the district court took the matter under advisement. The district court dismissed Shoat's complaint on the pleadings for failure to state a claim for which relief can be granted. The district court determined, "[u]pon taking all allegations in the Complaint as true, this Court finds no cause of action on behalf of someone merely because that person was video recorded in their home, even when the recording [is] later shared with third parties." This appeal follows.

DECISION

A district court may dismiss a complaint when the plaintiff fails to state a claim upon which relief can be granted. Minn. R. Civ. P. 12.02(e). We review de novo whether a complaint sets forth a legally sufficient claim for relief. *Walsh v. U.S. Bank, N.A.*, 851 N.W.2d 598, 606 (Minn. 2014). We accept the facts alleged in the complaint as true and construe all reasonable inferences in favor of the nonmoving party. *Walsh*, 851 N.W.2d at 606 (citing *Bahr v. Capella Univ.*, 788 N.W.2d 76, 80 (Minn. 2010)).

Shoat challenges the district court's dismissal of her complaint under Minnesota Rule of Civil Procedure 12.02(e).² We conclude the district court erred by dismissing the complaint and sua sponte dismissing under rule 12.02(e).

2022) (citing *In re Montez*, 812 N.W.2d 58, 66 (Minn. 2012)) ("Even when no transcript is ordered, we can still review purely legal issues.").

² Shoat is self-represented and submitted an informal brief. Shoat argues the district court dismissed her case because she did not fill out a relief form and did not fill out paperwork

I. The district court erred in dismissing the complaint because the complaint stated a claim upon which relief may be granted.

Minnesota is a notice-pleading state. *Halva v. Minnesota State Colleges and Universities*, 953 N.W.2d 496, 500 (Minn. 2021) (quoting *Walsh*, 851 N.W.2d at 601). Minnesota Rule of Civil Procedure 8.01 requires that a complaint “contain a short and plain statement of the claim showing that the pleader is entitled to relief.” “A claim is sufficient to survive a motion to dismiss if it is possible on any evidence which might be produced, consistent with the pleader’s theory, to grant the relief demanded.” *Graphic Commc’ns Local 1B Health & Welfare Fund A v. CVS Caremark Corp.*, 850 N.W.2d 682, 692 (Minn. 2014) (quotation omitted).

Minnesota recognizes three causes of action for invasion of privacy. *Lake v. Wal-Mart Stores, Inc.*, 582 N.W.2d 231, 235 (Minn. 1998). A claim for “intrusion upon seclusion” is relevant here. The tort of intrusion upon seclusion has three elements: (1) an intrusion, (2) that is highly offensive, and (3) into some matter in which a person has a legitimate expectation of privacy. *Swarthout*, 632 N.W.2d at 745.

correctly. Shoat states, “I would like the judge to hear my case because my privacy [was] invaded.” Although Shoat makes limited arguments, we conclude her arguments are not forfeited due to inadequate briefing because “prejudicial error is obvious upon mere inspection.” *Schoepke v. Alexander Smith & Sons Carpet Co.*, 187 N.W.2d 133, 135 (“An assignment of error based on a mere assertion and not supported by any argument or authorities in appellant’s brief is waived and will not be considered on appeal unless prejudicial error is obvious on mere inspection.”); *see also Swarthout v. Mutual Service Life Ins. Co.*, 632 N.W.2d 741, 747 (Minn. App. 2001) (applying *Schoepke* in a tort matter); Minn. R. Civ. App. P. 103.04 (noting that appellate courts may address issues as justice requires).

Pham argues that there are no facts to show that there was any intentional intrusion either physical or otherwise upon the seclusion of Shoat. However, Shoat was not required to allege facts regarding every element of the cause of action. *Barton v. Moore*, 558 N.W.2d 746, 749 (Minn. 1997); *see also Halva*, 953 N.W.2d at 503 (“No longer is a pleader required to allege facts and every element of a cause of action.” (quotation omitted)). Instead, “[a] pleading is sufficiently detailed when it gives fair notice to the adverse party of the incident giving rise to the suit with sufficient clarity to disclose the pleader’s theory upon which his claim for relief is based.” *Halva*, 953 N.W.2d at 503 (quotation omitted).

Shoat’s claim for intrusion upon seclusion is sufficient under Minnesota’s notice-pleading standard because Shoat’s complaint provides a factual nexus to the alleged damages and gives fair notice to Pham that the claim is for invasion of privacy. The complaint alleged that Pham was video and audio recording Shoat while Shoat was in her home. Shoat alleged the recording was ongoing for over a year and caused Shoat to move. Similar to *Lake*, the happenings inside one’s home are private and generally known to others only by choice. *Lake*, 582 N.W.2d at 235. Thus, a reasonable inference is that there was an intrusion and Shoat was recorded without her knowledge. Based on these facts, Shoat could produce additional evidence consistent with her theory of the case, such as the dates, method, and contents of the recording, to prove the elements of intrusion upon seclusion.

Here, Shoat’s complaint put Pham on notice that Shoat was bringing a claim for invasion of privacy and stated a claim upon which relief may be granted. *See Halva*, 953 N.W.2d at 503 (holding that, although “Halva’s complaint . . . is sparse with details and

does not contain a direct causal statement explaining how [the alleged Data Practices Act] violations caused him harm[,]” “it is sufficient under our normal pleading standard” because it “provides the factual nexus for his alleged damages”); *see also CVS Caremark Corp.*, 850 N.W.2d at 692.

II. The district court erred by dismissing the complaint because Pham did not file a motion to dismiss.

Even if Shoat’s complaint did not state a claim for which relief may be granted, the district court erred by dismissing Shoat’s complaint because Pham never filed a motion to dismiss. “The interpretation of the Minnesota Rules of Civil procedure is a question of law that we review de novo.” *Gams v. Houghton*, 884 N.W.2d 611, 616 (Minn. 2016). Under rule 12.02(e) the defense of failure to state a claim upon which relief may be granted can be asserted by motion “at the option of the pleader.” The plain language of rule 12.02(e) does not provide for the district court to sua sponte bring a motion to dismiss for failure to state a claim upon which relief can be granted, even if the district court believes the plaintiff will not prevail on the merits of their case. *See Lampert Lumber Co. v. Joyce*, 405 N.W.2d 423, 426 (Minn. 1987) (stating failure to plead case goes to substantive legitimacy of case itself and is not the kind of procedural problem to be resolved by dismissal by district court on its own motion). In contrast, other rules allow the district court to bring a motion to dismiss on its own initiative. *See* Minn. R. Civ. P. 56.06(c) (stating that the district court can consider summary judgment on its own initiative); Minn. R. Civ. P. 41.02(a) (stating that the court may upon its own initiative dismiss an action or claim for failure to prosecute).

Here, the district court sua sponte scheduled a motion hearing at the scheduling conference held on July 31 “to consider entering judgment on the pleadings,” and instructed the parties to “consult with legal counsel about what filings may be appropriate.” The district court sent a notice of hearing, scheduling a motion hearing on September 5. Neither party filed a motion or any other pleading or documents pursuant to the district court instructions. Even though Pham never filed a motion to dismiss or any other documents in anticipation of the September 5 motion hearing, the district court moved forward with the previously scheduled sua sponte motion hearing anyway. On the record before us, Shoat did not have notice that the hearing on September 5 would be an actual hearing on the pleadings under rule 12.02(e) and did not have a meaningful opportunity to respond because Pham did not file anything in anticipation of the hearing.³

Although the district court may have scheduled the September 5 motion hearing as a “potential” rule 12 hearing in an attempt to guide the parties because they were self-represented, Pham was still required to file a motion to dismiss. *Fitzgerald v. Fitzgerald*, 629 N.W.2d 115, 119 (Minn. App. 2001) (stating that “[a]lthough some accommodations may be made for pro se litigants, this court has repeatedly emphasized that pro se litigants are generally held to the same standards as attorneys and must comply with court rules”); *See* Minn. R. Gen. Prac. 1.04 (“Whenever these rules require that an act be done by a lawyer, the same duty is required of a party appearing pro se.”). Because nothing was filed

³ The dissent faults Shoat for failing “to bring forth any documents” after the district court set the (potential) motion to dismiss hearing. But Pham did not bring forth any motion, which would trigger a responsibility for Shoat to respond. As a non-moving party, Shoat had no duty to bring forth documents when the opposing party had not filed a motion.

after the July 31 scheduling conference, the proper procedure was for the district court to issue a scheduling order at the September 5 motion hearing and for Shoat's case to proceed, not for the court to dismiss Shoat's action on its own motion. *Lampert*, 405 N.W.2d at 426 ("The need to comply with Rule 12 is [plaintiff's] need, not a need of the trial court in managing its docket.").

Because we have concluded that appellant sufficiently pleaded a claim upon which relief may be granted (intrusion upon seclusion) and that the district court erred in granting its impermissible sua sponte rule 12.02(e) motion to dismiss for failure to state a claim upon which relief can be granted, we reverse and remand this case to the district court for further proceedings consistent with this opinion.

Reversed and remanded.

WORKE, Judge (dissenting)

I respectfully disagree with the majority’s conclusion that the district court abused its discretion by dismissing Shoat’s complaint for failure to state a claim upon which relief can be granted.

In April 2023, Shoat filed a civil complaint in Blue Earth County District Court, alleging that Pham and another individual have “been video recording and audio recording [her] in the privacy of [her] home, for 1 year and five months.” She alleged that Pham shared a video with his employees and others. Pham filed an answer denying the allegations.

In July, the parties appeared pro se at a scheduling conference. The district court informed the parties that it would schedule a hearing to consider whether it would enter judgment on the pleadings, pursuant to Minn. R. Civ. P. 12.03, and/or dismiss the complaint for failure to state a claim upon which relief can be granted, pursuant to Minn. R. Civ. P. 12.02(e). The district court urged the parties to consult with legal counsel about filing relevant documents with the court.

Neither party filed documents in anticipation of that hearing. In September 2023, the district court filed an order granting judgment on the pleadings, concluding that Shoat did not allege facts that gave rise to a recognized cause of action. The district court stated: “Upon taking all allegations in the [c]omplaint as true, this [c]ourt finds no cause of action on behalf of someone merely because that person was video recorded in their home” The matter now comes before this court without the benefit of a transcript or orders from any of the proceedings.

As an initial matter, I disagree with remanding this case to the district court because Shoat did not adequately brief her issue(s) on appeal. Generally, appellate courts decline to consider issues that are inadequately briefed. *State Dep't of Labor & Indus. v. Wintz Parcel Drivers, Inc.*, 558 N.W.2d 480, 480 (Minn. 1997); *see Butler v. Jakes*, 977 N.W.2d 867, 873 (Minn. App. 2022) (“Appellate courts cannot presume error by the district court, and the complaining party has the obligation to provide the appellate court with a record sufficient to show any alleged error.”).

Here, Shoat submitted a one-page informal brief and a reply brief containing conclusory statements unsupported by legal analysis or citation. *See State v. Bartylla*, 755 N.W.2d 8, 22 (Minn. 2008) (stating appellate court “will not consider pro se claims on appeal that are unsupported by either arguments or citations to legal authority”). To support her argument, Shoat merely stated that the district court did not “hear [her] case” because she did not “fill out paperwork correctly.” She included no additional argument as to how the district court erred. And she failed to provide a transcript for us to review the district court’s handling of the matter. *See Minn. R. Civ. App. P. 110.02*, subd. 1(a) (stating appellant is required to provide necessary transcript). Again, we cannot presume that the district court erred. *See Butler*, 977 N.W.2d at 873.

As a secondary matter, I am mindful that filing in district court can be difficult for individuals proceeding pro se. For this very reason, the Minnesota Judicial Branch has provided extensive self-help information about filings in civil cases and has also established self-help clinics. The parties—upon filing an action—are provided with written instructions and are told that, before submitting documents for consideration by the

court, a motion date must be obtained from court administration. The self-help form instructions do not otherwise tell the parties how to proceed. And court personnel cannot advise the parties on how to proceed. But the self-help form instructs and informs the parties to arrive at a hearing prepared and to bring any witnesses and original documents necessary. Here, the district court attempted to assist the pro se parties in moving the matter along by setting a motion hearing and providing them an opportunity to file supporting documents. Shoat failed to bring forth any documents.

The written instructions provided to litigants for Minnesota civil court matters specifically states that “[t]he Court expects every person who appears in court without an attorney to know and follow the law.” And our caselaw directs the same. *See Fitzgerald v. Fitzgerald*, 629 N.W.2d 115, 119 (Minn. App. 2001) (stating that “[a]lthough some accommodations may be made for pro se litigants . . . [they] are generally held to the same standards as attorneys and must comply with court rules”).

Finally, I would note that the complaint neither establishes venue as properly being in Blue Earth County, nor identifies the dates of the incidents complained of.

In my opinion, the district court, as a gatekeeper of court proceedings, properly evaluated the matter before it and set the matter on for consideration of dismissal for failure to state a claim. *See Riehm v. Comm’r of Pub. Safety*, 745 N.W.2d 869, 874 (Minn. App. 2008) (stating that district courts have considerable discretion in furthering what it identifies as the interests of judicial administration and economy), *rev. denied* (Minn. May 20, 2008). I would affirm the district court’s dismissal of this matter.