

*This opinion is nonprecedential except as provided by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
A23-1902**

Angeleah Joy Brandt,
Appellant,

vs.

Garrett James Brandt, et al.,
Respondents.

**Filed October 7, 2024
Affirmed
Cleary, Judge***

Blue Earth County District Court
File No. 07-CV-23-974

Jacob M. Birkholz, Michelle K. Olsen, Birkholz & Associates, LLC, Mankato, Minnesota
(for appellant)

Kenneth R. White, Law Office of Kenneth R. White, P.C., Mankato, Minnesota (for
respondent)

Considered and decided by Harris, Presiding Judge; Bratvold, Judge; and Cleary,
Judge.

NONPRECEDENTIAL OPINION

CLEARY, Judge

Appellant-wife challenges the district court's judgment-on-the-pleadings dismissal
of her property division claims arguing that the district court: (1) lacked subject-matter

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

jurisdiction; (2) failed to have a jury decide whether the complaint alleged sufficient facts to survive dismissal; (3) abused its discretion by dismissing the complaint with prejudice; and (4) abused its discretion when it denied the request for sanctions. We affirm.

FACTS

In 2019, appellant Angeleah Joy Brandt (wife) and respondent Garrett James Brandt (husband) were married. Husband filed the dissolution proceeding.

In March 2023, during the pendency of the dissolution proceeding, wife filed a complaint seeking monetary damages based on unjust enrichment, breach of an oral contract and partnership agreement, and requesting that the court order a sale of real estate. Husband asserted counterclaims for unjust enrichment and breach of contract.

Husband moved the district court to dismiss wife's claims, arguing that (1) wife failed to state a viable claim, (2) the claims failed under the statute of frauds, (3) the breach-of-contract claim was barred by the statute of limitations, (4) the district court lacked jurisdiction, (5) the allegations and factual contentions lacked evidentiary support, and (6) the claims were barred by the doctrine of res judicata.

In June 2023, a hearing was held on husband's motion to dismiss. At that hearing, the district court clarified that husband wished to proceed with his dismissal motion as a motion for judgment on the pleadings, pursuant to rule 12.03. Counsel for husband confirmed that was his request.¹ The district court took the matter under advisement.

¹ See Minn. R. Civ. P. 12.03.

The district court granted judgment on the pleadings, determining that “[wife]’s complaint merely assert[ed] property rights that are within the scope of the family court.” The district court amended its order to specify that wife’s claims were dismissed with prejudice. This appeal follows.

DECISION

If a district court determines that a complaint fails to set forth a legally sufficient claim for relief, it must grant a motion for judgment on the pleadings. Minn. R. Civ. P. 12.03. “To withstand a motion for judgment on the pleadings, [a plaintiff] must state facts that, if proven, would support a colorable claim and entitle it to relief.” *Midwest Pipe Insulation, Inc. v. MD Mech., Inc.*, 771 N.W.2d 28, 31 (Minn. 2009).

When a party challenges a district court’s judgment-on-the-pleadings decision, appellate courts “consider only the facts alleged in the complaint, accepting those facts as true and drawing reasonable inferences in favor of the nonmoving party.” *Burt v. Rackner, Inc.*, 902 N.W.2d 448, 451 (Minn. 2017) (quotation omitted). We review de novo a district court’s judgment-on-the-pleadings decision “to determine whether the complaint sets forth a legally sufficient claim for relief.” *Id.* (quotation omitted).

Subject-Matter Jurisdiction

Subject-matter jurisdiction is a question of law which we review de novo. *Ariola v. City of Stillwater*, 889 N.W.2d 340, 348 (Minn. App. 2017), *rev. denied* (Minn. Apr. 18, 2017). Minnesota courts have subject-matter jurisdiction over, and the authority to divide property in, a marriage-dissolution proceeding. Minn. Stat. § 518.58, subds. 1, 2 (2022) (stating that “[u]pon a dissolution of marriage . . . the court shall make a just and

equitable division of the marital property of the parties . . . [and i]f the court apportions property other than marital property, it shall make findings in support of the apportionment”). Pursuant to Minnesota Statutes section 518.003, subd. 3b(b)-(c) (2022), in a dissolution proceeding: “‘Nonmarital property’ means property real or personal, acquired by either spouse before, during, or after the existence of their marriage, which . . . is acquired before the marriage; . . . [or] is acquired in exchange for or is the increase in value of property.”

A Minnesota court has subject-matter jurisdiction over a dissolution proceeding when one of the spouses has resided in Minnesota for at least 180 days leading up to the commencement of the action. Minn. Stat. § 518.07, subd. 1(1) (2022). Accepting the facts alleged in the complaint as true, as we must, at least one spouse was a resident of Minnesota for at least 180 days leading up to husband’s commencement of the marriage-dissolution proceeding. *See id.*

The parties’ litigation began with a marriage-dissolution proceeding in the family division of district court. Wife moved the family court to remove itself so she could proceed in district court. According to wife, the removal and reassignment was necessary due to the type of claims she alleged in the complaint: unjust enrichment, breach of contract, rights to real property for a partner, and partition. The family court granted the removal request, and the matter was assigned to the district court.

The district court noted that at the time of its decision, the dissolution matter had “yet to proceed to trial,” and that wife’s lawsuit was premised on the division of nonmarital property. Wife’s complaint alleged claims related to either property acquired by husband

prior to the marriage or property that had since increased in value. Given the nature of wife's claims and based on the procedural history of the parties' dissolution proceeding, the family court has subject-matter jurisdiction to divide the parties' nonmarital property. *See* Minn. Stat. § 518.58, subd. 2.

We conclude that the district court did not err when it dismissed the complaint on the pleadings, as subject-matter jurisdiction over the division of nonmarital property remained with the family court.

Jury Trial

Wife argues that the district court erred when it failed to have a jury decide whether the facts in her complaint should survive a rule 12.03 motion. Wife asserts that Minn. R. Civ. P. 38.01 entitles her to have a jury decide her rule 12.03 motion. In support of her argument, wife cites *G.A.W., III v. D.M.W.*, 596 N.W.2d 284, 288 (Minn. App. 1999), *rev. denied* (Minn. Sept. 28, 1999).

“The defenses and relief enumerated in Rules 12.02 and 12.03, whether made in a pleading or by motion, shall be heard and determined before trial on application of any party unless the court orders that the hearing and determination thereof be deferred until the trial.” Minn. R. Civ. P. 12.04.

The facts in *G.A.W.* are distinguished from wife's claim. In *G.A.W.*, the appellant challenged the court's summary-judgment decision, arguing that the court erred when it determined that (1) the doctrines of equitable estoppel and res judicata barred the appellant's tort action, and (2) the interspousal tort action was against public policy. 596 N.W.2d at 286. This court held that a spouse's subsequent tort action, not addressed in the

judgment and decree, was not barred by the doctrines of collateral estoppel or res judicata, nor would such claim be against public policy. *Id.* at 288. This is in direct opposition with wife’s argument that she must bring this claim in a separate action.

Further, a district court is permitted “to consider documents that are embraced by the complaint, including pleadings and orders in an underlying proceeding.” *Greer v. Pro. Fiduciary, Inc.*, 792 N.W.2d 120, 126-27 (Minn. App. 2011). We conclude that the district court did not err when it, as the fact-finder, dismissed the complaint under rule 12.03.

Dismissal with Prejudice

Wife argues that the district court abused its discretion when it dismissed her property-division claims with prejudice.

A district court has “wide discretion in determining whether dismissals shall be with or without prejudice.” *Falkenstein v. Braufman*, 88 N.W.2d 884, 889 (Minn. 1958); *see also Kelbro Co. v. Vinny’s on the River, LLC*, 893 N.W.2d 390, 398 (Minn. App. 2017) (“The district court has wide discretion in determining whether to grant a . . . motion for dismissal. The court also has discretion to determine whether the dismissal should be with prejudice.” (quotations omitted)).

Wife contends that the district court’s dismissal of her claims with prejudice serves as a bar from any relief from potential third parties, including husband’s parents, who were not subject to the family court proceeding. Wife cites *Melamed v. Melamed*, 286 N.W.2d 716, 718 (Minn. 1979) in support of her argument.

A “plaintiff may assert against the third-party defendant any claim arising out of the transaction or occurrence that is the subject matter of the plaintiff’s claim against the third-party plaintiff.” Minn. R. Civ. P. 14.03.

The facts in *Melamed* are distinguished from wife’s claim. In *Melamed* the supreme court determined that in a dissolution proceeding, district courts do not have the authority to award a future interest in real property to a third party when it awarded a present interest in that same property in its judgment and decree. 286 N.W.2d at 718.

Wife does not cite any caselaw or statutes that would suggest that *Melamed* should be extended to show that the district court abused its discretion when it dismissed the complaint with prejudice. See *State Dep’t of Labor & Indus. v. Wintz Parcel Drivers, Inc.*, 558 N.W.2d 480, 480 (Minn. 1997) (declining to address inadequately briefed issue); *Brodsky v. Brodsky*, 733 N.W.2d 471, 479 (Minn. App. 2007) (applying *Wintz* in family-law appeal).

Whether to dismiss the matter with prejudice is within the “wide discretion” of the district court. *Kelbro Co.*, 893 N.W.2d at 398. We conclude that the district court did not abuse its discretion when it dismissed the complaint with prejudice.

Sanctions

Finally, wife argues that the district court abused its discretion when it failed to grant her motion for attorney fees based on her husband’s failure to serve her with the motion for sanctions in accordance with Minn. R. Civ. 11.03(a)’s timeliness requirement. The district court did not rule on the motion.

We review a district court's decision to not award sanctions under Minn. R. Civ. P. 11 for an abuse of discretion. *Collins v. Waconia Dodge, Inc.*, 793 N.W.2d 142, 145 (Minn. App. 2011), *rev. denied* (Minn. Mar. 15, 2011). "A party challenging the district court's choice of a sanction has the difficult burden of convincing an appellate court that the district court abused its discretion." *Miller v. Lankow*, 801 N.W.2d 120, 127 (Minn. 2011). "A district court abuses its discretion when it bases its conclusions on an erroneous view of the law." *Id.*

Rule 11.03(a), provides:

A motion for sanctions . . . shall be made separately from other motions or requests and shall describe the specific conduct alleged to violate [r]ule 11.02. It shall be served as provided in [r]ule 5, but shall not be filed with or presented to the court unless, within 21 days after service of the motion (or such other period as the court may prescribe), the challenged document, claim, defense, contention, allegation, or denial is not withdrawn or appropriately corrected. If warranted, the court *may* award to the party prevailing on the motion the reasonable expenses and attorney fees incurred in presenting or opposing the motion.

(Emphasis added.)

Wife has failed to meet her "difficult burden" of demonstrating to this court exactly how the district court abused its discretion when it failed to order sanctions for husband's untimely rule 11 motion. *See Miller*, 801 N.W.2d at 127. Therefore, the district court did not abuse its discretion when it did not award wife sanctions under rule 11.03(a).

Affirmed.