This opinion is nonprecedential except as provided by Minn.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
A24-1557

Ritalka, Inc.,
Respondent,

vs.

Amanda Jean Smith, et al.,
Defendants,

Noel Jennings Smith,
Appellant.

Filed July 14, 2025
Affirmed
Halbrooks, Judge*

Chippewa County District Court
File No. 12-CV-22-714

Dean M. Zimmerli, Trey V. Perez, Gislason & Hunter LLP, New Ulm, Minnesota (for respondent)

Douglas D. Kluver, Kluver Law Office and Mediation Center, P.L.L.C., Montevideo, Minnesota (for appellant)

Considered and decided by Reyes, Presiding Judge; Cochran, Judge; and Halbrooks, Judge.

---

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

NONPRECEDENTIAL OPINION

HALBROOKS, Judge

In this appeal from judgment following a bench trial, appellant argues that the district court erred by concluding that he was unjustly enriched because the evidence of his wife's theft was insufficient and because he had no knowledge of the theft and only derived personal benefit from a limited number of stolen items. Appellant asks this court to reverse the district court's judgment, or in the alternative, to reduce the judgment against him from $102,166.69 to $4,055.39. Because we conclude that there was sufficient evidence of his wife's theft and the district court did not err in determining that appellant was unjustly enriched by the theft, we affirm.

FACTS

Appellant Noel Smith and his wife, Amanda Smith, are married with three adult children. Throughout their 27-year marriage, the couple has lived together and filed joint tax returns. Since 2020, they have had a joint bank account. Over the years, both Smiths contributed to the family's budget.

In 2013, Amanda was fired by her then-employer for using a coworker's credit card without authorization. She was criminally charged and convicted of financial transaction card fraud.

In 2016 Amanda was hired by respondent Ritalka, Inc. to perform customer service duties.[1] In 2018, Amanda began working as a payroll coordinator. Amanda was fired in April 2021 after the Ritalka CEO discovered that Amanda had used a company credit card to purchase and ship items to her residence. Ritalka started investigating for further theft. As a result, the accounting and finance staff "ultimately discovered six three-inch binders of data showing areas that [they] believe theft occurred."

Ritalka sued Amanda, Noel, and their adult children.[2] Against Amanda, Ritalka asserted counts of civil theft, fraud, and breach of fiduciary duty. Ritalka also brought counts of conversion, unjust enrichment, and civil conspiracy against the whole family and counts of receiving stolen property against Noel and the children.

After the Smiths failed to answer the complaint, Ritalka moved for default judgment. The children, who all reside outside of Minnesota, objected to jurisdiction based on insufficient service of process. The district court dismissed with prejudice the claims against the children but granted Ritalka's motion for joint and several default judgments against Noel and Amanda in the amount of $182,125.24.

Noel moved to vacate default judgment against him, stating that his "wife did not share with [him] any information regarding service of the summons and complaint or any subsequent hearings." The district court vacated the default judgment against Noel, and a

---

[1] Amanda was employed by Ritalka but contracted to work for Mind Your Business, a related company. Mind Your Business assigned any claims it might have against the Smiths to Ritalka.

[2] In a separate criminal proceeding, Amanda pleaded guilty and was convicted of two counts of felony theft.

bench trial on the claims against Noel followed. At the close of the trial, the district court dismissed the conversion count but entered judgment for unjust enrichment against Noel in the amount of $102,166.69 that is joint and several with the judgment against Amanda.

This appeal follows.

DECISION

I. There was sufficient evidence of Amanda's theft.

Noel argues that the evidence of his wife's theft was insufficient. He contends that (1) Ritalka's exhibits should not have been admitted into evidence and (2) the district court erred in finding that the items listed in the exhibits were purchased with stolen funds.[3]

A. The district court did not abuse its discretion by admitting Ritalka's evidence of the theft.

A district court's ruling on an objection to evidence based on relevance is within its "sound discretion and will only be reversed when that discretion has been clearly abused." *Johnson v. Washington Cnty.*, 518 N.W.2d 594, 601 (Minn. 1994). "A defendant claiming error in the district court's reception of evidence has the burden of showing both the error and the prejudice resulting from the error." *Holt v. State*, 772 N.W.2d 470, 483 (Minn. 2009) (quotation omitted). "Error may not be predicated upon a ruling which admits or excludes evidence unless a substantial right of the party is affected, and" a timely objection is made. Minn. R. Evid. 103(a)(1). But "[n]othing in this rule precludes taking notice of

[3] At trial, Noel objected to exhibits 1-43 based on relevance. He objected to exhibit 53 based on hearsay. He did not object to exhibit 52.

errors in fundamental law or of plain errors affecting substantial rights although they were not brought to the attention of the court." Minn. R. Evid. 103(d).

Relevant evidence is "evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." Minn. R. Evid. 401. "The contents of voluminous writings . . . which cannot conveniently be examined in court may be presented in the form of a chart, summary, or calculation." Minn. R. Evid. 1006. "Records of regularly conducted business activity" are an exception to hearsay. Minn. R. Evid. 803(6).

Whether Amanda stole from Ritalka was not at issue. But whether Noel was unjustly enriched by the purchases Amanda made with stolen funds was. A list of the items Amanda purchased with stolen funds and a summary of those purchases were relevant "to prove or disprove a material fact in issue." *Boland v. Morrill*, 132 N.W.2d 711, 99 (Minn. 1965); *see also* Minn. R. Evid. 401. As Ritalka's counsel stated in response to the objection, "the witness's testimony was [that] these were the documents identified within their company as relating to unauthorized transactions that are the subject of today's trial, so . . . I can't really imagine anything really more relevant than those." We agree. The district court did not abuse its discretion in determining the evidence was relevant.

Noel also objected on the basis of hearsay to exhibit 53, the spreadsheet of all the unauthorized transactions. He argued that it "was a spreadsheet that was prepared for purposes of litigation[,]" and disputed that it was a summary. The district court overruled the objection, determining that the exhibit was a compilation of evidence.

On appeal Noel asserts for the first time that exhibits 1-43, the records of the specific unauthorized transactions, and exhibit 52, a spreadsheet of items that Ritalka alleged Noel specifically received, were also hearsay. Noel has not cited a specific hearsay rule for these objections and only appears to assert that the individuals who created the exhibits did not testify and that there is no applicable hearsay exception.

"A determination that a statement meets the foundational requirements of a hearsay exception is reviewed for an abuse of discretion." *Holt*, 772 N.W.2d at 483. Noel has the burden to show both "the error, and the prejudice resulting from the error." *Id.* (quotation omitted). We review statements that were not objected to at trial for plain error. *See* Minn. R. Evid. 103(a)(1), (d).

Whether the standard is plain error for exhibits 1-43 and 52, or abuse of discretion for exhibit 53—the district court properly admitted all the exhibits. The binders contained records of transactions between Ritalka and its vendors. Because the records were "kept in the course of a regularly conducted business activity," they fall under a hearsay exception. Minn. R. Evid. 803(6). Further, exhibits 52 and 53 were properly admitted as summaries of that evidence. Minn. R. Evid. 1006. It was not plain error or an abuse of discretion for the district court to admit the exhibits.

B. The district court did not clearly err in finding the items listed in the spreadsheet were purchased by Amanda with stolen funds.

In a civil case, a plaintiff must prove "every essential element of his case" by a preponderance of the evidence. *Wick v. Widdell*, 149 N.W.2d 20, 22 (Minn. 1967). The "standard requires that to establish a fact, it must be more probable that the fact exists than that the contrary exists." *City of Lake Elmo v. Metro. Council*, 685 N.W.2d 1, 4 (Minn. 2004). "[W]e review the district court's factual findings for clear error." *Rasmussen v. Two Harbors Fish Co.*, 832 N.W.2d 790, 797 (Minn. 2013).

Noel stipulated that Amanda was convicted of theft but argues that he did not stipulate that the evidence constituted actual theft, and thus it "contained only allegations as to what may have been stolen" by his wife.[4] Noel also takes issue with the fact that no representative from Ritalka's "accounting and finance division who participated in the creation of Exhibits 1-43 testified as to the nature of the information contained in" the exhibits or the manner in which the data was selected or verified.

In its order, the district court determined that "Exhibit 53 is a voluminous spreadsheet of items purchased by Amanda Smith with stolen funds. The list identifies the item, the vendor, and links to Amanda Smith." In total, there were more than 1,200 purchases. The exhibit included, but was not limited to, a gaming console and accessories, fitness and diet regimes, furniture, clothes, subscription services, background checks, kitchenware, cleaning products, appliances, jewelry, marketing, car accessories, speakers and headphones, posters, event tickets, and toiletries. Physical items were sent to the Smiths' home, their P.O. Box, their rental property, Noel's former workplace, two of their children's homes, and Amanda's sister's home. Some items were sent to Mind Your

[4] We note the district court granted default judgment against Amanda for civil theft, fraud, breach of fiduciary duty, conversion, unjust enrichment, and civil conspiracy. "The entry of a default judgment is equivalent to an admission by the defaulting party to properly pleaded claims and allegations." *State by Humphrey v. Ri-Mel, Inc.*, 417 N.W.2d 102, 110 (Minn. App. 1987), *rev. denied* (Minn. Feb. 17, 1988).

Business, but Kevin Wald, the CEO of Ritalka, testified that those were items that the business would not have ordered.

At trial, Wald went through the spreadsheet and testified why the items would not have been purchased by Ritalka. Wald testified that items were on the list because (1) they were not items that the business would purchase; (2) if they were something the business would purchase, it would have been through a different department—IT, legal, marketing/sales, or maintenance/janitorial; (3) the items were shipped to a location not associated with the company; or (4) the items could not be matched with a legitimate transaction. Wald discussed many of the vendors on the list, but for those he did not discuss, he more generally commented that "things made the list . . . if they were not transactions and not [from] vendors we would do business with." He further testified that any gifts given out at holiday parties came from vendors or were run "through our senior vice president[,]" and that Amanda was never in charge of purchasing gifts, as she claimed.

Wald testified that Amanda's theft was initially uncovered because she used a company credit card that she was not authorized to use. While no one from Ritalka's accounting or finance division testified, Noel did not object to foundation, and Wald testified at length about how Ritalka determined which items were included on the summaries. And, as Ritalka notes on appeal, Noel "had an opportunity to cross-examine Mr. Wald's knowledge as to the exhibits and to put forward issues as to Mr. Wald's credibility as to his testimony."

The district court appeared to find Wald's testimony was credible and found Amanda's "testimony that some items were for employee promotions, that an elderly woman purchased a computer from the store, or that a boy bought a video game from the store was not credible." "[D]ue regard shall be given to the opportunity of the [district] court to judge the credibility of the witnesses." Minn. R. Civ. P. 52.01; *see also Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988).

In addition, the district court found that the items (1) were not the type of product/service/personal consumption item that Mind Your Business sells/offers; (2) they were shipped to addresses not associated with the business—including the Smiths' residence; (3) were not from a vendor the business used; or (4) if an item was a product the business used it was "purchased by a department that is not authorized to use the product." Based on the admissible exhibits, testimony at trial, and the district court's credibility determinations, we conclude that the district court did not err in determining that Ritalka proved that Amanda acquired the items in the exhibits with stolen company funds.

II. The district court did not err by determining that Noel was unjustly enriched from Amanda's theft.

"On appeal from judgment following a court trial, this court reviews whether the district court's findings were clearly erroneous and whether the district court erred as a matter of law." *In re Distrib. of Att'y's Fees between Stowman L. Firm, P.A. & Lori Peterson L. Firm*, 855 N.W.2d 760, 761 (Minn. App. 2014), *aff'd*, 870 N.W.2d 755 (Minn. 2015). Issues of law are reviewed de novo and "[a] finding is clearly erroneous if [appellate courts] are left with the definite and firm conviction that a mistake has been made." *Id.* (quotation omitted).

Noel contends that he was unaware of Amanda's theft, that there is no evidence in the record that he enjoyed any reduction in stress because of the impact of the theft on the household budget, that he did not receive any benefits from the theft beyond those that he testified to, and that this case is distinguishable from other cases of spousal liability for unjust enrichment.

The district court found that the items identified in exhibit 52 were unlawfully purchased using Ritalka's funds "and were or are used directly by Noel Smith." The district court also found that the other items, services, and entertainment purchased by Amanda permitted "other funds [to] be used for payment of other normal expenses, such as utilities, housing, food, and insurance." As a result, the district court determined that Noel enjoyed a "reduction in stress to the household budget and the benefit of the goods, services, and entertainment his wife unlawfully obtained." The district court found that, while Noel did not have actual knowledge of the theft, he had reason to know of the theft, based on Amanda's prior unlawful use of a credit card and resulting criminal conviction in 2013 and the sheer volume of purchases made related to her theft from Ritalka.

A. Knowledge of Theft

"Unjust enrichment is an equitable doctrine that allows a plaintiff to recover a benefit conferred upon a defendant when retention of the benefit is not legally justifiable." *Herlache v. Rucks*, 990 N.W.2d 443, 450 (Minn. 2023) (quotation omitted). A claim of unjust enrichment requires that (1) a benefit is conferred on the defendant; (2) the defendant accepts the benefit; and (3) the defendant retains the benefit although the retention is inequitable. *Zinter v. Univ. of Minn.*, 799 N.W.2d 243, 247 (Minn. App. 2011), *rev. denied*

(Minn. Aug. 16, 2011). Some cases have referenced a knowledge requirement. *See, e.g.*, *ServiceMaster v. GAB Bus. Servs., Inc.*, 544 N.W.2d 302, 306 (Minn. 1996) ("To establish an unjust enrichment claim, the claimant must show that the defendant has knowingly received or obtained something of value for which the defendant in equity and good conscience should pay." (quotation omitted)). To the extent that knowledge is required for an unjust enrichment claim, constructive knowledge is sufficient under persuasive authorities.

Noel argues that the district court's use of "reason to know" is not the legal standard. And he contends that the district court's determination that he had reason to know because of his wife's prior theft and the large number of illegal purchases at Ritalka is erroneous. Ritalka argues that there is precedent that even a fully innocent spouse can be unjustly enriched, but that here, Noel did have constructive knowledge.

Ritalka cites a constructive-trust case to support its argument that an innocent spouse can be held liable for their partner's theft. In *American Ry. Express Co. v. Houle*, the husband embezzled funds from his employer to improve the home that he and his wife lived in. 210 N.W. 889, 889-90 (Minn. 1926). It was undisputed that his wife had no knowledge of the embezzlement. *Id.* at 890. The supreme court rejected the argument that the "wife's position is tantamount to that of an innocent purchaser for value[] and that, therefore, the trust rule cannot operate to deprive her of any part of her half interest in the premises." *Id.* The supreme court concluded that the wife's interest was still affected by the constructive trust. *Id.* Ritalka argues that this case is analogous because a constructive trust "is imposed as a remedy to prevent unjust enrichment." *Knox v. Knox*, 25 N.W.2d 225, 229 (Minn. 1946) (emphasis omitted).

Ritalka also cites multiple foreign jurisdiction cases for their persuasive value. In a Maryland case, the appellate court determined a wife who had no knowledge of her husband's thefts could still be held liable under unjust enrichment. *Bank of Am. Corp. v. Gibbons*, 918 A.2d 565, 575-76 (Md. Ct. Spec. App. 2007). The court based this determination on the Restatement (First) of Restitution. *Id.* The restatement provides: "A person who, having acquired the property of another innocently and non-tortiously but without giving value therefor[e], learns of the interest of another therein, is under a duty to restore it to the owner within a reasonable time . . . ." Restatement (First) of Restitution § 123(c) (Am. L. Inst. 1937).[5] Noel argues that the cases cited by Ritalka are distinguishable because "they involved large sums of money that were traceable to assets of significant value currently held by the unknowing spouse." Ritalka argues this downplays the loss of $102,166.69 and would create an unconscionable distinction. We agree with Ritalka.

In *Hein-Marg, Inc. v. Hunter*, an unjust-enrichment case with constructive-knowledge language, this court stated: "There is evidence supporting the trial court's

---

[5] Ritalka also cites cases from the 8th Circuit, Kansas, Colorado, and Indiana holding spouses liable under a theory of unjust enrichment—though specific "unjust enrichment" language is not always used. *McMerty v. Herzog*, 702 F.2d 127 (8th Cir. 1983); *Martin v. Mid-Kan. Wound Specialists*, 532 P.3d 814 (Kan. Ct. App. 2023); *In re Marriage of Allen*, 724 P.2d 651 (Colo. 1986); *Landers v. Wabash Ctr., Inc.*, 983 N.E.2d 1169 (Ind. Ct. App. 2013).

finding that the buyers *should have known* of the error at the time of the closing, and that the buyers therefore took unconscionable advantage of builder's mistake for the purpose of unjustly enriching themselves." No. C3-91-909, 1991 WL 185100, at *1 (Minn. App. Sept. 24, 1991) (emphasis added).[6]

As previously noted, the district court determined that Noel should have known of Amanda's theft based on his awareness that Amanda had previously used another person's credit card illegally, which resulted in her termination from a job and a criminal conviction. Here, over the course of five years, Amanda used a Ritalka credit card to make over $100,000 worth of personal purchases in more than 1,000 transactions that were well documented. As previously noted, many items were delivered to the Smiths' home, to their P.O. box, or to Noel's business address. Some items were purchased specifically for Noel, such as items for his trucks. Others were used by him, like the Netflix subscription. Based on this record, we conclude that the district court did not err in finding that Noel had reason to know of the theft, even if he lacked actual knowledge. *Lake Elmo*, 685 N.W.2d at 4; *Stowman L. Firm*, 855 N.W.2d at 761.

B. Reduction in Stress/Benefit Received

Noel contends that there is no evidence in the record to support the district court's finding that he benefited from Amanda's purchases because the purchases were discretionary and "not necessarily for the benefit of anyone other than the wife." Noel

[6] We cite nonprecedential cases in this opinion for their persuasive authority. *See* Minn. R. Civ. App. P. 136.01, subd. 1(c).

asserts that if he was unjustly enriched it was limited to the sum of $4,055.39—the value of the items that he testified that he benefited from.

Ritalka presented evidence of the ways in which Noel benefited from the purchases. Ritalka argued that there were items that Noel had individual, personal use of, but that he also benefited from other items such as furniture, home décor, and kitchen goods. Gifts were given to the children from both parents, even if Noel did not know what they were ahead of time. And an extensive number of men's and women's clothing items, a necessity for the household, were also purchased. Ritalka contends that, even for goods and services arguably used exclusively by Amanda, Noel still benefited because "the so-called 'discretionary purchases' freed up money for the Smiths to spend on other goods."

The district court agreed with Ritalka, finding that there was evidence of Noel both directly and indirectly benefiting from his wife's theft. As Ritalka noted on appeal, "Money is fungible." *Allstate Sales & Leasing Co. v. Geis*, 412 N.W.2d 30, 33 (Minn. App. 1987). As a result, the district court found that any money stolen by his wife "let other funds be used for payment of other normal expenses," and thus Noel enjoyed a "reduction in stress to the household budget[.]"[7]

---

[7] We note that the district court made extremely limited findings as to how Noel benefited. While the findings are adequate for our review, the better practice would have been to make more detailed findings.

Based on a preponderance-of-the-evidence standard and the lack of clearly erroneous findings, the district court did not err in finding that Noel received a reduction in stress/benefit from the total amount his wife stole. *Lake Elmo*, 685 N.W.2d at 4; *Stowman L. Firm*, 855 N.W.2d at 761.

Affirmed.