

*This opinion is nonprecedential except as provided by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
A24-1906**

Greenvale Township,
Appellant,

vs.

Linus Langer,
Respondent,

Gregory Langer,
Respondent.

**Filed September 22, 2025
Affirmed in part, reversed in part, and remanded; motion to strike granted and
motion for leave denied
Ede, Judge**

Dakota County District Court
File No. 19HA-CV-23-3168

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Considered and decided by Bond, Presiding Judge; Slieter, Judge; and Ede, Judge.

NONPRECEDENTIAL OPINION

EDE, Judge

This is a cross-appeal from a mandamus action by appellant township alleging that respondents—who are a former town clerk and former board supervisor—did not comply with their statutory obligations concerning the retention of emails relating to official township business. The township challenges the district court’s orders denying its motions to compel discovery and dismissing its mandamus action on summary judgment. Among other things, the township argues that the district court erred by determining that the decisions of the former town clerk about which township-business emails to retain were discretionary and that the former board supervisor complied with his statutory duties to deliver books, records, or other office property to the successor board supervisor. Respondents maintain that the district court erred by dismissing this matter without prejudice—instead of with prejudice—and by failing to award them attorney fees related to the township’s motions to compel discovery. The township moves to strike respondents’ reply briefs, asserting that their content exceeds the scope permitted by the Minnesota Rules of Civil Appellate Procedure. In response to the township’s motion to strike, the former town clerk moves for leave to file an additional brief.

We affirm the district court’s denial of the township’s motions to compel discovery and its grant of summary judgment for respondents. But we reverse the district court’s decision to dismiss this matter without prejudice and its denial of the former town clerk’s motion for attorney fees. We therefore affirm in part, reverse in part, and remand for entry of an amended judgment in favor of respondents, dismissing the township’s claims with

prejudice, and for further proceedings affording the parties an opportunity to be heard on attorney fees related to the township's motions to compel discovery. As to the pending appellate motions, we grant the township's motion to strike respondents' reply briefs and deny the former town clerk's motion for leave to file an additional brief.

FACTS

Complaint and Petitions for Writs of Mandamus

Appellant Greenvale Township filed complaints and petitions for writs of mandamus against respondents Linus Langer and Gregory Langer.¹ These actions were initially filed separately but were later consolidated by the district court. Greenvale alleged that Linus was Greenvale's clerk from March 2014 to August 2022, and that Gregory served as Greenvale's board supervisor from March 2014 to March 2022. The litigation underlying this appeal began in 2023, after Gregory and Linus left public office.

According to Greenvale, while Linus served as Greenvale's clerk, he conducted township clerk business using his personal email address. Linus did not print these emails or otherwise store them in the Greenvale Township Clerk's office, but kept them in his personal email account, which the successor clerk could not access. Greenvale believed that, based on the number of township-related emails sent by the successor clerk, Linus received or transmitted about 6,000 emails related to township business via his personal account. But the successor clerk found fewer than 50 emails sent to or from Linus that remained in the township's files. And after attempting to obtain township-related emails

¹ Because respondents share the same last name, this opinion refers to them by their first names in the interest of clarity.

between township officials and various entities with which Greenvale had done business over the preceding nine years, Greenvale had only acquired a small fraction of the emails that the township believed were generated during Linus's tenure as Greenvale's clerk.

Greenvale alleged that Linus's failure to provide it with the emails "hamper[ed] the township in conducting its day-to-day business, as it lack[ed] records on many zoning issues, contract issues, and much of the day-to-day business that the township conducted over the past nine years." According to Greenvale, "[a]s a result [of Linus's conduct], the township [was] frequently unable to determine with certainty which properties ha[d] particular zoning rights, or rights the township ha[d] in various contracts or business relationships that the township ha[d] participated in over the [preceding] 8 years." Greenvale asserted that it had no other way to recover the emails in Linus's possession and that it had "no other remedy at law except to bring [a] mandamus action against" Linus. Moreover, Greenvale asserted and Gregory admitted that he likewise used a personal email account to conduct township-related business during his service as township supervisor. Greenvale had no access to that account. Gregory purportedly deleted his emails every six months, and Greenvale did not receive copies of Gregory's emails before he deleted them.

In its action, Greenvale requested that the district court order Linus to produce all emails that involved township business in any way and that were sent to or by Linus between March 2014 and August 2023. Greenvale also sought an order that Linus produce all township records in his possession. And Greenvale sought to obtain all township-business emails sent to or by Gregory between March 2014 as March 2022, as well as all township records in Gregory's possession.

Motions to Compel Discovery and Linus's Motion for Attorney Fees

After the township commenced this action, the parties filed a joint-discovery plan, which set forth deadlines, anticipated subjects, and other agreements relating to discovery methods.

In April 2024, Greenvale moved the district court to compel discovery from Linus. More specifically, Greenvale requested an order compelling Linus to provide written responses to discovery, including emails and documents pertaining to those responses. Greenvale explained that it had served Linus with interrogatories and a request for production of documents, but Linus had not provided Greenvale any emails that were electronically stored in his personal account. And Greenvale contended that Linus had failed to answer or evasively answered several interrogatories concerning the emails that Linus had not produced. Linus later moved for a protective order and attorney fees under Minnesota Rule of Civil Procedure 37.01(d)(2).²

Shortly thereafter, Greenvale filed a motion and memorandum to compel disclosure and discovery from Gregory. Greenvale maintained that Gregory had not attempted to supply Greenvale with any documents or emails sent from or received by the personal email account that he had used for township business. And Greenvale asserted that Gregory

² Minnesota Rule of Civil Procedure 37.01(d)(2) provides that, if the district court denies a motion to compel discovery, the court “shall, after affording an opportunity to be heard, require the moving party . . . to pay to the party . . . who opposed the motion . . . attorney fees, unless the court finds that the making of the motion was substantially justified or that other circumstances make an award of expenses unjust.”

also did not respond to, or evasively answered, Greenvale’s interrogatories. Gregory filed written opposition to Greenvale’s motion.

Motions for Summary Judgment

In May 2024, Linus moved the district court for an order granting summary judgment and denying Greenvale’s motion to compel discovery from him. In an accompanying memorandum, Linus argued that Greenvale had not followed the correct procedure to obtain a writ of mandamus. Linus alternatively asserted that, even if Greenvale’s petition for a writ of mandamus against him was procedurally proper, the district court could not issue a writ for several reasons, including that the act involved—i.e., his decision as to which emails to store—was discretionary. And Linus contended that Greenvale had neither identified what documents were missing nor shown that township operations had been affected by his recordkeeping or document-storage practices.

In an accompanying affidavit, Linus maintained that, while he served as Greenvale’s clerk, he sent what he considered to be “housekeeping emails.” For example, Linus sent emails that provided township residents with blank application forms or informed them of meeting-start times. Linus did not print out such emails. When he did print out an email or document to keep in the township’s files, “it would be when a township action was completed, or it would involve a substantive communication.” Because he had received no instructions from Greenvale about which emails and documents he needed to keep in the township’s files, Linus decided what to print. He stated that he “felt well versed in what documents represented substantive communications and issues,” that he printed out all such documents, and that he left them with Greenvale at the conclusion of his service as

clerk. Linus kept affidavits of publication, building permits, claims for payment, election-related documents, meeting minutes, property records, and ordinances in the township office.

Gregory filed a notice of responsive motion and motion in which he asked the district court for an order “finding that, if a request for a writ of mandamus is insufficient, . . . summary judgment is appropriate.” The same day, Gregory submitted a document, styled as a “memorandum of law,” which both opposed Greenvale’s motion to compel discovery from him and “join[ed] with . . . Linus . . . in seeking a dismissal of the action through summary judgment.” Gregory wrote that he was seeking summary judgment because the requirements for obtaining writ of mandamus had not been met by Greenvale. In an accompanying affidavit, Gregory asserted that he had turned over all township documents.

In June 2024, the district court held a hearing on the summary-judgment and discovery issues. At that hearing, the district court did not address Linus’s motion for attorney fees under Minnesota Rule of Civil Procedure 37.01(d)(2), nor did the court otherwise afford the parties another opportunity to be heard about such fees. Greenvale contended that the district court should deny Gregory’s request to join Linus’s motion for summary judgment because Gregory had failed to file a notice of motion, had not provided timely notice, and his memorandum of law did not “clearly list[] material facts as to which there’s no genuine dispute.” Both respondents presented arguments for summary judgment in their favor and for denial of Greenvale’s motions to compel discovery.

Order Denying Motions to Compel and Linus's Motion for Attorney Fees, and Order Granting Summary Judgment

After taking the matters under advisement, the district court filed an order denying Greenvale's motions to compel discovery, granting Linus's motion for a protective order, and denying Linus's motion for attorney fees. The district court also filed a separate order granting summary judgment for respondents.

In denying Greenvale's motions to compel discovery, the district court determined that Linus's and Gregory's responses to Greenvale's interrogatories were neither evasive nor incomplete, and the court ruled that their objections were properly stated, with specificity and detail. The district court decided that, "[g]iven [that] the relief sought by way of [Greenvale's] motions to compel [was] the same relief sought through the petitions for writ [of mandamus], . . . the motion[s] improperly circumvent[ed] the statutory procedure of obtaining a writ." In addition, the district court rejected Greenvale's contention that it needed the requested discovery to determine what records were missing, reasoning that "using discovery as a means to determine whether records are missing in the first place [was] a misuse of discovery." The district court ruled that Greenvale sought to "engage in a fishing expedition, and the [c]ourt decline[d] to award [Greenvale] access to eight years of [respondents'] personal emails to do just that."

As to summary judgment, the district court's order treated Gregory's responsive motion as a proper request to join Linus's motion. The district court ruled that Greenvale had had an opportunity to respond and argue against Gregory's motion, such that Greenvale was not prejudiced by the court's consideration of Gregory's summary-judgment request

as a motion. The district court also decided that Greenvale’s complaint was not a writ of mandamus and that Greenvale had neither obtained a writ nor served respondents with a writ. Based on these procedural defects, the district court was “inclined to dismiss the present action” on procedural grounds. Yet the district court reasoned that, even if Greenvale had followed the correct procedure to obtain a writ, “mandamus [would] not lie as a matter of law.”

According to the district court, “[t]his [was] because, with respect to Linus, . . . the township [sought] to compel a discretionary act.” In particular, the district court determined that “Linus’s decisions as to which emails to print out and store in the clerk’s office [were] entirely discretionary in nature.” From that premise, the district court reasoned that Greenvale had “allege[d] merely an erroneous exercise of discretion.” And the district court ruled that Greenvale had not shown that Linus had been required to print out every email, nor had it demonstrated that Linus had violated a recordkeeping policy, nor had it adduced adequate proof that Linus had failed to complete an act that he was legally required to perform.

As to Gregory, the district court ruled that mandamus was not appropriate because he had complied with his duties under Minnesota Statutes section 367.01 (2024).³ The district court reasoned that Gregory had answered the complaint by stating that he did not

³ Minnesota Statutes section 367.01 provides that “[e]very town officer shall, immediately after qualifying, demand from the officer’s predecessor or other person having control or possession of them, all books, records, and other property belonging to the office.” The statute also states that “[e]very person having control or possession of any of them shall, upon the demand, deliver them to the officer.” Minn. Stat. § 367.01.

have any records, and that he had responded to Greenvale’s discovery requests by stating what records he did or did not have, asserting that he turned over all records. Furthermore, the district court determined that Greenvale had failed to show that a genuine issue of material fact existed and that, as to both respondents, Greenvale had not demonstrated that it had “been unable to conduct business, or ha[d] been harmed, due to any actions or inactions of Linus or Gregory.” Without evidence of harm, the district court decided that Greenvale was not entitled to relief. The district court dismissed the case without prejudice.

Greenvale, Linus, and Gregory appeal.

DECISION

Greenvale contends that the district court abused its discretion in denying its motions to compel discovery and erred in granting summary judgment for respondents by determining, among other things, that Linus’s decisions about which township-business emails to retain were discretionary and that Gregory complied with his duties under Minnesota Statutes section 367.01. Linus and Gregory assert in their cross-appeals that the district court erred by dismissing this matter without prejudice—instead of with prejudice—and by failing to award them attorney fees related to Greenvale’s motions to compel discovery. And Greenvale moves to strike respondents’ reply briefs, claiming that the content of those filings exceeds the scope of what is allowed by the Minnesota Rules of Civil Appellate Procedure. In response, Linus moves for leave to file an additional brief.

We address each argument below.

I. The district court did not abuse its discretion by denying Greenvale’s motions to compel discovery.

Greenvale argues that the district court abused its discretion by denying its motions to compel discovery because the court failed to address whether Greenvale was entitled to discovery. More specifically, Greenvale maintains that the district court could consider limitations on discovery only after determining whether Greenvale was entitled to discovery in the first instance.⁴

A district court “judge has wide discretion to issue discovery orders and, absent clear abuse of that discretion, normally its order with respect thereto will not be disturbed.” *Shetka v. Kueppers, Kueppers, Von Feldt & Salmen*, 454 N.W.2d 916, 921 (Minn. 1990). “A district court abuses its discretion by making findings of fact that are unsupported by the evidence, misapplying the law, or delivering a decision that is against logic and the facts on record.” *Woolsey v. Woolsey*, 975 N.W.2d 502, 506 (Minn. 2022) (quotation omitted).

Minnesota Rule of Civil Procedure 26.02 allows parties to obtain discovery about “any nonprivileged matter that is relevant to any party’s claim or defense and proportional to the needs of the case, considering . . . the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely

⁴ Greenvale further contends that the district court erred in determining that Linus’s objections to discovery were procedurally and substantively proper. In particular, Greenvale asserts that the district court “wrongly entertained [Linus’s] untimely objection, dismissing [Greenvale’s] motions to compel.” This argument is unavailing because the district court did not rely on Linus’s objections in denying Greenvale’s motions to compel. Instead, the district court denied Greenvale’s motions to compel because it reasoned that Greenvale was seeking to engage in a “fishing expedition.”

benefit.” Minnesota Rule of Civil Procedure 37.01(b)(2) provides that “[a] party seeking discovery may move for an order compelling an answer, designation, production, or inspection.” A party may move to compel discovery if “a party fails to answer an interrogatory.” Minn. R. Civ. P. 37.01(b)(2)(C). “The risk of discovery ‘fishing expeditions’ is better controlled . . . by the [district] court exercising its discretion to manage the breadth and depth of discovery.” *In re Milk Indirect Purchaser Antitrust Litig.*, 588 N.W.2d 772, 776 (Minn. App. 1999).

The district court denied Greenvale’s motions to compel because the motions were essentially the same action as Greenvale’s petitions for writs of mandamus. In so ruling, the district court reasoned that Greenvale had misused discovery to determine what records were missing, which amounted to a “fishing expedition.” We conclude that this decision was within the district court’s wide discretion.

Through its motions to compel, Greenvale sought the very records that it had requested through its petitions for writs of mandamus. But Greenvale did not establish how the discovery it moved to compel was relevant to its mandamus claims or would resolve them. Indeed, Greenvale did not show that the requested material would help it prove that respondents had a duty clearly required by law. *See Ly v. Harpstead*, 16 N.W.3d 788, 800 (Minn. App. 2025) (“Mandamus is an extraordinary remedy that is available only to compel a duty clearly required by law.” (quotation omitted)). And because Greenvale apparently did not know what records were missing, the district court did not abuse its discretion in determining that Greenvale was fishing for after-the-fact proof of its allegations against respondents.

Greenvale nonetheless asserts that the district court improperly disregarded the parties' joint-discovery plan in denying Greenvale's motions to compel.⁵ Because Greenvale cites no authority supporting such a proposition, however, we may disregard this argument as forfeited because our inspection of the record reveals no obvious prejudicial error. *See Schoepke v. Alexander Smith & Sons Carpet Co.*, 187 N.W.2d 133, 135 (Minn. 1971) ("An assignment of error based on mere assertion and not supported by any argument or authorities in appellant's brief is [forfeited] and will not be considered on appeal unless prejudicial error is obvious on mere inspection."). And although Greenvale initially contended at oral argument before this court that it was entitled to discovery via the joint-discovery plan, it ultimately conceded that the terms of that plan specified only deadlines, anticipated subjects, and other agreements relating to discovery methods. Greenvale's argument about the parties' joint-discovery plan therefore does not present a valid basis for reversal.

⁵ Greenvale also maintains that the district court erroneously granted Linus's motion for a protective order because it did not determine that Linus had shown good cause for that order. But even assuming without deciding that the district court abused its discretion by granting Linus's protective-order motion, "no error or defect in any ruling or order or in anything done or omitted by the court . . . is [a] ground . . . for vacating, modifying, or otherwise disturbing a judgment or order, unless refusal to take such action appears to the court inconsistent with substantial justice." Minn. R. Civ. P. 61. Because we otherwise conclude that the district court did not abuse its discretion in denying Greenvale's motions to compel, any assumed error in the district court's order granting Linus's motion for a protective order does not affect Greenvale's substantial rights and we therefore disregard it as harmless. *Id.* ("The court at every stage of the proceeding must disregard any error or defect in the proceeding which does not affect the substantial rights of the parties.").

Lastly, Greenvale challenges the district court’s determinations about Linus’s and Gregory’s discovery responses. In particular, Greenvale asserts that the district court abused its discretion in determining that Linus properly stated his objections and that Linus’s and Gregory’s discovery responses were neither evasive nor incomplete. This argument lacks merit.

Findings of fact “shall not be set aside unless clearly erroneous.” Minn. R. Civ. P. 52.01. Clearly erroneous findings of fact are “manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole.” *In re Commitment of Kenney*, 963 N.W.2d 214, 221 (Minn. 2021) (quotation omitted).

Objections to interrogatories must “state with particularity the grounds for the objection.” Minn. R. Civ. P. 33.01(c). “Answers to interrogatories shall be stated fully in writing and shall be signed under oath or penalty of perjury by the party served” Minn. R. Civ. P. 33.01(d).

The district court found that Linus’s objections “were properly stated, with specificity and detail.” This finding is reasonably supported by the record as a whole. Linus objected to each of Greenvale’s interrogatories on several grounds, asserted specific objections, and incorporated objections from other answers. Likewise, there is reasonable support in the record for the district court’s finding that neither Linus’s nor Gregory’s responses were evasive or incomplete. Both Linus and Gregory answered each of Greenvale’s interrogatories. Respondents signed their answers, which they set forth fully and in writing. *See* Minn. R. Civ. P. 33.01(d). We discern no clear error in the district court’s findings about Linus’s and Gregory’s discovery responses.

Thus, we conclude that the district court did not abuse its discretion by denying Greenvale's motions to compel discovery.

II. The district court did not err in granting summary judgment for respondents.

Greenvale asserts that the district court erred by granting summary judgment in favor of Linus and Gregory.

Summary judgment is appropriate when “there is no genuine issue as to any material fact and the movant is entitled to judgment as a matter of law.” Minn. R. Civ. P. 56.01. “[T]here is no genuine issue of material fact for trial when the nonmoving party”—here, Greenvale—“presents evidence . . . which is not sufficiently probative with respect to an essential element of the nonmoving party's case to permit reasonable persons to draw different conclusions.” *DLH, Inc. v. Russ*, 566 N.W.2d 60, 71 (Minn. 1997). Appellate courts “review a district court's summary judgment decision de novo. In doing so, [appellate courts] determine whether the district court properly applied the law and whether there are genuine issues of material fact that preclude summary judgment.” *Riverview Muir Doran, LLC v. JADT Dev. Grp., LLC*, 790 N.W.2d 167, 170 (Minn. 2010) (citation omitted). An appellate court reviewing a grant of summary judgment construes the evidence in the light most favorable to the party against whom summary judgment was granted. *Windcliff Ass'n, Inc. v. Breyfogle*, 988 N.W.2d 911, 916 (Minn. 2023).

As mentioned above, “[m]andamus is an extraordinary remedy that is available only to compel a duty clearly required by law.” *Ly*, 16 N.W.3d at 800 (quotation omitted). “The authority to issue a writ of mandamus is statutory.” *Mendota Golf, LLP v. City of Mendota Heights*, 708 N.W.2d 162, 171 (Minn. 2006). While “[m]andamus is . . . issued upon

equitable principles in the exercise of sound judicial discretion[,] . . . where a decision on a writ of mandamus is based solely on a legal determination, our review is de novo.” *In re Welfare of Child of S.L.J.*, 782 N.W.2d 549, 553 (Minn. 2010) (citation omitted); *see also Spann v. Minneapolis City Council*, 979 N.W.2d 66, 78 (Minn. 2022).

“To obtain a writ of mandamus, a petitioner must show: (1) that the defendant failed to perform an official duty clearly imposed by law; (2) that, as a result, the petitioner suffered a public wrong specifically injurious to the petitioner; and (3) that there is no other adequate legal remedy.” *Ly*, 16 N.W.3d at 800 (quotation omitted). If an appellate court concludes that a petitioner has failed to prove one of these three elements, the court need not reach the other two. *See Minn. Voters Alliance v. County of Ramsey*, 971 N.W.2d 269, 282 (Minn. 2022).

With these legal principles in mind, our analysis of “whether mandamus is available here” begins and ends with our consideration of whether respondents “failed to perform a duty clearly imposed by law.” *Mendota Golf*, 708 N.W.2d at 171. In the district court, Greenvale asserted that Linus did not comply with his statutory duties under Minnesota Statutes sections 367.01 and 367.11 (2024). Greenvale maintained that these statutes respectively required that Linus turn over emails to the successor clerk and that he store his work emails in the clerk’s office. And Greenvale claimed that, contrary to his duties under Minnesota Statutes section 367.01, Gregory failed to provide Greenvale records and documents related to township business.

Below, we address Greenvale’s challenges of the district court’s summary-judgment determinations: (A) that Linus’s decisions about which township-business emails to retain

was discretionary; and (B) that Gregory complied with his duties under Minnesota Statutes section 367.01.⁶

A. The district court did not err in determining that Linus’s decisions about the retention of township emails were discretionary.

As noted above, Minnesota Statutes section 367.01 provides that “[e]very town officer shall . . . demand from the officer’s predecessor or other person having control or possession of them, all books, records, and other property belonging to the office.” Section 367.01 further states that “[e]very person having control or possession of any of them [(i.e., books, records, or other property belonging to the office)] shall, upon the demand, deliver them to the [successor] officer.” And Minnesota Statutes section 367.11 provides in relevant part that “[i]t shall be the duty of the town clerk” (1) “to . . . keep in the clerk’s office a true record of all of its proceedings” and (2) “to have custody of the records, books, and papers of the town and file and safely keep all papers required by law to be filed in the clerk’s office.” Minn. Stat. § 367.11(1), (2).

⁶ Because we affirm the district court’s grant of summary judgment for respondents on the merits, we decline to reach Greenvale’s additional argument that the district court erred in expressing its “inclin[ation] to dismiss the present action” based on “the procedural defects” in Greenvale’s failure to obtain an alternative writ of mandamus against respondents. Indeed, the district court specifically determined that “[r]egardless [of the procedural defects], . . . dismissal [was] appropriate for the additional reasons” that we review below. And because Greenvale has not shown that the district court’s decision to rule on the merits of respondents’ dispositive motions before issuing an alternative writ of mandamus is inconsistent with substantial justice, we disregard as harmless any assumed error in the district court’s grant of summary judgment without a writ. *See* Minn. R. Civ. P. 61.

The district court determined that mandamus did not lie as a matter of law because Greenvale sought to compel a discretionary act—Linus’s decision about which emails to store in the clerk’s office.

We conclude that the district court did not err in making this determination. Mandamus may not issue “when the official has discretion with respect to the act in question.” *Tyo v. Ilse*, 380 N.W.2d 895, 897 (Minn. App. 1986). Thus, the district court appropriately considered whether the duty imposed by the applicable statutory scheme was discretionary.

As relevant here, section 367.01 required that, upon demand, Linus deliver records within his control or possession belonging to the clerk’s office to the successor clerk. And section 367.11 imposed a duty on Linus to “keep in the clerk’s office a true record of all of its proceedings” and to “safely keep all papers required by law to be filed in the clerk’s office.” Neither statute expressly defines “records” or “papers.”

Appellate courts “review statutory interpretation de novo.” *Reetz v. City of Saint Paul*, 956 N.W.2d 238, 245 (Minn. 2021). “The goal of statutory interpretation is to ascertain and effectuate the intent of the Legislature.” *Id.* (citing Minn. Stat. § 645.16 (2020)). To do so, appellate courts first “determine whether the statute’s language, on its face, is unambiguous.” *Id.* “When the language of a statute is susceptible to only one reasonable interpretation, it is unambiguous and [appellate courts] must apply its plain meaning.” *Id.* (quotation omitted). “If a statute does not define a word or phrase, [appellate courts] construe words or phrases according to their plain and ordinary meaning. In

determining the plain and ordinary meaning of a word or phrase, [appellate courts] may consider dictionary definitions.” *Id.* (citations omitted).

A “record” is defined as “[a] documentary account of past events, usu[ally] designed to memorialize those events,” “minutes,” and “[t]he official report of the proceedings in a case.” *Black’s Law Dictionary* 1529 (12th ed. 2024). And a “paper” is defined as “[a]ny written or printed document or instrument.” *Id.* at 1337. In light of these dictionary definitions, we conclude that sections 367.01 and 367.11 are susceptible to only one reasonable interpretation and are therefore unambiguous. *See Reetz*, 956 N.W.2d at 245. And we must apply the statutes’ plain meaning. *Id.*

Accordingly, the plain and ordinary meaning of sections 367.01 and 367.11(1) did not require that Linus deliver to the successor clerk, or that he keep in the clerk’s office, emails providing township residents with blank application forms or informing them of meeting-start times. This is because such emails fall outside the definition of “records,” as they are neither “documentary account[s] of past events,” nor “minutes,” nor “official report[s] of the proceedings in a case.” *Black’s Law Dictionary, supra*, at 1529. And the plain and ordinary meaning of section 367.11(2) did not require that Linus safely keep such emails unless they were both “required by law to be filed in the clerk’s office,” Minn. Stat. § 357.11(2), and were “written or printed document[s] or instrument[s],” *Black’s Law Dictionary, supra*, at 1337. In other words, the plain and ordinary meaning of sections 367.01 and 367.11, as applied to the undisputed facts in the record about Linus’s use of his personal email address to conduct a range of township clerk business, required that Linus

exercise discretion in determining which emails to print out for filing in the clerk's office and for delivery to the successor clerk.

Greenvale contends that, when read together, Minnesota Statutes sections 138.17 (2024), 15.17 (2024), and 367.01 “unequivocally establish that town officers, including the town clerk, must retain and transfer government records, without regard to the clerk's personal discretion.” But because we have concluded that sections 367.01 and 367.11 are unambiguous, the doctrine of *in pari materia*—which allows courts to construe statutes with common purposes and subject matter together to determine the meaning of ambiguous statutory language—is inapposite here. *See Minnesota Deer Farmers Ass'n v. Minnesota Dep't of Nat. Res.*, 979 N.W.2d 465, 471 (Minn. App. 2022) (citing *State v. Thonesavanh*, 904 N.W.2d 432, 437 (Minn. 2017), for the proposition that “*in pari materia* is [an] extrinsic canon that applies only to ambiguous statutes” and declining to construe several statutes together because this court concluded that the statutory language at issue was not ambiguous), *rev. denied* (Minn. Oct. 26, 2022).

We therefore conclude that the district court did not err in determining that Linus's decisions about the retention of township emails were discretionary.

B. The district court did not err in determining that Gregory complied with his duties under Minnesota Statutes section 367.01.

The parties agree that, under section 367.01, Gregory had the statutory duty to deliver records within his control or possession belonging to the board supervisor's office to the successor supervisor. Relying on his answer to the complaint and his responses to Greenvale's interrogatories, the district court determined that the undisputed evidence

established that Gregory complied with his duties under the statute. Based on our careful review of the record, we conclude that this decision by the district court was not erroneous.

In response to Greenvale’s interrogatories, Gregory wrote that he no longer had any of the emails that he sent or received during his time as supervisor. He stated that he did not have any property belonging to the supervisor’s office, any property belonging to Greenvale, or any documents related to the township. Gregory acknowledged that—as supervisor—he was obliged to turn over any office records and could not maintain such records for himself. He admitted that the records needed to be filed with the clerk and that he had done so during his tenure. Gregory reported that he would have turned over any documents that belonged to Greenvale and that, when he left office, he provided the office with what he believed were the township records that he had. He also asserted in the affidavit accompanying his request for summary judgment that, “[a]t the time [he] left office, [he] turned over any and all township related documents to” a supervisor. And Gregory stated that he turned over the documents that he had in his possession, “which [he] did not consider to be township documents, but which [he] thought might be helpful to a succeeding board for various tasks that were of primarily administrative convenience.”

Pointing to a specific interrogatory answer by Gregory—that, while he served as supervisor, he would copy township documents or other materials to make notes—Greenvale argues that Gregory still had township records in his possession.⁷ This answer,

⁷ Reasoning that it lacked adequate time to respond to Gregory’s request to join Linus’s motion for summary judgment, Greenvale also maintains that the district court erred in determining that Greenvale was not prejudiced by Gregory’s failure to move for summary

however, does not create a genuine issue of material fact because it does not conflict with Gregory's repeated statements that he no longer has any documents and that he had turned them over to the township. Greenvale also cites Gregory's statement in his affidavit that he had "deleted or destroyed almost all of the paper that [he] had personally collected on [his] own to assist [him] with . . . [his] job as supervisor," which Gregory explained "were all copies of publicly available papers." While Greenvale emphasizes Gregory's use of "almost" as an implicit "acknowledge[ment]" that he retained some documents that were collected during his role as a township supervisor, documents that are relevant to [Greenvale's] cause of action and should have been turned over to the township," Greenvale has not otherwise shown that publicly available documents belong to the supervisor's office.

We therefore discern no error in the district court's determination that Greenvale did not present evidence that was sufficiently probative with respect to an essential element of Greenvale's case—i.e., that respondents failed to perform official duties clearly imposed

judgment 28 days before the hearing thereon, as required by the Minnesota General Rules of Practice for the District Courts. *See* Minn. Gen. R. Prac. 115.03(a). The district court ruled that Greenvale "had an opportunity to respond and argue against the motion, such that it [was] not prejudiced by the [c]ourt considering Gregory's motion." In opposing Gregory's motion for summary judgment in the district court, Greenvale raised procedural defects in the timing of Gregory's motion and responded to both Linus's and Gregory's substantive arguments for dismissal. Notably, Greenvale neither moved to continue the summary-judgment hearing nor has it explained on appeal anything additional that it would have presented to the district court had Gregory not belatedly filed his request for summary judgment. And the general rules of practice afford district courts the discretion to modify time limits for civil motions. *See* Minn. Gen. R. Prac. 115.01(b). The district court therefore did not prejudicially err in rejecting Greenvale's procedural argument about the manner and timing Gregory's motion for summary judgment.

by law.⁸ See *DLH*, 566 N.W.2d at 71; see also *Ly*, 16 N.W.3d at 800. The district court correctly granted summary judgment for respondents.

III. The district court erred by dismissing Greenvale’s claims without prejudice, instead of with prejudice.

Respondents challenge the district court’s summary-judgment dismissal of this action without prejudice, asserting that the court erred in doing so because its ruling on the merits required a dismissal with prejudice.

Our decision in *Pond Hollow Homeowners Ass’n*, 779 N.W.2d 920 (Minn. App. 2010), is instructive as to this issue. In *Pond Hollow Homeowners Ass’n*, a homeowners association alleged construction and design defects in a lawsuit against the developer of homes owned by the members of the homeowners association. 779 N.W.2d at 922. After the developer filed an amended third-party complaint asserting negligence by the engineering firm that had designed, engineered, and surveyed the home-building site, the engineering firm moved for summary judgment against the developer. *Id.* Although the district court concluded that no genuine issue of material fact existed, the court granted the engineering firm’s motion for summary judgment “without prejudice.” *Id.*

On appeal, the engineering firm argued that the district court erred by dismissing the developer’s third-party claims without prejudice after granting summary judgment based on its decision “that there were no genuine issues of material fact.” *Id.* at 924. We

⁸ In light of this conclusion, we need not consider whether Greenvale adequately established that it suffered a specifically injurious public wrong to its ability to conduct its day-to-day business or whether it had any other adequate legal remedy to recover the emails. See *Minn. Voters Alliance*, 971 N.W.2d at 282.

agreed, concluding that the district court’s “grant of summary judgment constituted a determination on the merits of [the developer’s] claims” and that, “[a]fter making such a determination, the district court could not dismiss [the developer’s] claims without prejudice.” *Id.* (citations omitted). We therefore reversed the district court’s dismissal of the developer’s claims without prejudice and remanded for entry of judgment in favor of the engineering firm. *Id.* at 924–25.

Here, the district court granted summary judgment for respondents based on its determination that no genuine issues of material fact existed. Consistent with our decision in *Pond Hollow Homeowners Ass’n*, we conclude that the district court’s “grant of summary judgment constituted a determination on the merits of [Greenvale’s] claims” and that, “[a]fter making such a determination, the district court could not dismiss [Greenvale’s] claims without prejudice.” *Id.* at 924. Thus, we reverse the district court’s decision to dismiss this matter without prejudice and remand for entry of an amended judgment in favor of respondents, dismissing Greenvale’s claims with prejudice.

IV. The district court abused its discretion by failing to afford the parties an opportunity to be heard on attorney fees under Minnesota Rule of Civil Procedure 37.01(d)(2).

Linus maintains that the district court erred in declining to award him attorney fees after denying Greenvale’s motion to compel discovery from him. Gregory also maintains that the district court erred by failing to award him attorney fees.

Appellate courts review the district court’s award or denial of attorney fees for an abuse of discretion. *State Fund Mut. Ins. v. Mead*, 691 N.W.2d 495, 502 (Minn. App. 2005); *see also Woolsey*, 975 N.W.2d at 506.

As noted above, if a motion to compel discovery is denied, the district court “shall, after affording an opportunity to be heard, require the moving party . . . to pay to the party . . . who opposed the motion . . . attorney fees, unless the court finds that the making of the motion was substantially justified or that other circumstances make an award of expenses unjust.” Minn. R. Civ. P. 37.01(d)(2). In other words, unless the above exceptions apply, Minnesota Rule of Civil Procedure 37.01(d)(2) requires district courts to afford the parties an opportunity to be heard and to award attorney fees to parties who have opposed motions to compel when such motions have been denied. *See* Minn. Stat. § 645.44, subd. 16 (2024) (“‘Shall’ is mandatory.”).

Although the district court denied Greenvale’s motions to compel discovery, the court also denied Linus’s attorney-fees motion without first affording the parties an opportunity to be heard on the matter. And while Gregory did not specifically move for attorney fees under rule 37.01(d)(2) like Linus did, the rule nonetheless required that the district court afford Gregory an opportunity to be heard because he opposed Greenvale’s motion to compel discovery from him and the court denied Greenvale’s motion. *See* Minn. R. Civ. P. 37.01(d)(2). We therefore reverse the district court’s denial of Linus’s attorney-fees motion and remand for further proceedings, affording the parties an opportunity to be heard on attorney fees under rule 37.01(d)(2).

V. Greenvale’s motion to strike is granted and Linus’s motion for leave is denied.

Lastly, Greenvale moves to strike respondents’ reply briefs, asserting that those filings are not permitted under the Minnesota Rules of Civil Appellate Procedure because “both Gregory and Linus . . . used their [reply briefs] . . . not to respond to [Greenvale’s] reply to their cross-appeals, but instead to argue further against [Greenvale’s] appeal in chief and [Greenvale’s] reply to . . . [their] response thereto.”

Although “[t]he respondent/cross-appellant may file a brief in reply to the response in the cross-appeal[,] . . . [t]he brief . . . must be limited to the issues presented by the cross-appeal.” Minn. R. Civ. App. P. 131.01, subd. 4(d)(4).

As just discussed, the issues presented in respondents’ cross-appeals are whether the district court erred by dismissing Greenvale’s claims without prejudice, instead of with prejudice, and whether the district court abused its discretion by failing to award attorney fees to respondents. Both respondents’ reply briefs are not limited to the issues presented by their cross-appeals, but rather present arguments on the issues raised in Greenvale’s appeal. In fact, after summarizing the two aforementioned issues raised in his cross-appeal, Linus expressly states in his reply brief that his “arguments relative to his appellate issues are set forth in his response brief . . . and will not be restated herein.”

Because we conclude that respondents’ reply briefs are not limited to the issues presented by their cross-appeals, we grant Greenvale’s motion to strike those filings and neither consider nor rely on them in reaching our decision. *See* Minn. R. Civ. App. P. 131.01, subd. 4(d)(4). And because we conclude that Linus has not established good cause in support of his motion for leave to file an additional brief, that motion is denied. *See*

Minn. R. Civ. App. P. 128.02, subd. 4 (“No further briefs may be filed except with leave of the appellate court.”); Minn. R. Civ. App. P. 131.01, subd. 4(d)(5) (“Unless the court permits, no further briefs may be filed in a case involving a cross-appeal.”).

Affirmed in part, reversed in part, and remanded; motion to strike granted and motion for leave denied.