

*This opinion is nonprecedential except as provided by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
A25-0123**

In the Marriage of:

Rebecca Wood Gagnon, petitioner,
Appellant,

vs.

Paul John Gagnon,
Respondent

**Filed March 2, 2026
Reversed and remanded
Larson, Judge**

Hennepin County District Court
File No. 27-FA-16-4507

Michelle K. Kuhl, Kay Nord Hunt, Lommen Abdo, P.A., Minneapolis, Minnesota; and

Susan Dickel Minsberg, St. Paul, Minnesota (for appellant)

Ben M. Henschel, Susan A. Daudelin, Henschel Moberg, P.A., Minneapolis, Minnesota
(for respondent)

Considered and decided by Bond, Presiding Judge; Frisch, Chief Judge; and Larson,
Judge.

NONPRECEDENTIAL OPINION

LARSON, Judge

Appellant-wife Rebecca Wood Gagnon challenges a district court order modifying
spousal maintenance following a motion for amended findings. Wife argues, in part, that

the district court abused its discretion when it considered new evidence submitted with husband's motion for amended findings. Because we agree that the district court abused its discretion when it considered this evidence, we reverse and remand.

FACTS

By stipulated decree, the district court dissolved wife's and respondent-husband Paul John Gagnon's marriage in 2017. At the time of the decree, husband earned an average gross monthly salary of \$20,002. Wife earned an average gross monthly salary of \$2,998. Under the decree, husband was required to pay wife \$5,500 in permanent monthly spousal maintenance.¹

In December 2023, husband moved to modify his spousal-maintenance obligation. At that time, husband was paying \$6,166.35 in permanent monthly spousal maintenance, accounting for cost-of-living adjustments (COLA).² In his motion, husband alleged he had a substantial change in his gross income making the existing spousal-maintenance order unreasonable and unfair; namely, husband had been laid off. According to husband, his prior employer gave him two weeks to access internal job postings, but he did not find a suitable position. His prior employer then categorized him as a "retiree" so that he could

¹ In 2024, the legislature amended the maintenance statutes and replaced the term "permanent maintenance" with "indefinite maintenance." 2024 Minn. Laws ch. 101, art. 2, § 1 (now codified at Minn. Stat. § 518.552, subd. 3 (2024)). An award of permanent maintenance issued before August 1, 2024, is deemed "indefinite maintenance." Minn. Stat. § 518.552, subd. 3 (2024). The parties briefed this appeal using the pre-amendment terminology. Therefore, we use that terminology in this opinion.

² Husband's motion to modify also included a request to deny wife's request for a COLA and suspend all future COLAs.

claim his fully vested pension.³ Then husband, at age 58, decided to become self-employed and started a handyman business.

Wife contested husband's motion on several grounds. Wife alleged that husband's decision to "essentially retire at age 58" constituted bad faith or unjustifiable self-limitation of income.⁴ Wife also asserted in her affidavit that husband failed to prove his gross income had been substantially reduced because he failed to include evidence of "the investment income he receives on his retirement and investment assets which exceed \$2,000,000."⁵

In a June 17, 2024 order, the district court denied husband's motion to modify spousal maintenance. The district court acknowledged that "on its face, [husband's] motion ha[d] merit." But the district court ultimately determined that husband failed to meet his burden to show the existing permanent spousal-maintenance amount was unreasonable and unfair, in part, because husband failed to disclose his investment assets. The district court noted husband's omission was "[a]t best, a significant oversight" and at worst, "a significant lack of candor towards the [c]ourt."

³ Under the stipulated decree, husband's pension was deemed marital property, except for 75-months of pre-marital credit.

⁴ We note that, when granting the motion for amended findings, the district court acknowledged that wife had raised this claim but did not analyze whether wife met the standard to show a "colorable claim of bad faith" under *In re Marriage of Richards*, 472 N.W.2d 162, 165 (Minn. App. 1991).

⁵ At the hearing on the motion, when confronted with wife's affidavit, husband's attorney stated that husband "has approximately \$2 million" in investment assets. Attorney statements are not evidence. See *Derksen v. Comm'r of Pub. Safety*, 11 N.W.3d 340, 345 (Minn. App. 2024).

Husband filed a timely motion for amended findings under Minn. R. Civ. P. 52.02.⁶ In his motion, husband proposed amended findings related to his income. As relevant here, relying on wife's general assertion in her affidavit that husband's investment assets "exceed[ed] \$2,000,000," husband offered more specific calculations of his income and argued he met his burden to show the existing permanent spousal-maintenance amount was unreasonable and unfair. Husband also attached three new exhibits to his motion for amended findings.

The district court granted husband's motion for amended findings, adopting husband's characterization of the record that he has \$2,000,000 in investment assets,⁷ and specifically relying on the exhibits husband attached to his motion for amended findings. Relying on these amended findings and the new exhibits, the district court concluded husband met his burden to show the existing permanent spousal-maintenance award was unreasonable and unfair, and reduced husband's monthly permanent spousal-maintenance obligation to \$3,260.

Wife appeals.

DECISION

Wife raises several challenges to the district court's decision to grant husband's motion to modify spousal maintenance following the motion for amended findings. As

⁶ Husband did not seek to reopen the record.

⁷ We note that the only evidence in the record is that husband's investment assets "*exceed* \$2,000,000." (Emphasis added.) Thus, using \$2,000,000 to calculate husband's income *understates* husband's income based on the current record.

relevant to our decision, wife asserts that the district court abused its discretion when it considered the new exhibits submitted with husband's motion for amended findings.

We review a district court's decision to amend its findings under an abuse-of-discretion standard. *Zander v. Zander*, 720 N.W.2d 360, 364 (Minn. App. 2006), *rev. denied* (Minn. Nov. 14, 2006). A district court abuses its discretion "if it makes findings of fact that are not supported by the record, misapplies the law, or resolves the matter in a manner that is contrary to logic and the facts on record." *Madden v. Madden*, 923 N.W.2d 688, 696 (Minn. App. 2019).

Under Minn. R. Civ. P. 52.02, a party may move the district court to amend its findings or make additional findings and amend the order accordingly. To move for amended findings, a movant must "both identify the alleged defect in the challenged findings and explain why the challenged findings are defective." *Lewis v. Lewis*, 572 N.W.2d 313, 315 (Minn. App. 1997), *rev. denied* (Minn. Feb. 19, 1998). When considering a motion for amended findings, a district court "must apply the evidence as submitted" and "may neither go outside the record, nor consider new evidence." *Rathbun v. W.T. Grant Co.*, 219 N.W.2d 641, 651 (Minn. 1974).

Wife asserts that, in the amended order, the district court expressly relied on the exhibits husband submitted for the first time with his motion for amended findings. Specifically, wife points to the district court's statement that "[b]ased on the foregoing and the tax calculations submitted by [husband], [wife] is able to meet her reasonable monthly expenses with spousal maintenance of \$3,260." (Emphasis added.) Wife is correct; the new exhibits—which contain husband's calculations of the parties' respective net

incomes—were not in the record and were only introduced as part of husband’s motion for amended findings. Accordingly, we conclude the district court abused its discretion when it considered the exhibits.

We further conclude that considering this evidence prejudiced wife. *See Uselman v. Uselman*, 464 N.W.2d 130, 138 (Minn. 1990) (stating an evidentiary error must be both an abuse of discretion and prejudicial to warrant reversal); *see also George v. Est. of Baker*, 724 N.W.2d 1, 9 (Minn. 2006) (stating an evidentiary error is not prejudicial unless it might reasonably have influenced the trier of fact and changed the result of the trial). First, wife was prejudiced by the late submission because she did not have an opportunity to rebut the exhibits or submit evidence to the contrary.⁸ Second, husband bore the burden of proof to establish that he was entitled to modification. *See* Minn. Stat. § 518.552, subd. 5b(b) (2024); *see also Nardini v. Nardini*, 414 N.W.2d 184, 198 (Minn. 1987). Prior to the submission of the new exhibits, the district court had determined that husband had not met his burden. Thus, we discern that the inclusion of those exhibits “might reasonably have influenced” the district court to change the result. *See George*, 724 N.W.2d at 9.

For these reasons, we reverse the district court’s amended order and remand for the district court to reconsider husband’s motion for amended findings without the new exhibits. We do not reach the other issues wife raises on appeal.

Reversed and remanded.

⁸ Husband disagrees, arguing that wife could likewise have chosen not to comply with rule 52.02 and submitted her own rebuttal evidence. We are not persuaded that wife fails to show prejudice because she complied with rule 52.02 and based her submissions on the evidence properly in the record.