

*This opinion is nonprecedential except as provided by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
A25-0143**

John August Krueger,
Appellant,

vs.

State Farm Mutual Automobile Insurance Company,
Respondent.

**Filed August 25, 2025
Affirmed; motion granted
Reilly, Judge***

Washington County District Court
File No. 82-CV-23-2738

John A. Krueger, Krueger Law Firm, LLC, Roseville, Minnesota (self-represented attorney)

Kelly Sofio, McKaylee E. Berg, Tomsche, Sonnesyn & Tomsche, P.A., Minneapolis, Minnesota (for respondent)

Considered and decided by Smith, Tracy M., Presiding Judge; Ede, Judge; and
Reilly, Judge

NONPRECEDENTIAL OPINION

REILLY, Judge

Following the grant of summary judgment in favor of respondent State Farm Automobile Insurance Company, appellant John August Krueger contends that the district

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

court abused its discretion by denying his request to extend the discovery deadline, granting respondent's motion to exclude his expert witnesses, and denying his motion to amend his complaint. We affirm.

FACTS

Krueger was injured in February 2015 when his car was rearended at a red light. After settling his liability claim with the other driver's insurer, Krueger brought separate claims against his insurer, State Farm, for no-fault benefits and underinsured-motorist (UIM) benefits. Krueger, who is a licensed attorney, represented himself in both matters. The no-fault matter went to a jury trial in September 2023, and the jury awarded Krueger his reasonable medical expenses. This appeal is about the district court's rulings on the parties' pretrial motions in the UIM matter. Krueger continues to represent himself on appeal.

Krueger commenced the UIM action in June 2023. The district court held a scheduling conference in November 2023. Both parties requested that trial be scheduled one year from the conference. State Farm's counsel stated that Krueger had a "giant wage loss claim" that would require "some sort of expert or some discovery." Counsel stated that she would "serve some discovery" promptly. After the scheduling hearing, State Farm's counsel emailed a proposed joint discovery plan to Krueger and wrote that she wanted to "get discovery moving." Krueger neither responded to the email nor proposed a discovery plan of his own.

The district court issued a scheduling order on February 1, 2024. In the order, the district court scheduled the trial for May 2024 and the pretrial conference for an unspecified

date in April 2024. The order instructed the parties to complete discovery no later than 60 days before the pretrial conference. Because the scheduling order did not list a specific date for the pretrial conference, it created an indeterminate discovery deadline in February 2024.¹ The order also required the parties to file their witness and exhibit lists “prior to the date of the pretrial conference.”

On April 17, 2024, the district court sent a notice that the pretrial conference would be held on April 19, thus retroactively setting the discovery deadline for February 19, 2024. It is undisputed that Krueger made no witness or document disclosures before the February 19, 2024 deadline. The parties filed their witness and exhibit lists the day before the pretrial conference, in accordance with the scheduling order. Krueger’s witness list included various treating doctors who Krueger listed as “experts.” In his exhibit list, Krueger stated that the “narrative reports” of the expert doctors had “been provided to [State Farm] in prior no-fault litigation.”

At the pretrial conference, Krueger requested that the trial be rescheduled in accordance with the parties’ earlier request for a trial in November 2024. Krueger also told the district court that he did not receive notice that the scheduling order was filed and only learned about the pretrial conference after State Farm filed its witness and exhibit lists the day before the conference. State Farm’s counsel opposed Krueger’s request and stated that the parties “had the no-fault trial last September” and “had the experts done.” Counsel added that State Farm was “ready to go,” “there [was not] anything new to be discovered,”

¹ Sixty days before April 1, 2024, is February 1, 2024. Sixty days before April 30, 2024, is March 1, 2024.

and that “State Farm [knew] everything” based on the no-fault case, which went to trial in August 2023. Counsel argued that “the only reason [Krueger] want[ed] this delay is because he blew it” by neglecting to heed the district court’s schedule and arrange his doctors’ depositions. The district court reviewed its records system, which showed that Krueger accessed the scheduling order on February 5, 2024. The district court denied Krueger’s request to continue trial and instructed the parties to file their pretrial motions.

In early May, Krueger notified State Farm that he intended to depose three of his expert doctors later in May. In response, State Farm requested an “emergency call” with the district court to address Krueger’s attempts to depose expert witnesses despite his failure to timely disclose the experts’ identities and subject-matter expertise in accordance with the district court’s scheduling order and the Minnesota Rules of Civil Procedure. Krueger filed a response with the district court, stating that he “told [State Farm’s counsel] we are using the same doctors that we used in the recent no-fault trial, same reports, same medical records, same medical bill, same everything.” Krueger asserted that the new depositions would cover just “1-2 additional visits for two doctors . . . and . . . medical bills.” The record does not reflect whether the district court addressed the parties’ letters, and it appears that Krueger deposed some of his doctors in May 2024.

On May 6, 2024, State Farm moved in limine to exclude the expert opinions of Krueger’s treating doctors for Krueger’s failure to timely disclose them. State Farm acknowledged that the experts in this UIM matter “may overlap” with those in the no-fault trial. But State Farm argued that, unlike the no-fault trial, this case involved issues such as “past medical expenses, future medical expenses, past wage loss, future wage loss, past

emotional distress, future emotional distress and whether or not Mr. Krueger sustained a permanent injury.” State Farm asserted that the opinions of Krueger’s experts in the no-fault trial shed no light on these issues.

Krueger opposed State Farm’s motion, again arguing that he “supplied everything in discovery” during the no-fault case. Krueger contended that State Farm’s counsel, who also represented State Farm in the no-fault dispute, admitted after the no-fault trial in September 2023 “that basically all the discovery in [the UIM] claim was already done in the no-fault claim.”

Krueger also moved for leave to amend his complaint to add, as a plaintiff, his wife—who had been injured in the underlying car accident—and state a claim for her loss of consortium. To support his motion, Krueger pointed to an email thread showing that the parties had discussed the potential loss-of-consortium claim during the settlement of Krueger’s wife’s claims in April 2023. Krueger also asked State Farm’s counsel to stipulate to the amendment in October 2023. State Farm’s counsel replied that she presented Krueger’s request to State Farm and would “advise as to what they would like to do.” According to Krueger, he never received a response about State Farm’s position on the potential amendment. In his motion for leave to amend, Krueger asserted that the omission of the loss-of-consortium claim from his complaint was “a mistake that neither party spotted.”

The district court heard the parties’ motions in May 2024. At the hearing, the district court continued the trial to October 2024 because of a scheduling conflict with another trial. Despite moving back the trial date, the district court declined to reschedule the

discovery deadline, telling Krueger that it had “made it very clear that [he] had to have everything done by [the original trial date].” The parties then made oral arguments on their motions and the district court took them under advisement.

The district court filed an order granting State Farm’s motion to exclude Krueger’s expert opinions and denying Krueger’s motion to amend the complaint. The district court determined that Krueger had not disclosed his experts at least 90 days before the trial, as required by Minnesota Rule of Civil Procedure 26.01(b)(4), and thus excluded their expert opinions. The district court also addressed Krueger’s reliance on his purported discovery agreement with State Farm’s counsel: “a party cannot rely on filings in a separate case and court file.” As for Krueger’s motion to amend his complaint, the district court found the request untimely because it came after the discovery deadline. The district court further found that Krueger “failed to act diligently” to amend the complaint prior to the discovery deadline.

State Farm then moved for summary judgment, arguing that Krueger, through his failure to disclose anything to State Farm during discovery, waived his right to present the evidence at trial required for him to succeed on his claim. Krueger opposed the motion, relying again on the alleged oral agreement between himself and State Farm’s counsel regarding discovery, and he urged the district court to reset the discovery deadline so that he could provide State Farm “with all the exact same doctor reports, records, bills, [and] exhibits that [were] already provided in the no-fault claim.” The district court granted State Farm’s motion for summary judgment and dismissed Krueger’s complaint with prejudice.

DECISION

Krueger challenges the district court's rulings on the discovery deadline, the admissibility of his experts' opinions, and his motion for leave to amend his complaint. State Farm contends that the district court did not abuse its discretion in any of its rulings. State Farm further moves to strike a declaration filed in Krueger's addendum to his reply brief. We begin by addressing State Farm's motion before turning to Krueger's arguments.

Motion to Strike

In the addendum to his reply brief filed with this court, Krueger included his own declaration in which he describes his purported oral agreement with State Farm's counsel regarding the need for discovery. State Farm moved to strike Krueger's declaration and any part of his reply brief that references the declaration, asserting that the declaration is outside the appellate record. We agree with State Farm.

"The Minnesota Rules of Civil Appellate Procedure are clear that documents not filed with the district court are not part of the record on appeal." *Derksen v. Comm'r of Pub. Safety*, 11 N.W.3d 340, 344 (Minn. App. 2024) (citing Minn. R. Civ. App. P. 110.01). "An appellate court may not base its decision on matters outside the record on appeal and may not consider matters not produced and received in evidence below." *Thiele v. Stich*, 425 N.W.2d 580, 582-83 (Minn. 1988). Because Krueger's declaration was not received as part of the district court record, we grant State Farm's motion to strike and will not consider Krueger's declaration or any part of his reply brief that refers to it.

Krueger's Arguments

We now turn to Krueger's arguments related to the district court's various pretrial rulings. Krueger asserts that the district court inadequately considered his contention that State Farm agreed that a formal discovery process was unnecessary because all relevant information was already disclosed in the no-fault matter. Krueger appears to argue that, because of this purported agreement, the district court should not have excluded his experts from testifying or, in the alternative, should have extended the discovery deadline to allow him to make the disclosures. Krueger also argues that the district court should have granted him leave to amend the complaint because State Farm "wholly understood" that he intended to include his wife's loss-of-consortium claim in the complaint.

Although not clear, we construe Krueger's arguments as challenges to the district court's (1) refusal to extend the discovery deadline, (2) exclusion of his expert testimony, and (3) denial of his motion for leave to amend the complaint.² We review a district court's rulings on each of these issues for an abuse of discretion. *See 1300 Nicollet, LLC v. County of Hennepin*, 990 N.W.2d 422, 431 (Minn. 2023) ("A [district] court has discretion to grant or deny discovery requests, so we review these decisions under an abuse of discretion standard."); *Benson v. N. Gopher Enters., Inc.*, 455 N.W.2d 444, 445 (Minn. 1990) ("It has long been the law in this state that evidentiary rulings, including a decision to exclude expert testimony, lie within the sound discretion of

² The difficulty in identifying the precise rulings that Krueger challenges is amplified by his failure to brief "the applicable standard of appellate review for each issue" as required by the Minnesota Rules of Civil Appellate Procedure. Minn. R. Civ. App. P. 128.02, subd. 1(d).

the [district] court.”); *Metro Bldg. Cos., Inc. v. Ram Bldgs., Inc.*, 783 N.W.2d 204, 210 (Minn. App. 2010) (“The district court has broad discretion to grant or deny leave to amend a complaint, and its ruling will not be reversed absent a clear abuse of that discretion.” (quotation omitted)), *rev. denied* (Minn. Aug. 10, 2010). “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). For these reasons, we discern no abuses of discretion in any of the district court’s rulings.

First, we address the district court’s decisions to adhere to the original discovery deadline and to grant State Farm’s motion to exclude Krueger’s experts. Krueger does not dispute that he made no discovery disclosures before trial, as required by the Minnesota Rules of Civil Procedure. Under the rules, parties must generally make initial disclosures “without awaiting a discovery request.” Minn. R. Civ. P. 26.01(a)(1). The rules also require parties to identify expert witnesses and disclose the subject matter of their testimony at least 90 days before the trial date. Minn. R. Civ. P. 26.01(b)(1), (3)-(4). If a party “fails to provide information or identify a witness as required by Rule 26.01 . . . , the party is not allowed to use that information or witness . . . at trial, unless the failure was substantially justified or harmless.” Minn. R. Civ. P. 37.03(a). The rules also require parties to confer and “attempt[] in good faith to agree on [a] proposed discovery plan.” Minn. R. Civ. P. 26.06(b). Krueger admits that he did not respond to State Farm’s attempt to negotiate a joint discovery plan. In short, Krueger met none of his discovery obligations under the Minnesota Rules of Civil Procedure.

Krueger contends that his failure to abide by the rules of civil procedure was justified by his purported oral agreement with State Farm. But the record contains no evidence of the agreement, other than Krueger's own declarations. Krueger emphasizes State Farm's position at the pretrial conference on April 19, 2024, during which State Farm's attorney seemingly acknowledged the sufficiency of the discovery in the no-fault case: "So, we had the no-fault trial last September, had the experts done. We know all of the issues; we know all of the medicals. Mr. Krueger's treatment has been—I know everything, State Farm knows everything, he knows everything, there isn't anything new to be discovered." But earlier, in November 2023, State Farm's counsel also sent Krueger a proposed joint discovery plan and said that she wanted to "get discovery moving." Krueger never responded to that email. The record does not show whether State Farm's counsel in fact agreed to forgo discovery and instead shows Krueger's inaction with regard to discovery. Krueger also cites no caselaw, and we are aware of none, supporting his proposition that a party is relieved of his disclosure requirements because he made similar disclosures in another case involving the same parties, but different claims.³ For these reasons, the district court did not abuse its discretion by refusing to accommodate Krueger's failure to comply with the court's scheduling order and the Minnesota Rules of Civil Procedure.

³ Krueger could have filed a request with the district court to modify the discovery procedures, thereby memorializing the purported agreement with State Farm. *See* Minn. R. Civ. P. 29 (providing that parties can stipulate to "modify other procedures governing or limitations placed upon discovery").

Likewise, we discern no abuse of discretion in the district court’s denial of Krueger’s motion to amend his complaint. When considering whether to grant a motion for leave to amend the complaint, a district court can consider whether the moving party acted with diligence in moving to amend their pleading. *Meyer v. Best W. Seville Plaza Hotel*, 562 N.W.2d 690, 694 (Minn. App. 1997), *rev. denied*, (Minn. June 26, 1997). By his own admission, Krueger was aware of the loss-of-consortium claim during settlement negotiations in April 2023, yet he did not include it in his June 2023 complaint. And in October 2023, Krueger recognized his failure to assert the claim but still did not move for leave to amend the complaint. Only in April 2024, after the discovery deadline and roughly one month before the scheduled trial date, did Krueger finally move for leave to amend his complaint. Given Krueger’s failure to diligently move to amend his complaint, the district court did not abuse its discretion by denying Krueger’s motion.

We also note that our function “is limited to identifying errors and then correcting them.” *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988). As the appellant, Krueger has the burden of proving reversible error. *Waters v. Fiebelkorn*, 13 N.W.2d 461, 464-65 (Minn. 1944). Krueger’s arguments lack legal citation and are based largely on unsupported assertions of fact. Appellate courts generally regard such arguments as forfeited. *See Schoepke v. Alexander Smith & Sons Carpet Co.*, 187 N.W.2d 133, 135 (Minn. 1971) (stating that assignments of error based on “mere assertion” and not supported by argument or authority are typically forfeited “unless prejudicial error is

obvious on mere inspection”). Because of the inadequacy of Krueger’s briefing, our ability to review the district court’s rulings is significantly hampered.

We are not unsympathetic to Krueger’s appeal. We acknowledge that he seems to have believed that he had an agreement with State Farm and that State Farm’s position during pretrial proceedings on discovery and the proposed amendment was unclear. We also acknowledge that the district court’s scheduling order did not provide definite deadlines. On this record, a different court may have extended discovery deadlines once the trial was continued and permitted Krueger the opportunity to disclose his experts or amend his complaint. But “we are not free to substitute our judgment for that of the [district] court absent a clear abuse of its discretion.” *Arundel v. Arundel*, 281 N.W.2d 663, 667 (Minn. 1979). Krueger neglected to comply with the discovery process in violation of the district court’s scheduling order and the Minnesota Rules of Civil Procedure. He also failed to act diligently in moving to amend his complaint. Accordingly, the district court did not abuse its discretion by excluding his expert opinions, refusing to extend the discovery deadline, and denying his motion to amend the complaint.

Affirmed; motion granted.