This opinion is nonprecedential except as provided by Minn.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
A25-0228

Cyrenus Rubald,
Appellant,

vs.

Rubald Properties, LLC,
Respondent,

Quintin Rubald, III, et al.,
Respondents.

Filed October 20, 2025
Affirmed
Bond, Judge

Crow Wing County District Court
File No. 18-CV-23-1614

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Considered and decided by Ross, Presiding Judge; Bond, Judge; and Jesson, Judge.[*]

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

NONPRECEDENTIAL OPINION

BOND, Judge

Appellant, a member of a closely held limited liability company, challenges the district court's order dismissing his petition to dissolve the company and granting summary judgment in favor of respondents, the company and its two governors. We affirm.

FACTS

Rubald Properties, LLC (the company) is a closely held limited liability company.[1] The company is a successor to Rubald Associates, LLC, which was owned in equal thirds by appellant Cyrenus Rubald (Cyrenus) and his two siblings, Marilyn J. Rubald (Marilyn) and Quintin T. Rubald, Jr. (Quintin II).[2] In 2008, Marilyn and Quintin II transferred all the property of Rubald Associates, LLC to the newly formed company. Cyrenus retained the company known as Rubald Associates, LLC and he sold his 33 1/3 shares in the company to Quintin II. The result of these transactions was that Marilyn owned 33 1/3 percent of the company and Quintin II owned 66 2/3 percent.

At some point between 2008 and 2014, Quintin II transferred his 66 2/3 percent ownership share to the Quintin T. Rubald, Jr. 1996 Revocable Trust (Quintin II's Trust). The co-trustees of Quintin II's Trust are Quintin II's wife and son: respondents Delores Rubald (Delores) and Quintin Rubald III (Quintin III). During this same time period,

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[1] This recitation of facts derives from the summary-judgment record, viewed in the light most favorable to appellant as the non-movant. *See Windcliff Ass'n, Inc. v. Breyfogle*, 988 N.W.2d 911, 916 (Minn. 2023).

[2] Because the individual parties share a last name, we refer to them by their first names.

Marilyn transferred her 33 1/3 percent share to the Marilyn J. Rubald Revocable Trust (Marilyn's Trust).

In 2018, Marilyn died. Upon inheriting Marilyn's estate, Cyrenus assigned the 33 1/3 percent ownership share in the company from Marilyn's Trust to himself. Consequently, Cyrenus holds 33 1/3 percent ownership in the company. The remaining 66 2/3 percent ownership of the company continues to be held by Quintin II's Trust. Quintin III is the chief manager/president of the company and Delores serves as the company's secretary/treasurer. While Cyrenus is a member of the company, Delores and Quintin III are the only two governors.

The company's bylaws state that "the business and affairs of the Company shall be managed by or under the direction of its Board of Governors." Governor meetings "may be held at such times and places as shall from time to time be determined by the Board of Governors." Member meetings are held "on an annual or less frequent periodic basis" and a member may call a meeting if none has been held for a period of 15 months. In addition, a member holding more than ten percent of the voting power can call a special meeting. Finally, the bylaws permit a member to inspect and copy relevant company records.

In May 2023, Cyrenus petitioned the district court to dissolve the company under Minn. Stat. § 322C.0701 (2024) and appoint a receiver to operate the company during and after the dissolution period. The petition for dissolution alleged that Delores and Quintin III, in their capacities as governors of the company, violated their fiduciary duties and duties of loyalty and oppressed Cyrenus in his capacity as a member of the company. In an amended petition, Cyrenus alleged: (1) the company pays Delores an excessive property-management fee; (2) Cyrenus is excluded from the company business decisions; (3) there had been no member or board of governor meetings since 2019; (4) Cyrenus had not been provided with financial information such as quarterly profit and loss statements and his requests for an independent audit of the company's finances had been ignored; and (5) certain shareholder distributions scheduled between January 2022 and April 2023 had not been made to Cyrenus.

Delores and Quinton III moved to dismiss the petition for failure to state a claim under Minn. R. Civ. P. 12.02(e). In their motion, they argued that Cyrenus's allegations of oppressive actions by Delores and Quintin III were derivative claims on behalf of the company and Cyrenus had not complied with the derivative-claims pleading requirements of Minn. R. Civ. P. 23.09 and Minn. Stat. §§ 322C.0901-.0902 (2024). The district court denied the motion to dismiss, determining that Cyrenus adequately pleaded a direct claim because his complaint alleged conduct warranting dissolution, which was a form of relief available only to individuals and not to the company.

The parties proceeded with discovery. The undisputed evidence produced during discovery, including from the depositions of Cyrenus and Quintin III, reflects that Cyrenus: has never called for a regular or special member meeting; is not entitled under the bylaws to call for a governors meeting; before petitioning for dissolution, had never made a formal request to inspect company records; had received corporate tax documents; and had no evidence that he had not received his pro rata share of distributions.[3] As to the

[3] Cyrenus testified that he believed it would be futile to formally request documents or meetings.

distributions, Cyrenus clarified that the references in his amended petition to distributions referred to the property-management fee paid to Delores.

After discovery was complete, Delores and Quinton III moved for summary judgment and to dismiss the petition for dissolution with prejudice. Delores and Quinton III argued that Cyrenus's allegations reflected personal grievances and dissatisfaction with business decisions but did not qualify as oppressive conduct as a matter of law. Delores and Quintin III further argued that Cyrenus's claims were, at most, derivative claims that Cyrenus failed to adequately plead. Cyrenus opposed the summary-judgment motion, asserting that there were genuine issues of material fact in dispute relating to whether Delores and Quintin III's conduct was oppressive.

In October 2024, the district court held a summary-judgment hearing. As relevant to this appeal, Delores and Quinton III argued that the undisputed evidence from the summary-judgment record established that (1) Cyrenus received all distributions to which he was entitled; (2) the company did not fail to hold any meetings that were required by law or the company's governing documents; (3) the challenged conduct and decisions, including the amount of Delores's monthly management fee, were permissible management decisions; and (4) the company had not failed to provide Cyrenus any information to which he was entitled. Delores and Quintin III argued that, given these undisputed facts, Cyrenus's allegations of oppressive conduct fail as a matter of law. And they argued that because Cyrenus alleged only harm to the corporation, his claims were inadequately pleaded derivative claims.

In response, Cyrenus asserted that, whether Delores and Quintin III's words and actions constituted oppressive conduct, was a disputed factual issue appropriate for trial. In particular, Cyrenus called the district court's attention to Delores's deposition testimony that indicated, in Cyrenus's view, that Delores believed that Cyrenus did not have any ownership interest in the company.

Following the hearing, the district court filed an order granting Delores and Quintin III's summary-judgment motion. The district court's order contained a single sentence explaining its reasoning:

> The Court concludes that all of Plaintiff's claims are derivative which must be brought on behalf of the LLC rather than a direct action by Plaintiff. *Nw. Racquet Swim & Health Clubs, Inc. v. Deloitte & Touche*, 535 N.W.2d 612, 617 (Minn. 1995).

Cyrenus appeals.

DECISION

Cyrenus argues that the district court erred by granting summary judgment in favor of Delores and Quintin III. Summary judgment is appropriate if the moving party shows that "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. We review a district court's summary-judgment decision de novo, viewing the evidence in the light most favorable to the nonmoving party without weighing the facts. *Visser v. State Farm Mut. Auto. Ins. Co.*, 938 N.W.2d 830, 832 (Minn. 2020); *see also DLH, Inc. v. Russ*, 566 N.W.2d 60, 70 (Minn. 1997).

In a summary-judgment appeal, "we examine whether there are any genuine issues of material fact and whether the district court erred in its application of the law." *Kenneh v. Homeward Bound, Inc.*, 944 N.W.2d 222, 228 (Minn. 2020). "Fact issues exist when reasonable persons might draw different conclusions from the evidence presented." *Hanson v. Dep't of Nat. Res.*, 972 N.W.2d 362, 372 (Minn. 2022) (quotation omitted). However, "[s]peculative assertions are insufficient to create a genuine issue of material fact on a motion for summary judgment." *Minn. Sands, LLC v. County of Winona*, 940 N.W.2d 183, 197-98 (Minn. 2020); *see also Nicollet Restoration, Inc. v. City of St. Paul*, 533 N.W.2d 845, 848 (Minn. 1995) ("Speculation, general assertions, and promises to produce evidence at trial are not sufficient to create a genuine issue of material fact for trial."). A defendant's motion for summary judgment is "appropriate as a matter of law when the record is devoid of proof on an essential element of the plaintiff's claim." *Cargill Inc. v. Jorgenson Farms*, 719 N.W.2d 226, 232 (Minn. App. 2006).

Cyrenus sought dissolution pursuant to Minn. Stat. § 322C.0701, which states, as relevant here, that an LLC

> is dissolved, and its activities must be wound up . . .
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> . . . .
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> (5) on application by a member . . . on the grounds that the . . . governors . . .
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> . . . .
>
> (ii) have acted or are acting in a manner that is oppressive and was, is, or will be *directly* harmful to the applicant[.]

Minn. Stat. § 322C.0701, subd. 1(5)(ii) (emphasis added). "Oppressive" means conduct "engaged in by one or more . . . governors of a board-managed limited liability company" that occurs with respect to the applicant member's capacity as a member of an LLC and

> that is unfairly prejudicial to the applicant member in a capacity [as a member], because the conduct frustrated an expectation of the applicant member that:
> (i) is reasonable in light of the reasonable expectations of the other members;
> (ii) was material to the applicant's decision to become a member of the limited liability company or for a substantial time has been material during the member's continuing membership;
> (iii) was known to other members or that the other members had reason to know; and
> (iv) is not contrary to the operating agreement as applied consistently with the contractual obligation of good faith and fair dealing under section 322C.0409, subdivision 4.

Minn. Stat. § 322C.0102, subd. 18(a)(3) (2024). "[C]onduct . . . includes words, action, inaction, and any combination of words, action, or inaction," however, conduct "is not oppressive solely by reason of a good faith disagreement as to the content, interpretation, or application of the company's operating agreement." *Id.*, subd. 18(b) (2024).

The district court granted summary judgment to Delores and Quintin III on the ground that Cyrenus's claims are derivative, not direct, claims that must be brought on behalf of the company.[4] Generally, "an individual shareholder may not assert a cause of

[4] The district court's single-sentence ruling did not discuss Cyrenus's specific claims, identify evidence from the summary-judgment record, or explain its reasoning beyond citing *Nw. Racquet Swim & Health Clubs, Inc. v. Deloitte & Touche*, 535 N.W.2d 612 (Minn. 1995). We observe that "it is difficult to provide appellate review when the district court fails to state reasons justifying its decision." *St. Louis Park Post No. 5632 v. City of St. Louis Park*, 687 N.W.2d 405, 409-10 (Minn. App. 2004).

action that belongs to the corporation." *Nw. Racquet Swim & Health Clubs*, 535 N.W.2d at 617. A shareholder may, however, pursue a cause of action on behalf of the corporation if the corporation has failed to do so. *Janssen v. Best & Flanagan*, 662 N.W.2d 876, 882 (Minn. 2003). "A shareholder derivative suit is a creation of equity in which a shareholder may, in effect, step into the corporation's shoes and seek in its right the restitution he could not demand in his own." *In re UnitedHealth Group Inc. S'holder Derivative Litig.*, 754 N.W.2d 544, 550 (Minn. 2008) (quotation omitted).

To determine whether a claim is direct or derivative, a court must determine "whether the complained-of injury was an injury to the shareholder directly, or to the corporation." *Wessin v. Archives Corp.*, 592 N.W.2d 460, 464 (Minn. 1999). A court must "look not to the theory in which the claim is couched, but instead to the injury itself." *Id.* If a shareholder has indirectly sustained an injury that directly affects the corporation, the shareholder may assert only a derivative claim. *Id.* Appellate courts review the question of whether a claim is direct or derivative de novo. *In re Medtronic, Inc. S'holder Litig.*, 900 N.W.2d 401, 405 (Minn. 2017).

In *Wessin*, the supreme court considered whether an action that alleged, in part, "waste of corporate assets by the majority shareholder," including "the payment of dividends" to the majority shareholder, involved direct or derivative claims. 592 N.W.2d at 462, 465. Focusing on whether "the complained-of injury was an injury to the shareholder directly, or to the corporation," the supreme court held that "[t]hese claims are traditional derivative claims that rightfully belong to the corporation." *Id.* at 464-65. The supreme court reasoned that "the injuries alleged by [appellants] hinge on the waste and misappropriation of corporate assets" and "[a]ny damage claimed by the [minority shareholders] arises only from their status as existing shareholders." *Id.*

Similarly, in *Blohm v. Kelly*, a minority shareholder alleged that a majority shareholder and sole officer and director "abused his position in the corporation by paying himself excessive compensation and by using corporate assets to discharge personal debts and debts of another business." 765 N.W.2d 147, 153 (Minn. App. 2009). We concluded that "[i]f true, the alleged conduct reduced the assets of the corporation in the first instance. Corporate assets do not belong to the stockholders, but to the corporation." *Id.* (quotation omitted). Because the alleged distributions only indirectly injured the plaintiff, the plaintiff's injury was not "separate, distinct, and independent from the corporation's injury." *Id.* (citing *Wessin*, 592 N.W.2d at 464). Thus, the alleged injury was primarily an injury to the corporation, and the plaintiff's claim was derivative, not direct. *Id.* at 154.

Cyrenus argues that there are disputed genuine issues of material fact whether his claims are derivative claims that must be brought on behalf of the company, or direct claims for dissolution that he is entitled to bring on his own behalf. Cyrenus does not differentiate between his claims in making this argument, but his brief appears to focus on "the unfairness of the payment to Delores Rubald for doing virtually nothing," his exclusion from business decisions and governors' meetings, and the lack of member meetings.

We conclude that Cyrenus's claims challenging Delores's management fee are improperly pleaded derivative claims. As was the case in *Wessin* and *Blohm*, Cyrenus's claims regarding excessive or improper payments to Delores, if true, allege a reduction or waste of corporate assets. *See Wessin*, 592 N.W.2d at 465; *Blohm*, 765 N.W.2d at 154.

Because corporate assets belong to the corporation, not the stockholders, any injury does not belong to the stockholders, but to the corporation. *Blohm*, 765 N.W.2d at 153. Insofar as Cyrenus asserts that the company's excessive payments to Delores improperly reduced his member distributions, Cyrenus's injuries are indirect injuries in the form of pro rata distributions that were proportionately reduced by the amount of monthly management fees the company paid Delores. Because the payment of Delores's management fee only indirectly injured Cyrenus, his injury was not "separate, distinct, and independent from the corporation's injury." *Id.*

We reach a similar conclusion as to Cyrenus's claims related to lack of member meetings and his exclusion from governor meetings and business decisions. Cyrenus neither expressly argues nor cites authority for the proposition that he sustained direct injuries by being excluded from business meetings and company decisions.[5] But even if Cyrenus's allegations regarding exclusion from business decisions and lack of company meetings could be construed as direct claims, Cyrenus's allegations do not constitute oppressive conduct under Minn. Stat. § 322C.0102, subd. 18(a), as a matter of law. *See Myers v. Price*, 463 N.W.2d 773, 775 (Minn. App. 1990), *rev. denied* (Minn. Feb. 4, 1991) (stating that appellate courts "will affirm [a] judgment if it can be sustained on any

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[5] In support of his assertion that Delores and Quintin III improperly excluded him from business decisions, Cyrenus points to Delores's deposition testimony in which, Cyrenus claims, Delores appears to deny Cyrenus's membership interest in the company. During her deposition, the then 84-year-old Delores stated multiple times that she was confused by the questions asked and found being deposed overwhelming and stressful. After the deposition, Delores completed an errata sheet with corrected answers, clarifying that she believed Cyrenus owned a 33 1/3 percent interest in the company.

ground”). As relevant here, “oppressive” means conduct by governors of a board-managed limited liability company that frustrates another member’s “reasonable expectations.” Minn. Stat. § 322C.0102, subd. 18(a). It is undisputed that, because he is not a governor, Cyrenus is not entitled under the bylaws to make business decisions on behalf of the company or call a governor’s meeting. And while the bylaws provide that any member owning three percent or more of the member voting power may call a regular member meeting if at least 15 months has passed without a member meeting, Cyrenus never attempted to call a member meeting. While we recognize Cyrenus’s frustration stemming from his inability to be more involved in the company business, to defeat summary judgment he must “present specific facts showing that there is a genuine issue for trial.” *DLH, Inc.*, 566 N.W.2d at 69 (quotation omitted).

Finally, in his petition for dissolution, Cyrenus claimed that he had not received certain scheduled shareholder distributions, that there had been no independent audit of company finances, and that financial documents had been withheld. According to the undisputed evidence in the summary-judgment record, Cyrenus received his pro rata share of shareholder distributions, did not make a formal request to inspect the company’s books, and received financial documents to which he was entitled. On appeal, Cyrenus does not present legal arguments addressing these alleged injuries. We do not consider inadequately briefed issues. *See Melina v. Chaplin*, 327 N.W.2d 19, 20 (Minn. 1982) (concluding an issue not briefed is deemed forfeited).

We therefore conclude that the district court did not err in granting summary judgment to Delores and Quintin III and dismissing Cyrenus's petition for dissolution of the company.

Affirmed.