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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-0534**

In re the Marriage of:

Margarita Alexandra Johannson, petitioner,
Appellant,

vs.

John Joseph Johannson,
Respondent.

**Filed May 26, 2026
Affirmed
Cochran, Judge**

Hennepin County District Court
File No. 27-FA-19-5435

Susan A. Daudelin, Mylene A. Landry, Henschel Moberg, P.A., Minneapolis, Minnesota
(for appellant)

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respondent)

Considered and decided by Cochran, Presiding Judge; Larkin, Judge; and Smith,
John, Judge.*

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

NONPRECEDENTIAL OPINION

COCHRAN, Judge

In this marital-dissolution dispute, appellant-wife argues the district court erred by concluding that the parties' antenuptial agreement is valid and enforceable. She further argues that the district court abused its discretion in its award of assets. We affirm.

FACTS

The following facts are drawn from the district court's order and supplemented by testimony in the record as necessary to address the issues on appeal.

Parties' Early Relationship

Appellant Margarita Alexandra Johansson (wife) was born in Colombia. She moved to the United States with her family in 1984. She graduated from high school in Florida in 1988 and received a bachelor's degree in systems engineering from Florida International University. She later received a Master's in Business Administration (MBA) from Florida International University while working for a company that specialized in commodity shipping. In that role, wife was responsible for negotiating the purchase and procurement of items that ranged "from cents up to thousands of dollars." She then moved to Houston, Texas, where she worked in the procurement department of another company.

Respondent John Joseph Johansson (husband) grew up in Minnesota and graduated from high school in 1980. He went to college at the University of Wisconsin-Madison and studied real estate. Husband was briefly married once before meeting wife. After college, he had a brief career as a professional hockey player, but eventually began working in the

real estate industry, where he continued to work as of the time of the dissolution proceedings.

Wife and husband met in 1996 in Miami Beach, Florida. The two began a long-distance relationship, seeing each other regularly around 2000, while wife lived in Miami and Houston and husband lived in Minnesota. Husband would pay for wife to travel to see him, sometimes in Houston, sometimes in Minnesota, and sometimes in Miami. On Memorial Day weekend in 2002, husband and wife became engaged.

Antenuptial Agreement

Husband testified that before the proposal, wife was “very unaware of the assets [husband] had.” He therefore felt the need to explain his financial situation to wife the weekend the parties got engaged, and showed her financial statements and a spreadsheet of his assets, which were worth approximately \$20 to \$22 million at the time. According to husband, wife responded that she was surprised by the value of husband’s assets, but insisted that she was not marrying husband for his money and understood why he wanted an antenuptial agreement to protect his assets. Wife testified that she was not presented with this spreadsheet until far after the proposal, around the Fourth of July weekend. The district court found that although “[t]here is some disagreement as to when this conversation occurred, . . . it did occur before the parties’ marriage.” In October 2002, husband told wife that she needed to retain her own attorney to represent her with regard to negotiation of the antenuptial agreement. After several discussions on the topic of wife retaining an attorney, wife asked husband to help her find an attorney. Husband contacted his own attorney, who identified an attorney at another firm. The attorney, D.J., had

previously represented a client in a family law matter in which husband's attorney was on the opposite side, and D.J. had no personal relationship with husband's attorney.

Wife had a meeting with D.J. on December 10, 2002. Following the meeting, wife told husband she would receive more money in a divorce if she did not sign the antenuptial agreement.

Immediately after their meeting and before wife signed the antenuptial agreement, D.J. sent wife a letter by personal delivery asking her to respond to a few follow-up questions and stating that "the Agreement will remain in full force and effect should there be an event which causes judicial review and enforcement of the Agreement." He also encouraged her to ask any questions and to schedule a time to conduct a full review of the document.

The next day, December 11, D.J. sent her another letter by personal delivery. The letter summarized their December 10 conversation noted that wife did not want to discuss the proposed antenuptial agreement in detail, and advised wife to consider negotiating provisions of the antenuptial agreement. In relevant part, the letter informed wife:

It is my further understanding that you wish no modification of the Agreement nor do you desire to discuss the Agreement to the extent I have recommended. Therefore, upon [husband's attorney's] insertion of some minor additions, you would like to sign the Agreement and return it to [husband's attorney] as soon as possible.

Obviously, *I must advise you to take a different position*, and discuss the agreement with me in detail. However, I will defer to your desires.

As you may recall, I gave you a copy of the Agreement. I asked that you review it and contact me, immediately. There are

several issues I wanted you to review and which need extended discussion. However, because this is such an emotional process, *you elected to not review the Agreement, in any great detail*, and preferred that I not submit my opinion for additions/revisions to the Agreement nor to advise you to any extended degree. In other words, for all intents and purposes, you wish to sign the Agreement “as is.”

(Emphasis added.) Wife signed the antenuptial agreement on December 13.

On December 16, D.J. sent a letter to husband’s attorney, enclosing the antenuptial agreement with wife’s signature. In the letter, D.J. also stated that wife “did not like this process. She was never angry, but was distraught. I believe [husband] convinced [wife], in a proper and sincere fashion, that he has the best intentions and the Agreement, given quantity of his estate, was a necessity.”

Relevant terms of the antenuptial agreement included:

2.2.1 Except as otherwise provided in this Agreement, each party will retain his or her Non-Marital Property free and clear of any claim or right of the other. The parties specifically waive any right to an invasion of Non-Marital Property pursuant to Minn. Stat. §518.58, Subd. 2, except as otherwise provided herein.

2.2.2 Except as otherwise provided in this Agreement, each party shall be released from all obligations to the other and each party renounces any right to claim any alimony or maintenance, whether temporary or permanent.

2.2.3 Each party shall retain his or her Non-Marital Property free of any right or claim of the other, except that any assets acquired during the marriage, from the Non-Marital Property of both parties, shall be divided between the parties in proportion to the actual monetary consideration provided by each; and any such assets that cannot be so divided shall be sold, and the net proceeds attributable to each party’s contributions shall be distributed to such party.

The antenuptial agreement also specified that wife had no non-marital property. Additionally, each party waived the right to claim spousal maintenance.

As consideration for the terms of the antenuptial agreement, the agreement provided that, in the event a marital dissolution is commenced after at least three years of marriage, husband will pay wife an annual sum equal to \$50,000 (subject to cost of living adjustments) or ten percent of husband's adjusted gross income, whichever is less, and the payments will continue until wife's remarriage or husband's death, whichever occurs first. And, in the event the marriage dissolves after at least one year of marriage, husband also will purchase a home for wife in the Minneapolis/St. Paul metropolitan area with a value of up to \$300,000, subject to a one-time cost of living adjustment, free and clear of any encumbrances. But the antenuptial agreement also provided that if the parties have one or more children, husband will retain title to the home, and he will not convey title to wife until four years after the youngest child graduates from high school. The antenuptial agreement acknowledged that the parties "reasonably anticipate[d]" husband's net worth and income to increase as much as two to ten times his present income. The antenuptial agreement was fully executed on December 20, 2002, after husband signed it.

Marriage and Dissolution

Wife and husband were married in January 2003. At the time, wife was 33 years old and husband was in his early 40s. After the wedding, wife did not return to work. The couple lived in Minnesota, had four children, and wife was the primary caretaker for the children. In August 2019, wife filed a petition to dissolve the marriage.

In 2022, the district court held the first portion of a bifurcated trial at which the court addressed wife's legal challenges to the antenuptial agreement. At the time of trial, the parties' four children were 13, 15, 16, and 18 years old. According to the terms of the antenuptial agreement, wife would not take title of the home to be purchased for her by husband until 2031. During the dissolution proceeding, wife began working a part-time job at a clothing store, working 15-20 hours a week. At the trial, the court heard testimony from husband's attorney, wife's attorney (D.J.), husband, and wife.

In October 2022, the district court issued an order denying wife's challenges to the antenuptial agreement. The court found that: (1) the antenuptial agreement was valid under the common law, (2) husband made a full and fair disclosure of his assets to wife well in advance of the wedding, (3) there was adequate consideration because husband agreed spousal maintenance for life and to buy wife a home worth \$476,000, (4) both parties had knowledge of the material particulars, (5) the antenuptial agreement "was not procured by an abuse of fiduciary relations, undue influence or duress," (6) the antenuptial agreement was valid under Minnesota Statutes section 519.11(2022), and (7) the antenuptial agreement was substantively fair. The court also made additional rulings not at issue here. Notably, despite the fact that the language of the antenuptial agreement states that husband would pay wife \$50,000 a year "until [wife's] remarriage or [husband's] death, whichever first shall occur," the district court credited husband's testimony that spousal maintenance was a lifetime award to wife.

In May 2023, wife filed a notice of appeal from the October 2022 order. We dismissed the appeal as premature because there were other issues pending before the

district court, including custody and parenting time. *See Johansson v. Johansson*, No. A23-0782, 2023 WL 4113358, at *1 (Minn. App. June 20, 2023) (order).

In June 2024, after a trial on custody and parenting time, the district court filed a judgment and decree (J&D). In relevant part, the J&D granted wife “her personal property and belongings, including, but not limited to, jewelry and all other tangible personal property in wife’s possession.” Husband filed a motion to correct clerical errors, which resulted in an amended J&D on February 12, 2025. The amended J&D only granted wife the personal property that she owned before the marriage. The amended J&D also changed the requirement that husband purchase a home for wife to a requirement that husband pay wife a lump sum payment of \$476,000 for the purposes of wife purchasing a house, with no requirement that title be temporarily vested in husband.

Wife appeals.

DECISION

Wife raises two main arguments on appeal. First, she argues that the district court erred when it concluded that the antenuptial agreement is valid and enforceable. Second, she argues that the district court abused its discretion in its distribution of assets. We discern no basis for reversal.

I. The district court did not err by concluding that the antenuptial agreement is valid and enforceable.

Wife contends that the district court erred by determining that the parties’ antenuptial agreement is valid, raising several arguments in support. The validity of an antenuptial agreement is a question of law subject to de novo review. *Siewert v. Siewert*,

691 N.W.2d 504, 506 (Minn. App. 2005), *rev. denied* (Minn. May 17, 2005). We review disputed findings of fact for clear error. Minn. R. Civ. App. P. 52.01; *see also Vangsness v. Vangsness*, 607 N.W.2d 468, 472 (Minn. App. 2000).

“An antenuptial agreement is a type of contract recognized and favored at common law.” *Pollock-Halvarson v. McGuire*, 576 N.W.2d 451, 455 (Minn. App. 1998), *rev. denied* (Minn. May 28, 1998). “Antenuptial agreements must be fair, both procedurally and substantively.” *Kremer v. Kremer*, 912 N.W.2d 617, 621 (Minn. 2018). Wife contends that the parties’ antenuptial agreement is invalid because it is both procedurally and substantively unfair. We consider wife’s arguments related to procedural fairness before addressing those pertaining to substantive fairness.

A. The antenuptial agreement is procedurally fair.

Wife argues the parties’ antenuptial agreement is procedurally unfair, challenging the district court’s factual findings on the applicable factors and its ultimate determination that the agreement is procedurally fair.

“Whether the [a]greement is procedurally fair is a mixed question of law and fact.” *Id.* at 627. Appellate courts review questions of law *de novo* and questions of fact for clear error. *Id.*; *Vangsness*, 607 N.W.2d at 472. In applying the clear-error standard, this court views the record in the light most favorable to the district court’s findings. *Id.* We also defer to the district court’s credibility determinations. *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988). “That the record might support findings other than those made by the [district] court does not show that the [district] court’s findings are defective.” *Vangsness*, 607 N.W.2d at 474.

Procedural fairness is governed by Minnesota Statutes section 519.11 and common law. *Kremer*, 912 N.W.2d at 622. Section 519.11, subdivision 1, governs procedural fairness regarding provisions of an antenuptial agreement that distribute nonmarital assets and provides in relevant part:

A man and woman of legal age may enter into an antenuptial contract or settlement prior to solemnization of marriage which shall be valid and enforceable if (a) *there is a full and fair disclosure of the earnings and property of each party*, and (b) *the parties have had an opportunity to consult with legal counsel of their own choice*. An antenuptial contract or settlement made in conformity with this section may determine what rights each party has in the nonmarital property, defined in section 518.003, subdivision 3b, upon dissolution of marriage, legal separation or after its termination by death and may bar each other of all rights in the respective estates not so secured to them by their agreement.

Minn. Stat. § 519.11 , subd. 1 (emphasis added).^{1,2} If an antenuptial agreement satisfies subdivision 1, then the provisions of the agreement that distribute nonmarital property are procedurally fair as a matter of law. *Kremer*, 912 N.W.2d at 624. If an antenuptial agreement does not satisfy subdivision 1, then the question of whether the provisions that distribute nonmarital property are procedurally fair must be answered by common law. *Id.*

¹ Section 519.11 also requires that an antenuptial agreement “be in writing, executed in the presence of two witnesses and acknowledged by the parties” at least one day before the marriage takes place. Minn. Stat. § 519.11, subd. 2.

² In 2024, the legislature amended the statute governing antenuptial agreements. *See* 2024 Minn. Laws ch. 101, art. § 1. The amended statute “applies to all antenuptial and postnuptial agreements executed on or after August 1, 2024.” Minn. Stat. § 519.11, subd. 6 (2024). Because the changes to these statutes became effective August 1, 2024, and because the district court determined the antenuptial agreement was valid before this date, we review the decision under the former statute.

Additionally, if the antenuptial agreement distributes marital property in addition to nonmarital property, the common law test applies to determine whether the marital-property provisions are procedurally fair. *Id.* Under the common law test, courts consider four factors to analyze procedural fairness:

(1) whether there was fair and full disclosure of the parties' assets; (2) whether the agreement was supported by adequate consideration; (3) whether both parties had knowledge of the material particulars of the agreement and of how those provisions impacted the parties' rights in the absence of the agreement; and (4) whether the agreement was procured by an abuse of fiduciary relations, undue influence, or duress.

In re Est. of Kinney, 733 N.W.2d 118, 124 (Minn. 2007); *see also Kremer*, 912 N.W.2d at 626 (upholding this multifactor test). Procedural fairness is determined by weighing the common-law factors, with no one factor being dispositive. *See Kremer*, 912 N.W.2d at 627-29 (analyzing an antenuptial agreement "as a whole"). Appellate courts also consider whether the parties had an opportunity to consult with independent counsel, although such an opportunity is not required for an antenuptial agreement to be valid under the common law test. *Kinney*, 733 N.W.2d at 124; *see Kremer*, 912 N.W.2d at 625-26.

Wife contends the antenuptial agreement is procedurally unfair under both the common law and statutory frameworks. Because the common-law analysis overlaps with the statutory analysis, we first consider whether the antenuptial agreement is procedurally fair by examining the common-law factors before turning to the statutory analysis. *Kremer*, 912 N.W.2d at 624, 626.

First Common-Law Factor: Full and Fair Disclosure

The record reflects that, after husband proposed, he gave wife a copy of his most recent financial statement. Wife does not challenge that husband made a full and fair disclosure of his assets and income prior to the antenuptial agreement. Based on our review of the record, we discern no basis for concluding the district court clearly erred in finding that this factor was met.

Second Common-Law Factor: Adequate Consideration

When considering whether an antenuptial agreement is procedurally fair at common law, courts consider “whether the agreement was supported by adequate consideration.” *Kinney*, 733 N.W.2d at 124. Ordinarily, consideration is easily satisfied, as courts accept “any exchange that has value under the law.” *Kremer*, 912 N.W.2d at 627. But courts require more in the context of antenuptial agreements “[b]ecause antenuptial agreements typically involve parties in a confidential relationship, capable of exploitation.” *Id.* As a result, courts “inquire into whether consideration supporting antenuptial agreements is ‘adequate.’” *Id.* (quoting *Kinney*, 733 N.W.2d at 122-23).

To determine whether an antenuptial agreement is supported by adequate consideration, courts “examine the circumstances surrounding the execution and enforcement of antenuptial agreements to determine whether they are fair and equitable.” *Id.* An antenuptial agreement is not supported by adequate consideration if it does not sufficiently provide for the financially disadvantaged spouse. *See id.*

Wife asserts that there was inadequate consideration to support the antenuptial agreement because the \$50,000 annual spousal support payment plus cost-of-living

adjustments “is far less than [wife] would have been entitled to in 2022 given the length of the marriage and the marital standard of living.”³ We are not persuaded.

The terms of the antenuptial agreement as written provide spousal maintenance in excess of \$79,000 per year (taking into account cost-of-living adjustments) for the duration of husband’s life and title to a home worth approximately \$476,000. And wife has an MBA. This award is greater than the award in *Serbus*, where the wife received only “the sum of \$4,000 and a life estate in the homestead and its furnishings.” *In re Est. of Serbus*, 324 N.W.2d 381, 385 (Minn. 1982). It is also distinguishable from *Kremer*, where wife received no alimony or spousal maintenance under the antenuptial agreement, 912 N.W.2d at 628, and from *Slingerland v. Slingerland*, 132 N.W. 326, 328 (Minn. 1911) where the antenuptial agreement left the wife “penniless.”

We conclude that, under the facts of this case, the spousal maintenance and house awarded to wife under the antenuptial agreement sufficiently provides for wife and

³ Wife also challenges the district court’s findings that husband “agreed to pay permanent spousal maintenance” to wife for her life and buy a home worth \$476,000. This amount was adjusted from the \$300,000 originally contemplated in the agreement pursuant to a cost-of-living adjustment which neither party disputes. The original language of the agreement provided husband would pay wife \$50,000 a year with cost-of-living adjustments “until [wife’s] remarriage or [husband’s] death, whichever first shall occur.” She asserts that husband’s agreement at trial to pay spousal maintenance for her life constitutes a unilateral attempt by husband to modify the consideration for the agreement, in an effort “to make it more difficult for [her] to prevail on appeal from a determination that the Agreement is valid.” For purposes of our review, we assume without deciding that the district court erred in construing the agreement on the basis of husband’s oral amendments at trial rather than construing the terms as written in the agreement. We therefore consider whether the agreement was valid as written and do not rely on the oral modifications. However, nothing in this opinion is intended to affect the husband’s agreement at trial to provide wife with lifetime maintenance and title to the home.

therefore the district court did not clearly err when it found that the antenuptial agreement was supported by adequate consideration. But even if we were to assume that the antenuptial agreement was not supported by adequate consideration, we would still affirm the district court's determination that the common-law factors support a determination of procedural fairness because the other three factors support the determination that the antenuptial agreement is procedurally fair. *See, e.g., Serbus*, 324 N.W.2d at 385-86 (explaining that an antenuptial agreement was procedurally fair even though it was not supported by adequate consideration); *Hill v. Hill*, 356 N.W.2d 49, 53-54 (Minn. App. 1984) (same).

Third Common-Law Factor: Knowledge of Material Particulars

Wife next argues that she lacked knowledge of material particulars of the antenuptial agreement because husband was not honest with wife about the agreement. We are not persuaded.

The district court found that wife had knowledge of the particulars of the antenuptial agreement and how it impacted her rights. The district court noted that husband “credibly testified about honestly discussing the document with wife.” And the court found that, given wife’s MBA and experience negotiating, wife “should have been able to understand it on her own, but also had the protection of counsel independent of husband to advise her.” We defer to these credibility determinations. *Sefkow*, 427 N.W.2d at 210.

Additionally, wife testified at trial that she believed she read the entire antenuptial agreement before signing it. And the record demonstrates wife had an opportunity to review the document and its particulars with an attorney. But she chose not to discuss the

antenuptial agreement with her counsel in detail, despite her counsel strongly cautioning her against such action. Consequently, we discern no clear error in the district court's findings on this factor.

Fourth Common-Law Factor: Abuse of Fiduciary Relations, Undue Influence, or Duress

The fourth and final common-law factor that courts consider is “whether the agreement was procured by an abuse of fiduciary relations, undue influence, or duress.” *Kinney*, 733 N.W.2d at 124. “Duress is coercion by means of threats or other circumstances that destroy the victim’s free will and compel her to comply with some demand of the party exerting the coercion.” *Kremer*, 912 N.W.2d at 628. “The test is not the nature of the threats, but rather whether or not the victim really had a choice.” *Id.* (quotation omitted). In assessing this factor, we consider the circumstances surrounding the execution of the antenuptial agreement to determine whether the disadvantaged spouse “acted of her own free will, or whether her free will was overcome by” the advantaged spouse. *Id.*

Wife asserts that she was left without the same opportunity “to spend months reviewing a draft agreement, deciding whether to consult with an attorney of her choosing, taking the time to digest her attorney’s advice, considering the meaning of the terms of the Agreement, absorbing [husband’s] financial disclosures, or engaging in substantial negotiations.” She therefore contends that she was “under significant pressure from [husband] to conclude and sign the agreement” in December, several weeks before the wedding.

We conclude that the district court did not clearly err when it found that the antenuptial agreement was not procured through abuse of fiduciary relations. The factual record indicates that husband discussed with wife that she get an attorney in early October, but wife did not retain one until December 10. But even assuming that wife did not receive the draft antenuptial agreement until December 10, this case still differs significantly from *Kremer*, in which the district court found coercion. In *Kremer*, husband gave wife only three days to review the antenuptial agreement before they were scheduled to depart for their destination wedding and husband threatened to call off the wedding if wife did not sign the agreement. Here, the parties did not get married until January 24, 2003—more than a month after wife retained an attorney. And as noted above, wife has an MBA and had experience negotiating from her past employment. Additionally, wife does not allege that husband threatened to call off the wedding. These circumstances support the district court’s finding that the antenuptial agreement was not procured by abuse of fiduciary duties, undue influence, or duress.

Opportunity to Consult with Counsel

Under the common-law framework, we may also consider whether the parties had an opportunity to consult with independent counsel when determining whether an antenuptial agreement is procedurally fair and equitable and therefore enforceable under common law. *Kinney*, 733 N.W.2d at 124. But such an opportunity is not required for an antenuptial agreement to be valid. *Id.*

Wife argues that she did not have an opportunity to consult with independent counsel because the attorney that she retained was not selected by her, but rather by

husband. In deciding otherwise, the district court credited husband's testimony that he identified an attorney for wife at her request. Additionally, there is no evidence that the wife tried to retain a different attorney or that the attorney she retained was not independent. Rather, the record shows that D.J., whom wife retained, was independent from husband's attorney. D.J. had previously worked on the opposite side of a case from husband's attorney and had no personal relationship with husband's attorney. We therefore decline wife's invitation to set aside the district court's finding that wife had an adequate opportunity to consult with independent counsel.

For the foregoing reasons, we conclude that the district court did not clearly err by finding that the common-law factors favor procedural fairness. Nor did it clearly err by finding that wife had an opportunity to consult with independent counsel.

Statutory Factors

We next consider whether the provisions in the antenuptial agreement meet the statutory requirements for procedural fairness in section 519.11, subdivision 1. This statutory provision creates a "safe harbor" for antenuptial agreements addressing nonmarital property, *Kremer*, 912 N.W.2d at 624, when (1) "there is a full and fair disclosure of the earnings and property of each party" and (2) "the parties have had an opportunity to consult with legal counsel of their own choice." Minn. Stat. § 519.11, subd. 1. If both requirements are met, an antenuptial agreement's distribution of nonmarital property is considered procedurally fair. *Kremer*, 912 N.W.2d at 624.

Wife does not contend that husband failed to make a full and fair disclosure of his earnings and property as required by section 519.11. We therefore confine our analysis to

whether wife had an opportunity to consult with legal counsel of her choice. *Id.* In addressing a similar question in our analysis of the common-law factors, we concluded that the district court did not clearly err by finding that the parties had an opportunity to consult with independent counsel. And, as discussed above, there is no evidence in the record that wife wished to retain a different attorney. We therefore similarly conclude that the district court did not err by determining that, for purposes of section 519.11, subdivision 1, wife had an opportunity to consult with counsel of her choice. Accordingly, we conclude that subdivision 1 provides “safe harbor” to the provisions of the parties’ antenuptial agreement that address nonmarital property. *See id.* We further conclude that the district court did not err in its determination that the antenuptial agreement meets both the common-law and statutory requirements of procedural fairness.

B. The district court properly concluded that the antenuptial agreement was substantively fair.

We next consider wife’s argument that the antenuptial agreement is not valid because it was substantively unfair as applied to her circumstances. “Substantive fairness guards against misrepresentation, overreaching and unconscionability.” *Pollock-Halvarson*, 576 N.W.2d at 455. Antenuptial agreements must be substantively fair at the time of execution *and* the time of enforcement. *McKee-Johnson v. Johnson*, 444 N.W.2d 259, 267 (Minn. 1989). When evaluating substantive fairness at the time of execution, courts consider whether the circumstances at the time of execution show a “potentiality for overreaching by one party over the other due to the relationship existing between them at the time of the execution.” *Id.* When evaluating substantive fairness at

the time of enforcement, courts consider whether a change in the parties' circumstances would render enforcement of the antenuptial agreement "oppressive and unconscionable." *Id.*; see also *Kremer*, 912 N.W.2d at 622.

Wife asserts the antenuptial agreement was not substantively fair either when it was signed or when it was enforced. She claims that "[t]he terms of the agreement in all respects were unconscionable and oppressive" because it "attempted to divest [wife] of any interest in the marital estate no matter how long she was married to [husband]." We are not persuaded.

She argues that "the premises upon which the Agreement's maintenance terms were originally based changed substantially during the marriage," given the increase in husband's income and assets. But, as husband points out, the antenuptial agreement also contemplated an increase in husband's income of two to ten times during the marriage and that the standard of living during the marriage would be "commensurate with the [p]roperty owned and income generated now and in the future by [husband]." Because the record reflects an increase of husband's income and assets in the range contemplated by the parties at the time they executed the antenuptial agreement, we reject this argument.⁴

Wife also argues the antenuptial agreement was unconscionable when executed because husband allegedly "surreptitiously changed" the terms of the agreement to exclude some "up-front cash" that he had promised her. This argument would require this court to

⁴ Not accounting for cost-of-living adjustments, a tenfold increase in this range would amount to \$100,000 to \$170,000. This is well below the \$89,000 monthly spending that wife asserts.

set aside the credibility and factual determinations made by the district court that have support in the record. *See Sefkow*, 427 N.W.2d at 210. Accordingly, we discern no basis to conclude that the district court clearly erred by determining that the parties' antenuptial agreement was substantively fair at the time of execution and at the time of enforcement.

II. Wife's challenges to the implementation of the antenuptial agreement do not warrant reversal.

Wife also challenges the district court's distribution of property under the antenuptial agreement. She asserts that the district court abused its discretion (1) because husband did not meet his burden of proof as to non-marital property and (2) by awarding husband all personal property in the home. We address each argument in turn.

A. Wife forfeited her argument that the district court abused its discretion in failing to hold husband to his burden of proof.

For the first time on appeal, wife contends that the district court abused its discretion in its award of property because husband did not prove which assets were non-marital property under the terms of the antenuptial agreement. Wife concedes that she failed to raise the issue before the district court. And she asks this court to set aside longstanding precedent holding that "[a] reviewing court must generally consider only those issues that the record shows were presented and considered by the trial court in deciding the matter before it." *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (quotation omitted).

We acknowledge that the *Thiele* rule is not "ironclad." *Putz v. Putz*, 645 N.W.2d 343, 350 (Minn. 2002); *see also* Minn. R. Civ. App. P. 103.04 (noting that appellate courts may address issues as justice requires and rulings affecting the ruling from which an appeal is taken); *Kunza v. St. Mary's Reg. Health Ctr.*, 747 N.W.2d 586, 589–90

(Minn. App. 2008) (discussing a “well-established” exception wherein an appellate court will consider an issue not decided below where it played a prominent role in briefing and may be dispositive). Wife argues that we should exercise our discretion here because her trial attorney “effectively conceded [husband’s] position that all assets other than those expressly awarded to [wife] under the Agreement belonged to [husband].” But wife does not bring an ineffective-assistance-of-counsel claim on appeal, and whether husband met his burden to demonstrate certain assets were non-marital under the antenuptial agreement was an issue for the district court to decide. Generally, “litigants are bound [on appeal] by the theory or theories, however erroneous or improvident, upon which the action was actually tried below.” *Annis v. Annis*, 84 N.W.2d 256, 261 (Minn. 1957). We therefore decline her invitation to reach the merits of this question and conclude that her argument is forfeited because the issue was not raised before the district court. *Thiele*, 425 N.W.2d at 582.

B. Wife’s argument that the district court abused its discretion by awarding husband all personal property in the home is inadequately briefed.

Wife also argues that the district court abused its discretion when it revised its award of personal property in the home. The district court initially awarded to wife “her personal belongings” including household goods, clothing, shoes, jewelry, handbags, and “all other tangible personal property in [w]ife’s possession or purchased by [w]ife after October 31, 2022.” But upon a motion to correct the record by husband, the court corrected its findings and granted wife only tangible personal property that she owned before the marriage.

Wife argues that husband's request was "draconian" and "intended to punish wife for asserting her defense to the antenuptial agreement."⁵ But wife does not explain how the district court abused its discretion beyond the mere assertion that the award of personal property is "draconian." Wife does not provide any applicable legal authority to support reversal of the district court's order. Wife does cite Minnesota Statutes section 518.58 (2022), but that statute applies in the absence of antenuptial agreement. Here, the parties' antenuptial agreement overrode the provision of section 518.58. *See* Minn. Stat. § 518.003, subd. 3b(e) (2022) (explaining that nonmarital property may be "excluded by a valid antenuptial contract"). And the antenuptial agreement clearly stated that any property acquired during the marriage was husband's property.

Because wife gives no explanation for how the district court abused its discretion in its application of the antenuptial agreement, we conclude this argument is forfeited. *See State, Dep't of Lab. & Indus. v. Wintz Parcel Drivers, Inc.*, 558 N.W.2d 480, 480 (Minn. 1997) (noting that a reviewing court may decline to consider issues that are inadequately briefed). "An assignment of error based on mere assertion and not supported by any argument or authorities" is forfeited "unless prejudicial error is obvious on mere inspection." *Schoepke v. Alexander Smith & Sons Carpet Co.*, 187 N.W.2d 133, 135 (Minn. 1971); *see also Braith v. Fischer*, 632 N.W.2d 716, 725 (Minn. App. 2001) (applying *Schoepke* in a family-law appeal), *rev. denied* (Minn. Oct. 24, 2001).

⁵ At oral argument, husband's counsel conceded that he has no objection to wife keeping the personal property that she took when she left the home and that remains in her possession, which includes clothing, jewelry, and furniture. And wife's counsel was unable to identify any items not currently in her possession for which she sought replevin.

Conclusion

In sum, we conclude that the district court did not err by determining the parties' antenuptial agreement is valid and enforceable. We further conclude that wife has not demonstrated that the district court abused its discretion in its award of property under the antenuptial agreement.

Affirmed.