This opinion is nonprecedential except as provided by Minn.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
A25-0681

MOAC Mall Holdings, LLC,
Appellant,

vs.

The Walking Company,
Defendant,

WalkingCo, LLC f/k/a Walking Company Acquisition LLC,
Respondent.

Filed February 17, 2026
Affirmed in part, reversed in part, and remanded
Bond, Judge

Hennepin County District Court
File No. 27-CV-22-8227

Heidi J. Bassett, Spencer Fane LLP, Minneapolis, Minnesota (for appellant)

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Considered and decided by Bond, Presiding Judge; Worke, 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NONPRECEDENTIAL OPINION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 challenges the summary-judgment dismissal of its claims to void a transfer of assets under the Minnesota Uniform Voidable Transactions Act (MUVTA), Minn. Stat. §§ 513.41-.51 (2024), and for unjust enrichment. Appellant also challenges the district court's partial denial of its motion to compel discovery. We conclude that the district court properly granted summary judgment for respondent on appellant's MUVTA claim because there is no genuine issue of material fact that the property transferred through a public foreclosure auction was encumbered by a valid lien and therefore not an "asset" subject to MUVTA. We further conclude that the district court did not abuse its discretion in its discovery rulings. But we conclude that the district court misapplied the law when it granted summary judgment for respondent on appellant's unjust-enrichment claim. Therefore, we affirm in part, reverse in part, and remand for further proceedings.

FACTS[1]

The Walking Company (TWC) was a footwear retailer that had stores across the country, including one in the Mall of America.[2] TWC leased its space in the mall from appellant MOAC Mall Holdings, LLC (MOAC). In March 2018, TWC's parent company filed for Chapter 11 bankruptcy protection. The subsidiaries, including TWC, emerged

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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 nonmovant. *See Windcliff Ass'n, Inc. v. Breyfogle*, 988 N.W.2d 911, 916 (Minn. 2023).

[2] TWC is not party to this appeal.

from bankruptcy with $10 million in new equity provided by several current owners of TWC and $50 million in financing from Wells Fargo Bank. It is undisputed that TWC pledged substantially all of its assets to secure the loan from Wells Fargo.

TWC continued to experience financial difficulties. After the onset of the COVID-19 pandemic in March 2020, TWC closed stores and stopped paying rent in multiple locations, including the Mall of America, causing it to default on its lease. In part because failure to pay rent violated the loan agreement, Wells Fargo notified TWC in June 2020 that it was in default on its loan. At the time, TWC owed approximately $15 million of senior secured debt to Wells Fargo, in addition to $12 million to second lien bondholders and millions more to unsecured creditors, including MOAC. TWC's secured debt totaled just over $26.8 million.

Throughout the summer and fall of 2020, Wells Fargo and TWC explored ways to recover the $15 million debt. TWC hired an independent evaluator to provide a liquidation proposal and an appraisal of its existing inventory (the 2020 inventory appraisal). The 2020 inventory appraisal estimated the retail value of TWC's inventory to be $100 million and its at-cost value approximately $33 million. Wells Fargo suggested a "fire sale," which would liquidate TWC's inventory and allow a partial recovery of the debt.

Hoping to avoid a fire sale that would only recover pennies on the dollar, TWC's primary shareholder sought investors to purchase TWC's debt from Wells Fargo. To that end, TWC's primary shareholder formed respondent WalkingCo, LLC with a group of investors in order to purchase the loan from Wells Fargo. In November 2020, WalkingCo purchased the $15 million Wells Fargo debt for just over $12 million—a $3 million discount—and Wells Fargo assigned its rights as TWC's lender to WalkingCo, meaning that WalkingCo became TWC's senior secured lender. TWC's assets remained the collateral for the loan and TWC remained in default, now to WalkingCo.

In December, TWC directed its employees to remove TWC's inventory and equipment from its store in the mall and issued "Closing Guidelines" directing employees what to say if mall personnel asked about the inventory removal. TWC told MOAC that it would resolve its unpaid rent, but TWC ceased communication with MOAC and abandoned its lease once its inventory was removed from the mall. That same month, MOAC sued TWC for unpaid rent.

In January 2021, WalkingCo began foreclosure proceedings under Article 9 of the Uniform Commercial Code (UCC) to sell TWC's assets. WalkingCo noticed the foreclosure sale, hired an independent auctioneer to advertise and conduct the auction, and set up a "data room" for prospective buyers to review TWC's available assets. At the same time, TWC investigated options to avoid a foreclosure sale, including working with an investment banking firm to identify potential buyers of TWC and considering Chapter 11 bankruptcy. Ultimately, TWC could not find a buyer and determined it did not have sufficient liquidity for Chapter 11 bankruptcy.

The public foreclosure auction was noticed on January 11 and concluded on February 8. MOAC did not bid; the only offer for TWC's assets was a $5 million credit bid by WalkingCo, which then successfully purchased TWC's assets. Because TWC's assets sold at auction for far less than the total amount of TWC's debt to its secured creditors, MOAC, as an unsecured creditor, did not receive any payments on TWC's unpaid rent. After the foreclosure, TWC terminated its employees and became defunct.

In May 2021, MOAC obtained a default judgment against TWC for more than $1.4 million in unpaid rent.

In May 2022, MOAC commenced this action against WalkingCo, alleging that the foreclosure sale of TWC's assets was a fraudulent transfer voidable under MUVTA and that WalkingCo was unjustly enriched through the transfer of TWC's assets.[3] The parties engaged in discovery,[4] after which WalkingCo moved for summary judgment. After a hearing, the district court granted summary judgment to WalkingCo. Relevant here, the district court determined there was no genuine issue of material fact that TWC's property was "encumbered by a valid lien" and therefore not an "asset" subject to a fraudulent transfer claim under MUVTA, Minn. Stat. § 513.41(2)(i), and that WalkingCo purchased TWC's assets pursuant to a valid UCC foreclosure sale. The district court also dismissed MOAC's unjust-enrichment claim, reasoning that MOAC is prohibited from pursuing an equitable claim as a matter of law because MUVTA provides a statutory framework for recovery.

MOAC appeals.

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[3] MOAC also asserted a claim of successor liability, alleging that WalkingCo was the successor in interest to TWC's lease obligations. The parties agree that the viability of MOAC's successor liability claim depends on the success of its MUVTA claim and do not separately address the successor liability claim on appeal.

[4] We discuss the details of the discovery issue below.

DECISION

I. The district court did not err by granting summary judgment in favor of WalkingCo on MOAC's MUVTA claim, but the district court erred by granting summary judgment in favor of WalkingCo on MOAC's unjust-enrichment claim.

MOAC argues that the district court erred by granting summary judgment in favor of WalkingCo. 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, 72 (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). 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).

MOAC argues the district court improperly granted summary judgment in favor of WalkingCo on its MUVTA claim because there are genuine issues of material fact related to the value of TWC's assets and, thus, whether the assets were fully encumbered by a valid lien at the time of the transfer. As to its unjust-enrichment claim, MOAC contends that the district court misapplied the law when it determined that MOAC could not maintain its unjust-enrichment claim because MUVTA provided MOAC with an adequate remedy at law. We address each issue in turn.

A. The district court did not err in granting summary judgment in favor of WalkingCo on MOAC's MUVTA claim.

MOAC alleged in its complaint that the transfer of TWC's assets to WalkingCo was a voidable transfer under MUVTA. MUVTA provides that "[a] transfer made . . . by a debtor is voidable as to a creditor . . . if the debtor made the transfer . . . with actual intent to hinder, delay, or defraud any creditor of the debtor." Minn. Stat. § 513.44(a)(1).[5] MUVTA seeks to "prevent debtors from placing property that is otherwise available for the payment of their debts out of the reach of their creditors," *Citizens State Bank Norwood Young Am. v. Brown*, 849 N.W.2d 55, 60 (Minn. 2014), by "allow[ing] creditors to recover assets that debtors have fraudulently transferred to third parties," *Finn v. All. Bank*, 860 N.W.2d 638, 644 (Minn. 2015). *See* Minn. Stat. §§ 513.47(a), .48(b).

Under MUVTA, a "transfer" is "every mode, direct or indirect . . . of disposing of or parting with an asset or an interest in an asset." Minn. Stat. § 513.41(16). An "asset" is

[5] MUVTA was previously known as the Minnesota Uniform Fraudulent Transactions Act or MUFTA. Minn. Stat. § 513.51.

the "property of a debtor, but the term does not include . . . property to the extent it is encumbered by a valid lien." *Id.* (2)(i). A "lien" includes a "charge against or an interest in property to secure payment of a debt or performance of an obligation." *Id.* (9). Thus, property "encumbered by a valid lien" is not an "asset" subject to a voidable-transfer claim under MUVTA.

The district court determined that WalkingCo was entitled to judgment as a matter of law because there are no genuine issues of material fact that TWC's assets transferred pursuant to the UCC foreclosure sale were fully encumbered by a valid lien, thereby excluding them from the statutory definition of "assets" under MUVTA. On appeal, MOAC argues that the district court improperly weighed facts and it contends that whether TWC's assets were fully encumbered by a valid lien at the time of transfer is factually disputed.

The summary-judgment record establishes that TWC pledged substantially all of its assets to secure the loan from Wells Fargo in 2018. WalkingCo purchased the $15 million Wells Fargo debt for just over $12 million in November 2020, becoming TWC's senior secured lender. WalkingCo purchased TWC's assets for $5 million at a UCC foreclosure sale in February 2021. The bill of sale between WalkingCo and TWC provides that "[TWC] defaulted under the Loan and [WalkingCo] retained [Auctioneer] to conduct a public sale auction . . . of substantially all of the assets of [TWC], being the Collateral that secures the Loan." The bill of sale further provides that "in consideration of the Credit Bid . . . [TWC] sell[s] . . . all of [TWC's] right, title and interest of [TWC] in and to the assets described on Exhibit A (the 'Sale Assets')." The sale assets—the collateral that secured the loan—are described in the bill of sale as:

> All of those assets pledged by [TWC] to [WalkingCo], as successor in interest to Wells Fargo Bank, National Association, under the Loan Documents, being substantially all of their assets wherever located, including without limitation all of the following:
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> 1) Inventory;
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> 2) Intellectual property;
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> 3) Accounts, deposit accounts, accounts receivable, cash, cash equivalents;
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> 4) General intangibles, instruments and documents;
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> . . . . .
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> PROVIDED HOWEVER, this Instrument shall not convey the equity interests in [TWC] . . . which equity interests were pledged to secure repayment of the Loan.

In addition, the agreement between WalkingCo and the UCC sale auctioneer stated, "[WalkingCo] is the senior secured creditor holding a first and prior security interest in inventory (shoes), intellectual property (trademarks and copyrights and possibly a few patents), accounts, A/R, and contract rights (goods in transit) of [TWC] and certain affiliates (the 'Collateral')."

MOAC does not dispute that TWC pledged substantially all of its assets to secure the Wells Fargo loan in 2018, that WalkingCo purchased that loan in the fall of 2020 and was subsequently owed roughly $15 million, or that WalkingCo purchased TWC's assets for $5 million at public auction. And MOAC does not dispute the district court's finding that, in addition to the $15 million Wells Fargo loan, TWC owed roughly $12 million to other secured creditors, totaling over $26 million in secured debt. Rather, MOAC contends that there is a genuine issue of material fact that TWC's assets were fully encumbered by a lien at the time of the transfer because, while TWC's assets sold for $5 million, the actual value of the assets was anywhere from $33 to $100 million. MOAC points to: (1) the 2020 inventory appraisal which was prepared in November 2020, and estimated that TWC's current inventory was worth approximately $33 million at cost and close to $100 million in retail value; (2) a July 2021 letter from WalkingCo's CFO to a bank in Tennessee requested that an outstanding TWC account be closed and the approximately $14,000 in that account be transferred to WalkingCo; and (3) evidence that TWC assigned patents to WalkingCo after WalkingCo purchased TWC's debt. MOAC argues that this evidence demonstrates that TWC's inventory, cash, and intellectual property was worth over $32 million and therefore the value of TWC's assets exceeded the value of the lien.

The record evidence relied on by MOAC fails to create a genuine issue of material fact that, at the time TWC's assets were transferred at the UCC foreclosure sale in February 2021, they were not fully encumbered by a valid lien. As already explained, it is undisputed that TWC pledged its assets to obtain the Wells Fargo loan in 2018; in November 2020, after TWC defaulted on the loan, Wells Fargo sold TWC's debt to WalkingCo for approximately $12 million and WalkingCo became TWC's senior secured lender; in February 2021, WalkingCo purchased TWC's assets for $5 million at a public foreclosure auction conducted in accordance with the UCC; MOAC did not participate in the UCC foreclosure auction; and the bill of sale and other auction documents listed the transferred assets to include all the assets pledged by TWC to WalkingCo as successor-in-interest to Wells Fargo under the loan documents, including inventory, intellectual property, accounts, cash and cash equivalents, and general intangibles. MOAC points to no other record evidence creating a disputed issue of fact as to the value of TWC's assets at the time of the transfer. As such, MOAC's contention that the actual value of TWC's assets was between $33 to $100 million in February 2021 is speculative, which is insufficient to create a genuine issue of material fact. *See Minn. Sands*, 940 N.W.2d at 197-98; *see also DLH*, 566 N.W.2d at 73 (holding that, while evidence established that the nonmoving party owned stock sometime in 1987, appellant failed to submit any evidence that nonmoving party owned stock at the time it filed for bankruptcy in 1987).

In sum, there is no genuine issue of material fact that TWC's property was "encumbered by a valid lien" at the time it was transferred pursuant to the UCC foreclosure auction and therefore it is not an "asset" subject to a voidable-transfer claim under MUVTA. Minn. Stat. § 513.41(2)(i). The district court did not err in granting summary judgment to WalkingCo on MOAC's MUVTA claim.

B. The district court erred in granting summary judgment to WalkingCo on MOAC's unjust-enrichment claim.

MOAC's second claim was for unjust enrichment and alleged that WalkingCo received the benefit of TWC's assets without giving adequate consideration for the assets' value and that WalkingCo's retention of the assets unjustly deprived MOAC of its ability to collect the unpaid rent owed by TWC. "Unjust enrichment is an equitable doctrine that allows a plaintiff to recover a benefit conferred upon a defendant when retention of the benefit is not legally justifiable." *Herlache v. Rucks*, 990 N.W.2d 443, 450 (Minn. 2023) (quotation omitted); *see Hepfl v. Meadowcroft*, 9 N.W.3d 567, 571 (Minn. 2024) ("[T]he law supplies a remedy for unjustified enrichment because such enrichment cannot conscientiously be retained." (quotation omitted)). To succeed on a claim for unjust enrichment, "the plaintiff must show that the defendant was enriched illegally or unlawfully, or in a manner that is morally wrong." *Herlache*, 990 N.W.2d at 450 (quotation and citations omitted).

Unjust enrichment exists to "relieve against the too narrow procedure of the law," and a district court has "broad discretion in fashioning remedies" "so as to accomplish justice." *Id.* at 451 (quotations omitted). In *Herlache*, the supreme court reiterated its century-old "caution[] against restricting the broad scope of the unjust enrichment remedy, given that the whole point of the action was 'to relieve against the too narrow procedure of the law.'" *Id.* (quoting *Seastrand v. D.A. Foley & Co.*, 175 N.W. 117, 119 (Minn. 1919)). *Herlache* emphasized that "great benefit arises from a liberal extension of the unjust enrichment action because the charge and defense in this kind of action are both governed by the true equity and conscience of the case." *Id.* (quotation omitted).

In granting summary judgment to WalkingCo, the district court determined that "Minnesota has created a specific statutory remedy for MOAC's claims" and that, because MOAC had an available adequate statutory remedy in MUVTA, it was barred from bringing an alternative claim of unjust enrichment. The district court relied on *U.S. Fire Ins. Co. v. Minn. State Zoological Bd.*, 307 N.W.2d 490, 497 (Minn. 1981), and federal cases. MOAC argues that, under the circumstances presented here, unjust enrichment is not unavailable as a matter of law and the district court misapplied the law in granting summary judgment to WalkingCo. We agree.

In Minnesota "[a] party may not have equitable relief where there is an adequate remedy at law available." *ServiceMaster of St. Cloud v. GAB Bus. Servs. Inc.*, 544 N.W.2d 302, 305 (Minn. 1996) (citing *U.S. Fire Ins. Co.*, 307 N.W.2d at 497); *see Southtown Plumbing, Inc. v. Har-Ned Lumber Co.*, 493 N.W.2d 137, 140 (Minn. App. 1992) ("It is well settled in Minnesota that one may not seek a remedy in equity when there is an adequate remedy at law."). Specifically, "equitable relief cannot be granted where the rights of the parties are governed by a valid contract." *U.S. Fire Ins. Co.*, 307 N.W.2d at 497. An unjust-enrichment claim is also generally not available when a party failed to pursue adequate and available legal remedies. *See ServiceMaster*, 544 N.W.2d at 306 (reversing the district court's damages award for unjust enrichment because the respondent had opted not to pursue adequate legal remedies available through statutory and constitutional liens); *Mon-Ray, Inc. v. Granite Re, Inc.*, 677 N.W.2d 434, 440 (Minn. App. 2004) (concluding that unjust enrichment was not available to a party that failed to timely pursue adequate and available remedy under the payment-bond statute), *rev. denied* (Minn. June 29, 2004); *Southtown Plumbing*, 493 N.W.2d at 140 (concluding that unjust enrichment was not available to a party that could have, but failed to, enforce a mechanic's lien or pursued a breach-of-contract claim).

In this case, MOAC did not forgo pursuit of a legal remedy. Rather, it brought a claim against WalkingCo under MUVTA. But the district court determined—and we agree—that the foreclosure sale was not an asset transfer under MUVTA. The parties do not identify, and the record does not reveal, any other legal remedy available to MOAC.

Cf. Southtown Plumbing, 493 N.W.2d at 140 (stating that "[r]elief under the theory of unjust enrichment is not available where there is an adequate legal remedy").

In this regard, the Minnesota cases relied on by the district court and cited by WalkingCo on appeal are distinguishable because they involve plaintiffs who either had available legal remedies or who failed to pursue available legal remedies. *See ServiceMaster*, 544 N.W.2d at 306 (determining that equitable relief was unavailable because the plaintiff failed to pursue legal remedies available in statutory and constitutional liens); *U.S. Fire Ins. Co.*, 307 N.W.2d at 497 (concluding that equitable relief was unavailable because the parties' rights were governed by contract); *Kingery v. Kingery*, 241 N.W. 583, 585 (Minn. 1932) (noting that, while equitable relief was unavailable, the plaintiff could seek to recover a money judgment against the defendant); *Southtown Plumbing*, 493 N.W.2d at 140 (concluding that equitable relief was unavailable because a party failed to enforce a mechanic's lien or pursued a breach-of-contract claim). WalkingCo cites no binding Minnesota authority, and we are aware of none, holding that a party that pursues a statutory remedy later determined by a court to be unavailable as a matter of law is barred from maintaining an equitable claim for unjust enrichment when the party has no other adequate and available legal remedy.[6]

[6] WalkingCo relies on federal decisions to support its argument that an equitable claim is unavailable as a matter of law. The district court similarly relied on federal caselaw. *See United States v. Bame*, 721 F.3d 1025 (8th Cir. 2013); *Ahlgren v. Link*, 2019 WL 3574598 (D. Minn. Aug. 6, 2019); *Kelley v. Coll. of St. Benedict*, 901 F. Supp. 2d 1123 (D. Minn. 2012); *In re Petters Co., Inc.*, 499 B.R. 342 (Bankr. D. Minn. Sept. 30, 2013). "Although we are not bound to follow precedent from other states or federal courts, these authorities can be persuasive." *N.H. v. Anoka-Hennepin Sch. Dist. No. 11*, 950 N.W.2d 553, 563

Finally, we reject WalkingCo's assertion that allowing MOAC to pursue unjust enrichment would "gut Minnesota's statutory framework." To be sure, "a court of equity will not disregard statutory law or grant relief prohibited thereby." *Kingery*, 241 N.W. at 584. But WalkingCo does not claim that MOAC's unjust-enrichment claim would permit MOAC to obtain relief that is "prohibited" by MUVTA, nor does it explain how MOAC's equitable claim would "circumvent" MUVTA's statutory framework given that MUVTA does not apply to the asset transfer in this case. *Cf. U.S. Fire Ins. Co.*, 307 N.W.2d at 497 (upholding dismissal of an unjust-enrichment claim because "if equitable relief were granted . . . , the constitutional and statutory restrictions on the State's ability to pay money from the general fund would be circumvented").

In accordance with the supreme court's directive to avoid "restricting the broad scope of the unjust enrichment remedy," *Herlache*, 990 N.W.2d at 450, we conclude that the district court legally erred when it granted summary judgment on MOAC's unjust-enrichment claim. Because WalkingCo sought summary judgment on MOAC's unjust-enrichment claim solely on the basis that the equitable claim was unavailable as a matter of law, the district court was not asked to consider whether summary judgment is appropriate because there is a genuine issue of material fact that WalkingCo was unjustly enriched. We reverse and remand for further proceedings not inconsistent with this

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(Minn. App. 2020) (quotation omitted). The federal authorities are either distinguishable—because they involve alternatively pleaded claims at the motion-to-dismiss stage, plaintiffs who chose not to pursue a statutory remedy, or plaintiffs with an available statutory remedy—or the cited language is dicta. Accordingly, the federal cases are not persuasive and we decline to rely on them.

opinion, and we express no opinion on the viability of MOAC's unjust-enrichment claim on the merits.

II. The district court did not abuse its discretion by denying in part MOAC's second motion to compel discovery.

In the alternative, MOAC argues that the district court abused its discretion by limiting MOAC's ability to pursue discovery. While we typically review a summary-judgment decision de novo, when, as here, a party challenges the decision based on its assertion that the district court improperly limited discovery, our review is for an abuse of discretion. *See Molde v. CitiMortgage, Inc.*, 781 N.W.2d 36, 45 (Minn. App. 2010); *Shetka v. Kueppers, Kueppers, Von Feldt & Salmen*, 454 N.W.2d 916, 921 (Minn. 1990) (holding that the district court has considerable discretion in ruling on discovery requests, and therefore, appellate courts will not reverse its ruling absent a clear abuse of that discretion). "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).

As a threshold matter, WalkingCo contends that MOAC has forfeited its discovery argument by failing to identify the challenged discovery order in its notice of appeal or statement of the case. We disagree. It is well established that an appeal from a final judgment may encompass all the orders affecting the judgment. *See* Minn. R. Civ. App. P. 103.04 (stating that "on appeal from a judgment [an appellate court] may review any order involving the merits or affecting the judgment"); *Anderson v. Mikel Drilling Co.*, 102

N.W.2d 293, 299 (Minn. 1960) (holding that "permissible [appellate] review extends to all intermediate orders involving the merits or affecting the judgment regardless of whether the orders are, in themselves, appealable"). We therefore turn to the merits of MOAC's argument.

Minn. R. Civ. P. 26.02(b) 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 benefit." The district court shall limit discovery when it determines that the information sought is "unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive." Minn. R. Civ. P. 26.02(b)(3)(i); *see In re Milk Indirect Purchaser Antitrust Litig.*, 588 N.W.2d 772, 776 (Minn. App. 1999) ("The risk of discovery 'fishing expeditions' is better controlled . . . by the trial court exercising its discretion to manage the breadth and depth of discovery.").

MOAC filed a motion to compel discovery in December 2023, asserting that WalkingCo's responses to interrogatories were "evasive and incomplete," and that WalkingCo failed to identify the specific documents being withheld from production. At a motion hearing, the district court addressed the "seeming failure of the parties to have productive written discovery" by allowing the parties to take up to 20 depositions each. The district court granted MOAC's motion to compel WalkingCo to identify documents being withheld from production, denied MOAC's motion to compel WalkingCo to "provide more substantial answers to its interrogatories," and allowed MOAC to renew its discovery motion after depositions were completed. In making these rulings, the district court noted its concern about the extended discovery process and its impact on the parties' clients, expressed frustration that neither party appeared to take its concerns about "wasted time and spiraling costs" into consideration, and noted that it "seriously consider[ed] sanctions in this matter."

MOAC subsequently noticed one deposition of a WalkingCo corporate representative. *See* Minn. R. Civ. P. 30.02(f) (providing that a party may name a private corporation as a deponent, and the corporation "must designate one or more . . . persons who consent to testify on its behalf"). After that deposition revealed that there might be additional responsive documents that had not been disclosed, MOAC filed a second motion to compel. MOAC's second motion to compel again requested WalkingCo provide more detailed responses to interrogatories and sought production of additional documents and permission to complete its depositions.

In July 2024, the district court issued an order granting in part and denying in part MOAC's second motion to compel. The court granted MOAC's request for production of documents "created, received, or reviewed by [TWC's primary shareholder] or created, received, reviewed, or sent at his direction or on his behalf." In addition, the order provided that "MOAC may serve a subpoena for a deposition and documents on [TWC's primary shareholder] within 14 days," and that "his deposition, if any, must take place no later than October 1, 2024." Finally, the district court granted MOAC's motion to extend the scheduling order deadline so that MOAC could engage in the additional authorized discovery and stated that it would "consider future motions to allow supplementation of any submissions in support or in opposition to summary judgment based upon new and material facts discovered related to or produced by [TWC primary shareholder]." The district court denied MOAC's motion to compel in all other respects. During the summary-judgment proceedings, MOAC did not argue that it needed to conduct additional discovery.

MOAC contends that the district court abused its discretion by denying MOAC's second motion to compel WalkingCo to provide answers to certain interrogatories and to produce documents that MOAC believed were withheld. For the following reasons, we conclude the district court did not abuse its discretion.

As to MOAC's motion to compel answers to interrogatories, the district court determined that many of MOAC's interrogatories were "better answered in a deposition," and thus increased the number of allowable depositions. A district court is allowed to limit or alter the scope of discovery when it determines that the sought-after information is "obtainable from some other source that is more convenient, less burdensome, or less expensive." Minn. R. Civ. P. 26.02(b)(3)(i). Here, the district court noted the "huge amount of time [spent] in these discovery battles" and its concerns for client time and expense. It allowed MOAC to notice up to 20 depositions. When MOAC filed its second motion to compel after noticing just one deposition, the district court granted MOAC's request to subpoena TWC's primary shareholder for a deposition, yet MOAC did not do so. On this record, the district court acted within its discretion by directing discovery to "some other source," Minn. R. Civ. P. 26.02(b)(3)(i), in order to avoid an unjustifiable "fishing expedition," *Milk Indirect Purchaser*, 588 N.W.2d at 776.

In addition, MOAC's argument that the district court abused its discretion in failing to compel WalkingCo to produce documents is not supported by the record. The district court granted MOAC's request that WalkingCo produce "all responsive documents" and extended the deadline for discovery accordingly. When a party believes that it cannot "present facts essential to justify its opposition" to summary judgment, it must provide an affidavit stating as much. Minn. R. Civ. P. 56.04. Then, a district court may "defer considering the motion or deny it," or it may "allow time to . . . take discovery." Minn. R. Civ. P. 56.04. If a party fails to submit this affidavit, the district court is justified in ruling on the summary-judgment motion without allowing more time for discovery. *Molde*, 781 N.W.2d at 46. At the summary-judgment hearing, MOAC did not submit an affidavit pursuant to Minn. R. Civ. P. 56.04, request additional time for discovery, or argue that WalkingCo had failed to produce any documents necessary for it to oppose summary judgment.

Accordingly, the district court did not abuse its discretion by denying in part MOAC's second motion to compel discovery.

Affirmed in part, reversed in part, and remanded.