

*This opinion is nonprecedential except as provided by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
A25-1067**

Solution Blue Inc., a Minnesota Corporation,
Respondent,

vs.

Hmong American Veterans Park Inc.,
Appellant,

Northwest Asphalt Inc.,
Respondent,

Rapp Land Surveying Inc.,
Respondent.

**Filed March 30, 2026
Affirmed
Wheelock, Judge**

Goodhue County District Court
File No. 25-CV-24-760

Chad D. Lemmons, Kelly & Lemmons, PA, St. Paul, Minnesota (for respondents Solution Blue Inc. and Northwest Asphalt Inc.)

Sia Lo, Lo Law Firm, P.A., St. Paul, Minnesota (for appellant)

Considered and decided by Connolly, Presiding Judge; Smith, Tracy M., Judge; and
Wheelock, Judge.

NONPRECEDENTIAL OPINION

WHEELLOCK, Judge

In this appeal from the denial of its motion to vacate a default judgment under Minnesota Rule of Civil Procedure 60.02(a), appellant argues the district court abused its discretion by determining that appellant failed to meet the required *Finden* factors.¹ We affirm.

FACTS

Appellant Hmong American Veterans Park Inc. (HAVP) purchased 89 acres of vacant real property in Goodhue County and planned to use the property to develop a veterans' memorial park. HAVP then contracted with each of the respondents—Solution Blue Inc., Northwest Asphalt Inc., and Braun Intertec Corporation—to provide construction services on the property.² It is undisputed that no respondent was ever paid for its services.³

¹ A party seeking relief under Minn. R. Civ. P. 60.02(a) must satisfy the four *Finden* factors. *Gams v. Houghton*, 884 N.W.2d 611, 619-20 (Minn. 2016); *see Finden by Finden v. Klaas*, 128 N.W.2d 748, 750 (Minn. 1964) (listing factors for relief under Minn. R. Civ. P. 60.02(a)).

² Respondent Rapp Land Surveying Inc. has not participated in this litigation and is not included in any discussion of the parties in this opinion. Northwest informed this court that it has been assigned Braun's interest in the judgment and mechanic's lien. For clarity, this opinion refers to each respondent separately.

³ HAVP alleged to the district court and on appeal that the respondents did not complete the project in time to accommodate an inaugural event. HAVP had projected that the inaugural event would generate \$1.4 million. HAVP asserts that, because the inaugural event did not occur, it had no money to pay the respondents.

Each respondent perfected a mechanic's lien against the property. Solution Blue then initiated an action to foreclose on its lien in district court, the other respondents answered and asserted cross-claims against HAVP, and HAVP was served with the summons and complaint on May 3, 2024. At the end of October 2024, respondents moved for a default judgment because HAVP had not responded to the complaint. HAVP filed its answer on December 3, 2024—about 200 days after an answer was required—asserting a number of defenses related to breach of contract.⁴

The district court held a hearing on December 16, and on January 23, 2025, it entered a default judgment against HAVP pursuant to Minn. R. Civ. P. 55.01. The district court awarded damages to respondents in the following amounts: \$33,783.56 to Solution Blue; \$1,666,504.39 to Northwest; and \$29,442.46 to Braun; plus continuing interest on each award.

On March 10, 2025, HAVP moved to vacate the default judgment pursuant to Minn. R. Civ. P. 60.02, and on May 19, 2025, the district court held a hearing on the motion and subsequently denied the motion in a written order.

HAVP appeals.

⁴ Minnesota Statutes section 514.11 (2024) states that the defendant in an action to foreclose a lien shall file an answer with the court administrator within 20 days after service of the complaint.

DECISION

I. The district court did not abuse its discretion in determining that HAVP failed to satisfy the required *Finden* factors.

A district court may relieve a party from a final judgment or order for “[m]istake, inadvertence, surprise, or excusable neglect.” Minn. R. Civ. P. 60.02(a). “The decision whether to grant Rule 60.02 relief is based on all the surrounding facts of each specific case and is committed to the sound discretion of the district court.” *Gams*, 884 N.W.2d at 620. Accordingly, “a district court will not be reversed on appeal except for a clear abuse of discretion.” *Id.* (quotation omitted). “A district court abuses its discretion when it acts under a misapprehension of the law or when its factual findings are clearly erroneous.” *Id.* (quotations omitted).

To qualify for rule 60.02(a) relief, the moving party has the burden of demonstrating four factors: (1) a reasonable defense on the merits; (2) a reasonable excuse for its failure or neglect to act; (3) the movant “acted with due diligence” after learning of the error or omission; and (4) “no substantial prejudice will result to the other party” (the *Finden* factors). *Charson v. Temple Israel*, 419 N.W.2d 488, 491-92 (Minn. 1988); *see also Finden*, 128 N.W.2d at 750. A district court must consider and expressly find that a party has satisfied all four of the *Finden* factors to grant relief. *Gams*, 884 N.W.2d at 619. In *Gams*, the supreme court rejected a court of appeals holding that a party “need not categorically establish all four of the . . . factors.” *Id.* at 619-20 (quotation omitted). While all four *Finden* factors must be proved, “a weak showing on one factor may be offset by a

strong showing on the others.” *Reid v. Strodtman*, 631 N.W.2d 414, 419 (Minn. App. 2001).

“[T]he district court is in the best position to evaluate the reasonableness of the excuse, the prejudice to the other party, and whether the party has a reasonable claim or defense.” *Gams*, 884 N.W.2d at 620 (quotation omitted). Accordingly, the “district court’s discretion is ‘particularly broad’ when its decision is based upon an evaluation of conflicting affidavits or other evidence.” *Id.* (quoting *Roehrdanz v. Brill*, 682 N.W.2d 626, 631-32 (Minn. 2004)).

In its principal brief, HAVP argued that the district court misapplied the law when it determined that HAVP had not met the reasonable-defense-on-the-merits factor. We observe, however, that the district court determined that HAVP failed to meet two of the *Finden* factors—the reasonable-excuse factor and the reasonable-defense-on-the-merits factor—and that HAVP did not address the reasonable-excuse factor until its reply brief.

All four factors must be satisfied. *Gams*, 884 N.W.2d at 619. HAVP’s failure to address the second factor in its principal brief forfeits its argument as to that factor here and is a sufficient basis to affirm. *See Hunter v. Anchor Bank, N.A.*, 842 N.W.2d 10, 17 (Minn. App. 2013), *rev. denied* (Minn. Mar. 18, 2014) (“[A]n argument for reversal that is not raised in an appellant’s principal brief is forfeited.”); *Zimmerman v. Safeco Ins. Co. of Am.*, 593 N.W.2d 248, 251 (Minn. App. 1999), *aff’d*, 605 N.W.2d 727 (Minn. 2000) (stating that forfeited arguments “cannot be revived” via a reply brief).

However, even if we were to consider the merits of HAVP’s arguments regarding the second factor, we are not persuaded the district court abused its discretion because

HAVP failed to establish both the first and second *Finden* factors. We briefly address each of these two factors in turn.

A. Reasonable-Defense Factor

On the first *Finden* factor, the district court stated it could not find that HAVP had a reasonable defense on the merits of the breach-of-contract claims because HAVP did not file any supporting affidavits or any evidence of the terms of its contracts with the respondents. The district court stated it had before it only “the claims, conclusory statements, and speculation HAVP’s counsel included in the Motion.”

“A reasonable defense on the merits is one that, if established, provides a defense to the plaintiff’s claim.” *Northland Temps., Inc. v. Turpin*, 744 N.W.2d 398, 403 (Minn. App. 2008), *rev. denied* (Minn. Apr. 29, 2008). “Specific information that clearly demonstrates the existence of a debatably meritorious defense satisfies this factor.” *Palladium Holdings, LLC v. Zuni Mortg. Loan Tr. 2006-OA1*, 775 N.W.2d 168, 174 (Minn. App. 2009) (quotation omitted), *rev. denied* (Minn. Jan. 27, 2010).

“If no affidavit . . . or other proof of a valid defense is provided, the motion to vacate will be denied.” *Hengel v. Hyatt*, 252 N.W.2d 105, 106 (Minn. 1977); *see also Valley View, Inc. v. Schutte*, 399 N.W.2d 182, 184 (Minn. App. 1987) (stating a valid defense may be presented in an affidavit, answer, or in the record), *rev. denied* (Minn. Mar. 18, 1987). Ordinarily, the existence of a reasonable defense must be “demonstrated by more than conclusory allegations in moving papers.” *Charson*, 419 N.W.2d at 491.

HAVP argues the district court erred because it demanded a level of proof appropriate for summary judgment or trial, not for a rule 60.02(a) motion, and dismissed

its defenses “solely for lack of a sworn affidavit.” While it is true that an affidavit is not a strict requirement, *see Hyatt*, 252 N.W.2d at 106, and that the moving party must only “clearly” demonstrate “a debatably meritorious defense,” *Palladium Holdings*, 775 N.W.2d at 174, we do not read the district court’s findings to state that it dismissed HAVP’s defenses solely for a lack of a sworn affidavit. Rather, the district court determined that HAVP failed to meet this factor because HAVP failed to provide *any* evidence that demonstrated that it had a meritorious defense.

HAVP argues that respondents materially breached the contract first by failing to complete phase one of construction by May 1, 2023, thereby causing HAVP to cancel a large inaugural event. HAVP also argues that it provided sufficient evidence that respondents breached the contract because the work was noncompliant.

To establish a reasonable defense, HAVP was required to submit evidence that, among other things, clearly demonstrated there was a contract that required respondents to complete phase one by May 1, 2023. Our review of the record reveals that, notwithstanding HAVP’s counsel’s assertion at oral argument, HAVP provided no such information to the district court.

The district court did not abuse its discretion in determining that HAVP failed to demonstrate a meritorious defense because the record contains no information establishing any deadlines or work specifications. HAVP submitted an exhibit to the district court that, it asserts, shows that Solution Blue and Northwest failed to meet timelines. The exhibit reflects part of an accepted proposal from Solution Blue, but the proposal contains no dates for the completion of any phase of construction. Moreover, the exhibit includes the cover

page of the proposal and then skips to the page that discusses phase three; thus, the pages that presumably address phase one are missing. The exhibit also includes an accepted work proposal from Northwest with a “TENTATIVE Job Schedule,” but again, there are no deadlines in the documents.

To support its assertion that respondents’ work was noncompliant, HAVP submitted emails from Goodhue County indicating that “turf establishment,” which was part of the memorial construction for which it alleges Northwest was responsible, was not completed correctly or may not have been completed in a timely manner. However, nothing in the record establishes the specifics of Northwest’s contractual obligations or associated deadlines.

HAVP did not file a sworn affidavit or complete copies of any of the contracts at issue, which the district court found problematic when it analyzed HAVP’s purported defenses. The district court is in the best position to evaluate whether a party has a reasonable claim or defense. *Gams*, 884 N.W.2d at 620. HAVP provided no more than “conclusory allegations in moving papers.” *Charson*, 419 N.W.2d at 491. As such, we discern no clear abuse of discretion by the district court that warrants reversal. *See Gams*, 884 N.W.2d at 620 (stating that “a district court will not be reversed on appeal except for a clear abuse of discretion” (quotation omitted)).

B. Reasonable-Excuse Factor

To establish the second *Finden* factor, HAVP stated in its reply brief that severe financial hardship and reliance on ongoing communications that the alleged issues with the project were being resolved prevented it from timely answering the complaint. HAVP’s

failure to include any argument on this factor in its principal brief on appeal provides this court independent and sufficient grounds to affirm, *see Hunter*, 842 N.W.2d at 17; however, our review of the record also confirms that the district court did not abuse its discretion in determining HAVP failed to establish this *Finden* factor.

To satisfy the reasonable-excuse-factor, a movant must establish “a reasonable excuse for the movant’s failure or neglect to act.” *Gams*, 884 N.W.2d at 620 (quotations omitted). The district court bears the responsibility for determining “whether the excuse offered by the movant is true and reasonable under the circumstances.” *Cole v. Wutzke*, 884 N.W.2d 634, 639 (Minn. 2016); *see also Gams*, 884 N.W.2d at 620 (stating “the district court is in the best position to evaluate the reasonableness of the excuse” (quotation omitted)). “[T]here are no per se rules of law requiring either the grant or denial of a Rule 60.02(a) motion under the ‘reasonable excuse’ requirement. Instead, the decision is fact-intensive.” *Cole*, 884 N.W.2d at 639.

HAVP argued to the district court that it could not afford an attorney to respond to the complaint because respondents failed to meet the alleged deadline to complete phase one of the construction. It was not an abuse of discretion for the district court to determine that HAVP’s excuse for its failure to respond to the complaint in a timely manner was not reasonable. The record contains no evidence and no information outside of counsel’s assertions that HAVP expected any revenue that was contingent on the alleged deadline for phase one of the construction or that payment to respondents for their work was contingent on such revenue. HAVP also did not submit any evidence of efforts it made to find an attorney to answer the complaint.

Absent this information, the only record evidence supporting HAVP's assertion that it failed to respond because it could not afford an attorney was its attorney's statement at the motion hearing. We therefore conclude that the district court did not abuse its discretion in determining that HAVP's excuse was not sufficiently supported and was not reasonable.

HAVP also argued to the district court that it had a reasonable excuse for not answering the complaint because, based on communications from Northwest from May 2023 to August 2024, it "inadvertently believed that the issues concerning the project performance" would be resolved and that the lien foreclosure would not proceed.

We discern no error in the district court's conclusion that this argument was also unsupported because, again, HAVP did not provide any evidence to support its position. The record contains no evidence of communication between HAVP and any respondent. The district court did not abuse its discretion in determining HAVP failed to establish the reasonable-excuse factor based on HAVP's mere allegation that it thought that respondents would not enforce their perfected mechanic's liens in a pending foreclosure action. *See Gams*, 884 N.W.2d at 620 (stating that "the district court is in the best position to evaluate the reasonableness of the excuse" (quotation omitted)).

In conclusion, while we recognize the difficult financial situation HAVP is facing following the foreclosure of the property, the district court did not abuse its discretion when it determined that HAVP failed to establish the first and second *Finden* factors and denied HAVP's motion to vacate the judgment.

Affirmed.