

*This opinion is nonprecedential except as provided by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
A25-1393**

Coleen Christensen,
Appellant,

vs.

Metropolitan Airports Commission,
Respondent.

**Filed May 4, 2026
Reversed and remanded
Larson, Judge**

Hennepin County District Court
File No. 27-CV-24-19738

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Minnesota (for appellant)

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Considered and decided by Larson, Presiding Judge; Johnson, Judge; and Schmidt,
Judge.

NONPRECEDENTIAL OPINION

LARSON, Judge

Appellant Coleen Christensen challenges the district court's decision to grant summary judgment in respondent Metropolitan Airports Commission's (MAC) favor. The district court granted MAC's motion on the basis that Christensen failed to substantially comply with the notice provision in Minn. Stat. § 466.05 (2024), and that failure prejudiced

MAC. While we agree with the district court that Christensen failed to substantially comply with the notice provision in section 466.05, we conclude that a genuine issue of material fact remains regarding whether that failure prejudiced MAC. Accordingly, we reverse and remand.

FACTS

The facts are summarized as follows in the light most favorable to Christensen, as the party against whom summary judgment was granted. *See Henson v. Uptown Drink, LLC*, 922 N.W.2d 185, 190 (Minn. 2019) (quotation omitted).

On February 5, 2018, Christensen was injured at the Minneapolis International Airport (MSP). Following the incident, Christensen retained counsel and sent a letter to MAC on or about May 21, 2018 (May 2018 letter). MAC did not respond to Christensen's May 2018 letter.¹

On November 20, 2019, Christensen sent a follow-up letter to MAC that provided further details regarding the incident, including that a missing or damaged floor tile caused her injury (November 2019 letter). Christensen attached two photographs to the November 2019 letter, one depicting the general area where the injury occurred and the other showing the missing or broken floor tile. Christensen renewed a request made in the May 2018 letter that MAC provide incident or maintenance reports, or other documentation related to the injuries she sustained that day. MAC's claim administrator responded to the

¹ MAC maintains that it never received the May 2018 letter from Christensen. On appeal from summary judgment in MAC's favor, we view the facts in the light most favorable to Christensen, and, therefore, accept as true that the May 2018 letter was sent and received. *See Henson*, 922 N.W.2d at 190.

November 2019 letter. The response stated that MAC would look for any existing reports and requested additional information from Christensen.

Thereafter, Christensen timely served a complaint against MAC.² MAC answered the complaint and later filed a motion to dismiss. MAC submitted an affidavit from its associate general counsel to support its motion. The general counsel stated that MAC had no knowledge of the incident, nor any reports related to Christensen's claim. Christensen filed a memorandum opposing MAC's motion to dismiss. For support, Christensen submitted an affidavit and other exhibits—which were not included in her complaint.

A hearing was held on MAC's motion. The district court explained, and the parties agreed, that the motion would be treated as a motion for summary judgment because the district court considered submissions outside of the pleading.³ Thereafter, the district court granted summary judgment in MAC's favor on the ground that Christensen failed to substantially comply with the notice provision in section 466.05 and that failure prejudiced MAC.

Christensen appeals.

² The statute of limitations for this personal-injury claim is six years. *See* Minn. Stat. § 541.05, subd. 1(9) (2024). MAC does not dispute that the complaint was timely.

³ Under Minn. R. Civ. P. 12.02, when a defendant files a rule 12.02(e) motion and “matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in [Minn. R. Civ. P.] 56.” *See also Dickhoff ex rel. Dickhoff v. Green*, 836 N.W.2d 321, 328 (Minn. 2013). The parties do not challenge this posture on appeal.

DECISION

Christensen challenges the district court's decision to grant summary judgment in MAC's favor. We review a district court's decision to grant summary judgment de novo. *City of Waconia v. Dock*, 961 N.W.2d 220, 229 (Minn. 2021). When reviewing a summary-judgment decision, "we view the evidence in the light most favorable to the nonmoving party [and] resolve all doubts and factual inferences against the moving part[y]." *Henson*, 922 N.W.2d at 190 (citation omitted).

Summary judgment is properly granted only when there are no genuine issues of material fact, and the moving party is entitled to judgment as a matter of law. Minn. R. Civ. P. 56.01; *Hagen v. Steven Scott Mgmt., Inc.*, 963 N.W.2d 164, 172 (Minn. 2021). There is no genuine dispute of material fact "if the record as a whole could not lead a rational trier of fact to find for the non-moving party." *Superior Constr. Servs., Inc. v. Belton*, 749 N.W.2d 388, 390 (Minn. App. 2008) (quotation omitted). "[T]he nonmoving party must do more than rest on mere averments to create a genuine issue of material fact that precludes summary judgment." *Hagen*, 963 N.W.2d at 172 (quotation omitted). When deciding a summary-judgment motion, the district court "must not weigh the evidence," *DLH, Inc. v. Russ*, 566 N.W.2d 60, 70 (Minn. 1997), because the district court's role is not "to decide issues of fact but solely to determine whether" genuine fact issues exist, *Nord v. Herreid*, 305 N.W.2d 337, 339 (Minn. 1981).

Here, the district court granted summary judgment in MAC's favor on the basis that Christensen failed to substantially comply with the notice provision in section 466.05 and that failure prejudiced MAC. The applicable statute provides:

Except as provided in subdivision 2, every person, whether plaintiff, defendant or third-party plaintiff or defendant, who claims damages from any municipality or municipal employee acting within the scope of employment for or on account of any loss or injury within the scope of section 466.02 shall cause to be presented to the governing body of the municipality within 180 days after the alleged loss or injury is discovered a notice stating the time, place and circumstances thereof, the names of the municipal employees known to be involved, and the amount of compensation or other relief demanded. Actual notice of sufficient facts to reasonably put the governing body of the municipality or its insurer on notice of a possible claim shall be construed to comply with the notice requirements of this section. Failure to state the amount of compensation or other relief demanded does not invalidate the notice; but in such case, the claimant shall furnish full information regarding the nature and extent of the injuries and damages within 15 days after demand by the municipality. The time for giving such notice does not include the time, during which the person injured is incapacitated by the injury from giving the notice.

Minn. Stat. § 466.05, subd. 1. Thus, to bring a claim against a municipality,⁴ a person must send notice to the municipality within 180 days of the incident and provide the (1) time; (2) place; (3) circumstances; (4) names of the municipal employees known to be involved;⁵ and (5) amount of compensation or other relief demanded.⁶ *See id.*

But the supreme court has held that strict compliance with section 466.05 is not required. *Olander v. Sperry & Hutchinson Co.*, 197 N.W.2d 438, 439 (Minn. 1972), *overruled on other grounds by Jenkins v. Bd. of Educ. of Minneapolis Special Sch. Dist.*,

⁴ MAC is a municipality under Minn. Stat. § 466.01, subd. 1 (2024).

⁵ Christensen asserts that no employees were involved in the incident to explain why neither the May 2018 letter nor the November 2019 letter contains information regarding this requirement.

⁶ Failure to provide the amount of compensation or other relief demanded does not invalidate the notice. *See* Minn. Stat. § 466.05, subd. 1.

228 N.W.2d 265 (Minn. 1975). Instead, if “substantial compliance can be shown, the notice requirement . . . will be satisfied.”⁷ *Kossak v. Stalling*, 277 N.W.2d 30, 32 (Minn. 1979). Further, even if a plaintiff *fails* to substantially comply with the notice requirement, providing notice under section 466.05 is not jurisdictional. *Nisbet v. Hennepin County*, 548 N.W.2d 314, 320 (Minn. App. 1996).⁸ Accordingly, a municipality must demonstrate “prejudice . . . before an action may be dismissed.” *Id.* at 321.

Here, Christensen argues the district court erred when it granted summary judgment in MAC’s favor. First, she argues that the district court erred when it determined the May 2018 letter did not substantially comply with section 466.05. Second, she asserts that, even if the May 2018 letter did not substantially comply, the district court erred when it granted MAC’s motion for summary judgment because an issue of material fact remains regarding prejudice.⁹ We address Christensen’s arguments in turn.

⁷ Substantial compliance can also be shown where the municipality has actual notice of the incident giving rise to the claim. Minn. Stat. § 466.05, subd. 1; *see also Kossak*, 277 N.W.2d at 32-33 (concluding municipality’s actual notice of an incident constitutes substantial compliance). Christensen does not contend that MAC had actual notice of the incident.

⁸ The 1994 version of the statute that applied in *Nisbet* is identical to the current version of section 466.05. *Compare* Minn. Stat. § 466.05 (1994), *with* Minn. Stat. § 466.05 (2024).

⁹ Christensen also argues that we should reverse our decision in *Nisbet*, where we held that a district court can grant a motion for summary judgment when no issue of material fact remains regarding prejudice. *See* 548 N.W.2d at 315. We are not persuaded. First, we are bound by our prior precedential decisions. *See State v. M.L.A.*, 785 N.W.2d 763, 767 (Minn. App. 2010), *rev. denied* (Minn. Sept. 21, 2010). Second, the conclusion in *Nisbet* is consistent with Minn. R. Civ. P. 56 and caselaw applying the summary-judgment standard when prejudice is an issue of material fact. *See* Minn. R. Civ. P. 56 (noting that summary judgment is appropriate when “the movant shows that there is no genuine issue as to any material fact”); *cf. Kluball v. Am. Fam. Mut. Ins. Co.*, 706 N.W.2d 912, 918 (Minn. App. 2005) (applying summary-judgment standard to evaluate whether appellant rebutted “the presumption of prejudice”); *Parr v. Gonzalez*, 669 N.W.2d 401, 407 (Minn.

A.

Christensen first argues that the district court erred when it determined the May 2018 letter did not substantially comply with the notice provision in section 466.05.

The May 2018 letter stated, in its entirety:

I have been retained by Coleen Christiansen [sic] regarding injury she sustained at the MSP airport on February 5, 2018. I would appreciate receiving copies of any and all incident reports or other documents regarding her injuries on that date.

Christensen asserts that this letter contained the necessary elements because it stated the time (February 5, 2018), place (MSP), and circumstances of the incident (Christensen was injured). For support, Christensen relies on the supreme court's decision in *Olander*.

In *Olander*, the supreme court reversed the district court's decision to grant summary judgment to a city on the basis that appellant did not give sufficient notice under section 466.05. 197 N.W.2d at 439-40. The notice in *Olander* provided:

We hereby give you notice that Florence Olander, 601 Minnesota Ave., Bemidji, Minnesota, did on February 6, 1970, sustain personal injury when she fell on an icy, slippery sidewalk on Beltrami Avenue between Fifth and Sixth Streets in the City of Bemidji, Minnesota. She sustained a severely fractured right wrist and bruises on the right arm and left shoulder. Mrs. Florence Olander may have a claim against the City of Bemidji for the damages she has sustained based upon the City of Bemidji's negligence.

Id. at 440. The district court granted summary judgment on the basis that the notice inadequately described the place where the injury occurred and, accordingly, it was

App. 2003) (concluding insurance company “failed to present any evidence raising a material fact question” regarding “substantial prejudice”).

“impossible” for the city to “locate[] the scene of this accident as to enable it to properly investigate . . . without further benefit of information.” *Id.*

The supreme court reversed, adopting the substantial-compliance test for the “description of the time, place, and circumstances of the loss or injury.” *Id.* at 439.¹⁰ The supreme court clarified that this test is case-specific, and “one of *reasonableness*.” *Id.* (emphasis added). But “[n]othing more should be required than . . . notice of the claim reasonably sufficient to alert the municipality to the alleged incident and allow it to initiate investigative procedures to more adequately determine the nature and validity of the claim.” *Id.* at 443. Ultimately, the supreme court reasoned the notice in *Olander* substantially complied with the statute because, even without the precise location of the injury, the municipality was provided enough information to investigate the claim. *Id.*

Applying *Olander*, we conclude the May 2018 letter did not substantially comply with the notice provision in section 466.05. Like in *Olander*, the May 2018 letter lacked specific information about the location, identifying only MSP—a facility that comprises millions of square feet. But the May 2018 letter also did not identify the nature of the incident or injury, the cause of the incident, or any relative area where the injury occurred, unlike *Olander*. In the absence of *any* description of the circumstances surrounding the incident—all facts at Christensen’s disposal at the time she sent the notice—we determine

¹⁰ In *Olander*, the supreme court required *strict compliance* with the timeliness and service-of-notice requirements in section 466.05. 197 N.W.2d at 443. But, thereafter, the supreme court concluded the substantial-compliance test applies to those requirements as well. *See Jenkins*, 228 N.W.2d at 268 (timeliness); *Siefert v. City of Minneapolis*, 213 N.W.2d 605, 609 (Minn. 1973) (service).

the May 2018 letter was not “reasonably sufficient to alert [MAC] to the alleged incident and allow it to initiate investigative procedures.” *Olander*, 197 N.W.2d at 443.¹¹ For these reasons, we conclude the May 2018 letter did not substantially comply with section 466.05.

B.

Christensen argues second that the district court erred when it granted summary judgment because an issue of material fact remains regarding whether MAC was prejudiced. Specifically, Christensen asserts that—even if the May 2018 letter did not substantially comply with the time, place, and circumstances requirements, and the November 2019 letter¹² did not substantially comply with the timeliness requirement—MAC must still prove that these inadequacies prejudiced MAC.

As set forth above, “failure to give notice is not grounds for dismissal of an action, but may be used as a defense provided the municipality can establish prejudice.” *Nisbet*, 548 N.W.2d at 320 (citing *O’Brien v. Mercy Hosp. & Convalescent Nursing Care Section*, 382 N.W.2d 518, 521 (Minn. 1986)). As such, a municipality that raises a lack-of-notice defense under section 466.05 must demonstrate that the insufficient notice prejudiced it before the claim can be dismissed. *Id.* at 315 (syllabus).

¹¹ To the extent Christensen argues the notice was sufficient because it contained her attorney’s name, and, therefore, MAC could have contacted her attorney, we are not persuaded that this argument is relevant to the substantial-compliance test. Instead, *Olander* discusses the ability to contact a claimant’s attorney as part of the prejudice determination, which we examine below.

¹² In this appeal, MAC concedes that the November 2019 letter substantially complied with the time, place, and circumstances requirements in section 466.05.

Under section 466.05, prejudice is a question of material fact. *See Ryan v. ITT Life Ins. Corp.*, 450 N.W.2d 126, 130 (Minn. 1990) (noting that prejudice is a question of fact); *Nisbet*, 548 N.W.2d at 321 (concluding municipality must prove prejudice before claim can be dismissed under section 466.05); *Zappa v. Fahey*, 245 N.W.2d 258, 259-60 (Minn. 1976) (defining material fact as one that affects the result or outcome of the case). We conclude a genuine issue of material fact remains regarding whether Christensen's inadequate and/or untimely notice prejudiced MAC. Here, the only evidence regarding prejudice is general counsel's affidavit that provided:

MAC does not have any maintenance records or incident reports of any occurrences in the area [Christensen] alleges that she fell in. MAC has no documentation or knowledge of any injuries claimed by [Christensen] outside of the assertions in the November 20, 2019 letter, an interview with [Christensen] regarding the incident in March of 2020, and her Complaint.

But nowhere in the affidavit did general counsel assert that this information would have existed had Christensen filed an adequate and/or timely notice. In fact, MAC has presented no evidence to prove that the insufficiencies or delay prejudiced MAC.¹³

Further, dismissing this action on prejudice grounds at this stage would be inconsistent with *Olander*. There, the supreme court rejected the city's argument that the

¹³ General counsel also stated that "the photographs enclosed by [Christensen] in the November [] 2019 letter are blurry, undated, and impossible to verify for any allegations." This statement relates to whether the November 2019 letter adequately described the circumstances surrounding the incident. But, as stated above, MAC concedes that the November 2019 letter substantially complied with the time, place, and circumstances requirements in section 466.05.

imprecise description of the place where the injury occurred prejudiced the city, reasoning that:

In these times of modern communication, it is rather difficult to accept the position asserted by the city, since the alleged prejudice could probably have been alleviated by a simple telephone call to the claimant's attorney, nor can it be legitimately argued that such actions on the part of the city would amount to assistance to the claimant.

197 N.W.2d at 443. Here, taking the facts in the light most favorable to Christensen, the inadequacies in the May 2018 letter similarly could have been resolved had MAC contacted the attorney who sent the letter.

Accordingly, because a genuine issue of material fact remains regarding whether the inadequate and/or untimely notice prejudiced MAC, we reverse the district court's decision to grant summary judgment and remand for further proceedings.

Reversed and remanded.