This opinion is nonprecedential except as provided by Minn.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
A25-1491

Mark A. VanGelder,
Appellant,

vs.

Simon J. Trautmann, Esq., et al.,
Respondents,

Aaron D. Hall, Esq., et al.,
Defendants.

Filed May 11, 2026
Affirmed
Wheelock, Judge

Hennepin County District Court
File No. 27-CV-24-6699

Mark A. VanGelder, St. Cloud, Minnesota (pro se appellant)

Daniel Brees, Gordon Rees Scully Mansukhani LLP, Minneapolis, Minnesota (for respondents)

Considered and decided by Connolly, Presiding Judge; Wheelock, Judge; and Segal, 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NONPRECEDENTIAL OPINION

WHEELOCK, Judge

Appellant challenges the district court's dismissal of his legal malpractice claims for failure to serve a required expert-disclosure affidavit. We affirm.

FACTS

In April 2024, appellant Mark A. VanGelder sued respondent law firm Trautmann Martin Law PLLC and several of its attorneys (collectively, the law firm) for legal malpractice. The malpractice suit is related to the law firm's representation of VanGelder in a lawsuit he brought against the City of Norwood Young America and its city administrator. In that underlying action, VanGelder alleged that the city and its administrator violated his First Amendment and equal-protection rights after the city issued a notice of zoning violation for storage trailers that VanGelder had parked on his property. The district court granted summary judgment in favor of the city and dismissed VanGelder's suit.

VanGelder then sued the law firm for legal malpractice, negligent misrepresentation, breach of fiduciary duties, breach of contract, and breach of the covenant of good faith and fair dealing. VanGelder alleged that the law firm failed to add necessary defendants, seek admission of relevant exhibits, keep VanGelder apprised of relevant litigation-related matters, and conduct adequate discovery because it neglected to take any depositions in the action against the city; he also alleged that it submitted inaccurate statements in its filings with the district court.

Eventually, the law firm moved to dismiss the malpractice suit pursuant to Minn. Stat. § 544.42 (2024), asserting that VanGelder had failed to comply with the statute's expert-disclosure requirement and that dismissal was mandatory under the statute's terms. VanGelder opposed the motion, arguing that expert testimony was not required for the issues he raised and that section 544.42 does not apply to his breach-of-contract claim. The district court granted the law firm's motion to dismiss, ruling that expert disclosure pursuant to section 544.42 was required for all of VanGelder's claims and that his failure to comply with the requirement necessitated dismissal of his complaint.

VanGelder appeals.

DECISION

We review for abuse of discretion the district court's decision to dismiss an action for lack of compliance with the expert-disclosure requirement. *Guzick v. Kimball*, 869 N.W.2d 42, 46 (Minn. 2015). But we review de novo whether expert testimony was required to establish a prima facie case so as to trigger the requirements of Minn. Stat. § 544.42, and we also review the district court's interpretation of that statute de novo. *Id.* at 46-47.

VanGelder argues first that his breach-of-contract claim was not subject to section 544.42's expert-disclosure requirement because his claims were not complex enough to warrant expert testimony, and second, that because he alleges that the law firm missed discovery deadlines and committed perjury by submitting inaccurate information in court filings, his claims are excepted from the general rule that expert testimony is required. We address each argument in turn.

I. VanGelder's breach-of-contract claim is subject to section 544.42's expert-disclosure requirements.

VanGelder argues that his breach-of-contract claim is not subject to the statutory expert-disclosure requirement because section 544.42 applies exclusively to malpractice claims. We disagree because VanGelder's breach-of-contract claim is essentially a malpractice claim asserted under a breach-of-contract theory.

Minnesota Statutes section 544.42, subdivision 2(2), provides that, "[i]n an action against a professional alleging negligence or malpractice in rendering a professional service where expert testimony is to be used by a party to establish a prima facie case," a party must submit an affidavit that discloses the following:

> the identity of each person whom the attorney expects to call as an expert witness at trial to testify with respect to the issues of negligence, malpractice, or causation, the substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion.

Minn. Stat. § 544.42, subd. 4(a). The statute defines "professional" to include attorneys. *Id.*, subd. 1(1). A litigant's failure to timely provide the expert-disclosure affidavit results in mandatory dismissal of any cause of action in which it is required. *Id.*, subd. 6(c). VanGelder contends that his breach-of-contract claim does not fall within the purview of section 544.42, which refers explicitly only to claims of negligence and malpractice. This argument is unavailing.

In *Mittelstaedt v. Henney*, the supreme court held that the statutory expert-affidavit requirements can apply to breach-of-fiduciary-duty claims, even though section 544.42 does not explicitly mention them, because malpractice claims can be predicated on "multiple legal theories," including breach of contract, negligence, and breach of fiduciary duties. 969 N.W.2d 634, 639 (Minn. 2022); *see also Lickteig v. Alderson, Ondov, Leonard & Sween, P.A.*, 556 N.W.2d 557, 561 (Minn. 1996) (noting that negligence and breach of contract are "two theories [that] will frequently be interchangeable in legal malpractice cases").[1]

The factual allegations VanGelder pleaded in support of his breach-of-contract claim are identical to those he pleaded in support of his malpractice claim, with the exception of a single paragraph. The breach-of-contract allegations assert various breaches of the standard of care expected of attorneys—for example, that the law firm "[f]ailed to fully disclose and explain all material matters . . . [f]ailed to act with reasonable diligence and promptness . . . [f]ailed to timely advise Mr. VanGelder . . . [and f]ailed to keep Mr. VanGelder apprised on all matters." "When a claim is predicated on conduct subject to a professional standard of care, expert evidence is generally required to support the claim." *Blatz v. Allina Health Sys.*, 622 N.W.2d 376, 388 (Minn. App. 2001), *rev. denied* (Minn. May 16, 2001). We conclude that the expert-disclosure requirement of Minn. Stat.

[1] In a similar vein, we have recognized that litigants cannot evade the expert-disclosure requirement by alternatively alleging a malpractice claim as a separate cause of action. *See, e.g.*, *Mittelstaedt*, 969 N.W.2d at 639; *Zirbes v. Meshbesher & Spence, Ltd.*, No. A16-0352, 2016 WL 5345653, at *3 (Minn. App. Sept. 26, 2016) ("All of appellant's claims essentially restate her malpractice claim in another form. Her essential claim is one for legal malpractice."); *DeMartini v. Stoneberg, Giles & Stroup, P.A.*, No. A11-649, 2011 WL 5026392, at *3 (Minn. App. Oct. 24, 2011) ("The allegations appellant relies on for these two causes of action are the same as those relied on for legal malpractice . . . . [T]he district court correctly concluded that appellant's causes of action are merely alternative forms of pleading the same cause of action."). We may cite nonprecedential opinions of this court for their persuasive value. Minn. R. Civ. App. P. 136.01, subd. 1(c).

§ 544.42 applies to VanGelder's breach-of-contract claim because it restates his malpractice claim and its supporting allegations relate to the same alleged breaches of professional standards as his malpractice claim.

Having determined that VanGelder's asserted causes of action[2] were the type of claims that might require expert testimony and thus may fall within the scope of section 544.42, we next consider whether the statute's expert-disclosure requirement was triggered here. The statute mandates compliance with the expert-disclosure requirement "where expert testimony is to be used by a party to establish a prima facie case." Minn. Stat. § 544.42, subd. 2(2). A plaintiff can establish a prima facie case of legal malpractice by demonstrating "(1) the existence of an attorney-client relationship; (2) acts constituting negligence or breach of contract; (3) that such acts were the proximate cause of the plaintiff's damages; and (4) that but for defendant's conduct the plaintiff would have been successful in the prosecution or defense of the action." *Guzick*, 869 N.W.2d at 47 (quotation omitted). "If any element demands expert testimony, the statute's affidavit requirement applies." *Mittelstaedt*, 969 N.W.2d at 640. "[E]xpert testimony is generally required to establish both the applicable standard of care and breach of that standard . . . ." *Guzick*, 869 N.W.2d at 49. And "[t]he testimony of an expert witness is required when a claim involves complicated issues of causation and damage." *Schmitz v. Rinke, Noonan,*

[2] VanGelder's breach-of-fiduciary-duty claim is also subject to the expert-disclosure requirement. *See Mittelstaedt*, 969 N.W.2d at 639 (noting that, because the malpractice category encompasses multiple theories, "the statute's expert-affidavit requirement for cases involving 'negligence or *malpractice*' unambiguously applies to breach-of-fiduciary-duty claims when the statute's other requirements are met").

Smoley, Deter, Colombo, Wiant, Von Korff & Hobbs, Ltd., 783 N.W.2d 733, 739 (Minn. App. 2010) (quotation omitted), *rev. denied* (Minn. Sept. 21, 2010). While expert testimony is generally required, there is an exception to this general rule "where the conduct can be evaluated adequately by a jury in the absence of expert testimony." *Mittelstaedt*, 969 N.W.2d at 640 (quotation omitted). "[W]hether the exception applies is determined on a case-by-case basis." *Id.* (quotation omitted).

VanGelder argues that the law firm's alleged failures in not keeping him apprised of litigation matters, conducting inadequate discovery, and filing documents containing factual inaccuracies are not complex and could be understood by a layperson. We are not persuaded. Even if a layperson is capable of determining generally that submitting filings with factual inaccuracies and failing to conduct robust discovery falls short of the professional standard of care that attorneys must meet, VanGelder is still required to establish that these breaches were both a but-for and proximate cause of his damages and that he would have otherwise prevailed. *See Guzick*, 869 N.W.2d at 47. And under VanGelder's breach-of-contract theory, "[l]iability for breach of contract requires proof that damages resulted from or were caused by the breach." *Border State Bank of Greenbush v. Bagley Livestock Exch., Inc.*, 690 N.W.2d 326, 336 (Minn. App. 2004), *rev. denied* (Minn. Feb. 23, 2005). To successfully establish causation, a plaintiff asserting malpractice must demonstrate a winnable "case-within-a-case" in the underlying action. *Reichel v. Wendland Utz, LTD*, 11 N.W.3d 602, 612 (Minn. 2024). Without the benefit of expert testimony, a jury would likely have to speculate to decide these causation issues, as it would have to determine how much discovery was necessary in VanGelder's underlying case and the causal impact of the alleged factual inaccuracies and limited discovery on the resulting outcome. *See Schmitz*, 783 N.W.2d at 739. "But-for causation cannot be established without the assistance of an expert witness when the causal relation issue is not one within the common knowledge of laymen." *Id.* (quotation omitted). And expert testimony in a legal malpractice case is necessary when a jury's decision would be "purely speculative" without it. *Atwater Creamery Co. v. W. Nat'l Mut. Ins. Co.*, 366 N.W.2d 271, 279 (Minn. 1985).

Because the causation issues in this suit require expert testimony, the district court correctly concluded that that the statutory requirement to provide an expert-disclosure affidavit was triggered and that VanGelder's failure to comply with the expert-disclosure requirement warranted dismissal.[3]

II. The additional exceptions for which VanGelder advocates do not apply here or are not recognized exceptions.

VanGelder argues that, because federal caselaw provides that expert testimony is not necessary in cases involving an "an obviously missed deadline or a clear case of stealing client funds," *Sandhu v. Kanzler*, 932 F.3d 1107, 1116 (8th Cir. 2019) (quotation omitted), his claims regarding the law firm's alleged failure to meet discovery deadlines and to take depositions do not require expert testimony.

[3] In his reply brief, VanGelder appears to argue further that, if *any* element of a malpractice claim does not require expert testimony, the expert-disclosure requirement falls away entirely. But this assertion is plainly contrary to established precedent: "If any element demands expert testimony, the statute's affidavit requirement applies." *Mittelstaedt*, 969 N.W.2d at 640.

But there is no per se rule that any malpractice claim involving a missed deadline does not require expert testimony. The federal caselaw that VanGelder cites sets forth those scenarios only as examples of "the sort of case that does not require expert testimony." *Id.* Indeed, expert testimony is typically required in the context of discovery issues. *See Spannaus v. Larkin, Hoffman, Daly, & Lindgren, Ltd.*, 368 N.W.2d 395, 399 (Minn. App. 1985) ("Without . . . expert testimony, a jury would not be able to determine the standard of care and whether respondents breached that standard of care in decisions about discovery in a lawsuit."), *rev. denied* (Minn. Aug. 20, 1985). And VanGelder again fails to account for the fact that the discovery failures here that he characterizes simply as a "missed deadline"—such as the alleged failure to take depositions—raise complex causation issues that necessitate expert testimony because they require the jury to determine how much discovery was necessary and the impact of any deficiencies. *See Schmitz*, 783 N.W.2d at 739. We conclude that VanGelder's argument that his case is about an "obviously missed deadline" and that relieves him from the requirement to provide expert testimony fails.

Finally, VanGelder argues that the law firm's alleged inaccurate statements in court filings constitute the crime of perjury, likening this to a case of stealing client funds because both are a "clear criminal act."[4] But he cites no authority to support that the alleged commission of perjury by an attorney is an exception to the general requirement that

[4] The law firm argues that VanGelder waived this argument because he did not raise it before the district court. However, the record reflects that VanGelder voiced his perjury concerns before the district court at the motion hearing.

malpractice claims be supported by expert testimony. And while, presumably, the intent of this argument is to emphasize the severity of submitting false information to the district court—which, VanGelder asserts, can be understood by a layperson—VanGelder again fails to account for the fact that expert testimony is required to establish causation, regardless of whether the alleged conduct is egregious. *See id.* This argument is therefore without merit.

In sum, because expert testimony was required for each of VanGelder's claims, the statutory expert-disclosure requirement applies, and VanGelder's failure to comply with it warrants mandatory dismissal of his claims. *See* Minn. Stat. § 544.42, subd. 6(c). The district court therefore did not err in dismissing VanGelder's complaint.

Affirmed.