

*This opinion is nonprecedential except as provided by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
A25-1554**

In re the Estate of Robert G Sorenson, Deceased.

**Filed June 15, 2026
Affirmed
Rasmusson, Judge**

Nobles County District Court
File No. 53-PR-23-1003

William J. Wetering, Daniel R. Wetering, Hedeem, Hughes & Wetering, Worthington,
Minnesota (for appellant Marilyn Sorenson)

Paul M. Malone, Malone & Mailander, Slayton, Minnesota (for respondent Scott
Sorenson)

Considered and decided by Cochran, Presiding Judge; Rasmusson, Judge; and
Cleary, Judge.*

NONPRECEDENTIAL OPINION

RASMUSSON, Judge

In this probate matter, the decedent's surviving spouse challenges the district court's dismissal of her petition for elective share, arguing that the district court abused its discretion by not allowing her to informally withdraw or amend imputed admissions that are relevant to the ownership of assets in a joint bank account that she alleged to be part of the decedent's estate. The surviving spouse additionally appears to argue that she is

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

entitled to the assets in this account as part of the augmented estate. Because the admissions are dispositive of account ownership and the district court acted within its discretion by deeming them admitted, we affirm.

FACTS

Appellant Marilyn Sorenson married Robert G. Sorenson in 1998. Robert had one child, respondent Scott Sorenson, from a previous relationship. Robert owned a joint bank account with Scott and Scott's wife, Stefanie. The primary assets in this account were Robert's monthly veterans benefits, which are the only assets at issue in this appeal.

Robert died in January 2023 at the age of 92. Marilyn, unaware of the existence of a will, filed a petition for formal adjudication of intestacy, determination of heirs, and appointment of personal representative. She additionally filed a petition for elective share of the decedent's augmented estate. Scott subsequently filed an objection to Marilyn's intestacy petition, contending that Robert had a will in which Scott was named as personal representative.

On December 28, 2023, Scott served several requests for admissions (RFAs) on Marilyn's counsel related to the joint bank account at issue in this case. Pertinent to the issues on appeal, the RFAs sought the following admissions:

- "That the account was established on August 16, 2020."
- "That when established Robert Sorenson owned one-third (1/3) of the account."
- "That when established Scott Sorenson was the owner of one-third (1/3) of the account."

- “That when established Stefanie Sorenson was the owner of one-third (1/3) of the account.”
- “That after the death of Robert Sorenson, Scott Sorenson owned one-half (1/2) of the account and Stefanie Sorenson owned one-half (1/2) of the account.”

Marilyn failed to answer or object to the RFAs within 30 days as required by Minn. R. Civ. P. 36.01. On February 1, 2024, Scott’s counsel contacted Marilyn’s counsel about the lack of response to the RFAs. On March 6, Scott’s counsel sent a follow-up message requesting a response. Six days later, Scott filed a motion to compel discovery. A hearing on this motion was continued, and Marilyn subsequently submitted an answer through counsel on April 12, denying the pertinent RFAs.

The district court scheduled a hearing on Marilyn’s petition for elective share of the augmented estate. Prior to the hearing, Scott filed a memorandum requesting that the district court deem the relevant RFAs admitted based on Marilyn’s failure to timely respond. Following a hearing, the district court issued an order in which it recognized that the RFAs were admitted. Based on the admitted facts, the district court determined that this joint account falls outside of the augmented estate and accordingly dismissed the petition. The district court also denied Marilyn’s subsequent motion for amended findings.¹

Marilyn appeals.

¹ The district court’s order framed this motion as a motion to reconsider. Because Marilyn’s arguments primarily relate to the district court’s prior order, this discrepancy is not material to our analysis.

DECISION

Marilyn argues that the district court abused its discretion by not allowing her to informally amend or withdraw her admissions and appears to relatedly argue that deposits into the joint account within the two years preceding Robert's death are part of the augmented estate.

Appellate courts review a district court's decision to deem RFAs admitted for an abuse of discretion. *See Dahle v. Aetna Cas. & Sur. Ins. Co.*, 352 N.W.2d 397, 401-02 (Minn. 1984) (concluding that it was within the district court's discretion to allow untimely responses to RFAs); *see also Frontier Ins. Co. v. Frontline Processing Corp.*, 788 N.W.2d 917, 922 (Minn. App. 2010) ("The district court's discovery-related orders will not be disturbed absent an abuse of discretion."), *rev. denied* (Minn. Dec. 14, 2010).

A surviving spouse is authorized by statute to exercise "the right of election," meaning that a surviving spouse may "elect to take a share of the decedent spouse's 'augmented estate,' rather than what would be received under the decedent spouse's will." *In re Guardianship & Conservatorship of Durand*, 859 N.W.2d 780, 785 (Minn. 2015) (quoting Minn. Stat. § 524.2-202 (2014)); *accord* Minn. Stat. § 524.2-202 (2024). The augmented estate generally consists of

the sum of the values of all property, whether real or personal, movable or immovable, tangible or intangible, wherever situated, that constitute the decedent's net probate estate, the decedent's nonprobate transfers to others, the decedent's nonprobate transfers to the surviving spouse, and the surviving spouse's property and nonprobate transfers to others.

Minn. Stat. § 524.2-203 (2024). Having been married to Robert for at least 15 years, Marilyn is entitled to take 50% of the augmented estate. Minn. Stat. § 524.2-202(a); *see also* Minn. Stat. § 524.2-202(b) (describing supplemental elective-share amount when sum of assets is less than \$75,000).

Although the underlying case is a probate dispute, this appeal centers on the district court’s discovery decision regarding the RFAs. “Unless inconsistent with the provisions of this chapter or chapter 525, pleadings, practice, procedure and forms in all probate proceedings shall be governed insofar as practicable by Rules of Civil Procedure” Minn. Stat. § 524.1-304(a) (2024). Minnesota Rule of Civil Procedure 36.01 allows a party to serve an RFA within the permissible scope of discovery relating “to statements, opinions of fact, or the application of law to fact.” Under this rule, “[t]he matter is admitted unless within 30 days after service of the request . . . the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by the party’s attorney.” Minn. R. Civ. P. 36.01. “Any matter admitted pursuant to this rule is conclusively established unless the court *on motion* permits withdrawal or amendment of the admission.” Minn. R. Civ. P. 36.02 (emphasis added). Neither party argues that rule 36.01 does not apply.

As a threshold issue, we address whether Marilyn made a rule 36.02 motion to withdraw. Because Marilyn did not serve a written answer or objection to the RFAs within 30 days of service, the matters are deemed admitted and “conclusively established.” Minn. R. Civ. P. 36.02. Upon our careful review of the record, there is no indication that Marilyn filed a motion to withdraw or amend the admissions as required by rule 36.02. Because

Marilyn's motion did not include language indicating that she was raising a motion under Minn. R. Civ. P. 36.02, we do not interpret it as such. Without a rule 36.02 motion, the district court was left without a basis to permit withdrawal or amendment of these admissions. Accordingly, we do not discern a basis to conclude that the district court abused its discretion by deeming these RFAs admitted.

The admissions to the RFAs are dispositive of the elective-share petition. Notably, one of these RFAs stated that, "after the death of Robert Sorenson, Scott Sorenson owned one-half (1/2) of the account and Stefanie Sorenson owned one-half (1/2) of the account." Marilyn's imputed admission that Scott and Stefanie own the entirety of this account conclusively establishes that this account is not part of Robert's augmented estate, meaning that Marilyn would not be able to claim this account as part of her elective share. *See* Minn. Stat. §§ 524.2-202, -203.

Affirmed.