

*This opinion is nonprecedential, except as provided by
Minnesota Rule of Civil Appellate Procedure 136.01, subdivision 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-2024**

Anthony Evans,
Appellant,

vs.

Sunrise East Multifamily, LLC,
Respondent.

**Filed July 6, 2026
Affirmed
Ede, Judge**

Stearns County District Court
File No. 73-CV-24-8657

Mark W. Perron, Perron Law Office, White Bear Lake, Minnesota (for appellant)

Kevin F. Gray, Melaina N. Mrozek, RGP LAW, LTD., St. Cloud, Minnesota (for respondent)

Considered and decided by Worke, Presiding Judge; Connolly, Judge; and Ede, Judge.

NONPRECEDENTIAL OPINION

EDE, Judge

This appeal arises from a personal-injury lawsuit that appellant brought against respondent. After the district court entered judgment on an order dismissing the complaint with prejudice under Minnesota Rule of Civil Procedure 5.04 for failure to file within one year of service, appellant filed a motion for relief from judgment pursuant to rule 60.02. In

this appeal from the district court’s order denying appellant’s rule 60.02 motion, appellant argues that the district court (1) erred in dismissing the complaint under rule 5.04 and (2) abused its discretion in weighing the *Finden* factors.¹ We affirm.

FACTS

Appellant Anthony Evans was allegedly injured after slipping and falling on premises owned by respondent Sunrise East Multifamily LLC.² On October 26, 2023, Evans served on Sunrise a complaint seeking damages that purportedly resulted from Sunrise’s negligence in allowing the premises to be unsafe. Sunrise served an answer on Evans on November 15. In January 2024, the parties signed a joint-discovery plan, and Evans filed the complaint and joint-discovery plan with the district court on Sunday, October 27.

The parties filed a stipulation to amend the joint-discovery plan in January 2025. The district court later issued a scheduling order, a copy of which Evans’s attorney received via U.S. mail. Although Sunrise and Evans subsequently scheduled Evans’s deposition, both Evans and his attorney failed to appear. In February, Sunrise moved to dismiss the

¹ Under the *Finden* factors, relief from judgment is warranted when “the movant satisfies four requirements: (1) a debatably meritorious claim; (2) a reasonable excuse for the movant’s failure or neglect to act; (3) that the movant ‘acted with due diligence’ after learning of the error or omission; and (4) that ‘no substantial prejudice will result to the other party.’” *Glen Edin of Edinburgh Ass’n v. Hiscox Ins. Co.*, 992 N.W.2d 393, 402 (Minn. 2023) (quoting *Finden v. Klaas*, 128 N.W.2d 748, 750 (Minn. 1964) (other citation omitted)).

² While the complaint does not specify the date of the alleged incident, the district court inferred that it occurred in March 2020, likely based on the allegation that, “on or about March 20, 2020,” Sunrise “was the owner and operator of the premises.”

lawsuit, contending that Evans had not filed the complaint within one year of service, as required by Minnesota Rule of Civil Procedure 5.04. Sunrise attempted to e-serve its motion to dismiss on Evans, without knowledge that Evans's counsel had not signed up for e-service, as required by applicable court rules. In March, the district court held a hearing on Sunrise's motion to dismiss, but neither Evans nor his attorney appeared. Later that month, the district court entered judgment on an order granting Sunrise's motion to dismiss with prejudice. On the same day that the district court entered the dismissal order, the district court administrator served Evans with a notice of filing of that order.

Evans's attorney became aware that the case had been dismissed on July 12, "when he was reviewing upcoming trials." On July 17, Evans filed a motion for relief from judgment under Minnesota Rule of Civil Procedure 60.02. At a hearing on Evans's rule 60.02 motion, Evans's attorney acknowledged that, because he had not signed up for e-service until after the district court ordered dismissal, he did not receive Sunrise's motion to dismiss or the notice of hearing thereon. During the hearing, Sunrise's counsel stated that she did not know Evans's attorney had not signed up for e-service until after the district court had dismissed the matter.

In October, the district court filed an order denying Evans's motion for relief from judgment. The district court rejected Evans's argument that it had erroneously dismissed the case under Minnesota Rule of Civil Procedure 5.04. And the district court analyzed the *Finden* factors, determining that Evans had "failed to make a satisfactory showing that 60.02 relief should be granted."

This appeal follows.

DECISION

In challenging the district court's order denying his motion for relief from judgment under Minnesota Rule of Civil Procedure 60.02, Evans asserts that the court (1) erred in dismissing the complaint under rule 5.04 and (2) abused its discretion in weighing the *Finden* factors. As explained below, neither argument persuades us to reverse.

I. Any judicial error by the district court in dismissing the complaint under Minnesota Rule of Civil Procedure 5.04 is not within the scope of our review.

“The nature of the appeal and the course of the [district] court proceedings determine our scope of review.” *Lilly v. City of Minneapolis*, 527 N.W.2d 107, 110 n.2 (Minn. App. 1995), *rev. denied* (Minn. Mar. 29, 1995). “The scope of review afforded may be affected by whether proper steps have been taken to preserve issues for review on appeal, including the existence of timely and proper post-trial motions.” Minn. R. Civ. App. P. 103.04.

As mentioned above, this is an appeal from the October 2025 order denying Evans's motion for relief from judgment under Minnesota Rule of Civil Procedure 60.02. That is to say, it is not an appeal from the March 2025 judgment on the district court's order dismissing the complaint with prejudice under Minnesota Rule of Civil Procedure 5.04, from which Evans took no timely appeal. *See* Minn. R. Civ. App. P. 104.01, subd. 1 (providing that, “[u]nless a different time is provided by statute, an appeal may be taken from a judgment within 60 days after its entry”). In other words, Evans did not notice an appeal from the March 2025 judgment, and such an appeal would have been untimely even

if he had included it in the notice he filed more than 60 days after the district court entered the March 2025 judgment. *See id.*

Moreover, because Evans filed his rule 60.02 motion in July 2025—which was also more than 60 days after the district court entered the March 2025 judgment—it was not a timely post-decision tolling motion. *See id.*, subd. 2 (tolling the time for appeal during the pendency of certain post-decision motions, including rule 60.02 motions); *Clifford v. Bundy*, 747 N.W.2d 363, 364 (Minn. App. 2008) (“A postdecision motion to amend a prejudgment order is not timely if it is filed after expiration of the 60–day period to appeal from the judgment, and because such a motion is not timely, it does not toll the period for appeal from the order or judgment.” (citing *Mingen v. Mingan*, 679 N.W.2d 724, 728 (Minn. 2004))), *rev. denied* (Minn. June 18, 2008); *see also Wells Fargo Bank, Nat’l Ass’n v. True Gravity Ventures, LLC*, 23 N.W.3d 837, 843 n.3 (Minn. 2025) (explaining that notice is not required to commence the appeal period for an appeal from a judgment, which begins to run upon entry). Thus, our scope of review is limited to considering whether the district court abused its discretion in denying Evans’s rule 60.02 motion. *See Minn. R. Civ. App. P. 103.04*; *see also Lilly*, 527 N.W.2d at 110 n.2.

In that connection, rule 60.02 “enable[s] district courts to balance the systemic need for finality of judgments against circumstances when an injustice is likely to result.” *Bender v. Bernhard*, 971 N.W.2d 257, 263 (Minn. 2022); *see also Carter v. Anderson*, 554 N.W.2d 110, 113 (Minn. App. 1996) (“Rule 60.02 reflects a balance between the need for finality in judgments and the need for relief from judgments under very specific circumstances.”), *rev. denied* (Minn. Dec. 23, 1996). There are “exceptions to the finality

of judgments under narrowly defined circumstances,” but “Rule 60.02 can be utilized only if one of the grounds specified in the rule exists.” *Carter*, 554 N.W.2d at 113.

In particular, rule 60.02 permits relief from judgment for these reasons:

- (a) Mistake, inadvertence, surprise, or excusable neglect;
- (b) Newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial pursuant to Rule 59.03;
- (c) Fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party;
- (d) The judgment is void;
- (e) The judgment has been satisfied, released, or discharged or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or
- (f) Any other reason justifying relief from the operation of the judgment.

Minn. R. Civ. P. 60.02. “Rule 60.02 is limited to the specific situations provided for in the rule itself and does not allow for general correction of judicial error.” *Sullivan v. Spot Weld, Inc.*, 560 N.W.2d 712, 716 (Minn. App. 1997) (quotation omitted), *rev. denied* (Minn. Apr. 27, 1997). “Where judicial error could have been remedied by an appeal from the judgment, the Rules understandably do not permit review of those errors by another method, such as an appeal from an order denying a motion to vacate a judgment.” *Pederson v. Rose Co-op. Creamery Ass’n*, 326 N.W.2d 657, 661 (Minn. 1982).

Because Evans has appealed only from the October 2025 order denying his motion for relief from judgment under rule 60.02, we conclude that any judicial error by the district court in dismissing the complaint under rule 5.04 is not within the scope of our review. *See Sullivan*, 560 N.W.2d at 716; *see also* Minn. R. Civ. App. P. 103.04; *Pederson*, 326 N.W.2d

at 661; *Lilly*, 527 N.W.2d at 110 n.2. We therefore do not consider Evans’s argument that the district court erred in dismissing the complaint under rule 5.04.

II. The district court acted within its discretion in denying Evans’s motion for relief from judgment based on its weighing of the *Finden* factors.

A decision on whether relief from a judgment is warranted under Minnesota Rule of Civil Procedure 60.02 lies within the sound discretion of the district court and is based on the specific circumstances of each case. *Cole v. Wutzke*, 884 N.W.2d 634, 637 (Minn. 2016). Appellate courts review such a decision for an abuse of discretion. *Id.* “A district court abuses its discretion when it acts under a misapprehension of the law, or when its factual findings are clearly erroneous.” *Gams v. Houghton*, 884 N.W.2d 611, 620 (Minn. 2016) (quotations omitted). And “a district court abuses its discretion when a movant has met the burden of clearly demonstrating the existence of the four elements of the *Finden* analysis, and the court nevertheless denies relief.” *Id.* (quotation omitted).

“The plain language of the rules confirms that Rule 60.02 applies to dismissals under Rule 5.04(a).” *Id.* at 616. As referenced earlier, one basis for relief from a judgment is “[m]istake, inadvertence, surprise, or excusable neglect.” Minn. R. Civ. P. 60.02(a). And the Minnesota Supreme Court has “long stated that relief should be granted where the movant affirmatively satisfies four requirements”—the aforementioned *Finden* factors—which are, for present purposes: (1) “a debatably meritorious claim”; (2) “a reasonable excuse for . . . [their] failure or neglect to act”; (3) “that . . . [they] acted with due diligence after learning of the error or omission”; and (4) “that no substantial prejudice will result to the other party.” *Cole*, 884 N.W.2d at 637 (quotations omitted). To grant relief under rule

60.02(a), the district court must consider and expressly find that a party has satisfied all four *Finden* factors. *Gams*, 884 N.W.2d at 619. “[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” *Id.* at 620 (quotation omitted).

With these principles in mind, we next review the district court’s exercise of discretion in weighing each *Finden* factor.

A. Debatably Meritorious Claim

“Under the *Finden* analysis, a debatably meritorious claim is one that, if established at trial, presents a cognizable claim for relief.” *Cole*, 884 N.W.2d at 638. “To satisfy this factor, the movant generally must provide specific information that clearly demonstrates the existence of the debatably meritorious claim.” *Id.* (footnote omitted) (quotation omitted). “Conclusory allegations in moving papers are ordinarily insufficient.” *Id.*

Here, the district court determined that Evans had “made a weak showing” of a debatably meritorious claim because he “ha[d] not provided *specific information* clearly demonstrating the existence of a debatably meritorious claim.” We discern no abuse of discretion in this determination by the district court. The complaint states that Evans “sustained bodily injuries and damage to personal property,” that he incurred at least \$50,000 in expenses, and that he has and will continue to incur wage loss and loss of earning capacity. Based on our careful review of the district court’s decision to deny Evans’s motion for relief from judgment, we conclude that the court acted within its discretion in determining that these conclusory statements lack specific information

demonstrating the existence of the alleged injuries supporting Evans’s negligence claim. And no other documents in the record provide such specific information.

Because the district court did not act under a misapprehension of the law or make clearly erroneous factual findings in determining that Evans has not provided specific information that clearly demonstrates the existence of a debatably meritorious claim for relief, we conclude that the court acted within its discretion in deciding that the first *Finden* factor did not favor granting Evans’s motion for relief from judgment. *See Cole*, 884 N.W.2d at 638; *see also Gams*, 884 N.W.2d at 620.

B. Reasonable Excuse for Failure or Neglect to Act

In evaluating the second *Finden* factor—whether the movant has a reasonable excuse for the failure or neglect to act—the supreme court has “long said that mistakes of law, as well as mistakes of fact, may afford grounds for relief.” *Cole*, 884 N.W.2d at 638 (quotation omitted). Minnesota “case law generally reflects a strong policy favoring the granting of relief when judgment is entered through no fault of the client.” *Id.* (quotation omitted). And the supreme court has “held that[,] even in those cases where a court has held the neglect of a client’s attorney to be inexcusable, if such neglect has been purely that of counsel, ordinarily courts are loath to punish the innocent client for the counsel’s neglect.” *Id.* (footnote omitted) (quotations omitted).

But “not all mistakes, whether of fact or of law, and whether committed by a party to an action or by [their] attorney, are subject to relief.” *Id.* (quotation omitted). “Indeed, the right to vacatur is not absolute; rather, it is a matter largely within the discretion of the [district] court.” *Id.* (quotations omitted). “As such, it is generally for the district court to

determine whether the excuse offered by the movant is true and reasonable under the circumstances.” *Id.* at 638–39. Put differently, “there 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”; rather, “the decision is fact intensive.” *Id.* at 639.

In the present matter, the district court determined that Evans had “made a weak showing on this factor” because, among other things, he “failed to abide by the Minnesota Rules requiring use of e-filing and e-service, resulting in him missing the motion to dismiss hearing, and failed to appear for a duly not[ic]ed deposition during the pendency of the case.”³ We discern no abuse of discretion in the district court’s determination that the enumerated mistakes are not subject to relief, particularly given that attorneys have been required to use Minnesota’s e-filing system since July 1, 2016. *See* Minn. Gen. R. Prac. 14.01(b)(1) (providing in relevant part that, “[e]ffective July 1, 2016, . . . Select Users in any case throughout the State of Minnesota shall file all documents electronically with the court through the E-Filing System and shall serve documents electronically through the E-Filing System”); *see also* Minn. Stat. § 645.44, subd. 16 (2024) (“‘Shall’ is mandatory.”); Minn. Gen. R. Prac. 14.01(a)(10) (defining “Select Users” as including an “Attorney” who

³ The district court also determined that Evans “made a weak showing on this factor” because he “failed to file the complaint within one year of service as required by Rule 5.04.” Because we conclude that the district court acted within its discretion in weighing this factor based on the other two grounds it cited, we need not review this other ground for the court’s determination. *See* Minn. R. Civ. P. 61 (“The court at every stage of the proceeding must disregard any error or defect in the proceeding which does not affect the substantial rights of the parties.”); *see also Hanka v. Pogatchnik*, 276 N.W.2d 633, 636 (Minn. 1979) (explaining that, “[w]here a decisive finding of fact is supported by sufficient evidence and is adequate to sustain the conclusions of law, it is immaterial whether some other findings are not so sustained”).

appears or submits documents in a case). The uncontroverted failures by both Evans and his attorney to attend Evans’s duly noticed deposition evince a lack of diligent prosecution that further underscores the district court’s appropriate evaluation of this factor.

In light of the fact-intensive nature of this decision—which lies largely within the purview of the district court in evaluating whether Evans’s proffered excuse is reasonable under the circumstances—we conclude that the court acted within its discretion in deciding that the second *Finden* factor did not favor granting Evans’s motion for relief from judgment. *See Cole*, 884 N.W.2d at 638–39.

C. Due Diligence

“‘[D]ue diligence’ is assessed from the time that the movant learns of . . . [their] error or omission.” *Id.* at 639. This factor “assesses whether the movant acts promptly after learning of the need to act.” *Cornell v. Ripka*, 897 N.W.2d 801, 809 (Minn. App. 2017) (emphasis omitted).

In this case, the district court determined that Evans made “a strong showing on this factor” because he moved for relief from judgment under rule 60.02 on July 17, 2025, five days after learning that the court had dismissed the complaint.

There is no dispute that Evans has satisfied the third *Finden* factor. On this record, we agree that the district court acted within its discretion in weighing due diligence in favor of granting Evans’s motion for relief from judgment. *See Cole*, 884 N.W.2d at 639; *see also Cornell*, 897 N.W.2d at 809.

D. Substantial Prejudice

“[P]rejudice to the other party should not be presumed nor inferred from the mere fact of delay; instead, there must be some particular prejudice of such a character that some substantial right or advantage will be lost or endangered if relief is granted.” *Cole*, 884 N.W.2d at 639 (quotations omitted). “Accordingly, the movant bears the burden of demonstrating that the delay resulting from . . . [their] error or omission has not resulted in a real and particular harm to the other party, such as the loss of witnesses or evidence, and that the other party has not otherwise detrimentally relied on the resulting dismissal or judgment.” *Id.*

In this case, the district court determined that Evans “made a weak showing on this factor” because it found that “substantial prejudice will result to the defense if the case is allowed to proceed.” Inferring that “the incident occurred in March 2020, five and one-half years” before its consideration of Evans’s motion for relief from judgment, the district court reasoned that “memories ha[d] surely faded since that time” and that Evans and his attorney had “frustrat[ed] the discovery process” by “fail[ing] to appear for a deposition during the pendency of this case.” We discern no abuse of discretion by the district court in this determination. Notwithstanding Evans’s assertion that all witnesses remain available and all evidence is preserved, it was within the district court’s discretion to rule that Evans had not made a satisfactory showing on this factor given the combined effect of the significant elapse of time and Evans’s unnecessary failure to cooperate with his duly noticed deposition. *See Belton v. City of Minneapolis*, 393 N.W.2d 244, 246 (Minn. App. 1986) (explaining that, after “many years of unnecessary delay, the need to search for

identifiable and concrete examples of prejudice diminishes”), *rev. denied* (Minn. Nov. 19, 1986).

In sum, the district court did not abuse its discretion in weighing the *Finden* factors and ruling that Evans did not affirmatively satisfy the first, second, and fourth requirements when he needed to establish all four. *See Cole*, 884 N.W.2d at 637; *see also Gams*, 884 N.W.2d at 619. Consequently, we conclude that the district court acted within its discretion in denying Evans’s motion for relief from judgment under rule 60.02.

Affirmed.