STATE OF MINNESOTA
IN COURT OF APPEALS
A25-2045

Joseph T. Green,
Appellant,

vs.

State National Insurance Company, Inc., et al.,
Respondents.

Filed August 24, 2026
Affirmed in part, reversed in part, and remanded
Rasmusson, Judge

Hennepin County District Court
File No. 27-CV-23-18357

Brian Melendez, Barnes & Thornburg LLP, Minneapolis, Minnesota (for appellant)

Justin Bruntjen, Decerto Law LLC, Wayzata, Minnesota (for respondents)

Timothy D. Johnson, Alexandra J. Anderson, Smith Jadin Johnson, PLLC, Bloomington, Minnesota (for amicus curiae United Policyholders)

Considered and decided by Rasmusson, Presiding Judge; Johnson, Judge; and Kirk, Judge.*

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

NONPRECEDENTIAL OPINION

RASMUSSON, Judge

In this dispute over travel-insurance coverage, appellant-policyholder argues that the district court erred by denying his motion for summary judgment on his breach-of-contract claim, declaratory-judgment claim, consumer-fraud claim, various negligence claims, and claim for breach of the covenant of good faith and fair dealing. Appellant further challenges the district court's denial of his motion for leave to amend the complaint to add claims for punitive damages and taxable costs. Because the district court erred only with respect to its denial of appellant's motion for summary judgment on the consumer-fraud claim, we affirm in part, reverse in part, and remand.

FACTS

Background

Appellant Joseph T. Green made plans to go on a bicycle trip in Japan, scheduled for April 21 through April 28, 2023. Green, an attorney with expertise in banking, had been retained as an expert witness in a federal civil case, scheduled for trial during the same timeframe as his Japan trip. However, Green did not expect that the trial would conflict with the trip because a pretrial settlement was likely and, if unresolved, his testimony may not be necessary and/or the decades-old case may be rescheduled.

Green sought travel insurance for the Japan trip and was directed to Cavalry Elite Travel Insurance, operated by respondent Redpoint Resolutions LLC.[1] Green contacted Redpoint and inquired whether the Cavalry insurance policy would provide coverage if he had to cancel the trip to testify at trial. Redpoint directed Green to the policy language, which provides coverage for certain unforeseen events, including trials.

Green requested additional clarification regarding whether the policy would cover him and his wife if he had to cancel the trip to testify at trial. Redpoint responded that it "cannot guarantee coverage ahead of a cancellation event" and "[d]ue to insurance regulations, [it] cannot further interpret or define policy language." Green responded that he was "not asking for a guarantee of coverage." Rather, he "want[ed] to know whether there would be coverage if [he was] required to appear as an expert witness." Redpoint restated the policy language and noted that it sent Green a quote for its standard policy and a quote for its cancel-for-any-reason policy. Green stated that, based on the policy language, he thought that the standard policy would suffice. He purchased the standard policy.

Insurance Policy

The policy provides coverage if the policyholder is "prevented from taking [a] Covered Trip due to . . . [an] Unforeseen Event," as enumerated in the policy. Under the policy, "unforeseen" is defined as "not anticipated or expected, and occurring on or after

[1] Redpoint marketed the policy, which was issued by respondent State National Insurance Company Inc. Respondent UnivOps Insurance Services LLC acts as a licensed insurance agent of Redpoint. Respondent Edward Muhlner is a co-president of UnivOps.

the Effective Date of the Policy." Two of the enumerated events are relevant to the issues on appeal. First, the policy includes coverage for unforeseen participation in legal proceedings when the policyholder or their traveling companion are "subpoenaed; required to appear as a witness in a legal action, provided that [the policyholder] or [the policyholder's] Traveling Companion are not a party to the legal action or appearing as a law enforcement officer." The policy also includes coverage for certain unforeseen medical events in instances of "Accidental Injury . . . of [the policyholder] . . . which results in medically imposed restrictions as certified by a Physician at the time of loss preventing [the policyholder's] participation or continued participation in the Covered Trip." To receive coverage under this provision, "[a] Physician must advise cancellation of the Covered Trip on or before the Scheduled Departure Date."

Injury and Witness Obligations

Green began experiencing pain in his right hip in January 2023 and was diagnosed with advanced osteoarthritis. Green's physician advised him that his ability to participate in the Japan trip depended on his "comfort with the desired activities."

The federal civil trial went forward as scheduled from April 17 to April 27, conflicting with the Japan trip. Green was required to observe the trial and he was scheduled to appear as a witness on April 24. On April 22, Green was informed that he likely would not be called to testify. Green did not go on the Japan trip.

Claims Process

In May 2023, Green submitted an insurance claim, seeking $23,700 in nonrefundable trip fees. Green contended that he was unable to travel due to his hip pain

and his expert-witness obligations. Green's physician filled out the insurer's medical form. The form included the following question: "Did you advise the trip be cancelled or interrupted due to the patient's medical condition?" The physician checked the box labeled "no" and explained that the trip was "[d]ependent on patient's comfort with desired activities."

Redpoint denied Green's claim. In the denial letter, Redpoint stated that the physician "did not certify cancellation and checked 'no' when asked if he/she advised cancellation." The letter did not address Green's expert-witness obligations. Green responded with further information about his medical condition. He noted that he also sought coverage based on his expert-witness obligations and offered additional explanation. Redpoint subsequently denied the legal-appearance aspect of Green's claim.

Litigation

In December 2023, Green filed a complaint against respondents asserting the following claims: declaratory judgment, breach of contract, breach of covenant of good faith and fair dealing, fraud, and consumer fraud. Green later filed a motion for leave to amend his complaint, seeking to add the following claims: negligent misrepresentation, negligent procurement of insurance coverage, negligent investigation and denial of claim, negligence per se, punitive damages, and taxable costs under Minnesota Statutes section 604.18 (2024). The district court granted the motion with respect to the negligence claims but denied the motion with respect to punitive damages and taxable costs.

The parties filed cross motions for summary judgment. The district court denied Green's summary-judgment motion in full and granted respondents' summary-judgment

motion with respect to his claims for declaratory judgment, breach of contract, breach of covenant of good faith and fair dealing, consumer fraud, negligent procurement of insurance, negligent investigation and denial of claim, and negligence per se.

Green appeals.

DECISION

"Summary judgment is appropriate if 'there is no genuine issue as to any material fact and the movant is entitled to judgment as a matter of law.'" *Metro. Transp. Network, Inc. v. Collaborative Student Transp. of Minn., LLC*, 6 N.W.3d 771, 778 (Minn. App. 2024) (quoting Minn. R. Civ. P. 56.01), *rev. denied* (Minn. July 23, 2024). Appellate courts review a district court's "grant of summary judgment de novo to determine whether there are genuine issues of material fact and whether the district court erred in its application of the law." *Montemayor v. Sebright Prods., Inc.*, 898 N.W.2d 623, 628 (Minn. 2017) (quotation omitted). When performing their review, appellate courts "view the evidence in the light most favorable to the party against whom summary judgment was granted." *STAR Ctrs., Inc. v. Faegre & Benson, L.L.P.*, 644 N.W.2d 72, 76-77 (Minn. 2002). It is improper to grant a motion for summary judgment if there are doubts about disputed issues of material fact, even if the district court believes that the nonmoving party would be unlikely to prevail at trial. *Murphy v. Wood*, 545 N.W.2d 52, 54 (Minn. App. 1996); *Whisler v. Findeisen*, 160 N.W.2d 153, 155 (Minn. 1968).

Green challenges various aspects of the district court's decision. We address each in turn.

I. The district court did not err by granting respondents summary judgment on the breach-of-contract and declaratory-judgment claims.

Green argues that the district court erred by denying his summary-judgment motion (and granting respondents' corresponding motion) on his breach-of-contract and declaratory-judgment claims. He contends that the trial constitutes an "unforeseen event" and that his hip injury is an appropriately certified injury within the meaning of the policy.

A breach-of-contract claim requires proof of the following elements: "(1) formation of a contract, (2) performance by plaintiff of any conditions precedent to his right to demand performance by the defendant, and (3) breach of the contract by defendant." *Lyon Fin. Servs., Inc. v. Ill. Paper & Copier Co.*, 848 N.W.2d 539, 543 (Minn. 2014). A declaratory-judgment claim allows a court to "declare rights, status, and other legal relations." Minn. Stat. § 555.01 (2024); *see also* Minn. Stat. § 555.02 (2024) (addressing declaratory judgment with respect to contract claims). Under this claim, a party must prove that they have "a legal interest or right which is capable of and in need of protection from the claims, demands, or objections" of another. *Otto v. Wright County*, 899 N.W.2d 186, 198 (Minn. App. 2017) (quotation omitted), *aff'd*, 910 N.W.2d 446 (Minn. 2018).

A. Trial-Obligations Claim

We first address the district court's decision to grant respondents summary judgment on the breach-of-contract and declaratory-judgment claims with respect to Green's argument that his obligation to attend the trial was an unforeseen event. The district court determined that, as a matter of law, the policy did not cover Green's trial obligations because the trial was not an unforeseen event under the policy.

This issue presents a question of insurance-policy interpretation. "Interpretation of an insurance policy, and whether a policy provides coverage in a particular situation, are questions of law that [appellate courts] review de novo." *Depositors Ins. Co. v. Dollansky*, 919 N.W.2d 684, 687 (Minn. 2018) (quoting *Eng'g & Constr. Innovations, Inc. v. L.H. Bolduc Co.*, 825 N.W.2d 695, 704 (Minn. 2013)). Appellate courts apply general contract principles to interpret insurance policies, and they interpret these policies to "give effect to the intent of the parties." *Thommes v. Milwaukee Ins. Co.*, 641 N.W.2d 877, 879 (Minn. 2002). In this vein, appellate courts give unambiguous language "its plain and ordinary meaning." *Id.* at 880.

When policy language is ambiguous, however, appellate courts generally resolve ambiguities in favor of the insured. *Id.* An insurance policy is ambiguous if it "is susceptible to two or more reasonable interpretations." *Eng'g & Constr. Innovations, Inc.*, 825 N.W.2d at 705 (quotation omitted). Appellate courts will not, however, "read an ambiguity into the plain language of a policy in order to provide coverage." *Id.* (quotation omitted). Additionally, appellate courts interpret terms within the context of the broader contract. *Id.*

To be entitled to coverage, an event must be classified as an "[u]nforseen [e]vent." The parties dispute whether, under the policy, the trial qualifies as an unforeseen event. As previously noted, the policy defines "unforeseen" as "not anticipated or expected." The policy does not, however, define "anticipated" or "expected."

Appellate courts may turn to dictionaries in determining the plain meaning of words. *Larson v. Nw. Mut. Life Ins. Co.*, 855 N.W.2d 293, 301 (Minn. 2014). The American

Heritage Dictionary defines "anticipate" as "[t]o see as a probable occurrence; expect." *The American Heritage Dictionary of the English Language* 77 (5th ed. 2018). It similarly defines "expect" as "[t]o consider likely or certain." *Id.* at 623. A different dictionary defines "anticipate" as "to expect" and "expect" as "to look forward to and rely on." Bryan A. Garner, *Garner's Dictionary of Legal Usage* 63 (3d ed. 2011) (defining "anticipate"); Bryan A. Garner, *A Dictionary of Modern Legal Usage* 340 (2d ed. 1995) (defining "expect"). Other dictionaries have adopted largely consistent definitions. *See New Oxford American Dictionary* 68, 609 (3d ed. 2010) (defining "anticipate as "regard as probable; expect or predict"; defining "expect" as "regard (something) as likely to happen"); *Webster's Third New International Dictionary* 94, 799 (2002) (defining "anticipate" as "to consider in advance: give advance thought, discussion or treatment to"; defining "expect" as "to await, look forward to").

From these definitions, the words "anticipate" and "expect" contemplate events that are regarded as likely occurrences. Likewise, the language "not anticipated or expected" appears to contemplate events that are not regarded as likely occurrences. An unforeseen event is, therefore, an event that is not regarded as a likely occurrence.

Viewing the facts in the light most favorable to Green, we conclude that there is no genuine issue of material fact that the trial was not an unforeseen event. At the time that Green purchased the policy, the trial was scheduled for a date that conflicted with the Japan trip. We cannot say that a scheduled event, here Green's trial attendance, is not regarded as a likely occurrence. Green's subjective hope for a cancellation based upon his speculation that the trial would not conflict with the Japan trip does not make this an

unforeseen event. The district court accordingly did not err in concluding that the trial was not an unforeseen event, meaning that it did not err in granting respondents summary judgment on the breach-of-contract and declaratory-judgment claims on this basis.

B. Medical Claim

Green next challenges the district court's decision regarding the denial of the medical component of his claim, arguing that his physician functionally advised cancellation of the trip. He sought coverage based on his alleged medical inability to attend the trip stemming from his hip pain. The policy allows coverage for an "Accidental Injury . . . of [the policyholder] . . . which results in medically imposed restrictions as certified by a Physician at the time of loss preventing [the policyholder's] participation or continued participation in the Covered Trip." To be entitled to coverage, "[a] Physician must advise cancellation of the Covered Trip on or before the Scheduled Departure Date."

We apply the same policy-interpretation principles as discussed in the previous section. *See Thommes*, 641 N.W.2d at 879. The plain language of the policy requires that a physician "advise cancellation." As previously noted, Green's physician filled out the insurer's medical form. The form included the following question: "Did you advise the trip be cancelled or interrupted due to the patient's medical condition." The physician checked the box labeled "no" and explained that the trip was "[d]ependent on patient's comfort with desired activities."

Green contends that the physician's statement that the trip was "[d]ependent on [his] comfort with desired activities" allowed Green to make this determination because his pain level is subjective. He adds that other diagnostic information supports his inability to

travel. Green's interpretation, however, would circumvent the policy's plain requirement that a physician recommend that the patient not travel. Because there is no evidence that a physician advised cancellation of the trip, as required in the policy, the district court did not err by granting respondents summary judgment on the breach-of-contract and declaratory-judgment claims with respect to this aspect of Green's insurance claim.

II. The district court erred by dismissing Green's consumer-fraud claim.

Green next argues that the district court erred by granting summary-judgment dismissal of his consumer-fraud claim. We agree.

Green brought a claim under the Minnesota Prevention of Consumer Fraud Act (CFA), Minn. Stat. § 325F.68-.70 (2024). The CFA prohibits "[t]he act, use, or employment by any person of any fraud, unfair or unconscionable practice, false pretense, false promise, misrepresentation, misleading statement or deceptive practice, with the intent that others rely thereon in connection with the sale of any merchandise." Minn. Stat. § 325F.69, subd. 1. In turn, an unconscionable practice is a practice that "(1) offends public policy as established by the statutes, rules, or common law of Minnesota; (2) is unethical, oppressive, or unscrupulous; or (3) is substantially injurious to consumers." *Id.*, subd. 8. The CFA allows "a consumer injured by a violation of the act, in connection with the sale of merchandise for personal . . . purposes" to bring a civil action to recover damages and obtain equitable relief. Minn. Stat. § 325F.70, subd. 3.

The district court dismissed Green's consumer-fraud claim on the basis that he failed to show that his claim benefits the public. Assuming, without deciding, that Green was required to show a public benefit, section 325F.70, subdivision 3, states that "[a]n

action brought under this section benefits the public." Because a public benefit exists, the district court erred in its determination that Green failed to show a public benefit.

Having addressed the public-benefit requirement, we next evaluate whether Green's claim would otherwise survive summary judgment. The district court determined that Green presented sufficient facts on all consumer-fraud elements except for the public-benefit requirement. As a threshold issue, it is clear that the CFA applies to this transaction because the policy is merchandise within the meaning of section 325F.68, subdivision 2, which defines "merchandise" as "any objects, wares, goods, commodities, intangibles, real estate, loans, or services." *See also Ly v. Nystrom*, 615 N.W.2d 302, 308 (Minn. 2000) (noting that the CFA should be "generally very broadly construed to enhance consumer protection" (quotation omitted)). Similarly, there is no doubt that the purchase of the policy constitutes a "sale" under section 325.69, subdivision 1.

The question arises whether the sale of the policy involved fraud, an unfair or unconscionable practice, a misrepresentation, a misleading statement, or other actionable conduct under section 325F.69, subdivision 1. We note that respondents never guaranteed coverage and provided Green with a quote for a cancel-for-any-reason policy. However, the record demonstrates that, although Green made Redpoint aware of the potential conflict, it sold Green the standard policy with knowledge of the potential conflict and then denied coverage on the basis of this event. Viewing the facts in the light most favorable to Green, it is plausible for a fact-finder to find that the respondents, by selling a policy with knowledge of Green's concerns regarding the trial and later denying coverage on this basis, engaged in actionable conduct with the intent to induce reliance by failing to further inquire

into Green's concerns. Because a genuine dispute of material fact exists with respect to Green's consumer-fraud claim, the district court erred by granting respondents' motion for summary-judgment dismissal of this claim.

III. The district court did not err by dismissing Green's negligence claims.

Green next argues that the district court erred by dismissing three of his negligence claims. We address each in turn.

A. Negligent Procurement

Green first challenges the district court's dismissal of his negligent-procurement claim. He argues that the sales agent should have been forthright that the standard policy did not provide coverage for Green's trial obligations. To prevail on a claim for negligent procurement of insurance coverage, the claimant must prove "(1) that the agent owed a duty to the insured to exercise reasonable skill, care, and diligence in procuring insurance; (2) a breach of that duty; and (3) a loss sustained by the insured that was caused by the agent's breach of duty." *Graff v. Robert M. Swendra Agency, Inc.*, 800 N.W.2d 112, 116 (Minn. 2011).

"An insurance agent has the duty to exercise the standard of skill and care that a reasonably prudent person engaged in the insurance business will use under similar circumstances." *Johnson v. Farmers & Merchs. State Bank of Balaton*, 320 N.W.2d 892, 898 (Minn. 1982). This duty "is ordinarily limited to the duties imposed in any agency relationship, to act in good faith and follow instructions." *Gabrielson v. Warnemunde*, 443 N.W.2d 540, 543 (Minn. 1989). Unless a contrary agreement exists, the scope of the

agent's duty does not extend "beyond what he or she has specifically undertaken to perform for the client." *Id.*

Green's claim concerns whether the insurance agent breached a duty of care by allowing him to purchase the standard policy when the event that prompted the policy's purchase—the trial—ultimately did not qualify for coverage.

We do not discern that the sales agent breached a duty of care. Notably, the insurance sales agent stated that the insurer cannot guarantee coverage ahead of the potential cancellation event. The insurance agent directed Green to the policy language, and Green stated that he thought that the standard policy would provide coverage. Accordingly, the district court did not err by dismissing Green's claim.

B. Negligent Investigation and Denial

Green next challenges the district court's summary-judgment dismissal of his claim for negligent investigation and denial. He contends that respondents, in denying the medical component of his claim, failed to have proper claims-handling procedures and failed to train the claims handlers properly on these procedures. Green adds that the reliance on the physician-statement form was not a reasonable basis for denying his benefits.

Green does not identify authority holding that Minnesota has recognized a cause of action for negligent investigation and denial of insurance coverage. Based on his legal argument, he appears to bring an ordinary-negligence claim and argue that the respondents were negligent in their handling of the medical component of his claim. An ordinary negligence claim requires proof of "(1) the existence of a duty of care, (2) a breach of that

duty, (3) an injury, and (4) the breach of the duty being the proximate cause of the injury." *Reichel v. Wendland Utz, LTD*, 11 N.W.3d 602, 612 (Minn. 2024) (quotation omitted).

The district court did not err by dismissing Green's claim. Irrespective of whether respondents had a duty to adopt certain investigation procedures, Green fails to show that respondents breached this duty or that a breach proximately caused his injury. As described above, the record demonstrates that the insurer properly denied the medical aspect of Green's claim based on the absence of the required certification that a physician advised that Green cancel his trip.

C. Negligence Per Se

With regard to negligence, Green last argues that the district court erred by denying his claim for negligence per se. He argues that two of the respondents—UnivOps and Muhlner—are not properly licensed as a managing general agent.

"[N]egligence per se is a form of ordinary negligence that results from violation of a statute." *Johnson v. Paynesville Farmers Union Coop. Oil Co.*, 817 N.W.2d 693, 706 (Minn. 2012) (quotations omitted). As stated above, ordinary negligence requires proof of breach of a duty of care that proximately caused the plaintiff damages. *Reichel*, 11 N.W.3d at 612-13. In the negligence-per-se context, "a statutory duty of care is substituted for the ordinary prudent person standard such that a violation of a statute is conclusive evidence of duty and breach." *Johnson*, 817 N.W.2d at 706 (quotation omitted). For a violation of a statute to give rise to negligence per se, the persons harmed by the violation must be "within the intended protection of the statute and the harm suffered is of the type the

legislation was intended to protect." *Renswick v. Wenzel*, 819 N.W.2d 198, 206 (Minn. App. 2012) (quotation omitted), *rev. denied* (Minn. Oct. 16, 2012).

Green brought a negligence-per-se claim based on a purported violation of Minn. Stat. § 60K.32 (2024). Section 60K.32 prohibits people from selling insurance unless appropriately licensed under sections 60K.30 to 60K.56. Green also points to Minn. Stat. § 60H.03 (2024), which requires licensure of managing general agents that represent insurers that are licensed or domiciled in this state. Green asserts that the harm that he suffered is of the type that Minnesota's insurance laws were intended to prevent because a properly licensed managing agent is more likely to have trained insurance agents to sell appropriate policies.

We are not persuaded. Green fails to demonstrate a causal link between the licensing requirement and his asserted damages. Rather, he merely speculates that an appropriately licensed managing general agent is more likely to have properly trained the insurance agents how to offer appropriate insurance and to have instituted proper claims-handling practices. Absent in this argument is any persuasive indication that the insurance agents were inadequately trained or failed to follow proper procedures. Nor does Green show how this supposed lack of training caused the alleged issues with his insurance policy. Accordingly, the district court did not err by dismissing Green's negligence-per-se claim.

IV. The district court did not err by dismissing Green's claim for breach of the implied covenant of good faith and fair dealing.

Green next argues that the district court erred by dismissing his claim for violation of the implied covenant of good faith and fair dealing. Contracts include an implied covenant of good faith and fair dealing, which require that a "party not unjustifiably hinder the other party's performance of the contract." *In re Hennepin Cnty. 1986 Recycling Bond Litig.*, 540 N.W.2d 494, 502 (Minn. 1995) (quotation omitted). A party similarly may not "take advantage of the failure of a condition precedent when the party itself has frustrated performance of that condition." *Id.*

Green contends that respondents, by engaging in fraud and negligent conduct, prevented him from receiving the fruits of his contract. Minnesota caselaw, however, focuses on conduct following contract formation. Notably, *In re Hennepin County* discusses acts hindering "performance of the contract" or preventing the occurrence of a condition precedent. *Id.* We have adopted a consistent approach in recent decisions. *See, e.g.*, *Hoskin v. Krsnak*, No. A23-1275, 2026 WL 1530045, at *4 (Minn. App. June 1, 2026) (applying *In re Hennepin Cnty.*); *Magnifi Fin. Credit Union v. Lewis*, No. A25-1205, 2026 WL 440399, at *5 (Minn. App. Feb. 17, 2026).[2] Any alleged misconduct that occurred before contract formation does not fall under the purview of this claim. To the extent that Green's argument implicates postformation conduct, he fails to demonstrate that

[2] We cite nonprecedential authority for its persuasive value. Minn. R. Civ. App. P. 136.01, subd. 1(c).

respondents acted to hinder performance of the contract. Accordingly, the district court did not err by dismissing this claim.

V. The district court did not improperly deny Green's motion for leave to amend the complaint to add claims for punitive damages and taxable costs.

Green last challenges the district court's denial of his motion for leave to amend the complaint to add a punitive-damages claim and a taxable-costs claim. We address each argument in turn.

A. Punitive Damages

In challenging the district court's denial of his motion for leave to amend the complaint to add a punitive-damages claim, Green argues that he established a prima facie case that respondents acted with willful indifference in procuring his insurance coverage. We assume without deciding that the less deferential de novo standard of review applies.

"Punitive damages are an extraordinary remedy to be allowed with caution and within narrow limits." *J.W. ex rel. B.R.W. v. 287 Intermediate Dist.*, 761 N.W.2d 896, 904 (Minn. App. 2009). To that end, a party cannot seek punitive damages in the initial complaint; rather, the party must file a motion that shows a prima facie basis for punitive damages and ask the district court to allow the amendment. Minn. Stat. § 549.191 (2024). A party establishes this prima facie basis by proving "evidence which, if unrebutted, would support a judgment in that party's favor." *McKenzie v. N. States Power Co.*, 440 N.W.2d 183, 184 (Minn. App. 1989).

A party may receive punitive damages only if the party demonstrates through clear and convincing evidence that the defendant's acts show "deliberate disregard for the rights

or safety of others." Minn. Stat. § 549.20, subd. 1(a) (2024). A defendant acts with deliberate disregard if the defendant "has knowledge of facts or intentionally disregards facts that create a high probability of injury to the rights or safety of others" and either "(1) deliberately proceeds to act in conscious or intentional disregard of the high degree of probability of injury to the rights or safety of others" or "(2) deliberately proceeds to act with indifference to the high probability of injury to the rights or safety of others." *Id.*, subd. 1(b)(1)-(2) (2024). Factors relevant to determining whether punitive damages are proper include the seriousness of the public risk arising from the misconduct, the extent the misconduct was profitable, the duration of the misconduct and whether the defendant concealed it, the defendant's attitude and conduct upon discovery of the misconduct, the defendant's financial position, and the effect of other punishment. *Id.*, subd. 3 (2024).

In his memorandum accompanying his motion to amend, Green argued that punitive damages were appropriate because every fact comprising the basis upon which respondents denied coverage was known to respondents prior to his purchase of the policy. Green additionally pointed to a preliminary expert report from a former Minnesota Commissioner of Commerce. The report concluded that respondents acted with willful indifference, relying on many of the same arguments as Green. In denying Green's motion to add punitive damages, the district court reasoned that the conduct does not rise "to the level of deliberate disregard that would warrant imposing punitive damages" because the dispute centers on a genuine disagreement regarding policy interpretation.

As an initial point, we note that it is plausible for a fact-finder to find that the respondents, by selling a policy with knowledge of Green's concerns regarding the trial

obligations and later denying coverage on this basis, acted improperly. However, this conduct, if proved true, fails to rise to the exacting demands of a punitive-damages claim. This "extraordinary remedy" is only available in the narrow situations prescribed by statute. *J.W.*, 761 N.W.2d at 904; *see* Minn. Stat. § 549.20 (2024). We agree with the district court's determination that the coverage dispute stemmed from a genuine dispute over the interpretation of policy language. Absent in the record is a showing of deliberate disregard within the meaning of section 549.20. The district court accordingly did not err by denying Green's motion to add a punitive-damages claim.

B. Taxable Costs

Lastly, Green challenges the district court's denial of his motion to amend his complaint to add a claim for taxable costs, arguing that respondents lacked a reasonable basis for denying his claim. Appellate courts generally review a decision to deny amendments to pleadings for an abuse of discretion. *Johns v. Harborage I, Ltd.*, 664 N.W.2d 291, 295 (Minn. 2003).

Minnesota Statutes section 604.18, subdivision 2(a), allows a district court to award an insured taxable costs against an insurer. As with punitive damages, a claimant may not seek recovery of taxable costs in the initial complaint; rather, a claimant must file a motion to amend the pleadings accompanied by one or more affidavits. Minn. Stat. § 604.18, subd. 4(a).

To be entitled to amend the complaint to add a claim for taxable costs, the claimant must show prima facie evidence of the following:

> (1) [T]he absence of a reasonable basis for denying the benefits of the insurance policy; and
>
> (2) that the insurer knew of the lack of a reasonable basis for denying the benefits of the insurance policy or acted in reckless disregard of the lack of a reasonable basis for denying the benefits of the insurance policy.

Id., subd. 2(a)(1)-(2). The first prong of the test—whether the insurer had a reasonable basis for denying the benefits—is an objective test that considers "whether a reasonable insurer under the circumstances would not have denied the insured the benefits of the insurance policy." *Peterson v. W. Nat'l Mut. Ins. Co.*, 946 N.W.2d 903, 910 (Minn. 2020). The second prong—the mens rea element—is a subjective inquiry into "whether the insurer knew, or recklessly disregarded information that would have allowed it to know, that it lacked an objectively reasonable basis for denying the claim." *Id.* at 912. When evaluating this prong, courts may consider the insurer's actual investigation and evaluation. *Id.*

In denying Green's motion, the district court reasoned that respondents had a reasonable basis to deny both aspects of his insurance claim. Framing the case as a good-faith contractual dispute, the district court reasoned that Green failed to meet his burden of establishing prima facie evidence of each prong. We discern no abuse of discretion in this analysis.

Affirmed in part, reversed in part, and remanded.