

*This opinion is nonprecedential except as provided by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
A25-2198**

Daniel Petsinger DBA Radio Link Internet,
Appellant,

vs.

City of Ellendale, a Minnesota Political Subdivision, and
in ther Personal and Individual Capacities, et al.,
Respondents,

City Attorney Mark Rahrlick,
Respondent.

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

Steele County District Court
File No. 74-CV-25-1316

Daniel Petsinger, Ellendale, Minnesota (*pro se* appellant)

Jason J. Kuboushek, Iverson Reuvers, Bloomington, Minnesota (for respondents City of Ellendale, Scott Groth, Jon Asplund, Joel Meyer, Scott Swanson, Charles Berg, and Steve Engel)

Ken D. Schueler, Meshbesh & Spence, Ltd., Rochester, Minnesota (for respondent Mark Rahrlick)

Considered and decided by Johnson, Presiding Judge; Smith, Tracy M., Judge; and Bentley, Judge.

NONPRECEDENTIAL OPINION

JOHNSON, Judge

Daniel Petsinger commenced this action against the City of Ellendale and seven city officials to challenge the city's non-renewal of a lease and its denial of Petsinger's application for a right-of-way permit. The district court granted the defendants' motions to dismiss for failure to state a claim upon which relief can be granted, reasoning that Petsinger's claims are barred by the doctrine of *res judicata*. The district court also denied Petsinger's motion for a default judgment and imposed sanctions on him. We conclude that the district court (1) did not err by denying Petsinger's motion for a default judgment, (2) erred by dismissing some of Petsinger's claims on *res judicata* grounds, and (3) erred by imposing sanctions on Petsinger without a motion for sanctions or an order giving notice that the court would consider sanctions on its own initiative. Therefore, we affirm in part, reverse in part, and remand for further proceedings.

FACTS

Petsinger is a resident of the city of Ellendale. In recent years, he has had a series of conflicts with the city.

By way of background, conflict arose in 2024 when Petsinger erected a tower on his property and mounted videocameras on top of it. After the city informed Petsinger that the tower was not a permitted use in his zoning district, he removed it. Soon thereafter, however, Petsinger erected a small three-wheeled trailer with a telescoping pole approximately 30 feet high with videocameras on top. The city demanded that Petsinger

remove the trailer for the same reason it had required him to remove the tower. Petsinger refused to do so.

In October 2024, the city commenced a lawsuit against Petsinger to enforce its zoning code. Petsinger responded by asserting counterclaims against the city. Both the city and Petsinger filed motions for summary judgment. In May 2025, the district court granted the city's motion for summary judgment, denied Petsinger's motion for summary judgment, and entered judgment for the city. This court affirmed. *City of Ellendale v. Petsinger*, No. A25-0937, 2026 WL 981147 (Minn. App. Apr. 13, 2026).

Meanwhile, Petsinger operated a telecommunications business. For approximately 15 years, he had leased space on a city-owned water tower, where he mounted equipment that provided internet service to customers. In November 2024, while the city's zoning-enforcement lawsuit was pending in the district court, and when Petsinger's water-tower lease was due to expire, the city council voted not to renew the lease.

In April 2025, Petsinger applied for a right-of-way permit so that he could relocate his telecommunications equipment from the water tower to his residential property. On June 12, 2025, the city council denied the application.

On July 31, 2025, Petsinger commenced this action against the city and seven city officials: the mayor, four members of the city council, the city clerk, and the city attorney, Mark Rahrnick. Petsinger's complaint asserted 22 claims.

One day later, an attorney representing Rahrnick sent Petsinger a letter stating that, if Petsinger did not withdraw his claims against Rahrnick within 21 days, Rahrnick would move for sanctions pursuant to rule 11 of the rules of civil procedure and section 549.211

of the Minnesota Statutes. With the letter, Rahrlick served a motion for sanctions on Petsinger.

On the same date, August 4, 2025, an attorney representing the city and five other city officials served and filed a motion to dismiss for failure to state a claim upon which relief can be granted. On August 11, 2025, Rahrlick, who was and is separately represented, also served and filed a motion to dismiss for failure to state a claim upon which relief can be granted. On August 19, 2025, Petsinger filed an amended complaint, which asserts only ten claims. On September 10, 2025, Rahrlick served and filed an answer to Petsinger's original complaint. On September 26, 2025, Petsinger moved for default judgment against all defendants on the ground that none had served an answer to his amended complaint.

In early October 2025, the district court conducted a motion hearing. In November 2025, the district court filed an order granting the defendants' motions to dismiss, ordering the imposition of sanctions on Petsinger, and denying "[a]ll other motions." In January 2026, the district court filed an order requiring Petsinger to pay Rahrlick \$8,672 and the city \$715 for their respective attorney fees, costs, expenses, and disbursements. Petsinger appeals. We construe his *pro se* brief to make three arguments.

DECISION

I. Petsinger's Motion for Default Judgment

Petsinger argues that the district court erred by denying his motion for default judgment.

A district court may enter default judgment against a defendant who "has failed to plead or otherwise defend within the time allowed therefor." Minn. R. Civ. P. 55.01. A

defendant may assert certain defenses by motion instead of an answer, Minn. R. Civ. P. 12.02, including the defense that a complaint does not state a claim upon which relief can be granted, Minn. R. Civ. P. 12.02(e). A defendant has not failed to “otherwise defend” if the defendant has filed a motion to dismiss. *See Black v. Rimmer*, 700 N.W.2d 521, 526 (Minn. App. 2005), *rev. dismissed* (Minn. Sept. 28, 2005).

In this case, defendants filed a motion to dismiss pursuant to rule 12.02(e) within 21 days of being served with the original complaint. Petsinger argues that the defendants were in default because they did not answer or otherwise defend against the claims asserted in his *amended* complaint. If “a complaint is amended after answer, the defendant is not bound to answer” the amended complaint separately, in which event “his original answer stands as his answer to the amended complaint.” *United States Fidelity & Guar. Co. v. Falk*, 7 N.W.2d 398, 400 (Minn. 1943). A defendant who chooses not to serve and file an answer to an amended complaint is not in default, except as to new allegations in the amended complaint. *Ermentraut v. American Fire Ins. Co.*, 65 N.W. 270, 270 (Minn. 1895).

Petsinger’s amended complaint asserts fewer claims than his original complaint and does not appear to assert any claims or allege any facts that were not included in the original complaint. Petsinger’s amended complaint expressly states that amendments were made “to clarify and add specificity to Plaintiff’s claims” and “to provide the Court with a more definite statement of the claims.” Accordingly, for purposes of rule 55.01, the defendants did not “fail[] to plead or otherwise defend” against the claims in Petsinger’s amended complaint and, thus, were not in default. Furthermore, in these circumstances, a district

court does not abuse its discretion by considering a motion to dismiss that was filed before an amended complaint that does not assert new claims. *See Martin v. Mid-America Festivals Corp.*, No. A23-0421, 2023 WL 8539854, at *5 (Minn. App. Dec. 11, 2023); *see also* Minn. R. Civ. App. P. 136.01, subd. 1(c) (providing that nonprecedential opinions are “not binding authority” but “may be cited as persuasive authority”).

Thus, the district court did not err by denying Petsinger’s motion for default judgment.

II. Defendants’ Motions to Dismiss

Petsinger also argues that the district court erred by granting the defendants’ motions to dismiss on *res judicata* grounds.

A district court may grant a motion to dismiss if a complaint “fail[s] to state a claim upon which relief can be granted.” Minn. R. Civ. P. 12.02(e). “A claim is sufficient against a motion to dismiss for failure to state a claim if it is possible on any evidence which might be produced, consistent with the pleader’s theory, to grant the relief demanded.” *Walsh v. U.S. Bank, N.A.*, 851 N.W.2d 598, 603 (Minn. 2014). In considering a motion to dismiss pursuant to rule 12.02(e), a district court must “consider only the facts alleged in the complaint, accepting those facts as true and must construe all reasonable inferences in favor of the nonmoving party.” *Finn v. Alliance Bank*, 860 N.W.2d 638, 653 (Minn. 2015) (quotation omitted). This court applies a *de novo* standard of review to a district court’s grant of a motion to dismiss. *Walsh*, 851 N.W.2d at 606.

The doctrine of *res judicata*, also known as claim preclusion, prevents a party from asserting a claim after the conclusion of a prior action if “(1) the earlier claim involved the

same set of factual circumstances; (2) the earlier claim involved the same parties or their privies; (3) there was a final judgment on the merits; (4) the estopped party had a full and fair opportunity to litigate the matter.” *Hauschildt v. Beckingham*, 686 N.W.2d 829, 840 (Minn. 2004). The doctrine of *res judicata* bars a subsequent lawsuit only if all four requirements are satisfied. *Id.* The bar applies both to claims that were “actually litigated” in the previous action and to claims that “could have been litigated.” *Brown-Wilbert, Inc. v. Copeland Buhl & Co.*, 732 N.W.2d 209, 220 (Minn. 2007). This court applies a *de novo* standard of review to a district court’s determination that the requirements of the *res judicata* doctrine are satisfied. *Schober v. Commissioner of Revenue*, 853 N.W.2d 102, 111 (Minn. 2013).

Petsinger’s amended complaint asserts ten claims. The district court concluded that eight of Petsinger’s claims (in counts 1-5 and 8-10) are barred by *res judicata* because they previously were litigated, or could have been litigated, in the first lawsuit between the parties. The district court also concluded that the two remaining claims (in counts 6 and 7) fail to state a claim for relief on the merits. Petsinger does not challenge the district court’s dismissal of counts 6 and 7.

Petsinger challenges the district court’s application of *res judicata*, arguing that none of the requirements of the doctrine are satisfied. Petsinger’s challenge to the first requirement has merit. The first requirement of *res judicata* is that “the earlier claim involved the same set of factual circumstances.” *Hauschildt*, 686 N.W.2d at 840. In the *res judicata* context, a “claim or cause of action” is understood to mean “a group of operative facts giving rise to one or more bases for suing.” *Id.* (quotation omitted). An

earlier claim and a present claim are the same if “the same evidence will sustain both actions.” *Id.* at 840-41 (quotation omitted). Accordingly, “a plaintiff may not split his cause of action and bring successive suits involving the same set of factual circumstances.” *Id.* at 840 (quotation omitted).

To determine whether the first requirement of *res judicata* is satisfied, we must determine whether Petsinger’s amended complaint includes claims that are based on a set of factual circumstances or a group of operative facts that were litigated in the first lawsuit. The city commenced the first lawsuit in October 2024, after Petsinger refused to remove the trailer and pole from his property. If Petsinger were pursuing a claim in this lawsuit based on that zoning dispute, the first requirement of *res judicata* plainly would be satisfied. But it appears that none of Petsinger’s claims in the present lawsuit are based on the zoning dispute that was litigated in the prior lawsuit.

Some of Petsinger’s claims in his amended complaint in this lawsuit (in counts 1, 5, 8, 9, and 10) are based, in whole or in part, on the city’s non-renewal of Petsinger’s water-tower lease. Petsinger alleges in this case that the city council voted not to renew his water-tower lease on November 14, 2024. That date is two weeks after Petsinger served and filed his counterclaims in the first lawsuit. The district court reasoned that Petsinger could have challenged the non-renewal of the water-tower lease by amending his counterclaims in the first lawsuit. But that reasoning is contrary to caselaw. For purposes of the first requirement of *res judicata*, a party is not barred from litigating facts that occurred after the party served and filed its pleading in a prior lawsuit because a party may, but is not required to, supplement a pleading. *See Drewitz v. Motorwerks, Inc.*, 728 N.W.2d 231,

239-40 (Minn. 2007). Furthermore, Petsinger's water-tower lease was not mentioned in the district court's order resolving the parties' summary-judgment motions in the first lawsuit. Consequently, the set of factual circumstances relating to the water-tower lease was not litigated in the first lawsuit. Thus, to the extent that Petsinger seeks to prove his claims in counts 1, 5, 8, 9, and 10 with evidence relating to the city's non-renewal of Petsinger's water-tower lease, the first requirement of *res judicata* is not satisfied.

The remainder of Petsinger's claims are based on the city's denial of his application for a right-of-way permit. Petsinger alleges that the city denied the application on June 12, 2025. That date is approximately two weeks after the district court entered judgment in the first lawsuit. Thus, to the extent that Petsinger seeks to prove any of his claims with evidence relating to the city's denial of his application for a right-of-way permit, the first requirement of *res judicata* is not satisfied.

Accordingly, the district court erred by granting respondents' motions to dismiss Petsinger's amended complaint on *res judicata* grounds.

Respondents also have argued that some of Petsinger's claims fail to state a claim on the merits, but only in a conclusory manner. Respondents have properly presented only one argument for affirmance on alternative grounds. Rahricks argues that a claim of malicious prosecution is viable only if the prior proceeding was terminated in favor of the party asserting the claim. Rahricks is correct. *See Leiendecker v. Asian Women United*, 895 N.W.2d 623, 634 (Minn. 2017). Because the first lawsuit was decided in the city's favor, Petsinger cannot prevail on his claim of malicious prosecution, which is part of count 3. Petsinger's claim of abuse of process, which also is part of count 3, is unaffected.

In sum, we reverse the district court's order dismissing Petsinger's amended complaint in its entirety and remand for further proceedings on the claims in counts 1, 2, 3(b), 4, 5, 8, 9, and 10 to the extent that they are based on either the city's non-renewal of Petsinger's water-tower lease or the city's denial of Petsinger's application for a right-of-way permit.

III. Sanctions

Petsinger also argues that the district court erred by imposing monetary sanctions on him.

Every pleading, motion, or other document that is filed with a district court shall be signed by an attorney or a self-represented party. Minn. R. Civ. P. 11.01. A person who signs such a document impliedly certifies, among other things, that the document “is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation”; that “the claims . . . and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law”; and that “the allegations and other factual contentions have evidentiary support or . . . are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.” Minn. R. Civ. P. 11.02(a)-(c). Similar obligations are prescribed by statute. *See* Minn. Stat. § 549.211, subds. 1, 2 (2024).

A district court may impose sanctions if it determines that rule 11.02 has been violated. Minn. R. Civ. P. 11.03; Minn. Stat. § 549.211, subd. 3. A motion for sanctions must be “made separately from other motions or requests and shall describe the specific

conduct alleged to violate Rule 11.02.” Minn. R. Civ. P. 11.03(a)(1); *see also* Minn. Stat. § 549.211, subd. 4(a). After a motion for sanctions is served, the motion “shall not be filed with or presented to the court unless, within 21 days after service of the motion . . . , the challenged document, claim, defense, contention, allegation, or denial is not withdrawn or appropriately corrected.” Minn. R. Civ. P. 11.03(a)(1); *see also* Minn. Stat. § 549.211, subd. 4(a). This 21-day period is known as the safe-harbor period. *See In re Estate of Flatgard*, 14 N.W.3d 305, 311 (Minn. App. 2024), *rev. denied* (Minn. Mar. 18, 2025). In the absence of a motion for sanctions, a district court may impose sanctions on its own initiative, so long as it previously “enter[ed] an order describing the specific conduct that appears to violate Rule 11.02 and directing an attorney, law firm, or party to show cause why it has not violated Rule 11.02 with respect thereto.” Minn. R. Civ. P. 11.03(a)(2); *see also* Minn. Stat. § 549.211, subd. 4(b).

If a district court finds a violation of rule 11.02, the district court “may . . . impose an appropriate sanction.” Minn. R. Civ. P. 11.03; Minn. Stat. § 549.211, subd. 3. An appropriate sanction may include “an order directing payment . . . of some or all of the reasonable attorney fees and other expenses incurred as a direct result of the violation.” Minn. R. Civ. P. 11.03(b); *see also* Minn. Stat. § 549.211, subd. 5(a). This court applies an abuse-of-discretion standard of review to a district court’s order for sanctions. *Johnson ex rel. Johnson v. Johnson*, 726 N.W.2d 516, 518 (Minn. App. 2007).

Petsinger contends that the district court erred on the ground that no motion for sanctions actually was filed. We agree. In fact, Rahrick informed the district court that he did not file a sanctions motion against Petsinger. In his memorandum in support of his

motion to dismiss, Rahrlick stated: “Rahrlick has not at this point in time filed a notice of motion for sanctions against Petsinger. He did provide Petsinger with the required safe-harbor notice. There is no motion before the court regarding this issue.” The district court erroneously stated in its order that Rahrlick had moved for sanctions. It is undisputed that the city also did not move for sanctions.

On appeal, Rahrlick contends that the district court properly imposed sanctions on Petsinger on its own initiative. But, under both the rule and the statute, a district court may impose sanctions on its own initiative only if the district court previously “enter[ed] an order describing the specific conduct that appears to violate Rule 11.02 and directing an attorney, law firm, or party to show cause why it has not violated Rule 11.02 with respect thereto.” Minn. R. Civ. P. 11.03(a)(2); *see also* Minn. Stat. § 549.211, subd. 4(b). In this case, the district court did not file such an order. Furthermore, neither the district court nor any defendant mentioned the issue of sanctions at the October 2025 motion hearing. As a consequence, Petsinger did not have notice and an opportunity to be heard on the issue before sanctions were imposed on him.

Thus, the district court erred by imposing sanctions on Petsinger.

Affirmed in part, reversed in part, and remanded.