

*This opinion is nonprecedential except as provided by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
A25-2213**

Sylvester L Zurn, individually and as beneficiary of
the Sylvester L. Zurn Trust, dtd December 30, 2002, et al.,
Respondents,

vs.

Anthony N. Zurn, individually and as Co-Trustee of
the Sylvester L. Zurn Trust, dtd December 30, 2002, et al.,
Appellants.

**Filed September 21, 2026
Affirmed
Harris, Judge**

Becker County District Court
File No. 03-CV-17-589

Zenas Baer, Zenas Baer Law Office, Hawley, Minnesota (for respondents)

Paul B. Hunt, Karkela, Hunt & Cheshire, PLLP, Perham, Minnesota (for appellants)

Considered and decided by Wheelock, Presiding Judge; Harris, Judge; and
Reilly, Judge.*

NONPRECEDENTIAL OPINION

HARRIS, Judge

Following our partial reversal and remand in *Zurn v. Zurn*, No. A24-0505, 2025 WL
301176, at *1 (Minn. App. Jan. 27, 2025) (*Zurn I*), appellant challenges the district court's

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

grant of summary judgment to respondent.¹ Because the district court properly applied our limited remand instruction, and because no genuine issue of material fact remains after remand, we affirm.

FACTS

This case involves land transfers between two brothers, respondent Sylvester L. Zurn and appellant Anthony N. Zurn.² The two brothers farmed with their parents and siblings until the family partnership dissolved in the mid-1980's. After that, each brother had 520 acres of private land, which they farmed jointly. In 1998, Sylvester and Anthony began farming sugar beets and acquired beet-farming equipment.

On June 9, 1997, Sylvester executed a statutory short-form power of attorney. *See* Minn. Stat. § 523.23 (1996).³ The power of attorney authorized Anthony to act as Sylvester's attorney-in-fact in the event of future incapacitation or incompetency. Pursuant to the short-form document, Anthony was permitted to make financial decision on Sylvester's behalf, including entering into real property transactions.

¹ In *Zurn I*, Sylvester Zurn and Diantha Nilles were the appellants and their siblings, Anthony Zurn and Mary Jo Brunner, were the respondents. In this case, Anthony Zurn is the appellant and Sylvester Zurn is the respondent.

² Because Sylvester and Anthony share the same last name, we refer to them by their first names throughout this opinion.

³ This version of Minnesota Statutes section 523.23 was operative when Sylvester executed the power of attorney in 1997. The statute has since been materially modified. *See* 2013 Minn. Laws ch. 23, § 2, at 116. Because the relevant version of the statute to this appeal is the version that existed prior to 2013, we cite that version here.

On December 31, 1998, Sylvester suffered a stroke. As a result, Sylvester was declared incompetent, and his sisters, K.Z. and respondent Diantha Nilles, were appointed as his co-guardians in September 1999. K.Z. was discharged as co-guardian in 2000. Nilles agreed to resign as Sylvester's guardian the following year. However, Nilles continued acting as Sylvester's "de facto" guardian after her resignation.⁴ Sylvester was not restored to competency.

In December 2002, Sylvester's parents created the Zurn Trust and designated Sylvester as the beneficiary. The trust held approximately 142 acres of land (trust land) that was set aside for Sylvester should he and his wife ever divorce. The trust was deeded to Anthony and his sister, appellant Mary Jo Brunner, as co-trustees.

On March 16, 2004, Sylvester's marriage was dissolved. At the time, Sylvester still owned private land, farming machinery and equipment, and grain stores. Shortly after Sylvester's marital dissolution, in 2004 and 2005, Anthony conveyed Sylvester's private land to himself by exercising his power of attorney to execute a contract for deed, a warranty deed, and two quitclaim deeds. On each contract, Sylvester's name is listed as the seller, and Anthony's name is listed as the purchaser. More specifically, the warranty deed lists the sellers as Sylvester, L.Z. (Sylvester's father), and L.Z. as attorney-in-fact for G.Z. (Sylvester's mother). The contracts do not indicate that Anthony signed in his capacity as Sylvester's attorney-in-fact.

⁴ On March 19, 2001, Nilles petitioned the district court to accept her resignation of guardianship. Nilles explained that her guardianship over Sylvester was supposed to end on March 2, but the parties could not agree to the settlement, and the stipulation to discharge Nilles was never signed.

In 2006 and 2007, Sylvester and Anthony's parents died. In 2008, Sylvester began receiving payments from the trust. And in 2013, Anthony and Brunner conveyed the trust land to Anthony via a quitclaim deed for no consideration, removing the sole asset from the trust.⁵ Anthony continued making payments to Sylvester for the rental value of the trust land until 2014.

On January 27, 2015, Sylvester and Nilles signed a document revoking Anthony's power of attorney. In February 2017, a North Dakota district court found that Sylvester regained competency. Sylvester and Brunner subsequently sued Anthony and Nilles and requested that the district court vacate the 2004 and 2005 deeds in which Anthony conveyed land to himself. They alleged (1) breach of fiduciary duty; (2) undue influence; (3) duress; (4) lack of capacity; (5) equitable accounting-farming; and (6) equitable accounting-breach of trust.

On February 26, 2019, Sylvester and Anthony both moved for summary judgment. Sylvester sought (1) a rescission of the 2004 and 2005 private-land deeds because of undue influence, duress, and lack of capacity at the time of transfers; and (2) an equitable accounting relating to the sales of private land. Sylvester argued that these conveyances were signed while he was declared incompetent. Sylvester also argued that his private land was not conveyed pursuant to Anthony's power of attorney because Sylvester signed his own name on some of the contracts.

⁵ The quitclaim deed was signed by Anthony and Brunner as trustees of Sylvester Zurn Trust.

The district court held an evidentiary hearing on March 26, 2019. At the hearing, Sylvester argued that the private-land contracts needed to be rescinded because the “land was transferred by an adjudicated incompetent” and that a transfer by someone “under guardianship is void ab initio.”

June 21, 2019 Order

The district court granted summary judgment in Anthony’s favor as to influence, duress, lack of capacity, and both equitable accounting claims, but it denied summary judgment as to the breach of fiduciary duty. As for the undue-influence, duress, and lack-of-capacity claims, it determined that Anthony purchased Sylvester’s private land pursuant to a valid power of attorney. The district court reasoned that prior to 2009,⁶ “an attorney-in-fact was not required to identify that he was acting as an attorney-in-fact when signing a document on behalf of the principal,” and that Anthony “would have been able to simply sign Sylvester’s name on any contract to which he was authorized to bind Sylvester.” It explained that although it appeared that Sylvester personally signed some of the contracts, the dispute over “who held the pen” had no legal significance because Anthony *could have* signed the contracts while acting as Sylvester’s power of attorney. According to the district court, it did not matter who signed the contracts.

As an alternative basis for refusing to vacate the contracts, the district court stated that Sylvester had continued to accept the payments made by Anthony pursuant to the

⁶ 2009 is the date that the district court identified as the date after which Minnesota law required attorneys-in-fact to identify themselves as such when signing documents on behalf of the principal.

contract. As for the two equitable-accounting claims, the district court determined that Sylvester had not demonstrated that he was entitled to an equitable accounting for the sale of private land and associated farming equipment or the transfer of the trust land.

Sylvester Appeals

Sylvester appealed the district court's grant of summary judgment. *See Zurn I*, 2025 WL 301176, at *1. He specifically challenged the district court's decision not to "accord any legal significance to who held the pen." *Id.* at *4. This court reversed and remanded the matter back to the district court, concluding that a genuine issue of material fact existed as to whether Sylvester signed the contracts.⁷ *Id.* at *7. This court stated, "If a factfinder determines Sylvester signed the contracts, the *Wood* exception^[8] does not apply and the contracts are void." *Id.*

On remand, Sylvester moved for summary judgment, arguing that there was no genuine issue of material fact that he signed the deeds. Sylvester noted that Anthony had admitted Sylvester's incompetence at the time the contracts were signed. He also asserted that, even if the district court had not adopted the court of appeals' remand instruction, the record still contained sufficient evidence to support a finding of Sylvester's incompetence.

⁷ We reversed the district court's grant of summary judgment on Sylvester's undue-influence, duress, and lack-of-capacity claims, affirmed Anthony's equitable-accounting claim, and remanded to the district court for further proceedings.

⁸ In *Wood v. Newell*, 182 N.W. 965, 966 (Minn. 1921), the supreme court held that a seller's incompetency at the time of signing will not annul the land-sale contract if the buyer signed in good faith, paid consideration, did not procure the seller's signature by fraud, and did not know of the seller's incompetency.

In response, Anthony agreed that Sylvester personally signed the deeds “in his individual capacity” and that the deeds were notarized as such. But Anthony asserted that a genuine issue of material fact existed as to whether Sylvester was incapacitated or incompetent when Sylvester signed the deeds in 2004 and 2005. He added that the issue of Sylvester’s competency was irrelevant in prior proceedings because the district court’s earlier grant of summary judgment was based upon the power of attorney. Thus, he argued that if Sylvester wanted the deeds vacated, he needed to show, by clear and convincing evidence, that he was incompetent at the time.

October 28, 2025 Order

The district court granted Sylvester’s motion for summary judgment. Regarding this court’s remand instructions, the district court observed: “The Court of Appeals clearly stated that on remand ‘if a factfinder determines Sylvester signed the contracts . . . the contracts are void.’” The district court then noted that there was no dispute that Sylvester signed the contracts at issue. It based this decision on Anthony’s admissions that “Sylvester signed, in his own name, a number of contracts, quitclaim deeds, warranty deeds, and mortgages all at the time when Sylvester was an adjudicated incompetent and an admitted incompetent by Anthony Zurn.” Anthony’s concession, according to the district court, was dispositive. It therefore concluded that the contracts were void and summary judgment on the remaining claims was appropriate. Anthony appeals.

DECISION

On appeal, Anthony challenges the district court’s order entered on remand from *Zurn I*, albeit on different grounds. Anthony asserts that the district court exceeded the

scope of this court’s remand instructions, erred by granting summary judgment based on the existing record, and improperly resolved the issue of Sylvester’s contractual capacity without further factual development. We address each issue in turn.

I. The district court applied the correct remand instructions from *Zurn I*.

Both parties contest whether the district court complied with this court’s remand instructions from *Zurn I*. See *Zurn I*, 2025 WL 301176, at *7. In *Zurn I*, we noted that there is a genuine issue of material fact as to whether Sylvester signed the contract. We therefore instructed the district court as follows: “If a factfinder determines Sylvester signed the contracts, the *Wood* exception does not apply and the contracts are void.” *Id.*

District courts generally have “broad discretion to determine how to proceed on remand, [but] they cannot act in a way that is inconsistent with the remand instructions provided.” *Dobbins v. State*, 845 N.W.2d 148, 156 (Minn. 2013) (quotation omitted). We “review a district court’s determination of the scope of remand instructions for an abuse of discretion.” *State v. Jonas*, 35 N.W.3d 792, 795 (Minn. App. 2026), *rev. denied* (Minn. July 29, 2026). “A district court abuses its discretion when its decision is based on an erroneous view of the law or is against logic and the facts in the record.” *Id.* (quoting *State v. Nyonteh*, 24 N.W.2d 271, 282 (Minn. 2025)). A district court’s interpretation of remand instructions is reviewed de novo. *State v. Thompson*, 942 N.W.2d 350, 354 (Minn. 2020).

Our remand instructions to the district court were clear: “If a factfinder determines Sylvester signed the contracts, the *Wood* exception does not apply and the contracts are void.” *Zurn I*, 2025 WL 301176, at *7. Based on that instruction, we squarely identified the sole remaining predicate fact that still needed to be determined as whether Sylvester

signed the contracts in his individual capacity. If he did, then the legal consequences were resolved.

The district court properly treated our remand instructions as a limited mandate. It found that the summary-judgment record established that Sylvester signed the contracts. In doing so, it relied on Anthony's admissions that (1) the contracts bear only Sylvester and Anthony's individual signatures and contain no indication of attorney-in-fact execution; (2) "[b]ased on the four corners of the deeds, Sylvester executed them in his individual capacity"; and (3) the instruments were executed at a time that Anthony had consistently represented Sylvester to be incompetent or under guardianship. Accordingly, the district court did not abuse its discretion in following our remand instruction.

II. The district court did not err by granting summary judgment in Sylvester's favor on remand.

"On appeal from summary judgment, we review whether there are any genuine issues of material fact and whether the district court erred in its application of the law." *STAR Ctrs., Inc. v. Faegre & Benson, L.L.P.*, 644 N.W.2d 72, 76 (Minn. 2002). "We view the evidence in the light most favorable to the party against whom summary judgment was granted" and "review de novo whether a genuine issue of material fact exists." *Id.* at 76-77. "We also review de novo whether the district court erred in its application of the law." *Id.* at 77.

"A genuine issue of material fact exists if a rational trier of fact, considering the record as a whole, could find for the nonmoving party." *SVAP III Riverdale Commons LLC v. Coon Rapids Gyms, LLC*, 967 N.W.2d 81, 84 (Minn. App. 2021). On summary

judgment, “[t]he nonmoving party must demonstrate that there is indeed a genuine issue of material fact.” *Bob Useldinger & Sons, Inc. v. Hangsleben*, 505 N.W.2d 323, 328 (Minn. 1993). “Summary judgment is properly granted when the ‘pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that either party is entitled to judgment as a matter of law.’” *Nelson v. Holland*, 776 N.W.2d 446, 450 (Minn. 2009) (quoting Minn. R. Civ. P. 56.03).

Anthony argues that there remains a genuine issue of material fact regarding Sylvester’s capacity to sign the contracts. He contends that, prior to Sylvester’s appeal to this court in 2025, Anthony conceded that Sylvester was incompetent for the sole purpose of summary judgment.⁹ Anthony argues that after we remanded the matter back to the district court, it “bypassed the factual inquiry necessary to resolve a capacity claim, considered no testimony or other evidence directed to the capacity of Sylvester to contract, and entered judgment on an incomplete factual basis.” We are not persuaded.

⁹ Sylvester argues that Anthony forfeited his competency argument by failing to file a notice of related appeal under Rule 106 of the Minnesota Rules of Civil Appellate Procedure. Generally, a respondent must file a notice of related appeal to obtain review of an adverse ruling. See Minn. R. Civ. App. P. 106, 103.02, subd. 2; *City of Ramsey v. Holmberg*, 548 N.W.2d 302, 305 (Minn. App. 1996), *rev. denied* (Minn. Aug. 6, 1996). But a notice of related appeal is not required when a respondent advances an argument presented to, but not ruled on by, the district court as an alternative ground supporting a judgment in the respondent’s favor. *Day Masonry v. Indep. Sch. Dist. No. 347*, 781 N.W.2d 321, 332 (Minn. 2010). Here, although the district court ruled against Anthony on Sylvester’s competency, Anthony conceded in response to Sylvester’s summary-judgment motion that Sylvester was incompetent “for purposes of this motion only” and that the motion did not depend on Sylvester’s competency or capacity. Because Anthony advances competency as an alternative ground supporting the judgment in his favor, his failure to file a notice of related appeal does not forfeit the issue.

A person has capacity to enter into a contract if he can “understand in a reasonable manner the nature and effect of what he is doing.” *Macklett v. Temple*, 1 N.W.2d 415, 417 (Minn. 1941); *see also Younggren v. Younggren*, 556 N.W.2d 228, 232 (Minn. App. 1996). “In the absence of fraud or undue influence, mere weakness of intellect, resulting from old age or sickness, is not a ground for setting aside an executed instrument.” *Macklett*, 1 N.W.2d at 417. The party challenging a person’s capacity to enter into a contract carries the burden of proof. *Trimbo v. Trimbo*, 50 N.W. 350, 351 (Minn. 1891). “The evidence of incapacity proffered must relate to the time of the factum, either directly or when taken in connection with other evidence in the case.” *Id.*

Here, the combination of Anthony’s admissions and the face of the instruments removed any genuine issue of material fact that Sylvester personally signed the contracts as the seller and that no attorney-in-fact execution was used. The record shows that during Anthony’s deposition, he testified that Sylvester signed the May 10, 2005 deed without a guardian or power of attorney, and that Sylvester had not yet been declared competent when he signed that deed. In August 2016, Anthony filed a petition for the appointment of a guardian for Sylvester, wherein he affirmed that Sylvester was an incapacitated person and that, at age 69, he was a “vulnerable, incompetent adult.” Anthony filed this petition 11 years after the contracts were signed. And in Anthony’s motion for summary judgment in February 2019, he conceded that “the question of [Sylvester’s] competency is not addressed or disputed in this brief.”

Other record evidence supports the district court’s finding that there is no genuine issue of material fact that Sylvester lacked capacity at the time of signing. The district

court received a neuropsychological evaluation of Sylvester from 2001 which included information regarding Sylvester's lack of capacity. Notably, Anthony does not challenge this evaluation.

Moreover, in March 2003, Sylvester's other brother, W.Z., submitted a petition to be appointed as Sylvester's guardian ad litem during Sylvester's divorce proceedings, alleging that Sylvester "may be incompetent." When asked about this petition during a deposition, Anthony acknowledged that Sylvester needed a guardian ad litem when he was getting divorced because, in Anthony's words, "[Sylvester] was still disabled." Then, at a December 2021 hearing, Anthony asserted that Sylvester's signature on the document revoking his power of attorney in 2015 was invalid because "Sylvester was incompetent." At that same hearing, Anthony was asked, "in this time period between 2002 and 2007, or '6, when your father passed, Sylvester was still incompetent, correct?" Anthony replied, "Correct."

Nilles's affidavit also supports the district court's finding that there is no genuine issue of material fact that Sylvester personally signed the contracts as the seller. She stated that Anthony directed her to bring Sylvester to a law office in May 2004 to "sign some documents." She was not allowed to see the documents that Sylvester signed and that, when Sylvester left the office, "he was in tears saying he did not want to sell his land."

To convince us otherwise, Anthony argues that the district court erred by not fully developing the record because "capacity is a question of fact." He adds that the district court's June 2019 order for partial summary judgment determined that the issue of whether

Sylvester was competent was “irrelevant in light of the Power of Attorney.” Again, we are not persuaded.

Anthony’s claim that “capacity is a question of fact” overlooks two critical points. First, competency may be resolved on summary judgment where there is no genuine issue of material fact, and second, any residual dispute was eliminated by Anthony’s admissions. Further, Anthony failed to preserve a challenge to the district court’s earlier competency determinations, which we implicitly incorporated into our opinion in *Zurn I* by stating, “If a factfinder determines Sylvester signed the contracts, the *Wood* exception does not apply and the contracts are void.” 2025 WL 301176, at *7. The opinion also explicitly notes: “The parties do not dispute that Sylvester was incompetent at the time the parties signed the contract.” *Id.* at *1.

The district court had ample record evidence to reach its conclusion that Sylvester was incompetent when he signed the contracts. And contrary to Anthony’s assertion, the district court did not have to reopen the record for broad, factual inquiries when Anthony’s admissions and the evidence undisputedly established that Sylvester personally signed the contracts. Accordingly, the district court did not err by granting summary judgment in Sylvester’s favor.

Affirmed.