This opinion is nonprecedential except as provided by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
A26-0117

Brett Cournoyer,
Appellant,

vs.

Darren Troy Lang, et al.,
Respondents,

Whitetail Properties Real Estate, LLC, et al.,
Respondents.

Filed July 13, 2026
Affirmed
Larkin, Judge

Big Stone County District Court
File No. 06-CV-24-186

Ross N. Tentinger, Michelle K. Olsen, Joseph C. Tourand, Tentinger Law Office, P.A., Apple Valley, Minnesota (for appellant)

Jason G. Lina, Fluegel, Anderson, McLaughlin & Brutlag, Chtd., Morris, Minnesota (for respondents Darren and Amy Lang)

Suzanne L. Jones, Nicole J. Frethem, Gordon Rees Scully Mansukhani, LLP, Minneapolis, Minnesota (for respondents Whitetail Properties and Gregory Graczyk)

Considered and decided by Reyes, Presiding Judge; Larkin, Judge; and Bratvold, Judge.

NONPRECEDENTIAL OPINION

LARKIN, Judge

Appellant land-purchaser challenges the district court's summary dismissal of his lawsuit against respondents: the sellers, the real estate agent, and the real estate broker. We affirm.

FACTS

This dispute stems from the sale of approximately 136 acres of real property on which Kelgoose Lake is located. The undisputed facts[1] show that respondents Darren Troy Lang (Darren) and his wife Amy Lang purchased parcels from four different landowners with the goal of owning all the land surrounding the lake. We refer to the combined parcels as the "property." The Langs had the property surveyed in 2004 and 2005.

In February 2022, the Langs met with respondent Gregory Graczyk, a real estate agent and "land specialist" with respondent Whitetail Properties, a real estate broker, and listed the property for sale with Whitetail. Darren described the property to Graczyk as "owning a private lake."

Whitetail's listing for the property stated:

> It's not every day [that] you receive a phone call from a seller stating that they are considering selling their "private lake." Needless to say, I get excited about every potential listing but I couldn't find out more details about this one fast

[1] "The district court's function on a motion for summary judgment is not to decide issues of fact, but solely to determine whether genuine factual issues exist." *DLH, Inc. v. Russ*, 566 N.W.2d 60, 70 (Minn. 1997). Although the district court's order for summary judgment contains a "Findings of Fact" section, appellant does not assert that the district court engaged in impermissible fact finding. We therefore understand the district court's "Findings of Fact" to be a recitation of the relevant undisputed facts.

> enough! Further conversations about the property then reveal that it is not only a private lake but so much more which we'll get into all the details that make this property a true one-of-a-kind opportunity in the western part of the state.
>
> Before I continue, there will be pictures updated to the site as spring progresses, the snow and ice begin to melt and the masses of waterfowl return to the area. However, if you haven't done so already, you owe it to yourself to play the property video first and foremost and then take a look at the aerial photos. Also, click on the "view full screen" link for the interactive map of this property in the upper left corner of the opening page. These alone give you a great idea of all the features the property offers.

In September 2022, Graczyk mentioned the listing to appellant Brett Cournoyer. Graczyk told Cournoyer that Darren purchased the land "from several farmers around the area to make sure he secured it as a private lake, so only he owned it," and Graczyk represented to Cournoyer that Cournoyer "would have exclusive access to the lake." Graczyk emailed Cournoyer information about the property, including a link to the Langs' website for waterfowl outfitting, links to videos of the property, a link to an interactive map of the property, and a link to the property listing on Whitetail's website.

The listing on Whitetail's website described the property as a "Private Western MN Lake And Waterfowl Mecca" and listed the acreage as 136.45 acres +/-. The listing included a geographic-information-system (GIS) map of the property. The map showed an aerial photograph of the property with a yellow line representing the property's approximate boundary. While most of Kelgoose Lake is shown within the yellow line, the upper tip of the lake's shoreline is outside the yellow line. In sum, the GIS map showed that a portion of Kelgoose Lake's shoreline was outside of the property and on abutting property that was not owned by the Langs.

The listing included a disclaimer stating that the information provided was "deemed reliable" but "not warranted"; that "any measurements including but not limited to, acreage, square footage, frontage, and mapping boundary lines shared herein ha[ve] not been independently verified and [are] for purposes of marketing only"; and that "[i]f exact measurements, access to property, or access to utilities is a concern, the property should be independently measured or investigated by the prospective buyer."

In September 2022, Graczyk emailed Cournoyer a copy of the surveys from 2004 and 2005, as well as a disclosure statement. Graczyk also emailed Cournoyer a draft purchase agreement and a buyer agreement. Later in September, after brief negotiations, Cournoyer and the Langs executed a purchase agreement for the property. The agreement granted Cournoyer "permission to view property and fish the lake on Oct. 1, 2022[,] between 10am and 2pm." In October 2022, Cournoyer and the Langs closed on the sale of the property.

In August 2023, Cournoyer and his son were on land near Kelgoose Lake. The owner of a neighboring property, Wayne Huselid,[2] confronted them about being on his property. Cournoyer responded that he had purchased the property from the Langs. Huselid said that the land they were on was his, that he owned the land right up to the lake,

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[2] Huselid sold a portion of his land to the Langs in 2004 which became part of the property in this litigation.

and that his property line was underwater—in other words, his real property extended into the lake.

In September 2023, Cournoyer obtained a survey of the property showing that most of Kelgoose Lake was within his property's boundary, but that portions of the lake were outside the property's boundary.

Cournoyer sued respondents, asserting seven claims: (1) fraudulent misrepresentation (all respondents); (2) negligent misrepresentation (all respondents); (3) sellers' failure to disclose under Minn. Stat. § 513.55 (2024) (the Langs); (4) breach of contract (the Langs); (5), negligence (Graczyk and Whitetail); (6) negligence per se (Graczyk and Whitetail); and (7) consumer fraud (all respondents).

Graczyk and Whitetail moved for summary judgment, as did the Langs. The district court ordered summary judgment for respondents and subsequently entered judgment dismissing all of Cournoyer's claims.

Cournoyer appeals.

DECISION

The district court must grant summary judgment if the moving party shows "there is no genuine issue as to any material fact" and the moving party is "entitled to judgment as a matter of law." Minn. R. Civ. P. 56.01. We review a district court's grant of summary judgment de novo. *Dukowitz v. Hannon Sec. Servs.*, 841 N.W.2d 147, 150 (Minn. 2014). In doing so, we "view the evidence in the light most favorable to the party against whom summary judgment was granted to determine whether there are any genuine issues of material fact and whether the district court correctly applied the law." *Id.* Summary judgment is inappropriate if reasonable people can draw different conclusions from the evidence presented. *DLH, Inc.*, 566 N.W.2d at 69.

The moving party must support the assertion that there is no genuine issue of material fact by "citing to particular parts of materials in the record" or by "showing that the materials cited do not establish the absence or presence of a genuine issue for trial." Minn. R. Civ. P. 56.03(a). In response, "[t]he nonmoving party must do more than rest on averments or denials of the adverse party's pleading." *Stringer v. Minn. Vikings Football Club, LLC*, 705 N.W.2d 746, 754 (Minn. 2005). The nonmoving party must identify specific facts that establish the existence of a triable issue of fact. *Papenhausen v. Schoen*, 268 N.W.2d 565, 571 (Minn. 1978).

Cournoyer challenges the summary dismissal of his fraudulent-misrepresentation, negligent misrepresentation, negligence, and contract claims.[3] We address each claim in turn.

I.

A fraudulent-misrepresentation claim has five elements:

> (1) [that] there was a false representation by a party of a past or existing material fact susceptible of knowledge; (2) made with knowledge of the falsity of the representation or made as of the party's own knowledge without knowing whether it was true or false; (3) with the intention to induce another to act in reliance thereon; (4) that the representation caused the other party to act in reliance thereon; and (5) that the party suffered pecuniary damage as a result of the reliance.

[3] Cournoyer does not challenge the district court's summary dismissal of his consumer fraud, failure-to-disclose, and negligence-per-se claims.

TCI Bus. Capital, Inc. v. Five Star Am. Die Casting, LLC, 890 N.W.2d 423, 432 (Minn. App. 2017) (quotation omitted).

An essential element in any fraudulent-misrepresentation claim is not only that the plaintiff relied on the representation, but that the reliance was reasonable under the circumstances. *See Hoyt Props., Inc. v. Prod. Res. Grp., L.L.C.*, 736 N.W.2d 313, 321 (Minn. 2007). "Reliance in fraud cases is generally evaluated in the context of the aggrieved party's intelligence, experience, and opportunity to investigate the facts at issue." *Valspar Refinish, Inc. v. Gaylord's, Inc.*, 764 N.W.2d 359, 369 (Minn. 2009). The applicable law is summarized as follows:

> Whether a party's reliance is reasonable is ordinarily a fact question for the jury unless the record reflects a complete failure of proof. Accordingly, to survive a motion for summary judgment, the nonmoving party must come forward with some facts supporting a conclusion of reasonable reliance. . . . [A] party can reasonably rely on a representation unless the falsity of the representation is known or obvious to the listener. The listener is not under an obligation to conduct an investigation and thus may rely on the representation so long as it is not known by the listener to be false and is not obviously false.

Hoyt, 736 N.W.2d at 320-21 (citations omitted).

For the reasons that follow, Cournoyer's reliance on respondents' alleged representations that the lake was "private" and that he would have exclusive access was not reasonable as a matter of law.

First, a party cannot reasonably rely on a representation if "the falsity of the representation is known or obvious to the listener." *Id.* at 321. The GIS map in the listing materials showed the approximate boundary of the lake and that the upper tip of the lake exceeded the property's boundary. In short, it was obvious that another property abutted the lake's shoreline.

Second, "[r]eliance in fraud cases is generally evaluated in the context of the aggrieved party's intelligence, experience, and opportunity to investigate the facts at issue." *Valspar*, 764 N.W.2d at 369. Cournoyer is a business owner. He owns hunting property, has sold hunting property in the past, and estimated that he had been involved in ten to fifteen real estate transactions in the past. And Cournoyer was repeatedly cautioned to independently verify the property's boundary. For example, the listing stated that the boundary line had not been independently verified and that "the property should be independently measured or investigated by the prospective buyer."

Third, the undisputed facts of this case are very similar to those in *Corazalla v. Quie*, in which the supreme court held that the "[p]urchaser of real property advertised as including a 'private' lake did not present sufficient evidence to defeat sellers' motion for summary judgment in purchaser's action to recover damages for alleged fraud and negligent disclosure." 478 N.W.2d 197, 198 (Minn. 1991).

The sellers in *Corazalla* acquired a rural residential property in 1982. *Id.* Documentary evidence disclosed that the property was "a tract of approximately 55 acres of pasture, woods, and marsh and includes considerable shoreline of a 7-acre lake." *Id.* The property was advertised for sale as a "perfect wildlife sanctuary, with all types of water fowl, songbirds and deer" and a "PRIVATE 7 acre lake." *Id.* (quotations omitted). But a parcel of land owned by another individual abutted the lake. *Id.*

The *Corazalla* buyer entered into a purchase agreement with the sellers in 1986, and then he visually inspected the property on two occasions. *Id.* After closing, he discovered that the lake was not located exclusively within the boundary of the property. *Id.* Instead, the lake was partially located on neighboring land and, therefore, accessible to the neighboring landowner. *Id.* The buyer sued the sellers for fraud and negligent disclosure, "predicated on [the] claim that [the buyer] entered into the agreement based on alleged written and oral misrepresentations that the lake was 'private' (*i.e.*, contained entirely within the boundaries of the purchased property)." *Id.*

The sellers moved for summary judgment asserting that the buyer "conducted several visual inspections of the property prior to closing, that the fence line separating the subject parcel from the neighboring land is readily apparent and that the legal description, maps and photographs of public record clearly locate the north boundary line crossing the lake near its bay." *Id.* The district court granted the motion. *Id.* This court reversed in a split decision. *Id.*

The supreme court reinstated summary judgment for the sellers, concluding that they

> properly sustained their burden of demonstrating that no genuine issues of material fact existed for trial based on . . . evidence of public record, readily available for inspection by a purchaser of real property, which clearly discloses the fact that two parcels of land abut the lake. [Buyer's] allegations neither dispute those documentary facts nor demonstrate that he may be entitled to relief from his own obligations with regard to the purchase.

Id. at 198-99.

Corazalla indicates that a buyer does not reasonably rely on an allegedly false representation if readily available information shows that the representation is obviously false. *See Hoyt*, 736 N.W.2d at 320-21 ("The listener is not under an obligation to conduct an investigation and thus may rely on the representation so long as it is not known by the listener to be false and is not obviously false.").

Again, the GIS map that was made available to Cournoyer put him on notice that the lake boundary exceeded the property's boundary at the upper tip and that, therefore, the lake was not entirely encompassed within the property's boundary. Yet, Cournoyer did not obtain his own survey prior to closing or take other steps to verify the property's actual boundary or the private-lake claim. Like the purchaser in *Corazalla*, Cournoyer had relevant information but failed to verify the advertised claims to confirm the nature and extent of the property he purchased. Cournoyer's reliance on respondents' representations that the lake was private—that is, inaccessible by anyone other than the owner—was unreasonable. No reasonable person could draw a different conclusion from this evidence. *See DLH, Inc.*, 566 N.W.2d at 69 (indicating that summary judgment is inappropriate if reasonable people could draw different conclusions from the evidence).

Because there is no genuine issue of material fact regarding the reasonable-reliance element of the fraudulent-misrepresentation claim, the district court properly granted summary judgment to respondents on that claim.

II.

To establish a claim for negligent misrepresentation, a plaintiff must show: (1) that the defendant owes the plaintiff a duty of care; (2) that the defendant supplied false information to the plaintiff; (3) that the plaintiff justifiably relied on that information; and (4) that the defendant failed to exercise reasonable care in communicating the information. *Williams v. Smith*, 820 N.W.2d 807, 815 (Minn. 2012). Justifiable reliance is typically a fact question for a jury, and only "becomes a question of law if there is no evidence supporting a contrary conclusion." *Greuling v. Wells Fargo Home Mortg., Inc.*, 690 N.W.2d 757, 760 (Minn. App. 2005).

Negligent misrepresentation requires "justifiable" as opposed to "reasonable" reliance. A familiar secondary source explains:

> [U]nder Minnesota Supreme Court jurisprudence, it would be difficult to argue that there is any meaningful distinction between "justified reliance" and "reasonable reliance." Thus, for most intents and purposes, the concepts of "justifiable reliance" and "reasonable reliance" are fungible, if not synonymous. . . . It would appear, therefore, that the Minnesota Supreme Court makes no distinction between the two concepts of "reasonable reliance" and "justifiable reliance."

20A4 Brent A. Olson, *Minnesota Practice* § 34.39 (2023-24 ed. 2023). Consistent with that observation, the *Corazalla* court affirmed summary judgment for the property sellers on claims of both fraudulent and negligent disclosure without distinguishing between reasonable reliance and justifiable reliance. 478 N.W.2d at 198-99.

Our reasonable-reliance analysis from section I of this opinion therefore applies equally to Cournoyer's negligent-misrepresentation claim. Thus, we conclude that under *Corazalla*, Cournoyer's reliance on respondents' representations that the lake was private—that is, inaccessible by anyone other than the property's owner—was not justifiable. No reasonable person could draw a different conclusion from this evidence. *See DLH, Inc.*, 566 N.W.2d at 69. Because there is no genuine issue of material fact regarding the justifiable-reliance element of the negligent-misrepresentation claim, the district court properly granted summary judgment to respondents on that claim.

III.

"Negligence is generally defined as the failure to exercise such care as persons of ordinary prudence usually exercise under such circumstances." *Domagala v. Rolland*, 805 N.W.2d 14, 22 (Minn. 2011) (quotation omitted). A negligence claim has four elements: "(1) the existence of a duty of care, (2) a breach of that duty, (3) an injury, and (4) that the breach of the duty of care was a proximate cause of the injury." *Id.* "The existence of a duty of care is a question of law that we review de novo." *Id.* "Summary judgment is appropriate when the record lacks proof of any of the four elements of a prima facie case of negligence." *Ironwood Springs Christian Ranch, Inc. v. Walk to Emmaus*, 801 N.W.2d 193, 197 (Minn. App. 2011) (quotation omitted).

Cournoyer alleged in his complaint that Graczyk and Whitetail had a duty to take reasonable steps to verify the accuracy of their representation that Kelgoose Lake was a private lake before marketing it as such.

Cournoyer does not cite precedential authority indicating that a real estate agent has such a duty. We noted the lack of such authority in a nonprecedential opinion, *Sinclair v. Lysne*, and found "no law" that compelled the seller's real-estate agent "to undertake the obligation to investigate on [the buyer's] behalf." No. CX-90-2128, 1991 WL 85263, at *2 (Minn. App. May 28, 1991). The issue in that case centered on whether the seller's agent "had a duty to make an independent investigation of the acreage" of the subject property. *Id.* We explained:

> The acreage claim was brought under theories of negligent misrepresentation and negligence. The issue centers on whether [the real estate agent] had a duty to make an independent investigation of the acreage. We find no law which compels [the real estate agent] to undertake the obligation to investigate on [the buyer's] behalf. [The real estate agent] properly relied upon the owner's representation and two appraisals of the property.
>
> Additionally, [the buyer] was directly told by [the owner] that there were 27 acres. [The buyer], however, need not have relied upon either [the owner] or [the real estate agent], as he could have telephoned the county and easily obtained the correct acreage.

Id.

Nonprecedential opinions of this court are not binding, but they "may be cited as persuasive authority." Minn. R. Civ. App. P. 136.01, subd. 1(c). *Sinclair* is persuasive for three reasons. First, the issue and facts are similar to those in this case, supporting a similar outcome. Second, that case and the authority offered by the parties indicate there is no precedent suggesting that a seller's real estate agent has an independent duty to investigate information provided by the seller. And third, *Sinclair* is consistent with *Corazalla*, which recognizes a buyer's obligation to verify advertised claims that are readily observable to be false. *See Corazalla*, 478 N.W.2d at 198-99 (reinstating summary judgment, noting that the buyer "conducted several visual inspections of the property prior to closing, that the fence line separating the subject parcel from the neighboring land is readily apparent and that the legal description, maps and photographs of public record clearly locate the north boundary line crossing the lake near its bay").

Cournoyer asserts that the facts here are distinguishable from those in *Sinclair* because "the record shows that Kelgoose Lake was either depicted within the boundaries of the property in the surveys recorded with the county or was shown via images generated and altered by respondents depicting the approximate boundary in relation to Kelgoose Lake." But the GIS map provided with the marketing materials indicated that the lake exceeded the property's boundary at the upper tip, and Cournoyer was encouraged to conduct his own survey to determine the precise boundary of the lake prior to purchasing the property. Like the buyer in *Sinclair*, Cournoyer could have ascertained correct information regarding the relevant issue—the property's boundary in relation to the lake's boundary.

Cournoyer also asserts that *Raach v. Haverly* supports his negligence claim. 269 N.W.2d 877 (Minn. 1978). In *Raach*, a real estate agent told a buyer that a property "consisted of 107 acres, with a half-mile of lakeshore." 269 N.W.2d at 879. The buyer later learned that the property "was only about 60 acres and had closer to one-fourth than one-half mile of shoreline." *Id.* A jury found that the real estate agent had made fraudulent misrepresentations. *Id.* at 880. The supreme court concluded that there was sufficient evidence to sustain the verdict. *Id.* But because *Raach* involved a fraudulent-misrepresentation claim and not a negligence claim, the opinion does not address whether a real estate agent has a duty to investigate his seller-client's representations regarding a property before listing the property for sale.

Because Graczyk and Whitetail had no duty to independently investigate the property's boundary in relation to the lake's boundary or to otherwise verify the accuracy of the "private-lake" claim, there is a complete lack of evidence regarding the duty element of Cournoyer's negligence claim, and the district court properly granted summary judgment to Graczyk and Whitetail on that claim. *See Ironwood Springs*, 801 N.W.2d at 197.

IV.

A breach of contract claim has three 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." *Park Nicollet Clinic v. Hamann*, 808 N.W.2d 828, 833 (Minn. 2011). "A breach of contract is a failure, without legal excuse, to perform any promise that forms the whole or part of the contract." *Lyon Fin. Servs., Inc. v. Ill. Paper & Copier Co.*, 848 N.W.2d 539, 543 (Minn. 2014). A breach of contract claim requires that the promise at issue be part of the parties' bargain. *Id.* We review de novo whether a contract is unambiguous. *Bank Midwest, Minn., Iowa, N.A. v. Lipetzky*, 674 N.W.2d 176, 179 (Minn. 2004). If a contract is unambiguous, we may apply the plain and ordinary meaning of its terms. *Id.*

The contract in this case is the purchase agreement for the property. Cournoyer asserted in his complaint that "[t]he Langs falsely represented in connection with the Purchase Agreement that the Property Cournoyer purchased consisted of approximately 136.45 acres of land when in fact the Property consisted of significantly less acreage."

Cournoyer therefore claimed that "[t]he Langs have breached the terms of the contract by failing to convey the 136.45 acres as agreed."

The purchase agreement stated that the property "consists of approximately 136.45 acres" with "approx. acreage based on county tax statement acres." Cournoyer concedes that the agreement listed the approximate acreage and that "[t]his acreage estimate was based on the county tax records available in September 2022." In sum, there is no genuine issue of material fact regarding whether the Langs breached the contract by failing to convey the acreage promised in the purchase agreement.

Cournoyer argues that the Langs breached the contract by failing to convey a private lake. But that is not the claim that Cournoyer raised in his complaint, and a party is generally bound by his pleadings. *Roberge v. Cambridge Coop. Creamery Co.*, 67 N.W.2d 400, 403 (Minn. 1954). Regardless, that claim is unavailing. The plain language of the purchase agreement neither promises conveyance of a private or exclusive lake nor guarantees that the lake on the property is entirely contained within the 136.45 acres to be conveyed. Indeed, Cournoyer conceded as much at oral argument before this court.

Any attempt by Cournoyer to introduce parol evidence regarding promises made by the Langs that are not contained in the contract is unavailing. "Whether an agreement is completely integrated and therefore not subject to variance by parol evidence is an issue of law." *Borgersen v. Cardiovascular Sys., Inc.*, 729 N.W.2d 619, 625 (Minn. App. 2007). Parol evidence is admissible to explain the meaning of a contract's terms when the contract is incomplete or ambiguous. *Flynn v. Sawyer*, 272 N.W.2d 904, 907-08 (Minn. 1978). Here, the contract expressly stated that the buyer, Cournoyer, was not relying on any oral representations regarding the condition of the property and that the purchase agreement constituted the parties' entire agreement. We discern no ambiguity in the relevant contract terms.

Because the purchase agreement is unambiguous and contained no promise to convey a private lake, Cournoyer has not shown a genuine issue of material fact regarding the occurrence of a breach. The district court therefore properly granted summary judgment to the Langs on the contract claim.

Affirmed.