

*This opinion is nonprecedential except as provided by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
A26-0312**

Stephen C. Remole, et al., as Co-Trustees
of the William D. Remole Trust dated August 3, 1989.,
Respondents,

vs.

William M Lively,
Appellant.

**Filed September 14, 2026
Affirmed
Bentley, Judge**

Hennepin County District Court
File No. 27-CV-24-15625

Bradley A. Kletscher, Tyler W. Eubank, Barna, Guzy & Steffen, Ltd., Minneapolis,
Minnesota (for respondents)

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

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

NONPRECEDENTIAL OPINION

BENTLEY, Judge

In this appeal challenging a district court order compelling postjudgment discovery,
appellant argues that the district court abused its discretion by granting the motion to

compel because respondents failed to serve him in accordance with court rules. We conclude that any defect in service was harmless and therefore affirm.

FACTS

In 2024, respondents Stephen C. Remole and Timothy Regan, acting in their capacity as co-trustees of the William D. Remole Trust, filed a complaint against appellant William M. Lively, asserting one count of unjust enrichment and three counts of breach of contract related to three unpaid promissory notes. Shortly after the complaint was filed, Lively's counsel withdrew. Counsel filed a notice of withdrawal that listed Lively's Minneapolis mailing address and an email address at which Lively could be reached for future correspondence.

During discovery, Lively failed to respond to several discovery requests, including interrogatories, requests for document production, and requests for admission. In a mid-2025 email sent by Lively to the co-trustees' counsel, Lively implied that he had failed to respond to the requests because he had not received them, stating, "If you have delivered anything by mail it is likely I have not received it as I do not live at that address anymore." Lively did not provide an updated mailing address.

The district court granted summary judgment to the co-trustees in July 2025 and entered judgment in the amount of \$461,853.47. The co-trustees then filed an affidavit of identification of judgment debtor that identified Lively as the debtor and provided his last-known address, which was the Minneapolis address listed in the notice of withdrawal. In August 2025, the district court mailed several documents related to the judgment to that

address. Each of those mailings were returned to the court as not deliverable as addressed and unable to forward.

The co-trustees served postjudgment discovery on Lively in October 2025, seeking information and documents related to Lively’s assets. The co-trustees mailed the requests to the Minneapolis address and to two other addresses in Bloomington and St. Paul.

Lively did not respond to the requests, prompting the co-trustees to file the motion to compel at issue in this appeal. Unlike the prior requests, however, the co-trustees did not mail the motion documents to the Minneapolis address—instead, the co-trustees sent the documents to only the Bloomington and St. Paul addresses. The district court held a hearing on the motion, and Lively did not attend. Counsel for the co-trustees stated during the hearing that they “received a missed call” from Lively but “there was no voicemail.” Counsel otherwise had little insight into his whereabouts.

The district court granted the motion to compel in December. In its order, the district court gave Lively ten days to respond to the discovery requests and warned that failure to comply could result in contempt proceedings. The co-trustees mailed the order to the Bloomington and St. Paul addresses, and to a new address in Apple Valley.

Lively appeals.

DECISION

Lively argues that the co-trustees did not comply with Minnesota Rule of Civil Procedure 5.02(a) because they did not mail notice of the motion to compel to Lively’s last-known address in Minneapolis or, alternatively, did not leave the documents with the

court administrator.¹ Lively asserts that the district court erred by hearing and granting the motion without proper service under rule 5.02(a), and its order should therefore be vacated. The co-trustees argue that this court should not reach Lively’s service argument because it was not presented to the district court. In the alternative, the co-trustees assert that Lively did not update his current address with the parties or the district court as required by Minnesota General Rule of Practice 13.01, and thus, he waived his right to notice.²

Appellate courts review a district court’s order granting a discovery request for an abuse of discretion. *Energy Transfer LP v. Greenpeace Int’l*, 23 N.W.3d 554, 563 (Minn. 2025). “A district court abuses its discretion by making findings of fact that are unsupported by the evidence, misapplying the law, or delivering a decision that is against logic and the facts on record.” *Woolsey v. Woolsey*, 975 N.W.2d 502, 506 (Minn. 2022) (quotation omitted). Whether service of process was proper is a question of law that we review de novo. *Van Den Bosch v. Weinstock*, 732 N.W.2d 636, 638 (Minn. App. 2007), *rev. denied* (Minn. Aug. 21, 2007).

¹ Minnesota Rule of Civil Procedure 5.02(a) states in relevant part, “[S]ervice upon . . . a party shall be made . . . by mailing a copy to the attorney or party at the attorney’s or party’s last known address; or, if no address is known, by leaving it with the court administrator.”

² Minnesota General Rule of Practice 13.01 states:

In all actions, it is the responsibility of the parties, or their counsel of record, to provide notice to all other parties and to the court administrator of their current address for delivery of notices, orders, and other documents in the case. . . . Failure to provide this notice constitutes waiver of the right to notice until a current address is provided.

Assuming without deciding that Lively's argument is preserved and that notice of the motion was not served in accordance with rule 5.02, we conclude that any defect in service was harmless. Minnesota courts "must disregard any error or defect in the proceeding which does not affect the substantial rights of the parties." Minn. R. Civ. P. 61; *see also Midway Ctr. Assocs. v. Midway Ctr., Inc.*, 237 N.W.2d 76, 78 (Minn. 1975) (stating that "error without prejudice is not ground for reversal" (quotation omitted)). Lively argues that he was deprived of notice of the motion to compel because the co-trustees did not follow rule 5.02(a); however, Lively also concedes that he would not have received mail sent to the Minneapolis address. So, even if the co-trustees had mailed the notice to Lively's last-known address, he would not have had notice of the motion. Lively also has not established that leaving notice of the motion with the court administrator would have facilitated effective notice because the record demonstrates that the district court was sending postjudgment mail to the Minneapolis address, which was being returned as undeliverable.

Lively effectively asks this court to vacate the district court's order based on a procedural rule that, even if followed to the letter, would not have resulted in effective notice or changed the outcome. We therefore disregard any error by the co-trustees in failing to send notice of the motion to Lively's last-known address because it did not affect Lively's substantial rights. *See Midway Ctr. Assocs.*, 237 N.W.2d at 78; Minn. R. Civ. P. 61. Accordingly, we decline to reverse the district court's order compelling discovery.

Affirmed.