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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A26-0557**

Robert E. Villanueva,
Appellant,

vs.

GEICO Casualty Company, et al.,
Respondents.

**Filed October 12, 2026
Affirmed
Cochran, Judge**

Hennepin County District Court
File No. 27-CV-25-17498

Robert E. Villanueva, Edina, Minnesota (pro se appellant)

Matthew Beyer, Husch Blackwell LLP, Minneapolis, Minnesota (for respondents)

Considered and decided by Cochran, Presiding Judge; Worke, Judge; and Bond,
Judge.

NONPRECEDENTIAL OPINION

COCHRAN, Judge

Appellant was involved in a car accident and reached a settlement with respondent insurance company, the insurer for the other vehicle involved in the collision. Appellant then sued the insurance company and two of its agents, alleging that it wrongfully disregarded a repair estimate and considered improper factors when declaring his vehicle a total loss. Respondents moved to dismiss the complaint for failure to state a claim upon

which relief can be granted, and the district court granted the motion. On appeal, appellant contends that the district court erred because it failed to treat his amended complaint as the operative pleading when deciding respondents' motion to dismiss, and because it misapplied the law by failing to accept the facts alleged in the complaint as true. We affirm.

FACTS

The following facts stem from the complaint and are taken as true, construing all reasonable inferences in favor of the nonmoving party. *Halva v. Minn. State Colls. & Univs.*, 953 N.W.2d 496, 500 (Minn. 2021). Appellant Robert E. Villanueva's vehicle was damaged in a collision with another vehicle in July 2025. The other vehicle was insured by respondent GEICO Casualty Company (GEICO). GEICO determined the actual cash value (ACV) of the vehicle was \$9,282.97 and the salvage value was \$1,898.88. Villanueva obtained a supplemental repair estimate from a licensed repair facility, which estimated that it would cost \$5,387.12 to fix Villanueva's vehicle.

GEICO subsequently declared Villanueva's vehicle a total loss and offered him a settlement amount of \$7,384.09 (ACV minus salvage). Villanueva believed that GEICO improperly disregarded the supplemental repair estimate that he obtained and considered improper factors when declaring his vehicle a total loss. During a recorded phone call with a GEICO claims representative, the representative dismissed the repair estimate. According to Villanueva, the representative stated, "We use our numbers," and "I'm not worried about the second estimate." The representative also stated that "alignment issues" and rental costs would be factored into the total loss determination, even though the supplemental repair estimate ruled out alignment issues. During the phone call, the

representative set the phone down and ignored Villanueva until prompted. Villanueva interpreted the representative's actions as "disregard[ing] [Villanueva's] statutory rights and GEICO's obligations to provide [a] fair explanation."

Villanueva ultimately signed the settlement offer but felt coerced into doing so. The representative threatened Villanueva that if he did not sign the settlement, "storage fees would pile up," and he would no longer have rental vehicle coverage, leaving him without transportation. After Villanueva accepted the settlement, Villanueva's vehicle was given a salvage title. The salvage title "caus[ed] permanent diminished value [and] financial harm," as well as "emotional distress" for Villanueva. Villanueva believes: "These incidents are not isolated mistakes but part of a documented pattern of arbitrary and coercive claims handling." And he also believes that his case is not an isolated incident. Instead, according to Villanueva, "GEICO engages in these practices systematically, improperly inflating total-loss determinations for other consumers in Minnesota."

Twenty days after signing the settlement, Villanueva sued GEICO and two of its agents, respondents Chad Brozik and Dustin McHugh. The complaint sets forth six counts. Count I alleges GEICO arbitrarily disregarded a valid repair estimate from an agreed estimating system in violation of Minnesota Statutes section 72B.092, subdivision 1(7) (2024). Count II claims GEICO engaged in unfair claims handling practices in violation of Minnesota Statutes section 72A.201 (2024). Count III alleges that GEICO acted in bad faith in violation of Minnesota Statutes section 604.18 (2024). Count IV alleges that GEICO engaged in deceptive trade practices in violation of Minnesota Statutes section 325F.69 (2024). Count V claims GEICO coerced Villanueva into accepting the settlement

agreement and salvage title. And count VI sets forth a claim for punitive damages under Minnesota Statutes section 549.20 (2024) based on allegations that GEICO acted with a willful indifference to Villanueva's rights.

Before GEICO responded, Villanueva filed an amended complaint, setting forth two additional counts.¹ Count VII is labeled "Private Attorney General Action" and references Minnesota Statutes section 8.31, subdivision 3a (2024). The count VII states that "[Villanueva's] claims expose systemic insurer misconduct that affects Minnesota consumers, satisfying the public benefit requirement." Count VIII alleges that GEICO breached the implied covenant of good faith and fair dealing "by knowingly misapplying Minnesota's total-loss formula, coercing acceptance under duress, and terminating coverage to pressure [Villanueva]."

GEICO moved to dismiss the amended complaint under Minnesota Rule of Civil Procedure 12.02(e).² After a hearing, the district court granted GEICO's motion and dismissed the complaint with prejudice. The district court's analysis addressed only the six counts in the original complaint. But in a footnote, the district court stated: "[Villanueva] filed an Amended Complaint before a response to the original Complaint was even due. The Court is limiting its inquiry to the original Complaint as the operative pleading, but the result would be the same."

¹ The facts alleged in the amended complaint are almost identical to the facts alleged in the original complaint. The amended complaint incorporated "all factual allegations and exhibits" from the original complaint.

² GEICO's motion treated the amended complaint as the operative pleading and addressed all eight counts.

Villanueva appeals.

DECISION

Villanueva challenges the district court's order dismissing his complaint for failure to state a claim upon which relief can be granted under Minnesota Rule of Civil Procedure 12.02(e).

This court reviews whether a complaint sets forth a legally sufficient claim for relief de novo. *Walsh v. U.S. Bank, N.A.*, 851 N.W.2d 598, 606 (Minn. 2014). In doing so, this court accepts the facts alleged in the complaint as true and construes all reasonable inferences in favor of the nonmoving party. *Id.* But this court is “not bound by legal conclusions stated in a complaint.” *Herbert v. City of Fifty Lakes*, 744 N.W.2d 226, 235 (Minn. 2008). And we “must disregard any error or defect . . . which does not affect the substantial rights of the parties.” Minn. R. Civ. P. 61 (requiring harmless error to be ignored); *see also Goldman v. Greenwood*, 748 N.W.2d 279, 285 (Minn. 2008) (citing this aspect of Rule 61); *Kallio v. Ford Motor Co.*, 407 N.W.2d 92, 98 (Minn. 1987) (“Although error may exist, unless the error is prejudicial, no grounds exist for reversal.”).

Villanueva raises two arguments on appeal. First, he argues that the district court erred by failing to consider the amended complaint in granting GEICO's motion to dismiss. He next contends that the district court misapplied Rule 12.02(e) by failing to accept the facts alleged in the complaint as true and misapplying the law. We address each argument in turn and conclude that neither argument merits reversal of the district court's decision.

I. The district court erred by failing to consider the amended complaint, but this error was harmless.

Villanueva asserts that the district court's failure to consider the amended complaint as the operative pleading constitutes reversible error. We agree that the district court erred by not considering the amended complaint in deciding the motion to dismiss but conclude the error did not affect Villanueva's substantial rights.

Under the Minnesota Rules of Civil Procedure, Villanueva was permitted to amend his complaint one time before the responsive pleading was served. *See* Minn. R. Civ. P. 15.01. Here, Villanueva filed his amended complaint before GEICO served its answer and before GEICO moved to dismiss. *See* Minn. R. Civ. P. 7.01 (designating an answer as a type of pleading); *see also Sharkey v. City of Shoreview*, 853 N.W.2d 832, 835 (Minn. App. 2014) (concluding that a motion to dismiss is not a responsive pleading). And GEICO responded to the amended complaint in its motion. Therefore, the district court should have treated the amended complaint as the operative pleading in addressing the motion to dismiss.

The amended complaint added two counts that the district court did not analyze. Count VII is labeled "Private Attorney General Action" and references Minnesota Statutes section 8.31, subdivision 3a. This statutory provision permits "any person injured by a violation of any of the laws referred to in subdivision 1 [to] bring a civil action and recover damages, . . . and receive other equitable relief as determined by the court." Minn. Stat. § 8.31, subd. 3a. Subdivision 1 refers to the laws of "this state respecting unfair, discriminatory, and other unlawful practices in business, commerce, or trade" and includes

a non-exclusive list of statutory provisions. *Id.*, subd. 1 (2024). Count VII of Villanueva’s amended complaint states that “[Villanueva’s] claims expose systemic insurer misconduct that affects Minnesota consumers, satisfying the public benefit requirement.” But count VII does not allege a violation of any of the laws specifically referenced in section 8.31, subdivision 1, or any other Minnesota law respecting unfair, discriminatory, and other unlawful practices in business, commerce, or trade.³ *See id.*, subds. 1, 3a. We therefore conclude that count VII fails to state a claim upon which relief can be granted.

We similarly conclude that count VIII fails to state a claim. Count VIII alleges that GEICO breached the implied covenant of good faith and fair dealing “by knowingly misapplying Minnesota’s total-loss formula, coercing acceptance under duress, and terminating coverage to pressure [Villanueva].” The covenant of good faith and fair dealing requires a party to “establish bad faith by demonstrating that the adverse party has an ulterior motive for its refusal to perform a contractual duty.” *Minnwest Bank Cent. v. Flagship Props. LLC*, 689 N.W.2d 295, 303 (Minn. App. 2004). Villanueva is a third-party claimant, and Villanueva’s complaint does not allege that he had a contract with GEICO or that GEICO breached any specific contract term. Accordingly, count VIII also fails to state a claim upon which relief can be granted.

³ To the extent that Villanueva’s claim is intended to be read in conjunction with count IV, which alleges that GEICO engaged in deceptive trade practices in violation of Minnesota Statutes section 325F.69—a statute listed in section 8.31—that claim fails for the reasons set forth below.

Because counts VII and VIII are not viable, we conclude that any error by the district court in failing to treat the amended complaint as the operative pleading is harmless. Minn. R. Civ. P. 61 (requiring harmless error to be ignored).

II. Villanueva did not plead sufficient facts to establish a claim for which relief could be granted.

We next consider Villanueva’s arguments regarding the district court’s decision to grant GEICO’s motion to dismiss. Villanueva contends that the district court erred because it failed to accept his allegations as true and misapplied statutory interpretation principles. And he argues that, when his allegations are accepted as true, he pleaded facts sufficient to prove that GEICO violated the requirements of Minnesota Statutes sections 72B.092 and 72A.201 (2024), as alleged in counts I and II. He further argues that his consumer fraud claim in count IV was improperly dismissed. Accordingly, it appears that Villanueva is challenging the dismissal of only counts I, II, and IV and not counts III, V, or VI.⁴ We address his arguments in turn below.

Argument Regarding Notice Pleading Standard

As an initial matter, Villanueva asserts that, in dismissing his claims, the district court, “reframed the case as a disagreement over valuation.” He maintains that the district

⁴ Villanueva does not specifically challenge the district court’s dismissal as to the other counts. To the extent that Villanueva is challenging dismissal of the other counts, any argument in this regard is forfeited. *See Schoepke v. Alexander Smith & Sons Carpet Co.*, 187 N.W.2d 133, 135 (Minn. 1971) (stating a “mere assertion” in a brief is forfeited unless prejudice is obvious); *see also Waters v. Fiebelkorn*, 13 N.W.2d 461, 464-65 (Minn. 1944) (stating that “on appeal error is never presumed. It must be made [to] appear affirmatively before there can be reversal . . . [and] the burden of showing error rests upon the one who relies upon it”).

court's analysis "conflicts with Minnesota's notice-pleading standard, which requires courts to accept well-pleaded facts as true and draw all reasonable inferences in the plaintiff's favor."

"Minnesota is a notice-pleading state." *Halva*, 953 N.W.2d at 500 (quoting *Walsh*, 851 N.W.2d at 604-05). Minnesota Rule of Civil Procedure 8.01 requires that a complaint "contain a short and plain statement of the claim showing that the pleader is entitled to relief." "A claim is sufficient to survive a motion to dismiss if it is possible on any evidence which might be produced, consistent with the pleader's theory, to grant the relief demanded." *Graphic Commc'ns Local 1B Health & Welfare Fund A v. CVS Caremark Corp.*, 850 N.W.2d 682, 692 (Minn. 2014) (quotation omitted). And when determining whether a complaint is sufficient to survive a motion to dismiss, the court must accept the facts alleged in the complaint as true and construe all reasonable inferences in favor of the nonmoving party. *Walsh*, 851 N.W.2d at 606. But the court is "not bound by legal conclusions stated in a complaint." *Herbert*, 744 N.W.2d at 235.

We discern no error by the district court in its application of the motion-to-dismiss standard. Regardless, we are not bound by the district court's analysis, as our review of the district court's decision is de novo. *Walsh*, 851 N.W.2d at 606. We now turn to Villanueva's arguments regarding counts I, II, and IV.

Count I - Violation of Section 72B.092

Count I asserts a claim under section 72B.092, subdivision 1(7). This statutory provision states: "[n]o adjuster or insurer . . . shall in collision cases . . . unilaterally and arbitrarily disregard a repair operation or cost identified by an estimating system, which an

insurer and collision repair facility have agreed to utilize in determining the cost of repair.” Minn. Stat. § 72B.092, subd. 1(7). Villanueva asserts that GEICO violated section 72B.092, subdivision 1(7), because GEICO “arbitrarily disregarded” his repair estimate and told Villanueva that GEICO uses its “numbers” and was “not worried about the second estimate.” We conclude that Villanueva’s allegations in count I fail to state a claim under the plain language of section 72B.092, subdivision 1(7).

Villanueva seems to interpret this provision to mean that GEICO was precluded from rejecting the supplemental repair estimate obtained by Villanueva from the licensed repair facility. The language of the statute does not support Villanueva’s interpretation. Section 72B.092, subdivision 1(7), applies only to “*a repair . . . cost identified by an estimating system, which an insurer and collision repair facility have agreed to utilize.*” *Id.* (emphasis added). Villanueva did not plead facts, and no reasonable inferences can be made based on the pleaded facts, demonstrating that GEICO and the repair facility “agreed to utilize” a particular estimating system or that GEICO agreed to the repair facility’s cost estimate. Additionally, this provision does not include language requiring an insurer to use a particular repair estimate when it decides whether to deem a vehicle a total loss as GEICO did in this case. Consequently, Villanueva’s allegations fail to state a claim under section 72B.092, subdivision 1(7). Accordingly, we conclude that the district court properly dismissed count I.

Count II – Violation of Section 72A.201

We next consider count II in which Villanueva claims that GEICO violated section 72A.201. Section 72A.201 is entitled “Regulation of Claims Practices.” Section 72A.201

grants the commissioner of the department of commerce authority to adopt rules and impose administrative remedies, including fines, for violations of the standards set forth in this statute. Minn. Stat. § 72A.201, subds. 1-9. The standards in section 72A.201 govern insurance matters such as claim filing, claim handling, settlements, releases, and claim denials. But there is no private cause of action under section 72A.201. *See id.*, subds. 1-14; *Morris v. American Family Mut. Ins. Co.*, 386 N.W.2d 233, 235 (Minn. 1986) (holding that a private person does not have a cause of action for violation of the Unfair Claims Practices Act); *Findling v. Group Health Plan, Inc.*, 998 N.W.2d 1, 13-14 (Minn. 2023) (explaining reasoning in *Morris*). Consequently, we conclude that Villanueva has failed to state a claim under section 72A.201 and the district court did not err by dismissing count II.

Count IV – Consumer Fraud in Violation of Section 325F.69

Relying on Minnesota Statutes section 325F.69, Villanueva claimed in count IV that, “[GEICO] misrepresented settlement factors and falsely declared [his] vehicle a total loss, constituting deceptive trade practices.” Section 325F.69 describes “unlawful practices,” including “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 (emphasis added). As the district court correctly concluded, section 325F.69 is inapplicable to Villanueva’s claim because it is a consumer protection statute related to the sale of merchandise. The district court therefore properly dismissed count IV.

Affirmed.