IN THE COURT OF APPEALS OF IOWA

No. 25-1092
Filed August 19, 2026

Debbie Pudans,
Plaintiff–Appellant/Cross-Appellee,
v.
Frank Rieman Music, Inc., Music Unlimited Corporation, More Music, Inc.,
Defendants–Appellees,

and

Michael L. Donahue, Pamela A. Donahue, and Brandy J. Donahue,
Defendants–Appellees/Cross-Appellants.

Appeal from the Iowa District Court for Polk County,
The Honorable Heather Lauber, Judge.

AFFIRMED

Madalyn Elizabeth Grask (argued) and Angela L. Campbell of Dickey, Campbell, & Sahag Law Firm, PLC, Des Moines, attorneys for appellant/cross-appellee.

Matthew D. Callanan (argued) of Belin McCormick, P.C., Des Moines, attorney for defendants-appellees and appellees/cross-appellants.

Heard at oral argument
by Greer, P.J., and Ahlers, Badding, Buller, and Sandy, JJ.
Opinion by Greer, P.J. Partial Dissent by Buller, J.

GREER, Judge.

After a series of disputes, Debbie Pudans sued her next-door neighbors, Michael Donahue, Pamela Donahue, and Brandy Donahue and their business entities, Frank Rieman Music, Inc., Music Unlimited Corporation, and More Music, Inc. (collectively the Donahues), alleging abuse of process and property damage. The Donahues filed a motion for summary judgment on both of Pudans's claims. The district court, finding that the elements of Pudans's abuse-of-process claim were not shown as a matter of law, granted summary judgment and dismissed the claim. On Pudans's property-damage claim, the district court denied the Donahues' motion for summary judgment, finding that the claim did not require expert testimony to prove that the Donahues' fireworks caused damage to Pudans's swimming pool liner. Both Pudans and the Donahues appealed.

On our review, because there was insufficient evidence to meet the high bar for an abuse-of-process claim, we find summary judgment on that claim was proper. And, on the claim for property damage to the pool liner, we find that the district court correctly determined no expert was required to establish causation. Thus, we affirm the district court's summary-judgment ruling.

I. Background Facts and Proceedings.

Pudans and the Donahues are next-door neighbors. The Donahues own Rieman Music, a Des Moines musical-instrument store, and related business entities, that according to the Donahues, "do business as Rieman Music." Even though Pudans and the Donahues are long-time neighbors, they did not always get along. The focus of this dissention was the Donahues' use of fireworks.

According to Pudans, on the Fourth of July in 2017, fireworks set off from the Donahues' property damaged her swimming pool. She called the sheriff's office, and a deputy responded and wrote an incident report on July 11. Pudans called Michael Donahue and told him "the cops would come talk to [him]." Over the next few years, except for 2018, Pudans contends that the Donahues still shot off fireworks toward her home and she would text them to stop.

Finally, on July 4, 2021, according to Pudans, the Donahues again set off fireworks that landed in her yard and pool, and some of the Donahues' guests climbed her fence, "lit sparklers at [her]," and trespassed onto her property. Pudans again called the sheriff's office, and she texted Pamela Donahue that the sheriff's department "gave [her] the option of coming out for a trespassing charge." She also told Pamela that law enforcement had advised her to film the fireworks as soon as one came into her yard.

On July 5, 2021, Pudans posted on the Rieman Music Facebook page:

> When you give your hard earned money to Reiman [sic] music, you're funding the very extravagant life style of a horrible family. #theylivenextdoor #propertydamage #harassment.

The Donahues saw the post and considered it to be a statement that Pudans suffered property damage due to the family's conduct, the family and the businesses "harassed" Pudans, and that Pudans knew them as a neighbor next door. To them, as non-lawyers, this post contained false information and was an effort to harm their family and business reputation. The Donahues sought legal counsel.

The Donahues' attorney sent Pudans a letter asking her to delete the posts, and according to Michael, she initially refused to do so. Finally, she

deleted the post, but not until she resolved what she claimed to be some technical difficulties.

On August 20, the Donahues sued her for libel.[1] Pudans contends that, by that point, she had already removed any posts to the Rieman Music social media page. Pudans moved to dismiss the libel petition, and in February 2022, the district court granted her motion on the basis her statements were opinion, not actionable fact. No appeal followed.

Pudans filed the lawsuit giving rise to this appeal in June 2022, alleging abuse of process and property damage. The Donahues moved for summary judgment on both claims. In the summary judgment filings, their counsel in the libel lawsuit signed an affidavit stating his opinion was that "a proper remedy for a defamation action is, among other things, to require [Pudans] to remove the published statement," which he requested in the petition. He held out the position that the Donahues had a "good faith basis" for filing the action and the dismissal was "wrongly decided."

The court denied summary judgment on the property-damage claim, reasoning there were disputed issues of material fact. But on the abuse-of-process claim, the district court found there was "no evidence" supporting Pudans's claim on the element requiring the process was used "primarily for an improper or unauthorized purpose," and the court granted summary judgment.

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[1] Counsel for the Donahues in the libel suit wrote to Pudans on July 20, 2021, and referenced Pudans's "postings," and there were emails where counsel asked for copies of both posts, but the libel petition only set out the post set out above. And although another Facebook post Pudans admittedly posted had broadly similar content, we do not address it here because the other post was not made a basis for recovery in the libel petition. Thus, it is not relevant to the issues on appeal, and we do not reproduce it here.

After this ruling, the parties entered into a stipulated judgment on the property-damage count (the court entered judgment for Pudans and if both parties were unsuccessful on appeal the Donahues would pay Pudans $2,000 plus statutory interest) while agreeing they could each appeal the summary-judgment ruling, which they both did.[2] Pudans appeals the abuse-of-process ruling, while the Donahues cross-appeal from the property-damage ruling.

II. Standard of Review.

The standard of review is familiar and well-established:

> We review summary judgment rulings for correction of errors at law. Summary judgment is proper when the movant establishes there is no

[2] We note some reviewability issues with the parties' stipulated judgment. Starting with Pudans's appeal, we find that she had a right to appeal the district court's grant of summary judgment on her abuse-of-process claim after the court approved the parties' stipulated judgment entry and disposed of the remaining property-damage claim. *See Valles v. Mueting*, 956 N.W.2d 479, 484 (Iowa 2021) (noting that a party may pursue an interlocutory appeal from a summary-judgment ruling disposing of some, but not all, issues or "wait until the final disposition of the case with respect to all issues and parties"); *accord* Iowa R. App. P. 6.101(1)(d). But the Donahues' cross-appeal from that stipulated judgment entry is not as clear. The Donahues' cross-appeal challenges the district court's denial of their summary-judgment motion on Pudans's property-damage claim. That is ordinarily a nonreviewable order when the case proceeds to final trial. *See Estes v. Progressive Classic Ins.*, 809 N.W.2d 111, 114 (Iowa 2012). Here, however, the Donahues chose to consent to a judgment rather than proceeding to trial under an agreement with Pudans to preserve their appeal rights. In *Hense v. G.D. Searle & Co.*, 452 N.W.2d 440, 443–45 (Iowa 1990), our supreme court considered "whether consent to an adverse judgment—standing alone—will serve to forfeit the consenting party's right to review." In discussing that issue, the court framed the discussion as one of appellate waiver rather than jurisdiction. *See id.* We elect to bypass the waiver concern and affirm the case on its merits. *See State v. Taylor*, 596 N.W.2d 55, 56 (Iowa 1999) (bypassing error-preservation problem and proceeding to the merits of the issue raised on appeal).

> genuine issue of material fact and it is entitled to judgment as a matter of law. We view the record in the light most favorable to the nonmoving party.

Slaughter v. Des Moines Univ. Coll. of Osteopathic Med., 925 N.W.2d 793, 800 (Iowa 2019) (cleaned up).

III. Analysis.

A. Abuse of Process. Pudans contends that when the Donahues filed their "meritless" libel suit against her, they did it to intimidate her, cause her a "financial burden," and limit her constitutionally protected speech, which she characterizes as an abuse of process. The Donahues maintain that they filed the suit to "protect the Donahues' business and family from false statements being broadcast to the public and to require Ms. Pudans to pay damages and remove the offensive post." The Donahues assert they relied upon their counsel in the libel case who believed there was a plausible action for libel against Pudans. Their counsel contended, "I understood the statement made by Ms. Pudans would apply to not only the various Rieman Music entities (e.g., Frank Rieman Music, Inc; Music Unlimited Corporation; More Music, Inc.) but also the members of the Donahue family (Mike, Pam, and Brandy)." Ultimately, the case was dismissed and not appealed. Michael verified that they did not appeal the decision because Pudans had removed the posts.

An abuse-of-process tort concerns "the use of legal process, whether criminal or civil, against another primarily to accomplish a purpose for which it was not designed." *Gibson v. ITT Hartford Ins.*, 621 N.W.2d 388, 398 (Iowa 2001) (citation omitted). "[T]he essence of the tort is ordinarily an attempt to secure from another some collateral advantage not properly includable in the process itself . . . ." *Schmidt v. Wilkinson*, 340 N.W.2d 282, 284 (Iowa 1983) (citation omitted).

There are three elements: (1) "the use of legal process"; (2) "in an improper or unauthorized manner"; (3) which harmed the plaintiff. *Gibson*, 621 N.W.2d at 398. It is a common-law tort. *See Rhoades v. State*, 880 N.W.2d 431, 439 (Iowa 2016) (discussing abuse-of-process claims). The first element is not disputed on this record, and the third is not at issue on appeal. So, we review the record for what evidence exists to show the second element—that the legal process was utilized in an improper or unauthorized manner.

Case law has refined the second element to mean "the defendant used the legal process *primarily* for an impermissible or illegal motive." *Gibson*, 621 N.W.2d at 398 (quoting *Wilson v. Hayes*, 464 N.W.2d 250, 266 (Iowa 1990)). Iowa courts take a "very restrictive view" of this element in part to protect "ready access to courts." *Wilson*, 464 N.W.2d at 267.

In the pleadings available at the summary-judgment hearing, Pudans identified the impermissible or illegal motive as an attempt to intimidate her and to restrict her constitutional right to free speech. But even proof of an improper motive or a malicious purpose does not satisfy the second element. *See Grell v. Poulsen*, 389 N.W.2d 661, 664 (Iowa 1986) (noting rejection of an abuse-of-process claim that alleged it was used to embarrass or intimidate the plaintiff.). "The usual case of abuse of process is one of some form of extortion, using the process to put pressure upon the other to compel him to pay a different debt or to take some other action or refrain from it." *Id.* at 663 (citation omitted). General statements are insufficient to establish a claim of abuse of process. *See Stew-Mc Dev., Inc. v. Fischer*, 770 N.W.2d 839, 849 (Iowa 2009) (determining there was substantial evidence supporting the reason for filing the lawsuit, including testimony by the original counsel).

Pudans argues on appeal that, since she deleted her Facebook post before the Donahues and their business entities sued her, "the only reason

the Donahues had for initiating a civil action against her was to try and silence her and scare her from further communication with law enforcement." She also asserts a discrete error in the district court's summary-judgment analysis, where it found "[t]here is no evidence in the record to support a finding that the defendants were aware of any active complaints to law enforcement in 2021 when they filed the defamation suit."

Taking the discrete error first, Pudans has a point. She presented text messages she sent Pamela Donahue that read: "Talked to the Sheriff's Dept. They gave me the option of coming out for a trespassing charge." The date stamps on the text-message exhibit indicate it was sent on or about July 4, 2021. And the Donahues and their business entities did not file suit until August 20. But the Donahues contend that Pamela could not access her text messages and that no one knew about this particular text. Viewed in the light most favorable to the non-moving party, this is a disputed fact. However, we do not think the knowledge of this text message or its content is material without some evidence that the immediate purpose of the libel suit was *primarily* for an improper purpose.

On her second point, Pudans's *belief* that a libel action might be used to dissuade her from reporting the Donahues' conduct to law enforcement in the future is not evidence of an improper purpose. First, there are no text messages, conversations, or other evidence that would support that allegation. The record is also devoid of any evidence that Pudans's contacts with law enforcement resulted in any action, inconvenience, or other negative consequence against the Donahues such that they would be motivated to stop her. Pudans only listed one law enforcement officer as a witness in her answers to interrogatories—a deputy that investigated and completed a report related to the July 5, 2017, incident. Michael verified in

his affidavit that no law enforcement officer had ever contacted him or anyone in his family, even though Pudans said "the cops" would come talk to him in 2017. Instead, Donahue's libel counsel filed an undisputed affidavit that the reason for the libel action was in good faith to stop Pudans from defaming the Donahue family on their company social media site.

And it matters not that Pudans claims she deleted the social media post before the suit was filed because the claims in a libel action against a person making libelous statements that harm a person's reputation generally seek to stop the libelous statements that might also be made in the future and to seek damages for the harm. *See Bierman v. Weier*, 826 N.W.2d 436, 441–45 (Iowa 2013) (seeking an injunction to stop further publication of the libelous statements and requesting damages for harm to reputation). According to their counsel, the Donahues and their companies filed the libel action to address issues with perceived harm to their reputation from someone who clearly was angry at them and retaliated with negative posts in a public format. Pudans's behavior explained the primary reason for the suit, and certainly one of the legitimate goals of the action was to compel Pudans to stop posting negative comments.

To make certain that legal process is not chilled when a party seeks to advance a claim, we require evidence of a collateral advantage that was not properly includable in the process itself. And while Pudans asserts the libel suit was to intimidate her, we find nothing in the petition, the messages between the parties, or the correspondence between counsel that suggest that to be so other than Pudans's general statements. And Pudans's claim that the libel suit was meritless does not provide support for an impermissible purpose when there are identifiable goals involving proper motives, such as is found here, as it does not matter that the merits of the suit might be uphill.

See Johnson v. Farm Bureau Mut. Ins., 533 N.W.2d 203, 209 (Iowa 1995) (finding no abuse of process with the insurer's use of the suit to assert pressure to settle because settlement was a goal of the process, even though the suit was frivolous).

Here, as a matter of law, Pudans's claims do not provide evidence that the Donahues brought the libel suit *primarily* for some collateral advantage not includable in the process itself.

B. Property Damage. Next, we consider the property-damage claim and whether the district court correctly denied the Donahues' motion for summary judgment. In their cross-appeal, the Donahues challenge whether Pudans put forward enough evidence to generate a fact question on causation. They argue Pudans's claim that the Donahues' fireworks burned a hole in her pool liner could not survive summary judgment without expert testimony on causation. In response, Pudans points to her affidavit that detailed her experience as a swimming-pool owner. There, she testified she observed there were no "black spots" and no damage to the liner on July 4, 2017, before the fireworks; she witnessed fireworks from the Donahues later that day; and the next day, she found "black marks" and damage to the pool liner. Spent fireworks were removed from her pool filter.

The gist of the Donahues' argument is that swimming pools are full of water, water usually puts out fires, and therefore you need an expert to prove flaming fireworks debris could burn a pool liner that has water above it. And to their point, the Donahues obtained an expert—one that apparently has a colorful personal history with Pudans—who will testify he does not believe fireworks can burn a pool liner through approximately four feet of water.

Under our supreme court case law, "Expert testimony is not necessary to establish causation in all negligence cases." *Garr v. City of Ottumwa*, 846 N.W.2d 865, 872 (Iowa 2014). "On the other hand, when the connection between the defendant's negligence and the plaintiff's harm is not within the layperson's common knowledge and experience, the plaintiff needs expert testimony to create a jury question on causation." *Id.* (cleaned up). As the court said on another occasion: "Causation is a question for the jury, save in very exceptional cases where the facts are so clear and undisputed, and the relation of cause and effect so apparent to every candid mind, that but one conclusion may be fairly drawn therefrom." *Thompson v. Kaczinski*, 774 N.W.2d 829, 836 (Iowa 2009) (emphasis omitted) (cleaned up).

While not all cases requiring an expert must rise to the level of rocket science, we think resolution of this fact question falls into the category of those that are within the general understanding of a layperson and would not require specialized knowledge or training to resolve. That fire burns is an inference nearly as old as human history, and lay jurors are capable of assessing whether fireworks can burn a swimming-pool liner based on Pudans's expected testimony. The Donahues are certainly free to put forward an expert disputing her claim based on the water depth. But that makes for a disputed fact—and that is why we have juries.

IV. Conclusion.

For all of the reasons discussed above, we find the district court properly granted summary judgment on the abuse-of-process count, dismissing it, and the district court properly determined on the property-

damage count that it was not necessary for Pudans to present a causation expert to determine causation. We affirm.

AFFIRMED.

Ahlers and Badding, JJ., concur; Buller, J., dissents in part and concurs in part, in which Sandy, J., joins.

BULLER, Judge (concurring in part and dissenting in part).

I join the majority's analysis on the property-damage claim. But I must part ways with the decision to affirm the summary-judgment ruling disposing of Pudans's abuse-of-process claim without a trial.

As the majority recognizes, the district court got the facts wrong when it concluded there was "no evidence in the record to support a finding" the Donahues knew Pudans had contacted law enforcement before they sued her for libel. The record actually contains text messages establishing the opposite, and Michael Donahue admitted to knowing Pudans contacted law enforcement before the suit was filed. Unlike the majority, I cannot overlook this error—I think it infected the court's remaining analysis. The majority discounts the contrary evidence as not "material," but I disagree; the district court thought the absence of this evidence so material it was included as a reason for the ruling. Its existence is at least as material as its absence.

The main thrust of the majority opinion on this point is that the text messages—combined with Pudans's belief the Donahues' libel suit was for an improper purpose—were not sufficient evidence to survive summary judgment. It's unclear to me what would have been sufficient proof in the majority's eyes. A signed confession of improper motive? Secret emails arranging a conspiracy? A pleading that asserted its purpose was improper? The law doesn't require any of that.

Even in criminal cases, with their heightened burden of proof, Iowa abandoned the distinction between direct and circumstantial evidence almost fifty years ago. *State v. O'Connell*, 275 N.W.2d 197, 204–05 (Iowa 1979). Intent is particularly "seldom capable of direct proof." *E.g.*, *State v. Hawkins*, 27 N.W.3d 562, 569 (Iowa 2025) (citation omitted). The most common—often only—method of proving intent is by circumstantial evidence.

As circumstantial intent cases go, this one wasn't bad. In Pudans's version of events, she contacted law enforcement promptly after the Donahues or their guests damaged her property, she told the Donahues she was contacting law enforcement, she took her protected-speech Facebook post down as soon as she could after they asked, and the Donahues *and their business entities* sued her anyway. She also alleges there were plenty of other negative reviews, yet hers was singled out for the libel lawsuit. If believed by a jury, there is enough circumstantial evidence here to find the primary purpose of the libel lawsuit was to dissuade Pudans from contacting law enforcement to report the Donahues' alleged criminal activity.

This case may not have been a slam dunk for trial, but it didn't need to be. We have juries for a reason—to decide disputed factual questions. In my view, this was not a case appropriate for summary judgment, particularly when the district court misapprehended a discrete material fact. I would reverse the grant of summary judgment on the abuse-of-process claim.

Sandy, J., joins this partial dissent.