STATE OF MINNESOTA
IN COURT OF APPEALS
A17-1773
A18-0170

Janet H. Krasner,
Appellant,

vs.

Gregory Hoffman, et al.,
Respondents,
Scott Neff, et al.,
Respondents,
Luke Koski,
Respondent,
Lori Schultze, et al.,
Respondents.

Filed December 10, 2018
Affirmed
Reyes, Judge

St. Louis County District Court
File No. 69VI-CV-17-470

Janet H. Krasner, Ely, Minnesota (pro se appellant)

Peter J. Raukar, Thibodeau, Johnson & Feriancek, P.L.L.P., Duluth, Minnesota (for respondents Gregory Hoffman, et al.)

Bryan M. Lindsay, Scott C. Neff, Trenti Law Firm, Virginia, Minnesota (for respondents Scott Neff, et al.)

Michael K. Kearney, Colosimo, Patchin & Kearney, Ltd., Virginia, Minnesota (for respondent Luke Koski)

Rae R. Bentz, Defenbauch Law Office, Ely, Minnesota (for respondent Lori Schultze, et al.)

Considered and decided by Reyes, Presiding Judge; Ross, Judge; and Connolly, Judge.

U N P U B L I S H E D O P I N I O N

REYES, Judge

Pro se appellant challenges the district court's grant of summary judgment against her, relying on numerous arguments including: (1) lack of jurisdiction; (2) violation of due process; (3) an abuse of discretion in allowing respondents to be heard at the summary-judgment motion hearing; and (4) an abuse of discretion in denying her request for reconsideration of the grant of summary judgment. Appellant also challenges the district court's sanctions rulings against her. We affirm.

FACTS

These consolidated appeals arise from a dispute concerning a cabin located on Lake Vermilion. The cabin is jointly owned by appellant, Janet H. Krasner, and her respondent-siblings, Eric D. Humphreys and Paul A. Humphreys. In 2012, respondent-siblings agreed to sell the cabin. Krasner opposed the idea. Respondent-siblings filed a partition action and obtained a judgment ordering the sale of the cabin.[1] This partition action commenced a succession of legal disputes between Krasner and respondent-siblings.

After several unsuccessful actions against respondent-siblings in Virginia, Minnesota, Krasner filed a new action in Duluth, Minnesota, alleging similar causes of

[1] The judgment in the partition action is not before this court on appeal.

action and adding several new defendants.[2] The district court granted respondent-siblings' request to transfer the new action to Virginia.

In June 2017, Krasner mailed to all respondents a document entitled "Motion to Quash Claims by Defendants to Nullify or Dismiss Claim and Ask for Sanctions or Bonds Against Plaintiff Without Merit" (motion to quash). The motion to quash alleged numerous causes of action intertwined with convoluted narratives of the various issues. Krasner did not file the motion to quash with the district court.

By August 2017, respondent-siblings and respondents Neff, Hoffman, and Jacobsen had filed motions for summary judgment and motions for sanctions against Krasner under rules 9 and 11 of the Minnesota Rules of Civil Procedure. On August 22, 2017, the district court held a hearing on respondents' motions (the August 22 hearing).

By the August 22 hearing, Krasner had not filed a response to the motions before the district court.[3] The district court nevertheless accepted a hardcopy of Krasner's motion to quash from the bench and allowed Krasner to respond to respondents' arguments against her. On September 8, 2017, the district court issued an order granting respondents' motions for summary judgment and ordering a separate hearing on the motions for sanctions.

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[2] The new defendants include respondents Gregory Hoffman (Hoffman), Mary Jacobsen (Jacobsen), Coldwell Banker Properties, Scott Neff (Neff), Luke Koski, Lori Schultze, and Wildwoods Land Company.

[3] A party responding to a dispositive motion is required to file their documents with the district court at least nine days prior to the hearing. Minn. R. Civ. P. 115.03(b). Krasner filed her motion to quash with the court on August 18, 2017, two business days before the August 22 hearing.

Two weeks after the August 22 hearing, Krasner filed a document entitled "Motion for Retrial for Summary Judgments held on August 22, 2017" (motion for retrial). The district court denied this motion. In October 2017, Krasner filed a "Motion for Default . . . due to Non-Compliance." The district court construed this motion as a request for default judgment and sanctions against two of respondents' attorneys. All respondents filed memoranda in opposition to this motion.

In November 2017, Krasner filed an appeal of the district court's September 8, 2017 grant of summary judgment (A17-1773). In December 2017, the district court held a hearing on the parties' cross-motions for sanctions. The district court issued an order granting respondents' motions for rule 11 sanctions against Krasner, denying respondents' rule 9 motion for sanctions, and denying Krasner's motions for rule 11 sanctions against respondents. The district court ordered that Krasner shall not file any motions in the partition action or bring any additional claims unless she has a licensed attorney sign a Minnesota Rules of Civil Procedure 11.01 acknowledgment or obtains prior court approval to file the motion or claim. Krasner appealed the December 2017 sanctions order (A18-0170), and we consolidated her two appeals.

D E C I S I O N

I. The district court did not err in granting respondents' motion for summary judgment.

Krasner raises four arguments related to the grant of summary judgment against her. We address each argument in turn.

A. The district court retained jurisdiction to hear and issue orders in this case.

We construe Krasner's argument to be that, under Minnesota Rule of Civil Appellate Procedure 108.01, subd. 2, the district court lacked jurisdiction to rule on respondents' summary-judgment motions because it was directly related to issues in an appeal pending before this court—*Humphreys v. Krasner*, No. A16-1643 (Minn. App. June 19, 2017).[4] We are not persuaded.

"The interpretation of procedural rules presents a question of law reviewed de novo." *Zirnhelt v. Carter*, 843 N.W.2d 270, 274 (Minn. App. 2014) (citation omitted). Minn. R. Civ. App. P. 108.01, subd. 2, states that the filing of a timely and proper appeal suspends a district court's authority to issue any order that would affect the order or judgment that is on appeal. A district court retains authority to adjudicate a case if the matter is "*independent of*, supplemental to, or collateral to the order or judgment" that is on appeal." *Id*. (emphasis added). A matter is considered "independent" if the district court need not reconsider the merits of the issue appealed from. *In re Thulin*, 660 N.W.2d 140, 143 (Minn. App. 2003) (citing *Spaeth v. City of Plymouth*, 344 N.W.2d 815, 825 (Minn. 1984)).

Krasner's claims that were before the district court included claims of waste of the subject property, negligence, diminution of property, "contract tort" (including invasion of privacy), representation without authority by an attorney of law, loss of saleability to property and fire liability to owners, malicious and frivolous action taken by respondents,

[4] We take judicial notice of appeal no. A16-1643 as it is not in the record on appeal.

personal-property losses, pain and suffering, and cost, fees and other sanctions. In contrast, appeal no. A16-1643 involved a district court's order enjoining all parties from using the cabin and a denial of Krasner's motion for a continuance. As a result, the district court did not have to consider the merits of appeal no. A16-1643 when it adjudicated these claims. Furthermore, this court issued a final judgment in appeal no. A16-1643 several months before the district court heard and issued orders in this case. Therefore, we conclude that this case is independent of appeal no. A16-1643 and that the district court retained jurisdiction under Minn. R. Civ. App. P. 108.01, subd. 2, to adjudicate this case.

B. Krasner's due-process rights were protected at the August 22 hearing.

Krasner's next argument appears to be that her due-process rights were violated because she was denied an opportunity to "fully" argue her motion to quash at the August 22 hearing for summary judgment. We disagree.

"This court reviews the procedural due process afforded a party de novo." *Staeheli v. City of St. Paul*, 732 N.W.2d 298, 304 (Minn. App. 2007) (citation omitted). For a court to consider a claim, litigants must present relevant facts and legal authority to support it. *See* Minn. R. Civ. App. P. 128.02, subd. 1(d) (listing requirements for argument section of appellant's brief); *see also Stephens v. Bd. Of Regents*, 614 N.W.2d 764, 770 n.4 (Minn. App. 2000) (citation omitted) (declining to address appellant's claims because her brief provided no citations to legal authority or analysis). A party that appears pro se is held to the same standard of an attorney in presenting her appeal. *Francis v. State*, 781 N.W.2d 892, 896 (Minn. 2010) (quoting *State v. Seifert*, 423 N.W.2d 368, 372-73 (Minn. 1988)).

Because Krasner offers no relevant legal authority in support of her argument, it is forfeited. Even if we were to consider her argument, it lacks merit. "Generally, due process requires adequate notice and a meaningful opportunity to be heard." *Staeheli*, 732 N.W.2d at 304. Krasner argues that she was denied a meaningful opportunity to be heard at the August 22 hearing. The record does not support her argument. The transcript of the August 22 hearing reflects that the district court gave Krasner ample time to respond to respondents' motions. It also reveals that the district court allowed her to submit documents despite not timely filing them before the hearing. We conclude that Krasner's due-process rights were not violated at the August 22 hearing because she was given a meaningful opportunity to be heard.

C. The district court did not abuse its discretion in denying Krasner's motion for "retrial" of the August 22 hearing.

We interpret Krasner's argument to be that the district court incorrectly construed her motion for retrial as a motion for reconsideration and that the motion should have been granted because she filed it before the court issued its summary-judgment order. We disagree.

Although Krasner filed a motion for retrial, such a motion does not exist for motion hearings. As the district court properly determined, a motion for reconsideration is the vehicle for what Krasner was trying to achieve.

A district court's decision regarding a motion for reconsideration is reviewed for an abuse of discretion. *Goerke Family P'ship v. Lac qui Parle-Yellow Bank Watershed Dist.*, 857 N.W.2d 50, 52–53 (Minn. App. 2014) (citing *In re Welfare of S.M.E.*, 725 N.W.2d

740, 743 (Minn. 2007)). "Motions to reconsider are prohibited except by express permission of the court, which will be granted only upon a showing of compelling circumstances." Minn. R. Gen. Prac. 115.11. "Motions for reconsideration are not opportunities to present facts or arguments that were available when the prior motion was considered." *Am. Bank of St. Paul v. Coating Specialties, Inc.*, 787 N.W.2d 202, 206 (Minn. App. 2010) (citing Minn. R. Gen. Prac. 115.11 1997 advisory comm. cmt.) (other citation omitted).

Under Minn. R. Gen. Prac. 115.11, the timing of a motion for reconsideration is not a justification for considering reversal of the district court's decision absent a showing of compelling circumstances. Therefore, the second part of Krasner's argument fails.

Even if this court were to consider the substance of Krasner's motion, we would reach the same conclusion as the district court. Krasner's motion states that, had she been allowed to argue her motion to quash at the August 22, hearing, it would have evidenced material facts in dispute, thus precluding the district court from granting respondents' motion for summary judgment. Put differently, Krasner seeks to have the arguments in her motion to quash rereviewed in hopes of receiving a different result on the motion for summary judgment. This reason is discouraged by the rules and does not rise to the level of a compelling circumstance as required by Rule 115.11.

We conclude that the district court did not abuse its discretion in denying Krasner's motion of its grant of summary judgment.

D. The district court did not abuse its discretion by allowing respondents to be heard at the August 22 hearing on their motions for summary judgment.

We construe Krasner's argument to be that the district court abused its discretion in allowing respondents to be heard at the August 22 hearing because, at that time, respondents were in default for failing to provide responses to her various motions. Krasner's argument is misguided.

The record shows that respondents submitted responses to all of Krasner's motions that complied with Minn. R. Gen. Prac. 115. Krasner's motions that failed to comply with Rule 115 did not trigger a response from respondents. We conclude that the district court did not abuse its discretion by allowing respondents to be heard at the August 22 hearing because they were not in default at that time.

II. The district court did not abuse its discretion in granting respondents' motion for sanctions and denying Krasner's motion for sanctions.

A. The district court did not abuse its discretion in granting respondents' motions for rule 11 sanctions.

Krasner argues that the district court abused its discretion in granting respondents' rule 11 motion for sanctions against her because respondents failed to provide sufficient evidence showing that sanctions were warranted. We disagree.

A district court's award of sanctions is reviewed for an abuse of discretion. *Collins v. Waconia Dodge, Inc.*, 793 N.W.2d 142, 145 (Minn. App. 2011), *review denied* (Minn. Mar. 15, 2011). By presenting a pleading, written motion, or other document to the court, an attorney or self-represented litigant certifies, among other things, that: (1) the filing is not being presented for any improper purpose; (2) the claims, defenses, and other legal

contentions therein are warranted by existing law or by a non-frivolous argument; and (3) the allegations or other factual contentions have evidentiary support. Minn. R. Civ. P. 11.02(a)-(c).

In its order dated December 12, 2017, the district court set forth a timeline of Krasner's various causes of action and filings. Observed in its entirety, the timeline supports the district court's conclusion that Krasner's filings were motivated by an improper purpose to delay or needlessly increase the cost of litigation for all parties. The timeline also supports the conclusion that Krasner engaged in frequent unnecessary filings that contained causes of action not warranted by existing law and unsupported by relevant legal authority. We discern no abuse of discretion by the district court.

B. The district court did not abuse its discretion in denying Krasner's motion for rule 11 sanctions against attorneys for respondents.

Krasner argues that sanctions should have been levied against two of respondents' attorneys because they failed to respond to several of her motions and they engaged in illegal and unethical behavior. We disagree.

A request for rule 11 sanctions must: (1) be filed in a motion separate from other motions or requests; (2) contain a description of the specific conduct alleged to violate rule 11; (3) be served in compliance with rule 5; and (4) adhere to the "Safe Harbor" provision which states that the motion must not be filed with or presented to the court unless, within 21 days after service of the motion, the challenged document or claim is not withdrawn or appropriately corrected. Minn. R. Civ. P. 11.03(a).

Krasner's motion for sanctions did not comply with rule 11. It appears in several different documents[5] and is combined with requests for other forms of relief. She fails to provide a clear description of the specific conduct by respondents alleged to have violated rule 11. Although Krasner served her motion in compliance with rule 5, none of the documents mention the "Safe Harbor" provision or certify that it was observed. We conclude that, because Krasner's motions for sanctions failed to comply with rule 11, the district court did not abuse its discretion in denying the motion.

Affirmed.

[5] Krasner discusses sanctions in the motion to quash, in the "Addendum to the Motion to Quash," and in her motions for sanctions.