STATE OF MINNESOTA
IN COURT OF APPEALS
A19-0938

Kathryn Ward Blum, et al.,
Appellants,

Thomas Ward,
Appellant,

vs.

Molly Thompson, et al.,
Respondents,

Ward Family, Inc.,
Respondent.

Filed April 27, 2020
Affirmed
Smith, Tracy M., Judge

Stearns County District Court
File No. 73-CV-14-1829

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Ward Family, Inc., St. Cloud, Minnesota (respondent)

Considered and decided by Jesson, Presiding Judge; Rodenberg, Judge; and Smith, Tracy M., Judge.

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

SMITH, TRACY M., Judge

This case involves a dispute among shareholders of a family-owned corporation. Appellants are three siblings who are minority shareholders of the corporation. Respondents are three other sibling-shareholders; all of the siblings' father, who is a shareholder; and the corporation itself. After an appeal to and a remand from this court, the district court held a jury trial on appellants' common-law breach-of-fiduciary-duty claim against respondents and a court trial on appellants' statutory shareholder-oppression claim against respondents. Both the jury and the district court found in favor of respondents, rejecting appellants' claims.

Appellants challenge the resulting district court judgment against them. They argue that the district court (1) abused its discretion during the jury trial on the common-law claim by providing the jury with inaccurate instructions and special-verdict questions and by excluding certain evidence and (2) erred by rejecting their statutory shareholder-oppression claim. We affirm.

FACTS

Richard Ward and Rosemary Koop Ward were married in 1958. During their marriage, they raised seven children: Kathryn Ward Blum, Charles Ward, Kevin Ward,

Thomas Ward, Molly Thompson, Ann Sullivan, and Maggie Motyl.[1] Kathryn, Charles, and Thomas (appellants) sued Richard, Kevin, Molly, and Ann for their conduct while controlling Ward Family, Inc. (WFI) (collectively, respondents). The crux of the dispute is a long-term lease that WFI executed that gave Kevin's corporation, El Rancho Manana, Inc. (ERMI), greater authority over a large plot of land known by the parties as "the Ranch."

Many of the underlying facts of this case as well as its procedural history are described in our decision on the previous appeal in this case, *Blum v. Thompson*, 901 N.W.2d 203, 208-14 (Minn. App. 2017), *review denied* (Minn. Oct. 25, 2017). While that decision preceded the trial, the general underlying facts remain unchanged and do not bear repeating here.

On remand after our decision in the previous appeal, the district court determined that appellants were entitled to a jury trial on their common-law claim for breach of fiduciary duty (count 1) but not for their statutory claim for shareholder oppression (count 2). The district court decided to bifurcate the case into a jury trial on count 1, followed by a court trial on count 2.

Before the jury trial, respondents filed a motion in limine to exclude two expert reports that showed the value of appellants' shares in WFI had dropped from $6.25 per share to $0.40 per share after WFI and ERMI executed the lease. Respondents also sought to exclude materials connected with ERMI. The district court determined that the reduction

[1] Due to the number of overlapping last names, this opinion refers to the parties using their first names throughout.

in the value of the shares amounted to evidence of a derivative claim and therefore granted respondents' motion to exclude the expert reports. It also excluded the ERMI materials, reasoning that Richard and Kevin did not owe appellants a fiduciary duty with respect to ERMI.

At the jury trial on count 1, the jury returned a special-verdict finding that none of respondents' conduct was a breach of their fiduciary duties. At the bench trial on count 2, the district court ruled for the respondents, dismissing appellants' remaining claims with prejudice. Appellants brought posttrial motions, which the district court denied.

This appeal follows.

D E C I S I O N

I. The district court did not abuse its discretion during the jury trial on appellants' common-law breach-of-fiduciary-duty claim (count 1).

We begin with appellants' challenge to the judgment against them on their common-law claim of breach of fiduciary duty. Appellants seek a new trial, arguing that the district court abused its discretion by (1) incorrectly instructing the jury, (2) misleading the jury on the special-verdict form, and (3) excluding certain evidence.

A. The district court did not abuse it discretion in instructing the jury.

Appellate courts review a district court's jury instructions for an abuse of discretion. *State v. Huber*, 877 N.W.2d 519, 522 (Minn. 2016). "The district court has broad discretion in determining jury instructions . . . ." *Hilligoss v. Cargill, Inc.*, 649 N.W.2d 142, 147 (Minn. 2002). But appellate courts will remand for a new trial "[i]f the challenged instructions materially misstate the law resulting in prejudice to the complaining party."

Staffing Specifix, Inc. v. TempWorks Mgmt. Servs., Inc., 913 N.W.2d 687, 691-92 (Minn. 2018). Appellate courts review de novo whether a jury instruction misstates the law. *Id.* at 692.

1. Duty-of-care instruction

Appellants argue that the district court gave an erroneous instruction on the standard of care applicable to the directors and officers of a closely held corporation. Shareholders of a closely held corporation have a fiduciary duty to observe "the highest standard of integrity in their dealings with each other." *Evans v. Blesi*, 345 N.W.2d 775, 779 (Minn. App. 1984), *review denied* (Minn. June 12, 1984). That fiduciary duty includes the "duty to deal openly, honestly and fairly with other shareholders," *id.*, and to "act with complete candor in their negotiations with each other," *Gunderson v. All. of Comput. Prof'ls, Inc.*, 628 N.W.2d 173, 186 (Minn. App. 2001), *review granted* (Minn. July 24, 2001), *appeal dismissed* (Minn. Aug. 17, 2001). Generally, the law requires directors and officers to discharge the duties of their position "with the care an ordinarily prudent person in a like position would exercise under similar circumstances." Minn. Stat. § 302A.251, subd. 1, .361 (2018). But the law holds directors and officers of closely held corporations to the higher standard that applies to shareholders of a closely held corporation: their fiduciary relationship "imposes the highest standard of integrity and good faith." *Wenzel v. Mathies*, 542 N.W.2d 634, 641 (Minn. App. 1996), *review denied* (Minn. Mar. 28, 1996).

The disputed jury instruction stated:

> A shareholder's fiduciary duty is the duty to act with loyalty and the highest standards of integrity and good faith in

> conducting corporate business and in communications with fellow shareholders.
>
> In addition to the fiduciary duties owed by all shareholders, directors and officers of a corporation are required to act with the care an ordinarily prudent person in a like position would exercise under similar circumstances. You are instructed that Richard Ward was the sole officer and director of WFI from its inception until November 14, 2012. Thereafter, Richard Ward, Ann Sullivan and Molly Thompson assumed the duties of officers and directors of WFI.

Appellants claim that the instruction misstated the law because directors and officers of closely held corporations are held to the same higher standard as the corporation's shareholders.

Richard, Ann, and Molly were all shareholders, in addition to being officers and directors. We agree with appellants that the phrase describing their duty as directors and officers is not correct in the context of a closely held corporation. But the sentence in which that phrase appears specifically states that the director-officer duty of care is "[i]n addition to the fiduciary duties owed by all shareholders." The complete sentence effectively incorporates the duty of care that respondents owed as shareholders, which is correctly described in the instruction's earlier statement of a shareholder's fiduciary duty. Thus, while the district court may have misstated the law of director fiduciary duty in the context of closely held corporations, the misstatement was not prejudicial because the instruction makes clear that the higher standard of care also applied to the three respondents.

Appellants also argue that the language of the instruction describing who was a director and officer at what time somehow implied to the jury that only the lower standard of care applied when the respondents were acting as WFI's directors and officers. But this

argument requires the jury to have misread the instructions. The district court specifically stated that the directors' and officers' duty of care was *in addition* to the duty of care owed by all shareholders. The jury instruction conveys that the director-officer standard of care did not apply at all times to respondents, but nowhere does the instruction imply that, when the director-officer standard of care applies, that standard somehow overrides or displaces the shareholder standard of care. Since the directors and officers were all also shareholders, we conclude that the duty-of-care instruction did not prejudice appellants.

2. Instruction to limit focus to contract term related to direct claims

Appellants next claim that the district court erred by instructing the jury to consider only certain provisions of the lease agreement in deciding whether respondents breached their fiduciary duty. The instruction in question stated:

> You may only consider lease terms relating to Plaintiffs' access to, and use of, the property in deciding whether fiduciary duties were breached and in answering the damages questions. You may not consider other lease terms unrelated to Plaintiffs' current rights to access and use of the property, such as the acreage subject to the lease, the rent amount, or the duration of the lease, in assessing any breach of fiduciary duty or damages.

Appellants argue that this instruction ignores a fundamental aspect of contract law: one can only interpret a contract when it is viewed as a whole. But, while appellants cite authority on how courts interpret the meaning of contractual terms, they offer no authority that says that a district court cannot limit a jury's assessment of the impacts of a contract in the appropriate context.

In any event, the district court's instruction makes clear that it was trying to limit the jury's consideration to the alleged harm against appellants that we, in our decision in

the previous appeal in this case, described as part of the direct claim that appellants could present to the jury. We held that the alleged harm that the lease deprived appellants of their right to use the property related to a direct claim, while appellants' alleged harm that the written lease agreement was disadvantageous to WFI related to a derivative claim. *Blum*, 901 N.W.2d at 215-16. Appellants' derivative claim, we held, was properly dismissed on summary judgment, but the direct claim could be tried to a jury. *Id.* The district court's instruction reflects this differentiation: it told the jury to consider only contractual terms related to the direct claim—the deprivation of the right to access and use the property—but not to consider terms that would go to the dismissed derivative claim based on the value of the contract for WFI—the rent, the duration of the lease, the acreage, etc.

Appellants contend that this instruction prevented the jury from considering the "full impact" of the lease on appellants. But it was appropriate for the district court to do exactly that: the jury was not supposed to consider the "full impact" of how the lease indirectly impacted appellants through the lease's impact on WFI. The indirect impacts were part of appellants' derivative claim, and the district court had properly dismissed the derivative claim on summary judgment.

Theoretically, one could argue that a jury considering only part of the contract could misinterpret the contract based on an isolated understanding of some term. But appellants identify no examples of how that could have occurred here. Appellants say that sections 8.1 and 8.4 allow ERMI, in its sole discretion, to exclude family members from the Ranch if they would interfere with ERMI's use of the property. But appellants do not explain why the jury could not have considered those terms; those terms "relat[e] to Plaintiffs' access

to, and use of, the property." Appellants also do not explain why the instruction prevented the jury from considering the possibility that Kevin might sell ERMI, as this argument appears to be based on the lack of a term, rather than on the existence of a term.

Because the challenged instruction properly reflected the alleged harms to be considered by the jury, the district court's jury instruction was not an abuse of discretion.

B. The questions on the special-verdict form were not an abuse of discretion.

Appellants also claim that the district court's special-verdict questions misled the jury by implying that respondents could restrict appellants' access to the land, without violating their fiduciary duty, so long as the restrictions were "reasonable." District courts "have broad discretion in drafting special-verdict questions." *Russell v. Johnson*, 608 N.W.2d 895, 898 (Minn. App. 2000), *review denied* (Minn. June 27, 2000). Absent an abuse of discretion, appellate courts will not reverse a district court's decision on a special-verdict form. *Kronebusch v. MVBA Harvestore Sys.*, 488 N.W.2d 490, 496 (Minn. App. 1992), *review denied* (Minn. Oct. 20, 1992).

Appellants challenge the following special-verdict question, which was asked 12 times—once for each combination of appellant and respondent: "Did [respondent] breach [his/her] fiduciary duty to [appellant] by *unreasonably restricting*, through the ERM[I] lease or otherwise, [his/her] right to access to, and use of, the land?" (Emphasis added.)

Appellants claim that the use of "unreasonably restricting" necessarily implied to the jury that reasonable restrictions were permitted and that the instruction thus misapplies this court's holding in the earlier appeal. In that appeal, we concluded that appellants

alleged a direct claim about the negotiation of the ERMI lease to the extent that the lease "deprive[d] individual shareholders of property rights or interests that they enjoyed before the written lease agreement was executed." *Blum*, 901 N.W.2d at 216. This language, appellants argue, shows that the relevant question for the jury was whether there were *any* deprivations of their rights or interests, not whether there were unreasonable deprivations.

Appellants' argument overstates this court's earlier holding. We did state that appellants alleged a direct claim to the extent that the lease "deprive[d] individual shareholders of property rights or interests that they enjoyed before the written lease agreement was executed." *Blum*, 901 N.W.2d at 216. But we went on to say "such as the right to use the 1,200-acre property for camping, hunting, and other recreational activities." *Id.* While our examples did not purport to constitute an exhaustive list of rights and interests, they fairly suggest that appellants' rights and interests are not limitless.

Moreover, the ERMI lease, even when it was an implied, unwritten lease, necessarily restricted the rights of appellants to access and use the land. The district court, in determining the parties' rights under the lease, found that it accorded with appellants' history of growing up using and accessing the land in a way that did not interfere with the campground. As respondents argue, the district court's use of the phrase "unreasonably restricting" was a way to "adequately encapsulate[]" the historical balance between the children's access to the property and ERMI's ability to operate its business without interference.

Appellants counter that respondents' argument merely "highlights" the district court's error in excluding evidence that appellants sought to introduce about their

reasonable expectations regarding WFI. This argument conflates the "reasonableness" underlying appellants' reasonable expectations for WFI, about which the district court excluded evidence during the jury trial,[2] and the "reasonableness" of restrictions on their access to the Ranch as co-users with ERMI. With respect to the special-verdict form, the district court did not abuse its discretion.

C. The district court did not abuse its discretion by excluding appellants' evidence.

Appellants argue that the district court erred by excluding (1) evidence related to the sale of ERMI and (2) evidence showing the decrease in value of WFI shares caused by the WFI-ERMI lease. Appellate courts review the decision to exclude evidence for a clear abuse of discretion. *State v. Bustos*, 861 N.W.2d 655, 666 (Minn. 2015). The district court abuses its discretion when its ruling "is based on an erroneous view of the law or is against logic and the facts in the record." *Riley v. State*, 792 N.W.2d 831, 833 (Minn. 2011). If the district court did abuse its discretion in an evidentiary matter, an appellant must also show prejudice from the error to obtain reversal. *Bustos*, 861 N.W.2d at 666.

1. Sale-of-ERMI evidence

Appellants assert that the district court erred by excluding evidence relating to the agreements, terms, and arrangements regarding the sale of ERMI to Kevin. The district court explained that it was limiting the evidence the parties could present at the jury trial related to ERMI because the owner and director of ERMI (Richard) owed no fiduciary

[2] We note that, while appellants challenged two of the district court's evidentiary decisions, they did not challenge the exclusion of this evidence on appeal.

duties to appellants with respect to ERMI. The district court then elaborated in its final order that "[e]vidence relating to ERMI was allowed to the extent that it related to fiduciary duties owed to [appellants] by virtue of their status as WFI shareholders." Appellants contend that this decision went against what this court held in the first appeal—that the sale of ERMI was a direct injury to appellants' interest.

Appellants overstate the holding of this court. We did not conclude that the sale of ERMI corresponded with a direct claim in connection with count 1—common-law breach of fiduciary duty. Instead, we stated that "appellants have alleged direct claims in count 1 and in count 2 *to the extent that the claims are based on*" the injuries resulting from the sale of ERMI and the other direct harms. *Blum*, 901 N.W.2d. at 216 (emphasis added). So the district court still had to resolve the extent to which the breach of fiduciary claim was based on the sale of ERMI. The district court made it clear that it recognized this during the trial:

> Obviously, I agree and I accept the Court of Appeals determination that injuries related to the sale of ERMI are direct claims that can be brought by the plaintiffs. The question is which theory of relief are they able to bring those claims under, and there's the common law fiduciary duty claim and then there's the statutory claim under 302A.751.

Appellants try to frame the sale of ERMI as a breach of respondents' fiduciary duty to appellants as WFI shareholders, but, beyond citing the opinion from the first appeal, appellants' legal theory on why the sale of ERMI was relevant to this issue is unclear. At trial, the district specifically asked counsel for an explanation:

> THE COURT: Okay. I've made this invitation a few times, does somebody want to tell me what the source of a common law fiduciary duty with respect to ERMI would be in this case?
> COUNSEL OF APPELLANT THOMAS: Well, I think that our position is that the Court of Appeals said that this is a direct injury claim.
> . . . .
> COUNSEL OF APPELLANTS CHARLES AND KATHRYN: Your Honor, if I may. The argument is not that our clients are owed fiduciary duty by Richard as a shareholder of ERM[I] or nonshareholder of ERM[I] with him being a shareholder of ERM[I]. The argument is that Richard is a shareholder of WFI, Kevin are shareholders of WFI, and they owed our clients a duty of loyalty within their fiduciary duty to our clients. And the transaction that transpired negatively impacted their personal rights with respect to WFI and the property rights that they have.

This explanation parallels appellants' argument on appeal. Appellants, for instance, reiterate that Richard and Kevin had fiduciary duties to the other WFI shareholders. They state that the sale of ERMI, "in conjunction with the execution of the Lease," benefited Richard and Kevin to the detriment of appellants. But this suggests that the alleged breach of fiduciary duties was the WFI-ERMI lease, not the sale of ERMI. Appellants do not isolate how the sale of ERMI, separate from the lease, is relevant to Richard and Kevin's fiduciary obligations to the other WFI shareholders.

On appeal, appellants do raise the possibility that ERMI's sale revealed that the lease involved self-dealing. Appellants cite *Westgor v. Grimm* for the proposition that the burden of proof shifts in shareholder claims alleging self-dealing between directors and the corporation. 318 N.W.2d 56, 59 (Minn. 1982). While this argument appears to be a shift from the argument made to the district court, even if appellants preserved the self-dealing argument for appeal, additional evidence on the sale of ERMI was not required to establish

self-dealing. At the time that the lease was executed, Richard was a director and majority shareholder of WFI and the owner of ERMI, so the alleged self-dealing was already clear from the record with no further evidence of the sale. Yet the jury found Richard did not breach his fiduciary duties to appellants. Thus, any error in excluding the evidence was harmless. Minn. R. Civ. P. 61 (providing that courts must disregard error that does not affect substantial rights).

The district court did not abuse its discretion by excluding evidence of the sale of ERMI from the jury trial, and, in any event, appellants' have failed to show prejudice from any error.

2. Reduction in WFI's share value

Finally, appellants argue that the district court erred by excluding evidence of the diminished value of their shares in WFI. As discussed above, appellants could present only a direct claim to the jury. The issue here is whether the diminished-share-value evidence related to their direct claim or whether it related to a derivative claim and was thus properly excluded. Appellants contend that diminished share value was a direct harm to them as shareholders so the district court erred by excluding it as evidence of a derivative harm.

Generally, "an individual shareholder may not assert a cause of action that belongs to the corporation." *Nw. Racquet Swim & Health Clubs, Inc. v. Deloitte & Touche*, 535 N.W.2d 612, 617 (Minn. 1995). A shareholder may, however, pursue a cause of action on behalf of the corporation if the corporation has failed to do so. *Janssen v. Best & Flanagan*, 662 N.W.2d 876, 882 (Minn. 2003). "A shareholder derivative suit is a creation of equity in which a shareholder may, in effect, step into the corporation's shoes and seek in its right

the restitution he could not demand in his own." *In re UnitedHealth Group Inc. S'holder Derivative Litig.*, 754 N.W.2d 544, 550 (Minn. 2008) (quotation omitted).

To determine whether a claim is direct or derivative, a court must determine "whether the complained-of injury was an injury to the shareholder directly, or to the corporation." *Wessin v. Archives Corp.*, 592 N.W.2d 460, 464 (Minn. 1999). A court must "look not to the theory in which the claim is couched, but instead to the injury itself." *Id.* If a shareholder has indirectly sustained an injury that directly affects the corporation, the shareholder may assert only a derivative claim. *Id.* This court applies a de novo standard of review to the question of whether a claim is direct or derivative. *In re Medtronic, Inc. S'holder Litig.*, 900 N.W.2d 401, 405 (Minn. 2017).

Appellants argue that the share-value evidence went to a direct harm suffered by appellants—specifically, that the lease interfered with their rights to access and use the Ranch, and the interference caused harm equal to the decrease in stock value that followed the execution of the lease.

We conclude that the district court's determination that the decrease in stock value relates to a derivative claim is correct, and thus it was not an abuse of discretion to exclude the evidence as irrelevant. First, as a point of clarification, appellants alleged two types of harms caused by the lease: (1) it harms them as shareholders of WFI as it made poor use of WFI's most valuable asset and (2) it harms them as individuals because it deprives them of their right to access and use the land as shareholders of WFI. As we explained when we differentiated the harms in the first appeal, appellants' claim that the written lease agreement was somehow disadvantageous to WFI is a derivative claim. *Blum*, 901 N.W.2d

at 215-16. The claim that the lease deprived appellants of their right to use the property was a direct claim. *Id.* While appellants try to link the two harms together, the decrease in share value is only evidence of the harm to them as shareholders. Appellants do not explain how a decrease in share value would be a measure of the damages allegedly caused by excluding them as individuals from the Ranch.

Moreover, appellants' argument that the harm to them as shareholders was a direct harm contradicts the facts. The claimed injury is the decrease in the value of the WFI's property after WFI tied the property up in a long-term lease with ERMI. Indeed, this is a key point in appellants' overall argument: the lease with ERMI dramatically reduced the appraised value of the property. Appellants claim that the lease effectively amounted to an $8 million transfer of value to ERMI. But WFI, not any individual family member, owns the property; any transfer of value was from WFI to ERMI. While a decrease in value of WFI's asset may have led to a corresponding injury to WFI's shareholders by reducing the value of WFI's stock, that is an indirect harm resulting from a direct harm to the corporation.

Appellants claim that it is impossible for the shareholder price drop to correspond to a derivative harm because the "District Court affirmed the SLC's decision that the Lease did not harm WFI." But this appears to misread the district court's decision. The district court determined that the "long term lease significantly diminishes the market value of the land." This conclusion, combined with the relatively small amount of rent ERMI pays WFI, clearly corresponds with an economic injury to WFI. But WFI's special litigation committee investigated the injury and the conduct that lead to the lease and concluded that

WFI should not pursue the claims, in part because economic gain was not the sole motivation of the lease. Corporations may address derivative claims this way, as we discussed in the prior appeal before affirming the grant of summary judgment to respondents on the derivative claims. *Blum*, 901 N.W.2d at 221-23.

Appellants also argue that *In re Medtronic, Inc. S'holder Litig.* demands a different result. 900 N.W.2d at 401. The district court considered *Medtronic* and concluded that the claims at issue in that case were distinct from the claims here. We agree.

In *Medtronic*, the supreme court considered whether shareholders could bring a challenge against a corporate merger that created capital-gains tax liability for its shareholders and diluted its shareholders' ownership interest. *Id.* at 403-04. At issue was whether the claims asserting those harms were direct or derivative claims, and the supreme court held that both claims were direct. *Id.* at 405, 411. It determined that the claim related to the capital-gains tax liability was direct because the shareholders, not the corporation, incurred the liability and that any recovery for the injury would go to the shareholders. *Id.* at 410. The supreme court further determined that the dilution of ownership interest was a direct claim because the dilution was a loss of "certain rightful incidents of [the shareholder's] ownership interest, which is an injury that falls only on shareholders and not on the corporation." *Id.* at 411.

Appellants argue that the diminution of share value is analogous to both harms described in *Medtronic*. They claim that any recovery for damages as a result of the plunge in share values belongs to the shareholders, analogous to the tax liability in *Medtronic*. But here the direct injury was the dramatic reduction in the value of the land, so WFI would

receive any theoretical recovery for its economic loss. This injury is distinct from the tax liability in *Medtronic*, which the shareholders themselves had to pay. Appellants' share-value injury is a derivative injury, "paid" first by WFI through the decreased value of its asset.

Appellants also claim that their present and future rights to access the Ranch were almost entirely conveyed to ERMI and that this amounts to a loss of rightful incidents of ownership, akin to the loss described in *Medtronic*. First, it is not clear that this situation is analogous to *Medtronic*. The alleged loss in *Medtronic* was a reduction in control of the corporation through the dilution of ownership. *Id.* at 404. Appellants here retained the same percentage of control of WFI before and after execution of the lease. But, that aside, the evidence of a reduction in share prices was irrelevant to whether appellants could no longer access and use the Ranch after the lease. The evidence would have simply confused the issue of damages by inviting the jury to conflate the damages from appellants' dismissed derivative claims and appellants' direct claims. Thus, the district court did not abuse its discretion by excluding evidence of the reduction in WFI's share price from the jury trial.

II. The district court did not err in declining to grant appellants relief under Minn. Stat. § 302A.751 (2018) (count 2).

We turn to appellant's challenge to the district court's rejection of their statutory shareholder-oppression claim in the court trial. Appellants argue that the district court erred by rejecting both bases they asserted for their claim—specifically, that respondents (1) frustrated appellants' reasonable expectations and (2) breached their fiduciary duties to appellants.

By statute, a court may, in certain circumstances, "grant any equitable relief it deems just and reasonable in the circumstances or may dissolve a corporation and liquidate its assets and business." Minn. Stat. § 302A.751, subd. 1. In particular, a court may grant relief for oppression of shareholder rights if the shareholder establishes that "the directors or those in control of the corporation have acted in a manner unfairly prejudicial toward one or more shareholders in their capacities as shareholders or directors." Minn. Stat. § 302A.751, subd. 1(b)(3).[3]

"The term 'unfairly prejudicial' is liberally construed." *Lund ex rel. Revocable Tr. of Kim A. Lund v. Lund*, 924 N.W.2d 274, 280 (Minn. App. 2019), *review denied* (Minn. Mar. 27, 2019). "Unfairly prejudicial conduct under Minn. Stat. § 302A.751 includes conduct that violates or frustrates the reasonable expectations of a minority shareholder." *Id.* at 279-80. We have also noted that "[b]reaches of fiduciary duty are probably unfairly prejudicial." *Berreman v. W. Pub. Co.*, 615 N.W.2d 362, 373 (Minn. App. 2000), *review denied* (Minn. Sept. 26, 2000).

Whether a "shareholder's conduct complies with the reasonable expectations of all shareholders generally is a question of fact," *Blum*, 901 N.W.2d at 218, as is whether there is a breach of fiduciary duty, *Berreman*, 615 N.W.2d at 367. The district court's findings of fact "shall not be set aside unless clearly erroneous." *Pedro v. Pedro*, 489 N.W.2d 798, 801 (Minn. App. 1992) (quotation omitted), *review denied* (Minn. Oct. 20, 1992). If

[3] While appellants also alleged statutory claims for relief under section 302A.751 based on illegal activity and corporate waste, *see* Minn. Stat. § 302A.751, subd. 1(b)(2), (5), their arguments on appeal focus on whether respondents' conduct violated their reasonable expectations and breached their fiduciary duties.

appellants' arguments implicate questions of law, appellate courts review those de novo. *See Berreman*, 615 N.W.2d at 367.

A. The district court did not err by finding that appellants' expectations for lease negotiations were not reasonable.

When analyzing section 302A.751 actions involving closely held corporations, courts consider "the duty which all shareholders in a closely held corporation owe one another to act in an honest, fair, and reasonable manner in the operation of the corporation." Minn. Stat. § 302A.751, subd. 3a. Courts also consider "the reasonable expectations of all shareholders as they exist at the inception and develop during the course of the shareholders' relationship with the corporation and with each other." *Id.*

Courts presume that any written agreements between shareholders reflect the parties' reasonable expectations concerning matters dealt with in the agreements. *Id.* "But written agreements are not dispositive of expectations in all circumstances." *Lund*, 924 N.W.2d at 280. Generally, expectations must be known to the other shareholders to be considered reasonable. *Cf. Gunderson*, 628 N.W.2d at 191 ("Additionally, to be reasonable, an expectation of continuing employment must be known and accepted by other shareholders.").

Appellants assert that they had a reasonable expectation to "engage in the negotiation, execution, and approval of the [WFI-ERMI] Lease," based on a written meetings notice from one of the WFI shareholder meetings in 2000. They also assert that they had a reasonable expectation that they would eventually own the Ranch and would be involved in ERMI's operations based on the parents' 1985 divorce decree. Finally, they

claim that the course of dealing between Richard and his children created an expectation that WFI decisions, including approval of the lease, would effectively be made only with unanimous consent of the shareholders. We address each argument in turn.

1. Written shareholder resolution from 2000

Appellants argue that their reasonable expectations were established in a written shareholder resolution from the August 2000 shareholder meeting. Respondents assert that the written document from August 2000 was simply the meeting minutes and not an official resolution. The meeting minutes stated:

> The next order of business is that leases should be drawn up between [WFI] and the current leasees, El Rancho Manana, Inc. and RCK Quantum Ranch. Molly Thompson agreed to draft preliminary leases that Richard Ward, Charles Ward, Kevin Ward and Kathryn Ward-Blum will meet to review. The leases will also be mailed to Thomas Ward, Ann Sullivan, and Maggie Motyl for review before signing.

Molly and Richard signed the minutes. The district court considered appellants' argument that the minutes established reasonable expectations in its post-trial order and concluded that the minutes set forth expectations "neither shared nor reasonable when lease negotiations were finally completed over 12 years after the 2000 shareholder meetings."

Appellants contend that the meeting minutes entitled them to a presumption that they had a reasonable expectation to be included in the lease negotiations and approval. But, even assuming these minutes are a "written agreement" under section 302A.751, the agreement does not state that any proposed lease would pass only with the unanimous consent of all the WFI shareholders. The minutes instead state that the appellants would be able to review the agreement before signing. At most, the minutes established a

presumption that the shareholders had a reasonable expectation to review the lease before it was signed.

But, based on the record, the district court reasonably found that this expectation was no longer reasonable when the agreement was executed 12 years after the 2000 shareholder meeting. The dispute over the lease terms had been escalating for years, with Thomas and Charles threatening to sue over the matter in 2011. It became clear in 2012 that Richard intended to formalize the WFI-ERMI lease terms despite the minority shareholders' wishes when he elected directors over their objection. The elected directors then solicited input on the lease, making it clear that the directors were going forward with lease negotiations. It was not clear error for the district court to find that it was no longer reasonable for appellants to believe that they would be able to review the lease before it was executed based on minutes from a meeting 12 years earlier, particularly given the tension between the parties related to the lease.

2. 1985 divorce decree

Appellants also claim that they had a reasonable expectation that they would eventually own the Ranch and would be involved in ERMI's operations based on the parents' 1985 divorce decree. Appellants assert that, when WFI was created 13 years after the divorce decree and they executed quit-claim deeds in favor of WFI, it was represented to them that "nothing would change." Thus, they argue, they continued to have reasonable expectations based on the decree.

In deciding whether to grant equitable relief in cases involving closely held corporations, courts consider "the reasonable expectations of all shareholders as they exist

at the inception and develop during the course of the shareholders' relationship with the corporation and with each other." Minn. Stat. § 302A.751, subd. 3a. The quit-claim deeds that appellants themselves signed gave the majority shareholder of WFI—at that time, Richard—the right to overrule them on matters related to the Ranch. This right is inconsistent with appellants' claimed expectation from the divorce decree. Moreover, WFI's bylaws stated that corporate actions were approved by simple majority. Even if only a simple-majority requirement for WFI to act was not the expectation when WFI was created, this expectation had certainly developed by 2008, when the parties revived discussions of a stock-redemption agreement. That agreement, as Richard's lawyer had explained to Rosemary when WFI was formed, would require an action to sell the land to receive approval from a supermajority of WFI outstanding shares. On this record, it was not clear error for the district court to find that appellants' expectations that the divorce decree would somehow allow them to block the WFI-ERMI lease were not reasonable.

3. Course of dealings

Finally, appellants claim that the course of dealings between family members after the formation of WFI informed their reasonable expectation to meaningfully participate in the lease negotiations. They contend that WFI made decisions at informal "family meetings" and only acted upon consensus. They also point out that the respondents continued to include appellants in lease discussions until 2012, and they again highlight the August 2000 meeting minutes and the plan for all the shareholders to review the proposed lease.

The district court determined that, while the parties had reached a consensus on some issues in the past, "it was not reasonable for [appellants] to expect that WFI would be governed in a manner inconsistent with its bylaws." WFI's bylaws stated that actions were approved by simple majority. Furthermore, the course of dealings before Richard established WFI also showed that Richard, as the owner of the land and ERMI, had the final say.

Our review of the record leads us to conclude that the district court's determination was not clearly erroneous. While the WFI shareholders perhaps tried to act only upon consensus, its bylaws specifically permitted a simple-majority to take action, which is what eventually happened when the parties could not resolve the lease stalemate. It is not clear error to conclude that it is unreasonable for minority shareholders to expect that they have veto power over an action permitted by the company's bylaws just because the majority shareholders had tried to achieve consensus with them in previous disputes.

In sum, the district court did not clearly error by determining that appellants had no reasonable expectations that would have permitted them to prevent the WFI-ERMI lease.

B. The district court did not clearly err by finding no breach of fiduciary duty.

Appellants also argue that the district erred by concluding that respondents did not breach their fiduciary duty to deal with other shareholders in an open, honest, and fair manner. While appellants asserted a separate, common-law breach-of-fiduciary-duty claim in count 1, courts also consider the shareholders' fiduciary duty to one another when

deciding whether to grant equitable relief under section 302A.751. *See* Minn. Stat. § 302A.751, subds. 1(b), 3a.

Shareholders of a closely held corporation have a fiduciary duty to observe "the highest standard of integrity in their dealings with each other." *Evans*, 345 N.W.2d at 779. That fiduciary duty includes the duty to deal "openly, honestly and fairly with other shareholders," *id.*, and to "act with complete candor in their negotiations with each other," *Gunderson*, 628 N.W.2d at 186.

Appellants assert that it is undisputed that respondents prepared and executed the WFI-ERMI lease in secret. This secrecy, they contend, violated respondents' duty to deal openly and honestly and thus was a breach of the fiduciary duty to the other WFI shareholders. They also argue that the district court, in finding no breach of fiduciary duty, erroneously relied on the jury's rejection of their separate common-law claim because the jury's determination was a product of prejudicial instructions.

We have already rejected appellants' challenge to the jury instructions. Moreover, the district court did not defer to the jury in rejecting appellants' breach-of-fiduciary duty theory of shareholder oppression. Rather, in its findings, conclusions of law, and order on the statutory claim, the district court wrote that it "accepts, and *independently adopts*" the jury's findings on the special-verdict form that respondents did not breach their fiduciary duties to appellants. (Emphasis added.) Finally, the district court's determination was not affected by clear error. *See Pedro*, 489 N.W.2d at 801 (explaining that whether there was a breach of fiduciary duty is a factual finding, to be reversed only upon a showing a clear error). The record shows the WFI shareholders knew about the plan to formalize the WFI-

ERMI lease arrangement. WFI also allowed the shareholders to propose terms of the lease. WFI later informed the shareholders that it had entered into the lease, even if it did not do so immediately. We discern no clear error in the district court's finding that respondents did not breach a fiduciary duty to appellants.

Affirmed.