

*This opinion is nonprecedential except as provided by  
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A21-1720**

In re the Margaret A. Flolid Trust Agreement Dated December 12, 1994.

**Filed August 29, 2022  
Affirmed in part, reversed in part, and remanded  
Reilly, Judge**

Morrison County District Court  
File No. 49-CV-20-1663

Kay Nord Hunt, Michelle K. Kuhl, Lommen Abdo, P.A., Minneapolis, Minnesota; and

Luther M. Amundson, J. Noble Simpson, Maser, Amundson & Boggio, P.A., Richfield, Minnesota (for appellants Luther M. Amundson, J. Noble Simpson, Amundson & Boggio, P.A.)

Paul E.D. Darsow, Kevin A. Spellacy, Quinlivan & Hughes P.A., St. Cloud, Minnesota (for respondent/cross-appellant Ronald W. Flolid)

Considered and decided by Frisch, Presiding Judge; Worke, Judge; and Reilly, Judge.

**NONPRECEDENTIAL OPINION**

**REILLY, Judge**

Appellant-attorneys challenge the district court's award of sanctions against them and in favor of respondent/cross-appellant. We determine that the district court abused its discretion by granting sanctions against appellants and we reverse that portion of the district court's order. Based on this determination, we reject respondent/cross-appellant's argument that the district court should have awarded greater sanctions against appellants.

And we affirm the district court's denial of sanctions against attorneys' client. Finally, we remand to the district court with instructions to release the funds held on deposit to appellants.

## FACTS

This appeal arises out of a dispute over the Margaret A. Flolid Trust Agreement Dated December 12, 1994 (the trust). Susan F. Pape and respondent/cross-appellant Ronald W. Flolid are Margaret Flolid's children. Appellant-attorneys Luther M. Amundson and J. Noble Simpson from the law firm of Amundson & Boggio, P.A. (collectively attorneys) represent Susan Pape in this appeal and represented her in the district court proceedings.

In 1994, Margaret Flolid created the trust to provide for her own needs and to pass along money and property to Susan Pape and Ronald Flolid upon her death. The trust was established as a revocable trust and is governed by a trust agreement, which appointed Margaret Flolid and Ronald Flolid as co-trustees. In 2020, Margaret Flolid's doctor provided an opinion that she had suffered from mental decline for many years and lacked the capacity to manage her finances or make informed decisions. During the same time, Susan Pape became worried about several transactions involving Ronald Flolid. In particular, Susan Pape learned that Margaret Flolid and Ronald Flolid signed a warranty deed in November 2018 transferring the family farm—which had been owned by the trust—to Ronald Flolid personally. Susan Pape then inquired into other transfers from the trust to Ronald Flolid, including annual monetary gifts and payments for Ronald Flolid's personal expenses.

In November 2020, Susan Pape petitioned the district court for an order appointing her as the emergency guardian and conservator for Margaret Flolid. The district court granted the petition and appointed Susan Pape as an emergency guardian and conservator. Susan Pape filed a petition seeking Ronald Flolid's removal as trustee and for other forms of relief. Susan Pape and Ronald Flolid reached an agreement on some of the issues alleged in the petition. The parties agreed that Presbyterian Family Foundation Inc. (PFF) would be appointed as Margaret Flolid's permanent general guardian. The parties also agreed that Security Bank & Trust Co. (SBTC) would be appointed as the professional trustee of the trust. Based on these stipulations, the district court appointed PFF as Margaret Flolid's permanent general guardian and appointed SBTC as the trust's permanent professional trustee. Further, because Margaret Flolid was incapacitated, her trust became irrevocable. Susan Pape's appointment as emergency guardian and conservator expired in January 2021 and was not renewed.

In March 2021, Susan Pape filed an amended petition against Ronald Flolid challenging Ronald Flolid's past trust administration. Ronald Flolid objected to the amended petition and argued that Susan Pape lacked standing to pursue her claims. Ronald Flolid also filed a notice of motion and motion for judgment on the pleadings under Minnesota Rule of Civil Procedure 12.03. Ronald Flolid later moved for sanctions under Minnesota Rule of Civil Procedure 11 against Susan Pape personally and against her attorneys.

The district court granted Ronald Flolid's motion for judgment on the pleadings and determined that Susan Pape lacked standing to sue Ronald Flolid because SBTC had been

appointed as Margaret Flolid's trustee and Susan Pape was no longer Margaret Flolid's guardian or conservator. Susan Pape did not appeal from the ruling dismissing her claims for lack of standing. The district court denied Ronald Flolid's motion to impose sanctions against Susan Pape personally but granted the motion to award sanctions against attorneys.

Attorneys now appeal and seek review of the district court order awarding sanctions against them. Ronald Flolid cross-appeals, arguing that the district court should have awarded greater sanctions against attorneys. Ronald Flolid also cross-appeals the district court order denying his motion for sanctions against Susan Pape personally.

### **DECISION**

By presenting a document to a court, an attorney certifies that the document is not offered for an improper purpose, is properly motivated, and that the assertions in the document are warranted and have, or are likely to have, evidentiary support. Minn. R. Civ. P. 11.02(a)-(c). Unwarranted claims or those that are intended to harass, delay, or needlessly increase the cost of litigation expose the attorney, law firm, or party to sanctions. Minn. R. Civ. P. 11.03. If, after notice and a reasonable opportunity to respond, the district court determines that rule 11.02 has been violated, it may impose an appropriate sanction. *Id.*

We review an award of sanctions under rule 11 for an abuse of discretion. *Collins v. Waconia Dodge, Inc.*, 793 N.W.2d 142, 145 (Minn. App. 2011), *rev. denied* (Minn. Mar. 15, 2011). A district court abuses its discretion if a sanctions award is based on an erroneous view of the law or if no reasonable person would agree that sanctions were appropriate. *Miller v. Lankow*, 801 N.W.2d 120, 127 (Minn. 2011). "The purpose of

sanctions is deterrence rather than punishment or cost-shifting.” *Wolf v. Oestreich*, 956 N.W.2d 248, 256 (Minn. App. 2021), *rev. denied* (May 18, 2021). As a result, we “construe rule 11 narrowly.” *Id.*; *see also Radloff v. First Am. Nat’l Bank*, 470 N.W.2d 154, 157 (Minn. App. 1991) (providing that sanctions are not appropriate simply because a party does not prevail on the merits), *rev. denied* (Minn. July 24, 1991).

**I. We reverse the district court’s award of rule 11 sanctions against attorneys.**

The district court granted sanctions against attorneys on the ground that Susan Pape lacked standing to pursue the claims asserted in the amended petition. The district court reasoned that attorneys should have known that she lacked standing to proceed with her claims. Attorneys argue that the district court’s reasoning constitutes error because they presented nonfrivolous arguments about standing.<sup>1</sup> “Standing is a legal requirement that a party have a sufficient stake in a justiciable controversy to seek relief from a court.” *McCaughtry v. City of Red Wing*, 808 N.W.2d 331, 338 (Minn. 2011) (citation omitted). Standing may be conferred upon a party in one of two ways: either the plaintiff has suffered an injury-in-fact, or the plaintiff maintains a statutory right to sue. *Nash v. Wollan*, 656 N.W.2d 585, 588 (Minn. App. 2003), *rev. denied* (Minn. Apr. 29, 2003). “The lack of standing bars judicial consideration of a claim.” *Scheffler v. City of Anoka*, 890 N.W.2d 437, 451 (Minn. App. 2017), *rev. denied* (Apr. 26, 2017). Because standing is a

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<sup>1</sup> Ronald Flolid notes that Susan Pape did not appeal the district court’s judgment-on-the-pleadings order. The decision whether to appeal the district court’s order belonged to Susan Pape, rather than to her attorneys. Her decision not to appeal the judgment-on-the-pleadings order does not bar our consideration of attorneys’ challenge to the rule 11 sanctions.

jurisdictional issue, we evaluate standing determinations de novo. *In re Gillette Child.'s Specialty Healthcare*, 883 N.W.2d 778, 784 (Minn. 2016).

Attorneys argue that Susan Pape had a statutory right to sue. Standing may be acquired “when a party is the beneficiary of some legislative enactment granting standing.” *Citizens for a Balanced City v. Plymouth Congregational Church*, 672 N.W.2d 13, 18 (Minn. App. 2003). Attorneys argue that they presented nonfrivolous arguments that Susan Pape had statutory standing as an interested person. Section 501C.0201 provides that:

(a) An interested person may petition the district court and invoke its jurisdiction as provided in sections 501C.0201 to 501C.0208 for those matters specified in section 501C.0202.

(b) As used in sections 501C.0201 to 501C.0208, “interested person” includes an acting trustee, any person named as successor trustee under the trust instrument, any person seeking court appointment as trustee whether or not named in the trust instrument, a beneficiary, a creditor, and any other person having a property or other right in or claim against the assets of the trust.

Minn. Stat. § 501C.0201 (2020). The statute also provides that, “[t]he meaning of interested person, as it relates to a particular person, may vary from time to time and must be determined according to the particular purposes of, and matter involved in, any petition.” *Id.* (b).

Attorneys argue that Susan Pape is an interested person under Minn. Stat. § 501C.0201(b). This section provides that an “interested person” includes “a beneficiary” of the trust. *Id.* Chapter 501C further defines “beneficiary” as a person who “has a present or future beneficial interest in a trust, vested or contingent.” Minn. Stat. 501C.0103(c)(1) (2020); *see also* Restatement (Third) of Trusts § 94 cmt. b (2012) (“The beneficiaries of a

trust include any person who holds a beneficial interest, present or future, vested or contingent.”).

When interpreting a statute, we construe words and phrases “according to rules of grammar and according to their common and approved usage.” Minn. Stat. § 645.08(1) (2020); see *In re Pamela Andreas Stisser Grantor Tr.*, 818 N.W.2d 495, 502 (Minn. 2012) (citing Minn. § 645.08(1) (2010) in a trust dispute). “[I]f a statute is susceptible to only one reasonable interpretation, then we must apply the statute’s plain meaning.” *County of Dakota v. Cameron*, 839 N.W.2d 700, 705 (Minn. 2013) (quotation omitted). Here, by its plain language, section 501C.0201(b) grants interested parties—including trust beneficiaries—the power to petition the court. The district court ruled that Susan Pape was a “contingent beneficiary of the Trust.” Despite this determination, the district court ruled that she lacked standing because Ronald Flolid did not owe a duty to Susan Pape before 2020. The district court noted that the conduct alleged in the amended petition occurred before November 2020, while the trust was still revocable. The district court reasoned that at that time, Ronald Flolid only owed a fiduciary duty to Margaret Flolid, the settlor. The district court held that Susan Pape lacked “any valid legal basis for asserting that Ronald Flolid owed any fiduciary duty to her for the alleged conduct.”

No Minnesota caselaw directly addresses whether a contingent beneficiary of a revocable trust has standing under the statute to assert a claim related to the administration of the trust.<sup>2</sup> However, at the time in question, there was a good-faith argument that Susan

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<sup>2</sup> The parties relied on caselaw from other jurisdictions about whether a beneficiary of a revocable trust has standing to pursue a claim. These cases are not directly applicable,

Pape had standing. Attorneys asserted that section 501C.0201 grants Susan Pape standing as an interested person because she is a beneficiary and nothing in the section limits this grant to only irrevocable trusts. Chapter 501C sometimes distinguishes between revocable and irrevocable trusts. *See, e.g.*, Minn. Stat. §§ 501C.0411 (modification or termination of noncharitable irrevocable trust by consent); 501C.0505 (distinguishing between revocable and irrevocable trusts for creditor’s claims against settlor); 501C.0813 (discussing duty to inform and report for irrevocable trusts); 501C.1206 (distinguishing between revocable and irrevocable trusts for public health care programs and certain trusts) (2020). At the same time, the legislature did not expressly limit section 501C.0201 to irrevocable trusts. And generally, “[w]hen the Legislature uses limiting or modifying language in one part of a statute, but omits it in another, we regard that omission as intentional and will not add those same words of limitation or modification to parts of the statute where they were not used.” *General Mills, Inc. v. Comm’r of Revenue*, 931 N.W.2d 791, 800 (Minn. 2019).

We do not, with this opinion, settle the issue of whether a contingent beneficiary of a revocable trust has statutory standing under section 501C.0201. But by their plain language, sections 501C.0201(a), (b) and 501C.0103(c)(1) arguably apply to Susan Pape. We therefore determine that attorneys’ interpretation of this section is reasonable. A district court should not impose rule 11 sanctions “when an attorney has an objectively reasonable basis for pursuing a factual or legal claim or when a competent attorney could form a reasonable belief that a pleading is well-grounded in fact and law.” *Gibson v.*

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given the differences in the statutory schemes. We therefore decline to rely on precedent from other jurisdictions.



*Coldwell Banker Burnet*, 659 N.W.2d 782, 787 (Minn. App. 2003) (quotation omitted). A rule 11 violation does not require bad faith, but only a failure to “investigate the factual and legal underpinnings of a pleading” for which “the imposition of sanctions is mandatory.” *Uselman v. Uselman*, 464 N.W.2d 130, 142 (Minn. 1990). But it is also true that the rules for sanctions must be construed narrowly in order not to deter “legitimate or arguably legitimate claims.” *Id.*

Attorneys had an “objectively reasonable basis” for their claim that Susan Pape had statutory standing as a beneficiary under section 501C.0201.<sup>3</sup> In sum, because we determine that there was an objectively reasonable basis for attorneys to believe that Susan Pape had standing to assert her claims, the district court abused its discretion by awarding rule 11 sanctions against attorneys.<sup>4</sup> Thus, we reverse the district court’s sanctions order against attorneys and remand with instructions to release the funds held on deposit to attorneys.<sup>5</sup>

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<sup>3</sup> Attorneys also argue that Susan Pape had standing (1) based on the parties’ stipulation that she was an “interested person”; (2) because she moved to be appointed as special trustee; and (3) because she suffered an injury-in-fact. Attorneys also argue that Susan Pape had evidentiary support for her claims and could have provided more evidentiary support during the discovery process. Because we determine that the attorneys raised a reasonably objective showing of statutory standing based on Susan Pape’s beneficiary, we need not address these remaining arguments.

<sup>4</sup> Ronald Flolid argues on cross-appeal that the district court should have awarded greater sanctions against attorneys to account for the full amount of his litigation expenses. Because we conclude the district court improperly awarded sanctions against attorneys, we reject this argument.

<sup>5</sup> Attorneys provided a check for \$15,668 payable to SBTC, as trustee of the Margaret A. Flolid Trust, as security pending the appeal pursuant to Minn. R. Civ. App. P. 108.02.

**II. We affirm the district court’s decision not to impose rule 11 sanctions against Susan Pape personally.**

Ronald Flolid argues on cross-appeal that the district court abused its discretion by denying his request to sanction Susan Pape personally.

Rule 11 does not permit an award of monetary sanctions for frivolous claims and defenses under rule 11.02(b), against a represented party. Minn. R. Civ. P. 11.03(b)(1); *see also Baertsch v. Baertsch*, 886 N.W.2d 235, 238 (Minn. App. 2016). Ronald Flolid acknowledges this principle but claims that Susan Pape is a sophisticated person because she is an attorney and is married to an attorney. Ronald Flolid urges this court to “recognize an exception to Rule 11.03(b)(1) in situations where a party is both sophisticated and trained in the law, and the sanctionable conduct involves a straight-forward legal issue,” such as standing.

We are not persuaded. Ronald Flolid cited no caselaw to support this position and there is no authority in Minnesota creating such an exception. When interpreting the rules of civil procedure, we look first to the plain language of the rule and its purpose. *Walsh v. U.S. Bank, N.A.*, 851 N.W.2d 598, 601 (Minn. 2014). Rule 11.03(b)(1) states that a represented person cannot be sanctioned for violating rule 11.02(b). This language is unambiguous and is not subject to more than one interpretation. The district court did not abuse its discretion by refusing to apply the plain language of the rule and sanctioning Susan Pape personally. We therefore affirm the district court order declining to impose sanctions against Susan Pape personally.

**Affirmed in part, reversed in part, and remanded.**