

*This opinion is nonprecedential except as provided by  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  
A22-0477**

Carol Audrey Jones,  
Appellant,

Sadie Rae Jones,  
Plaintiff,

Clark Edward Jones,  
Plaintiff,

vs.

State Farm Insurance Company Fire Claims,  
Respondent.

**Filed December 5, 2022  
Affirmed  
Reilly, Judge**

Crow Wing County District Court  
File No. 18-CV-21-839

Carol Audrey Jones, Clearwater, Minnesota (pro se appellant)

Scott G. Williams, HAWS-KM, P.A., St. Paul, Minnesota (for respondent)

Considered and decided by Bjorkman, Presiding Judge; Reilly, Judge; and Cochran,  
Judge.

**NONPRECEDENTIAL OPINION**

**REILLY**, Judge

Appellants challenge the district court's dismissal under Minn. R. Civ. P.  
37.02(b)(3) of their claims relating to respondent insurer's denial of coverage for water

damage to their property. Appellants also challenge the denial of their request for a continuance of trial. We affirm.

## FACTS

In December 2020, appellants Carol Audrey Jones, Sadie Rae Jones, and Clark Edward Jones (the Joneses) sued in conciliation court seeking to recover under an insurance policy issued by respondent State Farm Insurance Company Fire Claims (State Farm) for water damage to their rental home. The Joneses claimed that the water pipes broke, causing flooding on their property. State Farm conducted a site inspection and investigation and determined that the damage resulted from vandalism and malicious mischief. State Farm conveyed that the damages resulting from this loss were not covered by the insurance policy because the home had been vacant for more than 30 days. State Farm therefore denied the claim. In February 2021, the conciliation court dismissed the Joneses' claim with prejudice, determining that the "loss was not covered under the terms of the insurance contract." The Joneses filed a demand for removal to the district court for trial de novo.

On April 27, 2021, State Farm served interrogatories and requests for production of documents upon the Joneses. State Farm requested responses within 30 days. *See* Minn. R. Civ. P. 33.01(b), 34.02(c)(1) (providing that under the rules of civil procedure, a party generally must respond to discovery requests within 30 days). On June 11, 2021, State Farm sent a letter to the Joneses stating that it had not received responses to its discovery requests and that the responses were "overdue." State Farm asked the Joneses to respond to discovery and conveyed that it would "raise the issue with the Court" if responses were not timely received. State Farm sent a second letter on June 21, 2021, noting that the

responses were “overdue” and asking the Joneses to send their responses at their earliest convenience. State Farm conveyed it would bring a motion to compel if it did not receive a response. State Farm sent a third letter to the Joneses on July 16, 2021, stating that it had still not received the responses. State Farm stated that if it did not receive the responses by July 20, 2021, it would move to compel. The Joneses provided partial responses in August 2021. On August 9, 2021, State Farm sent a letter to the Joneses asking for full compliance with the outstanding discovery requests. State Farm stated that it had a motion to compel scheduled with the district court but noted that it would withdraw the motion if it received responses by August 20, 2021.

State Farm later filed a notice of motion and motion to compel discovery. State Farm sought “more complete responses” to its discovery requests, “or risk dismissal with prejudice.” The district court granted the motion and ordered that the Joneses “shall provide more complete responses to State Farm’s Interrogatories and Requests for Production within thirty (30) days of the date of this Order.” The September 10, 2021 order also provided that if the Joneses ignored the order, “State Farm shall advise the Court and this matter is subject to immediate dismissal with prejudice.”

In October 2021, State Farm sent a letter to the district court revealing that it had not received discovery responses and requesting that the matter be dismissed with prejudice. State Farm sought dismissal under Minnesota Rule of Civil Procedure 37.02 for the Joneses’ failure to comply with the district court’s order and the Minnesota Rules of Civil Procedure. The Joneses did not respond. A few days before the motion hearing, Carol Jones acknowledged that the Joneses failed to fully comply with discovery and

requested a continuance of the motion hearing. The district court denied the continuance request. The district court then granted State Farm’s motion and dismissed the action with prejudice.

The Joneses appeal.

## DECISION

### I. Dismissal Under Rule 37.02

Rule 37.02 permits a district court to impose sanctions—including dismissal of an action—against a party that fails to comply with a discovery order. Minn. R. Civ. P. 37.02(b)(3). The district court’s discovery-related orders will not be reversed absent an abuse of discretion. *Shetka v. Kueppers, Kueppers, Von Feldt & Salmen*, 454 N.W.2d 916, 921 (Minn. 1990).

[Appellate courts] have examined the following factors in determining whether a district court has abused its discretion in imposing discovery sanctions: (1) if the [district] court set a date certain by which compliance was required, (2) if the [district] court gave a warning of potential sanctions for non-compliance, (3) if the failure to cooperate with discovery was an isolated event or part of a pattern, (4) if the failure to comply was willful or without justification, and (5) if the moving party has demonstrated prejudice.

*Frontier Ins. Co. v. Frontline Processing Corp.*, 788 N.W.2d 917, 923 (Minn. App. 2010), *rev. denied* (Minn. Dec. 14, 2010). We determine that each factor is satisfied here.

First, the district court set a date certain by which compliance was required. State Farm moved to compel on August 17, 2021. The district court granted the motion on September 10, 2021. The district court specifically ordered the Joneses to “provide more complete responses to State Farm’s Interrogatories and Requests for Production within

thirty (30) days of the date of this Order.” The district court set a date certain by which the Joneses had to comply with the outstanding discovery requests.

Second, the district court warned the Joneses of the potential sanctions for noncompliance. “The existence of a clear warning by the trial court that dismissal or a similar sanction would automatically result if the party did not comply with a discovery deadline [is] a significant factor in determining on appeal whether such a sanction was appropriate.” *Sudheimer v. Sudheimer*, 372 N.W.2d 792, 795 (Minn. App. 1985). The district court provided that if the Joneses disregarded the order, “State Farm shall advise the Court and this matter is subject to immediate dismissal with prejudice.” The Joneses were on notice that dismissal was a potential sanction for noncompliance.

Third, the failure to cooperate with discovery was not an isolated event. State Farm served its interrogatories and requests for production of documents on April 27, 2021. The Joneses did not respond to discovery. State Farm sent three more letters on June 11, 2021, June 21, 2021, and July 16, 2021, requesting discovery and stating that it would move to compel if it did not receive responses. The Joneses did not provide complete responses to these requests. The Joneses also violated the district court’s September 10, 2021 order. The district court found that the Joneses’ “noncompliance was not an isolated event, but instead has been part of a pattern during the proceedings.” The record reflects that the Joneses engaged in a pattern of failing to fully comply with State Farm’s discovery requests and with the district court’s order requiring compliance.

Fourth, the failure to comply with discovery was unjustified. The Joneses did not explain why they failed to fully comply with discovery. Instead, they only acknowledged

that they failed to engage in discovery. Carol Jones sent a letter to the district court in November 2021 stating, “I know at this time I have not responded to your order on June 21, 2021 to provide requested information to the Defendant State Farm and their Attorneys . . . . Also, [I] have not provided required evidence/information to the Courts regarding this case.” The district court determined that the Joneses “failed to comply with the discovery requests” and that this failure to comply “was not justified.”

Lastly, State Farm has shown that it was prejudiced by the Joneses’ failure to participate in discovery. State Farm’s request for discovery had “been due for six months,” which constituted more than enough time to provide responses or request a continuance. We have recognized “that the inability of [a responding party] to mount an effective defense due to [the appellant’s] failure to comply with discovery and court orders is sufficient prejudice to warrant sanctions.” *Frontier Ins. Co.*, 788 N.W.2d at 925. Here, the record supports a finding that State Farm suffered prejudice because of its inability to adequately prepare a defense based on the Joneses’ persistent failure to engage in discovery. *See Gebhard v. Niedzwiecki*, 122 N.W.2d 110, 114-15 (Minn. 1963) (stating that discovery seeks to prevent unjust surprise by ascertaining all relevant facts before trial).

In sum, each of the five factors supports dismissal. We thus conclude that, on this record, dismissal with prejudice under rule 37.02 was within the district court's discretion.<sup>1</sup>

**Affirmed.**

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<sup>1</sup> The Joneses also challenge the denial of their request for a trial continuance. Because we affirm the district court's dismissal of this action, we deem this issue moot. *See Dean v. City of Winona*, 868 N.W.2d 1, 5 (Minn. 2015) (concluding that an issue becomes moot when "an award of effective relief is no longer possible"). We discern no abuse of discretion in denial of the request for a continuance.