

*This opinion is nonprecedential except as provided by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
A22-0919**

Gillespie Law Offices LLP,
Respondent,

vs.

State Farm Mutual Automobile Insurance Company,
Appellant.

**Filed December 27, 2022
Reversed and remanded
Slieter, Judge**

Stearns County District Court
File No. 73-CV-19-6831

Patrick R. Gillespie, Michael P. Gillespie, Gillespie Law Offices, LLP, Rogers, Minnesota
(for respondent)

Patrick J. Rohl, Angela C. Shackelford, La Bore, Giuliani, Shackelford, & Jensen-Lea,
Ltd., Hopkins, Minnesota (for appellant)

Considered and decided by Reyes, Presiding Judge; Slieter, Judge; and Bryan,
Judge.

NONPRECEDENTIAL OPINION

SLIETER, Judge

Appellant challenges the district court's grant of summary judgment establishing respondent's attorney lien on no-fault insurance benefits appellant paid to medical providers. Because appellant previously argued that Minn. Stat. § 65B.57 (2022) may

prevent the attorney lien from attaching to the benefits paid, and this issue was not precluded following this court's earlier remand, we reverse and remand.

FACTS

In April 2018, respondent Gillespie Law Offices LLP was retained by a client seeking no-fault insurance benefits from appellant State Farm Mutual Automobile Insurance Company for her injuries caused by a February 2018 car accident. On June 1, Gillespie petitioned for mandatory arbitration of its client's claim for no-fault benefits. *See* Minn. Stat. § 65B.525, subd. 1 (2022) (providing for mandatory arbitration of all no-fault claims of \$10,000 or less). From August to October, after Gillespie had petitioned for arbitration, State Farm paid \$20,000 in benefits, which is the policy limit, directly to the client's medical providers.

In September 2018, Gillespie commenced an action pursuant to Minn. Stat. § 481.13 (2022) to establish a lien for attorney fees on the no-fault benefits State Farm paid. The parties brought cross-motions for summary judgment, and, in July 2020, the district court granted summary judgment in favor of State Farm. Gillespie appealed, and this court reversed and remanded, holding that Gillespie had established a cause-of-action attorney lien based upon the petition for arbitration, but genuine issues of material fact remained "as to whether the payment of the medical-expense claim by [State Farm] fell within [Gillespie]'s scope of representation." *Gillespie L. Offs., LLP v. State Farm Mut. Auto. Ins. Co.*, No. A20-1133, 2021 WL 1082353, at *3 (Minn. App. Mar. 22, 2021).

On remand, Gillespie moved for summary judgment based on the terms of its retainer agreement, which it submitted as evidence. Though State Farm did not move for

summary judgment on remand, it argued that Minn. Stat. § 65B.57 prevented summary judgment in favor of Gillespie. The district court denied summary judgment, set pretrial deadlines, and scheduled a trial for May 2, 2022. On April 29, and upon its *sua sponte* reconsideration, the district court issued an order vacating its previous denial of summary judgment and granting Gillespie summary judgment. State Farm appeals.

DECISION

Summary judgment is appropriate if “there is no genuine issue as to any material fact and the movant is entitled to judgment as a matter of law.” Minn. R. Civ. P. 56.01. “We review a district court’s summary judgment decision de novo. In doing so, we determine whether the district court properly applied the law and whether there are genuine issues of material fact that preclude summary judgment.” *Riverview Muir Doran, LLC v. JADT Dev. Grp., LLC*, 790 N.W.2d 167, 170 (Minn. 2010) (citation omitted).

The district court granted Gillespie summary judgment because it determined there were no genuine issues of material fact regarding the scope of Gillespie’s representation, and it had established its lien for attorney fees pursuant to Minn. Stat. § 481.13. During oral argument in this appeal, counsel for State Farm conceded that, if the issue before this court was limited to the scope of the retainer agreement, Gillespie was entitled to summary judgment and the district court properly ruled as such.¹ However, State Farm also argues that the district court erred in concluding, based on this court’s previous opinion, that the

¹ Because of this concession, we do not need to address State Farm’s argument that the affidavits Gillespie submitted in support of its post-remand motion for summary judgment were inadequate.

applicability of Minn. Stat. § 65B.57 to an attorney-fees lien “was not preserved.” Because the district court was not precluded from considering Minn. Stat. § 65B.57 as it relates to an attorney-fees lien following this court’s previous opinion, we agree.

Before the first appeal, State Farm argued to the district court, in its motion for summary judgment, that, even if an action had commenced for purposes of establishing an attorney lien, Minn. Stat. § 65B.57 prevented the lien from attaching to no-fault benefits which were paid. The district court did not reach the Minn. Stat. § 65B.57 argument.

In the first appeal, this court concluded that Gillespie had commenced a cause of action via the petition for arbitration and that it, thereby, acquired a cause-of-action attorney lien. *Gillespie L. Offs.*, 2021 WL 1082353, at *3. This court remanded “for further proceedings consistent with this opinion” because “there is a genuine issue of material fact as to whether the payment of the medical-expense claim by [State Farm] fell within [Gillespie]’s scope of representation of the insured.” *Id.* In a footnote, our court acknowledged that it did not address Minn. Stat. § 65B.57 “[b]ecause neither party cites or briefs [its] applicability.” *Id.* at *3 n.3.

Thus, contrary to Gillespie’s argument, Minn. Stat. § 65B.57 is not “an afterthought inspired by the footnote in this Court’s prior opinion,” but a relevant statute State Farm raised to the district court to argue that the attorney-fees lien ought not attach to the benefits which were paid. The district court did not rule on the applicability of this statute and the parties did not address it in the first appeal, so this court also did not address it. *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988).

And consideration by the district court of Minn. Stat. § 65B.57 as it relates to the attorney-fees lien is not contrary to this court’s remand instructions. This court gave broad remand instructions “for further proceedings consistent with this opinion” and, therefore, did not limit the issues for the district court to consider, as was done in other cases. *See Minn. Land & Immigr. Co. v. Munch*, 136 N.W. 1026, 1027 (Minn. 1912) (affirming the district court’s refusal to amend its findings of fact on a remand to “amend its conclusions of law in accordance with the opinion”); *Harry N. Ray, Ltd. v. First Nat. Bank of Pine City*, 410 N.W.2d 850, 856 (Minn. App. 1987) (concluding that remand “for admission of parol evidence” on a contract claim precluded amendment of pleadings to add new claims); *see also Janssen v. Best & Flanagan, LLP*, 704 N.W.2d 759, 763 (Minn. 2005) (“[D]istrict courts are given broad discretion to determine how to proceed on remand, as they may act in any way not inconsistent with the remand instructions provided.”). Because this court rendered no opinion as to the applicability of Minn. Stat. § 65B.57 to Gillespie’s claimed attorney lien and did not limit consideration of this statute by its remand instructions, the issue has been preserved.

Having determined that the applicability of Minn. Stat. § 65B.57 is preserved, we must determine whether, as State Farm argues, the district court’s error was prejudicial such that it requires reversal. *See Minn. R. Civ. P. 61* (“The court at every stage of the proceeding must disregard any error or defect in the proceeding which does not affect the substantial rights of the parties.”).

The purposes of the Minnesota No-Fault Automobile Insurance Act, Minn. Stat. §§ 65B.41-.71 (2020 & Supp. 2021), include ensuring prompt payment for appropriate

medical treatment and easing the burden of litigation. Minn. Stat. § 65B.42(3), (4). Any economic-loss benefit “paid or payable to any claimant, person, or entity who has provided treatment or services under [the Minnesota No-Fault Automobile Insurance Act] shall not be subject to any legal interest in the payment, whether by contract, lien, or other legal process before a denial of benefits.” Minn. Stat. § 65B.57(c). The district court “ha[d] the impression that pursuant to Minn. Stat. §65B.57(c), [Gillespie] did not have a valid lien.”

However, State Farm did not file a motion for summary judgment following this court’s first remand, and, therefore, the district court has not been afforded the opportunity to rule on the relevance of this statute as it relates to the attorney-fees lien. *Thiele*, 425 N.W.2d at 582. Therefore, we reverse and remand for the district court to consider the application of Minn. Stat. § 65B.57.

Reversed and remanded.