STATE OF MINNESOTA
IN COURT OF APPEALS
A22-1033

John Robinson, et al.,
Appellants,

vs.

USAA,
Respondent.

Filed March 13, 2023
Affirmed
Connolly, Judge

Olmsted County District Court
File No. 55-CV-17-3046

William L. French, French Law Office, Rochester, Minnesota (for appellants)

Timothy K. Masterson, Alexandra L. Zabinski, McCollum Crowley P.A., Bloomington, Minnesota (for respondent)

Considered and decided by Connolly, Presiding Judge; Larkin, Judge; and Slieter, Judge.

NONPRECEDENTIAL OPINION

CONNOLLY, Judge

In this appeal arising from an insurance-coverage dispute, appellants challenge the district court's entry of judgment on an appraisal award, arguing that the district court erred by (1) treating the appraisal award as an arbitration award; (2) ignoring the scheduling order; and (3) ignoring factual assertions made in a pro se "declaration." We affirm.

FACTS

A house owned by appellants John and Marguerite Robinson sustained hail damage. Later, appellants' garage and its contents were damaged by a fire. The damage to appellants' house, garage, and personal property was covered by a homeowner's insurance policy that appellants purchased from respondent USAA. But after the parties failed to reach an agreement regarding the value of appellants' loss, appellants sued respondent to recover the full amount of their alleged loss.

Respondent's insurance policy contains a binding appraisal process for making valuation determinations.[1] In accordance with this provision, the parties stipulated to proceed with the appraisal process. The district court then entered a corresponding order on September 1, 2017, stating that

> within 30 days of the appraisal award being issued, the parties shall advise the Court of the outcome of the appraisal process and request a scheduling conference to identify the remaining issues in the case and determine whether said issues can be resolved by motion or if it will be necessary to set the matter on for trial.

The appraisers inspected appellants' property and issued a unanimous written award totaling $82,142.41. Respondent subsequently moved to confirm the appraisal award

[1] Insurers providing fire-insurance policies in Minnesota are required to provide a minimum level of insurance coverage and include required provisions. *See* Minn. Stat. § 65A.01 (2022). The Minnesota Standard Fire Insurance Policy provides an appraisal process as an avenue to resolve disputes between an insured and an insurer regarding the amount of loss from a fire. *See id.* Under this process, each party appoints an appraiser when there is a disagreement over the amount of the loss. *See id.* The appraisers then select a neutral umpire, who resolves any differences between the two appraisers. *See id.* The two appraisers and the umpire constitute the appraisal panel. *See id.* And the written appraisal award determines "the amount of actual value and loss." *Id.*

under the Minnesota Uniform Arbitration Act (Act) and to enter judgment on the award, "minus deductibles and amounts already paid." Counsel for appellants did not respond to respondent's motion; instead, John Robinson filed a pro se brief claiming that (1) the appraisal process violated the Fourteenth Amendment to the United States Constitution, and (2) appellants were not "given an adequate opportunity to bring their amended contract and non-contract claims as per the order dated September 1, 2017." Marguerite Robinson did not sign the brief.

At the hearing on respondent's motion, respondent objected to consideration of John Robinson's pro se brief on that basis that it was filed while he was represented by counsel. The district court acknowledged that the pro se brief was not properly before the court but declined to strike it because the court had already read it, and because the arguments made therein had "no legal basis." Counsel for appellants then requested a one-week continuance, claiming that the September 1, 2017 "scheduling order [was] not . . . followed." Counsel for appellants argued that a hearing was necessary under the September 1, 2017 order to identify the remaining issues in the case. The district court declined the request for a continuance, granted respondent's motion, and entered judgment on the appraisal award. This appeal follows.

DECISION

I.

Appellants challenge the district court's confirmation of the appraisal award, arguing that under *Oliver v. State Farm Fire & Cas. Ins. Co.*, 939 N.W.2d 749 (Minn. 2020), an "appraisal is not an 'agreement to arbitrate' governed by the Uniform Arbitration

Act." In *Oliver*, the Minnesota Supreme Court held that the Act "does not apply to the appraisal process under the Minnesota Standard Fire Insurance Policy, Minn. Stat. § 65A.01." 939 N.W.2d at 754 (footnote omitted). Appellants contend that because "*Oliver* is fundamental law and controlling precedent" the district court's "decision to confirm the appraisal award [is] an error of law requiring an automatic reversal."

We need not address appellants' argument because it is well settled that reviewing courts generally consider only issues presented to and considered by the district court. *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988). Here, a review of the record demonstrates that counsel for appellants never made any argument, orally or in writing, related to appraisal awards and the Act. There is also no mention of this argument in John Robinson's improper pro se brief that he filed in district court. In fact, appellants cite *Oliver* for the first time in their appellate brief. Therefore, appellants' argument is not properly before us.

II.

Appellants challenge the district court's decision not to order a scheduling conference. District courts have considerable discretion in scheduling matters, and we will not reverse its decision absent an abuse of that discretion. *Mercer v. Andersen*, 715 N.W.2d 114, 123 (Minn. App. 2006).

The district court's September 1, 2017 order stated that "within 30 days of the appraisal award being issued, the parties shall advise the Court of the outcome . . . and request a scheduling conference to identify the remaining issues in the case." Appellants claim that the district court "ignor[ed]" this order by failing to order a scheduling

conference. Specifically, appellants contend that, "[a]s shown in his declaration, John Robinson set forth the factual basis for additional claims that had arisen outside of the insurance policy that needed to be brought." Appellants argue that, "[b]y failing to timetable a 'scheduling conference' at which the [district] court would have been advised of Appellants' additional unresolved issues and then set motion and/or trial dates, the [district] court clearly abused its discretion."

We disagree. The record reflects that appellants never requested a scheduling order. Rather, they did nothing until respondent moved to confirm the appraisal award, at which time John Robinson filed his improper pro se opposition to respondent's motion. Appellants could have moved at any time, after the appraisal award and before the hearing on respondent's motion, to request a scheduling conference to address any unresolved issues and move to amend their complaint to assert new claims. Appellants not only failed to file such a motion, but they also failed to move to amend their complaint. Therefore, the record refutes appellants' claim that the district court "ignored" the scheduling order.

Moreover, appellants cite no authority to support their position that the district court abused its discretion by declining to order a scheduling conference under circumstances similar to those presented here. And the supreme court has stated that

> it is well-established that courts have the authority "to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants" and that "how this can best be done calls for the exercise of judgment, which must weigh competing interest and maintain an even balance."

Weitzel v. State, 883 N.W.2d 553, 559 (Minn. 2016) (quoting *Landis v. N. Am. Co.*, 299 U.S. 248, 254-55, 57 (1936)). The district court here was aware of the September 1, 2017 order, recognized that any argument with respect to the scheduling order was not "brought before the Court," and that the only motion before the court was respondent's motion to confirm the appraisal award to which appellants failed to properly respond. The district court then declined to schedule further hearings because appellants failed to comply with the rules. Appellants are unable to establish that the district court abused its discretion.

III.

Finally, appellants argue that the district court abused its discretion when it declined to consider John Robinson's pro se arguments in opposition to respondent's motion to confirm the appraisal award. But appellants cite no caselaw that supports this argument. Moreover, the rules of civil procedure provide that "[e]very pleading, written motion, and other similar document shall be signed by at least one attorney of record in the attorney's individual name, or, if the party is self-represented, shall be signed by the party." Minn. R. Civ. P. 11.01. It is undisputed that appellants were represented by counsel at the time John Robinson filed his pro se document. It is also undisputed that John Robinson's pro se brief was not signed by appellants' attorney. Accordingly, the district court did not abuse its discretion in its treatment of John Robinson's pro se brief.

Affirmed.