

*This opinion is nonprecedential except as provided by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
A22-1847**

Merido Mazariegos,
Appellant,

vs.

Herminio Mazariegos, et al.,
Respondents.

**Filed July 3, 2023
Reversed
Larson, Judge**

Nobles County District Court
File No. 53-CV-19-613

William J. Wetering, Hedeem, Hughes & Wetering, Worthington, Minnesota (for appellant)

Jeffrey L. Flynn, Flynn Law Firm, PLLC, Worthington, Minnesota (for respondent)

Considered and decided by Gaïtas, Presiding Judge; Johnson, Judge; and Larson,
Judge.

NONPRECEDENTIAL OPINION

LARSON, Judge

Appellant Merido Mazariegos appeals from the district court's decision to grant an attorney-fees sanction against him pursuant to Minn. Stat. § 549.211, subd. 3 (2022) and Minn. R. Civ. P. 11.03. Because the district court awarded this sanction after appellant's claims survived summary judgment, we reverse.

FACTS

This appeal from an attorney-fees sanction arises after a three-year defamation litigation regarding a family real-estate dispute over land in Guatemala (the Guatemalan parcel). Appellant is a pastor. Respondents include appellant's mother, Flora Agustin¹ (Agustin), and appellant's siblings and their spouses (co-respondents).² Respondents are congregants at appellant's church.

For context, we briefly describe the real-estate dispute underlying this defamation action. Agustin claimed she purchased the Guatemalan parcel in full before moving to the United States in 2011, though Agustin admitted she never received formal documentation. In 2016, appellant traveled to Guatemala, paid a sum of money to the supposed seller, and received documentation purporting to convey the Guatemalan parcel to appellant.³ Upon appellant's return to Minnesota, appellant met with respondents to discuss how to divide the Guatemalan parcel's cost.

Respondents disputed that appellant held title to the Guatemalan parcel. In accordance with their religion's dispute-resolution process, Agustin petitioned church leadership in March 2017 to resolve the dispute, stating that she owned the Guatemalan parcel and requesting that church leaders require appellant to convey the property to her

¹ The record includes various ways to spell Agustin's surname. For consistency, we adopt the spelling in respondents' brief.

² For this appeal, the only co-respondent we separately identify is appellant's brother Herminio Mazariegos (Herminio). We refer to Herminio by his first name because he shares a surname with appellant.

³ The parties did not brief to the district court or on appeal whether the documentation appellant received in Guatemala constituted a valid deed. The parties agreed that the deed's validity presents a question of Guatemalan law that a Minnesota court could not decide.

(the petition). Agustin and co-respondents signed the petition. Thereafter, relations between appellant and respondents deteriorated.

Appellant filed a complaint in district court in June 2019, bringing claims for defamation, intentional infliction of emotional distress, and negligent infliction of emotional distress. Appellant alleged that: (1) the petition falsely claimed Agustin owned the Guatemalan parcel and that appellant obtained documentation to the Guatemalan parcel fraudulently; (2) respondents submitted those false claims to church leadership; and (3) respondents “instituted a public campaign” to disseminate the petition’s contents “to the church community” and the “community at large.”

Respondents moved for summary judgment on all claims in June 2020. Alongside appellant’s response memorandum, he submitted an affidavit and exhibits. In addition to reiterating claims about the petition, appellant averred that respondents “defamed [him] on or about April 8, 2017 during our church service by declaring in front of the entire congregation, that [he] was a ‘thief a pickpocket and a swindler.’” Appellant also stated that respondents declared appellant should be arrested. Appellant further attached a text message from Hermino to a third party that stated: “[Appellant] ripped away the land, people know this in Guatemala or internationally. So what he calls attack that is not from the family, that is consequences of such behavior.”

In October 2020, the district court denied summary judgment. The district court determined that “[i]f plaintiff’s cause of action against [respondents] rested solely on the [petition,] summary judgment would be proper.” However, it found that the petition, appellant’s affidavit, and the accompanying text message when “[c]onsidered as a whole,”

presented sufficient evidence to create a material issue of fact for appellant's claims to survive summary judgment. After the summary-judgment order, this matter was reassigned to a different district court judge.

A bench trial began in February 2022. The first three days of trial took place in February 2022, while the fourth day of trial occurred in April 2022. On that date, appellant moved to voluntarily dismiss his case with prejudice pursuant to Minn. R. Civ. P. 41.01(b). Respondents did not oppose appellant's motion. But respondents requested confirmation that they could seek an attorney-fees sanction, to which the district court replied in the affirmative.

Respondents filed a motion for costs, attorney fees, and disbursements, which the district court granted in August 2022. The district court relied on Minn. Stat. § 549.211 (2022) and Minn. R. Civ. P. 11 to impose the attorney-fees sanction. The district court reasoned that appellant "had a rational basis to pursue a claim against [Agustin,] . . . [so] her 1/10 of the expenses shall not be awarded[,]” but that “based on the files, records, and evidence presented in these proceedings[,] . . . the claims against [co-respondents] were frivolous.”

Appellant appeals, challenging only the district court's decision to impose an attorney-fees sanction.

DECISION

Appellant challenges the district court's decision to impose an attorney-fees sanction against him pursuant to Minn. Stat. § 549.211 and Minn. R. Civ. P. 11. Appellant argues that the district court abused its discretion when it awarded the attorney-fees

sanction because his claims survived summary judgment. We review a sanctions award for an abuse of discretion. *Radloff v. First Am. Nat. Bank of St. Cloud*, 470 N.W.2d 154, 156 (Minn. App. 1991), *rev. denied* (Minn. July 24, 1991). Here, because the district court’s decision to impose an attorney-fees sanction did not comply with existing law, we conclude the district court abused its discretion and reverse. *See Uselman v. Uselman*, 464 N.W.2d 130, 145 (Minn. 1990), *superseded by statute on other grounds as recognized in Radloff*, 470 N.W.2d at 159.

An attorney presenting pleadings or motion papers to a court certifies that the claims are not being presented for an improper purpose, such as harassment; the claims are supported by existing law or a nonfrivolous argument to change the law; and factual allegations or their denials have evidentiary support. Minn. Stat. § 549.211, subd. 2; Minn. R. Civ. P. 11.02; *Collins v. Waconia Dodge, Inc.*, 793 N.W.2d 142, 145 (Minn. App. 2011), *rev. denied* (Minn. Mar. 15, 2011). A district court may impose sanctions against an attorney or a party who violates these requirements. Minn. Stat. § 549.211, subd. 3; Minn. R. Civ. P. 11.03; *Collins*, 793 N.W.2d at 145.⁴

The supreme court has held that “[a] party who survives [summary judgment] with the major claims intact should not be subject to sanctions after trial predicated on these surviving claims.” *Uselman*, 464 N.W.2d at 144. The supreme court reasoned that:

⁴ Both the statute and rule require notice and an opportunity to dismiss an offending pleading, also known as the “safe harbor” requirement. Minn. Stat. § 549.211, subd. 4(a); Minn. R. Civ. P. 11.03(a)(1); *Johnson ex rel. Johnson v. Johnson*, 726 N.W.2d 516, 518-19 (Minn. App. 2007). Appellant does not challenge the sanctions on the ground that respondent failed to comply with these requirements.

The interest in the early disposition of meritless cases is not served . . . when post-trial motions for Rule 11 sanctions, based on the filing of a frivolous complaint, are granted when the moving party previously lost a summary judgment motion. Such rulings only encourage a “never say die” attitude toward sanctions motions and increase the burden of satellite litigation. . . . A party who has survived a summary judgment motion or a motion to dismiss certainly has no reason to believe that the court considers its claim or defense frivolous; indeed, the opposite is the case.

Id. at 144-45 (quoting Melissa L. Nelken, *Has the Chancellor Shot Himself in the Foot? Looking for a Middle Ground on Rule 11 Sanctions*, 41 *Hastings L.J.* 383, 390-91 (1990)). We have concluded an exception to this general rule exists when the district court “did not address at summary judgment the issue on which [sanctions are] later awarded.” *Collins*, 793 N.W.2d at 145-46. But in cases where the issues raised at summary judgment mirror the bases for imposing sanctions, we have concluded a district court abused its discretion when it imposed sanctions after trial. *See, e.g., Thuma v. Kroschel*, 506 N.W.2d 14, 21 (Minn. App. 1993), *rev. denied* (Minn. Dec. 14, 1993).

Here, appellant’s claims survived summary judgment, yet the district court imposed an attorney-fees sanction after appellant voluntarily dismissed the action. Pursuant to *Uselman*, 464 N.W.2d at 144-45, the district court erred when it imposed this attorney-fees sanction, unless the sanction fits within the exception articulated in *Collins*, 793 N.W.2d at 145-46.

In *Collins*, the district court only decided summary judgment on the basis that a fact issue remained for whether plaintiff served the complaint within the statute of limitations. *Id.* at 146. After trial, the district court imposed an attorney-fees sanction on the basis that

plaintiff failed to show any documentation or persuasive evidence supporting his substantive claim for breach of contract. *Id.* In affirming the district court, we reasoned that, under these circumstances, the district court did not abuse its discretion because the district court “did not address at summary judgment the issue on which it later awarded sanctions.” *Id.*

Here, the district court’s sanctions order does not fit within the *Collins* exception. At summary judgment, co-respondents argued that appellant failed to allege defamation with specificity. The district court disagreed. While the district court found the petition did not supply an independent basis to support a defamation claim, the district court found appellant’s affidavits and exhibits, coupled with the petition, met the specificity standard and, thus, the defamation claim against co-respondents survived summary judgment. The district court also determined the intentional-infliction-of-emotional-distress and negligent-infliction-of-emotional-distress claims survived summary judgment as to all respondents.

When reviewing the sanctions order, the district court only based its decision to impose an attorney-fees sanction on its finding that the claims against co-respondents “were frivolous.” The district court reasoned that appellant “did not have a rational basis to pursue a claim against [co-respondents]; therefore, [appellant] shall be ordered to pay 9/10 of the expenses incurred.” The sanctions order is directly at odds with the district court’s earlier decision to deny respondents’ motion for summary judgment. We, therefore,

conclude the district court abused its discretion when it imposed an attorney-fees sanction after appellant voluntarily dismissed this case. *See Thuma*, 506 N.W.2d at 21.

Reversed.