

STATE OF MINNESOTA
IN COURT OF APPEALS

In re the Estate of:
Charles Arthur Harding, Decedent.

O R D E R

#A13-0489

Considered and decided by Hooten, Presiding Judge; Johnson, Judge; and Halbrooks, Judge.

BASED ON THE FILE, RECORD, AND PROCEEDINGS, AND BECAUSE:

1. We filed an opinion in this matter on November 18, 2013.
2. On pages 12 and 13 of the opinion, we referred to the length of appellant's brief. Appellant's counsel filed a certificate of brief length with the clerk of the appellate courts, and that certificate was overlooked.

IT IS HEREBY ORDERED:

1. The attached pages are substituted for pages 12-14 and made a part of the opinion filed on November 18, 2013.
2. This order shall not extend the time to seek further review of the decision filed on November 18, 2013.

Dated: November 19, 2013

BY THE COURT

/s/
Carol A. Hooten
Opinion Judge

Procedural and Substantive Unfairness

In the alternative, appellant argues that the agreement should not be enforced on the basis of procedural and substantive unfairness. But this argument lacks merit.

“Substantive fairness guards against misrepresentation, overreaching and unconscionability.” *Pollock-Halvarson*, 576 N.W.2d at 455. Appellant does not allege any of these types of unfairness, but instead argues that the district court’s interpretation of the agreement altered it “in a way that could not have been anticipated at the time she entered into” it. But by agreeing to article III, she fully anticipated the possibility of losing her elective share.

“Procedural fairness is satisfied in an antenuptial agreement if (a) the parties have made full and fair financial disclosures to each other, and (b) each has had an opportunity to obtain independent legal advice respecting the agreement.” *Id.* at 456. Appellant offers no evidence that she lacked the opportunity to obtain independent legal advice. But she asserts that she might not have signed the agreement if she had discussed with her attorney the district court’s potential interpretation. Appellant’s mere disagreement with the district court cannot be the basis of a meritorious claim of procedural unfairness.

II.

Appellant next argues that the district court erred in denying her motion for amended findings. The district court’s decision to deny a motion for amended findings is reviewed for an abuse of discretion. *State ex rel. Fort Snelling State Park Ass’n v. Minneapolis Park & Recreation Bd.*, 673 N.W.2d 169, 177–78 (Minn. App. 2003), *review denied* (Minn. Mar. 16, 2004). A motion for amended findings that does no more

than reargue a prior motion is really an improper motion to reconsider. *Lewis v. Lewis*, 572 N.W.2d 313, 315 (Minn. App. 1997), *review denied* (Minn. Feb. 19, 1998).¹

Appellant's only argument on this issue is that the district court erroneously treated her motion for amended findings as an improper motion for reconsideration by requiring "new evidence" from her. But this argument lacks merit because neither the district court's order denying appellant's motion nor the transcript of the hearing indicated that the district court demanded any new evidence. The district court simply did not want appellant to reiterate her arguments from the summary-judgment motion.

Affirmed.

¹ *Lewis* has been overruled insofar as it suggests "that the merits of a motion for amended findings bear on whether an appeal time is tolled." *State by Fort Snelling State Park Ass'n*, 673 N.W.2d at 178 n.1. However, its "articulation of the components of a motion for amended findings" remains good law. *Id.*