STATE OF MINNESOTA

IN SUPREME COURT

A21-0761

Court of Appeals

Glen Edin of Edinburgh Association,

Respondent,

vs.

Hiscox Insurance Company,

Appellant.

Hudson, J.
Dissenting as to Part I, Chutich, McKeig, Moore, III, JJ.

Chutich, J.
Dissenting as to Part II, Hudson, J.
Gildea, C.J., Thissen, J.

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Alexander M. Jadin, Timothy D. Johnson, Ross M. Hussey, Smith Jadin Johnson, PLLC, Bloomington, Minnesota, for respondent.

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S Y L L A B U S

1. Minnesota Rule of Civil Procedure 5.04(a) requires the summons and complaint to be filed within 1 year of the commencement of the action.

2. Plaintiff complied with Minnesota Rule of Civil Procedure 5.04(a) when it filed its summons and complaint as an exhibit to the district court in an ancillary motion pertaining to the same action.

Affirmed.

O P I N I O N & D I S S E N T[1]

HUDSON, Justice.

This case involves interpreting what it means to file an "action" under Minn. R. Civ. P. 5.04(a), which provides, in relevant part, that "[a]ny action that is not filed with the court within one year of commencement against any party is deemed dismissed with prejudice . . . ." In this dispute involving an insurance coverage claim, respondent Glen Edin of Edinburgh Association (Glen Edin) served appellant Hiscox Insurance Company (Hiscox) with a summons and complaint in June 2019. Glen Edin did not file the summons and complaint with the district court at that time. However, in October 2019, Glen Edin filed a copy of the summons and complaint as an exhibit to an affidavit included with a memorandum in support of its motion for an appointment of a neutral umpire for appraisal.

In January 2020, Hiscox filed its answer to the original complaint with the district court. Glen Edin did not file its summons and complaint as a standalone document until March 2021, more than 1 year after it had served Hiscox with the summons and complaint.

Subsequently, the district court entered an order dismissing the case with prejudice under Rule 5.04(a), holding that Glen Edin had failed to satisfy Rule 5.04(a) because Glen Edin's complaint was not filed within 1 year of service. And the district court denied Glen Edin's subsequent motion to vacate the judgment under Minn. R. Civ. P. 60.02(a).

The court of appeals reversed, holding that the term "action" in Rule 5.04(a) included Hiscox's answer filed with the district court in January 2020. Because Hiscox's

[1] Part I of this opinion is the opinion of the court on the filing requirement of Minnesota Rule of Civil Procedure 5.04(a).

answer was filed within 1 year of Glen Edin serving the summons and complaint on Hiscox, the court of appeals concluded that the dictates of Rule 5.04(a) had been met.

We conclude that filing an "action" under Rule 5.04(a) refers to filing the summons and complaint, *see* Part I *infra* at 6–12. We further conclude Glen Edin satisfied Rule 5.04(a) when, in October 2019, it filed a copy of the summons and complaint as an exhibit in an ancillary motion pertaining to the same action, *see* Part II of the opinion of Justice Chutich, *infra* at 27–30. We therefore affirm the decision of the court of appeals, but on different grounds.

FACTS

During a storm on June 11, 2017, Glen Edin's property suffered hail damage. Glen Edin submitted a claim with its insurer, Hiscox, related to this damage. On August 14, 2017, the property was inspected, and the inspector determined that although the property had sustained exterior damage, there had been no hail damage to the roofs. At that time, inspectors hired by Glen Edin agreed that the roofs had not been damaged by the hail. Hiscox accordingly made several payments to Glen Edin for damage caused by the storm.

In early 2019, Glen Edin learned from a contractor hired to perform unrelated maintenance that the roofs had suffered hail damage as well. Glen Edin then hired an insurance adjusting firm, who agreed with the contractor and concluded that the property's roofs had suffered hail damage during the June 2017 storm beyond what had been initially covered by Hiscox. Glen Edin notified Hiscox of the additional loss and demanded an appraisal under Glen Edin's insurance policy. Hiscox disputed the new damage amount.

On June 11, 2019, Glen Edin served Hiscox with a summons and complaint, alleging breach of contract and seeking a declaratory judgment. However, Glen Edin did not file the summons and complaint with the district court at that time. The parties then began the appraisal process by each appointing their own appraiser. Under the appraisal process, a neutral umpire, agreed upon by each party's appraiser, was needed to complete the three-person appraisal panel. The appraisers were unable to agree on an umpire.

On October 22, 2019, Glen Edin filed with the district court and served on Hiscox a motion for an appointment of a neutral umpire for appraisal. In a memorandum in support of that motion, Glen Edin provided a copy of its summons and complaint as an exhibit to an affidavit included with the memorandum. In December 2019, the district court issued an order appointing a neutral umpire and entered final judgment on the matter.

On January 30, 2020, Hiscox filed with the district court its answer to Glen Edin's complaint, using the same case number that was given to Glen Edin's previous motion to appoint an umpire. The answer contained denials, stated affirmative defenses, and requested an award of costs, disbursements, and attorney fees.

Throughout 2020 and early 2021, the parties conducted discovery and worked toward an appraisal hearing, which was scheduled for March 23, 2021. However, on February 26, 2021, Hiscox notified Glen Edin that because its complaint had not been filed within 1 year of commencing its action, the case was automatically dismissed under Minn. R. Civ. P. 5.04(a). Glen Edin responded by filing the summons and complaint with the district court on March 3, 2021. Glen Edin also responded that Hiscox had filed its answer and that there had been motion practice for the case.

The parties filed letters with the district court addressing whether the case should be deemed dismissed subject to Rule 5.04(a). Following an informal hearing, the district court issued an order dismissing the case with prejudice, holding that Glen Edin had failed to satisfy Rule 5.04(a) because Glen Edin's complaint was not filed within 1 year of service.

Glen Edin filed a motion to vacate the judgment under Minn. R. Civ. P. 60.02. After receiving formal briefing and holding a hearing on the issue, the district court filed an order applying a *Finden* analysis to the facts of Glen Edin's case.[2] The district court found that Glen Edin had a debatably meritorious claim and that the parties generally agreed that Glen Edin acted with due diligence. It also concluded that Hiscox would suffer some prejudice, though it was unclear if that prejudice would be substantial. The district court concluded, however, that Glen Edin failed to meet the second *Finden* prong, which requires that Glen Edin have a reasonable excuse for its failure to comply with the 1-year filing requirement under Rule 5.04(a). The district court therefore denied Glen Edin's motion.

Glen Edin appealed, arguing that the filing requirement under Rule 5.04(a) had been met because Hiscox's answer had been filed within 1 year of commencement. *See Glen Edin of Edinburgh Ass'n v. Hiscox Ins. Co.*, 973 N.W.2d 654, 655–56 (Minn. App. 2022). Alternatively, Glen Edin argued that the district court erred by denying relief under Rule

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[2] The *Finden* test—discussed further below—evaluates whether an attorney's or party's neglect is excusable with regards to providing relief from judgment. The test has four prongs: (1) whether a movant has a debatably meritorious claim; (2) whether there was a reasonable excuse for the movant's failure or neglect to act; (3) whether the movant acted with due diligence after learning of the error or omission; and (4) whether no substantial prejudice will result to the nonmoving party if relief is granted. *See Finden v. Klaas*, 128 N.W.2d 748, 750 (Minn. 1964). The moving party must satisfy each prong to be granted relief. *Id.*

60.02. *Id.* at 656 n.3. The court of appeals reversed, holding that the "action" was filed under Rule 5.04(a) when Hiscox filed its answer. *Id.* at 657. Because Hiscox's answer was filed within 1 year of commencement, the court of appeals held that the requirements of Rule 5.04(a) had been met. *Id.*

We granted Hiscox's petition for review on whether filing an answer satisfies Rule 5.04(a)'s requirement that an "action" be filed within 1 year of commencement.

ANALYSIS

We apply a de novo standard of review when interpreting the Minnesota Rules of Civil Procedure. *Gams v. Houghton*, 884 N.W.2d 611, 616 (Minn. 2016). "When interpreting court rules, we look first to the plain language" of the rule. *Id.* (citation omitted) (internal quotation marks omitted). "If the language of a rule is plain and unambiguous, we follow the rule's plain language." *Id.* "A rule is ambiguous only if the language of the rule is subject to more than one reasonable interpretation." *Id.*

I.[3]

Minnesota Rule of Civil Procedure 5.04(a) provides that "[a]ny action that is not filed with the court within one year of commencement against any party is deemed dismissed with prejudice against all parties unless the parties within that year sign a stipulation to extend the filing period."[4] The parties do not dispute that the action was

[3] This part represents the opinion of the court with respect to the filing requirement of Minnesota Rule of Civil Procedure 5.04(a).

[4] There was no stipulation to extend the filing period in this case, and therefore that portion of Rule 5.04(a) is immaterial to our analysis.

commenced on June 11, 2019, the date on which Glen Edin served Hiscox with its summons and complaint. Therefore, the only question is whether the "action" was "filed with the court within one year" of June 11, 2019.

A.

Glen Edin advances a broad definition of what it means to file an "action" under Rule 5.04(a). Glen Edin observes that the term "action" in Rule 5.04(a) is not explicitly limited to a complaint or any pleading by a plaintiff. Instead, Glen Edin points to the general definition of "action" in Minn. Stat. § 645.45(2) (2022) as "any proceeding in any court of this state." Glen Edin notes that we have previously considered this definition, in conjunction with dictionary definitions of "proceeding," to determine that "a 'proceeding' encompasses the entire lawsuit and is broader than any single act in a lawsuit." *Ellis v. Doe*, 924 N.W.2d 258, 263 (Minn. 2019). Glen Edin thus surmises that filing an "action" under Rule 5.04(a) includes filing not just a summons and complaint, but also filing other documents such as an answer.

We believe that Glen Edin's approach would interpret Rule 5.04(a) in a vacuum and ignore the surrounding text and context of the rule. We do not interpret the rules of civil procedure "in isolation but read them in light of one another, interpreting them according to their purpose." *Mingen v. Mingen*, 679 N.W.2d 724, 727 (Minn. 2004).

Glen Edin ignores that under Rule 5.04(a), not only does an "action" need to be "filed," but it also needs to be "commence[d]." In that vein, Minn. R. Civ. P. 3.01 provides that a civil "action" is "commenced" upon the service of a summons. Additionally, Minn. R. Civ. P. 3.02 requires a copy of the complaint to be served with the summons. We have

recognized that for purposes of commencing an action under Rule 3, the summons and complaint go together as the operative documents to be served. *See Meeker v. IDS Prop. Cas. Ins. Co.*, 862 N.W.2d 43, 47 (Minn. 2015). Therefore, reading Rule 5.04(a) "in light of" Rule 3, it would be inconsistent to hold that the object of commencement—per Rule 3, a summons and complaint—is not also the object to be filed under Rule 5.04(a). *See Mingen*, 679 N.W.2d at 727.[5]

If this language were not clear enough, Rule 3.01 references Rule 5.04 as the rule containing its "filing requirements." To put a finer point on it, the rule governing the summons (Rule 3.01) explicitly states that its "filing requirements" are found in Rule 5.04. And this case asks us what must be filed under Rule 5.04. Putting two and two together, the "action" that must be filed under Rule 5.04(a) is plainly the summons (and complaint, per Rule 3.02).[6]

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[5] We recognize that the parties argued whether a complaint must be filed within 1 year of commencement, not whether a summons *and* complaint must be filed. But we must be precise with our holding. *See State v. Hannuksela*, 452 N.W.2d 668, 673 n.7 (Minn. 1990) (explaining that our responsibility to "decide cases in accordance with law" is not "diluted by counsel's . . . failure to specify issues."). We have recognized that for purposes of commencing a civil action, the summons and complaint are two parts of a whole. *See Meeker*, 862 N.W.2d at 47 (explaining that under "the ordinary rules of civil procedure . . . an action is commenced when the summons and complaint are served"). The relationship between Rules 3.01 and 3.02 confirms this observation. Therefore, it is more accurate to say that under Rule 5.04(a), filing the "action" requires filing the summons and complaint.

[6] The principle that we read the rules of civil procedure "in light of one another" does not mean that we look to every single instance where the word "action" is used in the rules. The dissent cites numerous rules where the word "action" is used, but critically, none of those rules involve the "filing" of an "action." The dissent's interpretation of Rule 5.04(a) would effectively read the significance of the word "filed" out of the rule, which we cannot

Glen Edin observes that Rule 5.04(b) uses the term "complaint," and contends that the drafters of Rule 5.04(a) were aware of the difference between "complaint" and "action" and deliberately chose the latter, broader option. It is true that "when different words are used in the same context, we assume that the words have different meanings." *Dereje v. State*, 837 N.W.2d 714, 720 (Minn. 2013). But this canon of interpretation "readily yields to context," *State v. Thompson*, 950 N.W.2d 65, 70 (Minn. 2020) (citation omitted), and here, we believe the use of "complaint" in Rule 5.04(b) actually supports Hiscox's position.

Rule 5.04(b) states that "[a]ll documents after the complaint required to be served upon a party . . . shall be filed with the court within a reasonable time after service . . . ." Rule 5.04(b) therefore assumes that the complaint is the first document to be filed with the court, and all other documents (such as an answer) are filed "after the complaint." *See* Minn. R. Civ. P. 5.04(b). Rule 5.04(b) therefore confirms, rather than undermines, the conclusion that the complaint (and summons, per Rule 3.01) is the "action" that must be filed and from which all other case documents temporally follow.[7]

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do. *See T.A. Schifsky & Sons, Inc. v. Bahr Const., LLC*, 773 N.W.2d 783, 788 n.5 (Minn. 2009) (explaining that we read and interpret a rule "to give effect to all of its provisions") (citation omitted). The word "filed" in Rule 5.04(a) is important because it connects Rule 5.04(a) to Rules 3.01 and 3.02, which govern the summons and complaint. The dissent cannot demonstrate the same interplay between Rule 5.04(a) and the rules that it cites.

[7] As the dissent points out, of course we could have explicitly used the phrase "summons and complaint" instead of "action" in Rule 5.04(a). But just because we did not use the magic words "summons and complaint" in Rule 5.04(a) does not foreclose interpreting filing the "action" to mean filing the "summons and complaint." As we have explained, there is ample textual evidence in the rules—specifically, in Rules 3.01, 3.02, and 5.04(b)—that supports our interpretation. While the dissent engages in speculation about what we did not write, we believe what we did write draws a path to our reading of Rule 5.04(a).

B.

This understanding of Rule 5.04(a) as requiring the filing of the summons and complaint comports with our case law. In *Gams*, the plaintiff failed to file the "action" within the time period required by Rule 5.04(a). *See Gams*, 884 N.W.2d at 615. While we did not explicitly say so—perhaps because it was self-evident—we plainly considered the term "action" in Rule 5.04(a) to mean the summons and complaint. For example, we explained that because the plaintiff had "commenced the present action . . . by service of a summons and complaint," the plaintiff had until a certain date "to file his action with the court." *Gams*, 884 N.W.2d at 615–16. We did not say that the defendant could have alternatively filed an answer to comply with Rule 5.04(a). Rather, the sole avenue we identified to comply with Rule 5.04(a) was activity by the plaintiff, which consisted of filing the summons and complaint. Additionally, perhaps presciently, we noted that by 2014, the plaintiff was "on notice of the consequences for failing to file his *complaint*" under Rule 5.04(a). *Gams*, 884 N.W.2d at 619 (emphasis added). *Gams* thus suggests that we contemplated the term "action" in Rule 5.04(a) to mean the complaint (and the summons, per Rule 3.01).[8]

Glen Edin alternatively relies on two court of appeals cases, but those cases offer Glen Edin no refuge. First, Glen Edin claims that the court of appeals in *MCHS Red Wing*

[8] Both parties exhaustively discuss the relevance of our decision in *Ellis* to this case. But we interpret the rules of civil procedure "in light of one another," *Mingen*, 679 N.W.2d at 727, not in light of an unrelated rent-escrow statute like the one at issue in *Ellis*. We therefore do not find the discussion of the term "action" in *Ellis*—which arose in a different interpretative context—to be dispositive as to the meaning of "action" in Rule 5.04(a).

v. Converse, 961 N.W.2d 780 (Minn. App. 2021), held that serving an answer commences an action under Rule 5.04(a), and therefore filing the answer must also satisfy the requirement of filing the action. But the issue in *MCHS Red Wing* was whether an action had been "commenced" when there had been insufficient service of process. *See* 961 N.W.2d at 783–84. Here, there is no assertion that Glen Edin ineffectively served Hiscox with its summons and complaint, so the analysis in *MCHS Red Wing* is not instructive to our analysis.

Second, Glen Edin argues that the court of appeals has squarely held that filing an answer satisfies the requirements of Rule 5.04(a). *See Sorchaga v. Ride Auto, LLC*, 893 N.W.2d 360, 367 n.1 (Minn. App. 2017), *aff'd on other grounds*, 909 N.W.2d 550 (Minn. 2018). We agree that *Sorchaga* lends support to Glen Edin's position, and the court of appeals rightfully felt bound by the precedential holding in *Sorchaga*. But we are not bound by the court of appeals' holding, s*ee Goodyear Tire & Rubber Co. v. Dynamic Air, Inc.*, 702 N.W.2d 237, 245 (Minn. 2005), and we therefore expressly reject *Sorchaga*'s conclusion that filing an answer can constitute filing the "action" under Rule 5.04(a).[9]

[9] Citing *Rhein v. Rhein*, 69 N.W.2d 657 (Minn. 1955), Hiscox argues that filing an answer containing a counterclaim would satisfy the requirements of Rule 5.04(a). Hiscox further contends that its answer seeking costs, disbursements, and attorney fees was not a counterclaim because the answer did not seek "affirmative relief." This argument is curious, given that Glen Edin itself does not assert that the court of appeals' decision should be affirmed under this justification. Glen Edin has exclusively and steadfastly argued that *any* filed answer satisfies the dictates of Rule 5.04(a). Because Glen Edin has not advanced the argument that the court of appeals' decision should be upheld because Hiscox's answer contained a counterclaim, we do not consider it. We further decline to opine whether filing an answer with a counterclaim satisfies the 1-year filing requirement of Rule 5.04(a).

Finally, we acknowledge that the rules of civil procedure "reflect a preference that actions be determined on the merits," *Patterson v. Wu Fam. Corp.*, 608 N.W.2d 863, 867 (Minn. 2000), and that "the rules are to be liberally construed so as to serve the interests of justice and so as to discourage reliance on technicalities and form," *Larson v. Indep. Sch. Dist. No. 314*, 233 N.W.2d 744, 747 (Minn. 1975). But we also have a policy of interpreting provisions regarding "the commencement of an action to provide a single, uniform course of procedure that applies alike to all civil actions." *Cox v. Mid-Minn. Mut. Ins. Co.*, 909 N.W.2d 540, 545 (Minn. 2018) (citation omitted). Adopting Glen Edin's broader definition of "action" would allow a party to file any number of documents to satisfy Rule 5.04(a)—not only an answer, but potentially a motion, letter, or exhibit.[10] Glen Edin's exception to the rule would then swallow the rule itself, erasing the summons and complaint as the operative documents initiating a civil action in district court. The resulting logistical tangles of district court judges and administrators sorting out stray answers, motions, and letters would undermine Rule 5.04(a)'s goal of facilitating effective case management and our goal of providing a "uniform course of procedure" for commencing an action, *Cox*, 909 N.W.2d at 545 (citation omitted).

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[10] The dissent purports to cabin its holding to allowing a filed answer or motion to dismiss under Rule 5.04(a). But why stop at those two documents? If an answer or a motion to dismiss suffices to satisfy Rule 5.04(a), why not a different motion, letter, or exhibit? The dissent does not say. In fact, the dissent's logic would seemingly permit the filing of any document that "alerts the court that a civil case is underway that requires the court's attention." It is difficult to imagine how this broad standard would not permit the filing of any motion, letter, or exhibit. Nor does the dissent explain how its approach would promote our policy in providing a "single, uniform course of procedure that applies alike to all civil actions." *Cox*, 909 N.W.2d at 545 (citation omitted).

In sum, we conclude that filing an "action" under Rule 5.04(a) refers to filing the summons and complaint.

II.[11]

Although a majority of the court concludes that Rule 5.04(a) requires the filing of a summons and complaint with the district court within 1 year of commencement of the action, a different majority of the court subsequently holds that Glen Edin satisfied that rule here. Because I believe the latter holding undermines the text and policy objectives of Rule 5.04(a), I respectfully dissent from that conclusion.

Glen Edin concedes that it did not file the summons and complaint as a standalone document within 1 year of the commencement of the action. However, Glen Edin observes that in a memorandum in support of its motion for an appointment of a neutral umpire for appraisal, it provided a copy of its summons and complaint as an exhibit to an affidavit included with the memorandum. Because this memorandum was filed in October 2019—4 months after commencement of the action—Glen Edin argues that it satisfied Rule 5.04(a)'s 1-year filing requirement. In further support of its contention, Glen Edin points to Minn. R. Civ. P. 5.04(c), which provides that a filing should not be rejected "solely because it is not presented in proper form as required by these rules or any local rules or practices."

I am not convinced. As a threshold matter, Rule 5.04(c) appears to be inapplicable because Glen Edin's filing was not rejected. Insofar as Glen Edin relies on our general

[11] This part represents the dissenting opinion of Justice Hudson with respect to the application of Rule 5.04(a) to the facts of this case.

principle that "we are to liberally construe pleadings in favor of the pleader," *Walsh v. U.S. Bank, N.A.*, 851 N.W.2d 598, 607 n.3 (Minn. 2014), Glen Edin would stretch this principle too far. Glen Edin's summons and complaint were tucked away in an exhibit to an affidavit included with a memorandum for a motion for an appointment of a neutral umpire for appraisal. That motion concerned a matter ancillary to the underlying substantive dispute contained in the complaint: determining the amount Glen Edin was owed under the insurance policy.

Liberal construction does not require an unreasonable construction, and here, it would be unreasonable to conclude that Glen Edin satisfied Rule 5.04(a) by filing its summons and complaint as an exhibit to an affidavit to a memorandum in support of a motion ancillary to the dispute contained in the complaint.

Nevertheless, the court holds that the text of Rule 5.04(a) does not require the summons and complaint to be filed as a standalone document. But the text of Rule 5.04(a) contemplates that the "action" filed is the same dispute contained in the summons and complaint. Here, as the court concedes, the summons and complaint were not filed in a proceeding to determine the amount Glen Edin was owed under the insurance policy—that is, the substantive dispute contained in the complaint. Rather, the summons and complaint were filed in an "ancillary motion pertaining to the same action"; specifically, a proceeding for an appointment of a neutral umpire for appraisal. The text of Rule 5.04(a) surely does not allow the filing requirement to be met by filing the summons and complaint in an entirely different proceeding than the one underlying the summons and complaint. But by

allowing the summons and complaint here to be filed in a proceeding "pertaining to the same action," the court muddies the plain filing requirements established by Rule 5.04(a).

The court also suggests that the policy objective of judicial economy is satisfied here because Glen Edin placed the summons and complaint in the hands of the district court for the purposes of case management, which kept the case moving along. But under the court's reasoning, a plaintiff could file thousands of pages of exhibits (or any document for that matter), and as long as the summons and complaint are tucked somewhere in that deluge of paper, the dictates of Rule 5.04(a) are met. I cannot see how enlisting district courts in scavenger hunts for summonses and complaints in the record advances the efficient use of judicial resources or promotes a "single, uniform course of procedure that applies alike to all civil actions." *Cox*, 909 N.W.2d at 545 (citation omitted).

I would therefore conclude that because Glen Edin did not file its summons and complaint as a standalone document until March 3, 2021—more than 20 months after commencement of the action on June 11, 2019—it did not satisfy the requirements of Rule 5.04(a).

III.[12]

Having concluded that Glen Edin did not satisfy the dictates of Rule 5.04(a), I would next evaluate whether the district court abused its discretion in denying Glen Edin's motion for relief from judgment under Minn. R. Civ. P. 60.02. "The decision whether relief is warranted under Rule 60.02 is committed to the sound discretion of the district

[12] This part represents the dissenting opinion of Justice Hudson with respect to the district court's decision to deny Glen Edin relief under Minn. R. Civ. P. 60.02(a).

court and is based upon all the surrounding circumstances of each case." *Cole v. Wutzke*, 884 N.W.2d 634, 637 (Minn. 2016). Our appellate inquiry is limited to determining whether the district court committed a "clear abuse of discretion." *See Gams*, 884 N.W.2d at 620 (citations omitted).

Rule 60.02(a) allows a district court to relieve a party from final judgment for "[m]istake, inadvertence, surprise, or excusable neglect," including from a dismissal under Rule 5.04(a). *See Gams*, 884 N.W.2d at 617–18. Relief is warranted where the movant satisfies four requirements: (1) a debatably meritorious claim; (2) a reasonable excuse for the movant's failure or neglect to act; (3) that the movant "acted with due diligence" after learning of the error or omission; and (4) that "no substantial prejudice will result to the other party." *Charson v. Temple Israel*, 419 N.W.2d 488, 491–92 (Minn. 1988) (quoting *Finden v. Klaas*, 128 N.W.2d 748, 750 (Minn. 1964)).

In denying Glen Edin's motion for relief from judgment, the district court properly identified the *Finden* test as the appropriate legal framework to apply and proceeded to analyze each prong of the *Finden* test. The district court concluded that Glen Edin had demonstrated a "debatably meritorious claim" and that it had "acted with due diligence" after learning of its error. The district court also noted that there would be prejudice to Hiscox if the motion for relief from judgment was granted, but it could not conclude that the prejudice would be "substantial."

However, the district court found that Glen Edin had failed to satisfy the second prong of the *Finden* test: a reasonable excuse for the movant's neglect. While acknowledging that a faultless client should not be punished for an attorney's mistake, the

district court observed that it "is not sufficient to say that whenever an attorney makes a mistake and the client is not at fault, the court must make up for that mistake and order relief," explaining that if that were the case, nearly every represented client would be entitled to relief under Rule 60.02. Rather, the district court concluded that Glen Edin's interpretation of Rule 5.04(a) was not reasonable because Glen Edin's argument hinged on believing the case was open and active for 14 months after the district court explicitly entered final judgment in November 2019. The district court also noted that Glen Edin did not file its complaint until 14 months after final judgment was entered, and only after Hiscox sought dismissal under Rule 5.04(a).

This case is a far cry from circumstances where we have found an abuse of discretion by the district court. Unlike cases like *Cole* and *Charson*, this is not a case where the district court failed to consider each of the four *Finden* prongs. *See Cole*, 884 N.W.2d at 639; *Charson*, 419 N.W.2d at 491. Nor is this a case like *Gams*, where the district court's reasoning was limited to a "conclusory statement." *Gams*, 884 N.W.2d at 621. Instead, the district court did exactly what it was supposed to do: "ma[k]e findings of fact based upon conflicting evidence and appl[y] the correct *Finden* analysis to those findings." *Roehrdanz v. Brill*, 682 N.W.2d 626, 632 (Minn. 2004). Although I may have decided the matter differently, that is not reason enough to reverse the district court. I would therefore conclude that the district court did not abuse its discretion in denying Glen Edin's motion for relief from judgment.

* * *

In sum, based on the court's holding that Rule 5.04(a) requires the summons and complaint to be filed within 1 year of the commencement of the action, I would reverse the decision of the court of appeals that this requirement was satisfied and further hold that the district court properly denied Glen Edin's motion for relief from judgment under Minn. R. Civ. P. 60.02.

O P I N I O N & D I S S E N T[13]

CHUTICH, Justice.

I respectfully dissent from the court's holding that Minnesota Rule of Civil Procedure 5.04(a) requires the summons and complaint—as opposed to the defendant's answer or motion to dismiss—to be filed within 1 year of the commencement of the action. But accepting that as the court's holding, we further hold that Glen Edin complied with Minnesota Rule of Civil Procedure 5.04(a) when it filed its summons and complaint as an exhibit to the district court in an ancillary motion pertaining to the same action. I address each writing in turn.

I.[14]

I respectfully dissent as to the court's holding that Minnesota Rule of Civil Procedure 5.04(a) requires the summons and complaint to be filed within 1 year of the commencement of the action. I do so because I believe that Rule 5.04(a), which requires an "action" to be filed within 1 year of its commencement to avoid the severe consequence of dismissal with prejudice, may be satisfied by the filing of a defendant's answer and not merely by the filing of a plaintiff's complaint. I reach this conclusion based upon the plain language of the rule, the use and meaning of the term "action" in other Rules of Civil

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[13] Part II of this opinion is the opinion of the court with respect to whether Glen Edin filed its complaint properly under Rule 5.04(a) here. I also concur with the overview and statement of facts in Justice Hudson's opinion.

[14] This part represents the dissenting opinion of Justice Chutich with respect to whether filing an "action" under Rule 5.04(a) is limited to the summons and complaint, or if the defendant's answer can satisfy the filing requirement as well.

Procedure, and our precedent regarding the liberal construction of the rules so as to decide cases on the merits and to serve the interests of justice.

The 2013 amendment to Rule 5.04(a) altered "a long-standing Minnesota practice that permitted a party to commence an action simply by service of the summons upon the defendant." *Gams v. Houghton*, 884 N.W.2d 611, 614 (Minn. 2016). Before this change, "[f]iling the case with the district court was not required." *Id.* This type of practice is "colloquially referred to as hip-pocket service." *MCHS Red Wing v. Converse*, 961 N.W.2d 780, 784 (Minn. App. 2021).

The amendment to Rule 5.04(a) served two objectives. First, it was intended to preserve the benefits of hip-pocket service: allowing informal dispute resolution before a case was filed. *MCHS Red Wing*, 961 N.W.2d at 784 (citing *Recommendations of the Minnesota Supreme Court Civil Justice Reform Task Force*, No. ADM10-8051, at 21–22 (Minn. Dec. 23, 2011) ("*Task Force Recommendations*")); *id.* at 785. The 2013 amendment allows parties one year to litigate, resolve issues, or settle the entire matter "without taking up court resources." *Id.* at 784 (quoting *Task Force Recommendations* at 21). Keeping these disputes out of the public eye after service but before filing may also encourage parties with confidentiality concerns to reach agreement more readily. *See Task Force Recommendations* at 21.

Second, the amendment was intended to help address issues created by hip-pocket service. By mandating a filing requirement, the amended rule ensures that the courts are able to be involved in case management before a case grows too stale. *MCHS Red Wing*, 961 N.W.2d at 785 (citing *Task Force Recommendations* at 22). Judicial case management

helps prevent the costs, delays, and difficulties that come with trying to resolve a matter efficiently and effectively after it has lingered outside the judicial system. *Id.* (citing *Task Force Recommendations* at 21–22).

Overall, the changes to Rule 5.04(a) aimed to find a happy medium that "facilitate[s] informal dispute resolution before a case is filed while also facilitating effective case management, penalizing plaintiffs who serve defendants and then take no further action, and achieving prompt resolution of disputes." *MCHS Red Wing*, 961 N.W.2d at 785. Further, the plain language of the rule only establishes a deadline for filing an "action." We have yet to address what qualifies as an "action" under Rule 5.04(a). The rule states in relevant part: "Any action that is not filed with the court within one year of commencement against any party is deemed dismissed with prejudice against all parties . . . ." Minn. R. Civ. P. 5.04(a).

"We generally interpret words and phrases according to their common and ordinary meaning, but we interpret technical words and phrases according to their special, technical meaning." *State v. Schouweiler*, 887 N.W.2d 22, 25 (Minn. 2016). Here, "action" is a technical word with a specialized meaning in the court system. For example, in *In re Skyline Materials, Ltd.*, we looked to *Black's Law Dictionary* to define "action," stating: "A 'civil action' under the Rules of Civil Procedure is a judicial *proceeding*." 835 N.W.2d 472, 476 (Minn. 2013) (emphasis added) (citing *Action*, *Black's Law Dictionary* 32 (9th ed. 2009). We have defined "proceeding," in turn, to "encompass[] the entire lawsuit"; it "is broader than any single act in a lawsuit." *Ellis v. Doe*, 924 N.W.2d 258, 263 (Minn. 2019) (citation omitted). And although not binding on our interpretation

of a Rule of Civil Procedure, it is surely *relevant* to that task that the Minnesota Legislature has defined an "action" as "any proceeding in any court of this state." Minn. Stat. § 645.45(2) (2022). It follows that a broader interpretation of "action" under Rule 5.04(a) to include more than the "single act" of filing a complaint is consistent with our precedent and with legislative thought.

Further, if we had intended, when we amended Rule 5.04(a), to specify that *only* the filing of a summons and complaint satisfies the rule's requirement that an "action" be filed with the court, we could have easily used the terms "plaintiff" and "summons and complaint" in the rule instead of the word "action." It follows that the rationale that nothing in the text of Rule 5.04(a) suggests that filing the summons and complaint must be in standalone form also fits with the rationale that nothing in the text of the rule suggests that only the summons and complaint satisfies the filing requirement.

For instance, the rule does not specify the plaintiff as the actor required to file a pleading. Instead, the rule is phrased in a passive voice with no specific actor identified:[15] "[a]ny action that is not filed with the court . . . ." And no single act in the lawsuit is identified as the "action" that satisfies the filing requirement. If the court had meant that only the summons and complaint met the filing requirement, it would have been easy to say so: "A summons and complaint that is not filed by the plaintiff with the court

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[15] I have raised this argument before, noting that the Supreme Court has held "the use of a passive voice can signal 'agnosticism' about who does the action because the passive form 'focuses on an event that occurs without respect to a specific actor.' " *Avis Budget Car Rental LLC v. County of Hennepin*, 937 N.W.2d 446, 456 (Minn. 2020) (Chutich, J., concurring in part, dissenting in part) (citing *Dean v. United States*, 556 U.S. 568, 572–73 (2009)). I believe my reasoning in *Avis* applies here as well.

within one year of commencement against any party is deemed dismissed with prejudice against all parties . . . ." *See Buzzell v. Walz*, 974 N.W.2d 256, 265 (Minn. 2022) (observing, when interpreting a statute, that if the Legislature had intended a statute to mean what the party suggested it meant, "the Legislature would have taken a much more direct path to do so.").

Notably, Hiscox cites to cases and court rules in several other jurisdictions that have required a complaint to be filed to avoid dismissal of the action. Those authorities actually undermine the court's conclusion that only the summons and complaint suffice to meet the filing requirement of Rule 5.04(a), because the rules in those jurisdictions *specifically state that a complaint is required*. *See, e.g.*, Colo. Cty. Ct. R. Civ. P. 303(a) ("The *complaint* must be filed within 14 days of the service of the summons and not less than 7 days in advance of the return date. If the *complaint* is not timely filed, the service of the summons shall be deemed ineffective and void without notice." (emphasis added)); Vt. R. Civ. P. 3(a) ("When an action is commenced by service, *the complaint must be filed with the court within 21 days* after the completion of service upon the first defendant served. If service is not timely made or *the complaint is not timely filed*, the action may be dismissed on motion[.]" (emphasis added)); Wash. Super. Ct. Civ. R. 3(a) ("[A] civil action is commenced by service of a copy of a summons together with a copy of a complaint . . . *or by filing a complaint*. Upon written demand by any other party, the plaintiff instituting the action shall pay the filing fee and *file the summons and complaint* within 14 days after service of the demand or the service shall be void." (emphasis added)). By contrast, when we amended Rule 5.04(a), we required the filing of the "action"—*not* the "complaint."

This plain and more expansive reading of the word "action" in the filing requirement is bolstered by the use and meaning of the term "action" throughout the rest of the Rules of Civil Procedure. As the court notes, it is well-established that we do not read the Rules of Civil Procedure "in isolation but read them in light of one another, interpreting them according to their purpose." *Mingen v. Mingen*, 679 N.W.2d 724, 727 (Minn. 2004) (citation omitted).

Applying this principle, I observe first that a different section of Rule 5.04—subdivision (b)[16]—*does* use the word "complaint." The use of "complaint" in subdivision (b) and "action" in subdivision (a) suggests that the drafters of the court rule were well aware of the different meanings of the two words and purposefully chose the latter, broader term "action" for the filing requirement.[17] "[W]hen different words are used in the same context, we assume that the words have different meanings." *Dereje v. State*, 837 N.W.2d 714, 720 (Minn. 2013).

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[16] Rule 5.04(b) states in relevant part: "All documents after the complaint required to be served upon a party . . . shall be filed with the court within a reasonable time after service, except disclosures under Rule 26, expert disclosures and reports, depositions upon oral examination and interrogatories, requests for documents, requests for admission, and answers and responses thereto shall not be filed unless authorized by court order or rule ." Minn. R. Civ. P. 5.04(b).

[17] Subdivision (b) instructs a party that documents that are "required to be served upon a party" must be filed with the court "within a reasonable time after service" and completely excepts from the filing requirement certain disclosures and discovery. Minn. R. Civ. P. 5.04(b). The reference to "[a]ll documents after the complaint" identifies documents other than the complaint that are required to be served upon a party and when they must be served; because a summons and a complaint commence civil litigation, Minn. R. Civ. P. 3.01, 3.02, a complaint is the first document served. But nothing about subdivision (b) requires the complaint to be the first document *filed* in an action.

In addition, when the term "action" is used elsewhere in the Rules of Civil Procedure, it appears to mean something more akin to "case," "lawsuit," "proceeding," or "course of litigation," much like how we defined the term in *Ellis* and in *Skyline Materials*. For example, the phrase "in which the *action* is pending" is commonly used throughout the rules to refer to a case in its entirety—which includes, but also encompasses more than, merely the summons and complaint. *See, e.g.*, Minn. R. Civ. P. 28.01 ("depositions shall be taken . . . before a person appointed by the court in which the action is pending"); Minn. R. Civ. P. 37.01(a) ("[a]n application for an order to a party shall be made to the court in which the action is pending"); Minn. R. Civ. P. 17.02 ("[a] party who is an infant or is incompetent and is not so represented shall be represented by a guardian ad litem appointed by the court in which the action is pending").

Moreover, in other rules, the term "action" is used in a context that clearly encompasses *all* the proceedings. For example, Rule 35.03 of the Rules of Civil Procedure refers to "any stage of an action." Likewise, Rule 37.02(b)(3) refers to a possible discovery sanction as "dismissing the action or proceeding or any part thereof."[18] And Rule 41.01(b) states that if a counterclaim has been pleaded, an "action shall not be dismissed against the defendant's objection unless the counterclaim may remain pending for independent adjudication"—suggesting that, without such a proviso, dismissal of the "action" would entail dismissal of the counterclaim as well. Accordingly, interpreting the term "action" in

[18] Notably, Minnesota Rule of Civil Procedure 37.02(b) also refers separately to "claims" and "defenses," further suggesting that "action" must mean something more than a particular claim or defense in a suit.

Rule 5.04(a) in the context of the term's meaning in other rules of civil procedure leads me to conclude that it does not make sense to limit the meaning of "action" only to the summons and complaint.

Nor do I believe that Rule 3.01 of the Rules of Civil Procedure, which governs *commencement* of a civil action, sheds much light on the specifics of the *filing* requirement in Rule 5.04(a). Commencement of the action and filing of the action are two separate processes, defined in two separate rules. It is true that Rule 3.01 references Rule 5.04—but by my reading, that reference simply acts as a signal to prospective parties that a filing requirement exists and that they should review Rule 5.04 for the filing particulars. The reference does not state that only the summons and complaint can satisfy Rule 5.04(a)'s filing requirement.

Finally, as also acknowledged by the court, our precedent unequivocally instructs us that "the rules are to be liberally construed so as to serve the interests of justice and so as to discourage reliance on technicalities and form." *Larson v. Indep. Sch. Dist. No. 314*, 233 N.W.2d 744, 747 (Minn. 1975). The Rules of Civil Procedure "reflect a preference that actions be determined on the merits." *Patterson v. Wu Fam. Corp.*, 608 N.W.2d 863, 867 (Minn. 2000). These principles counsel us against interpreting "action" as meaning the filing of only a summons and complaint, when other acts, such as a defendant's filed answer, can satisfy the filing requirement and alleviate the harsh result of a dismissal with prejudice on a technicality.

Given the plain language of the rule, the use and broad meaning of the word "action" in other Rules of Civil Procedure, and our clear preference to decide a matter on the merits,

I would hold that the filing of an answer by a defendant within 1 year of service of the summons and complaint satisfies the filing requirement of Rule 5.04(a). A filed answer within that time period shows that the defendant is on notice of the action and implicitly recognizes the jurisdiction of the court. An answer filed in that first year, before a complaint is filed, also suggests that the defendant is intent on moving the case along and avoiding the costs of extended litigation.

Importantly, a filed answer within 1 year of service of the summons gives the court notice of an active civil action and allows it to become involved in the supervision and management of the case in a timely way. Here, Hiscox's answer provided that notice to the court, informing the court of the existence of litigation, the identity of the parties, and the general nature of the suit, and allowed the court to begin management of the case. In sum, interpreting "action" to include an answer achieves the 2013 amendment's goals of allowing the parties a year-long opportunity for informal dispute resolution after service of a complaint while also encouraging effective case management if a defendant chooses to file an answer during that year.

My interpretation of the rule does not allow for its requirements to be met by simply any filing—a letter, for example—by any party. Instead, I would rule that the filing requirement is met only when the defendant files an answer (or a motion to dismiss) that alerts the court that a civil case is underway that requires the court's attention. Here, Hiscox's filed answer fits that bill.

Finally, an interpretation that recognizes a defendant's answer as satisfying the filing requirement provides clear guidance to the parties. Plaintiffs are informed that they

must file their complaint within the 1-year period or risk having their case dismissed with prejudice if no answer is filed within that period. Similarly, defendants are on notice that if they choose to file an answer within a year after service of the complaint, but before its filing, they have waived any possibility of a dismissal under Rule 5.04(a). Defendants who are concerned that the filing of an answer will excuse a plaintiff's non-compliance with Rule 5.04(a) can simply wait out the filing deadline before invoking the rule. The practical implications of this interpretation are reasonable and workable. Most importantly, our court's goal of serving the interests of justice by deciding cases on their merits will be furthered by recognizing that a defendant's answer can satisfy the filing requirement of Rule 5.04(a).

For these reasons, I respectfully dissent from the court's reasoning that only the summons and complaint can satisfy Rule 5.04(a)'s filing requirement.

II.[19]

In this action, Glen Edin served Hiscox with a summons and complaint in 2019, but Glen Edin did not file those documents with the district court—on their own—until March 2021, more than 1 year later. Applying our holding that Rule 5.04(a) requires the summons and complaint to be filed within 1 year of the commencement of the action, the dissent[20] believes that filing an "action" under Rule 5.04(a) of the Minnesota Rules of Civil

[19] This part represents the opinion of the court regarding whether Glen Edin filed its complaint properly under Rule 5.04(a) here.

[20] When referencing "the dissent" throughout this section, we refer to Justice Hudson's dissenting opinion in Part II of her opinion & dissent.

Procedure means the summons and complaint must be filed as *standalone documents* with the district court to satisfy Rule 5.04(a). Because Glen Edin failed to do so here, the dissent would reverse the court of appeals and dismiss the case.

We disagree. We instead hold that, under the specific circumstances here, Glen Edin *did* file the summons and complaint and satisfied the Rule 5.04(a) filing requirement when it filed the documents in district court as part of an exhibit in an ancillary motion pertaining to the same action. Consequently, we affirm the decision of the court of appeals—although on different grounds—and remand the case back to the district court for further proceedings.[21]

As previously noted, the 2013 amendment to Rule 5.04(a) balanced the dual goals of preserving the benefits of hip-pocket service by allowing parties to resolve disputes outside of the courtroom and the public eye for a time, while still requiring filing with the court within 1 year so that the district court can manage litigation before the action grows too stale. *See Recommendations of the Minnesota Supreme Court Civil Justice Reform Task Force*, No. ADM10-8051, at 21–22 (Minn. Dec. 23, 2011).

Here, Glen Edin provided a copy of its summons and complaint to the district court within 1 year of commencing the action, just not as standalone documents. Instead, the summons and complaint were attached as an exhibit to an affidavit with a memorandum in

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[21] The court of appeals decided this matter based on its interpretation of Rule 5.04(a) and concluded that the answer Hiscox filed in January 2020 satisfied the 1-year filing rule. *See Glen Edin of Edinburgh Ass'n v. Hiscox Ins. Co.*, 973 N.W.2d 654, 656 (Minn. App. 2022). The court of appeals therefore did not reach the alternative argument that Glen Edin had already filed the complaint as an exhibit to an affidavit.

support of Glen Edin's motion for appointment of a neutral umpire for appraisal. The dissent believes, however, that this filing does not comply with the requirements of Rule 5.04(a) because the attached documents were "tucked away in an exhibit to an affidavit included with a memorandum" that "concerned a matter ancillary to the underlying substantive dispute." *Supra* at 14.

From a best practices standpoint, we certainly agree that the manner of filing the summons and complaint here was suboptimal. If we were to hold, however, that the summons and complaint must be filed with the district court separately and independently, that holding would in effect add a technical filing requirement beyond the text of Rule 5.04(a) and undercut the judiciary's goal of resolving disputes on the merits. Again, our court has long been clear that the Rules of Civil Procedure "reflect a well-considered policy to discourage technicalities and form." *Love v. Anderson*, 61 N.W.2d 419, 421 (Minn. 1953); *see also Larson v. Indep. Sch. Dist. No. 314*, 233 N.W.2d 744, 747 (Minn. 1975); *Commandeur LLC v. Howard Hartry, Inc.*, 724 N.W.2d 508, 511 (Minn. 2006); Minn. R. Civ. P. 1.

Here, Glen Edin filed the summons and complaint with the district court as an exhibit to an affidavit in support of a motion ancillary to the substance of the cause of action in the complaint. Filing the summons and complaint in this manner nonetheless placed the necessary documents in the hands of the district court for the purposes of case management and involvement with the case before it grew stale. This manner of filing still satisfies the policy concerns that justified the 1-year filing requirement of Rule 5.04(a).

Moreover, nothing in the text of Rule 5.04(a) suggests that filing the summons and complaint must be in standalone form; indeed, the rule broadly states only that the action must be "filed with the court within one year of commencement" without any specific reference to form. In requiring that a plaintiff file the summons and complaint independently—despite the undisputed fact that the documents were already in the district court file and available to the district court—we would be adding a technical requirement to the rule that can lead to dismissal with prejudice and would frustrate our longstanding "preference that actions be determined on the merits." *Patterson v. Wu Fam. Corp.*, 608 N.W.2d 863, 867 (Minn. 2000).

Here, Hiscox was served with the motion and accompanying documents and did not object to the filing of the complaint as an attachment to an affidavit. Moreover, the court administrator did not reject the filing of the complaint. On this record, the argument that Hiscox makes and the dissent would like to adopt would elevate form over substance.

Accordingly, because Glen Edin filed the summons and complaint with the district court within 1 year of commencing its action against Hiscox, dismissal of the action was inappropriate here.[22] Even though Glen Edin filed the summons and complaint by attaching it to an affidavit rather than filing the documents separately, Glen Edin still placed the necessary documents in the hands of the district court only 4 months after the action was commenced, apprising the court of the nature of the action and content of the

[22] Glen Edin alternatively challenges the district court's decision to deny its motion to vacate under Minnesota Rule of Civil Procedure 60.02(a). Given that we hold that Glen Edin properly filed its summons and complaint with the district court under Rule 5.04(a), we need not address this argument.

complaint. Glen Edin's filing allowed the district court to be involved in case management before the action grew stale. *See MCHS Red Wing v. Converse*, 961 N.W.2d 780, 785 (Minn. App. 2021). We therefore affirm the decision of the court of appeals, albeit on different grounds.

CONCLUSION

For the foregoing reasons, we affirm the decision of the court of appeals, but we do so on different grounds.