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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A24-1135**

In the Marriage of:

Sarah Lynn Nelson, n/k/a Sarah Lynn Derry, petitioner,  
Respondent,

vs.

Abel Aaron Nelson,  
Appellant.

**Filed May 27, 2025  
Affirmed; motion denied  
Bond, Judge**

Ramsey County District Court  
File No. 62-FA-21-428

Lisa T. Spencer, Anne R. Haaland, Dylan J. Wallace, Henson & Efron, P.A., Minneapolis,  
Minnesota (for respondent)

Abel Nelson, Vadnais Heights, Minnesota (pro se appellant)

Considered and decided by Bond, Presiding Judge; Reyes, Judge; and Bentley,  
Judge.

**NONPRECEDENTIAL OPINION**

**BOND, Judge**

In this marital-dissolution appeal, appellant-husband argues that the district court  
(1) misvalued husband's business, (2) improperly excluded a rebuttal witness, and  
(3) abused its discretion in dividing marital property because it (a) awarded husband's

business to him instead of ordering it sold, (b) inequitably divided a tax liability, (c) ordered an inequitable marital-property equalizer payment and payment schedule, and (d) improperly considered husband's financial misconduct. Husband also moves this court to declare that all orders issued by the referee are void because, in a postjudgment order, the district court took judicial notice of the fact that the referee resides outside of Minnesota. We deny husband's motion. And because the district court did not clearly err or abuse its discretion in its valuation decision, evidentiary ruling, or division of marital property, we affirm.

## **FACTS**

Appellant Abel Aaron Nelson (husband) and respondent Sarah Lynn Derry (wife) were married in 2015 and share two minor children. When the parties' first child was young, wife left her job to be a stay-at-home parent. Husband owned and operated multiple business entities, including a rare-coin sales business called Legacy, Inc. that he started before the marriage. Legacy was the parties' largest asset and primary source of income during their marriage. Wife received regular paychecks from Legacy that she used to pay for her and the children's daily expenses.

In March 2021, wife petitioned for a dissolution of marriage. Before trial, the parties stipulated that a neutral financial expert would prepare cashflow schedules, nonmarital tracing for various pieces of property, and a marital balance sheet. The parties also

stipulated that a different neutral<sup>1</sup> would prepare valuations of the various businesses, including Legacy, and that the valuation date of the marital estate was April 7, 2021. The neutral valued Legacy at \$5,122,000 as of the valuation date, and valued husband's nonmarital interest in Legacy at \$2,051,000 as of February 19, 2015, the date of the parties' marriage. In determining Legacy's valuation as of the valuation date, the neutral relied heavily on husband's statement to the neutral that husband anticipated sales of approximately \$4,500,000 in 2021, with margins similar to those achieved in recent years. The neutral opined that Legacy enjoyed a sound financial position.

The district court held a three-day trial in July 2023. The parties settled all issues related to custody and parenting time during mediation, and thus the disputed issues at trial concerned the division of marital property, spousal maintenance, child support, and attorney fees. The court received over 100 exhibits and heard testimony from husband, wife, the neutral, the neutral financial expert, husband's bookkeeper, husband's accountant, and husband's sister. At trial, husband agreed with the neutral's determination of Legacy's value at the time the parties married, but he disagreed with the value assigned to Legacy as of the valuation date. Husband testified that he thought Legacy would be sold for \$2,000,000. Husband argued that Legacy was not in a strong operational position because of pending lawsuits and other operational and market challenges, and therefore it should be sold and the proceeds divided between the parties. Husband claimed that he had

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<sup>1</sup> This expert is referred to as the "neutral," while the expert who prepared the cashflow schedules, balance sheet, and nonmarital tracing is referred to as the "neutral financial expert."

already been planning to sell Legacy and that, once Legacy was sold, he could make only \$100,000 per year.

The district court entered a judgment and decree on November 14, 2023. As relevant here, the district court adopted the neutral's opinion of Legacy's value as of the valuation date, finding it credible. The district court considered, and expressly rejected, husband's arguments relating to Legacy's valuation. The court found that husband had not presented evidence to support his claim that the neutral's methodology for determining Legacy's value as of the valuation date was improper. The court also did not credit husband's testimony that Legacy's value was \$2,000,000, that Legacy was in a poor operational position, and that he intended to sell Legacy. In addition, the district court found that husband engaged in conduct throughout the dissolution proceeding designed to deflate Legacy's marital value. Husband's conduct included frequent extravagant travel he expensed as work-related, recharacterizing distributions from the business as loans, doubling the rent that Legacy paid to another of husband's companies, and taking personal loans from Legacy to give to himself, his sister, and other staff.

The court awarded Legacy and most of the parties' other business interests solely to husband. Because of this property division, the district court ordered husband to pay wife an equalizer payment of \$1,455,608. In part due to its finding that husband dissipated assets, the district court ordered that husband pay wife \$500,000 of the equalizer within 60 days of entry of the judgment and decree and pay the remaining \$955,608 over two years at 5% interest. As part of its equalizer-payment determination, the court considered husband's historical income and his estimated cash flow. The court rejected husband's

testimony that he would only earn \$100,000 per year if Legacy were sold, finding it inconsistent with his demonstrated ability to earn income as a successful entrepreneur. The court also ordered husband to pay the entirety of a federal income-tax debt the parties incurred in 2021 that arose out of Legacy's operations.

Husband filed a motion for amended findings of fact and conclusions of law, which the district court denied in May 2024, except with respect to correcting certain clerical errors. Husband now appeals.

## **DECISION**

Husband challenges the district court's determinations related to Legacy's valuation, the exclusion of the valuation testimony from a rebuttal witness, and the division of marital property. In a separately filed motion, husband argues that all orders issued by the referee should be declared void. We address each argument in turn.

### **I. The district court did not clearly err in its valuation of Legacy.**

Husband first challenges the district court's valuation of Legacy. The district court's valuation of an asset is a finding of fact which "shall not be set aside unless clearly erroneous on the record as a whole." *Maurer v. Maurer*, 623 N.W.2d 604, 606 (Minn. 2001) (quotation omitted). "Findings of fact are clearly erroneous [when] an appellate court is left with the definite and firm conviction that a mistake has been made." *Goldman v. Greenwood*, 748 N.W.2d 279, 284 (Minn. 2008) (quotation omitted). When reviewing findings of fact for clear error, we view the evidence in the light most favorable to the district court's findings, do not reweigh evidence, and defer to the district court's credibility determinations. *See In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221-22 (Minn.

2021); *see Bayer v. Bayer*, 979 N.W.2d 507, 513 (Minn. App. 2022) (citing *Kenney* in a family-law appeal).

Husband argues that the district court’s valuation of Legacy was speculative because it failed to account for a pending federal class-action lawsuit. On the first day of trial, husband’s counsel informed the court that a new federal class-action lawsuit alleging misconduct occurring between 2017 and 2018 had been filed against Legacy. The neutral’s valuation of Legacy did not account for the class-action lawsuit because the lawsuit was filed after the valuation was completed. According to husband, the class-action lawsuit is a contingent liability that should be accounted for in Legacy’s valuation. We disagree.

In *Nolan v. Nolan*, we held that “speculative or contingent liabilities should not be considered in determining the net marital estate.” 354 N.W.2d 509, 513 (Minn. App. 1984), *rev. denied* (Minn. Dec. 20, 1984). Relying on *Nolan*, the district court found that the class-action lawsuit was a “purely speculative” liability because husband did not provide any evidence of its effect on Legacy’s value, and because past lawsuits against Legacy had not substantially affected the company’s value or financial viability. These findings are supported by the record. And while husband argues that the lawsuit’s status as a class action will affect Legacy differently than previous, non-class-action lawsuits, husband did not provide any evidence in the district court to support this assertion. *See Eisenschenk v. Eisenschenk*, 668 N.W.2d 235, 243 (Minn. App. 2003) (stating that “[o]n appeal, a party cannot complain about a district court’s failure to rule in her favor when one of the reasons it did not do so is because that party failed to provide the district court

with the evidence that would allow the district court to fully address the question”), *rev. denied* (Minn. Nov. 25, 2003).

Husband likens this case to *Ober v. Ober*, in which, in an appeal from a marital dissolution proceeding, we affirmed the district court’s assignment of value regarding prospective malpractice and lender-liability claims. No. A18-1333, 2019 WL 6834818, at \*1-4 (Minn. App. Dec. 16, 2019). *Ober* is nonprecedential and therefore not binding on this court. *See* Minn. R. Civ. App. P. 136.01, subd. 1(c). Furthermore, *Ober* concerned the division of prospective assets, not the division of prospective liabilities, and it is therefore unhelpful to husband’s argument. The district court did not clearly err in determining that any negative value attributed to the lawsuit was too speculative to be factored into its valuation of Legacy.

Husband next argues that the value assigned to Legacy “relied on data from the valuation date . . . and failed to adjust for subsequent economic risks and market shifts,” and that the nonmarital portion of the value fails to account for passive growth occurring during the marriage. Husband did not properly preserve these arguments because he did not present them to the district court at trial or in his motion for amended findings. *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (providing that issues not raised in the district court are not preserved for appellate review).

Even if husband had properly preserved these claims, they would not warrant reversal. Husband’s argument that the valuation failed to account for postvaluation-date market changes is unavailing because a district court “shall value marital assets” as of the valuation date. Minn. Stat. § 518.58, subd. 1 (2024). A court may adjust the value of a

marital asset only “[i]f there is a substantial change in value of an asset between the date of valuation and the final distribution.” *Id.* In this case, the parties stipulated to a valuation date of April 7, 2021. Husband never specifically requested a deviation from this date, and, in any event, the district court determined that “it would be inequitable to deviate from the valuation date.”

Husband’s argument regarding the valuation of his nonmarital interest Legacy is also unavailing. In the district court, husband agreed with the neutral’s valuation of his nonmarital interest in Legacy. And husband failed to present any evidence of passive appreciation of his nonmarital interest in Legacy occurring during the marriage. *See Eisenschenk*, 668 N.W.2d at 243. The district court did not clearly err either in valuing Legacy as of the stipulated valuation date or in valuing husband’s nonmarital interest in Legacy.

**II. The district court did not abuse its discretion by excluding testimony from husband’s rebuttal witness.**

Husband argues that the district court abused its discretion by excluding testimony from a witness husband intended to call to rebut the neutral’s testimony on Legacy’s value.<sup>2</sup> The district court enjoys broad discretion in making evidentiary rulings, and we will not

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<sup>2</sup> Wife argues that husband forfeited review of this issue by filing a motion for amended findings instead of a motion for a new trial. It is generally true that “evidentiary rulings . . . are subject to appellate review only if there has been a motion for a new trial in which such matters have been assigned as error.” *Sauter v. Wasemiller*, 389 N.W.2d 200, 201 (Minn. 1986). But “in the context of a bench trial,” a motion for amended findings serves the same purpose as a motion for a new trial, and thus similarly preserves evidentiary rulings for appellate review. *Jacobson v. \$55,900 in U.S. Currency*, 728 N.W.2d 510, 524 (Minn. 2007).



reverse a district court's evidentiary ruling absent an abuse of that discretion. *Doe 136 v. Liebsch*, 872 N.W.2d 875, 879 (Minn. 2015). In reviewing a district court's decision to admit or exclude evidence, "[w]e view the record in the light most favorable to the district court's ruling." *In re Conservatorship of Smith*, 655 N.W.2d 814, 820 (Minn. App. 2003).

On February 22, 2023, the district court issued a scheduling order providing that all witnesses, including expert witnesses, must be disclosed by March 20, 2023, and all expert reports must be disclosed by May 5. The order stated that "[f]ailure to comply . . . may result in . . . refusal to allow introduction of exhibits and/or witness testimony." On July 3, approximately two weeks before trial, the parties exchanged witness and exhibit lists. For the first time, husband disclosed that he planned to call a business sales broker with whom he had been communicating about selling Legacy as a "potential rebuttal witness regarding sale of businesses."

Wife objected to the broker's testimony because the broker was an expert witness, and because husband had not identified the broker before the expert-witness disclosure deadline. Husband argued that, although the broker would testify as to Legacy's potential sale price, broker was a lay witness because he would also testify as to his direct communications with husband about selling Legacy. The district court excluded the broker's testimony, reasoning that "[a]ny testimony from [the broker] regarding appropriate listing prices for selling Legacy or the potential sale of Legacy would be based on his role as a professional business broker . . . [and would be] subjects of expert testimony."

Husband argues that the district court abused its discretion by excluding the broker's testimony because the broker was not an expert witness. We disagree. An expert witness is one qualified "by knowledge, skill, experience, training, or education" who can testify pertaining to "scientific, technical, or other specialized knowledge." Minn. R. Evid. 702. Determining whether a witness qualifies as an expert is within the discretion of the district court. *Gross v. Victoria Station Farms, Inc.*, 578 N.W.2d 757, 760 (Minn. 1998). Here, the broker would have testified as to Legacy's potential sale price, which, as the district court found, requires commercial experience and specialized knowledge. We discern no abuse of discretion in the district court's determination that the broker was an expert witness and, consequently, that broker's testimony should be excluded because husband failed to disclose him as an expert witness.

Husband argues that, even if the broker was an expert witness, the district court should have granted a continuance to allow husband to comply with expert-disclosure requirements rather than excluding the testimony. But husband did not request a continuance at the time of trial. Instead, husband made this argument for the first time in his motion for amended findings, when a continuance was no longer possible because trial was over. Husband's argument is therefore not properly before this court. *See Thiele*, 425 N.W.2d at 582. And even if husband had preserved this argument, the district court has broad discretion to determine the appropriate remedy for a party's failure to timely disclose proposed expert testimony. *Smith*, 655 N.W.2d at 821. Husband disclosed the broker as a witness nearly four months after the deadline established by the scheduling order. The order specifically cautioned that failing to adhere to the disclosure deadlines might result

in the exclusion of evidence. And the district court found that husband was attempting an “end run” around the expert-disclosure requirements and allowing the broker’s testimony would prejudice wife. On this record, the district court acted well within its discretion by excluding the broker’s untimely disclosed testimony. *Id.* (affirming exclusion of witnesses as a penalty for a party’s “failure to adhere to . . . the district court’s scheduling order, and its . . . order compelling discovery and witness disclosure”).

### **III. The district court did not abuse its discretion in dividing the parties’ marital property.**

Husband next challenges the district court’s division of marital property, raising four arguments: (1) the court should have ordered Legacy to be sold, (2) the court should have divided the 2021 tax liability between the parties pro rata based on the marital portion of the 2021 tax year, (3) the court failed to account for husband’s true income and ability to pay the equalizer payment on the ordered schedule, and (4) the court improperly considered husband’s financial misconduct.

A district court must “make a just and equitable division of the marital property of the parties.” Minn. Stat. § 518.58, subd. 1. We review a district court’s division of marital property for an abuse of discretion. *Maranda v. Maranda*, 449 N.W.2d 158, 164 (Minn. 1989). “A district court abuses its discretion by making findings of fact that are unsupported by the evidence, misapplying the law, or delivering a decision that is against logic and the facts on record.” *Bender v. Bernhard*, 971 N.W.2d 257, 262 (Minn. 2022) (quotation omitted). We defer to the district court’s findings of fact underlying a property

division and will not set them aside unless they are clearly erroneous. *Maurer*, 623 N.W.2d at 606.

When parties do not agree on the division of marital property, “just and equitable division” of a marital asset can be accomplished by (1) dividing the asset and ordering distribution in kind, if possible; (2) ordering the property sold and dividing the proceeds; or (3) valuing the property, awarding it to one party, and ordering the recipient to pay the other party “a just and equitable share” of its value. *Nardini v. Nardini*, 414 N.W.2d 184, 188 (Minn. 1987). An equitable division of marital property need not be totally equal. *Watson v. Watson*, 379 N.W.2d 588, 591 (Minn. App. 1985). In dividing marital property, courts must consider “all relevant factors including the length of the marriage, any prior marriage of a party, the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities, needs, opportunity for future acquisition of capital assets, and income of each party.” Minn. Stat. § 518.58, subd. 1. Courts must also “consider the contribution of each [party] in the acquisition, preservation, depreciation or appreciation in the amount or value of the marital property.” *Id.*

**A. The district court did not abuse its discretion by awarding Legacy to husband rather than ordering it sold.**

Husband argues that the district court abused its discretion by awarding Legacy to him rather than ordering it sold and dividing the proceeds of the sale. Husband contends that awarding him Legacy “was inequitable and financially devastating[,] . . . forc[ing] him to retain the business while shouldering substantial equalizer payments and debts” but allowing wife to avoid Legacy’s potential future liabilities. This argument fails.

First, the district court found that husband's claim that he intended to sell Legacy because of its poor operational position was not credible because, shortly before trial, husband was attempting to grow the business by hiring a recruiter to retain new employees and exploring new locations for expanded operations. The court also determined that husband's contention that Legacy had little value was contradicted by husband's personal financial statements. In an August 2020 financial statement, completed just six months prior to the valuation date, husband valued Legacy at \$7,100,000 with an additional customer database value of \$1,300,000. And husband told the neutral that he expected Legacy to have "sales of approximately \$4.5 million in 2021, with margins similar to those achieved in recent years." We defer to the district court's credibility determinations. *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1998).

Second, the record shows that Legacy had been a lucrative business and the parties' main source of income. Husband founded Legacy before the marriage and remained its sole owner and primary operator. While wife received a salary from Legacy, she focused on the parties' home life and was seldom involved in Legacy's operations. Awarding husband continued ownership and control of Legacy, as opposed to ordering a sale of the parties' primary source of income, was not contrary to logic or the facts in the record. *Bender*, 971 N.W.2d at 262.

Third, in awarding Legacy to husband, the district court considered husband's attempts to devalue Legacy after wife initiated divorce proceedings. The court found that "within weeks" after wife filed for dissolution of the marriage, husband communicated to his bookkeeper and his accountant that the divorce required the "need to get a little

creative” with his finances. Husband subsequently reclassified a distribution he had taken from Legacy as a loan and reduced his hours and salary. At the same time, husband took various personal loans from Legacy and increased the rent Legacy paid to one of husband’s other businesses by over 100% between 2021 and 2023. The district court’s findings that husband took affirmative steps to decrease Legacy’s value during the pendency of the dissolution proceedings are supported by the record and we discern nothing improper in the district court’s consideration of these facts as part of its decision to award Legacy to husband. Minn. Stat. § 518.58, subd. 1 (listing the contribution of each party in the preservation of the marital property as a factor to be considered in determining an equitable division of marital property).

In sum, the record reflects that, in awarding Legacy to husband, the district court exercised its broad discretion to justly and equitably divide the parties’ marital property. The court made findings that are supported by the record and properly considered the statutory factors set forth in Minn. Stat. § 518.58, subd. 1, including Legacy’s role as the parties’ primary source of income, husband’s status as Legacy’s sole owner, and husband’s attempts to diminish Legacy’s value as a marital asset. The district court did not abuse its discretion by awarding Legacy to husband in lieu of ordering it sold.

**B. The district court did not abuse its discretion by assigning the entirety of the 2021 tax liability to husband.**

Husband next argues that the district court erred by apportioning to him the entirety of the parties’ 2021 tax liability. At trial, husband claimed that the 2021 tax liability should be distributed between the parties pro rata for the portion of 2021 that occurred before the

April 7 valuation date because, husband argued, the taxes arose out of Legacy's operations from which wife benefited during the marital portion of 2021. Wife argued that husband's proposed distribution would be unfair because "the majority of the tax debt is the result of income earned by Husband from Legacy in 2021 for which he did not pay estimated taxes, whereas taxes were withheld from Wife's Legacy 2021 paychecks." The district court agreed with wife and assigned the tax liability solely to husband, reasoning that husband could "offset any tax debt owed" with a capital-loss carryover of \$99,388 from 2020 that the court awarded solely to him at a \$0 value on the balance sheet.

We see no abuse of discretion in the district court's decision. The record supports the district court's findings that income tax was withheld from wife's Legacy paychecks in 2021, that the 2021 tax liability arose out of Legacy's operations, and that husband had more income than wife at his disposal and enjoyed a more extravagant lifestyle. Particularly given the district court's decision to offset this debt by also awarding husband the capital-loss carryover from 2020 at a \$0 value on the balance sheet, we conclude that the district court equitably distributed the 2021 tax liability. *See Watson*, 379 N.W.2d at 591.

**C. The district court did not abuse its discretion in ordering the equalizer payment and payment schedule.**

Husband's third challenge to the property division is that the district erred by ordering him to pay wife a substantial cash equalizer and by imposing a payment schedule for the equalizer without making findings related to husband's ability to pay. Husband reiterates his claims that Legacy is in a poor operational position and relies on the neutral

financial expert's testimony that "Legacy's cash flow could not support the equalizer payments." Husband also asserts that the district court attributed to him "an inflated income figure" of \$66,098 per month despite, husband claims, testimony from the neutral financial expert calculating his income at \$161,701 per year.

Here too, there is no abuse of discretion. The district court received extensive evidence concerning the parties' income and expenses. Husband asked the neutral financial expert to impute to him an income of \$100,000 per year, despite evidence that he never earned so little during the marriage. The district court found husband's income to be \$66,098 per month based on the neutral financial expert's historical income and cash-flow schedule, which averaged the parties' income from all sources over the five years preceding the divorce. As the district court explained, the schedule "includes all income available to Husband as wages from the business and removes Wife from the Legacy payroll." The neutral financial expert's calculation of husband's income includes the Legacy wages that would have gone to wife, as well as "[t]he average cash withdrawn from the business as draws or distributions." The record establishes that the \$161,701 per year figure upon which husband relies is the average of husband's Legacy wages but does not include withdrawals or distributions from Legacy. Because the income the district court imputed to husband included all sources of income listed on the neutral financial expert's schedule, we reject husband's assertion that the district court improperly "inflated" his income.

Regarding the equalizer-payment schedule, the district court found that "Wife has expressed concern collecting from Husband if the payment structure is prolonged" and that



“[d]ue to Husband’s medical conditions, there is no life insurance to provide security, and due to Husband’s history of dissipating assets, liens against other assets awarded to Husband are not promising.” Husband’s inability to obtain life insurance due to a medical condition and history of dissipating assets are supported by the record. Consequently, the district court acted within its discretion by ordering an equalizer-payment schedule of “short duration.”

We acknowledge that the neutral financial expert testified that husband would likely be unable to make the scheduled equalizer payments comfortably without alternative financing in addition to his monthly cash flow from Legacy. And it appears that, when calculated monthly, husband’s expenses, child- and medical-support obligations, and equalizer and interest payments exceed his income. But the district court recognized and accounted for this discrepancy by ordering husband to use sources other than his monthly cash flow from Legacy to pay the equalizer. In July 2023, the parties stipulated to the sale of multiple pieces of real property; the record reflects that the marital equity in those properties is at least \$800,000. The district court ordered that husband’s portion of the proceeds from these sales be used to offset the equalizer amount he owes wife. As the district court found, utilizing the proceeds from these sales will significantly reduce the monthly burden on husband imposed by the equalizer-payment schedule.

Ultimately, the district court ordered the equalizer payment to account for the discrepancy between husband’s \$3,488,329 share of the marital estate and wife’s \$577,112 share. This discrepancy is primarily due to the district court’s award of Legacy and most of the parties’ other business interests wholly to husband. To have divided the marital

property without this discrepancy, thereby avoiding the need for an equalizer payment, the district court would have needed to order that Legacy be sold and its proceeds divided between the parties. As we have already explained, the district court’s decision not to order Legacy sold was within its discretion. We therefore conclude that the district court’s decision to order the equalizer payment and payment schedule was not an abuse of discretion.

**D. The district court did not abuse its discretion by considering husband’s financial misconduct in its division of marital property.**

Husband’s final challenge to the property division is that the district court improperly considered his misconduct. Husband has forfeited this argument because he did not include it in his motion for amended findings to the district court. *Thiele*, 425 N.W.2d at 582. Even if husband had preserved this argument, it would not prevail. Husband is correct that courts must divide marital property “without regard to marital misconduct.” Minn. Stat. § 518.58, subd. 1. But husband’s argument mischaracterizes dissipative conduct involving marital property as “marital misconduct.” Here, the district court did not base its decision to award Legacy to husband on husband’s marital misconduct; it based the award in large part on the statutory factor of husband’s “contribution . . . in the depreciation” of Legacy—the parties’ primary marital asset. *Id.* Therefore, the district court did not abuse its discretion when it considered, as part of its decision to award Legacy to husband, actions taken by husband to diminish marital assets.

#### **IV. Husband's motion to take judicial notice and void prior orders is denied.**

In November 2024, after the judgment and decree was entered and husband filed this appeal, the district court ruled on several motions filed by husband seeking to disqualify the referee. In a November 18 order, the district court took judicial notice of the fact that the referee resides outside of Minnesota. Husband subsequently moved this court to take judicial notice of the district court's November 18 order and declare all orders issued by the referee in this case void because the referee does not reside in Minnesota.

We deny husband's motion. The district court's order primarily focused on husband's disclosure of confidential personal information of the referee and the referee's family in publicly accessible filings. The district court did not address the validity of the referee's rulings, and we decline to do so for the first time on appeal. *See Thiele*, 425 N.W.2d at 582.<sup>3</sup>

**Affirmed; motion denied.**

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<sup>3</sup> We note that, while this appeal was pending, husband filed a petition for a writ of mandamus to compel the district court to vacate the referee's rulings on the same ground on which he bases this motion, which we denied because husband "ha[d] not shown the prerequisites for obtaining the extraordinary remedy of a writ of mandamus." *In re Nelson*, No. A24-1582 (Minn. App. Oct. 15, 2024) (order). To the extent husband now seeks the same relief by motion based on a similar argument, he appears to be seeking a rehearing. Petitions for rehearing are not allowed in the court of appeals. Minn. R. Civ. App. P. 140.01.