

NOT DESIGNATED FOR PUBLICATION

No. 125,547

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

A & J HOME REPAIR, LLC,
Appellee,

v.

SHANEATRA K. JONES,
Appellant.

MEMORANDUM OPINION

Appeal from Shawnee District Court; THOMAS G. LUEDKE, judge. Opinion filed September 15, 2023. Affirmed.

Shaneatra Kay Jones, of Topeka, appellant pro se.

Tai J. Vokins, of Sloan, Eisenbarth, Glassman, McEntire & Jarboe, LLC, of Lawrence, for appellee.

Before WARNER, P.J., GARDNER and HURST, JJ.

PER CURIAM: Shaneatra K. Jones contracted with A & J Home Repair for various projects in her home. When she later terminated the parties' business relationship, A & J billed her for the balance of her account, but Jones refused to pay. A & J then sued her and Jones represented herself in this limited action case tried to the court. After hearing the evidence, the district court judge found for A & J but reduced its claimed damages because it had not completed the projects. Jones then moved to alter or amend or for a new trial, arguing that the trial violated her due process rights, but the district court

denied that motion. Jones now appeals, challenging the court's denial of her posttrial motion.

FACTS AND PROCEDURAL BACKGROUND

The Work on Jones' Home

In December 2019, Jones contacted Jason Brown, a licensed general contractor and the sole owner of A & J, about flooring work she needed at her house. After the flooring project was completed, Jones asked Brown to do additional labor in her house. The two agreed on the prices for that work, either orally or by text messages, as new projects arose. This included cabinet installation, backsplash work, and the addition of a bathroom. All the work A & J did was requested by Jones.

Brown worked at Jones' house until April 2020. Staffing issues caused delays, and some jobs were uncompleted, including installation of baseboards and flooring transitions. Brown intended to complete these final tasks, but in early April 2020 Brown learned he had potentially been exposed to COVID-19. Because little was known about the spread of COVID-19, Brown felt it was his "responsibility to stay home, or at least contain myself, so that I wasn't out there spreading COVID." The same day that Brown learned of his potential COVID-19 exposure, he told Jones about it and said he planned to stay home for two weeks.

On April 21, 2020, Jones terminated Brown by text message saying she believed he was working on other projects and not quarantining. Brown responded, "I'm sorry that you feel that way. I felt it was necessary to protect your family as well as mine in these troubling times. I will put together your final invoice and get it in the mail." Jones responded, in part, "there is no final invoice, you didn't finish what was started." The next

day Brown sent an itemized invoice to Jones seeking payment for \$8,767. Jones paid none of it.

The Lawsuit and Pretrial Litigation

On appeal, Jones contends that she did not have enough time to try her case, that she was precluded from calling her witnesses during the case, and that opposing counsel's handling of her exhibits kept her from admitting some of them at trial. We thus review in detail the pretrial and trial proceedings.

In February 2021, A & J sued Jones seeking \$8,767 in damages under the theories of unjust enrichment and breach of contract. Jones answered, acting pro se. In June 2021, A & J served discovery requests on Jones, including requests for admissions, but Jones never responded to them. Nor did she did submit any discovery requests to A & J.

In June 2021, Jones filed a "Motion to Request Judicial [Determination] of the Validity of the Lien." A & J responded, arguing the motion was not properly before the court and was meritless. The district court later denied this motion for lack of jurisdiction, holding that K.S.A. 61-2802(b)(9) excludes declaratory actions from limited actions cases.

In August 2021, A & J moved for summary judgment based on facts considered admitted because Jones failed to respond to A & J's requests for admission. See K.S.A. 2020 Supp. 60-236(a)(3). Jones did not respond to the summary judgment motion. Still, the district court held a hearing on that motion in September 2021, then denied summary judgment. The district court found that Jones argued that "she was charged for work not completed, and that the work that was completed was deficient to the extent that it would cost her additional money to correct" and that the "unresolved issue, therefore, is whether

it would be inequitable under the circumstances for the Defendant to retain any benefit conferred on her by the Plaintiff" and the extent of any such benefit.

In December 2021, the district court held a pretrial conference, giving parties until January 2022 to exchange witness and exhibit lists. It noted, "Ms. Jones states she will have 3-4 [witnesses]" and the pretrial order states she will have "4-6 witnesses." The pretrial order also required each side to bring three "copies of any exhibits to the trial: one for the Court, one for opposing counsel, and one for themselves to refer to during the trial." Trial was set for February 2, 2022.

A & J timely filed its witness list, identifying two witnesses by name and address. That same day, A & J filed and mailed to Jones its exhibit list, along with a copy of each exhibit. Five days after the deadline, Jones filed a "witness and exhibit list" with the district court. But her witness list named no one; it generically referenced "[a]ll witnesses necessary to establish proper foundation for documents, records, and/or exhibits." Similarly, her exhibit list did not identify any exhibits, but she attached to it 153 pages of photos and text messages, which were unmarked.

Because of inclement weather, the February trial date was continued to April 2022 by agreement of the parties. After that continuance, but before the next trial date, A & J supplemented its exhibit list with another exhibit. Jones did not object. And despite the two-month continuance, Jones neither amended her witness list nor supplemented her exhibit list.

The Trial

Right before the bench trial began in April 2022, the district court asked Jones if she would have any witnesses besides herself. She responded, "maybe not," and said that

she had identified no witnesses in her disclosure because her "witnesses would depend on the case that [A & J] put on."

A & J then presented its case which consisted of Brown's testimony and several exhibits. After Brown's direct examination, Jones engaged in a lengthy cross-examination. During it, the district court judge explained to Jones that even though Brown had not finished the job, Jones may still have benefitted from it: "[Y]ou have to keep in mind that, you know, if the work cost \$1 and he provides \$0.99 worth of work and there's one penny left . . . that doesn't erase the whole \$0.99 that he's provided."

Before ending her cross-examination, Jones asked if the trial would go past noon so she could tell her employer. The district court judge responded that she, not the court, would determine how much longer the trial would take, based on the presentation of her case. The district court judge stated, "[I]t depends on when you think we can get it done," and continuing "so it's up to you, depending on how much time we have left. If we've got another two hours left, then we're probably going to break for lunch. If you've got another, you know, 45 minutes left, we'll probably just go ahead and push through I have no way to estimate that." Jones did not reveal that she had told witnesses not to show up because she thought the trial would end at noon. Shortly after, Jones stated she was done with her cross-examination of Brown, and the court recessed for lunch around noon, ordering the parties to return an hour later.

After the lunch recess, A & J's counsel conducted a brief re-direct of Brown and then rested. Jones then chose to testify, and the district court judge permitted her to do so in narrative form "to provide all the information that you think is relevant." The judge added, "[t]his is your time to tell me everything that you think I need to know about this, okay?" And Jones answered affirmatively.

Jones then testified, admitting that A & J had done some work in every room of her house. She admitted the contract was for \$8,000 when work began in January 2020, and that A & J worked for two more months after that until "late March, middle March." Her primary grievances with A & J were that some work was unfinished and that the completed work had been done incorrectly.

Yet Jones called no witnesses to corroborate her opinion of the poor quality of A & J's work. Toward the end of her testimony, Jones tried to testify that "[a]nother company came out there and they said that the plumbing was—" but A & J's counsel objected as hearsay. When Jones protested that this was not hearsay, the district court judge said, "I think you were going to provide the reason, what the other company told you, as to why the sink was clogging up." But before the district court judge could finish ruling on the objection, Jones ended her testimony, declaring, "I don't have anything else to say, if I'm going to be—everything is going to be objected at. I mean, I might as well just pay him the \$8,000 that he's fraudulently billing me for." She added, she felt she was "getting screwed by the legal system," and stated, "Yeah, I'm not an attorney. I don't know how to put together exhibits. I don't know how to do all the objections." She continued, "I just don't feel that this process is fair to someone."

The court expressed its understanding that it was difficult not to have an attorney but explained that it had to apply the procedural rules evenly:

"Well you see the problem is, Ms. Jones, that when you talk about fair, okay, the process needs to be fair for everybody. And I know you're not represented by an attorney and Mr. Brown is. But the problem is, the rules apply to everybody. Okay. And I can't bend the rules for you without harming him, just like I can't bend the rules for him without harming you. The rules need to be applied.

"And so, you know, yeah, you don't have legal training. You don't know what the rules are. But does that mean that I basically forget about the rules and allow you to introduce hearsay testimony when nobody else with an attorney would?"

"I mean, I think you could agree that that's probably not fair."

After Jones' direct testimony, the district court asked her several questions. She responded that she had had to hire someone else to finish A & J's uncompleted work, but she had not arranged for that person to testify at trial.

A & J then cross-examined Jones, and she again referred to "the other company" that did work on her house. Yet when she was asked if she had brought someone from the company to testify, she responded "maybe." The district court judge then stated, "[I]f you're going to have a witness, they[ve] got to be here now. It's not a continuation. Okay. If you're going to have somebody testify, this is the time for you to present evidence." She then confirmed that she did not have the other contractor there to testify. After several more questions, the district court judge cut off A & J's cross-examination of Jones, stating "I think we need to wrap this up here."

At some point, Jones had given A & J's counsel a copy of her exhibits. She contends on appeal that when counsel returned the exhibits to her, he shuffled through the stack of photo exhibits, removed some of them, and then tossed the rest on her table where the other two stacks of exhibits were, causing the three stacks of exhibits to become mixed and disorganized. The court then gave Jones 30 minutes to put the documents in order.

At the end of trial, the district court granted judgment for A & J. It explained, "simply because [the work] may not have been finished, doesn't mean [Jones] didn't benefit from what was put in there" and she "still obtained the value of the labor."

Before the district court could complete its ruling, Jones protested that she had not gotten to offer all her exhibits. The district court judge noted,

"[L]et me, for the record, describe what we went through here. Because we probably took close to, at least a half an hour, sitting here waiting for you to go through those exhibits to find pictures that you were going to present. And so, while we're doing that, you know, nothing is happening.

"Okay. And so I wasn't willing to spend, you know, however long it took—I mean, I don't know if we ever got any resolution to some of those, we never did find some pictures. Okay. So I just wasn't willing to take the time to—

"[JONES]: I understand.

"THE COURT: —to watch you go through all of those pictures to find what you were trying to find. And, you know, we might not have found it."

The district court then ruled that an adjustment was in order because Jones had not finished his work. So the court reduced A & J's claimed damages by \$2,000 and awarded it judgment for \$6,767.

Jones responded that she was "not paying him that" and claimed that she did not get to enter her exhibits because opposing counsel had intentionally messed them up. The judge replied, "[W]e've seen the pictures of the house. We've seen the pictures of the bathroom, the finished bathroom. It doesn't appear there's anything wrong with that."

Jones then complained that she did not get to call any witnesses because she had told them, "[Y]ou won't have to come today, it will probably be scheduled for another day." The district court judge explained that the district court "can't alter the rules for a person who wants to represent themselves [because i]t is not fair to the other litigants." When Jones disagreed the court explained, "Listen, it's not up to us to describe to you what you need to do with your case. If you want these witnesses here, you need to have them here." He tried to explain to Jones that arranging witnesses needs to be done before trial. Nevertheless, Jones claimed that she was prejudiced and A & J's counsel "took advantage of that."

During that argument, Jones claimed she had requested a continuance so her witnesses could testify, although the record reflects no such motion or request, nor does Jones point to one. The district court responded that he had not heard a request for a continuance and asked, "[W]ho have you subpoenaed?" Jones admitted that she had subpoenaed no witnesses, but she said the plumber she had hired had agreed to come. The court explained that unless a witness is subpoenaed, "they're not obligated to be here." Jones explained that she thought she would get to introduce "over a hundred exhibits" and the trial would be continued to another day. She summarized that the trial "wasn't the way I thought it was going to go."

The court concluded, "Well the Court's convinced by the evidence that judgment should be granted to the plaintiff in the amount of \$6,767. Okay."

Posttrial Litigation

Jones later moved to alter or amend or for a new trial, arguing that she had been prejudiced during trial. Among other things, she claimed:

(1) she did not receive her day in court because she lacked enough time to present her case, arguing A & J received three hours to present its case and she received only 30 minutes to present hers;

(2) she was not able to fully present evidence or be heard on the merits of her case because she was not given the opportunity to object to each exhibit and A & J's counsel was treated in "higher regard[]";

(3) opposing counsel mixed up her exhibits, preventing her from properly presenting her case; and

(4) she lacked the opportunity to present her witnesses.

In its later written order, the district court considered each of Jones' claims of error before denying her motion. The district court held that Jones inaccurately represented the time allotted to her at trial, noting, "What [Jones] ignores is that much of the three hours used in the presentation of [A & J's] case was taken up by her cross-examination." The court continued,

"In fact, [Jones] admitted a number of exhibits during cross-examination of [Brown] in the form of photographs of text messages between herself and [Brown]. Additionally, much of the evidence relevant to [Jones'] case was presented in [A & J's] case. For example, [Jones'] Exhibits C and D duplicated text messages contained in Plaintiff's Exhibit 13. Additionally, photographs of the construction work common to both parties were admitted in [A & J's] case in chief. It is simply not accurate to say that [Jones] was only allowed thirty minutes to present her case. She presented a significant portion of her case through the cross examination of [Brown]. Probably three-quarters of the total time spent on the trial was taken by [Jones]. As referenced by the Court, approximately a half-hour alone was spent allowing [her] to rummage through pictures, some of which she never did find, in an effort to produce her exhibits. Furthermore, [Jones] was not prepared. She proffered the introduction of her cell phone. The Court did not take her cell phone as evidence as she did not reference it as an exhibit in the pretrial order. [She] later admitted that all the evidence contained on her cell phone was contained in Plaintiff's Exhibit 20."

As for its alleged preferential treatment of A & J's counsel, the district court stated that Jones' assertion she could not object to the admission of A & J's exhibits was "simply wrong." The court then gave several examples of how it had given Jones preferential treatment throughout the litigation: (1) Jones had failed to respond to A & J's requests for admission, including that Jones was in debt to the company for \$8,767, and such a failure to respond would ordinarily result in those facts being admitted, yet the court made A & J prove those damages; (2) Jones never responded to A & J's motion for summary judgment, yet the court denied that motion; and (3) Jones "utterly failed to comply in any meaningful way" with the pretrial order by not properly identifying

witnesses and exhibits or labeling exhibits, and had provided no copies of the exhibits to the court, yet the court permitted her to admit exhibits.

The district court also rejected Jones' argument that she had been prejudiced by A & J's counsel mixing up her exhibits. The court ruled that Jones "was the author of her own evidentiary misfortune in ignoring the requirements of the Pretrial Order" that required each party to prepare three sets of exhibits for trial. Had she followed the order, "she would have had an extra copy for [A & J's] counsel, and it would not have mattered what he did with them." The court noted, "[T]his issue is largely a 'red herring' because [Jones] later admitted that all this evidence was contained in [A & J's] Exhibit 20. She even testified using [A & J's] Exhibit 20 as a reference." Finally, the court held Jones'

"alleged inability to present her evidence was based on her lack of knowledge as to evidentiary requirements and her failure to comply with the Pretrial Order. At any rate, it appears that all of the evidence [she] wanted to present was admitted in one form or another, either by her or [A & J]."

The district court also rejected Jones' argument she could not present witnesses, also indicating that the case was tried from 8 a.m. to 12 p.m. before the lunch break:

"As an initial matter, the Court would note that [Jones] did not identify any specific witnesses as required by the Pretrial Order. She had no witnesses present and ready to testify at the trial. She contends that 'Due to the conflicting time 8am to 12pm timeframe provided by the court then I was prohibited from having any witnesses testify.' [Jones] named no witnesses, she subpoenaed no witnesses, and had no witnesses ready to testify."

The court continued that even if Jones' witnesses had been present, her failure to comply with the pretrial order likely would have caused the district court to exclude her testimony.

"Even if [Jones] had witnesses ready to testify, it is likely the Court would have excluded their testimony because she failed [to] identify them in the Pretrial Order. Failure to so identify her witnesses would have resulted in unfair surprise for [A & J]. This is particularly true since this case was originally scheduled for trial for February 2, 2022. [Jones] had from February 2, 2022 to April 5, 2022 to identify witnesses and she failed to identify a single one of her claimed three to four witnesses. When questioned by [the] Court about whether she had any witnesses, her reply was 'Maybe not.' She advised that her witnesses depended on the case put on by [A & J]. Since [Brown] was the only witness testifying on [A & J's] behalf it would appear by this logic that she would only need herself as a witness. The issue of [Jones'] presentation of witnesses, however, was only raised after the Court entered its judgment."

For those and other reasons, the district court denied Jones' motion to alter or amend the judgment or for a new trial. Jones appeals solely that order.

ANALYSIS

Did the District Court Abuse its Discretion by Denying Jones' Motion to Alter or Amend?

Jones argues that the district court abused its discretion in denying her motion to alter or amend or for a new trial because her trial violated her right to due process under the United States and Kansas Constitutions. In response, A & J counters that the district court properly denied the motion because it had given Jones ample opportunity to present her evidence and defense.

We review a district court's denial of a motion to alter or amend the judgment for an abuse of discretion. *Exploration Place, Inc. v. Midwest Drywall Co.*, 277 Kan. 898, 900, 89 P.3d 536 (2004). A judicial action constitutes an abuse of discretion if (1) it is arbitrary, fanciful, or unreasonable; (2) it is based on an error of law; or (3) it is based on an error of fact. *Biglow v. Eidenberg*, 308 Kan. 873, 893, 424 P.3d 515 (2018). Jones, as

the party asserting the district court abused its discretion, bears the burden of showing that abuse of discretion. *Gannon v. State*, 305 Kan. 850, 868, 390 P.3d 461 (2017).

The United States and Kansas Constitutions protect individual's due process rights, which require that an individual be given notice and the opportunity to be heard in a meaningful way before they are deprived of "life, liberty, or property." U.S. Const. amend. XIV, § 1; see *Mathews v. Eldridge*, 424 U.S. 319, 333, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976). The main requirement of procedural due process is the opportunity to be heard at a meaningful time and in a meaningful manner. *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 313, 70 S. Ct. 652, 94 L. Ed. 865 (1950); *Village Villa v. Kansas Health Policy Authority*, 296 Kan. 315, 331, 291 P.3d 1056 (2013).

When considering a procedural due process claim, we must first consider "whether a protected liberty or property interest is involved. It is only when a court finds a protected interest is implicated that it must then determine the nature and extent of the process that is due." *Village Villa*, 296 Kan. at 331. Jones' procedural due process rights are implicated here because she has a property interest in her money. See *Smith v. McKune*, 31 Kan. App. 2d 984, 993, 76 P.3d 1060 (2003).

Jones argues that procedural defects during trial deprived her of due process. We group her arguments on appeal into three claims of due process violations: (1) the district court gave her only 30 minutes in which to present her case which precluded her from presenting all her evidence; (2) the district court should have granted her a continuance so she could get her witnesses present; and (3) counsel for A & J prejudiced her presentation of evidence by disorganizing her exhibits.

A. *Jones' Limited Time at Trial*

Jones claims on appeal that the district court gave her only 30 minutes for her case in chief, which precluded her from presenting all her evidence. In support, Jones cites the district court's statement that it had given her at least half an hour to go through her exhibits after opposing counsel returned them to her.

But the district court's statement does not support Jones' assertion that she had only 30 minutes in which to present her case. Rather, the district court judge noted that it had essentially recessed trial for 30 minutes to allow Jones to reorganize her exhibits: "As referenced by the Court, approximately a half-hour alone was spent allowing [her] to rummage through pictures, some of which she never did find, in an effort to produce her exhibits."

And independent of this statement, the record refutes Jones' assertion of having only 30 minutes. In the order denying Jones' motion, the district court estimated "[p]robably three-quarters of the total time spent on the trial was taken" by Jones. The record reflects that Jones' case—made by her own presentation of evidence (43 pages), her cross-examination of Brown (62 pages), and her questioning by the district court—accounted for most of the 177 pages of substantive trial testimony. And the case was tried from 8 a.m. to noon, and then after noon as well.

Nor did the district court limit Jones' time to present her case. Rather, he told her,

"[S]o it's up to you, depending on how much time we have left. If we've got another two hours left, then we're probably going to break for lunch. If you've got another, you know, 45 minutes left, we'll probably just go ahead and push through . . . I have no way to estimate that."

And the record reflects that Jones voluntarily ended both her cross-examination of Brown and her own direct testimony. During the cross-examination of Brown, Jones stated, "I'm ready to rest my cross-examination," and the district court judge clarified, "You're finished with your cross-examination?" to which Jones replied, "Uh-huh." And Jones ended her own testimony by stating "I don't have anything else to say." Unlike in *In re Marriage of Glenn*, 18 Kan. App. 2d 603, 856 P.2d 1348 (1993), in which a panel of this court reversed and remanded the judgment adverse to the father where the district court refused to let father present witnesses who were present and available to testify, Jones had no witnesses there on the day of trial, nor had she subpoenaed any to be there.

B. *Jones' Opportunity to Present Witnesses*

Jones next argues that the district court abused its discretion in not granting a continuance so she could get her witnesses to court.

But our review of the record does not reflect that Jones ever requested a continuance. Yet even if she had, her challenge would fail. "The ruling on a motion for continuance is discretionary with the trial court, and an order denying a motion for continuance will not be disturbed on appeal unless there is a clear showing of an abuse of discretion." *Cheek v. Hird*, 9 Kan. App. 2d 248, 250, 675 P.2d 935 (1984). Thus Jones bears the burden to show an abuse of discretion.

Before trial, Jones never identified any witnesses she wanted to call, nor did she subpoena anyone to appear at trial. She never asked to modify the pretrial order of the court or asked for a continuance to get her witnesses there. Rather, at trial, when the court asked if she had any witnesses besides herself, she responded, "maybe not." Later, she told the district court she had not told her witnesses to be there that day because she thought they would not be needed until a later date.

The district court concluded, in its order denying Jones' motion to alter or amend, that even if Jones had called witnesses at trial, it likely would have excluded them from testifying because Jones had identified none of them as witnesses despite the pretrial order's requirement that she do so. We agree with A & J that "[t]he essential purpose of pretrial conference procedure is to prevent surprise and enable the parties to prepare for trial with the assurance that contentions, issues, and evidence will not be moving targets." *Norton Farms, Inc. v. Anadarko Petroleum Corp.*, 32 Kan. App. 2d 899, 904, 91 P.3d 1239 (2004). Allowing unidentified witnesses to testify would have been a prejudicial surprise to A & J. See *Wilkinson v. Shoney's, Inc.*, 269 Kan. 194, 225, 4 P.3d 1149 (2000).

Apparently to counter any claim of surprise, Jones contends that A & J should have known that she might call a "contractor that would provide documents regarding the remaining work and a plumber" because she mentioned a contractor and a plumber at the pretrial motions hearing. She asserts that she did not need to identify her witnesses by name, citing *Hurlbut v. Conoco, Inc.*, 253 Kan. 515, 856 P.3d 1313 (1993). But nothing in *Hurlbut* supports Jones' assertion that she could ignore the pretrial order's requirement to identify witnesses by name. That case deals with last-minute updates to information by experts (who were not alleged to have been unnamed in the pretrial order) for their use during rebuttal. And unlike in *Hurlbut*, A & J had no opportunity to do any discovery on Jones' purported witnesses because she never identified any by name.

Jones has failed to show that the district court abused its discretion in light of her failure to designate any witnesses before trial and her failure to prepare for her witnesses to be present at trial. We find no abuse of discretion in the district court's failure to grant an unrequested continuance to accommodate Jones' purported witnesses.

C. *Opposing Counsel's Conduct*

Jones also contends that she was prejudiced by the district court and A & J's actions at trial regarding the handling of her exhibits. She claims that opposing counsel tossed exhibits on her table, which mixed up her stacks of exhibits.

The record shows that Jones gave Tai Vokins, A & J's counsel, a copy of her exhibits. Jones then used some of them during her cross-examination of Brown, during which she introduced some exhibits. After she completed that cross-examination, she asked A & J's counsel to return the exhibits she had not used.

"[JONES]: I can break now, I'm ready to break. I mean, I'm ready to rest my cross-examination.

"THE COURT: Okay. You're finished with your cross-examination?

"[JONES]: Uh-huh. Can I have the rest of my exhibits back that I didn't admit, please?

"[VOKINS]: Where did we stop?

"[JONES]: KK."

Counsel complied. The record does not reflect any shuffling or tossing of the exhibits when Vokins returned the unadmitted exhibits to Jones, but it would be unusual for a record to capture such action. Later during trial, Jones did state that the exhibits she had given A & J's counsel had been shuffled: "[M]y exhibits are all messed up because I gave it to Tai and he was over there shuffling through the deck, which now is going to prejudice me from being able to put them together because it's, like, altogether." She stated that "it's just three separate stacks [of exhibits] and I'm nervous."

It is unclear why Jones could not have used one of the other two identical stacks of exhibits she said she had prepared, rather than reorganizing the set of exhibits that she

had received back "shuffled" from opposing counsel. Still, the district court tried to help Jones with that organizational issue:

"THE COURT: Well, take your time. I mean, let me ask you this: On those photographs, are you going to admit all those?

"[JONES]: No.

"THE COURT: Okay. Out of those, what do you think you're going to admit?

"[JONES]: The ones relevant to the payments that I gave, that he received, which of course is not contested. But it just, you know, Tai—

"THE COURT: Okay. So tell me then about those exhibits, what do they show?

"[JONES]: Nothing that—I mean, the—

"THE COURT: You've talked about payments, okay.

"[JONES]: Yes.

"THE COURT: Any so are they like text messages where you sent him money and he acknowledged receiving it?

"[JONES]: Yes. I would hand him money in person. And then, like, on this Exhibit LL—

"THE COURT: Okay.

"[JONES]: He would just text me and say, \$2,000 payment received.

"THE COURT: Okay. Pull all those out."

And the district court gave Jones at least half an hour to reorganize her exhibits and find those she wished to admit. Moreover, as the district court noted, "this issue is largely a 'red herring'" because Jones admitted that her exhibits were contained in Plaintiff's Exhibit 20, which she had used as a reference when testifying.

Jones raises a separate argument that A & J's counsel prejudiced her from full due process because counsel "made objections that she was unable to recover [from] and fully present evidence." But Jones fails to point out which objections she challenges or show how they impacted the presentation of her case.

The rules of evidence apply "in every proceeding, both criminal and civil, conducted by or under the supervision of a court, in which evidence is produced." K.S.A. 60-402. Jones' argument on this basis must fail. Jones seems to argue that her status as a pro se litigant excuses the rules of evidence from applying to her. But that argument cannot stand. Pro se litigants are to receive neither an advantage nor disadvantage because of their pro se status.

""A pro se litigant in a civil case is required to follow the same rules of procedure and evidence which are binding upon a litigant who is represented by counsel. Our legal system cannot function on any basis other than equal treatment of all litigants. To have different rules for different classes of litigants is untenable. A party in civil litigation cannot expect the trial judge or an attorney for the other party to advise him or her of the law or court rules, or to see that his or her case is properly presented to the court. A pro se litigant in a civil case cannot be given either an advantage or a disadvantage solely because of proceeding pro se." [Citations omitted.]" *Joritz v. University of Kansas*, 61 Kan. App. 2d 482, 498, 505 P.3d 775, rev. denied 315 Kan. 968 (2022).

Jones fails to show that she was prejudiced by opposing counsel's handling of her exhibits or by his objections. Even when all parties are represented by counsel, objections are sometimes made that seriously damage opposing counsel's case.

CONCLUSION

Our review of the transcript shows that Jones raised her own objections, testified clearly, conducted full cross-examination, introduced multiple exhibits, and was able to present her case at trial. The trial judge took care to explain the process to Jones and to protect her right to due process. A defendant is entitled to a *fair* trial but not a perfect one. See *State v. Cruz*, 297 Kan. 1048, 1075, 307 P.3d 199 (2013). Jones got a fair trial here.

We thus find no abuse of discretion by the district court's denial of Jones' motion to alter or amend or for a new trial.

Affirmed.