

IN THE SUPREME COURT OF THE STATE OF NEVADA

THOMAS CHRISTENSEN, AN  
INDIVIDUAL,  
Appellant,  
vs.  
JASON YOUNG, AN INDIVIDUAL; C.  
DEAN HOMAYOUNI, AN INDIVIDUAL;  
AND D. KEVIN DEGRAW, AN  
INDIVIDUAL,  
Respondents.

No. 57500

FILED

SEP 20 2013

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *Angela*  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order dismissing a third-party complaint. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

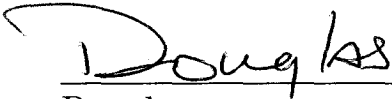
In the underlying case, the district court dismissed appellant's third-party complaint under NRCP 14 on the basis that it improperly asserted direct claims against respondents, rather than contribution and indemnity claims. Because it is well established that third-party claims are reserved for contribution and indemnity claims, the district court correctly concluded that appellant's third-party complaint was improper. *See* NRCP 14; *Pack v. LaTourette*, 128 Nev. \_\_\_, \_\_\_ n.1, 277 P.3d 1246, 1249 n.1 (2012) (explaining that third-party complaints are reserved for indemnity and contribution claims).


On appeal, appellant concedes that a third-party complaint was not the appropriate method for asserting his claims against respondents, but he asserts that the district court should have construed those claims as counterclaims instead of third-party claims. Nothing in the record before us, however, demonstrates that appellant ever requested

that the district court construe those third-party claims as counterclaims. As a result, appellant has waived this argument, and we will not consider it for the first time on appeal. *See Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981) (stating that this court will not consider an argument raised for the first time on appeal); *see also Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 603, 172 P.3d 131, 135 (2007) (providing that appellant has the duty to present a complete record on appeal, and this court will presume that matters not in the record support the district court's decision).

Finally, because the district court properly concluded that the third-party complaint contained improper direct claims against respondents, rather than the required contribution and indemnity claims, and correctly dismissed the entirety of the third-party complaint on that basis, we need not consider appellant's arguments pertaining to the initial dismissals of certain individual causes of action contained in the third-party complaint. Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>1</sup>

  
\_\_\_\_\_, J.  
Douglas


  
\_\_\_\_\_, J.  
Saitta

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<sup>1</sup>We deny respondent D. Kevin DeGraw's request for the imposition of sanctions against appellant.

GIBBONS, J., dissenting:

I would reverse the district court's decision and remand this matter to the district court to determine whether, under the circumstances of this case, appellant should be granted leave to amend his third-party complaint to present counterclaims against respondents. Accordingly, I must respectfully dissent.

  
\_\_\_\_\_, J.  
Gibbons

cc: Hon. Michelle Leavitt, District Judge  
William C. Turner, Settlement Judge  
Christensen Law Offices, LLC  
Cyrus D. Homayouni  
D. Kevin DeGraw  
Eighth District Court Clerk