

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROYAL UNION TRUST, A NEVADA TRUST; ROYAL ESSEX, LLC, A NEVADA DOMESTIC LIMITED-LIABILITY COMPANY; MARLON STEELE, JR., AS TRUSTEE OF THE ROYAL UNION TRUST; VINCENT HESSER, AN INDIVIDUAL; DAVID WEEKS, AN INDIVIDUAL; AND ROYAL UNION PROPERTIES, LLC, A NEVADA DOMESTIC,

Appellants,

vs.


MARTHA JANE HOLMAN, INDIVIDUALLY AND IN HER CAPACITY AS THE TRUSTEE OF THE GFH IRREVOCABLE TRUST AND GEORGE F. HOLMAN, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY AS THE TRUSTEE OF THE MJH IRREVOCABLE TRUST,

Respondents.

No. 90095

FILED

MAY 14 2026

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court final judgment in an indemnity action. Eighth Judicial District Court, Clark County; Mark R. Denton, Judge.

In 2007, respondent George Holman formed Essex Real Estate Partners, LLC (Essex) to develop vacant real property. Essex failed, and in 2019, appellant Royal Essex, LLC (Royal), entered into a Membership Purchase Agreement (MIPA) with respondents (collectively, Holman), under which Royal agreed to buy Holman's interest in Essex for \$3.75 million. The MIPA provided that Royal would give Holman \$750,000 up

front and then the remaining \$3 million thereafter. The MIPA also contained an indemnity clause, which provided:

[Holman] shall . . . indemnify [Royal] from and against all . . . judgments, damages, liabilities, settlements, losses, costs and expenses, including attorneys' fees and disbursements . . . arising from or relating to any inaccuracy in or *breach of any of the representations or warranties of [Holman] in this Agreement or any document to be delivered hereunder.*¹

As relevant to this disposition, this is the third of three lawsuits involving Royal and Holman, at least indirectly. In the first lawsuit, Holman sued Royal, alleging Royal breached the MIPA by failing to make the \$3 million payment. Royal defended on the ground that it had been fraudulently induced into entering the MIPA. The district court ruled in favor of Holman, and we affirmed that judgment on appeal. *Royal Essex, LLC v. Holman as Tr. of GFH Irrevocable Tr.*, No. 85359, 2024 WL 655562 (Nev. Feb. 15, 2024 (Order of Affirmance) (agreeing with the district court's August 15, 2022, order that Royal Essex breached the MIPA).

In the second lawsuit, another entity, Azteca, sued Royal. The district court ruled in Azteca's favor. In its judgment, however, the district court made several findings about Holman's conduct. That order, however, did not find that Holman—who was not a party to the Azteca lawsuit at that time—had breached the MIPA, which was an agreement between Holman and Royal and that did not involve Azteca.

¹Royal has not cited to any section in the MIPA upon which its claims in this case are based. Our review of the MIPA indicates that the above-quoted section: "Section 5.02 Indemnification by Seller," forms the only potential basis for Royal Essex's underlying indemnity claim.

As a result of the judgment against it in the second lawsuit, Royal filed the third and underlying lawsuit against Holman, as did the other appellants in this case, who are either entities related to Royal or individual officers of those entities (collectively, appellants). Appellants sought indemnification from Holman for the amount which they had been held liable to Azteca in the second lawsuit. The district court granted summary judgment in favor of Holman. The district court concluded that Royal was issue-precluded from relying on the MIPA's indemnity provision because the district court in the first lawsuit had determined that Holman had not breached the MIPA. With respect to the remaining appellants' claim for equitable indemnity, the district court determined that remedy was unavailable because those appellants' only connection to the Holman/Royal dispute was through Royal, who, as the district court had just determined, was not entitled to contractual indemnity. This appeal follows.

We review de novo a district court's decision to grant summary judgment. *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). We also review de novo a district court's application of issue preclusion. *Alcantara v. Wal-Mart Stores, Inc.*, 130 Nev. 252, 256, 321 P.3d 912, 914 (2014).

Royal first contends that the district court erred in applying issue preclusion to grant Holman summary judgment on Royal's contractual indemnity claim. We disagree. The following four factors are necessary for issue preclusion to apply:

- (1) the issue decided in the prior litigation must be identical to the issue presented in the current action;
- (2) the initial ruling must have been on the merits and have become final; . . .
- (3) the party against whom the judgment is asserted must have

been a party or in privity with a party to the prior litigation; and (4) the issue was actually and necessarily litigated.

Five Star Cap. Corp. v. Ruby, 124 Nev. 1048, 1055, 194 P.3d 709, 713 (2008) (internal quotation marks and footnote omitted).

Here, the issue decided in the first litigation was whether Holman breached the MIPA. The district court concluded that Holman did not and that the only party that did breach was Royal.² This is the same issue that was necessary for Royal to prevail on its contractual indemnity claim in the third litigation, in that the MIPA's indemnity clause required Holman to "breach of any of the representations or warranties . . . in this Agreement or any document to be delivered hereunder." Because it was necessary for Royal to show that Holman breached the MIPA in the third litigation, and because the district court in the first litigation concluded that Holman had not, the first issue-preclusion factor is established.

Royal cannot and does not reasonably dispute that the remaining factors are satisfied. Rather, it contends that the district court should have given credence to its findings in the second lawsuit between Azteca and Royal wherein the district court found that Holman may have engaged in some improprieties. But the district court in the second lawsuit did not find that Holman breached the MIPA. Thus—particularly given that Holman was not a party to the second lawsuit and was unable to counter the district court's findings—we are unpersuaded that the district

²To the extent the district court did not expressly find that Holman complied with the MIPA, our decision would be the same in light of Royal's material breach of the MIPA. See *Cain v. Price*, 134 Nev. 193, 196, 415 P.3d 25, 29 (2018) ("When parties exchange promises to perform, one party's material breach of its promise discharges the non-breaching party's duty to perform.").

court erred in finding that Royal's contractual indemnity claim was barred by issue preclusion based on the first litigation.³

The remaining appellants contend that the district court erred in granting summary judgment for Holman on their equitable indemnity claim. Again, we disagree. "Equitable indemnity . . . allows a defendant to seek recovery from other potential tortfeasors [and] is generally available to remedy the situation in which the defendant, *who has committed no independent wrong*, is held liable for the loss of a plaintiff caused by another party." *Pack v. LaTourette*, 128 Nev. 264, 268, 277 P.3d 1246, 1248-49 (2012) (internal quotation marks omitted; emphasis added). In other words, where a party has committed an "independent wrong," and is thus "actively negligent, that party has no right to indemnity from other tortfeasors." *Id.* at 268, 277 P.3d at 1249.

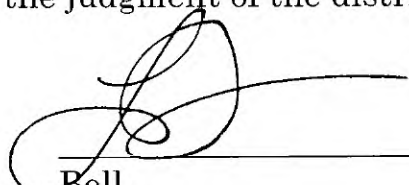
Here, the district court's judgment in the second lawsuit determined by necessary implication that the remaining appellants had committed an "independent wrong." Again, to the extent Holman can be considered a "tortfeasor" for purposes of arguably bringing the concept of equitable indemnity into play, appellants have failed to explain how Holman can be liable for indemnity when appellants themselves committed an "independent wrong." For this reason, among others, we conclude that the district court properly granted summary judgment for Holman on appellants' equitable indemnity claim.

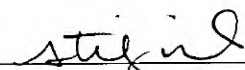
Appellants rely on *Medallion Development, Inc. v. Converse Consultants*, 113 Nev. 27, 34, 930 P.2d 115, 120 (1997), for the proposition


³The Honorable Mark Denton presided over all three cases, such that his decision in the third lawsuit cannot be attributed to a misinterpretation of a different district court judge's previous orders.

that even if they committed an “independent wrong” under *Pack*, the district court should have afforded appellants an opportunity to apportion the wrongfulness of their conduct with respect to the wrongfulness of Holman’s conduct so as to entitle them to some amount of indemnity. To the extent that *Medallion* allows for apportionment of equitable indemnity and is applicable to this case, appellants did not coherently raise this argument in district court. We therefore decline to consider appellants’ apportionment argument on appeal. *Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981) (recognizing that this court generally declines to consider arguments that are raised for the first time on appeal). Consistent with the foregoing, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Bell


_____, J.
Stiglich


_____, J.
Cadish

cc: Hon. Mark R. Denton, District Judge
Kristine M. Kuzemka, Settlement Judge
Law Offices of Byron Thomas
Greenberg Traurig, LLP/Las Vegas
Eighth District Court Clerk