STATE OF MINNESOTA
IN COURT OF APPEALS
A23-0230

RCS-RCA Oak Ridge, LLC,
Appellant,

vs.

Atkinson Holdings, LLC,
Defendant,

Robert C. Atkinson,
Respondent.

Filed October 23, 2023
Affirmed
Larkin, Judge

Hennepin County District Court
File No. 27-CV-21-10297

Michael E. Obermueller, Winthrop & Weinstine, P.A., Minneapolis, Minnesota (for appellant)

Robert C. Atkinson, Wayzata, Minnesota (pro se respondent)

Considered and decided by Larkin, Presiding Judge; Wheelock, Judge; and Smith, John, Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

LARKIN, Judge

After prevailing in a court trial on its breach-of-contract and contractual-indemnity claims, appellant challenges the dismissal of its common-law indemnity claim against respondent. We affirm.

FACTS

The following facts are summarized from the district court's findings after a bench trial in the underlying lawsuit. Appellant RCS-RCA Oak Ridge LLC (Oak Ridge) is a Minnesota limited liability company, which was established to acquire and sell a hotel and conference center in Chaska, Minnesota (the Property). In July 2019, Oak Ridge entered into an agreement (the Agreement) with its two members: Chaska Holdings LLC (Chaska Holdings) and Atkinson Holdings LLC (Atkinson Holdings). Sterling Black (Black) is the manager of Chaska Holdings. Respondent Robert C. Atkinson (Atkinson) is the chief executive officer for Atkinson Holdings.

Under the Agreement, Chaska Holdings held 100% of Oak Ridge's "Class A Units," and Atkinson Holdings held 100% of the "Class B Units." Each member agreed "to elect and appoint the Class A Manager as the 'Manager'" of Oak Ridge. Thus, Black was Oak Ridge's "Manager" and had the "sole authority to bind" Oak Ridge; the "sole power to do any and all acts necessary, convenient, or incidental to or for the furtherance of the purposes" described in the Agreement; and the authority to "engage or hire any un-affiliated third parties." The Agreement expressly stated that Atkinson "shall not have the authority to contract" for Oak Ridge.

Additionally, under the Agreement:

> The Class B Member and/or . . . Atkinson shall not have any authority to bind or obligate [Oak Ridge] or subject [Oak Ridge] to any liability or other obligation or do any other act on behalf of [Oak Ridge] not expressly authorized herein. The Class B Member shall indemnify, defend and hold [Oak Ridge] harmless from any claims, damages, liabilities, costs or loss (including reasonable attorneys' fees) and other obligations or expenses related to the uncured breach of the Class B Member's obligations pursuant to this SECTION 6.4, fraud, misrepresentation or negligence of any member of the Class B Member Group.

In September 2019, Kimley-Horn and Associates Inc. (Kimley-Horn) contracted with Oak Ridge to provide development services for the Property. Both Black and Atkinson signed the contract. Atkinson's signature block listed his title as "[m]anager." Black did not authorize Atkinson to sign the contract and did not know that Atkinson had signed it.

On May 4, 2020, Kimley-Horn proposed an amendment to the contract (Amendment #1) for additional tasks on the Oak Ridge project. Black signed Amendment #1 on May 5, 2020.

Also on May 4, 2020, Kimley-Horn emailed a second amendment (Amendment #2) to Atkinson for additional tasks on the Oak Ridge project. The signature block in Amendment #2 identified the client as "Atkinson Holdings." The following day, Atkinson emailed Kimley-Horn Amendment #2, which he had signed. Black was unaware of Amendment #2.

On October 29, 2020, Atkinson signed and emailed Kimley-Horn a third amendment (Amendment #3), which listed additional tasks on the Oak Ridge project. The

signature block in Amendment #3 identified Atkinson Holdings as the client. Black was unaware of Amendment #3.

In February 2021, Kimley-Horn sued Oak Ridge and Atkinson Holdings, alleging that Oak Ridge owed over $120,000 for work performed under Amendments #2 and #3. In September 2021, Oak Ridge and Kimley-Horn settled the lawsuit for $80,000. Oak Ridge incurred $13,395 in legal fees to defend and settle the case.

In June 2021, Oak Ridge sued Atkinson Holdings for breach of contract and sued both Atkinson and Atkinson Holdings for common-law indemnification and contribution. The matter proceeded to a court trial, at which the district court heard testimony from Black and Atkinson and received numerous exhibits. Following the court trial, the district court determined that Oak Ridge was entitled to judgment on its breach-of-contract claim against Atkinson Holdings. The court found that Atkinson had signed Amendments #2 and #3 without the authorization or knowledge of Black, thereby violating the Agreement. The court also found that Atkinson Holdings breached the contract by failing to indemnify Oak Ridge, as required under the Agreement. The district court therefore determined that Oak Ridge was entitled to judgment against Atkinson Holdings for $93,395 ($80,000 settlement plus $13,395 in legal fees), plus costs and disbursements.

The district court concluded that Oak Ridge's common-law indemnification claim was moot as to Atkinson Holdings because the court had "found that Atkinson Holdings breached" the Agreement "by failing to indemnify [Oak Ridge]." As to Atkinson, the district court concluded that the claim failed because "the evidence presented at trial did not establish that Atkinson signed the amendments in his personal capacity" and that Oak

Ridge therefore "has not established a claim of common law indemnification." The district court therefore dismissed the common-law indemnification claim with prejudice.

Oak Ridge appeals the dismissal of its common-law indemnity claim against Atkinson.[1]

DECISION

When reviewing a district court's judgment following a court trial, our review is limited to determining whether the evidence as a whole fairly supports the district court's conclusions of law and judgment. *All Parks All. for Change v. Uniprop Manufactured Hous. Cmtys. Income Fund*, 732 N.W.2d 189, 193 (Minn. 2007). This court will "not set aside findings of fact in an appeal from a civil judgment unless the findings are clearly erroneous." *Nationwide Hous. Corp. v. Skoglund*, 906 N.W.2d 900, 908 (Minn. App. 2018), *rev. denied* (Minn. Mar. 28, 2018); *In re Distrib. of Attorney's Fees Between Stowman Law Firm, P.A. & Lori Peterson Law Firm*, 855 N.W.2d 760, 761 (Minn. App. 2014), *aff'd*, 870 N.W.2d 755 (Minn. 2015). "A finding is clearly erroneous if we are left with the definite and firm conviction that a mistake has been made." *Stowman*, 855 N.W.2d at 761 (quotation omitted).

Oak Ridge contends that the district court erred in concluding that it failed to prove its common-law indemnification claim against Atkinson. In Minnesota, common-law indemnification is not a well-defined cause of action, but indemnification is generally

[1] Atkinson did not file a brief. "If the respondent fails or neglects to serve and file its brief, the case shall be determined on the merits." Minn. R. Civ. App. P. 142.03. This court previously issued an order stating that the case would be submitted for consideration on the merits under rule 142.03.

understood to be an equitable common-law claim or remedy that apportions a loss to the party that caused the loss. *O'Connell v. Jackson*, 140 N.W.2d 65, 66 (Minn. 1966); *Daly v. Bergstedt*, 126 N.W.2d 242, 243, 248 (Minn. 1964); *Hanson v. Bailey*, 83 N.W.2d 252, 260 (Minn. 1957); *Dehn v. S. Brand Coal & Oil Co.*, 63 N.W.2d 6, 10-11 (Minn. 1954). "A party is entitled to be indemnified for its liability where the one seeking indemnity has incurred liability because of a breach of duty owed to him by the one sought to be charged." *Zontelli & Sons, Inc. v. City of Nashwauk*, 373 N.W.2d 744, 755 (Minn. 1985) (quotation omitted). As the supreme court held in *O'Connell*:

> Where [a] party has incurred liability because of tortious conduct or breach of duty of another and is called upon to defend [an] action for damages arising therefrom, he is entitled to be indemnified by the other not only for a judgment obtained against him in the action, but also for reasonable value of attorney's fees incurred in defending it, provided he has acted in good faith and with due diligence and has given the other opportunity to defend [the] action.

140 N.W.2d at 66.

The Agreement clearly prohibited Atkinson from binding Oak Ridge to a contract. Oak Ridge argues that Atkinson, in his personal capacity, breached his duty to not contract for Oak Ridge. Oak Ridge notes that Atkinson (1) instructed Kimley-Horn to include two signature blocks on the 2019 contract so that he could sign the document; (2) listed himself as a manager of Oak Ridge in that contract; (3) signed the contract without Black's "knowledge or authorization"; and (4) acknowledged that he did not have authority to sign the contract and requested permission from Black to sign. Oak Ridge also relies on the

fact that Atkinson "personally applied his electronic signature" and "personally emailed" the amendments to Kimley-Horn.

Oak Ridge's argument is unavailing because the September 2019 contract was authorized by Black and Oak Ridge did not incur unauthorized debts as a result of that contract; it incurred unauthorized debts as a result of Amendments #2 and #3. Oak Ridge does not provide a basis for this court to conclude that Atkinson's acts relating to the September 2019 contract caused Oak Ridge to incur the unauthorized debts resulting from Amendments #2 and #3.

As to amendments #2 and #3, the district court concluded that the evidence "did not establish" that Atkinson acted in his personal capacity when he signed the amendments, and the district court's findings support that conclusion. Specifically, the signature blocks for Amendments #2 and #3 listed "Atkinson Holdings" as the signatory. *See St. Croix Eng'g Corp. v. McLay*, 304 N.W.2d 912, 914 n.1 (Minn. 1981) ("On the other hand, if McLay had written the word 'president' under his signature, this would have clearly established his representative capacity and he would not be personally liable."). Moreover, the district court observed that "Atkinson testified that he signed Amendment #2 in his capacity as a representative of Atkinson Holdings," and it found that his testimony on this point was "credible."

When reviewing findings of fact for clear error, we review the record to determine if there is any reasonable evidence to support the finding. *Rasmussen v. Two Harbors Fish Co.*, 832 N.W.2d 790, 797 (Minn. 2013). Here, reasonable evidence supports the district court's findings, and those findings support its conclusion that Atkinson did not act in his

personal capacity when he signed the amendments. Although Oak Ridge argues that Atkinson signed Amendments #2 and #3 in his personal capacity, the district court found otherwise. Applying our deferential standard of review, we discern no basis to set aside that finding. We will not make findings of fact or reweigh the evidence, and we defer to the district court's credibility determinations. *Id.*; *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988); *Gada v. Dedefo*, 684 N.W.2d 512, 514 (Minn. App. 2004).

As to Oak Ridge's assertion that the district court erred as a matter of law by not finding in its favor, Oak Ridge's reliance on *O'Connell* is unavailing. *O'Connell* did not involve separate indemnification claims against an individual and his business entity or a purported duty to indemnify as a matter of law; the issue in *O'Connell* was whether a party was entitled to indemnity for particular attorney fees. *See* 140 N.W.2d at 68-69.

Finally, "indemnity is essentially an equitable doctrine which does not lend itself to hard-and-fast rules and *its application may vary depending upon the particular facts in each case*." *Daly*, 126 N.W.2d at 248 (emphasis added); *see Zontelli & Sons, Inc.*, 373 N.W.2d at 755. Generally, appellate courts review a district court's decision on a request for equitable relief for an abuse of discretion. *Melrose Gates, LLC v. Moua*, 875 N.W.2d 814, 819 (Minn. 2016). On this record, we do not discern an abuse of discretion. Although the district court could have reached a different outcome, it determined, based upon the evidence presented at trial, that Atkinson should not be held personally liable for his actions. Oak Ridge has not persuaded us that there is a basis to reverse under the standards that govern our review of that determination.

Affirmed.