

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH
DAKOTA, WESTERN DIVISION

Monarchy Rush No More RV Resort, LLC v. Black Hills Title, Inc.;
ECM Parks and Recreation, Inc.

Monarchy Rush · No. 5:24-CV-05035-CBK · Decided March 24, 2026

SUMMARY

The United States District Court for the District of South Dakota granted Black Hills Title, Inc.'s motion for summary judgment on Monarchy Rush No More RV Resort, LLC's breach-of-fiduciary-duty claim arising from the release of an earnest-money deposit. The court held that the parties' amended stock-purchase agreements made the deposit irrevocable and forfeitable when the buyer failed to close, and that no genuine dispute of material fact existed regarding the buyer's lack of contractual entitlement to the funds. The court also authorized Black Hills and ECM Parks and Recreation, Inc. to seek attorney fees and costs under the agreement and stated that the third-party action was moot.

CASE DETAILS

COURT	United States District Court for the District of South Dakota, Western Division
WRITING FOR THE COURT	Charles B. Kornmann
JURISDICTION	United States District Court for the District of South Dakota, Western Division
DECIDED	March 24, 2026
DOCKET	5:24-CV-05035-CBK
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff sued Black Hills Title and Pioneer Bank in a diversity action asserting breach of fiduciary duty and several related tort and quasi-contract claims. The claims against the Bank were dismissed by stipulation. After Black Hills filed a third-party complaint against ECM Parks and Recreation, Black Hills moved for summary judgment, and ECM joined the motion. Plaintiff conceded that all claims other than breach of fiduciary duty were unsupported and waived them.

STANDARD OF REVIEW	Summary judgment is proper when the pleadings, discovery materials, and affidavits show no genuine dispute of material fact and the movant is entitled to judgment as a matter of law. Material factual disputes are viewed in the light most favorable to the nonmoving party, but only genuine disputes that could affect the outcome preclude summary judgment. In a diversity case, the court applies the substantive law of the forum state.
PRECEDENTIAL VALUE	Unknown; memorandum opinion and order from a federal district court.
PARTIES	Monarchy Rush No More RV Resort, LLC v. Black Hills Title, Inc.

TOPICS

summary judgment

civil procedure

breach of fiduciary duty

contracts

attorney fees

PRACTICE AREAS

civil procedure

contracts

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QUESTIONS PRESENTED

1. Whether genuine disputes of material fact precluded summary judgment on plaintiff's breach-of-fiduciary-duty claim against Black Hills.
2. Whether Black Hills breached its fiduciary duty by releasing the earnest-money deposit to ECM rather than returning it to plaintiff.
3. Whether the contractual attorney-fee and cost provision entitled Black Hills and ECM to seek fees and costs from plaintiff.

HOLDINGS

1. Summary judgment was warranted because there was no genuine dispute of material fact and plaintiff could not establish as a matter of law that Black Hills breached a fiduciary duty or caused plaintiff's damages.
2. Black Hills did not breach its fiduciary duty by releasing the \$57,000 earnest-money deposit to ECM because the final amended agreements required that result when plaintiff failed to complete the purchase by the closing deadline.
3. Plaintiff could not use a later affidavit to create a material factual dispute by asserting facts contrary to its agent's prior deposition testimony.
4. The contractual indemnity provision authorized Black Hills and ECM to seek attorney fees and costs from plaintiff after prevailing.

KEY QUOTATIONS

“There is no genuine issue of material fact in this case.”

“It is generally accepted that an escrow agent is the agent and fiduciary of all parties to an escrow agreement.”

“The Court finds and decides that there are no genuine issues of material fact and that plaintiff cannot, as a matter of law, prevail on its breach of fiduciary duty claim against Black Hills.”

FACTUAL BACKGROUND

The parties entered a stock purchase agreement for plaintiff's purchase of all stock in ECM, which operated the Rush No More campground, for \$5,700,000. Plaintiff deposited \$57,000 in earnest money with Black Hills as escrow agent. The closing date was extended several times, but the final amended agreement provided that the earnest money was irrevocable and would be forfeited or paid to the seller if plaintiff failed to close by October 19, 2022. Plaintiff did not close because its lender would not provide the full purchase price, and Black Hills released the earnest money to ECM. The court found that the written agreements contained no financing contingency and that plaintiff had not identified evidence of a breach by Black Hills or the sellers.

PROCEDURAL HISTORY

Plaintiff first sued the Bank in federal court in New Mexico, where the action was dismissed for lack of jurisdiction over the Bank. Plaintiff then filed this action in the District of South Dakota. The Bank's claims and counterclaims were dismissed by stipulation, and Black Hills brought ECM into the case as a third-party defendant. The district court granted Black Hills's summary-judgment motion, held that the breach-of-fiduciary-duty claim could not prevail as a matter of law, found the third-party action moot, and authorized Black Hills and ECM to submit itemized requests for contractual attorney fees and costs before final judgment.

DISPOSITION

dismissed

CASES CITED

- Johnson v. Schulte Hosp. Grp., Inc., 66 F.4th 1110, 1113-14 (8th Cir. 2023)
- Torgerson v. City of Rochester, 643 F.3d 1031, 1042 (8th Cir. 2011)
- Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248, 252 (1986)
- Arnett v. Norris, 160 F.4th 921, 925 (8th Cir. 2025)
- Ricci v. DeStefano, 557 U.S. 557, 586 (2009)
- Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 586 (1986)
- National Bank of Commerce v. Dow Chemical Co., 165 F.3d 602, 607 (8th Cir. 1999)
- Uhiren v. Bristol-Myers Squibb Co., Inc., 346 F.3d 824, 827 (8th Cir. 2003)
- MBI Oil & Gas, LLC v. Royalty Interests Partnership, LP, 146 F.4th 650, 655 (8th Cir. 2025)
- Redlin v. First Interstate Bank, 2 N.W.3d 729, 734 (S.D. 2024)
- Chem-Age Industries, Inc. v. Glover, 652 N.W.2d 756, 772 (S.D. 2002)

- Wandler v. Lewis, 567 N.W.2d 377, 384 (S.D. 1997)
- American State Bank v. Adkins, 458 N.W.2d 807, 810-11 (S.D. 1990)
- Cengiz v. Huron Title Co., 2024 WL 1744297, at *7 (D.S.D. Apr. 22, 2024)
- Trigger Energy Holdings, LLC v. Stevens, 2025 SD 72, 29 N.W.3d 900, 916 (S.D. Dec. 22, 2025)
- St. Pierre v. State ex rel. S.D. Real Estate Commission, 2012 SD 25, 813 N.W.2d 151, 158

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