

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

FREDERICK VONSEYDEWITZ,
Appellant,
vs.
DEREK MOELLINGER,
INDIVIDUALLY AND DOING
BUSINESS AS VICE REALTY AND
VICE PROPERTY MANAGEMENT;
PRESTON WUTHRICH; AND
ESTEBAN ORDONEZ,
Respondents.

No. 90307-COA

FILED

APR 15 2026

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *Elizabeth A. Brown*
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

Frederick Vonseydewitz appeals from a district court order granting summary judgment in a civil rights action. Eighth Judicial District Court, Clark County; Monica Trujillo, Judge.

The underlying proceeding concerned claims brought by Vonseydewitz under 42 U.S.C. § 3604(c) (proscribing discriminatory advertising in the sale or rental of housing), which is part of the Fair Housing Act (FHA), and a substantively similar Nevada statute, NRS 118.100(3). Vonseydewitz brought those claims against respondent Derek Moellinger, who owns a property management company, and respondents Preston Wuthrich and Esteban Ordonez, who perform services for the business. For support, Vonseydewitz alleged that Moellinger's business published advertisements indicating it would not rent to individuals with a criminal record, that the policy had a disparate impact on Hispanics, and that respondents enabled or authorized this conduct.

Respondents moved to dismiss Vonseydewitz's complaint, arguing that his claims were barred by claim preclusion because Vonseydewitz could have brought them in a prior lawsuit he filed against Moellinger, which involved claims under a separate provision of the FHA—specifically, 42 U.S.C. § 3604(a) (making it unlawful to refuse to sell or rent housing for discriminatory reasons)—and NRS 118.100(1), which is substantively similar to § 3604(a). In the prior action, Vonseydewitz alleged that Moellinger violated § 3604(a) and NRS 118.100(1) by directly communicating to Vonseydewitz that his business did not rent to individuals with criminal records. Vonseydewitz opposed that motion and, following a hearing, the district court converted it to a motion for summary judgment and directed supplemental briefing. Following extensive briefing, the central dispute between the parties focused on whether Vonseydewitz was required to bring the present claims in the prior action to avoid application of claim preclusion since he had discovered the advertisements he identified as discriminatory during the pendency of the prior action.

The district court answered that question in the affirmative and, after determining that the remaining elements of claim preclusion were satisfied, entered summary judgment in favor of respondents. Vonseydewitz then moved for reconsideration, which the district court denied. This appeal followed.

On appeal, Vonseydewitz challenges the summary judgment in favor of respondents. This court reviews a district court's order granting summary judgment de novo. *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). Summary judgment is proper if the pleadings and

all other evidence on file demonstrate that no genuine dispute of material fact exists and that the moving party is entitled to judgment as a matter of law. *Id.* When deciding a summary judgment motion, all evidence must be viewed in a light most favorable to the nonmoving party. *Id.* General allegations and conclusory statements do not create genuine disputes of fact. *Id.* at 731, 121 P.3d at 1030-31. Further, this court reviews a district court's order resolving an action on the grounds of claim preclusion de novo. *Alcantara v. Wal-Mart Stores, Inc.*, 130 Nev. 252, 256, 321 P.3d 912, 914 (2014) (recognizing that appellate courts review a district court's decision to apply claim preclusion de novo).

In challenging the grant of summary judgment for respondents, Vonseydewitz disputes the applicability of claim preclusion by arguing that he was not required to assert the present claims in the prior action since he discovered the alleged discriminatory advertisements during the prior action's pendency. Respondents counter that Vonseydewitz could have asserted the present claims in the prior action given his knowledge of the allegedly discriminatory advertisements at the time.

Claim preclusion's purpose "is to obtain finality by preventing a party from filing another suit that is based on the same set of facts that were present in the initial suit." *Five Star Cap. Corp. v. Ruby*, 124 Nev. 1048, 1054, 194 P.3d 709, 712 (2008). The doctrine applies when, among other things, "the subsequent action is based on the same claims or any part of them that were or could have been brought in the first case." *Id.* at 1054, 194 P.3d at 713. However, claim preclusion generally does not bar a subsequent action for claims that accrue after the commencement of the

prior action. *Havas v. Engebregson*, 97 Nev. 408, 412, 633 P.2d 682, 684 (1981) (concluding that if a claim “had not yet accrued [when the plaintiff commenced a prior action,] it could not have been included in the [prior action], and it would not be barred by the doctrine of [claim preclusion] in the subsequent suit”); *Howard v. City of Coos Bay*, 871 F.3d 1032, 1039-40 (9th Cir. 2017) (adopting a substantively identical rule and compiling federal authorities that have done so).

Prior to the arbitration occurring in the prior action, Vonseydewitz produced a copy of an allegedly discriminatory advertisement from Moellinger’s business to bolster his position that he was being discriminated against when attempting to rent property under § 3604(a) and NRS 118.100(1). And for the same reason, Vonseydewitz later produced the copy of that advertisement along with screenshots of two more allegedly discriminatory advertisements from Moellinger’s business after the arbitration but before the short trial in the prior action. In the present case, respondents attached those same documents to their motion for summary judgment to argue that claim preclusion barred Vonseydewitz’s § 3604(c) and NRS 118.100(3) claims against respondents based on their alleged discriminatory advertising. However, none of these documents speak to whether Vonseydewitz’s claims based on the separate sections of the FHA and NRS accrued before the commencement of his prior action, such that claim preclusion would apply, as they do not demonstrate that the alleged discriminatory advertisements were published before Vonseydewitz commenced the prior action. *See* 42 U.S.C. 3613(1) (authorizing a person aggrieved by a discriminatory housing practice to commence a civil action

not later than “2 years after the *occurrence or the termination*” of the *practice* (emphasis added)); NRS 118.120 (similarly basing the accrual date of a claim for violation of NRS 118.100 on the “*date of the occurrence or termination* of an alleged violation” (emphasis added)); *see also Garcia Brockway*, 526 F.3d 456, 461, 465 (9th Cir. 2008) (addressing whether a claim under 42 U.S.C. § 3604(f)(3)(C) for “failure to design and construct a multifamily dwelling according to FHA standards” was barred by the statute of limitations, concluding that the claim accrued “at the conclusion of the design-and-construction phase,” and holding that the discovery rule did not apply since the claim accrued “when the discriminatory act occur[ed]—not when it[was] encountered or discovered” (internal quotation marks omitted)).

Thus, the advertisements alone are insufficient to establish that Vonseydewitz’s claims under § 3604(c) and NRS 118.100(3) had accrued at the time he filed his initial action so as to be barred under the doctrine of claim preclusion. As a result, a genuine dispute exists as to whether all the required elements of *Five Star* necessary for claim preclusion were satisfied. Therefore, the district court erred by granting summary judgment in favor of respondents on that basis. *See Wood*, 121 Nev. at 729, 121 P.3d at 1029.¹ Because we must therefore reverse and remand this matter for further proceedings, nothing precludes the district

¹As the parties do not address the doctrine of issue preclusion on appeal, we express no opinion as to whether the doctrine bars Vonseydewitz’s claims under the circumstances presented here.

court from considering any preclusive effect on Vonseydewitz's claims following discovery as permitted by the court. Accordingly, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.²


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Monica Trujillo, District Judge
Frederick Vonseydewitz
Kajioka & Associates
Eighth District Court Clerk

²Insofar as the parties raise arguments that are not specifically addressed in this order, we have considered the same and conclude that they do not present a basis for relief or need not be addressed in light of the disposition of this appeal.