



IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LIBORIUS AGWARA, ESQ., AN
INDIVIDUAL, D/B/A AGWARA &
ASSOCIATES,
Appellant,
vs.
PHILLIPS, SPALLAS & ANGSTADT,
LLC, A NEVADA LIMITED LIABILITY
PARTNERSHIP; SEDGWICK F/K/A
SEDGWICK CLAIMS MANAGEMENT
SERVICES, LTD., A TENNESSEE
LIMITED LIABILITY COMPANY,
Respondents.

No. 90543-COA

ORDER OF AFFIRMANCE

Liborius Agwara, Esq. appeals from a district court order granting respondents' motion to dismiss in a breach of contract action. Eighth Judicial District Court, Clark County; Hon. Jacob A. Reynolds, Judge.

In August 2009, Agwara was retained to represent nonparty Abby Rios in a personal injury matter against Wal-Mart Stores, Inc. Agwara and associate attorneys in his law firm worked on the case and filed a lawsuit against Wal-Mart that was subsequently removed to the United States District Court for the District of Nevada. In February 2014, Rios terminated Agwara and retained the law firm of Black & LoBello to continue the litigation. After being terminated by Rios, Agwara served a notice of attorney lien on Black & LoBello; respondent Phillips, Spallas & Angstadt (PSA), Wal-Mart's counsel in the personal injury case; and respondent Sedgwick Claims Management Services, Ltd. (Sedgwick), Wal-Mart's claim administrator.

In December 2018, Black & LoBello notified Agwara that Rios had reached a settlement with Wal-Mart and that Black & LoBello had received a

settlement check. Shortly thereafter, Agwara filed an interpleader complaint in the state district court to enforce his attorney lien. Agwara named Rios, Black & LoBello, and several medical providers as defendants. Rios removed Agwara's interpleader to the federal district court and moved to adjudicate Agwara's attorney lien.

The federal district court conducted an evidentiary hearing on the motion to adjudicate the lien and subsequently entered an order awarding Agwara attorney fees for the work performed by Agwara and his attorney associates, as well as costs. *See Rios v. Wal-Mart Stores, Inc.*, Case No. 2:11-cv-01592-KJD-GWF, 2020 WL 1000469 (D. Nev. Feb. 28, 2020). The United States Court of Appeals for the Ninth Circuit subsequently affirmed the award. *See Rios v. Agwara*, Nos. 20-15581 & 20-15701, 2022 WL 1198008 (9th Cir. Apr. 22, 2022). There is no dispute that Agwara ultimately received the full amount awarded following entry of the Ninth Circuit's order of affirmance.

In December 2024, Agwara filed a complaint in the state district court against PSA and Sedgwick for "breach of contract/lien." In the complaint, Agwara alleged that PSA and Sedgwick deliberately omitted his name from the settlement check. Agwara alleged that as a result of this deliberate omission, he suffered damages. Agwara further alleged that PSA and Sedgwick were liable for the attorney fees and costs he incurred in pursuing his attorney lien.

PSA filed a motion to dismiss Agwara's complaint with prejudice. Among other arguments, PSA asserted that this matter should be dismissed as Agwara had already adjudicated the issues stemming from his attorney lien in federal court and had already obtained the aforementioned award. Agwara filed an opposition to the motion and PSA filed a reply.

The district court subsequently entered a written order granting PSA's motion. In its order, the district court found that the attorney lien identified in Agwara's complaint was "squarely addressed" in the federal court proceedings and that Agwara was barred from additional recovery "by way of issue and claim preclusion." The district court also found that Agwara had raised the participation of other members of his firm as part of his attorney lien in the federal district court. Further, the district court found that any claims regarding the fees and costs incurred to prosecute the lien in the federal district court were also mandatory claims. This appeal followed.

This court reviews a district court order granting a motion to dismiss on the basis of issue or claim preclusion de novo. *See Alcantara ex rel. Alcantara v. Wal-Mart Stores, Inc.*, 130 Nev. 252, 256, 321 P.3d 912, 914 (2014) (reviewing application of issue and claim preclusion de novo); *Buzz Stew, LLC v. City of North Las Vegas*, 124 Nev. 224, 227, 181 P.3d 670, 672 (2008) (reviewing grant of motion to dismiss de novo).

Here, as discussed above, the district court determined that Agwara's allegations were barred by both issue and claim preclusion. However, in his opening brief, Agwara does not present cogent argument or relevant authority challenging the district court's determination that issue preclusion applied, instead baldly arguing that "issue preclusion . . . does not apply as the issue in this case is the deliberate disregard . . . of [the] perfected lien." Moreover, Agwara does not present cogent argument or relevant authority concerning—or even acknowledge—the district court's determination that claim preclusion also applied in this matter such that dismissal was also warranted upon that alternative basis.

As a result of these omissions in his opening brief, Agwara has forfeited challenges to both of the district court's bases for dismissing his

complaint, issue and claim preclusion, on appeal.¹ *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (providing that this court need not consider issues that are not supported by cogent argument and relevant authority); *Palmieri v. Clark County*, 131 Nev. 1028, 1033 n.2, 367 P.3d 442, 446 n.2 (Ct. App. 2015) (providing that arguments not raised on appeal are deemed forfeited); *see also Hung v. Genting Berhad*, 138 Nev. 547, 547, 513 P.3d 1285, 1286 (Ct. App. 2022) (holding that “when a district court provides alternative bases to support its ultimate ruling, and an appellant fails to challenge the validity of each alternative basis on appeal,” this court will generally affirm the judgment). Accordingly, Agwara fails to demonstrate he is entitled to relief. Thus, we

ORDER the judgment of the district court AFFIRMED.



Bulla, C.J.



Gibbons, J.



Westbrook, J.

¹We note that Agwara addresses the district court’s application of claim preclusion for the first time in his reply brief. Agwara has forfeited this challenge by waiting to present it until his reply brief. *See Khoury v. Seastrand*, 132 Nev. 520, 530 n.2, 377 P.3d 81, 88 n.2 (2016) (providing that issues raised for the first time in a reply brief are deemed forfeited). Further, Agwara did not present cogent argument or relevant authorities concerning the district court’s decision to dismiss his complaint on both issue and claim preclusion grounds until the reply brief, and thus we do not consider them. *Cf. id.; Edwards*, 122 Nev. at 330 n.38, 130 P.3d at 1288 n.38.

cc: Hon. Jacob A. Reynolds, District Judge
Charles K. Hauser, Settlement Judge
Law Offices of Libo Agwara, Ltd.
Lewis Brisbois Bisgaard & Smith, LLP/Las Vegas
Phillips, Spallas & Angstadt, LLC
Eighth District Court Clerk