



IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LISA BRESLAW,
Appellant,
vs.
SONDRA COSGROVE,
Respondent.

No. 91873-COA

ORDER OF AFFIRMANCE

Lisa Breslaw appeals from district court orders granting respondent Sondra Cosgrove's motion to dismiss and denying her motion for reconsideration in a tort action. Eighth Judicial District Court, Clark County; Hon. Mary Kay Holthus, Judge.

Following this court's order in *Breslaw v. State ex rel. Bd. of Regents of the Nev. Sys. of Higher Educ. (CSN)*, No. 89239-COA, 2025 WL 1710662 (Nev. Ct. App. June 17, 2025) (Order of Affirmance), Cosgrove shared an Our Nevada Judges Facebook post containing this court's order to her private Facebook page.¹ The post contained the caption "[t]his is how some students are now." A third party commented on the post: "[w]ell that's just crazy. [P]lease say it was after graduating UNLV and not CSN. Just curious

¹In that appeal, Breslaw sued Cosgrove and CSN for various intentional torts after Dr. Cosgrove (Breslaw's former history professor at the College of Southern Nevada) wrote Breslaw an allegedly defamatory letter of recommendation in support of Breslaw's admission to graduate school. *Breslaw v. Bd. of Regents (CSN)*, No. 89239-COA, 2025 WL 1710662, at *1-2. The district court dismissed Breslaw's complaint under NRCP 12(b)(5), and this court affirmed. *Id.* at *6.

of the level of entitlement” Dr. Cosgrove responded: “[i]t was after graduating CSN, unfortunately.”

At some point thereafter, Breslaw filed a NRCP 60(d)(1) motion in the letter of recommendation case underlying No. 89239-COA related to Cosgrove’s Facebook comment.² On August 7, 2025, Breslaw filed a complaint against Cosgrove and CSN in a separate action, asserting causes of action for libel per se and intentional infliction of emotional distress related to Cosgrove’s Facebook comment. The district court entered an order dismissing Breslaw’s complaint in that action with prejudice on November 13, 2025. This court affirmed that order on August 20, 2026. *See Breslaw v. State ex rel. Bd. of Regents of the Nev. Sys. of Higher Educ. (CSN)*, No. 91631-COA, 2026 WL 2452198 (Nev. Ct. App. Aug. 20, 2026) (Order of Affirmance).

On November 12, 2025, Breslaw sued Cosgrove in the present action, asserting a claim for false light invasion of privacy based upon the same facts and circumstances asserted in her August 7, 2025, complaint. Cosgrove moved to dismiss the complaint under NRS 41.660 (Nevada’s anti-SLAPP statute) and, independently, on claim and issue preclusion grounds. After full briefing and a hearing, the district court granted Cosgrove’s motion to dismiss and concluded that Breslaw’s complaint should be dismissed under three

²Breslaw represented in her complaint in the present action that she “initially tried to add the false light claim as a Rule 60(d)(1) motion in case A-24-892174-C [the letter of recommendation case].” She later appealed the denial of her motion, which was voluntarily dismissed on November 4, 2025. *See Breslaw v. State ex rel. Bd. of Regents of the Nev. Sys. of Higher Educ. (CSN)*, No. 90910, 2025 WL 3119324 (Nev. Nov. 4, 2025) (Order Dismissing Appeal). Breslaw did not provide any argument explaining the basis for her NRCP 60 motion in the action below.

independent grounds: (1) the statements at issue in her complaint were protected under Nevada’s anti-SLAPP statutes; (2) issue preclusion barred litigation of her false light claim as the truth of the allegedly false statements had been fully litigated in the prior litigation; and (3) claim preclusion barred her complaint as Breslaw could have brought her false light claim in the August 2025 action.³

Breslaw moved the court to reconsider its ruling under EDCR 2.24. After consideration of the arguments and authorities provided, the district court denied Breslaw’s motion, concluding that Breslaw “failed to meet the standard warranting reconsideration, as [she] did not identify any new issue of fact or law, argue the Court’s ruling was clearly erroneous, or present substantially different evidence warranting a different result.” Breslaw now appeals.

On appeal, Breslaw challenges each of the district court’s independent grounds for dismissal. Based on our review of the record and the arguments of the parties, we agree with the district court’s ruling that claim preclusion barred Breslaw’s complaint and conclude that it provides an independent legal basis for affirmance of the district court’s order. *See Hung v. Genting Berhad*, 138 Nev. 547, 549, 513 P.3d 1285, 1287 (Ct. App. 2022) (holding that “when a district court provides independent alternative grounds in support of a decision later challenged on appeal, the appellant generally must successfully challenge all of those grounds in its appellate briefing to obtain a reversal”); 5 Am. Jur. 2d Appellate Review § 717 (“An appellate court may affirm a judgment on any ground that is properly raised below and that, as a matter of law, sustains the judgment.”). Accordingly, we decline to address

³We note that the district court did not enter any orders related to attorney fees and costs under NRS 41.670 at the time of this appeal.

the other independent challenges, and address Breslaw's assertions of error concerning the application of claim preclusion below.

This court reviews the application of claim preclusion de novo. *Alcantara ex rel. Alcantara v. Wal-Mart Stores, Inc.*, 130 Nev. 252, 256, 321 P.3d 912, 914 (2014). Claim preclusion applies when “(1) the parties or their privies are the same, (2) the final judgment is valid, and (3) 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.” *Weddell v. Sharp*, 131 Nev. 233, 237, 350 P.3d 80, 82 (2015). An exception to the doctrine of claim preclusion exists where “[t]he adjudication of a particular action . . . in retrospect appear[s] to create such inequities in the context of a statutory scheme as a whole that a second action to correct the inequity may be called for . . .” *Mendenhall v. Tassinari*, 133 Nev. 614, 622, 403 P.3d 364, 372 (2017) (citing Restatement (Second) of Judgments § 26(1)(d) (Am. Law Inst. 1982)). However, “a single cause of action may not be split and separate actions maintained” because “[p]olicy demands that all forms of injury or damage sustained by the plaintiff as a consequence of the defendant's wrongful act be recovered in one action rather than in multiple actions.” *Smith v. Hutchins*, 93 Nev. 431, 432, 566 P.2d 1136, 1137 (1977).

Here, both parties agree that the instant complaint is based upon the same facts and is filed against the same defendant as the August 2025 complaint. Similarly, neither party disputes that the November 13, 2025, order dismissing Breslaw's complaint in the August 2025 action is a valid final judgment. *See Five Star Cap. Corp. v. Ruby*, 124 Nev. 1048, 1058, 194 P.3d 709, 715 (2008) (recognizing that a dismissal with prejudice constitutes a final judgment for the purposes of claim preclusion); *Edwards v. Ghandour*, 123 Nev. 105, 116, 159 P.3d 1086, 1093 (2007) (holding that a judgment maintains

its preclusive effect while on appeal or the appeal period is running), *abrogated on other grounds by Five Star Cap. Corp.*, 124 Nev. at 1053, 194 P.3d at 712. Further, both parties agree that the instant action for false light is based upon the same claims that could have been brought in the August 2025 action.

However, Breslaw argues that the inequity exception to claim preclusion applies as her false light claim was procedurally barred at the time she filed her complaint against Cosgrove in the August 2025 action. Specifically, Breslaw represented that upon learning of the Facebook comment, she filed an NRCP 60(d)(1) motion raising the false light claim in the original letter of recommendation case. Breslaw argues that, because she filed the NRCP 60(d)(1) motion and later appealed its denial, she believed she could not bring her false light claim in the August 2025 action against Cosgrove until the appeal was dismissed on November 4, 2025. Breslaw maintains that raising the false light claim in the August 2025 action was impossible as the district court decided the motion to dismiss her claims in that action prior to the supreme court's dismissal of her appeal from the order denying her NRCP 60(d)(1) motion in the letter of recommendation case. Accordingly, Breslaw maintains it would be inequitable to dismiss the current action as she was unable to file the false light claim in her August 2025 complaint against Cosgrove. Breslaw also argues that—to the extent she was mistaken about the ability to file her claim in the August 2025 action—it would be inequitable to apply claim preclusion here due to her pro se status. In response, Cosgrove argues that no rule prohibited Breslaw from bringing her false light claim at the same time as her August 2025 complaint, and that Breslaw's division of claims into separate actions constituted impermissible claim splitting.

We agree with Cosgrove. Our supreme court has recognized that NRCP 60 may provide an exception to the doctrine of claim preclusion to the

extent that it permits the district court to provide relief from a final judgment. *See Mendenhall*, 133 Nev. at 622-24, 403 P.3d at 371-73 (recognizing that NRCP 60(b) could provide an exception to claim preclusion); *Amie v. Amie*, 106 Nev. 541, 542, 796 P.2d 233, 234 (1990) (“The right to bring an independent action for equitable relief is not necessarily barred by res judicata.”). However, NRCP 60 only bars application of claim preclusion to the extent that it provides relief from a final judgment. And here, Breslaw has not demonstrated that her request for NRCP 60 relief in the letter of recommendation case prevented her from including the false light claim (which arose based on comments made following the letter of recommendation case) in the August 2025 action.⁴ Accordingly, we conclude that her case does not fall within the inequity exception under § 26(1)(d) of the Restatement (Second) of Judgments because applying claim preclusion here does not “create such inequities in the context of a statutory scheme as a whole that a second action to correct the inequity may be called for” Restatement (Second) of Judgments § 26(1)(d) cmt. e (Am. Law Inst. 1982), *see also Mendenhall*, 133 Nev. at 623, 403 P.3d at 372.

Because the three factors identified in *Weddell* are met and no exception to claim preclusion applies, we conclude that the false light claim

⁴Further, we note that during the proceedings below, Breslaw did not produce any documentation concerning her NRCP 60(d)(1) false light motion, and instead relied solely on her pleadings, moving papers, and arguments from the present action at the hearing. *See Carson Ready Mix, Inc. v. First Nat’l Bank*, 97 Nev. 474, 476, 635 P.2d 276, 277 (1981) (stating appellant has the responsibility to make an adequate appellate record); *cf. Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 603, 172 P.3d 131, 135 (2007) (observing that “[w]hen an appellant fails to include necessary documentation in the record, we necessarily presume that the missing portion supports the district court’s decision”).

brought in the current action is barred by the doctrine of claim preclusion and the district court properly granted the motion to dismiss. *Weddell*, 131 Nev. at 235, 350 P.3d at 81.

Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁵



Bulla, C.J.



Gibbons, J.



Westbrook, J.

cc: Naylor & Braster
Lisa Breslaw
Hon. Mary Kay Holthus, District Judge
Eighth District Court Clerk

⁵Insofar as Breslaw raises arguments that are not specifically addressed in this order, we have considered the same and conclude they do not present a basis for relief. Further, the district court did not abuse its discretion by denying Breslaw's motion for reconsideration, which raised the same issues before the district court that it had already resolved and which we affirm on appeal. *See Engelson v. Dignity Health*, 139 Nev. 578, 589, 542 P.3d 430, 441 (Ct. App. 2023) (stating that this court reviews the denial of a motion for reconsideration for an abuse of discretion).