

**United States Court of Appeals**  
**For the Eighth Circuit**

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No. 20-1871

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Mike K. Strong

*Plaintiff - Appellant*

v.

Caliber Home Loans, Inc.; U.S. Bank Trust, N.A., as Trustee for LSF9 Master  
Participation Trust; Kozeny & McCubbin, L.C., Kerry Feld, Successor Trustee

*Defendants - Appellees*

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Appeal from United States District Court  
for the District of Nebraska - Omaha

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Submitted: March 15, 2021  
Filed: March 24, 2021  
[Unpublished]

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Before SHEPHERD, MELLOY, and KOBES, Circuit Judges.

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PER CURIAM.

Mike Strong appeals the district court's<sup>1</sup> dismissal of his diversity action. He argues that the district court erred in dismissing his claims for breach of contract and slander of title under Nebraska law. Upon careful de novo review, see Greenman v. Jessen, 787 F.3d 882, 887 (8th Cir. 2015) (standard of review), we affirm.

We agree with the district court that Strong's breach-of-contract claim was barred by res judicata under Nebraska law, as the claim accrued at the time of the alleged breach, and could have been litigated in his prior diversity action. See C.H. Robinson Worldwide, Inc. v. Lobrano, 695 F.3d 758, 764 (8th Cir. 2012) (federal diversity judgment is given same claim-preclusive effect that state courts would give to state court judgment); Weyh v. Gottsch, 929 N.W.2d 40, 52 (Neb. 2019) (contract cause of action accrues at time of breach); Fetherkile v. Fetherkile, 907 N.W.2d 275, 286 (Neb. 2018) (elements of res judicata under Nebraska law; res judicata applies to matters which might have been litigated in prior action). Assuming Strong's slander-of-title claim was not barred by res judicata--as the foreclosure sale of part of the property at issue was not judicially confirmed until 2019--we agree with the district court that Strong failed to state a claim. See Wilson v. Fieldgrove, 787 N.W.2d 707, 711 (Neb. 2010) (slander of title claim requires false and malicious statement, and filing notice of valid claim is not false or malicious).

The judgment is affirmed. See 8th Cir. R. 47B.

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<sup>1</sup>The Honorable Brian C. Buescher, United States District Judge for the District of Nebraska.