

United States Court of Appeals
For the Eighth Circuit

No. 24-2532

Joseph R. Warner

Plaintiff - Appellant

v.

Barbara J. Warner

Defendant - Appellee

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

Submitted: January 22, 2025

Filed: January 27, 2025

[Unpublished]

Before LOKEN, KELLY, and ERICKSON, Circuit Judges.

PER CURIAM.

Joseph Warner appeals the district court's¹ dismissal of his diversity action based on res judicata. Upon careful de novo review, see Laase v. Cnty. of Isanti, 638 F.3d 853, 856 (8th Cir. 2011) (standard of review), we affirm.

We agree with the district court that Warner's action was barred by res judicata, as he raised the same claims he had raised in a prior action under a different theory of recovery. See Fetherkile v. Fetherkile, 907 N.W.2d 275, 286 (Neb. 2018) (Nebraska claim preclusion requirements); Hill v. AMMC, Inc., 915 N.W.2d 29, 35 (Neb. 2018) (time-bar dismissal is judgment on the merits); see also Poe v. John Deere Co., 695 F.2d 1103, 1105 (8th Cir. 1982) (litigant cannot attempt to relitigate the same claim under a different theory of recovery).

Accordingly, the dismissal is affirmed, see 8th Cir. R. 47B, and Warner's motion for summary reversal is denied.

¹The Honorable Robert F. Rossiter, Jr., Chief Judge, United States District Court for the District of Nebraska.