STATE OF MINNESOTA
IN COURT OF APPEALS
A24-1634

Barnabas A. Yohannes,
Appellant,

vs.

Minnesota IT Services,
Respondent.

Filed June 2, 2025
Affirmed
Johnson, Judge

Ramsey County District Court
File No. 62-CV-24-1705

Barnabas A. Yohannes, Minneapolis, Minnesota (*pro se* appellant)

Keith Ellison, Attorney General, Ian Taylor Jr., Assistant Attorney General, St. Paul, Minnesota (for respondent)

Considered and decided by Schmidt, Presiding Judge; Johnson, Judge; and Larkin, Judge.

NONPRECEDENTIAL OPINION

JOHNSON, Judge

The district court dismissed appellant's third lawsuit against his former employer. We conclude that the district court did not err by dismissing appellant's claims of employment discrimination and retaliation based on the doctrine of *res judicata*. We also

conclude that the district court did not err by dismissing appellant's defamation claim for failure to state a claim upon which relief can be granted. Therefore, we affirm.

FACTS

Barnabas A. Yohannes was employed by Minnesota IT Services (MNIT), an executive-branch agency of the state, from December 2006 to December 2016 and again from February 2018 to August 2022, when his employment was involuntarily terminated.

Yohannes has sued MNIT three times. He first sued MNIT in March 2021, while he still was employed there, to challenge, among other things, MNIT's decision to promote another employee instead of Yohannes. He commenced that lawsuit in the United States District Court for the District of Minnesota. He asserted claims of discrimination and harassment based on race, color, and national origin, as well as a claim of retaliation, in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-2000e-17 (2018). MNIT moved to dismiss Yohannes's complaint. In August 2021, the federal district court granted MNIT's motion with respect to Yohannes's claims of retaliation and discrimination and harassment based on color, and the court denied the motion with respect to the remaining claims of discrimination based on race and national origin. *Yohannes v. Minnesota IT Servs.*, No. 21-CV-0620 (PJS/KMM), 2021 WL 3513827, *3-5 (D. Minn. Aug. 10, 2021) (*Yohannes I*). In October 2022, after Yohannes's employment was terminated, he voluntarily dismissed, with prejudice, his remaining claims of discrimination based on race and national origin.

Yohannes sued MNIT a second time in June 2023, again in federal district court. His complaint realleged the same facts that had been alleged in his first lawsuit and, in

addition, alleged new facts concerning the termination of his employment. He initially asserted claims of, among other things, discrimination and harassment based on race, religion, color, and national origin, as well as a claim of retaliation, in violation of Title VII; discrimination based on age in violation of the Age Discrimination in Employment Act of 1967, as amended (ADEA), 29 U.S.C. §§ 621-634 (2018); discrimination based on race, religion, color, and national origin in violation of the Minnesota Human Rights Act (MHRA), Minn. Stat. §§ 363A.01-.50 (2024); retaliation in violation of the Minnesota Whistleblower Act (MWA), Minn. Stat. § 181.932 (2024); and defamation. He later filed an amended complaint in which he withdrew his MHRA and MWA claims.

MNIT moved to dismiss Yohannes's second lawsuit on the ground that his claims were barred by the doctrine of *res judicata*. In March 2024, the federal district court granted MNIT's motion with respect to Yohannes's failure-to-promote claims, which had been the subject of his complaint in his first lawsuit, and also granted the motion with respect to his wrongful-termination claims, which arose "out of the same nucleus of operative facts . . . and thus could have, and should have, been raised in the first suit." *Yohannes v. Minnesota IT Servs.*, No. 23-CV-1875 (DSD/DTS), 2024 WL 1076613, *2-4 (D. Minn. Mar. 12, 2024) (*Yohannes II*) (quotation omitted). But the federal district court denied MNIT's motion with respect to Yohannes's defamation claim, reasoning that "the facts giving rise to that claim appear to have occurred after Mr. Yohannes dismissed his first lawsuit and involve new acts on the part of MNIT that are separate and distinct from the conduct at issue in the first lawsuit." *Id.* at *3. The federal district court declined

to exercise supplemental jurisdiction over Yohannes's state-law defamation claim, which it dismissed without prejudice. *Id.* at *3-4; *see also* 28 U.S.C. § 1367(c)(3) (2018).

Yohannes commenced this action approximately two weeks later, in March 2024. The factual allegations in his complaint in this case are essentially identical to the factual allegations in his second lawsuit. His complaint specifically identifies four legal theories of relief: discrimination under the federal Equal Pay Act, 29 U.S.C. § 206(a) (2018), discrimination under the MHRA, retaliation under the MWA, and defamation.

In May 2024, MNIT moved to dismiss Yohannes's complaint pursuant to rule 12.02(e) of the rules of civil procedure. The district court granted the motion. The district court reasoned that all of Yohannes's claims are barred by the doctrine of *res judicata*. With respect to the defamation claim, the district court reasoned in the alternative that Yohannes's complaint does not state a claim upon which relief can be granted. Yohannes appeals.

DECISION

Yohannes argues that the district court erred by granting MNIT's motion to dismiss. A district court may grant a motion to dismiss if a complaint "fail[s] to state a claim upon which relief can be granted." Minn. R. Civ. P. 12.02(e). "A claim is sufficient against a motion to dismiss for failure to state a claim if it is possible on any evidence which might be produced, consistent with the pleader's theory, to grant the relief demanded." *Walsh v. U.S. Bank, N.A.*, 851 N.W.2d 598, 603 (Minn. 2014). In considering a motion to dismiss pursuant to rule 12.02(e), a district court must "consider only the facts alleged in the complaint, accepting those facts as true and must construe all reasonable

inferences in favor of the nonmoving party." *Finn v. Alliance Bank*, 860 N.W.2d 638, 653 (Minn. 2015) (quotation omitted). This court applies a *de novo* standard of review to a district court's grant of a motion to dismiss. *Walsh*, 851 N.W.2d at 606.

I. *Res Judicata*

Yohannes argues that the district court erred by dismissing his state-law claims—discrimination under the MHRA, retaliation under the MWA, and defamation—on *res judicata* grounds.

The doctrine of *res judicata*, also known as claim preclusion, prevents a party from asserting a claim after the conclusion of a prior action if "(1) the earlier claim involved the same set of factual circumstances; (2) the earlier claim involved the same parties or their privies; (3) there was a final judgment on the merits; (4) the estopped party had a full and fair opportunity to litigate the matter." *Hauschildt v. Beckingham*, 686 N.W.2d 829, 840 (Minn. 2004). The doctrine of *res judicata* bars a subsequent lawsuit only if all four requirements are satisfied. *Id.* The bar applies both to claims that were "actually litigated" in the previous action and to claims that "could have been litigated." *Brown-Wilbert, Inc. v. Copeland Buhl & Co.*, 732 N.W.2d 209, 220 (Minn. 2007). This court applies a *de novo* standard of review to a district court's determination that the requirements of the *res judicata* doctrine are satisfied. *Schober v. Commissioner of Revenue*, 853 N.W.2d 102, 111 (Minn. 2013).

Yohannes contends that the first, third, and fourth requirements of *res judicata* are not satisfied. We will separately apply the requirements of *res judicata* to Yohannes's claims of employment discrimination and retaliation and to his defamation claim.

A. Employment Discrimination and Retaliation

The first requirement of *res judicata* is that "the earlier claim involved the same set of factual circumstances." *Hauschildt*, 686 N.W.2d at 840. In the *res judicata* context, a "claim or cause of action" is understood to mean "a group of operative facts giving rise to one or more bases for suing." *Id.* (quotation omitted). An earlier claim and a present claim are the same if "the same evidence will sustain both actions." *Id.* at 840-41 (quotation omitted). Accordingly, "a plaintiff may not split his cause of action and bring successive suits involving the same set of factual circumstances." *Id.* at 840 (quotation omitted). In addition, a prior claim and a present claim are not different if the plaintiff "simply restated the claim from the first suit under a different theory." *Ward v. El Rancho Manana, Inc.*, 945 N.W.2d 439, 447 (Minn. App. 2020), *rev. denied* (Minn. Sept. 9, 2020).

In his complaint in this case, Yohannes alleged the same facts that he alleged in his amended complaint in his second lawsuit. His state-law statutory claims in this case are the same for purposes of *res judicata* as the federal statutory claims that he asserted in his second lawsuit. It makes no difference that Yohannes has "restated" those claims "under a different theory." *See Ward*, 945 N.W.2d at 447. Thus, the first requirement of *res judicata* is satisfied.

The third requirement of *res judicata* is that "there was a final judgment on the merits." *Hauschildt*, 686 N.W.2d at 840. In Yohannes's second lawsuit, the federal district court dismissed his employment discrimination and retaliation claims "with prejudice." *Yohannes II*, 2024 WL 1076613, at *3-4. The federal district court dismissed those claims because they were barred by the doctrine of *res judicata*. *Id.* at *3. A

dismissal in a prior case on *res judicata* grounds is considered a dismissal "on the merits" for *res judicata* purposes in a subsequent case. *See VanDeWalle v. Albion Nat'l Bank*, 500 N.W.2d 566, 572 (Neb. 1993) ("a determination that claims are barred by *res judicata* is likewise a final judgment on the merits"). Thus, the third requirement of *res judicata* is satisfied.

The fourth requirement of *res judicata* is that "the estopped party had a full and fair opportunity to litigate the matter." *Hauschildt*, 686 N.W.2d at 840. This requirement "focuses on whether there were significant procedural limitations in the prior proceeding, whether the party had the incentive to litigate fully the issue, or whether effective litigation was limited by the nature or relationship of the parties." *State v. Joseph*, 636 N.W.2d 322, 328 (Minn. 2001) (quotation omitted). Yohannes's ability to pursue his employment discrimination and retaliation claims in his second lawsuit was not limited for any of the reasons identified in *Joseph*. The claims failed because the federal district court granted MNIT's motion to dismiss them on *res judicata* grounds, and that conclusion was based, in part, on the determination that Yohannes had a full and fair opportunity to litigate them in his first lawsuit. *See Yohannes II*, 2024 WL 1076613, at *2-3. Thus, the fourth requirement of *res judicata* is satisfied.

Therefore, the district court did not err by dismissing Yohannes's employment discrimination and retaliation claims on *res judicata* grounds.

B. Defamation Claim

The analysis is different with respect to Yohannes's defamation claim, which the federal district court dismissed "without prejudice" after declining to exercise

supplemental jurisdiction over it. *Yohannes II*, 2024 WL 1076613, at *3-4. For that reason, there was not "a final judgment on the merits" of the defamation claim. *See Larsen v. Cross*, No. A19-0067, 2019 WL 5543931, at *2 (Minn. App. Oct. 28, 2019) (concluding that there was no "final judgment on the merits" because prior petition was dismissed without prejudice); *see also* Minn. R. Civ. App. P. 136.01, subd. 1(c) (nonprecedential opinions are "not binding authority" but "may be cited as persuasive authority"); *Herington v. City of Wichita*, 500 P.3d 1168, 1180-81 (Kan. 2021) (concluding that there was no "final judgment on the merits" because federal district court declined to exercise supplemental jurisdiction over state-law claim in prior action and dismissed that claim without prejudice). For the same reason, Yohannes did not have "a full and fair opportunity to litigate" the defamation claim. *See Breaker v. Bemidji State Univ.*, 899 N.W.2d 515, 520-24 (Minn. App. 2017) (concluding that plaintiff did not have "full and fair opportunity to litigate" claim that would have been barred by sovereign immunity in prior action). Thus, the third and fourth requirements of *res judicata* are not satisfied. Therefore, the district court erred by dismissing Yohannes's defamation claim on *res judicata* grounds.

II. Merits of Defamation Claim

MNIT argues that the district court's dismissal of Yohannes's defamation claim may be affirmed on an alternative ground, namely, the district court's alternative reasoning that Yohannes's complaint does not state a defamation claim on which relief can be granted. Specifically, MNIT argues that Yohannes "failed to identify any specific

defamatory statements communicated to prospective employers" and failed to "identify the speaker of the allegedly defamatory statements."

To prevail on a defamation claim, a plaintiff must prove that

> (1) the defamatory statement was communicated to someone other than the plaintiff; (2) the statement is false; (3) the statement tends to harm the plaintiff's reputation and to lower the plaintiff in the estimation of the community; and (4) the recipient of the false statement reasonably understands it to refer to a specific individual.

Larson v. Gannett Co., 940 N.W.2d 120, 130 (Minn. 2020) (quotation omitted). "Minnesota law has generally required that in defamation suits, the defamatory matter be set out verbatim." *Moreno v. Crookston Times Printing Co.*, 610 N.W.2d 321, 326 (Minn. 2000) (citing *American Book Co. v. Kingdom Pub. Co.*, 73 N.W. 1089, 1090 (Minn. 1898)).

Accordingly, a plaintiff sufficiently pleads a defamation claim if he or she quotes "the allegedly defamatory language" and identifies the person responsible for speaking or publishing it. *DeRosa v. McKenzie*, 936 N.W.2d 342, 346 (Minn. 2019); *see also Hunter v. Coughlin*, No. A20-1137, 2021 WL 1962905, at *4-6 (Minn. App. May 17, 2021) (concluding that complaint stated claims by alleging that defendant stated to specific person that plaintiff was charged with crime of sexual assault against family member and by alleging that defendants stated to banker that plaintiff had committed financial crimes and crimes of dishonesty); *Swartwood v. Fodness*, No. A18-0649, 2018 WL 6596281, at *2 (Minn. App. Dec 17, 2018) (concluding that complaint stated claim by alleging that

defendant told small group of persons that plaintiff was "a sexual predator who acted inappropriately around young women"); *see also* Minn. R. Civ. App. P. 136.01, subd. 1(c).

On the other hand, a plaintiff does *not* sufficiently plead a defamation claim if he or she alleges that unidentified persons made statements that are described only generally. In *Schibursky v. International Bus. Mach. Corp.*, 820 F. Supp. 1169 (D. Minn. 1993), the plaintiff alleged that "duly authorized agents" of the defendant "falsely and maliciously alleged improper conduct on behalf of plaintiff" and "made false statements concerning plaintiff and her work, including but not limited to, the allegations that plaintiff was hard to work with, rude, insubordinate, and did not follow company procedures." *Id.* at 1181. The court dismissed the complaint for failure to state a defamation claim because the plaintiff "failed to allege who made the allegedly libelous statements, to whom they were made, and where," and, in addition, failed to give the defendant notice of "what defamatory remarks" allegedly were made. *Id.* (quotation omitted); *see also Hunter*, 2021 WL 1962905, at *3-4 (concluding that complaint did not state claims by making allegations that "lacked adequate specificity").

In this case, Yohannes's complaint refers to two allegedly defamatory statements but makes only general allegations. He alleges in paragraph 189 of his complaint that he received an offer of employment from the state department of human services but the offer was withdrawn after "they asked MNIT about my background" and "they told them . . . they fired me for using the state-owned laptop to watch explicit pornographic movies." Similarly, he alleges in paragraph 190 of his complaint that he received an offer of employment from a consulting firm but "they also withdrew their offer after checking my

references from MNIT." At the hearing on MNIT's motion to dismiss, the district court asked Yohannes, "What are the specific things that the state employer has said to prospective employers that you are saying is defamatory?" Yohannes responded that there was a "pattern" of job offers being withdrawn after his references were checked and that he was "assuming" that one or more persons associated with MNIT told the potential employers that he was addicted to pornography and had used a state computer to access pornographic websites.

The district court determined that Yohannes did not state a defamation claim because he "failed to identify any specific defamatory statements communicated to prospective employers." We agree. Yohannes's complaint lacks the specificity of the allegations that have been deemed sufficient to state a defamation claim. *See DeRosa*, 936 N.W.2d at 346; *Hunter*, 2021 WL 1962905, at *4-6; *Swartwood*, 2018 WL 6596281, at *2. He does not quote or specifically describe the allegedly defamatory statements and does not identify any particular person who is responsible for making the statements. *See DeRosa*, 936 N.W.2d at 346. His complaint is similar to the complaint in *Schibursky* in that he failed to allege "what defamatory remarks" were made and "failed to allege who made the allegedly libelous statements, to whom they were made, and where." 820 F. Supp. at 1181. In short, Yohannes's allegations lack the specificity necessary for a defamation claim.

Thus, the district court did not err by concluding that Yohannes's complaint did not state a claim of defamation upon which relief can be granted.

Affirmed.