

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-1578**

Timothy Soboleski, Individually and as Personal Representative of the Estate of Frank
Soboleski,
Appellant,

Patrick Frank Soboleski, et al.,
Defendants,

vs.

Barbara Louise Cassibo, Personal Representative,
Respondent,

Estate of Renee Soboleski,
Defendant.

**Filed September 13, 2021
Affirmed
Reilly, Judge**

Koochiching County District Court
File No. 36-CV-18-216

Steven A. Nelson, Steven A. Nelson, LLC, International Falls, Minnesota (for appellant)

Steven M. Shermoen, International Falls, Minnesota (for respondent)

Considered and decided by Bratvold, Presiding Judge; Johnson, Judge; and Reilly,
Judge.

NONPRECEDENTIAL OPINION

REILLY, Judge

Appellant-personal-representative challenges a district court order granting summary judgment for respondent-personal-representative. Appellant argues the district court (1) erred by determining the civil claim was statutorily time-barred; (2) erred by determining the doctrines of res judicata and collateral estoppel also barred the civil claim; and (3) abused its discretion by denying a motion to amend the complaint. We affirm.

FACTS

This action arises out of a lawsuit by appellant-plaintiff, the estate and heirs of husband, Frank Soboleski (Frank Soboleski's estate), against respondent-defendant, the estate and heirs of wife, Renee Soboleski (Renee Soboleski's estate). Frank and Renee Soboleski are deceased and the parties here are their respective personal representatives and heirs. The facts have been fully set out in an earlier appeal. *See In re Estate of Soboleski*, No. A19-1343, 2020 WL 1910182, at *1 (Minn. App. Apr. 20, 2020).

Frank and Renee Soboleski first married in 1973. Each spouse had children from their previous marriages, but they did not have any children together. At the time of their marriage, Frank Soboleski owned property on Gold Shores. Frank and Renee Soboleski divorced in 1997. Frank and Renee Soboleski reconciled about ten years later and remarried, after signing a prenuptial agreement. They bought a house on Park Avenue in International Falls and added Renee Soboleski's three children to the deed. Frank and Renee Soboleski later refinanced the mortgage on this house, which was signed by Frank Soboleski, Renee Soboleski, and Renee Soboleski's children.

Frank and Renee Soboleski executed their wills in 2012. Renee Soboleski's will provided that the Park Avenue house would eventually be sold and the proceeds distributed among her children. The Gold Shores property would be sold at the time of Frank Soboleski's death and the proceeds used to pay off the Park Avenue mortgage balance, with the remaining proceeds to be divided among Frank Soboleski's children. Renee Soboleski later revised her will to provide that upon Frank Soboleski's death, Gold Shores should be sold and the proceeds divided among her children. Frank and Renee Soboleski both died in May 2017. Following Frank Soboleski's death, the Gold Shores property was sold and the proceeds were placed in trust. The Park Avenue house was sold and the proceeds were distributed in one-quarter shares to Frank Soboleski's estate and to each of Renee Soboleski's three children.

In August 2017, Frank Soboleski's son and personal representative, appellant Timothy Soboleski, objected to the probate of Renee Soboleski's will. Frank Soboleski's estate also served a civil complaint in December 2017, asserting breach of contract. Renee Soboleski's estate filed three claims against Frank Soboleski's estate. The estates settled some of these claims and the rest of the outstanding issues proceeded to trial. In December 2018, the district court found that Renee Soboleski's will amendment was a valid codicil which did not violate the terms of the prenuptial agreement, and ordered her estate to be distributed according to that codicil. Frank Soboleski's estate appealed. We determined that Renee Soboleski did not breach the prenuptial agreement by changing her will and affirmed the district court. *Id.* at *3-5.

Following our decision, Renee Soboleski's estate moved for summary judgment on the outstanding breach-of-contract claim. Frank Soboleski's estate sought leave to amend the complaint. The district court granted the summary-judgment motion, determining the complaint was time-barred under Minn. Stat. § 524.3-801(a) (2020). The district court also determined the claim was barred by the doctrines of res judicata and collateral estoppel. The district court denied Frank Soboleski's estate's motion to amend on the ground that it could not withstand summary judgment.

Frank Soboleski's estate now appeals.

DECISION

Summary judgment is proper if “there is no genuine issue as to any material fact and the movant is entitled to judgment as a matter of law.” Minn. R. Civ. P. 56.01. “A genuine issue of material fact exists if a rational trier of fact, considering the record as a whole, could find for the nonmoving party.” *Leeco, Inc. v. Cornerstone Bank*, 898 N.W.2d 653, 657 (Minn. App. 2017), *rev. denied* (Minn. Sept. 27, 2017). We review a grant of summary judgment de novo, viewing “the evidence in the light most favorable to the nonmoving party and resolv[ing] all doubts and factual inferences against the moving part[y].” *Maethner v. Someplace Safe, Inc.*, 929 N.W.2d 868, 874 (Minn. 2019) (quotation omitted). To survive summary judgment, the opposing party must “extract specific, admissible facts from the record that demonstrate that a genuine issue of material fact exists.” *Beecroft v. Deutsche Bank Nat’l Tr. Co.*, 798 N.W.2d 78, 82 (Minn. App. 2011) (quotation omitted), *rev. denied* (Minn. July 19, 2011).

I. The district court did not err by determining the breach-of-contract claim was time-barred under Minn. Stat. § 524.3-801 (2020).

Frank Soboleski's estate challenges the district court's determination that the breach-of-contract claim is time-barred under Minn. Stat. § 524.3-801. This argument presents a question of statutory interpretation, which we review de novo. *Staab v. Diocese of St. Cloud*, 853 N.W.2d 713, 716 (Minn. 2014).

"Creditors that the personal representative has no knowledge of may be given notice by the general probate court's publication under Minn. Stat. § 524.3-801." *In re Estate of Hadaway*, 668 N.W.2d 920, 923 (Minn. App. 2003). "Effectively, this is a form of official notice to all potential creditors that they must assert their claim within four months of the notice or be barred from recovery." *Id.* (citing Minn. Stat. § 524.3-803(a)(1) (2020)). Specifically,

all claims as defined in section 524.1-201(8), against a decedent's estate which arose before the death of the decedent . . . are barred against the estate . . . unless presented as follows: . . . within four months after the date of the court administrator's notice to creditors which is subsequently published pursuant to section 524.3-801.

Minn. Stat. § 524.3-803(a)(1). Section 524.1-201(8) defines "[c]laims" as "liabilities of the decedent whether arising in contract or otherwise and liabilities of the estate which arise after the death of the decedent." Minn. Stat. § 524.1-201(8) (2020).

There is no evidence in the record that Frank Soboleski's estate filed a notice of claim against Renee Soboleski's estate as required by statute.

Frank Soboleski's estate argued to the district court that it filed an objection to probate in August 2017. The estate provided no evidence for this assertion and instead

cited the objection-to-probate document filed in August 2017. The estate abandoned this argument on appeal and claimed instead that the objection to probate served as a notice of claim against Renee Soboleski's estate. We will not consider arguments made for the first time on appeal. *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988). Moreover, this argument is not persuasive. The objection-to-probate document alleged that Renee Soboleski violated the prenuptial agreement by amending her will. It did not say that Frank Soboleski's estate was seeking a claim against Renee Soboleski's estate.

Frank Soboleski's estate did not file a notice of claim, separate from the objection to probate. Thus, Frank Soboleski's estate failed to comply with the statutory notice requirements. As a result, the district court did not err by determining the claim is barred by Minn. Stat. § 524.3-801 and by granting summary judgment for Renee Soboleski's estate.

II. The district court properly applied the doctrines of res judicata and collateral estoppel.

We recognize that we need not reach the argument that the doctrines of res judicata and collateral estoppel bar further claims from Frank Soboleski's estate. That said, we address this argument in the interests of justice and determine that the district court properly applied these doctrines.

The district court determined that Frank Soboleski's estate's claim was statutorily time-barred, as discussed above, and further barred by the doctrines of res judicata and collateral estoppel. Whether collateral estoppel applies is a mixed question of law and fact, which we review de novo. *Hauschildt v. Beckingham*, 686 N.W.2d 829, 837 (Minn. 2004).

“Once the reviewing court determines that collateral estoppel is available, the decision to apply collateral estoppel is left to the district court’s discretion.” *In re Estate of Perrin*, 796 N.W.2d 175, 179 (Minn. App. 2011) (quotation omitted). “We do not rigidly apply collateral estoppel, and we will not apply collateral estoppel if its application would work an injustice on the party to be estopped.” *State v. Lemmer*, 736 N.W.2d 650, 659 (Minn. 2007). Similarly, regarding res judicata, “we also recognize that res judicata is an equitable doctrine that must be applied in light of the facts of each individual case.” *R.W. v. T.F.*, 528 N.W.2d 869, 872 n.3 (Minn. 1995).

Res judicata bars relitigation of a claim when: “(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; and (4) the estopped party had a full and fair opportunity to litigate the matter.” *Rucker v. Schmidt*, 794 N.W.2d 114, 117 (Minn. 2001). “The common test for determining whether an action is precluded is to determine whether the same evidence will sustain both actions.” *Mach v. Wells Concrete Prods. Co.*, 866 N.W.2d 921, 925 (Minn. 2015) (quotation omitted). “Res judicata not only applies to all claims actually litigated, but to all claims that could have been litigated in the earlier action.” *Hauschildt*, 686 N.W.2d at 840.

Collateral estoppel, or issue preclusion, is a related doctrine and applies to issues that have already been litigated. *Id.* at 837. Collateral estoppel bars relitigation of an issue when: (1) the issue is identical to one in a prior adjudication; (2) the adjudication was final on the merits; (3) the estopped party was a party to or in privity with a party in the prior

adjudication; and (4) the estopped party must have had a full and fair opportunity to be heard on the issue. *Id.*

The district court determined that the doctrines of res judicata and collateral estoppel apply, and we agree. The claims asserted in the complaint arise from the same action and involve the same set of factual circumstances. Two claims involve the same set of factual circumstances when the same evidence will sustain both actions. *McMenomy v. Ryden*, 148 N.W.2d 804, 807 (Minn. 1967). The breach-of-contract claim relies on the parties' prenuptial agreement and on Renee Soboleski's will, the same evidence previously presented to the district court. *See In re Estate of Soboleski*, 2020 WL 1910182, at *3-5. The action also involves the same parties or their privies. The district court issued a judgment on the merits and determined that Renee Soboleski did not breach the prenuptial agreement by amending her will. The district court determined that Renee Soboleski's will was valid and we affirmed this decision on appeal. *See id.* There has been a final adjudication on the merits of the dispute, and the questions of fact related to the will and the prenuptial agreement have already been resolved. *See id.* Lastly, Frank Soboleski's estate had a full and fair opportunity to be heard on matters related to the property, the prenuptial agreement, and the will.

For a court to find that res judicata or collateral estoppel applies, all the elements must be met. *Hauschildt*, 686 N.W.2d at 840. We determine that all the elements of these doctrines have been satisfied here. There is no justification for relitigating these issues again. *Id.* at 837 ("Fundamental to both doctrines is that a right, question or fact distinctly put in issue and directly determined by a court of competent jurisdiction cannot be disputed

in a subsequent suit between the same parties or their privies.” (quotations omitted)). Because the elements of res judicata and collateral estoppel have been satisfied, the district court properly concluded these doctrines bar further litigation.

III. The district court did not abuse its discretion by denying the motion to amend.

Frank Soboleski’s estate challenges the district court’s decision to deny its motion to amend the complaint. The estate argues it should have been permitted to assert that the parties had a long-standing agreement to care for their respective heirs upon their deaths. “Generally, the decision to permit or deny amendments to pleadings is within the discretion of the district court and will not be reversed absent a clear abuse of discretion.” *Johns v. Harborage I, Ltd.*, 664 N.W.2d 291, 295 (Minn. 2003). Moreover, “[a] motion to amend a complaint is properly denied when the additional claim could not survive summary judgment.” *Bebo v. Delander*, 632 N.W.2d 732, 740 (Minn. App. 2001), *rev. denied* (Minn. Oct. 16, 2001).

Frank Soboleski’s estate argues the breach-of-contract claim is not based on the prenuptial agreement itself and rests instead on an oral agreement to equitably provide for each other’s heirs. The plain language of the complaint belies this argument. The breach-of-contract claim explicitly references the prenuptial agreement, alleging that Renee Soboleski “unilaterally breached the Prenuptial Agreement” by amending her will. Frank Soboleski’s estate sought to file an amended complaint asserting that “Renee Soboleski unilaterally breached agreement between the parties to equitably provide for their heirs by drafting and executing an amendment” to her will. Again, the claim rests on the parties’ prenuptial agreement and on Renee Soboleski’s will.

The district court denied the motion because the proposed amendment “merely seek[s] to provide additional support for or to resurrect claims previously raised in the probate court, or to raise claims which could have been brought in the prior litigation before the probate court.” The district court concluded the proposed amendment could not withstand summary judgment because it would face the same statutory time bar and “the same res judicata and/or collateral estoppel bar as the claims in their current Complaint.” Because we determine the district court did not err by granting summary judgment in Renee Soboleski’s estate’s favor, we conclude the district court did not abuse its discretion by denying the motion to amend.

Affirmed.