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1 **IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO**

2 **BOB ROSTRO,**

3 Plaintiff-Appellant,

4 v.

No. A-1-CA-36955

5 **EDDY FEDERAL CREDIT UNION,**

6 Defendant-Appellee.

7 **APPEAL FROM THE DISTRICT COURT OF EDDY COUNTY**

8 **Lee A. Kirksey, District Judge**

9 C. Barry Crutchfield

10 Lovington, NM

11 for Appellant

12 Jackson Lewis P.C.

13 Danny W. Jarrett

14 Albuquerque, NM

15 for Appellee

16 **MEMORANDUM OPINION**

17 **HANISEE, Judge.**

18 {1} Plaintiff has appealed from an order dismissing his claims with prejudice. We

19 previously issued a notice of proposed summary disposition in which we proposed to

1 affirm. Plaintiff has filed a memorandum in opposition, which we have duly
2 considered. Because we remain unpersuaded, we affirm.

3 {2} Plaintiff continues to argue that the federal court’s dismissal of his prior
4 complaint with prejudice should not have been given res judicata effect, because it
5 was not a determination on the merits. [MIO 2-3] However, it is well established that
6 “a dismissal with prejudice is an adjudication on the merits for purposes of res
7 judicata.” *Hope Cmty. Ditch Ass’n v. N.M. State Eng’r*, 2005-NMCA-002, ¶ 10, 136
8 N.M. 761, 105 P.3d 314; *see Kirby v. Guardian Life Ins. Co. of Am.*,
9 2010-NMSC-014, ¶ 66, 148 N.M. 106, 231 P.3d 87 (“[W]hen a claim has been
10 dismissed with prejudice . . . a final valid judgment on the merits[] will be presumed
11 so as to bar a subsequent suit against the same defendant by the same plaintiff based
12 on the same transaction.”); *State of N.M. Uninsured Empl’rs’ Fund v. Gallegos*,
13 2017-NMCA-044, ¶ 34, 395 P.3d 533 (observing that a prior dismissal with prejudice
14 functions as an adjudication on the merits and has res judicata effect); *Pielhau v. State*
15 *Farm Mut. Auto. Ins. Co.*, 2013-NMCA-112, ¶ 10, 314 P.3d 698 (“A dismissal with
16 prejudice is an adjudication on the merits for purposes of res judicata.” (alteration,
17 internal quotation marks, and citation omitted)).

1 {3} We understand Plaintiff to contend that we should arrive at a different result in
2 this case because the federal district court did not consider the validity of his claims.
3 [MIO 2-3] However, this is not a requirement. “Res judicata bars not only claims that
4 were raised in the prior proceeding, but also claims that could have been raised.” *City*
5 *of Sunland Park v. Macias*, 2003-NMCA-098, ¶ 18, 134 N.M. 216, 75 P.3d 816; *see*
6 *Potter v. Pierce*, 2015-NMSC-002, ¶ 1, 342 P.3d 54 (“Res judicata is a judicially
7 created doctrine designed to promote efficiency and finality by giving a litigant only
8 one full and fair opportunity to litigate a claim and by *precluding any later claim that*
9 *could have, and should have, been brought as part of the earlier proceeding.*”
10 (emphasis added)).

11 {4} Plaintiff also reiterates his assertion that he did not have the opportunity to
12 litigate the underlying claims in the course of the prior proceedings. [MIO 3] *See*
13 *Potter*, 2015-NMSC-002, ¶¶ 1, 10 (observing that in addition to the enumerated
14 elements, “res judicata will preclude a . . . claim only if the claim reasonably could
15 and should have been brought during the earlier proceeding” and this “rests on the
16 prior opportunity to litigate” the claim in the course of the prior proceedings).
17 However, Plaintiff provides no further explanation for his position. As we previously
18 observed, it appears that all of the claims are related, and they could and should have

1 been brought in the prior action. [CN 4] *See Williams v. Mann*, 2017-NMCA-012,
2 ¶ 13, 388 P.3d 295 (citing federal statutory law establishing that in civil actions over
3 which the federal district courts have original jurisdiction, they also have
4 supplemental jurisdiction over all other claims that form part of the same case or
5 controversy); *see also Deflon v. Sawyers*, 2006-NMSC-025, ¶ 11, 139 N.M. 637, 137
6 P.3d 577 (discussing the federal courts’ supplemental jurisdiction over state law
7 claims asserted in conjunction with federal claims). As a result, we remain
8 unpersuaded.

9 {5} Accordingly, for the reasons stated in our notice of proposed summary
10 disposition and above, we affirm.

11 {6} **IT IS SO ORDERED.**

12 _____
13 **J. MILES HANISEE, Judge**

14 **WE CONCUR:**

15 _____
16 **M. MONICA ZAMORA, Judge**

17 _____
18 **EMIL J. KIEHNE, Judge**