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

2       **KERRY KRUSKAL,**

3             Plaintiff-Appellant,

4       **v.**

**No. A-1-CA-36718**

5       **PETER SPRUNT,**

6             Defendant-Appellee.

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

8       **Sarah C. Backus, District Judge**

9       Kerry Kruskal

10      Arroyo Seco, NM

11      Pro Se Appellant

12      Walcott, Henry & Winston, P.C.

13      Charles V. Henry

14      Santa Fe, NM

15      for Appellee

16                                       **MEMORANDUM OPINION**

17      **HANISEE, Judge.**

1 {1} Plaintiff is appealing from a district court order granting Defendant’s motion  
2 to dismiss. We issued a calendar notice proposing to affirm. Plaintiff has responded  
3 with a memorandum in opposition. Not persuaded, we affirm the district court.

4 {2} Because the court considered matters outside the pleadings, the motion to  
5 dismiss is considered one for summary judgment. *Knippel v. N. Commc’ns, Inc.*,  
6 1982-NMCA-009, ¶ 2, 97 N.M. 401, 640 P.2d 507, *overruled on other grounds by*  
7 *Schultz ex rel. Schultz v. Pojoaque Tribal Police Dep’t.*, 2013-NMSC-013, ¶ 37 n.2  
8 \_\_\_\_ P.3d \_\_\_\_\_. “Summary judgment is appropriate where there are no genuine issues  
9 of material fact and the movant is entitled to judgment as a matter of law.” *Bank of*  
10 *N.Y. Mellon v. Lopes*, 2014-NMCA-097, ¶ 6, 336 P.3d 443 (internal quotation marks  
11 and citation omitted). “We review issues of law de novo.” *Id.*

12 {3} The district court determined that Plaintiff’s lawsuit is barred by res judicata.  
13 [RP 96-98] In the context of claim preclusion, res judicata “precludes a subsequent  
14 action involving the same claim or cause of action.” *Brannock v. Lotus Fund*, 2016-  
15 NMCA-030, ¶ 21, 367 P.3d 888 (internal quotation marks and citation omitted). The  
16 elements of a claim preclusion-based res judicata claim are: “(1) identity of parties or  
17 privies, (2) identity of capacity or character of persons for or against whom the claim  
18 is made, (3) the same cause of action, and (4) the same subject matter.” *Id.* (internal  
19 quotation marks and citation omitted) As set forth in detail by the district court’s order

1 [RP 96-98], all elements of res judicata are satisfied in this case. Contrary to  
2 Plaintiff's assertion, issues relating to the "stored water right" were previously  
3 litigated. [RP 96] We also conclude that the district court's chronology of Plaintiff's  
4 repeated frivolous filings supports sanctions, including limits on further litigation. *See*  
5 *In re Jade G.*, 2001-NMCA-058, ¶¶ 27-29, 130 N.M. 687, 30 P.3d 376 (noting that  
6 "a court's inherent authority extends to all conduct before that court and encompasses  
7 orders intended and reasonably designed to regulate the court's docket, promote  
8 judicial efficiency, and deter frivolous filings.")

9 {4} For the reasons set forth above, we affirm.

10 {5} **IT IS SO ORDERED.**

11 \_\_\_\_\_  
12 **J. MILES HANISEE, Judge**

13 **WE CONCUR:**

14 \_\_\_\_\_  
15 **LINDA M. VANZI, Chief Judge**

16 \_\_\_\_\_  
17 **HENRY M. BOHNHOFF, Judge**