

AUG 25 2014

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

ROBERT SUMPTER,

Appellant,

v.

**YELLOWSTONE MOUNTAIN CLUB,
LLC; NEW CH YMC ACQUISITION
LLC; CROSS HARBOR CAPITOL
PARTNERS,**

Appellees.

No. 13-35277

D.C. No. 2:11-cv-00066-SEH

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Sam E. Haddon, District Judge, Presiding

Argued and Submitted August 4, 2014
Pasadena, California

Before: **KOZINSKI**, Chief Judge, **PAEZ** and **BERZON**, Circuit Judges.

Sumpter argues that the settlement underlying the plan isn't fair and equitable; that the plan's treatment of Class 4 claims violates 11 U.S.C. § 1123(a)(4); that the plan was proposed in bad faith; and that the plan contains an

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

impermissible exculpation clause. But the plan at issue in Sumpter’s first appeal was identical to the one he now challenges, so he could have raised all of those arguments at that time. Accordingly, Sumpter “waived [his] right” to raise his current objections by failing to raise them in his prior appeal. See In re Cellular 101, Inc., 539 F.3d 1150, 1155 (9th Cir. 2008); see also Munoz v. Cnty. of Imperial, 667 F.2d 811, 817 (9th Cir. 1982).

AFFIRMED.