

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 29 2021

FOR THE NINTH CIRCUIT

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

BIG SKY CIVIL TR,

No. 20-35897

Plaintiff-Appellant,

D.C. No. 2:20-cv-00050-BMM

v.

MEMORANDUM*

BANK OF AMERICA, NA,

Defendant-Appellee.

Appeal from the United States District Court
for the District of Montana
Brian M. Morris, District Judge, Presiding

Submitted July 19, 2021**

Before: SCHROEDER, SILVERMAN, and MURGUIA, Circuit Judges.

Big Sky Civil TR appeals pro se from the district court's judgment dismissing its action alleging federal and state law claims. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal on the basis of res judicata. *Mpoyo v. Litton Electro-Optical Sys.*, 430 F.3d 985, 987 (9th Cir. 2005).

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

We affirm.

The district court properly dismissed Big Sky Civil TR's action as barred by the doctrine of res judicata because David Steven Braun, who is in privity with Big Sky Civil TR, previously brought a federal action alleging nearly identical claims against the same defendant that resulted in a final judgment on the merits. *See Mpoyo*, 430 F.3d at 987-88 (elements of federal res judicata; claims are identical if they arise from the same transactional nucleus of facts); *see also Taylor v. Sturgell*, 553 U.S. 880, 894-95 (2008) (discussing requirements for non-party preclusion). Contrary to Big Sky Civil TR's contention, the district court properly applied federal preclusion law because the prior judgment was rendered by a federal court exercising federal-question jurisdiction. *See Media Rights Techs., Inc. v. Microsoft Corp.*, 922 F.3d 1014, 1021 n.6 (9th Cir. 2019) ("[If] the decision to be given preclusive effect was rendered by a federal court exercising federal-question jurisdiction, federal common law determines whether preclusion applies.").

Big Sky Civil TR's motion for oral argument (Docket Entry No. 4) is denied.

AFFIRMED.