

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 3 2024

FOR THE NINTH CIRCUIT

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

PRABHJOT KAUR KANG,

No. 23-35286

Plaintiff-Appellant,

D.C. No. 3:22-cv-05861-RJB

v.

MEMORANDUM*

WESTERN GOVERNORS UNIVERSITY,

Defendant-Appellee.

Appeal from the United States District Court
for the Western District of Washington
Robert J. Bryan, District Judge, Presiding

Submitted May 29, 2024**

Before: FRIEDLAND, BENNETT, and SANCHEZ, Circuit Judges.

Prabhjot Kaur Kang appeals pro se from the district court’s summary judgment in her diversity action alleging breach of contract against her former university. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *City of Martinez v. Texaco Trading & Transp., Inc.*, 353 F.3d 758, 761 (9th Cir.

* 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).

2003). We affirm.

The district court properly granted summary judgment on the basis of res judicata because Kang had previously brought an action against defendant regarding the same causes of action and subject matter that resulted in a final judgment on the merits. *See Holcombe v. Hosmer*, 477 F.3d 1094, 1097 (9th Cir. 2007) (federal court must apply state law regarding res judicata to a prior state court judgment); *Ofuasia v. Smurr*, 392 P.3d 1148, 1154 (Wash. Ct. App. 2017) (setting forth elements of res judicata under Washington law); *Karlberg v. Otten*, 280 P.3d 1123, 1130 (Wash. Ct. App. 2012) (“[R]es judicata prohibits the relitigation of claims and issues that were litigated, or could have been litigated, in a prior action[.]”).

We do not consider arguments and allegations raised for the first time on appeal, or documents not presented to the district court. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009); *United States v. Elias*, 921 F.2d 870, 874 (9th Cir. 1990).

Appellee’s request for fees, set forth in the answering brief, is denied without prejudice to the filing of a separate, noticed motion. *See Fed. R. App. P.* 38.

All other pending motions and requests are denied.

AFFIRMED.

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Plaintiff-Appellant,

v.

WESTERN GOVERNORS UNIVERSITY,

Defendant-Appellee.

No. 23-35286

D.C. No. 3:22-cv-05861-RJB
Western District of Washington,
Tacoma

ORDER

Before: FRIEDLAND, BENNETT, and SANCHEZ, Circuit Judges.

The panel has voted to deny the petition for panel rehearing.

The full court has been advised of the petition for rehearing en banc and no judge has requested a vote on whether to rehear the matter en banc. *See Fed. R. App. P. 35.*

Kang's petition for panel rehearing and petition for rehearing en banc (Docket Entry No. 20) are denied.

No further filings will be entertained in this closed case.

Exhibit A