

United States Court of Appeals
For the Eighth Circuit

No. 20-2295

Thurman Fuller; Grace Fuller; Patricia Dockery; Elizabeth Donnell; Louise Sawyer; George L. Fuller; Clara R. Fuller

Plaintiffs - Appellants

v.

Lion Oil Trading & Transportation, LLC

Defendant - Appellee

Appeal from United States District Court
for the Western District of Arkansas - El Dorado

Submitted: April 13, 2021

Filed: May 18, 2021

[Unpublished]

Before GRUENDER, MELLOY, and KELLY, Circuit Judges.

PER CURIAM.

Plaintiffs appeal the district court's¹ adverse grant of summary judgment in their diversity fraud action. Upon de novo review, see Smith v. Toyota Motor Corp., 964 F.3d 725, 728 (8th Cir. 2020) (standard of review), we affirm. We agree with the district court that plaintiffs' claims are time-barred, as the claims accrued when the allegedly fraudulent transactions occurred in 1993 and 1994, even if plaintiffs did not know about them, see Ark. Code Ann. § 16-56-105 (3-year statute of limitations); Hampton v. Taylor, 887 S.W.2d 535, 539 (Ark. 1994) (statute of limitations begins to run when wrong occurs, not when it is discovered); and plaintiffs failed to show that defendant engaged in fraudulent concealment warranting tolling of the statute of limitations, as the allegedly forged documents were publicly recorded, see Paine v. Jefferson Nat'l Life Ins. Co., 594 F.3d 989, 992 (8th Cir. 2010) (tolling for fraudulent concealment requires positive act of fraud that is actively concealed and is not discoverable by reasonable diligence); Hughes v. McCann, 678 S.W.2d 784, 786 (Ark. Ct. App. 1984) (filing for public record and concealment are mutually exclusive). We find no abuse of discretion in the district court's denial of plaintiffs' motion for class certification, its determination that the case was ripe for summary judgment, or its denial of plaintiffs' motions for extensions. See Luiken v. Domino's Pizza, LLC, 705 F.3d 370, 372 (8th Cir. 2013); Greater St. Louis Constr. Laborers Welfare Fund v. Park-Mark, Inc., 700 F.3d 1130, 1134 (8th Cir. 2012); Huggins v. FedEx Ground Package Sys., Inc., 592 F.3d 853, 856-57 (8th Cir. 2010).

The judgment is affirmed. See 8th Cir. R. 47B. We deny George Fuller's motion to amend his appendix, and grant appellee's motions to strike.

¹The Honorable Susan O. Hickey, Chief Judge, United States District Court for the Western District of Arkansas, adopting the report and recommendations of the Honorable Barry A. Bryant, United States Magistrate Judge for the Western District of Arkansas.