



5. Almost seven (7) years later, on May 6, 2013, the plaintiffs moved to reopen this matter. The plaintiffs then filed the instant motion for default judgment on June 28, 2013.

6. The defendants have responded to the motion for default judgment, and have moved for summary judgment. The defendants dispute that service was proper and argue that summary judgment should be granted as plaintiffs' claims are barred by the statute of limitations, laches, judicial estoppel, collateral estoppel, and res judicata.

7. The Court agrees with the defendants' arguments. Given the fact that the plaintiffs' bankruptcy case was terminated on May 9, 2006, and the fact that the plaintiffs failed to assert, or disclose, their claims against the defendants in their bankruptcy pleadings, the plaintiffs' claims are barred. See Baker v. Baker, 951 F.2d 922 (8<sup>th</sup> Cir. 1991) ("Laches precludes a lawsuit when a plaintiff is guilty of unreasonable and unexcused delay in asserting his claim, resulting in prejudice to the defendant.")

IT IS, THEREFORE, ORDERED that

\* that **plaintiffs' Renewed Motion for Default Judgment (doc. 16)** is **denied;**

\* and **defendant's Motion for Summary Judgment (doc. 21)** is **granted.**

**IT IS SO ORDERED.**

/s/ Jimm Larry Hendren  
**JIMM LARRY HENDREN**  
**UNITED STATES DISTRICT JUDGE**