

FILED

MAR 12 2018

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOHN MARTS; MICHELLE MARTS,

Plaintiffs-Appellants,

v.

U.S. BANK, as Trustee, Successor in  
Interest to Bank of America, National  
Association as Successor by Merger to  
LaSalle Bank National Association as  
Trustee for Certificate Holders of Bear  
Stearns Asset Backed Securities I Asset-  
Backed Certificates Series 2007-HE6;  
MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS, INC., a  
Delaware Corporation,

Defendants-Appellees.

No. 16-35240

D.C. No. 2:15-cv-00198-RAJ

MEMORANDUM\*

Appeal from the United States District Court  
for the Western District of Washington  
Richard A. Jones, District Judge, Presiding

Submitted February 8, 2018\*\*  
Seattle, Washington

---

\*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).

Before: FISHER, GOULD and PAEZ, Circuit Judges.

The Marts appeal the district court's summary judgment in favor of U.S. Bank and Mortgage Electronic Registration Systems ("MERS") in their Washington Consumer Protection Act ("WCPA") action. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a district court's grant of summary judgment. *See Lopez v. Smith*, 203 F.3d 1122, 1131 (9th Cir. 2000). We may affirm on any ground supported by the record. *See UMG Recordings, Inc. v. Augusto*, 628 F.3d 1175, 1178 (9th Cir. 2011). We affirm.

The WCPA has a four-year statute of limitations. *See Wash. Rev. Code* § 19.86.120 ("Any action to enforce a claim for damages under [the WCPA] shall be forever barred unless commenced within four years after the cause of action accrues."). The Marts' cause of action accrued more than four years before they filed their complaint. None of the arguments advanced by the Marts to avoid the statute of limitations is persuasive. Therefore, their claims are time-barred.

Furthermore, even if the Marts' claims were not time-barred, the Marts did not raise a genuine issue of material fact as to whether their injuries were caused by the alleged deceptive acts of U.S. Bank and MERS. *See Hangman Ridge Training Stables, Inc. v. Safeco Title Ins. Co.*, 719 P.2d 531, 533 (Wash. 1986) (holding that a plaintiff must demonstrate the alleged injuries were caused by the

deceptive acts of the defendant to make out a claim under the WCPA); *see also Indoor Billboard/Wash., Inc. v. Integra Telecom of Wash., Inc.*, 170 P.3d 10, 22 (Wash. 2007) (“A plaintiff must establish that, but for the defendant’s unfair or deceptive practice, the plaintiff would not have suffered an injury.”).

**AFFIRMED.**