

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 29 2020

FOR THE NINTH CIRCUIT

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

SYLVIA J. MANOR,

Plaintiff-Appellant,

v.

UNITED OF OMAHA LIFE INSURANCE
COMPANY,

Defendant-Appellee.

No. 19-17346

D.C. No. 3:19-cv-02360-RS

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Richard Seeborg, District Judge, Presiding

Submitted October 26, 2020**

Before: McKEOWN, RAWLINSON, and FRIEDLAND, Circuit Judges.

Sylvia J. Manor appeals pro se from the district court's judgment dismissing her diversity action alleging breach of contract and fraud claims. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal on the basis of the applicable statute of limitations. *Huynh v. Chase Manhattan Bank*, 465 F.3d

* 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).

992, 996 (9th Cir. 2006). We affirm.

The district court properly dismissed Manor's action as time-barred because Manor failed to file her action within the applicable statutes of limitations. *See* Cal. Civ. Proc. Code § 337(a) (four-year statute of limitations for breach of written contract cause of action), § 338(d) (three-year statute of limitations for fraud cause of action); *Fox v. Ethicon Endo-Surgery, Inc.*, 110 P.3d 914, 917 (Cal. 2005) (under the delayed discovery rule, cause of action accrues and statute of limitations begins to run "when the plaintiff has reason to suspect an injury and some wrongful cause, unless the plaintiff pleads and proves that a reasonable investigation at that time would not have revealed a factual basis for [the] cause of action").

We do not consider matters not specifically and distinctly raised and argued in the opening brief. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

AFFIRMED.