NOT FOR PUBLICATION

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U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ROBERT L. CHASTAIN; CHASTAIN RESEARCH GROUP, INC., Plaintiffs - Appellants, v. SUSAN L. HOWARD, formerly known as Susan L. Chastain; HARRIET MAJOR, Defendants - Appellees.	No. 24-3520 D.C. No. 5:22-cv-06747-PCP MEMORANDUM[*]

Appeal from the United States District Court
for the Northern District of California
P. Casey Pitts, District Judge, Presiding

Submitted June 6, 2025[**]
San Francisco, California

Before: CALLAHAN and LEE, Circuit Judges, and RASH, District Judge.[***]

Robert Chastain and Chastain Research Group, Inc. (CRG) (collectively, "Appellants") appeal from the district court's dismissal as time-barred their claims

[*] 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).

[***] The Honorable Scott H. Rash, United States District Judge for the District of Arizona, sitting by designation.

of fraud, breach of the implied covenant of good faith and fair dealing, misrepresentation, and negligence against Chastain's former wife, Susan Howard, and her mother, Harriet Major (collectively, "Appellees"), as well as the court's denial of their motion for attorneys' fees. Because the parties are familiar with the facts, we do not recount them here. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

1. The district court did not err in concluding the discovery rule did not delay accrual of Appellants' claims and those claims were thus time-barred by the applicable statutes of limitations. We review de novo a district court's dismissal of claims based on the statute of limitations. *Mills v. City of Covina*, 921 F.3d 1161, 1165 (9th Cir. 2019). We may uphold a dismissal on statute of limitations grounds only if, accepting all well-pled facts in the complaint as true, "it appears beyond doubt that the plaintiff can prove no set of facts that would establish the timeliness of the claim." *Supermail Cargo, Inc. v. United States*, 68 F.3d 1204, 1207 (9th Cir. 1995). "When the accrual of the statute of limitations in part turns on what a reasonable person should have known, we review this mixed question of law and fact for clear error." *Kingman Reef Atoll Invs., L.L.C. v. United States*, 541 F.3d 1189, 1195 (9th Cir. 2008) (citation and internal quotation marks omitted).

Although a statute of limitations generally begins to run on the date of injury, California's delayed discovery rule provides a cause of action does not

accrue "until the plaintiff discovers, or has reason to discover, the cause of action." *Fox v. Ethicon Endo-Surgery, Inc.*, 35 Cal. 4th 797, 807 (2005). A "plaintiff whose complaint shows on its face that his claim would be barred without the benefit of the discovery rule must specifically plead facts to show (1) the time and manner of discovery *and* (2) the inability to have made earlier discovery despite reasonable diligence." *Id.* at 808 (citation omitted). When a plaintiff "reasonably should have discovered facts for purposes of the accrual of a cause of action or application of the delayed discovery rule is generally a question of fact, properly decided as a matter of law only if the evidence . . . can support only one reasonable conclusion." *People ex rel. Allstate Ins. Co. v. Discovery Radiology Physicians, P.C.*, 94 Cal. App. 5th 521, 552 (2023).

Appellants concede they did not file suit against Appellees until after the applicable statutes of limitations had run but argue the delayed discovery rule nevertheless excuses the late filing. Appellants assert their complaint clearly alleged they were unaware of Appellees' deception as to the CRG ownership percentages until 2021, when they received discovery responses from Howard in connection with the family-law litigation. Appellants further assert it was "impossible" for Chastain "to have known [of] or . . . discovered" Howard's fraud and deception before 2021 because Appellees had concealed and withheld the correct version of the 1998 meeting minutes. Finally, Appellants assert the issue of

when Chastain should reasonably have discovered the fraudulent conduct should have been presented to a jury rather than decided by the district court.

Taking as true Appellants' allegation Chastain did not discover Appellees' allegedly fraudulent conduct until November 2021, Appellants fail to show their causes of action *could not* have been discovered earlier despite reasonable diligence. The district court correctly concluded Appellants' amended complaint indicates Chastain should have been suspicious of Howard's fraudulent conduct with respect to CRG's ownership percentages as early as 2008 based on the discrepancy between his recollection of the percentages agreed upon at the 1998 board meeting and Howard's 2008 assertion and production of falsified meeting minutes indicating she, not Chastain, was the majority owner. *See Hamilton Materials, Inc. v. Dow Chem. Corp.*, 494 F.3d 1203, 1206–07 (9th Cir. 2007) (explaining the relevant question is whether a "reasonable person . . . would have been on notice of a potential misrepresentation"). Appellants did not allege Chastain even attempted to investigate at that time. *See Bedolla v. Logan & Frazer*, 52 Cal. App. 3d 118, 131 (1975) (duty to investigate arises "once the plaintiff becomes aware of facts which would make a reasonably prudent person suspicious").

Further, with respect to Appellants' claim Howard misled Chastain into believing he was not CRG's majority owner in October 2008, Appellants, through

their own pleadings, conceded the trust's former attorney had knowledge and possession of stock certificates reflecting Chastain's majority ownership in August 2008. As such, the attorney's knowledge can be imputed to Chastain. *See People v. Amerson*, 151 Cal. App. 3d 165, 169 (1984). And, the fact Chastain's attorney had the stock certificates in her possession indicates the true ownership percentages could reasonably have been discovered through investigation. *Nguyen v. W. Digit. Corp.*, 229 Cal. App. 4th 1522, 1552–53 (2014) (stating a plaintiff is charged with knowledge that could reasonably be discovered through investigation). Accordingly, the "uncontroverted evidence irrefutably demonstrates" Appellants "should have discovered the fraudulent conduct" by late 2008, and the district court correctly determined this issue as a matter of law. *Mosesian v. Peat, Marwick, Mitchell & Co.*, 727 F.2d 873, 877 (9th Cir. 1984) (quoting *Kramas v. Sec. Gas & Oil Inc.*, 672 F.2d 766, 770 (9th Cir. 1982).

2. The district court did not err in dismissing Appellants' amended complaint without leave to amend. We review a district court's denial of leave to amend for an abuse of discretion. *Platt Elec. Supply, Inc. v. EOFF Elec., Inc.*, 522 F.3d 1049, 1054 (9th Cir. 2008). "[W]here [a] plaintiff has previously been granted leave to amend and has subsequently failed to add the requisite particularity to its claims, the district court's discretion to deny leave to amend is

particularly broad." *Nguyen v. Endologix, Inc.*, 962 F.3d 405, 420 (9th Cir. 2020) (first alteration in original).

Although the district court granted Appellants leave to amend their original complaint to allege additional facts explaining why Chastain could not have discovered Appellees' misconduct earlier than November 2021 and why the trust attorney's 2008 knowledge and possession of stock certificates reflecting the true CRG ownership percentages should not be imputed to Chastain, Appellants' amended complaint failed to cure these deficiencies. And, in requesting leave to file a second amended complaint, Appellants did not identify any additional allegations impacting application of the discovery rule. *See Kendall v. Visa U.S.A., Inc.*, 518 F.3d 1042, 1052 (9th Cir. 2008) (affirming denial of leave to amend where amended complaint "contained the same defects" as the original complaint and "Appellants fail[ed] to state what additional facts they would plead if given leave to amend"). In fact, at the hearing on Appellees' second motion to dismiss, Appellants' attorney confirmed no such allegations exist. On this record, the district court did not abuse its discretion in dismissing Appellants' amended complaint without further opportunity to amend.

3. The district court did not err in ruling Howard's anti-SLAPP motion was not frivolous and denying Appellants' motion for attorneys' fees under Cal. Civ. Proc. Code § 425.16(c)(1). We review a district court's denial of a motion for

attorneys' fees for an abuse of discretion. *See Graham-Sult v. Clainos*, 756 F.3d 724, 751 (9th Cir. 2014). California's anti-SLAPP statute permits courts to dismiss at an early stage meritless cases "aimed at chilling expression through costly, time-consuming litigation." *Metabolife Int'l, Inc. v. Wornick*, 264 F.3d 832, 839 (9th Cir. 2001); *see* Cal. Civ. Proc. Code § 425.16(a)–(b). Relevant here, if a court finds an anti-SLAPP motion is frivolous or is solely intended to cause unnecessary delay, the court shall award costs and reasonable attorneys' fees to a plaintiff prevailing on the motion. § 425.16(c)(1).

The district court's determination that Howard's unsuccessful anti-SLAPP motion was not frivolous or malicious is supported by the record. Appellants' complaint indicated it was based, at least in part, on Howard's discovery responses in the 2021 family-law proceeding, and Howard's motion to strike the complaint asserted as much, arguing the complaint sought to chill her right to litigate in family court. Although the court denied Howard's motion to strike, it concluded the motion was not frivolous, particularly in light of the court's conclusion, on two occasions, the complaint Howard sought to strike "was itself without merit." As such, we cannot say the court abused its discretion in denying Appellants' motion for fees.

The district court's dismissal of Appellants' amended complaint without further leave to amend and denial of Appellants' motion for attorneys' fees is

AFFIRMED.[1]

[1] We deny Appellees' motion for sanctions against Appellants. Although Appellants' appeal is without merit, we do not find it frivolous or submitted for an improper purpose. We also deny Appellants' motion for sanctions against Appellees for fees and costs incurred in opposing Appellees' motion for sanctions.