

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 10-1583

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James Helenthal,

Appellant,

v.

Charles E. Polk, Jr.; Lathrop  
& Gage, LC,

Appellees.

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Appeal from the United States  
District Court for the Eastern  
District of Missouri.

[UNPUBLISHED]

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Submitted: September 21, 2010  
Filed: December 16, 2010

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Before BYE, BOWMAN, and COLLOTON, Circuit Judges.

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PER CURIAM.

In this diversity matter, James Helenthal appeals following the district court's<sup>1</sup> dismissal of his final claim. We find no basis, and Helenthal has provided none, for reversing the dismissal of Count 1 as time-barred, see Dubinsky v. Mermart, LLC, 595 F.3d 812, 815 (8th Cir. 2010) (de novo review of dismissal for failure to state claim); Sloan v. Motorists Mut. Ins. Co., 368 F.3d 853, 854 (8th Cir. 2004) (reviewing de novo district court's application of state law in diversity case); or for reversing the

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<sup>1</sup>The Honorable Carol E. Jackson, United States District Judge for the Eastern District of Missouri.

dismissal of Count 4 for lack of subject matter jurisdiction, see Riehm v. Engelking, 538 F.3d 952, 964 (8th Cir. 2008) (standard of review). Helenthal has waived his remaining claims against appellees. See Pritchett v. Cottrell, Inc., 512 F.3d 1057, 1059 n.2 (8th Cir. 2008). Accordingly, we affirm. See 8th Cir. R. 47B. We also grant Lathrop & Gage, LC's motion for sanctions of attorneys' fees and double costs under Federal Rule of Appellate Procedure 38 for the reasons stated in the motion.

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