

United States Court of Appeals  
For the Eighth Circuit

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No. 12-2452

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BIS Investment, LLC

*Plaintiff - Appellant*

v.

Bank of America, N.A.

*Defendant - Appellee*

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

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Submitted: February 21, 2013

Filed: February 22, 2013

[Unpublished]

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Before LOKEN, MELLOY, and BENTON, Circuit Judges.

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PER CURIAM.

In this diversity action, BIS Investment, LLC (BIS) sued Bank of America (BOA) for negligence and other claims arising out of allegedly unauthorized

withdrawals of BIS funds held in accounts at BOA in 2005. The district court<sup>1</sup> granted BOA's motion to dismiss the action as time-barred under the applicable statute of limitations, and BIS appeals.

For the reasons that the district court explained in its thorough opinion, we agree with the court that the action is time-barred. See Strawn v. Mo. State Bd. of Educ., 210 F.3d 954, 957 (8th Cir. 2000) (standard of review). In particular, we note, as the court explained, that it was entitled to take judicial notice of BIS's prior dismissed suits in deciding the Rule 12(b)(6) motion. See Levy v. Ohl, 477 F.3d 988, 991 (8th Cir. 2007). The complaint, together with the public records that the court was entitled to recognize, amply demonstrated that the instant action was filed well outside the expiration of Missouri's five-year statute of limitations, and that BIS was not entitled to avail itself of Missouri's savings statute. Accordingly, we affirm the judgment of the district court. See 8th Cir. R. 47B.

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<sup>1</sup>The Honorable Catherine D. Perry, Chief Judge, United States District Court for the Eastern District of Missouri.