

United States Court of Appeals  
For the Eighth Circuit

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No. 22-1335

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John Louis Atkins

*Plaintiff - Appellant*

v.

Adam James Atkins

*Defendant - Appellee*

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Appeal from United States District Court  
for the District of North Dakota - Eastern

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Submitted: March 28, 2023

Filed: March 31, 2023

[Unpublished]

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Before GRUENDER, STRAS, and KOBES, Circuit Judges.

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PER CURIAM.

John Atkins appeals the loss of a tort case against his son. Having carefully reviewed the record and the parties' arguments on appeal, we conclude that the

magistrate judge,<sup>1</sup> sitting by consent of the parties, did not commit reversible error when it dismissed two claims before trial and refused to grant a new trial or amend its judgment on others. *See Shell Oil Co. v. Ross*, 356 S.W.3d 924, 927, 929–30 (Tex. 2011) (explaining when the fraudulent-concealment doctrine and discovery rule extend a statute of limitations under Texas law); *Tex. Bank & Tr. Co. v. Moore*, 595 S.W.2d 502, 508 (Tex. 1980) (stating that being a family member “do[es] not, standing alone, establish a fiduciary relationship”). We also conclude that the challenge to the court’s denial of post-judgment relief is not properly before us because Atkins failed to appeal it. *See United States v. Mannis*, 186 F.3d 863, 864 (8th Cir. 1999) (per curiam); Fed. R. App. P. 3(c)(1)(B). We accordingly affirm the judgment.<sup>2</sup> *See* 8th Cir. R. 47B.

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<sup>1</sup>The Honorable Alice R. Senechal, United States Magistrate Judge for the District of North Dakota, to whom the case was referred for final disposition by consent of the parties pursuant to 28 U.S.C. § 636(c).

<sup>2</sup>We grant the motion seeking to strike an outside-the-record letter, but otherwise deny the remaining motions.