

NEBRASKA SUPREME COURT

Chafin v. Wisconsin Province of the Society of Jesus and the Catholic Archdiocese of Omaha

Chafin v. Wisconsin Province of the Society of Jesus, 301 Neb. 94 (2018) · No. S-17-1059 · Decided September 21, 2018

SUMMARY

The Nebraska Supreme Court affirmed dismissal of Kathleen Chafin’s amended complaint against the Wisconsin Province of the Society of Jesus and the Catholic Archdiocese of Omaha. The court held that her claims were barred by the statute of limitations because allegations of fraudulent concealment were not pleaded with the particularity required to toll the limitations period.

CASE DETAILS

COURT	Nebraska Supreme Court
WRITING FOR THE COURT	Cassel, J.; Heavican, C.J.; Miller-Lerman, J.; Stacy, J.; Funke, J.; Papik, J.; Freudenberg, J.
JURISDICTION	Nebraska
DECIDED	September 21, 2018
DOCKET	S-17-1059
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Nebraska Supreme Court reviewed the Douglas County District Court's dismissal with prejudice of Chafin's amended complaint for failure to state a claim because the claims were barred by the statute of limitations.
STANDARD OF REVIEW	The court reviews an order granting a motion to dismiss de novo, accepting the complaint's allegations as true and drawing all reasonable inferences in favor of the nonmoving party.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Kathleen Chafin v. Wisconsin Province of the Society of Jesus, Catholic Archdiocese of Omaha

TOPICS

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QUESTIONS PRESENTED

1. Whether the amended complaint sufficiently pleaded fraudulent concealment to toll the statute of limitations.
2. Whether allegations of fraudulent concealment used to avoid a statute-of-limitations defense must be pleaded with particularity.
3. Whether the district court properly dismissed the amended complaint with prejudice.

HOLDINGS

1. Allegations of fraudulent concealment for tolling purposes must be pleaded with particularity.
2. The amended complaint did not sufficiently plead fraudulent concealment because it alleged only legal conclusions and did not state who concealed what, when, where, or how the concealment prevented discovery of the alleged misconduct.
3. Because Chafin did not sufficiently plead fraudulent concealment, the statute of limitations was not tolled and her claims were time barred.

KEY QUOTATIONS

“We now hold that allegations of fraudulent concealment for tolling purposes must be pleaded with particularity.” (301 Neb. at 100)

“In order to survive a motion to dismiss, a complaint alleging fraudulent concealment must plead with particularity how material facts were concealed to prevent the plaintiff from discovering the misconduct and how, through due diligence, the plaintiff failed to discover his or her injury.” (301 Neb. at 100)

“But all of these allegations are mere legal conclusions.” (301 Neb. at 101)

FACTUAL BACKGROUND

Chafin alleged that she gave birth to a son in 1969 and that the defendants arranged for the child to be adopted without her consent. She alleged that the defendants concealed the fraud until she reunited with her son in 2015. The court concluded that, at the time of the birth and adoption, Chafin knew that the defendants facilitated the adoption, that her child did not return to her, and that she had been injured.

PROCEDURAL HISTORY

Chafin sued the Wisconsin Province of the Society of Jesus and the Catholic Archdiocese of Omaha, alleging that they fraudulently adopted her newborn son without her consent and concealed the adoption for more than 40 years. The district court granted the defendants' motion to dismiss, concluding that the amended complaint did not plead facts sufficient to avoid the statute of limitations, and dismissed with prejudice. Chafin timely appealed, and the Nebraska Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- In re Interest of Nicole M., 287 Neb. 685, 844 N.W.2d 65 (2014)
- Carlson v. Allianz Versicherungs-AG, 287 Neb. 628, 844 N.W.2d 264 (2014)
- Burklund v. Fuehrer, 299 Neb. 949, 911 N.W.2d 843 (2018)
- Fitzgerald v. Community Redevelopment Corp., 283 Neb. 428, 811 N.W.2d 178 (2012)
- Andres v. McNeil Co., 270 Neb. 733, 707 N.W.2d 777 (2005)
- Alston v. Hormel Foods Corp., 273 Neb. 422, 730 N.W.2d 376 (2007)
- Kalkowski v. Nebraska Nat. Trails Museum Found., 20 Neb. App. 541, 826 N.W.2d 589 (2013)
- Lindner v. Kindig, 285 Neb. 386, 826 N.W.2d 868 (2013)
- Ichtertz v. Orthopaedic Specialists of Neb., 273 Neb. 466, 730 N.W.2d 798 (2007)
- Great Plains Trust Co. v. Union Pacific R. Co., 492 F.3d 986, 995 (8th Cir. 2007)
- DiLeo v. Ernst & Young, 901 F.2d 624 (7th Cir. 1990)

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