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Key Passage

14 wrongdoing until recently, meaning that the statute of limitations has not yet expired.

15

16 II. Fraudulent Concealment as a basis for tolling the Statute of Limitations

17 Fraudulent concealment is another doctrine that can toll the statute of limitations. Under 18 Idaho law, the statute of limitations may be tolled if a defendant actively conceals the existence 19 of a cause of action. See, e.g., **Doe v. Durtschi**, **110 Idaho 466**, 716 P.2d 1238 (1986). To establish

20 fraudulent concealment, a plaintiff must demonstrate that the defendant concealed the

Cases recommended for key passage (10)

Charette v. Emanual 1990 U.S. Dist. LEXIS 7117

Northern Dist. III. | 1990-06-12

Matching legal concepts:

Toll | Fraud | Conceal | Limitations Period | Demonstrate | Active Concealment | Securities Law Claim | Alleged Wrongful Conduct | Toll The Statute | Tolling Principle | Actual Discovery | Statute Of Limitations | Equitably Tolled | Federal Securities Law | Due Diligence | Federal Court

Outcome: Investor's allegation of fraudulent concealment by the attorney of his wrongdoing raised a genuine issue of fact to avoid summary judgment based on statutes of limitations in the investor's action for malpractice, fraud, and securities violations.

Relevant passage: Equitable tolling principles apply to federal securities law claims. Where a plaintiff can demonstrate that the defendant has fraudulently concealed his wrongdoing, the limitations period will be equitably tolled until the plaintiff knows or should have known of the alleged wrongful conduct. Federal courts will toll the statute of limitations in two circumstances. First, the statute will be tolled until the fraud is discovered even where the defendant does not conceal it, so long as the plaintiff demonstrates that he remained unaware of the fraud without any lack of due diligence on his part. Second, the limitations period will also be tolled where the plaintiff shows that the fraud went undiscovered because the defendant actively concealed the fraud. If the plaintiff successfully proves active concealment, the statute is tolled until the date of actual discovery.



11th Circuit - Court of Appeals | 2021-06-21

Matching legal concepts:

Conceal | Concealment Of Fact | Toll | Fraudulent Concealment | Toll The Statute | Statute Of Limitations | Fraudulent Means | Equitable Tolling | Potential Claim | Limitations Period | Rights | Discover

Outcome: District court erred in finding that 15 U.S.C.S. § 77m, the statute of limitations for §§ 12(a)(1), 15(a) claims under the Securities Act of 1933, 15 U.S.C.S. §§ 77l(a)(1), 77o(a), foreclosed equitable tolling; provision of a discovery rule for claims under other sections did not imply that equitable tolling was unavailable.

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Relevant passage: For fraudulent concealment to toll the statute of limitations, a plaintiff must show both successful concealment of the cause of action and fraudulent means to achieve that concealment. The defendant must have actively concealed facts such that the plaintiff remained ignorant of a potential claim, not merely ignorant of evidence. And, as with all grounds for equitable tolling, the plaintiff must show that he has pursued his rights diligently. When a limitations period is tolled because of fraudulent concealment of facts, the tolling ceases when those facts are, or should have been, discovered by the plaintiff.

Balog v. Center Art Gallery-Hawaii 745 F. Supp. 1556

U.S. Dist. Haw. | 1990-08-20

Motion type:

motion for judgment on the pleadings | Denied

Matching legal concepts:

Conceal | Toll | Doctrine Of Fraudulent Concealment | Discover | Application Of The Doctrine | Statute Of Limitations | Equitable Doctrine | Standard Life | Same Effect | Life Insurance | Federal Court | Wrongdoing | Rationale

Outcome: Art sellers' continued certification of authenticity of artwork served as explicit warranty of future performance, prevented art buyers from discovering the artwork was not authentic, and was sufficient to toll the applicable statute of limitations.

Relevant passage: See also, Beneficial Standard Life Insurance Co. v. Madariaga, 851 F.2d 271 (9th Cir. 1988) (equitable doctrine of fraudulent concealment as a tolling rationale arises when a defendant actively conceals its wrongdoing.) The application of the doctrine in the federal courts has the same effect -- the statute of limitations is tolled until the plaintiff discovers or reasonably should have discovered that he or she had a cause of action. Cunha v. Ward Foods, Inc., 501 F. Supp. 830 (D. Hawaii 1980).



U Younes v. Chalmers 1989 U.S. Dist. LEXIS 12111

Northern Dist. III. | 1989-09-29

Motion type:

motion to dismiss | Denied

Matching legal concepts:

Statute Of Limitations | Toll | Fraud | Conceal | Doctrine Of Equitable Tolling | Fraudulent Concealment | Tolling Doctrine | Securities Actions | Federal Security | Discover

Outcome: In complaint filed more than three years after his last stock purchase, investor adequately pled defendants' fraudulent concealment; thus, under equitable tolling doctrine, his securities fraud claims were not barred by three-year limitations period.

Relevant passage: A federal equitable tolling doctrine exists whereby statutes of limitations in federal securities actions may be tolled if a defendant affirmatively conceals the fraud from the plaintiff. In cases of fraudulent concealment, the statute of limitations is tolled until the plaintiff actually discovers the fraud.

Gomersall v. St. Luke's Reg'l Med. Ctr. 168 Idaho 308

Idaho Supreme Court | 2021-03-19

Matching legal concepts:

Notice Requirements | Toll | Idaho Tort Claims Act | Toll The Statute | Lack Ability | Ability To Comply | Statute Of Limitations | Age Of Majority | Six Years | Tolling Provision | Policy Reason | Short Notice | Court Noted | Child

Outcome: The district court did not err when it held that the six-year tolling period in Idaho Code Ann. § 5-230 did not violate a child's equal protection rights under the United States Constitution and the Idaho Constitution because § 5-230 applied to all minors and any type of action.

Relevant passage: The Gomersalls also cite to Doe v. Durtschi, 110 Idaho 466, 716 P.2d 1238 (1986), to support their argument that there are important policy reasons to toll the statute of limitations until a minor reaches the age of majority. In Durtschi, this Court held that the six-year tolling provision in Idaho Code section 5-230 applied to a 120-day notice requirement in the Idaho Tort Claims Act. Id. at 479, 716 P.2d at 1251. In reaching that decision, this Court noted that minors frequently lacked the ability to comply with short notice requirements.



FDIC v. Deloitte & Touche 834 F. Supp. 1129

Eastern Dist. Ark. | 1992-09-30

Motion type:

motion to dismiss | Partial

Matching legal concepts:

Conceal | Toll | Doctrine Of Fraudulent Concealment | Toll The Statute | Statute Of Limitations | Limitations Period | Due Diligence | Complain | Existence | Discovery

Outcome: In a professional malpractice action against an insolvent bank's accountants, the receiver was not entitled to bring a negligence claim on behalf of the creditors and depositors because they were not in privity with the accountants.

Relevant passage: Under the doctrine of fraudulent concealment, if a defendant conceals from the plaintiff the existence of a cause of action, the statute of limitations is tolled. To toll the statute, the plaintiff must allege in the complaint that: (1) the defendant concealed the conduct that constitutes the cause of action; (2) defendant's concealment prevented the plaintiff from discovering the cause of action within the limitations period, and (3) until discovery plaintiff exercised due diligence in trying to find out about the cause of action.



A Roker v. City of Memphis 2021 U.S. Dist. LEXIS 262669

Western Dist. Tenn. | 2021-10-13

Matching legal concepts:

Conceal | Fraudulent Concealment | Toll The Statute | Statute Of Limitations | Wrongful Conduct | Limitations Period | Defendant's Conduct | Diligence | Discover

Relevant passage: To toll the statute of limitations because of fraudulent concealment, a plaintiff must prove three elements: (1) that the defendant actively concealed its wrongful conduct from the plaintiff; (2) that concealment prevented the plaintiff from discovering the defendant's wrongdoing during the limitations period; and (3) the plaintiff exercised diligence in trying to uncover the defendant's conduct.

Cody Tex., L.P. v. BPL Exploration, Ltd. 513 S.W.3d 522

Tex. App. Ct., 4th Dist. (San Antonio) | 2016-12-14

Matching legal concepts:

Fraudulent Concealment | Statute Of Limitations | Toll | Doctrine Of Fraudulent Concealment | Discover | Equitable Estoppel Principle | Accrued Cause Of Action | Defense Of Limitations | Toll The Statute | Duty To Disclose | Avoid Liability | Fact Specific | Limitations Period | Reasonable Diligence | Affirmative Defense | Wrongdoing | Existence | Permit

Outcome: Neither the discovery rule nor fraudulent concealment deferred the accrual of breach of contract and fraud claims alleging violations of a preferential right to purchase provision because the seller gave notice, even if incomplete. Untimely filing under Tex. Civ. Prac. & Rem. Code Ann. §§ 16.004, 16.051 (2002) thus supported a bill of review.

Relevant passage: Fraudulent concealment is a fact-specific doctrine based upon the principles of equitable estoppel and acts to toll the statute of limitations after the cause of action accrues. Fraudulent concealment estops a defendant to rely on the statute of limitations as an affirmative defense when the defendant owes a duty to disclose but fraudulently conceals the existence of a cause of action. Thereby, the doctrine of fraudulent concealment acts to toll the running of the limitations period until the fraud is discovered or could have been discovered with reasonable diligence because a person cannot be permitted to avoid liability for his actions by deceitfully concealing wrongdoing until limitations has run.



Egerer v. Woodland Realty, Inc. 2007 U.S. Dist. LEXIS 83795

Western Dist. Mich. | 2007-11-13

Matching legal concepts:

Conceal | Fraudulent Concealment | Toll | Equitable Tolling | Doctrine Of Fraudulent Concealment | Statute Of Limitations | Burden Of Proof | Filing Deadline | Limitations Period | Plaintiff Claim | Misconduct | Due Diligence | Existence | Discovery | Permit

Outcome: Defendant title broker and real estate agency were entitled to summary judgment on claims brought under the Real Estate Settlement and Procedures Act (RESPA) of 1974, 12 U.S.C.S. § 2601 et seg., because a home seller had not filed within the statute of limitations, 12 U.S.C.S. § 2614, and they had not affirmatively influenced a home buyer.

Relevant passage: One persuasive way for a plaintiff's claim to merit equitable tolling is to prove fraudulent concealment. The United States Supreme Court has permitted equitable tolling in situations where the plaintiff was induced or tricked by his adversary's misconduct into allowing the filing deadline to pass. Under the doctrine of fraudulent concealment, if the defendant conceals from the plaintiff the existence of a cause of action, the statute of limitations may be equitably tolled. For the statute to be tolled, the plaintiff must allege that: (1) the defendant concealed the conduct that constitutes the cause of action; (2) defendant's concealment prevented plaintiff from discovering the cause of action within the limitations period; and (3) until discovery plaintiff exercised due diligence in trying to find out about the cause of action. The burden of proving fraudulent concealment is with the plaintiff.



Osolow v. First of Am. Bank-Golf Mill (In re Papa's Mkt. Cafe) 162 B.R. 519

Bankr. Northern Dist. III. | 1993-12-14

Motion type:

motion to dismiss | Denied

Matching legal concepts:

Statute Of Limitations | Conceal | Toll | Fraudulent Concealment | Inequitable Conduct | Tolling Provision | Equitable Tolling | Fraudulent Act | Bankruptcy Case | Valid Claim | Limitations Period | Federal Statute | Wrongdoer | Expiration | Existence | Permit

Outcome: Statute of limitations did not apply to agreed order approved by court, and such order was void if it failed to comply with notice requirements. The statute of limitations did apply to prevent an action to avoid payments made subsequent to the order.

Relevant passage: Statutes of limitations may be tolled by the inequitable conduct of one or more parties. The limitations period may be tolled when a defendant fraudulently conceals the existence of a valid claim from the plaintiff until after the statute has expired. This equitable tolling provision must be read into every federal statute. The need to thwart fraudulent concealment in bankruptcy cases is paramount to the need for finality afforded by statutes of limitations. Wrongdoers should not be permitted to conceal their fraudulent acts and then later use the statute of limitations to shield their conduct from prosecution.

Treatise recommendations for key passage (6)

13.20 Fraudulent Concealment of Cause of Action

NHPS: Personal Injury: Tort and Ins. Practice | new hampshire

Matching legal concepts:

Conceal | Statute Of Limitations | Fraudulent Concealment | Toll The Statute | Doctrine Of Fraudulent Concealment | Commence A Suit | Exception To The General Rule | Prescribed By Statute | Equitable Grounds | Sufficient Answer

Relevant passage: A second, well-established, exception to the general rule that ignorance of a cause of action does not toll the statute of limitations is the rule which obtains when a defendant fraudulently conceals a cause of action. The New Hampshire Supreme Court has long expressed the view that it is a sufficient answer to a plea of the statute of limitation that the defendant fraudulently concealed from the plaintiff the cause of action. The doctrine of fraudulent concealment is an equitable ground to justify the tolling of the statute of limitations based on the wrongful conduct of the defendant. It has been said that when a fraudulent concealment is relied upon by a plaintiff, he must prove that he has a cause of action which has been fraudulently concealed from him, and that he has been induced not to commence a suit until after the time prescribed by statute.

85 —Concealment of Defendant's Identity or Whereabouts

P.L.E. | pennsylvania

Matching legal concepts:

Statute Of Limitations | Toll The Statute | Conceal | Identity | Fraudulent Concealment | Mere Silence | Duty To Disclose | Proper Defendant | Justifiably Relied | Independent Act

Relevant passage: Where a defendant or the defendant's agent actively misleads the plaintiff as to the identity of the proper defendants until after the statute of limitations has expired, the proper remedy is to toll the statute of limitations. For fraudulent concealment of the defendant's identity to toll the statute of limitations, the defendant must have committed some affirmative independent act of concealment upon which the plaintiff justifiably relied. Mere silence or nondisclosure is insufficient in the absence of a duty to disclose. Mere mistake or

misunderstanding is also insufficient.

11.15 Defense Based on Statute of Limitations

Personal Injury--Actions, Defenses, Damages | National

Matching legal concepts:

Statute Of Limitations | Conceal | Limitations Period | Applicable Statute | Toll | Discover | Applicable Statute Of Limitation | Fraudulent Concealment | Time Plaintiff | Reasonable Time

Relevant passage: According to at least one court's ruling, if at the time plaintiff discovers the fraudulent concealment, a reasonable time remains within the applicable statute of limitations, this concealment does not toll the running of the statute of limitations period. This rule is logical because once a party discovers the fraud, it is no longer concealed, and if time remains within which to file the action, the applicable statute cannot operate to toll the limitations period.

9.01 Statutes of Limitations

Toxic Torts Guide | National

Matching legal concepts:

Fraudulent Concealment | Toll | Statute Of Limitations | Bringing Suit | Fraud Cause Of Action | Toll The Statute | Deception | Harmful Conduct | Relevant Time Period | Pleading Standard

Relevant passage: Another tolling device is fraudulent concealment. If the defendant fraudulently concealed the harmful conduct, causation, and other material facts, most states will toll the running of the statute of limitations. Tolling the statute of limitations through fraudulent concealment is no easy task. First of all, the heightened pleading standard of Fed. R. Civ. P. 9(b) or similar state rule applicable to the fraud cause of action (see § 3.09[5][c]) may also apply to the toll of fraudulent concealment. Second, in many states, mere silence is not enough to establish the toll. An affirmative act is required for the toll of fraudulent concealment. The statute of limitations will not be tolled unless the defendants made representations that they knew or should have known would induce the plaintiff to delay bringing suit For example, asserting that a manufacturer labeled latex gloves "hypoallergenic" did not toll the Massachusetts statute of limitations, because the label was not intended to dissuade potential plaintiffs from bringing suit against the glove manufacturer. Third, in some states, to establish fraudulent concealment, a plaintiff must also show that he or she exercised due diligence to discover the cause of action before the relevant time period expired. When facts are available to put the plaintiff on inquiry of any cause of action he or she might have had against the defendants, the plaintiff cannot claim fraudulent concealment. Fourth, the plaintiff may have to show that he or she reasonably relied on the defendant's deception.

111.18 Defenses to Action for Accountant Malpractice

Personal Injury--Actions, Defenses, Damages | National

Matching legal concepts:

Toll The Statute | Fraudulent Concealment | Statute Of Limitations | Accounting Matter | Limitations Statute | Relationship | Tolling Of The Limitations | Fail To Find | Exception

Relevant passage: On the issue of when the limitations statute may be tolled as to particular accounting matters, some courts have found fraudulent concealment to be sufficient to toll the statute. In other cases, there was insufficient fraudulent concealment to toll the statute. Concerning the tolling of the limitations statute based on the "continuous relationship" exception as to particular accounting matters, some courts have found the

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relationship adequate, thus tolling the statute. Other courts have failed to find a continuous relationship; therefore, the statute continued to run. In sum, various other arguments have been offered by complainants in order to convince the courts that the statute of limitations should be tolled. Some courts have responded favorably to the tolling of the statute of limitations, and others have not.

11581 STATUTORY LIMITATIONS—PERSONAL INSURANCE

Appleman on Insurance Law & Practice Archive | National

Matching legal concepts:

Statute Of Limitations | Conceal | Toll | Fraudulent Concealment | Toll The Statute | Fiduciary

Relevant passage: In an action against an agent, the statute of limitations was tolled where the agent fraudulently concealed his actions and the evidence showed the agent was a fiduciary of the plaintiffs, however, plaintiffs may not generally use the fraudulent concealment by one defendant to toll the statute of limitations against other defendants.

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