# EXHIBIT A

# UNITED STATES COURT OF APPEALS
## FOR THE
## SECOND CIRCUIT

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At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 22nd day of April, two thousand nineteen.

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Susan Levy,

Plaintiff - Appellant,

v.

BASF Metals Limited, BASF Corporation, Goldman Sachs International, Goldman Sachs Group, Inc., Goldman Sachs & Co., Goldman Sachs Execution & Clearing, L.P., ICBC Standard Bank PLC, UBS AG, UBS Securities LLC, HSBC Bank USA, N.A., London Platinum and Palladium Fixing Company Limited,

Defendants - Appellees.

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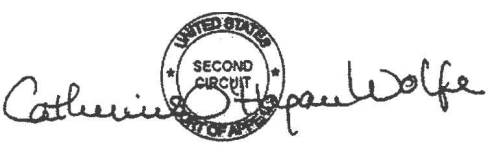
**ORDER**

Docket No: 17-3823

Appellant, Susan Levy, filed a petition for panel rehearing, or, in the alternative, for rehearing *en banc*. The panel that determined the appeal has considered the request for panel rehearing, and the active members of the Court have considered the request for rehearing *en banc*.

IT IS HEREBY ORDERED that the petition is denied.

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk



# EXHIBIT B

917 F.3d 106
United States Court of Appeals, Second Circuit.

Susan **LEVY**, Plaintiff-Appellant,

v.

**BASF** METALS LIMITED, **BASF** Corporation, Goldman Sachs International, Goldman Sachs Group, Inc., Goldman Sachs & Co., Goldman Sachs Execution & Clearing, L.P., ICBC Standard Bank PLC, UBS AG, UBS Securities LLC, HSBC Bank USA, N.A., London Platinum and Palladium Fixing Company Limited, Defendants-Appellees. [1]

Docket No. 17-3823
|
Argued: October 18, 2018
|
Decided: February 28, 2019

**Synopsis**

**Background:** Investor in platinum futures brought action against various investment bankers, alleging claims including under the Commodities Exchange Act (CEA) related to alleged manipulation of the platinum futures market. The United States District Court for the Southern District of New York, Gregory H. Woods, District Judge, granted bankers' motion to dismiss. Investor appealed.

**[Holding:]** The Court of Appeals held that CEA claims accrued, and CEA's two-year limitations period began to run, when investor had actual knowledge of a CEA injury due to crash of platinum futures market that caused investor to lose her entire investment.

Affirmed.

West Headnotes (4)

[1] **Federal Courts**
⇦ Limitations and laches

Appellate courts review de novo a district court's interpretation and application of a statute of limitations.

Cases that cite this headnote

[2] **Limitation of Actions**
⇦ In general;what constitutes discovery

Federal courts generally apply a discovery accrual rule when a statute is silent on the issue.

1 Cases that cite this headnote

[3] **Limitation of Actions**
⇦ In general;what constitutes discovery

In applying the discovery accrual rule, it is discovery of the injury, not discovery of the other elements of a claim, that starts the clock.

1 Cases that cite this headnote

[4] **Limitation of Actions**
⇦ Securities;corporations

Commodity Exchange Act (CEA) claims against investment bankers by investor in platinum futures accrued, and CEA's two-year limitations period began to run, when investor had actual knowledge of a CEA injury due to crash of platinum futures market that caused investor to lose her entire investment, rather than when investor discovered any alleged manipulation of the platinum futures market or the identity of the investment bankers involved in the alleged scheme. Commodity Exchange Act §§ 22, 22, 7 U.S.C.A. §§ 25(a)(1), 25(c).

Cases that cite this headnote

Appeal from the United States District Court for the Southern District of New York (Gregory H. Woods, *J.*)

**Attorneys and Law Firms**

SUSAN **LEVY**, pro se, New York, N.Y., Plaintiff-Appellant.

MICHAEL F. WILLIAMS, Kirkland & Ellis LLP (Peter A. Farrell, on the brief), Washington, D.C., for

Defendants-Appellees **BASF** Metals Limited and **BASF** Corporation.

DAMIEN J. MARSHALL, Boies Schiller Flexner LLP (Leigh M. Nathanson, Laura C. Harris, on the brief), New York, N.Y., for Defendant-Appellee HSBC Bank USA, N.A.

STEPHEN EHRENBERG, Sullivan & Cromwell LLP, New York, N.Y., for Defendants-Appellees Goldman Sachs International, The Goldman Sachs Group, Inc., and Goldman Sachs & Co. LLC f/k/a Goldman, Sachs & Co.

ROBERT G. HOUCK, Clifford Chance US LLP, New York, N.Y., for Defendant-Appellee ICBC Standard Bank PLC.

ERIC J. STOCK, Gibson, Dunn & Crutcher LLP (Mark A. Kirsch, D. Jarrett Arp, Melanie L. Katsur, Indraneel Sur, on the brief), New York, N.Y., for Defendants-Appellees UBS AG and UBS Securities LLC.

ETHAN E. LITWIN, Dechert LLP (Morgan J. Feder, on the brief), New York, N.Y., for Defendant-Appellee The London Platinum and Palladium Fixing Company Ltd.

Before: WINTER and POOLER, Circuit Judges, and ABRAMS, District Judge. [2]

**Opinion**

PER CURIAM:

***107** Appellant Susan **Levy**, an attorney proceeding pro se, brought this lawsuit in an effort to be made whole for her 2008 losses in the platinum futures market. She alleges, in sum, that **BASF** Metals Limited, **BASF** Corporation, Goldman Sachs International, Goldman Sachs Group, Inc., Goldman Sachs & Co., Goldman Sachs Execution & Clearing, LP, HSBC Bank USA, NA, ICBC Standard Bank PLC, UBS AG, UBS Securities LLC, London Platinum and Palladium Fixing Company Ltd., and twenty unnamed "John Does" conspired to manipulate the New York Mercantile Exchange platinum futures contract market in violation of the Commodities Exchange Act ("CEA"), 7 U.S.C. § 1 et seq., the Racketeer Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. § 1961 et seq., the Sherman Act, 15 U.S.C. §§ 1, 2, and New York law. The district court (Gregory H. Woods, *J.*) dismissed her federal claims as time barred and declined to exercise supplemental jurisdiction over **Levy's** state law claims. ***Levy v. BASF Metals Ltd.***, 1:15-cv-7317-GHW, 2017 WL 2533501, at *9 (S.D.N.Y. June 9, 2017). We affirm the bulk of that decision in a summary order we publish simultaneously with this opinion. We write separately to address **Levy's** CEA claims and hold that they accrued when she discovered her CEA injury in 2008, not when she discovered the alleged manipulation scheme or the identity of the defendants.

## BACKGROUND

**Levy** began trading in the platinum futures market in 2008 at what she alleges were artificially inflated prices. Based on her review of the platinum market, she took a long position with the expectation that platinum prices would soar even higher than market predictions. However, on August 15, 2008, the platinum market crashed, causing **Levy** to lose her entire investment.

**Levy** filed suit in April of 2012 against a different set of defendants that she alleged manipulated the platinum market (and, by extension, the platinum futures market) by ***108** engaging in so-called "banging the close" transactions. She claimed that the defendants in that case manipulated the value of platinum futures contracts by placing large platinum orders at the end of, or immediately after, the trading day, resulting in increased settlement prices of platinum futures contracts. In other words, **Levy** alleged that the defendants in her first lawsuit engaged in a "pump-and-dump" scheme that manipulated the value of platinum futures in violation of the CEA, RICO, the Sherman Act, and New York law. That case was transferred from the Eastern District of New York to the Southern District of New York in 2013 so it could be before the same district court judge presiding over a related class action lawsuit. *See generally* ***Levy v. Welsh***, No. 12-CV-2056 (DLI)(VMS), 2013 WL 1149152 (E.D.N.Y. Mar. 19, 2013). **Levy** settled the *Welsh* lawsuit in 2014, but the settlement did not provide **Levy** with a complete recovery.

**Levy** filed the present action on September 16, 2015, after she received in the fall of 2014 a copy of a class action complaint containing similar allegations to the ones she now asserts. *See generally In re Platinum and Palladium Antitrust Litig.*, 1:14-cv-9391-GHW, 2017 WL 1169626 (S.D.N.Y. Mar. 28, 2017). In this suit, **Levy**

claims, in sum, that Defendants-Appellees conspired to fix the price of platinum—and thus manipulate the platinum futures market—in a four-step manipulation process that involved exchanging confidential information during private conference calls, in violation of the CEA, RICO, the Sherman Act, and New York law. She alleges that the 2014 class action complaint first apprised her of this conduct, as well as the identities of some of the parties involved.

**Levy** filed an amended complaint on January 14, 2016, and a second amended complaint on April 4, 2016. On August 31, 2016, Defendants-Appellees moved to dismiss **Levy's** second amended complaint. The district court granted the motion, finding that **Levy's** federal claims were time barred, and declined to exercise supplemental jurisdiction over her remaining state law claims. *Levy v. BASF Metals Ltd.*, 2017 WL 2533501, at *9.

## DISCUSSION

**[1]** We review de novo "[a] district court's interpretation and application of a statute of limitations." *Muto v. CBS Corp.*, 668 F.3d 53, 56 (2d Cir. 2012).

**[2]** **[3]** **[4]** "Federal courts ... generally apply a discovery accrual rule when a statute is silent on the issue ...." *Rotella v. Wood*, 528 U.S. 549, 555, 120 S.Ct. 1075, 145 L.Ed.2d 1047 (2000); *see also Koch v. Christie's Int'l PLC*, 699 F.3d 141, 148 (2d Cir. 2012). In applying this rule, it is "discovery of the injury, not discovery of the other elements of a claim," that "starts the clock." *Rotella*, 528 U.S. at 555, 120 S.Ct. 1075. We have not yet applied this general rule to CEA claims. We do so now and hold that **Levy's** CEA claims accrued when she discovered her CEA injury. This happened when she suffered her losses in 2008. Thus, the CEA's two-year limitations period expired before she initiated the present suit in September 2015. 7 U.S.C. § 25(c).

**Levy** contends that the district court mistakenly conflated the date she suffered her losses with the date her CEA claims accrued. The relevant inquiry, however, is not whether **Levy** had discovered the identity of the defendants or whether she had discovered the manipulation scheme she alleges in her complaint. Rather, the question is when **Levy** discovered her CEA injury—that is, a loss that was the result of a CEA violation. *See* 7 U.S.C. § 25(a)(1) (providing a cause of action for someone who suffers "actual damages" "caused by" ***109** a CEA violation); *Cancer Found., Inc. v. Cerberus Capital Mgmt., LP*, 559 F.3d 671, 674 (7th Cir. 2009) ("A plaintiff does not need to know that his injury is actionable to trigger the statute of limitations—the focus is on the discovery of the harm itself, not the discovery of the elements that make up a claim."); *cf. Kronisch v. United States*, 150 F.3d 112, 121 (2d Cir. 1998) ("[A] claim will accrue when the plaintiff knows, or should know, enough of the critical facts of injury and causation to protect himself by seeking legal advice." (internal quotation marks omitted)).

Here, **Levy** alleges that, by August of 2008, "prices started to fall for no apparent reason and without any fundamental reason." App'x at 260-61 ¶ 417. And, by the end of 2008 "the market price had dropped by over 50%," which **Levy** describes as "an extraordinary, unprecedented and unjustified sudden collapse." App'x at 262 ¶ 423. **Levy** further alleges that there was "no explanation for this sudden drop in price, other than market distortion due to manipulation." App'x 261 ¶ 419. In light of these allegations, we have little difficulty concluding that **Levy** discovered her CEA injury in 2008. Once **Levy** was aware of this injury, the CEA gave her two years to ascertain the facts necessary to bring her suit. 7 U.S.C. § 25(c).

**Levy** primarily argues that she was not on inquiry notice of her present CEA claims until 2014 when a group of investors filed a class action lawsuit against Appellees. *See generally In re Platinum and Palladium Antitrust Litig.*, 2017 WL 1169626. It is true that we have held that where "the circumstances known to" a plaintiff, "as alleged in the complaint, were such as to suggest to a person of ordinary intelligence" that she has been defrauded, "a duty of inquiry" may arise that commences the CEA's two-year limitations period. *Benfield v. Mocatta Metals Corp.*, 26 F.3d 19, 22 (2d Cir. 1994); *see also id.* at 23 (finding constructive knowledge where the loss of an entire investment within a four-month period "should have caused eyebrows to raise" and imposed a "duty of inquiry that would ... have disclosed the nature and extent of" the fraud). However, this is not an inquiry notice case. The district court held, and we now hold, that **Levy** had *actual* knowledge of her CEA injury in 2008. ***Levy v. BASF Metals Ltd.***, 2017 WL 2533501, at *5. That knowledge of her CEA injury "start[ed] the clock," irrespective of when she discovered the additional information necessary for

her to bring her suit. *See Rotella*, 528 U.S. at 555, 120 S.Ct. 1075.

## CONCLUSION

For the foregoing reasons, and the reasons stated in the summary order we publish simultaneously with this opinion, we AFFIRM the district court's dismissal of this action.

**All Citations**

917 F.3d 106

Footnotes

1 The Clerk of the Court is directed to amend the caption as above.

2 Judge Ronnie Abrams, United States District Court for the Southern District of New York, sitting by designation.

**End of Document**

# EXHIBIT C

17-3823-cv
Levy v. BASF Metals, Ltd.

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

**SUMMARY ORDER**

**RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.**

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York on the 28th day of February, two thousand nineteen.

Present: RALPH K. WINTER,
ROSEMARY S. POOLER,
*Circuit Judges.*
RONNIE ABRAMS,[1]
*District Judge.*

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SUSAN LEVY,

*Plaintiff-Appellant,*

v. 17-3823-cv

BASF METALS LIMITED, BASF CORPORATION, GOLDMAN SACHS INTERNATIONAL, GOLDMAN SACHS GROUP, INC., GOLDMAN SACHS & CO., GOLDMAN SACHS EXECUTION & CLEARING, L.P., ICBC STANDARD BANK PLC, UBS AG, UBS SECURITIES LLC, HSBC BANK USA, N.A., LONDON PLATINUM AND PALLADIUM FIXING COMPANY LIMITED,

*Defendants-Appellees.*[2]

---

[1] Judge Ronnie Abrams, United States District Court for the Southern District of New York, sitting by designation.

[2] The Clerk of the Court is directed to amend the caption as above.

---

Appearing for Appellant: Susan Levy, pro se, New York, N.Y.

Appearing for Appellees: Michael F. Williams, Kirkland & Ellis LLP (Peter A. Farrell, *on the brief*), Washington, D.C., *for BASF Metals Limited and BASF Corporation*;

Damien J. Marshall, Boies Schiller Flexner LLP (Leigh M. Nathanson, Laura C. Harris, *on the brief*), New York, N.Y., *for HSBC Bank USA, N.A.*;

Stephen Ehrenberg, Sullivan & Cromwell LLP, New York, N.Y., *for Goldman Sachs International, The Goldman Sachs Group, Inc., and Goldman Sachs & Co. LLC f/k/a Goldman, Sachs & Co.*;

Robert G. Houck, Clifford Chance US LLP, New York, N.Y., *for ICBC Standard Bank PLC*;

Eric J. Stock, Gibson, Dunn & Crutcher LLP (Mark A. Kirsch, D. Jarrett Arp, Melanie L. Katsur, Indraneel Sur, *on the brief*), New York, N.Y., *for UBS AG and UBS Securities LLC*;

Ethan E. Litwin, Dechert LLP (Morgan J. Feder, *on the brief*), New York, N.Y., *for The London Platinum and Palladium Fixing Company Ltd.*

Appeal from the United States District Court for the Southern District of New York (Woods, *J.*).

**ON CONSIDERATION WHEREOF, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that the judgment of said District Court be and it hereby is **AFFIRMED**.

Appellant Susan Levy, an attorney proceeding pro se, appeals from the October 19, 2017, judgment of the United States District Court for the Southern District of New York (Woods, *J.*), dismissing her second amended complaint as time barred and denying leave to amend. We assume the parties' familiarity with the underlying facts, procedural history, and specification of issues for review.

We review the district court's "interpretation and application of a statute of limitations" de novo. *City of Pontiac Gen. Emps.' Ret. Sys. v. MBIA, Inc.*, 637 F.3d 169, 173 (2d Cir. 2011). We review the district court's denial of equitable tolling and leave to amend, as well as its discovery orders, for abuse of discretion. *McCarthy v. Dun & Bradstreet Corp.*, 482 F.3d 184, 200 (2d Cir. 2007) (leave to amend); *Torres v. Barnhart*, 417 F.3d 276, 279 (2d Cir. 2005) (equitable tolling); *DG Creditor Corp. v. Dabah*, 151 F.3d 75, 79 (2d Cir. 1998) (discovery orders).

Levy first challenges the dismissal of her claims as time barred. Levy's second amended complaint asserted claims under the Commodities and Exchange Act ("CEA"),[3] Racketeer Influenced and Corrupt Organizations Act ("RICO"), and the Sherman Act. "RICO claims are subject to a four-year statute of limitations," which begins to run "upon the discovery of the injury." *Koch v. Christie's Int'l PLC*, 699 F.3d 141, 148, 150 (2d Cir. 2012). Likewise, claims under the Sherman Act "shall be forever barred unless commenced within four years after the cause of action accrued." 15 U.S.C. § 15b. A cause of action under the antitrust laws accrues "when a defendant commits an act that injures a plaintiff's business." *Zenith Radio Corp. v. Hazeltine Research, Inc.*, 401 U.S. 321, 338 (1971); *see also id.* at 339 ("[I]f a plaintiff feels the adverse impact of an antitrust conspiracy on a particular date, a cause of action immediately accrues to him to recover all damages incurred by that date and all provable damages that will flow in the future from the acts of the conspirators on that date."). We agree with the district court that the statute of limitations for Levy's RICO and Sherman Act claims began to run in 2008. Levy had actual notice of her injuries in 2008 when she was forced to pay a margin call and lost her entire investment. Therefore, Levy's complaint, which she did not file until 2015, was not timely.

The district court did not abuse its discretion by denying Levy the benefit of equitable tolling. As the district court explained, equitable tolling applies only in "rare and exceptional circumstance[s]" where (1) a plaintiff is "prevented" from filing her complaint in a timely manner and (2) a plaintiff has "acted with reasonable diligence throughout the period [s]he seeks to toll." *Smith v. McGinnis*, 208 F.3d 13, 17 (2d Cir. 2000) (internal quotation marks omitted); *see also Johnson v. Nyack Hosp.*, 86 F.3d 8, 12 (2d Cir. 1996) (observing that equitable tolling is appropriate when a plaintiff "has been prevented in some extraordinary way from exercising [her] rights" (internal quotation marks omitted)). The district court concluded that Levy's previous complaint, which she filed in 2012 asserting various claims based on the same financial losses at issue here, demonstrated that she was aware that she had been injured and that she was capable of pursuing her legal remedies. We agree with its analysis.

Nor can we say that the district court abused its discretion by denying Levy leave to amend her complaint. Indeed, Levy, an attorney, had already amended her complaint twice. Moreover, as explained above, Levy's claims were time barred. Under these circumstances, the district court did not abuse its discretion by concluding that any further amendment would be futile. *See Grace v. Rosenstock*, 228 F.3d 40, 53 (2d Cir. 2000) ("Amendment would likely be futile if, for example, the claims the plaintiff sought to add would be barred by the applicable statute of limitations.").

Finally, Levy argues that the district court abused its direction by staying discovery while the defendants' motions to dismiss were pending. District courts have "broad discretion to direct and manage the pre-trial discovery process." *Wills v. Amerada Hess Corp.*, 379 F.3d 32, 41 (2d Cir. 2004). Federal Rule of Civil Procedure 26(c)(1) allows district courts to issue protective orders "to protect a party or person from . . . undue burden or expense." The district court cited appropriate factors—undue burden and expense—in granting the stay of discovery. We cannot say that this determination was an abuse of discretion.

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[3] We address Levy's CEA claims in a separate opinion, which we issue simultaneously with this summary order.

We have considered the remainder of Levy's arguments and find them to be without merit. Accordingly, the judgment of the district court hereby is AFFIRMED.

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk

755 Fed.Appx. 29 (Mem)
This case was not selected for
publication in West's Federal Reporter.

United States Court of Appeals, Second Circuit.

Susan LEVY, Plaintiff-Appellant,

v.

BASF METALS LIMITED, BASF Corporation, Goldman Sachs International, Goldman Sachs Group, Inc., Goldman Sachs & Co., Goldman Sachs Execution & Clearing, L.P., ICBC Standard Bank PLC, UBS AG, UBS Securities LLC, HSBC Bank USA, N.A., London Platinum and Palladium Fixing Company Limited, Defendants-Appellees. [1]

17-3823-cv

|

February 28, 2018

Appeal from the United States District Court for the Southern District of New York (Woods, *J.*).

**ON CONSIDERATION WHEREOF, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that the judgment of said District Court be and it hereby is **AFFIRMED**.

**Attorneys and Law Firms**

Appearing for Appellant: Susan Levy, pro se, New York, N.Y.

Appearing for Appellees: Michael F. Williams, Kirkland & Ellis LLP (Peter A. Farrell, on the brief), Washington, D.C., for BASF Metals Limited and BASF Corporation; Damien J. Marshall, Boies Schiller Flexner LLP (Leigh M. Nathanson, Laura C. Harris, on the brief), New York, N.Y., for HSBC Bank USA, N.A.; Stephen Ehrenberg, Sullivan & Cromwell LLP, New York, N.Y., for Goldman Sachs International, The Goldman Sachs Group, Inc., and Goldman Sachs & Co. LLC f/k/a Goldman, Sachs & Co.; Robert G. Houck, Clifford Chance US LLP, New York, N.Y., for ICBC Standard Bank PLC; Eric J. Stock, Gibson, Dunn & Crutcher LLP (Mark A. Kirsch, D. Jarrett Arp, Melanie L. Katsur, Indraneel Sur, on the brief), New York, N.Y., for UBS AG and UBS Securities LLC; Ethan E. Litwin, Dechert LLP (Morgan J. Feder, on the brief), New York, N.Y., for The London Platinum and Palladium Fixing Company Ltd.

Present: RALPH K. WINTER, ROSEMARY S. POOLER, Circuit Judges. RONNIE ABRAMS, [2] District Judge.

**SUMMARY ORDER**

Appellant Susan Levy, an attorney proceeding pro se, appeals from the October 19, 2017, judgment of the United States District Court for the Southern District of New York (Woods, *J.*), dismissing her second amended complaint as time barred and denying leave to amend. We assume ***30** the parties' familiarity with the underlying facts, procedural history, and specification of issues for review.

We review the district court's "interpretation and application of a statute of limitations" de novo. *City of Pontiac Gen. Emps.' Ret. Sys. v. MBIA, Inc.*, 637 F.3d 169, 173 (2d Cir. 2011). We review the district court's denial of equitable tolling and leave to amend, as well as its discovery orders, for abuse of discretion. *McCarthy v. Dun & Bradstreet Corp.*, 482 F.3d 184, 200 (2d Cir. 2007) (leave to amend); *Torres v. Barnhart*, 417 F.3d 276, 279 (2d Cir. 2005) (equitable tolling); *DG Creditor Corp. v. Dabah*, 151 F.3d 75, 79 (2d Cir. 1998) (discovery orders).

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2012). Likewise, claims under the Sherman Act "shall be forever barred unless commenced within four years after the cause of action accrued." 15 U.S.C. § 15b. A cause of action under the antitrust laws accrues "when a defendant commits an act that injures a plaintiff's business." *Zenith Radio Corp. v. Hazeltine Research, Inc.*, 401 U.S. 321, 338, 91 S.Ct. 795, 28 L.Ed.2d 77 (1971); *see also id.* at 339, 91 S.Ct. 795 ("[I]f a plaintiff feels the adverse impact of an antitrust conspiracy on a particular date, a cause of action immediately accrues to him to recover all damages incurred by that date and all provable damages that will flow in the future from the acts of the conspirators on that date."). We agree with the district court that the statute of limitations for Levy's RICO and Sherman Act claims began to run in 2008. Levy had actual notice of her injuries in 2008 when she was forced to pay a margin call and lost her entire investment. Therefore, Levy's complaint, which she did not file until 2015, was not timely.

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Nor can we say that the district court abused its discretion by denying Levy leave to amend her complaint. Indeed, Levy, an attorney, had already amended ***31** her complaint twice. Moreover, as explained above, Levy's claims were time barred. Under these circumstances, the district court did not abuse its discretion by concluding that any further amendment would be futile. *See Grace v. Rosenstock*, 228 F.3d 40, 53 (2d Cir. 2000) ("Amendment would likely be futile if, for example, the claims the plaintiff sought to add would be barred by the applicable statute of limitations.").

Finally, Levy argues that the district court abused its direction by staying discovery while the defendants' motions to dismiss were pending. District courts have "broad discretion to direct and manage the pre-trial discovery process." *Wills v. Amerada Hess Corp.*, 379 F.3d 32, 41 (2d Cir. 2004). Federal Rule of Civil Procedure 26(c)(1) allows district courts to issue protective orders "to protect a party or person from ... undue burden or expense." The district court cited appropriate factors —undue burden and expense—in granting the stay of discovery. We cannot say that this determination was an abuse of discretion.

We have considered the remainder of Levy's arguments and find them to be without merit. Accordingly, the judgment of the district court hereby is AFFIRMED.

**All Citations**

755 Fed.Appx. 29 (Mem)

Footnotes

1 The Clerk of the Court is directed to amend the caption as above.

2 Judge Ronnie Abrams, United States District Court for the Southern District of New York, sitting by designation.

3 We address Levy's CEA claims in a separate opinion, which we issue simultaneously with this summary order.

**End of Document**

## CERTIFICATE OF SERVICE

I, SUSAN J. LEVY, being an attorney-at-law duly admitted to the Supreme Court of the United States HEREBY CERTIFY that copies of the Application for Extension of Time to File Petition for Writ of Certiorari and Exhibits for the Plaintiff-Applicant have this day of July 3, 2019 been sent by first class mail and by e-mail delivery to counsel for Defendants-Respondents at the following addresses:

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The London Platinum and Palladium
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Dated: July 3, 2019

Susan J. Levy, Esq.