

UNITED STATES COURT OF APPEALS
For the Fifth Circuit

No. 94-30317
Summary Calendar

BERNADETTE FREEDMAN and KAY FREEDMAN,
Plaintiffs-Appellants,

VERSUS

LIVING CENTERS-EAST, INC., improperly named
as ARA Living Centers-East, Inc., d/b/a
Chateau Living Centers, ET AL.,
Defendants-Appellees.

Appeal from the United States District Court
For the Eastern District of Louisiana

(CA 93-3712-D)

(November 3, 1994)

Before KING, JOLLY and DeMOSS, Circuit Judges.

PER CURIAM:*

On April 3, 1992, Bernadette Freedman became a patient at Chateau Living Centers Nursing Home in Metairie, Louisiana. On that same date, her daughter, Kay Freedman, signed an admission agreement as "Guarantor" on behalf of her mother. On August 30,

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

1992, Bernadette Freedman was discharged from Chateau Living Centers and admitted to Touro Infirmary. Thereafter, on April 2, 1993, Bernadette and Kay Freedman filed suit against Chateau Living Centers in the state district court for the Parish of Orleans but instructed the Clerk of that court to withhold service of process. On November 9, 1993, the defendant, Chateau Living Centers, filed a notice of removal of such suit to the United States District Court for the Eastern District of Louisiana. By final judgment and order entered May 3, 1994, the U.S. District Court determined that the gravamen of plaintiffs' complaint sounded in tort not in contract and granted defendant's motion for summary judgment on the grounds that such suit was barred by Louisiana's one-year prescriptive period on tort actions.

We have carefully reviewed the briefs, the record excerpts and relevant portions of the record itself, and for the reasons set forth in the district court's order entered May 3, 1994, we have concluded that the final judgment in favor of defendant entered on May 3, 1994 should in all things be AFFIRMED.