

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Tracee Croomes v. IntouchCX US Incorporated

No. CV-25-03128-PHX-KML (D. Ariz. Dec. 10, 2025) · No. CV-25-03128-PHX-KML · Decided December 10, 2025

OPINION

Croomes

PER CURIAM.

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6 IN THE UNITED STATES DISTRICT COURT

7 FOR THE DISTRICT OF ARIZONA

8 9 Tracee Croomes, No. CV-25-03128-PHX-KML 10 Plaintiff, ORDER 11 v. 12 IntouchCX US Incorporated, 13 Defendant. 14 15 Plaintiff Tracee Croomes believes her former employer, defendant IntouchCX US 16 Inc., discriminated against her based on her race, sex, and age. Croomes also believes 17 IntouchCX retaliated against her after she engaged in protected activity. Croomes received 18 a right-to-sue letter from the EEOC in May 2024 and she filed suit against IntouchCX in

19 August 2024. But that suit was dismissed in June 2025 because Croomes refused to 20 participate. Croomes filed the present suit in July 2025. All the claims in this suit are 21 untimely and are dismissed without leave to amend.

22 BACKGROUND

23 The following facts are drawn from the filings in the present case and in Croomes’s 24 previous case, CV-24-3447-PHX-MTL. In November 2022, Croomes began working for 25 IntouchCX at a call center. (Doc. 1-1 at 36; Doc. 17-1 at 2.) In February 2023, Croomes 26 attended a team meeting with her “Team Lead,” a woman identified only as Shannon. Doc. 27 1-1 at 64, CV-24-3447-PHX-MTL. Shannon used “her position to espouse her bigotry 28 against [Croomes] and her team that were made of 95% African-American women by 1 calling [Croomes] and [her] other co-workers on her team ‘Spicy.’” (Doc. 1-1 at 37.) 2 Shannon took other unidentified actions that Croomes identifies as “aggressive and 3 discriminatory towards [Croomes].” (Doc. 1-1 at 37.) Shannon was fired on an unidentified 4 date “for being racist and discriminatory.” (Doc. 1-1 at 37.) 5 On April 5, 2023, Croomes “took a typing test for a transfer to the Chat 6 Department.” (Doc. 1-1 at 36.) Croomes was told a supervisor named Stacy said Croomes 7 “didn’t pass the typing test.” (Doc. 1-1 at 36.) Croomes believes there was an error in 8 scoring the test and asked to retake it. (Doc. 1-1 at 36.) Stacy did not respond to Croomes’s 9 inquiries about retaking the test. 10 In May 2023, Stacy issued Croomes a final warning based on attendance issues. 11 (Doc. 1-1 at 36.) Croomes believes the attendance warning was based on incorrect 12 information. (Doc. 1-1 at 36.) In addition, while Stacy claimed Croomes could not

transfer 13 to the Chat Department because of the final attendance warning, another individual who 14 was also on a final warning was allowed to transfer. (Doc. 1-1 at 36.) On June 13, 2023, 15 Croomes was allowed to transfer to the Chat Department because Stacy “was no longer 16 directly over the [chat] department.” (Doc. 1-1 at 37.) Croomes appears to believe Stacy 17 “discriminated and retaliated against [her]” by “denying [her] transfer repeatedly.” (Doc. 18 1-1 at 37.) 19 In May 2023—shortly before Croomes transferred to the Chat Department—she 20 “filed an inquiry” with the EEOC and had an intake interview that same month. (Doc. 1-1 21 at 37.) There was significant confusion and delay in scheduling an additional interview 22 with the EEOC and Croomes was waiting for that additional interview when, on January 23, 2024, she was fired for taking “extra breaks.” (Doc. 1-1 at 37.) Croomes had her 24 additional interview with the EEOC in May 2024 and filed her EEOC charge on May 8, 2024. That charge stated Croomes had engaged in unidentified “protected activity” in 26 September 2023 and after doing so the managers “would not look at [her] or engage in 27 conversation with [her].” (Doc. 17-1 at 2.) The charge also stated Croomes had been 28 disciplined in February 2023 for “attendance coding issues,” and terminated in January 1, 2024. (Doc. 17-1 at 3.) The charge alleged Croomes had been discriminated against based 2 on her race and that she was “disciplined and discharged in retaliation.” (Doc. 17-1 at 3.) 3 On May 9, 2024, the EEOC issued Croomes a right-to-sue notice. (Doc. 17-2 at 2.) 4 That document warned Croomes that if she wished to file a lawsuit, she had to do so 5 “WITHIN 90 DAYS” of receiving the right to sue. (Doc. 17-2 at 2.) On August 1, 2024, 6 Croomes filed a lawsuit against IntouchCX in Maricopa County Superior Court. Doc. 1-1 7 at 36, CV-24-3447-PHX-MTL. On September 30, 2024, Croomes filed an amended 8 complaint in state court and on November 15, 2024, Croomes filed a second amended 9 complaint. Doc. 1-1 at 62, 95, CV-24-3447-PHX-MTL. Croomes did not serve IntouchCX 10 until November 2024. After being served, IntouchCX removed the case to federal court.

11 Doc. 1, CV-24-3447-PHX-MTL.

12 In March 2025, the court denied Croomes’s motion to remand to state court and 13 directed IntouchCX to respond to the second amended complaint. Doc. 23, CV-24-3447- 14 PHX-MTL. IntouchCX filed a motion to dismiss on April 11, 2025. Doc. 24, CV-24-3447- 15 PHX-MTL. Croomes did not file a response and, on May 21, 2025, the court ordered 16 Croomes to file an opposition to the motion to dismiss no later than May 30. Doc. 26, CV- 17 24-3447-PHX-MTL. Croomes then filed a largely indecipherable motion that the court 18 denied. Docs. 27, 28, CV-24-3447-PHX-MTL. In denying Croomes’s motion the court 19 gave her until June 11 to file her opposition to the motion to dismiss. Doc. 28, CV-24- 20 3447-PHX-MTL. Croomes again failed to file an opposition and on June 26, 2025, the 21 court dismissed Croomes’s suit without prejudice and directed entry of judgment. Docs. 22 29, 30, CV-24-3447-PHX-MTL. Croomes did not appeal. 23 On July 25, 2025, Croomes initiated the present suit by filing a complaint in 24 Maricopa County Superior Court. (Doc. 1-1 at 34.) That complaint was very similar to her 25

complaints in her previous suit. Croomes alleged that during her employment with 26 IntouchCX she had been discriminated against based on her “race, sex and age.” (Doc. 1- 27 1 at 35.) Croomes also alleged she had been retaliated against “because [she] opposed 28 discriminatory [acts].” (Doc. 1-1 at 39.) The complaint identified Title VII and the Arizona 1 Civil Rights Act (“ACRA”) as the legal bases for the claims. (Doc. 1-1 at 39-40.) 2 IntouchCX was served and again removed the case to federal court. On September 30, 3 2025, IntouchCX filed a motion to dismiss. (Doc. 17.) Croomes was granted an extension 4 to October 28, 2025, to respond to that motion. (Doc. 19.) Instead of responding, Croomes 5 filed a motion to amend the complaint. (Doc. 20.) That motion included a proposed 6 amended complaint that purported to incorporate the earlier complaint and asserted an 7 additional claim for retaliation. The proposed amended complaint alleges IntouchCX 8 retaliated against Croomes on January 9, 2024, when it misrepresented “the reason for 9 [Croomes’s] termination to the Arizona Department of Economic Security.” (Doc. 20-2 at 10 3.) 11 On November 12, 2025, IntouchCX responded to Croomes’s motion to amend her 12 complaint and also filed a second motion to dismiss. The second motion to dismiss argued 13 Croomes had not responded to Intouch’s earlier motion to dismiss and asked the court to 14 summarily grant the earlier motion. On November 14, Croomes filed a response in 15 opposition to the motion to dismiss. Based on the contents of that response, it appears 16 Croomes intended that filing to be a response to IntouchCX’s first motion to dismiss filed 17 on September 30, not the second motion to dismiss filed on November 12. (Doc. 23.) 18 Croomes then filed “Motion to Supplement the Record by Incorporating Exhibits by 19 Reference from Plaintiff’s Proposed Amended Complaint and Motion for Leave to Amend 20 Complaint.” (Doc. 24.) That motion is hard to understand as it seeks “permission to file the 21 supplement response” and claims “[t]his formally ties the exhibits to Plaintiff’s current 22 argument.” (Doc. 24 at 1.) 23 On November 21, IntouchCX filed a reply in support of its first motion to dismiss 24 arguing Croomes’s opposition was untimely. (Doc. 25 at 1.) That reply prompted Croomes 25 to file a motion requesting permission to file an untimely opposition to the motion to 26 dismiss. (Doc. 26.) That motion requests the court deem timely the response to the motion 27 to dismiss Croomes filed on November 14. On November 26, 2025, IntouchCX filed a 28 motion for clarification regarding Croomes’s motion to supplement. (Doc. 27.) That 1 motion complains IntouchCX is “unable to determine what relief Plaintiff is seeking” in 2 her motion to supplement. (Doc. 27 at 1.) In her response to the motion for clarification, 3 Croomes appears to argue her motion to supplement was intended to ensure that all of her 4 exhibits were considered when evaluating the motion to dismiss and motion for leave to 5 amend the complaint. (Doc. 30.) Finally, on December 1, 2025, Croomes filed a motion 6 for leave to file a sur-reply regarding the first motion to dismiss. (Doc. 28.)

7 ANALYSIS

8 Despite the parties’ voluminous, repetitive, and procedurally inappropriate filings, 9 there is a straightforward path for determining whether this case should proceed by 10 focusing on the first

motion to dismiss and Croomes's motion to amend. The court grants 11 Croomes's motion for leave to file a response (Doc. 26) and motion to file a sur-reply (Doc. 12 28) and considers those filings in assessing the first motion to dismiss. As for the motion 13 to amend, there is only the motion and response to consider. (Docs. 20, 22.) Because the 14 motion to dismiss is granted and the motion to amend is denied as discussed below, the 15 motions not connected to those motions are denied as moot. (Docs. 21, 24, 27.) 16 IntouchCX seeks dismissal of Croomes's claims in the operative complaint and 17 opposes the motion to amend by arguing all her claims are untimely. (Doc. 17 at 3-5; Doc. 18 22 at 9-10.) Claims "may be dismissed as untimely . . . only when the running of the statute 19 of limitations is apparent on the face of the complaint." *Thomas v. Cnty. of Humboldt*, 20 California, 124 F.4th 1179, 1191 (9th Cir. 2024). And "leave to amend need not be granted 21 when" the new claim would be "barred by the applicable statute of limitations." *Hoang v. 22 Bank of Am., N.A.*, 910 F.3d 1096, 1103 (9th Cir. 2018). 23 IntouchCX first argues most of Croomes's claims are untimely because Croomes 24 waited too long to file her charge with the EEOC. In Arizona "the deadline for a 25 complainant to file a claim with the EEOC is extended from the ordinary 180 days to 300 26 days if the complainant first initiates proceedings with the state agency." *Bond v. Wells 27 Fargo Bank NA*, 782 F. Supp. 3d 743, 753 (D. Ariz. 2025). ACRA claims require the 28 complainant "file a charge with the Arizona Civil Rights Division within 180 days of an 1 alleged violation." *Peterson v. City of Surprise*, 418 P.3d 1020, 1024 (Ariz. Ct. App. 2018). 2 Croomes did not file her charge with the EEOC until May 8, 2024, meaning she cannot 3 base her present Title VII claims on any discrete discriminatory acts that occurred prior to

4 July 13, 2023 (i.e., 300 days before May 8, 2024) nor can Croomes base her ACRA claims 5 on any acts that occurred prior to November 10, 2023 (i.e., 180 days before May 8, 2024). 6 Almost all of the allegedly discriminatory acts Croomes identifies occurred before 7 July 2023, so they are time-barred whether viewed as Title VII or ACRA claims. But the 8 time periods for filing a charge are "subject to equitable doctrines such as tolling or 9 estoppel." *Nat'l R.R. Passenger Corp. v. Morgan*, 536 U.S. 101, 113 (2002); *Kyles v. 10 Contractors/Eng'rs Supply, Inc.*, 949 P.2d 63, 65 (Ariz. Ct. App. 1997) (ACRA's 90-day 11 period for filing complaint "is subject to waiver, estoppel, and equitable tolling"). Croomes 12 has devoted significant portions of her filings to arguing she is entitled to equitable tolling 13 of this period. (Doc. 20-2 at 7-8; Doc. 29 at 3-4.) Determining whether Croomes is entitled 14 to equitable tolling would require an in-depth analysis that is unnecessary given Croomes's 15 actions after receiving her right to sue.¹ Solely for purposes of this order the court assumes 16 all the claims Croomes now wishes to pursue were timely raised with the EEOC. 17 The EEOC issued Croomes a right-to-sue notice on May 9, 2024 and Croomes does 18 not dispute she received it on or around that date. See *Payan v. Aramark Mgmt. Servs. Ltd. 19 P'ship*, 495 F.3d 1119, 1125 (9th Cir. 2007) (noting most courts presume that an EEOC 20 letter is received in three days). Croomes had ninety days from approximately May 9, 2024, 21 to file suit. *Id.* at 1121. "[T]his ninety-day period operates as

a limitations period.” Id. So 22 if Croomes did not file suit within ninety days of receiving her right-to-sue notice, her 23 “action is time-barred.” Id. 24 Even if Croomes did not receive the May 9, 2024, right-to-sue notice immediately, 25 her time to file her Title VII claims expired sometime in August 2024. The present suit was 26 1 Croomes may not have properly exhausted all of the claims she now wishes to pursue. 27 See *Leong v. Potter*, 347 F.3d 1117, 1122 (9th Cir. 2003) (“The specific claims made in district court ordinarily must be presented to the EEOC.”). But it is not necessary to reach 28 this issue either because, even if she did raise such claims, she waited too long after receiving the right-to-sue notice. 1 not filed until July 2025, almost a full year too late. 2 Like the period for filing an EEOC charge, the ninety-day period for filing suit “is 3 subject to waiver, estoppel, and equitable tolling.” *Surrell v. California Water Serv. Co.*, 4 518 F.3d 1097, 1104 (9th Cir. 2008) (simplified). But Croomes does not provide any 5 explanation for her delay in filing her Title VII claims once the EEOC issued the right-to- 6 sue notice. If Croomes hoped to establish equitable tolling to allow her Title VII claims, 7 she needed to show had been “prevented from asserting a claim by wrongful conduct on 8 the part of the defendant, or . . . extraordinary circumstances beyond [her] control made it 9 impossible to file a claim on time.” *Stoll v. Runyon*, 165 F.3d 1238, 1242 (9th Cir. 1999). 10 Instead of that type of showing, Croomes merely states in conclusory fashion that her 11 complaint “was filed within the timeframe allowed for [her] claims.” (Doc. 23 at 2.) That 12 is not sufficient. Croomes’s Title VII claims in the operative complaint and in the proposed 13 amended complaint are time-barred. 14 Croomes’s claims under the Arizona Civil Rights Act are also time-barred. Unlike 15 Title VII, claims under ACRA must be brought within one-year of when the charge was 16 filed, not when the notice of right to sue was issued. A.R.S. § 41-1481(D). Here, Croomes 17 filed her charge on May 8, 2024. So Croomes had one-year from May 8 to file suit but she 18 did not do so until August 2025. Again, Croomes does not offer any explanation that might 19 support equitable tolling. *Cox v. Glob. Tool Supply LLC*, 629 F. Supp. 3d 963, 970 (D.

20 Ariz. 2022) (equitable tolling for purposes of ACRA requires showing plaintiff had “been 21 prevented from filing in a timely manner due to sufficiently inequitable circumstances”). 22 Croomes’s ACRA claims are untimely by more than one year. 23 Croomes’s current and proposed claims are time-barred so the motion to dismiss is 24 granted and the motion to amend is denied. All motions not directly connected to those 25 motions are denied as moot. 26 Accordingly, 27 IT IS ORDERED the Motion for Leave to File Response (Doc. 26) is GRANTED. 28 IT IS FURTHER ORDERED the Motion to File Sur-Reply (Doc. 28) is 1 || GRANTED. The document lodged at Doc. 29 shall be filed. 2 IT IS FURTHER ORDERED the Motion to Dismiss (Doc. 17) is GRANTED. 3|| The complaint is dismissed with prejudice. The Clerk of Court shall enter judgment in 4|| favor of defendant and close this case. 5 IT IS FURTHER ORDERED the Motion for Leave to Amend (Doc. 20), Motion || to Dismiss (Doc. 21), Motion to Supplement (Doc. 24), and Motion for Clarification (Doc. 7|| 27) are DENIED. 8 Dated this 10th day of December, 2025.

9 Honorable Krissa M. Lanham 12 United States District Judge 13 14 15 16 17 18 19 20 21 22 23
24 25 26 27 28 -8-

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