

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Ramirez v. Oakland Unified School District, et al.

Ramirez · No. 24-cv-09223-LB · Decided October 20, 2025

SUMMARY

The court granted defendants’ motion to dismiss Mirella Ramirez’s second amended complaint. It dismissed the plaintiff’s claims under 42 U.S.C. § 1983 with prejudice based on sovereign immunity and qualified immunity, concluding that the alleged First Amendment rights were not clearly established in this context. The court also dismissed the Title VII claims with prejudice as untimely because the action was filed more than ninety days after the EEOC’s right-to-sue notice, and equitable tolling was not warranted.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Laurel Beeler
JURISDICTION	United States District Court for the Northern District of California
DECIDED	October 20, 2025
DOCKET	24-cv-09223-LB
DISPOSITION	dismissed
PROCEDURAL POSTURE	Defendants moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss the second amended complaint. The court granted the motion and dismissed all claims with prejudice.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts factual allegations as true and construes them in the plaintiff’s favor, but requires sufficient factual matter to state a claim that is plausible on its face. Threadbare recitals and conclusory allegations are insufficient.
PRECEDENTIAL VALUE	unpublished
PARTIES	Mirella Ramirez v. Oakland Unified School District, School administrators and board members

TOPICS

- motions to dismiss
- title vii
- religious discrimination
- qualified immunity
- civil procedure

PRACTICE AREAS

civil procedure

employment law

civil rights

constitutional law

religious discrimination

title vii

QUESTIONS PRESENTED

1. Whether the individual defendants were entitled to qualified immunity on Ramirez's § 1983 claims based on the absence of clearly established law concerning a public-school teacher's refusal to use a student's preferred pronouns.
2. Whether the new allegations of religious hostility plausibly defeated qualified immunity or stated a viable constitutional claim.
3. Whether Ramirez's Title VII claims were barred because the amended complaint was filed more than ninety days after issuance and presumed receipt of the EEOC right-to-sue letter.
4. Whether equitable tolling excused the untimely filing of the Title VII claims.

HOLDINGS

1. The individual defendants were entitled to qualified immunity because no Supreme Court or Ninth Circuit precedent clearly established that requiring a public-school teacher to use a student's preferred pronouns violated the teacher's First Amendment rights.
2. The alleged comments by the school officials did not defeat qualified immunity or alter the prior dismissal of the § 1983 claims.
3. Ramirez's Title VII claims were untimely because she filed the amended complaint more than ninety days after the EEOC issued the right-to-sue letter and three days after mailing was the presumed date of receipt.
4. Equitable tolling did not excuse the late filing because Ramirez did not demonstrate the diligence required for tolling.

KEY QUOTATIONS

"No Supreme Court or Ninth Circuit case has addressed whether requiring a teacher's use of preferred pronouns in a public school violated rights, putting defendants on notice "beyond debate." (at 8)

"Title VII requires a plaintiff to file suit within ninety days of receiving an EEOC right-to-sue letter." (at 9)

"The equitable-tolling doctrine applies when a plaintiff pursues her rights diligently, and (2) "some extraordinary circumstance stood in [her] way." (at 10)

"The facts do not establish the requisite diligence for equitable tolling." (at 10)

FACTUAL BACKGROUND

Mirella Ramirez was a kindergarten teacher in the Oakland Unified School District and, based on her Catholic beliefs, refused to use a student's requested male pronouns. District officials directed her to use the pronouns, investigated complaints, offered accommodations that she rejected, and ultimately terminated her for violating California Education Code § 220 and District Policy 5145.3. Ramirez filed an EEOC charge and received a

right-to-sue letter dated March 4, 2025, which was mailed to the address of record and made available through the EEOC's online portal. She added Title VII claims on July 7, 2025, more than ninety days after the presumed receipt date.

PROCEDURAL HISTORY

Ramirez initially filed the action on December 19, 2024, asserting claims under 42 U.S.C. § 1983. The court previously dismissed the § 1983 claims against the District on sovereign-immunity grounds and against the individual defendants on qualified-immunity and failure-to-state-a-claim grounds. After receiving leave to amend, Ramirez filed a second amended complaint adding Title VII claims. The court granted defendants' motion to dismiss the second amended complaint with prejudice.

DISPOSITION

dismissed

CASES CITED

- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555, 570 (2007)
- Woods v. U.S. Bank N.A., 831 F.3d 1159, 1162 (9th Cir. 2016)
- Interpipe Contracting, Inc. v. Becerra, 898 F.3d 879, 886-87 (9th Cir. 2018)
- Pearson v. Callahan, 555 U.S. 223, 231, 236 (2009)
- Ashcroft v. al-Kidd, 563 U.S. 731, 741-42 (2011)
- Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Commission, 584 U.S. 617, 635 (2018)
- Fellowship of Christian Athletes v. San Jose Unified School District Board of Education, 82 F.4th 664, 692 (9th Cir. 2023) (en banc)
- Meriwether v. Hartop, 992 F.3d 492 (6th Cir. 2021)
- Kluge v. Brownsburg Community School Corp., 432 F. Supp. 3d 823 (S.D. Ind. 2020)
- Vlaming v. West Point School Board, 302 Va. 504 (2023)
- Wilson v. Layne, 526 U.S. 603, 618 (1999)
- Scholar v. Pacific Bell, 963 F.2d 264, 267-68 (9th Cir. 1992)
- Payan v. Aramark Management Services Ltd. Partnership, 495 F.3d 1119, 1122-26 (9th Cir. 2007)
- Jones v. Wal-Mart Stores, Inc., No. CV-07-0775-PHX-SMM, 2009 WL 2382435, at *5 (D. Ariz. Aug. 3, 2009), aff'd, 405 F. App'x 155 (9th Cir. 2010)
- St. Louis v. Alverno College, 744 F.2d 1314, 1316-17 (7th Cir. 1984)
- Roberts v. Marshall, 627 F.3d 768, 771-72 (9th Cir. 2010)
- Stoll v. Runyon, 165 F.3d 1238, 1242 (9th Cir. 1999), as amended (Mar. 22, 1999)
- Nelmidia v. Shelly Eurocars, Inc., 112 F.3d 380, 384 (9th Cir. 1997)
- Irwin v. Department of Veterans Affairs, 498 U.S. 89, 96, 111 (1990)
- Baldwin County Welcome Center v. Brown, 466 U.S. 147, 151 (1984) (per curiam)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 NORTHERN DISTRICT OF
CALIFORNIA 10 San Francisco Division 11 MIRELLA RAMIREZ, Case No. 24-cv-09223-LB
12 Plaintiff, ORDER GRANTING MOTION TO DISMISS SECOND AMENDED 13 v.
COMPLAINT 14 OAKLAND UNIFIED SCHOOL Re: ECF No. 62 DISTRICT, et al., 15
Defendants. 16 17 INTRODUCTION 18 This case arises from the termination of plaintiff Mirella
Ramirez, a former kindergarten 19 teacher at the Oakland Unified School District's Melrose
Leadership Academy, after she refused 20 to use a student's preferred male pronouns due to her
religious beliefs as a devout Catholic.

The 21 plaintiff alleges that her termination violated her First Amendment rights to free speech
and free 22 exercise of religion under 42 U.S.C. § 1983, as well as her rights under Title VII of the
Civil 23 Rights Act of 1964, 42 U.S.C. § 2000e et seq., including failure to accommodate her
religion and 24 religious discrimination. She sues the District and several individual defendants
(school 25 administrators and board members) in their official and individual capacities.¹ 26 27 1
Second Am.

Compl. (SAC) – ECF No. 60 at 2 (¶¶ 1–3), 3–4 (¶¶ 8–21). Citations refer to the 1 The court
previously dismissed the § 1983 claims, on the grounds of sovereign immunity for 2 the District,
qualified immunity for the individual defendants, and failure to state a claim because 3 the
plaintiff's speech as a public employee was not protected under the First Amendment.² The 4
plaintiff's second amended complaint (SAC) largely repleads the same § 1983 claims, but adds 5
Title VII claims and some new factual allegations regarding alleged religious hostility.³ 6 The
defendants now move to dismiss the SAC under Federal Rule of Civil Procedure 12(b)(6).

7 They argue that the court's prior analysis remains unchanged for the § 1983 claims and that the 8
Title VII claims are time-barred because the plaintiff did not file suit within ninety days of 9
receiving her right-to-sue letter from the Equal Employment Opportunity Commission (EEOC), 10
with no basis for equitable tolling.⁴ The plaintiff opposes, contending that new allegations 11
establish religious hostility akin to *Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights* 12
Commission, 584 U.S. 617 (2018), defeating qualified immunity and stating viable claims, and 13
that equitable tolling applies to her Title VII claims due to an EEOC mailing error.⁵ The 14
defendants reply that the new allegations do not alter the prior rulings and that the plaintiff's lack
15 of diligence precludes tolling.⁶ 16 The court dismisses the § 1983 claims with prejudice against
the District as barred by 17 sovereign immunity and against the individual defendants as barred by
qualified immunity.

The 18 Title VII claims are dismissed with prejudice as time-barred. 19 20 STATEMENT 21 The
court's earlier order described the events that led to the litigation, allegations that are 22 largely

unchanged in the amended complaint.^{7 23 24 2} Order – ECF No. 43. ^{25 3} SAC – ECF No. 60 at 4–15 (^{¶¶} 22–137), 15–21 (^{¶¶} 138–89). ^{26 4} Mot. – ECF No. 62. ⁵ Opp’n – ECF No. 65.

^{27 6} Reply – ECF No. 66. ¹ The plaintiff worked as a kindergarten teacher at Melrose Leadership Academy, a dual- ² immersion school in the Oakland Unified School District that educates students in both Spanish ³ and English, from 2017 until her termination in 2024.⁸ As a devout Catholic, the plaintiff believes ⁴ that a person’s gender is divinely assigned at birth based on their biological sex, that it is immoral ⁵ to rebel against God’s design by transitioning genders, and that she cannot affirm or support such ⁶ transitions, including by using pronouns inconsistent with biological sex.^{9 7} In August 2022, a five-year-old student in the plaintiff’s Spanish-language class, perceived by ⁸ the plaintiff as biologically female based on appearance, requested that the plaintiff use male ⁹ pronouns.¹⁰ The student’s mother confirmed the request.¹¹ The plaintiff informed the mother that ¹⁰ she could not comply due to her religious beliefs.¹² After complaints from the parents, the plaintiff ¹¹ met with the parents, Principal Lisa Contreras, and Vice Principal Violeta Escobar, who informed ¹² the plaintiff that district policy required her to use the student’s preferred pronouns.¹³ The ¹³ defendants proposed accommodations, which the plaintiff did not accept, including moving the ¹⁴ student to another classroom (with the parents’ agreement).

The student resisted and had to be ¹⁵ physically removed while crying.^{14 16} On October 4, 2022, parents, teachers, and community members petitioned the District to ¹⁷ discipline the plaintiff.¹⁵ On October 7, 2022, Angela Bagami-Knight, a School Partner in the ¹⁸ District’s Talent Division, directed the plaintiff to use masculine pronouns.¹⁶ On October 20, ¹⁹ 2022, Principal Contreras issued the plaintiff a formal written reprimand for misgendering the ^{20 21 22 8} SAC – ECF No. 60 at ² ([¶] 1), ⁵ (^{¶¶} 29–31).

^{23 9} Id. at ² ([¶] 3), 4–5 (^{¶¶} 22–27). ¹⁰ Id. at ⁶ (^{¶¶} 39–44). ^{24 11} Id. ([¶] 47). ^{25 12} Id. ([¶] 48). ^{26 13} Id. at ⁷ (^{¶¶} 49–50, 55). ¹⁴ Id. at ^{7–8} (^{¶¶} 58–68). ^{27 15} Id. at ⁹ ([¶] 74). ¹ student and insubordination.¹⁷ Ms. Bagami-Knight and Jeff Dillon, a Senior Talent Partner, ² investigated complaints against the plaintiff and recommended her dismissal.¹⁸ The plaintiff ³ attended a pre-disciplinary hearing with Tara Gard, the Chief Talent Officer.¹⁹ Ms. Gard allegedly ⁴ questioned the plaintiff’s faith, asking what in her religion prevented her from teaching ⁵ transgender students.²⁰ The plaintiff responded that it did not.²¹ The District offered ⁶ accommodations, including calling transgender students by first or last name, teaching another ⁷ grade, or transferring schools.²² The plaintiff found these unacceptable and requested training on ⁸ gender-neutral Spanish formulations, which was denied.^{23 9} During the process, Principal Contreras allegedly instructed the plaintiff that she must use the ¹⁰ student’s preferred pronouns despite her religious beliefs.²⁴ Vice Principal Escobar allegedly ¹¹ questioned Ramirez about her faith and voiced a contrary interpretation of Catholic dogma by ¹² stating, “I’m Catholic too.

I don't have a problem using different pronouns for transgender kids. 13 And you shouldn't either."25 14 In January 2023, the plaintiff was suspended with pay pending investigation under California 15 Education Code § 44932, the same statute used for terminating teachers for physical child abuse, 16 including sexual abuse.26 On February 14, 2024, the District Board — including Benjamin Davis, 17 Jennifer Brouhard, VanCedric Williams, and Mike Hutchinson — voted to terminate the plaintiff 18 19 20 21 17 Id. at 9–10 (¶¶ 78–79).

22 18 Id. at 4 (¶ 17), 10–11 (¶¶ 87–88). 23 19 Id. at 3 (¶ 13), 11 (¶¶ 89–90). 20 Id. at 11 (¶¶ 91–95). 24 21 Id. (¶ 96). 25 22 Id. (¶¶ 97–99). 26 23 Id. at 11–12 (¶¶ 100–04). 24 Id. at 8–9 (¶¶ 69–72). 27 25 Id. at 7 (¶ 53). 1 for violating California Education Code § 220 (prohibiting discrimination based on gender 2 identity) and District Policy 5145.3 (requiring use of preferred pronouns).27 3 The plaintiff filed a charge with the EEOC in December 2024 alleging religious discrimination 4 and retaliation in violation of Title VII.28 The EEOC issued a right-to-sue letter on March 4, 2025, 5 and mailed it to the following address: 5517 East 16th Street, Oakland, California, 94621.29 That 6 was the address that the plaintiff gave to the EEOC when she filed her complaint.30 She contends 7 that "[t]o the best of my recollection, I gave the EEOC a mailing address for me: 10324 Byron Ave., 8 Oakland, CA 94603."31 In February 2025, she told the EEOC that she was represented by counsel.32 9 The EEOC told her that it would close her file by March 3, 2025, and issue her a right-to-sue 10 letter.33 It sent her email notices on March 4 and 12, 2025, that the notice was available online to 11 download.34 (It is undisputed that the right-to-sue letter was available online through the EEOC's 12 portal.

At the hearing, counsel represented that he tried to log into the portal, but it was no longer 13 available. The portal allows access to all documents, apparently through the ninety-day period to 14 file a lawsuit.)

On May 19, 2025, the plaintiff's counsel inquired about the right-to-sue letter, 15 received no response, and sent another inquiry on June 23, 2025. The EEOC told him to make a 16 FOIA request.35 Counsel then reached out directly to Roberta Steele, Regional Attorney for the 17 EEOC's San Francisco District Office, threatening to sue, and on July 1, 2025, received a copy of 18 the right-to-sue letter (dated March 4, 2025, addressed to 5517 East 16th Street, Oakland, 19 20 21 27 Id. at 13–14 (¶¶ 116–19).

22 28 Id. at 14 (¶ 127). 29 EEOC Letter – ECF No. 60-2 at 2. The EEOC also sent the plaintiff notices on March 4 and 12, 23 2025, that the right-to-sue letter was available online. EEOC Register of Actions, Ex. B to Req. for Judicial Notice – ECF No. 66-2 at 6–7. 24 30 Charge of Discrimination, Ex. A to Req. for Judicial Notice – ECF No. 66-2 at 4. 25 31 Pl.'s Decl. – ECF No. 60-1 at 3 (¶ 10).

26 32 Id. at 2 (¶ 4); SAC – ECF No. 60 at 14 (¶ 128). 33 SAC – ECF No. 60 at 14 (¶ 128). 27 34 EEOC Register of Actions, Ex. B to Req. for Judicial Notice – ECF No. 66-2 at 6–7. 1 California,

94621).³⁶ The plaintiff filed this action on December 19, 2024, without the Title VII ² claims.³⁷ Thereafter, with leave of the court, she added the Title VII claims to the SAC.³⁸ ³ The parties consented to magistrate-judge jurisdiction under 28 U.S.C. § 636(c).³⁹ The court ⁴ has federal-question jurisdiction.⁴⁰ The court held a hearing on October 16, 2025.

⁵ ⁶ ANALYSIS ⁷ A complaint must contain a short and plain statement of the claim showing that the pleader is ⁸ entitled to relief to give the defendant fair notice of the claim and the grounds upon which it rests. ⁹ Fed. R. Civ. P. 8(a); Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555 (2007).

Thus, “[a] complaint ¹⁰ may fail to show a right to relief either by lacking a cognizable legal theory or by lacking sufficient ¹¹ facts alleged under a cognizable legal theory.” Woods v. U.S. Bank N.A., 831 F.3d 1159, 1162 (9th Cir. 2016).

The court accepts as true the complaint’s factual allegations and construes them in the ¹³ light most favorable to the plaintiff. Interpipe Contracting, Inc. v. Becerra, 898 F.3d 879, 886–87 ¹⁴ (9th Cir. 2018). A complaint must allege “enough facts to state a claim to relief that is plausible on ¹⁵ its face.” Twombly, 550 U.S. at 570. Threadbare recital of the elements of a claim, supported by ¹⁶ mere conclusory statements, do not suffice.

Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009). ¹⁷ The motion has four issues: whether the district has sovereign immunity, whether the ¹⁸ individuals have qualified immunity, whether the complaint states a claim, and whether the statute ¹⁹ of limitations bars the plaintiff’s Title VII claims.⁴¹ The plaintiff is not relitigating the court’s earlier ²⁰ order dismissing claims against the District or the Free Speech claims: she is preserving the issues ²¹ ²² ²³ ²⁴ ³⁶ Id. at 15 (¶¶ 132–³⁴); EEOC Letter – ECF No. 60-2 at 2.

²⁵ ³⁷ Compl. – ECF No. 1. ²⁶ ³⁸ Mot. – ECF No. 50; Order – ECF No. 59; SAC – ECF No. 60. ³⁹ Consents – ECF Nos. 20, 33–34. ²⁷ ⁴⁰ Order – ECF No. 43 at 4. ¹ for appeal.⁴² That leaves the qualified-immunity defense (and whether new allegations plausibly ² plead a claim) and whether the statute of limitations bars the Title VII claims. ³ ⁴ ¹. Qualified Immunity ⁵ The first issue is whether the individual defendants are entitled to qualified immunity on the § ⁶ 1983 claims.

Qualified immunity shields government officials from liability unless their conduct ⁷ violates clearly established constitutional rights of which a reasonable official would have known. ⁸ Pearson v. Callahan, 555 U.S. 223, 231 (2009). Courts ask (1) whether a right was violated and ⁹ (2) whether it was clearly established at the time. Id. at 236.

The plaintiff bears the burden on the ¹⁰ second prong, and rights must be particularized to the facts of the case, not defined at a high level ¹¹ of generality. Ashcroft v. al-Kidd, 563 U.S. 731, 742 (2011). No binding precedent clearly ¹² established that requiring a teacher to use preferred pronouns violates free speech or free exercise ¹³ rights, and out-of-circuit cases are mixed.⁴³ ¹⁴

The SAC's new allegations — Principal Contreras's and Vice Principal Escobar's comments 15 about the plaintiff's beliefs — do not change this.⁴⁴ The plaintiff argues that these show hostility 16 akin to Masterpiece Cakeshop, where commissioners made overtly disparaging remarks about 17 religion ("despicable pieces of rhetoric").

584 U.S. at 635. She also cites Fellowship of Christian 18 Athletes v. San Jose Unified School District Board of Education, 82 F.4th 664, 692 (9th Cir. 2023) 19 (en banc) (officials called religious beliefs "bullshit" and the plaintiffs "charlatans"), and out-of- 20 circuit cases like Meriwether v. Hartop, 992 F.3d 492 (6th Cir. 2021) (pronoun policy violated 21 free speech).⁴⁵ 22 But these cases do not clearly establish a violation here.

Masterpiece and Fellowship involved 23 public, overt hostility far exceeding the isolated, context-specific comments alleged. By contrast, 24 Principal Contreras's statement was a restatement of policy enforcement, not disparagement. Vice 25 26 42 Opp'n – ECF No. 65 at 9–10; Order – ECF No. 43 at 6–10 (holding the District immune). 43 Order – ECF No. 43 at 10–13 (has full qualified-immunity standard, adopted by this reference).

27 44 See supra Statement. 1 Principal Escobar's remarks occurred during accommodation discussions.⁴⁶ No Supreme Court or 2 Ninth Circuit case has addressed whether requiring a teacher's use of preferred pronouns in a public 3 school violated rights, putting defendants on notice "beyond debate." al-Kidd, 563 U.S. at 741. 4 Courts are split on the issue. Kluge v. Brownsburg Cmty.

Sch. Corp., 432 F. Supp. 3d 823 (S.D. Ind. 5 2020) (no violation); Vlaming v. West Point Sch. Bd., 302 Va. 504 (2023) (violation, but law not 6 clearly established); cf. Wilson v. Layne, 526 U.S. 603, 618 (1999) (circuit splits undermine clarity). 7 This split underscores that the law was not "beyond debate." al-Kidd, 563 U.S. at 741. 8 Qualified immunity applies.

The claims are dismissed with prejudice. 9 10 2. Title VII Claims 11 The parties dispute whether the Title VII claims are untimely: the amended complaint adding 12 the claims was filed on July 7, 2025, more than ninety-three days after the EEOC issued the right- 13 to-sue letter on March 4, 2025, and mailed it to the plaintiff's address of record.

The plaintiff 14 allegedly did not receive it until July 1, 2025, after her counsel asked for it on May 19, 2025, and 15 July 23, 2025.⁴⁷ The plaintiff contends that the statute of limitations began running only when she 16 received the right-to-sue letter and that she in any event is entitled to equitable tolling.⁴⁸ The 17 defendants counter that the statute of limitations began three days after March 4, 2025, which 18 makes the July 7, 2025, amended complaint untimely, and no facts establish equitable tolling.⁴⁹ 19 The amended complaint was untimely, and the claims are dismissed.

20 Title VII requires a plaintiff to file suit within ninety days of receiving an EEOC right-to-sue 21 letter. 42 U.S.C. § 2000e-5(f)(1); *Scholar v. Pac. Bell*, 963 F.2d 264, 267 (9th Cir. 1992). When the 22 date of receipt is disputed, courts apply a rebuttable presumption that an individual received the 23 notice three days after it was mailed. *Payan v. Aramark Mgmt.*

Servs. Ltd. P'ship, 495 F.3d 1119, 24 25 26 46 SAC – ECF No. 60 at 7 (¶¶ 49–59), 8 (¶¶ 69–72). 47 See *supra* Statement. 27 48 Opp'n – ECF No. 65 at 21–26. 1 1125–26 (9th Cir. 2007). The ninety-day period operates as a statute of limitations and is subject to 2 the doctrine of equitable tolling. *Scholar*, 963 F.2d at 267. 3 The complaint was not timely filed within ninety days (plus three days for mailing).

The 4 plaintiff tries to distinguish Ninth Circuit cases, saying that they require actual receipt of notice, not 5 dispatch of it.⁵⁰ But it was the plaintiff's job to provide her address. 29 C.F.R. § 1601.7(b); *Jones v. Wal-Mart Stores, Inc.*, No. CV-07-0775-PHX-SMM, 2009 WL 2382435, at *5 (D. Ariz. Aug. 3, 7 2009), *aff'd*, 405 F. App'x 155 (9th Cir. 2010); *St. Louis v. Alverno Coll.*, 744 F.2d 1314, 1316–17 8 (7th Cir.

1984). The plaintiff did not rebut the three-day presumption with sufficient evidence of 9 non-receipt because her recollection of providing a different address lacks corroboration.⁵¹ The 10 amended complaint adding the claims was untimely. 11 The remaining issue is whether the equitable-tolling doctrine excuses the late filing.

The 12 timeline does not establish diligence that merits equitable tolling. 13 The equitable-tolling doctrine applies when a plaintiff pursues her rights diligently, and (2) 14 “some extraordinary circumstance stood in [her] way.” *Roberts v. Marshall*, 627 F.3d 768, 771–72 15 (9th Cir. 2010).

The doctrine is applied sparingly, *Payan*, 495 F.3d at 1122–25, such as “when 16 extraordinary circumstances beyond the plaintiff's control made it impossible to file a claim on 17 time.” *Stoll v. Runyon*, 165 F.3d 1238, 1242 (9th Cir. 1999), as amended (Mar. 22, 1999); see 18 *Nelmida v. Shelly Eurocars, Inc.*, 112 F.3d 380, 384 (9th Cir. 1997) (equitable tolling is “to be 19 applied only sparingly” where a claimant “had neither actual nor constructive notice of the filing 20 period”).

The Supreme Court has “allowed equitable tolling when the statute of limitations was 21 not complied with because of defective pleadings, when a claimant was tricked by an adversary 22 into letting a deadline expire, and when the EEOC's notice of the statutory period was clearly 23 inadequate.” *Scholar*, 963 F.3d at 268 (citing *Irwin v. Dep't of Veteran Affs.*, 498 U.S. 89, 111 24 (1990) and *Baldwin Cnty.*

Welcome Ctr. v. Brown, 466 U.S. 147, 151 (1984) (per curiam)). “Courts 25 26 27 50 Opp'n – ECF No. 65 at 20–24.] have been generally unforgiving... when a late filing is due to [the] claimant's failure to ‘exercise 2 || due diligence in preserving his [or her] legal rights.’” /d.

(quoting *Irwin*, 498 U.S. at 96). 3 The facts do not establish the requisite diligence for equitable tolling.

Unlike in *Jones*, where the 4 || plaintiff gave his new address to the EEOC investigator twice and contacted the EEOC repeatedly, 5 || the plaintiff provided no evidence of updating her address beyond a recollection (without 6 || corroboration) that she believed she did. Also, she contacted the EEOC only in May 2025, despite 7 notice in February 2025 that the EEOC would issue the notice on March 3, 2025.°?

Jones, 2009 WI 8 || 2382435, at *5 (the plaintiff established diligence by giving the EEOC investigator his new address 9 || verbally and in writing, filing a change-of-address form with the U.S. Postal Service, and calling the 10 || EEOC five times in one month, finally demanding to speak with a supervisor and learning only the 11 that the EEOC had sent him the notice several months before his calls).

She also undisputedly had 12 || access to the right-to-sue letter via the EEOC's online portal and was aware of the timing issues || well before the ninety days to file suit expired. 14 The Title VII claims are dismissed. 3 15 CONCLUSION a 16 All claims are dismissed with prejudice. This resolves ECF No. 62. 2 17 IT IS SO ORDERED. 18 Dated: October 17, 2025 LAE 19 LAUREL BEELER 20 United States Magistrate Judge 21 22 23 24 25 26 27 28 || ** See Statement (recounting timeline).