MAYFLOWER DISTRICT COURT
COUNTY OF CLARK

LOVEANABOY, *Plaintiff,* v. LANDER CITY POLICE DEPARTMENT, *et al.*, *Defendant.*	CV-395-25 OPINION & ORDER

NICKLAUS_S, District Judge:

Plaintiff Loveanaboy brings this lawsuit challenging both her involuntary general discharge on January 25, 2025, and her subsequent honorable discharge on February 6, 2025 from Defendant Lander City Police Department. Defendant now moves to dismiss for failure to state a claim, arguing the issues are untimely. For the foregoing reasons, the motion to dismiss is granted.

BACKGROUND

A. Factual Background

On September 11, 2024, Plaintiff Loveanaboy was hired by Defendant Lander City Police Department as a probationary police officer. Some time after, she completed probation and became a full-fledged police officer. (Complaint ¶ 13). Then it all changed. On January 12, 2025, Plaintiff was issued a department strike for failure to meet activity standards. Eight days later, she received a second strike for the same reason. That same day, Plaintiff was placed on administrative leave pending an internal investigation for violation of department policy.[1] (Complaint ¶ 14).

[1] Lander City Police Department, Code of Ethical Conduct § 105-02B ("Any Member of Service that fails to meet a required quota of patrol logs in a given week before they are due. Punishment may be issued by Field Services Division Command."); § 105-02C ("Any Member of Service that acquires two (2) continuous Service Strikes related to Inactivity.").

At a hearing during her administrative leave, Plaintiff explained that she believed she was supposed to submit her activity logs through Google Forms and attributed her failure to comply to that misunderstanding. The Department, understandably, rejected her explanation. It noted both that Plaintiff should had known that the Department fully transitioned to a new reporting platform and that Plaintiff had not submitted logs on either platform. (Complaint ¶ 15). So, on January 25, 2025, the Department issued her an involuntary general discharge for violation of department policy. (Complaint ¶¶ 15-16).

And the saga begins. Plaintiff sought review from the Department of Justice. Defendant failed to appear. Plaintiff presented evidence and arguments in favor of the discharge being overturned. (Complaint ¶ 17). On February 6, 2025, the arbitrator found that the discharge was improper because Plaintiff had been deprived of a property interest without due process and ordered Defendant to reinstate Plaintiff. (Complaint ¶ 18).

The same day, the Department reinstated Plaintiff to her prior position. (Complaint ¶ 19). But her relief was short-lived. Later that day, the Department again discharged her, this time honorably. (Complaint ¶ 20).

So, Plaintiff sought review from the Department of Justice again. And on February 27, 2025, the arbitrator again issued an order to overturn the involuntary general discharge.[2] (Complaint ¶ 22). But the Department defied and refused the validity of the order. (Complaint ¶ 23). So, the Department of Justice did all they could: on March 3, 2025, they greenlit this action before the District Court. (Complaint ¶ 24).

[2] It is unclear exactly what the arbitrator ordered. For example, the plaintiff plainly alleges that "the DOJ issued an Order to Overturn Administrative Action, referencing Plaintiff's January 25th discharge and directing that it be rescinded," but also alleges only that it was the "*intent* of the order" to "nullify…the subsequent [honorable] discharge." Complaint 22 (emphasis added).

B. Procedural Background

On July 5, 2025, Plaintiff initiated this lawsuit against Defendants 101Waves and Coupists in their official, quasi-official, and individual capacities. A month later, on August 13, 2025, the matter was docketed. The next day, the plaintiff submitted her first amended complaint. On August 16, 2025, the defendants were summoned. The operative complaint is based on the Mayflower Tort Claims Act, 5 M.S.C. 1 § 3101 *et seq.*, and alleges the following causes under state law: (1) unlawful act,[3] (2) official misconduct,[4] (3) deprivation of rights,[5] and (4) official misconduct.[6] A motion to dismiss was timely filed on August 22, 2025, by all defendants. The plaintiff timely filed a response in opposition on August 25, 2025. Shortly after, the defendants notified the Court that they did not intend to file replies in support.

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[3] 5 M.S.C. 1 § 3212.1 ("Any law, policy, order, procedure, action, or directive that impedes on an individuals rights, immunities, or privileges secured by law, charter, or the constitution shall be subject to the injunctive relief of a permanent restraining order against the government prohibiting them from enacting this policy, order, procedure, action, or directive; and injunctive relief reversing any harm done.")

[4] 5 M.S.C. 1 § 3104.6 ("Any individual who is a public servant and commits an act relating to his office but constitutes an unauthorized exercise of his official functions, where a reasonable person with his training, expertise, and experiences should know that such act is unauthorized; or refrains from performing a duty which is imposed upon him by law or is clearly inherent in the nature of his office.")

[5] 5 M.S.C. 1 § 3101.5 ("Every person who, under color of any statute, ordinance, regulation, custom, or usage, subjects, or causes to be subjected, any citizen of the State of Mayflower or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable for deprivation of rights to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.")

[6] 5 M.S.C. 1 § 3212.3 ("Any public official who refrains from performing a duty lawfully imposed on their office or clearly inherent to it, or who engages in a course of conduct relating to their office but constituting an unauthorized exercise of their official functions, is liable to the party injured.")

Legal Standards[7]

Rule 13(b)(6) of the Mayflower Rules of Civil Procedure provides for dismissal of an action for "failure to state a cause of action." Mayfl. R. Civ. P. 13(b)(6). When confronted with a motion to dismiss for failure to state a claim, the court must "assume the veracity" of "well-pleaded allegations." *Ashcroft* v. *Iqbal*, 556 U.S. 662, 679 (2009). However, the court need not "accept as true" allegations that offer merely "labels and conclusions," a "formulaic recitation of the elements of a cause of action," or "naked assertions devoid of further factual enhancement." *Id.* at 678. To survive a motion to dismiss, "a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible." *Ibid.* "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Ibid.*

Discussion

I. The Claims Are Barred Under The Statute Of Limitations For Civil Lawsuits.

Generally, and "except as otherwise expressly provided," state law provides that "a civil action may only be commenced for a tort" "within forty (40) days" for torts under 5 M.S.C. 1 §§ 3101, 3102, and 3104; "within thirty-five (35) days" for torts under 5 M.S.C. 1 §§ 3103 and 3105; and "within thirty (30) days" in "any such other case." 5 M.S.C. 1 § 6102. Time begins to run "on the day after the tort is committed." *Id.* A civil

[7] To the extent that the defendant alternatively argues that the court lacks subject-matter jurisdiction under Mayfl. R. Civ. P. 13(b)(1), the statutes of limitations issue is better resolved under Mayfl. R. Civ. P. 13(b)(6) for failure to state a claim. *See Ghartey* v. *St. John's Queens Hosp.*, 869 F.2d 160 (2nd Cir. 1989) ("Where the dates in a complaint show that an action is barred by a statute of limitations, a defendant may raise the affirmative defense in a pre-answer motion to dismiss. Such a motion is properly treated as a Rule 12(b)(6) motion to dismiss for failure to state a claim upon which relief can be granted rather than a Rule 12(b)(1) motion to dismiss for lack of jurisdiction over the subject matter.").

action is "commenced" when a "civil complaint or matter" is "filed or docketed" with a court. *Id.*

Both parties generally agree that this matter was filed outside the limitation period. They agree that the most generous limitation period is the 40-day one; that the latest the period could have begun is on March 3, 2025; and that this matter was filed outside that period. *See* 5 M.S.C. 1 § 6102.

The mathematics here are straightforward and unforgiving. The court need not determine which limitation period applies—the 40 day, 35 day, or 30 day period—or on which date that limitation period began—whether that be January 25, 2025; February 6, 2025; March 3, 2025; or some earlier date—because even under the most generous and selective standards, the claims here are untimely.

Taking the most generous limitations period of 40 days and the latest possible accrual date of March 3, 2025, the deadline for filing would have been April 12, 2025. Yet this action was not filed until July 5, 2025—over three months after the deadline expired. Even accounting for the docketing date of August 13, 2025, the complaint remains woefully untimely. The delay cannot be excused by mathematical creativity or wishful thinking.

II. The Plaintiff Is Not Entitled To Equitable Tolling.

Because the plaintiff cannot seriously dispute that the statute of limitations has lapsed on the claims here, she next argues that equitable tolling is warranted. Equitable tolling is grounded in the idea that courts of equity "must be governed by rules and precedents no less than the courts of law," *Lonchar* v. *Thomas*, 517 U.S. 314, 323 (1996), but with the need for "flexibility" and avoiding "mechanical rules," *Holmberg* v. *Armbrecht*, 327 U.S. 392, 396 (1946), there exists a tradition in which courts of equity

have sought to "relieve" parties from "hardships which, from time to time, arise from a hard and fast adherence" to the absolute legal rules, which, if strictly applied, threaten the "evils of archaic rigidity." *Hazel-Atlas Glass Co.* v. *Hartford-Empire Co.*, 322 U.S. 238, 248 (1944). This "flexibility" inherent in "equitable procedure" enables courts of equity "to meet new situations which demand equitable intervention" and "accord all the relief necessary to correct the particular injustices" involved. *Ibid.*

A. The Limitation Period Here Is Not A Jurisdictional Bar.

So, in some cases, a limitation period may be subject to equitable tolling. But "jurisdictional requirements…do not allow for equitable exceptions." *Boechler* v. *Commissioner of Internal Revenue*, 596 U.S. ___, ___ (2022) (slip op. at 3). So, to determine whether equitable tolling is appropriate, this case first turns on the threshold question of whether the limitation periods described above are jurisdictional.

For decades, the Supreme Court has been on a mission to rein in profligate uses of "jurisdiction," a word with "many, too many, meanings." *Arbaugh* v. *Y & H Corp.*, 546 U.S. 500, 510 (2006). Treating a rule as jurisdictional has real-world effects on the parties and can be detrimental to judicial economy. A case can be dismissed for lack of subject-matter jurisdiction at any stage in the litigation, even if a party previously acknowledges that it exists, so "tardy jurisdictional objections can…result in a waste of adjudicatory resources and can disturbingly disarm litigants." *Sebelius* v. *Auburn Reg'l Med. Ctr.*, 568 U.S. 145, 153 (2013); *Henderson* v. *Shinseki*, 562 U.S. 428, 435 (2011). Additionally "branding a rule as" jurisdictional "alters the normal operation of our adversarial system" by requiring courts to *sua sponte* address that rule. *Henderson*, 562 U.S. at 434.

With that in mind, "a rule should not be referred to as jurisdictional unless it governs a court's adjudicatory capacity, that is, its subject-matter or personal jurisdiction. Other rules, even if important and mandatory…should not be given the jurisdictional brand." *Id.* at 435. Many procedural rules "simply instruct parties to take certain procedural steps at certain specified times" and "promote the orderly progress of litigation" but do not bear on or condition the jurisdiction of the court on compliance with them. *Boechler*, slip op. at 2-3. To that end, the Supreme Court has "adopted a readily administrable bright line for determining whether to classify a statutory limitation as jurisdictional." *Auburn Reg'l*, 568 U.S. at 153. That is, a rule may be treated as jurisdictional only when the legislature "clearly states that it is." *Boechler*, slip op. at 3. And because the legislature does not "incant magic words," "traditional tools of statutory construction must plainly show" that the legislature enacted "a procedural bar with jurisdictional consequences." *Ibid.* So, the Supreme Court has made clear that "statutes of limitations and other filing deadlines ordinarily are not jurisdictional." *Musacchio* v. *United States*, 577 U.S. 237, 246 (2016). This is true "even when the time limit is important (most are) and even when it is framed in mandatory terms (again, most are)." *United States* v. *Wong*, 575 U.S. 402, 410 (2015). Instead, the legislature "must do something special, beyond setting an exception-free deadline, to tag a statute of limitations as jurisdictional." *Ibid.*

In enacting the statutes here, the legislature did nothing of the sort. Instead, the statute is phrased only as a "period of limitation," and "does not speak in jurisdictional terms or refer in any way to the jurisdiction of the district courts." *Zipes* v. *Trans World Airlines, Inc.*, 455 U.S. 385, 394 (1982). Nor does any jurisdictional provision relating to the court "limit jurisdiction to those cases in which there has been a timely filing." *Id.* at

393. The pertinent statute merely states that "a civil action may only be commenced for a tort" "within forty (40) days" or "within thirty-five (35) days," depending on the specific tort, or "in any such other case, within thirty (30) days." 5 M.S.C. 1 § 6102. To be sure, the Supreme Court has repeatedly held that limitation periods with even more unyieldingly phrased—or even similarly phrased—language are statutes of limitations which could be equitably tolled. *See, e.g., Burnett* v. *New York Central Railroad Co.*, 380 U.S. 424, 426 (1965) (holding that a limitations period mandating that "no action shall be maintained…unless commenced within three years from the day the cause of action accrued" was subject to equitable tolling). Section 6102 does not prohibit the courts from entertaining actions after the statutory limit has passed; instead, it merely sets forth the relevant statute of limitations. The statutory language indicates that the legislature did not intend the limitations period to divest the court of subject-matter jurisdiction.

B. The Plaintiff Nonetheless Fails To Demonstrate That Equitable Tolling Is Appropriate.

So, at the threshold level, equitable tolling is appropriate here. But equitable tolling is "a discretionary doctrine that turns on the facts and circumstances of a particular case." *Fisher* v. *Johnson*, 174 F.3d 710, 713 (5th Cir. 1999). It is "a rare remedy to be applied in unusual circumstances, not a cure-all for an entirely common state of affairs." *Wallace* v. *Kato*, 549 U.S. 384, 396 (2007). Therefore, a litigant seeking equitable tolling generally "bears the burden of establishing two elements: (1) that he has been pursuing his rights diligently, and (2) that some extraordinary circumstance stood in his way." *Pace* v. *DiGuglielmo*, 544 U.S. 408, 418 (2005). This is a high bar, and, as a result, "federal courts sparingly bestow equitable tolling." *Graham-Humphreys* v. *Memphis Brooks Museum of Art*, 209 F.3d 552, 561 (6th Cir. 2000).

A litigant is only entitled to equitable tolling if they pursue their rights diligently. The diligence inquiry extends only to affairs "within the control" of the litigant, *Menominee Indian Tribe of Wis.* v. *United States*, 577 U.S. 250, 257 (2016), and the litigant need only show "reasonable diligence" rather than "maximum feasible diligence." *Holland* v. *Florida*, 560 U.S. 631, 653 (2010). The actions a litigant took before and after purported extraordinary circumstances may indicate whether a litigant was "diligent overall" because assessing due diligence necessarily includes a temporal component. *Jackson* v. *Davis*, 933 F.3d 408, 411 (5th Cir. 2019). Even if diligent, a litigant must show that an extraordinary circumstance stood in the way of timely filing. And that extraordinary circumstance must be of no fault of the litigant. *See Menominee Indian Tribe of Wis.*, 577 U.S. at 257.

Plaintiff argues that she diligently pursued her rights because she sought to secure counsel after timely exhausting her administrative remedies. In turn, she argues that the uncertainty of when the statute of limitations applied here and the fact that her complaint is complex constitutes extraordinary circumstances. (*See* Pl's. Opp. at 6-7).

Although the plaintiff protests that she was diligent in the face of extraordinary circumstances, she leaves no significant evidence to support that assertion. And recall, the burden of proving that assertion is hers alone. While the plaintiff may have been diligent in pursuing her administrative remedies, her subsequent delay in filing is inexcusable. The plaintiff was informed by the Department of Justice on March 3, 2025, that she had exhausted her administrative remedies and could pursue a civil action in this court. The plaintiff, however, waited until July 5, 2025, to file her complaint. This is a delay of more than three months. This protracted delay in filing, after the administrative process was complete, belies the notion of diligence.

Even if the plaintiff was diligent, her arguments demonstrating an extraordinary circumstance fail because, in essence, she merely asserts that her "ignorance of the law" regarding the applicable statute of limitations caused her to file late. *Graham-Humphreys*, 209 F.3d at 561. To be sure, the fact that there may have been "uncertainty surrounding how to calculate the deadline" in this case only cuts against the plaintiff. (Pl's. Opp. at 7). "Miscalculating the limitations period" does not entitle a litigant to equitable tolling. *Lawrence* v. *Florida*, 549 U.S. 327 (2007). If that was the case, any "person whose attorney missed a deadline" would be entitled to equitable tolling. *Ibid.* Plaintiff also suggests that equitable tolling should apply because preparing her complaint was a complicated endeavor. But courts have consistently rejected the notion that complexity or hardship seeking counsel is an extraordinary circumstance. *See Menominee Indian Tribe of Wis.* v. *United States*, 764 F.3d 51 (D.C. Cir. 2014), *aff'd*, 577 U.S. 250 (2016) ("If a lawsuit's breadth and complexity were an extraordinary circumstance, few statutes of limitations would function."). Complexity may make a filing more labor-intensive, but it does not transform a missed deadline into a diligent effort thwarted by external obstacles. In sum, because the mistake here was fundamentally no different from "a garden variety claim of excusable neglect," the plaintiff is not entitled to equitable tolling. *Irwin* v. *Department of Veterans Affairs*, 498 U.S. 89, 96 (1990).

The argument that the defendant has experienced no prejudice is inapposite. (*See* Pl's. Opp. at 7). The absence of prejudice cannot serve as an independent basis for equitably tolling a limitations period, especially where, as here, the plaintiff fails to demonstrate that any other factor supports tolling. *See, e.g., Baldwin County Welcome Center* v. *Brown*, 466 U.S. 147, 152 (1984) ("Although absence of prejudice is a factor to be considered in determining whether the doctrine of equitable tolling should apply once a

factor that might justify such tolling is identified, it is not an independent basis for invoking the doctrine and sanctioning deviations from established procedures.").

* * *

Enforcing rules like statutes of limitations can seem deeply unjust at times. But lawyers' work is careful work. Attention to detail is critical. A mistake that might be immaterial in other professions can be devastating for attorneys and their clients. Even the most minor violations of limitation periods have resulted in forfeited claims—regardless of merits. If we fail to require attorneys to be diligent, the entire system slows down. And in creating limitations periods, there are legitimate interests that legislators are entitled to take into account. Courts prefer resolving cases on their merits, but we honor the interests of the people—and the rule of law—by enforcing the rules consistently, even when the result seems unjust.

Finally, a note on briefing. As the old adage goes: less is more. Judges are not archaeologists; they do not excavate masses of dirt searching for the jewel of a theory. "Parties are under a general obligation to make their pleadings straightforward, so that judges and adverse parties need not try to fish a gold coin from a bucket of mud." *Zrihem* v. *TDark99*, 2 Mayfl. __, __ (2025) (slip op. at 10) (Cabot, J., dissenting) (cleaned up). At multiple junctions here, however, the plaintiff led the Court to believe the parties were at odds when, in reality, they were not. For example, the Court was led to believe the parties disputed when the limitations period commenced, only to discover both sides actually conceded—at least for the purposes of argument—that it began March 3, 2025. (*See* Def's. Mot. at 3; Pl's. Opp. at 5-6). And most notably, in responding to a motion concerned solely with timeliness, the plaintiff devoted over *thirteen* pages to

demonstrating satisfaction of tort elements that the defendants never led this Court to doubt. (*See* Pl's. Opp. at 8-15).

This misdirected advocacy wastes judicial resources and disserves clients who deserve precise, targeted representation. Counsel would do well to remember that persuasion lies not in volume but in clarity of thought and economy of expression.

CONCLUSION

For the foregoing reasons, Defendants' Motion to Dismiss is **GRANTED**. Accordingly, it is hereby **ORDERED** that the above-entitled action is **DISMISSED WITH PREJUDICE**; and it is further **ORDERED** that the Clerk of Court is respectfully directed to terminate all pending motions and close this case.

Dated: September 6, 2025
Lander, Mayflower

/s/ Nicklaus_s

NICKLAUS_S
District Judge