

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 18 2026

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

JUDITH SCRASE,

Plaintiff - Appellant,

v.

RICHARD ALEXANDER SCRASE;
EDNA PATRICIA SCRASE,

Defendants - Appellees.

No. 25-7152

D.C. No.

2:22-cv-01207-JAD-DJA

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Jennifer A. Dorsey, District Judge, Presiding

Submitted September 16, 2026**
Phoenix, Arizona

Before: M. SMITH and TUNG, Circuit Judges, and DIMKE, District Judge.***

Judith Scrase appeals from the district court's dismissal of her fraud, elder abuse, and financial exploitation claims against Richard and Edna Scrase with

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

*** The Honorable Mary K. Dimke, United States District Judge for the Eastern District of Washington, sitting by designation.

prejudice and the district court’s denial of her motion to alter or amend the judgment. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

1. The district court did not err in dismissing Appellant’s claims as time-barred under Nevada law. We “review de novo a district court’s dismissal . . . under Rule 12(b)(6).” *Kroessler v. CVS Health Corp.*, 977 F.3d 803, 807 (9th Cir. 2020) (citation omitted). “On review, we accept the plaintiff’s allegations as true and construe them in the light most favorable to the plaintiff.” *Id.* “Under the *Erie* doctrine, federal courts sitting in diversity apply state substantive law and federal procedural law.” *Gasperini v. Ctr. for Humans., Inc.*, 518 U.S. 415, 427 (1996). A state’s statute of limitations law is considered substantive. *Nevada Power Co. v. Monsanto Co.*, 955 F.2d 1304, 1306 (9th Cir. 1992). “Federal courts must [also] abide by a state’s tolling rules[.]” *Albano v. Shea Homes Ltd. P’ship*, 634 F.3d 524, 530 (9th Cir. 2011).

Plaintiff argues that her claims are entitled to equitable tolling for the time she was in prison and on parole. “[E]quitable tolling is a nonstatutory remedy that permits a court to suspend a limitations period and allow an otherwise untimely action to proceed when justice requires it.” *Fausto v. Sanchez-Flores*, 137 Nev. 113, 115 (2021). Under Nevada law, courts evaluate several factors in assessing whether equitable tolling is warranted: (1) “the diligence of the claimant”; (2) “the claimant’s knowledge of the relevant facts”; (3) “the claimant’s reliance on authoritative

statements by the administrative agency that misled the claimant about the nature of the claimant's rights"; (4) "any deception or false assurances on the part of the employer against whom the claim is made"; (5) "the prejudice to the employer that would actually result from delay during the time that the limitations period is tolled"; and (6) "any other equitable considerations appropriate in the particular case." *Copeland v. Desert Inn Hotel*, 99 Nev. 823, 826 (1983); *see also Fausto*, 137 Nev. at 118 (directing "courts to consider the relevant *Copeland* factors when determining whether to equitably toll"). "[P]laintiffs [must] at least demonstrate that, despite their exercise of diligence, extraordinary circumstances beyond their control prevented them from timely filing their claims." *Fausto*, 137 Nev. at 117.

Appellant is not entitled to equitable tolling for the time of her arrest and incarceration (August 12, 2017 to August 1, 2018). Appellant offers nothing other than conclusory allegations regarding her alleged lack of access to attorneys and the courts during this period. And by her own admission, Appellant was aware of most of the facts relevant to her claims by March 23, 2017, when she learned "that Defendants had taken control of [her] mother's accounts, had taken her house," and had "trapped" her mother "at Defendants' farm." Yet she did nothing to pursue her claims.

Appellant is also not entitled to equitable tolling for the period of her parole. It is true she was subject to a no-contact order preventing her from interacting with

her mother or otherwise being involved in her mother's finances. But that order was the result of Appellant's own actions and so can hardly be considered "extraordinary circumstances *beyond [plaintiff's] control*." *Fausto*, 137 Nev. at 117 (emphasis added). Moreover, as noted above, Appellant was already aware of many of the facts underlying her claims prior to her parole. She pleads no facts showing diligence or how the no-contact order kept her from discovering necessary facts.¹

2. The district court did not abuse its discretion in dismissing Appellant's second amended complaint *with prejudice* and denying leave to amend as requested in Appellant's motion to alter and amend the judgment. *See Brown v. Brita Prods. Co.*, 172 F.4th 1113, 1119–20 (9th Cir. 2026); *Wood v. Ryan*, 759 F.3d 1117, 1119 (9th Cir. 2014) (per curiam). "[L]eave to amend should be given freely," unless "it is clear that granting leave to amend would have been futile." *In re Cloudera, Inc.*, 121 F.4th 1180, 1189–90 (9th Cir. 2024) (citations and internal quotation marks omitted). The district court allowed Plaintiff to amend her complaint twice. Even so, Plaintiff still failed to plead a factual basis justifying application of equitable tolling. Nothing in Plaintiff's opposition to Defendant's motion to dismiss alerted the district court to additional facts that could cure this deficiency. And the new evidence produced to support Plaintiff's motion to alter or amend cuts against, not

¹ Plaintiff also failed to demonstrate that she was otherwise entitled to statutory tolling of some kind. *See Nev. Rev. Stat. § 11.250(3)* (deeming periods of imprisonment ineligible for purposes of statutory tolling).

for, equitable tolling. The district court was well within its discretion to refuse amendment having determined that it would be futile.

AFFIRMED.