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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

SONIA POWELL,

Plaintiff,

v.

CITY OF PASCO, ET AL.,

Defendants.

NO: 4:16-CV-5071-TOR

ORDER DENYING MOTION TO
DISQUALIFY AND MOTION FOR
NEW TRIAL AND TO ALTER
JUDGMENT

BEFORE THE COURT is Plaintiff’s Motion to Disqualify Judge (ECF No. 59) and Motion for New Trial and to Alter Judgment (ECF No. 60). The matter was submitted without oral argument. The Court has reviewed the record and files herein, and is fully informed. For the reasons discussed below, Plaintiff’s Motions (ECF Nos. 59; 60) are **DENIED**.

A. Motion to Disqualify Judge

Plaintiff seeks disqualification, asserting the Court’s decisions evidence bias necessitating such. ECF No. 59; *see* ECF Nos. 27, 34; *see also* ECF Nos. 46, 49. Plaintiff complains that because the Court labeled the underlying incidents as

1 “mistreatment” this somehow suggest an unwillingness to consider the facts. ECF
2 No. 60 at 2. It is unclear how this label suggests an unwillingness to consider the
3 facts.¹ Further, the facts have been clearly delineated and considered by this Court
4 throughout. *See, e.g.*, ECF Nos. 39 at 2-4; 52.

5 Plaintiff complains that “Ms. Powell could file many of her claims against
6 Defendant Ellerd today and they would still be timely, but not in Honorable Rice’s
7 court.” ECF No. 59 at 3. She reasons that “Defendant Ellerd terminated her
8 relationship with her client on April 22, 2014.” ECF No. 59 at 1. While this may
9 be true, Plaintiff did not allege any actionable conduct beyond April 23, 2013, as
10 this Court specifically mentioned. ECF No. 52 at 9. It matters not when Plaintiff’s
11 relationship ended with her attorney; the question is when the alleged actionable
12 conduct occurred. Plaintiff’s action is not timely.

13 Plaintiff further complains that the court intended to disregard her “delayed
14 discovery rule applied to her Abuse of Process Claim.” ECF No. 59 at 3.

15 Plaintiff’s tolling arguments, including its application to the abuse of process
16 claim, were extensively considered, and efforts were duplicated to ensure full and
17 complete consideration. *See, e.g.*, ECF No. 52 at 2, 4-5, 8-19. Plaintiff contends
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19 ¹ *See* <https://www.merriam-webster.com/dictionary/mistreat> (mistreat defined
20 as: “to treat badly; abuse”).

1 “[i]t is totally unreasonable to expect a member of the general public to
2 automatically grasp professional liability from the abuse of process.” This is not a
3 legal argument, nor the test to be applied. Moreover, Plaintiff admitted she knew
4 about the alleged abuse of process at the time she signed the Agreed Stipulation
5 and Order of Continuance. *See* ECF No. 17 at ¶ 140 (Plaintiff signed the
6 Agreement in order to “begin to pursue justice against those that had violated her
7 civil rights.”). Thus, Plaintiff’s delayed discovery rule is completely meritless.

8 Plaintiff finally complains “Ms. Powell was barred from filing because the
9 identities of Defendants were unlawfully concealed. The Court failed to take this
10 into evidence. These actions, too elementary to be errors, suggest a strong
11 (prejudicial) bias. The Court is obligated to recuse itself.” ECF No. 59 at 2. It is
12 not clear exactly what Plaintiff alleges this Court failed to consider or whose
13 identity was concealed and by what means. The Court specifically addressed
14 Plaintiff’s concealment argument, ECF No. 52 at 13-15 and otherwise addressed
15 all of the arguments Plaintiff raised for tolling, ECF No. 52, which included the
16 purported failures with respect to the public records request, ECF No. 52 at 9-15.
17 A review of Plaintiff’s numerous submissions does not reveal any oversight by the
18 Court, and Plaintiff failed to include a citation as to what was allegedly not
19 considered. Moreover, nowhere did Plaintiff state she was barred from filing for
20 any reason, only that she was allegedly delayed. Moreover, Plaintiff’s attempt to

1 file with the State, well before the statute of limitations ran, further belies her
2 contention.

3 Notably, this Court has been extremely generous with Plaintiff's
4 submissions, and has put in extensive effort to address all of Plaintiff's numerous
5 contentions that were spread over a series of submitted documents. The Court has
6 disregarded continual and serious problems with the form and timing of Plaintiff's
7 motions, and has liberally construed all of her allegations. The Court's decision
8 does not evince any bias, and actually demonstrates the Court's continual leniency
9 in interpreting Plaintiff's arguments and in favor of reaching the merits of her case.

10 **B. Motion for a New Trial and to Alter Judgment**

11 Plaintiff has not submitted any substantive arguments with her Motion for a
12 New Trial and to Alter Judgment (ECF No. 60). The Motion is limited to bald
13 assertions that the judgment is against the clear weight of the evidence, without
14 discussing how. ECF No. 60 at 2. Plaintiff also states that a new trial is necessary
15 to avoid further delegitimizing the legal process and placing the public at risk, ECF
16 No. 60 at 3, but this is not a legal argument, nor is it a basis for ignoring the statute
17 of limitations. Finally, Plaintiff asserts her pleading raises genuine issues, ECF
18 No. 60 at 3, but does not mention how. She further states that her *in forma*
19 *pauperis* status was revoked to avoid the unflattering exposure. ECF No. 60 at 3.
20 This is not the case. The Court rejected her status because, after review of the

1 undisputed evidence, Plaintiff's claims are barred by the statute of limitations and
2 the Court found "that any appeal of this Order would not be taken in good
3 faith and would lack any arguable basis in law or fact." ECF No. 52 at 22.

4 **ACCORDINGLY, IT IS HEREBY ORDERED:**

- 5 1. Plaintiff's Motion to Disqualify (ECF No. 59) is **DENIED**.
- 6 2. Plaintiff's Motion for New Trial and to Amend Judgment (ECF No. 60)
7 is **DENIED**.

8 The District Court Executive is directed to enter this Order and furnish
9 copies to the parties. The file shall remain **CLOSED**.

10 **DATED** April 14, 2017.



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A handwritten signature in blue ink that reads "Thomas O. Rice".

THOMAS O. RICE
Chief United States District Judge