

United States Court of Appeals
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 30th day of May, two thousand nineteen.

Present:

Gerard E. Lynch,
Raymond J. Lohier, Jr.,
Circuit Judges,
Brian M. Cogan,*
District Judge.

Felix Lyle Cowan,

Plaintiff-Appellant,

v.

19-45

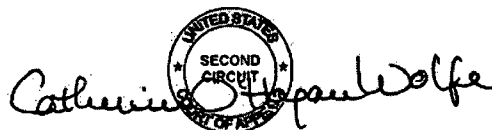
Eli Lilly, et al.,

Defendant-Appellee.

Appellant, pro se, moves to proceed in forma pauperis and for a ruling that the district judge committed misconduct in dismissing his case. However, this Court has determined sua sponte that the notice of appeal was untimely filed. The district court entered an order dismissing all claims on February 1, 2018. Because the judgment was not embodied in a separate document, judgment was deemed entered 150 days later, on July 2, 2018. *See* Fed. R. App. P. 4(a)(7)(ii). Accordingly, a notice of appeal was required to be filed no later than August 1, 2018. *See* Fed. R. App. P. 4(a)(1)(A). Upon due consideration, it is hereby ORDERED that the appeal is DISMISSED for lack of jurisdiction. *See* 28 U.S.C. § 2107; *Bowles v. Russell*, 551 U.S. 205, 214 (2007). It is further ORDERED that Appellant's motion is DENIED as moot.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk of Court



* Judge Brian M. Cogan, of the United States District Court for the Eastern District of New York, sitting by designation.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
FELIX LYLE COWAN,

Plaintiff,

-against-

ELI LILLY,

Defendant.
-----X

JACK B. WEINSTEIN, District Judge:

ORDER

17-CV-6174 (JBW)

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ JAN 31 2018 ★

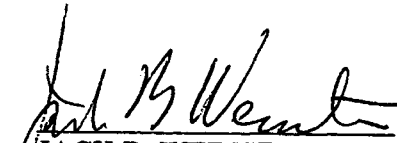
BROOKLYN OFFICE

By Order dated December 15, 2017, I directed Plaintiff Felix Lyle Cowan to show cause why this action should not be dismissed for failure to state a claim upon which relief may be granted. See 28 U.S.C. § 1915(e)(2)(B). In the alternative, Plaintiff was granted leave to replead the complaint. On January 23, 2018, Plaintiff filed a submission in response to the order to show cause.

Although Plaintiff's submission is far from clear, Plaintiff appears to allege that he received a settlement of \$5000.00 in satisfaction of his claim in In re: Zyprexa Products Liability Litigation, 04-md-01596 (JBW). Plaintiff now seeks additional compensation. To the extent that Plaintiff received a settlement in the Zyprexa litigation, he may not now revisit the Court's finding with respect to the payout that he received.

Accordingly, the action is dismissed for failure to state a claim upon which relief may be granted. The Court certifies pursuant to 28 U.S.C. § 1915 (a)(3) that any appeal from this order would not be taken in good faith and therefore *in forma pauperis* status is denied for purpose of an appeal. See Coppedge v. United States, 369 U.S. 438, 444-45 (1962).

SO ORDERED.


JACK B. WEINSTEIN
United States District Judge

Dated: Brooklyn, New York

 2018