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UNITED STATES SUPREME COURT

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[U.S. Supreme Court denied Pounchy his Writ [Appeal 2013-432] missing]

[Underlying trial]

UNDERLYING UNITED STATE COURT OF APPEALS SECOND CIRCUIT DECISIONS

Solotaroff represented Pouncy at the S.D.N.Y., then quit as Pouncy's attorney when the underlying Jury rendered a defective verdict and Pouncy appeal as pro se 5-1-07 to 8-9-09

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EVIDENCE OF MERIT FOR LEGAL MALPRACTICE, BREACH OF FIDUCIARY DUTY, FRAUD PURSUANT NY JUDICIAL LAW § 487 AND INTENTIONAL OF EMOTIONAL DISTRESS THAT WAS ERRONEOUSLY DISMISSED

To follow are documents that shows direct proof of claims against Solotaroff

APPENDIX 25 August 3, 2009, on [page 221, line 4] Judge Patterson opinion at the underlying federal Trial: "Plaintiff has met the basic evidence of showing discrimination, and the basic evidence necessary to have a claim of retaliation... You may have a – you have some – you have got a lot of work to do, Mr. Solotaroff. There are some damages. And just this

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Pouncy has the following documents as further evidence but cannot afford to print them out at this time.

1. The NYC MTA Bid Contract Danka Denial Funding for Pouncy Email dated 10-31-02 from Greg Bell, Danka’s corporate counsel on contracts, informing Pouncy Danka will not support Pouncy \$3 million account in administrative and to finance the contract. Example of intent by Solotaroff, Solotaroff failed to furnish this document to the jury even though Judge Patterson stated this was evidence that denied Danka summary judgment and allowed Pouncy to move for trial.
2. Danka Email on Denial of Pouncy the Special Pricing List Email from Rick Pirrotta, dated 02-28-03, Danka allowed a Caucasian Rep to poach Pouncy’s territory and use the City pricing and finance one of Pouncy’s accounts, but denied Pouncy this list to fund the NYC MTA bid, see Appx. 30 shows disparate treatment. Solotaroff again intentionally failed to furnish this document to the underlying jury.
3. Racially Motivated Minority Business List on December 29, 2003, Lance Redder Sales Director sent Pouncy a racially motivated email of a list of minority business owners. And the only reason Redder sent this racial email was to offend Pouncy. Solotaroff failed to furnish to the jury and make the argument, these racially motivated accounts are all outside Pouncy’s territory and Pouncy could not go after these accounts because these accounts are located out in Suffolk County, Long Island not Brooklyn.
4. Pouncy’s Paychecks: (1) Dated 7-5-02, year to date \$74,764.41 and (2) Dated 10-25-02, year to date \$107,361.99. However, in 2003 and 2004 Pouncy income was cut in half and only average \$60k to \$61k a serious deduction do to discriminatory acts
5. Redder’s retaliation after work letter. Danka’s Sales Director sent on January 25, 2005, and after Pouncy was terminated by Danka, a false letter accusing Pouncy of working at Canon Business Solution, Inc. Claiming Pouncy going after Danka’s clients. This letter

was copy to Canon, Pouncy's potential employer. It turned out Canon's reply letter on February 4, 2005 showed Pouncy did not work for Canon. Moreover, Reddler's letter was submitted into the court record, but this document was docketed, the bottom half of this document was depleted. See where the document stops half way down the page. However, there is a second page and Solotaroff did not bring this issue to the Judge.

6. Solotaroff Letter of Resignation to Robert P. Patterson, Jr. [U.S.D.J.] (1) March 26, 2009, Jason L. Solotaroff, Esq. wrote a letter to the underlying district court Robert P. Patterson, Jr. [U.S.D.J.] that Solotaroff and Schwartz & Thomasshower, LLP wanted to quit being Pouncy's attorney while Judge Patterson had Danka's summary judgment motion in front of him. Judge Patterson denied Solotaroff's request. Judge Patterson was very upset at Solotaroff wanting to quit inside a defendants' summary judgment motion. (2) Solotaroff again after the Jury was discharged Solotaroff sent Judge Patterson another letter of withdrawal. Judge Patterson granted this request without assignment of another legal counsel for Pouncy for post-trial motion and on appeal.
7. The Second Circuit Conflicts on Plain Error Doctrine; see *Romano v. Howarth et al.*, 998 F.2d 101; 1993 U.S. App. LEXIS 16260, in Pouncy's case, shows the Second Circuit made the opinion 'fundamental error' on the jury error, instead of 'Plain Error' as they did in *Romano v. Howarth et. al.*, 998 F.2d 101. The Second Circuit court sua sponte and addressed, considered and ruled on issues of fact on Romano's case, a Caucasian defendant, who's attorney failed to object to an error at trial, like Pouncy. However, the Second Circuit chose to site "Plain Error" under Rule 51 and allow the Romano's appeal to be remanded even though Romano's lawyer failed to object and preserve defendants' right to be heard on appeal with these issues. But, when Pouncy as pro se argued his appeal after Defendants-Solotaroff quit right after the discharge of the underlying jury, Pouncy was given the same protection of the law. The Caucasian defendant [ex-con] received a more favorable decision than Pouncy, who is not a criminal nor have ever been an ex-con, was denied due process, even when Pouncy's fundamental rights and the courts' public policy on plain error would allow Pouncy's appeal to move forward and be considered. Pouncy believes his appeal was dismissed on account of Pouncy's race.
8. Solotaroff's admission of No Defense Evidence by Patrick J. Lawless, Esq. Solotaroff's attorney affirmation to the New York Court of Appeals, that Judge Rakower's Opinion Stated Solotaroff Had Merit. But Solotaroff failed to show defense evidence in opposition to Pouncy's documentary evidence. The only evidence Solotaroff showed was Judge Rakower's statement that there was merit.
9. Pouncy Made Complaints To Various Agencies, The Department Disciplinary Committee First Department NYC District Attorney, NY State Attorney General. All responded except the State of New York Attorney General.

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 17th day of April, two thousand and eighteen.

Before: Amalya L. Kearse,
Richard C. Wesley,
Christopher F. Droney,
Circuit Judges.

Larry Pouny,

ORDER

Plaintiff - Appellant,

Docket No. 16-2769

v.

Jason Louis Solotaroff, Darliney Stewart, Esq.,
Giskan, Solotaroff, Anderson and Stewart,
LLP,

Defendants - Appellees.

Appellant, pro se, moves to recall the mandate and for leave to submit an oversized motion for reconsideration or reconsideration en banc.

IT IS HEREBY ORDERED that the motion is DENIED.

For the Court:

Catherine O'Hagan Wolfe,
Clerk of Court

Catherine O'Hagan Wolfe



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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 20th day of January two thousand and seventeen

Present: Amalya L. Kearse,
Richard C. Wesley,
Christopher F. Droney,

Circuit Judges

Larry Pouncey,
Plaintiff - Appellant,

ORDER
Docket No. 16-2769

v.
Jason Louis Solotaroff, Darlney Stewart, Esq., Giskan,
Solotaroff, Anderson and Stewart, LLP,
Defendants - Appellees.

Appellant, Larry Pouncey, filed a motion for reconsideration and the panel that determined the motion has considered the request.

IT IS HEREBY ORDERED, that the motion is denied.

For The Court:
Catherine O'Hagan Wolfe,
Clerk of Court

Catherine O'Hagan Wolfe


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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 19th day of December, two thousand and sixteen.

Before: Christopher F. Droney,
Circuit Judge.

Larry Pouny,

ORDER

Plaintiff - Appellant,

Docket No. 16-2769

v.

Jason Louis Solotaroff, Darlney Stewart, Esq., Giskan,
Solotaroff, Anderson and Stewart, LLP,

Defendants - Appellees.

Appellant, *pro se*, filed a motion for an extension of time to file a motion for reconsideration.

IT IS HEREBY ORDERED that the motion is GRANTED. Any motion for reconsideration must be filed by January 3, 2017.

For the Court:

Catherine O'Hagan Wolfe,
Clerk of Court

Catherine O'Hagan Wolfe



4a
S.D.N.Y.-N.Y.C.
15-cv-8753
Preska, J.

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 17th day of November, two thousand sixteen.

Present:

Amalya L. Kearse,
Richard C. Wesley,
Christopher F. Droney,
Circuit Judges.

Larry Pounçy,

Plaintiff-Appellant,

v.

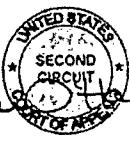
16-2769

Jason Louis Solotaroff, et al.,

Defendants-Appellees.

Appellant, pro se, moves for leave to proceed *in forma pauperis*. Upon due consideration, it is hereby ORDERED that the motion is DENIED and the appeal is DISMISSED because it "lacks an arguable basis either in law or in fact." *Neitzke v. Williams*, 490 U.S. 319, 325 (1989); *see also* 28 U.S.C. § 1915(e).

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk

Catherine O'Hagan Wolfe


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LARRY POUNCY,

Plaintiff,

-against-

JASON L. SOLOTAROFF, ESQ.;
DARNLEY STEWART, ESQ.; GISKAN,
SOLOTAROFF, ANDERSON AND
STEWART, LLP,

Defendants.

15-CV-8753 (LAP)

ORDER OF DISMISSAL

LORETTA A. PRESKA, Chief United States District Judge:

Plaintiff, appearing *pro se*, brings this action alleging that Defendants committed legal malpractice while representing him in his employment discrimination case, *Pouncey v. Danka Office Imaging Co., et al.*, No. 06-CV-4777 (RPP) (S.D.N.Y. Aug. 6, 2009). By order dated January 15, 2016, the Court granted Plaintiff's request to proceed without prepayment of fees, that is, *in forma pauperis*. The Court dismisses Plaintiff's complaint for the reasons set forth below.

STANDARD OF REVIEW

The Court must dismiss an *in forma pauperis* complaint, or portion thereof, that is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B); *see Livingston v. Adirondack Beverage Co.*, 141 F.3d 434, 437 (2d Cir. 1998). The Court must also dismiss a complaint, or portion thereof, when the Court lacks subject matter jurisdiction. *See Fed. R. Civ. P. 12(h)(3)*. While the law mandates dismissal on any of these grounds, the Court is obliged to construe *pro se* pleadings liberally, *Harris v. Mills*, 572 F.3d 66, 72 (2d Cir. 2009), and interpret them to raise the "strongest [claims] that they suggest," *Triestman v. Fed. Bureau of*

Prisons, 470 F.3d 471, 474-75 (2d Cir. 2006) (internal quotation marks and citations omitted) (emphasis in original).

BACKGROUND

On June 20, 2006, Plaintiff Larry Pouncey brought a *pro se* employment discrimination claim against his former employer, Danka Office Imaging Company, in this district. *See Pouncey v. Danka Office Imaging Co., et al.*, No. 06-CV-4777 (RPP). Plaintiff retained Defendant Solotaroff in May 2007 to represent him in that action. On May 18, 2009, Judge Robert P. Patterson granted Defendants' motion for summary judgment with respect to some of Plaintiff's claims. *Id.* (ECF No. 63.) The remainder of Plaintiff's claims proceeded to a jury trial, and on August 6, 2009, the jury rendered a verdict in favor of defendants. *Id.* (ECF No. 94.) Plaintiff's post-judgment motions, filed under Federal Rules of Civil Procedure 50(a) and 59, were denied on October 22, 2009. (ECF No. 105.) On September 21, 2010, the Court of Appeals for the Second Circuit affirmed the judgment and post-judgment orders of the district court. *Pouncey v. Danka Image Company*, No. 09-4912-cv (2d Cir. Sept. 21, 2010).

On December 15, 2010, Plaintiff brought a legal malpractice claim against Defendants in the Supreme Court of New York, New York County, arising out of Defendants' representation in *Pouncey v. Danka Office Imaging Co., et al.*, No. 06-CV-4777 (RPP). *See Pouncey v. Solotaroff, et al.*, No. 403748-2010 (N.Y. Sup. Filed Dec. 15, 2010). On May 12, 2011, Judge Eileen A. Rakower dismissed that complaint for failure to state a claim on which relief could be granted. The Appellate Division, First Department, affirmed the dismissal, finding that "plaintiff's complaint amounts to no more than retrospective complaints about the outcome of defendant[s'] strategic choices and tactics, with no demonstration that those choices and tactics were unreasonable." *Pouncey v. Solotaroff*, 953 N.Y.S.2d 497 (1st Dep't 2012) (internal quotations and citations omitted). The Appellate Division further noted that Plaintiff's claims were barred by the

doctrine of collateral estoppel. *Id.* The Court of Appeals denied leave to appeal on June 4, 2013. *Pounçy v. Solotaroff*, 21 N.Y.3d 857 (2013), *reargument denied*, 22 N.Y.3d 970 (2013).

Plaintiff now brings this action – over two years later – seeking to vacate the state court’s judgment in Defendants’ favor. He asks that the Court either enter judgment in his favor or allow him to relitigate his legal malpractice claims against Defendants in this forum. Plaintiff asserts that this Court has federal question jurisdiction over his claims under 28 U.S.C. § 1331, because the action underlying his malpractice claim was litigated in this district. Plaintiff also appears to suggest that 28 U.S.C. §§ 1651 and 2283 provide bases for federal question jurisdiction. (Compl. at 7-8.) Plaintiff also invokes this Court’s diversity jurisdiction under 28 U.S.C. § 1332, claiming that he is a resident of New York and that at least one defendant – Defendant Solotaroff – lives in New Jersey, and that the amount in controversy exceeds \$75,000. (*Id.* at 8.) Plaintiff also claims that he has the right to refile his claims “that were unjustly dismissed at the state court” in this Court, because the 2009 judgment in *Pounçy v. Danka Office Imaging Co., et al.*, No. 06-CV-4777 (RPP) was “wrong.” (*Id.* at 9.)

Finally, Plaintiff seeks “an order to remove [his] state court case” and enjoin “Defendants from trying to enter Judgment on [him in] case Index. 403478/10.” (*Id.* at 9.) He also seeks to vacate the order and judgment in *Pounçy v. Danka Office Imaging Co., et al.*, No. 06-CV-4777 (RPP), and a judgment entered in his favor. (*Id.* at 10.)

DISCUSSION

Plaintiff’s claims are barred under the *Rooker-Feldman* doctrine. The doctrine — created by two Supreme Court cases, *Rooker v. Fidelity Trust Co.*, 263 U.S. 413, 415-16 (1923), and *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 482-86 (1983) — precludes federal district courts from reviewing final judgments of the state courts. *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005) (holding that federal district courts are

barred from deciding cases “brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments.”). The *Rooker-Feldman* doctrine applies where the federal-court plaintiff: (1) lost in state court, (2) complains of injuries caused by the state-court judgment, (3) invites the district court to review and reject the state court judgment, and (4) commenced the district court proceedings after the state-court judgment was rendered.

Vossbrinck v. Accrediated Home Lenders, Inc., 773 F.3d 423, 426 (2d Cir. 2014).

Here, Plaintiff brought his legal malpractice claim in the Supreme Court of New York, lost, and now asks this Court to review and vacate the state court’s judgment. Plaintiff commenced this action long after the state-court judgment became final. Thus, because Plaintiff is asking that this Court vacate the final judgment of the state court, it is precluded by the *Rooker-Feldman* doctrine. Plaintiff’s complaint is therefore dismissed for lack of subject-matter jurisdiction. *See* Fed. R. Civ. P. 12(h)(3).

CONCLUSION

The Clerk of Court is directed to assign this matter to my docket, mail a copy to Plaintiff, and note service on the docket. Plaintiff’s complaint, filed *in forma pauperis* under 28 U.S.C. § 1915(a)(1), is dismissed for lack of subject matter jurisdiction. *See* Fed. R. Civ. P. 12(h)(3).

The Court certifies under 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 the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

Dated: February 9, 2016
New York, New York

Loretta A. Preska
LORETTA A. PRESKA
Chief United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LARRY POUNCY,

Plaintiff,

-against-

JASON L. SOLOTAROFF, ESQ.; DARNLEY
STEWART, ESQ.; GISKAN, SOLOTAROFF,
ANDERSON AND STEWART, LLP,

Defendant.

15-CV-8753 (LAP)

CIVIL JUDGMENT

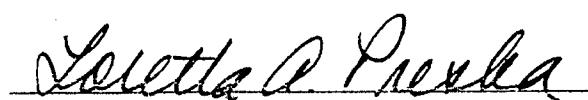
Pursuant to the order issued February 9, 2016, dismissing the complaint,

IT IS ORDERED, ADJUDGED AND DECREED that the complaint is dismissed under Rule 12(h)(3) of the Federal Rules of Civil Procedure.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from the Court's judgment would not be taken in good faith.

IT IS FURTHER ORDERED that the Clerk of Court mail a copy of this judgment to Plaintiff and note service on the docket.

SO ORDERED.

Dated: February 9, 2016
New York, New YorkLORETTA A. PRESKA
Chief United States District Judge

11a

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LARRY POUNCY,

Plaintiff,

-against-

JASON L. SOLOTAROFF, ESQ.; ET AL.,

Defendants.

15-CV-8753 (UA)

ORDER GRANTING IFP APPLICATION

LORETTA A. PRESKA, Chief United States District Judge:

Leave to proceed in this Court without prepayment of fees is authorized. *See* 28 U.S.C. § 1915.

SO ORDERED.

Dated: January 15, 2016
New York, New York



LORETTA A. PRESKA

Chief United States District Judge

State of New York

Court of Appeals

Decided and Entered on the
fourteenth day of November, 2013

Present, HON. JONATHAN LIPPMAN, *Chief Judge, presiding.*

Mo. No. 2013-747

Larry Pouncey,
Appellant,

v.

Jason L. Solotaroff, et al.,
Respondents.

Appellant having moved for reargument of a motion for
leave to appeal to the Court of Appeals in the above cause;

Upon the papers filed and due deliberation, it is
ORDERED, that the motion is denied.

Judge Abdus-Salaam took no part.



Andrew W. Klein
Clerk of the Court

State of New York

Court of Appeals

*Decided and Entered on the
fourth day of June, 2013*

Present, HON. JONATHAN LIPPMAN, *Chief Judge, presiding.*

Mo. No. 2013-432

Larry Pouncey,
Appellant,

v.

Jason L. Solotaroff, et al.,
Respondents.

Appellant having moved for leave to appeal to the Court of Appeals and for poor person relief in the above cause;

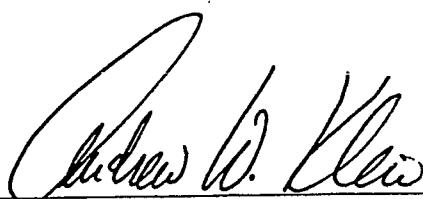
Upon the papers filed and due deliberation, it is

ORDERED, that the motion for leave to appeal is denied;

and it is further

ORDERED, that the motion for poor person relief is dismissed as academic.

Judge Abdus-Salaam took no part.



Andrew W. Klein
Clerk of the Court