UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

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 18th day of November, two thousand twenty-six.

PRESENT:

JOHN M. WALKER, JR.,
DENNIS JACOBS,
JOSEPH F. BIANCO,
Circuit Judges.

ROBERT RICKETTS,

Plaintiff-Appellant,

v. 25-1556-cv

WESTWOOD CONDOMINIUM ASSOCIATION, INC., FRANCIS O'GORMAN, JONATHAN CHAPPELL, ERIC JUDGE, MICHELLE ANDERSON, XIOMARA PAGAN, JUDY CARR, FELDMAN, PERLSTEIN & GREENE, LLC, WESTFORD REAL ESTATE MANAGEMENT, LLC, ROSA BUSTAMANTE,

Defendants-Appellees.

FOR PLAINTIFF-APPELLANT:	Robert Ricketts, *pro se*, Hartford, Connecticut.
FOR DEFENDANTS-APPELLEES WESTWOOD CONDOMINIUM ASSOCIATION, INC., FRANCIS O'GORMAN, ERIC JUDGE, MICHELLE ANDERSON, XIOMARA PAGAN, JUDY CARR, WESTFORD REAL ESTATE MANAGEMENT, ROSA BUSTAMANTE:	Ryan V. Nobile (Michael C. Barbarula, *on the brief*), Ryan Ryan Deluca LLP, Bridgeport, Connecticut.
FOR DEFENDANTS-APPELLEES JONATHAN CHAPPELL, FELDMAN, PERLSTEIN & GREENE, LLC:	Michael Feldman, Feldman, Perlstein, Burchman & Freitas, LLC, Farmington, Connecticut.

Appeal from a judgment of the United States District Court for the District of Connecticut (Sarala V. Nagala, *Judge*).

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the appeal is **DISMISSED**.

Robert Ricketts, an attorney proceeding *pro se*, appeals from the district court's judgment, entered March 31, 2025, dismissing his third amended complaint for lack of personal jurisdiction and failure to state a claim, under Federal Rules of Civil Procedure 12(b)(5) and 12(b)(6), respectively. Ricketts commenced this action, pursuant to Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1983, among other federal statutes, and state law, against a condominium association and several of its members, an attorney and his firm, and a property manager and her company. The district court dismissed Ricketts's second amended complaint under Rule 12(b)(6), concluding that he failed to plausibly allege a federal claim. In his third amended complaint, Ricketts brought claims under the Fair Debt Collection Practices Act ("FDCPA"), the Fair Housing Act ("FHA"), and state law. The defendants moved to dismiss

the third amended complaint under Rules 12(b)(5) and 12(b)(6). The district court granted the motions, determining that Ricketts failed to serve several of the defendants, and that he failed to state a plausible FDCPA or FHA claim against those who had been served. *See generally Ricketts v. Westwood Condo. Ass'n*, No. 23-CV-1079 (SVN), 2025 WL 969547 (D. Conn. Mar. 31, 2025). The district court declined to exercise supplemental jurisdiction over Ricketts's state law claims and denied further leave to amend. *See id.* at *10–11.

On March 31, 2025, the district court entered judgment, and on May 30, 2025, Ricketts moved for an extension of time to file a notice of appeal. The district court denied the motion without prejudice to renewal. On June 3, 2025, Ricketts filed a second extension motion, which the district court granted. We assume the parties' familiarity with the underlying facts, procedural history of the case, and issues on appeal, to which we refer only as necessary to explain our decision to dismiss the appeal.

"Although neither party expressly argues that we lack appellate jurisdiction to hear this appeal, we have an independent obligation to consider the presence or absence of subject matter jurisdiction *nostra sponte*." *Franco v. Gunsalus*, 972 F.3d 170, 174 (2d Cir. 2020) (alterations adopted) (internal quotation marks and citation omitted). In civil cases, the timely filing of a notice of appeal is a jurisdictional requirement. *Bowles v. Russell*, 551 U.S. 205, 214 (2007).

We lack appellate jurisdiction because Ricketts did not timely file a notice of appeal. The district court entered judgment on March 31, 2025. Ricketts thus had 30 days—*i.e.*, until April 30, 2025—to file a notice of appeal. 28 U.S.C. § 2107; Fed. R. App. P. 4(a)(1)(A). He did not do so. Instead, on May 30, 2025, Ricketts sought an extension of time to appeal under Federal Rule of Appellate Procedure 4(a)(5).

Under Rule 4(a)(5), "the district court, upon a showing of excusable neglect or good

cause, may extend the time for filing a notice of appeal upon motion filed not later than 30 days after the expiration of the time prescribed by this Rule 4(a)." *Cohen v. Empire Blue Cross & Blue Shield*, 142 F.3d 116, 118 (2d Cir. 1998); *see* Fed. R. App. P. 4(a)(5)(A); 28 U.S.C. § 2107(c). The deadline to file a Rule 4(a)(5) motion is set by statute and therefore jurisdictional. *See* 28 U.S.C. § 2107(c); *Cohen*, 142 F.3d at 118–19; *see also Hamer v. Neighborhood Hous. Servs.*, 583 U.S. 17, 25 (2017) ("If a time prescription governing the transfer of adjudicatory authority from one Article III court to another appears in a statute, the limitation is jurisdictional.").

Here, Ricketts filed two extension motions: the first timely (on May 30, 2025, *i.e.*, 60 days after entry of judgment), and the second untimely (on June 3, 2025, *i.e.*, 64 days after entry of judgment). The district court denied the first (timely) motion, without prejudice, on June 2, 2025, because Ricketts did not certify that he had provided notice to the other parties to the lawsuit, as required under Federal Rule of Appellate Procedure 4(a)(5)(B). On June 4, 2025, the district court granted Ricketts's second (untimely) extension motion, and gave Ricketts until June 18, 2025, to file the notice of appeal. Ricketts subsequently filed a notice of appeal by the district court's extended deadline. However, the district court did not have the authority to grant the latter extension motion—filed on June 3, 2025—because it had not been filed within "30 days after the expiration of the time otherwise set for bringing appeal," namely, by May 30, 2025. 28 U.S.C. § 2107(c); *see Cohen*, 142 F.3d at 118 (reasoning that district court "lack[ed] jurisdiction to grant" extension motion "not filed within Rule 4(a)(5)'s 30-day grace period") (internal quotation marks and citation omitted).[1]

[1] Even though the district court intended to give Ricketts an opportunity to re-file the motion for an extension of time by denying the first motion without prejudice, and may not have realized that the time to file another motion had already passed when it denied the motion, the Supreme Court has made clear

Thus, we lack jurisdiction because Ricketts did not timely file a notice of appeal. *See* 28 U.S.C. § 2107(c); *Cohen*, 142 F.3d at 118–19; *see also Hamer*, 583 U.S. at 25.

Additionally, our review of Ricketts's opening brief revealed evidence that Ricketts cited to a non-existent case. In particular, Ricketts cites "Serebin v. Healthsource Corp.," represented to be a 1998 decision of the Seventh Circuit. Appellant's Br. at 6, 34. However, we could not locate a decision by that name, and the citation for that case led us to a different, unpublished case from the Sixth Circuit irrelevant to the issue for which "Serebin" was cited. Elsewhere, Ricketts cited cases for propositions that they do not support. *See, e.g.*, *id.* at 22 (citing *Int'l Bhd. of Teamsters v. United States*, 986 F.2d 15, 20 (2d Cir. 1993) for the proposition that "an attorney's representation regarding authority to accept service is binding absent extraordinary circumstances," even though no such proposition is contained in that case); *id.* at 33 (citing *Horgan v. Simmons*, 704 F. Supp. 2d 814, 818 (N.D. Ill. 2010), and *McBride v. BIC Consumer Prods. Mfg. Co.*, 583 F.3d 92, 96 (2d Cir. 2009), for the proposition that "[a]sthma has long been recognized as a disability under the ADA where it substantially limits the major life activity of breathing," although neither case involved asthma).

"At the very least, the duties imposed by Rule 11 require that attorneys read, and thereby confirm the existence and validity of, the legal authorities on which they rely." *Park v. Kim*, 91 F.4th 610, 615 (2d Cir. 2024). Therefore, we conclude that a referral to the Court's Grievance Panel pursuant to Local Rule 46.2 is warranted for further investigation, and for consideration of a referral to the Committee on Admissions and Grievances. *See* 2d Cir. R. 46.2.

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that we have "no authority to create equitable exceptions to jurisdictional requirements." *Bowles*, 551 U.S. at 214 (holding there was no appellate jurisdiction even though the appellant filed a notice of appeal by the district court's re-opened deadline, but the district court had erroneously provided a deadline that was beyond the jurisdictionally prescribed time).

* * *

Accordingly, we **DISMISS** the appeal for lack of appellate jurisdiction, and **REFER** Attorney Robert A. Ricketts to the Court's Grievance Panel pursuant to Local Rule 46.2 for further investigation, and for consideration of a referral to the Committee on Admissions and Grievances. *See* 2d Cir. R. 46.2.

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk of Court