

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

Deborah S. Hunt
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Filed: November 22, 2022

Ms. Flordeliza A. Hawkins
735 Berkshire Place
Oxnard, CA 93033

Re: Case No. 22-1393, *Flordeliza Hawkins v. Claimants' Advisory Committee, et al*
Originating Case No. : J:21-cv-10764

Dear Ms. Hawkins,

The Court issued the enclosed Order today in this case.

Sincerely yours,

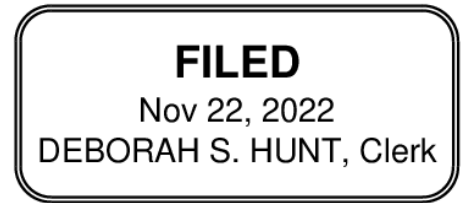
s/Ryan E. Orme
Case Manager
Direct Dial No. 513-564-7079

cc: Ms. Kinikia D. Essix
Ms. Deborah E. Greenspan
Ms. Karima Maloney

Enclosure

No. 22-1393

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT



FLORDELIZA A. HAWKINS,)
)
 Plaintiff-Appellant,)
)
 v.)
)
 CLAIMANTS’ ADVISORY COMMITTEE, et al.,)
)
 Defendants-Appellees,)
)
 DEBTOR’S REPRESENTATIVES; DOW)
 SILICONES CORPORATION,)
)
 Intervenor-Appellees.)

ORDER

Before: READLER, Circuit Judge.

Flordeliza A. Hawkins, a pro se California resident, moves this court for permission to proceed in forma pauperis in her appeal from the district court’s denial of her motion for relief from the judgment dismissing her civil-rights complaint. *See* Fed. R. App. P. 24(a)(5).

Hawkins was a breast-implant-rupture claimant before the Settlement Facility-Dow Corning Trust (“SF-DCT”) pursuant to the Amended Joint Plan of Reorganization in the Dow Corning Corporation bankruptcy case. After the SF-DCT denied her claim for disease benefits, Hawkins filed suit challenging that decision and also alleging under 42 U.S.C. § 1983 that the SF-DCT Claims Administrator and the Claimants’ Advisory Committee (a group that represents the interests of claimants) had violated her civil rights. On the defendants’ motions, the district court dismissed Hawkins’s complaint on October 19, 2021. Hawkins sought to appeal the district court’s judgment, but we dismissed her appeal for lack of jurisdiction because her notice of appeal was untimely. *Hawkins v. Claimants’ Advisory Comm.*, No. 22-1037 (6th Cir. Feb. 10, 2022).

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In March 2022, Hawkins filed a “Notice of Motion and Motions” in the district court, in which she expressed confusion as to why she did not prevail in her lawsuit, alleged that the district judge had acted unfairly by dismissing her complaint, and requested a hearing. The district court construed Hawkins’s filing as a motion to alter or amend the judgment under Federal Rule of Civil Procedure 59(e) and denied it, concluding that it was both untimely and without merit. The district court also certified, pursuant to 28 U.S.C. § 1915(a)(3), that Hawkins had no good-faith basis to appeal. Hawkins filed a notice of appeal. We dismissed Hawkins’s appeal for lack of appellate jurisdiction to the extent that she again sought review of the October 19, 2021, judgment and made clear that only issues regarding the district court’s order denying her post-judgment motion could be raised on appeal. *Hawkins v. Claimants’ Advisory Comm.*, No. 22-1393 (6th Cir. July 25, 2022).

When a district court has certified that a pro se plaintiff’s appeal is not taken in good faith, the plaintiff may file a motion in this court for leave to proceed in forma pauperis. Fed. R. App. P. 24(a)(5). This court will grant an in forma pauperis motion only if it is persuaded that the appeal is being taken in good faith, i.e., that the issues to be raised are not frivolous. *See Coppedge v. United States*, 369 U.S. 438, 445 (1962). An appeal is frivolous if it lacks an arguable basis in law or fact. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989); *Callihan v. Schneider*, 178 F.3d 800, 804 (6th Cir. 1999).

Hawkins did not file her post-judgment motion within 28 days after entry of the judgment, so the district court arguably should have construed that filing as a motion for relief from judgment under Federal Rule of Civil Procedure 60(b) rather than a Rule 59(e) motion. *See In re Greektown Holdings, LLC*, 728 F.3d 567, 574 (6th Cir. 2013). But because Hawkins’s post-judgment motion does not appear to state a cognizable basis for Rule 60(b) relief, *see* Fed. R. Civ. P. 60(b)(1)-(6), any appeal from the district court’s denial of that motion lacks an arguable basis in law and is therefore frivolous, *see Neitzke*, 490 U.S. at 325.

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Accordingly, Hawkins's motion to proceed in forma pauperis on appeal is **DENIED**. Unless Hawkins pays the \$505 filing fee to the district court within 30 days of the entry of this order, this appeal will be dismissed for want of prosecution.

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk