University of Cincinnati Law Review

Volume 90 | Issue 1 Article 10

October 2021

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I. INTRODUCTION

In its simplest form, the *Rooker-Feldman* doctrine works to prevent lower federal courts from hearing direct appeals of state court decisions, a right statutorily reserved for the Supreme Court of the United States pursuant to 28 U.S.C. § 1257.[1] In its most complicated form, however, the doctrine aims at limiting what would normally be considered proper federal jurisdiction and creates mayhem among the federal circuits' jurisdictional analyses. Throughout the years, scholars[2] and judges[3] alike have criticized the doctrine for its ambiguity. Litigating parties have continually misapplied it in practice.[4] Despite the chaos and criticism, however, the doctrine has withstood the test of time.

One of the more recent assaults on the doctrine, by Chief Judge Sutton of the United States Court of Appeals for the Sixth Circuit, calls for something more extreme than past criticisms: an overhaul. In *VanderKodde v. Mary Jane M. Elliott, P.C.*,[5] a recent Sixth Circuit decision, Judge Sutton argued in his concurrence that the doctrine should

1. 28 U.S.C. § 1257.

2. *See, e.g.*, Jodi F. Manko, *Collateral Estoppel and the* Rooker-Feldman *Doctrine: The Problematic Effect These Preclusion and Jurisdictional Principles Have on Bankruptcy Law*, 21 EMORY BANKR. DEV. J. 579 (2005); Adam McLain, *The* Rooker-Feldman *Doctrine: Toward a Workable Role*, 149 U. PA. L. REV. 1555 (2001); George L. Proctor et al., Rooker-Feldman *and the Jurisdictional Quandary*, 2 FLA. COASTAL L. J. 113 (2000); *The* Rooker-Feldman *Doctrine:* Rooker-Feldman: *Worth Only The Powder To Blow It Up?*, 74 NOTRE DAME L. REV. 1081 (1999); Benjamin Smith, *Comment:* Texaco, Inc. v. Pennzoil Co.*: Beyond a Crude Analysis of the* Rooker-Feldman *Doctrine's Preclusion of Federal Jurisdiction*, 41 U. MIAMI L. REV. 627 (1987); Susan Bandes, *The Rooker-Feldman Doctrine: Evaluating Its Jurisdictional Status*, 74 NOTRE DAME L. REV. 1175 (1999).

3. *See* Lance v. Dennis, 546 U.S. 459, 467 (2006) (Stevens J., dissenting) ("*Feldman* […] was incorrectly decided and generated a plethora of confusion and debate among scholars and judges"); Arnold v. KJD Real Estate, LLC, 752 F.3d 700, 706 (7th Cir. 2014) ("Courts often confuse *Rooker-Feldman* cases with cases involving ordinary claim or issue preclusion"); Gray v. Nussbeck (In re Gray), 573 B.R. 868, 872 (Bankr. D. Kan. 2017) ("A difficulty is that 'general confusion' surrounds Rooker-Feldman, and as difficult as it is to decipher, it is even more difficult to apply"); *Mangan v. Brierre*, No. 06-3204, 2007 U.S. Dist. LEXIS 9390, at *14 (E.D. Pa. Feb. 9, 2007) ("The continued viability of *Rooker-Feldman* is under fire").

4. *See, e.g.*, Senatore v. OCWEN Loan Servicing, LLC, No. 16 CV 8125 (VB), 2017 U.S. Dist. LEXIS 140965, at *8 n.4 (S.D.N.Y. Aug. 30, 2017) ("[Plaintiff] repeatedly confuses and/or conflates the Rooker-Feldman doctrine and res judicata"); Parson v. Miles, Civil Action No. 4:17-cv-00708-RBH-KDW, 2018 U.S. Dist. LEXIS 178198, at *3 n.3 (D.S.C. Oct. 17, 2018) ("Plaintiff appears to confuse the *Rooker-Feldman* doctrine with the principles of *res judicata*").

5. 951 F.3d 397 (6th Cir. 2020) (Sutton, J., concurring).

be abandoned.[6] While not a new idea, his proposition reinforces the criticisms voiced by lower courts that the doctrine is not only confusing but entirely unworkable. As Judge Sutton wrote, "*Rooker-Feldman* is back to its old tricks of interfering with efforts to vindicate federal rights and misleading federal courts into thinking they have no jurisdiction over cases Congress empowered them to decide."[7] In short, the lower courts' tango with the doctrine often involves too many missteps.

Resting heavily on judicial principles such as federalism and comity, the doctrine *intends* to establish boundaries.[8] In reality, it blurs them.[9] And while the statutes establishing the doctrine are straightforward, the doctrine itself is not, serving as proof that often well-intentioned judicial elaboration can quickly turn into expansion of the law. In practice, the *Rooker-Feldman* doctrine does little more than unnecessarily constrain the jurisdiction of federal district courts and create confusing standards for litigants. However, while Judge Sutton argues that it is time to put the *Rooker-Feldman* doctrine to rest once and for all, the U.S. Supreme Court is unlikely to embrace that approach anytime soon. This approach is also not the best way to maximize judicial efficiency. The doctrine has its place in modern jurisdictional discourse and case law, but it needs clarification and elaboration to be useful. As it stands, the doctrine remains vague enough for lower courts to continually misconstrue its boundaries, thereby creating inconsistent and conflicting case law. The doctrine ought to be revisited, not abandoned.

Lower courts' missteps when applying the doctrine are largely attributable to a lack of Supreme Court guidance. With this in mind, this Note reviews the *Rooker-Feldman* doctrine's framework and application. Section II briefly traces the doctrine's history and developments, including recent circuit splits surrounding the doctrine. Section III explains Judge Sutton's recent criticism of the doctrine in his

6. *Id.* at 409 (Sutton, J., concurring).

7. *Id.* at 405 (Sutton, J., concurring).

8. *See, e.g.*, Bianchi v. Rylaarsdam, 334 F.3d 895, 902 (9th Cir. 2003); Gilbert v. Ferry, 401 F.3d 411, 418 (6th Cir. 2005),; Trivedi v. BD 112A LLC, No. 18-CV-313, 2020 U.S. Dist. LEXIS 25079, at *12 (E.D. Wis. Feb. 13, 2020).

9. Lance v. Dennis, 546 U.S. 459 at 465 (2006) ("Although the District Court recognized the general rule that *Rooker-Feldman* may not be invoked against a federal-court plaintiff who was not actually a party to the prior state-court judgment , it nevertheless followed Tenth Circuit precedent in allowing application of *Rooker-Feldman* against parties who were in privity with a party to the earlier state-court action") (internal quotations and citations omitted); Gonzales v. Kohn Law Firm, No. 13-CV-168, 2015 U.S. Dist. LEXIS 134796, at *22 (E.D. Wis. Oct. 2, 2015) ("Asking whether something is inextricably intertwined can result in an overly-broad application of *Rooker-Feldman* that ignores the doctrine's underlying principles of comity, federalism, and finality") (internal quotations omitted); Stuart v. Decision One Mortg. Co., LLC (In re Stuart), 367 B.R. 541, 554 (Bankr. E.D. Pa. 2007) ("[A] possible by-product of the *Rooker-Feldman* doctrine is the splitting of a plaintiff's cause of action between different courts due to the different remedies made available by a particular cause of action").

VanderKodde concurrence. Section IV discusses why Judge Sutton's complaints are warranted, but his solutions likely unrealistic, highlighting the unique purposes the doctrine serves. This Section also includes suggestions on where further clarity from the Supreme Court would be particularly helpful. Finally, Section V explains the ultimate importance of clarifying the *Rooker-Feldman* doctrine and reiterates the doctrine's need for further review.

II. BACKGROUND

To understand the circuit split between the courts on the application of *Rooker-Feldman,* it is first important to understand the doctrine's origin. This Section begins by explaining the doctrine's statutory basis, followed by a discussion of the two Supreme Court cases that created the doctrine as well as two later cases where the Court attempted to clarify and recalibrate the doctrine.

A. The Doctrine's Statutory Basis

The *Rooker-Feldman* doctrine is not a court-created principle, but rather a roadmap of general statutory principles. The doctrine is based mostly on 28 U.S.C. §§ 1257 and 1331, which both deal with federal court jurisdiction. § 1257, mandates that: "Final judgments […] rendered by the highest court of a State […], may be reviewed by the Supreme Court[.]"[10] The statute further stipulates that, for the purposes of this section, the District of Columbia Court of Appeals is included as a "highest court of a State."[11]

Next, 28 U.S.C. § 1331 establishes that district courts "shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States." Combining these two statutes together creates what should be a simple premise: the only federal court that can hear appeals to judgments from the highest court in a state is the Supreme Court. In practice, however, as *Rooker-Feldman*'s case history suggests, this premise is far from simple.[12]

10. 28 U.S.C. § 1257(a).

11. 28 U.S.C. § 1257(b).

12. Kyles v. Fed. Home Loan Mortg. Corp, No. 17 CV 1511, 2018 U.S. Dist. LEXIS 62691, at *4-5 (N.D. Ill. Apr. 13, 2018) ("[The *Rooker-Feldman* doctrine] can be complicated by any number of issues"); Ball v. Mayfield, 566 F. App'x 765, 769 n.3 (10th Cir. 2014) (noting the complicated jurisdictional issues surrounding the application of *Rooker-Feldman*); Pry v. Norton Hosps., No. 3:17-CV-00777-RGJ, 2020 U.S. Dist. LEXIS 31912, at *11 (W.D. Ky. Feb. 24, 2020) ("Applying the *Rooker-Feldman* doctrine to this matter is somewhat complicated").

B. The Birth of the Rooker-Feldman Doctrine

The *Rooker-Feldman* doctrine itself owes its name and legacy to two different Supreme Court cases. Together, these two cases established jurisdictional limits on federal claims brought by parties who previously lost in state court over a related claim.[13] While this doctrine may seem clear-cut at first, it is anything but simple.

The first case, *Rooker v. Fidelity Trust Co.*, established that state courts have an obligation to address any direct or indirect constitutional issues raised in state court proceedings and reinforced that U.S. district courts have strictly original jurisdiction.[14] The case involved the review of an Indiana Supreme Court decision after the plaintiffs alleged that the state judgment violated the Contract, Due Process, and Equal Protection Clauses of the United States Constitution.[15] Plaintiffs, Dora and William Rooker, had originally brought an action in Indiana Circuit Court after a dispute arose regarding a contract they entered into with Fidelity Trust Company.[16] The trial court determined that the trust agreement was a mortgage and ordered a foreclosure sale.[17] The Indiana Supreme Court reversed on appeal, holding that the agreement was an absolute deed of trust and not a mortgage.[18] The Rookers were accordingly granted a new trial.[19]

In the new trial, however, Fidelity Trust Co. prevailed once again after the trial court determined that Fidelity had faithfully performed its duties as trustee.[20] The Rookers again appealed to the Indiana Supreme Court, which affirmed the judgment after finding no reversible error.[21] Subsequently, the Rookers petitioned for a rehearing, claiming that the state statute in controversy violated the Constitution.[22] This petition was ultimately denied.[23] The Supreme Court of the United States originally denied a grant of certiorari, but the Chief Justice of the Indiana Supreme Court allowed a writ of error to the Court.[24]

The Court held the case was inappropriate to review on writ of error

13. *Lance*, 546 U.S. at 463.

14. 263 U.S. 413, 415-16 (1923).

15. *Id.* at 414-15.

16. Rooker v. Fidelity Trust Co., 109 N.E. 766, 766 (Ind. 1915).

17. *Id.* at 768-69.

18. *Id.* at 770.

19. *Id.*

20. Rooker v. Fidelity Trust Co., 131 N.E. 769, 773 (Ind. 1921) *cert. denied*, 259 U.S. 580 (1922), *writ of error dismissed by* 261 U.S. 114 (1923).

21. *Id.* at 776.

22. Rooker v. Fidelity Trust Co. (Rooker I), 261 U.S. 114, 116-17 (1923).

23. *Id.*

24. *See* Rooker v. Fidelity Trust Co., 259 U.S. 580 (1922) (denying certiorari); 259 U.S. 577 (1922) (same).

and dismissed the Rookers' claim.[25] In a last-ditch effort, the Rookers filed a suit in federal district court, alleging that the Indiana court's judgment should be declared void based on the same constitutional claims that were dismissed by the Supreme Court previously.[26] The U.S. District Court for the District of Indiana dismissed the Rookers' bill for lack of jurisdiction.[27] The Rookers once again appealed directly to the Supreme Court.

There, at the endpoint to the Rookers' long and arduous legal battle, the Court affirmed the dismissal.[28] The Court reasoned that it was the "province and duty of the state courts" to decide any constitutional questions that would have arose in the case or through its judgment.[29] Furthermore, it reiterated that district courts have strictly original jurisdiction and "no court of the United States other than this Court could entertain a proceeding to reverse or modify the judgment for errors of that character."[30] Therefore, any decision from the Indiana Supreme Court could only be appealed directly to Supreme Court of the United States, so the district court was correct to dismiss the case for lack of jurisdiction.

The next case, decided sixty years later, furthered the doctrine by establishing the standard for what constitutes a judicial decision for purposes of *Rooker-Feldman*.[31] In *District of Columbia Court of Appeals v. Feldman*,[32] Marc Feldman was denied admission to the District of Columbia Bar because he failed to meet the Bar's requirement that applicants be graduates of an ABA-approved law school.[33] The Committee on Admissions of the D.C. Bar noted that, while waivers for this requirement were possible, they could only be granted by the District of Columbia Court of Appeals.[34] Feldman then submitted a petition to the D.C. Court of Appeals, D.C.'s equivalent of a highest state court,[35] for admission to the Bar without examination.[36] In his plea to the court, Feldman relied on his legal training, work experience, and other qualifications to argue that his training had been equivalent to that offered by ABA-approved law schools.[37]

25. *Rooker I*, 261 U.S. at 118.
26. Rooker v. Fidelity Trust Co. (Rooker or Rooker II), 263 U.S. 413, 414 (1923).
27. *Id.* at 415.
28. *Id.* at 417.
29. *Id.* at 415.
30. *Id.* at 416.
31. District of Columbia Court of Appeals v. Feldman, 460 U.S. 462, 476-79 (1983).
32. *Id.*
33. *Id.* at 465-66.
34. *Id.* at 466.
35. 28 U.S.C. § 1257(b).
36. *Feldman*, 460 U.S. at 466.
37. *Id.*

The D.C. Court of Appeals did not respond in a timely manner, prompting Feldman's counsel to write to the Chief Judge of the D.C. Court of Appeals, urging him to admit Feldman to the Bar.[38] The letter reiterated Feldman's qualifications while also suggesting that excluding Feldman from the practice of law simply because he did not graduate from an accredited school would raise important constitutional and federal antitrust questions.[39] It also stated that "Mr. Feldman is prepared to pursue [those questions] in the United States District Court if necessary."[40] Feldman's petition was eventually denied by a per curiam order of the court.[41]

Feldman then filed suit in federal district court, pleading the exact constitutional and antitrust claims threatened in the letter.[42] Finding that the Court of Appeals' rulings on bar applications was a judicial decision "which fully encompassed the constitutional and statutory issues raised," the district court determined it lacked subject matter jurisdiction over the case.[43] The court reasoned that, by accepting jurisdiction over the action, it would be reviewing an order of a jurisdiction's highest court.[44] On appeal, the U.S. Court of Appeals for the District of Columbia Circuit affirmed the dismissal of the antitrust claims for insubstantiality but reversed the dismissal of the constitutional issues after determining that the bar waiver proceedings were not *judicial*.[45] The court focused on the fact that Feldman did not assert any *right* to be admitted to the bar or take the bar exam in his waiver petition.[46] Rather, he "simply sought an exemption from the rule."[47]

The Supreme Court reversed, holding that the proceedings for the petitions for waiver were judicial in nature.[48] The Court reasoned that a judicial decision "investigates, declares and enforces liabilities as they stand on present or past facts and under laws supposed already to exist."[49] Accordingly, the Court held that the D.C. Court of Appeals' bar waiver proceedings fit neatly into this definition and were therefore not within the federal district court's jurisdiction.[50] However, while the challenge to

38. *Id.*
39. *Id.* at 466-67.
40. *Id.* at 467.
41. *Id.* at 468.
42. *Id.* at 468-69.
43. *Id.* at 470.
44. *Id.*
45. *Id.* at 474.
46. *Id.*
47. *Id.* at 475.
48. *Id.* at 479.
49. *Id.* at 477.
50. *Id.* at 482.

the plaintiff's particular bar admission application was not within the court's jurisdiction, the Court held that the "general challenge to the constitutionality" of the bar admission rule itself *was* within the district court's jurisdiction.[51] The Court reasoned that "the proceedings giving rise to the rule [itself] are nonjudicial."[52]

The Court also introduced one of the most convoluted parts of the *Rooker-Feldman* doctrine in *Feldman*: the inextricably intertwined test.[53] In a footnote, the Court stated that under that test:

> [i]f the constitutional claims presented to a United States district court are inextricably intertwined with the state court's denial in a judicial proceeding of a particular plaintiff's application for admission to the state bar, then the district court is in essence being called upon to review the state-court decision, which it may not do."[54]

Aside from the footnote, the words "inextricably intertwined" were only mentioned in one other place in *Feldman*.[55] Many courts interpreted this test to bar not only claims directly barred by *Rooker-Feldman*, but also claims closely related to those directly barred by the doctrine.[56] Others had a more expansive interpretation, holding that it also barred claims that a federal plaintiff had an opportunity to litigate in a state court.[57] Regardless of how it was interpreted, the inextricably intertwined test became a mainstay of the doctrine for many years.

Jointly, *Rooker* and *Feldman* attempted to create a bare bones framework for barring appeals to state court judgments in lower federal courts. Read together, the cases created a blueprint, albeit a blurry one, which established that state courts are required to address all constitutional issues that arise in a state court proceeding, and only the U.S. Supreme Court has the power to overturn these decisions or any state court decisions that are judicial in nature.

C. Pennzoil Co. v. Texaco, Inc.

Supreme Court commentary following the birth of the *Rooker-Feldman* doctrine has been sparse. One of the first major Supreme Court cases to provide further insight into the doctrine was *Pennzoil Co. v.*

51. *Id.* at 483.

52. *Id.* at 486.

53. *Id.* at 482 n.16.

54. *Id.*

55. *Id.* at 486.

56. Kougasian v. TMSL, Inc., 359 F.3d 1136, 1142 (9th Cir. 2004).

57. Moccio v. New York State Office of Court Administration, 95 F.3d 195, 199-200 (2d Cir. 1996).

Texaco, Inc.[58] In *Pennzoil*, Getty Oil Co. and Pennzoil Co. had agreed that Pennzoil would purchase shares of Getty's stock.[59] Defendant Texaco Inc. ended up purchasing shares instead, leading Pennzoil to file a civil action in Texas state court alleging that Texaco induced Getty to breach their contract.[60] A jury returned a verdict in favor of Pennzoil, awarding both actual and punitive damages exceeding $11 billion.[61] Texaco would not have been able to pay the amount of the bond required by Rule 364(b) following this judgment, making it difficult for them to appeal without suffering hefty and devastating financial consequences.[62] To combat this legal dilemma, Texaco filed suit in United States District Court for the Southern District of New York, alleging that the Texas proceedings violated Texaco's constitutional rights and various federal statutes.[63]

The district court held that the *Rooker-Feldman* doctrine did not bar the claim because the court was not "attempting to sit as a final or intermediate appellate state court as to the merits of the Texas action."[64] On appeal, the Second Circuit affirmed, noting that Texaco did not raise the due process and equal protection claims in the Texas courts, and therefore the district court had jurisdiction over these claims because they were not inextricably intertwined with the state-court action.[65]

The U.S. Supreme Court's analysis of the *Rooker-Feldman* doctrine in the case was minimal, however. The Court held that the complaint should have been dismissed, noting that Texaco did not attempt to present their federal claims in the related state-court proceeding,[66] and that principles such as comity dictated that the court defer to the pending state proceedings.[67] Justice Scalia authored a concurrence, arguing that he did not believe that "the so-called *Rooker-Feldman* doctrine" prevented the Court from being able to decide Texaco's challenge to the constitutionality of the Texas stay and lien provisions.[68] His reasoning was that the challenge neither involved issues litigated in state court nor issues inextricably intertwined with those litigated in state court.[69]

58. 481 U.S. 1 (1987).
59. *Id.* at 4.
60. *Id.*
61. *Id.*
62. *Id.* at 4-6.
63. *Id.* at 6.
64. *Id.* at 7.
65. *Id.* at 8.
66. *Id.* at 15.
67. *Id.* at 17.
68. *Id.* at 18 (Scalia, J., concurring).
69. *Id.*

D. Exxon Mobil Corp.

Ultimately, the lack of guidance from the Supreme Court, even after *Pennzoil*, led to a variety of splits in the circuit courts regarding the *Rooker-Feldman* doctrine. For example, the Seventh[70] and Ninth[71] Circuits applied the doctrine narrowly, while the Second,[72] Eighth,[73] and Tenth[74] Circuits interpreted it quite broadly. The Court tried to clarify the doctrine's breadth and provide further direction in *Exxon Mobil Corp v. Saudi Basic Indus. Corp.*[75] In *Exxon Mobil Corp.*, the Court established that *Rooker-Feldman* is not triggered simply by the existence of parallel state and federal court litigation.[76] In this case, two Exxon Mobil Corporation subsidiaries formed joint ventures in 1980 with the defendant, Saudi Basic Industries Corp. ("SABIC"), to manufacture polyethylene in Saudi Arabia.[77] Two decades later, the parties had a dispute over royalties that SABIC had charged the joint ventures for sublicenses to a polyethylene manufacturing method.[78] SABIC sued in the Delaware Superior Court seeking a declaratory judgment that the royalty charges were permissible and consistent with the joint venture agreements.[79] ExxonMobil and its subsidiaries countersued SABIC in the United States District Court for the District of New Jersey.[80] In its countersuit, ExxonMobil alleged that SABIC was overcharging for the sublicenses.[81] The state suit went to trial, with the jury returning a verdict of over $400 million for the ExxonMobil subsidiaries.[82] SABIC appealed

70. *See* GASH Assocs. v. Village of Rosemont, 995 F.2d 726, 728 (7th Cir. 1993) (determining that even where a federal plaintiff presents an independent claim attempting to deny a legal conclusion that a state court reached in the previous case, there is jurisdiction, although state law may find that the defendant prevails under preclusion principles).

71. *See* Noel v. Hall, 341 F.3d 1148, 1163-65 (9th Cir. 2003) (holding that *Rooker-Feldman* does not bar jurisdiction where a federal plaintiff is complaining of a legal injury caused by an adverse party, not a state court judgment).

72. *See* Moccio v. New York State Office of Court Administration, 95 F.3d 195, 199-200 (2d Cir. 1996) (holding that *Rooker-Feldman* is broader than both claim and issue preclusion because it doesn't depend on a final judgment on the merits).

73. *See* Lemonds v. St. Louis County, 222 F.3d 488, 495 (8th Cir. 2000) (finding that *Rooker-Feldman* applies to nonparties to prior state-court proceedings).

74. *See* Kenmen Eng'g v. Union, 314 F.3d 468, 478 (10th Cir. 2002) (holding that *Rooker-Feldman* is applicable even when federal-court plaintiffs never had an opportunity to raise their claims in a prior state court proceeding).

75. 544 U.S. 280 (2005).

76. *Id.* at 292.

77. *Id.* at 289.

78. *Id.*

79. *Id.*

80. *Id.*

81. *Id.*

82. *Id.*

to the Delaware Supreme Court.[83]

On interlocutory appeal in the federal trial, the Third Circuit raised the question of subject matter jurisdiction on its own motion.[84] While the court noted that the district court had subject-matter jurisdiction at the beginning of the suit, it reasoned that jurisdiction might have been lost under the *Rooker-Feldman* doctrine since ExxonMobil's claims were already litigated in state court.[85] Rejecting ExxonMobil's argument that *Rooker-Feldman* could not apply since ExxonMobil filed its complaint long before the state-court judgment, the court of appeals determined it was unable to proceed with the case.[86] The Supreme Court granted certiorari.[87]

In the Court's majority opinion, Justice Ruth Bader Ginsburg noted that the *Rooker-Feldman* doctrine has only been applied by the Court to bar federal subject matter jurisdiction twice—in the two cases that give the doctrine its name.[88] She also noted the lower courts often misapply it.[89] She stated that, "[v]ariously interpreted in the lower courts, the doctrine has sometimes been construed to extend far beyond the contours of the *Rooker* and *Feldman* cases, overriding Congress' conferral of federal-court jurisdiction concurrent with jurisdiction exercised by state laws and superseding the ordinary application of preclusion law[.]"[90] In an attempt to be direct and clear, Justice Ginsburg tried to define the exact cases where the doctrine may be applied, stating that it is "confined to 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."[91] With this rationale, the Court reversed the appellate court's judgment, finding that the *Rooker-Feldman* doctrine did not apply.[92] *Exxon Mobil Corp.* thus established that "[w]hen there is parallel state and federal litigation, *Rooker-Feldman* is not triggered simply by the entry of judgment in state court."[93]

83. *Id.*
84. *Id.* at 290.
85. *Id.*
86. *Id.* at 290-91.
87. *Id.* at 291.
88. *Id.* at 283.
89. *Id.*
90. *Id.*
91. *Id.* at 284.
92. *Id.* at 291.
93. *Id.* at 292.

E. Post-Exxon Mobil Corp. Circuit Splits

Despite Justice Ginsburg's attempt in *Exxon Mobil Corp.* to clarify the *Rooker-Feldman* doctrine, several circuit splits have still developed regarding its proper application. For example, several circuits have fractured over whether incidents of fraud in state court proceedings may give rise to *Rooker-Feldman*. The Ninth Circuit has held that *Rooker-Feldman* does not bar a federal claim alleging extrinsic fraud or "fraud […] which prevents a party from presenting his claim in court."[94] Intrinsic fraud, defined as those which "[go] to the heart of the very issues contested in the state court" is barred by the doctrine, however.[95] The Sixth Circuit has embraced a similar approach.[96] Other circuits, on the other hand, have expressly rejected the fraud exception, including the Second,[97] Fifth,[98] Seventh,[99] Eighth,[100] Tenth,[101] and Eleventh[102] Circuits.

Another point of confusion is whether *Rooker-Feldman* applies to interlocutory and intermediate state-court rulings.[103] In 2019, the Third Circuit flipped on its prior post-*Exxon Mobil Corp.* rulings[104] and held that only final judgments or decrees can fall under the *Rooker-Feldman* framework.[105] Other circuits have agreed.[106] While this interpretation seems to be more aligned with the context and teachings of *Exxon Mobil*

94. Kougasian v. TMSL, Inc., 359 F.3d 1136, 1140 (9th Cir. 2004) (quoting Wood v. McEwen, 644 F.2d 797, 801 (9th Cir. 1981)).

95. Lewis v. L.A. Metro. Transit Auth., No. CV 19-1456 PSG (JPRx), 2019 U.S. Dist. LEXIS 208440, at *7 (C.D. Cal. Sep. 10, 2019) (quoting Green v. Ancora-Citronelle Corp., 577 F.2d 1380,1384 (9th Cir. 1978)).

96. McCormick v. Braverman, 451 F.3d 382, 392-93 (6th Cir. 2006).

97. Johnson v. Smithsonian Inst., 189 F.3d 180, 187 (2d Cir. 1999); Kropelnicki v. Siegel, 290 F.3d 118, 128 (2d Cir. 2002).

98. Williams v. Liberty Mut. Ins. Co., No. 04-30768, 2005 U.S. App. LEXIS 5660, at *4 (5th Cir. Apr. 7, 2005).

99. Kelley v. Med-1 Solutions, LLC, 548 F.3d 600, 605 (7th Cir. 2008); Taylor v. Fannie Mae, 374 F.3d 529, 534 (7th Cir. 2004).

100. Fielder v. Credit Acceptance Corp., 188 F.3d 1031, 1035-36 (8th Cir. 1999), overruled on other grounds by Exxon Mobil Corp. v. Allapattah Servs. Inc., 545 U.S. 546, 560-61 (2005).

101. Myers v. Wells Fargo Bank, N.A., No. 16-6316, 685 Fed. Appx. 679, 681 (10th Cir. Apr. 20, 2017).

102. Scott v. Frankel, No. 14-14262, 606 F. App'x 529, 532 n.4 (11th Cir. 2015); *see also* Grant v. Countrywide Home Loans, Inc., No. 1:08-cv-1547-RWS, 2009 U.S. Dist. LEXIS 51031, at *10-11 (N.D. Ga. May 20, 2009).

103. Harold v. Steel, 773 F.3d 884, 886 (7th Cir. 2014) ("We recognize that the courts of appeals disagree about the issue [of whether the *Rooker-Feldman* doctrine applies to interlocutory appeals]").

104. *See, e.g.*, Tauro v. Baer, 395 F. App'x 875, 876-77 (3d Cir. 2010) (per curiam); McKnight v. Baker, 244 F. App'x 442, 444-45 (3d Cir. 2007); Mikhail v. Kahn, 572 F. App'x 68, 70 n.2 (3d Cir. 2014) (per curiam).

105. Malhan v. Sec'y, U.S. Dep't of State, 938 F.3d 453, 461 (3d Cir. 2019).

106. *See, e.g.*, Cruz v. Melecio, 204 F.3d 14, 21 n.5 (1st Cir. 2000) (*Rooker-Feldman* doctrine is limited to final judgments); Green v. Mattingly, 585 F.3d 97, 102 (2d Cir. 2009) (same, but in dictum).

Corp., not every court has come to the same determination.[107] Similarly, in an action involving a property dispute, the U.S. District Court for the Western District of Louisiana noted in its discussion that "[s]ince *Exxon Mobil Corp.,* the federal circuit courts have been split as to whether all state proceedings, including appeals, must be resolved before the federal suit begins in order for the *Rooker-Feldman* doctrine to apply."[108]

The circuits have also been split over which analytical framework to use when deciding whether *Rooker-Feldman* applies. Courts are torn on whether the inextricably intertwined test, formerly the touchstone of the *Rooker-Feldman* analysis, remains intact after *Exxon Mobil Corp.*, and if so, to what extent. This confusion arose because the Supreme Court almost ignored the phrase entirely in its *Exxon Mobil Corp.* opinion.[109] The Sixth Circuit has interpreted *Exxon Mobil Corp.* as abandoning the use of the phrase except for specific instances where the source of the injury was not the state court judgment.[110] In other words, "the phrase 'inextricably intertwined' has no independent content. It is simply a descriptive label attached to claims that meet the requirements outlined in *Exxon Mobil*."[111] The Fourth Circuit has come to a similar conclusion.[112]

Other circuits continue to use the inextricably intertwined test as a separate scapegoat through which *Rooker-Feldman* may apply.[113] Circuits also disagree on whether the court must look to the nature of the requested relief in order to determine how to apply *Rooker-Feldman*.[114] The Third[115] and Sixth[116] Circuits have held that the court must look at the nature of the requested relief in their analysis. The Eleventh Circuit

107. *See, e.g.*, Levys v. Manning, Civil Action No. 16-1820, 2016 U.S. Dist. LEXIS 175098, 2016 WL 7664840, at **1, 4 (W.D. Pa. Dec. 16, 2016) (applying the *Rooker-Feldman* doctrine to an interlocutory order in a state criminal case); Pieper v. Am. Arbitration Ass'n, Inc., 336 F.3d 458, 461-62 (6th Cir. 2003) (applying *Rooker-Feldman t*o a federal suit challenging an interlocutory order); Kenman Eng'g v. Union, 314 F.3d 468, 474 (10th Cir. 2002) (same); Brown & Root, Inc. v. Breckenridge, 211 F.3d 194, 199 (4th Cir. 2000) (same).

108. Houston v. Queen, 8 F. Supp. 3d 815, 824 (W.D. La. 2014).

109. Sophocleus v. Ala. DOT, 605 F. Supp. 2d 1209, 1216 (M.D. Ala. 2009) ("The consequence of the Court's ignoring the phrase means that, after Exxon, lower courts do not know if they still must apply 'inextricably applied' or how to do so").

110. McCormick v. Braverman, 451 F.3d 382, 394-95 (6th Cir. 2006).

111. Hoblock v. Albany Cnty Bd. of Elections, 422 F.3d 77, 86-87 (2d Cir. 2005).

112. Davani v. Va. Dep't of Transp., 434 F.3d 712, 719 (4th Cir. 2006) ("Feldman's 'inextricably intertwined' language does not create an additional legal test […] but merely states a conclusion").

113. *See, e.g.*, Chris H. v. New York, 764 F. App'x 53, 56 (2d Cir. 2019) ("[The *Rooker-Feldman* doctrine] also prohibits federal court review of claims 'that are "inextricably intertwined" with state court determinations'"); Shawe v. Pincus, 265 F. Supp. 3d 480, 486 (D. Del. 2017) ("[Prior Third Circuit] cases demonstrate that […] the inextricably intertwined test [is] still valid as long as the temporal component does not run afoul").

114. Shallenberger v. Allegheny Cnty., No. 2:20-cv-00073-NR, 2020 U.S. Dist. LEXIS 52382, at *12 n.1 (W.D. Pa. Mar. 26, 2020) ("There appears to be a circuit split on this issue").

115. Ernst v. Child and Youth Servs. of Chester Cnty, 108 F.3d 486, 491-92 (3d Cir. 1997).

116. Holloway v. Brush, 220 F.3d 767, 778-79 (6th Cir. 2000).

does not take this approach, finding it inconsistent with its prior precedents.[117] Instead, the Eleventh Circuit "focus[es] on the federal claim's relationship to the issues involved in the state court proceeding instead of the type of relief sought by the plaintiff."[118]

Although not technically circuit splits, other sources of confusion have come to light regarding the doctrine. For example, some circuits have applied a "reasonable opportunity" exception.[119] Under this exception to the *Rooker-Feldman* doctrine, a federal lawsuit is allowed to proceed if the federal plaintiff lacked a reasonable opportunity to litigate its claims in the state court proceeding.[120] Is this exception valid in a modern *Rooker-Feldman* analysis? The Seventh Circuit questioned this exception's viability post-*Exxon Mobil Corp.*, but has failed to expressly abandon it.[121] Additionally, does the *Rooker-Feldman* doctrine apply to claims for prospective relief? The Sixth Circuit has held that it does not.[122] While these instances are not necessarily splits among the circuits as of yet, they show the *Rooker-Feldman* doctrine has been further muddled without proper Supreme Court guidance.

III. CRITICISMS IN *VANDERKODDE V. ELLIOTT*

The circuit splits and ambiguity surrounding the *Rooker-Feldman* doctrine led the Sixth Circuit to question the scope of the doctrine in *VanderKodde.*[123] This action involved consumers who held credit accounts with various financial institutions and who later defaulted on their debts.[124] Defendants LVNV Funding and Midland Funding bought these debts and hired defendant Mary Jane Elliott to represent them in all collection proceedings.[125] Elliott filed five separate actions, all of which ended in a judgment against the debtor.[126] In these situations, Michigan's Court Rules provided a post-judgment garnishment procedure:

> To collect, the creditor gives the court clerk a verified statement that describes the debt and the parties. MCR 3.101(D). If everything "appears

117. Goodman ex rel. Goodman v. Sipos, 259 F.3d 1327, 1333 n.7 (11th Cir. 2001).

118. *Id.* at 1333.

119. Wood v. Orange Cnty, 715 F.2d 1543, 1547 (11th Cir. 1983); Lynk v. LaPorte Superior Ct. No. 2, 789 F.2d 554, 564-65 (7th Cir. 1986).

120. Kelley v. Med-1 Sols., LLC, 548 F.3d 600, 605 (7th Cir. 2008).

121. *Id.* at 607 ("The reasonable opportunity exception was developed during a time when federal courts applied Rooker-Feldman much more expansively. Post-Exxon Mobil, the reasonable opportunity exception to the Rooker-Feldman doctrine is of questionable viability") (internal quotations omitted).

122. Berry v. Schmitt, 688 F.3d 290, 300 (6th Cir. 2012).

123. 951 F.3d at 405 (Sutton, J., concurring).

124. *Id* at 400.

125. *Id.*

126. *Id.*

> to be correct," the clerk issues a writ of garnishment and the creditor serves it on the third party, the garnishee. MCR 3.101(D)-(E). Unless the garnishee or debtor objects, that's usually it: the garnishee gives the money to the creditor rather than the debtor. MCR 3.101(J)(1).[127]

Multiple requests and writs for garnishment were made in state court for each judgment debtor.[128] None of the judgment debtors objected to any of the writs in the fourteen-day required window.[129] The outstanding amounts of plaintiffs' debts were calculated at an ultimate post-judgment rate of 13%, which was the maximum interest rate allowed for a judgment of this type.[130] Plaintiffs brought suit in the United States District Court for the Western District of Michigan, alleging that the 13% rate was impermissible under Michigan law.[131]

The suit was dismissed for lack of subject-matter jurisdiction.[132] The district court reasoned that the lawsuit was the equivalent of an appeal of the judgments and writs of garnishment in the state-court collection proceedings and therefore barred under the *Rooker-Feldman* doctrine.[133] On appeal, the Sixth Circuit reversed, holding that this class action was "not the rare one that threads the *Rooker-Feldman* needle" for two reasons.[134] First, a writ of garnishment is a ministerial process rather than a judgment, and *Rooker-Feldman* applies only to state court *judgments*.[135] Second, the plaintiff's injuries in the federal suit did not originate from the writs of garnishment themselves but from the costs included in them.[136]

Judge Sutton, writing separately in the form of a concurrence, adopted a more unique approach to analyzing whether *Rooker-Feldman* applies in this situation — abandoning its application almost entirely.[137] Judge Sutton first began by noting that he agreed with the court's judgment for largely the same reasons.[138] He noted that "[the] lawsuit does not seek to undo the writs of garnishment. Just the opposite: The plaintiffs *premise* their federal lawsuit on the existence of the writs of garnishment – the

127. Van Hoven v. Buckles & Buckles, P.L.C., 947 F.3d 889, 891 (6th Cir. 2020).

128. *VanderKodde*, 951 F.3d at 400.

129. *Id.*

130. *Id.* at 401.

131. *Id.*

132. *Id.*

133. *Id.*

134. *Id.* at 400 (quoting Van Hoven v. Buckles & Buckles, P.L.C., 947 F.3d 889 at 892 (6th Cir. 2020)).

135. *Id.* at 402.

136. *Id.* at 403.

137. *Id.* at 409 (Sutton, J., concurring).

138. *Id.* at 407 (Sutton, J., concurring).

final state court decisions."[139] However, Judge Sutton concurred to raise several objections to the *Rooker-Feldman* doctrine itself. Judge Sutton accused the doctrine of deceiving federal courts into believing that they lack jurisdiction over cases Congress specifically empowered them to preside over,[140] which he attributed to lower courts' misinterpretation of *Exxon Mobil*.[141] Judge Sutton wrote: "Notwithstanding *Exxon Mobil*'s efforts to return *Rooker-Feldman* to its modest roots, lawyers continue to invoke the rule and judges continue to dismiss federal actions under it."[142]

Furthermore, Judge Sutton argued the doctrine provides ample room for federal courts to avoid deciding federal questions.[143] As Sutton pointed out, the doctrine was used as a heavy docket-clearing device for federal courts for a long time.[144] This use was not surprising, considering "litigants continue to make expansive *Rooker-Feldman* arguments […] [a]nd lower courts keep buying them."[145] Additionally, Judge Sutton argued that the doctrine also encourages federal judiciaries to embrace the instinct to do less in an effort to defer to state courts, which, while well-intentioned, can almost always be accomplished through other court principles.[146] Preclusion concepts, such as claim or issue preclusion, for example, already confront issues like federalism and judicial comity.[147] One final argument Judge Sutton made in his plea to limit the *Rooker-Feldman* doctrine was that state courts do not seem to struggle with this problem,[148] asserting that "[c]laim and issue preclusion principles have worked just fine in deciding how to deal with a pending or final federal court action with overlapping issues."[149]

IV. DISCUSSION

While critics have identified *Rooker-Feldman*'s several flaws, the doctrine is likely necessary in the grand scheme of the U.S. judicial system. Undeniably, the doctrine plays a significant role in furthering concepts like federalism, comity, and finality. In defense of *Rooker-Feldman*, the Fourth Circuit stated that the doctrine doesn't just promote

139. *Id.*

140. *Id.* at 405.

141. *Id.*

142. *Id.*

143. *Id.* at 406.

144. *Id.* at 406. (citing Susan Bandes, *The* Rooker-Feldman *Doctrine: Evaluating Its Jurisdictional Status*, 74 NOTRE DAME L. REV. 1175, 1175 (1999)).

145. *Id.* at 407.

146. *Id.*

147. *Id.* at 408.

148. *Id.*

149. *Id.*

federalism, it preserves it.[150] It also has potential to advance judicial efficiency because, if clearly defined, it could prevent litigants who lose in state court from attempting to relitigate their claims in federal court. The doctrine's purpose is to force losing litigants to cut their losses and move on, saving the courts both time and money. These benefits are worthwhile only if the doctrine functions correctly, however. If the doctrine is left to "wreak havoc"[151] on the lower courts, as Judge Sutton suggested that it has, then it can be more harmful than helpful. The solution is not to erase the doctrine, however, but rather to clarify it. The Supreme Court has only addressed *Rooker-Feldman* twelve times, with the last being in 2011.[152] In each of these instances, the Court provided little clarification to the doctrine. The doctrine's current status demands that the Supreme Court provide further guidance on its limits and overall function.

The last time the Court attempted to hand down a clearer judgment on *Rooker-Feldman* in *Exxon Mobil Corp.*, it still left lingering uncertainties regarding the doctrine's operation. However, the case managed to provide some helpful clear-cut answers. For example, the Court explained that the doctrine is meant to be interpreted narrowly.[153] The Court also affirmed that the doctrine neither replaces preclusion principles[154] nor affects any of the doctrines allowing federal courts to stay or dismiss proceedings in deference to state-court actions.[155] Going forward, the Court should provide similar unequivocal answers to the questions surrounding the doctrine's application.

The *Rooker-Feldman* doctrine has multiple facets to which the Court needs to provide clarity. First, although the Court tried to distinguish the overlap—or lack thereof—between preclusion principles and the *Rooker-Feldman* doctrine, the difference is still unclear to an abundance of lower courts and litigating parties.[156] Often it seems like the analysis lies more in how inextricably intertwined preclusion and *Rooker-Feldman* are, rather than the state court judgment and the federal claim injury. However, these two principles, when functioning correctly, should serve different purposes and affect different claims.[157] Although Justice

150. Am. Reliable Ins. Co. v. Stillwell, 336 F.3d 311, 316 (4th Cir. 2003).

151. *VanderKodde*, 951 F.3d at 405 (Sutton, J., concurring).

152. Skinner v. Switzer, 562 U.S. 521 (2011).

153. *Exxon Mobil Corp.*, 544 U.S. at 284.

154. *Id.*

155. *Id.*

156. *See e.g.*, Mayotte v. U.S. Bank Nat'l Ass'n, 880 F.3d 1169, 1175-76 (10th Cir. 2018); Kemper v. Colo. Comp. Ins. Auth., 271 F. App'x 760, 762 (10th Cir. 2008); Karnecki v. City of Sisters, 775 F. App'x 292, 294 (9th Cir. 2019) (Nelson, J., concurring); AmerisourceBergen Corp. v. Roden, 495 F.3d 1143, 1153 (9th Cir. 2007).

157. Adam McLain, *The* Rooker-Feldman *Doctrine: Toward a Workable Role*, 149 U. PA. L. REV.

Ginsburg provided some guidance as to the differences between the two principles in *Exxon Mobil Corp.*,[158] the Court needs to provide a bright line rule to establish when *Rooker-Feldman* applies and when preclusion principles apply to guide the lower courts regarding the doctrine's lingering uncertainties.

Second, the Court should address other splits among the circuits. For example, the Court should clarify whether acts of fraud are covered by the doctrine. The best approach for this issue may be the one taken by the Ninth Circuit, which held that *Rooker-Feldman* does not bar a federal claim alleging extrinsic fraud but does bar a claim for intrinsic fraud. It would be a major injustice to refuse to allow parties relief after a judgment is entered hinging on fraudulent activities by the adverse party. This approach strikes a proper balance between allowing some form of recompense for fraud, while also encouraging litigants to raise these claims in one proceeding if possible. The Court should decide on this and establish a uniform rule for the circuits.

Third, the Court should establish how *Rooker-Feldman* applies to interlocutory or intermediate appeals. In *Exxon Mobil Corp.*, the Court explained that the *Rooker-Feldman* doctrine involved situations where a state-court loser "filed suit in federal court *after* the state proceedings ended."[159] A literal interpretation of this language would mean that *Rooker-Feldman* only applies to final state-court judgments. However, if this was meant to be an answer, then it was done so only implicitly and without conviction. As one scholar pointed out, "[d]ifferent passages in *Exxon Mobil* might be read to support either view" on this issue.[160] The *Rooker-Feldman* doctrine is confusing as it is. The Court should not be half-hearted in its approach to providing clarification regarding the doctrine's scope. If the Court meant to ensure that *Rooker-Feldman* only applied to final judgments or decrees, it should have been direct and unequivocal about it. Therefore, on any further review of *Rooker-Feldman*, the Court should create a bright line rule on whether the doctrine applies to interlocutory or intermediate appeals, putting any confusion on the issue to bed.

Fourth, the Court should also set out the analytical framework under which lower courts should apply *Rooker-Feldman*. The circuit split is highly indicative of just how vague Supreme Court guidance has been regarding the doctrine, considering that courts are still left befuddled on

1555, 1578-79 (2001).

158. 544 U.S. at 293.

159. *Id.* at 291 (emphasis added).

160. Thomas D. Rowe, Jr. & Edward L. Baskauskas, *"Inextricably Intertwined" Explicable at Last?* Rooker-Feldman *Analysis After the Supreme Court's Exxon Mobil Decision*, 2006 FED. CTS L. REV. 1 (2006).

how the analysis itself should look. If the language and case law surrounding "inextricably intertwined" is no longer relevant to the *Rooker-Feldman* discussion, then this should be stated. This issue was a large source of confusion pre-*Exxon Mobil Corp.*[161] The Court's best option is to abandon this language and to do so expressly. Otherwise, courts are left struggling to figure out how this once-important test fits into a modern *Rooker-Feldman* doctrine analysis. Furthermore, if assessing the nature of the relief is meant to be the new method for determining whether *Rooker-Feldman* applies, this should not only be stated but elaborated on. Otherwise, courts may continue dividing over how to apply *Rooker-Feldman* to the variety of situations that might potentially arise under the doctrine.

Fifth, and perhaps most importantly, if a *Rooker-Feldman* question comes before the Court again, the Court should create clear boundaries for the doctrine's limits. After all, the confusion among lower courts seems to be not in understanding the basic premise or policy concerns underlying the doctrine but rather its application to various situations where a state court proceeding might somehow be related to federal claims. To clarify, the Court could provide a list of concrete examples that showcase which activities fall in or out of the doctrine's purview. In fact, lower courts have expressed that hypothetical scenarios are helpful in understanding the doctrine, especially post-*Exxon Mobil Corp*.[162] Additionally, by providing answers in a hypothetical problem-and-answer format, the Supreme Court would be proving to lower courts that *Rooker-Feldman* is a workable doctrine capable of consistent application, rather than a doctrine with neither defined boundaries nor a chance of uniformity among circuits.

For example, *Exxon Mobil Corp.* provided one group of cases falling outside the doctrine's parameters: cases where a federal plaintiff "presents some independent claim, albeit one that denies a legal conclusion that state court has reached in a case to which he was a party."[163] The Court explained that this situation would hinge on state law and whether the defendant prevails under preclusion principles.[164] While this singular example provides some clarity, more concrete examples are necessary to understand the scope of the doctrine. After all, one would assume that raising a new legal theory in federal court would be enough to present an independent claim. However, *Feldman* itself explained that

161. *See supra* notes 56-57.

162. Davani v. Va. DOT, 434 F.3d 712, 719 (4th Cir. 2006) (quoting Hoblock v. Albany Cnty Bd. of Elections, 422 F.3d 77, 87-88 (2d Cir. 2005)); Mayotte v. U.S. Bank Nat'l Ass'n, 880 F.3d 1169, 1176 (10th Cir. 2018).

163. 544 U.S. at 293.

164. *Id.*

simply raising federal constitutional claims, even if not raised in state court, still presents a claim that is "inextricably intertwined" with the state-court judgment.[165]

In Judge Sutton's concurrence in *VanderKodde*, he noted that the *Rooker-Feldman* doctrine has actually been disputed *more often* after *Exxon Mobil Corp.*'s attempt to narrow it.[166] However, this is not *despite* the fact that the Court tried to limit the doctrine. Rather, it is because it failed to do so in a clear-cut and readily applicable way. It would take a single Supreme Court opinion on *Rooker-Feldman*, this time with definitive answers and a precise framework, to qualm the abuses currently observed in litigation involving the doctrine.

V. CONCLUSION

In summary, this Note is a call for clarification on the *Rooker-Feldman* doctrine. While the doctrine might seem inconsequential in some regards, it can majorly impact principles of fairness and judicial efficiency depending on how it is applied. Being a jurisdictional doctrine, courts can raise the *Rooker-Feldman* doctrine sua sponte.[167] The *Rooker-Feldman* doctrine is not waivable by either party.[168] If wrongly applied, it has the all-important effect of depriving a litigating party from due process or forcing them to litigate independent issues in a state court. Additionally, while other forum allocation doctrines, such as abstention or preclusion, have safeguards like the fair hearing or public interest exception, the *Rooker-Feldman* doctrine lacks such flexibility.[169] Furthermore, if one of the doctrine's main benefits is judicial efficiency,[170] then the Court needs to ensure that it serves that purpose. A doctrine that causes confusion among lower courts and allows for plaintiffs to artfully manipulate it does not serve that purpose. In fact, it antagonizes it.

Largely, the *Rooker-Feldman* doctrine is a judicial theory that has been developed in piecemeal, beginning with *Rooker* and eventually followed by *Feldman*. While *Pennzoil* and *Exxon Mobil Corp.* ultimately helped establish boundaries for the doctrine, a number of unanticipated situations

165. District of Columbia Court of Appeals v. Feldman, 460 U.S. 462, 483-84 n. 16 (1983).

166. *VanderKodde*, 951 F.3d at 407 (Sutton, J., concurring) (citing Raphael Graybill, Comment, *The Rook That Would Be King:* Rooker-Feldman *Abstention Analysis After* Saudi Basic, 32 YALE J. ON REG. 591, 591-92 (2015)).

167. Susan Bandes, *The* Rooker-Feldman *Doctrine: Evaluating Its Jurisdictional Status*, 74 NOTRE DAME L. REV. 1175, 1177 (1999).

168. *Id.*

169. *Id.* at 1177-78.

170. Kyles v. Fed. Home Loan Mortg. Corp, No. 17 CV 1511, 2018 U.S. Dist. LEXIS 62691, at *10 n.7 (N.D. Ill. Apr. 13, 2018) (noting that while *Rooker-Feldman* may not be grounded in concerns of efficiency, it still promotes it to the extent that it prevents duplicative appeals in state and federal court).

have arisen that create confusion surrounding the application of *Rooker-Feldman*. While a court cannot imagine every scenario that might lend itself to the scope of *Rooker-Feldman*, a large number of these scenarios have already been raised and adjudicated over the years, with differing and conflicting results. As such, Judge Sutton has good reason for growing tired of the doctrine and its mischief. The answer, however, cannot be found in abandoning the seemingly archaic doctrine. Instead, the answer lies in the Supreme Court giving the next piece in the *Rooker-Feldman* puzzle. Although Judge Sutton suspects it never will,[171] there is more than enough reason to provide answers to lower courts with nothing but questions. It is also worth mentioning that Judge Sutton does not seem completely opposed to having more clarity from the Supreme Court regarding the doctrine.[172] Should the Supreme Court refuse to act on the matter, however, it is likely that havoc and chaos will continue to be the norm for the *Rooker-Feldman* doctrine.

171. *VanderKodde*, 951 F.3d at 409 (Sutton, J., concurring).

172. *Id.* at 405 ("Here's to urging the Court to give one last requiem to Rooker-Feldman").