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## Stay in Your Lane: Rooker-Feldman Prohibits Lower Federal Court Review of Non- Final State Court Judgments

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## Comments

# Stay in Your Lane: *Rooker-Feldman* Prohibits Lower Federal Court Review of Non-Final State Court Judgments

Matthew Bertelli\*

*“Federal courts are courts of limited jurisdiction. They possess only that power authorized by Constitution and statute[.]”*<sup>1</sup>

### INTRODUCTION

The Burciaga family purchased their Flower Mound, Texas home in 1999.<sup>2</sup> A few years later, the family refinanced their mortgage and executed a home equity note, which was assigned to Deutsche Bank.<sup>3</sup> In 2011, the Burciagas defaulted on the home equity loan and were notified of the bank’s intent to foreclose on the loan if the default was not cured.<sup>4</sup> The Burciagas were unable to remedy the default, and in October 2013, Deutsche Bank filed a

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\* Candidate for Juris Doctor, Roger Williams University School of Law, Class of 2023. Thank you to the entire *Law Review* staff, especially my editors, for their assistance and guidance. I am sincerely grateful to Professor Jonathan Gutoff for sharing his expertise on federal jurisdiction and abstention doctrine. This Comment is dedicated to the memory of my Grandmother, Dorothy I. DeFusco; she loved to read.

1. Kokkonen v. Guardian Life Ins. Co. of Am., 511 U.S. 375, 377 (1994).
2. Burciaga v. Deutsche Bank Nat’l Trust Co., 871 F.3d 380, 382 (2017).
3. *Id.*
4. *Id.*

foreclosure suit in Texas state court.<sup>5</sup> The court issued a foreclosure order permitting the bank to foreclose on the loan and sell the home.<sup>6</sup> Subsequently, the state court granted a motion to vacate the foreclosure order and reopened the case.<sup>7</sup> Despite the state court's ruling, the bank foreclosed on the Burciaga's home in May 2014, purchased it at the foreclosure sale, and notified the Burciagas of its intent to repossess the property.<sup>8</sup>

A few months later, the Burciagas filed a trespass to title lawsuit in Texas state court seeking a preliminary injunction against Deutsche Bank.<sup>9</sup> The bank removed this action to a federal district court and sought a declaratory judgment in its counterclaim.<sup>10</sup> The district court granted summary judgment for Deutsche Bank, and the Burciagas appealed to the United States Court of Appeals for the Fifth Circuit.<sup>11</sup> The Burciaga's primary argument on appeal was that "the district court's assumption of jurisdiction violated the *Rooker-Feldman*<sup>12</sup> doctrine and that this court should dismiss the appeal for lack of subject-matter jurisdiction."<sup>13</sup>

Stated in plain terms, the *Rooker-Feldman* doctrine provides that the lower federal courts "lack jurisdiction to hear appeals from state court decisions"; only the Supreme Court has such authority.<sup>14</sup> The Fifth Circuit acknowledged that Deutsche Bank was "essentially seeking review" of the vacating order by arguing that its foreclosure of the Burciaga's home was valid.<sup>15</sup> Despite this observation, the Fifth Circuit affirmed summary judgment for the bank, holding that the vacating order was not a final judgment and emphasizing that *Rooker-Feldman* "applies only to state court 'final judgments.'"<sup>16</sup>

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5. *Id.*

6. *Id.*

7. *Id.* at 383.

8. *Id.*

9. *Id.*

10. *Id.*

11. *Id.*

12. See *Rooker v. Fid. Trust Co.*, 263 U.S. 413 (1923); see also *D.C. Court of Appeals v. Feldman*, 460 U.S. 462 (1983).

13. *Burciaga*, 871 F.3d at 383.

14. Adam McLain, *The Rooker-Feldman Doctrine: Toward a Workable Role*, 149 U. PA. L. REV. 1555 (2001).

15. *Burciaga*, 871 F.3d at 385.

16. *Id.* at 384.

The Fifth Circuit's ruling left the Burciaga family without a home. Moreover, it divested a state judiciary of its legitimate authority to adjudicate for itself the merits of the ongoing dispute between the Burciagas and Deutsche Bank. There is little doubt that the Texas court's vacating order was, at a minimum, an interlocutory judgment<sup>17</sup> undoing the bank's right to foreclose on the property. Presumably, then, the vacating order manifested the Texas court's desire to further consider the issue between the parties before giving the bank the green light.<sup>18</sup> Flying in the face of the state court's jurisdiction—and apparently unfazed by the fact that Texas had effectively prohibited it from immediately seizing the Burciaga's home—Deutsche Bank asked the federal district court to review the issue when the Burciaga family was left with no other choice but to turn to the courts for their own protection from corporate greed.<sup>19</sup> The flagrant behavior displayed by Deutsche Bank and the United States District Court for the Eastern District of Texas, enabled by the United States Court of Appeals for the Fifth Circuit, is exactly what the Supreme Court's *Rooker-Feldman* doctrine purports to prevent.

This Comment argues that the *Rooker-Feldman* doctrine prohibits federal district courts from asserting subject-matter jurisdiction to review any state court judgment, final or non-final, barring an explicit congressional exception. *Rooker-Feldman*, in conjunction with the principles of limited federal jurisdiction, federalism, state sovereignty, and judicial economy, requires lower federal courts to “stay in their lane” and refrain from exercising jurisdiction to review state court decisions. Accordingly, the Supreme Court of the United States must resolve the current disagreement in the courts of appeals by holding that *Rooker-Feldman* strictly prohibits the federal district courts from sitting in direct appellate review of all state court decisions unless a congressional exception is met. The Supreme Court, *and only* the Supreme Court, has this authority. Such a ruling would be harmonious with existing Supreme

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17. “An intermediate judgment that determines a preliminary or subordinate point or plea but does not finally decide the case.” *Interlocutory Judgment*, BLACK'S LAW DICTIONARY (5th ed. 1996).

18. *See Burciaga*, 871 F.3d at 383.

19. *See id.* at 383.

Court jurisprudence on the doctrine and will uphold the interests of federalism, state sovereignty, and judicial economy.

Part I of this Comment discusses the history of the *Rooker-Feldman* doctrine, considers the jurisdictional scope of the federal and state courts, and reviews what qualifies as a court “judgment.” Part II examines the recent disagreement between the United States court of appeals over the issue of whether *Rooker-Feldman* applies to non-final state court judgments, triggered because of a decision by the United States Court of Appeals for the Sixth Circuit in *RLR Invs. LLC v. City of Pigeon Forge*.<sup>20</sup> Part III argues that the Sixth Circuit’s position is correct: *Rooker-Feldman* (along with other abstention principles) prohibits federal district courts from asserting subject-matter jurisdiction to review non-final state court judgments. Finally, this Comment concludes by asking the Supreme Court to address the current circuit split and hold that *Rooker-Feldman* requires federal district courts to refrain from exercising subject-matter jurisdiction to review all state court judgments, whether final or non-final, unless a congressional exception applies.

## I. ROOKER-FELDMAN AND JURISDICTION

### A. *The History of the Rooker-Feldman Doctrine*

#### 1. *Rooker v. Fidelity Trust Co.*

The *Rooker-Feldman* doctrine has its origins in two Supreme Court cases, separated by six decades, which together “established jurisdictional limits on federal claims brought by parties who previously lost in state court over a related claim.”<sup>21</sup> In the seminal case, *Rooker v. Fidelity Trust Co.*, the petitioners requested the Court reverse the judgment of an Indiana trial court which the Indiana Supreme Court had affirmed.<sup>22</sup> The petitioners had executed a trust agreement with the Fidelity Trust Company.<sup>23</sup> A dispute arose over the agreement and the Rookers filed suit in Indiana state

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20. *RLR Invs., LLC v. City of Pigeon Forge*, 4 F.4th 380, 383–84 (2021).

21. Bradford Higdon, *The Rooker-Feldman Doctrine: The Case for Putting it to Work, Not to Rest*, 90 U. CIN. L. REV. 352, 355 (2021).

22. *Rooker v. Fid. Trust Co.*, 263 U.S. 413, 414 (1923).

23. *See id.* at 417.

court.<sup>24</sup> After losing in state court, the Rookers filed a claim in federal district court, and presented the court with “a bill in equity to have a judgment of a circuit court in Indiana, which was affirmed by the Supreme Court of the state, declared null and void, and to obtain other relief dependent on that outcome.”<sup>25</sup> The district court dismissed the case, and opined that “the suit was not within its jurisdiction as defined by Congress.”<sup>26</sup> The plaintiffs appealed directly to the Supreme Court.<sup>27</sup> In a relatively short opinion, the Court affirmed the district court’s dismissal, holding that:

Under the legislation of Congress, 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. To do so would be an exercise of appellate jurisdiction. The jurisdiction possessed by the District Courts is strictly original.”<sup>28</sup>

The Court’s holding in *Rooker* meant that “a federal district court is not the proper place for parties to appeal issues actually decided against them in state court.”<sup>29</sup> Following *Rooker*, only the United States Supreme Court had the jurisdiction to review decisions of the highest state courts.<sup>30</sup> The Court’s holding was largely based on inferences drawn from the precursors to key federal jurisdiction statutes, namely 28 U.S.C. §§ 1257 and 1331.<sup>31</sup> *Rooker* was not particularly surprising or influential, and the case received little attention until the Court’s decision in *District of Columbia Court of Appeals v. Feldman*.<sup>32</sup>

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24. *See id.* at 414.

25. *Id.*

26. *Id.* at 415.

27. *Id.* at 415.

28. *Id.* at 416.

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

30. McLain, *supra* note 14, at 1564.

31. *Id.* at 1563; *see* 28 U.S.C. § 1257 (granting the United States Supreme Court the authority to exercise discretionary review over judgments rendered by the highest court of a state regarding questions of federal law); *see also* 28 U.S.C. § 1331 (granting the United States District Courts original jurisdiction to adjudicate cases regarding questions of federal law).

32. McLain, *supra* note 14, at 1564; *see generally* D.C. Court of Appeals v. Feldman, 460 U.S. 462 (1983).

2. *District of Columbia Court of Appeals v. Feldman*

The Court was again tasked with addressing the propriety of federal district court review of state court judgments in *Feldman*. In that case, Marc Feldman sought admission to the Washington, D.C. bar via waiver after being admitted to practice law in both Virginia and Maryland despite having not attended law school.<sup>33</sup> The Committee on Admissions of the District of Columbia Bar denied Feldman's application because of a rule requiring applicants to be laureates of an accredited law school.<sup>34</sup> Only the District of Columbia Court of Appeals could waive the requirement; accordingly, Feldman petitioned that court for a waiver, which was ultimately denied.<sup>35</sup>

Feldman subsequently filed a complaint in federal district court.<sup>36</sup> The case reached the Supreme Court, which held that "the United States District Court is without authority to review final determinations of the District of Columbia Court of Appeals in judicial proceedings."<sup>37</sup> Stated another way, the Court held that the federal district court had no jurisdiction to rule on Feldman's complaint because it "sought review in District Court of the District of Columbia Court of Appeals' denial" of the petition for waiver.<sup>38</sup> Because the Court of Appeals had already issued a ruling on the plaintiff's claim, a federal district court ruling on the same issue would essentially amount to appellate review of the issue.<sup>39</sup>

In reaching its conclusion, the Court emphasized that the proceedings before the District of Columbia Court of Appeals were judicial in nature; they "involved a 'judicial inquiry' in which the court was called upon to investigate, declare, and enforce 'liabilities as they [stood] on present or past facts and under laws supposed already to exist.'"<sup>40</sup> In the Court's view, 28 U.S.C. § 1257 requires that only the Supreme Court—and, by inverse logic, neither the

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33. *Feldman*, 460 U.S. at 465.

34. *Id.*

35. *Id.* at 465–68.

36. McLain, *supra* note 14, at 1565.

37. *Feldman*, 460 U.S. at 476.

38. *Id.* at 482.

39. See Bandes, *supra* note 29, at 1179.

40. *Feldman*, 460 U.S. at 479.

United States district courts nor courts of appeals—can review state court decisions.<sup>41</sup>

Stated in its simplest and most uncontroversial form, the *Rooker-Feldman* doctrine provides that federal courts other than the Supreme Court lack jurisdiction to hear appeals from state court decisions.<sup>42</sup> Rooted in two critical federal jurisdiction statutes, the 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.<sup>43</sup> Per 28 U.S.C. § 1331, the district courts “shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.”<sup>44</sup> The original jurisdiction granted to the federal district courts by statute creates the negative inference that the federal district courts have no appellate authority. The two statutes work together to create what should be a simple premise: the only federal court that can hear appeals from state courts is the Supreme Court.<sup>45</sup>

The policy behind *Rooker-Feldman* is based on the principle that “a litigant should not be able to challenge state court orders in federal courts as a means of relitigating matters that already have been considered and decided by a court of competent jurisdiction.”<sup>46</sup> Unsurprisingly, the *Rooker-Feldman* doctrine has emerged as perhaps the primary docket-clearing workhorse for the federal court system.<sup>47</sup> Since its inception, *Rooker-Feldman* has been the target of scholarly criticism for application.<sup>48</sup> Considering its ambiguous

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41. Bandes, *supra* note 29, at 1182.

42. McLain, *supra* note 14, at 1555.

43. Higdon, *supra* note 21, at 352.

44. 28 U.S.C. § 1331.

45. Higdon, *supra* note 21, at 354.

46. Frank Eaton, *The Limitations of the Rooker-Feldman Doctrine as a Defense to Avoidance Actions under the Bankruptcy Code*, A.B.A.: BUSINESS LAW TODAY (Oct. 28, 2019), [https://www.americanbar.org/groups/business\\_law/publications/blt/2019/11/rooker-feldman-doctrine/](https://www.americanbar.org/groups/business_law/publications/blt/2019/11/rooker-feldman-doctrine/) [<https://perma.cc/24DZ-DLA2>].

47. Bandes, *supra* note 29, at 1175. An estimated 500 cases were cleared from federal court dockets between 1992 and 1999 as a result of *Rooker-Feldman*. *Id.*

48. See, e.g., Bandes, *supra* note 29, at 1176; George L. Proctor et al., *Rooker-Feldman and the Jurisdictional Quandary*, 2 FLA. COSTAL L. J. 113, 114, 124 (2000); McLain, *supra* note 14, at 1577.



nature and the lack of meaningful guidance from the Supreme Court, the doctrine is highly susceptible to varying interpretations.

As is the case with most legal rules, there is an exception to the seemingly bright-line rule promulgated by *Rooker-Feldman*. The doctrine provides that federal courts, other than the Supreme Court, should not sit in direct review of state court decisions unless specifically authorized by Congress. Considering the doctrine is largely rooted in statutory authority,<sup>49</sup> and that it is Congress that ultimately limits the jurisdiction of the federal courts, Congress may enact legislation granting the lower federal courts at least quasi-appellate authority over state court rulings. A familiar example of this sort of statutory federal jurisdiction is the writ of habeas corpus, whereby an individual detained in state prison may ask the federal court to consider whether the inmate is held in custody "in violation of the Constitution or laws or treaties of the United States."<sup>50</sup> In this way, the federal district court sits in direct review of a state judiciary's decision to suspend an individual's liberty. Presumably, *Rooker-Feldman* would normally prohibit such an exercise of jurisdiction but for the explicit grant of authority articulated by Congress.<sup>51</sup>

Two decades after *Feldman*, due predominantly to the Supreme Court providing little guidance on how lower federal courts should apply *Rooker-Feldman*, the courts of appeals were all over the map in their application of the doctrine.<sup>52</sup> It was not until *Exxon Mobil Corp v. Saudi Basic Indus. Corp.* was decided in 2005 that the Court clarified how the doctrine should be implemented.<sup>53</sup>

### 3. *Exxon Mobil Corp v. Saudi Basic Indus. Corp.*

In *Exxon*, the Court was asked to consider how *Rooker-Feldman* applied to instances of parallel litigation in federal and state court.<sup>54</sup> In that case, ExxonMobil Corporation subsidiaries and Saudi Basic Industries Corp (SABIC), which had formed a joint

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49. See *supra* note 31 and accompanying text.

50. 28 U.S.C. § 2254.

51. The federal habeas corpus statutes are codified in 28 U.S.C. §§ 2241–2255.

52. Higdon, *supra* note 21, at 360.

53. *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005).

54. *Id.* at 291.

venture decades earlier, experienced a dispute over their royalty payment arrangement.<sup>55</sup> SABIC filed a lawsuit in the Delaware Superior Court seeking a declaratory judgment; ExxonMobil filed its own claim in the United States District Court for the District of New Jersey, alleging that SABIC was overcharging on royalties.<sup>56</sup> The state suit resulted in a jury verdict for ExxonMobil, and SABIC appealed to the Delaware Supreme Court.<sup>57</sup> Meanwhile, the Third Circuit raised the question of subject-matter jurisdiction *sua sponte* on interlocutory appeal in the federal case.<sup>58</sup> The Third Circuit reasoned that the district court must have lost subject-matter jurisdiction under *Rooker-Feldman* after ExxonMobil's case had been adjudicated in the Delaware state court.<sup>59</sup>

The Supreme Court granted certiorari and noted that lower courts often misapply a doctrine that the Court has only invoked itself on two occasions.<sup>60</sup> Writing for the majority and acknowledging the disparity in the lower federal courts, Justice Ginsburg stated that “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 courts, and superseding the ordinary application of preclusion law under 28 U.S.C. § 1738.”<sup>61</sup> Holding that *Rooker-Feldman* did not apply to the case, the Court “confined [the doctrine] to cases of the kind from which [it] acquired its name: 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.”<sup>62</sup> Furthermore, the Court pointed out that “[w]hen there is parallel state and federal litigation, *Rooker-*

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55. *Id.* at 289.

56. *Id.*

57. *Id.*

58. *Id.*

59. *Id.* at 290.

60. *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 283 (2005); *see Rooker v. Fid. Trust Co.*, 263 U.S. 413 (1923); *see D.C. Court of Appeals v. Feldman*, 460 U.S. 462 (1983).

61. *Exxon Mobil Corp.*, 544 U.S. at 283; *see* 28 U.S.C. § 1738.

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

*Feldman* is not triggered simply by the entry of judgment in state court.”<sup>63</sup>

*Exxon* remains the Supreme Court’s most recent attempt to shed some significant light on “the so-called *Rooker-Feldman* doctrine.”<sup>64</sup> In the nearly two decades since, the circuits are largely split on the proper application of *Rooker-Feldman*. There is substantial debate regarding the doctrine’s role with respect to interlocutory and intermediate state court rulings,<sup>65</sup> the subject of this Comment. Despite the doctrine’s perceived importance and the lower federal courts’ inability to reach a consensus on its appropriate application, the Supreme Court has expressed its view that *Rooker-Feldman* occupies a limited space in federal subject-matter jurisprudence.<sup>66</sup>

#### 4. *Lance v. Dennis*

In *Lance v. Dennis*, the Supreme Court made it clear that *Rooker-Feldman* is not preclusion in disguise.<sup>67</sup> Restating its conclusion in *Exxon*, the Court held that the doctrine “applies only in ‘limited circumstances,’ [] where a party in effect seeks to take an appeal of an unfavorable [state court] decision to a lower federal court.”<sup>68</sup> Furthermore, the Court noted that “[i]ncorporation of preclusion principles into *Rooker-Feldman* risks turning that limited doctrine into a uniform federal rule governing the preclusive effect of [state court] judgments, contrary to the Full Faith and Credit Act.”<sup>69</sup> Judges and justices have not been shy about expressing their disdain for *Rooker-Feldman*. In a dissenting opinion, Justice Stevens noted that the Court’s holding in *Exxon* “finally interred the so-called ‘*Rooker-Feldman* doctrine’” and that the *Lance* decision “quite properly disapproves of the District Court’s resuscitation of a doctrine that has produced nothing but mischief for 23

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63. *Id.* at 281.

64. *Pennzoil Co. v. Texaco, Inc.*, 481 U.S. 1, 18 (1987) (Scalia, J., concurring).

65. Higdon, *supra* note 21, at 368.

66. *Exxon Mobil Corp.*, 544 U.S. at 291 (noting that the doctrine applies only in “limited circumstances”).

67. *Lance v. Dennis*, 546 U.S. 459, 466 (2006).

68. *Id.*

69. *Id.*

years.”<sup>70</sup> To the contrary, the doctrine is not dead—rather, it is alive and well to this day, generating more mischief and sowing disagreement between the nation’s thirteen courts of appeals. The doctrine simply requires further clarification. “It remains vague enough for lower courts to continually misconstrue its boundaries, thereby creating inconsistent and conflicting case law.”<sup>71</sup> Accordingly, the Supreme Court ought to revisit *Rooker-Feldman*, rather than leave it for dead.

B. *Jurisdiction and Judgments*

1. *Federal Courts and Limited Jurisdiction*

The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State;—between Citizens of different States,—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.<sup>72</sup>

The federal government of the United States, and consequently the federal judiciary, was created when the Constitution was ratified.<sup>73</sup> The Constitution is emphatically clear that the federal courts are courts of limited jurisdiction, meaning they can only hear cases specifically authorized by the United States Constitution or

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70. *Lance*, 546 U.S. at 467–68 (Stevens, J. dissenting) (explaining that the Court’s holding in *Lance* sent the doctrine to a putative final resting place.); see Samuel Bray, *Rooker Feldman (1923-2006)*, 9 GREEN BAG 2D 317, 317 (2006) (Bray wrote a satirical obituary: “Rooker-Feldman, the legal personality, died yesterday at his home in Washington D.C. He was 83.”).

71. Higdon, *supra* note 21, at 353.

72. U.S. CONST. art. III, § 2, cl. 1.

73. *Owings v. Speed*, 18 U.S. 420, 420 (1820) (“The present Constitution of the United States did not commence its operation until the first Wednesday in March 1789.”).

federal statutes.<sup>74</sup> According to the text of the Constitution, there need not be any inferior federal courts at all; the Constitution created only the Supreme Court and empowered Congress to create inferior courts as it deems necessary.<sup>75</sup> Moreover, general federal question jurisdiction did not exist for much of the nation's history.<sup>76</sup> Congress did not confer general federal question jurisdiction upon the lower federal courts until the year 1875.<sup>77</sup> The modern standard for district court original jurisdiction is codified in Title 28 of the United States Code.<sup>78</sup> No federal statutes entertain the idea of the federal district courts exercising appellate jurisdiction.

## 2. *State Court Jurisdiction*

State courts resemble the federal courts in many respects.<sup>79</sup> The states themselves, however, predate the federal government. Therefore, the courts of the original thirteen states (or their predecessors) existed prior to the founding of the Republic and have run parallel with the federal courts ever since.<sup>80</sup> According to the Constitution, “[t]he powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”<sup>81</sup> Often thought of as a truism

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74. DEP'T. OF JUSTICE, INTRODUCTION TO THE FEDERAL COURT SYSTEM (2022), <https://www.justice.gov/usao/justice-101/federal-courts> [<https://perma.cc/R5KT-9MKG>].

75. U.S. CONST. art. III, § 1, cl. 6.1.

76. *See Mims v. Arrow Fin. Serv., LLC*, 565 U.S. 368, 377 (2012).

77. *Id.* at 376.

78. 28 U.S.C. § 1331 (“The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.”).

79. The federal and state court systems are similarly structured. With some exceptions, they consist of a trial level court, an intermediate appellate court, and an appellate court of last resort. *See generally Comparing Federal & State Courts*, U.S. COURTS, <https://www.uscourts.gov/about-federal-courts/court-role-and-structure/comparing-federal-state-courts> [<https://perma.cc/62LT-Z5FT>] (last visited Nov. 12, 2022).

80. For instance, the Rhode Island General Assembly was empowered to create judicial tribunals and at its first session under the Royal Charter. *See* Gail I. Winson, *Researching the Laws of the Colony of Rhode Island and Providence Plantations: From Lively Experiment to Statehood*, LAW FACULTY SCHOLARSHIP at 19–20 (2005), [https://docs.rwu.edu/cgi/viewcontent.cgi?article=1200&context=law\\_fac\\_fs](https://docs.rwu.edu/cgi/viewcontent.cgi?article=1200&context=law_fac_fs) [<https://perma.cc/54ZL-CSS9>].

81. U.S. CONST. amend. X.

with little legal significance,<sup>82</sup> the message of the Tenth Amendment is clear: just because the Constitution empowers the federal government to act, does not mean that it prohibit the states from acting (except where the Constitution confers exclusive authority to the federal government). Just as the federal government did not replace the existing state governments when it became effective,<sup>83</sup> the federal court system did not replace that of the states; rather, they continue to co-exist as equals to this day.

Presumably, then, the state courts are left to adjudicate for themselves—free of any outside interference—any issues that are not considered to be exclusively within the purview of the lower federal courts as promulgated by the Constitution or federal statutes. The general assumption is that state courts are as competent as the inferior federal courts to adjudicate legal issues of both federal and state concern. Only in limited circumstances has Congress explicitly authorized the inferior federal courts to take questions from the lower state courts, for example, removal<sup>84</sup> and habeas corpus.<sup>85</sup> In fact, there is a long history of the federal courts deferring to the state courts when appropriate, especially on matters of state law.<sup>86</sup> Though many state judiciaries and the federal court system are similarly structured—characterized from bottom to top by a series of trial courts, intermediate appellate courts, and finally a court of last resort—they are on separate hierarchies.<sup>87</sup>

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82. See *United States v. Sprague*, 282 U.S. 716 (explaining that the amendment added nothing to the instrument as originally ratified).

83. See *Owings v. Speed*, 18 U.S. 420 (1820).

84. See 28 U.S.C. § 1441.

85. See ADMIN. OFF. OF THE U.S. COURTS, *supra* note 50; 28 U.S.C. § 2241.

86. See *Murdock v. Memphis*, 87 U.S. 590 (1874). *Murdock* is considered instrumental in establishing the principle that state law interpretation is the province of the state courts, and that state supreme courts, rather than federal courts, should have final jurisdiction in state law issues. See Erwin Chemerinsky, *THE CASE AGAINST THE SUPREME COURT* (2014).

87. *Musladin v. Lamarque*, 427 F.3d 647, 651–52 (9th Cir. 2005) (Klienfeld, J., dissenting from denial of rehearing *en banc*) (explaining that “state courts understand that they are free to act contrary to circuit court holdings on questions of federal law. Lower courts must follow the law laid down by higher courts. But we are not a higher court than the Supreme Court of California or the California Court of Appeal, or for that matter, California traffic courts. We are in a different judicial hierarchy.”).

### 3. *What is a Judgment?*

Modern *Rooker-Feldman* analysis is entirely dependent on whether the state court's ruling or action qualifies as a judgment.<sup>88</sup> In the course of adjudicating a dispute, federal and state courts both ultimately arrive at a judgment (and perhaps several interlocutory judgments). A judgment can be defined as a court's final determination of the rights and obligations of the parties in a case.<sup>89</sup> The Supreme Court has observed that, according to the Federal Rules of Civil Procedure, "'judgment' as used in these rules includes a decree and any order from which an appeal lies."<sup>90</sup> Accordingly, as far as the federal district courts are concerned, interlocutory rulings may, in some circumstances, appropriately be defined as judgments. Furthermore, the Supreme Court has even gone as far as qualifying final decisions as a specific type of judgment: "in the ordinary course a 'final decision' is one that ends the litigation on the merits and leaves nothing for the court to do but execute the judgment."<sup>91</sup>

## II. A SPLIT IN THE CIRCUITS

In the summer of 2021, *Rooker-Feldman* and its contemporary application joined the ranks of the latest disagreements of legal interpretation among the United States courts of appeals. This conflict, often referred to as a "circuit split," occurred because of a decision by the United States Court of Appeals for the Sixth Circuit regarding whether *Rooker-Feldman* applies to interlocutory orders from lower state courts.

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88. See *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005).

89. *Judgment*. BLACK'S LAW DICTIONARY (Bryan A. Garner ed., 11th ed. 2019). Of course, not all judgments are final, as is the case with an interlocutory judgment. See BLACK'S LAW DICTIONARY, *supra* note 17.

90. See *United States v. Indrelunas*, 411 U.S. 216, 216 n. 1 (1973) (quoting Fed. R. Civ. P. 54(a)).

91. *Ray Haluch Gravel Co. v. Cent. Pension Fund of the Int'l Union of Operating Engr's*, 571 U.S. 177, 183 (2014) (quoting *Catlin v. United States*, 324 U.S. 229, 233 (1945)).

A. *Pigeon Forge: The Outlier*

*RLR Invs. LLC v. City of Pigeon Forge* concerned the city's attempt to construct a pedestrian walkway through RLR's property.<sup>92</sup> The city sought condemnation of the land in Tennessee state court, which issued an order of possession in the city's favor.<sup>93</sup> Dissatisfied with the proceedings, RLR sued in federal district court, hoping to enjoin the order.<sup>94</sup> The district court determined that under the *Rooker-Feldman* doctrine, it had no subject-matter jurisdiction because the state court had already issued an interlocutory order.<sup>95</sup> RLR appealed on the grounds that the Supreme Court's ruling in *Exxon*<sup>96</sup> meant that *Rooker-Feldman* did not apply to interlocutory judgments.<sup>97</sup>

The Sixth Circuit reasoned that "if lower federal courts can't review the final product of state court litigation, why should a lower federal court entertain an interlocutory appeal so long as a state court hasn't yet come to a conclusion?"<sup>98</sup> According to the court's opinion, such a rule would enable federal re-litigation of virtually every state court ruling.<sup>99</sup> Affirming the district court's decision, the Sixth Circuit concluded that, since *Exxon*, the only open question on the *Rooker-Feldman* doctrine is "whether 'judgments' means only final judgments," or includes interlocutory judgments as well.<sup>100</sup> The court correctly observed that the Supreme Court has never explicitly answered this question, only using the word "judgment" in the *Exxon* decision.<sup>101</sup>

The Supreme Court, graced with discretionary review, declined to take up RLR's appeal.<sup>102</sup> Perhaps its unanimous decision to not

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92. *RLR Invs., LLC v. City of Pigeon Forge, Tennessee*, 4 F.4th 380, 383 (6th Cir. 2021).

93. *Id.*

94. *Id.*

95. *Id.*

96. *See Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005).

97. *RLR Invs., LLC*, 4 F.4th at 383.

98. *Id.* at 386.

99. *Id.*

100. *Id.* at 392.

101. *Id.* at 392.

102. *RLR Invs. LLC v. City of Pigeon Forge*, 4 F.4th 380 (2021), *cert denied*, 142 S. Ct. 862 (2022).



grant certiorari suggests that the Court believes the case was correctly decided.<sup>103</sup> Noting that “the petitioner’s only argument of substance is that the interlocutory nature of the state court’s order mandates a different outcome,” the respondent’s brief in opposition argues that “the matter is a prototypical example of the type of case that is jurisdictionally barred by *Rooker* and its progeny.”<sup>104</sup> Unfortunately, most intermediate federal appellate courts in this country disagree.

#### B. *The Majority Approach*

The Sixth Circuit’s decision that *Rooker-Feldman* prohibits the lower federal courts from exercising jurisdiction to review state court interlocutory rulings ran contrary to the position of most other U.S. courts of appeals. The dissenting opinion would have preferred that the Sixth Circuit join most of the other circuits and rule that *Rooker-Feldman* prevents the lower federal courts “from exercising appellate jurisdiction over final [state court] judgments, not non-final state court interlocutory orders.”<sup>105</sup>

Shortly after *Exxon*, the First Circuit was asked to determine whether *Rooker-Feldman* applied to state interlocutory judgments.<sup>106</sup> Rejecting the idea, the First Circuit’s approach is to determine whether the state court judgment in dispute was “effectively final.”<sup>107</sup> In the First Circuit’s opinion, absent an effectively final state court judgment, “even if the federal plaintiff expects to lose in state court and hopes to win in federal court—the litigation is parallel, and the *Rooker-Feldman* doctrine does not deprive the court of jurisdiction.”<sup>108</sup> Since then, the Second, Third, Fourth, Fifth, Seventh, Eighth, Ninth, Tenth, and Eleventh Circuits have

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103. No Justices made a statement concerning the denial of certiorari. *See id.*

104. Brief in Opposition for Respondent City of Pigeon Forge at 16, *RLR Invs. LLC v. City of Pigeon Forge*, 4 F.4th 380 (2021) (No. 21-703), *cert denied*, 142 S. Ct. 862 (2022).

105. *RLR Invs., LLC*, 4 F.4th at 396 (Clay, J., dissenting).

106. *See generally* *Federacion de Maestros de Puerto Rico v. Junta de Relaciones del Trabajo de Puerto Rico*, 410 F.3d 17 (1st Cir. 2005).

107. *RLR Invs., LLC*, 4 F.4th at 400 (Clay, J., dissenting).

108. *Id.* (quoting *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 291–93 (2005)).

all concluded that the *Rooker-Feldman* doctrine does not ordinarily apply to state court interlocutory judgments.<sup>109</sup>

### III. ADOPTING THE MINORITY POSITION

Contemporary *Rooker-Feldman* jurisprudence, together with the principles of state sovereignty, federalism, and judicial economy, support the conclusion that the position of the outlier Sixth Circuit is correct: *Rooker-Feldman* prohibits federal district courts from asserting subject-matter jurisdiction to review all state court decisions, final and non-final, barring an explicit congressional exception.

#### A. *The Sixth Circuit's Impact*

Following the Sixth Circuit's ruling in *Pigeon Forge*, the Supreme Court's decision not to review the case suggests that it may believe that lower federal courts must not exercise jurisdiction to review interlocutory state court decisions. Going against the grain, the Sixth Circuit correctly applied the principles at the heart of *Rooker-Feldman* in deciding the case. "It remains true after *Exxon* that 'lower federal courts possess no power whatever to sit in direct review of state court decisions.'"<sup>110</sup> *Exxon* left the lower federal courts with instructions to reject cases brought by a party on the losing side of a state court judgment, proclaimed prior to the commencement of any federal court proceedings on the issue, which ask the district court to revisit and overrule that judgment.<sup>111</sup>

According to the Sixth Circuit, that is precisely what happened in *Pigeon Forge*. "RLR lost in state court and, dissatisfied with the result, asked the district court to come to the opposite conclusion and undo the state court's Order."<sup>112</sup> In the words of the Supreme Court, this is the "paradigm situation in which *Rooker-Feldman*" applies.<sup>113</sup> No Supreme Court guidance explicitly states that the

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109. *Id.* at 401.

110. *Id.* at 394 (majority opinion) (quoting *D.C. Ct. of Appeals v. Feldman*, 460 U.S. 462 (1963)).

111. *See Exxon Mobil Corp.*, 544 U.S. at 284.

112. *RLR Investments LLC*, 4 F. 4th at 394. The court noted that this was not an instance of parallel litigation: "RLR lost before it sought federal-court review, and RLR would not have had the injury it complained of but-for the state court's Order." *Id.*

113. *Exxon Mobil Corp.*, 544 U.S. at 293.

lower federal courts are barred from exercising appellate review over state court final judgments, yet they are permitted to exercise appellate jurisdiction over interlocutory rulings. The Court opted for “judgment,” a broader term, in the *Exxon* holding, rather than narrowly limiting the scope of *Rooker-Feldman* to “final decisions” only.<sup>114</sup>

### B. *State Sovereignty and Federalism*

Perhaps the best way to put the *Rooker-Feldman* doctrine to work would be to prevent the lower federal courts from exercising appellate jurisdiction over interlocutory state court judgments to uphold this nation’s long-enduring principles of federalism and state sovereignty. Sovereignty can broadly be defined as power within a jurisdiction.<sup>115</sup> The idea of state sovereignty can be traced to the founding of the United States. According to the framers of the Constitution, “the State governments would clearly retain all the rights of sovereignty which they before had, and which were not, by that act, exclusively delegated to the United States.”<sup>116</sup> To be sure, the states relinquished some degree of sovereignty and autonomy—specifically the powers enumerated to the federal government by its constituting instrument—when they opted for admission to the Union. However, the Supreme Court has routinely recognized state claims to sovereignty: “[t]he federal system established by our Constitution preserves the sovereign status of the States . . . it reserves to them a substantial portion of the Nation’s primary sovereignty, together with the dignity and essential attributes inhering in that status.”<sup>117</sup> The United States is, by definition, a federation<sup>118</sup> in which the states, as part of the federated whole, enjoy a certain amount of sovereignty, although exactly how much may prove difficult to quantify.

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114. *See id.* at 284.

115. *See* Timothy Zick, *Are the States Sovereign?*, 83 WASH. UNIV. L. Q. 229, 231 (2005).

116. THE FEDERALIST NOS. 32-36 (Alexander Hamilton), NOS. 37-40 (James Madison). The Federalist Papers were a series of essays anonymously authored by Alexander Hamilton, John Jay, and James Madison from October 1787 to May 1788 in an effort to convince New Yorkers to ratify the United States Constitution.

117. *Alden v. Maine*, 527 U.S. 706 (1999).

118. *Federation*. BLACK’S LAW DICTIONARY (5th ed. 1996).

The relationship between state and federal courts described in Part I requires the conclusion that the states, as sovereign members of the federation, be left to fully adjudicate matters for themselves, free of outside interference. Noting that Congress has historically manifested its desire to enable the state judiciaries to adjudicate their cases free from federal interference, Justice Black's opinion in *Younger v. Harris* espoused the concept of "Our Federalism":

"[P]roper respect for state functions, a recognition of the fact that the entire country is made up of a Union of separate state governments, and a continuance of the belief that the National Government will fare best if the States and their institutions are left free to perform their separate functions in their separate ways."<sup>119</sup>

Permitting the kind of intervention most courts of appeals enable in the name of *Rooker-Feldman* is, in the words of Justice Stewart, "uncommonly silly law."<sup>120</sup> Usurping a state's power to resolve a legal dispute for itself tends to encroach on state sovereignty and runs contrary to the federalism principles that are the foundation of the nation's government.

### C. *Judicial Economy*

Beyond the legal and policy considerations supporting this position, economic reasons similarly compel a Supreme Court ruling that *Rooker-Feldman* prohibits the lower federal courts from exercising jurisdiction to review interlocutory state court judgments. Judicial economy can be defined as reducing the court's caseload.<sup>121</sup> The federal courts have an established history of considering judicial economy as a factor for abstaining from jurisdiction.<sup>122</sup> Some

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119. *Younger v. Harris*, 401 U.S. 37 (1971); *see id.* at 43 ("['Our Federalism'] is a system in which there is sensitivity to the legitimate interests of both State and National Governments, and in which the National Government, anxious though it may be to vindicate and protect federal rights and federal interests, always endeavors to do so in ways that will not unduly interfere with the legitimate activities of the States.").

120. *Griswold v. Connecticut*, 381 U.S. 479 (1965).

121. *Judicial Economy*, WOLTERS KLUWER BOUVIER LAW DICTIONARY (Desk ed. 2012).

122. *See United Mine Workers v. Gibbs*, 383 U.S. 715, 726 (1966) ("[Jurisdiction] need not be exercised in every case in which it is found to exist . . . pendent jurisdiction is a doctrine of discretion . . . . Its justification lies in

scholars have observed that the Supreme Court, without explicitly saying so, has trended towards recognizing judicial economy as a genuine basis for abstention.<sup>123</sup>

A categorical rule prohibiting the federal district courts from sitting in direct review of all state court judgments, final and non-final, would benefit the bench, the public, and litigants by contributing to the reduction of the federal judiciary's immense caseload. In 2020 alone, 425,945 cases were filed in the federal district courts.<sup>124</sup> Filings in the regional courts of appeals totaled 50,258, plus another 1,435 for the Federal Circuit.<sup>125</sup> Perhaps unique to the United States, appellate courts defer strongly to the discretion of the trial courts they supervise. U.S. courts of appeals nearly rubber-stamp the results that make their way up from the federal district courts; only 8.4 percent of all cases were reversed during a twelve-month period ending March 31, 2020.<sup>126</sup> One need not be a mathematician to conclude that exorbitant funds and countless hours of appellate court time are expended every year in the United States to reach an answer to a question that is already over 90 percent certain.<sup>127</sup> Permitting the lower federal courts to sit in direct review of state interlocutory decisions would only further crowd the already jam-packed federal court dockets.

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considerations of judicial economy, convenience and fairness to litigants; if these are not present a federal court should hesitate to exercise jurisdiction over state claims.”).

123. See, e.g., Philip Jones, *Federal Jurisdiction-Abstention-Judicial Economy as a Ground for Federal Abstention*, 49 MISS. L. J. 951 (1978).

124. *Federal Judicial Caseload Statistics 2020*, U.S. COURTS, <https://www.uscourts.gov/statistics-reports/federal-judicial-caseload-statistics-2020> [<https://perma.cc/YTY3-RAHH>] (last visited Nov. 21, 2022). The statistics represent an average of well over one thousand cases filed per day in the federal trial courts.

125. *Id.*

126. *Table B-5: U.S. Courts of Appeals—Appeals Terminated on the Merits, by Circuit, During the 12-Month Period Ending March 31, 2020*, U.S. CTS. (2020), <https://www.uscourts.gov/statistics/table/b-5/federal-judicial-caseload-statistics/2020/03/31> [<https://perma.cc/E77R-XPZ2>].

127. The silver lining is that the appellate court's explanation of its answer to that question might make its way into this author's school casebooks. I suppose I owe the countless trial court losers who are willing and able to spend thousands of dollars on appellate litigation a debt of (somewhat sarcastic) gratitude; without their sacrifice, the precedent and black-letter legal rules taught in law schools throughout the country simply would not exist.

#### D. *Resolving the Disparity*

As the ultimate arbiter of justice in this country, it is the Supreme Court's prerogative to resolve the current circuit split. The Court's decision to ignore the problem, for the time being, will not make it go away. Though contrary to most federal appellate courts, the Sixth Circuit's reasoning is correct: contemporary analysis leaves open the question of whether *Rooker-Feldman* only applies to final state court judgments. It is the prerogative of the federal courts to exercise their jurisdiction whenever appropriate. In the Supreme Court's words, it is the virtual "unflagging obligation" of a federal court to exercise the jurisdiction that has been conferred upon it.<sup>128</sup> Abstention is the rare exception rather than the rule. Arguably, then, unless and until the Supreme Court holds otherwise, it is appropriate for the lower federal courts, under the purview of nearly all the federal courts of appeals, to continue to exercise the jurisdiction they believe has been rightfully conferred upon them by Constitution, statute, and the Court's precedent.

Prompt resolution of the circuit split is in order. When the issue again presents itself the Supreme Court, guided by its own precedent, encouraged by the Sixth Circuit's reasoning, trusted by the people to uphold the principles of state sovereignty and federalism, and cognizant of the potential benefit to the federal government branch it leads, should not hesitate to hear the case and clarify that "judgment," in the context of *Rooker-Feldman*, includes all final and non-final state court orders, decrees, decisions, rulings, and judgments. In so doing, the Supreme Court must adopt the Sixth Circuit's position that the *Rooker-Feldman* doctrine, which prohibits federal courts from asserting subject-matter jurisdiction to review state court judgments, applies to all state court judgments, final and non-final.

#### E. *Concession*

Critics of this position might argue that the decision should ultimately depend on what a particular state judiciary considers to be an appealable non-final judgment. If a given ruling would not be appealable in a state court system, and if the state would not

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128. *Colo. River Water Conservation Dist. v. United States*, 424 U.S. 800, 817 (1976) (citing *England v. Medical Examiners*, 375 U.S. 411, 415 (1964)).

consider the judgment preclusive,<sup>129</sup> then the federal courts would not be stepping on the state's toes by sitting in direct review of the non-final judgment. However, adding this consideration to the analysis leaves even more room for ambiguity and case-by-case decisions that would have to be evaluated by the federal district courts applying state law. Like other issues of federal jurisdiction and procedure, *Rooker-Feldman* is conducive to hard and fast rules that can be uniformly applied across the federal court system.<sup>130</sup>

Of course, as with most things in the law, there is an exception to every rule. Even if the proposed position is adopted, the Court could craft an exception that allows interlocutory appeals to be heard by the federal district courts in certain limited circumstances. For instance, in *Younger v. Harris*, the plaintiffs sought judicial review of a state criminal statute that purportedly infringed on their constitutional rights.<sup>131</sup> Conceivably, it may be appropriate for the federal district courts to immediately review a state interlocutory ruling in cases when the party seeking review alleges that the statute under which they are being prosecuted is itself unconstitutional.<sup>132</sup> Therefore, in certain cases, society's interest in state sovereignty and judicial economy may be outweighed by a desire to see that the supreme law of the land is upheld.

Indeed, nearly all of the other circuits have adopted the position contrary to the one presented, concluding that *Rooker-Feldman* is confined to final judgments.<sup>133</sup> The Supreme Court has observed that the doctrine certainly applies to final state court judgments.<sup>134</sup> However, as the Sixth Circuit so nobly points out, the Court's test in *Exxon* leaves open the question as to whether the doctrine encompasses non-final judgments as well. The Court's test for *Rooker-*

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129. If a state judiciary would not consider a judgment to have a preclusive effect, then it likely would not be covered by the Full Faith and Credit statute. See 28 U.S.C. § 1738 (1948).

130. Compare the Supreme Court's analysis of searches and seizures under the Fourth Amendment, which is more receptive to a case-by-case approach that considers the totality of the circumstances.

131. See *Younger v. Harris*, 401 U.S. 37, 38–39 (1971).

132. See, e.g., *id.* at 58, 59 (Douglas, J., dissenting) (reasoning that because special circumstances warranted intervention by the federal courts when an unconstitutional statute was being enforced by a state).

133. See, e.g., *RLR Investments, LLC v. City of Pigeon Forge, Tennessee*, 4 F.4th 380, 401 (6th Cir. 2021).

134. See *Lance v. Dennis*, 546 U.S. 459, 463 (2006).

*Feldman* application, as proclaimed in *Exxon*, speaks only of “[state court] judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments.”<sup>135</sup> Although most courts of appeals believe this test is clearly settled, certainly, there is at least some room for argument and debate as to what kind of “judgment” is a prerequisite.

#### CONCLUSION

The Supreme Court must hold that the *Rooker-Feldman* doctrine prohibits federal district courts from asserting subject-matter jurisdiction to review any state court judgment, final or non-final, barring an explicit congressional (or judicial) exception. *Rooker-Feldman*, together with the principles of limited federal jurisdiction, federalism, state sovereignty, and judicial economy as described throughout this Comment, requires the lower federal courts to refrain from exercising jurisdiction to review state court decisions. Only the Supreme Court of the United States is vested with the jurisdiction and power to sit in appellate review of state court judgments.

The *Rooker-Feldman* doctrine has had a rocky history. The idea that only the Supreme Court has the authority to review state court rulings seems so intuitive to some, yet it has been misinterpreted by many. Indeed, there are some justices who likely would prefer to see the doctrine’s head on a pike rather than rejuvenate it in the manner proposed by this Comment.<sup>136</sup> The Court declined to consider the case this time around. But left unchecked, *Rooker-Feldman* will surely be out causing more mischief<sup>137</sup> while the Supreme Court focuses on matters that, in its discretion, were more pressing. After all, questions of jurisdiction and civil procedure make most law students, practitioners, and academics roll their eyes; however, *Rooker-Feldman* really stands for preventing federal encroachment on state power. Until the current circuit split is resolved, the federal courts of appeals will continue to create conflicting case law on the matter, and state courts beyond the Sixth

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135. *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005).

136. Higdon, *supra* note 21, at 353; *see Lance*, 546 U.S. 459 at 467–68 (Stevens, J., dissenting).

137. *See Lance*, 546 U.S. 459 at 467–68 (Stevens, J., dissenting).



Circuit's jurisdictional boundaries risk being plundered by the federal judiciary. So, rather than abandoning the doctrine, the Court should give *Rooker-Feldman* a new meaning; turn it into a bright, flashing, neon-lit road sign that orders the lower federal courts to stay in their lane and leave all state court judgments to the states.