1/28/19

No. 18-1311

In The

Supreme Court of the United States

CATHY CARDILLO,

Petitioner,

v.

MARK NEARY, CLERK, SUPREME COURT OF NEW JERSEY, BONNIE C. FROST, CHAIR, DISCIPLINARY REVIEW BOARD, CHARLES CENTIARO, DIRECTOR, OFFICE OF ATTORNEY ETHICS, MARVIN WALDEN JR., SECRETARY, DISTRICT VI FEE ARBITRATION COMMITTEE, AND AURELIO VINCITORE, ARBITRATOR, IN THEIR PERSONAL CAPACITIES AND MEGAN BURNS,

Respondents.

On Petition For Writ Of Certiorari And Or Summary Reversal To The United States Court Of Appeals For The Third Circuit

PETITION FOR WRIT OF CERTIORARI AND/OR SUMMARY REVERSAL

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QUESTION PRESENTED

1. Can the Constitutional right to due process or "adequate notice and a hearing," as found by this Court in *Jones v. Flowers*, 547 U.S. 220, 235 (2006) – that government notice should *also be served by "regular mail"* – be **simply ignored by the Courts below**?

2. Can an attorney's right to access a State Supreme Court, to raise the above "Constitutional due process notice failure," as held by this Court in *Middlesex County Ethics Comm. v. Bar Assn.*, 457 U.S. 423, 431-432 (1982) – be **simply ignored by the Courts below**?

3. Can a Federal District Court **simply ignore this Court's holding in *Exxon Mobil v. Saudi Basic Industries Corp.*, 125 S. Ct. 1517, 1521-22 (2005), and rule that the *Rooker-Feldman* Doctrine applied, when there was no "state court judgment"?**

4. Can the Third Circuit Court of Appeals try to ameliorate the District Court's decision – by **simply ruling that State Disciplinary Review Board was a "court of law"?**

PARTIES TO THE PROCEEDING

The caption names all of the parties to the proceedings below; except, while Defendant, Megan Burns, the "client," was served, she never answered and/or appeared below.

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PETITION FOR WRIT OF CERTIORARI AND/OR SUMMARY REVERSAL

I, Cathy C. Cardillo, respectfully petitions for a writ of certiorari and/or a summary reversal of the judgement and decision entered by the United States Court of Appeals for the Third Circuit.

OPINIONS BELOW

The decisions of the U.S. Court of Appeals and the U.S. District Court for the District of New Jersey are reproduced in the Appendix.

JURISDICTION

This Court's jurisdiction is invoked under 28 U.S.C. Section 1254(1). The Court of Appeals issued its judgment on December 28, 2018. The Court found that the New Jersey Disciplinary Review Board was a "court" of law. Thereby, expanding upon and supporting the "irregular" decision of the District Court, which ruled that the *Rooker-Feldman* doctrine applied, when the New Jersey Supreme Court had refused to entertain and or even hear my U.S. Constitutional Complaint.

CONSTITUTIONAL AND STATUTORY PROVISIONS

This Petition for Writ of Certiorari and/or Request for Summary Reversal is founded on the Fourteenth Amendment to the U.S. Constitution, which provides that ". . . [n]o State shall . . . deprive any person of life, liberty, or property, *without due process of law*; nor deny to any person within its jurisdiction the equal protection of the laws." *Plyer v. Doe,* 457 U.S. 202, 211 (1982) (emphasis added).

While this Petition/Request is seemingly based on the circumstances of my case, it also has broad implications for all states, who attempt by "Rule," like New Jersey, to limit access to their courts. *See, e.g., Middlesex County Ethics Comm. v. Garden State Bar Assn.*, 457 U.S. 423, 431-432 (1982), finding, with emphasis added, that "a federal court should abstain unless state law clearly bars the interposition of constitutional claims. The pertinent inquiry, here, then, is **whether the state proceedings afforded an adequate opportunity to raise the constitutional claims.**"

STATEMENT OF THE CASE

First, an "elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action *and afford them an opportunity to present their objections.*" *Mullane v. Central*

Hanover Bank & Trust Co., 339 U.S. 306, 314 (1950) (emphasis added). This Court defined this notice requirement further in *Jones v. Flowers*, 547 U.S. 220, 235 (2006), holding, with emphasis added, that when a state's forfeiture notice is returned by the post office, "unclaimed," then the state should have taken additional reasonable steps, **such as regular mail, as it was practicable to do so**."

The New Jersey State Court Rules governing this matter, again, with emphasis added, in part, are: *R.*1:20-7(h), "Service on the Respondent of any pleading, motion, or other document required by these Rules . . . maybe made by personal service**, or by certified mail (return receipt requested) *and regular mail***"; *R.*1:20A-2(b)(2), "**All service on attorneys required by fee arbitration shall be made in accordance *with R. 1:20-7(h)***"; *R.* 1:20A-3(c)(2), "No appeal of the fee committee . . . **unless it failed to substantially comply with the procedural requirements of R. 1:20A**"; *R.* 1:20-16(d), "The [Disciplinary Review] Board's decision shall be final and not subject to further review by the Court . . . in all matters considered by the Board pursuant . . . to *R.* 1:20A-3c; and **critically**, *R.* 1:20A-16(f), "**An aggrieved party may file with the Supreme Court for leave to appeal to seek interlocutory review of a constitutional challenge to the proceedings . . . before the Board.**" Of note, the Disciplinary Review Board is defined by the State Court as an "*independent branch of government*," and is made up of

non-attorney-public members, along with attorney volunteers and one retired judge.

The *relevant facts below*: Several years after retiring from the practice of law and relocating to Portugal, I learned from a District Ethics Committee – that a former client had requested a District Fee Arbitration in regards to my fees and costs, wherein a hearing was held and monies found due to the client. I immediately contacted Defendant, Charles Centinaro, Director, Office of Attorney Ethics. He critically disclosed, in writing, that only **three differently dated notices had been sent to me by the District, and all were returned as "undeliverable,"** or hence, sent *by certified mail*. He did say, however, that I could raise a quick response to the DRB. Limited by time and not knowing the confines of this response, or the Court's Rules, as I had never been found at fault in any previous Fee Arbitration Request and/or proceeding – I focused on the complicated process that the client's case had taken going to and from several State and Federal Courts, along with the numerous motions and appeals filed by the Defendants – trying to eliminate its treble liability under the New Jersey Consumer Fraud Act.

It was not until after the DRB declined my appeal for **not showing a *R.*1:20A-3(c) failure**, that I reviewed the Rule itself – which, as shown above, required *notice by certified* ***and regular mail***. I then tried to file a petition with the New Jersey Supreme Court regarding the District's *notice failure*, citing the above opinions of this Court, which was declined by the Court Clerk, who asserted that the Court's Rules

barred this Constitutional review. Compare, however, N.J. Ct. *R.* 1:20A-16(f) (cited above).

In briefing the Constitutional claim to the U.S. District Court of New Jersey, I remembered and showed "confirming evidence" of the Fee Committee's "notice failure" – my regular mail had been forwarded to a friend and colleague in New Jersey, during this time period, and *no "regular" mailings from the Fee Committee had been received.* **Thus, the Committee had, *in fact*, violated Rule 1:20-7(h); and consequently, my Constitutional due process right to notice and be heard.**

The District Court, though, in ruling, **did not even mention or decide this Constitutional due process failure.** Rather, it limited it's findings, wrongly stating that the State Court Rules provide that the Disciplinary Review Board cannot be appealed. See, again, N.J. Ct. *R.* 1:20A-16(f). Interestingly, in doing so, the District Court also cited *In Re LiVolsi*, 85 N.J. 576 (1981), but *ignored* this Court's important "companion decision" in *Middlesex County Ethics Comm.*, 457 U.S. at 423, Fn.15, that: "**[t]he fact that Committee determinations are not appealable does not, of course, mean that the parties to a Committee adjudication have no recourse if the Committee *violates their constitutional rights*.**" Emphasis added.

The District Court then held that the *Rooker-Feldman* Doctrine applied – and even cited to this Court's decision in *Exxon Mobil v. Saudi Basic*

Industries Corp., 125 S. Ct. 1517, 1521-22 (2005), wherein this Court observed that the Doctrine "has sometimes been construed to extend far beyond the contours of the *Rooker* and *Feldman* cases." And declared, with emphasis added:

> The Rooker-Feldman doctrine, we hold today, is confined to cases of the kind from which the doctrine 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.

Despite the above factual showings of improper notice under the N.J. Court Rules, and the wrongfully denied right to appeal to the N.J. Supreme Court, the Third Circuit simply denied my appeal on December 28, 2018 – holding the Disciplinary Review Board was a "court." I respectfully submit that these plain errors warrant this Court's review and, in the interests of justice – a **Summary Reversal**.

REASONS FOR GRANTING THE PETITION

The central issue here – is not just the State's failure to follow its own Court Rules, but the denial of the Constitutional right to raise and challenge this failure. For this is exactly what happened in this matter. If the State and Federal Courts can cast a blind eye to the basic principles established by the Constitution, and

this Court's opinions on the same – then where does the common man, or in this case, common woman, go?

I am now 73 years old, tired and extremely frustrated – but I cannot give up, and not just to "save" myself – but to free all like myself, who struggle to comply and do the right thing, and are simply thwarted by a bureaucracy that just will not listen. Constitutional due process has to be affirmed, any where and any time, especially when, States choose to ignore it.

CONCLUSION

While I have filed and requested a Writ for Certiorari – I believe the blatant errors identified could also prompt this Court to summarily reverse the decisions below – sending it back to the Supreme Court of New Jersey, to follow its own Rules and properly notice and grant me a hearing on the alleged fee violations.

Respectfully submitted,

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NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 18-1488

CATHY C. CARDILLO,
Appellant

v.

MARK NEARY, In his Personal Capacity as Clerk of the Supreme Court of New Jersey; BONNIE C. FROST, In her Personal Capacity as Chair of the Disciplinary Review Board; CHARLES CENTINARO, In his Personal Capacity as Director of the Office of Attorney Ethics; MARVIN WALDEN, JR., Esq., In his Personal Capacity as Secretary of the District VI Fee Arbitration Committee; AURELIO VINCITORI, In his Personal Capacity as Fee Arbitrator of the District VI Fee Arbitration Committee; MEGAN BURNS

On Appeal from the United States District Court
for the District of New Jersey
(D.C. Civ. No. 3-16-cv-02347)
District Judge: Honorable Freda L. Wolfson

Submitted Under Third Circuit L.A.R. 34.1(a)
September 11, 2018

Before: JORDAN, VANASKIE, and NYGAARD,
Circuit Judges

(Filed: December 28, 2018)

OPINION*

VANASKIE, *Circuit Judge.*

Cathy Cardillo appeals the District Court's order dismissing for her civil rights action brought pursuant to 42 U.S.C. § 1983. The District Court *sua sponte* applied the *Rooker-Feldman* doctrine and determined that jurisdiction over her claim was lacking. *See generally Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923); *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462 (1983). On appeal, Cardillo argues that her constitutional claims were never properly before the state court. As a result, she contends that the District Court's application of the *Rooker-Feldman* doctrine was incorrect. For the reasons that follow, we will affirm the District Court's order.

I.

Cardillo practiced law in New Jersey for a number of years before retiring and moving to Portugal. After her retirement and relocation, a former client, Megan Burns, submitted a claim with New Jersey's District

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* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

VI Fee Arbitration Committee (the "Committee"), contesting Cardillo's fee for past representation. The Committee attempted to serve Cardillo with notice of the hearing concerning the dispute on three separate occasions by way of certified mail sent to Cardillo's former New Jersey address. Because Cardillo no longer resided at that address, the certified mailings were returned to the Committee as undeliverable. The dispute proceeded before the Committee without Cardillo's participation, and the Committee ultimately entered a decision adverse to Cardillo.

When Cardillo became aware of the Committee's decision, she sent an email to the Office of Attorney Ethics ("OAE"), which oversees the Committee, seeking to reopen the fee arbitration proceeding on the basis that she did not receive proper notice. The gravamen of Cardillo's argument is that the notice was insufficient because, pursuant to N.J.R. 1:20-7(h), notice of Committee hearings must be provided either "by personal service, or by certified mail (return receipt requested) and regular mail. . . ." Cardillo argues that the Committee only sent certified letters, which are unable to be forwarded and were therefore returned as undeliverable. Because she had her regular mail forwarded to a friend in New Jersey, Cardillo alleges she would have been notified of the Committee proceedings had the notices also been sent by way of regular mail.

Defendant Charles Centinaro, the acting Director of the OAE, denied Cardillo's request in a response email. Cardillo then appealed both the Committee's decision and the OAE's denial to the New Jersey

Disciplinary Review Board ("DRB"). Cardillo alleged in her appeal to the DRB that she had not received proper notice of the proceeding before the Committee, that the Committee knew she did not receive proper notice, and that the proceeding should therefore be reopened.

The DRB determined that notice was proper, dismissed her appeal, and affirmed the Committee's decision. Cardillo next sought reversal of the DRB's decision by filing a notice and petition for review with the New Jersey Supreme Court. Defendant Mark Neary, the Clerk of the New Jersey Supreme Court, informed Plaintiff by letter that her Petition would not be considered because decisions rendered by the DRB are final and not appealable to the New Jersey Supreme Court.[1]

Cardillo then filed suit in federal court pursuant to 42 U.S.C. § 1983, alleging a deprivation of her procedural due process rights predicated upon the insufficiency of the notice. Cardillo moved for summary judgment, and Defendants moved to dismiss. The District Court administratively terminated these motions

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[1] Pursuant to New Jersey Court Rule 1:20A, a fee arbitration decision rendered by the Committee is final and binding upon the parties, with no right to appeal the merits of the decision and a very limited right to appeal procedural defects in the proceedings. Rule 1:20A-3 permits Committee decisions to be appealed to the DRB where "the [Committee] failed substantially to comply with the procedural requirements of [N.J.R. 1:20A], or there was substantial procedural unfairness that led to an unjust result. . . ." N.J.R. 1:20A-3(c)(2). Decisions rendered by the DRB are final and not appealable to the New Jersey Supreme Court. *See* N.J.R. 1:20-16(d).

by letter and, *sua sponte*, directed the parties to brief the question of the court's subject matter jurisdiction over Cardillo's claims.

The District Court subsequently concluded that it lacked subject matter jurisdiction pursuant to the *Rooker-Feldman* doctrine and dismissed Cardillo's amended complaint. In finding as much, the court stated that:

> [Cardillo's] fundamental argument remains the same[:] the letter-only manner of service selected by the Committee was deficient in that it resulted in her deprivation of her right to participate in the fee arbitration hearing. In other words, the harm that [Cardillo] claims in this Court, deprivation of her alleged due process right to adequate notice under the United States Constitution, is coextensive with the basis of her appeal to the DRB, and her attempted petition to the New Jersey Supreme Court.

(Appellee Appx. 23–24). Cardillo timely appealed.

II.

We have jurisdiction under 28 U.S.C. § 1291, and we exercise plenary review "where the District Court dismisses for lack of subject matter jurisdiction." *Gould Elecs. Inc. v. United States*, 220 F.3d 169, 176 (3d Cir. 2000) (citation omitted). We "may affirm the District Court's judgment on any basis supported by the

record." *Murray v. Bledsoe*, 650 F.3d 246, 247 (3d Cir. 2011) (per curiam) (citation omitted).

III.

The sole issue before this Court on appeal is whether the District Court properly applied the *Rooker-Feldman* doctrine. On this issue, Cardillo argues that her procedural due process claim was never properly before the DRB or the New Jersey Supreme Court. **[Pet. R. Br. At 6]**. As such, she asserts that reliance upon *Rooker-Feldman* is inappropriate because she has raised a discrete federal claim.

The *Rooker-Feldman* doctrine strips federal courts of jurisdiction over controversies "that are essentially appeals from state-court judgments." *Williams v. BASF Catalysts LLC*, 765 F.3d 306, 315 (3d Cir. 2014) (quoting *Great W. Mining & Mineral Co. v. Fox Rothschild LLP*, 615 F.3d 159, 165 (3d Cir. 2010)). Federal district courts have "no authority to review final judgments of a state court in judicial proceedings." *Feldman*, 460 U.S. at 482. However, the Supreme Court has held that the applicability of the doctrine is "narrow" and "is confined to cases of the kind from which the doctrine acquired its name: cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before district court proceedings commenced and inviting district court review and rejection of those judgments." *Exxon Mobile Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005).

We note as an initial matter that the *Rooker-Feldman* doctrine only applies to state judicial proceedings and not to administrative or legislative proceedings. *Nat'l R.R. Passenger Corp. v. Pa. Pub. Util. Comm'n*, 342 F.3d 242, 257 (3d Cir. 2003) (citing *Feldman*, 460 U.S. at 476. The threshold question, therefore, is whether the New Jersey fee arbitration proceeding is judicial or administrative. The New Jersey Supreme Court established the fee arbitration system pursuant to that Court's constitutional power to regulate the practice of law and the discipline of practitioners. *Guralnick v. Supreme Court of N.J.*, 747 F.Supp. 1109, 1111 (1990) *aff'd* 961 F.2d 209 (3d Cir. 1992). The New Jersey Supreme Court appoints members of both the Committee and the DRB. N.J.R. 1:20A-1 and 1:20-15. As such, we agree with the District Court's determination that, as "arms and agents" of the New Jersey Supreme Court that have been delegated portions of that Court's constitutional powers, adjudicative proceedings before the Committee and the DRB are properly considered judicial, as opposed to administrative, proceedings. (Appellee Appx. 24 n.5 (citing *Application of LiVolsi*, 85 N.J. 576, 597 n.22 (1981))).

In determining whether a proceeding is properly characterized as judicial in nature, the Supreme Court has held that "[a] judicial inquiry investigates, declares, and enforces liabilities as they stand on present or past facts and under laws supposed already to exist. That is its purpose and end." *Prentis v. Atl. Coast Line*, 211 U.S. 210, 226 (1908). "The proper characterization

of an agency's actions depends not upon the character of the body, but upon the character of the proceeding. . . ." *New Orleans Pub. Serv., Inc. v. Council of New Orleans*, 491 U.S. 350, 371 (1989) (internal quotation and bracketing omitted). Fee arbitration proceedings before the Committee contain many of the hallmarks of judicial proceedings, including: initial and responsive pleadings; the right to a hearing with the opportunity for all parties to be heard; the ability to compel the attendance of witnesses sworn under oath; the production of documents; the use of subpoenas; interpleader; and the ability to appeal. *See* N.J.R. 1:20A-3. The Committee collects facts and issues a declaration based upon the current law. *Id.* Here both the nature of the body, which possesses the delegated authority of the New Jersey Supreme Court, and the nature of the proceedings lead to the conclusion that the fee arbitration system establishes a judicial proceeding.

The next question is whether the requirements of the *Rooker-Feldman* doctrine are satisfied here. Interpreting the holding in *Exxon Mobile*, we have concluded that four requirements must be met in order for the *Rooker-Feldman* doctrine to preclude federal court jurisdiction: "(1) the federal plaintiff lost in state court; (2) the plaintiff complains of injuries caused by the state court [judgment]; (3) [that judgment was] rendered before the federal suit was filed; and (4) the plaintiff is inviting the district court to review and reject the state [judgment]." *Great W. Mining*, 615 F.3d at 166 (citation omitted). "The second and fourth

requirements are the key to determining whether a federal suit presents an independent, non-barred claim." *Id.*

We find that all four requirements are present here and that the *Rooker-Feldman* doctrine precludes federal jurisdiction. First, Cardillo lost in state court when the Committee rendered an adverse decision and the DRB denied her appeal. Second, the injury of which Cardillo complains—namely the putative deprivation of her procedural due process right to adequate notice—resulted from the DRB's determination that the Committee's notice was proper. Third, there is no dispute that Cardillo instituted her federal action after she received notice from the New Jersey Supreme Court that her appeal of the DRB decision would not be considered. Finally, we need not look any further than the prayer for relief in Cardillo's Amended Complaint (Appellee Appx. 4 at ¶ 6) or her request to this Court in her briefing (Pet. R. Br. 7) to determine that she seeks our review and rejection of the New Jersey judgment.

Cardillo's argument that her constitutional claim was not properly before the DRB or the New Jersey Supreme Court, and therefore beyond the ambit of the *Rooker-Feldman* doctrine, is without merit. As the District Court concluded, the procedural defect of which Cardillo complains—the insufficiency of the notice—is co-extensive with her constitutional claim, and she has already availed herself of the opportunity to raise these claims before the DRB. **[Appellee Appx. 25-26].** We agree with the District Court's conclusion that,

given the identical nature of the claims raised before the OAE and DRB with those asserted here, any proceeding in federal court would "not so much offer an opportunity to challenge the adequacy of the notice before the Committee, but rather [serve] to challenge the decision of the DRB that notice was adequate." (Appellee Appx. 26). This type of review of final state court determinations is exactly what *Rooker-Feldman* seeks to preclude.

IV.

Because all four prongs of the *Rooker-Feldman* doctrine are satisfied, we will affirm the holding of the District Court.

****NOT FOR PUBLICATION****

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

CATHY C. CARDILLO, Plaintiff, v. CLERK, SUPREME COURT OF NEW JERSEY et al., Defendants.	Civil Action No. 16-2347 (FLW)(LHG) **OPINION**

WOLFSON, United States District Judge:

Before the Court is the Amended Complaint of Plaintiff Cathy C. Cardillo, alleging, under 42 U.S.C. § 1983, that Defendants Mark Neary, the Clerk of the Supreme Court of New Jersey; Bonnie C. Frost, Esq., the Chair of the Disciplinary Review Board of the Supreme Court of New Jersey; Charles Centinaro, the Director of the New Jersey Office of Attorney Ethics; Marvin Walden, Jr., Esq., the Secretary of New Jersey's District VI Fee Arbitration Committee; and Aurelio Vincitore, Esq., the District VI Fee Arbitrator (collectively, "Defendants"); in their individual capacities, violated Plaintiff's procedural due process right to adequate notice of the fee arbitration proceedings against her. Plaintiff also names her former client, Megan Burns, as a defendant, alleging that she has an "[i]nterest in this matter." The Court finds that subject

matter jurisdiction is lacking, pursuant to the Rooker-Feldman doctrine, and the Amended Complaint is therefore dismissed.

I. FACTUAL BACKGROUND & PROCEDURAL HISTORY

Plaintiff filed the original Complaint in this matter on April 21, 2016, seeking relief under 42 U.S.C. § 1983 from an alleged deprivation of her constitutional due process rights in proceedings occurring as part of New Jersey's statutory Fee Arbitration System ("FAS"). The original Complaint named as defendants several New Jersey state government agencies and officers of those agencies acting in their official capacities. On July 22, 2016, therefore, those defendants moved to dismiss the Complaint for lack of jurisdiction on the grounds of Eleventh Amendment immunity. Plaintiff cross-moved for leave to amend to name the state-officer defendants in their individual capacities and to remove the state-agency defendants. The Magistrate Judge granted Plaintiff leave to amend on November 18, 2016. Plaintiff filed an Amended Complaint on November 30, 2016.

In her Amended Complaint, Plaintiff alleges that she is a retired attorney, now resident in Portugal, who previously lived and practiced law in the State of New Jersey. Amended Complaint, ¶ 1-2. At some point after Plaintiff retired from the practice of law and relocated to Portugal, a former client of Plaintiff, Defendant Megan Burns, submitted a claim with New Jersey's

District VI[1] Fee Arbitration Committee (the "Committee"), contesting Plaintiff's attorney fee for a past representation. Id. at ¶ 4. The Committee attempted to serve Plaintiff with notice of a hearing concerning the dispute by certified mail to Plaintiff's former New Jersey address. Ibid. Because Plaintiff no longer resided at her New Jersey address, the certified mailings were returned to the Committee as undeliverable. Ibid. The dispute initiated by Plaintiff's former client proceeded before the Committee without Plaintiff's participation, and the Committee entered a decision adverse to Plaintiff. Ibid. When Plaintiff became aware of the Committee's adverse decision, she sent an e-mail to the Office of Attorney Ethics, which oversees the fee arbitration committees, seeking to reopen the fee arbitration proceeding on the grounds that she did not receive adequate notice. Id. at ¶ 4. Defendant Charles Centinaro, the acting Director of the Office of Attorney Ethics ("OAE"), denied Plaintiff's request to reopen in a response e-mail. Ibid. Plaintiff appealed the Committee's decision and the OAE's refusal to reopen the matter to the Disciplinary Review Board ("DRB"), again alleging that she had not received notice, and that the Committee was aware that she had not received notice, and arguing that proceedings should therefore be reopened. Ibid. The DRB summarily denied Plaintiff's appeal in a letter decision. Ibid. Under New Jersey

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[1] The Amended Complaint at some points refers to the "District VI" Arbitration Committee, but records for the proceeding provided to the Court make clear that this is a typographical error, and that the proceedings which are the subject of the Amended Complaint occurred in District VI.

Supreme Court rules, there is no further appeal from the DRB. Ibid. Plaintiff nevertheless filed a notice and Petition for Review ("Petition") with the New Jersey Supreme Court, seeking to overturn the DRB's decision. On April 4, 2016, Defendant Mark Neary, the Clerk of the Supreme Court, informed Plaintiff by letter that her Petition would not be considered, pursuant to the Court's rules. Ibid. In her Amended Complaint, Plaintiff asks this Court, inter alia, "to reverse the decisions of the named State Actors [—identified in Am. Compl., ¶ 3, as the Clerk of the Supreme Court of New Jersey, the Chair of the DRB, the Director of the OAE, the Secretary of the Committee, and the Fee Arbitrator of the Committee—] and to permit [Plaintiff's] participation in a new to be noticed District [VI] Fee Arbitration Hearing." Id. at ¶ 6.

On March 6, 2017, Plaintiff moved for summary judgment. On March 7, 2017, Defendants again moved to dismiss. While these motions were being briefed, this matter was reassigned to me. Although Defendants' motion to dismiss was styled both as a motion challenging this Court's jurisdiction under Fed. R. Civ. P. 12(b)(1) and as a motion challenging the adequacy of Plaintiff's pleadings under Rule 12(b)(6), the Court's review of the arguments revealed that Defendants' bases for dismissal were fundamentally non-jurisdictional in nature.[2] Although Defendants failed

[2] Although characterized as a motion under R. 12(b)(1), Defendants' argument in briefing was that "Plaintiff's Amended Complaint does not assert a violation of a constitutional or federally protected right." ECF No. 34-3, p. 6. This argument did not

to raise any true jurisdictional challenges in their motion to dismiss, I, mindful of my independent obligation to ensure the Court's jurisdiction, administratively terminated the parties' motions by letter order on October 27, 2017, and directed the parties to brief the question of this Court's jurisdiction over the claims in the Amended Complaint. Specifically, none of the parties had discussed whether the Rooker-Feldman doctrine was implicated by Plaintiff's explicit request in the prayer for relief of her Amended Complaint that this Court reverse a final decision issued through New Jersey's statutorily-established FAS. The parties submitted supplementary briefing and exhibits to the Court, and that issue, raised sua sponte, is now before me.

II. STANDARD OF REVIEW

As a federal court of limited jurisdiction, this Court has a continuing obligation to determine whether it possesses subject matter jurisdiction over the cases before it. Desi's Pizza, Inc. v. City of Wilkes-Barre, 321 F.3d 411, 420 (3d Cir. 2003). This includes raising all issues affecting jurisdiction, including the Rooker-Feldman doctrine, sua sponte. Ibid.[3] "The

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implicate the Court's subject matter jurisdiction and was fundamentally coextensive with Defendants' motion under R. 12(b)(6) that the Amended Complaint failed to state a claim for a violation of plaintiff's federal, procedural due process rights. Id. at 10-11.

[3] The Court notes that, although Defendants have a pending motion to dismiss Plaintiff's claims on potentially meritorious grounds, the Court may not proceed to Defendants' nonjurisdictionally-based arguments before finding there is subject matter jurisdiction over this case. "The United States Supreme Court has

Rooker–Feldman doctrine strips federal courts of jurisdiction over controversies 'that are essentially appeals from state-court judgments.'" Williams v. BASF Catalysts LLC, 765 F.3d 306, 315 (3d Cir. 2014) (quoting Great W. Mining & Mineral Co. v. Fox Rothschild LLP, 615 F.3d 159, 165 (3d Cir. 2010)). Specifically, it bars from federal consideration "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." Exxon Mobil Corp. v. Saudi Basic Indus. Corp., 544 U.S. 280, 284 (2005). The Rooker–Feldman doctrine is properly invoked when the following four factors are satisfied: "(1) the federal plaintiff lost in state court; (2) the plaintiff complain[s] of injuries caused by [the] state-court judgments; (3) those judgments were rendered before the federal suit was filed; and (4) the plaintiff is inviting the district court to review and reject the state judgments." Great W. Mining, 615 F.3d at 166 (quotations omitted, alterations in original).

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explained that 'a federal court generally may not rule on the merits of a case without first determining that it has jurisdiction.'" Bolick v. Sacavage, 617 F. App'x 175, 177 (3d Cir. 2015) (quoting Sinochem Int'l Co. v. Malay. Int'l Shipping Corp., 549 U.S. 422, 430-31 (2007)). And "[t]he Rooker-Feldman doctrine . . . [is] jurisdictional in nature." Id. at 177 (citing Taliaferro v. Darby Twp. Zoning Bd., 458 F.3d 181, 192 (3d Cir. 2006)).

III. ANALYSIS

In this matter, Plaintiff clearly complains of injuries caused by an adverse state decision rendered before her suit was filed and seeks to have this Court review and reject that decision. Specifically, Plaintiff had an adverse decision entered against her by the Committee after a fee arbitration proceeding in which she did not take part. Plaintiff then sought to have the OAE reopen the fee arbitration proceeding on the grounds that her procedural right to notice of the proceeding had been violated. The OAE rejected Plaintiff's request and invited her to appeal its decision on the notice issue to the DRB. Plaintiff appealed the notice ruling to the DRB and lost; the DRB found that the record did not support the finding of a procedural violation. She now seeks to have this Court reverse the DRB's ruling that her right to notice was not violated.

The procedure governing New Jersey's FAS is set forth in New Jersey Supreme Court Rule 1:20A. The Rule provides that fee disputes between attorneys and their former clients, may, at the client's election, be tried to a panel of arbitrators drawn from the fee committee of the district in which the dispute is filed. R. 1:20A-3(b)(1). "A fee arbitration determination is final and binding upon the parties[,]" with no right of appeal on the merits, and only a limited right to appeal procedural deprivations during the committee proceedings. R. 1:20A-2(a). As originally constituted, the FAS provided no right of appeal whatsoever. In the seminal case of Application of LiVolsi, 85 N.J. 576 (1981), however, the New Jersey Supreme Court recognized

certain limited circumstances in which an appeal of procedural deprivations during the committee proceedings should be permitted, and recommended a rule amendment to designate the DRB as the appellate body to hear such challenges. The appellant attorney in LiVolsi claimed that the absence of appeals from fee arbitration committee decisions in the FAS was a deprivation of the attorney's constitutional rights. The New Jersey Supreme Court rejected this argument, noting that "[t]he fact that Committee determinations are not appealable does not, of course, mean that the parties to a Committee adjudication have no recourse if the Committee violates their constitutional rights. If, for example, in reaching a decision, the Committee violates a party's constitutional rights by discriminating against a party on account of race, a collateral attack against the Committee, in either state or federal court, is always possible." Id. at 591 n. 15. Accordingly, even though the FAS as then constituted, disallowed appeals of any kind, parties to the arbitration proceedings, who felt their constitutional rights had been compromised by some deprivation of due process still had a venue to vindicate those rights. Prospectively, the New Jersey Supreme Court determined that while the bar on merits appeals should remain in place, the FAS should be restructured to permit appeals of procedural violations in the committee proceedings within the administrative system itself. The court held:

> In barring appeals on the merits, however, we do recognize that both lawyers and clients may need a limited right of appeal in order to protect them from any egregious procedural

> deprivation before a Committee. We are, therefore, requesting the Civil Practice Committee, after soliciting the views of all interested parties, to recommend an amendment granting a limited right of appeal to the Disciplinary Review Board (DRB). That right should be limited to the following or similar grounds: that a Committee member failed to disqualify himself or herself in a case where he or she would appear evidently partial toward one of the parties; that the Committee failed substantially to comply with the procedural requirements of R.1:20A, e.g., by denying a party the right to subpoena witnesses; or that there was actual fraud on the part of one or more Committee members.

Id. at 603–04. The Civil Practice Committee followed the Court's instructions, and R. 1:20A3(c) now codifies the grounds for appeal from fee arbitration committee judgments. "Under subsection (c) there is generally no appeal on the merits from the determination of a Fee Committee. An appeal may be taken by the client or the attorney to the DRB on four grounds: (1) failure of a member to disqualify per R. 1:12-1, (2) failure to comply with the procedural requirements of R. 1:20A, (3) actual fraud by a member of the committee, and (4) palpable mistake of law by the committee." Linker v. Co. Car Corp., 281 N.J. Super. 579, 586, 658 A.2d 1321, 1324 (App. Div. 1995). Since the promulgation of R. 1:20A-3(c), and amendments to R. 1:20A-2(a) in 1995, it has been clear under New Jersey law that the Supreme Court's jurisdictional grant of authority to the DRB to hear these procedural challenges to fee

arbitration committee proceedings is exclusive. R. 1:20A-2(a) reads "[a] fee arbitration determination is final and binding upon the parties except as provided by R. 1:20A-3(c)." The comment to the revised rule 1:20A-2 provides:

> R. 1:20A-2 has been rewritten for clarity. . . . [T]he rule now makes clear that the decision of the fee arbitration committee is final and binding on the parties, and that, pursuant to R. 1:20A-3(c), the Board, alone, has appellate jurisdiction in these matters.
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> . . .
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> For example, in the matter of Paul Linker et al. v. The Car Corp., Sup. Court Law Div. Essex Co. Docket No. L-8394-94, decided Aug. 15, 1994, the attorney filed a summary action pursuant R. 4:67 to reduce a fee determination to judgment. The client, who elected not to appeal the fee arbitration determination to the Disciplinary Review Board, raised its procedural defenses for the first time in the Superior Court enforcement action. The trial court permitted said collateral attack and remanded the matter back to the fee arbitration panel to conduct a new hearing. Such collateral challenges to fee determinations would be prohibited by the rule change.

Linker, 281 N.J. Super. at 587 (App. Div. 1995) (quoting R. 1:20A-2 cmt. to 1995 am.) (emphasis added). The client-plaintiff in Linker had successfully sought in the Law Division of the New Jersey Superior Court to challenge his deprivation by a fee arbitration committee of

his right to compel witnesses to testify by subpoena. The Superior Court therefore ordered that the client's fee arbitration proceeding be reopened to permit the subpoenaing of witnesses. The Appellate Division, considering the New Jersey Supreme Court's amendment of R. 1:20A-2, and the accompanying comments, found that "[t]he Law Division judge had no power to review the panel's award in any respect under th[e revised] administrative scheme." Linker, 281 N.J. Super. at 588 (emphasis added). Accordingly, after the 1995 amendments to R. 1:20A-2, it is clear that under New Jersey law collateral attacks on fee arbitration committee decisions on the procedural bases set forth in R. 1:20A-3(c) are in the exclusive province of the DRB.

As the final rule reform to implement its decision in LiVolsi, the New Jersey Supreme Court promulgated R. 1:20-16(d), which states that "[t]he [DRB's] decision shall be final and not subject to further review by the Court, whether by appeal by leave or in any other manner, in all matters considered by the Board pursuant to R. 1:20-15(e)(1)(i) and R. 1:20A-3(c)." R. 1:20-16(d). Accordingly, not only is the DRB the exclusive forum in which a party to a fee arbitration proceeding can bring a procedural challenge under R. 1:20A-3(c), the DRB's decision on such procedural challenges is final by rule of New Jersey's highest court.

In the matter now before the Court, Plaintiff purports to bring a collateral attack on the Committee's and OAE's refusal to reopen her fee arbitration proceeding on the basis of the same procedural violation she raised in her appeal to the DRB, pursuant to

R. 1:20A-3(c). In her appeal to the DRB, Plaintiff argued under R. 1:20A-3(c)(2) that the Committee "failed to substantially comply with the procedural requirements of R. 1:20A." [ECF No. 51, p. 89] (Notice of Appeal to the Supreme Court of New Jersey Disciplinary Review Board from a District Fee Arbitration Committee Determination). Specifically, R. 1:20A-3(b)(2), provides that "[a]ll service on attorneys required by fee arbitration rules shall be made in accordance with Rule 1:20-7(h), except that service by mail may be made by regular mail, unless the letter will result in barring an attorney from further participation or unless the attorney updates an address as stated above in which event service will be made at that address." R. 1:20A-3(b)(2). Rule 1:20-7(h), in turn, provides that "[s]ervice on the respondent of any pleading, motion, or other document required by these rules to be served in a disciplinary or disability proceeding may be made by personal service, or by certified mail (return receipt requested) and regular mail, at the address listed in the New Jersey Lawyers' Diary and Manual or the address shown on the records of the Lawyers' Fund for Client Protection. Service on a respondent may also be made by serving respondent's counsel, if any, by regular mail or by facsimile transmission." R. 1:20-7(h). Plaintiff argued that she had attempted to update her address with the Lawyers' Fund for Client Protection and did not discover that her submission had been lost in the mail or misfiled until after a decision was entered against her in the fee arbitration proceeding. [ECF No. 51, p. 94]. Plaintiff also argued that her mail could not have been forwarded to a foreign address, that her

former clients had up-to-date contact information with which to reach her, and that she never in fact received notice of the hearing before the Committee, depriving her of the ability to participate and to dispute critical facts. Ibid. The record reflects that Plaintiff's failure to file a responsive pleading with the Committee resulted in her being barred from participation in her hearing, regardless of whether she received notice. [ECF No. 33, p. 31] ("at the time the file was received by the Panel, it was noted that the Appellant attorney was barred from the proceedings. . . . The Panel was not aware that the attorney may not have received notice of the Fee Arbitration, which may have led to the attorney being barred for failure to respond in accordance with the Rules of Court."); R. 1:20A-3(b)(2) ("If the attorney fails to timely file an attorney fee response, the secretary shall inform the attorney that unless an attorney fee response is filed, and the filing fee paid, within 20 days of the date that the attorney is notified in writing, the attorney shall be barred from further participation, and the matter will proceed uncontested."). Plaintiff attached and incorporated in her appeal before the DRB, her correspondence with the OAE, in which she sought to have her proceeding reopened on the grounds that she had not received the notice required under the Court's rules, and in which the Director of the OAE informed Plaintiff that service by mail had been attempted three times, all of which mailings had been returned to the OAE as undeliverable. Plaintiff argued before the DRB that the Committee was not permitted to make service solely by letter because doing so "result[ed] in barring an attorney from further

participation" in the proceedings. R. 1:20A-3(b)(2). After reviewing Plaintiff's submissions, the DRB nevertheless denied her challenge to the adequacy of notice under R. 1:20A. [ECF No. 51, p. 139] ("The Disciplinary Review Board has considered your appeal from the decision of the District VI Fee Arbitration Committee. Upon full review and consideration of the matter, the Board did not find sufficient proof of the R. 1:20A-3(c) violation(s) alleged in your appeal. The Board, therefore, has affirmed the Committee's decision and dismissed your appeal."). Plaintiff then sought to appeal the DRB's decision to the New Jersey Supreme Court and was informed by letter of the Clerk of Court that no petition for review would be considered because, under the Supreme Court's rules, the DRB's judgments on procedural challenges to fee arbitration proceedings are final.[4]

Plaintiff now seeks to raise substantially the same arguments before this Court as grounds for reversing

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[4] The Clerk of the Supreme Court wrote:

> I am in receipt of your submission dated March 3, 2016, which you have captioned as a "Petition for Review." Your petition seeks review of the decision of the Disciplinary Review Board (DRB) that affirmed a determination of a Fee Arbitration Committee and dismissed your appeal. The rules of Court expressly provide that a decision by the DRB on an appeal from a Fee Arbitration Committee is "final and not subject to further review by the Court, whether by appeal, by leave or in any other manner." R. 1:20-16(d). As a result, this matter is closed and the Court will be taking no action on your submission.

ECF No. 51, p. 161.

the decisions of the DRB and the Committee. Plaintiff argues that the Committee in her case failed to comply with R. 1:20-7(h), and thereby R. 1:20A-3(b)(2), by attempting to make service upon her by certified mail only, when the rules require personal service or service by both certified and regular mail. Plaintiff contends that she was having her mail forwarded from the address listed with the New Jersey Lawyers' Diary and New Jersey Lawyers' Fund for Client Protection to a friend in the United States from whom should would then receive notice of the mail. Because certified mail may not be forwarded, and because no mail may be forwarded to a foreign address, the Committee's certified mailings were returned as undeliverable, and Plaintiff never received notice of the hearing in her case, thus allegedly depriving her of due process. Plaintiff also argues, as in her appeal to the DRB, that letter-only service was not permissible in this case because it "result[ed] in barring an attorney from further participation" in the proceedings. R. 1:20A-3(b)(2). Although Plaintiff adds the additional gloss of further explaining the significance of the certified mailings in this case, her fundamental argument remains the same; the letter-only manner of service selected by the Committee was deficient in that it resulted in her not being served with notice of the proceedings, resulting in the deprivation of her right to participate in the fee arbitration hearing. In other words, the harm that Plaintiff claims in this Court, deprivation of her alleged due process right to adequate notice under the United States Constitution, is coextensive with the basis of her appeal to the DRB, and her attempted petition to the New Jersey

Supreme Court. Furthermore, in her prayer for relief, Plaintiff explicitly seeks to have this Court overturn the adverse decisions of state government actors, including, the Committee, OAE, DRB, and the Clerk of the Supreme Court. Am. Compl., ¶ 6. Because the DRB has already considered and rejected Plaintiff's procedural challenge to her fee arbitration proceeding concerning the adequacy of notice, and, under New Jersey Supreme Court Rule 1:20-16(d), the decisions of the DRB are final on such matters, this case is effectively an appeal of the DRB's ruling. The Rooker-Feldman doctrine does not permit the federal courts to sit in judgment of final state rulings, and so this Court lacks jurisdiction over the subject matter of Plaintiff's Amended Complaint.[5]

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[5] Although not raised by the parties, the Court notes that "the Rooker–Feldman doctrine only applies to state judicial proceedings, not administrative or legislative proceedings." Nat'l R.R. Passenger Corp. v. Pennsylvania Pub. Util. Comm'n, 342 F.3d 242, 257 (3d Cir. 2003). See also Verizon Maryland, Inc. v. Pub. Serv. Comm'n of Maryland, 535 U.S. 635, 644 n. 3 (2002) ("The [Rooker–Feldman] doctrine has no application to judicial review of executive action, including determinations made by a state administrative agency."). There is no state "court" judgment in this matter; the relevant documents in the record now before the Court, reflecting decisions adverse to the Plaintiff, are: (i) an August 6, 2015 e-mail to Plaintiff from Barbara Cristofaro on behalf of Defendant Charles Centinaro, denying Plaintiff's request to reopen her fee arbitration hearing due to inadequate notice, [ECF No. 33, p. 27]; (ii) the February 2, 2016 letter decision of the DRB, finding insufficient proof of a procedural process violation after considering Plaintiff's allegations of deficient notice, affirming the Committee's decision, and dismissing Plaintiff's appeal, [ECF No. 51, p. 139]; and (iii) the April 4, 2016 letter of Mark Neary, Clerk of the Supreme Court, rejecting Plaintiff's Petition

for Review of the DRB's decision, and closing the matter, [ECF No. 51, p. 161]. The Court finds, however, that the final decision of the DRB on Plaintiff's procedural due process challenge was reached as the result of a judicial proceeding.

The Supreme Court has opined at length on the distinction between judicial and administrative or ministerial proceedings. See D.C. Court of Appeals v. Feldman, 460 U.S. 462, 476–79 (1983) (collecting and discussing cases). Under Supreme Court precedents, "[t]he proper characterization of an agency's actions 'depends not upon the character of the body but upon the character of the proceedings.'" New Orleans Pub. Serv., Inc. v. Council of New Orleans, 491 U.S. 350, 370 (1989) ("NOPSI") (quoting Prentis v. Atlantic Coast Line Co., 211 U.S. 210, 226–27 (1908)). Judicial proceedings are "designed to adjudicate disputed facts in particular cases." United States v. Florida E. Coast R.R., 410 U.S. 224, 245 (1973). "A judicial inquiry investigates, declares and enforces liabilities as they stand on present or past facts and under laws supposed already to exist. That is its purpose and end." NOPSI, 491 U.S. at 370–71 (quoting Prentis, 211 U.S. at 226).

The fee arbitration committees and the DRB are arms and agents of the New Jersey Supreme Court and have been delegated a portion of that Court's equitable powers. Application of LiVolsi, 85 N.J. 576, 597 n. 22 (1981) (citing In re Logan, 70 N.J. 222, 225, 358 A.2d 787 (1976)) ("The inappropriateness of having Committee or Disciplinary Review Board decisions appealed to the Superior Court is further demonstrated by the fact that this Court has labeled these committees 'agents' of the Supreme Court."); id. at 590 n. 13 (explaining that the New Jersey Supreme Court vested the fee arbitration committees with authority previously belonging to the New Jersey state courts of equity). Together, as part of the FAS, these bodies clearly are designed to adjudicate disputed facts in particular cases and investigate, declare, and enforce liabilities as they stand on present or past facts and under extant laws. Moreover, New Jersey Court Rules provide in FAS proceedings the kind of procedural due process protections characteristic of judicial proceedings, including (i) the initiation of fee arbitration proceedings through an initial pleading, R. 1:20A-3(a)(1); (ii) the right to a hearing with the opportunity for all parties to be present and participate, to compel the attendance of witnesses to

In her supplementary submission, Plaintiff argues that the Rooker-Feldman doctrine should not apply in this case because she has yet to have the opportunity to bring before a state or federal court of law or equity her collateral attack on the Committee's decision based upon the alleged constitutional inadequacy of notice. Cf. Grey v. New Jersey, 91 F. App'x 747, 751 (3d Cir. 2003) (affirming the district court's finding that plaintiff's constitutional due process claims were barred by Rooker–Feldman, where plaintiff had previously brought an action challenging the DRB's determination in New Jersey Superior Court, which was dismissed under the court's rules for lack of jurisdiction over the DRB's non-reviewable determination). Plaintiff, however, has already availed herself of the opportunity to raise such a challenge in her appeal before the DRB, such that any proceeding in this Court would not so much offer an opportunity to challenge the adequacy of notice before the Committee, but rather to challenge the decision of the DRB that notice was adequate. This is not the type of follow-on court proceeding to vindicate constitutional rights considered by the New Jersey Supreme Court in LiVolsi or to

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be sworn under oath, and to compel the production of documents through the use of subpoenas, R. 1:20A-3(b)(1), (b)(4); (iii) notice to the respondent and the opportunity to file responsive pleadings, R. 1:20A-3(b)(2); (iv) impleader, R. 1:20A-3(b)(3); and (v) appeal of process deprivations, R. 1:20A-3(c)-(d). Proceedings before the Committee and DRB therefore meet the criteria for judicial proceedings under federal law. See, e.g., Middlesex Cty. Ethics Comm. v. Garden State Bar Ass'n, 457 U.S. 423, 432–34 (1982) (finding, for similar reasons that New Jersey DRB ethics committee administrative proceedings are judicial in nature).

which Plaintiff would otherwise be entitled under federal law. In LiVolsi, for example, the New Jersey Supreme Court observed that because the structure of the FAS at that time allowed for no appeals of either merits decisions or procedural deprivations, it was obvious that parties who believed their procedural due process rights to have been violated by the committee proceedings retained the right to seek redress in the courts. LiVolsi, 85 N.J. at 591 n. 15. At the same time, however, the LiVolsi Court laid the groundwork for a restructuring of the FAS, whereby jurisdiction over such procedural challenges would be vested in the DRB. Id. at 603-04. Subsequent rule changes implemented that restructuring such that aggrieved parties still have an opportunity for collateral attack on committee proceedings on the basis of procedural due process violations, but that opportunity is now before the DRB, which the New Jersey Supreme Court has vested with final decision-making authority in such matters. R. 1:20A-2(a); 1:20A-3(c). The finality of DRB determinations does not mean that the proceedings before the DRB are necessarily immune from collateral attack in the courts for deprivations of due process. For example, were a party to seek to collaterally attack the proceedings before the DRB, to contend that her appeal was decided on the basis of racial animus or that she had been denied her due process rights by the Board, the Rooker-Feldman doctrine would present no obstacle. Plaintiff, however, is not entitled to a second bite at the apple on the DRB's determination concerning alleged process deprivations before the Committee; that

decision was final, with no further right of appeal. R. 1:20-16(d).

In sum, Plaintiff pursued an appeal of the Committee's actions in this case with the DRB on the grounds that she was not provided with adequate notice. Indeed, once Plaintiff's client initiated proceedings before the Committee, any appeal from the Committee's decision could be heard only by the DRB. R. 1:20A-2(a). She now seeks an appeal of the DRB's denial of that appeal on the same basis, albeit this time couched in the language of constitutional procedural due process. To accept Plaintiff's position that this Court retains jurisdiction to act as an appellate body for DRB determinations would run directly counter to the letter and the spirit of the Rooker-Feldman doctrine. Williams, 765 F.3d at 315 ("The Rooker–Feldman doctrine strips federal courts of jurisdiction over controversies 'that are essentially appeals from state-court judgments.'" (quoting Great W. Mining, 615 F.3d at 165)). To the extent that Plaintiff objects that the removal of the federal forum by that doctrine works an injustice in this matter, her disagreement is fundamentally with the structure of the FAS itself, which provides no state court venue to hear appeals of the proceedings conducted by the Committee and DRB in fee arbitration cases. This Court, however, will not revisit the constitutionality of the FAS itself, which the Third Circuit has already affirmed. Guralnick v. Supreme Court of New Jersey, 747 F. Supp. 1109, 1114-118 (D.N.J. 1990), aff'd, 961 F.2d 209 (3d Cir. 1992) ("the New Jersey Fee Arbitration System comports

with the mandates of due process. There is no fundamental right to have a trial under the fourteenth amendment, and sufficient procedural safeguards exist to ensure that plaintiffs' rights are protected. . . . Consequently, the New Jersey Fee Arbitration System does not . . . infringe upon the rights granted to the plaintiffs under the fourteenth, seventh and thirteenth amendments and article 1, section 1, of the United States Constitution."). The relief requested in Plaintiff's Amended Complaint may not be granted without a finding by this Court that the DRB erred in concluding that the notice provided to Plaintiff of her fee arbitration hearing was statutorily adequate. That is precisely what Rooker-Feldman does not allow. This Court therefore cannot exercise jurisdiction over Plaintiff's claims.

IV. CONCLUSION

Accordingly, for the foregoing reasons, the Court, evaluating its subject matter jurisdiction, sua sponte, finds that consideration of Plaintiff's claims in the Amended Complaint is barred by the Rooker-Feldman doctrine. This matter is therefore dismissed for lack of subject matter jurisdiction. An appropriate Order will follow.

Dated: 2/12/2018

/s/ Freda L. Wolfson
The Honorable
Freda L. Wolfson
United States District Judge

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

CATHY C. CARDILLO, Plaintiff, v. CLERK, SUPREME COURT OF NEW JERSEY et al., Defendants.	Civil Action No. 16-2347 (FLW)(LHG) **OPINION** Filed Feb. 23, 2018

THIS MATTTER having been opened by the Court, *sua sponte*, pursuant to its continuing obligation to ensure federal subject matter jurisdiction over the claims brought, pursuant to 42 U.S.C. § 1983, in the Amended Complaint of Plaintiff Cathy C. Cardillo ("Plaintiff"); it appearing that, on October 27, 2017, the Court directed the parties to submit supplementary briefing concerning the Court's subject matter jurisdiction; it further appearing that Plaintiff, an attorney proceeding *pro se*, submitted letter briefs arguing for the Court's continued jurisdiction over her Amended Complaint and that Defendants Mark Neary, Clerk of the Supreme Court of New Jersey; Bonnie C. Frost, Esq., Chair of the Disciplinary Review Board of the Supreme Court of New Jersey; Charles Centinaro, Director of the Office of Attorney Ethics; Marvin Walden, Jr., Esq., Secretary of the District VI Fee Arbitration Committee; and Aurelio Vincitore, Esq., Fee Arbitrator of the District VI Fee Arbitration Committee; through counsel, the New Jersey Office of the Attorney General

(Ashley L. Costello, DAJ, appearing), submitted a letter brief arguing that the Court lacked subject matter jurisdiction over Plaintiff's Amended Complaint; the Court having reviewed the submissions of the parties, along with the undisputed documentary evidence in the record, and having found that the *Rooker-Feldman* doctrine deprives the Court of subject matter jurisdiction; for the reasons set forth in the Opinion filed on even date; and for good cause shown;

IT IS this 23rd day of February, 2018,

ORDERED that Plaintiff's Amended Complaint is **DISMISSED** for lack of subject matter jurisdiction.

/s/ Freda L. Wolfson
The Honorable Freda L. Wolfson
United States District Judge