No. 18-9073

In The

Supreme Court of The United States

MAURICE GRAYTON,
Disabled veteran, student and early retiree,
Petitioner,

v.

STATE OF CALIFORNIA,
COMMITTEE OF BAR EXAMINER'S, et. al.,
Respondent.

On Petition For Writ Of Certiorari To The United States Court Of Appeals For the Ninth Circuit

PETITIONER'S SUPPLEMENTAL BRIEF PURSUANT RULE 15.8

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In Forma Pauperis

i.

QUESTION PRESENTED

The Knick v Township of Scott, 138 S.Ct 1262 (2018), decision require the Court to issue a Cert. under preceding challenges.

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INTEREST OF THE PETITIONER

This supplemental brief is submitted because the Court has expressed its views and a Cert must be issued.

STATEMENT

a. The Knick v Township of Scott 138 S.Ct 1262 (2018), decision protects this law school student, indicating that he retained rights under United States authority by means of the U.S. Constitution.

b. The Petition is about an examinee doing everything that he was required to do and/or excused from doing. Despite, his eagerness said examinee was still wronged.

c. The June 2016, FYLSE incident stand out and "takes the cake". (e.g. dissemination of the wrong essay, in violation of a **"General Rule"**, set forth by the Committee of Bar Examiners. Specifically, the incident has caused several unsettled questions requiring federal redress because the incident is one of the most vulgar example of administering a State examine. STACI ZARETSKY (2018).

d. The Court must revisit the enunciation of the **Rooker-Feldmen Doctrine** **"exceptions"**, in order to emanate whether there was a departure from the required course of judicial proceedings, regarding the implementation of **"exceptions"**. The Petition cries out to this Court to exercise its power; enforce rules and instruct the oversight of various processes, regarding applicants that "sit" on the FYLSE, who is only required to display their knowledge on three categories of the law (e.g. **Contract, Tort and Criminal Law**). In a nutshell, Petitioner did not receive what he registered for, an unadulterated FYLSE pursuant the **"General Rule"**.

PROCEDURAL HISTORY.

On September 18, 2017, Petitioner filed a Petition for **Writ of Mandate**, in the California Supreme Court; **Case No.: S243851**. The California Supreme Court denied Petitioner request.

On or about November 11, 2017, Petitioner filed a civil complaint in the U.S. District Court. **Case No.: 17-CV-2336-CAB-JMA**. The District Court, Granted the Committee of Bar Examiners Motion to Dismissed citing **Rooker-Feldman**.

Petitioner appealed the dismissal, on October 11, 2019, the U.S. Court of Appeals For the 9th Circuit assigned **Case No.: 18-55295**, and issued a **Formal Mandate**, pertaining **Case No. 3:17-cv-02336-CAB-JAM**.

DISCUSSION

A. A Dilemma Exists As To Whether The Lower Court's Followed the Law Resulting An The Issuance Of Erroneous Decisions.

The issues regarding whether the lower Court's erred, in rendering their decisions, is substantiated in this Petition, which serves as a vehicle that warrants further review. Up to this point, the Committee has won the battle, but not so fast, the war isn't over. The Courts review will shift the momentum of the battle. **Rooker-Feldman** is statutory (based on the certiorari

jurisdiction statute, under **28 U.S.C. § 1257**).Notably, **§ 1257**), applies to cases such as, this being "**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.**

B. Inapplicability Of The Correct Law Exists And Review Is Necessary.

1. The U.S. Congress has provided a long list of interpreted "**exception**" to the **Rooker-Feldman Doctrine** pursuant Title 28 U.S.C that resolved the conflict.

§ 2254 of Title 28 U.S.C. is one of those "**exceptions**". (e.g. authorization to grant writs of habeas corpus, even after a state court has denied it). The "**exception**" that the Petitioner relies upon is the **Fraud "exception" to Rooker-Feldman.** This "**exception**" best fitted the fact pattern of the original complaint. However, there are other "**exceptions**" to **Rooker-Feldman**, such as, is the "Palm Sunday Compromise. Under this "**exception**" Congress has allowed the federal courts to review the decisions of the state courts (e.g. the Terri Schiavo case).

Another "**exception**" to **Rooker-Feldman, which the Court** applied was in the **Exxon Mobil Corp. v. Saudi Basic Industries Corp.**, 544 U.S. 280 (2005)case. In the **Exxon Mobil Corp's** decision **Rooker-Feldman** was held to be statutory (based on the certiorari jurisdiction statute, under **28 U.S.C. § 1257**), holding that it applies only in 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.**" Additionally, **Title 28 U.S.C, Section 2283** also provides "**exceptions**" to **Rooker-Feldman**, as expressly authorized by Act of Congress. The constitutionality of the dispute regarding any of the abovementioned "exceptions" emanates that, absent review by this Court, Petitioners opportunity to challenge the decisions "**will be lost forever.**" The 2015 and 2016 administration of the FYLSE had been infested by injustices and the Court is the decontaminate that is far better than one thousand tons "gold". (Pied Piper, 1284). The conflict is better defined by morality, policy requirements and applicability of a "**General Rule**" illuminating whether the Committee passed other applicant's, but not so fast. The worthiness of the Petition will require California to find a better way to achieve the required efficiency in administering the FYLSE, such as, the 2019 agreement with MITRE another technical corporation that suppose to develop an algorithmic process, to assist in

administering the FYLSE. See Article written by L. Moran, posted at https:// abovethelaw.com dated May 9, 2019. **California Bar Exploring Opportunities To Deploy AI**.

The Court must straighten out the decisions. As part of the inquiry, the Court must consciously embrace what **Justice Brennan** had critically characterized as a more "**demanding**" quality control (483 U.S. at p. 848 [97 L. Ed. 2d at p. 696] (dis. opn. of Brennan, J.)) requiring the Committee to be more diligent when bundling testing material before placing it into the stream of testing. This incremental step adds the missing value to the out of order system. Also, instructing the Committee to be much more flexible, such as, implementing [**WAIVER'S**] for the FYLSE requirement rather than so called "solutions" (e.g. a double grading)that has become questionable, while not posting what can be argued as a **Model Answer** under a reasonable "exchange" theory, (e.g. a far reasonable return, a "benefit" for a crucial mix up). A prt of the Court infringing inquiry, must focus on whether Petitioners private rights can remotely be held as a State benefit.' "(*483 U.S at pp. 833-834, fn. 2 [97 L. Ed. 2d at p. 687*].) In this area, **Justice Scalia**, once elaborate on his view of the essence of the takings clause, similar to the dissent in **Pennell v. San Jose (1988)** 485 U.S. 1, 15 [99 L. Ed. 2d 1, 17, 108 S. Ct. 849]. **Justice Scalia** may hold "**that the . . . provision . . . effects a taking of private property without just compensation . . . .**" **(Ibid.)** Invoking the language of **Armstrong v. United States (1960)** 364 U.S. 40, 49 [4 L. Ed. 2d 1554, 1561, 80 S. Ct. 1563] which fell squarely in the *perimeters of* the takings clause, that dissent reasoned, "**is simply the unfairness of making one citizen pay, in some fashion other than taxes, to remedy a social problem that is none of his creation.**" (Id. *at p. 23 [99 L. Ed. 2d at p. 22*]; cf. *Nollan, supra, 483 U.S. at p. 825, fn. 4 [97 L. Ed. 2d at p. 688*].) Clearly, this handful of U.S. Supreme Court decisions defies the characterization of **Rooker-Feldman** applicability to this case, but not so fast, conflict is still in the atmosphere. (e.g. double grading). Petitioner was given two essay scores (1) 45 and (2) 100 points for the written portion of the incorrect essay. Historically, for the score of 100 points, these answers are **Model** and posted one the website of the State Bar webpage. Petitioner answer was not posted. The Committee is prohibited from eating the entire apple.

This issue remains unsettled and the decisions contradict the "exceptions" to Rooker-Feldman, thus setting forth an importance of constitutionality and statutory regulation, in the practice of law. **Justice Rehnquist** was expressed "**The Supreme**

Court: How it Was, **How it Is**." 269 (1987, under this direct approach it should not be as difficult as it appears for the Court to turn the table of time. Justice Rehnquist idealism is pivotal in the Court for the following reason(s)as to whether in Re: **Dolan v. City of Tigard** (1994); **Nollan v. California Coastal Comm'n** (1987) and the **Knick v Township of Scott** 138 S.Ct 1262 (2018) decisions show that the lower Courts erred based on the "**Fraud**" or any other "**exception**" to **Rooker -Feldman**. Apart of what Petitioner registrar for was for the Psychometrician to examine him, **in order to determine "what impact" had a material mistake impose on his ability to properly respond and continue testing thereafter**. This issues raise to the level of a constitutionality because the events aforementioned violates the **5th,** and **14th Amendment of the U.S. Constitution, Title 42 U.S.C. § 1983,** the **American with Disabilities Act of 1990** and **California Civil Code §50-51 (UnRuh Civil Rights Act)**. The Committee must be showed that by filing of a formal waiver the Court will not influenced otherwise.

The **Fraud "exception"** to **Rooker-Feldman** resolves the conflict. ExamSoft defrauded Petitioner when it **erroneous certified the condition of his laptop**. The Committee defrauded Petitioner when it **elected to administer the Criminal Procedure essay**. Yikes! The lower Court analysis of **Rooker-Feldman** clearly requires guidance. The Court has conducted infringing inquiries that has focused on the well establishment of "**If there is some other source of injury, caused by a third party action, then there is an assertion of an independent claim.**" Id.;Prewitt v. Wood County Common Pleas Court Juvenile Div., 2014 U.S. Dist. LEXIS 152676 also see Lawrence, 531 F.3d at 368-69. ... The lower Court failed in its analysis. See Evans v. Cordray, 424 Fed. Appx. 537, 2011 WL 2149547, at *1 (6th Cir. 2011). **The independent claim is against Examsoft**. ExamSoft record is spotty at best when it comes to tech issues, on exam day. See article written by K. RUBINO (July 23, 2018), **Want to Use Your New Computer to Take the Bar Exam? Too Bad! The** Bar Examiners inefficiencies continue to result in exploring ways to administering the FYLSE, never the less, this too could turn out to be another one of its biggest disaster's. See Article written by DAVID LAT (Jul 29, 2014) **The Biggest Bar Exam Disaster Ever? ExamSoft Makes Everyone's Life Hard.** In reality, nothing seems to be able to stop these downward trends. See article written by ALEXEI KOSEFF (MAY 19, 2018) **"A Bar Too High? Pass Rate Plummets To Record Low for California Lawyer Exam**.

C. The Review Is A Vehicle For The Issues Presented

Even if required to respond, the Committee cannot argue that the split between the Circuit Court's are "**to shallow**" because of the clarification of the scope of **Rooker-Feldman**. See. Evans v. Cordray, 424 Fed. Appx. 537, ruling that the Doctrine **is not broad enough to cover all the situations in which federal court relitigate issues decided in State Courts**. See David P. Curried, Res Judicata: **The Neglected Defenses**, 45 U. Chi. L. Rev. 317, 321-25 (1978). **Rooker-Feldman** purposes is to **allow an original action in equity to attack a prior judgment**, which appears consistent with general federal equity practice. Whether the substantive bases for equitable relief are met is a matter wholly separate from jurisdiction. **Checkmate!**

Furthermore, any reply, would raise issues concerning the probability of circumstances federal courts would be justified in creating and following "**exceptions**" and not affording state court judgments as much preclusive effect. See Marrese v. American Academy of Orthopaedic Surgeons, 470 U.S. 373, 386 (1985) (**allowing for possibility that federal courts would afford a state court judgment less preclusive effect than the rendering state court would if necessary to protect federal interests**); See also Matsushita, 516 at 380-86 (raising, but rejecting, possibility that federal jurisdictional statute partially repealed § 1738 so that state court judgment would not be given preclusive effect where federal claim could not have been raised in state court). It is untrue as to whether Rooker-Feldman "exceptions" are inapplicable to various actions, including determinations made by an administrative bodies such as, the Examiner's. See The Utility Reform Network v. Public Utilities Com., 166 Cal. App. 4th 522 *, 82 Cal. Rptr. 3d 791, 2008 Cal. App. LEXIS 1376. In Brewster v. Shasta County, 275 F.3d 803, 807 (9th Cir. 2001), and Cortez v. County of Los Angeles, 294 F.3d 1186, 1190 (9th Cir. 2002). Thus, more Courts should be permitted to weigh in and therefore further amplification is warranted.

Further percolation is warranted, even if the Court doesn't hinge on the split between the circuits. The decisions are in contradiction because in the 9th Circuit, county officials are liable under Section 1983. Petition presents a complicated factual and legal issue that is inextricably linked and the Court must be inclined to hear it based on a reverse parity argument. The Court must not be insensitive because under the

host of "**exception**" to **Rooker-Feldman**, seeking justice is like pulling teeth. The **Dolan, Nollan, Knicks** and **Kelo** decisions focused on "**when considering issuing a certificate regarding property and unsettled questions concerning the extent to which the high court's opinions.**" **Dolan v. City of Tigard** (1994) 512 U.S. 374 [129 L. Ed. 2d 304 114 S. Ct. 2309] (**Dolan**) and an earlier case of **Nollan v. California Coastal Comm'n** (1987) 483 U.S. 825 [97 L. Ed. 2d 677, 107 S. Ct. 3141] (**Nollan**), "**the analysis of the taking became tantamount regarding the condition of the negotiation**". Those facts are not as remote of the facts, in this case. The Court held, that when adhering to its precedents, a determination as to first, whether the takings of the particular properties at issue were "**reasonably necessary" to achieving an intended use, and, second, whether the takings are for "reasonably foreseeable needs.**" See **Kelo *et al.* v. City of New London *et al.*** Based on the outcome of the case, the Committee possessed either. The decisions undermine the very intent and purpose of the "**Taking Clause**" standard and misplaces the application of the **Rooker-Feldman** "**exceptions**". Thus warranting the exercise of the Court's discretionary power. The Court is being asked to enforce the "**General Rule**", examine the "**reasonableness" and "necessity**" of twice scoring a mistake and attempting to pull the wool over hundreds of test-takers eyes. Otherwise the Bar Examiner's will continue to be unbounded by any "**Rule**" or process.

The Court should "expect that the Bar Examiners would have provided some kind of leveraging [i.e., the imposition of a **WAIVER** as a condition precedent for fixing its mistake and/or allowing the Petitioner to sit future FYLSE exams, at no cost until he passes]. This type of policing implementation would ensure a more stringent quality control, which is required for these types of exams. (*Id. At p. 837, fn. 5 [97 L. Ed. 2d at p. 690*], italics added.)The Courts view, in **Kelo, Nollan, Dolan** and **Knicks** intended to address just such demands in "bargains" between the parties. Those demands quintessentially applies, and their effects, at least as to those which the 5th Amendment protects. The test result were taken for public statistical usage and without compensation. The 5th and 14th Amendment provides that **no person shall be deprived of property, without due process of law**. This includes refunds and proration; **nor shall private property be taken for public use; this includes erroneous test result, without just compensation**. Petitioner relies on the language of the 5th Amendment, made applicable through the 14th Amendment, in the case of Chicago, B & Q Ry. Co. v. Chicago (1897) 166 U.S. 226 [41 L. Ed. 979, 17 S. Ct. 581], the 5th and 14th Amendments "**leaves to the state a procedure by**

which compensation may be sought." (*8 Cal. 4th at p. 13.*). The lower Court error's raise to the level of review, as the "takings" has prevented and continue to prevent Petitioner from obtaining his Juris Doctorate Degree in violation of the ADA.

In conclusion, for the following reasons issuing a Cert would be more essential, rather tan allowing First Year Law School Students to be required to display uncalled for talents on exams that are intended to measure the minimum competence, regarding three subjects following one rigorous year of studies. The antic's of the Examiners falls below the standard of a high bar that suppose to protect the public, and based on the aforementioned struggle's there is more reason to believe that such a poorly administered examine process could discourage the best of us. (FAIGMAN,et. al., 2018).Therefore, further view is warrented.

Respectfully Submitted,

July 4, 2019

DATED

/s/ Mr. MAURICE CRAYTON

Appendix A

October 11, 2019, U.S. Court of Appeals, 9th Circuit **Case No.: 18-55295, FORMAL MANDATE**, In Re: **Case No. 3:17-cv-02336-CAB-JAM.**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

SEP 19 2018

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

MAURICE GRAYTON,

Plaintiff-Appellant,

v.

STATE OF CALIFORNIA; et al.,

Defendants-Appellees.

No. 18-55295

D.C. No.
3:17-cv-02336-CAB-JMA
Southern District of California,
San Diego

ORDER

Before: HAWKINS, CLIFTON, and N.R. SMITH, Circuit Judges.

Upon a review of the record, the opening brief, and the responses to the court's order to show cause, we conclude this appeal is frivolous. We therefore deny appellant's motion to proceed in forma pauperis (Docket Entry No. 2), *see* 28 U.S.C. § 1915(a), and dismiss this appeal as frivolous, pursuant to 28 U.S.C. § 1915(e)(2) (court shall dismiss case at any time, if court determines it is frivolous or malicious).

DISMISSED.

AT/MOATT

Appendix B

On September 18, 2017, Denial of Petitioner's, Petition for **Writ of Mandate**, California Supreme Court; **Case No.: S243851.**

S243851

IN THE SUPREME COURT OF CALIFORNIA

En Banc

MAURICE GRAYTON, Petitioner,

v.

STATE OF CALIFORNIA, COMMITTEE OF BAR EXAMINERS et al., Respondents.

The petition for writ of mandate is denied.

CANTIL-SAKAUYE

Chief Justice

Appendix C

November 11, 2017, **Civil Complaint**, U.S. District Court. **Case No.: 17-CV-2336-CAB-JMA**. ORDER Granting Defendant, Committee of Bar Examiners Motion to DISMISS citing **Rooker-Feldman**.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

MAURICE GRAYTON,

Plaintiff,

v.

STATE OF CALIFORNIA, COMMITTEE OF BAR EXAMINERS et al.,

Defendants.

Case No.: 17-CV-2336-CAB-JMA

ORDER GRANTING DEFENDANTS' MOTION TO DISMISS

[Doc. No. 7]

This matter is before the Court on a motion to dismiss filed by Defendants State of California Committee of Bar Examiners Subcommittee on Examinations (the "Committee"), and Lisa Cummins, Patrick Dixon, and Floyd Chapman, Chairpersons (the "Individual Defendants"). Plaintiff Maurice Grayton, appearing *pro se*, filed an opposition to the motion, and the Court deems it suitable for submission without oral argument. The motion is granted.

I. Background

Applicants to the California bar who do not attend law schools accredited by the American Bar Association are required to pass the First Year Law Students Exam ("FYLSE"). Grayton took the 2016 FYLSE but did not pass. The complaint contains several explanations for why Grayton did not pass the exam, including: (1) a malfunction of the test-taking software on Grayton's personal computer; (2) the inclusion of an improper criminal procedure question; and (3) that Defendants improperly engaged a

psychometrician to determine how to adjust the grades on the criminal procedure question leading to all test-takers receiving a 100 score on that question which allegedly resulted in the remaining three exam questions being graded more stringently to maintain an 80% failure rate. The complaint also alleges that Grayton is disabled, but it admits that he received a reasonable accommodation of time and a half to complete the test.

After receiving his failing score, Grayton asked Defendants to waive the FYLSE requirement, and Defendants refused. Following this refusal, Grayton filed a lawsuit in this Court, but he subsequently dismissed the lawsuit after Defendants moved to dismiss, stating that he intended to petition the California Supreme Court. *See* Doc. No. 12 in Case No. 17cv445-CAB-JMA. On September 20, 2017, the California Supreme Court denied Grayton's petition for a writ of mandate. [Doc. No. 7-3 at 94.][1] Grayton then filed the instant lawsuit with a complaint that is virtually identical both to his prior complaint here and to his petition to the California Supreme Court. [Doc. No. 7-3 at 21-51, 55-91.] The complaint asserts nine claims[2] and the prayer for relief seeks a waiver of the FYLSE requirement along with general, consequential, and punitive damages arising out of Defendants' actions related to the administration and grading of the FYLSE and their refusal to grant Grayton a waiver.

II. The *Rooker-Feldman* Doctrine

Under the *Rooker–Feldman* doctrine, "a party losing in state court is barred from seeking what in substance would be appellate review of the state judgment in a United States District Court based on the losing party's claim that the state judgment itself violates

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[1] Defendants request judicial notice of several documents, including Grayton's petition to the California Supreme Court and the order denying that petition. Grayton did not oppose the request, and the Court finds the documents appropriate for judicial notice. Accordingly, Defendants' request is granted.

[2] The claims are: (1) breach of contract; (2) negligence; (3) negligent training, retaining, disciplining, supervising, managing, directing and controlling; (4) intentional infliction of emotional distress; (5) negligent infliction of emotional distress; (6) unjust enrichment; (7) violation of 42 U.S.C. § 1983 and the California Civil Rights Act (Cal. Civ. Code § 50-51); (8) violation of the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12101; and (9) violation of the Racketeer Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. § 1962.

the loser's federal rights." *Johnson v. DeGrandy*, 512 U.S. 997, 1005–06 (1994) (citing *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 482 (1983), and *Rooker v. Fidelity Trust Co.*, 263 U.S. 413, 416 (1923)). "The Supreme Court has recognized that the doctrine is especially appropriate when applied to a state's regulation of its own bar." *Craig v. State Bar of Cal.*, 141 F.3d 1353, 1354 n.1 (9th Cir. 1998). Thus:

> Lower federal courts lack subject matter jurisdiction over [a state supreme court's denial of bar admission to a particular applicant], even if unconstitutional action by the state is alleged, because exercising jurisdiction would involve the review of a final judicial decision of the highest state court in a particular case. Orders of a state court relating to the admission of an individual to the state bar may be reviewed only by the United States Supreme Court on writ of certiorari to the state court, and not by means of an original action in a lower federal court.

Id. (internal citations omitted). Here, Grayton's complaint is a *de facto* appeal of the California Supreme Court's denial of his petition for writ of mandate. Indeed, the complaint is virtually identical the Grayton's petition to the California Supreme Court. [Doc. No. 7-3 at 55.] Grayton is asking this Court to review the California Supreme Court's denial of his petition, and all of the injuries alleged arise from that denial. Only the United States Supreme Court may undertake this review. This Court lacks jurisdiction.

III. Disposition

Defendants' motion to dismiss based on the *Rooker-Feldman* doctrine is **GRANTED**. The complaint is **DISMISSED** without leave to amend in this Court, but without prejudice to re-filing in state court.

It is **SO ORDERED**.

Dated: February 27, 2018

Hon. Cathy Ann Bencivengo
United States District Judge

Appendix D

June 25, 2019, letter from the U.S. Supreme Court, informing Grayton about filing this brief, in regards to Case No. 18-9073.

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001

June 25, 2019

Maurice Grayton
1340 Holly Avenue, Unit 15
Imperial Beach, CA 91932

RE: Maurice Grayton v. California, et al.
No: 18-9073

Dear Mr. Grayton:

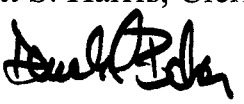
Your petitioner's brief received June 21, 2019, is herewith returned for the following reason(s).

There are no provisions in the Court Rules for a brief of the petitioner at this time. There is no response to a waiver. If you wish to supplemental your case you may do so in the form of a supplemental brief.

Pursuant to Rule 15.8 all supplemental briefs should be restricted to new material, calling attention to new cases, new legislation, or other intervening matter not available at the time of the party's last filing.

See Rule 15.8 for content and 33.2(b) for the page page limit.

A copy of this Court's Rules are enclosed.

Sincerely,
Scott S. Harris, Clerk
By: 
Donald Baker
(202) 479-3035

Enclosures