No. _____

In The

Supreme Court of the United States

REED MCDONALD,

Petitioner,

vs.

EAGLE COUNTY, et al., a quasimunicipal corporation and political subdivision of the State of Colorado,

Respondents.

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

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

The specific question presented is: Did the Magistrate for the District of Colorado error in determining that the Bellco and Eagle cases had concluded?

Can a state-judge refuse to obey federal removal law 28 U.S.C. §§ 1441-1446 by committing a crime?

Should attorney Fees be assessed for the Defendants' criminal conduct?

PARTIES TO THE PROCEEDING

The petitioner is Reed McDonald. The respondents are Eagle County, a quasimunicipal corporation and political subdivision of the State of Colorado; and Bellco Credit Union.

RELATED CASES

McDonald v. Zions First National Bank,
Eagle County, Colorado District Court case 2009cv604
No judgment in this case.

McDonald v. Zions First National Bank
Colorado Court of Appeals case 2011ca1537
Judgment entered October 5, 2011.

McDonald v. Zions First National Bank
Colorado Court of Appeals case 2011ca1537
Judgment entered November 2, 2011.

McDonald v. Eagle County, Colorado et al.
District of Colorado case 2019cv00105
Judgment entered March 19, 2019.

McDonald v. Eagle County, Colorado et al.
10th Circuit Court of Appeals case 19-1101
Judgment entered March 19, 2020.

McDonald v. Eagle County, Colorado et al.
10th Circuit Court of Appeals case 19-1101
Motion for en banc hearing
Judgment entered June 1, 2020.

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PETITION FOR A WRIT OF CERTIORARI

I, Reed McDonald respectfully petition for a writ of certiorari to review the judgment of the United States District Court for the District of Colorado and the 10th Circuit Court of Appeals.

OPINIONS BELOW

The panel's opinion from the Court of Appeals is reported at 2019-1101. The opinion of the Colorado District Court is reported as 2018cv00105.

STATEMENT OF JURISDICTION

The judgment of the Court of Appeals was entered on November 28, 2020. A petition for *en banc* rehearing was denied on June 1, 2020 (App. 59). 28 U.S.C. § 1254(1) confers jurisdiction on this Court.

CONSTITUTIONAL AND STATUTORY PROVISIONS

The 4th Amendment to the Constitution secures the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly

describing the place to be searched, and the persons or things to be seized.

The 5th Amendment to the Constitution provides that no person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

The Due Process Clause of the Fourteenth Amendment provides that no state shall "deprive any person of life, liberty, or property without due process of law." U.S. Const. amend. XIV, § 1. This Court has consistently held that Constitutional requirements of due process apply to garnishment and prejudgment attachment procedures whenever the State acts jointly with a creditor in securing the property in dispute.

The Equal Protection Clause of the Fourteenth Amendment provides "nor shall any State deny to any person within its jurisdiction the equal protection of the laws." U.S. Const. amend. XIV § 1. This Court has consistently held a "person", no matter the circumstances, is due equal protections under all laws of the United States.

The Supremacy Clause of the United States Constitution provides "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." U.S. Const., Article VI § 2.

TILA:

The Truth in Lending Act (TILA)

Any assignee that violates TILA's notice requirement is subject to civil penalties under Section 130(a) of TILA. Effective July 31, 2009, the maximum penalty increased from $2000.00 to $4000.00 that an individual consumer may recover for each TILA violation in connection with a closed-end loan secured by real property increased.

The Truth in Lending Act (TILA) is a federal law enacted in 1968 to help protect consumers in their dealings with lenders and creditors. The TILA was implemented by the Federal Reserve Board through a series of regulations. Some of the most important aspects of the act concern the information that must be disclosed to a borrower prior to extending credit, such as the annual percentage rate (APR), the term of the loan, and the total costs to the borrower. This information must be conspicuous on documents presented to the

borrower before signing and in some cases on the borrower's periodic billing statements.

Violators of TILA are subject to civil liability under Section § 130 of the TILA. A creditor failing to comply with TILA may be held liable for actual damages.

TILA's Section 108 provides that "a violation of any requirement imposed under TILA shall be deemed a violation of a requirement imposed under federal Fair-Trade Act [the FTC's Act], regardless of whether a person committing a violation otherwise comes sumder the FTC's jurisdiction." For willful or knowing violations, a person may be fined up to $5,000 and/or imprisoned for up to one year, in accordance with Section 112 of TILA.

RESPA:

The Real Estate Settlement Procedures Act, or RESPA, was enacted by Congress to provide homebuyers and sellers with complete settlement cost disclosures. The Act was also introduced to eliminate abusive practices in the real estate settlement process, to prohibit kickbacks, and to limit the use of escrow accounts. RESPA is a federal statute now regulated by the Consumer Financial Protection Bureau (CFPB). Failure to respond to a qualified written request (QWR) under Real Estate Settlement Procedures Act (RESPA) is a violation of 12 U.S.C. § 2605(f).

FDCPA:

The Fair Debt Collection Practices Act (FDCPA) is a federal law that limits the behavior and actions of third-party debt collectors who are attempting to collect debts on behalf of another person or entity. The law, as amended in 2010, restricts the means and methods by which collectors can contact debtors, as well as the time of day and number of times contact can be made. If the FDCPA is violated, a suit may be brought within one year against the debt collection company as well as the individual debt collector for damages and attorney fees.

STATEMENT OF THE CASE

I. Brief Factual Background

The facts alleged and conceded establish Eagle County, Colorado (Eagle) and Bellco Credit Union (Bellco) are obstructing Reed McDonald's (Petitioner) path to justice.

Two national banks violated Petitioner's rights secured under Constitution and the following federal mortgage laws, Truth in Lending Act (TILA), Real Estate Settlement Procedures Act (RESPA) and the federal Fair Debt Collection Practices Act (FDCPA). Thereafter, Eagle and Bellco violated Petitioner's rights secured under the Fourth, Fifth and Fourteenth Amendment to the United States Constitution.

During the mortgage crisis of 2007-2008 two (2) national banks colluded, committing mortgage fraud upon this Petitioner. As a matter of material fact, both national banks have admitted under oath, during oral deposition they violated TILA, RESPA and numerous State mortgage laws.

Furthermore, Bellco violated the judgment of the Colorado Court of Appeals by colluding with Eagle seizing Petitioner's bank account while Eagle was making an end-run around Colorado law. Bellco has admitted under oath and in written documents they were served the Colorado Court of Appeals order they violated dated October 5, and November 2, 2011.

Thereafter, Bellco violated Petitioner's Fourth, Fifth and Fourteenth Amendment rights by conducting numerous illegal searches, trespassing his gated property violating therein Colorado's Appellate Court order. Then colluding with Eagle in seizing Petitioner's bank account in an end-run around Colorado final Judgment Rule.

Thus, McDonald sought recovery of damages in State court; site of the proceeding, Eagle County, Colorado (Eagle).

During the proceeding, Eagle's Judge and Clerk of Court concealed court documents from this Petitioner violating my Due Process rights. Thereafter, Eagle and Bellco colluded to steal Petitioner's bank accounts in violation of order/judgment of the Colorado Court of Appeals.

The Colorado Court of Appeals on October 11, and November 2, 2011 after a trier of fact hearing adjudged Eagle and Clerk of Court concealed court documents from Petitioner.

Moreover, the Appellate Court adjudged on those same dates, Eagle and Bellco in seizing Petitioner's accounts was making an end-run around Colorado law in violation of Petitioner's due process rights because the case was and is yet to be concluded.

Eagle ordered by the Colorado Court of Appeals to restore Petitioner's rights secured under Constitution refused; and continues refusing to restore Petitioner's rights secured under Constitution to the date of this petition for the past 13 years.

Thus, after Eagle's thirteen (13) years of refusing to conclude the subject case, the Colorado Court of Appeals and the Colorado Supreme Court have ruled they are without authority to hold a lower court in contempt. Thus, Petitioner brought a federal case to resolve the obstruction of justice.

During the federal proceeding a last-minute change in Magistrate resulted because sitting Magistrate Judge Michael Watanabe retired. The substituted Magistrate Neureiter with little knowledge of the case and without hearing from Petitioner opined in error that both the Bellco and Eagle cases had concluded.

As of the date of this petition, the Article III Judge in charge of the subject case from the District of Colorado, Christine Arguello and nine (9) judges of the

Colorado Court of Appeals have adjudged that the Eagle and Bellco proceeding are yet to be concluded.

Magistrate Neureiter's and Circuit's opinions were and are in willful disrespect of the Colorado Court of Appeals and the Article III Judge's published opinion.

Thus, the Magistrate's and Circuit's opinion is in contradiction to this Court's precedent and of State law. Thus, a void judgment.

In addition, The District's and Circuit's willful disrespect of the State law is outlandish. They willfully disrespected the Colorado Court of Appeals judgment in violation of the full faith and credit doctrine as applicable to the federal courts refusing to recognize the records and judicial proceedings of state courts pursuant to 28 U.S.C. § 1738.

In their review the United States 10th Circuit Court of Appeals overturned Magistrate's Neureiter's opinion that Petitioner's case should be dismissed with prejudice. The 10th Circuit remanded and ordered the case could only be dismissed without prejudice.

II. Relevant Proceedings Below

Action was filed in the District of Colorado because the Colorado Court of Appeals and the Colorado Supreme Court have ruled they are without authority to hold a lower court in contempt for obstructing justice. Colorado highest courts hold Judges are duly elected

in Colorado courts. Thus, they are only accountable to the people that elect them.

ARGUMENT

III. The Magistrate's and Panel's Opinion are in willful contradiction of Colorado Court of Appeals Order/Judgment and judgment of the presiding Article III judge.

a. Bellco's Case:

Magistrate Neureiter opined in his opinion that Bellco's State case had concluded and was not intertwined with McDonald's Eagle case. The Magistrate's opinion is plain error; here is why.

Bellco colluded with Eagle in State-case 2009CV604 seizing Petitioner's bank account during 2012 without due process in violation of Colorado Court of Appeals Order/Judgment dated October 5, and November 2, 2011 in Appellant case 2011CA1537. See App. 61-65.

The seizure of Petitioner's account without due process was and is a violation of this Court's precedent in *Lugar* and the Constitution.

In *Lugar v. Edmondson Oil Co.*, 457 U.S. 922 (1982). The Court held that constitutional requirements of due process applied to garnishment and prejudgment attachment procedures whenever officers of the State act jointly with a creditor in securing the property in dispute.

During Bellco's state case, the sitting judge violated Colorado's rules of civil procedure; violated Colorado's statutory provision for a civil action; and made decisions without this Petitioner heard on issue. Thus, a discussion with federal Magistrate Watanabe ensued, the decision was made to combine Bellco's State-case with the existing federal Eagle case because Bellco colluded with Eagle.

On January 24, 2018 Bellco's case was removed from State-court to the District of Colorado because Petitioner filed for removal pursuant to 28 U.S.C. §§ 1441-1446 in both state/federal court and served opposing counsel with notice of removal. See App. 73.

Pursuant to the Constitution and federal law 28 U.S.C. 1446(d) the State court's jurisdiction was immediately lost to the federal court. 1446(d) provides the following: "Promptly after the filing of such notice of removal of a civil action the defendant or defendants shall give written notice thereof to all adverse parties and shall file a copy of the notice with the clerk of State court, which shall effect the removal *and the State court shall proceed no further unless and until the case is remanded.*"

Thereafter, the state judge intentionally made false representations on the record that this Petitioner did not file for removal in her court; this was a planned and premediated lie to defraud the Petitioner of the following protections pursuant to Due Process, Equal Protections Under Law secured by the Constitution. See App. 68-71.

Subsequently, the clerk of the State-court colluded with the State judge by double stamping Petitioner's notice of removal to show a late filing date. This has led to criminal charges being pursued by Colorado's 18th District Attorneys office and the Denver's office of the Federal Bureau of Investigation (FBI) against the State Judge for fraud. See App. 75-76.

Because Petitioner's notice of removal to federal court was valid, any State-court activities lie nullity because it was without jurisdiction. An order that exceeds the jurisdiction of the court is void, and can be attacked in any proceeding in any court where the validity of the judgment comes into issue. See *Rose v. Himely*, 4 Cranch 241, 2 L. Ed. 608 (1808); *Pennoyer v. Neff*, 95 U.S. 714, 24 L. Ed. 565 (1877); *Thompson v. Whitman*, 18 Wall. 457, 21 L. Ed. 897 (1873); *Windsor v. McVeigh*, 93 U.S. 274, 23 L. Ed. 914 (1876); *McDonald v. Mabee*, 243 U.S. 90, 37 S. Ct. 343, 61 L. Ed. 608 (1917).

A void judgment is not entitled to the respect accorded a valid adjudication, but may be entirely disregarded, or declared inoperative by any tribunal in which effect is sought to be given to it. It is attended by none of the consequences of a valid adjudication. It has no legal or binding force or efficacy for any purpose or at any place. It is not entitled to enforcement . . . . . All proceedings founded on the void judgment are themselves regarded as invalid. **30A Am Jur Judgments 44, 45.**

As the State judge lied in an attempt to keep jurisdiction, Petitioner filed for change of Judge. The State judge to conceal her fraud upon the court and this Petitioner refused to recuse herself. An immediate appeal was filed with the Colorado Court of Appeals; their conclusion was again, the Bellco case is yet to be concluded. See App. 72.

After removal was effectuated by this Petitioner it was the federal-court's jurisdiction and responsibility to decide if the case should be remanded to State-court. Bellco did not and has not filed for remand nor did the federal-court remand the case back to State-court. Thus, Bellco's case stands in federal court not State court.

Simply, as a matter of Constitution pursuant to the Supremacy Clause and as a matter of Congressional statutory law, there is no state case, as the case was removed to federal court on January 24, 2018.

Moreover, because the State case was removed and because of the criminal activities of the State judge *Rooker-Feldman* is inapplicable and subject to the *Rooker-Feldman* fraud exception rule. See *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 220, 283 (2005). The State-court case exhibits extrinsic fraud. "Extrinsic fraud is conduct which prevents a party from presenting his claim in court." *Kougasian v. TMSL, Inc.*, 359 F.3d 1136, 1140 (9th Cir. 2004) (quoting *Wood v. McEwen*, 644 F.2d 797, 801 (9th Cir. 1981)).

b. Eagle's Case:

The Eagle case represents another case of judicial misconduct and extrinsic fraud. The Eagle court willfully refused to serve me court documents, intentionally keeping me in the dark about the subject case. The intent of the Eagle court was to commit fraud thwarting me from presenting my case. Simply, another case of obstruction of justice and extrinsic fraud. See App. 61-65.

Magistrate Neureiter's opinion is again in error as his conclusions disrespected the order and judgment of the Colorado Court of Appeals issued on October 5, and November 2, 2011 by six judges of the Colorado Court of appeals.

In the Eagle case the judge was found to be colluding with the national banks by concealing documents from this Petitioner and refusing to allow this Petitioner from presenting his case.

The judge resigned after the Colorado Supreme Court forced the State judge out. In that case, the national banks have admitted they violated TILA, RESPA and Federal Fair Debt Collection Practices Act (FDCPA). See Petitioner's motion for summary judgment against Eagle for its fraud upon this Petitioner in the District of Colorado case 2018cv105.

This is not only my opinion, but the opinion of the Colorado Court of Appeals. In Appellant case 2011CA1537, the following Colorado Court of Appeals

judges, Roy, Webb, Roman, Fox, Furman, and Jones ruled in a trier of fact hearing the following:

> "The Court FURTHER NOTES that it does not appear that the pro se plaintiff (Petitioner) was ever properly served with the Orders of the district court" – "dismissal of a claim without prejudice does not constitute a final judgment" – the Eagle court is making "an end run around the final judgment rule since claims voluntarily dismissed without prejudice may be renewed." See *e.g. Emmitt v. Dickey*, 188 F. App'x 681, 683 (10th Cir. 2006); *Rabbi Jacob Joseph Sch. v. Province of Mendoza*, 425 F.3d 207, 210 (2d Cir. 2005). See App. 61-65.

Petitioner has a current motion pursuant to C.R.C.P. 54(b) on record with the Eagle court since 2009. The Eagle court refuses to answer Petitioner's motion. As the three-judge panel from the 10th Circuit did not review Eagle's ROA or the State-court's proceeding, their opinion is in error. Petitioner did file for review pursuant to C.R.C.P. Rule 54(b) as ordered by the State Appellate Court; the Eagle court refuses to answer. Thus, the 10th circuit's review exhibits plain error on its part.

For the past 13 years, Eagle has refused to conclude the subject case in violation of the judgment of the Colorado Court of Appeals. Although the national banks have admitted they violated TILA, RESPA, and FDCPA and Colorado law, the Eagle court refuses to uphold and enforce the above federal law.

For the past 13 years, Eagle has refused to serve this Petitioner court documents as cited in the

Colorado Court of Appeals order dated October 5, and November 2, 2011.

Clearly it's Eagle who is obstructing the conclusion of this case not the national banks as the national banks have already admitted they violated Petitioner's rights secured under Constitution and federal law.

Because Eagle is refusing to obey its superior court, the Colorado Court of Appeals restoring my civil rights which are secured under Constitution, they have committed extrinsic fraud.

Because Eagle has refused to serve me court documents and is refusing to conclude this Petitioner's case. Petitioner requested the Colorado Court of Appeals hold Eagle in contempt. The Appellate Court ruled it was without jurisdiction and or authority to hold a lower Colorado court in contempt for refusing to obey its orders and judgment, so ruled the Colorado Supreme Court. See App. 66-67 and "Neither the supreme court nor the grievance committee has the power or authority to institute or conduct disciplinary proceedings of any kind involving the conduct of a duly elected judge, he being responsible solely to the people, the constitution fixing the remedy at impeachment." See *In re Petition of Colo. Bas Ass'n*, 137 Colo. 357, 325 P.2d 932 (1958).

c. Eagle refuses to conclude Petitioner's case.

There is no dispute, Eagle is the party that is obstructing and or perverting Petitioner's path to justice.

Petitioner filed for contempt against the Eagle court for refusing to obey the Colorado Court of Appeals judgment issued on October 5, and November 2, 2011.

The Colorado Court of Appeals ruled it has no authority to hold its lower court in contempt. This decision is based upon the Colorado's Supreme Court's decision in *In re Petition of Colo. Bas Ass'n*, 137 Colo. 357, 325 P.2d 932 (1958).

Petitioner has already sought impeachment of the sitting judge. Thereafter, the sitting judge resigned. Subsequently, numerous substituted judges have also refused to serve this Petitioner court documents and to conclude Petitioner's State case. This is why this case came before the federal court pursuant to 42 U.S.C. {s}1983.

IV. Obstruction of Justice

This is a case regarding obstruction of justice that involves two State courts' extrinsic fraud. Whether its obstruction of justice or the wider offense of perverting the course of justice, it's Eagle who is refusing to obey the Colorado Court of Appeals order and judgment to serve me court documents it concealed during its proceeding and to conclude Petitioner's case allowing me to present my case.

Because this case represents a Constitutional violation and violation of federal law, Petitioner filed 42 U.S.C. §§ 1983-1985 case in hope of restoring his due process rights and or continuing the case in federal court because Eagle has refused to obey the Colorado Court of Appeals for the past 13 years.

V. Magistrate's opinion is plain error

Simply, Magistrate Neureiter used *Rooker-Feldman* and *Younger* to dismiss Petitioner case. Neither abstention doctrine is applicable because the State courts have committed extrinsic fraud upon this Petitioner.

a. *Rooker-Feldman*:

This Court in *Saudi Basic* and *Lance* opined that it had evoked *Rooker-Feldman* only twice. This Court made crystal clear in the above cases; *Rooker-Feldman* is a limited use doctrine. Meanwhile, the circuit/district courts exhibit a more radical interpretation, inconsistent with this Court's opinion.

A recent study by the Yale Journal on Regulation shed light on the explosive growth and use of *Rooker-Feldman* by district courts. The (2015) Yale analysis on the use of *Rooker-Feldman* establishes districts/circuits hold totally different views on *Rooker-Feldman's* use than this Court. Yale's factual analysis provides nearly *ten times* more district cases were dismissed under *Rooker-Feldman* from 2010-2014 than 1997-2001. See, Raphael Graybill, *The Rook That Would Be King:*

Rooker-Feldman Abstention Analysis After Saudi Basic, 32 Yale J. on Reg. (2015). http://digitalcommons.law.yale.edu/yjreg/vol32/iss2/10.

This case arises after Eagle and Bellco refused to obey orders/judgment of the Colorado Court of Appeals during 2011-2013; thirteen (13) years ago. Eagle's refusal to serve me court documents and its end-run around Colorado's final judgment rule exhibits extrinsic fraud.

When a judge is acting in contradiction to orders of the Colorado Court of Appeals refusing to serve court documents to this Petitioner and also actively preventing the Petitioner's case from moving forward, they exhibit extrinsic fraud and fraud upon the court.

Extrinsic fraud is an exception to the use of *Rooker-Feldman* to block a federal case from moving forward.

b. *Younger* Abstention Doctrine:

This Court never intended for their decision in *Younger v. Harris*, 401 U.S. 37 (1971) to aid criminal conduct of a sitting state judge whose intent was to commit immediate harm to this Petitioner.

As was detailed in the Colorado Court of Appeals order, the Eagle case is yet to be concluded. Yet Eagle has violated this Petitioner's due process rights by making an end-run around State law awarding over $100,000 to the defendants, although these same defendants admit under oath they violated the following

federal laws, TILA, RESPA, FDCPA and Colorado mortgage law. See Petitioner motion for summary judgment in the District of Colorado Docket case 2018cv105.

Bellco's State case was removed to federal court because of the criminal activities of the sitting judge. Currently, the criminal activities are under investigation by Colorado's 18th District Attorneys office and Denver's office of the Federal Bureau of Investigation.

c. Extrinsic Fraud:

Extrinsic fraud is fraud that induces one not to present a case in court or deprives one of the opportunity to be heard or is not involved in the actual issues. More broadly, it is defined as: fraudulent acts which keep a person from obtaining information about his/her rights to enforce a contract or getting evidence to defend against a lawsuit. This could include destroying evidence or misleading an ignorant person about the right to sue. Both judges in State-cases have actively sought to obstruct this Petitioner's path to justice by either refusing to obey their superior court or by making false representation under oath while sitting on the bench.

REASONS FOR GRANTING THE PETITION

This Court's was established under Article III of the Constitution to uphold and enforce federal law and the United States Constitution as the supreme law of the land.

This case is characterized by numerous errors made by a substituted Magistrate judge who had little if any knowledge of the material facts of the case. In deed the Magistrate refused to review Petitioner's motion for summary judgment against both Eagle and Bellco.

Magistrate Neureiter's analysis is in contradiction to judgments and decisions by nine (9) judges of the Colorado Court of Appeals and the Article III judge Christine Arguello in charge of the case. Judge Arguello stated the following in her opinion:

> "Having reviewed all exhibits to the pleadings, the Court disagrees with Magistrate Judge Neureiter's description of the outcome of the Litigation in Eagle County. Magistrate Judge Neureiter wrote that Eagle County District Court entered judgment against Plaintiff . . . . . the record reveals that Zions Bank had voluntarily dismissed its counter claims (without prejudice) on March 18, 2011."

As ruled by the Colorado Court of Appeals on October 5, and again on November 2, 2011:

> "The march 18, 2011 order is a voluntary dismissal of the cross-claims without prejudice. Therefore, it appears that regardless of service of

> the order on appellant, it was not a complete resolution of the action. . . . .dismissal of a claim without prejudice does not constitute a final judgment."

There is no question that Magistrate's Neureiter's opinion is erroneous and the panel's support is wrong.

This petition comes before this Court because Eagle refuses to sever court documents during their proceedings to this pro se Petitioner violating my rights of Due Process a right secured by the Constitution. Furthermore, Eagle refuses to uphold and enforce the following federal law pursuant to TILA, RESPA, and FDCPA which the national banks in the subject case have admitted they violated.

Moreover, the Colorado Court of Appeals and Colorado Supreme Court refuse to take control of this case because they have ruled they have no authority over duly elected judges of Eagle County and Arapahoe County, Colorado.

It would seem that no court, State or federal, lies responsible for the misconduct of duly elected judges. Which represents a miscarriage of justice.

In addition, this case is before federal courts because the Eagle court, willfully with the intent to defraud this Petitioner, made an end-run around Colorado's judgment rule. The Colorado Court of Appeals clearly ruled:

> "Allowing the appeal of claims dismissed with prejudice while other claims have been dismissed

> without prejudice may permit an appeal that is an end-run around the final judgment rule since the claims voluntarily dismissed without prejudice may be renewed. See e.g. Emmitt v. Dickey, 188 F. App'x. 681, 683 (10th Cir.2006); Rabbi Jacob Joseph Sch. v. Province of Mendoza, 425 F.3d 207, 210 (2d Cir. 2005)."

Because numerous Eagle judges have refused to obey their superior court, four judges from that district have been forced to resign; unfortunately, these judicial resignations have not solved the Constitutional violations against this Petitioner.

As this Court has adjudged, neither *Rooker* nor *Feldman* elaborated a rationale for a wide-reaching bar on the jurisdiction of lower federal courts. Cases since *Feldman* have tended to emphasize the narrowness of the *Rooker-Feldman* Doctrine.

Rooker-Feldman does not apply to parallel state and federal litigation. *Rooker-Feldman* has no application to judicial review of action made by a state agency. *Rooker-Feldman* does not bar actions by a nonparty to the earlier state suit, and this Court has never applied *Rooker-Feldman* to dismiss an action for want of jurisdiction. See, *Lance v. Dennis*, 546 U.S. 459, 464 (2006).

Finally, *Rooker-Feldman* has no application when the court itself has committed extrinsic fraud upon this Petitioner.

Congress has directed federal courts to look principally to *state* law in deciding what effect to give state-court judgments. Incorporation 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.

Thus, this Court should and must overturn the Magistrate's and Circuit's opinion as this Court is tasked with upholding a person's rights secured under the Constitution.

As this Court has opined in *City of Canton, Ohio v. Harris, Supra*, municipalities are liable for inadequate training of employees. The Colorado Supreme Court holds clerks of their respective courts in Colorado are not considered state officers. *Trimble v. People*, 34 P. 981 (Colo. 1893); *The Colorado State Constitution* by Dale A. Oesterle, ISBN# 9780199778843; Section 2, Page 306.

The District's and Circuit's dismissal of Petitioner's complaint pursuant to *Rooker-Feldman* and the *Younger Doctrine* is improper because of the State-court's extrinsic fraud upon this Petitioner.

Attorney Fees:

As the magistrate's opinion is simply wrong any award of attorney fees should be denied or overturned. Simply, the magistrate has it completely wrong. In the United States, the general rule, which derives from common law, is that each side in a legal proceeding pays for its own attorney.

Petitioner's case was not brought in bad faith. In fact it's crystal clear that Eagle and Bellco are engaging in criminal conduct against this Petitioner. The award of attorney fees is absurd, as this Petitioner has and is sustaining damages at the hands of Eagle and Bellco.

CONCLUSION

Under Colorado law the standard for judge disqualification is clear:

> "C.R.C.P. Rule 97 provides the following: A judge shall be disqualified in an action in which she/he is interested or prejudiced, or has been of counsel for any party, or is or has been a material witness, or is so related or connected with any party or his attorney as to render it improper for him to sit on the trial, appeal, or other proceeding therein. A judge may disqualify herself/himself on their own motion for any of said reasons, or any party may move for such disqualification and a motion by a party for disqualification shall be supported by affidavit."
>
> "Upon the filing by a party of such a motion, all other proceedings in the case shall be suspended until a ruling is made thereon. Upon disqualifying herself/himself, a judge shall notify forthwith the Chief Judge of the district who shall assign another judge in the district qualified, the Chief Judge shall notify forthwith the court administrator who shall obtain from the Chief Justice the assignment of a replacement judge."

All judges in the above cases have refused to recuse themselves from the proceedings. They have done so to conceal their criminal conduct. It's hard enough to be damaged by the large financial institution who holds immense power in the justice system, let alone to be damaged again by judges who act with criminal conduct for the financial institution.

This is a simple case, the national banks who defraud this Petitioner have admitted under oath they violated TILA, RESPA, FDCPA and Colorado law. Simply, the Eagle judges have refused to hear argument acting as an advocate for national banks.

Bellco colluded with another state judge in criminal activities to obstruct this Petitioner from removing a case to a court of equity. That judge's criminal activity is now under investigation by the District Attorneys Office and the Federal Bureau of Investigation.

Thus, the case should be reversed and remanded to the District for further proceedings subject to this Court's opinion.

Respectfully,

REED MCDONALD