APPENDIX

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APPENDIX A

NOT RECOMMENDED FOR PUBLICATION
File Name: 21a0551n.06

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

No. 21-5511

[Filed December 1, 2021]

IN RE: MAY 2011 ORDER and MAY 2012 JUDGMENT.

JUDY WRIGHT,	)
	)
Claimant-Appellant,	)
	)
v.	)
	)
MAY 27, 2011 ORDER and MAY 22, 2012 JUDGMENT,	)
	)
Defendants-Appellees.	)
	)

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TENNESSEE

OPINION

BEFORE: BOGGS, THAPAR, and BUSH, Circuit Judges.

JOHN K. BUSH, Circuit Judge. Judy Wright filed this action against two "defendants": an order issued by the Shelby County, Tennessee, Probate Court on May 27, 2011 (which she labeled "Res One"), and a judgment affirming that order, handed down by the Tennessee Court of Appeals on May 22, 2012 (called "Res Two"). She argues the judge that issued the first order undermined the appearance of judicial neutrality, in violation of the Fourteenth Amendment, because he had drafted trust documents and advised trust-estate clients in private practice before joining the bench, and that the Tennessee Court of Appeals compounded the violation by affirming. The district court below understood Wright to be requesting that a federal court set aside an unfavorable state court ruling, so it applied the *Rooker–Feldman* doctrine[1] and dismissed the complaint in its entirety. *In re May 27, 2011 Order*, No. 2:20-cv-02153-TLP, 2020 WL 6532850 (W.D. Tenn. Nov. 5, 2020).

That ruling is understandable. Federal district courts lack statutory jurisdiction to entertain direct appeals of final state-court judgments. But we think Wright's jurisdictional problem runs deeper. Specifically, we find no basis to conclude that she has standing to bring this suit. *See Grendell v. Ohio Sup. Ct.*, 252 F.3d 828, 832 (6th Cir. 2001) ("Standing is the

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[1] *Rooker v. Fid. Tr. Co.*, 263 U.S. 413 (1923); *D.C. Ct. of Appeals v. Feldman*, 460 U.S. 462 (1983).

threshold question in every federal case." (quotation omitted)); *see also Chapman v. Tristar Prods., Inc.*, 940 F.3d 299, 304 (6th Cir. 2019) ("[W]e are required in every case to determine—sua sponte if the parties do not raise the issue—whether we are authorized by Article III to adjudicate the dispute." (citation omitted)).

Federal courts can only decide "Cases" or "Controversies." U.S. Const. art. III, § 2. That basic requirement is explained by "a series of 'justiciability doctrines,' including, 'perhaps the most important,' that a litigant must have 'standing' to invoke the jurisdiction of the federal courts." *Parsons v. U.S. Dep't of Just.*, 801 F.3d 701, 710 (6th Cir. 2015) (quoting *Nat'l Rifle Ass'n of Am. v. Magaw*, 132 F.3d 272, 279 (6th Cir. 1997)). "The 'irreducible constitutional minimum' for standing requires [Wright] to show (1) a particular and concrete injury (2) caused by [the defendants] and (3) redressable by the courts." *Hagy v. Demers & Adams*, 882 F.3d 616, 620 (6th Cir. 2018) (quoting *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560–61 (1992)). To be concrete, the injury "must actually exist." *Spokeo, Inc. v. Robins*, 578 U.S. 330, 340 (2016). It is not enough that a plaintiff simply "allege a bare procedural violation, divorced from any concrete harm" to "satisfy the injury-in-fact requirement of Article III." *Id.* at 341 (citing *Summers v. Earth Island Inst.*, 555 U.S. 488, 496 (2009)).

But such a bare-bones pleading is all that Wright has filed. The named "defendants" are a Tennessee Probate Court order and Tennessee Court of Appeals judgment. A court's words can hurt, but that is not the

type of harm that Article III requires for standing. Wright admits that the alleged judicial bias caused no concrete injury; in fact, she admits that the probate court "correctly adjudicated the merits" of her motion. And her prayer for relief asks that "no human person and/or entity-person" be ordered "to do or not to do anything." Instead, she wants the "status" of both orders be "adjudicate[d]" as "void *ab initio* non-judgment[s]" because of the alleged procedural violation. That is something we cannot do, for "federal courts do not issue advisory opinions." *TransUnion LLC v. Ramirez*, 141 S. Ct. 2190, 2203 (2021). By asking a federal court to void a "correctly adjudicated" order, an advisory opinion is all that Wright is asking for.[2] The district court could not exercise jurisdiction over Wright's case, and neither can we.[3] We affirm.

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[2] That Wright styles this an "*In Rem* Independent Action" and grafts civil-forfeiture language onto her complaint does not save her case. *See, e.g., Herring v. F.D.I.C.*, 82 F.3d 282, 285 (9th Cir. 1995) ("Rule 60(b) does not *grant* anyone standing to bring an independent action; it merely does not restrict any standing a party otherwise has.").

[3] Because Wright named two state court orders as defendants, there is no opposing party here to receive an award of sanctions. *See, e.g., Larry E. Parrish P.C. v. Bennett*, 989 F.3d 452, 457–58 & n.4 (6th Cir. 2021) (awarding sanctions against Wright's counsel in an "eerily similar" case); *see also* 28 U.S.C. § 1927; Fed. R. App. P. 38.

APPENDIX B

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TENNESSEE WESTERN DIVISION

No. 2:20-cv-02153-TLP-tmp

[Filed November 5, 2020]

IN RE: MAY 27, 2011 ORDER	)
	)
*Res O*ne,	)
	)
Defendant,	)
	)
and	)
	)
IN RE: MAY 22, 2012 JUDGMENT,	)
	)
Res Two,	)
	)
Defendant.	)
	)

JUDGMENT

JUDGMENT BY COURT. This action came before the Court on Claimant's Complaint, filed on March 3, 2020. (ECF No. 1.) In accordance with the Order on Motion for Judgment on the Pleadings (ECF No. 12), entered by the Court,

IT IS ORDERED, ADJUDGED, AND DECREED that this action is **DISMISSED WITH PREJUDICE**.

APPROVED:

s/ Thomas L. Parker
THOMAS L. PARKER
UNITED STATES DISTRICT JUDGE

November 5, 2020
Date

APPENDIX C

Case No. 21-5511

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

[Filed December 14, 2021]

ORDER

JUDY WRIGHT	)
	)
Claimant - Appellant	)
	)
v.	)
	)
MAY 27, 2011 ORDER; MAY 22, 2012 JUDGMENT	)
	)
Defendants - Appellees	)
	)

BEFORE: BOGGS, Circuit Judge; THAPAR, Circuit Judge; BUSH, Circuit Judge;

Upon consideration of the petition for rehearing filed by the appellant,

It is **ORDERED** that the petition for rehearing be, and it hereby is, **DENIED**.

ENTERED BY ORDER OF THE COURT
Deborah S. Hunt, Clerk
/s/ Deborah S. Hunt

Issued: December 14, 2021

APPENDIX D

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TENNESSEE AT MEMPHIS

No.2:20-cv-02153

[Filed March 3, 2020]

IN RE: MAY 27, 2011 ORDER	)
	)
Res One	)
	)
Defendant,	)
	)
and	)
	)
IN RE: MAY 22, 2012 JUDGMENT	)
	)
Res Two	)
	)
Defendant.	)
	)

JURY DEMANDED

IN REM INDEPENDENT ACTION BY WHICH CLAIMANT STATES CLAIM OF INTEREST IN THE STATUS OF *RES* ONE AND STATUS OF *RES* TWO AS "JUDGMENTS" VOID *AB INITIO*

COMES NOW, Judy Morrow Wright (hereinafter "**First Claimant**"), pursuant to ***Federal Rules of***

Civil Procedure, Rule 60(b)(4) and Rule 60(d)(1)(hereinafter **"Federal Rule 60"**)[1] and ***Tennessee Rules of Civil Procedure***, Rule 60.02(3) and Rule 60.02(5) (hereinafter **"State Rule 60"**), and states, by this In Rem Independent Action, First Claimant's claim of interest in *Res* One, Defendant, May 27 Order (para. 15; quoted in part para. 148) **and** *Res* Two, Defendant, COA Affirmance (*infra* para. 4) the status[2] of each *res* is that of void *ab initio*

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[1] Because the "Independent Action" is not often encountered by courts or adjudicators, attention is directed to a history of Federal Rule 60(b)(3) (State Rule 60.02(3)'s counterpart rule) in the *Federal Rules of Civil Procedure*, which is traced, in Wagner, D.W., *Invalidating A Judgment For Fraud … And The Significance Of Federal Rule 60(b)*, 3 **Duke Law Journal** 41-51 (1952) **Exhibit A hereto**). The fact that "fraud" is in article's title should not mislead; the content of the article is more expansive than might be assumed because of the word "fraud" so used. State Rule 60 (ADVISORY COMMISSION COMMENT "This Rule supersedes chapter 7 of Title 27, T.C.A., dealing with the writ of error coram nobis, and T.C.A. §§ 27-203, 27-204 [both repealed] dealing with bills of review. The Committee felt that it was better to bring together under one Rule the subject matter formerly covered by these statutes and to provide a simple remedy by motion or by separate suit to obtain relief under the circumstances set out in the Rule.") exists to provide a procedure by which to carry the function performed by the common law Bill of Review and common law writ of coram nobis.

[2] ***Kemper-Thomas Paper Co. v. Shyer***, 108 Tenn. 444, 67 S.W. 856, 859 (1902) ("All of the language herein taken from Cooper v. Reynolds, supra, and much of that taken from Pennoyer v. Neff, supra, in reference to the **absolute limitation** of the tribunal's **jurisdiction** in a proceeding quasi **in rem** to the **disposition of** the nonresident's **property** thereby brought **in**to **custodia legis**, was repeated with approval, and adopted as expressive of the court's opinion, in Freeman v. Alderson, 119 U. S. 185, 7 Sup. Ct.

non-judgment[3] so that neither *res* has any status as a judgment of any court.

[p. 41]

[* * *]

> **FOR FURTHER CAUSE**, Movant **supports** the instant motion **by** the **Affidavit** of Larry E. Parrish, filed under separate cover, on November 26, 2012, **and** the **Affidavit** of Personal Representative, filed under separate cover, on November 26, 2012, which affidavits, as filed, are incorporated herein by reference, the same as if quoted here verbatim. (emphasis added).

154. On November 27, 2011, Estate filed in Probate Court, what is titled "Affidavit Of Larry E. Parrish In Support Of Renewed Motion To Recuse" which is attached, as Exhibit H hereto, and incorporated herein by reference the same

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165, 30 L. Ed. 372. That opinion continues: "To this statement of the law may be added what, indeed, is a conclusion from the doctrine, that, whilst the **costs** of an action may properly be satisfied out of the property attached or otherwise brought into the control of the court, **no personal liability** for them can be created against the absent or nonresident defendant; the **power of the court** being **limited**, as we have already said, **to the disposition of the property**, which is alone within its jurisdiction.") (emphasis added).

[* * *]

[3] See n. 10, *infra*.

as if quoted here verbatim, which includes the following in enumerated paragraphs 1, 2, 10, 14-28, 31-37, 40-58:

> 1. This case, classically, presents a conflict which tests whether, when entrenched and indubitable Tennessee common law etched in stone and reaffirmed from 1796 through June 30, 2004 is brought to bear on etched-in-stone, progressively from on or about 1970 and, since that time, has become universally practiced status quo in Tennessee that violates the common law, is the law sacrificed on the altar of status quo or does status quo fall at the feet of the law?
>
> 2. Estate contends the latter, and SunTrust contends the former.
>
> ***
>
> 10. Pending before Judge Benham, awaiting adjudication, are the following motions:
>
> - Motion of Estate, Pursuant to *Tennessee Rules of Civil Procedure*, Rule 11.02(2) and Rule 11.02(3), For Sanctions, filed October 18, 2011.

- Estate's claim, presented by a Personal Representation that was not, personally or otherwise, a party to any prior chancery court case.

- Motion of Estate, filed in Docket No. 10137, to correct error of Clerk of Court and to reassign a new docket number.

- Motion of Matthew Buyer to probate, a writing as the will of Helen B. Goza and Estate's objection to probating the writing be probated as Helen B. Goza's will.

- Motion Of Personal Representative to Appoint Larry E. Parrish To Replace David L. Morrow, Jr. as Personal Representative, filed November 25, 2012

- Motion of SunTrust Bank for an award of attorneys fees and costs.

***

14. As a practitioner concentrating his practice in trust and estate law before, during and after the continuing consumer "avoid probate" craze spawned by Dacey, Judge Benham was among the leading trust and estate attorneys in Shelby County to use the revocable living trust to satisfy the demand of clients desiring to "avoid probate," i.e., maintain complete control of all assets while alive and, by an "agreement" during the settlor's lifetime, control distribution of assets after the settlor's death without involvement of a probate court.

15. Even though contrary to centuries old common law, the revocable living trust was widely believed among many practitioners and legal scholars to have the capacity to allow a settlor to maintain complete control of the trust corpus (the settlor's assets), including the power to revoke the revocable living trust during the settlor's lifetime, and, at the same time, control distribution of the revocable living trust corpus, without probate, after the settlor's death; this was seen as the perfect

have-your-cake-and-eat-it-too device.

16. The popularity of the revocable living trust, touted in the media, American Bar Association, and Dean Casner, a leading Harvard scholar on trust and estates, created a consumer demand on trust and estate lawyers in Shelby County, as well as around the United States, for revocable living trusts as the mechanism by which to control, without probate, post-death distribution of assets.

17. Though I never discussed the subject personally with Judge Benham, during his private practice, I have been told by Judge Benham's peers that Judge Benham served as the attorney for numerous clients preparing for them revocable living trust agreements to accomplish for clients the have-your-cake-and-eat-it-too objective.

18. It probably is safe to say, because the revocable living trust has been a key stable used for estate planning in Tennessee for as long as many jurists presently serving on the bench, personally, have

estate plans that include revocable living trusts.

19. To avoid breaching confidences, I will withhold names, but, by hearsay, make oath, that I have been told by a person who professes to have firsthand information, that, while Judge Benham was practicing, Judge Benham, literally, drafted for clients what may be thousands of revocable living trust agreements.

20. From what I am told, the revocable living trust agreements, routinely and on multiple occasions, drafted by Judge Benham, while he was practicing law, in no material respects, deviated in form or substance from the revocable living trust agreement which is the center of the controversy between Estate and SunTrust Bank (hereinafter **"SunTrust"**), save only that each revocable living trust agreement differs from the other with regard to particulars customized for a particular client/settlor.

21. Again, to avoid breaching confidence, I will withhold the names, but make oath that I have been told by persons professing to

have firsthand knowledge, that, for Judge Benham to rule that The Helen B. Goza Revocable Living Trust, at the moment of Mrs. Goza's May 15, 2001 death, terminated and that The Helen B. Goza Revocable Living Trust Agreement, after Mrs. Goza's death, had no force or effect, leaving the corpus thereof to be distributed by probate, in terms of practical effect, would cause Judge Benham to rule that advice Judge Benham, while a practicing lawyer, gave clients (probably hundreds in number) was inconsistent with law controlling at the time he gave the advice.

22. If Judge Benham self-reported that Judge Benham, any member of Judge Benham's family (including spouse, parents, siblings, children or grandchildren) was either a beneficiary, a settlor or a trustee of a revocable living trust living where the settlor died prior to July 1, 2004 and/or what is thought to be a "trust," referred in a revocable living trust agreement (where the settlor died prior to July 1, 2004), which was funded for the first time after the pre-July 1, 2004 death of the revocable living trust settlor,

Judge Benham would be disqualified to administer Estate for the same reason a judge who owned stock in a litigant company would be disqualified, i.e., financial interests of the judge might possibly be or appear to be affected, positively or negatively, by the judge's ruling.

23. For all of the years that I have practiced law in Shelby County, it has been common knowledge and known to me that the attorneys in Shelby County concentrating their practices on trust and estate law were a relatively small group of lawyers who had a special collegiality and familiar relationships with the various trust departments and trust department employees; so, the relationships, between and among those lawyers, was and continues to be perceived to have a fraternity-like quality.

24. From my knowledge, Judge Benham, before assuming the bench, was a long-time member of the trust and estates bar in Shelby County and, on assuming the bench, without implying any conflict-of-interest, the previously

formed collegial relationships, formed over decades practicing trust and estate law in Shelby County, endured.

25. One of the lawyers in Shelby County who was and remains a highly respected member of the trust and estates bar in Shelby County and with whom Judge Benham enjoyed a collegial relationship, while Judge Benham was a practicing member of the trust and estates bar in Shelby County, was/is Michael Potter, Esq.

26. I know Mr. Potter from only having met him once (when I took his deposition) but have known his reputation, as a long-practicing attorney in Shelby County, to be exemplary, and I have no personal disrespect for him and no interest or desire to cause Mr. Potter any negativity.

27. Without any innuendo of disregard for Mr. Potter or that the collegial relationship between Judge Benham and Mr. Potter disqualifies Mr. Potter from practicing law before Judge Benham, the fact of the matter is that Mr. Potter is the draftsman of

The Helen B. Goza Revocable Living Trust Agreement and the attorney who advised Helen B. Goza to execute The Helen B. Goza Revocable Living Trust Agreement as an instrument that would allow Mrs. Goza to maintain complete control over her assets during her lifetime and, at the same time, control distribution of those same assets after Mrs. Goza's death without need for probate, i.e., the have-your-cake-and-eat-it-too device.

28. The Helen B. Goza Revocable Living Trust Agreement differs in no material way from revocable living trust agreements drafted, not only by Judge Benham and Mr. Potter, but, virtually, by all other members of the trust and estate bar in Shelby County; advising clients and drafting revocable living trust agreements to accomplish the purposes stated above is a standard practice which has prevailed in Shelby County for decades.

31. It is my opinion, which is shared by attorneys who mutually are my friends and friends of Judge Benham, that the foregoing

realities create for Judge Benham, with respect to his adjudication of the issues concerning The Helen B. Goza Revocable Living Trust and The Helen B. Goza Trust Agreement, an unusual pressure mitigating against Judge Benham holding true to the reputation Judge Benham has created for himself after becoming a Probate Judge, i.e., to make hard decisions that go against his personal inclinations in order to adjudicate strictly in accordance with rule of law.

32. While knowledgeable trust and estate attorneys with whom I have discussed he details of the issues, concerning a ruling that The Helen B. Goza Revocable Living Trust terminated with Mrs. Goza's May 15, 2001 death and that The Helen B. Goza Trust Agreement had no force and effect after Mrs. Goza's death, are concerned that potential "negative" results would flow from such a ruling, none can deny that rule of law in Tennessee dictates an adjudication that (1) The Helen B. Goza Revocable Trust, by operation of law, terminated the moment of Mrs. Goza's death on May 15, 2001, that (2) the Helen B.

Goza Trust Agreement has had no force and effect since Mrs. Goza's death and that (3) the termination, having occurred, the corpus of what had been The Helen B. Goza Revocable Living Trust was required to be distributed by probate.

33. Equally so, though Mr. Potter prepared a writing purporting to evidence a pourover will for Mrs. Goza, the writing directs distribution to a non-existent trust, i.e., a trust that could only have been created, i.e., come into existence, if The Helen B. Goza Trust Agreement had force and effect after Mrs. Goza's death; therefore, the writing drafted to be a pourover will is non-probatable as a will; thus, the former assets of the terminated Helen B. Goza Revocable Living Trust are distributable only by intestate distribution in probate.

34. While I can find no person who disputes (though there are some who, on first blush, will argue until they run into the brick walls of law and logic) what rule of law on point is, uniformly, because of the "negative" results a ruling

consistent with rule of law is feared to have, all of the trust and estate lawyers with whom I have spoken are convinced that Judge Benham "just won't let it happen;" a repeated comment is that there is just too much at stake.

35. The question raised by the renewed motion to transfer or recuse is whether Estate has a right, even a constitutional right, to have the critical question adjudicated by a jurist other than one who was an architect and artisan who, in Shelby County, helped design and etch the status quo in stone and who, personally, stands to lose face and possibly have to defend (depending on statute of limitations discovery rule and a host of other consideration) personal liability claims for professional negligence, if not more, if law defeats the status quo.

36. This affidavit includes hearsay in hopes of avoiding the necessity to call witnesses who are mutual friends of Judge Benham and I, who very much do not wish to be placed in a position to have to testify, but who, like Judge

Benham and I, are honest and will tell the truth if required to testify, even though they would resent being required to testify, and some would blame me and others would blame Judge Benham.

37. It is my hope that requiring testimony and the subpoenaing records can be avoided by the fact that what is revealed by hearsay in this affidavit is, hopefully, well enough known history, even without the names of the declarants, that Judge Benham would not need to hear the declarants firsthand or see the subpoenaed records, many of which he would have drafted.

***

40. On May 23, 2011, I was present and observed firsthand the following exchange, in open-court:

> Mr. Jones [counsel for SunTrust]:
>
> ***
>
> Your Honor, at the mediation, despite the Court's order, only one of the eight heirs attended.

***

The Court: Was that [an heir who refused to sign a proposed settlement agreement signed by Personal Representative] heir present?

***

The Court: Mr. Parrish, was that heir present?

Mr. Parrish: No, that heir was not present and the settlement agreement was signed –

The Court: Did I order all of them [the heirs] to be there?

Mr. Parrish: No, Your Honor. They're not parties. They are personal representatives of the parties.

The Court: Did I order all parties to be there, Mr. Parrish?

Mr. Parrish: You ordered all parties to be there, yes.

The Court: And apparently this person saw fit not to be there?

Mr. Parrish: None of the heirs were there.

The Court: Okay. That's all I need to know. How can you settle a matter if all the beneficiaries are not there?

Mr. Parrish: The confidentiality agreement is what it is and I will answer Your Honor's question.

The Court: How can you settle a matter without all the parties being there?

Mr. Parrish: The agreement that was made was contingent – the counter offer that was made was contingent on all of the heirs –

The Court: I can't see it. And I don't want to hear anymore.

Mr. Parrish: The settlement that was signed was not a settlement with the heirs.

> The Court: Okay. Well, can't the personal representative bind the heirs?
>
> ***
>
> The Court: I've spent a whole lot of time on this case.

41. While a bland reading of the above-quoted words evidences no intemperance, being only days away from 45 years uninterruptedly practicing law, having appeared before multiplied dozens of different trial and appellate judges in courts throughout the United States, including being lead attorney in too many hotly contested and emotionally charged proceedings before judges strongly and philosophically inclined/disinclined toward one position or another, I have witnessed displays of intemperateness on the part of judges, from time to time, but, thankfully, not often.

42. Only on two other occasions have I witnessed judicial intemperance nearing the intemperate outburst of Judge Benham as the

above-quoted words were exchanged in open court.

43. In the proceedings in question, Judge Benham, while standing and in a discernibly raised tone, red-faced, with a scowl and evident animosity leveled the legally and factually baseless accusation.

44. The statements by Judge Benham were incorrect and improper, legally and factually, in five significant respects: **(1)** nothing in law or in fact required nor was it ordered or ever anticipated that beneficiaries of Estate would travel for hundreds of miles from different directions from throughout the United States to Memphis to be present at the mediation, **(2)** by no stretch were heirs parties to the *in rem* proceeding, filed by Estate, to garner Estate's assets from the possession of SunTrust Bank, **(3)** all of the heirs interests were represented at the mediation by Personal Representative, who, signed the agreement, but SunTrust refused to accept Personal Representative's signature as sufficient, **(4)** Judge Benham, without stopping

SunTrust, received from SunTrust information about mediation even though, by ***Supreme Court Rule 31***, every aspect of mediation was highly confidential and each of the participants signed a strongly worded confidentiality agreement as a prerequisite to participation in the mediation, **(5)** Judge Benham made an assumption about a confidential proposed settlement agreement that was one-hundred percent (100%) contradictory to the terms of the settlement agreement, i.e., SunTrust, not Estate and not Personal Representative, was 100% responsible for no settlement being effectuated because SunTrust insisted on a perfectly unnecessary condition precedent that required each of the heirs to sign the settlement agreement; Personal Representative signed the agreement.

45. Judge Benham followed the intemperance, as described above, with entry of an order against Estate that, on its face, irrespective of whether Judge Benham thought he was correct on the law, evidences gratuitous castigation of Personal

Representative for which there is no basis in law or fact.

46. The order speaks for itself and includes statements of objective fact for which there is not an iota of substantiation but for which the record clearly reflects the opposite with forewarnings.

47. As a matter of objective fact, Estate was not a party to any prior chancery court proceedings; indeed, Estate was not created, by Probate Court's issuance of letters of administration, until months after the referred to chancery court proceedings were terminated by a Final Judgment.

48. Without a hearing, Judge Benham prejudged, by forewarning that Judge Benham was going to award attorneys fees against Personal Representative and in favor of SunTrust.

49. As a matter of fact, by Judge Benham's actions in court, Judge Benham intimidated and frightened Personal Representative who, literally, fears Judge Benham, convinced that Judge Benham is dead-set on vengeance toward Personal Representative for

some infraction of which Personal Representative is oblivious. (see para. 64, *infra*).

50. Whether Judge Benham, as a matter of fact, is able to approach all that lies before him to adjudicate with utter impartiality and with lack of bias or prejudice (which I believe is impossible), there is nothing Judge Benham could do to undo the appearance Judge Benham has conveyed to the Personal Representative that Judge Benham is biased and prejudiced against Personal Representative and intends to take vengeance on him.

51. While I have attempted to assuage the fear of the Personal Representative, it has been impossible because of what I consider to be indelibly imprinted acts of Judge Benham, in person, that ring out prejudice and bias which, to Personal Representative, is confirmed by the gratuitous intemperance in the written order referenced above [Exhibit B hereto, para. 148, *supra*].

52. From my experience, it is virtually impossible to dissuade a litigant like the Personal Representative

who draws conclusions which are rational and based on firsthand evidence that any reasonable person would interpret the same as Personal Representative has interpreted; for me to attempt to dissuade Personal Representative from the conclusions Personal Representative has reached, by appealing to precepts of the law about the ability of a jurist to be impartial and unbiased even though the jurist appears to the contrary, i.e., any unbiased reasonable person, witnessing what Personal Representative has witnessed, would conclude that the jurist is unfair, bias and prejudiced.

53. I perfectly understand Personal Representative's feelings because, in my attempts to explain away the significance of what is detailed above, to him, as would be the case with any reasonable person, I am being disingenuous because what I say so departs from real life; on reflection, I believe the Personal Representative's feelings are justified, i.e., when he appears before Judge Benham, he has no sense of being before a judge; rather his feelings are more those

of a person appearing before his henchman, as would any reasonable person in Personal Representative's shoes.

54. It is my opinion that, for Judge Benham to continue to adjudicate issues before Probate Court concerning Estate tarnishes the integrity of the judiciary, i.e., even if Judge Benham adjudicated every issue left to be adjudicated in favor of Estate, the appearance, even if not justified, would be that Judge Benham was or may have been motivated by factors other than strict adherence to rule of law.

55. Even though Judge Benham's rulings might not conform to rule of law, I am convinced that Judge Benham earnestly believes that his rulings are the "right" thing to do, considering all of the circumstances, i.e., the effect applying the law to defeat the status-quo practice, in Judge Benham's view would be a "wrong" thing to do; however, it is my most earnest professional opinion that Judge Benham perceives what is the "right" thing through eyes that are encased in a human body with DNA changed by Judge Benham

having practiced law based the status quo for so many years that, at this time in Judge Benham's history, it is impossible for Judge Benham to approach adjudication of issues concerning The Helen B. Goza Revocable Living Trust and The Helen B. Goza Revocable Living Trust Agreement with a blank slate tested by nothing other or more than the grid of Tennessee common law.

56. In my opinion, there is little or no substantive difference in Judge Benham attempting to adjudicate issues concerning The Helen B. Goza Revocable Living Trust and The Helen B. Goza Revocable Living Trust Agreement than would be the case if Judge Benham were called on to adjudicate issues where his **wife and children were parties to the litigation**.

57. In terms of actuality, there is the theoretical possibility that Judge Benham could adjudicate, fairly and without any pressure from the circumstances, issues involving his wife and children; however, the law automatically intervenes to rescue Judge Benham from even attempting to so adjudicate

because the law recognizes that such a task would be virtually superhuman.

58. All who know Judge Benham, understand his personality to be friendly, outspoken, gregarious, opinionated, passionate, sometimes expressive in a loud (booming) voice; these personality traits are who Judge Benham is and have served Judge Benham well; however, in the context of having to rule on issues presented by the instant case, his personality traits have the effects of charging up Judge Benham at an emotional level inconsistent with judicial temperance.

155. On November 27, 2011, Estate filed in Probate Court, what is titled "Affidavit Of Personal Representative" which is attached, as Exhibit I hereto, and incorporated herein by reference the same as if quoted here verbatim, and which includes the following in enumerated paragraphs 1, 4, 10-12, 31-34, 39-41, 45-46, 55-67, 70-76:

1. I give this affidavit in my capacity as Personal Representative of The John J. Goza Estate (hereinafter **"Estate"**) and not in my capacity as an heir of Estate but including

information about me personally, in no representative capacity.

***

4. I am not a person who ordinarily assumes an out-front leadership position in matters not directly connected with my personal family; so, being Personal Representative is outside my zone of comfort and nothing I ever would have chosen to do except for the fact that I was the only heir of my cousin, John J. Goza (with whom I had a close and loving relationship all of his life), who lived in Tennessee.

***

10. I have never been an active participant in any lawsuit.

11. In my jury service, the adoption of my son and when appointed as guardian for my cousins, I have always found the judges to be respectful and respectable, including Judge Benham when he appointed me guardian of my cousin.

12. This is the textbook view of what I thought a judge was to be.

***

31. Early on, there were threats from SunTrust that, if the proceedings that were filed by Estate to force SunTrust to turn over the money to Estate continued, SunTrust would be awarded attorney's fees incurred by SunTrust in defending the claims of Estate and that I, personally, would have to pay those fees.

32. The prospect that I, personally, might have to pay attorney's fees strikes fear in me because I do not have any money from any source with which to pay any attorney's fees to SunTrust or anybody else.

33. In the most serious way, I was and remain intimidated by the prospect that I, personally, might have to pay attorney's fees.

34. The prospect that I, personally, might have to pay SunTrust's attorney's fees in order for me, as Personal Representative, to pursue Estate's action to force SunTrust to turn over the money to Estate to benefit the 9 heirs strikes enough fear in me to cause me, personally, to think about giving up my in interest as an heir.

***

39. I have been extraordinarily attentive to everything that has occurred in court involving Estate, especially since doing the duty of Personal Representative is threatening to harm me, personally.

***

41. I am, by nature, a private person and sensitive to personal criticism.

42. As Estate's pursuit of its claims have progressed, the proceedings in court have centered on me, personally (not on Personal Representative), including what I consider to be assassinations of my character, by false accusations, and by giving the impression that I, personally, am a greedy person seeking to reverse the intentions of my aunt, Helen B. Goza.

45. Estate's claim raises two questions: (i.e., Did my aunt's revocable living trust agreement die when she died? Did a perpetual charitable trust entitled to my aunt's estate ever come into existence?).

46. As Personal Representative, these questions seem like very simple questions able to be answered either "yes" or "no," and a "yes"

answer to the first question makes the second question unnecessary.

***

55. Laying aside everything above, what I have seen Judge Benham do when I have watched and listened to him has shattered any confidence that Judge Benham is allowing Probate Court to function as a court but is, instead, using his office and the authority of Probate Court to kick Estate out of court to avoid having to rule on Estate's legal claims.

56. To me, Judge Benham is known only from the acts I have witnessed as I have served as Personal Representative, i.e., before this experience, I knew nothing of Judge Benham, good or bad, but had only the encounter when he appointed me to be my cousin's guardian.

57. As to Judge Benham, I came to this case with a blank slate and no preconceived ideas, good or bad.

58. I did come to Judge Benham with the ordinary and commonplace belief that judges are to be highly respected, deserve to be honored and know the law and who

blindfolded (like the statute) and apply the law no matter who benefits or who suffers from the outcome of applying the law is.

59. Both before and after what is described in Mr. Parrish's affidavit about Judge Benham's intemperate blow-up, the blank slate I brought on which to write what I saw about Judge Benham had been shattered.

60. When I appeared in Probate Court to be sworn in as Personal Representative, I brought the same blank slate to the courtroom, and the Probate Judge I saw reaffirmed all of the positive preconceptions I had about what judges are supposed to be, i.e., dignified, in charge, knowledgeable, respectful, thorough, kind and deferent.

61. In stark contrast, on the multiple occasions I have been in Judge Benham's courtroom, he has been curt, overbearing, fidgety, agitated, accusatory, hot-headed, hurried, a demeanor and a tone that expressed disgust and what I would express in common language as a smart-aleck, disrespectful, snide and obviously, more deferent to Mr. Thornton than to Mr. Parrish.

62. From my experience and observations, when I am asked about Judge Benham's attitude about Estate's request for a ruling, the thought first to my mind is that Judge Benham let me know that he wanted me to "get the hell out of this court."

63. My personality is such that, if I detect that a person is telling me to "get out" of a place, I "get out," because I do not want to cause trouble; except for my fiduciary duties as Personal Representative, what I heard from Judge Benham would have caused me to exit.

64. I have read the Affidavit of Mr. Parrish in support of estate's renewed motion to recuse, and the words of that affidavit are words chosen by him without any prior consultation with me; that said, the words Mr. Parrish includes in his affidavit in enumerated paragraphs 49, 50, 51, 52 and 53 **[see pages 49-50, *supra*]**, concerning me and my feelings, state the truth; for me to restate those same thoughts, using my words, in this affidavit would be unnecessary duplication. (emphasis added).

65. From my perspective, Judge Benham has shown the willingness to use the power and the influence of his office as a means by which to prevent Estate from having access to the law of Tennessee and to throw out Estate's claims by forcing Estate's to withdraw the claims, by me, as Personal Representative, dismissing Estate's claims.

66. The fact of the matter is that I signed the settlement agreement offered by SunTrust, not because I considered what was offered to be fair and just but simply because I have been worn down by the threats and assassination of my character and the prospect of bankruptcy.

67. Because SunTrust required each of the heirs personally to sign the proposed settlement agreement, I considered this to give me some freedom, as Personal Representative, to allow each of the heirs to decide for themselves whether Estate should continue to litigate to conclusion; in other words, it essentially gave each of the heirs separately the opportunity to release me from the

fiduciary duty I had to the heirs to continuing Estate's pursuit of Estate's right to a ruling on Estate's questions.

***

70. I have been advised that, as Personal Representative, I have an obligation to Probate Court and that this obligation to Probate Court is to the Court separate from any obligation to Judge Benham; therefore it is Personal Representative's duty, to take what actions the law permits, if the Personal Representative observes Judge Benham engaging in acts which, in effect, deny Estate access to Probate Court.

71. It is in fulfillment of the duty of Personal Representative to Probate Court that, as Personal Representative has filed the motion to transfer or for Probate Court to recuse Judge Benham.

72. Because of the threat that I, personally, stand to be forced into bankruptcy by the outcome of Estate's claims, I have been extremely careful about determining whether Estate relying on the legal advice of Mr.

Parrish is prudent for Estate and Estate's heirs; in this regard, carefully considered, I have determined that Mr. Parrish's legal advice to Estate is trustworthy, if and to the extent that the law is applied and controls the outcome.

73. Mr. Parrish has advised Personal Representative that Mr. Parrish's legal advice is predicated entirely and exclusively on controlling law and does not take into account extra-legal influences that interfere to cause the outcome to be controlled by something other than the law.

74. I know and have to cope with the fact that if Judge Benham, in effect, is able to block access of Estate to the law that ought to control the outcome of Estate's claims, there is only so much Mr. Parrish can do to turn back what would be an abuse power by Judge Benham; however, as Personal Representative, I have determined that the best interests of Estate and Estate's heirs requires Estate to proceed on the assumption that, sooner or later, the law will prevail against any effort to prevent the law from controlling.

75. All of the decisions of the Personal Representative have been made on the expectation that the law and nothing but the law will control the result of Estate's claims and that all of the nonlaw influences to keep the law, alone from controlling the result will not subvert the control of the law.

76. As far as me personally – not in my office of Personal Representative – I probably would have been subdued by the threats, humiliation, insults, fear and, most importantly, what came across to me, loud and clear, from Judge Benham, i.e., "get the hell out of this court."

156. Exhibit H hereto and Exhibit I hereto each were filed in contested adversary proceedings in Probate Court.

157. No person, in any court proceeding, has ever objected to the accuracy of any statement of fact or circumstances sworn by Exhibit I hereto.

158. No person, in any court proceeding, has ever objected to the accuracy of any statement of fact or circumstances sworn by Exhibit H hereto.

159. At all time between November 27, 2011 (date Renewed Recusal Motion Et Al. was filed) and March 28, 2013 (date Subject Adjudicator retired from the bench), the Renewed Recusal Motion Et

Al. remained pending without Subject Adjudicator conducting a hearing or otherwise taking exception to the Renewed Recusal Motion Et Al. or any part of the Renewed Recusal Motion Et Al.

160. At all time after Estate's Anti-Trust Motion, December 10, 2010 (quoted in pertinent part *supra* at para. 142), *Res* One, Defendant, May 27 Order (para. 15; quoted in part para. 148), Subject Adjudicator remained bound by a constitutionally-mandated duty, without a prerequisite motion to recuse, to withdraw, *sua sponte*, from adjudicating *Res* One, Defendant, May 27 Order (para. 15; quoted in part para. 148) ruling on Estate's Anti-Trust Motion (quoted in pertinent part *infra* at para. 142).

161. ***Williams v. Pennsylvania*** (para. 71, *supra*) reads as follows (136 S. Ct. 1899, 1907):

> The involvement of multiple actors and the passage of time do not relieve the former prosecutor of the **duty to withdraw** in order to ensure the neutrality of the judicial process in determining the consequences that his or her own earlier, critical decision may have set in motion (emphasis added).[4]

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[4] ***Ute Indian Tribe of Uintah & Ouray Reservation, Utah v. Utah***, No. 2:75-CV-408-BSJ, 2016 WL 8488278, at *2 (D. Utah July 25, 2016); ***United States v. Inman***, No. ARMY 20150042, 2017 WL 2198946, at *4 (A. Ct. Crim. App. May 17, 2017), review

162. What the consequence of adjudicating the status of *Res* One, Defendant, May 27 Order (para. 15; quoted in part para. 148) as that of a void *ab initio* non-judgment is a non-issue when determining whether the objective fact that *Res* One, Defendant, May 27 Order (para. 15) is that of a void *ab initio* non-judgment.

163. What the consequence of adjudicating the status of *Res* Two, Defendant, COA Affirmance (*supra* para. 4) is that of a void *ab initio* non-judgment is a non-issue when determining whether the objective fact that *Res* One, Defendant, May 27 Order (para. 15; quoted in part para. 148) as that of a void *ab initio* non-judgment.

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denied, 76 M.J. 458 (C.A.A.F. 2017); ***United States v. Herrera–Valdez***, 826 F.3d 912, 919 (7th Cir. 2016); See also, ***Liteky v. United States***, 510 U.S. 540, 548 (1994); ***United States v. Schock***, 2017 WL 238476, at *1–2 (C.D. Ill. Jan. 19, 2017); ***Wilson v. City of Chi.***, 710 F. Supp. 1168, 1169 (N.D. Ill. 1989); ***Liljeberg v. Health Servs. Acquisition Corp.***, 486 U.S. 847, 860 (1988); ***United States v. Herrera–Valdez***, 826 F.3d 912, 917 (7th Cir. 2016); ***Matter of Hatcher***, 150 F.3d 631, 637 (7th Cir. 1998); ***United States v. Cooley***, 1 F.3d 985, 993 (10th Cir. 1993); ***Lawrence v. Goldberg***, 2006 WL 8442960, at *2 (S.D. Fla. 2006); ***Milburn v. United States***, 2013 WL 1120856, at *16 (E.D. Tenn. 2013); ***United States v. Torkington***, 874 F.2d 1441, 1446–47 (11th Cir. 1989); ***United States v. Garrudo***, 869 F. Supp. 1574, 1577 (S.D. Fla. 1994), aff'd sub nom. ***United States v. Cerceda***, 139 F.3d 847 (11th Cir. 1998), reh'g granted and opinion vacated, 161 F.3d 652 (11th Cir. 1998), and on reh'g, 172 F.3d 806 (11th Cir. 1999), and rev'd sub nom. ***United States v. Cerceda***, 172 F.3d 806 (11th Cir. 1999); ***United States v. Nacrelli***, 543 F.Supp. 798, 801 (E.D.Penn.1982); ***Taylor v. O'Grady***, 888 F.2d 1189, 1200-01 (7th Cir 1989).

PRAYER FOR RELIEF

WHEREFORE, First Claimant prays that the Court:

* * *

7. **ORDER** no human person and/or any entity-person to do or not to do anything;

8. **ORDER** that the Court's adjudication of the status of *Res* One, Defendant, May 27 Order (para. 15; quoted in part para. 148) is a final and appealable judgment of the Court;

9. **ORDER** that the Court's adjudication of the status of *Res* Two, Defendant, COA Affirmance (*supra* para. 4) is a final and appealable judgment of the Court;

10. **LEAVE** all persons who claim that the declaration of the Court changes any right or entitlement of that person to assert that claim in a case and in a court and forum with *in personam* jurisdiction to adjudicate the asserted right or entitlement.

Respectfully Submitted,

PARRISH LAWYERS, P.C.

By:/s/ Larry E. Parrish
Larry E. Parrish, BPR 8464
1661 International Drive, Suite 400
Memphis, Tennessee 38120
Phone: (901) 818-3072 (o)
Phone: (901) 603-4739 (c)

Fax: (901) 767-4441
Email: parrish@parrishandshaw.com

CERTIFICATE OF SERVICE

I, hereby certify that a true and correct copy of the foregoing In Rem Independent Action To Adjudicate The Status Of *Res* One And The Status Of *Res* Two As Void *Ab Initio* Judgments has been transmitted, via united states certified mail to:

Ken Jones, Esq. **Matthew Thornton, Esq.** Bourland, Heflin, Alvarez, Minor & Matthews, PLC 5400 Poplar Avenue, Suite 100 Memphis, Tennessee 38119-3660	70100290000036654085
The Honorable Bill Morrison Probate Court Clerk 140 Adams Avenue Room 124 Memphis, TN 38103	70100290000036654078
The Honorable Nancy Acred Appellate Court Clerk's Office Western Division Supreme Court Building P.O. Box 909 Jackson, TN 38302-0909	70100290000366544092

The Honorable Herbert Slatery Attorney General of Tennessee 500 Charlotte Avenue Nashville, TN 37219	70100290000036654108
The Honorable Jim Hivner 401 Seventh Avenue N. Nashville, TN 37219	70100290000036654115
Robert S. Benham 1010 Newton Rd. Santa Barbara, CA 93103	70100290000036654191

on the 4th day of March 2020.

/s/ Larry E. Parrish
Larry E. Parrish

APPENDIX E

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TENNESSEE WESTERN DIVISION

No. 2:20-cv-02153-TLP-tmp

[Filed November 5, 2020]

IN RE: MAY 27, 2011 ORDER	)
	)
Res One,	)
	)
Defendant,	)
	)
and	)
	)
IN RE: MAY 22, 2012 JUDGMENT,	)
	)
Res Two,	)
	)
Defendant.	)
	)

ORDER ON MOTION FOR JUDGMENT ON THE PLEADINGS

This action is unusual. For starters, Claimant Judy Wright ("Claimant")[1] names as Defendants a state

[1] Even naming Wright as a "Claimant" is odd. The pleadings assert that that there is no plaintiff and that there is "no human person"

court order and a state court judgment, not an individual or an entity. This dispute wound its way through the Tennessee courts many times since 2008. Courts dismissed the action every time as baseless, and Claimant's counsel has been sanctioned by the Tennessee Board of Professional Responsibility and the Tennessee Supreme Court over it. So the main reason this case is unusual is because it has no business in this Court.

The dispute arises from the administration of a trust with a long and storied past.[2] The Court will provide a brief history, which likely will fall short of fully explaining the colorful past of the *Goza* cases.

Helen B. Goza created a living trust in 1991 for the purpose of supporting her disabled son for the remainder of his life. *Morrow v. SunTrust Bank*, No. W2010-01547-COA-R3CV, 2011 WL 334507, at *1 (Tenn. Ct. App. Jan. 31, 2011). After some revisions to

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who is a party to this action, because this is an in rem independent action. (ECF No. 4 at PageID 166.) Even so, the pleadings assert Wright is a Claimant because she has interest in the outcome here. (*Id*.)

[2] To provide a sampling of the sheer number of related cases see *Bd. of Prof'l Responsibility v. Parrish*, 556 S.W.3d 153 (Tenn. 2018); *Goza v. SunTrust Bank*, No. W201400635COAR3CV, 2015 WL 4481267 (Tenn. Ct. App. July 22, 2015); *In re Estate of Goza*, No. W201302240COAR3CV, 2014 WL 7246509 (Tenn. Ct. App. Dec. 19, 2014); *In re Estate of Goza*, No. W201300678COAR3CV, 2014 WL 7235166 (Tenn. Ct. App. Dec. 19, 2014); *Estate of Goza v. Wells*, No. W2012-01745-COA-R3CV, 2013 WL 4766544 (Tenn. Ct. App. Sept. 4, 2013); *In re Estate of Goza*, 397 S.W.3d 564 (Tenn. Ct. App. 2012); *Morrow v. SunTrust Bank*, No. W2010-01547-COA-R3CV, 2011 WL 334507 (Tenn. Ct. App. Jan. 31, 2011).

the trust, Ms. Goza also provided that, after her son's death, the trust balance would be distributed to a perpetual trust for the benefit of organizations helping people with mental disabilities. *Id*. at *1–2.

In 2008, after Ms. Goza and her son had both died, Ms. Goza's nephew and niece, David Morrow ("Morrow")[3] and Judy Wright ("Wright") became the heirs to Goza's estate. *Id*. They, then, sought a declaratory judgment in Tennessee state court that would also name them the heirs to the trust residue. *Id*. at *2. But the Attorney General intervened and moved for summary judgment explaining that Ms. Goza's last trust document directed how the trust assets were to be distributed after the beneficiaries died and there was no trust residue that would revert to Goza's estate. *Id*. And the trial court agreed, granting the Attorney General's summary judgment motion. *Id*. at *4.

The story might have ended there. But alas, Morrow and Wright tried many more avenues to get the trust residue. By 2015, the Tennessee Court of Appeals had heard seven appeals involving the disposition of the Goza trust assets. *Goza v. SunTrust Bank*, No. W201400635COAR3CV, 2015 WL 4481267, at *1 (Tenn. Ct. App. July 22, 2015). The Tennessee Court of Appeals repeatedly ruled that res judicata from the first ruling barred the later actions and even censured the claimants calling the repeated litigation "frivolous" and awarding attorney's fees and costs to SunTrust

[3] Wright eventually became the administrator of Ms. Goza's Estate. *Goza v. SunTrust Bank*, 2015 WL 4481267, at *1.

Bank, which administered the trust. *In re Estate of Goza*, No. W201302240COAR3CV, 2014 WL 7246509, at *8 (Tenn. Ct. App. Dec. 19, 2014) (explaining that "even in spite of a previous opinion of this Court finding an identical challenge by the Estate to be frivolous, the Estate has once again attempted to challenge the existence of the Perpetual Trust, thereby causing needless waste of judicial resources and further depleting funds held in the Perpetual Trust for the benefit of organizations serving the mentally disabled.").

Probate Judge Gomes even stated that the court there had never seen "such (an) egregious abuse of the system." *Id*. (internal quotation marks omitted).

Throughout this litigation, Attorney Larry E. Parrish represented Morrow, Wright, and the Estate. Once he even sought to become the administrator of the Estate, apparently believing that res judicata would no longer bar the claim if the Estate had a new administrator. *Goza v. SunTrust Bank*, 2015 WL 4481267, at *3. In 2018, the Tennessee Board of Professional Responsibility suspended Attorney Parrish for misconduct in the *Goza* cases. *Bd. of Prof'l Responsibility v. Parrish*, 556 S.W.3d 153, 156 (Tenn. 2018). In short, Attorney Parrish filed motions to recuse three of the judges that had issued unfavorable rulings. *Id*. In those motions, the Board and the Tennessee Supreme Court found that Parrish made "in-court statements impugning the integrity of the judges…" and "deliberately chose to use language and tactics which cannot be tolerated in the legal profession." *Id*. at 169. Parrish received a six-month suspension for his conduct. *Id*. at 170.

Undaunted, Attorney Parrish and Claimant Wright now seek relief in federal court by suing two state court decisions and moving for judgment on the pleadings. (ECF Nos. 1 & 6.) From what the Court can discern, the claimant requests this Court to set aside two Tennessee state court decisions in the *Goza* cases—(1) a 2011 order from the Shelby County, Tennessee Probate Court where Judge Robert S. Benham ruled the petition was barred by res judicata and (2) a 2012 order from the Tennessee Court of Appeals affirming and entering judgment. (ECF No. 4 at PageID 167–68.)

Claimant's argument seems to be that Judge Benham, the trial judge who issued the 2011 order, was biased. (*Id*. at PageID 204–19.) The complaint here includes excerpts from a motion requesting that Judge Benham recuse himself in the original state court action. (*Id*.) Judge Benham denied that recusal motion. (*Id*.)

Claimant here seems to argue that Judge Benham's alleged bias and his refusal to recuse himself violated the claimant's due process rights under the Fourteenth Amendment. (*Id*. at PageID 168.) What is more, in Claimant's Motion for Judgment on the Pleadings, she argues that this due process violation deprived her of personal property (presumably, a portion of the trust). (ECF No. 6 at PageID 251.) For that reason, Claimant requests this Court to render the state court decisions void. (ECF No. 4 at PageID 221–22.)

To grant the requested relief, this Court would have to review whether Judge Benham wrongly decided the motion for recusal and would have to upset both a

Tennessee state court order and judgment. In this way, Claimant fundamentally asks this Court to exercise what amounts to appellate review of the state court decisions. To be clear, this Court does not have jurisdiction to do that. Despite the claimant's attempts at crafty pleading, the law as to federal jurisdiction to review state court decisions is indisputable—"[t]he United States Supreme Court is the only federal court that has jurisdiction to correct or modify state-court judgments." *Stark v. Weiss*, No. 219CV02406JTFTMP, 2019 WL 6348455, at *2 (W.D. Tenn. Nov. 27, 2019) (citing *Gottfried v. Med. Planning Servs., Inc.*, 142 F.3d 326, 330 (6th Cir. 1998)); *Rooker v. Fid. Tr. Co.*, 263 U.S. 413, 416 (1923).

The germane legal principle here is the *Rooker-Feldman* doctrine.[4] The Supreme Court

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[4] The Court notes that in *Larry E. Parrish, P.C. v. Bennett*, also involving Attorney Parrish, the Middle District of Tennessee dismissed some of the claims due to the *Rooker-Feldman* Doctrine. *See Larry E. Parrish, P.C. v. Bennett*, No. 3:20-CV-00275, 2020 WL 3895187, at *2 (M.D. Tenn. July 10, 2020). There, Parrish was embroiled in a dispute over legal fees. *Id*. at *1. He sued two Tennessee appellate judges in federal district court, asking that court to declare that the judge-defendants submitted false statements in a Court of Appeals opinion. *Id*. The court there explained, "Parrish essentially asks us to engage in appellate review of a state court proceeding under another name. Evaluating whether statements in the COA's opinion were intentionally false would require us to impermissibly review the factual basis . . . This is not a close issue, it is obvious from the face of Parrish's complaint that further appellate review is his aim. . . We remind Parrish that, as a lawyer, he is an officer of the court [sic] he has an obligation to review the relevant law before filing a complaint before this court." *Id*. at *2.

developed the *Rooker-Feldman* doctrine in two cases ruling that federal district courts lack jurisdiction to exercise appellate review of state court proceedings. *Hood v. Keller*, 341 F.3d 593, 597 (6th Cir. 2003); *see Rooker*, 263 U.S. at 416; *Dist. of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 476 (1983). In other words, the doctrine prevents a losing party in state court "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 the loser's federal rights." *Tropf v. Fidelity Nat. Title Ins. Co.*, 289 F.3d 929, 936–37 (6th Cir. 2002) (quoting *Johnson v. De Grandy*, 512 U.S. 997, 1005–06 (1994)).

Also, in applying *Rooker-Feldman*, the Court should ask "whether the source of injury upon which plaintiff bases his federal claim is the state court judgment." *Lawrence v. Welch*, 531 F.3d 364, 368 (6th Cir. 2008) (internal quotation marks omitted). With that in mind, the Court should consider the requested relief. *Hood*, 341 F.3d at 597. Basically, if the claimant is asking for a state court judgment to be set aside, the doctrine applies and the federal court lacks jurisdiction. *See id.*

This is precisely the situation here. If there were any question about the source of Claimant's injury, one need only look the case style—In Re: May 27, 2011 Order and In Re: May 22, 2012 Judgment. In other words, the "defendants" in this action are actually the state court order and judgment in issue.

What is more, the *Rooker-Feldman* Doctrine bars lower federal courts from exercising jurisdiction not only over state court judgments but also over claims

that are "inextricably intertwined" with state court judgments.[5] *Hood*, 341 F.3d at 597. So here, even though Claimant has styled this as a due process action, the claim that Judge Benham was biased and should have recused himself is "inextricably intertwined" with the state court order and judgment.

Claimant's accusations of bias rest partly on Judge Benham's knowledge of the relevant probate law. (*See* ECF No. 4 at PageID 199–200.) Claimant seems to believe that because Judge Benham's law practice included the drafting of trust instruments like the one in dispute, he should have recused himself from adjudicating the earlier *Goza* action. (*Id*.) And so, to grant Claimant's requests here, this Court would have to review Judge Benham's recusal decision, the relevant facts and law of the case, and the subsequent

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[5] The Court also notes that the *Rooker-Feldman* Doctrine is not necessarily the only reason to dismiss this action. For example, the Claimant complains that Tennessee state court decisions from 2011 and 2012 violated her due process rights. Now, after almost a decade, Claimant brings her grievances to federal court. The Sixth Circuit has construed the Tennessee one-year statute of limitations for personal injury actions to apply to civil rights actions. *See Jackson v. Richards Medical Co.*, 961 F.2d 575, 578 (6th Cir. 1992). Thus, the claim here is time-barred. And even if that limitations period did not apply here, the equitable doctrine of laches would. Laches consists of two elements: (1) unreasonable delay in asserting one's rights, and (2) a resulting prejudice. *Operating Engineers Local 324 Health Care Plan v. G & W Const. Co.*, 783 F.3d 1045, 1053 (6th Cir. 2015). Certainly, a delay of almost a decade is unreasonable, and the trust at the heart of Claimant's grievance would undoubtedly suffer prejudice from yet another attempt to destroy it.

trial court order and Court of Appeals' judgment—all of which are impermissible actions.

This Court sees no reason to belabor the point that it does not have jurisdiction to address Claimant's request. The Court therefore **DENIES** Claimant's Motion for Judgment on the Pleadings and **DISMISSES** this action **WITH PREJUDICE**.

SO ORDERED, this 5th day of November, 2020.

s/Thomas L. Parker
THOMAS L. PARKER
UNITED STATES DISTRICT JUDGE