

21-5289 No.                    ORIGINAL

## IN THE

**SUPREME COURT OF THE UNITED STATES**

Supreme Court, U.S.  
FILED

JUL 30 2021

OFFICE OF THE CLERK

Moore - Petitioner

vs.

Orange County Social Services Agency (OCSSA), et. al.

### - Respondents

### On Petition for a Writ of Certiorari to the

## Federal Court of Appeals in the Ninth Circuit

**PETITION FOR A WRIT OF CERTIORARI**

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## QUESTIONS PRESENTED

- I.
  - A) In federal districts that recognize the Rooker-Feldman fraud exception to res judicata: Shall Rooker-Feldman be arbitrarily applied?
  - B) Shall the Supreme Court of the United States (SCOTUS) rule to bring Rooker-Feldman uniformity across all the federal districts?
- II. Outside of exigent circumstances can a government social worker seize a child from their family using federal taxpayers' funds without a United States Constitution (USC) 4<sup>th</sup> amendment (4A) required warrant?

**LIST OF PARTIES**

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## PETITION FOR REVIEW WRIT OF CERTIORARI

TO THE HONORABLE JOHN ROBERTS, CHIEF JUSTICE, AND TO THE HONORABLE ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES OF AMERICA: Petitioner Gregory Moore, respectfully petitions for a writ of certiorari to review dismissal of the *Moore v. OCSSA* federal case. A copy of the Ninth circuit appellate case 18-55042 memorandum of affirmation dated November 16, 2020, is attached as Appendix A with mandate dated March 11, 2021. The lower federal court dismissal is attached as Appendix B dated October 13, 2017. The petition for Ninth circuit En Banc review was denied on March 3, 2021, and is attached as Appendix C.

### INTRODUCTION

The petitioner seeks federal Supreme Court review to decide important, recurring, and unsettled questions of law and policy relating to inconsistent application of constitutional human rights. In *Moore v. OCSSA*, arbitrary and non-uniform application of legal authorities is at issue. This includes the Rooker-Feldman fraud exception doctrine which allows a state case decision based on fraud to be re-litigated in federal court. Orange County Social Services Agency perpetrated (19) counts of fraud which raises the issue of fifth amendment United States Constitution due process rights. Here, the federal 9<sup>th</sup> circuit court of appeals arbitrarily denied applying the Rooker-Feldman fraud exception raising the issue of non-uniform application of the law whereas in other federal circuits the Rooker-Feldman fraud exception doctrine is not applied at all, raising the question of un-settled law that the SCOTUS can rule on.

The United States has become number one in the world for human trafficking. Depending on the study, upwards to 80% of children who are human trafficked comes from the foster care industry. In the United States, approximately 1 child every minute is seized from their family by overzealous and/or self-serving social service agents (CPS) and introduced by force into

the profitable foster care industry. In Orange County, CA alone, a child's life is destroyed on average every 5 hours. An estimated 98% of the children who are seized by the government are seized without a 4<sup>th</sup> Amendment required warrant. Billions of taxpayers' money is given to these government bureaucrats who are destroying American families without any accountability. If proof of a 4<sup>th</sup> Amendment warrant was required prior to the release of federal funds, an estimated 98% of American children will be protected from government abuse and oppression. The question is: Are legislative acts such as public law 105-89 et. al. constitutional if they violate 4<sup>th</sup> amendment fundamental human rights? If not, then should the SCOTUS declare these acts void or at a minimum require them to be compliant with the 4<sup>th</sup> Amendment by requiring a warrant?

The Moore family was completely destroyed by OCSSA's malicious and despicable conduct. OCSSA even admitted to their wrongdoing when they wrote to the court and stated that had not the Appellant father litigated the return of the Appellant son, he would have been released in the beginning.

No family should have to live in fear of their children being seized by the government without notice or without cause. No citizen should have to spend their life savings to force the government to obey constitutional law. No citizen should have to pay for the government bureaucratic expenses to commit criminal acts such as fabricating evidence, forgery, perjury or subordination of perjury. It is horrifying that our country has come to this.

As the final arbiter of the law, this Court (SCOTUS) is charged with ensuring the American people the promise of equal justice under law and, thereby, also functions as guardian and interpreter of the U.S. Constitution. The Appellants are asking for SCOTUS to rule that proof of a 4A warrant be required prior to the release of federal taxpayers' funds to government CPS bureaucrats as a measure to stop human trafficking. Additionally, the Appellant ask for a reversal if the federal court dismissal and remand to federal court for a proper trial to bring accountability to the perpetrators of numerous felony acts.

## **JURISDICTION STATEMENT**

The order of the Federal Ninth Circuit Court of Appeals petition for panel rehearing was filed on March 3, 2021. The Covid-19 crisis automatically extended 90 days timely filing by an additional 60 days for a total of 150 days. Since July 31, 2021, falls on a Saturday, timely filing is due by August 2, 2021. The United States Supreme Court has jurisdiction pursuant to 28 U.S. Code § 1254 (1).

## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

### **SAFEGUARDS OF LIBERTY**

#### **United States Constitution (USC) Amendments 1, 2, and 3:**

**USC First Amendment (1791)** - Prohibits the government from obstructing the exercise of certain individual freedoms such as the **freedom of religion**. Here, Orange County Social Service Agency (OCSSA) violated this fundamental constitutional human right when OCSSA wrongfully and without cause banned the Appellant father from public service through his church. E.g.: When OCSSA removed the Appellant father by force from the children's center while he was training new volunteers.

**The Free Exercise Clause** guarantees a person's right to hold whatever religious beliefs he or she wants, and to freely exercise that belief. OCSSA violated this fundamental constitutional human right when they forced the Appellant child out of a church service Sunday school program, against the best interests of the Appellant son. This disrupted the church service and humiliated the Appellants. OCSSA did this under threat that the Appellant son would be further subjected to government abuse & oppression.

**The Establishment Clause** - Prevents the federal government from creating an official national church or favoring one set of religious beliefs over another. OCSSA violated this fundamental constitutional human right when they accused and condemned the Appellant father of being a Christian minister based on his history as a Christian missionary and child advocate. Christian advocates for

children do so on a voluntary basis, whereas OCSSA does it for money. This is a direct conflict of separation of Church & State. The State should not be competing with the Churches for services & attacking Christians at taxpayer's expense.

OCSSA falsely claimed that "*ministers are liars*" thus condemning the Appellate father by association. OCSSA presented atheism as the national standard when they forced the Appellant child into atheism for the 547 days that he was detained, abused, emotionally tortured by unnecessary forced separation from his loving family, and physically tortured by caning his legs when trying to escape OCSSA. Also, the foster mother in the Appellant son's 7th failed placement mocked the Moore family when she said "*Where is your God now? If there is a God, why do I have custody of your child?*" This challenge to the Appellant father and son is especially egregious. OCSSA was mocking God and attacking the core of the Appellant's faith. Under God's laws, this is blasphemy and a high offense. The government had no right to seize the Appellant child from his God loving Christian home and then force him into the homes of atheists.

One of the foster mothers described how the Appellant son screamed for his daddy and would cry to sleep every night. She gave him, a then 3-year-old child, sleeping pills. It was in state care that the Appellant child experienced emotional torture, physical abuse and depravity for the first time. Here is a short list from numerous examples: 1) The Appellant son's head being cracked open by OCSSA when opening a door while he was screaming for his daddy and the cover up. 2) The assault and battery of the Appellant son's legs being beaten by OCSSA for trying to escape across the street. 3) The severe emotional distress as demonstrated by the repeated crying and wailing of the Appellant son demanding to come home to his father. 4) The Appellant son's separate dining from the foster family and being treated like an animal compared to other family members. 5) Deprivation of hot meals in foster "care" and being told hot meals are for adults. Here, taxpayers were paying the foster family money for healthy foods while the foster mother was serving cold cereal meals three times a day

and pocketing the savings. 6) Destroying his sense of self-worth by giving him a “crumb” of birthday cake when everyone else got full pieces. 7) Being abandoned by his foster mother at times and living scared in the foster home by himself with no one to protect him & assure his safety had there been a fire or break in.

## **SAFEGUARDS OF JUSTICE**

### **(United States Constitutional Amendments 4, 5, 6)**

USC Fourth Amendment (1791) - Protects people against unreasonable searches & seizures by government officials. The numerous searches by OCSSA of the Appellant's home & seizure of the Appellant son were unreasonable, unnecessary and a malfeasance of taxpayers' funds. A seizure occurs when the government takes control of an individual or something in his or her possession. Here, the government (OCSSA) seized the Appellant child from the Appellant father. This was done without cause, consent, or the knowledge of the Appellant father. In the civilian world, this is known as kidnapping & false imprisonment.

The fourth amendment also provides the right of the people to be secure in their persons, houses, papers, effects, and against unreasonable searches and seizures. Here, OCSSA wrongfully seized the Appellant son without just cause by detaining him, interrogating him and causing him to become a missing person. OCSSA caused an unnecessary police search when they abducted the Appellant son without notice to the Appellant father. Numerous searches of the Appellant's home were unnecessary, intrusive, humiliating, abusive and illegal.

USC Fifth Amendment (1791) prohibits punishment without due process of law, thus protecting individuals from being imprisoned without fair procedures. Here, the Appellant child was seized without a judicial warrant; and without notification of the Appellant father; and was detained (imprisoned) on false pretenses by forgery, trickery, bait and switch fraud, perjury, fabrications and omission of exculpatory evidence, intentional destruction of evidence and subordination of perjury. OCSSA systematically eliminated every professional that rendered an opinion against OCSSA forced detention. The Appellant son was punished by being forced into seven (7) failed imprisonments by OCSSA for

547 days where he was emotionally tortured, physically injured, abused, abandoned and exploited until his release was ultimately secured by a writ of habeas corpus demand to release a prisoner.

USC Sixth Amendment (1791) provides several protections and grants rights to an individual. It guarantees the accused a right to know the charges against them. In a quasi-criminal proceeding, OCSSA accused the Appellant father of being “*overprotective*” of the Appellant child prior to the Appellant son’s seizure by the government. Being a protective parent is not a crime. After the seizure, OCSSA’s written fabrication to the court was that the Appellant father had an “*excessive litigation*” disorder. This fabricated disorder does not exist in reality, nor is it a crime. When presenting the false “*excessive litigation*” disorder, OCSSA intentionally omitted the fact that the Appellant father has never been sued or had sued anybody before. OCSSA also omitted that if OCSSA had released the Appellant son to his family, there would not ever been cause for the Appellant father to sue. The Appellant father/son sued for the first time to preserve the fundamental constitutional human right of a child to be with his family. This is not “*excessive litigation*”. This is about fundamental constitutional human rights.

During the 547 days of false imprisonment, OCSSA refused to answer the repeated question of the Appellant father “*Why is my son being detained?*” OCSSA violated the most basic right of the Appellants to confront their accuser. The fact is OCSSA did not ever have any legal right to seize the Appellant son from the Appellant father. This is why OCSSA could not ever answer the question. OCSSA had no legitimate reason whatsoever.

#### **Unenumerated rights and reserved powers (Amendment 9)**

USC Ninth Amendment (1791) -Declares that individuals have other fundamental rights, in addition to those stated in the Constitution. The Supreme Court has found that unenumerated rights include such important rights as the right to privacy, and the right to make important decisions about health care.

During the Appellant son's detention, the Appellant father's right to make health care decisions for the Appellant son was wrongfully terminated. At that time, the Appellant father had court ordered physical and legal custody of the Appellant son. For example, when OCSSA opened a door and split open the head of the Appellant son, the Appellant father (the court ordered custodial parent) was not notified nor was allowed to make health care decisions. OCSSA lied to the Appellant father when he was told on a phone call that the Appellant son was on a nighttime field trip. The truth was he was in the hospital emergency room having his head stapled shut by a surgeon. Later, OCSSA stated that they did not know that they could tell the truth. OCSSA intentionally concealed and lied about the serious head injury they caused.

Another example is when the Appellant son was being caned with a stick on the shins of his legs in the 6th OCSSA placement. The Appellant son was denied medical care. OCSSA refused to interrogate the foster mother after the court ordered monitor asked OCSSA to investigate. OCSSA covered up their wrongdoing by intentionally concealing evidence.

Towards the end of the 547 days of abuse, OCSSA's forced "CRISP" program on the Moore family continuously violated their right to privacy. OCSSA forced the Appellant father out of church services in progress, and the Appellant son out of the middle of his Sunday school class.

By criminal means, OCSSA has obtained a fraudulent judgment of costs against the Moore family, OCSSA has been interrogating the Appellant father/son and has threatened to seize their necessities of life. This is both a violation of their privacy rights and a violation of their human right to life.

## **SAFEGUARDS OF CIVIL RIGHTS**

USC Fourteenth Amendment (1868) - no state shall...deprive any person of life, liberty, or property, without due process of law. Here, the entire Moore family was deprived of their liberty to be a family free from governmental abuse after their due process rights to a fair trial were denied due to fabrications, perjury and intentional omission of exculpatory evidence. Furthermore, this amendment

also contains new limits on state power: a state shall not violate a citizen's privileges or immunities; shall not deprive any person of life, liberty, or property without due process of law; and must guarantee to all persons the equal protection of the laws. Here, the 14th amendment due process rights guarantee equal application of the law, even when against a government agent. No doubt that if anyone else other than the government would have kidnapped a 3-year-old child, interrogated him, split his head open, beat his legs for trying to escape, treated him inhumanly, emotionally tortured him, invasively examined him and falsely imprisoned him without the knowledge or consent of the parent; they would be in prison right now.

OCSSA banned the Appellant father from his church's Christian children's ministry at Orangewood and elsewhere. OCSSA made a public spectacle by removing the Appellant father publicly by force while he was training volunteers how to help the children. OCSSA also forced the Appellant son out of church under threat. OCSSA had no just cause. Both Appellants were prosecuted and punished by OCSSA for being Christians. If similarly situated Muslims or Jews or atheists were treated this way, they would have been protected under the law. This amounts to a violation of equal protection and is subject to strict scrutiny here.

OCSSA's continued false imprisonment of the Appellant son took away his life, and his liberty. OCSSA did so without due process. For example, the liberty of the Appellant son to exercise his fundamental human right to be with his family. Another example is OCSSA's failure to notify the Appellant father that the Appellant son had been seized and forced into state custody. The Appellant father should not have ever been in a position of extreme emotional distress to have to contact police to search for his missing son after the state seized him. Also, OCSSA's repeated failure to provide any cause for the detention of the Appellant son. The Moore family could not even begin to overcome OCSSA's wrongful detention unless they knew why the state was detaining the Appellant son. This intentional infliction of severe emotional distress for 547 days has forever scarred the Moore family.

## STATEMENT OF THE CASE

The Appellants filed a state case to bring accountability to OCSSA for their wrongdoing and a federal case against the individual social workers for their acts outside the scope of their employment. OCSSA and the individual defendants who were all represented by the same law firm failed to join the two cases. Later, they argued res judicata as if the two cases had been joined. This is a bad faith argument because OCSSA chose two separate trials. One in state court and one in federal court.

In the state trial, OCSSA perpetrated (19) counts of fraud that is proven here and presented to the federal court as judicial notice. The Rooker-Feldman fraud exception to the defense of res judicata is recognized in the Ninth circuit. However, the Ninth circuit denied Rooker-Feldman exception to the Appellants here. This caused a catastrophic and wrongful dismissal while Appellant's counsel was overseas in Japan. This raises the issue of non-uniform application of Ninth circuit recognized precedent, while at the same time giving SCOTUS the opportunity to rule on the Rooker-Feldman doctrine that is not uniformly applied across all the federal districts.

Below is a legal analysis of the denial of the rehearing in the Ninth circuit, showing why the decision should be reversed:

Pursuant to Fed. R. App. P. rule 40: The Appellant father, Gregory Moore, petitioned the Federal Ninth Circuit for a panel rehearing on the basis that:

- I) Material points of fact and law was overlooked in the ninth circuit decision.
- II) Apparent conflicts with other decisions of the Court were not addressed in the opinion. (See appendix A)

### **I) STATEMENT OF FACTS AND LAW NOT CONSIDERED IN NINTH CIRCUIT MEMORANDUM OF AFFIRMATION OF FEDERAL LOWER COURT DISMISSAL IS A DUE PROCESS VIOLATION**

- 1) Multiple subsequent claims cannot be lumped in under primary rights theory without a miscarriage of justice. Separate acts outside the scope of employment and after the state case concluded should not be exonerated under a perpetual

blanket primary rights theory. If so, this means that once a criminal is relieved of accountability in once instance, the criminal can not ever be charged again for subsequent crimes. 2) Claims for OCSSA acts that did not yet occur are impossible to include in the earlier filed state case claim, therefore are actionable in the later federal court claim. Res judicata cannot apply for acts that have yet to be heard in federal court, such as in the *Moore case*. 3) An amendment to provide proof of new and prior extrinsic fraud is not futile as the Ninth circuit would have us believe. Word count limitation in the lower court was a factor here. The lower district court did not ever rule on a waiver of word count limitation. Willful blindness by the court does not serve the interests of justice. 4) The basis for the motion for reconsideration were, in part, procedural irregularities that resulted in due process right violations. Procedural due process is required for a fair and impartial outcome. 5) The plausibility of how the extrinsic fraud was presented in state court and has not been reviewed is explained in the motion for judicial notice that has yet to be heard (See Appendix D). 6) Had the Ninth Circuit granted the *motion to form a panel* to hear the *motion for judicial notice* or the motion of *notice of delay*, the Appellant(s) and general counsel for the underlying case could have presented the reasons for why the extrinsic fraud perpetrated in the jury trial was not possible to be presented due to new evidence discovered afterwards, and due to the circumstances.

## **II) CONFLICTS WITH OTHER DECISIONS OF THE COURT WERE NOT ADDRESSED IN THE NINTH CIRCUIT MEMORANDUM OF AFFIRMATION**

The bulk of this argument is in the *petition for en banc rehearing* and will not be repeated here in the interest of complying with page count limitations and judicial economy. Additional argument is below:

### **1. FULL FAITH AND CREDIT APPLIES ONLY TO FULL AND FAIR LITIGATION**

Here, OCSSA asserts that the *Allen court* determined that when a state court “*has given the parties a full and fair opportunity to litigate*” res judicata applies. OCSSA’s absurd argument is that a judgment as a result of fraud is the same as

*“a full and fair opportunity to litigate”*. For reasons stated in Appellant’s motion for judicial notice and in the sworn declaration of Gary Levinson (Appendix D); the Appellants were denied a *“full and fair opportunity to litigate”* as a result of OCSSA fraud.

Also, OCSSA argues that this Court should give *“full faith and credit”* to the state court judgment. This omits that fact that OCSSA acted in bad faith and perpetrated numerous felony acts and presented multiple counts of fraud to the state court. OCSSA is asked the lower court to turn a blind eye to all the circumstances of the state judgment, and the lower court agreed to be knowingly blind.

## **2. RES JUDICATA NOT APPLICABLE IN FRAUD CASE**

OCSSA argues a res judicata defense under California law; 1) *The cause of action must be the same* and that there must be; 2) *A final judgment on the merits* in order for res judicata to apply.

**A) Same cause of action:** Here, the state lawsuit was to seek accountability against *the County of Orange* and for the defendants acts and failure to act that occurred within their scope of employment with the County of Orange. The federal lawsuit was to seek accountability for the defendant’s misconduct outside their scope of employment and for acts and failures to act that occurred after the first state lawsuit was filed.

Even if conduct that occurred within the scope of employment is deemed the same cause of action as the conduct that occurred outside the scope of conduct; the fact remains that felony acts were perpetrated after the state case was filed. When there are multiple perpetrators committing multiple culpable acts and statutory failures to act, certainly subsequent acts and statutory failures to act would not be construed as the same cause of action.

Multiple claims and multiple wrongs committed over years of time should not be considered one cause. Kidnapping and false imprisonment can be considered to stem from one cause if it happens at the same time. Assault and battery is another matter. Falsifying official records and forgery is another concern. Perjury, coercion, subordination of perjury is another. All of these

examples above occurred at different times with different perpetrators in different locations. The fact is that OCSSA perpetrated their crimes over a period of years. Escaping accountability for an initial crime should not be a free pass to commit subsequent crimes without consequence.

Thus, OCSSA's argument that all their crimes are the same cause of action fails.

**B) Judgment on the merits:** The second element of a "*judgment on the merits*" fails because of the fraud perpetrated during the trial as detailed in Appellant's motion for judicial notice and in the sworn declaration of Gary Levinson (Appendix D). Therefore, OCSSA's arguments fail both required elements here.

### **3. ROOKER FELDMAN FRAUD EXCEPTION GOVERNS JUDGMENTS BASED ON FRAUD**

OCSSA admits that the federal court did not apply the Rooker-Feldman fraud exception. This is a major error and deprived the Appellants of their constitutional due process rights. This doctrine is well established here in the 9th circuit and should not be omitted. See main argument in the *petition for en banc rehearing*.

OCSSA's argument that a leave to amend would have been futile omits the entire Rooker-Feldman Fraud exception doctrine.

OCSSA's argument of primary rights theory is an attempt to package all of OCSSA's wrongdoing together to escape liability.

Finally, OCSSA could have joined both the state and federal cases together, however, chose to keep them separate. It is a miscarriage of justice to now treat the cases as the same when OCSSA failed to join them.

## **LEGAL ARGUMENT**

### **I. WHETHER OCSSA'S (19) COUNTS OF FRAUD IN STATE COURT TRIGGERS THE ROOKER-FELDMAN FRAUD EXCEPTION AS A BAR AGAINST A RES JUDICATA IN FEDERAL COURT; AND WHETHER A FEDERAL TRIAL AGAINST THE INDIVIDUAL REPEAT PERPETRATORS WHO VIOLATED ADDITIONAL PRIMARY RIGHTS AFTER THE FEDERAL CASE WAS FILED SHOULD PROCEED.**

#### **A) Standard of Review**

**Rooker-Feldman :** The *Rooker-Feldman* doctrine provides that a federal court does not have subject matter jurisdiction to hear a direct appeal from a final judgment of a state court unless the fraud exception applies. *See Manufactured Home Communities Inc. v. City of San Jose*, 420 F.3d 1022, 1029 (9th Cir. 2005); California's res judicata doctrine is based on a primary rights theory. The California Supreme Court explained that the primary rights theory: Provides that a "cause of action" is comprised of a "primary right" of the plaintiff, a corresponding "primary duty" of the defendant, and a wrongful act by the defendant constituting a breach of that duty. The most salient characteristic of a primary right is that it is indivisible: the violation of a single primary right gives rise to but a single cause of action.

Refer to the statement of facts above; and the (19) counts of fraud summarized in section II below; Appendix D; and Appendix F. In the Moore case, there are numerous causes for action over a long period of time by multiple parties before and after the federal lawsuit was filed. Therefore, multiple primary rights are at issue here.

*Maldonado v. Harris*, 370 F.3d 945, 949 (9th Cir. 2004). Dismissals based on *Rooker-Feldman* are reviewed de novo. *See Maldonado*, 370 F.3d at 949; From Maldonado: "*a federal plaintiff asserts as a legal wrong an allegedly illegal act or omission by an adverse party, Rooker-Feldman does not bar jurisdiction.*" Here, Moore, the Appellant's are federal plaintiffs asserting a legal wrong, and illegal act(s) by OCSSA. Therefore, Rooker-Feldman does not bar jurisdiction and the order of dismissal was an error.

*Kougasian v. TMSL, Inc.*, 359 F.3d 1136, 1139 (9th Cir. 2004); From Kougasian: "*Extrinsic fraud on a court is, by definition, not an error by that court. It is, rather, a wrongful act committed by the party or parties who engaged in the fraud. Rooker-Feldman therefore does not bar subject matter jurisdiction when a federal plaintiff alleges a cause of action for extrinsic fraud on a state court.*" Because of fraud, res judicata is barred and the dismissal must be reversed.

## **B. LEGAL ANALYSIS OF WHY THE ORDER OF DISMISSAL IS AN ERROR AND MUST BE REVERSED**

The *Rooker-Feldman doctrine* does not apply in cases where state judgments were procured by fraud. *In re Sun Valley Foods Co.*, 801 F.2d 186 (1986) The Supreme Court incorporated the res judicata Fraud Exception into *Rooker-Feldman*. See also *Exxon Mobil*, 544 U.S. at 284. Here, in the *Moore v. OCSSA* pleadings to the Federal Court the Appellants cited (19) ways OCSSA perpetrated a fraud to the jury in state court. Any one of these fraudulent deceptions gives grounds for a res judicata exception. Like in the *Sun Valley foods* case, *Moore v. OCSSA* includes a 1983 claim and has gone through a state appeal. Also note that a federal court dismissed *Sun Valley Foods* action which was later overturned in the United States Supreme Court. Likewise, this Federal Court should not have dismissed the *Moore v OCSSA* case. Clearly, the lower Federal Court is not precluded from reviewing state court decisions. Here, the Appellant's assert that OCSSA won the state case by perpetrating a fraud to the court. OCSSA procured their win not by sound legal principles, but by fraud. In *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 284, the Court clarified that not all actions dealing with the same or related question resolved in state court are barred in Federal Court. The Courts have been applying a fraud exception to *Rooker-Feldman* for decades, even before the Exxon case. It is repugnant to justice to allow a fraudster such as OCSSA to walk into Federal Court with unclean hands and then brashly claim the Federal Court has no jurisdiction to remedy the wrong OCSSA perpetrated on the Moore family. The truth is that the Federal Court can and should entertain a collateral attack on a state court judgment that has been procured through fraud.

The fraud exception to Res Judicata is a principle of both state and Federal law. *Riehle v. Margolies*, 279 U.S. 218 (1929). The United States Supreme Court has stated for over ninety years that “*only in the absence of fraud or collusion*” does a judgment of a court with jurisdiction operate as res judicata.

*In Parker v. Parker*, 950 So.2d 388 (2007), a distinction is drawn between extrinsic and intrinsic fraud.

**Extrinsic fraud** is defined as:

**1) The prevention of an unsuccessful party from presenting his case.** In *Moore*, OCSSA achieved this by fraudulently manipulating the trial court into eliminating his expert McMillan trial team and the witnesses against them such as Ms. Helton, Mr. Levinson, and Ms. Whale, et. al. The Appellant father was prevented from defending his good character after OCSSA presented fraudulent fabrications disparaging the Appellant father and deceiving the jury.

**2) Falsely promising a compromise.** Here, after OCSSA caused a two-year delay, OCSSA reneged on the stipulated settlement. OCSSA then ambushed the Appellant's expert trial counsel using the delay that they caused as grounds for removal. Expert trial counsel had no time to prepare and was forced to withdraw because of OCSSA's bad faith.

**3) By fraud or deception practiced by an adversary.** See numerous examples of OCSSA fraud and deception (here and in Appendix D, F).

**Intrinsic fraud** includes false or perjured testimony (*Falcon v. Faulkner*, 567 N.E.2d 686), or false or misleading documents (*DeClaire v Yohanan*, 453 So. 2d 375); Here, OCSSA fraudulently altered an official document signed by the Appellant father to perpetrate a fraud onto the juvenile court to secure the profitable detention of the then 3-year-old Appellate son. See also the perjured testimony in Appendix D of defendants Ms. Metcalf (Exhibit A); Ms. Luchonok (Exhibit A, B); and the subordinated perjury of Ms. Honstetter, Mr. Ricci (Exhibit F, G); and Mr. Riley (Exhibit B, M).

Other courts consider fraud as an exception to res judicata without distinguishing extrinsic or intrinsic fraud. In the *Moore* case, both types of fraud are on the record. See *Thomas v Metra Rail Serv.*, No. 966 C 8489 (1997). This court was mindful that a judgment obtained through fraud cannot act as a bar to subsequent suit on the same cause of action, thus preventing the application of res judicata.

In *Powell v. American Bank & Trust Co.*, 640 F. Supp. 1568 (1986), the court found that "Surely res judicata was not created to protect such fraud upon the courts". Here, a judgment because of untrue factual assertions was overturned. The court reasoned "To sanction the preclusion of the plaintiff's

*claim via res judicata under facts such as these would be to sanction the defrauding of any litigant by an opponent fast enough and shifty enough*”. In *Moore*, the state jury trial was about bringing accountability to corrupt social workers to prevent other Orange County families from being destroyed. OCSSA flipped the reason for the trial by fabricating malicious deceptions designed to cause the jury to hate the Appellant father.

Numerous other case law authorities recognize the *Rooker-Feldman exception for fraud, deception, accident, or mistake*. *Wazniak v. Corrigan* 2006 U.S. Dist LEXIS 28923; *Chapman v. Wilson*, 2006 U.S. Dist. LEXIS 29108; *Smith v. Oakland Cnty.Cir.Ct.*, 344 F. Supp 2d 1030 (2004), *Raddatz v. Beaubien*, 880 F. Supp 500 (1995): all recognize that there is an exception to the *Rooker-Feldman doctrine* in cases where the state court judgment is alleged to have been procured through fraud, deception, accident, or mistake.

Other courts have ruled that the Federal Courts may declare judgments of a state court *void ab initio* when fraud, deception, accident, mistake or “*other gross procedural error*” was made. *Twin City Fire Ins. Co. v. Adkins*, 400 F.3d 293 53(2005). See also *Kafele v. Lerner, Sampson & Rothfuss, L.P.A.*, 161 F. App's 487 (2005); *Catz v. Chalker*, 142 F.3d 279 (1998); *Goddard v. Citibank*, 2006 U.S. Dist. LEXIS 19651; *Radiology Inst., Inc. v. Padilla Rodriguez*, 818 F. Supp. 477 (1993).

Case law authorities also support that “*Fraud in the procurement of a judgment is an ‘independent claim’ that is not barred by Rooker-Feldman*”. *Frame v. Lowe*, 2010 U.S. Dist. LEXIS 10494. See also *Pondexter v. Allegheny County Housing Authority*, 329 F. App'x 347 (2009). This is yet another way that establishes the fact that the Federal Court is not barred by *res judicata* in the *Moore* case. See also *McCormick v. Baberman*, 451 F.3d 382 (2006) The United States Court of Appeals for the Ninth Circuit has a large body of case law supporting the *fraud exception to Rooker-Feldman*. *Kougasian v. TMSL*, 359 F.3d 1136 (9th Cir 2004) held that a plaintiff's assertions of extrinsic fraud in the procurement of a state court judgment barred the application of *res judicata*. The rationale was that that “plaintiff alleging

extrinsic fraud...is not alleging a legal error by the state court; rather, he or she is alleging a wrongful act by the adverse party". In creating this exception, the Ninth Circuit relied on two sources. 1) California state law that provides equitable power to set aside judgments on grounds of fraud, mistake or lack of jurisdiction. See *Zamora v. Clayborn Contracting Grp., Inc.*, 47 P.3d 1056 (Cal. 2002); and *In re Estate of Sankey*, 249 P. 517 (Cal. 1926) and 2) The 1878 Supreme Court case *Barrow v. Hunton*, 99 U.S. 80, which held that a judgment is nullity if "obtained through fraud, bribery, forgery of documents...". The Ninth Circuit does not bar a lower federal court from applying an exception to a federal doctrine to review the merits of state court judgments. See *Reusser v. Wachovia Bank*, 525 F.3d 855 (9th Cir. 2008); *Sample v. Monterey Cnty. Family & Children Servs.*, 2009 U.S. Dist. LEXIS 69260; *Garcia v. Cal. Dep't of Forestry & Fire Prot.*, 2009 U.S. Dist. LEXIS 19229. Here, the United States Supreme Court can apply state law to nullify state judgments.

According to the doctrine laid down in *Gaines v. Fuentes* (92 U.S. [(2 Otto)] 10, 23 L.Ed. 524), the case might be within the cognizance of the Federal courts if the proceedings are tantamount to a bill in equity to set aside a decree for fraud in the obtaining thereof, then they constitute an original and independent proceeding. *Res judicata* does not apply. *MacKay v. Pfeil*, 827 F.2d 540, 543-44 (9th Cir. 1987) Extrinsic fraud on a court is, by definition, not an error by that court. It is, rather, a wrongful act committed by the party or parties who engaged in the fraud. *Rooker-Feldman* therefore does not bar subject matter jurisdiction when a federal plaintiff alleges a cause of action for extrinsic fraud on a state court and seeks to set aside a state court judgment obtained by that fraud.

These cases above are applicable to the *Moore case* now before SCOTUS. Subject matter jurisdiction is well established by numerous federal questions.

It has long been the law that a plaintiff in federal court can seek to set aside a state court judgment obtained through extrinsic fraud. In *Barrow v. Hunton*, 99 U.S. (9 Otto) 80, 25 L.Ed. 407 (1878), the Supreme Court distinguished between errors by the state court, which could not be reviewed in

federal circuit court, and fraud on the state court, which could be the basis for an independent suit in circuit court.

**II) THE ARBITRARY AND NON-UNIFORM APPLICATION OF LEGAL AUTHORITIES, INCLUDING THE ROOKER-FELDMAN DOCTRINE, RAISES THE ISSUE OF FIFTH AMENDMENT USC DUE PROCESS RIGHTS**

A verdict based on fraud should not stand. The Rooker-Feldman fraud exception gives grounds to vacate judgment and should be uniformly applied to the Moore family. The Appellants ask that the indisputable proof contained in the underlying California State Appeal and Appendix D be considered and acted upon in the interest of Justice and accountability.

**A. NINETEEN (19) COUNTS OF OCSSA FRAUD GIVE RISE TO ROOKER-FELDMAN FRAUD EXCEPTION TO VACATE JUDGMENT**

**1. OCSSA counsel misled the judge who thereafter misled the jury** when he introduced the case and implied that the police took the Appellant son from the Appellant father [Cal.Ct.App. RT p.195]. The police never took nor ever had reason to take the Appellant son from the custody of the Appellant father.-The jury was not informed that the police took the Appellant son from the custody of his ex over the weekend at a time the Appellant father did not have custody.

**2. The jury was blocked from hearing the Appellant father's rebuttal to OCSSA's vicious and fraudulent attack on his good character.**

[Cal.Ct.App. RT p.1441, 1443] *Etzel v Rosenbloom* reversal is required when opposing counsel keeps facts from being presented to the jury.

Here, in the *Moore* case, OCSSA made fraudulent allegations and blocked Appellant father's rebuttal and good character evidence from the jury. The jury had no way of knowing OCSSA was lying to them because the Appellant father was gagged when testifying.

*Ruth v Ruth* - ruled that it is not within the discretion of the Court to refuse relevant material evidence. In *Moore*, the Appellant father's rebuttal and good character testimony was relevant to mitigate OCSSA's false characterizations designed to maliciously cause the jury to hate the Appellant father.

**3. The numerous cumulative interruptions and untimely redirects of the jury were prejudicial and deceptive.** For example: In closing argument when general counsel was legitimately arguing OCSSA's pattern of lies in the Fogarty Hardwick case; OCSSA counsel interrupted fraudulently implying to the jury that the Appellant's attorney was lying. OCSSA lied about OCSSA's history of lying. [Cal.Ct.App. RT p.1423-1426]. In *Hardwick*, CA appellate Justice Bedsworth states that the jury specifically concluded that OCSSA "*lied, falsified evidence, and suppressed exculpatory evidence*" [Fogarty Hardwick Opinion P.10].

The Jury did not hear this relevant fact that established a pattern of lying. This caused the Jury to be misled by the prejudicial interruption.

OCSSA's bad faith interruptions started from the very beginning during jury selection when Appellant's general counsel asked if any of the jurors if they feel that the government is always right, never make mistakes, or never perjure themselves. Appellant's counsel was interrupted by OCSSA, to redirect the jury selection process. OCSSA's mockery made counsel wrongfully appear incompetent from the very beginning. The fact that the Appellants were not able to screen the jurors for prejudice in favor of government agents was devastating to the case. Because of media blackout to this kind of government tyranny, many Americans do not know why or how human trafficking has become a huge issue. Most American taxpayers often have the idea that CPS agencies such as OCSSA are doing good for children and have no idea about the monetary incentives to seize children from their families to expand the profitable foster care industry. OCSSA systematically took every potential juror who had any kind of experience with OCSSA and eliminated them. The result was having an entire jury that was pro-establishment and likely to always rule in favor of government agents that they believe never make mistakes, are always right and never perjure themselves. [Cal.Ct.App. RT p.236]

**4. OCSSA wrongfully and fraudulently blamed the judge for the detention of the Appellant son** [Cal.Ct.App. RT p.1427]. OCSSA lied when they told the jury that it was the judge's fault for the detaining the Appellant son. Judges do not detain children unless OCSSA presents a case to them. OCSSA fabricated a case by falsifying official documents, perjury, subordination of perjury, omitting exculpatory evidence, and forgery. It was OCSSA that wrongfully detained the Appellant son and forced him into seven failed foster care placements. OCSSA fired the parent mentor who favored release of the Appellant son, attacked and fired the MFT for demanding release of the Appellant son, and intentionally ignored the findings of seven favorable evaluations. It is outrageous that OCSSA failed to take responsibility and fraudulently deflected their own wrongdoing onto the Judge. This had the effect of confusing and misleading the jury.

**5. OCSSA's statement to the Jury that they did not do anything wrong is a fraudulent mischaracterization of the hell they put the Appellants through** [Cal.Ct.App. RT p.2045]. OCSSA lied to the jury when they told them that they did not do anything wrong. The unanimous opinion of the Appellate Court ordering the return of the Appellant son is proof that OCSSA was wrongfully detaining the Appellant son. See Cal.Ct.App. *Moore v. OCSSA* case #G055647. Even after the unanimous Appellant court decision, OCSSA refused to obey the court order for another (6) months. In total: the Appellant son spent (547) days in detention in seven failed placements where he was physically and emotionally abused by OCSSA. OCSSA perpetrated horrifying wrongs including the cover up of the serious head injury, the cover up of the leg beatings, and the

firing of everyone that did not fit the OCSSA false narrative to support their profitable detention.

**6. OCSSA lied to the jury when they said there is no incentive to prolong reunification** [Cal.Ct.App. RT p.2046]. See Appendix D, exhibits H, I, L, and M that proves monetary incentives to detain children for up the statutory maximum of 18 months. It is no coincidence that this is how long OCSSA detained the Appellant son.

**7. OCSSA lied to the jury when they told them that they have no authority to return a child** [Cal.Ct.App. RT p.2019]. If this were true; the Appellant son would have not been interrogated and seized in the first place. Also, this contradicts defendant Lauri Luchonok's testimony that they did have authority [Cal.Ct.App. RT p.562].

**8. OCSSA's numerous lies and fabrications that were presented throughout the trial concerning Appellant father's character misled the Jury.** For example: the wrinkled sheet incident where OCSSA fabricated the lie that the Appellant father was critical of breastfeeding [Cal.Ct.App. RT p.1152]. What OCSSA said happened was fabricated solely by OCSSA. They maliciously perpetrated a fraud designed to cause the jury to hate the Appellant father. *Dastagir v Dastagir* - Allowing an attack on the life and character of a party for the purpose of discrediting him is an abuse of discretion and is grounds for reversal.

**9. OCSSA fabricated fraudulent large whiteboards and erected them in front of the jury for the duration of the 5-week civil jury trial.** These fraudulent whiteboards were massive and had timelines that omitted the restraining order between parents that blocked contact six months before OCSSA's seizure. Had the timeline included this material and foundational fact, the Jury would have seen that there was no time where OCSSA's concern of an alleged "future oral argument" between parents could have happened. The whiteboards were a cleverly deceptive way of continuously fraudulently misleading the jury off the record. Even though oral argument was not ever an issue in the Moore case, even if it were true; a state seizure of a child from their family because of an oral argument is not legal. After the trial, OCSSA had the unmitigated gall to bill the Moore family for the cost of these whiteboards that was a lie. Government corruption like this should not be tolerated.

**10. OCSSA fraudulently and maliciously threatened witness Sherry Helton, MFT by presenting her as incompetent and/or emotionally unstable to gain civil trial advantage.** Ms. Helton began crying on the witness stand after OCSSA threatened her professional license [Cal.Ct.App. RT p.2040]. On the record, Ms. Helton had to ask for an attorney twice. Ms. Helton was also fired by OCSSA after her opinion that the Appellant father was a fit parent and should immediately have custody of the Appellant son. Ms. Helton in

fact is an excellent MFT and still employed by Kaiser Permanente. OCSSA intentionally confused Ms. Helton while testifying by presenting numerous lies about the Appellant father to make her second guess her favorable evaluation of the Appellant father [Cal.Ct.App. RT p.1167]. Ms. Helton clearly broke down because she was fearful of losing her MFT license and lifelong career as a therapist. The jury was fraudulently misled by OCSSA.

11. OCSSA fraudulently lied to the jury about the defendants Lauri Luchonok and Carol Butzke not being sued before [Cal.Ct.App. RT p.1427, 1428] See the Dr. Steiner v. OCSSA case. See CALBAR Rule 5-200 Trial conduct – must be consistent with the truth, not misleading. See appendix D, exhibit B.
12. OCSSA's fraudulent statement to the jury that "*Never once was there ever a recommendation to take the child away from Mr. Moore coming from the social workers*" [Cal.Ct.App. RT p.349]. This lie is contradicted in OCSSA's own jurisdiction report of 2-26-2010 where OCSSA demanded that the Appellant son be detained [Cal.Ct.App. RT p.1961]. OCSSA fraud misled the Jury.
13. OCSSA's fraudulent statement to the jury that this Appellate Court did not find "*that anything my clients did was wrong*" was deceptive and prejudicial [Cal.Ct.App. RT p.2045]. The fact that all three Appellate Justices unanimously reversed the decision is proof that what OCSSA did was wrong.
14. OCSSA fraudulently states to the jury that "*we're the only ones they can sue and try to get some big money*" [Cal.Ct.App. RT p.2045]. This statement is a gross and fraudulent distortion of the real issue of children being destroyed by the OCSSA system for money. The Appellant father had from a young age dedicated his life to serving God, not money. The federal case now under appeal is against individual social workers who harm families with taxpayer's money. Furthermore, OCSSA made this statement in bad faith after the motion in Limine was granted to exclude the monetary incentives OCSSA has for interrogating, seizing, detaining, adopting out children and eventually putting their product out in the street where they are human trafficked. These facts were intentionally concealed by OCSSA fraud to deceive the jury.
15. OCSSA fraudulently lied to the jury when they said that the Appellant's counsel (Gary Levinson) conceded that the Appellant son should be detained by them [Cal.Ct.App. RT p.2049]. The statement on its' face if true, would be a cause for disbarment and the end of Mr. Levinson's multi-decade career as a family law attorney. Mr. Levinson made every effort to return the Appellant son back into the custody of the Appellant father as soon as possible.

This unfounded attack on Mr. Levinson was a shock in the middle of the jury trial. Mr. Levinson was already overwhelmed in facing his first civil jury trial after the expert Shawn McMillan legal team was removed from the case by OCSSA in bad faith. OCSSA's false allegation against Mr. Levinson was a threat to gain civil trial advantage, a violation of professional standards of conduct. Because there was no one to put Mr. Levinson on the stand to rebut OCSSA's lies, the jury did not ever hear the truth. If the jury believed OCSSA's lie that Appellants counsel thought the Appellant son should be in state care, that alone would have been an explanation for why the jury found in favor of OCSSA.

**16. OCSSA fraudulently misled the jury when they stated that the Appellant father had no insight to the conflict [Cal.Ct.App. RT p.2030].** There was no conflict since the restraining order of 2009 eliminated contact (6) months prior to OCSSA's wrongful seizure of the Appellant son. OCSSA fabricated a visual that the Appellant father and the Appellant son's mother were in conflict, thus endangering the Appellant son. This is a lie because the parents did not live together and did not have contact to even make conflict possible.

**17. OCSSA fraudulently misled the jury when they stated that the Appellant father did not take responsibility for the Appellant son being taken [Cal.Ct.App. RT p.2037].** OCSSA repeatedly failed to tell the Appellant father why his son was taken. Their forged document said it was "excessive litigation" [Cal.Ct.App. ROR p.2860, 2796, 2807; RT p.1992, 2055]. The truth is that there would not have been any litigation had not OCSSA wrongfully taken the Appellant son. Prior to the Appellant father becoming a father, he had never been sued or sued anyone in his entire life.

**18. OCSSA's Stacey Metcalf committed perjury when she told the jury that she explained why the Appellant son was being detained during OCSSA's monthly meetings with the Appellant father.** She never explained the detention of the Appellant son. At each monthly meeting, Ms. Metcalf repeatedly promised to explain the reason at the next monthly meeting, which never happened. Ms. Metcalf never explained because there was no reason. This fact is proven by the unanimous California Court of Appeals verdict ordering the Appellant son back into the sole custody of the Appellant father. Sherry Helton's testimony is also collateral proof of this fact [Cal.Ct.App. ROR p.2877]. Stacey Metcalf also lied about not receiving emails. She told the Appellant father that she deleted all his emails. If she did not receive them, there would be no emails to delete. [Cal.Ct.App. RT. p.1718].

**19. OCSSA's Stacey Metcalf lied to MFT Sherry Helton about an implied diagnosis of other professionals to trick her into formulating a diagnosis [Cal.Ct.App. RT p.1985].** Metcalf lied when she told others that the Appellant father was mentally ill [Cal.Ct.App. RT p.1967]. The Appellant father has not ever been mentally ill. All seven of the mental health professionals who

evaluated the Appellant father unanimously agree that the Appellant father has no mental illness. Contrary to what Ms. Metcalf's opinion is, believing in Jesus Christ is not a mental illness.

**III) THE FEDERAL ADOPTION AND SAFE FAMILIES ACT (ASFA) OF 1997 FUNDS THE GOVERNMENT OPRESSION AND EXPLOITATION OF CHILDREN WITHOUT PROOF OF A WARRANT IN VIOLATION OF THE FOURTH AMENDMENT OF THE UNITED STATES CONSTITUTION**

Government agencies that interrogate and seize children by force from their families should require proof of a 4th amendment warrant prior to the release of taxpayers' funds. This requires a change of policy on the state and federal levels. OCSSA should be disgorged of their funding for interrogating and wrongfully detaining the Appellant son for the federal statutory maximum of 18 months.

**THE ADOPTION AND SAFE FAMILIES ACT of 1997 (Public law 105-89)** - has been providing monetary incentives to seize children without the protection of USC 4th amendment rights since 1997. Here, a judicial warrant to be issued by a neutral magistrate upon showing of probable cause is required prior to the seizure of persons.

Serious systemic failures of our social services system are causing great harm to our children. These failures are rooted in self-serving and overzealous bureaucrats. We have huge United States Constitutional human rights crisis that is ultimately resulting in the human trafficking issue.

Upwards to 1,800 children are being harmed by the government "*kids for cash*" program every year in Orange County, California alone. On a national level, a child is seized every (1) minute by self-serving, over-zealous CPS agents. This is how the human trafficking industry is surging.

When the Appellant father was a child, human trafficking was largely unknown. Now, the United States has become number one in the world for human Trafficking, leading even Mexico and the Philippines.

Why? Upwards to 80% of children who are human trafficked come from foster care. The foster care industry is expanding because of the work that CPS does to take children from their homes by force. This should not ever happen, except in extremely rare instances. The number one thing a child needs is the

love of their parent(s). This is true even if the parent(s) are not perfect under the government approved parenting methods.

#### **IV. NUMEROUS ERRORS OF THE LOWER FEDERAL COURT FORM GROUNDS FOR REVERSAL**

*(Here, Refer to Appendix E for lower federal court reporter's transcript)*

**Federal FRCP Rule 60(b)(1)** allows for relief from an order on grounds of surprise. The Appellant's and Appellant's counsel was surprised (ambushed) by the third motion to dismiss when Appellant's counsel was out of the country. The Appellants made a reasonable request for a continuance and should NOT have been opposed in bad faith by OCSSA counsel. The hearing without legal representation and without affording the Appellant's an opportunity to argue the case was egregious. This surprise and unfair advantage is a gross miscarriage of justice and should not stand.

Appellant's counsel made efforts through the Appellant father (who was not in Japan) to secure a continuance by filing a formal written request. See Appendix E [RT p.4 line 22-23]. The clerk of the court refused to file the motion for a continuance, stating that only the Appellant's attorney, who was in Japan, could file it. Prior to the hearing, OCSSA counsel was served by a process server the motion for a continuance. The standard form for proof of service was used as downloaded from the federal district website. OCSSA counsel refused to sign the acknowledgment of receipt (See Exhibit in Appellant's motion for reconsideration). During the hearing, the Appellant's appeared [RT p.3 line 8]. The Appellant informed federal Judge Josephine L. Stanton that they had a declaration (in hand) to justify a continuance [RT p.3 line 14-15]. Judge Stanton refused [RT p.3 line 15]. Judge Stanton then stated that Appellant's counsel "*had every opportunity to file whatever papers he wanted to file to seek a continuance*". To say this knowing that Appellant's counsel had been and was at that time in Japan and knowing that the Appellant's themselves were blocked from filing that paperwork is wrong. Also, to say to the Appellant's standing in court without representation that "*You're represented, sir*" is ridiculous [RT p.4 line 24]. The Appellant's asked to argue the case (without representation) [RT

p.4 line 11-12]. Judge Stanton twice refused to allow the Appellant to argue [RT p.4 line 13, p.5 line 20-21]. The court's refusal to file the motion for continuance in advance and then the refusal to allow the Appellant's to speak give rise to due process violations.

The order of dismissal was premature for multiple reasons.

- 1) The federal stay should not have been lifted because the state case was ongoing at the time.
- 2) Appellant's day in federal court never happened because Appellant's counsel was in Japan when a catastrophic prejudicial decision was made.
- 3) Not all the facts were before the court because there was not ever a ruling on the motion to waive word count limitation.
- 4) The dismissal was a violation of the Appellant's procedural due process rights because the court did not allow filings and argument at a critical hearing.
- 5) The dismissal does not consider OCSSA criminal conduct such as perjury, subordination of perjury, destruction of evidence, and collusion that occurred during and after the state trial.
- 6) The court failed to make inferences in the light most favorable to the non-moving party, the Appellants.
- 7) The Rooker-Feldman res judicata defense does not apply in cases of fraud. OCSSA perpetrated (19) counts of fraud, therefore res judicata is not a bar to the federal court case.

On page 2 of the order of dismissal, Judge Stanton omits the fact that the physical examination of the Appellant son proved that he had no injury and his OCSSA CAST interrogation showed no issues, yet without any cause, OCSSA seized the then 3-year-old Appellant son from his loving paternal family and forced him into the arms of total strangers. Also omitted is the serious head injury the Appellant son suffered in state custody and the fraud OCSSA perpetrated to cover up their wrongdoing. Additional omissions are the fact that the Appellant son's grandmother; a licensed Registered Nurse (RN) with a master's degree in child development was denied having custody of her

grandson; that OCSSA committed perjury during the trial when they denied receiving proof of Martha Moore's RN's license.

What is true is that the Appellants have made a claim for OCSSA's violation of civil rights under 42 U.S.C. § 1983. What is also correct is beginning on page 3: Monell claims for violation of U.S.C. 14th amendment rights; California constitution civil rights violations (See summary constitutional authorities involved above and refer to the table of authorities for map to the California constitution); and the intentional infliction of severe emotional distress. This is detailed in the statement of facts and supported by OCSSA's collateral evidence of the Appellant son's daily crying and screaming to come home to the Appellant father, loss of potty training, nervousness, acting out, vomiting, nail biting, and insomnia while in state "care".

What is omitted on page 3 is that the parties stipulated to a \$150,000 settlement then OCSSA reneged on it after delaying trial for two years. Then when the Appellant's brought in the McMillan team of (3) expert civil right trial attorneys, OCSSA wrongfully argued that they would be prejudiced to have to wait for the attorneys to review the boxes of bureaucratic paperwork OCSSA created. After OCSSA maliciously succeeded in having the Appellant's expert trial team eliminated by the judge's denial of Appellant's continuance, OCSSA requested numerous continuances, including a continuance so an OCSSA attorney could attend a wedding. This proves that OCSSA was disingenuous about being prejudiced when the Appellant's needed a continuance that was denied. It also shows bad faith.

The Appellant's expert trial counsel was an award-winning trial team that only took about 3% of the cases presented to them. The Appellants *prima facie* case was one of them. Appellant's expert trial counsel was no longer available after OCSSA eliminated them with their opposition. In all, OCSSA obtained continuances that put the trial date out farther than if the Appellants were able to keep their expert trial team.

At the last sentence, Judge Stanton made a comment that the Appellants "*failed to show good cause as to why the complaint should be amended so far into the*

*proceedings*" yet makes no mention of the fact that the case was settled in a formal conference and that the Appellant's were blind sited when OCSSA reneged the stipulation after two years. The Appellant's quickly had to prepare for trial after they had believed in good faith that OCSSA would honor the settlement agreement. Instead of that money going to the Appellant son whose life was destroyed by OCSSA, for years now, the money and probably 20X more has been going to the OCSSA attorneys who profit endlessly at taxpayers' expense.

On page 4, Judge Stanton neglects to state that in federal court, the OCSSA defendants are being sued for acts done outside their scope of employment. Judge Stanton also neglects to see that numerous felonies occurred during the state trial when OCSSA's perjury, subordination of perjury, threatening Appellant's star witness, collusion and many other causes for action occurred. Here, FRCP Rule 60(b)(3) allows for relief from an order on grounds of misconduct by an opposing party.

The nature of these acts gives the federal court direct jurisdiction in the case at hand. Because Judge Stanton gagged the Appellants and refused to grant a continuance when their attorney was overseas, the federal court has yet to hear the arguments.

In the last paragraph of page 4, Judge Stanton omits that OCSSA wrongfully deceived the jury into believing that it was the juvenile judges' fault. Also OCSSA's lie to the jury that they did not want to detain the Appellant son (See summary of the (19) counts of fraud above).

Also omitted is the head of OCSSA, Mr. Riley, committed perjury. The Appellant's made allegations of fraud based on indisputable proof. e.g. OCSSA's testimony before the jury that the defendants had never been sued before. The *Anna Steiner v. OCSSA* case against the same defendants is proof that this was fraud. The fact is that these social workers are repeat offenders who had no regard for the fundamental human right of a child to be with their family.

Therefore *Bell Atl. Corp. v. Twombly*, 550 U.S. 544 (2007); *Papasan v. Allain*,

*478 U.S. 265 (1986)* does not apply as a legal standard in this case. Discussion based on these authorities is incorrect.

Furthermore, the application of *28 U.S.C § 1738* is premature because the appeal process was not complete at that time. See Appendix D [Judicial notice exhibit B] proof that the defendants are repeat offenders. The Appellant's discovered this lie afterwards. So, Judge Stanton's quote "*the county had no official custom of allowing its social workers to provide either perjured evidence to the juvenile court or of failing to provide exculpatory evidence*" is a joke when Mr. Riley, the head of OCSSA, was lying in our face before the jury.

See also Appendix D [judicial notice exhibit A] for proof of OCSSA's omitted exculpatory evidence. Here, FRCP Rule 60(b)(6) provides for relief for any other justifiable reason. Miscarriage of justice and (19) counts of fraud have already been included and are well documented here.

On the bottom of page 5, Judge Stanton cites *res judicata* applies if

(1) "*the decision in the prior proceeding is final and on the merits*"; Here, the Appellants assert that a decision based on (19) counts of fraud is not on the merits. (2)" *the present proceeding is on the same cause of action as the prior proceeding*"; The problem here is that additional causes for action occurred during the state trial and after this federal case was filed that has yet to be heard by the federal court.

On top of page 6 Judge Stanton quotes "*Res judicata bars the litigation not only of the issues that were actually litigated but also issues that could have been litigated*". Here, it is impossible to litigate issues that did not happen yet at the time of the filing. OCSSA's criminal conduct has been ongoing and throughout the state and federal trials. The order to dismiss does not include the matter of ongoing tort and criminal conduct of the defendants throughout the jury trial.

*Ashcroft v Iqbal*, *556 U.S. 662 (2009)* requires that "*the court must take the allegations as true, no matter how skeptical the court may be*". The allegations are documented in the Appellant's reply pleadings to defendant's third motion to dismiss and again in the opposition to the second motion to dismiss. These were new facts since the amended pleading was filed and must be considered.

In the second paragraph, Judge Stanton states the decision in the state proceeding is final. This is contrary to The *Rooker-Feldman* doctrine which holds that “*Review of final determinations in state judicial proceedings can be obtained only in the United States Supreme Court*”. See *In re Sun Valley Foods Co.*, 801 F.2d 186 (1986). Because at the time of Judge Stanton’s ruling, there was a United States Supreme Court case (#USSC2017-6394); Her dismissal was premature on those grounds.

*Kougasian v. TMSL, Inc.*, 359 F.3d 1136 (9th Cir. 2004) & *Takahashi v. Board of Trustees of Livingston Union School Dist.*, 783 F.2d 848 (9th Cir.) requires litigants to have “*a full and fair opportunity to present their case for res judicata to apply*”. As argued above and below, no such full and fair opportunity was available to the plaintiff.

The res judicata analysis in the dismissal opinion referred to in *Fed’n of Hillside and Canyon Assocs. V. City of L.A.*, 126 Cal. App. 4th 1180 (2004) applied to “*some findings*” and is not applicable to fraud cases as discussed above and below. *Franklin & Franklin v 7-Eleven Owners for Fair Franchising*, 85 Cal. App. 1168 (2000) and the associated case quoting their finding is not applicable because “*res judicata is not achieved*” until appeal “*has been exhausted*”.

Judge Stanton’s third paragraph discusses the same cause of action (for the pre-filing conduct of OCSSA) however omits FRCP § 42(a) which permits the Federal Court to consolidate actions that involve common question of law or fact. The Federal Court rightfully failed to consolidate the state and federal trials on its own initiative. The social worker defendants committed acts outside the scope of their employment, and contrary to policy. Therefore, these individuals are severally liable. Under vicarious liability theory the County of Orange defendant is jointly liable with the individual defendants. Recent case law supports that defendant’s that are jointly and severally liable are not protected under Res Judicata “primary rights” theory. See *DKN Holdings v Wade Faerber*, 61 Cal. 4th 813 (2015) CA Supreme Court case S218597. Furthermore, Judge Stanton’s opinion is defective in that she does not account for new criminal conduct by OCSSA.

On page 7, Judge Stanton omitted the fact that the Appellant father followed every term and condition of court orders and service plans. Instead, she chose to reprint OCSSA's false allegations which are contradicted by juvenile judge Hernandez's order Appendix D [Judicial notice exhibit C]. If the Appellant father did not obey court orders or service plans, then Judge Hernandez's order would not have happened in the Appellants favor. See also in statement of facts and Appendix F; OCSSA's unwanted and unneeded harsh CRISP program and fabricated NOS diagnosis.

More *primary right* theory is presented on page 8, without any reference to OCSSA coercing one of Appellant's attorneys (Mr. Ricci) into wrongfully testifying against his own client. This is a new *primary right* that was violated since the federal case was filed. See Appendix D [Judicial notice F and G] and statement of facts.

Defendants cite *Crowley v. Katleman*, 8 Cal. 4th 666 (1994) & *Slater v. Blackwood*, 15 Cal. 3d 791 (1975) as a clever way for the defendants to try escape liability. Here, OCSSA's claim is that their numerous instances of criminal and tortuous conduct during the (547) days of detention and government abuse of the Appellant son and their (19) fraudulent fabrications to the trial court during the civil jury trial is really only one "*primary right*". By inference, OCSSA is also arguing that their numerous criminal and tortuous acts that fall within the social workers scope of employment and their other criminal and tortuous conduct outside the scope of their employment is the same. This is not a convincing argument because each criminal and tortuous act occurred at different times, by different parties and in different settings. Also noteworthy is the new wrongs that have occurred since the case was filed. Leave to amend the complaint was justified based on new conduct.

The Primary rights "*brush cannot be wielded too carelessly*". *San Diego Police Officers Ass'n v. San Diego City Employees Retirement Sys.*, 568 F.3d 725 (9th Cir. 2009); *Eichman v. Fotomat Corp.*, 147 Cal. App. 3d 1170 (1983). Also "*different primary rights may be violated by the same wrongful conduct*." *City of Los Angeles v. Superior Court*, 85 Cal. App. 3d 143 (1978) establishes that a

court has discretion to narrow or enlarge “Cause of action” in proportion to “the breadth of the particular courts concept of ‘primary right’. In *Moore v OCSSA*, we have multiple victims harmed in numerous ways over years of physical and emotional government abuse, false imprisonment, perjury, forgery, subordination of perjury, coercion, kidnapping, deception, false light and defamation. OCSSA’s wrongful conduct is horrific and is an ongoing threat to all Orange County children Appendix D [Judicial notice H, I, M, N]. OCSSA admitted that they take upwards to 1,800 Orange County children every year Appendix D [Judicial notice exhibit M].

Page 9 shows that the order of dismissal was prepared by “tg” (Terry Guerrero), a non-attorney who serves as an assistant to Judge Stanton. Because the order of dismissal was published within hours of the hearing that was heard in the mid-afternoon, it makes sense that it was prepared before the hearing even took place which points to bias in favor of the government. It also raises the question of if Judge Stanton even wrote or dictated it. If not, to have a non-attorney to make this catastrophic decision is an affront to justice.

FRCP Rule 83(a)(2) requires that local rules be enforced in such a way that a party will not lose any right because of non-willful failure to comply. The Appellants have not made any willful failures to comply with any of the local rules. and should be treated fairly. This is important to note, because Judge Stanton’s position that a continuance was not presented is contrary to every action of Appellant’s attorney who was in Japan and every effort Appellant’s made to file a continuance and negotiate a stipulation in accordance with all rules.

Also, the court did not make inferences in the light most favorable to the non-moving party as is required in *Daniels-Hall v. Nat'l Educ. Ass'n*, 629 F3d 992 (9th Cir. 2010). Here, the non-moving party is the Appellants, not the defendants.

## **V) ALTERNATE GROUNDS FOR OVERTURNING DISMISSAL**

F.R.C.P 60 (b) GROUNDS FOR RELIEF FROM A FINAL JUDGMENT, ORDER, OR PROCEEDING. On motion and just terms, the court may relieve a

party or its legal representative from a final judgment, order, or proceeding for the following reasons:

- (3) Fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party; See the summaries of the (19) counts of fraud and the *prima facie* case of both intrinsic and extrinsic fraud above. Any one of these is grounds for a reversal of the order of dismissal in the lower court.
- (4) The judgment is void; A judgment procured by fraud is void.
- (6) Any other reason that justifies relief. Here, justice requires reversal for OCSSA bad faith misconduct.

As cited above; Federal Rules of Civil Procedure (FRCP) rule 60(b)(3) provides for relief from a judgment on grounds of fraud, misrepresentation, or misconduct by an opposing party. See. *Martinez v Dept. of Transportation*, 238 Cal. App. 4th 559 (2015). A mountain of evidence supports that a fraud was perpetrated in the state jury trial. Furthermore, OCSSA's refusal to stipulate to a reasonable continuance while Appellant's counsel was in Japan is misconduct and done in bad faith. The Appellants request relief here. If not, then the Appellant's asks that the Federal Court order relief based on FRCP rule 60(d)(3) by setting aside the judgment based on fraud on the court.

#### **VI) NINTH CIRCUIT DELAY OF JUDICIAL NOTICE AND LATER DENIAL DEPRIVED THE APPELLANTS OF THEIR DUE PROCESS AND EQUAL PROTECTION RIGHTS**

*Here, refer to constitutional issues above and Appendix D attached.*

Judicial notice Exhibit A: Shows the professional exculpatory testimony that OCSSA denied receiving and intentionally disregarded. Doctor Schlesinger's declaration was filed in court contrary to OCSSA's counsel's misrepresentations to the Cal.Ct.App. and the trial court. Defendant Lauri Luchonok lied to the jury about never receiving the declaration that was hand delivered to her by Gary Levinson, filed in the family court record and transferred to the Juvenile court, hand delivered to OCSSA counsel during the juvenile trial, hand delivered to the OCSSA contract therapist Teena Honstetter and given to parent mentor Caroline Whale, who was subsequently terminated. As collateral proof, OCSSA counsel unwittingly stated on the record that Ms. Luchonok was aware of it

when referring to papers that she did not want filed directly in the Juvenile court.

Judicial notice Exhibit B: The *Steiner v. OCSSA* case proves that the testimony of OCSSA director Michael Riley was false. Director Riley knew or should have known that defendants Lauri Luchonok and Carol Butzke are repeat offenders. This false testimony misled the jury and is grounds for reversal. This gives rise to the issue of subordination of perjury by OCSSA.

Judicial notice Exhibit C: The final judgment order Judge Hernandez filed September 14, 2011 shows that the Appellant son was not released until the 18 months of federal taxpayers' money ran out and a half year after the order of the Appellate Court. It took 201 days (six months and 20 days) AFTER the court order when OCSSA finally released the Appellant son.

Judicial notice Exhibit D: Attorney Shawn McMillan's declaration, an expert in civil rights litigation, explains in his own words how the jury finding proves the OCSSA social workers were found to have oppressed and lied with malice. The prejudicial interruption at closing arguments misled the jury into believing that the social workers did not lie. Shawn McMillan was the Appellants expert trial attorney that was removed in bad faith by OCSSA.

Judicial notice Exhibit E: Attorney Gary Levinson is Appellants general counsel. His declaration states how he was not able to testify in front of the jury as a witness to OCSSA's perjury. The McMillan expert trial team was removed because of the denied continuance as a result of OCSSA bad faith. Therefore, examination of witness Mr. Levinson during the trial was not available, because Mr. Levinson was Appellants only counsel. Had the McMillan lawyers not been removed, Mr. Levinson would have been called to testify as a witness.

OCSSA fraudulently denied receiving exculpatory evidence that was hand delivered to them by Mr. Levinson. The fact that OCSSA had Exhibit A makes for a *prima facie* case of omission of exculpatory evidence which is central to the Appellants claim. The jury did not ever hear the testimonial evidence of OCSSA perjury and was blinded as to a key element of the case. Additionally, Mr.

Levinson was not able to defend himself when OCSSA fraudulently claimed Mr. Levinson was against the Appellants.

Judicial notice Exhibit F: Here is proof that Matthew Ricci is a lawyer and a sworn officer of the court. At no time was the jury made aware of this fact. The way the case was framed before the jury was misleading. Officer Ricci was presented as a police officer, not a lawyer. This had the effect of confusing the jury as to the legal relationship between Attorney Ricci and the Appellants. First the case was introduced to the jury as if the police had taken Appellant son from the Appellant father, which is not true. Second, when the Appellant father was fraudulently presented as if the Appellant father was defective to get legal advice from the police, he did not reveal to the jury that "*advice from police officers*" [Cal.Ct.App. RT p.1529,1530] is not what happened. The fact is that the Appellant father received legal advice from an attorney who was also a police officer. Attorney Ricci advised obtaining a restraining order in 2019, which the Appellant father did to protect the Appellant son. This was a half a year before the Appellant son was wrongfully seized by the government in 2010. The Appellant son was always safe and secure in the custody of the Appellant father.

Judicial notice Exhibit G: Mathew Ricci's website clearly shows his legal business targeting government agents. As a legal defender of government agents, he had a pecuniary interest in providing favors to government agents to obtain future business. As the Appellants counsel, Mr. Ricci had fiduciary duties including the duty of confidentiality and the duty of loyalty to the Appellants. Mr. Ricci violated his duties by testifying against the Appellants to gain favor with OCSSA for future business. Mr. Ricci's testimony was in opposite to what Mr. Ricci said to the Appellant father at a Mariners church SWAT team demonstration and another time at the Turtle Rock park bike trailhead. Both times he expressed disbelief that OCSSA would detain the Appellant son and was against OCSSA's conduct. This conflict of interest between Attorney Ricci law business and OCSSA was concealed from the jury. This failure to disclose the conflict caused the jury to be misled. Had the jury known the profit motive, they would have reasonably discounted his testimony.

Judicial notice Exhibit H: OCSSA counsel misled Attorney Gary Levinson when he was told Orange County is average in their seizure of children, therefore fraudulently misled him into not opposing the motion in Limine to remove OCSSA's financial incentive from the jury. Here, the financial incentives are well documented by well-known director of CPS - Molly Tierney whose revelations apply to all U.S. jurisdictions. The jury was blind to the reality of how OCSSA profits from children.

Judicial notice Exhibit I: Senator Nancy Schaefer documents the horrific abuse of the American family at taxpayers' expense. This shows the systemic failure of our government not requiring proof of a warrant prior to the release of taxpayer's money. An estimated 98% of children exploited by our government would be saved by placing this simple constitutional safeguard into practice.

Judicial notice Exhibit J: The Fogarty Hardwick case establishes that OCSSA has a pattern of lying and that OCSSA's response to an employee who lies is promotion into training positions [Cal.Ct.App. RT p.1423-1426]. OCSSA fraudulently denied this fact.

Judicial notice Exhibit K: Here are the OC newspaper articles of the lying social worker in the Fogarty Hardwick case and the subsequent promotion into a training position. At a minimum, the jury should have been informed about the Fogarty Hardwick case findings of oppression and lying with malice. The jury was blinded and redirected upon the highly prejudicial interruptions during closing arguments.

Judicial notice Exhibit L: The CDSS report shows 11.5 month average detention in Orange County vs. 5.4 months of detention nationally. This report discovered after the trial proves that OCSSA lied about the statistics when they fraudulently obtained a motion in Limine to blind the jurors of OCSSA's profit motive.

Judicial notice Exhibit M: Mr. Riley's statements are necessary to demonstrate OCSSA's involvement in a kids-for-cash program. Appellant's counsel was deceived by OCSSA which resulted in the prevention of necessary evidence from being presented to the jury in the case now under appeal. This deposition

provides the financial motive for OCSSA to detain children. It also shows that OCSSA will take advantage of any opportunity to take children from their family, and additionally, to prevent children from being in the care of any other family member. Children are not profitable to OCSSA when in the care of their own families. Furthermore, the deposition shows that OCSSA knows that dishonesty of OCSSA agents is a factor in half of the cases as reported by parents.

Judicial notice Exhibit N: McMillan's class action lawsuit on behalf of 7,840 Orange County children shows the extent of OCSSA corruption. Every five hours a child is seized by OCSSA. This Court is able to stop this government abuse by removing monetary incentives.

#### PROCEDURAL BACKGROUND

On January 10, 2010, Orange County Social Services (OCSSA) wrongfully seized the then three-year-old Appellant son from his paternal family. OCSSA deceived Commissioner Gary Bischoff in a seven (7) week dispositional trial that resulted in a wrongful Welfare and Institutions Code (WIC) 361(C) detention on May 5, 2010. The Appellants filed for a review of the decision on May 28, 2010, in the California Court of Appeals 4th District Division 3 case number G044058. A unanimous decision was made in favor of the Appellant son's return to the Appellant father in February 2011. OCSSA brazenly disagreed with the Court decision and illegally continued to falsely imprison the Appellant son for six (6) months until after a writ of habeas corpus demand to release a prisoner was filed. On May 20, 2011, CASE No. 30-2011 00476941 was filed in the Orange County Superior Court Central Justice Center to be heard by Hon. Geoffrey T. Glass. OCSSA offered a settlement before trial which was accepted by all parties present at the settlement conference. This stipulated settlement was not ever paid to the Appellants. OCSSA delayed the case for two years. After OCSSA reneged on the stipulated settlement of \$150,000; federal court USDC Case No. CV13-01346 JST (ANx) was filed to bring individual accountability to the perpetrators. This case had been pending the outcome of the state case. OCSSA

failed to join the state and federal cases, thus these two cases became separate trials. Since the state civil jury lawsuit was filed, two original defendants have been dropped. OCSSA child's appointed attorney Karen Cianfrani conducted no independent investigation regarding the best interest of the Appellant son and relied on the misrepresentations, perjury and fabrications of OCSSA. Ms. Cianfrani was originally named in the lawsuit but was dropped after a settlement agreement in which monetary compensation was received by the Appellant son and general counsel Gary Levinson, ESQ. Defendant Teena Honstetter MFT lied in a SLAPP motion for dismissal and deceived Judge Glass into wrongfully dismissing. Ms. Honstetter claimed her "*opinion*" was not actionable under the SLAPP statute. Perjury is a crime, not an opinion. Due to limited Appellant resources, a settlement was made, and Ms. Honstetter was released from further legal action. After her release and during the civil Jury trial, Ms. Honstetter once again committed perjury when she stated that general counsel Gary Levinson was stalking and harassing her. On February 13, 2014, a jury decision in favor of OCSSA was issued. This decision was a result of nineteen (19) OCSSA counts of fraud as detailed in this petition and in appendix D. On March 20, 2017, an appellate case was filed at the California Court of Appeal, Fourth Appellate District, Division Three. The petition for rehearing was denied on April 18, 2017. California Supreme Court review was denied June 15, 2017. United States Supreme Court petition 2017-6394 was denied December 4, 2017. Thereafter, OCSSA maliciously commenced a financial attack on the Moore family after the CalBAR was notified of numerous CalBAR violations perpetrated by defendant's counsel Daniel Spradlin, ESQ. These violations include subordination of perjury, threatening a witness to gain trial advantage, and lying to the court. The witness that OCSSA threatened was Ms. Helton; a highly experienced MFT at Kaiser Permanente. She was maliciously brought to tears by OCSSA after she demanded that OCSSA release the Appellant son to the Appellant father. Through threats, intimidation and coercion, the Appellants withdrew from the CalBAR investigation to maintain their necessities of life. The federal case, which was stayed pending the outcome of the CA state case,

became active. OCSSA attempted twice to have the case dismissed, however failed both times. When Appellant's counsel was in Japan, OCSSA scheduled a third motion to dismiss that would have been opposed if the Appellants attorney were not on the other side of the world. Appellant's attempts to self-represent were unsuccessful because OCSSA would not cooperate. OCSSA unfairly took advantage of the situation by ambushing the Appellants. OCSSA then unconscionably filed charges for costs (of their 19 counts of fraud) which were opposed in superior court Case No.:30-2011 00476941. This is an egregious abuse or power to attack the family they profited from for years and financially destroyed. To top it off, OCSSA was double charging the Appellant family for thousands of dollars of transcripts that they did not ever use. The Appellant father came to court on a special appearance to obtain a continuance in order to have enough time for a *motion to compel production* of documents that prove the double billing. Judge Geoffrey Glass was not present, so the Appellants stipulated to seeing Judge Loveder. Judge Betty Eagleson appeared instead of Judge Loveder and denied the necessary continuance. Upon objection, judge Eagleson stated that she was "*not familiar with the case*" and advised filing an appeal. OCSSA failed to cooperate with the production of documents which delayed justice by several months. By the time the rulings were made, the statute of limitations ran out requiring the Appellants to appeal from the *motion for reconsideration*. This was done on procedural advice provided by an appellate court expert provided by the Appellate court itself. Incredibly, the Appellate court ruled that the Appellants should have appealed from the original OCSSA motion (whose time ran out). Because the reconsideration motion incorporated the original motion, the entire matter was rightfully before the court. On November 8, 2017; case #G055647 was filed at the California Court of Appeal, Fourth Appellate District, Division Three. The court turned a blind eye to the (19) counts of fraud by OCSSA. This was in spite of being presented a *prima facia* case. The petition for rehearing was denied on November 5, 2019. California Supreme Court review of case #S259177 was denied January 16, 2020.

United States Supreme Court petition #19-8841 was filed on June 12, 2020. The petition was denied October 5, 2020. See petition for review above for details of the current appeal here.

#### **REASONS FOR GRANTING THE WRIT**

1. The Rooker-Feldman fraud exception to res judicata is important to protect the constitutional due process rights of litigants harmed by fraud. This is an opportunity for SCOTUS to rule on the subject so that it may be uniformly applied to all federal jurisdictions.
2. Currently, billions of taxpayers' dollars are given to self-serving government bureaucrats without the 4A USC required judicial warrant. If SCOTUS were to rule acts such as the ASFA, et. al. unconstitutional, the following modifications would protect our USC fundamental human rights:
  - i) Add an ASFA provision that federal funds would only be issued to social service agencies upon proof of a judicial warrant to be in compliance with the Fourth amendment of the United States Constitution.
  - ii) Link the release of federal ASFA funds to social service agencies only upon proof that the parent was notified that their minor child was seized by the government. This would prevent parents from the severe emotional distress caused by not knowing where their child is during government seizures.
  - iii) Link the release of federal ASFA funds et. al. to proof that the parent was informed why their minor child had been seized by the government, and how to comply with government mandated parenting methods (such as raising a child without discipline) so that they may know what must be done to release their child from government detention centers.
3. To allow the Moore family to have their day in federal court by reversing the dismissal of the federal case and remanding for trial in federal court.
4. To set aside the state judgment against the Moore family procured by fraud so that they will not have to pay for the crimes of the government agents.
5. To disgorge OCSSA of the taxpayer's money they collected for torturing and destroying the Moore family. This will serve as a deterrent to prevent future crimes against American families.

## CONCLUSION

For the above reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted,

Dated: July 29, 2021



/s/ Gregory Moore, J.D.

Appellant father

To brief the Court more fully on the matter of serious issues of government oppression and exploitation of our children, a copy of the Appellant father's J.D. thesis is also available for review upon request.