No. 21-979

In The

Supreme Court of the United States

CARLA YOUNG,

Petitioner,

v.

BRIAN LUNDSTROM;
LIGAND PHARMACEUTICALS, INC.; AND
LIGAND PHARMACEUTICALS, INC. 401(k) PLAN,

Respondents.

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

In *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280 (2005), this Court recognized the departure lower courts had taken from this Court's precedent in applying the *Rooker-Feldman* abstention doctrine. Even after *Exxon*, however, lower courts' holdings continue to conflict with one another and this Court, including discrepancies of whether an injury is caused by a state-court judgment, whether a plaintiff's requested relief is seeking review and rejection of a state-court judgment, and how the "inextricably intertwined" analysis applies. The Ninth Circuit below held that, although a direct, explicit attack of a state-court judgment is barred, relief to enjoin the effects of that judgment is not. The questions presented are:

1. Whether receiving benefits pursuant to a state-court judgment is an independent claim and not an injury caused by a state-court judgment, as the Ninth Circuit held here; or it is an injury caused by the state-court judgment, or in other words, the state-court judgment is the source of that injury such that the claim falls under *Rooker-Feldman*, as the Second, Sixth, and Tenth Circuits hold, and as the Ninth Circuit has previously held.

2. Whether injunctive relief must "expressly" seek relief from the state-court judgment to fall under *Rooker-Feldman*, as the Ninth Circuit held here and with which the Fourth, Seventh, and Tenth Circuits somewhat agree; or injunctive relief that can be granted only if the state-court judgment is invalid or

QUESTIONS PRESENTED—Continued

would effectively be nullified by the district court's action is an invitation to review and reject the state-court judgment, or is inextricably intertwined with the validity of the state-court judgment, such that the claim falls under *Rooker-Feldman*, as the Third, Eighth, and Eleventh Circuits hold and other Seventh and Tenth Circuit cases have held.

PARTIES TO THE PROCEEDING

Petitioner is Carla Young, defendant in the district court and appellee in the Ninth Circuit.

Respondents are Brian Lundstrom, plaintiff in the district court and appellant in the Ninth Circuit; Ligand Pharmaceuticals, Inc., defendant in the district court and appellee in the Ninth Circuit; Ligand Pharmaceuticals, Inc. 401(k) Plan, defendant in the district court and appellee in the Ninth Circuit; and Does 1 through 20, defendants in the district court. Does 1 through 20 have not been identified other than as individuals "who, upon information and belief, are in some way responsible for the harm alleged by" Respondent Brian Lundstrom. Pet. App. 72–73.

RELATED PROCEEDINGS

The following proceeding is directly related to the case in this Court:

In the Matter of the Marriage of Brian Lundstrom and Carla Young and In the Interest of D.E.L., L.J.L., and J.L.L., Children, No. 233-515485-12, 233rd Family District Court, Tarrant County, Texas. Qualified Domestic Relations Order (QDRO) entered on November 21, 2017. S. App. 15–19.

In re B.L., No. 18-0093, Supreme Court of Texas. Order denying petition for writ of mandamus to invalidate the Texas QDRO entered on June 8, 2018.

TABLE OF CONTENTS

TABLE OF CONTENTS—Continued

TABLE OF CONTENTS—Continued

TABLE OF CONTENTS—Continued

TABLE OF AUTHORITIES

TABLE OF AUTHORITIES—Continued

TABLE OF AUTHORITIES—Continued

STATUTES

PETITION FOR A WRIT OF CERTIORARI

Petitioner, Carla Young, respectfully petitions for a writ of certiorari to review the judgment and opinion of the United States Court of Appeals for the Ninth Circuit.

OPINIONS BELOW

The memorandum opinion of the court of appeals, Pet. App. 1–6, is reported at 857 Fed. Appx. 952. The court of appeals' order denying Young's petition for panel rehearing and rehearing en banc, Pet. App. 49, is unreported. The order of the district court dismissing Respondent Brian Lundstrom's suit, Pet. App. 7–48, is reported at 419 F.Supp.3d 1241. The Texas Qualified Domestic Relations Order (QDRO), S. App. 15–19, is unreported. The Supreme Court of Texas' order denying Lundstrom's petition for writ of mandamus against the Texas QDRO is unreported.

JURISDICTION

The Ninth Circuit entered judgment on April 21, 2021, Pet. App. 1, and denied Young's timely petition for panel rehearing and rehearing en banc on June 14, 2021, Pet. App. 49. This Court's July 19, 2021 order extends the deadline to file a petition for a writ of certiorari to 150 days from the date of the order denying a timely petition for rehearing if that order was issued

prior to July 19, 2021. This Court has jurisdiction under 28 U.S.C. § 1254(1).

STATUTORY PROVISIONS INVOLVED

The statutory provisions involved are 29 U.S.C. § 1132 (2014) and Tex. Fam. Code Ann. §§ 9.101 (West 1997), 9.104 (West 1997), and 9.1045 (West 2005). The full text of these statutes is reproduced at Pet. App. 50–68.

INTRODUCTION

This case presents the Court with an opportunity to clarify how lower courts are to determine whether the *Rooker-Feldman* abstention doctrine applies, particularly what constitutes an injury caused by a state-court judgment and what invites review and rejection of a state-court judgment. In *Exxon*, this Court set forth the elements that must be satisfied, but in the decision below, the Ninth Circuit, like many other circuits, used its own pre-*Exxon* elements to make this determination.

The Ninth Circuit below held that Lundstrom's Sixth Cause of Action for injunctive relief did not assert an injury "by an 'error or errors by the [Texas] state court.'" Pet. App. 4. Not only is this not the *Exxon* test, but the Second, Sixth, and Tenth Circuits hold that an alleged injury is caused by a state-court

judgment if the judgment is the source of the injury, so the complaint could even be against a third party if that third party's actions were the result of the state-court judgment. Even the Ninth Circuit has held, under nearly identical procedural circumstances, that attacking the validity and requesting an injunction against the enforcement of a state-court judgment is barred by *Rooker-Feldman*.

The Ninth Circuit further held below that Lundstrom did not "expressly" request relief against the Texas QDRO in his Sixth Cause of Action. Pet. App. 4. The decision below did not consider whether Lundstrom's requested injunctive relief was inextricably intertwined with the validity of the Texas QDRO, which he directly attacked. This somewhat follows Fourth Circuit precedent and some Seventh and Tenth Circuit precedent but contradicts the Third, Eighth, and Eleventh Circuits and some Seventh Circuit cases, which hold, in one form or another, that a claim is inextricably intertwined if it would effectively nullify the state-court judgment or could only be granted to the extent the state-court judgment was wrongly decided. It also contradicts some Tenth Circuit cases that look at the inextricably-intertwined analysis in the reverse and hold that claims are not inextricably intertwined if the plaintiff does not ask the court to upset the state-court judgment or if consideration of the state-court judgment is not required.

This Court's precedent, beginning with *Rooker*, does not explain how to determine if a state-court judgment causes an injury or whether or how injunctive

relief nullifying the state-court judgment invites review and rejection of the state-court judgment, so lower courts have developed their own tests, which are inconsistent. Thus, it is unclear when a state-court loser can seek relief against a state-court winner in federal court. Further, since *Feldman*, this Court has not used the inextricably intertwined analysis, but lower courts continue to rely on it in various ways. *See Lance v. Dennis*, 546 U.S. 459, 462 (2006); *Exxon Mobil*, 544 U.S. at 286 and n.1, 291.

This Court should grant the petition to resolve the conflict among federal courts of appeals of how to apply *Rooker-Feldman*.

STATEMENT OF THE CASE

A. Young and Lundstrom divorced in 2014 in Texas, but litigation continued.

Young and Lundstrom married in 1998, had three children during their marriage, and divorced in 2014 in Texas. Pet. App. 8. Litigation between them continued in Texas over various matters, including enforcement of their divorce decree, resulting in contempt and capias orders against Lundstrom. S. App. 11–14. The continued litigation, and Lundstrom's litigation tactics, led the Texas court to seal all records and restrict online access of the records. S. App. 1–6. In 2016, Lundstrom began working for Respondent, Ligand Pharmaceuticals Incorporated, and began participating in the

Ligand Pharmaceuticals Incorporated 401(k) Plan. Pet. App. 8.

B. The Texas court signed a QDRO, which Lundstrom attacked in Texas appellate courts and lost.

Through the continued litigation, Young obtained various judgments against Lundstrom, including for child support arrearages. Pet. App. 8. On March 22, 2017, the Texas court held a hearing wherein Young requested that she collect her judgments via a QDRO or any other manner legally permitted. S. App. 7–9. Lundstrom did not appear at the March 22 hearing, after proper notice, and wholly made default. S. App. 2, 7. On April 5, 2017, the Texas court rendered that Young could collect her judgments via a QDRO or any manner legally available. S. App. 8. On November 21, 2017, and January 22, 2018, respectively, the Texas court signed a QDRO and Domestic Relations Order (DRO) pursuant to its prior rendition. S. App. 15–22.

Lundstrom filed separate petitions for writs of mandamus to the Second District Court of Appeals of Texas regarding both the QDRO and DRO, alleging that they were invalid and that his due process rights were violated because Young did not notice Lundstrom of the entry of the QDRO and DRO. S. App. 20–58. The Second District Court of Appeals summarily denied his petitions in February 2018. Lundstrom petitioned the Supreme Court of Texas for the same relief, making the

same arguments. S. App. 59–86. The Supreme Court of Texas summarily denied his petitions in June 2018.

C. Lundstrom then filed suit in federal district court.

On December 20, 2018, Lundstrom filed his original complaint in the U.S. District Court for the Southern District of California. Pet. App. 69. He filed his First Amended Complaint on June 19, 2019, bringing claims against Young and against Ligand Pharmaceuticals, Incorporated (Ligand) and the Ligand Pharmaceuticals, Incorporated 401(k) Plan (401(k) Plan) (together the Ligand Defendants). Pet. App. 69–104.

In his Fourth and Fifth Causes of Action, respectively, Lundstrom alleged that the QDRO and DRO improperly divested him of property and requested the district court to declare that the QDRO and DRO were invalid under 28 U.S.C. § 2201 and "ERISA § 1132(a)(3)." Pet. App. 90–94. In his Sixth Cause of Action, the subject of this petition, Lundstrom alleged that Young received funds from Lundstrom's 401(k) account "pursuant to the 401(k) QDRO," that Young was not entitled to those funds, and that she was holding them wrongfully, and he requested that Young be enjoined from disposing of those funds in any manner under 29 U.S.C. § 1132(a)(3), the same statute he relied on to have the federal district court declare that the Texas QDRO was invalid. Pet. App. 90, 94–95. The Ligand Defendants would necessarily had to have

transferred those 401(k) funds to Young, as ordered by the Texas QDRO, for Young to have them.

D. The district court dismissed Lundstrom's suit.

On December 5, 2019, the federal district court found that Lundstrom's Fourth Cause of Action attacked the Texas QDRO directly, seeking a declaration that it was invalid, and was, therefore, barred by *Rooker-Feldman*. Pet. App. 31. The federal district court further found that Lundstrom's Sixth Cause of Action was inextricably intertwined with the validity of the Texas QDRO and that the relief Lundstrom sought necessitated the invalidation of the Texas QDRO. Pet. App. 31. Thus, the district court dismissed Lundstrom's Sixth Cause of Action for injunctive relief under *Rooker-Feldman* also. Pet. App. 31. Lundstrom appealed.

E. The Ninth Circuit affirmed dismissal of Lundstrom's Fourth Cause of Action to declare the Texas QDRO invalid but reversed dismissal of his Sixth Cause of Action to enjoin Young from enjoying the benefits of the Texas QDRO.

In the Ninth Circuit's memorandum opinion, it set forth a two-part test it had developed pre-*Exxon* to determine whether *Rooker-Feldman* applies to a federal complaint. Pet. App. 3. *See Kougasian v. TMSL, Inc.*, 359 F.3d 1136, 1140 (9th Cir. 2004). Under the Ninth

Circuit's pre-*Exxon* test, "the federal complaint must [(1)] assert that the plaintiff was injured by 'legal error or errors by the state court' . . . [and (2)] seek 'relief from the state court judgment' as the remedy." Pet. App. 3. *Id.* It held that Lundstrom's Fourth and Fifth Causes of Action challenged the Texas QDRO and DRO directly, "petitioning the district court to declare that a 401(k) [QDRO] and a Stock [DRO] issued by a Texas state court are invalid." Pet. App. 3. It further held that this meets its pre-*Exxon* two-part test and affirmed dismissal of Lundstrom's Fourth and Fifth Causes of Action under *Rooker-Feldman*. Pet. App. 3.

The Ninth Circuit, however, held that Lundstrom's "remaining claims," including his Sixth Cause of Action to enjoin Young from disposing of the 401(k) funds, were not barred by *Rooker-Feldman*. Pet. App. 4. It did not distinguish Lundstrom's other claims or identify whether his Sixth Cause of Action was based on the invalidity of the Texas QDRO. Pet. App. 1–6. It held, generally, that "[t]hese claims do not expressly seek 'relief from the [Texas] state court judgment' or assert that Lundstrom was injured by an 'error or errors by the [Texas] state court.'" Pet. App. 4. The Ninth Circuit held that the district court erred by dismissing Lundstrom's Sixth Cause of Action under *Rooker-Feldman* and remanded that claim to the district court. Pet. App. 5. The decision below did not address whether Lundstrom's requested relief was inextricably intertwined with the validity of the Texas QDRO. Pet. App. 1–6. The Ninth Circuit denied Young's and

the Ligand Defendants' motions for rehearing. Pet. App. 49.

REASONS FOR GRANTING THE PETITION

This Court should grant the petition because federal courts do not uniformly determine when state-court losers can seek relief against state-court winners in federal court. Specifically, the decision below directly conflicts with this Court's precedent and is inconsistent with how other federal courts of appeals apply this Court's precedent. Review is further warranted because of the inconsistencies among federal courts of appeals in applying *Rooker-Feldman*. Additionally, the issues of what constitutes an injury caused by a state-court judgment and whether injunctive relief that rests on the invalidity of the state-court judgment invites review and rejection of that judgment are squarely before the Court to resolve decades of inconsistent application. Because this issue of subject-matter jurisdiction is consistently inconsistent among the courts of appeals, uniformity is needed, and this Court should resolve the conflicts.

First, this Court set forth the standard in *Exxon* for when *Rooker-Feldman* applies. The decision below, however, used pre-*Exxon*, Ninth Circuit precedent as the test for whether *Rooker-Feldman* applied, not the *Exxon* standard. Further, this Court used the inextricably-intertwined analysis in *Feldman* to determine that injunctive relief could not be separated from the

direct attack on the state-court judgment. The decision below did not even consider the inextricably-intertwined analysis.

Second, several courts of appeals continue to cite to pre-*Exxon* precedent and are entirely inconsistent, not only with each other but often within each circuit. The decision below conflicts with the Second, Sixth, and Tenth circuits because those circuits hold that an injury is caused by a state-court judgment if the state-court judgment is the source of that injury, not only if the judgment facially caused the injury. Further, the Ninth Circuit's decision conflicts with the Third, Seventh, Eighth, and Eleventh Circuits because those circuits hold, in one form another, that if the injunctive relief rests upon the validity of the state-court judgment, then it is inextricably intertwined and barred under *Rooker-Feldman*. The Ninth Circuit did not even consider that analysis here, even though the injunctive relief against Young cannot stand without the Texas QDRO being set aside.

Finally, the Texas court has continuing, exclusive jurisdiction over the Texas QDRO. The federal district court does not have subject-matter jurisdiction to review the Texas QDRO. A state-court loser should clearly be precluded from bringing such a suit in federal court, and had there been uniformity in the application of *Rooker-Feldman*, it would be more predictable whether Young was open to this protracted litigation, in the federal system, in a different state. The Ninth Circuit's holding effectively exposes all alternate payees, or any "state-court winner," to just this type of

unjustified litigation. The Court should grant certiorari to resolve these conflicts and bring uniformity to this important, recurring issue of federal law.

I. Certiorari is warranted because the Ninth Circuit's decision is inconsistent with this Court's precedent.

A. The Ninth Circuit did not follow this Court's precedent in *Exxon* to determine if Lundstrom was harmed by and invited review and rejection of the Texas QDRO.

In *Exxon*, this Court held that *Rooker-Feldman* is confined to "cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments." *Exxon Mobil*, 544 U.S. at 284. Essentially, a federal plaintiff is barred from asking a "federal court to undo the [state-court] judgment in its favor." *Id.* at 293. If a claim fits these elements, then the federal district court does not have subject-matter jurisdiction over the claim because jurisdiction to review the state-court judgment is vested only in this Court. *Id.* at 292 (citing 28 U.S.C. § 1257). This Court has addressed *Rooker-Feldman* only twice since *Exxon*, but neither case explained what it means for an injury to be caused by a state-court judgment or what type of requested relief invites review and rejection of the state-court judgment. *See Skinner v. Switzer*, 562 U.S. 521 (2011); *Lance*, 546 U.S. at 459.

If a "state-court loser" alleges his injury is the "state-court winner" enjoying the benefits of the state-court judgment, then the state-court judgment naturally caused that injury. If a "state-court loser" asks the federal court to enjoin the "state-court winner" from enjoying the benefits of the state-court judgment, then he is necessarily inviting district court review and rejection of the state-court judgment.

It cannot be disputed that Lundstrom is a "state-court loser" or that the Texas QDRO was rendered before Lundstrom commenced this federal suit. Pet. App. 69; S. App. 15. Thus, the remaining questions under *Exxon* are whether Lundstrom complained of "injuries caused by [a] state-court judgment[]" and invited "district court review and rejection of [that] judgment[]." *See Exxon Mobil*, 544 U.S. at 284.

Although the Ninth Circuit paid lip service to *Exxon* by quoting the test above, it wholly departed from it by following its own pre-*Exxon* test from *Kougasian* to determine whether Lundstrom's claims were barred: "the federal complaint must [(1)] assert that the plaintiff was injured by 'legal error or errors by the state court' . . . [and (2)] seek 'relief from the state court judgment' as the remedy." Pet. App. 2–3. *See Kougasian*, 359 F.3d at 1140. The decision below further departed from this Court's precedent, and its own, by requiring Lundstrom to "expressly" seek relief from the Texas QDRO. Pet. App. 4.

To determine if Lundstrom was injured by a state-court judgment, however, the Ninth Circuit should

have looked to whether he was "complaining of an injury caused by the state-court judgment," which he in fact did. *See Exxon Mobil*, 544 U.S. at 284. In his First Amended Complaint, Lundstrom complained that Young wrongfully held funds that had been transferred to her "pursuant to the 401(k) QDRO." Pet. App. 94. Accordingly, Lundstrom conceded that his injury—Young wrongfully holding funds—was caused by the Texas QDRO. Pet. App. 94. In other words, but for the Texas QDRO, Young would not have any funds. That directly falls under the *Exxon* test, and the Ninth Circuit erred by using the incorrect test and holding otherwise.

Similarly, rather than determine if Lundstrom invited federal-court review and rejection of the Texas QDRO, the Ninth Circuit held that he did not "expressly" seek relief from the state-court judgment as the remedy. Pet. App. 4. *See Exxon Mobil*, 544 U.S. at 284. But, by requesting injunctive relief, Lundstrom was seeking for the federal court to "undo" the Texas QDRO in his favor, which this Court held is barred. *See id.* at 293.

When a party requests equitable injunctive relief, it must prove that it will likely prevail on the merits. *Amoco Prod. Co. v. Village of Gambell, AK*, 480 U.S. 531, 546 n.12 (1987) ("The standard for a preliminary injunction is essentially the same as for a permanent injunction with the exception that the plaintiff must show a likelihood of success on the merits rather than actual success."). This is true even when that injunctive relief is provided by federal statute, unless the

statute explicitly departs from principles of equity. *eBay Inc. v. MercExchange, L.L.C.*, 547 U.S. 388, 391–92 (2006). The injunctive relief under Section 502(a)(3) of the Employee Retirement Income Security Act (ERISA), codified in 29 U.S.C. § 1132(a)(3)—the very statute on which Lundstrom relied in his Sixth Cause of Action, is equitable in nature. Pet. App. 94. *See* 29 U.S.C. § 1132(a)(3); *Mertens v. Hewitt Assocs.*, 508 U.S. 248, 257 (1993). Accordingly, a party seeking an injunction under ERISA must prove that it is likely to prevail on the merits.

When a state-court loser seeks injunctive relief against the enforcement of the state-court judgment itself or against a party from enjoying the benefits of the state-court judgment, the state-court loser complains of an injury caused by the state-court judgment and invites district court review and rejection of it. Thus, the Ninth Circuit's requirement below to "expressly" seek relief from the state-court judgment is untenable. Rather, that relief is barred under *Exxon*.

Lundstrom requested that Young be enjoined from disposing of the funds that she received "pursuant to" the Texas QDRO and was allegedly wrongfully holding. Pet. App. 50, 95. *See* 29 U.S.C. § 1132(a)(3). To be entitled to this injunctive relief, Lundstrom must prove that he is likely to prevail on the merits. *See Amoco Prod. Co.*, 480 U.S. at 546 n.12; *Mertens*, 508 U.S. at 257. To prevail on the merits, Lundstrom must prove that Young was in fact wrongfully holding the funds that she received "pursuant to" the Texas QDRO. Thus, for the federal district court to grant the injunctive

relief that Lundstrom requested in his Sixth Cause of Action, it would first need to determine that the Texas QDRO should be set aside, which is an invitation to review and reject the Texas QDRO. *See Exxon Mobil*, 544 U.S. at 284. The Ninth Circuit erred by not following *Exxon* and holding that Lundstrom did not complain of an injury caused by the Texas QDRO or request review and rejection of the Texas QDRO.

B. The Ninth Circuit did not follow this Court's precedent in *Feldman* to determine if the injunctive relief was inextricably intertwined with the validity of the Texas QDRO.

In *District of Columbia Court of Appeals v. Feldman*, Feldman petitioned the District of Columbia Court of Appeals to waive the bar admission rule requiring applicants to have graduated from a law school approved by the American Bar Association, which Feldman did not. 460 U.S. 462, 463–65 (1983). The state court denied Feldman's petition, and he filed in federal district court, seeking a declaration that the state-court judgment was invalid and for injunctive relief requiring the state court to admit him to the bar or let him sit for the bar exam. *Id.* at 463–65, 469. This Court held that Feldman's complaints, except for his constitutional challenges to the rule, were inextricably intertwined with the state-court's judgment to deny Feldman's petition and were, thus, barred. *Id.* at 486–87. The Court did not explicitly state that the injunctive relief was part of the barred claims, but the

injunctive relief was not a constitutional challenge; rather, it asked the district court to effectively reverse what the state court did. *Id.* at 469, 486–87.

Much like Feldman, Lundstrom requested a declaration that the Texas QDRO was invalid and injunctive relief that effectively reversed the Texas QDRO, i.e., enjoin Young from enjoying the benefit of the judgment. Pet. App. 90–95. The Ninth Circuit affirmed the dismissal of Lundstrom's request for declaratory relief that the Texas QDRO was invalid, his Fourth Cause of Action. Pet. App. 3. But, contradicting *Feldman*, it did not even attempt to determine whether the injunctive relief was inextricably intertwined with the validity of the Texas QDRO, which Lundstrom was barred from disputing, his Sixth Cause of Action. Pet. App. 1–6.

Under *Feldman*, Lundstrom's Sixth Cause of Action is inextricably intertwined with the validity of the Texas QDRO because the injunctive relief "required the District Court to review a final decision of the highest court of a jurisdiction in a particular case." *See id.* at 486. Every level of Texas appellate court has affirmed the validity of the Texas QDRO, and Lundstrom was barred from challenging it in the federal district court. Pet. App. 3. To enjoin Young from the benefits of the Texas QDRO would require the federal district court to determine the validity of the Texas QDRO, which this Court prohibited. Accordingly, the Ninth Circuit erred by holding otherwise.

This Court should grant the petition to resolve the inconsistencies the decision below creates with this Court's precedent.

II. Certiorari is warranted because the Ninth Circuit's decision is inconsistent with other Circuit Courts.

The decision below highlights how varied the federal courts are in their interpretations of *Rooker-Feldman*, despite this Court's attempt to clarify it in *Exxon*. The courts of appeals have interpreted differently what it means for an injury to be caused by a state-court judgment and what type of relief invites review and rejection of that judgment. This case provides an ideal vehicle to resolve those conflicts.

A. The Ninth Circuit conflicts with the Second, Sixth, and Tenth Circuits when determining whether a litigant is injured by a state-court judgment.

The Second Circuit emphasized that "the second requirement—that the plaintiff complains of an injury caused by a state-court judgment—is the core requirement from which the other *Rooker-Feldman* requirements derive." *Sung Cho v. City of N.Y.*, 910 F.3d 639, 646 (2d Cir. 2018) (internal quotation marks and alterations omitted).

Relying on *Exxon*, the Second Circuit holds that "a federal suit complains of injury from a state-court judgment, even if it appears to complain only of a third

party's actions, when the third party's actions are produced by a state-court judgment and not simply ratified, acquiesced in, or left unpunished by it." *Hoblock v. Albany Cty. Bd. of Elections*, 422 F.3d 77, 88 (2d Cir. 2005). It further explained, "[w]here a state-court judgment causes the challenged third-party action, any challenge to that third-party action is necessarily the kind of challenge to the state judgment that only the Supreme Court can hear." *Id.*

In *Hoblock*, disputes arose over the Albany County Board of Elections issuing and counting certain absentee ballots, which the Board wanted to count but, due to ongoing litigation and a special election, the state court ordered not to. *Id.* at 80, 81–82. Voters and two candidates filed in federal court and argued that their constitutional rights would be violated by certifying the election without counting the ballots. *Id.* at 82–83. The Second Circuit held that "[t]he state-court judgment did not ratify, acquiesce in, or leave unpunished an anterior decision by the Board not to count the ballots. Instead, the state-court judgment produced the Board's refusal to count the ballots, the very injury of which the voters complained." *Id.* at 89. Thus, if a state-court judgment produces a third-party's actions of which a plaintiff complains, the injury is caused by a state-court judgment.

The Second Circuit reaffirmed its position this year that *Rooker-Feldman* does not bar claims based on misconduct that preceded the state-court proceeding. *Dorce v. City of N.Y.*, 2 F.4th 82, 104 (2d Cir. 2021). If a plaintiff's "alleged injuries were merely *ratified* by

the state-court judgments rather than *caused* by them," then *Rooker-Feldman* does not apply. *Id.* (emphasis in original) (quoting *Sung Cho*, 910 F.3d at 641). In *Dorce*, the plaintiffs' property was foreclosed under a state program, resulting in a judgment of foreclosure. *Id.* 90–92. The plaintiffs filed in federal district court, alleging that their properties were taken in violation of the administrative regulations governing the state program and that they did not receive just compensation. *Id.* at 105. The Second Circuit held that the plaintiffs' injury, the loss of their property through foreclosure under state law, had been caused by the state-court judgment because the judgment "divested them of that property." *Id.* at 105. "By effecting the divestiture of Plaintiffs' interest in their property, the state court judgments thus directly inflicted the injury complained of." *Id.* Therefore, if a state-court judgment effects the complained-of injury, the state-court judgment causes the injury.

The Sixth Circuit determined that "the source of the injury must be from the state court judgment itself; a claim alleging another source of injury is an independent claim." *Fieger v. Ferry*, 471 F.3d 637, 643 (6th Cir. 2006) (quoting *McCormick v. Braverman*, 451 F.3d 382, 394 (6th Cir. 2006)). The Sixth Circuit applied this test in *VanderKodde v. Mary Jane M. Elliott, P.C.*, where state-court judgments awarded a pre-judgment interest rate of 4.06% but the writs of garnishment, which were not judgments, included an unlawful 13% interest rate. 951 F.3d 397, 403–04 (6th Cir. 2020). The district court found that the plaintiffs' injuries were

caused by the underlying state-court judgments because they were the source of the writs of garnishment. *Id.* at 403. But the Sixth Circuit held that the inclusion of the unlawful interest rate in the writs "did not flow from the judgments as a natural, inevitable consequence of their existence. Instead, it required independent conduct by the defendants." *Id.* at 404. Thus, the plaintiffs' injury was not caused by the state-court judgment. *Id.* Thus, if the injury naturally flows from a state-court judgment, then the injury is caused by a state-court judgment.

The Sixth Circuit also made clear that *Rooker-Feldman* cases are not difficult to decide "when the litigant directly asks a federal district court to declare a state-court order to be unconstitutional and enjoin its enforcement." *RLR Invests., LLC v. City of Pigeon Forge, TN*, 4 F.4th 380, 388 (6th Cir. 2021) (quoting *United States v. Alkaramla*, 872 F.3d 532, 534 (7th Cir. 2017)).

The Tenth Circuit pays "close attention to the *relief* sought" to determine if a "state-court judgment *caused*, actually and proximately, the *injury* for which the federal-court plaintiff seeks *redress*." *Mo's Express, LLC v. Sopkin*, 441 F.3d 1229, 1237 (10th Cir. 2006) (quoting pre-*Exxon* case *Kenmen Eng'g v. City of Union*, 314 F.3d 468, 476 (10th Cir. 2002)) (emphasis in original). This means that, if the requested relief would reverse or "undo" the state-court judgment, i.e., the relief sought, *Rooker-Feldman* bars the claim. *Id.* Thus, in *Bear v. Patton*, the Tenth Circuit held that the state-court judgment to partition and sell partnership assets

was the cause of the prospective injury Bear sought to enjoin, an accounting and division of those assets. 451 F.3d 639, 642 (10th Cir. 2006).

Essentially, these circuits hold that to determine if an injury is caused by a state-court judgment, courts must look to the source of that injury, however it happened. Accordingly, the plaintiff cannot complain about the third party being ordered to do something by the state court and then following that order.

Lundstrom directly attacked the Texas QDRO in his Fourth Cause of Action, which the Ninth Circuit affirmed should be dismissed, and then his Sixth Cause of Action alleged that Young wrongfully held funds "pursuant to" the Texas QDRO and requested Young be enjoined from disposing of those funds. Pet. App. 90–92, 94–95. Thus, the source of Lundstrom's injury is the Texas QDRO; Lundstrom's complaint is that Young and Ligand were ordered by the Texas QDRO to transfer funds and that they obeyed that order.

The Ninth Circuit, however, held that Lundstrom did not assert that he was injured by an error or errors by the Texas state court in his Sixth Cause of Action requesting injunctive relief. Pet. App. 4. But, by Lundstrom's own pleading, the Texas QDRO produced or effected Young holding those funds, or in other words, Young's holding of those funds naturally flowed from the Texas QDRO because she had them "pursuant to" the Texas QDRO. Therefore, the Ninth Circuit's holding directly conflicts with the Second and Sixth

Circuits. *See Dorce*, 2 F.4th at 105; *VanderKodde*, 951 F.3d at 404; *Hoblock*, 422 F.3d at 89.

Lundstrom requested that Young be enjoined from disposing of the funds she received pursuant to the Texas QDRO, which the Ninth Circuit held did not "expressly" seek relief from the Texas QDRO, but this holding conflicts with the Tenth Circuit. Pet. App. 94; S. App. 15–19. The relief Lundstrom sought would reverse or "undo" the Texas QDRO because, once enjoined, Young would not have access to the funds that the Texas QDRO directly ordered she have access to, so Lundstrom complained of an injury caused by the Texas QDRO. Pet. App. 94; S. App. 15–19. *See Bear*, 451 F.3d at 642; *Mo's Express*, 441 F.3d at 1237.

Further, because Lundstrom's injury was caused by the Texas QDRO and he sought injunctive relief against the Texas QDRO, it should be clear that his Sixth Cause of Action for injunctive relief falls under *Rooker-Feldman* and that the Ninth Circuit erred by reversing the federal district court's dismissal of it. *See RLR Invests.*, 4 F.4th at 388.

This Court should grant certiorari to resolve the conflict among the courts of appeals in determining whether an injury is caused by a state-court judgment.

B. The Ninth Circuit conflicts with the Third, Seventh, Eighth, Tenth, and Eleventh Circuits when determining whether the relief requested is inextricably intertwined with the validity of the state-court judgment.

The Third Circuit holds that "a federal action is inextricably intertwined with a state adjudication, and thus barred in federal court under *Feldman*, where federal relief can only be predicated upon a conviction that the state court was wrong." *Taliaferro v. Darby Twp. Zoning Bd.*, 458 F.3d 181, 192 (3d Cir. 2006) (quoting pre-*Exxon* case *Parkview Assoc. P'ship v. City of Lebanon*, 225 F.3d 321, 325 (3d Cir. 2000)). In *Taliaferro*, property owners, whose homes were removed under a redevelopment plan by the zoning board, challenged the board allowing a storage facility to be constructed in a residential zone. *Id.* at 185–86. The state court reviewed the granting of the variance, but the federal court reviewed constitutional challenges, which the Third Circuit held were not inextricably intertwined because the plaintiffs' relief "would not necessarily require a finding that the state court judgments were erroneous." *Id.* at 193.

In *In re Madera*, also in the Third Circuit, Deutsche Bank initiated foreclosure proceedings against the Maderas and obtained a default foreclosure judgment against them in state court. 86 F.3d 228, 230 (3d Cir. 2009). The Maderas filed for Chapter 13 bankruptcy and claimed that the bank did not make proper disclosures regarding the loan and sought

recission of the loan. *Id.* at 231. The Third Circuit held that these claims were inextricably intertwined with the state-court foreclosure judgment because "a favorable decision for the Maderas in the federal court would prevent the [state court] from enforcing its order to foreclose the mortgage." *Id.* at 232. Thus, claims are inextricably intertwined if the federal district court's actions would preclude enforcement of the state-court judgment.

The Seventh Circuit has made several determinations regarding inextricably intertwined. In *Tyrer v. City of South Beloit, Illinois*, the court held that claims are inextricably intertwined when the district court must review the elements of the claim and if those elements were satisfied in the state court. 456 F.3d 744, 744 (7th Cir. 2006) ("[H]is takings claim requires the court to probe not only the public use of the property and the proper amount of compensation to be paid, but also the protections afforded the property owner prior to the taking.").

In *Brown v. Bowman*, the Seventh Circuit held that claims may be barred even if they "do not on their face require review of a state court's decision." 668 F.3d 437, 442 (7th Cir. 2012) (citing pre-*Exxon* case *Taylor v. Fed. Nat'l Mortg. Ass'n*, 375 F.3d 529, 532–33 (7th Cir. 2004)). The court explained that "the thrust of the 'inextricably intertwined' inquiry asks whether 'the district court is in essence being called upon to review the state-court decision" and that "[a]n alleged injury is 'independent' if the state court was acting in a non-judicial capacity when it affected the plaintiff." *Id.* The

plaintiff's claims in *Brown* were inextricably intertwined with the state action because they required "a federal district court to review the judicial process followed by the Indiana Supreme Court in deciding the merits of Brown's admission application." *Id.* at 443–44.

In *Sykes v. Cook County Circuit Court Probate Division*, the Seventh Circuit further said that inextricably intertwined means that "there must be no way for the injury complained of by a plaintiff to be separated from a state court judgment." 837 F.3d 736, 742 (7th Cir. 2016). The *Sykes* plaintiff complained about a judge ordering her to not have a service animal in the courtroom, which the Seventh Circuit held was an injury "executed through a court order" and was inextricably intertwined. *Id.* at 743.

In *Milchtein v. Chisholm*, however, the Seventh Circuit reversed course and explained that, "[b]ecause the phrase 'inextricably intertwined' has the potential to blur this boundary [of jurisdiction and preclusion], it should not be used as a ground of decision." 880 F.3d 895, 898 (7th Cir. 2018). Thus, either the Seventh Circuit does not provide any real direction based on this latest holding, or claims are inextricably intertwined when the relief requires the federal district court to review the state-court judgment and determine if it was correct or if it produced the complained of injury.

The Eighth Circuit held in *Robins v. Ritchie* that "[f]ederal claims are inextricably intertwined with state-court claims if the federal claims can succeed

only to the extent the state court wrongly decided the issues before it." 631 F.3d 919, 925 (8th Cir. 2011). In *Robins*, a voter and two candidates for the position of chief justice of the Minnesota Supreme Court challenged statutes and constitutional provisions in state court regarding the alleged overuse of resignations, vacancies, and appointments to the chief justice position, which were all denied. *Id.* at 923. They then petitioned the federal district court, making at least two of the same claims and requesting the governor be enjoined from appointing anyone to the chief justice position. *Id.* The Eighth Circuit held that the claims were inextricably intertwined with the state-court rulings because they "could only succeed if the district court concludes that an election for chief justice is required under Minnesota law, a conclusion which would require the district court to overturn the Minnesota Supreme Court's decision." *Id.* at 926. Thus, claims are inextricably intertwined if the federal claim requires the district court to overturn the state-court judgment.

Similarly, the Eleventh Circuit holds that "[a] claim is inextricably intertwined if it would effectively nullify the state court judgment, or it succeeds only to the extent that the state court wrongly decided the issues." *Casale v. Tillman*, 558 F.3d 1258, 1260 (11th Cir. 2009) (citation and quotations omitted). But the Eleventh Circuit included a caveat that the doctrine does not apply "where a party did not have a reasonable opportunity to raise his federal claim in state proceedings." *Id.*

To the contrary, the Fourth Circuit holds that the inextricably-intertwined analysis is not to be used to determine if a claim is barred, but rather, it "merely states a conclusion: if the state-court loser seeks redress in the federal district court for the injury caused by the state-court decision, his federal claim is, by definition, 'inextricably intertwined' with the state-court decision, and is therefore outside of the jurisdiction of the federal district court." *Davani v. Va. Dep't of Transp.*, 434 F.3d 712, 719 (4th Cir. 2006). And, conflicting with the Third, Seventh, Eighth, and Eleventh Circuits, it holds that, just because the decision of the federal district court "could call into question the validity of the state court's" order, if it does not "seek appellate review of that order or fairly allege injury caused by the state court in entering that order," then it is not barred. *Id.*

Similarly, the Tenth Circuit has held that it is best "not trying to untangle the meaning of *inextricably intertwined*. The essential point is that barred claims are those complaining of injuries caused by state-court judgments. In other words, an element of the claim must be that the state court wrongfully entered its judgment." *Campbell v. City of Spencer*, 682 F.3d 1278, 1283 (10th Cir. 2012) (emphasis in original, quotations omitted). The Tenth Circuit, however, has also held that a federal claim is inextricably intertwined with a state court judgment if that judgment "*caused*, actually and proximately, the *injury* for which the federal-court plaintiff seeks *redress*." *Bear*, 451 F.3d at 642. In *Bear*, therefore, the Tenth Circuit held that Bear's

requested relief to enjoin the sale of property ordered sold was inextricably intertwined with the state-court judgment to sell it, which was the cause of the injury—the imminent sale of the property. *Id.* Thus, under the Tenth Circuit's holdings, inextricably intertwined does not seem to create the bar, but it helps to determine the connection between the state-court judgment and the injury.

Although none of the courts of appeals entirely agree with one another, the running theme among the majority of them is that, if the requested relief requires the federal district court to determine either the state-court judgment's validity or whether the federal court's actions will effectively nullify it, then the requested relief is barred by *Rooker-Feldman* because it is inextricably intertwined with the state-court judgment. This theme fits into this Court's precedent that a federal plaintiff cannot request the district court to "undo" the state-court judgment. *See Exxon Mobil*, 544 U.S. at 293.

The Ninth Circuit here conflicts with the majority of circuits because it held that Lundstrom's Sixth Cause of Action to enjoin Young from disposing of funds she obtained "pursuant to" the Texas QDRO does not "expressly" seek relief from the Texas QDRO. But "expressly" seeking relief is not found in any court's precedent; rather, because the district court here would need to determine whether Young was wrongfully holding the funds before it could enjoin her from disposing of them, Lundstrom's injunctive relief invites the district court to review the Texas QDRO and

either determine its validity or effectively nullify it by enjoining Young.

The decision below allows for a backlog of "state-court losers" seeking injunctive relief in federal court against "state-court winners" who are lawfully abiding by state-court judgments. Review is warranted to prevent and dissuade this improper gamesmanship.

This Court should grant certiorari to resolve the conflicts among the courts of appeals in determining whether a federal plaintiff invites district court review and rejection of a state-court judgment.

C. The courts of appeals conflict with their own precedent.

As seen by the discussion herein, each court of appeals has a different view of how to apply *Rooker-Feldman*. Even within each court there are variations that preclude a unified interpretation. This inconsistency within even the same court is clearly on display in this case when viewed against the Ninth Circuit's *Carmona* case.

Carmona v. Carmona had very similar facts to the case at bar. 603 F.3d 1041 (9th Cir. 2010). In *Carmona*, a husband divorced Janis, married Judy, and attempted to change the survivor beneficiary of certain retirement accounts to Judy. *Id.* at 1049. The state court ordered, through a QDRO, the surviving beneficiary change to Judy or, alternatively, ordered a constructive trust with Judy as the beneficiary. *Id.* Janis

appealed to the Nevada Supreme Court, which affirmed, and this Court, which denied certiorari. *Id.* Janis filed in federal district court seeking to enjoin enforcement of the order. *Id.* The federal court dismissed Janis's claims against Judy and one of the plans under *Rooker-Feldman*. *Id.* The Ninth Circuit held that Janis claimed that the state-court orders "were based upon an erroneous application of ERISA preemption law and that the family court unlawfully reassigned benefits in which she had an irrevocable vested interest." *Id.* at 1051. It further held that Janis's claims were barred because "Janis complained of harm caused by a state court judgment that directly withholds a benefit from her based on an allegedly erroneous ruling by that court." *Id.* (quotations omitted).

Although the Ninth Circuit held that a party cannot challenge a state-court QDRO and seek to enjoin its enforcement in *Carmona*, it held the opposite here. Lundstrom challenged the Texas QDRO and sought to enjoin Young from disposing of the funds she allegedly wrongfully received "pursuant to" the Texas QDRO. Pet. App. 92, 94. But the Ninth Circuit held that only Lundstrom's Fourth Cause of Action for declaratory relief against the Texas QDRO was barred but not his Sixth Cause of Action for injunctive relief rendering the Texas QDRO a nullity. Pet. App. 3–5.

This case presents an excellent vehicle for resolving the conflicts amongst and within the courts of appeals.

III. Certiorari is warranted because this is an important, recurring issue of federal law.

Under ERISA, state courts have the power to issue orders to divide retirement accounts. 29 U.S.C. § 1056(d)(3). Section 9.101 of the Texas Family Code vests continuing, exclusive jurisdiction with the Texas divorce court to render enforceable QDROs or similar orders. Pet. App. 67. Tex. Fam. Code Ann. § 9.101(a). If an order is rejected by a plan administrator or its equivalent, Section 9.104 of the Texas Family Code allows the Texas court to render an additional order to be qualified. Pet. App. 67–68. Tex. Fam. Code Ann. § 9.104. And if a QDRO is incorrect or should be modified, the Texas divorce court retains continuing, exclusive jurisdiction to amend it. Pet. App. 68. Tex. Fam. Code Ann. § 9.1045(a).

If the Texas court has continuing, exclusive jurisdiction over the QDRO, and the federal district court lacks subject-matter jurisdiction over it, it should be clear that Lundstrom cannot seek redress in federal court. Unfortunately, the Ninth Circuit erred by reversing Lundstrom's Sixth Cause of Action for injunctive relief against Young for her simply abiding by the Texas QDRO, which injunctive relief would nullify the Texas QDRO, but the federal district court lacks subject-matter jurisdiction to do that.

That a conflict exists between the decision below and this Court's precedent and the majority of the courts of appeals is an understatement. Not only is there a conflict with this Court's precedent and

amongst the courts of appeals in applying *Rooker-Feldman*, but the cases cited herein show that this is a recurring issue, and courts are unpredictable in how they will come down in a particular case. This is especially cumbersome for individuals, like Young, who are sued in a different court system and in a different state after already suffering years of acrimonious family-law litigation. If application of *Rooker-Feldman* were uniform, as it should be, it would be predictable to know that a court does not have jurisdiction and, thus, save parties the expense of additional but unwarranted litigation and save courts the waste of time.

Unjustified litigation is particularly damaging in family law cases that are already typically high-conflict. Under the Texas Family Code, a Texas court that has presided over a divorce has continuing, exclusive jurisdiction over the matter, including any QDROs. Lundstrom should be precluded from suing Young in the federal system in a different state over this matter when the Texas court has continuing, exclusive jurisdiction and the federal court lacks subject-matter jurisdiction under *Rooker-Feldman*. It is disturbing to think that, under the Ninth Circuit's decision, alternate payees are exposed to prolonged litigation and additional liability in a forum outside the family court that rendered the QDRO in the first place, which could ultimately "undo" the QDRO already obtained, contravening this Court's precedent.

Lundstrom defaulted when the Texas court rendered the QDRO against him. S. App. 2, 7. He challenged it in every level of Texas appellate court. S. App.

23, 59. And every level of Texas appellate court denied his relief. His next step was petitioning this Court for relief, which he failed to do. *See* 28 U.S.C. § 1257. The Ninth Circuit's holding, however, gives the federal district court jurisdiction to effectively modify the Texas QDRO, violating Texas law and this Court's precedent, by enjoining Young from receiving the benefits of the Texas QDRO. Pet. App. 4–5. Moreover, it has lengthened the litigation Young must endure against Lundstrom, not only in the federal system but in a different state.

Rooker-Feldman should prevent the very action before the Court now, but because of the Ninth Circuit's holding that conflicts with this Court's precedent and the majority of courts of appeals, the parties' litigation continues. Under *Rooker-Feldman*, Lundstrom's actions should not be permitted to stand. This Court should grant the petition, resolve the conflicts, and bring uniformity to these important, recurring issues of federal law.

CONCLUSION

For the foregoing reasons, the Court should grant the petition for a writ of certiorari.

Respectfully submitted,

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