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

REPLY IN SUPPORT OF PETITION FOR A WRIT OF CERTIORARI

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ARGUMENT

As Lundstrom's Statement of Facts and Young's Appendices make clear, Lundstrom lost in state court and, instead of proceeding to this Court, he filed in federal district court. Opposition ("Opp.") 2–3; App. 69; S. App. 7–22. Lundstrom, however, defaulted when the Texas court rendered the QDRO and DRO, making the signing of same ministerial, not surreptitious. Opp. 3, 13; *see Dunn v. Dunn*, 439 S.W.2d 830, 832 (Tex. 1969); *see*, *e.g.*, *Wellington v. Wellington*, No. 04-16-00707-CV, 2018 WL 521595, at *3 (Tex. App.—San Antonio Jan. 24, 2018, no pet.) (mem. op.) ("The trial court's signature on the previously rendered DRO was purely ministerial and did not require a motion, petition, or service."). Nevertheless, Lundstrom raised his constitutional claims in both a Texas intermediate appellate court and the Supreme Court of Texas, which both denied his claims. S. App. 23, 40, 59, 72.

Lundstrom further complains about Respondent Ligand's procedures. Opp. 3–4. But Ligand performed no action independent of the Texas QDRO, so Lundstrom's alleged harm was still caused by the Texas QDRO. Even if Ligand acted independent of the Texas QDRO, the only issue before this Court is Lundstrom's Sixth Cause of Action, which was solely against Young, making Ligand's actions irrelevant. Pet. 6; Opp. 5.

Lundstrom makes three principal arguments in opposition to the petition for certiorari: *First*, he argues

that the unpublished opinion below is only important to the parties in this case. Opp. 6. *Second*, the Ninth Circuit did not misapply *Exxon*. Opp. 8. *Third*, there is no conflict among the circuit courts. Opp. 11. All of these arguments are entirely without merit, as Young has shown in her petition and shows herein, and this Court should grant the petition to resolve a fully-developed conflict on an important and recurring question of federal law.

1. That the opinion below is unpublished is not a reason for denying certiorari, as this Court has granted certiorari from unpublished opinions before. *See*, *e.g.*, *City of Canton, Ohio v. Harris*, 489 U.S. 378 (1989) (vacating Sixth Circuit unpublished opinion); *Hall Street Assoc's v. Mattel Inc.*, 552 U.S. 576 (2008) (vacating Ninth Circuit unpublished memorandum opinion); *see also* Eugene Gressman et al., *Supreme Court Practice* 263 (9th ed. 2007) ("[A]n unpublished or summary decision on a subject over which courts of appeals have split" signals "a persistent conflict."). Further, as seen in the various cases cited in both the petition and Lundstrom's opposition, how to apply *Rooker-Feldman* is a pervasive issue that does not affect only the parties to this particular suit, and this Court should resolve the conflict.

2. Lundstrom suggests that, in his Sixth Cause of Action, he complains of Young's actions violating his due process rights. Opp. 10. Lundstrom's Sixth Cause of Action, however, plainly requests injunctive relief against Young from enjoying the benefits of the Texas QDRO, i.e. the funds transferred to her "pursuant to

the 401(k) QDRO." App. 94–95. Accordingly, the Ninth Circuit did not correctly apply *Exxon*, showing the existing split between circuits, because (1) it did not look to the source of Lundstrom's alleged injury; and (2) it did not look to the effect of Lundstrom's requested relief. *See Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284, 293 (2005).

Lundstrom's Sixth Cause of Action alleges that Young "improperly received" funds, that a Fidelity account was opened for the funds to be transferred to "pursuant to the 401(k) QDRO," that Young was not entitled to the funds, that Young "is wrongfully holding" the funds, and that Lundstrom requests an injunction. App. 94–95. Each of the factual allegations of an injury that would entitle Lundstrom to an injunction were done ***to*** Young, not ***by*** her. It was not Young's action that caused Lundstrom any injury; rather, the Texas QDRO caused the injury, which Lundstrom conceded by stating that Young has the funds "pursuant to" the Texas QDRO. *See id.* at 284. Thus, the Ninth Circuit erred.

The Ninth Circuit further erred by holding that *Rooker-Feldman* did not apply because Lundstrom did not "expressly" seek relief from the Texas QDRO, even though the effect of granting an injunction would "undo" the Texas QDRO. *See id.* at 293. Indeed, Lundstrom does not deny that, to be entitled to injunctive relief, he must prevail on the merits, meaning the Texas QDRO must be set aside. *See Amoco Prod. Co. v. Village of Gambell, AK*, 480 U.S. 531, 546 n.12 (1987). But in conclusory fashion, Lundstrom baldly asserts

that "the 401(k) QDRO would not have to be rejected or overruled for Respondent to prevail." Opp. 10. This is simply not true. *See id.*

Even if the Ninth Circuit's holding was correct, which it is not, that is not a reason to deny certiorari. *See* Robert L. Stern et al., *Supreme Court Practice* § 4.17 (8th ed. 2002) ("'[T]he fact that a case may have been rightly decided [is not] in itself enough to preclude certiorari.'") (quoting Justice Harlan, *Manning the Dikes*, 13 Record of N.Y.C. Bar Ass'n 541, 551 (1958)). Rather, the importance of the issues presented and the uncertainty by which parties and lower courts must act require this Court's immediate attention. Even if the Court were to affirm, which it will not, the Court's opinion will unquestionably offer the clarity needed to determine such a fundamental concept as subject matter jurisdiction.

3. The petition sets forth various circuits' interpretations of this Court's direction in applying *Rooker-Feldman*. Pet. 17–29. Space does not permit a full rebuttal of Lundstrom's contention that no split exists—that is what the next round of briefing is for—but Lundstrom's missing of the mark warrants brief mention.

Lundstrom asserts that no conflict exists among the circuits because they each "recognize[] that an independent claim NOT caused by the state court judgment is not barred by the *Rooker-Feldman* doctrine." Opp. 13. But that does not answer the question Young presented to this Court. Pet. i. This case provides an

ideal vehicle by which this Court can clarify how to determine whether an injury is caused by a state-court judgment, specifically whether receiving benefits pursuant to a state-court judgment is an injury caused by the state-court judgment.

Further, Lundstrom asserts that "[n]ot one of Petitioner's cases refers to any split of authority." Opp. 20. The conflict exists, of course, regardless of whether it is acknowledged. *See* Pet. 17–30. Lundstrom's own briefing shows how the circuits are not aligned in determining when a state-court judgment causes an action or whether a cause of action invites review and rejection of a state-court judgment. Opp. 11–20. Lundstrom also recognizes that the circuits do not treat the "inextricably intertwined" analysis the same while brushing it off as not a "true conflict." Opp. 17. This case provides the Court an excellent vehicle to clarify how to determine when a party invites district court review and rejection of a state-court judgment, specifically whether injunctive relief satisfies that element, especially when the party also seeks to set aside the very state-court judgment the injunction would affect, as happened in this case.

CONCLUSION

For the foregoing reasons and those stated in the petition, the Court should grant the petition for a writ of certiorari.

Respectfully submitted,

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