

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

APR 19 2022

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

PETER KLEIDMAN,

Plaintiff-Appellant,

v.

CALIFORNIA COURT OF APPEAL FOR
THE SECOND APPELLATE DISTRICT;
TANI GORRE CANTIL-SAKAUYE; MING
W. CHIN; AUDREY B. COLLINS; CAROL
A. CORRIGAN; MARIANO-
FLORENTINO CUELLAR; DIVISION
FOUR OF THE CALIFORNIA COURT OF
APPEAL FOR THE SECOND APPELLATE
DISTRICT; DOES; NORMAL L. EPSTEIN;
JUDICIAL COUNCIL OF CALIFORNIA;
LEONDRA R. KRUGER; GOODWIN H.
LIU; SUPREME COURT OF
CALIFORNIA; KATHRYN M.
WERDEGAR; THOMAS L. WILLHITE,

Defendants-Appellees.

No. 20-56256

D.C. No. 2:20-cv-02365-PSG-JDE

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Philip S. Gutierrez, District Judge, Presiding

* This disposition is not appropriate for publication and is not precedent
except as provided by Ninth Circuit Rule 36-3.

Submitted April 11, 2022**

Before: McKEOWN, CHRISTEN, and BRESS, Circuit Judges.

Peter Kleidman appeals pro se from the district court's judgment dismissing his action alleging violations of federal and state law in connection with his state court proceedings. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal for lack of subject matter jurisdiction under Federal Rule of Civil Procedure 12(b)(1). *Bianchi v. Rylaarsdam*, 334 F.3d 895, 898 (9th Cir. 2003) (*Rooker-Feldman* doctrine); *Canatella v. California*, 304 F.3d 843, 852 (9th Cir. 2002) (dismissal for lack of standing). We affirm.

The district court properly dismissed for lack of subject matter jurisdiction Kleidman's claims seeking to reopen or set aside rulings in the California state courts because these claims constitute forbidden "de facto appeal[s]" of prior state court judgments or are "inextricably intertwined" with those judgments. *Noel v. Hall*, 341 F.3d 1148, 1163 (9th Cir. 2003) ("It is a forbidden de facto appeal under *Rooker-Feldman* when the plaintiff in federal district court complains of a legal wrong allegedly committed by the state court, and seeks relief from the judgment of that court."); *Bianchi*, 334 F.3d at 898 (holding that a claim was barred by

** The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Rooker-Feldman because the court “cannot grant the relief [plaintiff] seeks without ‘undoing’ the decision of the state court”).

The district court properly dismissed for lack of standing Kleidman’s claims concerning the original jurisdiction of the Supreme Court of California and rules governing the citation of unpublished decisions in state and federal courts because Kleidman failed to allege facts sufficient to establish an injury in fact as required for Article III standing. *See Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560-61 (1992) (constitutional standing requires an “injury in fact,” causation, and redressability; “injury in fact” refers to “an invasion of a legally protected interest which is (a) concrete and particularized . . . and (b) actual or imminent, not conjectural or hypothetical” (citation and internal quotation marks omitted)); *see also Clapper v. Amnesty Int’l USA*, 568 U.S. 398, 409 (2013) (“[T]hreatened injury must be *certainly impending* to constitute injury in fact, and . . . allegations of *possible future injury* are not sufficient.” (citation and internal quotation marks omitted)).

A dismissal for lack of subject matter jurisdiction should be without prejudice to the claims being realleged in a competent court. *See Kelly v. Fleetwood Enters., Inc.*, 377 F.3d 1034, 1036 (9th Cir. 2004); *see also Fleck & Assocs., Inc. v. City of Phoenix*, 471 F.3d 1100, 1102 (9th Cir. 2006) (dismissal for lack of standing is a dismissal for lack of subject matter jurisdiction); *Kougasian v.*

TMSL, Inc., 359 F.3d 1136, 1139 (9th Cir. 2004) (dismissal under *Rooker-Feldman* is a dismissal for lack of subject matter jurisdiction). We instruct the district court to amend the judgment to reflect that the dismissal of the federal claims is without prejudice.

We do not consider matters not specifically and distinctly raised and argued in the opening brief, or arguments and allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

AFFIRMED with instructions.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

AUG 31 2022

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

PETER KLEIDMAN,

Plaintiff-Appellant,

v.

CALIFORNIA COURT OF APPEAL FOR
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al.,

Defendants-Appellees.

No. 20-56256

D.C. No. 2:20-cv-02365-PSG-JDE
Central District of California,
Los Angeles

ORDER

Before: McKEOWN, CHRISTEN, and BRESS, Circuit Judges.

The panel has voted to deny the petition for panel rehearing.

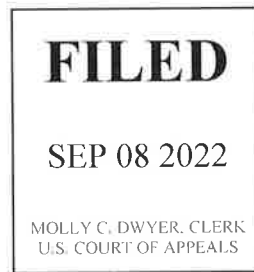
The full court has been advised of the petition for rehearing en banc and no judge has requested a vote on whether to rehear the matter en banc. *See* Fed. R.

App. P. 35.

Kleidman's petition for panel rehearing and petition for rehearing en banc (Docket Entry No. 40) are denied.

No further filings will be entertained in this closed case.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT



PETER KLEIDMAN,

Plaintiff - Appellant,

v.

CALIFORNIA COURT OF APPEAL
FOR THE SECOND APPELLATE
DISTRICT; et al.,

Defendants - Appellees.

No. 20-56256

D.C. No. 2:20-cv-02365-PSG-JDE
U.S. District Court for Central
California, Los Angeles

MANDATE

The judgment of this Court, entered April 19, 2022, takes effect this date.

This constitutes the formal mandate of this Court issued pursuant to Rule
41(a) of the Federal Rules of Appellate Procedure.

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

By: Rebecca Lopez
Deputy Clerk
Ninth Circuit Rule 27-7

Peter Kleidman, Plaintiff in pro se
680 E. Main St, #506
Stamford CT 06901
Telephone: 971 217 7819
Facsimile: 971 228 6000
Email: kleidman11@gmail.com

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**

Peter Kleidman,
Plaintiff

vs.

the Hon. Thomas L. Willhite, Jr.;
the Hon. Audrey B. Collins;
California Court of Appeal for
the Second Appellate District;
Division Four of the
California Court of Appeal for
the Second Appellate District;
Supreme Court of California;
Chief Justice Tani G. Cantil-
Sakauye; the Hon. Ming W.
Chin; the Hon. Carol A.
Corrigan; the Hon. Goodwin H.
Liu; the Hon. Mariano-
Florentino Cuéllar; the Hon.
Leondra R. Kruger; Judicial
Council of California; DOES 1 –
100,

Defendants

-) Case No.: 2:20-cv-02365-PSG (JDE)
-)
-) SECOND AMENDED COMPLAINT
-) FOR:
-) 1. VIOLATION OF DUE PROCESS
-) CLAUSE (14TH AMEND.)
-) 2. VIOLATION OF CAL.
-) CONSTITUTION ART. VI, §14
-) 3. VIOLATION OF CAL. GOV'T.
-) CODE §68081
-) 4. VIOLATION OF CAL.
-) CONSTITUTION ART. VI, §11
-) 5. VIOLATION OF DUE PROCESS
-) CLAUSE (14TH AMEND.)
-) 6. VIOLATION OF PETITION
-) CLAUSE (1ST AMEND.)
-) 7. VIOLATION OF PRIVILEGES
-) AND IMMUNITIES CLAUSE (14TH
-) AMEND.)
-) 8. VIOLATION OF EQUAL
-) PROTECTION CLAUSE (14TH
-) AMEND.)
-) 9. VIOLATION OF CAL.
-) CONSTITUTION ART. III, §3
-) 10. VIOLATION OF CAL.

SECOND AMENDED COMPLAINT