No. _____

In The Supreme Court of the United States

DONALD WENGER, Pro Se

Petitioner

V.

JUDGE JAMES T. WARREN
COURT APPOINTEE RICHARD R. MUIR

Respondents

ON PETITION FOR A 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

1. Whether state judges are BOUND by the Uniformed Services Former Spouses' Protection Act (USFSPA) Pub. Law 97-252 (1982) pursuant to Article I § 8 of the Constitution, thereby REQUIRED to OBEY the precise definition of "disposable retired pay" expressed in the plain text of Positive Law 10 U.S.C. § 1408(a)(4).

2. Whether state judges are BOUND by the Veterans Judicial Review Act (VJRA) Pub. Law 100-687 (1988) pursuant to Article I § 8 of the Constitution, thereby REQUIRED to OBEY the Complete Federal Preemption expressed in the plain text of Positive Law 38 U.S.C. § 511.

3. Whether the Defendants are Personally Liable in their Individual Capacity for their violations of Positive Law 10 U.S.C. § 1408 and Positive Law 38 U.S.C. § 511 in the complete absence of all Jurisdiction on the Subject Matters of Title 10 and Title 38.

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

RELATED CASES

Wenger v. Warren, No. 24-cv-02211 U. S. District Court for the Central District of California. Judgment entered Nov. 15, 2024.

Wenger v. Warren, et al., No. 24-7194 U. S. Court of Appeals for the Ninth Circuit. No Judgment entered yet.

Lott v. Lott, US Supreme Court No. 24-1160 (Pending Conference on 9/29/2025)(Virginia)

Miller v. Miller, US Supreme Court No. 24-1313 (Pending)(Tennessee)

Yourko v. Yourko, US Supreme Court No. 23-999 (Cert. denied 10/7/2024)(Virginia)

Martin v. Martin, US Supreme Court No. 23-605 (Cert. denied 10/7/2024)(Nevada)

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STATUTES

In The Supreme Court of the United States

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays the Court to issue a Writ of Certiorari to review the Opinions below and provide an affirmative answer to the Constitutional Questions presented above.

This is a very simple matter of constitutional law hidden behind 3 decades of predatory corruption and profiteering which has caused "massive damage to significant federal interests. "

Even IF only 1 out of 10 veteran suicides are caused by this problem, that is over 1000 per year.

There is no room for semantics or equivocation. According to the Supremacy Clause in Article VI of the Constitution, state judges are automatically BOUND by federal law pursuant to the Constitution.

If the Constitution and Laws of the United States are to be taken seriously at face value, then every single state court ruling to get around the USFSPA and the VJRA in *Lott, Miller, Yourko,* and *Martin,* is VOID ab initio for lack of jurisdiction on the subject matters of Title 10 and Title 38, just like my own case.

In the case of *Lott v. Lott,* No. 24-1160 (Pending Conference on 9/29/2025), the Virginia courts committed multiple violations of the USFSPA by ruling that none of his disability benefits were exempt from state jurisdiction.

In *Miller v. Miller,* No. 24-1313, the Tennessee courts ruled that *Rose v. Rose* (infra) was the supreme law of the land instead of Section 511 of Title 38 pursuant to the Constitution.

In Y*ourko v. Yourko,* No. 23-999, the Virginia courts ruled that state contract law takes precedent over federal preemption which goes against both *Howell* (infra) and *Mansell* (infra).

In *Martin v. Martin,* No. 23-605, the Nevada court committed violations of both USFSPA and VJRA by ruling that state contract law somehow cancels explicit federal preemption.

For 35+ years, state judges have been committing semantic fraud to disobey the rulings of this Court in *Mansell v. Mansell,* 490 U.S. 581 (1989) which upheld the federal preemption of state jurisdiction found in *McCarty v. McCarty,* 453 U.S. 210 (1981). See *Howell v. Howell,* 581 U.S. ___ (2017).

They also disobey the Complete Preemption established by the VJRA just prior to *Mansell.* The precise amendment of 38 U.S.C. § 211 is PROOF of Congressional Intent to "occupy the field" of jurisdiction on Title 38 following the *Rose v. Rose,* 481 U.S. 619 (1987) decision, et al.

Answering the Questions presented above will reconcile and resolve all of these cases and that will help thousands of families nationwide by preventing veteran SUICIDE.

OPINIONS BELOW

The opinion of the United States district court appears at Appendix _B_ to the petition and is unpublished.

Wenger v. Warren, No. 24-cv-02211 U. S. District Court for the Central District of California. Judgment entered Nov. 15, 2024.

Wenger v. Warren, et al., No. 24-7194 U. S. Court of Appeals for the Ninth Circuit. No Judgment entered yet.

JURISDICTION

Jurisdiction is invoked under 28 U.S.C. § 1254(1) and Rule 11 because the Court of Appeals for the Ninth Circuit has not made a ruling yet, but this is a matter of life and SUICIDE for thousands of veterans under the same circumstances of predatory injustice.

State judges will not stop committing violations of federal preemption until this Court holds them accountable to the Supreme Law of the Land.

CONSTITUTIONAL PROVISIONS

US Constitution Article VI § 2

This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

US Constitution Article VI § 3

The Senators and Representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this Constitution;

US Constitution Article I § 8

[1] The Congress shall have power to ... provide for the common defense and general welfare of the United States;

[9] To constitute tribunals inferior to the Supreme Court;

[11] To declare war, ...

[12] To raise and support armies; ...

[13] To provide and maintain a navy;

[14] To make rules for the government and regulation of the land and naval forces;

[17] To exercise ... authority over all ... forts, magazines, arsenals, dockyards, and other needful buildings;

[18] To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof.

US Constitution Amendment XIV, Section 1.

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

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STATUTORY POSITIVE LAW

1 U.S.C. § 204

In all courts, tribunals, and public offices of the United States, at home or abroad, of the District of Columbia, and of each State, Territory, or insular possession of the United States—

(a) United States Code.—

The matter set forth in the edition of the Code of Laws of the United States current at any time shall, together with the then current supplement, if any, establish prima facie the laws of the United States, general and permanent in their nature, in force on the day preceding the commencement of the session following the last session the legislation of which is included: Provided, however, That whenever titles of such Code shall have been enacted into positive law the text thereof shall be legal evidence of the laws therein contained, in all the courts of the United States, the several States, and the Territories and insular possessions of the United States.

The term "disposable retired pay" means the total monthly retired pay to which a member is entitled less amounts which—

(i) are owed by that member to the United States for previous overpayments of retired pay and for recoupments required by law resulting from entitlement to retired pay;

(ii) are deducted from the retired pay of such member as a result of forfeitures of retired pay ordered by a court-martial or as a result of a waiver of retired pay required by law in order to receive compensation under title 5 or title 38;

(iii) in the case of a member entitled to retired pay under chapter 61 of this title, are equal to the amount of retired pay of the member under that chapter computed using the percentage of the member's disability on the date when the member was retired (or the date on which the member's name was placed on the temporary disability retired list); or

(iv) are deducted because of an election under chapter 73 of this title to provide an annuity to a spouse or former spouse to whom payment of a portion of such member's retired pay is being made pursuant to a court order under this section.

(a) The Secretary shall decide all questions of law and fact necessary to a decision by the Secretary under a law that affects the provision of benefits by the Secretary to veterans or the dependents or survivors of veterans. Subject to subsection (b), the decision of the Secretary as to any such question shall be final and conclusive and may not be reviewed by any other official or by any court, whether by an action in the nature of mandamus or otherwise.

(b) The second sentence of subsection (a) does not apply to—

(1) matters subject to section 502 of this title;

(2) matters covered by sections 1975 and 1984 of this title;

(3) matters arising under chapter 37 of this title; and

(4) matters covered by chapter 72 of this title.

> Payments of benefits due or to become due under any law administered by the Secretary shall not be assignable except to the extent specifically authorized by law, and such payments made to, or on account of, a beneficiary shall be exempt from taxation, shall be exempt from the claim of creditors, and shall not be liable to attachment, levy, or seizure by or under any legal or equitable process whatever, either before or after receipt by the beneficiary.

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STATEMENT OF THE CASE

The Respondents caused permanent harm and hardship to me and my family by using a common practice of the California courts to commit predatory discrimination and fraud by the deliberate violation of the USFSPA and the VJRA.

Their frauds were based on taking *Rose v. Rose,* 481 U.S. 619 (1987) and *Mansell v. Mansell,* 490 U.S. 581 (1989) out of context and using threats of jail to extract and extort money from my VA benefits.

Before Judge Warren appointed Muir to commit the violation of the USFSPA, he committed multiple violations of the VJRA with his rulings to divide and distribute my VA benefits.

Muir knowingly and willfully broke federal law by using "indemnification" language to circumvent federal preemption about the same time this Court upheld *Mansell v, Mansell* (supra) by the ruling in *Howell v. Howell,* 581 U.S. ___ (2017).

We provided the District Court with indisputable proof of the complete preemption established by the VJRA amendment of 38 U.S.C. § 211 corresponding exactly to the ruling of this Court in *Rose v. Rose.*

The District Court overlooked the legal evidence of complete preemption and improperly dismissed the case without answering the federal questions or protecting my rights.

In addition to tens of thousands of dollars in damages and costs, my family and I have suffered permanent harm by parental alienation.

Every day that passes, I feel the loss of contact with my children and I fear for their well being.

The Respondents committed systematic violations of federal preemption to extract money from federal disability benefits by using my family as an excuse.

Since my divorce, I have learned that the same predatory fraud happens to almost every military and veteran family that goes through divorce.

REASONS TO GRANT THE WRIT

The Fourteenth Amendment to the Constitution provides me with grounds to enforce my rights, privileges and immunities that are secured by the Constitution and Laws of the United States.

While judicial immunity is necessary to protect the stability of our legal system, Due Process of Law is necessary to protect the integrity of the system.

When judges cross the line of federal preemption, they strip themselves of immunity.

Positive Law 10 U.S.C. § 1408 establishes my RIGHT to enforce the strict limits on how state courts are allowed to decide whether former spouses could have a payment from the service member's "disposable retired pay" that would continue after being remarried, or not.

Positive Law 38 U.S.C. § 511 establishes my RIGHT to enforce the preemption of state jurisdiction which protects my VA benefits from state courts.

The Secretary of the U.S. Department of Veterans Affairs (VA) holds exclusive jurisdiction on every question of LAW and FACT that affects how Title 38 benefits are provided and/or distributed between veterans and their dependents.

Positive Law 38 U.S.C. § 5301 establishes my RIGHT to enforce the expressed statutory injunction protecting my benefits by immunity from any legal or equitable process whatever, to include protection from assignment, garnishment, contempt or jail.

Title 10 and Title 38 have ALWAYS been within the constitutional powers of Congress and they have NEVER been within the jurisdiction traditionally occupied by the states.

According to the decision of this Court in *Blessing v. Freestone,* 520 U.S. 329 (1997), to enforce my rights under 42 U.S.C. § 1983 and other provisions of the Fourteenth Amendment, the only thing I need to prove is that the state is bound by federal laws intended to protect me.

Veteran benefits are NOT interchangeable with military retired pay, or subject to state jurisdiction, because Title 10 and Title 38 are Positive Law Titles and both preempt state jurisdiction separately.

The rulings of this Court in *Mansell* (supra) and *Howell* (supra) fully bind state courts to the federal preemption found in *McCarty* (supra) based on the "plain and precise language" in the strict definition of "disposable retired pay" expressed in the USFSPA.

This is not a matter of "conflict preemption" because there is NO room for states to invade the field of jurisdiction fully occupied by Congress.

There is no reason to make any kind of inquiry or analysis of a conflict between federal and state law because preemption is established by the plain text of positive law and "it is Congress rather than the courts that preempts state law." *Chamber of Commerce v. Whiting,* 563 U.S. 582 (2011) quoting Justice Kennedy from *Gade v. National Solid Wastes Management Assn.,* 505 U.S. 88 (1992).

Federal Preemption

According to Article I § 8, cls. #1, Congress holds the power to provide for the "common defense and general welfare of the United States."

> 'First, "the purpose of Congress is the ultimate touchstone in every pre-emption case." '*Wyeth v. Levine,* 555 U.S. 555 (2009) quoting *Medtronic, Inc. v. Lohr,* 518 U. S. 470, 485 (1996) quoting *Retail Clerks v. Schermerhorn,* 375 U. S. 96, 103 (1963).
>
> "To discern Congress' intent we examine the explicit statutory language and the structure and purpose of the statute." *Gade v. National Solid Wastes Management Assn.,* 505 U.S. 88 (1992) quoting *Ingersoll-Rand Co. v. McClendon,* 498 U. S. 133, 138 (1990).

The "presumption against the preemption" *DOES NOT APPLY* because the Armed Forces of the United States (Title 10) and Veteran Benefits (Title 38) have NEVER been within jurisdiction that is traditionally occupied by the states.

> "The Government of the Union, though limited in its powers, is supreme within its sphere of action, and its laws, when made in pursuance of the Constitution, form the supreme law of the land." *McCulloch v. Maryland,* 17 U.S. 316 (1819).

Uniformed Services Former Spouses' Protection Act

Congress exercised all of the Article I powers listed above to enact the Uniformed Services Former Spouses' Protection Act (USFSPA) Pub. Law 97-252 (1982) creating 10 U.S.C. § 1408.

Positive Law 10 U.S.C. § 1408(a)(4) is not subject to "interpretation" by any state court because the USFSPA did NOT grant jurisdiction on Title 10.

In *Mansell v. Mansell,* 490 U.S. 581, 594 (1989), this Court explained how Congress rejected the idea of canceling the preemption found by this Court in *McCarty v. McCarty,* 453 U.S. 210 (1981).

The USFSPA carved out a small window to ***allow*** state courts to make a ***simple*** decision on whatever "disposable retired pay" remained ***after*** deductions.

According to the *Mansell* decision, the USFSPA eliminated the possibility of indemnification clauses or agreements to protect former spouses from a reduction of disposable retired pay when the veteran

exercised his or her Exclusive Right to waive retired pay to receive disability compensation from the VA.

The USFSPA separated retired pay from veteran benefits, thereby canceled the portion of 42 U.S.C. § 659 and § 662 that allowed for the garnishment of VA benefits received in lieu of military retired pay.

> "The legislative history does not indicate the reason for Congress' decision to shelter from community property law that portion of military retirement pay waived to receive veterans' disability payments. ***But the absence of legislative history on this decision is immaterial in light of the plain and precise language of the statute;*** Congress is not required to build a record in the legislative history to defend its policy choices." *Mansell* at 592. (emphasis added)

In *Howell v. Howell,* 581 U.S. ___ (2017), the Court ruled that states have no authority to enforce indemnification language, no matter how clever it is.

> "Neither can the State avoid *Mansell* by describing the family court order as an order requiring John to "reimburse" or to "indemnify" Sandra, rather than an order that divides property. ***The difference is semantic and nothing more.***" *Howell* at Section II, para. #5. (emphasis added)

Veterans Judicial Review Act

In *Rose v. Rose* (supra), this Court described the chaos and damage that would happen if Congress did not clearly preempt state jurisdiction.

So, pursuant to Article I § 8 of the Constitution, specifically clauses 1, 9, 11, 12, 13, 14, 17 and 18, Congress exercised that power to control every aspect of jurisdiction on Title 38, thereby ***occupied the field.***

The Veterans Judicial Review Act (VJRA) Pub. Law 100-687 (1988) superseded *Rose* by eliminating the possibility of state jurisdiction, thereby closed EVERY other loophole created by *Rose.*

From that point forward, Jurisdiction on Title 38 belongs exclusively to Congress, the VA and specific federal courts. See *Veterans for Common Sense v. Shinseki,* 678 F.3d 1013 (2012).

The VJRA isolated veteran benefits from retired pay, which made the "in lieu of retired pay" portion of 42 U.S.C. § 662 (cir. 1977) obsolete, dead-letter law.

Question of Judicial Immunity

It is well settled law that judges have "absolute" immunity for actions and orders ***within*** the scope of jurisdiction that belongs to the court in which they preside, ***thus it is equally well established law that they have NO Immunity when they have NO possibility of jurisdiction on the subject matter of the rights they violate.*** See *Bradley v. Fisher,* 80 U.S. 335,336 (1871); *Stump v. Sparkman,* 435 U.S. 349 (1978); *Pierson v. Ray,* 386 U.S. 547 (1967); *Mireles v. Waco,* 502 U.S. 9 (1991); *Imbler v. Pachtman,* 424 U.S. 409 (1976); *Ashelman v. Pope,* 793 F.2d 1072 (9th Cir. 1986); *Joyce v. US,* 474 F2d 215 (3d Cir. 1973).

> "[T]he scope of the judge's jurisdiction must be construed broadly where the issue is the immunity of the judge. A judge will not be deprived of immunity because the action he took was in error, was done maliciously, or was in excess of his authority; rather, he will be subject to liability only when he has acted in the 'clear absence of all jurisdiction.'" *Stump v. Sparkman,* 435 U.S. 349, 356-57 (1978) (quoting *Bradley v. Fisher,* 13 Wall. 335, 351 (1871)).

The Question of Rooker-Feldman

It is well settled law that Rooker-Feldman (R-F) doctrine applies to actions and orders ***within*** the scope of jurisdiction that belongs to the state courts, ***thus it is equally well established law that Rooker-Feldman does NOT apply to federal questions about the preemption of state jurisdiction.*** See *Rooker v. Fidelity Trust Co.,* 263 U.S. 413 (1923); *District of Columbia Court of Appeals v. Feldman,* 460 U.S. 462 (1983); *Exxon Mobil Corp. v. Saudi Basic Industries Corp.,* 544 U.S. 280 (2005); *Lance v. Dennis,* 546 U.S. 459 (2006); *Hageman v. Barton,* 817 F.3d 611, 615 (2016); *Noel v. Hall,* 341 F.3d 1148, 1164 (9th Cir. 2003); *Carmona v. Carmona,* 603 F.3d 1041, 1050 (9th Cir. 2008).

All of these cases are in full agreement on the difference between the "excess of their jurisdiction" and "the complete absence of all jurisdiction on the subject matter." **Where there is NO possibility of subject matter jurisdiction, there is NO immunity.**

RELIEF

1) Grant a Writ of Certiorari to confirm that state judges are bound by federal law pursuant to the Constitution, thereby REQUIRED to OBEY the Complete Federal Preemption expressed and implied by Title 10 and Title 38.

2) Confirm that state judges have NO Immunity where they have NO Possibility of jurisdiction on the subject matter of the federal rights they have violated, and

3) EITHER;

   a) Issue an order of Punitive Judgment against the Respondents, jointly and severally in their Individual Capacity in the amount not less than Three Million Dollars ($3,000,000), ... OR

   b) Issue a Remand back to the District Court for Jury Trial to decide on punitive damages and other professional sanctions to impose on the Respondents.

ORAL TESTIMONY IS NOT REQUIRED

Oral testimony is not required because it will not shed any light on the questions presented above and the Defendants' arguments cannot change the words or meaning of Supreme Law of the Land.

CONCLUSION

These direct Questions have never been presented to this Court in such a clear and concise manner.

This is the ONLY Court with authority to answer the Questions Presented above because it will address ALL of the issues and wash away ALL of the semantic arguments found in the noted cases of *Lott, Miller, Yourko,* and *Martin (supra).*

Holding the Respondent state actors accountable in this case will reconcile and resolve ALL of the others listed in APPENDIX F and shut down ALL the semantic fraud and frivolous litigation that has been used to circumvent the USFSPA, the VJRA and the decisions of this Court.

Answering the Constitutional Questions above will finally disrupt years of systematic profiteering by supporting the Constitution of the United States and enforcing the rights claimed herein.

For these reasons, I hereby ask the Court to issue a Writ of Certiorari to the Ninth Circuit Court of Appeals along with affirmative answers to the Constitutional Questions presented above.

Respectfully Submitted by

Donald Wenger

Executed on: September 5, 2025

INDEX TO APPENDICES

Appendix A

Class Action Suit
by Complaint to Enforce
Complete Federal Preemption
Nationwide (Doc. #1)

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

Donald Wenger, Pro Se, and VeteranHope.org, on behalf of the United States of America, and other veterans under similar circumstances ED Plaintiffs, and **Judge James T. Warren, Richard R. Muir, and the State of California** Defendants.	Case No. CV 24 - 02211-PA (PD) **Class Action Suit by Complaint to Enforce Complete Federal Preemption Nationwide** **Jury Trial** X

1/5

INTRODUCTION: Class of Action

The national crisis of **Veteran Suicide** is being aggravated by predatory litigation and profiteering on veteran benefits in state courts which have NO possibility of Jurisdiction on the Subject Matters of Title 10, or Title 38, or the benefits provided by VA.

State Law has NO Effect on Federal Preemption

The plain text of positive law 38 U.S.C. § 511 pursuant to Article I § 8 of the Constitution makes it clear that veteran benefits are Totally Exempt from state jurisdiction, no matter what any state law says or what any state court has ever said. Congress has "occupied the field" of Jurisdiction on the Subject Matter of Title 38, thereby established Complete Preemption.

Section 511 makes it clear that NOBODY outside the VA could possibly have jurisdiction to make ANY kind of ruling that interferes with benefits provided by the VA.

> 38 U.S. Code § 511
> "(a) **The Secretary shall decide all questions of law and fact** necessary to a decision by the Secretary under a law **that affects** the provision of benefits by the Secretary **to veterans or the dependents or survivors of veterans.** Subject to subsection (b), **the decision** of the Secretary as to any such question shall be final and conclusive and **may not be reviewed by any other official or by any court,** whether by an action in the nature of mandamus or otherwise. (emphasis added)

States have NO jurisdiction to interfere with benefits by assignment, seizure, garnishment, contempt or jail because they have NO jurisdiction on the Subject Matter of Title 38.

Judges openly defy federal preemption expressed in § 511 by taking quotes out of context from *Rose v. Rose,* 481 U.S. 619 (1987) to commit the act of predatory discrimination.

They know they have NO Jurisdiction to disobey § 511 because in 1988, Congress amended 38 U.S.C. § 211 to close the loopholes described in the ruling on § 211 in *Rose v. Rose.*

According to 1 U.S.C. § 204, the plain text of positive law is "Prima Facie Legal Evidence" of Congressional Intent to protect our veteran families from corruption and profiteering.

See the Exhibits listed below to verify the fact that Congress exercised the power to keep the FEDERAL Subject Matter of Title 38 out of the hands of state legislatures and courts.

On behalf of the United States of America and other veterans under similar circumstances, we are here to ask this Court to verify law and confirm the fact that state judges are BOUND by the Supreme Law of the Land, not free to abuse the Constitution or disobey the law.

I. FEDERAL QUESTIONS

1) Whether state judges are BOUND by the Uniformed Services Former Spouses' Protection Act (USFSPA) Pub. Law 97-252 (1982) pursuant to Article I § 8 of the Constitution, thereby REQUIRED to OBEY the precise definition of "disposable retired pay" expressed in the plain text of Positive Law 10 U.S.C. § 1408(a)(4).

2) Whether state judges are BOUND by the Complete Federal Preemption expressed in the plain text of Positive Law 38 U.S.C. § 511 pursuant to Article I § 8 of the Constitution, thereby REQUIRED to OBEY the law that eliminates the Possibility of state jurisdiction on the Subject Matter of benefits provided by the VA.

3) Whether the Defendants Warren and Muir, are Personally Liable in their Individual Capacity for their violations of 10 U.S.C. § 1408 and 38 U.S.C. § 511 under the color of state law and in the complete absence of Jurisdiction on the Subject Matter of Positive Law Title 10 and Positive Law Title 38.

4) Whether the Defendant State is liable for the actions of Judge Warren because, to join the United States, the state has yielded sovereignty on the Article I § 8 power of Congress to provide for the national defense, and Congress has exercised this power to authorize private damages suits against nonconsenting states by the preemption of state jurisdiction.

II. PARTIES and CLASS

Plaintiffs:

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and

VeteranHope.org
c/o Director Robert Terrien
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Tacoma, WA 98417
253-499-5805
Bob@VeteranHope.org

Class: Thousands of veteran families nationwide have been systematically destroyed by the violation of due process for the fun and profit of lawyers who bring frivolous litigation in state courts to fight over veteran benefits, knowing that it is patently against the law.

The VA does not consider suicide over divorce to be a service connected death, so the surviving dependents usually end up right back on the welfare system. In addition to the loss of life, it has cost our nation BILLIONS of dollars in damages.

The statutes we claim as Rights to be enforced by this Court are literally PROOF of the Clear and Unmistakable Intent of Congress to protect our whole country by protecting military and veteran families from corruption and profiteering on veteran benefits.

The actions of a judge with NO Possibility of Jurisdiction on the Subject Matter are NOT "judicial acts," which means they are NOT protected by immunity.

Defendants:

1) **Judge James T. Warren #41170** ☒ **Individual Capacity**
   880 N. State Street, Hemet, CA 92543 951-777-3147
2) **Attorney Richard R. Muir #137916** ☒ **Individual Capacity**
   820 N Mountain Ave, Upland, CA 91786 (909) 391-4413
3) **The State of California** (916) 653-6814
   c/o Secretary of State, 1500 11th Street, Sacramento, CA 95814

III. FEDERAL JURISDICTION AND VENUE

Federal Question Jurisdiction under 28 U.S.C. § 1331 is established by presentation of questions based exclusively on the Constitution and Laws of the United States and by the **Complete Federal Preemption** expressed and implied by the plain text of Positive Law.

This Court is the proper Venue under 28 U.S. Code § 1391(b)(2) and (c) because the individual Defendants violated the rights of the Plaintiff within the territorial jurisdiction of this Court and all of the Parties reside within the Defendant State.

> "The presence or absence of federal question jurisdiction is governed by the "well-pleaded complaint rule," which provides that federal jurisdiction exists only when a federal question is presented on the face of the plaintiff's properly pleaded complaint. **The rule makes the plaintiff the master of the claim;**" *Caterpillar, Inc. v. Williams,* 482 U.S. 386 (1987) (internal citation omitted - emphasis added)

> 'There does exist, however, an "independent corollary" to the well-pleaded complaint rule ... known as the "complete preemption" doctrine. ... Once an area of state law has been completely preempted, [it] ... arises under federal law.' Id at 393

Congress has eliminated the possibility of state jurisdiction on Title 10 and Title 38 by defining every aspect of jurisdiction on the subject matter, thereby "occupied the field."

Any state law written to circumvent the preemption of state jurisdiction expressed in federal statute, or implied by the nature of Positive Law Title pursuant to the Constitution, is immediately in conflict with federal preemption, thereby instantly NULL and VOID.

If Title 10 and/or Title 38 had contained provisions to cancel the preemption expressed and implied by law, then ***and ONLY THEN*** could Rooker-Feldman or Immunity be applied, but legal evidence of Congressional Intent has already eliminated that possibility.

State courts have NO jurisdiction to disobey federal preemption and this Court should remind the Defendants that they are REQUIRED to OBEY the Supreme Law of the Land.

IV. STATEMENT OF THE CASE

Plaintiff Donald Wenger

This lawsuit is about enforcing the RIGHT to protection from being stripped of military retired pay and the RIGHT to protection from being stripped of benefits provided by the VA.

Beginning in 2015, Defendant Judge Warren committed multiple violations of my rights secured by 38 U.S.C. § 511 and § 5301 by attempting to distribute my VA benefits under the color of state law and in the complete absence of jurisdiction on the subject matter of Title 38.

He appointed Defendant Muir to generate a complicated smoke screen to hide the fraud they committed to circumvent federal preemption by violation of my rights secured by 10 U.S.C. § 1408 as well as 38 U.S.C. § 511 and § 5301. **That fraud makes Defendant Muir a "State Actor."**

EVERY single time Defendant Warren did something to extract money from my benefits by assignment or the threat of jail for contempt, he crossed the line of complete federal preemption.

Plaintiff VeteranHope.org

On behalf of the United States of America and other veterans under similar circumstances, this lawsuit is about enforcing the supreme positive laws that are intended to protect our military and veteran families by keeping the meddling hands of corrupt state actors OUT of the federal funds that are specifically set aside for the "common defense and general welfare" of the nation.

In 1982, the Uniformed Services Former Spouses' Protection Act (USFSPA) Pub. Law 97-252 (1982) forcefully separated VA disability compensation from Retired Pay by making it clear that VA compensation was intended for the veteran, not the former spouse.

In 1988, the Veterans Judicial Review Act (VJRA) Pub. Law 100-687 (1988) forcefully isolated VA decisions and benefits from outside interference by making it clear that NOBODY has jurisdiction to touch veteran benefits. ***They are Totally Exempt from Everything, NOT Just Taxes.***

V. INDISPUTABLE PROOF OF PREEMPTION

The Defendants cannot hide behind the fantasy of "concurrent jurisdiction" because it Does Not Exist on the Subject Matters of Title 10 or Title 38. See *Mansell v. Mansell,* 490 U.S. 581 (1989) in which the Court found that the USFSPA did NOT cancel the federal preemption of state jurisdiction found in *McCarty v. McCarty,* 453 U.S. 210 (1981).

They are confined to the strict definition of "disposable retired pay" which eliminates the possibility of semantic frauds like "indemnification clauses" or "settlement agreements." See *Howell v. Howell,* 581 U.S. ___ (2017) upholding *Mansell* (supra).

The Defendants cannot hide behind *Rose v. Rose,* 481 U.S. 619 (1987) because in 1988, the VJRA definitively closed the loopholes in the ruling on 38 U.S.C. § 211, thereby closed every other loophole created by *Rose.*

Exhibit "A" shows the precise language of 38 U.S.C. § 211 at the time of *Rose v. Rose.*

Exhibit "B" shows how the *Rose* decision is based primarily on the loopholes in § 211.

Exhibit "C" shows the amendment of § 211 which permanently closed those loopholes.

Exhibit "D" shows § 211 after the VJRA eliminating the possibility of state jurisdiction.

Federal preemption of state jurisdiction is clearly expressed in the plain text of positive law and implied by the nature of Title 10 and Title 38 pursuant to Article I § 8 of the Constitution, so there is NO room for doubt or question about the intent of Congress expressed in positive law.

Where there is NO possibility of Jurisdiction on the Subject matter, the Defendants have "NO Excuse" or Immunity because **an act "for want of jurisdiction" is NOT a "judicial act."** See *Bradley v. Fisher,* 80 U.S. 335 (1871), et al..

VI. RELIEF

1) Declaratory Judgment by affirmative answer to the Questions presented because the Defendants are automatically BOUND by 10 U.S.C. § 1408 and 38 U.S.C. § 511 pursuant to Article I § 8 of the Constitution, thereby REQUIRED to OBEY these statutes which are intended to protect the rights of disabled veterans and their dependents by federal preemption.

2) Jury Trial to decide on Punitive damages holding all the Defendants liable, jointly and severally, for their violation of federal Rights under the color of state law and in the complete absence of jurisdiction on the subject matters of Title 10 and Title 38.

VII. CONCLUSION AND CERTIFICATION

This is a very simple matter to resolve by answering the questions presented above. We have stated a valid claim of federal rights violated by the Defendants and provided this Court with legal evidence of Congressional Intent to preempt state jurisdiction.

Thus, we have fulfilled the FRCP Rule 8 criteria for a suit under 42 U.S.C. § 1983, et al. See *Blessing v. Freestone,* 520 U.S. 329 (1997) . (a) We are intended beneficiaries of the positive laws we claim the right to enforce, (b) we have explained how the Defendants committed multiple acts of fraud to circumvent federal preemption by corruption and profiteering on veteran benefits with absolutely NO possibility of jurisdiction on Title 38, and (c) the explicit Federal Preemption of state jurisdiction is certainly BINDING on the Defendant State itself as well as Defendant Judges.

> "By ratifying the Constitution, the States agreed their sovereignty would yield to the national power to raise and support the Armed Forces. Congress may exercise this power to authorize private damages suits against nonconsenting States, as in USERRA." *Torres v. Texas Department of Public Safety,* 597 U.S. ___ (2022)

We have fully satisfied the criteria of the "well pleaded complaint" by proving that "Complete Preemption" is expressed in the plain text of positive law and implied by the nature of Title 10 and Title 38 pursuant to Article I § 8. The law itself PROVES Congressional Intent to protect military and veteran families from the cost of frivolous litigation over veteran benefits.

> First, "the purpose of Congress is the ultimate touchstone in every pre-emption case." *Wyeth v. Levine,* 555 U.S. 555 (2009) quoting from *Medtronic, Inc. v. Lohr,* 518 U. S. 470, 485 (1996) referring to *Retail Clerks v. Schermerhorn,* 375 U. S. 96, 103 (1963).
>
> "To discern Congress' intent we examine the explicit statutory language and the structure and purpose of the statute." *Gade v. National Solid Wastes Management Assn.,* 505 U.S. 88 (1992) quoting *Ingersoll-Rand Co. v. McClendon,* 498 U. S. 133, 138 (1990).

CERTIFICATION

I hereby certify this Complaint is accurate and true to the best of my knowledge, information, and belief, per Federal Rule of Civil Procedure 11;

(1) This Complaint is presented for clear and legitimate purpose, therefore is not to harass, cause unnecessary delay, or needlessly increase the cost of any litigation;

(2) This Complaint is well supported by existing law and reasonable argument based on that law, therefore is is not frivolous and it is not intended to extend, modify, or reverse any existing law;

(3) The factual contentions have evidentiary support and will very likely have more support after a reasonable opportunity for investigation and discovery; and

(4) The Complaint otherwise complies with the requirements of Rule 11.

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Respectfully submitted by:

Donald Wenger, Pro Se
CWO4 (Ret) USMCR
22080 Old Paint Way
Canyon Lake, CA. 92587
(951)531-7898
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VeteranHope.org
Robert Terrien, Director
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Tacoma, WA 98417
253-499-5805
Contact@VeteranHope.org

Exhibit A

Legal Evidence of 38 U.S.C. § 211 prior to the Veterans Judicial Review Act as read by the Supreme Court in Rose v. Rose.

OFFICE OF INSPECTOR GENERAL

All the functions, powers, and duties of the Office of ...e Veter... Office of ...ation, by ...t of 1978 ...e 5, Gov... ...ion 2 of ...neral.

JULY 3, ...

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Laws of 1982

Title 38

Section 211 Before the VJRA

As read by the Supreme Court in Rose v. Rose 1987

Library of Congress 1982

...aredness functions to the Administrator of Veterans' Affairs, see Parts 1, 29, and 30 of Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, set out as a note under section 2251 of Title 50, Appendix, War and National Defense.

CROSS REFERENCES

Compensation of Administrator, see section 5313 of Title 5, Government Organization and Employees.

Compensation of Deputy Administrator, see section 5314 of Title 5.

§ 211. Decisions by Administrator; opinions of Attorney General

(a) On and after October 17, 1940, except as provided in sections 775, 784, and as to matters arising under chapter 37 of this title, the decisions of the Administrator on any question of law or fact under any law administered by the Veterans' Administration providing benefits for veterans and their dependents or survivors shall be final and conclusive and no other official or any court of the United States shall have power or jurisdiction to review any such decision by an action in the nature of mandamus or otherwise.

(b) The Administrator may require the opinion of the Attorney General on any question of law arising in the administration of the Veterans' Administration.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1115; Pub. L. 89-214, § 1(b), Sept. 29, 1965, 79 Stat. 886; Pub. L. 89-358, § 4(h), Mar. 3, 1966, 80 Stat. 24; Pub. L. 91-376, § 8(a), Aug. 12, 1970, 84 Stat. 790.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-376 substituted provisions that on or after Oct. 17, 1940, except as provided in sections 775, 784, and chapter 37 of this title, the decisions of the Administrator on any question of law or fact under any law administered by the Veterans' Administration providing benefits for veterans and their dependents or survivors be final and conclusive and no other official or any court of the United States have power or jurisdiction to review any such decision by an action in the nature of mandamus or otherwise, for provisions that, except as provided in the enumerated sections, the decisions of the Administrator on any question of law or fact concerning a claim for benefits or payments under any law administered by the Veterans' Administration be final and conclusive and no other official or any court of the United States have power or jurisdiction to review any such decision.

1966—Subsec. (a). Pub. L. 89-358 struck out references to sections 1661 and 1761.

1965—Subsec. (a). Pub. L. 89-214 inserted reference to section 775.

FEDERAL RULES OF CIVIL PROCEDURE

Writ of mandamus abolished in United States district courts, but relief available by appropriate action or motion, see rule 81, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 212. Delegation of authority and assignment of duties

(a) The Administrator may assign duties, and delegate, or authorize successive redelegation of, authority to act and to render decisions, with respect to all laws administered by the Veterans' Administration, to such officers and employees as he may find necessary. Within the limitations of such delegations, redelegations, or assignments, all official acts and decisions of such officers and employees shall have the same force and effect as though performed or rendered by the Administrator.

(b) There shall be included on the technical and administrative staff of the Administrator such staff officers, experts, inspectors, and assistants (including legal assistants), as the Administrator may prescribe.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1115; Pub. L. 89-361, § 2, Mar. 7, 1966, 80 Stat. 30.)

AMENDMENTS

1966—Subsec. (a). Pub. L. 89-361 empowered the Administrator, as he may find necessary, to authorize the successive redelegation to officers and employees of any authority delegated by the Administrator to act and render decisions with respect to laws administered by the Veterans' Administration, and provided that acts and decisions performed within the limitations of such redelegations shall have force and effect as though performed or rendered by the Administrator.

§ 213. Contracts and personal services

The Administrator may, for purposes of all laws administered by the Veterans' Administration, accept uncompensated services, and enter into contracts or agreements with private or public agencies or persons (including contracts for services of translators without regard to any other law), for such necessary services (including personal services) as he may deem practicable. The Administrator may also enter into contracts or agreements with private concerns or public agencies for the hiring of passenger motor vehicles or aircraft for official travel whenever, in his judgment, such arrangements are in the interest of efficiency or economy.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1115; Pub. L. 89-785, title III, § 302, Nov. 7, 1966, 80 Stat. 1376; Pub. L. 91-24, § 2(c), June 11, 1969, 83 Stat. 33.)

Exhibit B

Summary of Rose v. Rose
showing the holding
and the ruling on 38 U.S.C. § 211

ROSE *v.* ROSE ET AL.

APPEAL FROM THE COURT OF APPEALS OF TENNESSEE

No. 85–1206. Argued March 4, 1987—Decided May 18, 1987

Appellant, a totally disabled veteran whose main source of income is federal veterans' benefits, was held in contempt by the state trial court for failure to pay child support, the amount of which had been fixed by the court after considering appellant's benefits to be income under a Tennessee statute. The State Court of Appeals affirmed, rejecting appellant's contention that the Veterans' Administration (VA) has exclusive jurisdiction to specify payments of child support from the disability benefits it provides. The court determined that Congress intended disability benefits to support the beneficiary *and his dependents*, and held that the trial court's order directing appellant to pay a portion of those benefits as child support or be held in contempt did not undermine a substantial federal interest.

Held: A state court has jurisdiction to hold a disabled veteran in contempt for failing to pay child support, even if the veteran's only means of satisfying this obligation is to utilize veterans' benefits received as compensation for a service-connected disability. The Tennessee statute, as construed by the state courts to authorize an award of disability benefits as child support, is not pre-empted under the Supremacy Clause of Article VI since it does not conflict with federal law. Pp. 625–636.

(a) Title 38 U. S. C. § 3107(a)(2), which gives the VA discretionary authority to apportion disability compensation on behalf of a veteran's children, is not an exclusive grant of authority to the VA to order that child support be paid from disability benefits, and does not indicate that exercise of the VA's discretion could yield independent child support determinations in conflict with existing state-court orders. Moreover, the implementing regulations, which simply authorize apportionment if "the veteran is not reasonably discharging his or her [child support] responsibility . . . ," contain few guidelines for apportionment and no specific procedures for bringing claims. Furthermore, to construe § 3107(a)(2) as pre-emptive could open for reconsideration a vast number of existing divorce decrees affecting disabled veterans and lead in future cases to piecemeal litigation before the state courts and the VA. Given the traditional authority of state courts over child support, their unparalleled familiarity with local economic factors affecting the issue, and their experience in applying state statutes that contain detailed support guidelines and procedures, it seems certain that Congress would have been

more explicit had it meant the VA's apportionment power to displace state-court authority. Pp. 626–628.

(b) Title 38 U. S. C. § 211(a), which provides that VA decisions on benefits for veterans and their dependents are final, conclusive, and not subject to review by any other federal official or federal court, does not vest exclusive jurisdiction in the VA nor pre-empt state-court jurisdiction to enforce a veteran's child support obligation. Section 211(a) makes no reference to *state*-court jurisdiction. Moreover, its purpose of achieving uniformity in the administration of veterans' benefits is not threatened by state child support contempt proceedings, which do not review the disability eligibility decisions that are the primary focus of the section. Furthermore, since the VA is not a party in a contempt proceeding, it is not subjected to an additional litigation burden, the prevention of which is also a purpose of § 211(a). Pp. 628–630.

(c) State-court jurisdiction is not pre-empted by 38 U. S. C. § 3101(a), which provides that veterans' benefits payments made to, or on account of, a beneficiary shall not be liable to attachment, levy, or seizure. Neither of § 3101(a)'s purposes—to avoid the VA's being placed in the position of a collection agency and to prevent the deprivation and depletion of veterans' means of subsistence—is constrained by allowing the state courts to hold appellant in contempt. The VA is not obliged to participate in the state proceedings or pay benefits directly to appellee. Moreover, the legislative history establishes that disability benefits are intended to provide compensation for disabled veterans *and their families*. *Wissner* v. *Wissner*, 338 U. S. 655, *Hisquierdo* v. *Hisquierdo*, 439 U. S. 572, and *Ridgway* v. *Ridgway*, 454 U. S. 46, distinguished. Pp. 630–634.

(d) Provisions of the Child Support Enforcement Act, which provide that moneys payable by the Government to any individual are subject to child support enforcement proceedings (42 U. S. C. § 659(a)), but which specifically exclude VA disability benefits, do not establish a congressional intent to exempt such benefits from legal process. Section 659(a) was intended to create a limited waiver of sovereign immunity so that state courts could issue valid orders directed against Government agencies attaching funds in their possession. Thus, although veterans' disability benefits may be exempt from attachment while in the VA's hands, once they are delivered to the veteran a state court can require that they be used to satisfy a child support order. Pp. 634–635.

Affirmed.

MARSHALL, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and BRENNAN, BLACKMUN, and POWELL, JJ., joined, and in Parts I, II–A, II–B, II–D, and III of which STEVENS and O'CONNOR, JJ., joined. O'CONNOR, J., filed an opinion concurring in part and concurring in the

Exhibit C

Legal Evidence of the Veterans Judicial Review Act amendment of 38 U.S.C. § 211

Public Law 100-687
100th Congress

An Act

To amend title 38, United States Code, to establish certain procedures for the adjudication of claims for benefits under laws administered by the Veterans' Administration; to apply the provisions of section 553 of title 5, United States Code, to rulemaking procedures of the Veterans' Administration; to establish a Court of Veterans' Appeals and to provide for judicial review of certain final decisions of the Board of Veterans' Appeals; to provide for the payment of reasonable fees to attorneys for rendering legal representation to individuals claiming benefits under laws administered by the Veterans' Administration; to increase the rates of compensation payable to veterans with service-connected disabilities; and to make various improvements in veterans' health, rehabilitation, and memorial affairs programs; and for other purposes.

Nov. 18, 1988
[S. 11]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

DIVISION A—VETERANS' JUDICIAL REVIEW

Veterans' Judicial Review Act

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

38 USC 101 note

(a) SHORT TITLE.—This division may be cited as the "Veterans' Judicial Review Act".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—ADJUDICATIVE AND RULEMAKING AUTHORITY OF THE VETERANS' ADMINISTRATION

SEC. 101. DECISIONS BY ADMINISTRATOR.

(a) MATTERS TO BE DECIDED BY ADMINISTRATOR.—Subsection (a) of section 211 is amended to read as follows:

"(a)(1) The Administrator shall decide all questions of law and fact necessary to a decision by the Administrator under a law that affects the provision of benefits by the Administrator to veterans or the dependents or survivors of veterans. Subject to paragraph (2) of this subsection, the decision of the Administrator as to any such question shall be final and conclusive and may not be reviewed by any other official or by any court, whether by an action in the nature of mandamus or otherwise.

"(2) The second sentence of paragraph (1) of this subsection does not apply to—

"(A) matters subject to section 223 of this title;

"(B) matters covered by sections 775 and 784 of this title;

"(C) matters arising under chapter 37 of this title; and

Exhibit D

Legal Evidence of 38 U.S.C. § 211
after the Veterans Judicial Review Act

This statute controlled jurisdiction
on Title 38 from 1989 to
September 1, 1991
when § 511 became effective

tion's obligations to those who serve will always be honored:

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the medical
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war or national emergency involving the use of the Armed Forces in armed conflict;

"(8) in terms of share of the annual Federal budget, the Veterans' Administration ranks sixth among Federal departments and agencies, and among Federal departments and agencies only the Department of Defense employs more personnel;

"(9) the Administrator of Veterans' Affairs is the principal executive branch official responsible for the administration of the benefits, services, and programs of the Veterans' Administration and for seeking the coordination of veterans' programs administered by other Federal departments and agencies;

"(10) there is a need for greater coordination between the Veterans' Administration and other Federal entities administering veterans programs and between the Veterans' Administration and other Federal entities providing similar benefits to individuals on a basis other than their status as veterans;

"(11) by virtue of the Administrator of Veterans' Affairs not being included in the President's Cabinet, the Administrator generally is not included in Cabinet meetings and deliberations and generally does not have the ready access to the President and senior advisers on the President's staff that Cabinet members have; and

"(12) as a consequence, Presidential decisions affecting veterans and the Veterans' Administration are made from time to time without an understanding of their full impact on veterans and on the Veterans' Administration's performance of its statutory missions.

"SENSE OF THE CONGRESS

"SEC. 502. In view of the findings in section 501, it is the sense of the Congress that the Administrator of Veterans' Affairs should be designated by the President as a member of, and a full participant in all activities of, the Cabinet and as the President's principal adviser on all matters relating to veterans and their dependents."

CONTINUATION OF AUTHORITY UNDER ACT OF JULY 3, 1930

Section 4 of Pub. L. 85-857 provided that: "All functions, powers, and duties conferred upon and vested in the President and the Administrator by the Act of July 3, 1930 (46 Stat. 1016) and which were in effect on December 31, 1957, are continued in effect."

OUTSTANDING RULES, REGULATIONS, AND ORDERS

Section 7 of Pub. L. 85-857 provided that: "All rules, regulations, orders, permits, and other privileges issued or granted by the Administrator of Veterans' Affairs before December 31, 1958, and in effect on such date (or scheduled to take effect after such date) shall remain in full force and effect until modified, suspended, overruled, or otherwise changed by the Administrator."

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to the Secretary of Veterans Affairs, see Parts 1, 2, and 27 of Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, set out as a note under section 2251 of Title 50, Appendix, War and National Defense.

CROSS REFERENCES

Compensation of Secretary of Veterans Affairs, see section 5312 of Title 5, Government Organization and Employees.

Compensation of Deputy Secretary of Veterans Affairs, see section 5313 of Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 621 of this title.

§ 211. Decisions by Administrator; opinions of Attorney General

(a)(1) The Administrator shall decide all questions of law and fact necessary to a decision by the Administrator under a law that affects the provision of benefits by the Administrator to veterans or the dependents or survivors of veterans. Subject to paragraph (2) of this subsection, the decision of the Administrator as to any such question shall be final and conclusive and may not be reviewed by any other official or by any court, whether by an action in the nature of mandamus or otherwise.

(2) The second sentence of paragraph (1) of this subsection does not apply to—

(A) matters subject to section 223 [1] of this title;

(B) matters covered by sections 775 and 784 of this title;

(C) matters arising under chapter 37 of this title; and

(D) matters covered by chapter 72 of this title.

(b) The Administrator may require the opinion of the Attorney General on any question of law arising in the administration of the Veterans' Administration.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1115; Pub. L. 89-214, § 1(b), Sept. 29, 1965, 79 Stat. 886; Pub. L. 89-358, § 4(h), Mar. 3, 1966, 80 Stat. 24; Pub. L. 91-376, § 8(a), Aug. 12, 1970, 84 Stat. 790; Pub. L. 100-687, div. A, title I, § 101(a), Nov. 18, 1988, 102 Stat. 4105.)

REFERENCES IN TEXT

Section 223 of this title, referred to in subsec. (a)(2)(A), probably refers to the section 223 "Rule making: procedures and judicial review" of this title which was enacted by section 102(a) of Pub. L. 100-687.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100-687 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "On and after October 17, 1940, except as provided in sections 775, 784, and as to matters arising

[1] See References in Text note below.

Appendix B

Order - Show Cause (Doc. #5)

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	ED CV 24-2211 PA (PDx)	Date	October 24, 2024
Title	Donald Wenger, et al. v. James Warren, et al.		

Present: The Honorable	PERCY ANDERSON, UNITED STATES DISTRICT JUDGE	
Kamilla Sali-Suleyman	N/A	N/A
Deputy Clerk	Court Reporter	Tape No.
Attorneys Present for Plaintiffs:	Attorneys Present for Defendants:	
None	None	

Proceedings: IN CHAMBERS – ORDER TO SHOW CAUSE

The Complaint in this action identifies the plaintiffs as "Donald Wenger, pro se, and VeteranHope.org, on behalf of the United States of America and other veterans under similar circumstances." The Complaint is signed by Donald Wenger ("Wenger") and Robert Terrien on behalf of VeteranHope.org.

Although the Central District's Local Rules allow individuals to represent themselves, and themselves only, the Local Rules generally prohibit individuals from acting as counsel for others. Specifically, the Local Rules state:

> **L.R. 83-2.2.1 Individuals.** Any person representing himself or herself in a case without an attorney must appear pro se for such purpose. That representation may not be delegated to any other person — even a spouse, relative, or co-party in the case. A non-attorney guardian for a minor or incompetent person must be represented by counsel.
>
> **L.R. 83-2.2.2 Organizations.** Only individuals may represent themselves pro se. No organization or entity of any other kind (including corporations, limited liability corporations, partnerships, limited liability partnerships, unincorporated associations, trusts) may appear in any action or proceeding unless represented by an attorney permitted to practice before this Court . . . .

Local Rule 83-2.2. Because the Complaint identifies the plaintiffs as Wenger and VeteranHope.org ("Plaintiffs") on behalf of themselves, a class of similarly situated individuals, and the United States, but Wenger is not an attorney, and can therefore not represent VeteranHope.org, the class, or the United States, the filing of this action pro se appears to be in violation of Local Rule 83-2.2 and the prosecution of this action may not proceed without an

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	ED CV 24-2211 PA (PDx)	Date	October 24, 2024
Title	Donald Wenger, et al. v. James Warren, et al.		

attorney. See Flymbo v. State Farm Fire and Cas. Co., 213 F.3d 1320, 1321 (10th Cir. 2000) ("A litigant may bring his own claims to federal court without counsel, but not the claims of others. This is so because the competence of a layman is clearly too limited to allow him to risk the rights of others.") (internal quotations and citations omitted); see also Simon v. Hartford Life, Inc., 546 F.3d 661, 664 (9th Cir. 2008) ("It is well-established that the privilege to represent oneself pro se provided by § 1654 is personal to the litigant and does not extend to other parties or entities.").

Because a non-lawyer cannot represent an entity, a class, or the United States, the Court orders Plaintiffs to show cause in writing, no later than November 12, 2014, why the claims of VeteranHope.org and Plaintiffs' efforts to assert claims on behalf of a class and the United States should not be dismissed without prejudice. A substitution of attorney appointing new counsel for Plaintiffs shall be deemed an adequate response. Failure to adequately respond to this Order to Show Cause by November 12, 2024, may, without further warning, result in the dismissal of the claims asserted on behalf of VeteranHope.org, the class, and the United States without prejudice.

Additionally, according to the Complaint, "[b]eginning in 2015," defendant James Warren, a Judge of the Superior Court, "committed multiple violations of my rights . . . by attempting to distribute my VA benefits under the color of state law and in the complete absence of jurisdiction on the subject matter of Title 38." Wenger therefore appears to be by challenging Judge Warren's orders in Wenger's dissolution proceeding. The Rooker-Feldman doctrine bars federal district courts "from exercising subject matter jurisdiction over a suit that is a de facto appeal from a state court judgment." Kougasian v. TMSL, Inc., 359 F.3d 1136, 1139 (9th Cir. 2004); see Reusser v. Wachovia Bank, N.A., 525 F.3d 855, 858 (9th Cir. 2008). "The clearest case for dismissal based on the Rooker-Feldman doctrine occurs when 'a federal plaintiff asserts as a legal wrong an allegedly erroneous decision by a state court, and seeks relief from a state court judgment based on that decision . . . .'" Henrichs v. Valley View Dev., 474 F.3d 609, 613 (9th Cir. 2007) (quoting Noel v. Hall, 341 F.3d 1148, 1164 (9th Cir. 2003)). However, the doctrine also applies where "claims raised in the federal court action are 'inextricably intertwined' with the state court's decision such that the adjudication of the federal claims would undercut the state ruling or require the district court to interpret the application of state laws or procedural rules." Bianchi v. Rylaarsdam, 334 F.3d 895, 898 (9th Cir. 2003).

In similar circumstances, federal courts have concluded that such challenges brought under the Uniformed Services Former Spouses' Protections Act ("FSPA"), 10 U.S.C. § 1408, one of the statutes relied upon by Wenger, are foreclosed by Rooker-Feldman. See Casale v. Tollman, 558 F.3d 1258, 1261 (11th Cir. 2009) ("The state court clearly had jurisdiction over

Casale and Tillman's divorce, including the power to create remedies to enforce the decree. If Casale believed the state court's result was based on a legal error, the proper response was the same one open to all litigants who are unhappy with the judgment of a trial court: direct appeal."); see also Howell v. Howell, 581 U.S. 214, 218, 137 S. Ct. 1400, 1404, 197 L. Ed. 2d 781 (2017) (explaining that the FSPA and § 1408 "provided a 'precise and limited' grant of the power to divide federal military retirement pay" to state courts but "excluded from its grant of authority the disability-related waived portion of military retirement pay" and that, as a result, "in respect to the waived portion or retirement pay . . . federal pre-emption . . . still applies.") (quoting Mansell v. Mansell, 490 U.S. 581, 588-89, 109 S. Ct. 2023, 2028-29, 104 L. Ed. 2d 675 (1989)).

The Court therefore additionally orders Plaintiffs to show cause in writing why this action should not be dismissed because it is a de facto appeal barred by Rooker-Feldman over which the Court lacks subject matter jurisdiction. Plaintiffs response to this Order to Show Cause shall be filed by no later than November 12, 2024. Failure to timely or adequately respond to the Order to Show Cause may, without further warning, result in the dismissal of this action without prejudice.

IT IS SO ORDERED.

Appendix C

Reply to Show Cause (Doc. #7)

Donald Wenger
2080 Old Paint Way
Canyon Lake, CA. 92587

AR

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Donald Wenger, Pro Se, and VeteranHope.org, on behalf of the United States of America, and other veterans under similar circumstances Plaintiffs. and **Judge James T. Warren, Richard R. Muir, and the State of California** Defendants.	Case No. 5:24-cv-02211-PA-PD **Reply on Order to Show Cause**

REPLY

The main reason this case should not be dismissed is the fact that nobody has survived long enough to bring these Federal Questions to the attention of the Court until now. Rooker-Feldman does NOT apply because Federal Preemption separates the federal matters from state.

We have respectfully presented valid. clear and simple Federal Questions about whether state judges are bound by the Supreme Law of the Land. or not.

We have supported the claim of rights by providing this Court with Legal Evidence of the legislative history of the current positive law controlling jurisdiction on veteran benefits and how Congress eliminated the possibility of state interference with veteran benefits.

Our position is that the expressed and implied preemption of jurisdiction on the federal subject matter of military retired pay and veteran benefits takes precedent over state jurisdiction on the subject matter of divorce. alimony and child support. **VA benefits are exempt.**

State law has NO Effect on Complete Federal Preemption.

Neither Rooker nor Feldman dealt with expressed or implied preemption of state jurisdiction. so neither one is dispositive in this unique case.

Likewise. none of the other cases cited provide any particular insight on the questions we presented or the obvious federal preemption. It is brushed off with superficial disregard for the connection between the Constitutional power of Congress and the plain text of positive law.

The idea that "state court interpretation of federal law is no less authoritative than that of the federal court" … "until the United States Supreme Court settles the matter." as quoted in *Casale v. Tillman,* is not appropriate compared to the "plain and precise" language of positive law making the subject matters of Title 10 and Title 38 exempt from state interpretation.

On one hand. *Casale* was properly dismissed under Rooker-Feldman because it was a facial appeal of state court order and the preemption argument could not overcome that fact.

On the other hand. our Complaint is properly based on the crystal clear preemption of state jurisdiction which forcefully separates the federal matter of veteran benefits from the state proceeding by eliminating the possibility of "concurrent jurisdiction." thereby eliminating the "inextricably intertwined" argument. ***The "inextricably" is canceled by preemption.***

RETIRED PAY

Mansell v. Mansell, 490 U.S. 581 (1989) is the single most dispositive Supreme Court ruling on the question of why state judges are fully bound by the USFSPA definition of "disposable retired pay." Upheld by *Howell v. Howell*, 581 U.S. ___ (2017).

> "The legislative history does not indicate the reason for Congress' decision to shelter from community property law that portion of military retirement pay waived to receive veterans' disability payments. [Footnote 14] But the absence of legislative history on this decision is immaterial in light of the plain and precise language of the statute: Congress is not required to build a record in the legislative history to defend its policy choices." Mansell at 592.
>
> "Senate Report and the House Conference Report also contain statements indicating that Congress rejected the uncomplicated option of removing all federal preemption and returning unlimited authority to the States." Id. at 593.
>
> "Our task is to interpret the statute as best we can, not to second-guess the wisdom of the congressional policy choice." Id. at 594 quoting Rodriguez v. United States, 480 U. S. 522, 480 U. S. 526 (1987).
>
> "We realize that reading the statute literally may inflict economic harm on many former spouses. But we decline to misread the statute in order to reach a sympathetic result when such a reading requires us to do violence to the plain language of the statute and to ignore much of the legislative history. Congress chose the language that requires us to decide as we do, and Congress is free to change it." Id. At 594.

Federal Preemption means the state court has NO Jurisdiction to creatively interpret the plain text of the federal statute or make any ruling to circumvent federal preemption.

The *Mansell* case was appealed to the US Supreme Court right before the *Rose v. Rose* case was decided, but *Mansell* was not heard until January 1989 and decided on May 10, 1989.

Neither the Parties nor the Court were sufficiently notified or informed to consider how the Veterans Judicial Review Act (VJRA) superseded the *Rose* decision by closing the loopholes in § 211, thereby closing **every** other loophole in *Rose*.

VETERAN SUICIDE

We want this Court to know that Veterans are dying because we have not been able to protect our families from the systematic profiteering on veteran benefits in state courts.

State judges refuse to obey the supreme law of the land. They do not want to admit 35+ years of predatory fraud. So far, federal courts have refused to hold them accountable.

As long as state judges are allowed to disobey federal preemption, veterans will continue to die by SUICIDE at an increasing rate.

They do not care what happens to the veteran or the family after being stripped of rights and benefits. They do not care that most of these families end up right back on welfare when the veteran dies homeless or by suicide because the death is not service connected.

We all know that it is a waste of time to appeal an illegal order from one state court to another because they ALL refuse to obey the obvious preemption expressed in the law.

Lawyers cannot go after judges for misconduct without risking their entire business and whenever we stand up to them, they retaliate on us by cutting off contact with our loved ones, charging fees, fines, penalties, contempt, jail, and so on.

After being hurt in military service, losing income from work because of disability, going through separation and divorce over that financial hardship, waiting years for a VA claim only to have the benefits stolen by the state court and the parasitic lawyers, many veterans end up homeless and hopeless. That is a recipe for suicide.

The very few lawyers who try to help us get too complicated and miss the point, so we had to learn some of your language to present our simple Federal Questions.

We understand the fact some lawyers and judges will lose a few paychecks because enforcing the federal preemption will disrupt 35+ years of predatory fraud.

Holding state judges liable for violating federal preemption will help break the infinite loop of frivolous litigation for profit and that will help families by preventing suicide.

CONSTITUTIONAL PERSPECTIVE

Congress alone has the power to lay down the supreme law controlling jurisdiction on the federal subject matters of Title 10 and Title 38. among others.

Article I § 8 of the Constitution. specifically clauses 1.9.11.12.13.14. 17 and 18. provide Congress with the following powers:

[1] The Congress shall have power to ... provide for the common defense and general welfare of the United States ...

[9] To constitute tribunals inferior to the Supreme Court ...

[11] To declare war ...

[12] To raise and support armies ...

[13] To provide and maintain a navy ..

[14] To make rules for the government and regulation of the land and naval forces ...

[17] To exercise exclusive legislation in all cases whatsoever. over ... all places purchased ... for the erection of forts. magazines. arsenals. dockyards. and other needful buildings ... And ...

[18] To make all laws which shall be necessary and proper for carrying into execution the foregoing powers. and all other powers vested by this Constitution in the government of the United States. or in any department or officer thereof.

According to 1 U.S.C. § 204. the plain text of positive law is legal evidence of the law and the fact that Congress has exercised these powers to occupy the field of all possible jurisdiction on Title 10 and Title 38. among others. thereby eliminating the most remote possibility of "concurrent" state jurisdiction to "interpret" any word of the positive law.

The Fourteenth Amendment makes it clear that "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States: nor shall any state deprive any person of life. liberty. or property. without due process of law: nor deny to any person within its jurisdiction the equal protection of the laws."

There is really no room for doubt. Congress has made it clear that state judges are BOUND by the supreme law. thereby REQUIRED to OBEY the Complete Federal Preemption expressed in the plain text of positive law and implied by the nature of Title 10 and Title 38 pursuant to the powers of Congress.

"By ratifying the Constitution. the States agreed their sovereignty would yield to the national power to raise and support the Armed Forces. Congress may exercise this power to authorize private damages suits against nonconsenting States. as in USERRA." *Torres v. Texas Department of Public Safety*, 597 U.S. ___ (2022)

NO GROUNDS TO DISMISS

It is hard to take the Constitution and Laws of the United States seriously when state judges are getting away with violating it almost every day.

We are in a Catch-22. ... an infinite loop of frivolous litigation for profit. fostered by state judges who KNOW better.

The Defendants will claim immunity. and probably refer to Rooker-Feldman. res judicata. laches. and other arguments based on *Rose v. Rose*, but they will not be able to PROVE anything that would cancel the power of Congress to isolate and protect these federal subject matters of law from predatory corruption and profiteering in state courts.

We have a RIGHT to the enforcement of federal preemption intended by Congress to protect our nation by protecting military and veteran families nationwide.

The outcome of a positive "yes" answer to the federal questions will help families by saving lives and help protect the United States from the predatory fraud that judges and lawyers like the Defendants have been getting away with for years.

The outcome of a negative answer will hurt more families and cost the United States a lot more lives and billions more dollars in financial damage.

CONCLUSION

The longer it takes to get a proper answer to these questions. the more harm it will cause.

This quotation from *Ex parte Young,* 209 U.S. 123 (1908) provides an important insight to the responsibility we have placed before this Court.

> "We have no more right to decline the exercise of jurisdiction which is given than to usurp that which is not given. The one or the other would be treason to the Constitution. Questions may occur which we would gladly avoid. but we cannot avoid them. All we can do is to exercise our best judgment. and conscientiously to perform our duty." *Ex parte Young,* 209 U.S. 123 (1908) QUOTING Chief Justice Marshall in *Cohen v. Virginia.* 6 Wheat. 264-404.

For the reasons stated above. this Matter should not be dismissed because it is necessary to solve a nationwide problem of rampant abuse by state judges and lawyers.

Respectfully submitted by:

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Appendix D

In Chambers – Order (Doc. #11)

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	ED CV 24-2211 PA (PDx)	Date	November 15, 2024
Title	Donald Wenger, et al. v. James Warren, et al.		

Present: The Honorable	PERCY ANDERSON, UNITED STATES DISTRICT JUDGE	
Kamilla Sali-Suleyman	N/A	N/A
Deputy Clerk	Court Reporter	Tape No.
Attorneys Present for Plaintiffs:	Attorneys Present for Defendants:	
None	None	

Proceedings: IN CHAMBERS – COURT ORDER

The Complaint in this action identifies the plaintiffs as "Donald Wenger, pro se, and VeteranHope.org, on behalf of the United States of America and other veterans under similar circumstances." The Complaint is signed by Donald Wenger ("Wenger") and Robert Terrien on behalf of VeteranHope.org (collectively "Plaintiffs"). The Complaint purports to state claims against the State of California, and a Superior Court Judge and an attorney apparently involved in Wenger's divorce proceedings pending in Riverside County Superior Court. Specifically, the Complaint alleges that Wenger's benefits provided by the United States Department of Veterans Affairs ("VA"), and those of the putative class, have been improperly subjected to spousal support awards in California.

Because Local Rules 83-2.1 and 83-2.2.2 provide that a non-lawyer cannot represent an entity, a class, or the United States, the Court, on October 24, 2024, ordered Plaintiffs to show cause in writing why the claims of VeteranHope.org and Plaintiffs' efforts to assert claims on behalf of a class and the United States should not be dismissed without prejudice. The Order to Show Cause explained that an appearance by counsel would be a sufficient response. In the same October 24, 2024 Order, the Court ordered Wenger to show cause in writing why his individual claims should not be dismissed pursuant to the Rooker-Feldman doctrine.

Plaintiffs filed a Response to the Court's Order to Show Cause, which the Court has reviewed. Plaintiffs' Response does not address their efforts to appear pro se on behalf of VeteranHope.org, the putative class, or the United States in a manner that violates Local Rules 83-2.2.1 and 83-2.2.2. Because neither Wenger nor Terrien is licensed to practice law, they cannot appear on behalf of VeteranHope.org, the putative class, or the United States. Therefore, to the extent the Complaint seeks to assert claims on behalf of anyone other than Wenger, the Court dismisses those claims without prejudice. See Flymbo v. State Farm Fire and Cas. Co., 213 F.3d 1320, 1321 (10th Cir. 2000) ("A litigant may bring his own claims to federal court without counsel, but not the claims of others. This is so because the competence of a layman is clearly too limited to allow him to risk the rights of others.") (internal quotations and citations

omitted); see also Simon v. Hartford Life, Inc., 546 F.3d 661, 664 (9th Cir. 2008) ("It is well-established that the privilege to represent oneself pro se provided by § 1654 is personal to the litigant and does not extend to other parties or entities.").

In response to the Order to Show Cause why Wenger's claims should not be dismissed pursuant to the Rooker-Feldman doctrine, Plaintiffs repeat arguments contained in their Complaint about their views on the scope of federal preemption provided by 10 U.S.C. § 1408 and 38 U.S.C. § 511. Federal preemption concerning the disposition of VA benefits upon divorce is not as expansive as Plaintiffs appear to assert. The Uniformed Services Former Spouses' Protections Act ("FSPA"), 10 U.S.C. § 1408, expressly contemplates a role for state courts in the disposition of some VA benefits in divorce proceedings. In Mansell v. Mansell, the Supreme Court explained that the FSPA "affirmatively grants state courts the power to divide military retirement pay, yet its language is both precise and limited." 490 U.S. 581, 588, 109 S. Ct. 2023, 2028, 104 L. Ed. 2d 675 (1989). Specifically, "state courts have been granted the authority to treat disposable retired pay as community property," but because military pay waived in order to receive veterans' disability payments is excluded from the definition of "disposable retired or retainer pay," state courts "have not been granted the authority to treat total retired pay as community property." Id. at 588-89, 109 S. Ct. at 2028-29, 104 L. Ed. 2d 675.

The FSPA does not create field preemption or prevent state courts from dividing some VA benefits in divorce proceedings, instead, it "completely pre-empts the States from treating waived military retirement pay as divisible community property." Howell v. Howell, 581 U.S. 214, 220, 137 S. Ct. 1400, 1405, 197 L. Ed. 2d 781 (2017). Nor does 38 U.S.C. § 511, which shields VA benefits decisions from judicial review, deprive a state court of jurisdiction to consider a distribution of property upon divorce that the FSPA allows the state court to make. As Wenger alleges in the Complaint, he is dissatisfied with rulings made in his divorce proceedings concerning his VA benefits.[1/] According to the Complaint, "[b]eginning in 2015," defendant James Warren, a Judge of the Superior Court, "committed multiple violations of my rights . . . by attempting to distribute my VA benefits under the color of state law and in the complete absence of jurisdiction on the subject matter of Title 38." Wenger therefore appears to be by challenging Judge Warren's orders in Wenger's dissolution proceeding.

The Rooker-Feldman doctrine bars federal district courts "from exercising subject matter jurisdiction over a suit that is a de facto appeal from a state court judgment." Kougasian v.

[1/] It is not clear from the Complaint if Wenger receives VA retirement benefits or if some portion of his VA benefits are disability benefits.

TMSL, Inc., 359 F.3d 1136, 1139 (9th Cir. 2004); see Reusser v. Wachovia Bank, N.A., 525 F.3d 855, 858 (9th Cir. 2008). "The clearest case for dismissal based on the Rooker-Feldman doctrine occurs when 'a federal plaintiff asserts as a legal wrong an allegedly erroneous decision by a state court, and seeks relief from a state court judgment based on that decision . . . .'" Henrichs v. Valley View Dev., 474 F.3d 609, 613 (9th Cir. 2007) (quoting Noel v. Hall, 341 F.3d 1148, 1164 (9th Cir. 2003)). However, the doctrine also applies where "claims raised in the federal court action are 'inextricably intertwined' with the state court's decision such that the adjudication of the federal claims would undercut the state ruling or require the district court to interpret the application of state laws or procedural rules." Bianchi v. Rylaarsdam, 334 F.3d 895, 898 (9th Cir. 2003).

In similar circumstances, federal courts have concluded that such challenges brought under the FSPA are foreclosed by Rooker-Feldman. See Casale v. Tollman, 558 F.3d 1258, 1261 (11th Cir. 2009) ("The state court clearly had jurisdiction over Casale and Tillman's divorce, including the power to create remedies to enforce the decree. If Casale believed the state court's result was based on a legal error, the proper response was the same one open to all litigants who are unhappy with the judgment of a trial court: direct appeal."); see also Howell, 581 U.S. at 218, 137 S. Ct. at 1404, 197 L. Ed. 2d 781. As in Howell, if Wenger was dissatisfied with the rulings in his divorce proceedings, his remedy was to appeal those rulings, first through California's appellate courts, and then potentially to the United States Supreme Court. See id. at 219-20, 137 S. Ct. at 1404, 197 L. Ed. 2d 781 (describing how Howell was appealed first to the Arizona Supreme Court and that the United States Supreme Court granted a petition for certiorari "[b]ecause different state courts have come to different conclusions on the matter"). Rooker-Feldman precludes Wenger from instead instituting this new action in the District Court seeking review of the rulings in his divorce proceedings.

For all of the foregoing reasons, the Court dismisses the claims asserted by VeteranHope.org and the claims asserted on behalf of the putative class and the United States without prejudice. The Court also concludes that it lacks subject matter jurisdiction over Wenger's individual claims because he is seeking relief from decisions rendered by the state court in his divorce proceedings. See Kougasian, 359 F.3d at 1139 ("Rooker-Feldman requires that the district court dismiss the suit for lack of subject matter jurisdiction."). The Court therefore dismisses Wenger's claims for lack of subject matter jurisdiction without prejudice. The Court will issue a Judgment consistent with this Order.

IT IS SO ORDERED.

Appendix E

Judgment (Doc. #12)

JS-6

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

DONALD WENGER, et al.

Plaintiffs,

v.

JUDGE JAMES T. WARREN, et al.,

Defendants.

ED CV 24-2211 PA (PDx)

JUDGMENT

Pursuant to the Court's November 15, 2024 Minute Order, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that this action is dismissed without prejudice.

IT IS SO ORDERED.

DATED: November 15, 2024

Percy Anderson
UNITED STATES DISTRICT JUDGE

Appendix F

Table of Similar Cases

Table of Similar Cases

1) **William R. Lott v. Maria V. Lott,**
US Supreme Court No. 24-1160 ***(Pending Conference 9/29/2025)***
The veteran is asking this Court to answer the Constitutional Questions about whether the Virginia court disobeyed the rulings of this Court in McCarty, Mansell and Howell by completely reinventing the USFSPA by creative interpretation with no jurisdiction to change the "plain and precise language" of 10 U.S.C. § 1408.

2) **Jeremy N. Miller v. Casi A. Miller,**
US Supreme Court No. 24-1313 ***(Pending Conference 9/29/2025)***
The veteran is asking this Court to answer Constitutional Questions about whether the Tennessee court is bound by the complete preemption of state jurisdiction established by the VJRA and expressed in current positive law 38 U.S.C. § 511. The Tennessee Courts claim to be bound by the Rose v. Rose decision instead of the plain text of 38 USC 511 pursuant to the Constitution.

3) **Michael B. Yourko v. Lee Ann B. Yourko,**
US Supreme Court No. 23-999 (Cert. denied 10/7/2024)
The veteran asked this Court to answer Constitutional Questions about whether the Virginia courts violated federal preemption by ruling that state contract law would be enforceable in conflict with the USFSPA and the VJRA.

4) **Erich M. Martin v. Raina L. Martin,**
US Supreme Court No. 23-605 (Cert. denied 10/7/2024)
The veteran asked this Court to answer Constitutional Questions about whether the Nevada courts violated federal preemption by ruling that state contract law takes precedent over the plain text of the USFSPA.

5) **Ray James Foster v. Deborah Lynn Foster,**
US Supreme Court No. 22-1089 (Cert. denied)
The veteran asked this Court whether the Michigan courts used the doctrines of res judicata and collateral estoppel to circumvent the USFSPA and the VJRA where it is also clear that CRSC is NOT retired pay in the first place, thereby NOT open to state court authority.

6) **Kevin Lee Boutte, Petitioner v. Yvonne Renea Boutte,**
US Supreme Court No. 21-44 (Cert. denied)
The veteran asked this Court whether the Louisiana courts used the doctrines of estoppel and res judicata to circumvent the USFSPA and the VJRA.

No. _____

In The Supreme Court of the United States

DONALD WENGER, Pro Se

Petitioner

V.

JUDGE JAMES T. WARREN
COURT APPOINTEE RICHARD R. MUIR

Respondents

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CERTIFICATE OF SERVICE

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CERTIFICATE OF SERVICE

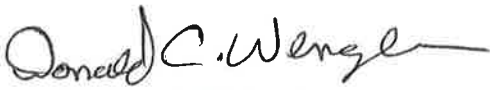
Pursuant to Supreme Court Rule 29 undersigned Petitioner sent the Respondents a copy of the above-captioned Petition for Writ of Certiorari to the Court of Appeals for the Ninth Circuit as follows:

RESPONDENTS:

Judge James Warren
41742 Erin Drive
Hemet, CA 92544

Richard R. Muir
10670 Civic Center Drive, Suite 100
Rancho Cucamonga, CA. 91730-7653

Respectfully Submitted by



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Executed on: September 5, 2025

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Scott S. Harris
Clerk of the Supreme Court of the United States
1 First Street NE
Washington, DC 20543

September 5, 2025

Dear Mr. Harris,

Please find the September 5, 2025 Certificate of Service to account for service of the corrected Petition for Certiorari invoking Supreme Court Rule 11 per instructions received.

The Petition was corrected on Page 4 under Jurisdiction to invoke Rule 11 and on Page 25 showing the date when the corrections were executed.

Otherwise, the Petition is unchanged.

Thank you for your time and consideration in this mater.

Respectfully,

Donald C. Wenger

Donald Wenger