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June 2, 2026

Hon. Scott Harris
Office of the Clerk
Supreme Court of the United States
1 First St., NE
Washington D.C. 20543

Re: Renewal of Stay Application 25A1317

Roshan v. Lawrence, et al.
USCA9 No. 24-7429
Application No. 25A1317

Dear Mr. Harris:

I have received notice that Peyman Roshan's Application for Stay was denied by Justice Kagan.

Pursuant to Rule 22.4, Mr. Roshan hereby renews that identical application originally submitted to the Honorable Elena Kagan to be decided upon by the Honorable Amy Coney Barrett**.**

Mr. Roshan requested (1) an order for an administrative stay of the issuance of mandate pending this Court's consideration of this motion, and (2) an order staying issuance of the mandate to allow time to submit a petition for rehearing and rehearing en banc of Court of

Appeals after issuance of this Court's opinions in *Pung v. Isabella Cty., Mich.,* U.S. Sup. Ct. No. 25-95 and *T.M. v. University of Maryland Medical System Corp.,* S. Ct. Docket No. 25-197 ("*T.M.*"); and if such petition is denied, then a petition for a writ of certiorari to this Court.

As the motion addressed to Justice Kagan predicted, if action was not taken immediately, the Ninth Circuit would issue the mandate. That occurred on May 29, 2026.

The issuance of the mandate does not render this application moot. This Court has issued stays that require recall of the mandate in the past. *See, e.g. John Doe Agency v. John Doe Corp.,* 488 U.S. 1306, 1310, 109 S.Ct. 852, 102 L.Ed.2d 952 (1989) (Marshall, Circuit Justice); *Cities Serv. Gas Co. v. Mobil Oil Corp.,* 486 U.S. 1051, 1051, 108 S.Ct. 2817, 100 L.Ed.2d 917 (1988).

Given that the mandate has issued, however, in the alternative to granting a stay this Court could sua sponte treat this application as a petition for certiorari, vacate the submission in *T.M.*, and address a dispositive issue alluded to, but not argued by, the parties: whether 42 U.S.C. §1983 constitutes Congressional grant of jurisdiction to the federal courts to vacate judgments as articulated back in 1980:

> As the Court has understood the history of the legislation, Congress realized that in enacting §1983 it was altering the balance of judicial power between the state and federal courts. See *Mitchum v. Foster, supra,* at 241. **But in doing so, Congress was adding to the jurisdiction of the federal courts, not subtracting from that of the state courts**….
> …. In reviewing the legislative history of §1983 in *Monroe v. Pape, supra,* the Court inferred that Congress had intended a federal remedy in three circumstances: where state substantive law was facially unconstitutional, where state procedural law was inadequate to allow full litigation of a constitutional claim, and where state procedural law, though adequate in theory, was inadequate in practice. 365 U. S., at 173-174. In short, the federal courts could step in

> where the state courts were unable or unwilling to protect federal rights. Id., at 176.

Allen v. McCurry, 449 US 90, 99-101 (1980) (footnotes deleted, bold emphasis added) ("*Allen*"), citing *Monroe v. Pape*, 365 U.S. 167 (1961).

At the *T.M.* oral argument, Respondent's counsel agreed that Congress has the power to allow district courts to review and reject decisions of the state courts by statute. *T.M.* Or. Arg. Trans. at 6:21-7:2 (argued April 20, 2026). T.M.'s counsel at oral argument, however, incorrectly answered one of Justice Thomas's opening question and contended that collateral attacks never review and vacate a judgment. *Id.* at 21:25-7:25. Justice Thomas's question may well be a callback to a case he adjudicated as a Justice, in which this Court confirmed the existence of collateral attacks to set aside a civil judgment. *United States v. Beggerly*, 524 US 38, 45 (1998).

This Court did not analyze this statutory grant in either of the cases that give the *Rooker-Feldman* doctrine its name, because neither *Rooker v. Fidelity Trust Co.,* 263 US 413 (1923) nor *District of Columbia Court of Appeals v. Feldman,* 460 U. S. 462 (1983) involved claims under 42 U.S.C. §1983. In *T.M.* neither side discussed this issue; indeed, at oral argument T.M.'s counsel affirmatively misrepresented the nature of collateral attacks. Only one amicus addressed the historical basis for the expansion of federal court jurisdiction without connecting such expansion to the instances such as *Allen* where this Court held that federal court jurisdiction was expanded nor to the instances such as *Beggerly* where this Court has recognized that a federal court may attack the validity of a court judgment.

Justice Barrett has analyzed the due process challenges of stares decisis. Amy C. Barrett, Stare Decisis and Due Process, 74 U. Colo. L. Rev. 1011 (2003). The application of the Supreme Court rules to this case are an example of the as-applied due process deficiencies that can arise when a person is litigating in the lower courts a doctrine that is brought before this Court by a third party. While this Court permits amicus briefs, it is not always possible to anticipate where a litigant before this Court will fail to bring up considerations that are dispositive in the case before this Court. There are no permitted reply or post-

argument briefs for amici so mistakes or omissions by a party before this Court cannot be corrected by amici. In addition, this Court's recent emphasis on the party presentation principle means that issues which a party such as Mr. Roshan have properly preserved but may have been waived or might not be relevant to a different litigant before this Court might not even be considered due to this principle.

Here, the applicability of 42 U.S.C. §1983 expansion of jurisdiction was almost invisible to a third party because the statute was referenced on a single page of T.M.'s complaint which was sealed in its redacted and unredacted forms at the District Court level. A third party would only have known that she anchored her claims under 42 U.S.C. §1983 when the record was filed, shortly before amicus brief on her side were due. Oddly enough, T.M.'s counsel did assert 42 U.S.C. ¶1983 as a jurisdictional basis. Joint Appendix, Vol. 1 of 2, at 8, ¶¶ 13-14, Jan. 14, 2026, *T.M. v. University of Maryland Medical System Corp.,* S. Ct. Docket No. 25-197.

Given that there is no mechanism for third parties to address the mistake made by T.M.'s counsel in the response regarding collateral attacks and in failing to raise the jurisdictional effect of 42 U.S.C. §1983, judicial efficiency and fairness suggest that in the alternative to the relief requested here, this Court should treat this application as a petition for certiorari, vacate the submission in *T.M.*, and consider the following issues:

1. Should the *Rooker-Feldman* doctrine be abolished?

2. If the *Rooker-Feldman* doctrine is not abolished, are claims under 42 U.S.C. §1983 immune from the *Rooker-Feldman* doctrine in *Allen*'s "three circumstances: where state substantive law was facially unconstitutional, where state procedural law was inadequate to allow full litigation of a constitutional claim, and where state procedural law, though adequate in theory, was inadequate in practice"?

Mr. Roshan submits that the situation is sufficiently unusual and important to merit treatment of this application as a petition for writ of certiorari. See 28 U.S.C. §§ 2101(e), 1651; *United States v. Texas, et al.*, 142 S.Ct. 14 (2021) ("the application is treated as a petition for a writ of certiorari before judgment"). Addressing this case along with *T.M.* will allow this Court to fully address the merits of abolishing the *Rooker-Feldman* doctrine and, if not abolished, the 42 U.S.C. §1983 dispositive argument that was not addressed. In addition, this Court has plenty of other cases to finish this term so continuing consideration of *T.M.* to the beginning of next term may well serve judicial efficiency.

Justice Barrett's article suggested that a solution to the due process violations she identified would be more frequent en banc rehearings. That solution does not address the problem that arose in *T.M.* In the future, an effective solution would be to give litigants who are, at the time petition for certiorari has been granted or soon thereafter, a right of intervention in the proceedings. In the alternative, this Court could create a special amicus status that includes the right to file reply and post-argument briefs, along with inclusion of points raised by them within the issues deemed properly raised under the party-presentation principle.

Very truly yours,
Frances L. Diaz
Attorney for Peyman Roshan

ORIGINAL APPLICATION TO JUSTICE KAGAN

Application No. 26A_____

IN THE
SUPREME COURT OF THE UNITED STATES

PEYMAN ROSHAN,

Petitioner,

vs.

MELANIE J. LAWRENCE, GEORGE S. CARDONA, AND OFFICE OF CHIIEF TRIAL COUNSEL OF THE STATE BAR OF CALIFORNIA,

Respondent.

On Application for Stay of Issuance of Mandate Pending Appeal to the United States Court of Appeals for the Ninth Circuit And Submission of Petition for Writ of Certiorari

Case No. 24-7429

APPLICATION FOR ADMINITRATIVE STAY, TO BE ISSUED IMMEDIATELY OR NO LATER THAN MAY 27, 2026, AND STAY ON ISSUANCE OF MANDATE PENDING SUBMISSION OF PETITION FOR WRIT OF CERTIORARI

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APPLICATION FOR STAY OF ISSUANCE OF MANDATE

I. APPLICATION

This Application is made to the Honorable Elena Kagan, as Circuit Justice for the United States Court of Appeals for the Ninth Circuit. Sup. Ct. R. 30.3.

Pursuant to this Court's Rules 22, 23, and 33.2, its inherent authority, and the All Writs Act, 28 U.S.C. §1651, Applicant Peyman Roshan ("Roshan") respectfully requests (1) an order for an administrative stay of the issuance of mandate pending this Court's consideration of this motion by May 27, 2026, and (2) an order staying issuance of the mandate to allow time to submit a petition for rehearing and rehearing en banc of Court of Appeals after issuance of this Court's opinions in *Pung v. Isabella Cty., Mich*., U.S. Sup. Ct. No. 25-95 ("*Pung*") and *T.M. v. University of Maryland Medical System Corporation*, S. Ct. Docket No. 25-197 ("*T.M.*"); and if such petition is denied, then a petition for a writ of certiorari to this Court.

An administrative stay is necessary by May 27, 2026 because the Ninth Circuit can issue the mandate seven days after its May 21, 2026

order denying Roshan's motion to stay mandate, Dkt. 48, which would otherwise occur on May 28, 2026. Fed. R. App. P., Rule 41(b).

II. BASIS FOR JURISDICTION

The U.S. District Court for the Northern District of California ("District Court") had jurisdiction under 28 U.S.C. §1331 in a 42 U.S.C. §1983 action. The Court of Appeals has jurisdiction under 28 U.S.C. §1291 based on the notice of appeal challenging the District Court: the judgment of order of dismissal, Appendix ("App.") 28a, and the denial of the motion to alter judgment, App. 35a. The appeal was timely under 28 U.S.C. §2107(a) .

III. SUMMARY OF GROUNDS FOR MOTION

This action is a 42 U.S.C. §1983 post-judgment lawsuit challenging the constitutional deficiencies of California State Bar attorney disciplinary proceedings. The District Court Judge Tigar dismissed that challenge on Eleventh Amendment, standing, and *Rooker-Feldman* doctrine grounds. Roshan Declaration ("Decl.") ¶2, App. 1a-34a.

The California State Bar Act's attorney discipline proceeding statutes, upon which the California Supreme Court disciplinary order

against Roshan is ostensibly based, is void ab initio and a nullity under *Haywood v. Drown*, 556 U.S. 729 (2009) and *Williams v. Reed,* 145 S.Ct 465 (2025), because California law eliminates the jurisdiction of California state courts of general jurisdiction to consider 42 U.S.C. §1983 lawsuits challenging State Bar disciplinary proceedings in the same manner and under the same rules than other 42 U..S.C. §1983 claims may be brought in California. Because the reciprocal DRE disciplinary order at issue in this case was exclusively based on the State Bar proceedings and California Supreme Court State Bar disciplinary order, it is without legal effect.

This Court has two cases which, when decided, may affect the *Rooker-Feldman* analysis below: *Pung* and *T.M.*. Decl. ¶15.

During the pendency of Roshan's appeal, this Court granted a petition for certiorari and heard oral argument in *T.M.*; Roshan followed the briefing and oral argument along with a *T.M.* amicus, Mr. Cyrus Sanai. Decl. ¶16.

It is clear from oral argument in *T.M.* that at least some justices are looking at the fundamental basis for the *Rooker-Feldman* doctrine, but the briefing and oral argument have missed a key issue, that this

Court's precedents hold that the passage of 42 U.S.C. §1983 ***expanded*** federal court jurisdiction in three respects:

> As the Court has understood the history of the legislation, Congress realized that in enacting §1983 it was altering the balance of judicial power between the state and federal courts. See *Mitchum v. Foster, supra,* at 241. **But in doing so, Congress was adding to the jurisdiction of the federal courts, not subtracting from that of the state courts**….
> …. In reviewing the legislative history of §1983 in *Monroe v. Pape, supra,* the Court inferred that Congress had intended a federal remedy in three circumstances: where state substantive law was facially unconstitutional, where state procedural law was inadequate to allow full litigation of a constitutional claim, and where state procedural law, though adequate in theory, was inadequate in practice. 365 U. S., at 173-174. In short, the federal courts could step in where the state courts were unable or unwilling to protect federal rights. Id., at 176.

Allen v. McCurry, 449 US 90, 99-101 (1980) (footnotes deleted, bold emphasis added) ("*Allen*"), citing *Monroe v. Pape*, 365 U.S. 167 (1961) ("*Monroe*").

At the *T.M.* oral argument, Respondent's counsel agrees that Congress has the power to allow district courts to review and reject decisions of the state courts by statute. *T.M.* Or. Arg. Trans. at 6:21-7:2 (argued April 20, 2026). T.M.'s counsel at oral argument, on the other hand, incorrectly answered one of Justice Thomas's opening question and contended that collateral attacks never review and vacate a judgment. *Id.* at 21:25-7:25. Justice Thomas's question may well be a

callback to a case he adjudicated as a Justice, in which this Court confirmed the existence of collateral attacks to set aside a civil judgment, *United States v. Beggerly*, 524 US 38, 45 (1998) .

42 U.S.C. §1983 provides district courts jurisdiction to review and reject state court judgments on the three grounds identified in *Monroe* and *Allen*: "where state substantive law was facially unconstitutional, where state procedural law was inadequate to allow full litigation of a constitutional claim, and where state procedural law, though adequate in theory, was inadequate in practice."

This Court did not analyze this statutory grant in either of the cases that give the *Rooker-Feldman* doctrine its name, because neither *Rooker v. Fidelity Trust Co.,* 263 US 413 (1923) ("*Rooker*") nor *District of Columbia Court of Appeals v. Feldman,* 460 U. S. 462 (1983) ("*Feldman*") involved claims under 42 U.S.C. §1983. In *T.M.* neither side discussed this issue; indeed, at oral argument T.M.'s counsel affirmatively misrepresented the nature of collateral attacks and only one amicus addressed the historical basis for the expansion of federal court jurisdiction without connecting such expansion to the instances where this Court held that federal court jurisdiction was expanded nor

to the instances where this Court has recognized that a federal court may attack the validity court judgment. See *Feldman* and *Reed v. Goertz*, 598 U.S. 230 (2023) ("*Reed v. Goertz*").

Last year this Court issued *Williams v. Reed*, 604 US 168, 145 S. Ct. 465 (2025) ("*Williams v. Reed*"), which holds that state administrative proceedings violate the Supremacy Clause where the *Ex parte Young* defendants, who would be defendants in a 42 U.S.C. §1983 claim in state court attacking the proceedings, benefit from immunity under state law applicable in state court. This Court clarified that this rule invalidates state jurisdiction rules that operate to immunize the state actor defendants, clarifying an ambiguity in *Haywood v. Drown*, 556 U.S. 729 (2009) ("*Haywood*"). California's attorney discipline system strips the jurisdiction of its courts from hearing 42 U.S.C. §1983 claims concerning attorney discipline. *Barry v. State Bar*, 2 Cal.5th 218, 322-3 (2017) , *citing Jacobs v. State Bar*, 20 Cal.3d 191, 196 (1977) ("In 1951, the Legislature excluded other courts from exercising such jurisdiction by striking language from section 6100 which conferred jurisdiction upon the Courts of Appeal and the superior courts"); *see also Sheller v. Sup. Ct.*, 158 Cal.App.4th 1697, 1710 (2008) ; *In re Rose,*

22 Cal. 4th 430, 446 (2000) ("this court has exclusive original jurisdiction to discipline attorneys, and the sole means of obtaining review of State Bar Court disciplinary recommendations is by a petition for review filed in this court"). That system therefore violates the Supremacy Clause and is void.

The Ninth Circuit has already recognized that it is impossible for a victim of professional discipline for which the state remedy is a petition for writ of administrative mandamus to also have a 42 U.S.C. §1983 claim heard simultaneously because of the doctrine of judicial exhaustion. *Jamgotchian v. Ferraro,* 93 F.4th 1150 (9th Cir. 2024).

The Ninth Circuit refused to address any of the above arguments, all of which are facial Supremacy Clause challenges to the California Supreme Court attorney discipline judgment. Instead, the Ninth Circuit held the *Rooker-Feldman* doctrine prohibits federal district courts from considering claims that undercut the state ruling. Decl. ¶7, App. 45a-47a.

The underlying judgment was a dismissal without prejudice based on the *Rooker-Feldman* doctrine, and this Court's upcoming opinion in *T.M.* may go as far as banishing the *Rooker-Feldman*

doctrine. In addition, however, this Court must address the application of the *Rooker-Feldman* doctrine in *Pung* as discussed in the joint brief of Roshan and Cyrus Sanai submitted in that case. Because the Ninth Circuit in *Searle v. Allen*, 148 F.4th 1121 (9th Cir. 2025) ("*Searle*"), held that a procedurally identical lawsuit raising the same Takings Claim as in *Pung*, this Court's decision in *Pung* should address *Searle*. *Searle* is the lead case relied upon in the Memorandum Disposition in this case.

The Ninth Circuit has been informed in Roshan's motion that this Court's *T.M.* and *Pung* opinions may undercut or eliminate the grounds for its memorandum disposition in this case. The Court refuses to allow Roshan the extra time to present this Courts ultimate decision to the Court of Appeal. A stay of the issuance of the mandate is therefore merited so that Roshan can present whatever this Court decides to the Ninth Circuit.

In addition, Roshan may be prejudiced if this Court rearticulates the *Rooker-Feldman* doctrine in a form which ignores this Court's past recognition that 42 U.S.C. §1983 expands the jurisdiction of federal courts to review and reject judgments, and that these three instances dovetail with *Feldman* and *Reed v. Goertz*. Roshan has a due process

right to present any relevant arguments on this issue to this Court, even though the Supreme Court rules do not contemplate it.

IV. STATEMENT OF CASES

A. Procedural History of This Case

This case arises from a disciplinary action brought by Lawrence who headed, and her successor Cardona who heads, the OCTC, against Roshan at a time and in a manner which revealed in stark relief the facial constitutional inadequacies of the SBOC's State Bar Court, which were in relevant part implemented, interpreted, and enforced due to broad-based corruption of the SBOC by Thomas Girardi ("Girardi") as detailed in a series of exposés by the *Los Angeles Times*. Roshan details this history in his Petition for Writ of Certiorari to this Court in an entirely different case with the same name. *Roshan v. Lawrence*, U.S. Sup. Ct. No. 24-586, filed September 16, 2024 (denied on January 27, 2025). Decl. ¶4.

On December 9, 2021, the District Court filed its dismissal order for lack of subject matter jurisdiction for (1) Eleventh Amendment immunity as to the OCTC, (2) *Rooker-Feldman* doctrine, and (3) Article

III standing for failure to allege prospective relief as against *Ex parte Young* defendants. Decl. ¶2, App. 1a-16a.

On May 23, 2023, the District Court filed its dismissal order for on lack of subject matter jurisdiction based on (1) *Rooker-Feldman* doctrine (citing the analysis in the Court's prior order), and (2) standing (citing the analysis in the Court's prior order). Decl. ¶2, App. 17a-27a.

On June 17, 2024, the District Court filed its dismissal order for lack of subject matter jurisdiction based on (1) standing (citing the analysis in the prior two orders) and (2) *Rooker-Feldman* doctrine (citing the analysis in the Court's prior order). Decl. ¶2, App. 28a-34a. The Clerk's Judgment was filed on the same day. Decl. ¶2, App. 34a.

On December 10, 2024, the Ninth Circuit received a copy of my notice of appeal. Decl. ¶3, App. 41a.

On February 21, 2025, this Court issued *Williams v. Reed*. Accordingly, on June 6, 2025, Roshan filed in the District Court a motion for an indicative ruling on the effect of *Williams* on that Court's *Rooker-Feldman* analysis; which motion also cites *Jamgotchian v. Ferraro,* 93 F.4th 1150 (9th Cir. 2024) , in which the Ninth Circuit held state judicial exhaustion does not apply to lawsuits in federal courts

because under California law all administrative bodies lack jurisdiction to determine constitutional claims. Decl. ¶17. The District Court denied that motion stating:

> Roshan asks the Court for an indicative ruling that this Court would grant his Rule 60(b) motion if the Ninth Circuit remands the case or that the Rule 60 motion raises a substantial issue. He argues that the Court incorrectly applied the *Rooker-Feldman* doctrine to bar his claims, as reflected by the U.S. Supreme Court's recent decision in *Williams v. Reed*, 604 U.S. ----, 145 S. Ct. 465 (2025).1 *See generally* ECF No. 229.
>
> The Court has reviewed Roshan's request and concludes that it lacks merit. Roshan's motions under Rule 62.1 are therefore denied.
>
> "[T]he purpose of Rule 62.1[(a)] is to promote judicial efficiency and fairness by providing a mechanism for the district court to inform the parties and the court of appeals how it could rule on a motion made after the district court has been divested of jurisdiction." *Harper v. Charter Commc'ns, LLC,* No. 2:19-CV-00902 WBS DMC, 2024 WL 3901469, at *1 (E.D. Cal. Aug. 22, 2024) (quoting *Amarin Pharms. Ir. Ltd. v. FDA*, 139 F. Supp. 3d 437, 447 (D.D.C. 2015)). As Defendants point out, "Plaintiff is not presenting newly discovered evidence or any other issue that this Court would be in any better position than the Ninth Circuit to decide. Rather, he is asking this Court to consider the same question (i.e., does *Rooker-Feldman* apply) that is at issue in his pending appeal." ECF No. 230 at 6. Under these circumstances, issuing an indicative ruling would not promote judicial efficiency and fairness because the Ninth Circuit may address the newly cited case by Roshan in the first instance, and if this Court issued an indicative ruling, "that would likely delay the

> previously scheduled proceedings in front of the Ninth Circuit." *Harper*, 2024 WL 3901469, at *2.

Decl. ¶18, App. 35a-37a.

On March 20, 2025, Roshan filed an opening brief in the Ninth Circuit arguing, inter alia, the District Court erred for failing to apply the *Noel v. Hall,* 341 F.3d 1148 (9th Cir. 2003) two-step test for the application of the *Rooker-Feldman* doctrine; and for refusing to recognize this Court's decision in *Reed v. Goertz*, 143 S.Ct. 955 (2023) confirming the *Rooker-Feldman* doctrine is inapplicable to suits challenging the constitutionality of state court's authoritative construction of a state rule as applied to the federal plaintiff and the judgment upon which it relies. Decl. ¶5.

On May 4, 2026, Roshan submitted to this Court an Application for Injunction pending appeal in the Ninth Circuit due to the extraordinary delay in the Ninth Circuit to advance the appeal. Decl. ¶6.

On May 5, 2026, the Ninth Circuit, after being fully briefed, after filing a notice the case is being considered for oral argument nearly a year ago, and after weeks of being noticed of the delay through Roshan's April 22, 2026 motion to expedite appeal, issued a Memorandum

Disposition affirming the dismissal and denying as moot the April 22, 2026 motion to expedite. Decl. ¶7, App. 45a-47a. The Memorandum does not address my Supremacy Clause challenges to the California Supreme Court attorney discipline judgment. Instead, the Ninth Circuit held the *Rooker-Feldman* doctrine prohibits federal district courts from considering claims that undercut the state ruling. *Id.*

On May 7, 2026, Roshan filed a motion to extend time to file petition for rehearing and rehearing on banc based on the identified related *Rooker-Feldman* cases to be decided in this Court. Decl. ¶8.

On May 8, 2026, the Clerk issued a text order denying the motion to extend time. Decl. ¶9, App. 43a.

On May 11, 2026, Roshan filed an emergency motion to stay the proceedings pending the outcome of the related *Rooker-Feldman* cases in this Court, expressly requesting relief by May 13, 2026. Decl. ¶10, App. 43a.

On May 12, 2026, the Clerk of this Court sent a letter to Roshan returning his application for an injunction in this case for his failure to have first sought the injunction in the Ninth Circuit (citing Rule 23.3). Decl. ¶11.

On May 15, 18, and 19, 2026, having not received a decision on that emergency motion, Roshan filed successive notices of delay; the notices also requested, if the emergency motion to stay is to be denied, that additional days are added to the 14-day deadline to file a petition for rehearing and rehearing en banc; which deadline was on May 19, 2026. Decl. ¶12, App. 44a.

On May 20, 2026, Roshan filed in the Ninth Circuit a motion to stay issuance of mandate and, in the event of denial, for an extension of time to file petition for rehearing, Decl. ¶13, App. 44a; and submitted to this Court a renewal of his application for an injunction be made to Justice Sonia Sotomayor. Decl. ¶13.

On May 21, 2026, after the deadline to petition for rehearing had passed, the Ninth Circuit filed its chambers text clerk order denying the emergency motion to stay the proceedings and denying the additional days requested to file the petition for rehearing. Decl. ¶14, App. 44a.

V. ARGUMENT

A. The Parties and Amici in *T.M.* Failed to Address the Dispositive Jurisdictional Impact of 42 U.S.C. §1983 Addressed in *Monroe and Allen.*

The disposition of *T.M.* will require this Court to revisit the purpose and application of the *Rooker-Feldman* doctrine, which is directly relevant to this case.

In her prior career as an academic, Justice Amy C. Barrett analyzed the due process challenges of stares decisis. Amy C. Barrett, Stare Decisis and Due Process, 74 U. Colo. L. Rev. 1011 (2003). The application of the Supreme Court rules to this case are an example of the as-applied Due Process deficiencies that can arise when a person is litigating a doctrine that is brought before this Court by a third party while the person is stuck in appellate limbo, as occurred to both Cyrus Sanai and Roshan.

Mr. Sanai moved to intervene in *T.M.* ; his motion for intervention was denied. Though the question presented was narrow, Mr. Sanai correctly anticipated that it might be expanded in the merits briefing, and the intervention motion's purpose was to ensure that he could file a reply. When that was denied, he filed an amicus brief focusing on the history of the *Rooker-Feldman* doctrine and the failure of the lower

courts to apply it consistently, particularly the Ninth Circuit. Mr. Sanai's discussion of the *Rooker-Feldman* doctrine explained that the *Feldman* exception arose from the constitutional review powers of the federal courts, which only arose in post-Reconstruction case law. See Sanai Amicus Brief in *T.M.*, Case No. 25-197, filed January 21, 2026. Sanai did not discuss the details of the mechanism of the constitutional challenge in part because the district court sealed the complaint and the Court of Appeal's decision did not make the exact remedies asserted by T.M. clear. As it turned out, T.M.'s complaint did assert 42 U.S.C. §1983 once as a statutory basis for the lawsuit. See Joint Appendix Volume I, *T.M.*, Case No. 25-197, filed January 14, 2026, District Court Complaint (Redacted Version) at ¶¶13-14. By the time that portion of the record was filed with this Court, Sanai had already committed to the contents of his brief which was finalized by his counsel, while Roshan was not able to prepare one in time.

The parties in *T.M.* did not address the jurisdictional effect of 42 U.S.C. §1983 in any of the briefing, and the relationship between this statute and the *Rooker-Feldman* doctrine only partially analyzed by one amicus. This is a significant lacuna because the Respondent's

counsel conceded at oral argument that "I guess our view is, unless you've got a statute, there's no such thing as a collateral review of state court judgments. And that's under 1254." *T.M.* Or. Arg. Trans. at 51:24-52:2 (argued April 20, 2026). This Court's precedents and the historical record demonstrate that 42 U.S.C. §1983 is such a statute, and the public record filed in this Court shows that T.M.'s complaint was grounded in 42 U.S.C. §1983 and arguably falls under the third *Monroe* instance. As discussed below, 42 U.S.C. §1983 was an independent expansion of federal court jurisdiction against the acts of state courts, and the scope of such jurisdiction over ongoing proceedings cannot be properly analyzed in the cases of *T.M.* without such recognition.

In *Allen,* this Court held that 42 U.S.C. §1983 expanded the collateral review powers of the federal district courts to address three circumstances:

i. "where state substantive law was facially unconstitutional"
ii. "where state procedural law was inadequate to allow full litigation of a constitutional claim"

iii. "and where state procedural law, though adequate in theory, was inadequate in practice."

Allen at 99-101.

Congress expanded federal jurisdiction by passing the predecessor of 42 U.S.C. §1983 in 1871 because in the previous year, the Supreme Court had held that the collateral review mechanism included as §3 of the Civil Rights Act of 1866 was unconstitutional. As this Court explained,

> To the extent that Congress in the post-Civil War period did intend to deny full faith and credit to state-court decisions on constitutional issues, it expressly chose the very different means of post judgment removal for state-court defendants whose civil rights were threatened by biased state courts and who therefore "are denied or cannot enforce [their civil rights] in the courts or judicial tribunals of the State." Act of Apr. 9, 1866, ch. 31, §3, 14 Stat. 27.

Allen at 99 fn. 14.

Section 3 of the 1866 Civil Rights Act incorporated the post-judgment removal of state judgment alleged to violate the 1866 civil rights act by providing that "such defendant shall have the right to remove such cause for trial to the proper district or circuit court in the manner prescribed by the "Act relating to habeas corpus and regulating judicial proceedings in certain cases," approved March three, eighteen

hundred and sixty-three, and all acts amendatory thereof." Civil Rights Act of 1866, ch. 31, §3, 14 Stat. 27 (1866). .

The 1863 habeas corpus act was held to be unconstitutional in *The Justices v. Murray,* 76 U.S. 274, 9 Wall. 274 (1870) , because the retrial of state court judgments violated the Seventh Amendment, in that it allowed the re-examination of state court jury verdicts in federal court in a manner not recognized at common law. The invalidation of the 1863 habeas act likewise invalidated the removal provision of §3 of the 1866 Civil Rights Act.

So it should be no surprise that the next year Congress reformed the civil rights laws in the 1871 Ku Klux Act, which included the predecessor to 42 U.S.C. §1983. *Monroe* at 20. However, the statute was largely ignored by litigants in favor of the remedy articulated in *Ex parte Young*, 209 U.S. 123, 155-6 (1908) ("*Ex parte Young*"). This Court addressed the judicially created *Ex parte Young* remedy most recently in 2015, explaining that it is properly characterized as the equitable cause of action "to prevent an injurious act by a public officer" and is part of a "long history of judicial review" that goes back to England.

Armstrong v. Exceptional Child Center, Inc., 575 U.S. 320, 327 (2015) , *quoting Carroll v. Safford*, 3 How. 441, 463, 11 L.Ed. 671 (1845).

Neither *Rooker* nor *Feldman* concerned 42 U.S.C. §1983. *Rooker* was a bill in equity (i.e. an independent action in equity) to vacate a judgment on the accepted common law grounds that the state judgment was void for lack of jurisdiction. *Rooker*, at 414.

> [N]early all of the old forms of obtaining relief from a judgment, *i.e., coram nobis, coram vobis, audita querela,* bills of review, and bills in the nature of review, had been abolished. The revision made equally clear, however, that one of the old forms, i.e., the "independent action," still survived");

Beggerly, *supra*, at 45; see also *Jones v. Watts*, 142 F.2d 575, 576-7 (5th Cir. 1944) (discussing replacement of writs of *coram nobis* and *audita querela* by independent action or bill in equity).

Likewise, *Feldman* was an action under the Declaratory Judgment Act asserting violations of the Sherman Act and the Fifth Amendment, not the Fourteenth. *Feldman, supra* at 468. Accordingly, neither *Rooker* nor *Feldman* involved 42 U.S.C. §1983.

It was not until the seminal case of *Monroe* that this Court considered whether 42 U.S.C. §1983 had jurisdictional impact. As later affirmed in *Allen*, Congress intended 42 U.S.C. §1983 to expand the

jurisdiction of the federal courts to attack the three kinds of constitutional deficiencies enumerated above.

In a concurrence joined by Justice Stewart, Justice Harlan pointed out that the narrowest reading of 42 U.S.C. §1983 "would reduce the statute to having merely a jurisdictional function, shifting the load of federal supervision from the Supreme Court to the lower courts and providing a federal tribunal for fact findings in cases involving authorized action." *Monroe* at 195 (Harlan, J., concur.). The interpretation of the majority rendered 42 U.S.C. §1983 "more than a jurisdictional provision only if one attributes to the enacting legislature the view that a deprivation of a constitutional right is significantly different from and more serious than a violation of a state right and therefore deserves a different remedy even though the same act may constitute both a state tort and the deprivation of a constitutional right. This view, by no means unrealistic as a common-sense matter, is, I believe, more consistent with the flavor of the legislative history" *Id.* at 196 (footnote omitted). Thus whether read narrowly or broadly, it was understood by this Court in *Monroe* that 42 U.S.C. §1983 was at minimum a jurisdictional statute.

In 1972 this Court addressed whether the most venerable shield against federal interference with state court litigation, the Anti-Injunction Act, 28 U.S.C. §2283, barred the use of 42 U.S.C. §1983 to thwart state proceedings. *Mitchum v. Foster,* 407 US 225 (1972) ("*Mitchum*"). Indeed, this Court quoted the speech of an opponent of the Enforcement Act, Ohio Senator Thurman, who correctly asserted that, as to claims for violation of constitutional rights, "by this section jurisdiction of that civil action is given to the Federal courts instead of its being prosecuted as now in the courts of the States." *Mitchum* at 198 (citing Cong. Globe, 42d Cong., 1st Sess. 653, App. 216).

In considering this issue, this Court stated that as far as an exception to the Anti-Injunction Act is concerned the "test, rather, is whether an Act of Congress, clearly creating a federal right or remedy enforceable in a federal court of equity, could be given its intended scope only by the stay of a state court proceeding." *Mitchum* at 238. Any statute which satisfies this test necessarily includes a grant of jurisdiction, as it would be meaningless for an Act of Congress to create a federal right or remedy without also providing the jurisdictional basis to exercise the federal right or remedy.

Most important, in addressing the restraints on exercise of the jurisdictional expansion of 42 U.S.C. §1983, this Court never discussed *Rooker*; instead, it only addressed *Younger v. Harris* and the many prior cases concerning exercise of jurisdiction over ongoing criminal cases. *Mitchum*, *supra*, at 243. Nowhere in *Mitchum* did this Court contend that the enumerated powers under §1983 could not cover vacatur of judgments, which are

i. "where state substantive law was facially unconstitutional"
ii. "where state procedural law was inadequate to allow full litigation of a constitutional claim"
iii. "and where state procedural law, though adequate in theory, was inadequate in practice."

In *Allen*, this Court addressed whether a person convicted of a crime but no longer in custody could bring a 42 U.S.C. §1983 claims for damages from an alleged violation of his Fourth Amendment rights. In considering this issue, the Court made no reference to *Rooker*, even though success on the convict's 42 U.S.C. §1983 lawsuit could result in the effective overturning of the conviction. Instead, this Court held that preclusion principles apply.

This Court namechecked *Allen* in *Feldman* at 483 fn. 16; but see *Knick v. Township of Scott,* 588 U.S. 180 (2019) (rejecting as a preclusion trap the suggestion in fn.16 that a party must exhaust his constitutional claims in state court before heading to federal district court). It should be no surprise then that this Court's holding in *Feldman* that district courts have the authority to adjudicate general attacks on the state statutes governing the state action directly dovetails with the three kinds of attacks enumerated in *Monroe.*

The first category, "where state substantive law was facially unconstitutional" is recognized by all courts as comprising part or all of the general attack approved in *Feldman.* See, e.g., *Scheer v. Kelly,* 817 F.3d 1183, 1186-7 (2016) ; *Doe v. Florida Bar,* 630 F. 3d 1336, 1340-42 (11th Cir. 2011). The second ground "where state procedural law was inadequate to allow full litigation of a constitutional claim", in addition to being a grounds for denying *Younger* abstention, was the specific kind of rule that this Court instructs is subject to attack in *Feldman,* where this Court identified the evidentiary presumption and delegation of standards setting to the American Bar Association as allowed subjects of collateral attack on remand. The third category, an as

applied challenge to a procedural rule adequate in theory but not as applied, was the kind of attack approved recently in *Reed v. Goertz*. It is also the category which most clearly authorized a collateral attack that reviews and rejects a prior state judgment. Where an as-applied claim that "state procedural law, though adequate in theory, was inadequate in practice" is asserted in respect of a state court lawsuit, a party must show that defect in procedure actually occurred and that he was injured by it, which requires taking that proceeding to a final judgment unless there is some sort of interlocutory remedy or sanction imposed that is at issue. Accordingly, the expansion of federal court jurisdiction necessarily included the power to review and vacate a judgment as to (a) unconstitutionality of the substantive law applied on a facial basis, and (b) unconstitutionality of the procedural law applied on a facial or as-applied basis. Of course, these claims are subject to the same rules of claim and issue preclusion that would apply to the same collateral 42 U.S.C. §1983 attack in state court.[1]

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[1] During oral argument in *T.M.* Justice Sotomayor asked why a federal court might be justified in getting involved in state court proceedings. *T.M.* Or. Arg. Trans. at 9:1-9 (argued April 20, 2026). There are many such examples providing such justification. Obvious examples are state administrative proceedings or judicial proceedings where the tribunal

Of the various briefs submitted to this Court in support of T.M., only the brief of the Constitutional Accountability Center discussed the jurisdictional impact of 42 U.S.C. §1983. Part of the problem in addressing this point was that the invocation of this statute in the Complaint by T.M. could not be verified until the Joint Appendix was filed, as the unredacted copy of the Complaint could not, in fact, be obtained from the Pacer docket. Decl. ¶23. T.M.'s counsel did allege in the complaint that 42 U.S.C. §1983 was a grounding of the District Court's jurisdiction, so this issue was preserved at the District Court level.

Another problem is that at least at oral argument, T.M.'s counsel, Ms. Prelogar, incorrectly characterized collateral attacks on a judgment, stating that they would never affect or vacate a judgment. *See T.M.* Or. Arg. Trans. at 7:17-20 (argued April 20, 2026). It is the case that under

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lacks jurisdiction to consider constitutional issues, such as California State Bar proceedings. *Hirsh v. Justs. of Sup. Ct. of State of Cal.,* 67 F.3d 708, 713 (9th Cir. 1995)("*Hirsh*") . Other examples are proceedings where a party is barred from making a 42 U.S.C. §1983 counterclaim, such as unlawful detainer proceedings in California and other states. Cal. Code Civ. Pro. §1170. Yet another example is state courts where one may not seek the disqualification of a state court judge, such as California State Bar Court, Court of Appeals and Supreme Court proceedings. See, e.g., Cal. State Bar Ct. Rules P. 56(C) .

common law one mechanism for collateral attack is an anti-enforcement injunction. See, e.g. , *Jones*, *supra* at 577. This form of collateral attack is approved in recent Maryland case law. *Simmons v. The Md. Mgmt. Co.,* 253 Md. App. 655, 269 A.3d 369, 396-98 (2022). However, it is completely wrong to state that all collateral attacks are incapable of vacating a judgment, starting, of course, with writs of habeas corpus and equivalent state collateral attack proceedings in criminal judgments. In civil cases each state has its own collateral attack mechanism. Most are common law based, such as independent actions in equity to vacate a judgment in California, *Wattson v. Dillon,* 6 Cal.2d 33, 43 (1936); in Rhode Island, *Allstate Insurance Co. v. Lombardi,* 773 A.2d 864, 869 (R.I. 2001); and in Montana, *Thomas v. Savage,* 505 P. 2d 118, 120 (Mont. Sup. Ct. 1973). However, some collateral attacks are authorized by statute, as in Virginia. *Charles v. Precision Tune, Inc.,* 243 Va. 313, 317, 414 S.E.2d 831, 833 (1992) (addressing VA Code §8.01-428(D)). Likewise, federal courts continue to recognize the independent action to vacate or set aside a judgment. *Beggerly, supra* at 38; *Bankers Mortg. Co. v. United States*, 423 F.2d 73, 77-78 (5th Cir. 1970) (“It is important to emphasize that "independent action," as used

in this clause, was meant to refer to a procedure which has been historically known simply as an independent action in equity to obtain relief from a judgment.").

T.M., therefore, did not discuss how 42 U.S.C. §1983 expanded the jurisdiction of federal courts to collaterally grant relief from a judgment, because her counsel apparently did not understand the history and nature of collateral attacks.

The Constitutional Accountability Center's brief does a good job of explaining the historical expansion of federal court jurisdiction surrounding 42 U.S.C. §1983. However, it fails to make the connection between the three jurisdictional expansions of federal power identified in *Monroe* with the recognized exceptions in *Rooker*. It also does not discuss the nature of collateral attacks, leaving T.M.'s misrepresentation of the law unrefuted in that record.

This is a dispositive consideration in *T.M.* T.M.'s basic argument is that she was forced by duress to agree to a consent order regarding her medical treatment; this argument falls into the category of instances where state procedural law, though adequate in theory, was inadequate in practice. Under this Court's precedents, 42 U.S.C. §1983 gives this

Court the jurisdiction to review and reject judgments in circumstances "where state procedural law, though adequate in theory, was inadequate in practice", subject of course to the same principles of issue and claim preclusion which restrain collateral attacks under 42 U.S.C. §1983 lawsuits in state courts.

B. The California Attorney Discipline Regime is Void for Violating the Supremacy Clause.

Roshan needs this Court to correctly interpret the *Rooker-Feldman* doctrine because his facial attack on the California attorney discipline system was dismissed due to the incorrect application of that doctrine, as were as-applied attacks of the kind approved in *Reed v. Goertz.* His facial attack is based on *Williams v. Reed,* which held that even an indirect barrier to raising 42 U.S.C. §1983 claims that in effect immunizes state officials from a 42 U.S.C. §1983 claim in state court is unconstitutional for violating the Supremacy Clause. *Williams v. Reed* at 178 ("a state rule runs afoul of *Haywood* if it operates as an "immunity statute cloaked in juris-dictional garb" by wholly barring a "particular species" of §1983 suits in state court. *Id*., at 739, 742."). Under *Williams v. Reed*, it is now the law that where a state allows

some 42 U.S.C. §1983 claims to be heard in state courts, it is unconstitutional to restrict such claims as against a certain class of defendants, even where the effect is not intended. More important, *Williams v. Reed* held that the availability of appellate relief from a mandamus action did not salvage the unconstitutional barrier. *Id.* at 178.

Williams v. Reed applies to this case because California has stripped the Superior Courts, the only otherwise forum available to bring a 42 U.S.C. §1983 claim in California, of jurisdiction. See *Barry*, *supra*; *In re Rose*, *supra*. And the California Supreme Court does not entertain such lawsuits because all actions must be filed in the Superior Court under the Code of Civil Procedure and California case law. *See*, *e.g.*, Cal. Jud. Council, "Jurisdiction and Venue: Where to file a case" www.courts.ca.gov/9617.htm?rdeLocaleAttr=en, Cal. Jud. Council, newsroom.courts.ca.gov/branch-facts/supreme-court-california. Even if the California Supreme Court wanted to conduct the proceedings of a trial court before it, the rules for such proceedings are prescribed by the California Legislature, and it has limited trials in civil actions to Superior Courts. See Cal. Code Civ. Proc. §395 ("If the action is for

injury to person or personal property…from wrongful act or negligence, the superior court…is a proper court for the trial of the action."); Calif. Const. art. VI, §10 (superior courts have sole original jurisdiction in all matters except habeas corpus, mandamus, certiorari, and prohibition which are shared with Courts of Appeal and Supreme Court). And the California Constitution precludes the State Bar Court from considering federal constitutional claims. *See* Calif. Const. art. III, §3.5 ("An administrative agency, including an administrative agency created by the Constitution or an initiative statute, has no power…to declare a statute unconstitutional."). While federal constitutional claims may be raised in judicial review of the State Bar Court's decision, *Hirsh v. Justices of the Supreme Court of the State of California*, 67 F.3d 708, 713 (9th Cir. 1995), they cannot be brought as an independent 42 U.S.C. §1983 action in California Superior Courts.

This jurisdiction stripping immunizes *Ex parte Young* defendants in the SBOC, including the OCTC, from all §1983 lawsuits regarding attorney discipline and admissions in California state courts. *Eugster v. Wash. State Bar Assoc.,* 198 Wash.App. 758, 397 P.3d 131 (2017) (acknowledging California's immunization of the SBOC on jurisdictional

grounds but refusing to extend such protection to the Washington State Bar Association due to *Haywood*.) Because the State Bar Act, as authoritatively interpreted by the California Supreme Court, strips the Superior Courts and Courts of Appeal to hear 42 U.S.C. §1983 claims, the State Bar Act is void and any judgment thereunder is void:

> Of course, a state statute is void to the extent it conflicts with a federal statute—if, for example, "compliance with both federal and state regulations is a physical impossibility," *Florida Lime & Avocado Growers, Inc. v. Paul*, 373 U. S. 132, 142-143 (1963), or where the law "stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." *Hines v. Davidowitz*, *supra*, at 67. *See generally Ray v. Atlantic Richfield Co.*, 435 U. S. 151, 157-158 (1978); *City of Burbank v. Lockheed Air Terminal, Inc.*, 411 U. S. 624, 633 (1973).

Maryland v. Louisiana, 452 U.S. 725, 747 (1981).

The California's attorney discipline system is therefore void for violating the Supremacy Clause under *Williams v. Reed*. Roshan has not been allowed to have the merits of this contention adjudicated.

C. Preliminary Consideration of Roshan's Case is Appropriate Given the Unwarranted Delays and Necessary to Ensure a Proper Analysis in *T.M.*

The Ninth Circuit recognized nearly a year ago that Roshan's appeal was ready for oral argument, six months before this Court granted the petition for certiorari in *T.M.* If the Court of Appeals had

disposed of the appeal in a timely fashion, this Court would have either had the benefit of the Ninth Circuit's analysis available to it or a petition for certiorari which could have been considered together with *T.M.*

Instead, the Ninth Circuit put this case into the refrigerated locker. Because only one *T.M.* amicus brief even discussed the jurisdictional impact of 42 U.S.C. §1983, it is necessary for Roshan to push this case to this Court so that Roshan is not prejudiced by a disposition of *T.M.* that does not fully consider the relevant case law, particularly *Monroe*, *Mitchum*, and *Allen*.

D. The Factors for Relief Pending Appeal are Met

The factors for applications for preliminary injunction, as with stays, are (1) likelihood of success on the merits, (2) irreparable harm to applicant absent such relief, (3) the balance of equities tips in applicant's favor, and (4) the injunction is in the public interest. *Winter v. Natural Resources Defense Council*, 555 U.S. 7, 20 (2008); see also *Labrador v. Poe*, 144 S. Ct. 921, 922 (2024).

As the detailed analysis above demonstrates, the Ninth Circuit is refusing to extend the deadline for filing a petition for rehearing or stay

the issuance of the mandate so that Roshan can bring to the attention of the Court this Court's *Rooker-Feldman* analysis in both of *Pung* and *T.M.*. This means that Roshan would be highly likely to obtain a grant, vacate and remand of this case unless the Ninth Circuit panel is presented with a petition for rehearing and grants it, and conducts a new analysis in light of this Court's upcoming *Rooker-Feldman* analysis.

In addition, given the failure of T.M.'s counsel to address the jurisdictional effect of 42 U.S.C. §1983 in overcoming *Rooker-Feldman*, there is a strong likelihood that this Court may vacate the submission of *T.M.* and wait for Roshan to file a petition for certiorari, then this Court's next term, rehear *T.M.* together with this case and any other cases addressing similar *Rooker-Feldman* scenarios.

Granting the stay will not prejudice or detrimentally affect respondents in any way.

Constitutional harms constitute irreparable injury. See *Elrod v. Burns*, 427 U.S. 347, 373 (1976) ("The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury."); see also *Hernandez v. Sessions*, 872 F.3d 976, 995

(9th Cir. 2017) (holding that a finding of irreparable harm "follows inexorably" from a "conclusion that the government's current policies are likely unconstitutional").

Roshan's State Bar license suspension period has passed. Decl. ¶19. The only barrier to having his license reinstated is payment of outstanding charges including costs assessed as against Roshan because he did not prevail in his state challenges to the state disciplinary process. Decl. ¶19. In 2025, the SBOC offered licensees with outstanding debt, including such costs charged against Roshan, to settle the debt. Decl. ¶20. On April 4, 2025, Roshan emailed opposing counsel, Carissa Andresen, asking if SBOC would stipulate to not raise any arguments in federal court relating to any loss of standing or some other procedural barrier by virtue of my acceptance of this settlement offer and payment of his disciplinary debt. Decl. ¶21. On May 2, 2025, Ms. Andresen responded the SBOC will not so stipulate. Decl. ¶21. In April 2026, given the over one year delay for the Ninth Circuit to advance his case, Roshan, hoping to move the case forward, asked opposing counsel about her client's position on a motion to expedite the

appeal. Decl. ¶22. Opposing counsel replied that Appellees do not consent to expedite. Decl. ¶22. This Court has long held

> individuals, who, as officers of the State, are clothed with some duty in regard to the enforcement of the laws of the State, and who threaten and are about to commence proceedings, either of a civil or criminal nature, to enforce against parties affected an unconstitutional act, violating the Federal Constitution, may be enjoined by a Federal court of equity from such action.

Ex parte Young at 155-6.

The SBOC, and its OCTC, during this pendency of this litigation have demonstrated that they are state officers that not only disagree on *Williams v Reeds*' effect on SBOC's statutory structure, and the OCTC's power to enforce, by virtue; they are not interested in abating the continuing harms to Roshan or expediting federal court determination of the error of their view of *Williams v. Reeds*' effect on them. While the unconstitutional state proceedings have long-concluded, the harms proximately caused by them continue. Equity requires such continuing harms be enjoined and Roshan license be reinstated pending appeal.

The interest of the public in California is served by having a determination that its SBOC violates the Supremacy Clause under *Williams v. Reed*, and the state legislature should institute mechanisms

that comply with federal law. An injunction here will predictably cause the SBOC to revisit the correctness of its conclusion that *Williams v. Reed* has no bearing on the validity of its statutory structure, and its approach to accept the Ninth Circuit's delay of determining *Williams v. Reeds'* effect on it; it will also serve as precedent for similarly situated federal plaintiff attorneys licensed by the SBOC suffering similar harms from delay of this important determination. The very institution established to ensure the conduct of its members conform to the law should not be allowed to continue to systemically violate the law and delay determination of such violation.

All the factors weigh in favor of granting the injunction.

VI. CONCLUSION

For the foregoing reasons, the Court should grant (1) an order for an administrative stay of the issuance of mandate by May 27, 2026 pending this Court's consideration of this motion, and (2) an order staying issuance of the mandate to allow time to submit a petition for rehearing and rehearing en banc of Court of Appeals after issuance of this Court's opinions in *Pung* and *T.M.*; and if such petition for

rehearing is denied, then a petition for a writ of certiorari to this Court. In addition, Justice Kagan should ensure that the other justices have the benefit of this application as they consider *T.M.* The Court may wish to consider vacating the submission in *T.M.* so that this case and *T.M.* can be heard and reheard simultaneously.

Respectfully submitted this 25th day of May, 2026.

/s/ Frances L. Diaz

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APPENDIX

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

PEYMAN ROSHAN

Plaintiff,

v.

MELANIE J. LAWRENCE, et al.,

Defendants.

Case No. 21-cv-01235-JST

ORDER GRANTING MOTION TO DISMISS AND DENYING MOTION FOR SANCTIONS

Re: ECF Nos. 15, 26

Before the Court is Defendants' motion to dismiss, ECF No. 15, and Plaintiff's motion for sanctions, ECF No. 26. The Court will grant the motion to dismiss and deny the motion for sanctions.

I. BACKGROUND

For the purpose of resolving the present motions, the Court accepts as true the following factual allegations from the First Amended Complaint ("FAC"), ECF No. 12. *Holley v. Gilead Scis., Inc.*, 410 F. Supp. 3d 1096, 1101 (N.D. Cal. 2019) (citation omitted).

Roshan brings this action against Defendants the Office of Chief Trial Counsel of the State Bar of California ("OCTC"), and Melanie J. Lawrence, in her official capacity as the head of the OCTC. *Id.* ¶¶ 3-4.

Roshan alleges that this action asserts a "facial attack" on the constitutionality of the Rules of Procedure of the State Bar of California ("the state bar rules at issue"), *id.* ¶ 33, which Roshan alleges have been revised since 2010: (1) to "eliminate[] all meaningful rights to notice of charges" for attorneys involved in disciplinary proceedings; and (2) to deprive attorneys involved

in disciplinary proceedings of access to their "entire State Bar file" and any "exculpatory" information contained therein. *Id.* ¶¶ 10-14.

Roshan alleges that the state bar rules at issue, as currently written and applied, are unconstitutional because they have violated his and other attorneys' due process rights. Specifically, Roshan alleges that the state bar rules at issue have prevented "innocent lawyers" from being able "to contest prosecutions that are unsupported by law or evidence or obtain such dismissals at an early stage," *id.* ¶ 15, because the rules, among other things: do not provide attorneys with a preliminary hearing or the right to discovery, *id.* ¶ 22; allow OCTC to amend the notice of disciplinary charges to "add charges right up to the date of trial," *id.* ¶ 23; allow the "State Bar Court judges'" to arbitrarily interrupt or stay cases, *id.* ¶ 25; allow the "State Bar Court" to issue rulings "in violation of the Supremacy Clause and Congressional Legislation reserving certain issues to federal courts," *id.* ¶ 26; do not provide attorneys with the right to counsel or to adequately cross-examine witnesses, *id.* ¶ 28; and fail to "prohibit, prevent, or restrain the Chief Trial Counsel from over-aggressive prosecution of lawyers who do not have personal relationships with California judges, the State Bar Board of Trustees, the OCTC, or the Chief Trial Counsel," *id.*

Roshan alleges that he was the subject of attorney disciplinary proceedings by the OCTC in *In Re Roshan*, case numbers 17-O-01202 and 17-0-10457, *id.* ¶ 29, which resulted in a "two-year suspension," *id.* ¶ 30. These disciplinary proceedings were conducted pursuant to the allegedly unconstitutional state bar rules at issue and resulted in alleged violations of Roshan's due process rights. The alleged due process violations that Roshan claims to have suffered arise out of the denial of his requests to continue "the trial" to allow his counsel to prepare and to respond to new, "last-minute" disciplinary charges; and the "coupl[ing]" of his testimony "with irrelevant documentary evidence" to "add discipline for uncharged misconduct, which discipline is the equivalent of adding new charges." *Id.* ¶ 29.

Roshan sought review of the two-year suspension from the State Bar Court Review Department. *Id.* ¶ 30. Roshan "raised the constitutional issues in a request for review to the Review Department," but he later withdrew these "constitutional issues." *Id.* The Review

Department "affirmed the disciplinary recommendation of a two-year suspension." *Id.* Roshan "filed a petition for review, which did not assert any of the constitutional issues set forth herein, with the California Supreme Court. The petition was denied on February 17, 2021." *Id.*

Roshan asserts two claims against Defendants on his own behalf and on behalf of two proposed classes: (1) Class One, comprised of attorneys who have been disciplined by the California State Bar since 2010; and (2) Class Two, comprised of attorneys who are the subject of ongoing disciplinary proceedings by the State Bar. *Id.* ¶ 31. Roshan alleges that he is a member of Class One only, but he "can and will fully vindicate the interests of Class Two members." *Id.* ¶ 32.

Roshan's first claim against Defendants is for "injunctive relief for violation of constitutional rights" arising out of the "constitutional defects" of the state bar rules at issue, *id.* ¶ 35. The injunctive relief that Roshan seeks is an order enjoining "the order suspending ROSHAN" and "all other State Bar attorney discipline proceedings" until the state bar rules at issue have been amended. *Id.* ¶ 37.

The second claim is for a declaratory judgment "that the State Bar Rules of Procedure are facially unconstitutional," and that "all attorney discipline proceedings that occurred in whole or in part after 2010 are unconstitutional and violated the due process rights of the attorney defendants." *Id.* ¶ 40. Roshan also seeks a declaratory judgment that "all attorney discipline orders and judgments entered from and after 2010 other than exonerations are unconstitutional, and that all attorney discipline proceedings that are ongoing are unconstitutional." *Id.*

II. JURISDICTION

Roshan alleges that this Court has subject matter jurisdiction under 28 U.S.C. § 1331.

III. LEGAL STANDARD

A. Motion to dismiss for lack of subject matter jurisdiction

Subject matter jurisdiction is a threshold issue that goes to the power of the court to hear the case, and it must exist at the time the action is commenced. *Morongo Band of Mission Indians v. Cal. State Bd. of Equalization*, 858 F.2d 1376, 1380 (9th Cir. 1988). A federal court is presumed to lack subject matter jurisdiction until the plaintiff shows otherwise. *Stock W., Inc. v.*

Confederated Tribes, 873 F.2d 1221, 1225 (9th Cir. 1989); *United States v. Orr Water Ditch Co.*, 600 F.3d 1152, 1157 (9th Cir. 2010). Dismissal is appropriate under Rule 12(b)(1) where the district court lacks subject matter jurisdiction. Fed. R. Civ. P. 12(b)(1).

Under Rule 12(b)(1), a defendant may challenge the plaintiff's jurisdictional allegations in one of two ways. A "facial" attack accepts the truth of the plaintiff's allegations but asserts that they "are insufficient on their face to invoke federal jurisdiction." *Safe Air for Everyone v. Meyer*, 373 F.3d 1035, 1039 (9th Cir. 2004). The district court resolves a facial attack as it would a motion to dismiss under Rule 12(b)(6), namely by determining whether the allegations are sufficient to invoke the court's jurisdiction while accepting the plaintiff's allegations as true and drawing all reasonable inferences in the plaintiff's favor. *Pride v. Correa*, 719 F.3d 1130, 1133 (9th Cir. 2013).

A "factual" attack, by contrast, contests the truth of the plaintiff's factual allegations, usually by introducing evidence outside the pleadings. *Safe Air for Everyone*, 373 F.3d at 1039. "When the defendant raises a factual attack, the plaintiff must support her jurisdictional allegations with 'competent proof' . . . under the same evidentiary standard that governs in the summary judgment context." *Leite v. Crane Co.*, 749 F.3d 1117, 1122 (9th Cir. 2014) (citations omitted). "The plaintiff bears the burden of proving by a preponderance of the evidence that each of the requirements for subject-matter jurisdiction has been met." *Id.* (citation omitted). "[I]f the existence of jurisdiction turns on disputed factual issues, the district court may resolve those factual disputes itself." *Id.* (citations omitted). "It is to be presumed that a cause lies outside [a federal court's] limited jurisdiction[.]" *Kokkonen v. Guardian Life Ins. Co. of America*, 511 U.S. 375, 377 (1994) (citation omitted).

B. Motion to dismiss for failure to state a claim

To survive a Rule 12(b)(6) motion to dismiss, a complaint must contain sufficient factual matter that, when accepted as true, states a claim that is plausible on its face. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* While this standard is not a probability requirement, "[w]here a

complaint pleads facts that are merely consistent with a defendant's liability, it stops short of the line between possibility and plausibility of entitlement to relief." *Id.* (internal quotation marks and citation omitted). In determining whether a plaintiff has met this plausibility standard, the Court must "accept all factual allegations in the complaint as true and construe the pleadings in the light most favorable" to the plaintiff. *Knievel v. ESPN*, 393 F.3d 1068, 1072 (9th Cir. 2005).

IV. ANALYSIS

Defendants move to dismiss the FAC for lack of subject matter jurisdiction on the grounds that (1) Roshan's claims against the OCTC are barred by the Eleventh Amendment; (2) all of Roshan's claims are barred by the *Rooker-Feldman* doctrine; and (3) Roshan lacks Article III standing to seek prospective relief. Defendants argue that these defects are not curable by amendment and the FAC should, therefore, be dismissed with prejudice and without leave to amend.

Alternatively, Defendants argue that, if the Court finds that it has subject matter jurisdiction over any of Roshan's claims, any such claims would nevertheless be subject to dismissal under Rule 12(b)(6), because they are barred by res judicata and because Roshan fails to state a claim under 42 U.S.C. § 1983.

Roshan moves for sanctions under Rule 11 against Defendants based on the theory that their motion to dismiss is objectively baseless, frivolous, and filed in bad faith.

Before turning to the merits of the pending motions, the Court first provides an overview of California's system for disciplining attorneys.

A. California's attorney disciplinary system

Under California law, attorney disciplinary matters are handled by the State Bar, a state constitutional entity that serves as an administrative arm of the California Supreme Court. *See In re Rose,* 22 Cal. 4th 430, 438 (2000). Defendant OCTC is the department of the State Bar responsible for prosecuting attorney discipline cases in the State Bar Court, and the head of OCTC is the Chief Trial Counsel, defendant Melanie J. Lawrence.

The State Bar Court "exercises no judicial power, but rather makes recommendations to [the California Supreme Court], which then undertakes an independent determination of the law

and the facts, exercises its inherent jurisdiction over attorney discipline, and enters the first and only disciplinary order." *Id.* at 436. The California Supreme Court has described California's attorney discipline system as follows:

> The State Bar Court Hearing Department (Hearing Department) conducts evidentiary hearings on the merits in disciplinary matters. An attorney charged with misconduct is entitled to receive reasonable notice, to conduct discovery, to have a reasonable opportunity to defend against the charge by the introduction of evidence, to be represented by counsel, and to examine and cross-examine witnesses. The Hearing Department renders a written decision recommending whether the attorney should be disciplined.
>
> Any disciplinary decision of the Hearing Department is reviewable by the State Bar Court Review Department (Review Department) at the request of the attorney or the State Bar. In such a review proceeding, the matter is fully briefed, and the parties are given an opportunity for oral argument. The Review Department independently reviews the record, files a written opinion, and may adopt findings, conclusions, and a decision or recommendation at variance with those of the Hearing Department.
>
> A recommendation of suspension or disbarment, and the accompanying record, is transmitted to this court after the State Bar Court's decision becomes final.

Id. at 439 (internal citations omitted). The attorney may then file a petition for review with the California Supreme Court within 60 days of the State Bar Court's filing of a certified copy of the decision recommending suspension or disbarment. *See id.* at 440 (citing Cal. Bus. & Prof. Code §§ 6082, 6083; Cal. R. Ct. 952(a), subsequently renumbered to Cal. R. Ct. 9.13(a)). The California Supreme Court can either grant review and issue a final order, or it can deny review, in which case the State Bar Court's disciplinary recommendation is filed as an order of the California Supreme Court. *Id.* at 440-41 (citing Cal. R. Ct. 954, subsequently renumbered to Cal. R. Ct. 9.16). Throughout this process and until the process is completed, the California Supreme Court retains inherent judicial authority over any attorney disciplinary matter. *Id.* at 442.

B. Subject matter jurisdiction

1. Eleventh Amendment

The Court first turns to Defendants' argument that the Eleventh Amendment bars Roshan's claims against the OCTC.

The Eleventh Amendment's grant of sovereign immunity bars suits against states in the absence of consent. *See Seminole Tribe v. Fla*., 517 U.S. 44 (1996); *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89 (1984). "The Eleventh Amendment's jurisdictional bar covers suits naming state agencies and departments as defendants, and applies whether the relief sought is legal or equitable in nature." *Brooks v. Sulpher Springs Valley Elec. Co-Op*, 951 F.2d 1050, 1053 (9th Cir. 1991). Courts routinely dismiss claims filed against the OCTC on the basis that the OCTC is a state agency that has immunity from suit under the Eleventh Amendment, regardless of the nature of the claim. *See, e.g.*, *Martin v. State Bar of California*, No. C 11-3601 CW, 2012 WL 1225763, at *3 (N.D. Cal. Apr. 11, 2012) ("Plaintiff's claims against the State Bar of California and the Office of the Chief Trial Counsel are barred by the Eleventh Amendment"); *Spindler v. State Bar of California*, No. CV 18-8712-JLS(E), 2019 WL 9519975, at *3 (C.D. Cal. Mar. 19, 2019) (same); *see also Hirsh v. Justices of Supreme Court*, 67 F.3d 708, 712, 715 (9th Cir. 1995) (holding that the California State Bar is a "state agency" entitled to Eleventh Amendment immunity). Consistent with these authorities, the Court finds that Roshan's claims against the OCTC are barred by the Eleventh Amendment.

In his opposition, Roshan argues that Defendants' Eleventh Amendment argument is "meritless" because "Plaintiff is not suing a legal entity of the California state government called the Office of Chief Trial Counsel because it does not exist." ECF No. 21 at 6. This argument is without merit. As noted above, courts have recognized the OCTC as part of a California state agency that enjoys immunity from suit under the Eleventh Amendment. Roshan has cited no authority that compels a different conclusion.

Accordingly, the Court concludes that Roshan's claims against the OCTC are barred by the Eleventh Amendment.

That leaves Roshan's claims against Melanie J. Lawrence in her official capacity as the head of the OCTC, which, as noted above, arise out of alleged violations of federal due process in the context of State Bar disciplinary proceedings and are for injunctive and declaratory relief. Eleventh Amendment immunity extends to any suit brought against a state official acting in his or her official capacity, except where the suit is for *prospective* relief in connection with allegedly

unconstitutional state action. *See Edelman v. Jordan*, 415 U.S. 651, 664 (1974). Thus, Roshan's claims against Lawrence in her official capacity are not barred by the Eleventh Amendment to the extent that they are for *prospective* relief in connection with allegedly unconstitutional state action in the context of attorney disciplinary proceedings Roshan's claims against Lawrence are otherwise barred by the Eleventh Amendment and the Court dismisses them on that basis.

2. *Rooker-Feldman* doctrine

The Court now considers Defendants' argument that Roshan's claims for *prospective* relief against Lawrence in her official capacity are barred by the *Rooker-Feldman* doctrine.

"Under *Rooker–Feldman*, lower federal courts are without subject matter jurisdiction to review state court decisions, and state court litigants may therefore only obtain federal review by filing a petition for a writ of certiorari in the Supreme Court of the United States." *Mothershed v. Justs. of Supreme Ct.*, 410 F.3d 602, 606 (9th Cir. 2005), *as amended on denial of reh'g*, No. 03-16878, 2005 WL 1692466 (9th Cir. July 21, 2005) (citations omitted). "The doctrine does not, however, prohibit a plaintiff from presenting a generally applicable legal challenge to a state statute in federal court, even if that statute has previously been applied against him in state court litigation." *Id.* Thus, the application of the *Rooker-Feldman* doctrine turns on whether the plaintiff is challenging a state court decision or whether the plaintiff is challenging a state statute or rule; the former challenge falls within the scope of the *Rooker-Feldman* doctrine because it requires reviewing a state court *judgment*, which cannot be done by a federal district court, whereas the latter does *not* fall within the scope of the *Rooker-Feldman* doctrine (and therefore *can* be heard by a district court) because it involves a "generally applicable legal challenge" to a state *statute or rule*, which does not require reviewing individual state court judgments.

The reasoning for allowing district courts to hear generally applicable legal challenges, which are also referred to as "facial" challenges, to state statutes or rules is that state statues or rules are promulgated in a "nonjudicial capacity." *See Craig v. State Bar of California*, 141 F.3d 1353, 1354 (9th Cir. 1998) (per curiam) (holding that "a general attack on a state's [bar] admissions rules may be heard by lower federal courts because a state supreme court acts in a nonjudicial capacity when it promulgates such rules"). State courts act in a nonjudicial capacity

for the purpose of the *Rooker-Feldman* doctrine when their acts or proceedings are "legislative, ministerial, or administrative," such as when state courts "engage in rulemaking," *D.C. Ct. of Appeals v. Feldman*, 460 U.S. 462, 479 (1983) ("*Feldman*"). By contrast, a state court acts in a judicial capacity where the state proceedings "involve[] a 'judicial inquiry' in which the court [i]s called upon to investigate, declare, and enforce 'liabilities as they [stand] on present or past facts and under laws supposed already to exist,'" *id.* (citation omitted).

With these principles in mind, the Supreme Court has held, in the context of the application of the *Rooker-Feldman* doctrine to challenges involving "state bar rules," that a federal district court has "subject matter jurisdiction over general challenges to state bar rules, promulgated by state courts in non-judicial proceedings, which do not require review of a final state court judgment in a particular case." *Feldman*, 460 U.S. at 486. A federal district court does "not have jurisdiction, however, over challenges to state court decisions in particular cases arising out of judicial proceedings even if those challenges allege that the state court's action was unconstitutional. Review of those decisions may be had only in [the United States Supreme Court]." *Id.* (citation omitted).

It is possible for a complaint to simultaneously assert challenges to state action that fall within the scope of the *Rooker-Feldman* doctrine and challenges that fall outside of the doctrine; in that event, a court is required by the *Rooker-Feldman* doctrine to dismiss only the allegations that require review of state court decisions or judgments reached through judicial proceedings. For example, in *Feldman*, the Supreme Court held that a district court lacked jurisdiction over allegations that the state bar acted unconstitutionally in denying the plaintiffs' petitions for personal exemptions from a state rule requiring graduation from an accredited law school as a condition of bar membership, reasoning that these allegations were inextricably intertwined with the decisions reached in judicial proceedings as to the plaintiffs' petitions for personal exemptions and therefore required review of judgments reached through such judicial proceedings. *Id.* at 486**.** The Supreme Court also held that the same plaintiffs' "remaining allegations" *could* be heard by the district court to the extent that they involved a "general attack on the constitutionality" of *the state rule* requiring graduation from an accredited law school to obtain bar membership, reasoning

that this attack was directed at a state rule enacted pursuant to the state's rulemaking authority and did "not require review of a judicial decision in a particular case." *Id.*

Here, as in *Feldman*, the FAC contains some allegations that fall within the scope of the *Rooker-Feldman* doctrine and must be dismissed for lack of subject matter jurisdiction as such, and some that do not. Some of Roshan's allegations challenge *the application* of the state bar rules at issue, which he alleges are unconstitutional, during *specific* attorney disciplinary proceedings, including his own. These allegations challenge the fairness and outcome of specific disciplinary proceedings, which are judicial in nature. As a remedy for these allegations, Roshan seeks injunctive and declaratory relief to invalidate or undo the outcome of the specific disciplinary proceedings where the state bar rules at issue were or are being applied. *See, e.g.*, ECF No. 12 ¶ 37 (seeking order enjoining "the order suspending ROSHAN"); *id.* ¶ 40 (seeking declaratory judgment that "all attorney discipline orders and judgments entered from and after 2010 other than exonerations are unconstitutional"). Because these allegations challenge the fairness and outcomes of specific disciplinary proceedings, which are judicial in nature, they are inextricably intertwined with the judicial decisions reached by the California Supreme Court in specific disciplinary proceedings and, as such, they fall within the scope of the *Rooker-Feldman* doctrine. The Court dismisses these allegations and any claims they support for lack of subject matter jurisdiction. *See Rosenthal v. Justs. of the Supreme Ct. of California*, 910 F.2d 561, 567 (9th Cir. 1990) (holding that a district court lacks jurisdiction under *Rooker-Feldman* over "challenges [to] the fairness of the [attorney disciplinary] hearings").

The remainder of Roshan's allegations challenge the constitutionality of the state bar rules at issue, as *written*, not applied. Roshan avers that the state bar rules are inconsistent with Constitutional due process requirements because they prevent attorneys facing disciplinary proceedings from having adequate and timely notice of the charges against them and from mounting an adequate defense to the charges. These allegations do not fall within the scope of the *Rooker-Feldman* doctrine because the determination of whether the rules, as promulgated under California's *rulemaking* authority, satisfy the requirements of the Constitution does "not require review of a judicial decision in a particular case." *See Feldman*, 460 U.S. at 486; s*ee also*

Rosenthal, 910 F.2d at 563 (adjudicating appeal on the merits of action brought "in federal court to allege constitutional and *statutory* defects in the state disbarment proceedings") (emphasis added). Accordingly, to the extent that Roshan challenges the constitutionality of the state bar *rules* at issue, as written and not as applied, and seeks *prospective* declaratory and injunctive relief pertaining to such rules outside of the context of specific judicial disciplinary proceedings, the Court is not precluded by the *Rooker-Feldman* doctrine from adjudicating Roshan's claims against Lawrence in her official capacity as head of the OCTC. Roshan's claims are not subject to dismissal for lack of subject matter jurisdiction under *Rooker-Feldman* to the extent that they are premised on these allegations.

3. Article III standing

The Court next considers Defendants' argument that Roshan lacks Article III standing to assert the claims that the Court has not dismissed thus far, namely those predicated on allegations facially challenging the constitutionality of the state bar rules at issue and seeking *prospective* declaratory and injunctive relief in connection thereto.

In *Canatella v. State of California*, 304 F.3d 843, 848 (9th Cir. 2002), the Ninth Circuit analyzed the requirements for finding Article III standing in a context similar to the one here. In that case, the plaintiff brought a facial challenge to "the state bar statutes and professional rule under which [the plaintiff] could ultimately be subject to discipline or disbarment by the State Bar" and sought prospective relief, namely "an injunction prohibiting the State Bar from taking further disciplinary action against him under the challenged provisions, and a declaration that the provisions are unconstitutional." *Id.*

The plaintiff had been sanctioned 26 times by various federal and state courts for "vexatious litigation, filing of frivolous actions and appeals, and the use of delay tactics"; all of the sanctions were levied against the plaintiff "as an advocate of his clients' interests in judicial proceedings." *Id.* at 847. The California State Bar initiated a disciplinary investigation into the multiple sanctions orders, which ultimately resulted in a stipulated settlement requiring 30 days of actual suspension, followed by an 18-month stayed suspension that could be reinstated upon a finding of rule violations during an 18-month probationary period. *Id.* at 847-48. After this

stipulated settlement was approved by the California Supreme Court, the plaintiff filed suit in federal court, challenging "the state bar statutes and professional rule" that the State Bar had relied upon to discipline him and could rely upon again to discipline or disbar him in the future. *Id.* at 848. "In raising these claims, [the plaintiff] alleged a strong likelihood of further State Bar disciplinary charges[.]" *Id.*

An issue before the Ninth Circuit in *Canatella* was whether the plaintiff had shown that he had Article III standing to seek prospective injunctive and declaratory relief in connection with his facial challenge to the state bar statutes and rule in question. *Id.* at 848. The Ninth Circuit held that, "[i]n the particular context of injunctive and declaratory relief, a plaintiff must show that he has suffered or is threatened with a 'concrete and particularized' legal harm . . . *coupled with 'a sufficient likelihood that he will again be wronged in a similar way*.'" *Id.* at 852 (quoting *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992) and *City of Los Angeles v. Lyons*, 461 U.S. 95, 111 (1983)) (emphasis added). The Ninth Circuit concluded that the plaintiff had satisfied these requirements for seeking prospective injunctive and declaratory relief because there was "a strong likelihood [the plaintiff] may again face discipline under the challenged provisions. His threat of future prosecution is not merely hypothetical and conjectural, but actual." *Id.* at 853. In reaching this conclusion, the Ninth Circuit relied on the plaintiff's allegations that he "had personally faced discipline under the challenged provisions," *and* that the circumstances that had led to the imposition of court sanctions and state bar discipline against him in the past were still present, as the plaintiff had "nowhere conceded that he will refrain" from the conduct that resulted in court sanctions against him (i.e., the aggressive advocacy that resulted in multiple federal and state courts labeling his conduct as vexatious and frivolous), and the State Bar had not "conceded that it will not rely on the challenged provisions to bring disciplinary proceedings against [plaintiff] should he be sanctioned again."[1] *Id.* at 852-53. In finding Article III standing, the Ninth Circuit

[1] The Ninth Circuit also addressed other reasons for finding that the plaintiff had Article III standing that related to the plaintiff's allegations that the state bar statutes and rule he challenged were overbroad in violation of the First Amendment. *See Canatella*, 304 F.3d at 853-54. These other reasons for finding standing are irrelevant to the analysis here, because the constitutional violations that Roshan alleges in the operative complaint arise out of violations of due process, not violations of the First Amendment.

further relied on the fact that the plaintiff's alleged injury, which was the likelihood of *future* disciplinary action by the state bar, would be redressed by the prospective injunctive and declaratory relief that he sought, namely "an injunction prohibiting the State Bar from taking *further* disciplinary action against him under the challenged provisions, and a declaration that the provisions are unconstitutional." *Id.*

Here, in contrast to *Canatella*, the Court cannot infer that there is a sufficient likelihood that Roshan may face disciplinary proceedings in the future under the state bar rules he challenges as unconstitutional. Unlike in *Canatella*, here, there are no allegations in the FAC that raise the inference that the circumstances that led to Roshan's past state bar disciplinary proceedings and suspension are still present, or that there are new circumstances that could result in Roshan becoming the subject of state bar disciplinary proceedings in the future. Therefore, prospective remedies, such as an order declaring the state bar rules at issue to be unconstitutional, or an order enjoining the State Bar from bringing future disciplinary actions against Roshan under the challenged state bar rules, would achieve nothing as far as Roshan is concerned. Thus, the allegations and circumstances that the Ninth Circuit relied upon in *Canatella* to find Article III standing are absent here.

To be sure, Roshan's complaint contains allegations that suggest harm to *other attorneys* who he claims are members of the proposed classes he seeks to represent, who currently or in the future may be subject to State Bar disciplinary proceedings under the state bar rules at issue. Roshan has cited no authority, however, showing that he can rely on allegations describing *others'* imminent harm to establish Article III standing for himself to seek prospective relief in the context of a general challenge to the state bar rules at issue. In the absence of authority to the contrary, the Court must follow the general rule that any harm that the members of a proposed class have suffered or could suffer is irrelevant to the analysis of whether the named plaintiff has Article III standing. *See Lierboe v. State Farm Mut. Auto. Ins. Co.*, 350 F.3d 1018, 1022 (9th Cir. 2003) ("[O]ur law makes clear that 'if none of the named plaintiffs purporting to represent a class establishes the requisite of a case or controversy with the defendants, none may seek relief on behalf of himself or any other member of the class.'") (citation omitted).

The only harm that Roshan alleges to have suffered *himself* is the two-year suspension, which is the result of what he alleges were disciplinary proceedings by the State Bar that violated his due process rights by virtue of the application of the state bar rules at issue. This past injury would not be redressable by prospective injunctive relief. Nor is this past injury sufficient on its own to suggest a likelihood of future injury. The Ninth Circuit indicated in *Canatella* that past disciplinary actions, without more, are insufficient to establish Article III standing in the context of general challenges to state bar rules seeking prospective relief. *See Canatella*, 304 F.3d at 853 ("[W]e do not maintain that past 'prosecution' [by the State Bar] by itself gives rise to a present case or controversy").

Roshan cites *Pirozzi v. Apple, Inc.*, 966 F. Supp. 2d 909, 917 (N.D. Cal. 2013) (Tigar, J.) for the proposition that all he needs to allege to establish Article III standing is that he suffered an actual "past injur[y]." *See* ECF No. 21 at 12. *Pirozzi* is inapposite. There, the alleged injury was past economic injury resulting from the purchase of devices based on alleged misrepresentations by the defendant. *Pirozzi*, 966 F. Supp. at 917-18. There is no indication that the plaintiff in *Pirozzi* had requested *prospective* relief and that the standing analysis in that case was made in that context. As discussed above, here, the only relief that Roshan can seek against Defendant Lawrence in her official capacity is *prospective* relief, and the Ninth Circuit has held that, in cases involving requests for prospective relief, Article III standing requires, among other things, a showing of "a sufficient likelihood that [the plaintiff] will again be wronged in a similar way." *Canatella*, 304 F.3d at 852 (citations omitted). Roshan's alleged past injury is not enough, without more, to satisfy this standard.

In light of the foregoing, the Court concludes that Roshan has not shown that he has Article III standing to facially challenge the constitutionality of the state bar rules at issue and seek *prospective* relief in connection with that challenge. The Court dismisses for lack of subject matter jurisdiction Roshan's claims asserting this facial challenge, but it does so with leave to amend, as it is not clear that this jurisdictional defect could not be cured by amendment.[2]

[2] Defendants filed a request for judicial notice of documents pertaining to Roshan's disciplinary proceedings. Because Roshan's claims fail for lack of subject matter jurisdiction based on his

C. Motion for sanctions

Roshan moves for Rule 11 sanctions against Defendants in the amount of at least $101,000 on the grounds that their "motion to dismiss is objectively baseless, frivolous, and filed in bad faith," ECF No. 26 at 2, 18.

"An attorney is subject to Rule 11 sanctions, among other reasons, when he presents to the court 'claims, defenses, and other legal contentions . . . [not] warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law[.]'" *Holgate v. Baldwin*, 425 F.3d 671, 675-76 (9th Cir. 2005) (quoting Fed. R. Civ. P. 11(b)(2)). The Ninth Circuit has held that Rule 11 sanctions are reserved "for the rare and exceptional case where the action [by an attorney] is clearly frivolous, legally unreasonable or without legal foundation, or brought for an improper purpose." *Operating Engineers Pension Trust v. A-C Co.*, 859 F2d 1336, 1344 (9th Cir. 1988).

There is no basis for Rule 11 sanctions here, given that the Court granted Defendants' motion. Roshan's motion for sanctions is denied.

CONCLUSION

For the foregoing reasons, the Court GRANTS Defendants' motion to dismiss the FAC. Roshan's claims are DISMISSED WITH LEAVE TO AMEND to the extent that they assert a facial challenge to the state bar rules at issue and seek prospective relief in connection with that challenge. If he can do so without contradicting the allegations in prior iterations of the complaint, Roshan may file an amended complaint within 30 days of the date this order is filed to attempt to show that he has Article III standing to assert a facial challenge to the state bar rules at issue and seek prospective relief in connection thereto. Roshan may not add any new claims, name new defendants, or otherwise make amendments not expressly permitted herein. Roshan's claims are otherwise DISMISSED WITHOUT LEAVE TO AMEND for lack of subject matter jurisdiction. A failure to file an amended complaint within 30 days consistent with this order will result in the

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allegations alone, the Court need not consider the documents subject to Defendants' request for judicial notice at this juncture.

dismissal of this action with prejudice.

IT IS SO ORDERED.

Dated: December 9, 2021

JON S. TIGAR
United States District Judge

United States District Court
Northern District of California

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

PEYMAN ROSHAN,

Plaintiff,

v.

MELANIE J. LAWRENCE, et al.,

Defendants.

Case No. 21-cv-01235-JST

ORDER GRANTING MOTION TO DISMISS THIRD AMENDED COMPLAINT

Re: ECF Nos. 102, 116, 127, 132

Before the Court are Defendants' motion to dismiss, ECF No. 102; Defendants' administrative motion to submit supplemental briefing, ECF No. 116; Defendants' motion to stay discovery, ECF No. 127; and Defendants' motion to strike, ECF No. 136. The Court will grant the motion to dismiss. Defendants' motion to strike, administrative motion to submit supplemental briefing and motion to stay discovery are denied.

I. BACKGROUND

Plaintiff Peyman Roshan, a California lawyer, brings this action challenging both the State Bar Rules of Procedure and the internal rules and policies of the State Bar as unconstitutional under the First and Fourteenth Amendments. Roshan seeks injunctive and declaratory relief against Defendant George Cardona, the current Chief Trial Counsel of the State Bar of California, and his predecessor, Defendant Melanie J. Lawrence. Roshan alleges that the Chief Trial Counsel is responsible for drafting the Rules of Procedure and for prosecuting attorney discipline.

In the operative third amended complaint, ECF No. 74 at 4-26, Roshan alleges that the Rules of Procedure and "written and unwritten internal rules and policies regarding prosecutions"

violate the Due Process Clause and are unconstitutionally overbroad. *Id.* ¶ 28.[1] Roshan asserts that the relevant rules and policies are constitutionally deficient in a number of ways: the standard of pleading applied to charging documents provides inadequate notice to respondents of the charges against them; new charges may be added up to the date of trial without additional time to prepare a defense; the charging document may be amended after trial has begun; based on evidence at trial, penalties may be increased to the same extent as if a charge had been added and proven; the constitutional right to counsel is not recognized; requests for continuances are only granted when requested by the prosecution; respondents are not provided enforceable rights to issue third-party subpoenas and therefore are not guaranteed the right to cross-examine individuals whose written statements are entered into evidence by the prosecutor; the Chief Trial Counsel engages in "over-aggressive prosecution of lawyers who do not have personal relationships with California judges, the State Bar Board of Trustees, the OCTC, or the Chief Trial Counsel to compensate for their refusal to prosecute lawyers with such personal relationships[] or adequately ensure that such connected lawyers are prosecuted"; the grounds for which State Bar Court judges may be disqualified are underinclusive; and the Rules of Procedure permit the State Bar Court to decide legal issues within the exclusive jurisdiction of the federal courts. *Id.*

Roshan himself was subjected to some of these allegedly unconstitutional rules and policies in a prior attorney discipline proceeding, which resulted in a recommended two-year suspension. *Id.* ¶ 29. In Roshan's proceeding, he was denied an initial continuance of the trial date to permit counsel to prepare, denied a continuance to prepare a defense when two additional counts were added to the charging document shortly before the trial date, and issued additional discipline for uncharged misconduct based on his testimony. *Id.* Roshan requested review by the State Bar Court Review Department, which affirmed the disciplinary recommendation. The

[1] Roshan does not identify which of these rules and policies is unconstitutionally overbroad, nor does he identify any protected expression that could be deterred by the challenged rules and policies. *Members of City Council of City of L.A. v. Taxpayers for Vincent*, 466 U.S. 789, 801 (1984) ("[T]here must be a realistic danger that the statute itself will significantly compromise recognized First Amendment protections of parties not before the Court for it to be facially challenged on overbreadth grounds.").

California Supreme Court denied Roshan's subsequent petition for review on February 17, 2021. *Id.* ¶ 30.

Roshan filed this case shortly thereafter. ECF No. 1. In the operative third amended complaint, Roshan asserts claims on behalf of himself and two putative classes: (1) persons who have been the subject of attorney discipline "from and after 2010" and (2) persons who are subject to ongoing attorney discipline proceedings. ECF No. 74 ¶ 31. Roshan states three counts against Defendants: (1) "injunctive relief for violation of constitutional rights" against Lawrence and Cardona, (2) "relief under *Ex [p]arte Young*" against Cardona in his official capacity, and (3) "declaratory judgment" against Lawrence and Cardona.[2] *Id.* ¶¶ 38-47.

Roshan seeks a declaratory judgment that the State Bar Rules of Procedure are unconstitutional; that the State Bar's internal rules and policies regarding prosecutions are unconstitutionally overbroad; that all attorney discipline proceedings since 2010 have violated respondents' due process rights; that the California Supreme Court's holding in *Edwards v. State Bar*, 52 Cal. 3d 28 (1990) and "other cases cited therein" is unconstitutional; and "that establishes procedures for notice and retrial of all attorney discipline orders and judgments," other than exonerations. *Id.* at 25. Roshan also seeks to enjoin Cardona from filing new charges, continuing ongoing prosecutions, or enforcing disciplinary orders until the Rules of Procedure are amended; prohibit any discipline proceedings that do not comply with such amended Rules; and prohibit the

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[2] While Roshan pleads three counts, none of the three identifies a cause of action. Declaratory judgment and injunctive relief are not standalone claims, and the doctrine of *Ex parte Young*, 209 U.S. 123 (1908), is an exception to Eleventh Amendment state sovereign immunity which permits suits for prospective relief against a state official acting in their official capacity. *See Sowinski v. Wells Fargo Bank, N.A.*, No. 11-6431-SC, 2012 WL 5904711, at *1 (N.D. Cal. Nov. 26, 2012) (dismissing claims for declaratory and injunctive relief with prejudice because "[t]hese are types of relief, not claims to relief" and noting that "Plaintiff may still seek declaratory and injunctive relief in any further pleading, provided that he asserts a claim that could give rise to such relief"); *Cardenas v. Anzai*, 311 F.3d 929, 934-35 (9th Cir. 2002) (emphasis omitted) ("Under the *Ex parte Young* doctrine, a plaintiff may maintain a suit for prospective relief against a state official in his official capacity, when that suit seeks to correct an ongoing violation of the Constitution or federal law.").

Because Roshan seeks redress for the violation of multiple constitutional rights, the Court interprets the complaint to assert claims for violation of each such right under 42 U.S.C. § 1983. Any amended complaint shall plead each substantive claim as a separate count and shall clearly identify the legal basis for each substantive claim.

prosecution of attorneys for misconduct for which the State Bar "has declined to prosecute any attorney who has personal relationships with judges, the State Bar Board of Trustees, any Chief Trial Counsel, and any member of the OCTC." *Id.* at 23-24. Roshan specifically seeks that the order suspending him from practicing law "and all other State Bar attorney discipline proceedings" be enjoined until the Rules of Procedure are amended and Cardona "has purged the OCTC and prosecuted members of the OCTC who were corruptly influence [sic] by [California attorney Tom] Girardi." *Id.* ¶ 41.

Defendants now move to dismiss the third amended complaint.

II. JURISDICTION

The Court has jurisdiction under 28 U.S.C. § 1331.

III. LEGAL STANDARD

"Article III of the Constitution confines the federal judicial power to the resolution of 'Cases' and 'Controversies.'" *TransUnion LLC v. Ramirez*, 141 S. Ct. 2190, 2203 (2021). "For there to be a case or controversy under Article III, the plaintiff must have a 'personal stake' in the case—in other words, standing." *Id.* (quoting *Raines v. Byrd*, 521 U.S. 811, 819 (1997)).

A defendant may attack a plaintiff's standing by moving to dismiss for lack of subject matter jurisdiction under Rule 12(b)(1) of the Federal Rules of Civil Procedure. *Cetacean Cmty. v. Bush*, 386 F.3d 1169, 1174 (9th Cir. 2004). In a facial challenge to subject matter jurisdiction, the defendant asserts that the plaintiff's allegations "are insufficient on their face to invoke federal jurisdiction." *Safe Air for Everyone v. Meyer*, 373 F.3d 1035, 1039 (9th Cir. 2004). In evaluating such a facial challenge, the court must assume that the complaint's allegations are true and draw all reasonable inferences in the plaintiff's favor. *Wolfe v. Strankman*, 392 F.3d 358, 362 (9th Cir. 2004).

IV. DISCUSSION

A. Request for Judicial Notice

On March 16, 2023 – nearly six months after Defendants' motion to dismiss was fully briefed, and three days after Defendants' motion to stay was fully briefed – Roshan filed a request for judicial notice in support of his oppositions to both motions. ECF No. 132.

The local rules of the Northern District expressly prohibit the filing of additional material once a motion is fully briefed. Civ. L.R. 7-3(d) (stating that, "[o]nce a reply is filed, no additional memoranda, papers or letters may be filed without prior approval," except an objection to reply evidence or a statement of recent decision). "[T]he district court has considerable latitude in managing the parties' motion practice and enforcing local rules that place parameters on briefing." *Christian v. Mattel, Inc.*, 286 F.3d 1118, 1129 (9th Cir. 2002).

Roshan did not seek leave of this Court before filing his untimely request for judicial notice. Accordingly, Roshan's request for judicial notice is denied. *See Bias v. Moynihan*, 508 F.3d 1212, 1223-24 (9th Cir. 2007) (holding that district court did not abuse its discretion where it refused to consider untimely sur-replies filed in violation of Local Rule 7-3(d)); *Ferguson v. Ctrs. for Medicare & Medicaid Servs.*, No. 19-cv-05262-YGR, 2020 WL 5653285, at *1 n.1 (N.D. Cal. Sept. 23, 2020) (denying untimely request for judicial notice filed in violation of Local Rule 7-3(d)), *aff'd*, No. 20-17451, 2021 WL 2893349 (9th Cir. 2021).

Defendants' motion to strike the untimely request for judicial notice is denied as moot.

B. Subject Matter Jurisdiction

Defendants move to dismiss the third amended complaint for lack of subject matter jurisdiction.

"Federal courts are courts of limited jurisdiction." *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). "Subject matter jurisdiction is fundamental; '[t]he defense of lack of subject matter jurisdiction cannot be waived, and the court is under a continuing duty to dismiss an action whenever it appears that the court lacks jurisdiction.'" *Billingsly v. C.I.R.*, 868 F.2d 1081, 1085 (9th Cir. 1989) (alteration in original) (quoting *Augustine v. United States*, 704 F.2d 1074, 1077 (9th Cir. 1983)); *see also* Fed. R. Civ. P. 12(h)(3) ("If the court determines at any time that it lacks subject matter jurisdiction, the court must dismiss the action.").

1. Rooker-Feldman Doctrine[3]

The *Rooker-Feldman* doctrine bars district courts from hearing "cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments." *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005). Federal courts may not hear such de facto appeals because, "[a]bsent express statutory authorization, only the Supreme Court has jurisdiction to reverse or modify a state court judgment." *Henrichs v. Valley View Dev.*, 474 F.3d 609, 613 (9th Cir. 2007).

"The doctrine does not, however, prohibit a plaintiff from presenting a generally applicable legal challenge to a state statute in federal court, even if that statute has previously been applied against him in state court litigation." *Mothershed v. Justs. of Sup. Ct.*, 410 F.3d 602, 606 (9th Cir. 2005). Thus, district courts "have subject matter jurisdiction over general challenges to state bar rules, promulgated by state courts in non-judicial proceedings, which do not require review of a final state court judgment in a particular case." *D.C. Ct. App. v. Feldman*, 460 U.S. 462, 486 (1983). "They do not have jurisdiction, however, over challenges to state court decisions in particular cases arising out of judicial proceedings even if those challenges allege that the state court's action was unconstitutional." *Id.*

"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." *Noel v. Hall*, 341 F.3d 1148, 1163 (9th Cir. 2003). "To determine whether an action functions as a de facto appeal, [courts] 'pay close attention to the

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[3] Defendants filed an administrative motion to submit supplemental briefing regarding the application of the *Rooker-Feldman* doctrine to the allegations of the third amended complaint. ECF No. 116. While their motion to dismiss discussed the doctrine as it applied to the new allegations and claims in the third amended complaint, it did not reprise in full their arguments from the prior round of motion to dismiss briefing.

The *Rooker-Feldman* doctrine is jurisdictional, and the Court must always assure itself that it has jurisdiction to hear the claims before it. Accordingly, Defendants' administrative motion to submit supplemental briefing on the issue, which was fully briefed in their prior motion to dismiss, is denied.

relief sought by the federal-court plaintiff.'" *Cooper v. Ramos*, 704 F.3d 772, 777-78 (9th Cir. 2012) (emphasis in original) (quoting *Bianchi v. Rylaarsdam*, 334 F.3d 895, 900 (9th Cir. 2003)). "A federal district court dealing with a suit that is, in part, a forbidden de facto appeal from a judicial decision of a state court must refuse to hear the forbidden appeal." *Noel*, 341 F.3d at 1158.

Certain of Roshan's claims constitute a de facto appeal barred by *Rooker-Feldman.* Roshan alleges various constitutional deficiencies in his attorney discipline proceeding—which took place pursuant to the judicial authority of the California Supreme Court, which ultimately suspended him from the practice of law—and asks this Court to enjoin enforcement of that discipline order.[4] He also asks this Court to declare that his attorney discipline proceeding was unconstitutional and violated his due process rights. This is a de facto appeal of the disciplinary order entered against him in state court.

Thus, to the extent that Roshan's facial constitutional claims seek to overturn Roshan's own prior disciplinary order, the Court is barred by *Rooker-Feldman* from hearing such claims. *See Cooper*, 704 F.3d at 781 ("Because [plaintiff] in fact challenges the particular outcome in his state case, '[i]t is immaterial that [plaintiff] frames his federal complaint as a constitutional challenge . . . rather than as a direct appeal.'") (quoting *Bianchi*, 334 F.3d at 900 n.4); *Eugster v. Wash. State Bar Ass'n*, No. CV 09-357-SMM, 2010 WL 2926237, at *4 (E.D. Wash. July 23, 2010) ("[T]o the extent that [plaintiff's facial challenge to the constitutionality of the rules and procedures of the state attorney discipline system] still challenge[s] past disciplinary actions, the

[4] As the Court explained in its prior order, "[t]hroughout [the attorney discipline process] and until the process is completed, the California Supreme Court retains inherent judicial authority over any attorney disciplinary matter." ECF No. 56 at 6. "The State Bar Court 'exercises no judicial power, but rather makes recommendations to [the California Supreme Court], which then undertakes an independent determination of the law and the facts, exercises its inherent jurisdiction over attorney discipline, and enters the first and only disciplinary order." *Id.* at 5-6 (alteration in original) (quoting *In re Rose*, 22 Cal. 4th 430, 436 (2000)). "[B]ecause [the California Supreme Court] has exclusive original jurisdiction to discipline attorneys, and the sole means of obtaining review of State Bar Court disciplinary recommendations is by a petition for review filed in th[e] [California Supreme] [C]ourt, [its] summary denial of such a petition amounts to an exercise of [its] jurisdiction and a judicial determination on the merits." *In re Rose*, 22 Cal. 4th at 466. Accordingly, Roshan seeks to enjoin the enforcement of an order of the California Supreme Court.

Court's review of the prior state judgment against Plaintiff is barred under *Rooker-Feldman*."), *aff'd*, 474 F. App'x 624 (9th Cir. 2012); *Scannell v. Wash. State Bar Ass'n*, No. CV 12-00683 SJO, 2014 WL 12907843, at *4 (W.D. Wash. Mar. 10, 2014) ("[D]espite Plaintiff's attempts to frame his sought-after relief in general terms, the relief—reversing his disbarment—is actually of the sort typically barred under *Rooker-Feldman*."), *aff'd*, 671 F. App'x 529 (9th Cir. 2016). Because granting leave to amend these claims would be futile, such claims are dismissed with prejudice.

However, Roshan's facial challenges to the validity of the relevant rules and procedures are not barred by *Rooker-Feldman* to the extent he seeks, for example, declaratory relief that the rules and procedures are unconstitutional. *See Tofano v. Sup. Ct. of Nev.*, 718 F.2d 313, 314 (9th Cir. 1983) (affirming district court's exercise of jurisdiction over "general challenges" seeking declaratory relief that procedures were facially unconstitutional and injunction requiring modification of such procedures); *Canatella*, 304 F.3d at 849 n.6 (noting that *Rooker-Feldman* "would likely not bar" plaintiff's claims where complaint "d[id] not request review" of plaintiff's own suspension or probation and "s[ought] only prospective relief").

2. Standing

"[L]ack of Article III standing requires dismissal for lack of subject matter jurisdiction." *Maya v. Centex Corp.*, 658 F.3d 1060, 1067 (9th Cir. 2011). To have standing to bring a claim, the party invoking federal jurisdiction must establish: (1) an "injury in fact," or "an invasion of a legally protected interest" that is both "concrete and particularized" and "actual or imminent, not 'conjectural' or 'hypothetical'"; (2) causation, or "a causal connection between the injury and the conduct complained of," and (3) redressability, meaning "it must be 'likely,' as opposed to merely 'speculative,' that the injury will be 'redressed by a favorable decision.'" *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560-61 (1992) (alterations in original) (citations omitted). In a putative class action, the named plaintiffs "must allege and show that they personally have been injured." *Warth v. Seldin*, 422 U.S. 490, 502 (1975).

"[A] plaintiff must demonstrate standing separately for each form of relief sought." *Mayfield v. United States*, 599 F.3d 964, 969 (9th Cir. 2010). "Thus, a plaintiff who has standing

to seek damages for a past injury, or injunctive relief for an ongoing injury, does not necessarily have standing to seek prospective relief such as a declaratory judgment." *Id.* To have standing to seek prospective relief, a plaintiff "must allege either 'continuing, present adverse effects' due to her exposure to [d]efendants' past illegal conduct," *Villa v. Maricopa County*, 865 F.3d 1224, 1229 (9th Cir. 2017) (quoting *O'Shea v. Littleton*, 414 U.S. 488, 496 (1974)), or "a sufficient likelihood that [s]he will again be wronged in a similar way," *id.* (alteration in original) (quoting *City of Los Angeles v. Lyons*, 461 U.S. 95, 111 (1983)).

This Court previously dismissed certain of Roshan's claims for lack of standing because, based on the allegations in the first amended complaint, the Court could not reasonably infer a sufficient likelihood of future injury, as required for Roshan to have standing to seek prospective injunctive and declaratory relief on the basis of a facial challenge to the constitutionality of the state bar rules. ECF No. 56 at 12-13. The third amended complaint does not include any additional facts from which this Court can reasonably infer a sufficient likelihood of future injury.

Instead, Roshan alleges new facts regarding the continuing adverse effects arising from his own allegedly unconstitutional attorney discipline proceedings, including the suspension of his license to practice law, an obligation to pay disciplinary costs and costs associated with potential reinstatement, and the potential for reciprocal discipline relating to Roshan's real estate license. ECF No. 74 ¶¶ 35-37. Roshan alleges that granting the relief he seeks would redress these adverse effects by reinstating his license to practice law, eliminating his obligation to pay costs, and eliminating the basis for reciprocal discipline. *Id.*

As discussed above, *Rooker-Feldman* bars this Court from granting only requested relief that would redress the continuing adverse effects Roshan identifies; the Court cannot hear Roshan's claims for an injunction against the enforcement of his disciplinary order or a declaration that his attorney discipline proceeding violated his constitutional rights.[5] Because the Court lacks

[5] Roshan does not identify which of his requests for relief would redress the continuing adverse effects he alleges, and is not evident how Roshan's remaining requests for relief, if granted, would reinstate his law license, eliminate his obligation to pay costs, or eliminate the basis for reciprocal discipline. *See* ECF No. 74 at 23-25.

subject matter jurisdiction over Roshan's claims seeking such relief, that relief cannot provide a basis for redressing the continuing adverse effects he alleges. *See Lopez v. Trendacosta*, No. LA CV 14-05406 JAK (MANx), 2014 WL 6883945, at *10 (C.D. Cal. Dec. 4, 2014) (holding plaintiffs lacked standing where *Rooker-Feldman* precluded the court from granting the relief that would redress their alleged injury). Unless his own disciplinary order is set aside as a result of the relief he seeks, Roshan lacks standing to bring any constitutional challenge "because[,] unless the state court judgment is overturned, [his] 'only interest in [the state's] procedures is prospective and hypothetical in nature.'" *Bianchi*, 334 F.3d at 900 n.3 (quoting *Facio v. Jones*, 929 F.2d 541, 543 (10th Cir. 1991)).

Roshan's remaining claims are dismissed without prejudice for lack of standing. Though Roshan did not request leave to amend his claims, the Ninth Circuit has "repeatedly instructed that leave to amend should be given, even sua sponte, if amendment could cure a pleading defect." *Unified Data Servs., LLC v. Fed. Trade Comm'n*, 39 F.4th 1200, 1208 (9th Cir. 2022). "A complaint should not be dismissed without leave to amend unless amendment would be futile." *Carolina Cas. Ins. Co. v. Team Equip., Inc.*, 741 F.3d 1082, 1086 (9th Cir. 2014). Despite previously having granted Roshan leave to amend his complaint to cure a defect in standing, the Court cannot conclude that further amendment would be futile. The Court will therefore grant Roshan leave to amend to allege additional facts to support a reasonable inference that he will again face disciplinary proceedings under the rules and policies he challenges as unconstitutional.

CONCLUSION

Accepting the well-pleaded facts of the third amended complaint as true, and construing all reasonable inferences in Roshan's favor, the Court concludes that Roshan's claims must be dismissed for lack of subject matter jurisdiction. The Court therefore grants Defendants' motion to dismiss the third amended complaint.

The Court grants leave to amend solely to provide Roshan with an opportunity to allege additional facts, if he can do so, that would support a reasonable inference that he will face future disciplinary proceedings under the rules and policies he challenges as unconstitutional. Any amended complaint must be filed within 28 days of this order and may not include any claims that

have been dismissed without leave to amend. If Roshan does not file a timely amended complaint, the Court will direct the Clerk to enter judgment and close this case.

Defendants' motion to strike, administrative motion to submit supplemental briefing, and motion to stay discovery are denied.

IT IS SO ORDERED.

Dated: May 23, 2023

JON S. TIGAR
United States District Judge

United States District Court
Northern District of California

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

PEYMAN ROSHAN,

Plaintiff,

v.

MELANIE J. LAWRENCE, et al.,

Defendants.

Case No. 21-cv-01235-JST

ORDER GRANTING MOTION TO DISMISS

Re: ECF No. 195

Before the Court is Defendants' motion to dismiss. ECF No. 195. The Court will grant the motion.[1]

I. BACKGROUND

Plaintiff Peyman Roshan, a California lawyer, brings this action challenging both the State Bar Rules of Procedure and the internal rules and policies of the State Bar as unconstitutional under the First and Fourteenth Amendments, among other claims. Roshan seeks injunctive and declaratory relief against Defendant George Cardona, the current Chief Trial Counsel of the State Bar of California, and his predecessor, Defendant Melanie J. Lawrence. ECF No. 190 ¶¶ 3,4. Because the facts are well-known to the parties and the Court has summarized Roshan's allegations in detail in its prior motion to dismiss orders, *see* ECF Nos. 56, 139, the Court will not elaborate them here.

In dismissing Roshan's third amended complaint, the Court determined that Roshan did not allege "any additional facts from which this Court [could] reasonably infer a sufficient likelihood of future injury." ECF No. 139 at 9. However, because the Court could not definitively

[1] The Court finds the motion suitable for disposition without oral argument and hereby vacates the July 18, 2024 motion hearing. *See* Fed. R. Civ. P. 78(b); Civil L.R. 7-1(b).

"conclude that further amendment would be futile," it granted leave to amend. *Id.* at 10. The Court explicitly noted that it "grant[ed] leave to amend *solely* to provide Roshan with an opportunity to allege additional facts, if he can do so, that would support a reasonable inference that he will face future disciplinary proceedings under the rules and policies he challenges as unconstitutional." *Id.* (emphasis added).

Roshan's fourth amended complaint alleges violations of: (1) the Fourteenth Amendment; (2) Cal. Bus. & Prof. Code § 6805; (3) the Supremacy Clause; (4) and the First Amendment. ECF No. 190 at 18–26. Relevant here, Roshan also alleges that "[d]uring the course of this litigation," the California Department of Real Estate ("DRE") "conducted a hearing and imposed reciprocal discipline by terminating Roshan's license." *Id.* ¶ 34. He claims that "[u]nder the rules of conduct for attorneys," an attorney must "'report to the State Bar, in writing, within 30 days'" of learning that discipline "'by a professional or occupational disciplinary agency or licensing board'" is forthcoming. *Id.* (quoting Cal. Bus. & Prof. Code. § 6068(o)(6)). Roshan avers that he "informed opposing counsel, Ms. Himes of the State Bar, of the termination of his real estate in writing; however, Ms. Himes replied that was insufficient 'to fulfill [his] ethical obligation to report the DRE discipline to the State Bar.'" *Id.* Ms. Himes allegedly informed Roshan that "under applicable State Bar procedures," he was required to "report the DRE discipline" through others at the State Bar and that failing to do so "risk[s] further disciplinary action." *Id.* Roshan "did not inform the State Bar" that the DRE had revoked his real estate license and now alleges that he risks future disciplinary action. *Id.*

II. JURISDICTION

The Court has jurisdiction under 28 U.S.C. § 1331.

III. LEGAL STANDARD

"Article III confines the federal judicial power to the resolution of 'Cases' and 'Controversies.'" *TransUnion LLC v. Ramirez*, 594 U.S. 413, 423 (2021). "For there to be a case or controversy under Article III, the plaintiff must have a 'personal stake' in the case—in other words, standing." *Id.* (quoting *Raines v. Byrd*, 521 U.S. 811, 819 (1997)).

A defendant may attack a plaintiff's standing by moving to dismiss for lack of subject

matter jurisdiction under Rule 12(b)(1) of the Federal Rules of Civil Procedure. *Cetacean Cmty. v. Bush*, 386 F.3d 1169, 1174 (9th Cir. 2004). In a facial challenge to subject matter jurisdiction, the defendant asserts that the plaintiff's allegations "are insufficient on their face to invoke federal jurisdiction." *Safe Air for Everyone v. Meyer*, 373 F.3d 1035, 1039 (9th Cir. 2004). In evaluating such a facial challenge, the court must assume that the complaint's allegations are true and draw all reasonable inferences in the plaintiff's favor. *Wolfe v. Strankman*, 392 F.3d 358, 362 (9th Cir. 2004).

IV. DISCUSSION

A. Standing

In its two prior orders, the Court dismissed certain of Roshan's claims for lack of standing because, based on the allegations in his complaints, the Court could not reasonably infer a sufficient likelihood of future injury, as required for Roshan to have standing to seek prospective injunctive and declaratory relief on the basis of a facial challenge to the constitutionality of the state bar rules. *See* ECF Nos. 56 at 12–13, 139 at 9–10. Defendants again move to dismiss Roshan's causes of action on the ground that his "allegations fail to plausibly allege that [he] will face future disciplinary proceedings for failing to use the correct State Bar procedures to report his DRE discipline." ECF No. 195 at 22.

"[L]ack of Article III standing requires dismissal for lack of subject matter jurisdiction." *Maya v. Centex Corp.*, 658 F.3d 1060, 1067 (9th Cir. 2011). To have standing to bring a claim, the party invoking federal jurisdiction must establish: (1) an "injury in fact," or "an invasion of a legally protected interest" that is both "concrete and particularized" and "actual or imminent, not 'conjectural' or 'hypothetical'"; (2) causation, or "a causal connection between the injury and the conduct complained of," and (3) redressability, meaning "it must be 'likely,' as opposed to merely 'speculative,' that the injury will be 'redressed by a favorable decision.'" *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560–61 (1992) (alterations in original) (citations omitted).

"[A] plaintiff must demonstrate standing separately for each form of relief sought." *Mayfield v. United States*, 599 F.3d 964, 969 (9th Cir. 2010). "Thus, a plaintiff who has standing to seek damages for a past injury, or injunctive relief for an ongoing injury, does not necessarily

have standing to seek prospective relief such as a declaratory judgment." *Id.* To have standing to seek prospective relief, a plaintiff "must allege either 'continuing, present adverse effects' due to her exposure to [d]efendants' past illegal conduct," *Villa v. Maricopa County*, 865 F.3d 1224, 1229 (9th Cir. 2017) (quoting *O'Shea v. Littleton*, 414 U.S. 488, 496 (1974)), or "a sufficient likelihood that [s]he will again be wronged in a similar way," *id.* (alteration in original) (quoting *City of Los Angeles v. Lyons*, 461 U.S. 95, 111 (1983)). As set forth below, the allegations in Roshan's fourth amended complaint satisfy neither of these criteria.

First, Roshan again alleges facts regarding the continuing adverse effects that arose from his own allegedly unconstitutional attorney discipline proceedings, including the suspension of his license to practice law, an obligation to pay disciplinary costs and costs associated with potential reinstatement, and reciprocal discipline relating to Roshan's real estate license. ECF No. 190 ¶¶ 33, 34. While Roshan alleges that granting the relief he seeks would redress these adverse effects, the Court made clear in its prior order that granting only requested the relief that would redress the continuing adverse effects Roshan identifies stands in conflict with the *Rooker-Feldman* doctrine. ECF No. 139 at 9–10. Accordingly, the Court declines to analyze this issue anew.

Second, Roshan adds new allegations concerning the revocation of his real estate license. ECF No. 190 ¶ 34. He avers that Ms. Himes, an attorney in the State Bar's Office of General Counsel, informed him that he would face future disciplinary proceedings for failing to use correct State Bar procedures to report his DRE discipline. *Id.* These allegations, however, fail to plausibly allege that Roshan will face future disciplinary proceedings.[2] Critically, Roshan did not allege that the State Bar's Office of Chief Trial Counsel ("OCTC") has threatened to initiate proceedings. *See* Cal. Bus. & Prof. Code. § 6044 ("The chief trial counsel . . . may initiate and conduct investigations of all matters affecting or relating to" attorney misconduct); Rules Proc. of State Bar, rule 2604 ("The Office of Chief Trial Counsel may file a notice of disciplinary charges

[2] Roshan's opposition fails to respond to Defendants' arguments concerning standing. *See* ECF No. 203 at 22–23. Additionally, he does not argue that he can allege additional facts to establish standing. *See id.*

if it finds in its discretion: (1) there is reasonable cause to believe that an attorney has committed a violation of the State Bar Act or the Rules of Professional Conduct and (2) the attorney has received a fair, adequate and reasonable opportunity to deny or explain the matters which are the subject of the notice of disciplinary charges."). Further, prior to bringing charges against Roshan, the OCTC would have to notify Roshan and allow him an opportunity to respond to the allegations. *See* Rules Proc. of State Bar, rule 2409 ("Prior to the filing of a Notice of Disciplinary Charges, the Office of Chief Trial Counsel shall notify the attorney in writing of the allegations forming the basis for the complaint or investigation and shall provide the attorney with a period of not less than two weeks within which to submit a written explanation."). Roshan does not allege that he has received such written notification. And finally, it bears emphasis that Roshan is currently suspended from the State Bar for failure to pay his licensing fees. ECF No. 190 ¶ 33 ("Because Roshan has not paid the disciplinary costs in full, under the current rules, his license is subject to continued suspension."). As Defendants point out, he has not plausibly alleged that "it is likely that the State Bar would devote resources to disciplining an attorney for failing to report another agency's imposition of discipline that was simply a consequence of the State Bar's own disciplinary order." ECF No. 195 at 23. In sum, the Court concludes that there are no allegations suggesting any further discipline is imminent or likely.

B. Other Causes of Action

Leave to amend was granted "solely to provide Roshan with an opportunity to allege additional facts . . . that would support a reasonable inference that he will face future disciplinary proceedings under the rules and policies he challenges as unconstitutional." ECF No. 139 at 10–11. Nonetheless, Roshan's fourth amended complaint realleges and impermissibly expands upon claims dismissed without leave to amend. *See, e.g.*, ECF No. 190 ¶¶ 29–34, 37–38, 44, 52–56. Because these new allegations ignore the Court's prior admonition, the Court declines to address them.

CONCLUSION

Accepting the well-pleaded facts of the fourth amended complaint as true, and construing all reasonable inferences in Roshan's favor, the Court concludes that Roshan's claims must be

dismissed for lack of standing. The Court therefore grants Defendants' motion to dismiss the fourth amended complaint. Plaintiff having previously been given more than one opportunity to amend his complaint, dismissal is with prejudice. *Chodos v. W. Publ'g Co.*, 292 F.3d 992, 1003 (9th Cir. 2002) ("[W]hen a district court has already granted a plaintiff leave to amend, its discretion in deciding subsequent motions to amend is 'particularly broad.' (quoting *Griggs v. Pace Am. Group, Inc.,* 170 F.3d 877, 879 (9th Cir.1999)).

The Court will direct the Clerk to enter judgment and close this case.

IT IS SO ORDERED.

Dated: June 17, 2024

JON S. TIGAR
United States District Judge

United States District Court
Northern District of California

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

PEYMAN ROSHAN,

Plaintiff,

v.

MELANIE J. LAWRENCE, et al.,

Defendants.

Case No. 21-cv-01235-JST

CLERK'S JUDGMENT

Re: Dkt. No. 211

Pursuant to the Order Granting Motion to Dismiss signed June 17, 2024, judgment is hereby entered.

IT IS SO ORDERED AND ADJUDGED.

Dated: Monday, June 17, 2024

Mark B. Busby
Clerk, United States District Court

By: Kelly Collins
Kelly Collins, Deputy Clerk to the
Honorable JON S. TIGAR

United States District Court
Northern District of California

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

PEYMAN ROSHAN,

Plaintiff,

v.

MELANIE J. LAWRENCE, et al.,

Defendants.

Case No. 21-cv-01235-JST

ORDER DENYING MOTION FOR INDICATIVE RULING

Re: ECF No. 229

Before the Court is Plaintiff Peyman Roshan's motion for an indicative ruling regarding relief from a judgment or order. ECF No. 229. The Court will deny the motion.

I. BACKGROUND

Because the facts are well-known to the parties and the Court has summarized Roshan's allegations in detail in its prior orders, ECF Nos. 56, 139, the Court will not repeat them in full here. In sum, this closed case involves an action by Roshan, a California lawyer, challenging both the State Bar Rules of Procedure and the internal rules and policies of the State Bar as unconstitutional under the First and Fourteenth Amendments, among other claims. Roshan seeks injunctive and declaratory relief against Defendant George Cardona, the current Chief Trial Counsel of the State Bar of California, and his predecessor, Defendant Melanie J. Lawrence ("Defendants"). ECF No. 190 ¶¶ 3, 4.

Roshan filed his fourth amended complaint on April 1, 2024. ECF No. 190. Defendants subsequently filed a motion to dismiss, which the Court granted on June 17, 2024. ECF No. 211. In so ruling, the Court reiterated that the *Rooker-Feldman* doctrine barred the court from hearing Roshan's case. *Id.* Roshan then filed a motion to alter judgment, ECF No. 213, which the Court denied on November 20, 2024. ECF No. 223.

Roshan appealed the June 17, 2024, order granting the motion to dismiss, and the November 20, 2024, order denying motion to alter judgment. ECF No. 224. That appeal remains pending before the Ninth Circuit.

II. LEGAL STANDARD

Federal Rule of Civil Procedure 62.1 provides that, "[i]f a timely motion is made for relief that the court lacks authority to grant because of an appeal that has been docketed and is pending, the court may: (1) defer considering the motion; (2) deny the motion; or (3) state either that it would grant the motion if the court of appeals remands for that purpose or that the motion raises a substantial issue." Fed. R. Civ. P. 62.1(a). Consideration of such a request involves four steps:

> First, the appealing parties must be motivated by some concern or issue and specifically ask for an indicative ruling. Second, the District Court is then obliged to indicate its view of the request. If the request is denied, that ends the inquiry. If the District Court is inclined to grant the request for an indicative ruling, the third step is to tell the parties and the Circuit Court of its intent. Finally, it is up to the Circuit Court to decide whether it will send the case back to the District Court and empower the lower court to rule.

Defs. of Wildlife v. Salazar, 776 F. Supp. 2d 1178, 1182 (D. Mont. 2011).

III. DISCUSSION

Roshan asks the Court for an indicative ruling that this Court would grant his Rule 60(b) motion if the Ninth Circuit remands the case or that the Rule 60 motion raises a substantial issue. He argues that the Court incorrectly applied the *Rooker-Feldman* doctrine to bar his claims, as reflected by the U.S. Supreme Court's recent decision in *Williams v. Reed*, 604 U.S. ----, 145 S. Ct. 465 (2025).[1] *See generally* ECF No. 229.

The Court has reviewed Roshan's request and concludes that it lacks merit. Roshan's motions under Rule 62.1 are therefore denied.

"[T]he purpose of Rule 62.1[(a)] is to promote judicial efficiency and fairness by providing a mechanism for the district court to inform the parties and the court of appeals how it could rule on a motion made after the district court has been divested of jurisdiction." *Harper v. Charter*

[1] As a preliminary matter, the Court notes that *Williams* was not a case involving the *Rooker-Feldman* doctrine.

Commc'ns, LLC, No. 2:19-CV-00902 WBS DMC, 2024 WL 3901469, at *1 (E.D. Cal. Aug. 22, 2024) (quoting *Amarin Pharms. Ir. Ltd. v. FDA*, 139 F. Supp. 3d 437, 447 (D.D.C. 2015)). As Defendants point out, "Plaintiff is not presenting newly discovered evidence or any other issue that this Court would be in any better position than the Ninth Circuit to decide. Rather, he is asking this Court to consider the same question (i.e., does *Rooker-Feldman* apply) that is at issue in his pending appeal." ECF No. 230 at 6. Under these circumstances, issuing an indicative ruling would not promote judicial efficiency and fairness because the Ninth Circuit may address the newly cited case by Roshan in the first instance, and if this Court issued an indicative ruling, "that would likely delay the previously scheduled proceedings in front of the Ninth Circuit." *Harper*, 2024 WL 3901469, at *2.

CONCLUSION

For reasons set forth above, Roshan's motion for an indicative ruling is denied.

IT IS SO ORDERED.

Dated: July 2, 2025

JON S. TIGAR
United States District Judge

United States District Court
Northern District of California

ACMS Docket Report
United States Court of Appeals for the Ninth Circuit

Court of Appeals Docket #: 24-7429
Nature of Suit: 3440 Other Civil Rights
Roshan v. Lawrence, et al.
Appeal From: Oakland, Northern California
Fee Status: Paid

Docketed: 12/10/2024
Termed: 05/05/2026

Case Type Information:
1) Civil
2) Private
3)

Originating Court Information:
District: Northern District of California : 4:21-cv-01235-JST
Trial Judge: Jon S. Tigar, District Judge
Date Filed: 02/19/2021

Date Order/Judgment:	Date Order/Judgment EOD:	Date NOA Filed:	Date Rec'd COA:
11/20/2024	11/20/2024	12/04/2024	12/04/2024

Prior Cases:
None

Current Cases:
None

PEYMAN ROSHAN Plaintiff - Appellant	Peyman Roshan [Pro Se] Direct: 415-305-7847 Email: peyroshan@gmail.com 1757 Burgundy Place Santa Rosa, CA 95403
MELANIE J. LAWRENCE, in her official capacity as Chief Trial Counsel Defendant - Appellee	Kirsten Galler Direct: 213-765-1008 Email: kirsten.galler@calbar.ca.gov [Government] State Bar of California 845 S Figueroa Street Los Angeles, CA 90017 Ms. Carissa Noelle Andresen, Assistant General Counsel Direct: 415-538-2029 Email: carissa.andresen@calbar.ca.gov [Government] State Bar of California Office of the General Counsel 180 Howard Street 8th Floor

	8th Floor San Francisco, CA 94105-1639 Ms. Carissa Noelle Andresen, Assistant General Counsel **Terminated:** 12/11/2024 Direct: 415-538-2029 Email: carissa.andresen@calbar.ca.gov [Government] State Bar of California Office of the General Counsel 180 Howard Street 8th Floor San Francisco, CA 94105-1639 Ms. Lisa Jacobs, Assistant General Counsel **Terminated:** 02/27/2025 Direct: 213-856-7457 Email: ljacobs@counsel.lacounty.gov [Government] Los Angeles Office of the County Counsel Kenneth Hahn Hall of Administration 500 W Temple Street 6th Floor Los Angeles, CA 90012
GEORGE S. CARDONA, Assistant U.S. Atty Defendant - Appellee	Kirsten Galler Direct: 213-765-1008 Email: kirsten.galler@calbar.ca.gov [Government] State Bar of California 845 S Figueroa Street Los Angeles, CA 90017 Ms. Carissa Noelle Andresen, Assistant General Counsel Direct: 415-538-2029 Email: carissa.andresen@calbar.ca.gov [Government] State Bar of California Office of the General Counsel 180 Howard Street 8th Floor San Francisco, CA 94105-1639 Ms. Carissa Noelle Andresen, Assistant General Counsel **Terminated:** 12/11/2024 Direct: 415-538-2029 Email: carissa.andresen@calbar.ca.gov [Government] State Bar of California Office of the General Counsel 180 Howard Street 8th Floor San Francisco, CA 94105-1639 Ms. Lisa Jacobs, Assistant General Counsel **Terminated:** 02/27/2025 Direct: 213-856-7457 Email: ljacobs@counsel.lacounty.gov [Government]

	Los Angeles Office of the County Counsel Kenneth Hahn Hall of Administration 500 W Temple Street 6th Floor Los Angeles, CA 90012
STATE BAR OF CALIFORNIA - OFFICE OF CHIEF TRIAL COUNSEL, named as Office of Chief Trial Counsel, individuals whose capacity in unknown Defendant - Appellee	Kirsten Galler Direct: 213-765-1008 Email: kirsten.galler@calbar.ca.gov [Government] State Bar of California 845 S Figueroa Street Los Angeles, CA 90017 Ms. Carissa Noelle Andresen, Assistant General Counsel Direct: 415-538-2029 Email: carissa.andresen@calbar.ca.gov [Government] State Bar of California Office of the General Counsel 180 Howard Street 8th Floor San Francisco, CA 94105-1639 Ms. Carissa Noelle Andresen, Assistant General Counsel **Terminated:** 12/11/2024 Direct: 415-538-2029 Email: carissa.andresen@calbar.ca.gov [Government] State Bar of California Office of the General Counsel 180 Howard Street 8th Floor San Francisco, CA 94105-1639 Ms. Lisa Jacobs, Assistant General Counsel **Terminated:** 02/27/2025 Direct: 213-856-7457 Email: ljacobs@counsel.lacounty.gov [Government] Los Angeles Office of the County Counsel Kenneth Hahn Hall of Administration 500 W Temple Street 6th Floor Los Angeles, CA 90012

PEYMAN ROSHAN,

Plaintiff - Appellant,

v.

MELANIE J. LAWRENCE, in her official capacity as Chief Trial Counsel; GEORGE S. CARDONA, Assistar
OF CALIFORNIA - OFFICE OF CHIEF TRIAL COUNSEL, named as Office of Chief Trial Counsel, individua
unknown,

Defendants - Appellees.

12/10/2024	1	**CASE OPENED.** A copy of your notice of appeal / petition filed in 4:21-cv-01235-JST has been received in the Clerk's office of the United States Court of Appeals for the Ninth Circuit. The U.S. Court of Appeals docket number **24-7429** has been assigned to this case. All communications with the court must indicate this Court of Appeals docket number. Please carefully review the docket to ensure the name(s) and contact information are correct. It is your responsibility to alert the court if your contact information changes. **Resources Available** For more information about case processing and to assist you in preparing your brief, please review the Case Opening Information (for attorneys and pro se litigants) and review the Appellate Practice Guide. Attorneys should consider contacting the court's Appellate Mentoring Program for help with the brief and argument. [Entered: 12/10/2024 02:49 PM]
12/10/2024	2 2 pg. 288 KB	**SCHEDULE NOTICE.** Appeal Opening Brief (No Transcript Due) (Appellant) 1/20/2025, Appeal Answering Brief (No Transcript Due) (Appellee) 2/18/2025. **For appeal no. 24-7429, 4:21-cv-01235-JST**. All briefs shall be served and filed pursuant to FRAP 31 and 9th Cir. R. 31-2.1. Failure of the petitioner(s)/appellant(s) to comply with this briefing schedule will result in automatic dismissal of the appeal. See 9th Cir. R. 42-1. [Entered: 12/10/2024 02:59 PM]
12/11/2024	3	**ADDED** Counsel for Appellees: Lisa Jacobs. [Entered: 12/11/2024 09:27 AM]
12/11/2024	4	**NOTICE OF APPEARANCE** by Kirsten Galler for Appellee George S. Cardona, Appellee Melanie J. Lawrence, Appellee State Bar of California - Office of Chief Trial Counsel replacing . [Entered: 12/11/2024 02:28 PM]
12/11/2024	5	Attorney Kirsten Galler as Counsel for Appellee substituted for Attorney Carissa Noelle Andresen. [Entered: 12/11/2024 02:35 PM]
2/20/2025	6 1 pg. 224 KB	**ORDER FILED.** Appellant did not file the opening brief by the due date. This appeal is therefore dismissed. See 9th Cir. R. 42-1. This order becomes the mandate of the court in 21 days. [Entered: 02/20/2025 09:43 AM]
2/20/2025	7 2 pg. 1,280 KB	**Emergency MOTION** Circuit Rule 27-3 Certificate filed by Appellant Peyman Roshan. [COURT UPDATE: Removed motion and refiled in DE 8.] [Entered: 02/20/2025 11:30 AM] [Edited: 02/20/2025 11:41 AM]
2/20/2025	8 4 pg. 224 KB	**MOTION** for Miscellaneous Relief filed by Appellant Peyman Roshan. [COURT ENTERED FILING to refile motion in DE 7] [Entered: 02/20/2025 11:38 AM]
2/27/2025	9 1 pg. 224 KB	**ORDER FILED.** This appeal was dismissed for failure to file the opening brief and a motion to reinstate has not been filed. If appellant files a motion to reinstate accompanied by the opening brief within 21 days of this order, the court will consider the motion. See 9th Cir. Gen. Order 2.4. If a motion to reinstate accompanied by the opening brief is not submitted within 21 days of this order, the mandate will become effective. All pending motions are denied as moot. [Entered: 02/27/2025 10:56 AM]
2/27/2025	10	**NOTICE OF APPEARANCE** by Carissa Noelle Andresen for Appellee George S. Cardona, Appellee Melanie J. Lawrence replacing . [Entered: 02/27/2025 02:21 PM]
2/27/2025	11	Attorney Carissa Noelle Andresen as Counsel for Appellee substituted for Attorney Lisa Jacobs. [Entered: 02/27/2025 03:45 PM]
3/20/2025	12 5 pg. 192 KB	**MOTION** to Reinstate filed by Appellant Peyman Roshan.--[Court Update: Removed brief, filed correctly at DE 13] [Entered: 03/20/2025 07:39 PM] [Edited: 03/21/2025 08:32 AM]
3/20/2025	13 72 pg. 1,280 KB	**OPENING BRIEF** submitted for filing by Appellant Peyman Roshan.--[Court er with motion at DE 12] [Entered: 03/21/2025 08:31 AM]
4/1/2025	14	**STATUS REPORT** filed by Appellant Peyman Roshan. [Entered: 04/01/2025 0

	2 pg. 192 KB	
4/2/2025	15 1 pg. 192 KB	**ORDER FILED.** The motion to reinstate this appeal (Docket Entry No. 12) is granted. The order of dismissal for failure to prosecute (Docket Entry No. 6) is vacated and the appeal is reinstated. The clerk will file the opening brief submitted at Docket Entry No. 13. The answering brief is due May 2, 2025. The optional reply brief is due within 21 days after service of the answering brief. [Entered: 04/02/2025 02:03 PM]
4/2/2025	16	Streamlined Request for Extension of Time to File Brief filed by Appellee Melanie J. Lawrence, Appellee George S. Cardona, Appellee State Bar of California - Office of Chief Trial Counsel. [Entered: 04/02/2025 02:43 PM]
4/2/2025	17	**ORDER FILED.** Streamlined Request for Extension of Time to File Brief (DE 16) granted FOR ALL APPELLEES. Amended briefing schedule: Answering Brief Due (Appellee) 6/2/2025. Optional Reply Brief due 21 days after service of Answering Brief. All briefs shall be served and filed pursuant to FRAP 31 and 9th Cir. R. 31-2.1. [Entered: 04/02/2025 03:40 PM]
4/3/2025	18	**CLERK ACTION:** Opening Brief submitted at DE 13 by Appellant Peyman Roshan is filed. [Entered: 04/03/2025 08:30 AM]
4/4/2025	19	**DEFECTIVE --- SUPPLEMENT** to Motion to Reinstate (DE 12) filed by Appellant Peyman Roshan.--[Wrong filing type, correct entry is DE 20] [Entered: 04/04/2025 12:57 PM] [Edited: 04/04/2025 01:54 PM]
4/4/2025	20 2 pg. 192 KB	**NOTICE OF ERRATA** to Opening Brief (DE 13) filed by Appellant Peyman Roshan. [Entered: 04/04/2025 01:52 PM]
5/28/2025	21 44 pg. 512 KB	**ANSWERING BRIEF** submitted for filing by Appellee Melanie J. Lawrence, Appellee George S. Cardona, Appellee State Bar of California - Office of Chief Trial Counsel. [Entered: 05/28/2025 11:06 AM]
5/28/2025	22 613 pg. 67,552 KB	**EXCERPTS OF RECORD** submitted for filing by Appellee Melanie J. Lawrence, Appellee George S. Cardona, Appellee State Bar of California - Office of Chief Trial Counsel. [Entered: 05/28/2025 11:21 AM]
5/28/2025	23 1 pg. 192 KB	**ORDER FILED.** Answering Brief submitted at DE 21 by Appellee Melanie J. Lawrence, Appellee George S. Cardona, Appellee State Bar of California - Office of Chief Trial Counsel is filed. Within 7 days of this order, Appellee must file 6 copies of the brief in paper format bound with red front cover pages. Each copy must include certification at the end that the copy is identical to the electronic version. The excerpts of record submitted at DE 22 by Appellee Melanie J. Lawrence, Appellee George S. Cardona, Appellee State Bar of California - Office of Chief Trial Counsel are filed. Within 7 days of this order, Appellee must file 3 copies of the excerpts in paper format securely bound on the left side, with white front covers. The paper copies must be sent to the Clerk's principal office. [Entered: 05/28/2025 02:53 PM]
6/2/2025	24 6 pg. 256 KB	**MOTION** to Extend Time to File Brief filed by Appellant Peyman Roshan. [Entered: 06/02/2025 03:24 PM]
6/3/2025	25	**NOTICE:** This case is being considered for an upcoming oral argument calendar in San Francisco. Please review the San Francisco sitting dates for October 2025 and the subsequent sitting month in that location at http://www.ca9.uscourts.gov/court_sessions. Absent an irreconcilable conflict, the court expects you to appear and argue your case during one of these two months. If you have an irreconcilable conflict on any of the dates, please consult with opposing counsel to propose an alternate date and/or location and file Form 32 (http://www.ca9.uscourts.gov/forms/form32.pdf) within 3 business days of this notice using the ACMS filing type **Response to Case Being Considered for Oral Argument**. Please follow the form's instructions (http://www.ca9.uscourts.gov/forms/form32instructions.pdf) carefully. If the parties wish to discuss settlement before an argument date is set, they should jointly request referral to the mediation unit by filing a motion within 3 business days of this notice, using the filing type: **Motion to Refer to Mediation**. You will receive notice that your case has been assigned to a calendar approxi the scheduled oral argument date. [24-7429] [Entered: 06/03/2025 02:05 PM]

6/4/2025	26	Paper copies (6) of Answering Brief submitted at DE 21 by Appellee Melanie J. Lawrence, Appellee George S. Cardona, Appellee State Bar of California - Office of Chief Trial Counsel received. [Entered: 06/04/2025 03:53 PM]
6/4/2025	27	Paper copies (3) of Excerpts of Record in 4 Volumes and Index Volume submitted at DE 22 by Appellee Melanie J. Lawrence, Appellee George S. Cardona, Appellee State Bar of California - Office of Chief Trial Counsel received. [Entered: 06/04/2025 03:55 PM]
6/6/2025	28	**DEFECTIVE---MOTION** to Extend Time to File Brief filed by Appellee Melanie J. Lawrence, Appellee George S. Cardona, Appellee State Bar of California - Office of Chief Trial Counsel. [Wrong filing type used, correct entry is DE 30.] [Entered: 06/06/2025 03:16 PM] [Edited: 06/13/2025 11:57 AM]
6/6/2025	30 10 pg. 2,396 KB	**RESPONSE** to Motion to Extend Time to File Brief (DE 24) filed by Appellee Melanie J. Lawrence, Appellee George S. Cardona, Appellee State Bar of California - Office of Chief Trial Counsel. [COURT ENTERED FILING to correct DE 24.] [Entered: 06/13/2025 11:54 AM]
6/13/2025	29	**DEFECTIVE---SUPPLEMENT** to Motion to Extend Time to File Brief (DE 24) filed by Appellant Peyman Roshan. [Wrong filing type used, correct entry is DE 31.] [Entered: 06/13/2025 11:36 AM] [Edited: 06/13/2025 11:58 AM]
6/13/2025	31 15 pg. 3,595 KB	**REPLY** to Response to Motion to Extend Time (DE 30) filed by Appellant Peyman Roshan. [COURT ENTERED FILING to correct DE 29.] [Entered: 06/13/2025 11:56 AM]
6/20/2025	32 1 pg. 192 KB	**ORDER FILED.** The motion (Docket Entry No. 24) for an extension of time to file the reply brief is granted in part. The optional reply brief is due July 18, 2025. [Entered: 06/20/2025 03:42 PM]
7/18/2025	33 37 pg. 768 KB	**REPLY BRIEF** submitted for filing by Appellant Peyman Roshan. [Entered: 07/18/2025 03:08 PM]
7/21/2025	34 1 pg. 192 KB	**ORDER FILED.** Reply Brief submitted at DE 33 by Appellant Peyman Roshan is filed. Within 7 days of this order, Appellant must file 6 copies of the brief in paper format bound with gray front cover pages. Each copy must include certification at the end that the copy is identical to the electronic version. The paper copies must be sent to the Clerk's principal office. [Entered: 07/21/2025 10:11 AM]
8/6/2025	35 1 pg. 192 KB	**ORDER FILED.** The portion of the order filed on July 21, 2025 (DE 34) directing Appellant Peyman Roshan to file paper copies of the brief was issued in error and is vacated. No paper copies of the pro se brief are required. The reply brief remains filed. [Entered: 08/06/2025 02:21 PM]
4/22/2026	36 16 pg. 354 KB	**MOTION** to Expedite filed by Appellant Peyman Roshan. [Entered: 04/22/2026 11:36 PM]
5/5/2026	37 7 pg. 680 KB	**MEMORANDUM DISPOSITION** (M. Margaret McKEOWN, N. Randy SMITH, Holly A. THOMAS) **AFFIRMED.** Roshan's motion to expedite (Dkt. No. 36) is **DENIED** as moot. FILED AND ENTERED JUDGMENT. [Entered: 05/05/2026 11:36 AM]
5/7/2026	38	**DEFECTIVE---MOTION** to Extend Time to File Motion filed by Appellant Peyman Roshan. [Wrong filing type used, includes incorrect case number; refiled correctly at DE 39.] [Entered: 05/07/2026 12:18 PM] [Edited: 05/07/2026 02:25 PM]
5/7/2026	39 7 pg. 1,737 KB	**MOTION** to Extend Time to File Petition for Rehearing filed by Appellant Peyman Roshan. [COURT ENTERED FILING to correct DE 38.] [Entered: 05/07/2026 02:23 PM]
5/8/2026	40	**TEXT CLERK ORDER.** Appellant Peyman Roshan's motion to extend time to file a petition for panel rehearing and rehearing en banc (Dkt. No. 39) is denied. [Entered: 05/08/2026 04:46 PM]
5/11/2026	41 2 pg. 244 KB	**Emergency MOTION** Circuit Rule 27-3 Certificate filed by Appellant Peyman Roshan. [Entered: 05/11/2026 02:22 PM]
5/11/2026	42 7 pg. 238 KB	**MOTION** to Stay Proceedings in this Court filed by Appellant Peyman Roshan. 02:23 PM]

5/15/2026	43 1 pg. 187 KB	**NOTICE** of Delay filed by Appellant Peyman Roshan. [Entered: 05/15/2026 02:12 PM]
5/18/2026	44 1 pg. 232 KB	**NOTICE** of Delay filed by Appellant Peyman Roshan. [Entered: 05/18/2026 11:57 AM]
5/19/2026	45 1 pg. 186 KB	**NOTICE** of Delay filed by Appellant Peyman Roshan. [Entered: 05/19/2026 11:59 AM]
5/20/2026	46 1 pg. 185 KB	**ORDER FILED.** M. Margaret McKEOWN, N. Randy SMITH, Holly A. THOMAS Appellant Peyman Roshan's motion to stay the proceedings in this court (Dkt. No. 42) is DENIED. To the extent the notices of delay (Dkt. Nos. 43–45) request any further relief, those requests are also DENIED. [Entered: 05/20/2026 09:15 AM]
5/20/2026	47 7 pg. 251 KB	**MOTION** to Stay Mandate filed by Appellant Peyman Roshan. [Entered: 05/20/2026 12:38 PM]
5/21/2026	48	**TEXT CLERK ORDER.** Appellant Peyman Roshan's motion to stay the mandate (Dkt. No. 47) is denied. [Entered: 05/21/2026 01:49 PM]

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Include Page Numbers

Selected Pages: 0 **Selected Size:** 0 KB

Totals reflect accessible documents only and do not include unauthorized restricted documents.

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U.S. Court of Appeals for the 9th Circuit - 05/23/2026			
PACER Login:	peymanroshan	**Client Code:**	
Description:	ACMS Case Summary	**Search Criteria:**	24-7429
Billable Pages:	5	**Cost:**	$0.50

NOT FOR PUBLICATION

FILED

MAY 5 2026

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

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

PEYMAN ROSHAN,

Plaintiff - Appellant,

v.

MELANIE J. LAWRENCE, in her official capacity as Chief Trial Counsel; GEORGE S. CARDONA; STATE BAR OF CALIFORNIA - OFFICE OF CHIEF TRIAL COUNSEL, named as Office of Chief Trial Counsel, individuals whose capacity in unknown,

Defendants - Appellees.

No. 24-7429

D.C. No.
4:21-cv-01235-JST

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Jon S. Tigar, District Judge, Presiding

Submitted April 30, 2026**

Before: McKEOWN, N.R. SMITH, and H.A. THOMAS, Circuit Judges.

Peyman Roshan appeals the district court's order dismissing his claims

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

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

against Melanie Lawrence, George Cardona, and the Office of Chief Trial Counsel ("OCTC") of the California State Bar. We review de novo a district court's dismissal for lack of subject matter jurisdiction under the *Rooker-Feldman* doctrine. *Searle v. Allen*, 148 F.4th 1121, 1128 (9th Cir. 2025). We also review de novo a dismissal for lack of Article III standing. *Satanic Temple v. Labrador*, 149 F.4th 1047, 1050 (9th Cir. 2025). We have jurisdiction under 28 U.S.C. § 1291. We affirm.

1. The majority of Roshan's claims are barred by the *Rooker-Feldman* doctrine. This doctrine "prohibits federal district courts from considering 'de facto appeals'—suits in which 'the adjudication of the federal claims would undercut the state ruling.'" *Searle*, 148 F.4th at 1128 (quoting *Bianchi v. Rylaarsdam*, 334 F.3d 895, 898 (9th Cir. 2003)). We have held that an attorney's as-applied claims challenging the State Bar's attorney discipline system constituted "a de facto appeal of the Supreme Court of California's denial of [a] petition for review" barred by the *Rooker-Feldman* doctrine. *Scheer v. Kelly*, 817 F.3d 1183, 1186 (9th Cir. 2016).[1] The district court therefore correctly barred Roshan's claims that challenged "the application of the state bar rules at issue . . . during specific

[1] The Supreme Court's brief reference to the *Rooker-Feldman* doctrine in *Reed v. Goertz*, 598 U.S. 230 (2023), did not overrule *Scheer*, *see id.* at 234–35. Nor did *Pell v. Nuñez*, 99 F.4th 1128 (9th Cir. 2024), which did not involve a state court judgment, *id.* at 1131, 1135 n.3.

attorney disciplinary proceedings" or sought "to overturn Roshan's own prior disciplinary order."

2. Roshan's general challenges for prospective relief fail for lack of Article III standing. The suspension and revocation of Roshan's professional licenses, while having a continuing adverse effect on Roshan, are not redressable by judicial relief due to the *Rooker-Feldman* doctrine and therefore cannot be cited to establish standing. *See Stavrianoudakis v. U.S. Fish & Wildlife Serv.*, 108 F.4th 1128, 1136 (9th Cir. 2024) (injuries cited to establish standing need to "likely be redressed by judicial relief"). Nor did Roshan's conjecture that the OCTC may bring further disciplinary actions against him establish a sufficient likelihood of future injury required to support Article III standing. *See id.* at 1142. The district court therefore correctly dismissed Roshan's general challenges for prospective relief.

AFFIRMED.[2]

[2] Roshan's motion to expedite (Dkt. No. 36) is **DENIED** as m

DECLARATION OF PEYMAN ROSHAN

I, Peyman Roshan, declare as follows:

1. I am a member of the State Bar of State of California and I have personal knowledge of each fact stated in this declaration.
2. This action is a 42 U.S.C. §1983 post-judgment lawsuit challenging the constitutional deficiencies of California State Bar attorney disciplinary proceedings. On December 9, 2021, the District Court Judge Tigar dismissed that challenge on Eleventh Amendment, standing, and *Rooker-Feldman* doctrine grounds; a true and correct copy is attached as Appendix ("App.") 1a-16a. A true and correct copy of the following District Court order are attached: May 23, 2023 filed dismissal order in App. 17a-27a; and June 17, 2024 filed dismissal order in App. 28a-33a. The District Court Clerk's Judgment filed on June 17, 2024 is attached in App. 34a.
3. A true and correct copy of the docket showing on December 10, 2024 a copy of my notice of appeal was filed in the Ninth Circuit; my appeal was being considered for oral argument was filed on June 3, 2025; briefing was completed on July 21, 2025; and even though I filed a motion to expedite on April 22, 2026, the Ninth Circuit had not then not advanced the appeal any farther is attached in App. 38a-44a.
4. This case arises from a disciplinary action brought by Lawrence who headed, and her successor Cardona who heads, the OCTC,

against me at a time and in a manner which revealed in stark relief the facial constitutional inadequacies of the SBOC's State Bar Court, which were in relevant part implemented, interpreted, and enforced due to broad-based corruption of the SBOC by Thomas Girardi ("Girardi") as detailed in a series of exposés by the *Los Angeles Times*. I detail this history in his Petition for Writ of Certiorari to this Court in an entirely different case with the same name. *Roshan v. Lawrence*, No. 24-586, filed September 16, 2024 (denied on January 27, 2025).

5. On March 20, 2025, I filed an opening brief in the Ninth Circuit arguing, inter alia, the District Court erred for failing to apply the *Noel v. Hall,* 341 F.3d 1148 (9th Cir. 2003) two-step test for the application of the *Rooker-Feldman* doctrine; and for refusing to recognize this Court's decision in *Reed v. Goertz*, 143 S.Ct. 955 (2023) confirming the *Rooker-Feldman* doctrine is inapplicable to suits challenging the constitutionality of state court's authoritative construction of a state rule as applied to the federal plaintiff and the judgment upon which it relies.
6. On May 4, 2026, I submitted to this Court an Application for Injunction pending appeal in the Ninth Circuit due to the extraordinary delay in the Ninth Circuit to advance the appeal.
7. On May 5, 2026, that Ninth Circuit issued a Memorandum Disposition affirming the dismissal and denying as moot the April 22, 2026 motion to expedite. The Memorandum does not address my Supremacy Clause challenges to the California Supreme Court attorney discipline judgment. Instead, the Ninth

Circuit held the *Rooker-Feldman* doctrine prohibits federal district courts from considering claims that undercut the state ruling. App. 45a-47a.

8. On May 7, 2026, I filed a motion to extend time to file petition for rehearing and rehearing on banc based on the identified related *Rooker-Feldman* cases to be decided in this Court. App. 43a.
9. On May 8, 2026, the Clerk issued a text order denying the motion in ¶ 8, above, to extend time. App. 43a.
10. On May 11, 2026, I filed an emergency motion to stay the proceedings pending the outcome of the related *Rooker-Feldman* cases in this Court, expressly requesting relief by May 13, 2026. App. 43a.
11. On May 12, 2026, the Clerk of this Court sent a letter to Roshan returning his application for an injunction in this case for his failure to have first sought the injunction in the Ninth Circuit (citing Rule 23.3).
12. On May 15, 18, and 19, 2026, having not received a decision on that emergency motion by the requested May 13, 2026 date, I filed successive notices of delay regarding that emergency motion. The notices also requested, if the emergency motion to stay is to be denied, that additional days are added to the 14-day deadline to file a petition for rehearing and rehearing en banc; which deadline was on May 19, 2026. App. 44a.

13. On May 20, 2026, I filed a motion to stay issuance of mandate and, in the event of denial, for an extension of time to file petition for rehearing, App. 44a; and submitted to this Court a renewal of his application for an injunction be made to Justice Sonia Sotomayor.

14. On May 21, 2026, after the deadline to petition for rehearing had passed, the Ninth Circuit filed its order denying the emergency motion to stay the proceedings and denying the additional days requested to file the petition for rehearing. App. 44a.

15. This Court has two cases which, when decided, may affect the *Rooker-Feldman* analysis below: *Pung v. Isabella Cty., Mich.*, U.S. Sup. Ct. No. 25-95 ("*Pung*") and *T.M. v. University of Maryland Medical System Corporation*, S. Ct. Docket No. 25-197 ("*T.M.*").

16. During the pendency of this appeal, this Court granted a petition for certiorari and heard oral argument in *T.M.*; I followed the briefing and oral argument along with a *T.M.* amicus, Mr. Cyrus Sanai.

17. On June 6, 2025, I filed in the District Court a motion for an indicative ruling on the effect of *Williams* on that Court's *Rooker-Feldman* analysis; which motion also cites *Jamgotchian v. Ferraro,* 93 F.4th 1150 (9th Cir. 2024), in which the Ninth Circuit held state judicial exhaustion does not apply to lawsuits in federal courts because under California law all

administrative bodies lack jurisdiction to determine constitutional claims.

18. On July 2, 2025, the District Court denied the motion in ¶ 13 above, stating:

> Roshan asks the Court for an indicative ruling that this Court would grant his Rule 60(b) motion if the Ninth Circuit remands the case or that the Rule 60 motion raises a substantial issue. He argues that the Court incorrectly applied the *Rooker-Feldman* doctrine to bar his claims, as reflected by the U.S. Supreme Court's recent decision in *Williams v. Reed*, 604 U.S. ----, 145 S. Ct. 465 (2025).1 *See generally* ECF No. 229.
>
> The Court has reviewed Roshan's request and concludes that it lacks merit. Roshan's motions under Rule 62.1 are therefore denied.
>
> "[T]he purpose of Rule 62.1[(a)] is to promote judicial efficiency and fairness by providing a mechanism for the district court to inform the parties and the court of appeals how it could rule on a motion made after the district court has been divested of jurisdiction." *Harper v. Charter Commc'ns, LLC,* No. 2:19-CV-00902 WBS DMC, 2024 WL 3901469, at *1 (E.D. Cal. Aug. 22, 2024) (quoting *Amarin Pharms. Ir. Ltd. v. FDA*, 139 F. Supp. 3d 437, 447 (D.D.C. 2015)). As Defendants point out, "Plaintiff is not presenting newly discovered evidence or any other issue that this Court would be in any better position than the Ninth Circuit to decide. Rather, he is asking this Court to consider the same question (i.e., does *Rooker-Feldman* apply) that is at issue in his pending appeal." ECF No. 230 at 6. Under these

> circumstances, issuing an indicative ruling would not promote judicial efficiency and fairness because the Ninth Circuit may address the newly cited case by Roshan in the first instance, and if this Court issued an indicative ruling, "that would likely delay the previously scheduled proceedings in front of the Ninth Circuit." *Harper*, 2024 WL 3901469, at *2.

A true and correct copy of the District Court's July 2, 2025 denial of my motion for indicative ruling is attached in App. 35a-37a.

19. My State Bar license suspension period has passed. The only barrier to having my license reinstated is payment of outstanding charges including costs assessed as against me because I did not prevail in his state challenges to the state disciplinary process.

20. In 2025, the SBOC offered licensees with outstanding debt, including such costs charged against me, to settle the debt. On April 4, 2025, I emailed opposing counsel, Carissa Andresen, asking if SBOC would stipulate to not raise any arguments in federal court relating to any loss of standing or some other procedural barrier by virtue of my acceptance of this settlement offer and payment of his disciplinary debt. On May 2, 2025, Ms. Andresen responded the SBOC will not so stipulate.

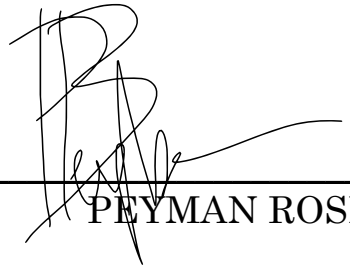
21. On April 4, 2025, Roshan emailed opposing counsel, Carissa Andresen, asking if SBOC would stipulate to not raise any arguments in federal court relating to any loss of standing or some other procedural barrier by virtue of my acceptance of this settlement offer and payment of his disciplinary debt. On

May 2, 2025, Ms. Andresen responded the SBOC will not so stipulate.

22. In April 2026, given the over one year delay for the Ninth Circuit to advance his case, hoping to move the case forward, I asked opposing counsel about her client's position on a motion to expedite the appeal. Opposing counsel replied that Appellees do not consent to expedite.

23. Of the various briefs submitted to this Court in support of T.M., only the brief of the Constitutional Accountability Center discussed the jurisdictional impact of 42 U.S.C. §1983. Part of the problem in addressing this point was that the invocation of this statute in the Complaint by T.M. could not be verified until the Joint Appendix was filed, as the unredacted copy of the Complaint could not, in fact, be obtained from the Pacer docket.

I declare under the laws of the United States that the foregoing is true and correct. Executed on May 25, 2026 in Santa Rosa, California.

By: 
PEYMAN ROSHAN