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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 25A1319

Roshan v. Sunquist, et al.
USCA9 No. 25-3157
Application No. 25A1319

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 Ketanji Brown Jackson**.**

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) ("*Beggerly*").

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.

In her prior career as a professor of law, Justice 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 litigating in the lower courts. 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 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.

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, a week before amicus brief on her side were due. T.M.'s original counsel did assert 42 U.S.C. ¶1983 as a jurisdictional ground for her lawsuit. 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 before this Court, 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.

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.

CHIKA SUNQUIST, DOUGLAS R. MCCAULEY, AND CALIFORNIA DEPARTMENT OF REAL ESTATE,

Respondents.

On Application for Stay Pending Filing of Petitions for Certiorari
Case No. 25-3157

APPLICATION FOR ADMINISTRATIVE STAY, TO BE ISSUED IMMEDIATELY OR NO LATER THAN MAY 27, 2026, AND STAY OF 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, 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, 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 appeal was timely under 28 U.S.C. §2107(a) .

III. SUMMARY OF GROUNDS FOR APPLICATION

This action is a 42 U.S.C. §1983 post-judgment lawsuit challenging the constitutional deficiencies in the California Department of Real Estate ("DRE") licensee proceedings reciprocally instituted from California State Bar attorney disciplinary proceedings against him which violate the Fourteenth Amendment and the Supremacy Clause. The District Court Judge Tigar dismissed that challenge on Eleventh Amendment, standing, and *Rooker-Feldman* doctrine grounds. Roshan Declaration ("Decl.") ¶2, App. 1a-10a.

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

against Roshan is based, are void ab initio and a nullity under *Haywood v. Drown*, 556 U.S. 729 (2009) ("*Haywood*") as interpreted by *Williams v. Reed,* 145 S.Ct 465 (2025), because California law eliminates the jurisdiction of California state courts to consider 42 U.S.C. §1983 lawsuits challenging State Bar disciplinary proceedings on the same basis as they are regularly heard in California Superior Courts and Courts of Appeal. The reciprocal DRE disciplinary order which was exclusively based on the State Bar proceedings and California Supreme Court disciplinary order is, therefore, without legal effect.

The DRE proceedings, and indeed all California professional license disciplinary proceedings outside the sui generis scheme for attorneys, violate the Supremacy Clause for a different and independent reason. All such proceedings are subject to judicial exhaustion, which is a more elaborate cousin to administrative exhaustion. In *Jamgotchian v. Ferraro,* 93 F.4th 1150 (9th Cir. 2024), a Ninth Circuit three-judge panel overruled prior authority and held that such exhaustion is unconstitutional when asserted under a 42 U.S.C. §1983 in federal court. However, the Ninth Circuit has so far refused to acknowledge that *Williams* invalidates DRE proceedings because it

refuses to apply *Williams* beyond its administrative exhaustion context. See *Roshan v. McCauley* 130 F.4th 780 (9th Cir. 2025).

In this case, the Ninth Circuit never reached these issues directly, because it affirmed the District Court's dismissal of the case under an interpretation of the *Rooker-Feldman* doctrine that refuses to recognize the impact of *Reed of Goertz.* Indeed, in a decision last year, *Searle v. Allen*, 148 F.4th 1121, (9th Cir. 2025), the Ninth Circuit rolled back its interpretation of the *Rooker-Feldman* doctrine to the broad interpretation prevalent prior to *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.,* 544 U.S. 280 (2005). Now, under the post *Searle* interpretation, *Rooker-Feldman* applies if it suit "undercuts" a prior state court judgment. *Searle* at 1128; see Mem Disp. at App. 12a.

This Court is faced with the Ninth Circuit's rollback because in *Searle*, the Ninth Circuit held that a challenge to state tax-sale statutes is barred in federal court by the *Rooker-Feldman* doctrine. Decl. ¶3. This Court is addressing the constitutionality of a similar statute in *Pung*. Decl. ¶3. As Roshan pointed out in his amicus brief in *Pung*, if the Ninth Circuit is correct in *Searle*, this Court cannot reach the merits on *Pung* because it lacks subject matter jurisdiction under

Searle's view of the broad applicability of *Rooker-Feldman*.

In *T.M.*, this Court is considering the continued viability of the *Rooker-Feldman* doctrine. Decl. ¶4.

Accordingly the outcome of both *Pung* and *T.M.* are relevant to the outcome of this appeal. Decl. ¶5. However, the Ninth Circuit refuses to stay the case to allow Roshan to address the effect of this Court's forthcoming decisions before he petitions for rehearing.

Beginning on May 11, 2026, Roshan began filing motions for stays for purposes of presenting this Court's *Pung* and *T.M.* opinions once issued. Decl. ¶6. These were denied. Most relevant to this application, on May 20, 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. Roshan Decl. ¶17, App. 14a.

IV. STATEMENT OF CASES

A. Parties to the Proceeding

Petitioner (plaintiff-appellant below) is Peyman Roshan.

Respondents (defendants-appellees below) are Chika Sunquist sued in her personal capacity and in her official capacity as the

Commissioner of the California DRE, Douglas R. McCauley sued in his personal capacity and in his official capacity as the Commissioner of the California DRE, and the California DRE.

B. Procedural History of This Case

This case arises from a reciprocal disciplinary proceeding brought by the California DRE, which resulted in a disciplinary recommendation made to the DRE Commissioner McCauley, and his successor, Sunquist; and which recommendation Sunquist adopted in her disciplinary order. Sunquist's disciplinary order is exclusively based on a disciplinary action brought by Lawrence and her successor Cardona, who lead the Office of Chief Trial Counsel ("OCTC"), against Roshan at a time and in a manner which revealed in stark relief the facial constitutional inadequacies of the State Bar of California's ("SBOC") 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 Roshan brought against the SBOC, Lawrence, Cardona, and the OCTC. *Roshan v.*

Lawrence, No. 24-586, filed September 16, 2024 (denied on January 27, 2025). Decl. ¶18.

Roshan's complaint for relief under, inter alia, 42 U.S.C. §1983 was dismissed without prejudice based on the application of the *Rooker-Feldman* doctrine and Eleventh Amendment Immunity. Decl. ¶14, App. 1a-8a. Roshan's First Amended Complaint was dismissed for making the same claims against the same defendants and seeking the same relief as the complaint already dismissed. Decl. ¶15, App. 9a-10a.

Roshan timely appealed presenting, inter alia, the following *Rooker-Feldman* doctrine issues, i.e., the propriety of applying the doctrine when:

(1) the Supremacy Clause is alleged violated by the State Bar of California under *Williams v. Reed*, 604 US 168, 145 S. Ct. 465 (2025) ("*Williams v. Reed*") , and the challenged Department of Real Estate ("DRE") reciprocal disciplinary proceedings are exclusively based on the void ab initio State Bar proceedings;

(2) *Reed v. Goertz*, 598 U.S. 230 (2023) and *Pell v. Nunez*, 99 F.4th 1128 (9th Cir. 2024) hold that doctrine inapplicable when the federal plaintiff' challenges the state rules as authoritatively

construed rather than directly challenging the state court judgment, and that Roshan's challenge is not of a state court judgment but of a reciprocal disciplinary DRE commissioner order based exclusively on the construction of an alleged unconstitutional State Bar proceeding and disciplinary recommendation, and that under *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.,* 544 U.S. 280 (2005) , legal conclusions of a state decision may be challenged; and,

(3) *ReadyLink Healthcare, Inc. v. State Comp. Ins. Fund*, 754 F.3d 754 (9th Cir. 2014) and *DeVilliers v. Texas*, 601 U.S. 285 (2024) show the District Court has original jurisdiction over an administrative writ of mandamus proceeding granted under state law.

Decl. ¶10.

Appellees' answer argues, inter alia, the *Rooker-Feldman* doctrine applies whenever the federal actions seeks to "reverse or nullify" a state court judgment. Decl. ¶11. In support, Appellees point to Roshan's complaint which seeks to hold the State Bar proceedings and the order upon which they were based as void ab initio; and that because the DRE

commissioner's disciplinary order is exclusively based on the State Bar alleged void order, it too should be deemed void and overturned. *Id.* They attempt to distinguish *Reed v. Goertz*, *Pell v. Nunez*, and *Exxon Mobil*, by applying their incorrect view that anytime the challenged state action, even if not by a court but, as in this case, by the DRE commissioner, is sought to be overturned, *Rooker-Feldman* applies. Roshan Decl. ¶11. They incorrectly assert "In both *Reed* and *Pell*, the plaintiffs did not challenge any state decision against the plaintiff." *Id.*

As to *Williams v. Reed*, Appellees represent its holding to be that the Supremacy Clause violation occurs when the federal "plaintiffs "can *never* challenge delays in the administrative process," and such a result effectively immunizes government's unlawful conduct" (citing *Williams* at 172 (emphasis in case opinion). Roshan Decl. ¶11. Accordingly, they incorrectly conclude "Here, unlike in *Williams*, there is no state law that precludes Roshan from bringing a §1983 action in either state or federal district court to argue the unconstitutionality of the State Bar disciplinary process." *Id.*

Roshan's reply asserts "*Williams v. Reed* broadly held that any procedural barrier which effectively immunizes a class of state

defendants from immunity under 42 U.S.C. §1983 in state court violates the Supremacy Clause," Roshan Decl. ¶12; and that this Court will be addressing the applicability of the *Rooker-Feldman* doctrine in *T.M.* and *Pung* (in both of which cases Mr. Cyrus Sanai, and the latter of which case, Roshan, filed amici briefs proposing abolishment or a new *Rooker-Feldman* test). Roshan Decl. ¶12.

Roshan's reply also cites *Jamgotchian v. Ferraro,* 93 F.4th 1150 (9th Cir. 2024) holding that judicial exhaustion does not apply to 42 U.S.C. §1983 lawsuits in federal courts because under California law all administrative bodies lack jurisdiction to determine constitutional claims; and that the Ninth Circuit did not dispute that the judicial exhaustion rule operates as a barrier to 42 U.S.C. §1983 lawsuits in state court if the mandamus procedure is not followed. Roshan Decl. ¶12.

On May 5, 2026, the Ninth Circuit panel issued a memorandum disposition applying, inter alia, the *Rooker-Feldman* doctrine by citing *Searle v. Allen*, 148 F.4th 1121, (9th Cir. 2025) , holding:

> 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 v. Allen*, 148 F.4th 1121, 1128 (9th Cir. 2025)

> (quoting *Bianchi v. Rylaarsdam*, 334 F.3d 895, 898 (9th Cir. 2003)). Though he has sued he DRE, Sunquist, and McCauley, Roshan seeks a de facto appeal of the California Supreme Court's decision to deny review of the California State Bar disciplinary order at the foundation of the defendants' actions. His claims are analogous to those dismissed in *D.C. Ct. of Appeals v. Feldman*, 460 U.S. 462 (1983), *see id.* at 486–87. *Williams v. Reed*, 604 U.S. 168 (2025), does not alter this analysis, *id.* at 179.

Decl. ¶16, App. 12a-13a; citing *Searle* at 1128, quoting *Bianchi v. Rylaarsdam*, 334 F.3d 895, 898 (9th Cir. 2003)).

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. ¶6.

On May 15, 18, and 19, 2026, having not received a decision on that emergency motion by the requested May 13, 2026 date, Roshan 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. Decl. ¶7.

On May 20, 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. Roshan Decl. ¶17, App. 14a.

On May 21, 2026, in a text clerk order, the Court denied the motion to stay mandate. Roshan Decl. ¶13, App. 19a.

V. ARGUMENT

A. Overview

It is clear from oral argument in *T.M.* that at least some justices are looking at the fundamental basis for the application of 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 both the DRE disciplinary order and the underlying California Supreme Court attorney discipline judgment upon which the DRE opinion is exclusively based. Instead, the Ninth Circuit held the *Rooker-Feldman* doctrine prohibits federal district courts from considering claims that undercut the state ruling. Roshan Decl. ¶14, App. 12a.

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 *Searle*, as discussed in the joint brief of Roshan and Cyrus Sanai submitted in that case. Because the Ninth Circuit in *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 Ninth Circuit refuses to allow Roshan the extra time to present this Courts ultimate decision to it. A stay 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 this Court's rules do not contemplate it.

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

B. 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 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 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]

[1] During oral argument in *T.M.* Justice Sotomayor asked why a federal

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,

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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 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) .

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 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.

C. In *Jamgotchian*, The Ninth Circuit Held Judicial Exhaustion Is Inapplicable to 42 U.S.C. §1983 Claims Because California Law Prohibits Administrative Agencies From Deciding Constitutional Claims.

California state courts have multiple barriers for a plaintiff seeking to file a 42 U.S.C. §1983 claims in state court that address administrative proceedings. California anticipated the United States Supreme Court decision in *Patsy v. Board of Regents of the State of Florida*, 457 U.S. 496 (1982) by holding that 42 U.S.C. §1983 claims are not subject to administrative exhaustion. *See Williams v. Horvath*, 16 Cal.3d 834 (1976). But the California Supreme Court created a replacement for administrative exhaustion: judicial exhaustion. *Westlake Community Hosp. v. Superior Court*, 17 Cal.3d 465, 484

(1976). Under this theory, which was adopted by other states, an administrative proceeding had preclusive effect if the party did not challenge the administrative proceeding via the appropriate judicial remedy, which in most scenarios in California is a petition for writ of administrative mandamus.

The Ninth Circuit accepted the validity of the judicial exhaustion requirement in Hawaii professional licensing matters in *Misischia v. Pirie*, 60 F.3d 626, 629 (9th Cir.1995), and applied it to California professional licensing matters in a series of unpublished decisions. However, in *Jamgotchian v. Ferraro*, 93 F.4th 1150 (9th Cir. 2024), the Ninth Circuit held that judicial exhaustion does not apply to 42 U.S.C. §1983 lawsuits in federal courts because under California law all administrative bodies lack jurisdiction to determine constitutional claims. *See Jamgotchian*, *supra*. The Ninth Circuit, however, did not dispute that the judicial exhaustion rule operates as a barrier to 42 U.S.C. §1983 lawsuits in state court if the mandamus procedure is not followed.

D. 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. Justs. of Sup. Ct. of State of Cal.,* 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.

E. 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").

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 support the delay the determination it is conducting itself violatively.

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.

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APPENDIX

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

PEYMAN ROSHAN,

Plaintiff,

v.

CHIKA SUNQUIST, et al.,

Defendants.

Case No. 24-cv-02789-JST

ORDER GRANTING DEFENDANTS' MOTION TO DISMISS; ORDER CONTINUING CASE MANAGEMENT CONFERENCE

Re: ECF No. 15

Before the Court is Defendants Chika Sunquist, Douglas McCauley, and the California Department of Real Estate's ("DRE") motion to dismiss. ECF No. 15. The Court will grant the motion.

I. BACKGROUND

This case arises from Plaintiff Peyman Roshan's State Bar and reciprocal DRE disciplinary proceedings. In December 2018, the Office of Chief Trial Counsel issued a notice of disciplinary charges against Roshan, charging him with 19 counts of misconduct based on his representation of a client with whom he developed a business relationship. ECF 15-1 at 58. On April 9, 2019, the Office of Chief Trial Counsel filed an amended notice of disciplinary charges, adding two additional counts relating to that same matter. *Id.* In July 2020, Roshan filed his first action in this Court against Melanie Lawrence, Chief Trial Counsel, and the Office of Trial Counsel, alleging the State Bar disciplinary system is unconstitutional. *Id.* at 40. The Court granted defendants' motion to dismiss on *Younger* abstention grounds, given that his State Bar disciplinary proceedings were ongoing. *Id.* at 68. The Ninth Circuit affirmed the Court's order. *Id.* at 70–77.

After his State Bar proceedings concluded, Roshan filed a second action against Lawrence and the Office of Chief Trial Counsel, in which he again alleged the disciplinary proceedings

against him by the State Bar violated his due process rights. *Id.* at 79. The Court granted defendants' motion to dismiss. *Id.* at 127. The Court first ruled that all of "Roshan's claims against the Office of Chief Trial Counsel were barred by the Eleventh Amendment," as were his claims for retroactive (but not prospective relief against the Chief Trial Counsel). *Id.* at 101–102. Next, the Court ruled that the *Rooker-Feldman* doctrine barred Roshan's claims to the extent they challenged "*the application* of the state bars rules at issue, which he alleges are unconstitutional, during *specific* attorney disciplinary proceedings, including his own." *Id.* at 104. Finally, the Court found that Roshan failed to allege facts demonstrating he had standing to pursue his remaining facial claims for prospective relief. *Id.* at 105–108. The Court granted Roshan leave to amend to show he had Article III standing to assert a facial challenge to the State Bar rules at issue. *Id.* at 109. Roshan failed to do so and eventually the Court dismissed his claims with prejudice. *Id.* at 291.

On December 20, 2022, the DRE filed an accusation against Roshan, seeking to suspend or revoke Roshan's real estate license based upon the California Supreme Court's 2021 order suspending Roshan's license to practice law. *Id.* at 230–31. Roshan then filed his third action in this Court against Douglas R. McCauley, the Commissioner of the DRE, while his reciprocal DRE discipline proceedings were pending. *Id.* at 191. The Court dismissed the action on *Younger* abstention grounds. *Id.* at 239–240.

On December 18, 2023, an ALJ issued an order proposing the DRE revoke Roshan's DRE license and pay the DRE $4,133.85 in costs. ECF No. 1 ¶ 56. On January 23, 2024, the DRE issued a decision adopting the ALJ's proposal and denied Roshan's subsequent motion for reconsideration. *Id.* ¶¶ 56, 57. Roshan now brings this action against Sunquist, McCauley, and the DRE challenging the revocation of his real estate license. ECF No. 1. Specifically, Roshan brings three causes of action for: (1) violation of civil rights under 42 U.S.C. § 1983 against Sunquist and McCauley; (2) declaratory judgment against all Defendants; and (3) writ of mandamus against DRE and Sunquist. *Id.*

II. REQUEST FOR JUDICIAL NOTICE

"Generally, district courts may not consider material outside the pleadings when assessing

the sufficiency of a complaint under Rule 12(b)(6) of the Federal Rules of Civil Procedure." *Khoja v. Orexigen Therapeutics, Inc.*, 899 F.3d 988, 998 (9th Cir. 2018). Judicial notice provides an exception to this rule. *Id.*

Pursuant to Federal Rules of Evidence 201(b), "[t]he court may judicially notice a fact that is not subject to reasonable dispute because it: (1) is generally known within the trial court's territorial jurisdiction; or (2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned." If a fact is not subject to reasonable dispute, the court "must take judicial notice if a party requests it and the court is supplied with the necessary information." Fed. R. Evid. 201(c)(2).

Defendants request the Court take judicial notice of 17 documents: (1) the State Bar Review Department's opinion regarding *In the Matter of Peyman Roshan*, 17-O-01202 filed August 27, 2020; (2) the California Supreme order in *In the Matter of Peyman Roshan*, NOS26119 filed February 17, 2021; (3) the complaint in *Roshan v. Lawrence*, 20-cv-04770-AGT (*Lawrence I*); (4) the order granting defendants' motion to dismiss in *Lawrence I*; (5) the Ninth Circuit's decision in *Lawrence I*; (6) the complaint in *Roshan v. Lawrence*, 21-cv-01235-JST (*Lawrence II*); (7) the order dismissing the first amended complaint in *Lawrence II*; (8) the order dismissing the third amended complaint in *Lawrence II*; (9) the fourth amended complaint in *Lawrence II*; (10) defendants' motion to dismiss the fourth amended complaint in *Lawrence II*; (11) the complaint in *Roshan v. McCauley*, 23-cv-05819; (12) the order relating *McCauley I* with *Lawrence II*; (13) a printout from the home page of California's Office of Administrative Hearings; (14) the order denying plaintiff's motion for preliminary injunction and granting defendant's motion to dismiss in *McCauley*, (15) the complaint in *Roshan v. Sunquist, et al.*, 24-cv-242789 ; (16) the order relating *McCauley* and *Sunquist*; and (17) the order granting defendants' motion to dismiss the fourth amended complaint in *Lawrence II*. ECF No. 15-1.

The Court need not take judicial notice of Exhibit 15, the operative complaint in this case, and Exhibit 16, the related case order, because these documents are already on the docket. *See Beal v. Royal Oak Bar*, No. C 13-04911 LB, 2014 WL 1678015, at *2 n.2 (N.D. Cal. Apr. 28, 2024) (denying request for judicial notice and noting that "[b]ecause these documents are already

filed in the docket for this action, it is unnecessary for the court to take judicial notice of them."). The Court therefore denies the request to take judicial notice of Exhibits 15 and 16. The Court grants Defendants' request for judicial notice of Exhibits 1 to 15 and 17 as public records but limits the judicially noticed fact in each instance to the existence of the document or that a judicial proceeding occurred, not the truth of the matters asserted in the documents. *Lee v. City of L.A.*, 250 F.3d 668, 689 (9th Cir. 2001); *see also Rollins v. Dignity Health*, 338 F. Supp. 3d 1025, 1032 (N.D. Cal. 2018) (noting "courts have often admitted records from websites maintained by government agencies").

III. LEGAL STANDARD

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, 1121 (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.* "[I]f the existence of jurisdiction turns on disputed factual issues, the district court may resolve those factual disputes itself." *Id.* at 1121–22. "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).

IV. DISCUSSION

A. Eleventh Amendment

The Eleventh Amendment's grant of sovereign immunity bars suits against states in the absence of consent. *See Seminole Tribe v. Florida.*, 517 U.S. 44, 54 (1996); *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 98–99 (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. Sulphur Springs Valley Elec. Co-op*, 951 F.2d 1050, 1053 (9th Cir. 1991).

The DRE is an agency of the state and thus immune from suit under the Eleventh Amendment. *Gonzalez v. Dept. of Real Estate*, 15-cv-2448 GEB GGH PS, 2017 WL 495682, at *3 (E.D. Cal. Feb. 6, 2017). Roshan argues that the State waived its immunity under *DeVillier v. Texas*, 601 U.S. 285 (2024). ECF No. 19 at 5–7. But *DeVillier* was not an immunity case. Rather, the issue in *DeVillier* was whether "plaintiff [had] a cause of action arising directly under the Takings Clause." 601 U.S. at 292. Roshan also contends that the State waived its immunity under California Code of Civil Procedure Section 1094.5, which permits litigants to bring actions for administrative mandamus in state court. However, "a State's consent to suit in its own courts is not a waiver of its immunity from suit in federal court." *Sossamon v. Texas*, 563 U.S. 277, 285 (2011). Accordingly, the Court concludes that Roshan's claims against the DRE are barred by the Eleventh Amendment, and those claims are dismissed without prejudice to their being re-filed in a court of competent jurisdiction. *See Freeman v. Oakland Unified School Dist.*, 179 F.3d 846, 847 (9th Cir. 1999) ("Dismissals for lack of jurisdiction should be … without prejudice so that a plaintiff may reassert his claims in a competent court.").

B. *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 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). "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.* "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 *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)).

Roshan's first two claims challenge his own State Bar disciplinary order, as well as the State Bar rules and procedures. *See, e.g.*, ECF No. 1 ¶ 64 ("The order suspending Roshan should be declared a violation of Roshan's Fourteenth Amendment federal due process rights"); *id.* ¶ 68 (Roshan "is entitled to a declaratory judgment that the State Bar Rules of Procedure are facially unconstitutional (including on a overbreadth basis) … and as applied to Roshan."). This Court has already held that Roshan's claims which seek to overturn his own disciplinary order are barred by the *Rooker-Feldman* doctrine and that he lacks standing to pursue a facial challenge to these rules. *Roshan v. Lawrence*, 689 F. Supp. 3d 697, 704–06 (N.D. Cal. 2023). Moreover, the DRE Defendants are not the proper defendants against whom to assert these claims. Accordingly, Roshan's first two claims are dismissed for lack of jurisdiction, with leave to amend to state a claim regarding the DRE proceedings. Roshan is advised that reiterating his prior claims as to his State Bar proceedings will result in dismissal, without leave.

C. State Law Claim

"Federal courts are courts of limited jurisdiction," possessing "only that power authorized by Constitution and statute." *Kokkonen v. Guardian Life Ins. Co. of America*, 511 U.S. 375, 377

(1994). Because the Court has dismissed Roshan's federal claims for lack of jurisdiction, it lacks supplemental jurisdiction over his state law claim for writ of mandamus. *Herman Family Revocable Tr. v. Teddy Bear*, 254 F.3d 802, 806 (9th Cir. 2001) ("if the court dismisses [all federal claims] for lack of subject matter jurisdiction, it has no discretion and must dismiss all claims"). Roshan does not dispute this but rather contends that the Court may exercise original jurisdiction over this claim. ECF No. 19 at 4–7.

Under 28 U.S.C. § 1331, federal courts "have jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States." "For statutory purposes, a case can 'aris[e] under' federal law in two ways. Most directly, a case arises under federal law when federal law creates the cause of action asserted." *Gunn v. Minton*, 568 U.S. 251, 257 (2013). "But even where a claim finds its origins in state rather than federal law[,] [the Supreme Court has] identified a special and small category of cases in which arising under jurisdiction still lies." *Id.* (internal quotation marks omitted). In such cases, "federal jurisdiction over a state law claim will lie if a federal issue is: (1) necessarily raised, (2) actually disputed, (3) substantial, and (4) capable of resolution in federal court without disrupting the federal-state balance approved by Congress." *Id.* at 1065. "Where all four of these requirements are met … jurisdiction is proper." *Id.*

Roshan's third claim for writ of administrative mandamus raises a federal issue because he challenges the DRE proceedings on due process grounds, which is disputed. However, the Court finds that "the federal issue in this case is not substantial in the relevant sense." *Gunn*, 568 U.S. at 260. While the purportedly necessary federal issue may be important to the parties in this case, "something more, demonstrating that the question is significant to the federal system as a whole, is needed." *Id.* at 264. For example, in *Grable & Sons* the Court found the Government's "direct interest in the availability of a federal forum to vindicate its own administrative action" made the question "an important issue of federal law that sensibly belong[ed] in a federal court." 545 U.S. 308, 315 (2005). Roshan's claim raises no such federal interest. Accordingly, the Court finds jurisdiction is lacking for Roshan's third claim for writ of administrative mandamus and the claim is dismissed, with leave to amend.

/ / /

CONCLUSION

For the foregoing reasons, the Court grants Defendants' motion to dismiss. Roshan's claims are dismissed with leave to amend. Roshan may file an amended complaint within 30 days, solely to correct the deficiencies identified in this order.

The case management conference scheduled for November 19, 2024 is continued to February 14, 2025 at 2:00 p.m. Updated joint case management statements are due February 7, 2025.

IT IS SO ORDERED.

Dated: November 18, 2024

JON S. TIGAR
United States District Judge

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

PEYMAN ROSHAN,

Plaintiff,

v.

CHIKA SUNQUIST, et al.,

Defendants.

Case No. 24-cv-02789-JST

ORDER GRANTING MOTION TO DISMISS

Re: ECF No. 28

Before the Court is Defendants Chika Sunquist, Douglas McCauley, and the California Department of Real Estate's ("DRE") motion to dismiss. ECF No. 28. The Court will grant the motion.

Because the facts are well-known to the parties and the Court has summarized the Plaintiffs' allegations in detail in its prior order, ECF No. 26, the Court will not restate them in detail here. In sum, this case arises from Plaintiff Peyman Roshan's State Bar and reciprocal DRE disciplinary proceedings.

The Court previously granted Defendants' first motion to dismiss on the grounds that (1) claims against the DRE—an agency of the state—are barred by the Eleventh Amendment; (2) the Court does not have subject matter jurisdiction over Roshan's federal claims under *Rooker-Feldman*; and (3) because the Court lacks jurisdiction over Roshan's federal claims, it lacks supplemental jurisdiction over his state law claim for writ of mandamus. *See* ECF No. 26 at 5–7. The Court gave Roshan leave to re-file his claims against the DRE in a court of competent jurisdiction and/or to state a proper claim against the proper defendants regarding the DRE proceedings rather than the State Bar disciplinary proceedings. *See id.* at 5–6. The Court specifically advised that "reiterating his prior claims as to his State Bar proceedings will result in

dismissal, without leave." *Id.* at 6.

Roshan's first amended complaint is deficient for the same reasons as those identified for the original complaint. It continues to state the same claims against the same defendants, seeking the same relief. *See generally* ECF No. 27. Rather than amend his claims in any meaningful way, Roshan merely argues that the Court erred in its prior decision. *See, e.g.*, ECF No. 27 ¶ 243 ("This cause of action is being reasserted against the DRE because District Court Judge Tigar completely misunderstood the Plaintiff's argument and indeed treated it as two different arguments."); ECF No. 32 at 2 (explaining that Plaintiff chose to "amend the Complaint so that it squarely presents to the Court its legal errors and clarifies the scope of the relief requested"). Roshan's amended pleading is an improper vehicle to seek reconsideration of the Court's prior decision, and it does nothing to resolve the issues that led the Court to dismiss of Roshan's original complaint.

Because Roshan has not cured any of the deficiencies identified in the Court's previous order, the Court grants Defendants' motion to dismiss without leave to amend. The clerk is directed to enter judgment for the Defendants.

IT IS SO ORDERED.

Dated: April 28, 2025

JON S. TIGAR
United States District Judge

United States District Court
Northern District of California

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. CHIKA SUNQUIST, California Real Estate Commissioner; DOUGLAS R. MCCAULEY; CALIFORNIA DEPARTMENT OF REAL ESTATE, Defendants - Appellees.	No. 25-3157 D.C. No. 4:24-cv-02789-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 against Chika Sunquist, Douglas McCauley, and the California Department of Real

* 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).

Estate ("DRE"). We review questions of sovereign immunity under the Eleventh Amendment and applications of the *Rooker-Feldman* doctrine de novo. *Savage v. Glendale Union High Sch.*, 343 F.3d 1036, 1040 (9th Cir. 2003) (Eleventh Amendment immunity); *Carmona v. Carmona*, 603 F.3d 1041, 1050 (9th Cir. 2010) (*Rooker-Feldman* doctrine). We have jurisdiction under 28 U.S.C. § 1291. We affirm.

1. Roshan's claims against the DRE fail because the DRE is a state agency and California has not waived sovereign immunity. *See Roshan v. McCauley*, 130 F.4th 780, 783 (9th Cir. 2025) (characterizing the DRE as a state agency). California has not "unequivocally expressed" a waiver of Eleventh Amendment immunity, *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 99 (1984), and "a State's consent to suit in its own courts is not a waiver of its immunity from suit in federal court," *Sossamon v. Texas*, 563 U.S. 277, 285 (2011). The Supreme Court did not silently modify this doctrine in *DeVillier v. Texas*, 601 U.S. 285 (2024), as Roshan contests.

2. Roshan's remaining claims on appeal fail due to 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 v. Allen*, 148 F.4th 1121, 1128 (9th Cir. 2025) (quoting *Bianchi v. Rylaarsdam*, 334 F.3d 895, 898 (9th Cir. 2003)). Though he has sued

the DRE, Sunquist, and McCauley, Roshan seeks a de facto appeal of the California Supreme Court's decision to deny review of the California State Bar disciplinary order at the foundation of the defendants' actions. His claims are analogous to those dismissed in *D.C. Ct. of Appeals v. Feldman*, 460 U.S. 462 (1983), *see id.* at 486–87. *Williams v. Reed*, 604 U.S. 168 (2025), does not alter this analysis, *id.* at 179. The district court therefore appropriately dismissed Roshan's claims.

AFFIRMED.

FILED

MAY 20 2026

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

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

PEYMAN ROSHAN, Plaintiff - Appellant, v. CHIKA SUNQUIST, California Real Estate Commissioner; et al., Defendants - Appellees.	No. 25-3157 D.C. No. 4:24-cv-02789-JST Northern District of California, Oakland ORDER

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

Appellant Peyman Roshan's motion to stay the proceedings in this court (Dkt. No. 35) is **DENIED.** To the extent the notices of delay (Dkt. Nos. 37–39) request any further relief, those requests are also **DENIED.**

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

Court of Appeals Docket #: 25-3157
Nature of Suit: 3440 Other Civil Rights
Roshan v. Sunquist, et al.
Appeal From: Oakland, Northern California
Fee Status: Paid

Docketed: 05/16/2025
Termed: 05/05/2026

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

Originating Court Information:
District: Northern District of California : 4:24-cv-02789-JST
Trial Judge: Jon S. Tigar, District Judge
Date Filed: 05/09/2024

Date Order/Judgment:	Date Order/Judgment EOD:	Date NOA Filed:	Date Rec'd COA:
04/28/2025	04/28/2025	05/15/2025	05/15/2025

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
CHIKA SUNQUIST, California Real Estate Commissioner Defendant - Appellee	Rachel Yoo, Attorney Direct: 213-269-6622 Email: rachel.yoo@doj.ca.gov [Retained] AGCA-Office of the California Attorney General 300 S Spring Street Suite 1702 Los Angeles, CA 90013 Mr. Jack C. Nick Direct: 213-269-7123 Email: jack.nick@doj.ca.gov [Government] California Attorney General's Office Business Litigation 300 S. Spring Street

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CALIFORNIA DEPARTMENT OF REAL ESTATE Defendant - Appellee	Rachel Yoo, Attorney Direct: 213-269-6622 Email: rachel.yoo@doj.ca.gov [Retained] AGCA-Office of the California Attorney General 300 S Spring Street Suite 1702 Los Angeles, CA 90013 Mr. Jack C. Nick Direct: 213-269-7123 Email: jack.nick@doj.ca.gov [Government] California Attorney General's Office Business Litigation 300 S. Spring Street Los Angeles, CA 90013

PEYMAN ROSHAN,

Plaintiff - Appellant,

v.

CHIKA SUNQUIST, California Real Estate Commissioner; DOUGLAS R. MCCAULEY; CALIFORNIA DEPARTMENT OF REAL ESTATE,

Defendants - Appellees.

5/16/2025	1	**CASE OPENED.** A copy of your notice of appeal / petition filed in 4:24-cv-02789-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 **25-3157** 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

		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: 05/16/2025 01:25 PM]
5/16/2025	2 3 pg. 256 KB	**SCHEDULE NOTICE.** Appeal Opening Brief (No Transcript Due) (Appellant) 6/25/2025, Appeal Answering Brief (No Transcript Due) (Appellee) 7/25/2025. **For appeal no. 25-3157, 4:24-cv-02789-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: 05/16/2025 01:29 PM]
6/20/2025	3	Streamlined Request for Extension of Time to File Brief filed by Appellant Peyman Roshan. [Entered: 06/20/2025 12:29 PM]
6/20/2025	4	**ORDER FILED.** Streamlined Request for Extension of Time to File Brief (DE 3) granted. Amended briefing schedule: Opening Brief Due (Appellant) 7/25/2025, Answering Brief Due (Appellee) 8/25/2025. 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: 06/20/2025 02:32 PM]
6/24/2025	5 8 pg. 352 KB	**ORDER FILED.** . Response to Fee Order due (Appellant) 7/22/2025 [Entered: 06/24/2025 05:08 PM]
6/30/2025	6	**FEE PAYMENT CORRESPONDENCE: USCA Appeal Fees received $ 605 receipt number 27OD3MKC re [38] Notice of Appeal to the Ninth Circuit filed by Peyman Roshan** [Entered: 06/30/2025 03:41 PM]
7/23/2025	7 5 pg. 448 KB	**Emergency MOTION** Circuit Rule 27-3 Certificate filed by Appellant Peyman Roshan. [Entered: 07/23/2025 11:02 PM]
7/24/2025	8 1 pg. 192 KB	**ORDER FILED.** The motion (Docket Entry No. 7) for an extension of time to file the opening brief is granted. The opening brief is due August 25, 2025. The answering brief is due September 24, 2025. The optional reply brief is due 21 days after the answering brief is served. [Entered: 07/24/2025 03:21 PM]
8/25/2025	9 198 pg. 1,760 KB	**OPENING BRIEF** submitted for filing by Appellant Peyman Roshan. [Entered: 08/25/2025 10:58 PM]
8/27/2025	10	**CLERK ACTION:** Opening Brief submitted at DE 9 by Appellant Peyman Roshan is filed. No paper copies are required. [Entered: 08/27/2025 10:24 AM]
9/22/2025	11	**NOTICE OF APPEARANCE** by Rachel Yoo for Appellee California Department of Real Estate, Appellee Chika Sunquist, Appellee Douglas R. McCauley. [Entered: 09/22/2025 09:53 AM]
9/22/2025	12	**ADDED** Counsel for Appellee Rachel Yoo [Entered: 09/22/2025 11:17 AM]
9/22/2025	13 3 pg. 288 KB	**MOTION** to Extend Time to File Brief filed by Appellee Chika Sunquist, Appellee Douglas R. McCauley, Appellee California Department of Real Estate. [Entered: 09/22/2025 12:11 PM]
9/23/2025	14	**TEXT ORDER FILED.** The motion (Docket Entry No. 13) for an extension of time to file the answering brief is granted. The answering brief is due November 24, 2025. The optional reply brief is due 21 days after the answering brief is served. [Entered: 09/23/2025 02:08 PM]
11/24/2025	15 28 pg. 576 KB	**ANSWERING BRIEF** submitted for filing by Appellee Chika Sunquist, Appellee Douglas R. McCauley, Appellee California Department of Real Estate.--[COURT UPDATE: Corrected PDF attached as of 12/4/2025, REPLACING original attachment, updated entry to reflect all filers] [Entered: 11/24/2025 12:02 PM] [Edited: 12/04/2025 02:23 PM]
11/24/2025	16 251 pg. 8,192 KB	**EXCERPTS OF RECORD** submitted for filing by Appellee Chika Sunquist, Appellee Douglas R. McCauley, Appellee California Department of Real Estate.--[COURT UPDATE: Corrected PDF attached as of 12/4/2025, REPLACING original attachment, updated entry to reflect all filers] [Entered: 11/24/2025

		as of 12/4/2025, REPLACING original attachment, updated entry to reflect all filers] [Entered: 11/24/2025 12:09 PM] [Edited: 12/04/2025 02:22 PM]
11/26/2025	17	Streamlined Request for Extension of Time to File Brief filed by Appellant Peyman Roshan. [Entered: 11/26/2025 11:38 AM]
11/26/2025	18	**ORDER FILED.** Streamlined Request for Extension of Time to File Brief (DE 17) granted. Amended briefing schedule: Optional Reply Brief due 1/14/2026. All briefs shall be served and filed pursuant to FRAP 31 and 9th Cir. R. 31-2.1. [Entered: 11/26/2025 12:17 PM]
12/4/2025	19	**CLERK ACTION:** Answering Brief submitted at DE 15 and Excerpts of Record in 1 Volume submitted at DE 16 by Appellees are filed. No paper copies are required. [Entered: 12/04/2025 02:23 PM]
1/7/2026	20 3 pg. 224 KB	**MOTION** to Extend Time to File Brief filed by Appellant Peyman Roshan. [Entered: 01/07/2026 10:52 PM]
1/15/2026	21	**TEXT ORDER FILED.** The motion (Docket Entry No. 20) for an extension of time to file the reply brief is granted. The optional reply brief is due February 13, 2026. [Entered: 01/15/2026 04:34 PM]
2/5/2026	22 7 pg. 264 KB	**MOTION** to Extend Time to File Brief filed by Appellant Peyman Roshan. [Entered: 02/05/2026 11:19 PM]
2/17/2026	23 6 pg. 295 KB	**RESPONSE** to Motion to Extend Time to File Brief (DE 22) filed by Appellee Chika Sunquist, Appellee Douglas R. McCauley, Appellee California Department of Real Estate. [Entered: 02/17/2026 04:21 PM]
2/18/2026	24 1 pg. 175 KB	**ORDER FILED.** The motion (Docket Entry No. 22) to stay appellate proceedings is denied. The optional reply brief is now due 21 days after the date of this order. [Entered: 02/18/2026 09:40 AM]
3/2/2026	25 2 pg. 200 KB	**Emergency MOTION** Circuit Rule 27-3 Certificate filed by Appellant Peyman Roshan. [Entered: 03/02/2026 10:15 PM]
3/2/2026	26 11 pg. 306 KB	**MOTION** to Reconsider Nondispositive Order filed by Appellant Peyman Roshan. [Entered: 03/02/2026 10:17 PM]
3/4/2026	27 1 pg. 200 KB	**ORDER FILED.** Appellant Peyman Roshan's motion for reconsideration (Dkt. No. 26) is DENIED. [Entered: 03/04/2026 09:23 AM]
3/11/2026	28 37 pg. 950 KB	**REPLY BRIEF** submitted for filing by Appellant Peyman Roshan. [Entered: 03/11/2026 11:06 PM]
3/12/2026	29	**CLERK ACTION:** Reply Brief submitted at DE 28 by Appellant Peyman Roshan is filed. No paper copies are required. [Entered: 03/12/2026 09:38 AM]
5/5/2026	30 7 pg. 677 KB	**MEMORANDUM DISPOSITION** (M. Margaret McKEOWN, N. Randy SMITH, Holly A. THOMAS) **AFFIRMED.** FILED AND ENTERED JUDGMENT. [Entered: 05/05/2026 11:52 AM]
5/7/2026	31	**DEFECTIVE---MOTION** to Extend Time to File Motion filed by Appellant Peyman Roshan. [Wrong filing type used, correct entry is DE 32.] [Entered: 05/07/2026 12:17 PM] [Edited: 05/07/2026 01:26 PM]
5/7/2026	32 7 pg. 1,705 KB	**MOTION** to Extend Time to File Petition for Rehearing filed by Appellant Peyman Roshan. [COURT ENTERED FILING to correct DE 31.] [Entered: 05/07/2026 01:25 PM]
5/8/2026	33	**TEXT CLERK ORDER.** Appellant Peyman Roshan's motion to extend time to file a petition for panel rehearing and rehearing en banc (Dkt. No. 32) is denied. [Entered: 05/08/2026 04:48 PM]
5/11/2026	34 2 pg. 1,646 KB	**Emergency MOTION** Circuit Rule 27-3 Certificate filed by Appellant Peyman Roshan. [Entered: 05/11/2026 02:18 PM]
5/11/2026	35 7 pg. 234 KB	**MOTION** to Stay Proceedings in this Court filed by Appellant Peyman Roshan. [Entered: 05/11/2026 02:20 PM]

5/11/2026	36 2 pg. 244 KB	**Emergency MOTION** Circuit Rule 27-3 Certificate filed by Appellant Peyman Roshan. [Entered: 05/11/2026 02:25 PM]
5/15/2026	37 1 pg. 227 KB	**NOTICE** of Delay filed by Appellant Peyman Roshan. [Entered: 05/15/2026 02:13 PM]
5/18/2026	38 1 pg. 231 KB	**NOTICE** of Delay filed by Appellant Peyman Roshan. [Entered: 05/18/2026 11:55 AM]
5/19/2026	39 1 pg. 186 KB	**NOTICE** of Delay filed by Appellant Peyman Roshan. [Entered: 05/19/2026 12:00 PM]
5/20/2026	40 1 pg. 186 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. 35) is DENIED. To the extent the notices of delay (Dkt. Nos. 37–39) request any further relief, those requests are also DENIED. [Entered: 05/20/2026 09:19 AM]
5/20/2026	41 7 pg. 240 KB	**MOTION** to Stay Mandate filed by Appellant Peyman Roshan. [Entered: 05/20/2026 12:37 PM]
5/21/2026	42	**TEXT CLERK ORDER.** Appellant Peyman Roshan's motion to stay the mandate (Dkt. No. 41) is denied. [Entered: 05/21/2026 01:50 PM]

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PACER Login:	peymanroshan	**Client Code:**	
Description:	ACMS Case Summary	**Search Criteria:**	25-3157
Billable Pages:	4	**Cost:**	$0.40

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 in the California Department of Real Estate ("DRE") licensee proceedings reciprocally instituted from California State Bar attorney disciplinary proceedings against him which violate the Fourteenth Amendment and the Supremacy Clause. The District Court Judge Tigar dismissed that challenge on Eleventh Amendment, standing, and *Rooker-Feldman* doctrine grounds. Appendix ("App.") 1a-10a.
3. This Court is faced with the Ninth Circuit's rollback because in *Searle*, the Ninth Circuit held that a challenge to state tax-sale statutes is barred in federal court by the *Rooker-Feldman* doctrine. This Court is addressing the constitutionality of a similar statute in *Pung*.
4. In *T.M.*, this Court is considering the continued viability of the *Rooker-Feldman* doctrine.
5. The outcome of both *Pung* and *T.M.* are relevant to the outcome of this appeal.

6. 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.
7. 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.
8. On May 20, 2026, I filed a motion to stay mandate.
9. My complaint for relief under, inter alia, 42 U.S.C. §1983 was dismissed without prejudice based on the application of the *Rooker-Feldman* doctrine and Eleventh Amendment Immunity.
10. I timely appealed presenting, inter alia, the following *Rooker-Feldman* doctrine issues, i.e., the propriety of applying the doctrine when:
    a. the Supremacy Clause is alleged violated by the State Bar of California under *Williams v. Reed*, 604 US 168, 145 S. Ct. 465 (2025) ("*Williams v. Reed*"), and the challenged Department of Real Estate ("DRE") reciprocal disciplinary proceedings are exclusively based on the void ab initio State Bar proceedings;
    b. *Reed v. Goertz*, 598 U.S. 230 (2023) and *Pell v. Nunez*, 99 F.4th 1128 (9th Cir. 2024) hold that doctrine inapplicable when the federal plaintiff' challenges the state rules as

authoritatively construed rather than directly challenging the state court judgment, and that my challenge is not of a state court judgment but of a reciprocal disciplinary DRE commissioner order based exclusively on the construction of an alleged unconstitutional State Bar proceeding and disciplinary recommendation, and that under *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.,* 544 U.S. 280 (2005), legal conclusions of a state decision may be challenged; and,

c. *ReadyLink Healthcare, Inc. v. State Comp. Ins. Fund*, 754 F.3d 754 (9th Cir. 2014) and *DeVilliers v. Texas*, 601 U.S. 285 (2024) show the District Court has original jurisdiction over an administrative writ of mandamus proceeding granted under state law.

11. Appellees' answer argues, inter alia, the *Rooker-Feldman* doctrine applies whenever the federal actions seeks to "reverse or nullify" a state court judgment. In support, Appellees point to my complaint which seeks to hold the State Bar proceedings and the order upon which they were based as void ab initio; and that because the DRE commissioner's disciplinary order is exclusively based on the State Bar alleged void order, it too should be deemed void and overturned. They attempt to distinguish *Reed v. Goertz*, *Pell v. Nunez*, and *Exxon Mobil*, by applying their incorrect view that anytime the challenged state action, even if not by a court but, as in this case, by the DRE commissioner, is sought to be overturned, *Rooker-Feldman*

applies. They incorrectly assert "In both *Reed* and *Pell*, the plaintiffs did not challenge any state decision against the plaintiff."

As to *Williams v. Reed*, Appellees represent its holding to be that the Supremacy Clause violation occurs when the federal "plaintiffs "can *never* challenge delays in the administrative process," and such a result effectively immunizes government's unlawful conduct" (citing *Williams* at 172 (emphasis in case opinion). Accordingly, they incorrectly conclude "Here, unlike in *Williams*, there is no state law that precludes me from bringing a § 1983 action in either state or federal district court to argue the unconstitutionality of the State Bar disciplinary process."

12. My reply asserts "*Williams v. Reed* broadly held that any procedural barrier which effectively immunizes a class of state defendants from immunity under 42 U.S.C. §1983 in state court violates the Supremacy Clause"; and that this Court will be addressing the applicability of the *Rooker-Feldman* doctrine in *T.M.* and *Pung* (in both of which cases, Mr. Cyrus Sanai, and the latter of which case, I, filed amici briefs proposing abolishment or a new *Rooker-Feldman* test). M reply also cites *Jamgotchian v. Ferraro,* 93 F.4th 1150 (9th Cir. 2024) holding that judicial exhaustion does not apply to 42 U.S.C. §1983 lawsuits in federal courts because under California law all administrative bodies lack jurisdiction to determine constitutional claims; and that the Ninth Circuit did not dispute that the judicial exhaustion rule operates as a barrier to 42

U.S.C. §1983 lawsuits in state court if the mandamus procedure is not followed

13. A true and correct copy of the Ninth Circuit docket is attached in Appendix ("App.") 15a-19a.

14. A true and correct copy of the District Court's November 18, 2024 filed dismissal order is attached in App. 1a-8a.

15. A true and correct copy of the District Court's April 28, 2025 filed dismissal order is attached in App. 9a-10a.

16. A true and correct copy of the Ninth Circuit Court's May 5, 2026 filed memorandum disposition is attached in App. 11a-13a.

17. A true and correct copy of the Ninth Circuit Court's May 20, 2026 filed order is attached in App. 14a.

18. This case arises from a reciprocal disciplinary proceeding brought by the California DRE, which resulted in a disciplinary recommendation made to the DRE Commissioner McCauley, and his successor, Sunquist; and which recommendation Sunquist adopted in her disciplinary order. Sunquist's disciplinary order is exclusively based on a disciplinary action brought by Lawrence and her successor Cardona, who lead the Office of Chief Trial Counsel ("OCTC"), against me at a time and in a manner which revealed in stark relief the facial constitutional inadequacies of the State Bar of California's ("SBOC") 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

details this history in his Petition for Writ of Certiorari to this Court in an entirely different case I brought against the SBOC, Lawrence, Cardona, and the OCTC. *Roshan v. Lawrence*, No. 24-586, filed September 16, 2024 (denied on January 27, 2025).

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