

**In The  
Supreme Court of the United States**

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**EDWARD L. CLARK JR.,**

*Appellate,*

**v.**

**STATE OF CALIFORNIA.**

*Defendant's, Appellees*

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**On Petition For Writ Of Certiorari  
The Ninth Circuit Court of Appeals, Central District  
Case No. 23-55628; 23-55715  
D.C.No. 8:22-01390-cv-MWF-JPR**

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**MOTION TO PROCEED IN FORMA PAUPERIS**

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**Petitioner asks leave to file attached petition for writ of certiorari.**

**Petitioner was self represented in the lower district court case in  
California Ninth Circuit Court of Appeals**

**Petitioner affidavit in support of this motion is attached hereto.**

**Respectfully Submitted**



**Edward L. Clark Jr.**

**Self Represented**

**5582 McFadden Ave.**

**Huntington Beach, Calif.**

**92646**

**(714) 448-7145**

1                                   **DECLARATION OF EDWARD L. CLARK JR. IN SUPPORT OF**  
2                                   **Writ Of Certiorari**

3   I, Edward L. Clark , hereby declare and state as follows:

- 4           1. I am Petitioner and appellate in the underlying action  
5           2. I am over the age of eighteen years of age  
6           3. I have personal knowledge of the facts outlined contained herein the writ of  
7                 certiorari  
8           4. If called upon to testify thereto, I could and would competently do so.

9  
10  
11           I declare under penalty of perjury under the laws of the state of California that the  
12   foregoing is true and correct and that this declaration is executed on October 8 , 2025 at  
13   Huntington Beach, California.

14  
15   Dated 10/6/2025

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17                                   Edward L. Clark Jr.  
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**PETITION FOR WRIT OF CERTIORARI**

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Date: September 6, 2025

Self Represented

## **I. QUESTIONS PRESENTED**

### **1. ROOKER FELDMAN DOCTRINE**

Where established case precedent prohibits any court from validating VOID Judgments, confirmed by the Fourth Appellate District Div 3

Can the ninth circuit cite Rooker-Feldman Doctrine as a defense to referencing and validating VOID orders in a lower family court effectively creating subject matter jurisdiction in a court that otherwise did not exist?

### **2. RACKETEERING INFLUENCE CORRUPT ORGANIZATIONS ACT**

To determine, when there is clear absence of jurisdiction and complete absence of immunity protection for all judicial officers who rendered opinions (NON-JUDICIAL OPINIONS BECAUSE ORDERS REFERENCED WERE VOID ORDERS) on the merits of VOID orders, how bad and how obvious does it have to be before judges can be held accountable for damages intentionally, willfully and maliciously caused to Appellate in district court.

### **3. REQUEST FOR PUBLICATION**

Where a court strays so far from existing precedence, overlooking the fact it is applying federal statutes, the ROOKER-FELDMAN DOCTRINE, Collateral Estoppel and Res-Judicata to justify and validate VOID orders, is the court required to publish decision that establishes, modifies and highlights a generally overlooked rule, that addresses an issue of substantial public importance

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#### IV LIST OF PARTIES

1. State of California, a government agency
2. The Hon. Judge Lon Hurwitz, an individual
3. Commissioner Barry Michaelson, an individual
4. The Law Offices of Moshtail Family Law, a professional Corporation
5. Navid Moshtail, an individual and in his official capacity
6. Lance Duran , an individual, and in his official capacity
7. Erin Noonan, an individual and in her official capacity
8. Sheri Lauphlin an individual and in her official capacity
9. James Wellman; an individual and his official capacity
10. The Honorable Judge Yolanda Torres an individual
11. Deborah l Clark, an individual



## **V      RELEVANT CASES**

Case: 23-5628    Ninth Circuit

Case 23-5717    Ninth Circuit

Case 8:22-cv-01390-MWF-JPR Central District CA

Case 8:21-cv-01565-MWF-JPR Central District CA

S292065 California Supreme Court **[PENDING]**

G064157 Fourth App District Dis. Civil case Family  
Law Div

GO64872 Fourth Appellate Dist. Civil Appeal  
Conflicts of Interest

## **VI. PETITION FOR WRIT OF CERTIORARI**

Edward L. Clark Jr, Petitioner, respectfully petitions for a writ of certiorari to review the judgment of the United States Court Of Appeals For The Ninth Circuit.

## **VII. OPINIONS BELOW**

The Ninth Circuit issued a memorandum dismissing Appellant district court case for alleged judicial misconduct of lower state court judicial officers for lack of subject matter jurisdiction, citing the Rooker Feldman Doctrine as the courts authority for affirming order. The ninth circuit denied Petition for rehearing and re-hearing enbanc, again citing Rooker-Feldman as a defense and denied Appellant request to publish opinion.

The instant Writ Of Certiorari is seeking an opinion:

1. If “ANY COURT” can validate VOID orders issued in any court?
2. The instant Petition is seeking a determination if the ninth circuit can effectively validate VOID orders by citing Rooker-Feldman doctrine as a defense, when the order it is defending (referring to) not a voidable order, simply VOID ON ITS FACE UNDER THE LAW”.

A determination if Lower court orders issued without subject matter jurisdiction and issued by a person who is not a judge, by law orders are VOID on their face, can be validated by a district court?

3. The ninth circuit denied Appellate valid request to publish opinion, without citing any authority giving the court authority to validate void orders by utilize the Rooker-Feldman Doctrine as a Defense when the order in question is VOID on its face. Without any legal authority.

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App. 1 MEMORANDUM [1] P2 The district court properly dismissed Clark's action for lack of subject matter jurisdiction under the Rooker-Feldman doctrine because Clark's claims are a "de facto appeal" of a prior state court judgment or are "inextricably intertwined" with that judgment. See *id.* at 1163-65 (discussing proper application of the Rooker-Feldman doctrine); see also *Carmona v. Carmona*, 603 F.3d 1041, 1050- 51 (9th Cir. 2010) (Rooker-Feldman doctrine barred plaintiff's claims seeking to enjoin state family court orders); *Reusser v. Wachovia Bank, N.A.*, 525 F.3d 855, 860 (9th Cir. 2008) (Rooker-Feldman doctrine bars a claim of extrinsic fraud if the alleged fraud has been separately litigated in a state action); *Safe Air for Everyone v. Meyer*, 373 F.3d 1035, 1039 (9th Cir. 2004) ("In resolving a factual attack on jurisdiction, the district court may review evidence beyond the complaint without converting the motion to dismiss into a motion for summary judgment.")

**The underlying issue:**

1. is a determination of how Clark's claims can be a "defacto appeal" of prior orders that are VOID orders. VOID orders that do not legally exist, and where the fourth appellate district issued three opinions on VOID

orders, currently at issue in front of California Supreme Court. What authority does the ninth circuit have to apply the Rooker Feldman Doctrine to a case that legally did not take place.

Does the ninth circuit have legal authority to deny a valid REQUEST FOR publication when it has strayed so far from long standing precedent, thus validating a VOID order by applying Rooker Feldman doctrine to a VOID order that legally does not exist?

**[2} P1 (footer) The ninth circuit states This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.**

The ninth circuit failed to cite precedence allowing any defendant or any court to cite, rely on or otherwise utilize a Rooker-Feldman Doctrine defense applied to ORDERS VOID ON THEIR FACE.

Absent authority, at issue, the memorandum directly contradicts well established precedent, allows the Ninth Circuit to validate VOID orders in lower state court and establishes precedent a court can Apply a Rooker Feldman defense to VOID orders, thereby trying to create subject matter jurisdiction in lower state court when it does not otherwise exist.

Publication is necessary if established precedent on

VOID orders does not apply to the Ninth Circuit Court of Appeals.

## **VIII. JURISDICTION**

The memorandum from the Ninth Circuit of Appeal *Petition* was filed 2/24/2025. A petition for re-hearing filed 3/10/2025. On 7/10/2025 the Ninth Circuit Court of Appeals denied Appellate timely filed request for re-hearing.

Pursuant to Rule 13, A petition for a writ of certiorari seeking review of a judgment of a lower state court that is subject to discretionary review by the state court of last resort is timely when it is filed with the Clerk within 90 days after entry of the order denying discretionary review. Deadline to file is April 17, 2024

Petition For Writ of Certiorari is timely filed.

The ninth circuit states on P1:

Edward L. Clark appeals pro se from the district court's judgment dismissing proceedings. We have jurisdiction under 28 U.S.C. § 1291

## **IX. CONSTITUTIONAL PROVISIONS INVOLVED**

### **A. The RICO ACT – a Federal Statute**

The RICO Act (18 U.S.C. §§ 1961–1968) allows private citizens to file civil lawsuits against those engaged in an ongoing criminal enterprise. While it is a criminal statute, its

civil component is a powerful tool that allows victims to seek compensation for harm to their business or property.

The elements to successfully bring a civil RICO claim,

- Prove the existence of an enterprise
- Demonstration of a pattern of racketeering
- Identify Federal predicate acts, (Obstructions of justice by judicial officers) Using Superior court as a shield to commit crimes, in an effort to fabricate judicial immunity
- Appellate must be injured
- Causation: , collusion, obstruction of justice, Abuse of power, Abuse of process, Disregard for the code of civil procedure, and a judicial officers oath of office, Conflicts of interest between judges in separate cases, all demonstrate the effect of RICO on Appellate and has been the causer of substantial damage, time and money.

#### **B. U.S. Const. amend. XIV CIVIL RIGHTS:**

Mandates equal protection under the law.

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State

shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

The Law of Void Judgments and Decisions Supreme Court Decisions on Void Orders: *Rose v. Himely* (1808) 4 Cranch 241, 2 L ed 608; *Pennoyer v. Neff* (1877) 95 US 714, 24 L ed 565; *Thompson v. Whitman* (1873) 18 wall 457, 21 1 ED 897; *Windsor v. McVeigh* (1876) 93 US 274, 23 L ed 914; *McDonald v. Mabee* (1917) 243 US 90, 37 set 343, 61 L ed 608. "If a court grants relief, which under the circumstances it hasn't any authority to grant, its judgment is to that extent void." (1 Freeman on Judgments, 120c.) "A void judgment is no judgment at all and is without legal effect." (*Jordon v. Gilligan*, 500 F.2d 701, 710 (6th Cir. 1974) "a court must vacate any judgment entered in excess of its jurisdiction." (*Lubben v. Selective Service System Local Bd. No. 27*, 453 F.2d 645 (1st Cir. 1972). A void judgment does not create any binding obligation. Federal decisions addressing void state court judgments include *Kalb v. Feuerstein* (1940) 308 US 433, 60 S Ct 343, 84 L ed 370. Void Orders Can Be Attacked At Any Time An order that exceeds the jurisdiction of the court, is void, or voidable, and can be

attacked in any proceeding in any court where the validity of the judgment comes into issue. (See *Rose v. Himely* (1808) 4 Cranch 241, 2 L ed 608; *Pennoyer v. Neff* (1877) 95 US 714, 24 L ed 565; *Thompson v. Whitman* (1873) 18 wall 457, 211 ED 897; *Windsor v. McVeigh* (1876) 93 US 274, 23 L ed 914; *McDonald v. Mabee* (1917) 243 US 90, 37 set 343, 61 L ed 608. *U.s. v. Holtzman*, 762 F.2d 720 (9th Cir. 1985) ("Portion of judgment directing defendant not to import vehicles without first obtaining approval... was not appropriately limited in duration and, thus, district court abused its discretion by not vacating it as being prospectively inequitable." Id at 722

A **JUDGMENT** or Order rendered without jurisdiction is "**void**" and has no effect as res judicata or otherwise.

Void judgments are those rendered by a court which lacked jurisdiction, either of the subject matter or the parties, *Wahl v. Round Valley Bank* 38 Ariz. 411, 300 P. 955 (1931); *Tube City Mining & Milling Co. v. Otterson*, 16 Ariz. 305, 146 P. 203 (1914); and *Milliken v. Meyer*, 311 U.S. 457, 61 S.Ct. 339, 85 L.Ed. 2d 278 (1940). A void judgment which includes judgment entered by a court which lacks jurisdiction over the parties or the subject matter, or lacks inherent power to enter the particular judgment, or an order



procured by fraud, can be attacked at any time, in any court, either directly or collaterally, provided that the party is properly before the court, Long v. Shorebank Development Corp., 182 F.3d 548 (C.A. 7 Ill. 1999).

Void judgment under federal law is one in which rendering court lacked subject matter jurisdiction over dispute or jurisdiction over parties, or acted in manner inconsistent with due process of law or otherwise acted unconstitutionally in entering judgment, U.S.C.A. Const. Amed. 5, Hays v. Louisiana Dock Co., 452 n.e.2D 1383 (Ill. App. 5 Dist. 1983). Matter of Marriage of Hampshire, 15.

### **C. 42 U.S.C. §1983**

Under rare and specific “extreme conditions” a claimant can file a lawsuit against state court judges in federal court, primarily under federal civil rights laws like 42 U.S. C. § 1983. The two main exceptions:

#### **1. When a judges actions are non-judicial**

A judge did not preside over the underlying matter, therefore all acts in lower family court were non-judicial, including action by the Fourth Appellate District.

Subsequent judges and the Fourth appellate District Div 3 has refused to allow both parties to settle case, when both parties requested dismissal, both parties requested the

court to enter settlement documents into the record, both parties filed a joint request for the court to judicially notice settlement documents, the court admits it has been properly noticed of settlement, and proof provided the 3/21/2016 Debt Settlement was fully executed with a \$1,000,000 wire.

PROOF ALL ACTIONS WERE NON\_JUDICIAL. INSTEAD merely a refusal to let parties conclude a case to try to fabricate immunity protection by keeping the case open despite the parties request extending the threat of extortion over Appellate.

Subsequent judges including the Fourth Appellate District Div 3 nor the ninth circuit can perform valid judicial acts in a case where a void order has been issued, because a void order is considered to have no legal force or effect from its inception. Once a judgment or order is void, the court lacks the inherent authority to take further action, as any subsequent proceedings would be based on a nullity.

Leaving the question for this court, to remedy how can the ninth circuit apply Rooker Feldman Doctrine to Void orders issued in State Court as the reason to dismiss claim.

**2. Actions by lower family court was with complete absence of jurisdiction.**

Subject matter jurisdiction in family court was:

1. Barred in 8/31/2006 judgment
2. Barred in 3/21/2016 Debt Settlement Agreement
3. Case conducted without a judge presiding (A commissioner who judicially admits he relied on stipulations never signed by the parties)
4. RFO issued was illegally issued to circumvent civil court due to expired statute of limitation. As it was not issued to enforce a judgement. (the underling matter had already been fully satisfied over two years prior, and no longer at issue)
5. The RFO was not issued subsequent to a Summons/complaint served upon appellate

## **X STATEMENT OF THE CASE**

This case presents important issues of law with respect to whether or not the Ninth Circuit or any court can deny a party his right to a trial in federal court by validating or legitimizing or referring to orders VOID on their face, or that otherwise do not legally exist? Can any court VALIDATE void order or judgment for any reason?

The ninth circuit affirmed the lower district courts decision, citing Rooker Feldman Doctrine as its authority to grant state court judicial officer motion effectively validating

VOID orders issued without subject matter jurisdiction by a person who is not a judge, and absent any and all immunity protection. Thereby creating subject matter jurisdiction and perceived immunity when the facts in evidence shows it does not exist for lower state court judges.

A determination is needed whether or not the Ninth Circuit can apply a Rooker-Feldman Doctrine Defense to orders or judgments that are VOID on their face, otherwise applying to orders that don't legally exist to bar subject matter jurisdiction in district court when a Federal question regarding Obstruction of Justice by Judicial Officers exist

Whether or not the Ninth Circuit has standing to deny a valid request to publish an opinion that strays so far from long standing precedent on how courts should deal with VOID orders or judgments?

Whether or not the ninth circuit has standing to validate VOID orders is lower state court?

The underlying district court case was an effort to hold state court judicial officers personally accountable for their conducting of a case in family court intended to circumvent civil court due to an expired statute of limitation and without subject matter jurisdiction absent immunity protection. Notwithstanding the known facts in evidence prior to issuing RFO, subject matter jurisdiction was barred

in family court pursuant to the terms contained in both an 8/31/2006 dissolution judgment and a fully executed 3/21/2016 Debt Settlement agreement.

A determination regarding and understanding and motive of judicial officers involved will clearly establish the errors of the court. The evidence shows both documents dated 8/31/2006 dissolution judgment and 3/21/2016 Debt Settlement Agreement (fully executed) were attached to an RFO, order to appear dated 4/17/2018 that was not subject or issued because a judgment was not fully satisfied or was it issued subsequent to a summons/complaint. Concluding the evidence shows the RFO issues 4/17/2018 was an illegal order without subject matter jurisdiction issued for the purpose of conducting a Sham case. Thereby, also barring jurisdiction in the Fourth Appellate district who issued three opinions on the merits of VOID orders.

Appellate filed first claim in district court, the claim dismissed was based on Rooker Feldman Doctrine and instructed to refile claim

Appellate filed second claim only to get assigned to the same judge.

The end result was the same affirming orders citing Rooker-Feldman, applying to VOID orders that do not legally exist.

The instant Petition is a request for judicial oversight to insure. Equal protection under the law.

### **VOID JUDGMENTS**

A void judgment is without force and effect and may be vacated at any time. The fact that a void judgment has been appealed to the Ninth Circuit Court utilized to fabricate lower court subject matter jurisdiction, in an effort to create immunity protection and affirmed adds nothing to the purported judgment.

When The Fourth Appellate District Div 3 publishes an opinion on point to VOID orders, the lower courts it supervises are (OR SHOULD BE) required by law to enforce, unless allowed to create their own set of rules when convenient.

*Fundamental jurisdiction over the subject matter or the parties. Stated "When a court lacks jurisdiction in a fundamental sense, an ensuing judgment is void, and thus vulnerable to direct or collateral attack at any time" The request to certify and publish opinion was granted **May 16, 2023** by the **Fourth Circuit Div III***

*When the Court has no jurisdiction of the cause, there the whole proceeding is **[before a person who is not a judge]**, and actions will lie against them without any regard of the precept or process..."*

**OPINION PUBLISHED BY Fourth Appellate  
District Div 3. MAY 16, 2023**

*[see Zaal Aresh vs Monica Marin-Morales G060579, G060827; citing in its opinion People vs America Contractors Indemnity Co. (2002) 33 Cal4th 653,660. that states: As explained by our Supreme Court a judgment is void, as opposed to merely voidable, when the court lacks fundamental jurisdiction over the subject matter or the parties; i.e., it has “‘an entire absence of power to hear or determine the case, an absence of authority over the subject matter or the parties.’”*

*Fundamental jurisdiction over the subject matter or the parties. Stated “When a court lacks jurisdiction in a fundamental sense, an ensuing judgment is void, and thus vulnerable to direct or collateral attack at any time” The request to certify and publish opinion was granted **May 16, 2023** by the Fourth Circuit Div III*

*When the Court has no jurisdiction of the cause, there the whole proceeding is **[before a person who is not a judge]**, and actions will lie against them without any regard of the precept or process...*

## **SUBJECT MATTER JURISDICTION WAS BARRED IN LOWER FAMILY COURT**

Void judgments are those rendered by a court which lacked jurisdiction, either of the subject matter or the parties. See: Wahl v. Round Valley Bank, 38 Ariz. 411, 300 P.955 (1931); Tube City Mining & Milling Co. v. Otterson, 16 Ariz. 305, 146 P. 203 (1914); Milliken v. Meyer, 311 U.S. 457, 61 S. Ct. 339, 85 L. Ed. 2d 278 (1940); Long v. Shore bank Development Corp., 182 F.3d 548 (C.A. 7 Ill. 1999)

A Judgment is a void judgment if court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process, Fed Rules Civ. Proc., Rule 60(b)(4), 28 U.S.C.A.; U.S.C.A. Const Amend. 5. Klugh v. U.S., 620 F. Supp. 892 (D.S.C. 1985).

A void judgment which includes judgment entered by a court which lacks jurisdiction over the parties or the subject matter, or lacks inherent power to enter the particular judgment, or an order procured by fraud, can be attacked at any time, in any court, either directly or collaterally, provided that the party is properly before the court. See Long v. Shore bank Development Corp., 182 F.3d 548 (C.A. 7 Ill. 1999)

A void judgment is one which, from its inception, was a complete nullity and without legal effect.

## **XI. REASONS FOR GRANTING WRIT**

### **1. ENFORCE ESTABLISHED PRECEDENT**

The ninth circuit issued a ruling directly contradicting not only well established precedence in Federal Court, but opinion published by the Fourth Appellate district Div 3 Affirming order issued by lower district court to dismiss for



lack of subject matter jurisdiction by applying Rooker-Felman Doctrine as a defense to VOID orders as its authority to grant dismissal for lack of subject matter jurisdiction.

## **2. THE NINTH CIRCUIT BROKE FROM ESTABLISHED PRECEDENT**

The Fourth Appellate district Div 3,:

1. Failed to address the facts in evidence establishing the underlying orders are void.

2. Offered an opinion citing Rooker Feldman Doctrine Applying to VOID orders issued in lower family court

3. Offered opinion Applying Res Judicata and Collateral Estoppel to court without competent subject matter jurisdiction,

4. The Ninth Circuit **must publish** an opinion under Ninth Circuit Rule 36-2 if the decision establishes, modifies, or clarifies a rule of law, highlights a generally overlooked rule, criticizes existing law, addresses an issue of substantial public importance

***When appeal is taken from a void judgment***, the appellate court must declare the judgment void, because the appellate court may not address the merits, it must set aside

the trial court's judgment. A void judgment may be attacked at any time by a person whose rights are affected. See *El-Kareh v. Texas Alcoholic Beverage Comm'n*, 874 S.W.2d 192,194 (Tex. App.—Houston [14th Dist.] 1994, no writ); see also *Evans v. C. Woods, Inc.*, No. 12-99-00153-CV, 1999 WL 787399, at \*1 (Tex. App.—Tyler Aug. 30, 1999, no pet. h.). A Party Affected by VOID Judicial Action Need Not APPEAL. *State ex rel. Latty*, 907 S.W.2d at 486. It is entitled to no respect whatsoever because it does not affect, impair, or create legal rights." *Ex parte Spaulding*, 687 S.W.2d at 745 (Teague, J. concurring).

### **3. BECAUSE THE NINTH CIRCUIT MEMORANDUM IS MISLEADING**

The ninth circuit memorandum by merely offering an opinion on the merits of VOID orders implies the VOID orders issued in lower state court are in fact VALID., thereby validating void orders, lending credibility to district court also applying Rooker-Feldman Doctrine to VOID orders.

The ninth circuit opts not to address the facts in evidence the orders referred in lower state court are VOID on their face, thus failing to provide authority for their opinion

A court cannot legally offer opinions on the merits of a

void order, because the order has no legal effect and is treated as if it never existed. When an appellate court determines a lower court's order was void, it must vacate the judgment and dismiss the case without considering the substance of the ruling.

**4. BECAUSE THE STATE COMMISSION ON JUDICIAL PERFORMANCE REFUSED FOUR ATTEMPTS REQUESTING AN INVESTIGATION FOR JUDICIAL MISCONDUCT.**

Oversite in federal court is needed in the rare extreme case when a Racketeering and Corrupt business enterprise operates freely utilizing the power and authority of Orange County Superior Court as cover without fear of prosecution even absent all immunity or jurisdiction.

Oversite is needed when the Fourth Appellate Division District Div3 and the Commission on Judicial Performance refuse to address any facts of the lack of subject matter jurisdiction presented or provide any authority allowing each to validate VOID orders.

## **XII RELEVANT CASES**

The relevant cases provided on page vii, demonstrates the extent to which lower state court judicial officers will go to conceal judicial misconduct, trying to fabricate judicial immunity by refusing to allow two parties settle a case that was initiated illegally.

The orders issued in Family court are not VOIDABLE orders, they are simply VOID. Without any legal relevance.

Which is the basis of underlying request for the US Supreme court to determine if Judges without immunity absent jurisdiction have absolute immunity, regardless of the laws being broken, from district court.

**XIII        SPECIAL CIRCUMSTANCES**  
**[See Appendix A79 filed with the Ninth Circuit]**

SPECIAL CIRCUMSTANCES presented to the

NINTH CIRCUIT was provided as an offer of proof for review of alleged criminal conduct in lower state court whereby judicial officers are utilizing the office and cover of Superior Court to conceal judicial misconduct in an effort to fabricate immunity by refusing to let two parties settle a case between them. Keeping a case open, refusing two parties request to settle, misleads (intended to fool) a federal court (fraud on the court) arguing Rooker - Feldman is a defense to VOID orders. Then ninth circuit DENIES Appellate his right to a Fair Trial in an un-biased court. How does Rooker Feldman apply to a case that does not exist under the law?

**XIII        CONCLUSION**

For the Foregoing reasons Mr. Clark respectfully ask this U.S. Supreme Court issue a Writ of Certiorari to review the judgment of the NINTH Circuit Court Of Appeals.

Respectfully Submitted by

Date 10/06/2025

---

Edward L. Clark Jr.  
Self Represented

Word Certification

CERTIFICATE OF WORD COUNT

Case : Ninth Appellate District, California : 23-55628; 23-55715

District Court Case: 8:22-01390-MWF-JPR

Case Name: Edward L Clark Jr. v, State of California e.t Defs,

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Document Title: PETITION FOR WRIT OF CERTIORARI

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Pursuant to Rule 33.1(h) of the Rules of this Court, I certify that the accompanying Writ of Certiorari which was prepared using Century Schoolbook, 12-pont typeface, contains 3,841 words, excluding the parts of the document that are exempted by Rule 33.1(d). This certificate was prepared in reliance on the word count function of the word processing system (Microsoft Word) used to prepare the document.

I declare under the penalty ff perjury that the foregoing is true and correct

Dated this 6<sup>th</sup> day of October 2025, in the County of Orange, California

---

Edward L Clark Jr.  
Self Represented

# APPENDICES

## **FILED**

1. February 14, 2025 Memorandum Ninth Circuit.....A23
  2. June 29. 2023 Order Accepting R&R.....A27
  3. May 9. 2023 Report and Recommendation.....A30
  4. March 10, 2025Petition For Panel Rehearing.....A55
- March 10, 2025 Offer of Proof Special Circumstances.....A80

## Appendix 1

UNITED STATES COURT OF APPEALS

FILED

FOR THE NINTH CIRCUIT

JUL 2 2025

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

EDWARD L. CLARK,

Plaintiff-Appellant,

v.

STATE OF CALIFORNIA; et al.,

Defendants-Appellees.

Nos. 23-55628, 23-55715

D.C. No.

8:22-cv-01390-MWF-JPR

Central District of California,

Santa Ana

ORDER

Before: SILVERMAN, WARDLAW, and DESAI, Circuit Judges.

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

The full court has been advised of the petition for rehearing en banc and no judge has requested a vote on whether to rehear the matter en banc. *See* Fed. R. App. P. 40.

The petition for panel rehearing and petition for rehearing en banc (Docket Entry No. 35 in Appeal No. 23-55628; Docket Entry No. 31 in Appeal No. 23-55715) are denied.

No further filings will be entertained in these closed cases.



**NOT FOR PUBLICATION**  
**UNITED STATES COURT OF APPEALS**  
**FOR THE NINTH CIRCUIT**

**FILED**

**FEB 24 2025**

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

EDWARD L. CLARK,

Plaintiff-Appellant,

v.

STATE OF CALIFORNIA; et al.,

Defendants-Appellees.

Nos. 23-55628  
23-55715

D.C. No. 8:22-cv-01390-MWF-JPR

MEMORANDUM\*

Appeals from the United States District Court  
for the Central District of California  
Michael W. Fitzgerald, District Judge, Presiding

Submitted February 18, 2025\*\*

Before: SILVERMAN, WARDLAW, and DESAI, Circuit Judges.

Edward L. Clark appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action arising out of state court divorce proceedings. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Seismic Reservoir 2020, Inc. v. Paulsson*, 785 F.3d 330, 333 (9th Cir. 2015)

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

\*\* The panel unanimously concludes these cases are suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

(dismissal under Fed. R. Civ. P. 12(b)(1)); *Noel v. Hall*, 341 F.3d 1148, 1154 (9th Cir. 2003) (dismissal under the *Rooker-Feldman* doctrine). We affirm.

The district court properly dismissed Clark's action for lack of subject matter jurisdiction under the *Rooker-Feldman* doctrine because Clark's claims are a "de facto appeal" of a prior state court judgment or are "inextricably intertwined" with that judgment. *See id.* at 1163-65 (discussing proper application of the *Rooker-Feldman* doctrine); *see also Carmona v. Carmona*, 603 F.3d 1041, 1050-51 (9th Cir. 2010) (*Rooker-Feldman* doctrine barred plaintiff's claims seeking to enjoin state family court orders); *Reusser v. Wachovia Bank, N.A.*, 525 F.3d 855, 860 (9th Cir. 2008) (*Rooker-Feldman* doctrine bars a claim of extrinsic fraud if the alleged fraud has been separately litigated in a state action); *Safe Air for Everyone v. Meyer*, 373 F.3d 1035, 1039 (9th Cir. 2004) ("In resolving a factual attack on jurisdiction, the district court may review evidence beyond the complaint without converting the motion to dismiss into a motion for summary judgment.").

The district court did not abuse its discretion in denying Clark's motion for disqualification and recusal because Clark failed to establish any basis for relief. *See United States v. Hernandez*, 109 F.3d 1450, 1453-54 (9th Cir. 1997) (setting forth standard of review and discussing standard for recusal under 28 U.S.C. §§ 144 and 455). We reject as unsupported by the record Clark's contentions that the magistrate judge had a conflict of interest or that either the district or

magistrate judge was biased against him.

The district court did not abuse its discretion in denying Clark's motion to alter or amend the judgment and for relief from judgment because Clark failed to demonstrate any basis for relief. *See Sch. Dist. No. 1J, Multnomah County, Or.*, 5 F.3d 1255, 1262-63 (9th Cir. 1993) (setting forth standard of review and grounds for relief under Federal Rule of Civil Procedure 60).

The district court did not abuse its discretion in dismissing Clark's action without leave to amend because amendment would be futile. *See Cervantes v. Countrywide Home Loans, Inc.*, 656 F.3d 1034, 1041 (9th Cir. 2011) (setting forth standard of review and explaining that dismissal without leave to amend is proper where amendment would be futile).

We do not consider matters not specifically and distinctly raised and argued in the opening brief, or arguments and allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009). We do not consider documents and facts not presented to the district court. *See United States v. Elias*, 921 F.2d 870, 874 (9th Cir. 1990).

All pending motions and requests are denied.

**AFFIRMED.**

## Appendix 2

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**EDWARD L. CLARK, JR.,**

**Plaintiff,**

**v.**

**STATE OF CALIFORNIA, et al.,**

**Defendants.**

**Case No. SACV 22-1390-MWF(JPR)**

**ORDER ACCEPTING  
MAGISTRATE JUDGE'S REPORT  
AND RECOMMENDATION**

Pursuant to 28 U.S.C. § 636, the Court has reviewed the First Amended Complaint, the other records on file herein, the Magistrate Judge's Report and Recommendation (the "R & R"), and Plaintiff's Objections to the R & R (Docket No. 56) and his accompanying exhibits. The Court has reviewed the objections de novo.

The Court **OVERRULES** the Objections and **ACCEPTS** the findings and recommendations of the Magistrate Judge. The R & R thoroughly and correctly explains why this Court does not have jurisdiction over Plaintiff's claims. The Objections repeat the same tired arguments. Plaintiff simply will not acknowledge that this Court has no authority to review claims decided against him in the Orange County Superior Court. This Court reached the same inevitable conclusion in his prior federal case.


///

1           **ACCORDINGLY, IT IS ORDERED AS FOLLOWS:**

- 2           1. Defendants' motion to dismiss is granted.
- 3           2. Plaintiff's claims against the Doe Defendants and Deborah Clark are
- 4           dismissed.
- 5           3. Judgment be entered consistent with this Order.
- 6           4. The clerk shall serve this Order and the Judgment on all counsel or
- 7           parties of record.

8

9   Dated: June 29, 2023

  
MICHAEL W. FITZGERALD  
United States District Judge

## Appendix 3

1  
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8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA  
10

11  
12 EDWARD L. CLARK, JR., ) Case No. SACV 22-1390-MWF (JPR)  
13 Plaintiff, )  
14 v. ) REPORT AND RECOMMENDATION OF U.S.  
15 STATE OF CALIFORNIA et al., ) MAGISTRATE JUDGE  
16 Defendants. )  
17

18 This Report and Recommendation is submitted to the Honorable  
19 Michael W. Fitzgerald, U.S. District Judge, under 28 U.S.C. § 636  
20 and General Order 05-07 of the U.S. District Court for the  
21 Central District of California. For the reasons discussed below,  
22 the Court recommends that Defendants' motions to dismiss be  
23 granted and that this action be dismissed without leave to amend.

24 PROCEEDINGS

25 On July 27, 2022, Plaintiff filed pro se a civil-rights  
26 action against the State of California, Orange County Superior  
27 Court Judge Lon Hurwitz, Orange County Superior Court Judge  
28 Yolanda V. Torres, Orange County Superior Court Commissioner



1 Barry Michaelson, the Moshtael Family Law Firm and some of its  
2 attorneys – Navid Moshtael, Erin Noonan, James Wellman, Lance  
3 Duran, and Sheri Laughlin – and his ex-wife, Deborah L. Clark.  
4 (See Compl. at 2, 6-7.)<sup>1</sup> On August 22, 2022, he filed a similar  
5 First Amended Complaint. His claims stem from orders issued in a  
6 state-court divorce proceeding.

7 On October 28, 2022, the State of California moved under  
8 Federal Rule of Civil Procedure 12(b)(1) and (6) to dismiss the  
9 claims against it and asked the Court to take judicial notice of  
10 rulings from an earlier federal-court proceeding in this Court,  
11 in which Plaintiff sued many of the same Defendants for the same  
12 things, see Clark v. California, No. SACV 21-1565-MWF (JPR), 2022  
13 WL 1511772 (C.D. Cal. Feb. 24, 2022), accepted by 2022 WL 986668  
14 (C.D. Cal. Apr. 1, 2022). Plaintiff opposed the motion to  
15 dismiss, objected to the judicial-notice request, and filed his  
16 own request for judicial notice; the State of California replied.

17 On November 7, 2022, Defendants Hurwitz, Torres, and  
18 Michaelson moved under Rule 12(b)(1) and (6) to dismiss the  
19 claims against them without leave to amend. The judicial  
20 Defendants also asked that the Court take judicial notice of the  
21 complaint and rulings from the related federal case. Plaintiff  
22 opposed the motion, objected to the request for judicial notice,  
23 and filed his own request for judicial notice. The judicial  
24 Defendants did not reply.

25 On December 2, 2022, the Moshtael Family Law Firm and its  
26 attorneys moved under Rule 12(b)(1) and (6) to dismiss the claims

---

27  
28 <sup>1</sup> The Court uses the pagination generated by its Case  
Management/Electronic Case Filing system.

1 against them without leave to amend. The attorney Defendants  
2 asked that the Court take judicial notice of filings and rulings  
3 from the underlying state-court proceedings as well as from the  
4 earlier federal-court case. Plaintiff opposed the motion,  
5 objected to the request for judicial notice, and filed his own  
6 judicial-notice request. The attorney Defendants replied on  
7 January 5, 2023.

8 **ALLEGATIONS OF THE FIRST AMENDED COMPLAINT**

9 In 2006, Plaintiff and his now ex-wife, Defendant Clark,  
10 agreed to a "MONEY JUDGMENT" "entered in the dissolution of  
11 marriage" in "Orange County Superior Court Family Law Division  
12 case # 05D000275." (FAC at 16.) The 2006 judgment "DID NOT  
13 CONTAIN ANY PROVISIONS FOR SUPPORT FOR ALIMON[Y] OR CHILD  
14 SUPPORT." (Id.) Petitioner's ex-wife "filed a satisfaction of  
15 judgment" in 2013. (Id.) Afterward, Plaintiff and his ex-wife  
16 "entered an oral agreement," which was "reduced to a written  
17 contract" on March 21, 2016. (Id.) The 2016 contract "finally  
18 and forever dissolv[ed] all issues" and "prohibit[ed] any  
19 claims." (Id.) They "entered a second contract" in July 2021  
20 "agreeing" that the March 2016 "contract was in fact valid."  
21 (Id.)

22 In April 2018, the judicial and attorney Defendants, with  
23 "pre-meditated intent," "fabricated" a "Request for Order" in the  
24 family-law case to "'[d]etermine [a]rrears' for support payments"  
25 and "force jurisdiction in family court." (Id.) The RFO  
26 "referenced the 2006 family law judgment" but "ma[de] no mention  
27 of" the attached 2016 contract or its liability-waiver  
28 stipulation. (Id. at 16-17.) Judge Hurwitz, "in collusion with

1 his judicial officers" and the attorney Defendants (id. at 24),  
2 signed the RFO, which was "intended to deceive Plaintiff and  
3 prevent him from defending any allegations" (id. at 17).

4 At Hurwitz's direction, the family court "trie[d] to get  
5 [Plaintiff and his ex-wife] to sign a stipulation giving a  
6 Commissioner subject matter jurisdiction 'OVER ALL MATTERS.'" (Id.  
7 at 17.) Plaintiff refused to sign the stipulation. (Id.)  
8 The judicial and attorney Defendants therefore "fabricated a  
9 fraudulent stipulation outside the court room (extrinsic  
10 evidence) in [their] effort to 'CREATE JUDICIAL IMMUNITY' for"  
11 themselves. (Id.) Michaelson stated that the 2016 contract was  
12 valid "but proceeded with a Sham case." (Id. at 11.)

13 The judicial and attorney Defendants disregarded the 2016  
14 contract in order to "issue an illegal order" "changing the 2006  
15 judgment," which doubled Plaintiff's monthly payment to his ex-  
16 wife and allowed her to keep \$850,000 cash. (Id. at 17.) They  
17 also "fabricated a letter (created outside the court room by  
18 supervising judge Lon Hurwitz)" and "created a court order" -  
19 after the "illegal order" changing the 2006 judgment was on  
20 appeal - "in an effort to create judicial immunity for  
21 protection."<sup>2</sup> (Id. at 17; see id. at 19-20.)

22 Plaintiff then filed a regular civil action in the superior  
23 court to litigate the terms of the 2016 contract. (Id. at 17.)  
24

---

25 <sup>2</sup> Although the FAC does not really describe the "letter," he  
26 alleged in his earlier lawsuit that it "respond[ed] to  
27 [Plaintiff's] allegations of judicial misconduct" against  
28 Michaelson. Clark, 2022 WL 986668, at \*1 (second alteration in  
original). The Court noted that Plaintiff "never even explain[ed]  
how the letter was actually false or otherwise deceived the state  
court." Id.

1 In July 2021, Plaintiff and his ex-wife "mutually agreed to enter  
2 a new contract dissolving all issues for" the family-law case.  
3 (Id. at 17-18.)

4 Plaintiff's ex-wife failed to file the "new contract" in  
5 family court to dismiss that case. (Id. at 18.) Plaintiff then  
6 "filed a notice of motion and served [his ex-wife] a motion to  
7 SHOW cause on 6/3/22 of why or why not a final dissolution  
8 judgment should be entered dismissing" the family-court case.  
9 (Id.) Plaintiff's ex-wife "failed to oppose or appear BY PHONE  
10 on 6/3/21."<sup>3</sup> (Id.) Defendant Judge Torres took judicial notice  
11 of California Rule of Court 3.1385(b), which allegedly states  
12 that a court "must" dismiss a case 45 days after it receives  
13 notice of a settlement if the party required to serve and file  
14 the request for dismissal does not do so.<sup>4</sup> (Id. at 15, 18.) She  
15 then stated, "The court cannot go beyond its scope, or whatever  
16

---

17 <sup>3</sup> If the motion was set to be heard on "6/3/22," as Plaintiff  
18 states, then presumably he meant to allege that his ex-wife failed  
19 to appear on that day, not on the same date in 2021, as he writes.  
(FAC at 18.)

20 <sup>4</sup> Rule 3.1385(b) states,

21 Except as provided in (c) or (d), each plaintiff or other  
22 party seeking affirmative relief must serve and file a request  
23 for dismissal of the entire case within 45 days after the date  
24 of settlement of the case. If the plaintiff or other party  
25 required to serve and file the request for dismissal does not  
26 do so, the court must dismiss the entire case 45 days after it  
receives notice of settlement unless good cause is shown why  
the case should not be dismissed.

27 The terms of the rule plainly reflect that a court has discretion  
28 not to dismiss if good cause exists. This Court is not in a  
position to second-guess the state court's ruling, and indeed, as  
explained herein, it is barred by Rooker-Feldman from doing so.

1 is requested in the Proceedings," and denied Plaintiff's "order  
2 to show cause of why the settlement entered between the parties  
3 should not be entered dismissing case 05D000275 when the order  
4 was unopposed." (Id. at 18.) She denied the order to show cause  
5 for the "SOLE PURPOSE OF CONTINU[ING] THE THREAT OF EXTOR[T]ION."  
6 (Id.)

7 The State of California then "failed to investigate alleged  
8 tortious acts by judicial officers, sub-ordinate [sic] judicial  
9 officers, and officers of the court under the color of office."  
10 (Id. at 13.)

11 Plaintiff claims Defendants violated the Racketeer  
12 Influenced and Corrupt Organizations Act (see id. at 18-21);  
13 engaged in malicious prosecution by "creat[ing] a Sham case" to  
14 circumvent the statute of limitations and extort a settlement  
15 (id. at 22); committed abuses of power (id. at 22-24); committed  
16 fraud (id. at 24-25); committed extortion (id. at 25-27); and  
17 engaged in collusion (id. at 27-28).<sup>5</sup> All of the Defendants  
18 except Plaintiff's ex-wife participated in the "CRIMINAL  
19 ENTERPRISE." (Id. at 9.)

20  
21  
22 <sup>5</sup> Despite having been told already that he couldn't, see  
23 Clark, 2022 WL 1511772, at \*1 n.2, Plaintiff sues in part under  
24 various federal criminal statutes (see FAC at 3) that do not create  
25 a private right of action. See, e.g., Aldabe v. Aldabe, 616 F.2d  
26 1089, 1092 (9th Cir. 1980) (per curiam) (affirming dismissal of  
27 claims brought under criminal provisions that "provide[d] no basis  
28 for civil liability"); Henry v. Universal Tech. Inst., 559 F. App'x  
648, 650 (9th Cir. 2014) (no private right of action under 18  
U.S.C. § 371); Rundgren v. Bank of N.Y. Mellon, 777 F. Supp. 2d  
1224, 1233 (D. Haw. 2011) ("18 U.S.C. § 1001 is a criminal statute  
and does not provide for a private cause of action."), aff'd, 637  
F. App'x 404 (9th Cir. 2016).

1 Plaintiff seeks legal fees and costs incurred in his state-  
2 court cases; declaratory, equitable, and injunctive relief;  
3 "[c]onsequential and general damages" in an amount of at least  
4 \$150,000; "damages in accord with CCP § 724.030";<sup>6</sup> and  
5 "[e]xemplary and punitive damages." (*Id.* at 5, 28-30.)

#### 6 STANDARD OF REVIEW

7 A complaint may be dismissed as a matter of law for failure  
8 to state a claim "where there is no cognizable legal theory or an  
9 absence of sufficient facts alleged to support a cognizable legal  
10 theory." Shroyer v. New Cingular Wireless Servs., Inc., 622 F.3d  
11 1035, 1041 (9th Cir. 2010) (as amended) (citing Navarro v. Block,  
12 250 F.3d 729, 732 (9th Cir. 2001)); accord O'Neal v. Price, 531  
13 F.3d 1146, 1151 (9th Cir. 2008). In considering whether a  
14 complaint states a claim, a court must generally accept as true  
15 the factual allegations in it. Ashcroft v. Iqbal, 556 U.S. 662,  
16 678 (2009). The court need not accept as true, however,  
17 "allegations that are merely conclusory, unwarranted deductions  
18 of fact, or unreasonable inferences." In re Gilead Scis. Sec.  
19 Litig., 536 F.3d 1049, 1055 (9th Cir. 2008) (citing Sprewell v.  
20 Golden State Warriors, 266 F.3d 979, 988 (9th Cir.), as amended  
21 on denial of reh'g, 275 F.3d 1187 (9th Cir. 2001)); see also  
22 Shelton v. Chorley, 487 F. App'x 388, 389 (9th Cir. 2012)  
23 (finding that district court properly dismissed civil-rights  
24  
25

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26  
27 <sup>6</sup> That provision states, in relevant part: "When a money  
28 judgment is satisfied, the judgment creditor immediately shall file  
with the court an acknowledgment of satisfaction of judgment."  
Cal. Civ. Proc. Code § 724.030.

1 claim when plaintiff's "conclusory allegations" did not support  
2 it).

3 Although a complaint need not include detailed factual  
4 allegations, it "must contain sufficient factual matter, accepted  
5 as true, to 'state a claim to relief that is plausible on its  
6 face.'" Iqbal, 556 U.S. at 678 (quoting Bell Atl. Corp. v.  
7 Twombly, 550 U.S. 544, 570 (2007)); Yagman v. Garcetti, 852 F.3d  
8 859, 863 (9th Cir. 2017). A claim is facially plausible when it  
9 "allows the court to draw the reasonable inference that the  
10 defendant is liable for the misconduct alleged." Iqbal, 556 U.S.  
11 at 678. "A document filed pro se is 'to be liberally construed,'  
12 and 'a pro se complaint, however inartfully pleaded, must be held  
13 to less stringent standards than formal pleadings drafted by  
14 lawyers.'" Erickson v. Pardus, 551 U.S. 89, 94 (2007) (per  
15 curiam) (citations omitted). Pro se litigants should be granted  
16 leave to amend unless it is absolutely clear that the  
17 deficiencies cannot be cured by amendment. See Lopez v. Smith,  
18 203 F.3d 1122, 1130-31 (9th Cir. 2000) (en banc).

#### 19 DISCUSSION

##### 20 I. The Judicial-Notice Requests Are Granted in Part

21 Defendants and Plaintiff request that the Court take  
22 judicial notice of various filings from state-court actions and  
23 from the earlier case in this Court.

24 Plaintiff also requests that the Court take judicial notice  
25 that Defendants have not "provided a stipulation signed by  
26 Plaintiff" consenting to a commissioner presiding "on a disputed  
27 matter" and that the "only document that exist[s] assigning  
28 Commissioner Barry Michaelson to preside is over a debtor's exam

1 that was taken off calendar after Plaintiff filed his  
2 objections." (Pl.'s Opp'n Att'y Defs.' Mot. Dismiss, Req.  
3 Judicial Notice, ECF No. 42 at 2.)

4 Plaintiff objects to Defendants' requests for judicial  
5 notice on the grounds that Defendants "may not rely on extrinsic  
6 evidence in contesting sufficiency of the pleadings" and that the  
7 statements in the documents are subject to dispute, are hearsay,  
8 and are irrelevant. (Pl.'s Opp'n & Objs. to Judicial Defs.' Req.  
9 Judicial Notice, ECF No. 33 at 2-6; Pl.'s Objs. to Defs.'  
10 References to Extrinsic Evidence, ECF No. 35 at 2-3; Pl.'s Objs.  
11 to Defs.' References to Extrinsic Evidence, ECF No. 40 at 2; see  
12 also Pl.'s Objs. in Part, ECF No. 41 at 2.) Plaintiff also  
13 specifically opposes the State of California's request for  
14 judicial notice on the grounds that it has not been made in a  
15 separate motion, fails to quote the rule allowing the court to  
16 take judicial notice, and "fails to incorporate by reference."  
17 (Pl.'s Objs. to Cal. Mot. Dismiss, ECF No. 31 at 2.)

18 The Court may take judicial notice of matters of public  
19 record, including court filings. See Fed. R. Evid. 201; Harris  
20 v. Cnty. of Orange, 682 F.3d 1126, 1132 (9th Cir. 2012) (noting  
21 that court may take judicial notice of and consider "documents on  
22 file in federal or state courts"); Reyn's Pasta Bella, LLC v.  
23 Visa USA, Inc., 442 F.3d 741, 746 n.6 (9th Cir. 2006) (same).  
24 The Court therefore grants Defendants' requests. The Court also  
25 grants Plaintiff's requests to the extent they are limited to  
26 court filings. The Court denies his remaining requests because  
27 they are not facts that "can be accurately and readily determined  
28 from sources whose accuracy cannot reasonably be questioned."



1 Fed. R. Evid. 201(b)(2). In any event, his requests, which all  
2 essentially ask that the Court judicially notice that no signed  
3 stipulation exists agreeing to have Michaelson preside, are  
4 irrelevant because the state court of appeal found that he  
5 consented to Michaelson's presiding over the family-court case by  
6 his actions and inactions, not in writing. See In re Marriage of  
7 Clark, No. G058030, 2020 WL 7051330, at \*5 (Cal. Ct. App. Dec. 2,  
8 2020).

9 **II. Relevant Background**

10 The judicially noticed records show that on August 31, 2006,  
11 a judgment was entered in Orange County family-court case number  
12 05D000275 between Plaintiff and his ex-wife. (Att'y Defs.' Req.  
13 Judicial Notice, Ex. 1, ECF No. 37-1 at 5-16.) The judgment  
14 required Plaintiff to pay her monthly equalization payments over  
15 30 years in lieu of a lump sum. (Id. at 14.) On September 14,  
16 2017, the family court ordered Plaintiff to appear for  
17 examination, to which he objected. (Id., Exs. 2-3, ECF No. 37-1  
18 at 18-23, 25-37.) Deborah Clark, represented by the attorney  
19 Defendants, filed the RFO, which Plaintiff opposed. (Id., Exs.  
20 4-5, ECF No. 37-1 at 39-78, 80-112.) The family court held a  
21 hearing and found in Deborah Clark's favor on October 12, 2018.  
22 (Id., Exs. 6-8, ECF No. 37-1 at 114-15, 117-21, 123-31.)

23 After the family court denied Plaintiff's motion to vacate  
24 the order, he appealed it. (Id., Exs. 9-10, ECF No. 37-1 at 113,  
25 135-48.) He argued, among other things, that the family court  
26 had lacked jurisdiction to hear the RFO. (Id., Ex. 10, ECF No.  
27 37-1 at 136.) On December 3, 2020, the state court of appeal  
28 affirmed the family court's order requiring Plaintiff to continue

1 to make monthly equalization payments to his ex-wife despite any  
2 2013 or 2016 agreements to the contrary. (Id. at 148.) The  
3 appellate court also rejected Plaintiff's claim that he never  
4 stipulated to having Defendant Michaelson preside over the  
5 proceedings and found that the family court had had jurisdiction  
6 to adjudicate the dispute. (Id. at 136, 142-45.)

7 On August 2, 2019, Plaintiff filed a separate, regular civil  
8 action against his ex-wife in Orange County Superior Court.

9 (Id., Ex. 11, ECF No. 37-1 at 150-58.) In July 2021, after the  
10 superior court indicated in an April 26, 2021 minute order that  
11 the matters at issue would be transferred to family court (see  
12 id., Ex. 12, ECF No. 37-1 at 161), Plaintiff and his ex-wife  
13 settled the lawsuit (id., Ex. 13, ECF No. 37-1 at 165-67). The  
14 parties stipulated that the "family law minute order issued" on  
15 October 12, 2018, was "not enforceable" and "therefore void."  
16 (Id. at 166.) The superior court "read and considered" the  
17 settlement agreement and vacated its prior minute order at the  
18 parties' request. (Id., Ex. 14, ECF No. 37-1 at 169; see id.,  
19 Ex. 13, ECF No. 37-1 at 166.)

20 On September 24, 2021, Plaintiff filed his first federal  
21 lawsuit, suing the State of California, the attorney Defendants,  
22 and Commissioner Michaelson for (1) RICO; (2) malicious  
23 prosecution; (3) abuse of process; (4) fraud on the court; (5)  
24 extortion; (6) collusion; and (7) perjury. He did not name  
25 Hurwitz, Torres, or his ex-wife as Defendants. The claims in the  
26 first federal action were premised on the underlying family  
27 court's alleged improper jurisdiction and erroneous rulings in  
28 the divorce proceedings (see id., Ex. 15, ECF No. 37-1 at 182-

87), just as they are here. In short, Plaintiff alleged that despite the 2016 contract, he was served a request for order to appear in family court, Michaelson stated that he had jurisdiction even though Plaintiff had not signed a stipulation consenting to his presiding, Michaelson created false records and entries to give the appearance that he had jurisdiction, and Plaintiff and his ex-wife entered into a settlement in a separate civil action. (See id.) This Court dismissed that lawsuit on the grounds that it was barred by the Rooker-Feldman<sup>7</sup> doctrine and the 11th Amendment. Clark, 2022 WL 986668, accepting 2022 WL 1511772.

**III. The Claims Against the State of California and the Judicial Defendants in Their Official Capacity Are Barred by the 11th Amendment**

The official-capacity claims against the State of California and the judicial Defendants are barred by the 11th Amendment. "The Eleventh Amendment generally bars the federal courts from entertaining suits brought by a private party against a state or its instrumentality in the absence of state consent," whether that lawsuit seeks money damages, injunctive relief, or declaratory relief. L.A. Cnty. Bar Ass'n v. Eu, 979 F.2d 697, 704 (9th Cir. 1992); see Green v. Mansour, 474 U.S. 64, 67, 74 (1985) (claims against state officials for declaratory relief related to past violations of federal law are barred by 11th Amendment); Dittman v. California, 191 F.3d 1020, 1025-26 (9th Cir. 1999) ("The State of California has not waived its Eleventh

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<sup>7</sup> See Rooker v. Fid. Tr. Co., 263 U.S. 413 (1923); D.C. Ct. App. v. Feldman, 460 U.S. 462 (1983).

1 Amendment immunity with respect to claims brought under § 1983 in  
2 federal court[.]"). A narrow exception to 11th Amendment  
3 immunity exists for claims seeking prospective declaratory or  
4 injunctive relief. See Agua Caliente Band of Cahuilla Indians v.  
5 Hardin, 223 F.3d 1041, 1045 (9th Cir. 2000) (citing Ex parte  
6 Young, 209 U.S. 123 (1908)).

7 The FAC alleges a cause of action against the State of  
8 California for a declaratory judgment of Plaintiff's rights in  
9 the underlying state-court proceedings and also appears to allege  
10 respondeat superior liability for the malicious prosecution and  
11 extortion claims. (See FAC at 22-23, 25-27, 28-30.) As  
12 discussed above, the 11th Amendment bars any claims seeking money  
13 damages against the State. And the declaratory relief sought by  
14 Plaintiff would effectively be an award of retrospective relief,  
15 as he seeks a declaration that the family court had no  
16 jurisdiction and its order is void. Thus, any claims against the  
17 State of California are barred by the 11th Amendment and should  
18 be dismissed.

19 The FAC also alleges claims against the judicial Defendants  
20 in their official and individual capacities. (FAC at 2.) "State  
21 officials sued in their official capacities are generally  
22 entitled to Eleventh Amendment immunity." Lund v. Cowan, 5 F.4th  
23 964, 969 (9th Cir. 2021). Because the judicial Defendants are  
24 state-court judges or commissioners sued in their official  
25 capacity, those claims are barred by the 11th Amendment. See id.  
26 (11th Amendment applied to suit against state-court judge sued in  
27 his official capacity); Kleidman v. Collins, No. 2:22-cv-03263-  
28 CJC-JDE, 2022 WL 17224724, at \*8 (C.D. Cal. Oct. 24, 2022) (state

1 appellate-court judges were entitled to 11th Amendment immunity  
2 when they were sued in official capacity), accepted by 2022 WL  
3 17552994 (C.D. Cal. Dec. 8, 2022), amended by 2023 WL 1931850  
4 (C.D. Cal. Jan. 9, 2023), appeal filed, No. 23-55128 (9th Cir.  
5 Feb. 10, 2023).

6 Because the Court lacks jurisdiction over the State of  
7 California (and over the claims against its judicial officers in  
8 their official capacity), the Court need not reach the other  
9 grounds for dismissal raised by the State of California.

10 **IV. The Court Lacks Subject-Matter Jurisdiction Under the**  
11 **Rooker-Feldman Doctrine**

12 Even though the Court ruled in Plaintiff's first federal  
13 case that the Rooker-Feldman doctrine barred review of his  
14 claims, he again seeks federal-court review of the state courts'  
15 orders in the divorce case.

16 Under the Rooker-Feldman line of cases, "lower federal  
17 courts are without subject matter jurisdiction to review state  
18 court decisions, and state court litigants may therefore only  
19 obtain federal review by filing a petition for a writ of  
20 certiorari in the Supreme Court of the United States."  
21 Mothershed v. Justs. of Sup. Ct., 410 F.3d 602, 606 (9th Cir.  
22 2005) (as amended). "To determine whether the Rooker-Feldman bar  
23 is applicable, a district court first must determine whether the  
24 action contains a forbidden de facto appeal of a state court  
25 decision." Bell v. City of Boise, 709 F.3d 890, 897 (9th Cir.  
26 2013). "A de facto appeal exists when 'a federal plaintiff  
27 asserts as a legal wrong an allegedly erroneous decision by a  
28 state court, and seeks relief from a state court judgment based

1 on that decision.'" Id. (quoting Noel v. Hall, 341 F.3d 1148,  
2 1164 (9th Cir. 2003)); see also Cooper v. Ramos, 704 F.3d 772,  
3 777-78 (9th Cir. 2012) ("To determine whether an action functions  
4 as a de facto appeal, we 'pay close attention to the relief  
5 sought by the federal-court plaintiff.'" (quoting Bianchi v.  
6 Rylaarsdam, 334 F.3d 895, 900 (9th Cir. 2003) (emphasis in  
7 original))).

8 If the action contains a de facto appeal, a district court  
9 is barred from deciding not only the issues adjudicated by the  
10 state court but also any other issues that are "inextricably  
11 intertwined" with the state court's decision. Bell, 709 F.3d at  
12 897; Noel, 341 F.3d at 1157-58; see Feldman, 460 U.S. at 486-87.  
13 "A claim is inextricably intertwined with a state court judgment  
14 if 'the federal claim succeeds only to the extent that the state  
15 court wrongly decided the issues before it' or if 'the relief  
16 requested in the federal action would effectively reverse the  
17 state court decision or void its ruling.'" Fontana Empire Ctr.,  
18 LLC v. City of Fontana, 307 F.3d 987, 992 (9th Cir. 2002)  
19 (citation omitted) (first quoting Pennzoil Co. v. Texaco, Inc.,  
20 481 U.S. 1, 25 (1987) (Marshall, J., concurring), then Charchenko  
21 v. City of Stillwater, 47 F.3d 981, 983 (8th Cir. 1995)).

22 Rooker-Feldman applies even when the challenge to the state  
23 court's actions involves federal constitutional issues. Feldman,  
24 460 U.S. at 484-86; Dubinka v. Judges of Super. Ct., 23 F.3d 218,  
25 221 (9th Cir. 1994).

26 The FAC's claims are premised on the underlying family-law  
27 court's alleged lack of jurisdiction and erroneous rulings. (See  
28 FAC at 16 (alleging that judicial and attorney Defendants

1 fabricated RFO to "force jurisdiction in family court" to  
2 determine arrears after dissolution judgment had already been  
3 satisfied), 17 (alleging that judicial and attorney Defendants  
4 tried to deceive Plaintiff and have him sign stipulation to get  
5 subject-matter jurisdiction and fabricated orders to benefit his  
6 ex-wife and create judicial immunity), 17-18 (alleging that  
7 judicial and attorney Defendants denied order to show cause in  
8 violation of California law and despite no opposition).)  
9 Plaintiff seeks to undo the state-court rulings by obtaining a  
10 declaration of his rights. (See FAC at 28-30.)

11 After the state court of appeal affirmed the family court's  
12 order, the state supreme court summarily denied Plaintiff's  
13 petition for review. See Cal. App. Cts. Case Info.,  
14 <https://appellatecases.courtinfo.ca.gov> (search for "Edward" with  
15 "Clark" in supreme court) (last visited May 8, 2023). He  
16 apparently did not petition the U.S. Supreme Court. See U.S.  
17 Sup. Ct. Docket Search, [https://www.supremecourt.gov/docket/](https://www.supremecourt.gov/docket/docket.aspx)  
18 [docket.aspx](https://www.supremecourt.gov/docket/docket.aspx) (search for "Edward" with "Clark" yielding no  
19 relevant results) (last visited May 8, 2023). Instead, he filed  
20 the first federal action and, after it was dismissed, this one.

21 Adjudicating Plaintiff's claims would require the Court to  
22 review evidence presented to the family court as well its and the  
23 state court of appeal's decisions in the underlying proceedings.  
24 This action is a de facto appeal, and Plaintiff's claims are  
25 inextricably intertwined with the rulings being challenged. See  
26 Cooper, 704 F.3d at 781-83 (claim that defendants conspired to  
27 deny plaintiff fair state-court proceeding and manipulated  
28 evidence was inextricably intertwined with state-court decision

1 and barred by Rooker-Feldman); Carmona v. Carmona, 603 F.3d 1041,  
2 1051 (9th Cir. 2010) (as amended) (finding that Rooker-Feldman  
3 applied to wife's claim that family-court orders should be  
4 "dismissed with prejudice"). That Plaintiff seeks a declaratory  
5 judgment does not alter the applicability of the Rooker-Feldman  
6 doctrine: "Plaintiff[] may not make an end-run around  
7 Rooker-Feldman by limiting [his] claim against the state court  
8 judges to one for declaratory relief." Eicherly v. O'Leary, 721  
9 F. App'x 625, 627 (9th Cir. 2018).

10 Plaintiff insists that the FAC "has nothing to do [] with  
11 requesting the court to review any errors of the underlying  
12 family court rulings" (Pl.'s Opp'n Att'y Defs.' Mot. Dismiss, ECF  
13 No. 39 at 7) because "there is no reason for the court to review  
14 any orders as the entire matter was heard in front of a  
15 subordinate judicial officer, not a judge and without subject  
16 matter jurisdiction" and the "parties litigants [sic] have  
17 already decided on the issues" (Pl.'s Opp'n Judicial Defs.' Mot.  
18 Dismiss, ECF No. 32 at 12). Instead, Plaintiff asserts, he is  
19 pursuing claims of judicial misconduct that enabled the family  
20 court to act without jurisdiction. (See id. at 11-13; Pl.'s  
21 Opp'n Att'y Defs.' Mot. Dismiss, ECF No. 39 at 7, 18.) He  
22 asserts that Rooker-Feldman applies only to "legitimate" cases  
23 and the underlying state-court proceedings here were a "sham."  
24 (Pl.'s Opp'n Att'y Defs.' Mot. Dismiss, ECF No. 39 at 6.) He  
25 also claims that Rooker-Feldman doesn't apply because he "won"  
26 his family-court case when he and his ex-wife entered into the  
27 July 2021 contract. (FAC at 21; see also id. at 10.)  
28



1 But regardless of how Plaintiff frames his claims, at  
2 bottom, he is again challenging the propriety of the state  
3 court's orders and seeks to have this Court declare that the  
4 family court had no jurisdiction in order to void the underlying  
5 orders in the divorce proceedings. See Eicherly, 721 F. App'x at  
6 627. Although he may think he deserved to win his family-court  
7 case, he of course complains in this lawsuit that he didn't  
8 because Torres and others refused to enter orders they should  
9 have, bringing this case squarely under Rooker-Feldman. His  
10 addition of judges Hurwitz and Torres and of his ex-wife as  
11 Defendants does not alter the substance of his claims or the  
12 remedies he seeks.

13 Plaintiff also argues, as he did in the first federal case,  
14 that the extrinsic-fraud exception to Rooker-Feldman applies  
15 because a "sham case was fabricated with extrinsic fraud."  
16 (Pl.'s Opp'n Att'y Defs.' Mot. Dismiss, ECF No. 39 at 19; see  
17 Pl.'s Opp'n Judicial Defs.' Mot. Dismiss, ECF No. 32 at 12.)  
18 True, Rooker-Feldman may not bar a federal lawsuit if "extrinsic  
19 fraud" prevented the plaintiff from presenting his claims in  
20 state court. Koussasian v. TMSL, Inc., 359 F.3d 1136, 1140-41  
21 (9th Cir. 2004). Such fraud is "not an error by that court"; it  
22 is a "wrongful act committed by the party or parties who engaged  
23 in the fraud." Id. at 1141. Intrinsic fraud, on the other hand,  
24 is fraud that merely "weakens the opponent's case," Phil. Exp. &  
25 Foreign Loan Guarantee Corp. v. Chuidian, 218 Cal. App. 3d 1058,  
26 1091 (1990) (as amended), and occurred during the litigation, see  
27 L.A. Airways, Inc. v. Hughes Tool Co., 95 Cal. App. 3d 1, 7  
28 (1979); Reusser v. Wachovia Bank, N.A., 525 F.3d 855, 860 (9th

1 Cir. 2008) (finding that extrinsic-fraud exception didn't apply  
2 because plaintiff's "claim was itself separately litigated before  
3 and rejected by" state court (emphasis in original)). Intrinsic  
4 fraud is not an exception to the Rooker-Feldman doctrine. See  
5 Wood v. McEwen, 644 F.2d 797, 801 (9th Cir. 1981) (per curiam).

6 Plaintiff conclusorily alleges that Hurwitz "partner[ed]"  
7 with Moshtael to "head[]" the "criminal enterprise" consisting of  
8 the judicial and attorney Defendants (FAC at 19, 24) in an effort  
9 to "force jurisdiction" and "create judicial immunity" (id. at  
10 16). The judicial and attorney Defendants "fabricated" the RFO  
11 (id.), "us[ed] fraud on the court" (id.), "fabricated a  
12 fraudulent stipulation" (id. at 17), "fabricat[ed] an order" to  
13 change the 2006 order in the family-court action (id.), and  
14 "fabricated a letter" and "created a court order after illegal  
15 order was on appeal" (id.). Plaintiff further alleges that  
16 Torres then "extended the threat of extor[t]ion" by ignoring the  
17 California Rules of Court and refusing to dismiss the family-law  
18 action. (Id. at 12; see id. at 13, 15, 28.) He asserts that  
19 these allegations show extrinsic fraud because an "outside  
20 influence" (id. at 15), Hurwitz, orchestrated the fraud from  
21 "outside the court room" (id. at 23).

22 But Plaintiff still misunderstands what constitutes  
23 extrinsic fraud. "Extrinsic fraud is conduct which prevents a  
24 party from presenting his claim in court." Wood, 644 F.2d at  
25 801. Plaintiff's allegations at best raise intrinsic fraud  
26 because they did not prevent him from presenting his claims to  
27 the state courts. See id. (finding that perjury allegations  
28 "[a]t most" raised intrinsic fraud); Bailey v. I.R.S., 188 F.R.D.

1 346, 354 (D. Ariz. 1999) ("Intrinsic fraud is fraud which  
2 pertains to the issues involved in the original action and is  
3 most often accomplished through perjury or the submission of  
4 forged or altered documents into evidence."), aff'd, 232 F.3d 893  
5 (9th Cir. 2000). As the Court explained in Plaintiff's first  
6 federal case, see Clark, 2022 WL 986668, at \*2, no one's "fraud"  
7 prevented him from having his claims reviewed by the state court  
8 of appeal; rather, his own litigation mistakes did. See Marriage  
9 of Clark, 2020 WL 7051330, at \*3-4 (court of appeal refusing to  
10 consider various issues because Plaintiff raised them incorrectly  
11 or did not follow applicable rules); Brooks v. Wanker, No.:  
12 2:19-cv-00973-APG-DJA, 2020 WL 5502157, at \*3 (D. Nev. Sept. 11,  
13 2020) (finding that extrinsic-fraud exception didn't apply  
14 because although judge allegedly "excluded some evidence and  
15 refused to hold an evidentiary hearing," plaintiff wasn't  
16 "precluded from presenting his claims to the court of appeals").  
17 And he did present his jurisdiction claim to the state appellate  
18 court, which rejected it. (See Att'y Defs.' Req. Judicial  
19 Notice, Ex. 10, ECF No. 37-1 at 143 (finding that Plaintiff had  
20 "consented by conduct to a decision by the commissioner").)

21 Moreover, Plaintiff's claims that Hurwitz "controlled" the  
22 "Extrinsic Fraudulent Scheme" (FAC at 13), signed the RFO  
23 "intended to deceive" Plaintiff (id. at 17) and "force  
24 jurisdiction" (id. at 16), "supervis[ed]" and "direct[ed]" the  
25 fraudulent stipulation (id. at 17), and "fabricated a letter"  
26 (id.) can't amount to extrinsic fraud because, as the Court  
27 explained to him in the earlier case, see Clark, 2022 WL 986668,  
28 at \*1, Hurwitz was not an opposing party. See Kougasian, 359

1 F.3d at 1140-41 (extrinsic fraud must be committed by adverse  
2 party); Kraft v. Arizona, No. CV 20-02004-PHX-SPL, 2021 WL  
3 2646546, at \*1, \*3 (D. Ariz. June 28, 2021) (claim that state-  
4 court judges lacked jurisdiction and were engaged in "fraudulent  
5 scheme" was barred by Rooker-Feldman because they were not  
6 adverse parties in underlying proceeding); Levi v. State Bar of  
7 Cal., No. C 07-04378 MHP., 2008 WL 53144, at \*3 (N.D. Cal. Jan.  
8 2, 2008) (extrinsic-fraud exception didn't apply in part because  
9 judge was not adverse party in underlying state-court  
10 proceeding), aff'd in relevant part, 391 F. App'x 633 (9th Cir.  
11 2010). Similarly, Torres was not an adverse party, and  
12 Plaintiff's allegation that "EXTRINSIC FRAUD (Outside Influence)"  
13 caused her to ignore the rules and improperly deny his order to  
14 show cause cannot constitute extrinsic fraud. (FAC at 15; see  
15 id. at 18.) Although Plaintiff's ex-wife was a party in the  
16 underlying state-court cases, the FAC contains no allegations  
17 that she did anything fraudulent. (See, e.g., FAC at 4 (not  
18 mentioning ex-wife in statement of claim describing "criminal  
19 enterprise"), 9 (same).) To the contrary, he alleges that the  
20 "criminal enterprise" acted "despite [his and his ex-wife's]  
21 wishes." (Id. at 16.) Indeed, Plaintiff seems to have added her  
22 as a Defendant in this lawsuit solely because the Court pointed  
23 out to him in the earlier case that extrinsic fraud could be  
24 committed only by a party. If his ex-wife – a private actor who  
25 is nowhere alleged to have conspired with the "criminal  
26 enterprise" – is not a sham Defendant, she is close to it. See,  
27 e.g., McDaniel v. United States, No. 18-cv-06785-JCS, 2018 WL  
28 6617965, at \*2-3 (N.D. Cal. Nov. 16, 2018) (finding party located

1 in district to be "sham" defendant when complaint contained  
2 essentially no allegations against it and it was added as party  
3 only after first complaint was dismissed for lack of venue).

4 For these reasons, Rooker-Feldman applies, the Court lacks  
5 subject-matter jurisdiction over this lawsuit, and it must be  
6 dismissed. Because the Court lacks jurisdiction, it need not  
7 reach the judicial and attorney Defendants' other arguments for  
8 dismissal.<sup>8</sup>

9  
10  
11  
12 <sup>8</sup> Even if the Court had jurisdiction, the FAC would be subject  
13 to dismissal on a host of other grounds. Judicial immunity would  
14 bar Plaintiff's claims against the judicial Defendants. See  
15 Mireles v. Waco, 502 U.S. 9, 9 (1991) (per curiam) (observing that  
16 judges are generally immune from suit for money damages). Although  
17 Plaintiff claims that Hurwitz acted in an administrative capacity  
18 (Pl.'s Opp'n Judicial Defs.' Mot. Dismiss, ECF No. 32 at 12) and  
19 "[j]udicial immunity only applies to judicial acts," Lund, 5 F.4th  
20 at 971, issuing orders, which Plaintiff's allegations mostly  
21 involve, "is the type of act normally performed only by judges,"  
22 Stump v. Sparkman, 435 U.S. 349, 362 (1978). And the Noerr-  
23 Pennington doctrine would likely bar Plaintiff's claims against the  
24 attorney Defendants. See Sosa v. DIRECTV, Inc., 437 F.3d 923, 929,  
25 933-35 (9th Cir. 2006) (litigation activities are generally  
26 protected by First Amendment under Noerr-Pennington doctrine).  
27 Plaintiff's claims are also plainly frivolous: they're based on  
28 irrational and unfounded allegations of a grand conspiracy against  
him. See Denton v. Hernandez, 504 U.S. 25, 32-33 (1992) (court may  
dismiss as frivolous claim supported only by "fanciful,"  
"fantastic," "delusional," "irrational," or "wholly incredible"  
allegations). What's more, this lawsuit arises from Plaintiff's  
divorce proceedings, and "federal courts decline to hear disputes  
which would deeply involve them in adjudicating domestic matters."  
Thompson v. Thompson, 798 F.2d 1547, 1558 (9th Cir. 1986) (per  
curiam). Indeed, the States have "virtually exclusive primacy" "in  
the regulation of domestic relations." United States v. Windsor,  
570 U.S. 744, 767 (2013) (citation omitted). Plaintiff essentially  
wants to stop having to pay his ex-wife money, but as the Court has  
already told him, his marital-dissolution disputes do not belong in  
federal court.

1 **V. The Claims Against the Doe Defendants and Plaintiff's Ex-**  
2 **Wife Should Be Dismissed**

3 Plaintiff sues several Doe Defendants and his ex-wife,  
4 Deborah Clark. He has never identified or served any of the Doe  
5 Defendants, and the FAC contains no allegations against them.  
6 And although he has purportedly served Deborah Clark – and the  
7 Clerk entered her default – as discussed, the FAC does not state  
8 any claims against her. At any rate, any claims against any of  
9 those Defendants would also be barred by Rooker-Feldman, as  
10 explained above. Thus, they should be dismissed. See Omar v.  
11 Sea-Land Serv., Inc., 813 F.2d 986, 991 (9th Cir. 1987)  
12 (observing that courts may sua sponte dismiss claims); Blandino  
13 v. Herndon, No. 2:18-cv-00600-MMD-VCF, 2018 WL 5258623, at \*4 (D.  
14 Nev. Oct. 22, 2018) (sua sponte dismissing claims against  
15 defendant after clerk entered his default).

16 **VI. Conclusion**

17 The Court previously explained to Plaintiff that although a  
18 dismissal under Rooker-Feldman is technically without prejudice  
19 so that the claims can be raised in the appropriate forum, he  
20 could not refile them here. See Clark, 2022 WL 1511772, at \*7  
21 n.8. He nevertheless filed a second action in this Court to  
22 rehash arguments the Court had already rejected. The addition of  
23 a few new Defendants and factual allegations does not change the  
24 underlying arguments or the impermissible nature of the relief  
25 sought. If Plaintiff believes this Court has erred, he may  
26 appeal to the Ninth Circuit; he may not continue to file  
27 frivolous lawsuits in this Court. If he does so, the Court may  
28

1 exercise its power to enjoin him as a vexatious litigant. See De  
2 Long v. Hennessey, 912 F.2d 1144, 1147 (9th Cir. 1990).

3 **RECOMMENDATION**

4 For the foregoing reasons, IT IS RECOMMENDED that the  
5 District Judge accept this Report and Recommendation, grant  
6 Defendants' motions to dismiss, and direct that judgment be  
7 entered dismissing this action.

8  
9 DATED: May 9, 2023



10 JEAN P. ROSENBLUTH  
11 U.S. MAGISTRATE JUDGE  
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## Appendix 4



Nos. 23-55628; 23-55715

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IN THE

**UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT**

**EDWARD L. CLARK JR.**

**Plaintiff - Appellate,**

**v.**

**STATE OF CALIFORNIA; ET AL,**

**Defendant – Appellees..**

**On Appeal from the United States District Court  
For the Ninth Circuit**

**PETITION FOR PANEL REHEARING AND  
PETITION FOR REHEARING EN BANC**

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### INTRODUCTION

Appellate Edward L. Clark Jr. petition for panel rehearing and rehearing En Banc of the memorandum of February 24, 2025 memorandum in favor of Appellees and affirming the decision of the District Court of the California. A panel rehearing is appropriate when significant errors appear to exist in the memorandum issued February 24, 2025 ***Fed. R. P. 40 (a)(2)***

The courts misapplication of the law, the facts in evidence, failure to consider existing statutes and long standing case precedent not only of this court, the US Supreme Court and the Fourth Appellate district Div 3 that governs the lower family court, warrant a review from the panel.

New Legal Authority opinion published by the California State Court of Appeal, Fourth Appellate District Div 3. **May 16, 2023**” Zaal Aresh vs Monica Marin-Morales G060579, G060827: citing in its opinion People vs America Contractors Indemnity Co. (2002) 33 Cal 4<sup>th</sup> 653, 660 specifically governs VOID orders or Judgments. **Void orders are not voidable, they are already VOID, no requirement for appeal.**

*Found a judgment is void, as opposed to merely voidable when the court lacks fundamental jurisdiction over the subject matter or the parties, ‘ an entire absence of power to hear or determine the case, an absence of authority over the subject matter or the parties’..*

In addition, new Appellate case **G064157 opening brief filed 12/6/2024 in the same fourth appellate district div 3** clearly outlines “Special Circumstance” aggregates Judicial criminal misconduct in lower state court supporting allegations of continued extortion from a rogue court, manipulation of the record by a Superior Court Judge, with specific request to the Fourth Appellate District Div. 3 to “**AGAIN**” Dismiss and vacate VOID orders issued by a person who is not a judge and without subject matter jurisdiction. Citing its own published opinion **May 16, 2023**.

**SPECIAL CIRCUMSTANCE – CRIMINAL INTENT WITH MALICE  
OUTLINED IN G064157**

Claimant appeals to this court to review the Special Circumstances of Criminal Allegation” and simply ask how a superior court judge can legally **DENY a request by both parties litigants** to settle a case when both parties asked the court using identical noticed motions to enter settlement documents into the record supported with a JOINT REQUEST FOR JUDICIAL NOTICE by both parties litigants to judicially notice settlement documents.

Furthermore, although the Fourth Appellate district Div. 3 issued an opinion on VOID orders May 16, 2023 the lower court refuses to apply the same standard to the underlying case.

The current appeal G064157 claimant filed a motion on 2/18/2025 to dismiss and vacate void orders for lack of subject matter jurisdiction. The Fourth Appellate court replied on 2/19/2025 citing it would decide in conjunction with the decision on appeal contradicting its May 16, 2023 opinion as the court does not have subject matter jurisdiction to hear oral arguments on the merits.

Consequently, 2/25/2025 Appellate filed the following motion:

**APPELLATES EMERGENCY MOTION REQUESTING THE COURT TO  
CORRECT LEGAL ERROR BY THE COURT. THIS COURT LACKS SUBJECT  
MATTER JURISDICTION TO HEAR ARGUMENTS ON THE MERITS AS  
REQUESTED OF VOID ORDERS**

*It can be assumed, consistent with its own published opinion May 16, 2023 the Fourth Appellate District Div 3 will comply with its Fiduciary responsibility to apply the laws they published even handedly with the underlying matter and order lower family court to dismiss and vacate VOID orders*

The mistake in the legal analysis by the district court and the instant memorandum, warrants reconsideration by the same panel of judges. A petition for rehearing and rehearing en banc by this Circuit is proper when special circumstance of

criminal intent and malicious prosecution by a ROGUE court continues the threat of extortion despite both parties request to settle the case.

The panel memorandum conflicts with a prior decision of this Ninth Circuit, the US Supreme court and the Fourth Appellate own opinion. Consideration by the full Court is necessary to secure or maintain uniformity of the Court's decisions and the case involves a question of exceptional importance because it conflicts with an opinion of another court of appeals and substantially affects a rule of national application in which there is overriding need for national uniformity. Fed. R. App. P. 35(b); 9<sup>th</sup> Cir. R. 35-1

- **Valley v. Northern Fire & Marine, Inc.** A US Supreme Court case that established that a void order or judgment is void even before reversal
- **Kalb v. Feuerstein:** A US Supreme Court case that addressed void state court judgments
- **Simon v. Southern Ry. Co.** A US Supreme Court case that established that a judgment entered by default is void if the court lacks jurisdiction
- **U.S. v. Nasri - Ninth Circuit Court of Appeals: Oct 29, 2024 :** Its precedent is clear that when courts act **without authority** over property, the resulting *judgment is void and violates due process.*
- **See Zaal Aresh vs Monica Marin-Morales G060579, G060827: citing in its opinion People vs America Contractors Indemnity Co. (2002) 33 Cal 4<sup>th</sup> 653, 660 Found a judgment is void, as opposed to merely voidable when the court lacks fundamental jurisdiction over the subject matter or the parties;., ' an entire absence of power to hear or determine the case, an absence of authority over the subject matter or the parties".. "When a court lacks jurisdiction in a fundamental sense, an ensuing judgment is void, and thus vulnerable to direct or collateral attack at any time" The request to certify and publish opinion was granted May 16, 2023 by the Fourth Circuit Div III.**

### **STATEMENT OF THE CASE**

The underlying matter is simply a determination if district court can legitimize Void Orders already VOID on their face. issued in a lower family court to support a Rooker-

Feldman defense to dismiss without leave to amend, **but without prejudice** so claim cannot be brought in district court forcing Claimant to re-file in a hostile State Court. **[App Excerpts P157 of 557 , Conclusion. L17:21]**

The memorandum does not answer the question how the district court is authorized to legitimize void orders already VOID to support a Rooker-Feldman defense? If so, then the court should be able to provide legal authority to support its decision. Hence the need for a published opinion since legal authority to LEGITIMIZE VOID orders for any reason does not exist and directly contradicts long standing case precedent. Unless the intent is to maliciously claimant Due Process..

The question of jurisdiction remains the issue for this court; if Rooker-Feldman doctrine was not applicable, because a VOID order cannot be validated, would the court allow Clark's claim to proceed in district court in support of the Fourteenth Amendment to the Constitution?, If the answer to that is yes, then the errors of the court outlined below should support granting the instant petition for rehearing.

The issues are simple, the orders issued in lower family court are VOID on their face, ie not voidable: Offer of Proof

**A.** the 8/31/2006 Final judgment **[App., Excerpts ID P274 of 157 #13]** bars subject matter jurisdiction in Family court . with the exception of bankruptcy. and

**B.** No defendant or court can oppose the fact this commissioner admitted on the record his sole authority to preside as a judge were two stipulations, neither of which were signed by the parties litigants. rendering all orders issued by a commissioner without authority to be a judge VOID.

The case law is well established, orders issued without subject matter jurisdiction are void, and orders issued by a person who is not a judge is also VOID. A VOID order has a complete absence of power, consequently, what authority does the district court or the ninth circuit have to cite a VOID order?

**At ISSUE #1:**

A question of law exist; Can the district court “validate Void orders” for the sole purpose of supporting a Rooker-Feldman doctrine

Under Federal law which is applicable to all states, the U.S. Supreme Court stated that if a court is "without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void; and form no bar to a recovery sought, even prior to a reversal in opposition to them.

28 U.S.C. § 1257 Judgment is a void judgment if court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process, Fed. Rules Civ. Proc., Rule 60(b)(4), 28 U.S.C.A., U.S.C.A. Const. Amend. 5 Kiugh v. U.S., 620 F.Supp. 892 (D.S.C. 1985).

*A Party Affected by VOID Judicial Action Need Not APPEAL. State ex rel. Latty, 907 S.W.2d at 486. It is entitled to no respect whatsoever because it does not affect, impair, or create legal rights." Ex parte Spaulding, 687 S.W.2d at 745 (Teague, J. concurring). If an appeal is taken, however, the appellate court may declare void any orders the trial court signed after it lost plenary power over the case, because a void judgment is a nullity from the beginning and is attended by none of the consequences of a valid judgment*

**At ISSUE #2:**

The court references Clark’s claim is somehow a defector appeal of a prior state court judgment or are inextricably intertwined is impossible and an error by this courts interpretation of the facts. Hence, a review of facts in evidence is warranted:

The court makes reference to a “2006 court judgement”, rather than referencing the “**2018**” VOID ruling at issue herein. The 8/31/2006 judgment and the 4/17/2018 RFO issued for alleged Breach of 3/21/2016 contract at issue are not the same and not intertwined.

The evidence clearly shows, there is only one judgment that was fully executed for case 05D000275 on 8/31/2006 and was fully satisfied on 3/21/2016 Debt Settlement Agreement and not at issue. *Here lies the error of the court.*



A question of law exist to determine legal authority if the parties entered and settled 8/31/2006 judgment and all subsequent oral agreements with a written Debt Settlement agreement dated 3/21/2016, rendering case 05D000275 no longer at issue, how can an RFO issued without subject matter jurisdiction on 4/17/2018 resulting in a findings and order issued by a person who is not a judge entered Feb. 26, 2019 possibly or legally be intertwined with a fully executed judgment over 2 years prior.

(Error of the Court)

At issue in the underlying matter is a ruling issued by a commissioner. The ruling is not a judgment, there can only be one judgment. It is based on an order to appear issued without subject matter jurisdiction over two years after case was no longer at issue served April 17,2018 resulting from a 2017 phone call as determined in the Fourth Appellate District opinions. The RFO to appear to determine amounts due of a fully executed written contract, i.e. case no longer at issue for over 2-years was the start of a "SHAM. Case" to extort money.

The district court was requested by Judicial Defendants and took judicial notice of lower state Fourth Appellate District Div 3 un-published opinions confirming the 4/17/2018 RFO at issue had nothing to do with the 8/31/2006 final judgment, rather "was based on a 2017 phone call addressing the 3/21/2016 Debt Settlement agreement". The confirmation of taking judicial notice by the district court confirms the statement in the memorandum regarding a defacto appeal of an 8/31/2006 judgment is wrong and misleading.

It is error by this court to reference the 8/31/2006 FINAL judgment fully settled 3/21/2016 when the claim specifically challenges orders issued without subject matter jurisdiction on 4/17/2018 resulting in orders issued by a person who is not a judge who attempted and got caught (IMPEACHED ON THE RECORD) TRYING to fabricate a stipulation in an effort to fabricate immunity.

Terms in a final judgment are considered "final" meaning they are the conclusive decision of a court and generally cannot be changed unless there is a successful appeal or specific legal grounds for modification, effectively ending the litigation on that issue between the parties involved; the only remaining action is typically to enforce the judgment. The judgment was fully satisfied 3/21/2016.

By statute, a judgment is "the final determination of the rights of the parties in an action or proceeding." (Code Civ. Proc., § 577.) By Dean A. Bochner California Litigation Vol. 29 • No. 1 • 2016 Dean A. Bochner 23 terminates the litigation and "leaves nothing to be done but to enforce by execution what has been determined." (Doudell v. Shoo (1911) 159 Cal. 448, 453.) Here the judgment was fully executed 3/21/2016 via Debt settlement agreement.

**NOTE: Please refer to Defendants Excerpts (DE) to the record contained in Defendant's Request for Judicial Notice starting Page 1 Page id #616 for all references to the record herein**

The Report and Recommendation clearly shows the district court took judicial notice of undisputed material facts docket #10 [DE excerpts #821 ATTYSER 210 I. "The Judicial Notice Requests are Granted".

**The district court took judicial notice of joint stipulation the 3/21/2016 Debt Settlement agreement was valid, enforceable and fully executed and the underlying matter at issue by a Commissioner was in Breach of Contract.. [DE #780:782] initialed by Superior Court Judge the Hon. Gregory Lewis.**

The evidence clearly shows, the "VOID" orders to appear and subsequent rulings under review were not post judgment orders or a result of a judgment in family court jurisdiction The 8/31/2006 **"FINAL"** judgment [DE p5 ID #620] case 05D000275 disposed of all issues in Family Court pursuant to Code of Civil Procedure §904.1(a)(1), and **including barring subject matter jurisdiction in the Family Law Division** of Superior Court [DE P14, ID #629, #13]. The 8/31/2006 Final Judgment was executed and entered

by a Family Law Division Superior Court Judge the Hon Michael J. Naughton barring Subject matter jurisdiction. and entered into the record Aug 31, 2006.

The rulings under review are a result of an order to appear in Family court issued 4/17/2018 [DE P39 Id#654] without a summons, that did not have subject matter jurisdiction over alleged Breach of 3/21/2016 contract [DE #815 L13:15] that also barred subject matter jurisdiction in Family court [DE #649 p34 prg 2-4] and statute of limitation for civil court was expired.

The 8/31/2006 judgment required any changes to the judgment be agreed upon by the parties in writing. [DE #626 (B) Integration prg 2] and not venued in Family court because Equalization payments of assets over time is not Alimony or any type of bankruptcy action..

The 8/31/2006 judgment does not make provisions for equalization payments of assets to be executory, as if it was Alimony, as the court specifically barred Alimony payments [DE 625 II(A) Alimony] .and Child Support [ DE 625 II (B)]

### ARGUMENT

In the judgment of a prose appellate; where common sense is his only guide for interpreting the application of the law, the Panel's decision in this matter to issue a memorandum in lieu of an opinion fails to respond specifically to the issues addressed above, all of which were addressed in appeal.

It is overwhelmingly clear;

- Material point of Law and Factual Issues were overlooked in the memorandum issued
- Misapplication of the law and Existing Precedent of VOID orders was overlooked and not addressed
- Legal Authority by the California State court of Appeal, Fourth Appellate District Div 3. Whos' opinions are part of this case, directly contradicts their own published opinion proving this court cannot legitimize a void order.

- Clear error understanding the facts with clear legal error supports the underlying need to grant petition.

It is for the foregoing reasons Appellate respectfully request the court to consider drafting an opinion for publication. An opinion would result in either this court providing supporting authority that allows courts to validate "VOID" orders changing existing precedence or since precedence does not exist, it is presumed the court would reverse the district courts order and allow appellate to proceed in district court with his claim.

The instant memorandum fails to address the issue of how void ORDERS CAN FIRST BE VALIDATED, when the Fourth Appellate District Div 3 says otherwise:

**See Zaal Aresh vs Monica Marin-Morales G060579, G060827: citing in its opinion People vs America Contractors Indemnity Co. (2002) 33 Cal 4<sup>th</sup> 653, 660**

*Found a judgment is void, as opposed to merely voidable when the court lacks fundamental jurisdiction over the subject matter or the parties;., ' an entire absence of power to hear or determine the case, an absence of authority over the subject matter or the parties'.. "When a court lacks jurisdiction in a fundamental sense, an ensuing judgment is void, and thus vulnerable to direct or collateral attack at any time" The request to certify and publish opinion was granted May 16, 2023 by the Fourth Circuit Div III.*

It is undisputed a stipulation was not executed by either parties litigants to authorize a Commissioner to preside as a judge. A Commissioner is not a judicial officer, nor does he have the immunity protections of a judicial officer

**Opinion published Nierenberg v. Superior Court [Civ. No. 48407. Court of Appeals of California, Second Appellate District, Division One. June 29, 1976.].** The power of a court commissioner to act as a temporary judge emanates solely from stipulation by the parties to the proceeding. (Cal. Const., art. VI, § 21; Rooney v. Vermont Investment Corp., 10 Cal. 3d 351, 360 [110 Cal. Rptr. 353, 515 P.2d 297]; People v. Tijerina, 1 Cal. 3d 41, 48-49 [81 Cal. Rptr. 264, 459 P.2d 680].) Section 21, article VI provides: "On stipulation of the parties litigant the court may order a cause to be tried by a temporary judge who is a member of the State Bar, sworn and empowered to act until final determination of the cause." Section 259a, subdivision 4, Code of Civil Procedure gives certain commissioners the power to "act as judge pro tempore when otherwise qualified so to act ...." This statute does not enlarge the power granted in the

Constitution. (Rooney v. Vermont Investment Corp., 10 Cal. 3d 351 [110 Cal. Rptr. 353, 515 P.2d 297]).

*Consequently, the question for the court remains, how can Clarks claims be a "defacto appeal" of VOID orders issued in lower state court? They are VOID! How can Clarks claims be "inextricably intertwined" with VOID orders issued in lower state court? How can a person who is not a judge issue an order in a court without subject matter jurisdiction and somehow convince higher courts it is a "SECOND " judgment on a case that was no longer at issue.*

If this court intended on relying on the 8/31/2006 judgment, then the terms contained therein apply.

A defendant can remove a civil or criminal case from state court to federal court when a defendant is denied equal rights under the law. Denial of equal rights is obvious herein.

Federal courts have original jurisdiction over all civil actions arising under the constitution, laws or treaties of the United States

#### **Procedural Due Process – The Fourteenth Amendment**

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws

Due process requires that the procedures by which laws are applied must be evenhanded, so that individuals are not subjected to the arbitrary exercise of government power

#### **RECUSAL**

The case United States v. Hernandez setting for the standard of review

The substantive standard for recusal under 28 U.S.C. § 144 and 28 U.S.C. § 455 is the same: "[W]hether a reasonable person with knowledge of all the facts would conclude that the judge's impartiality might reasonably be questioned." *United States v. Studley*, 783 F.2d 934, 939 (9th Cir. 1986)

A conflict of interest arises when a judge chooses to ABUSE HIS DISCRETION, issue orders not consistent with the law disregarding case precedent obviously trying to intertwine a ruling for alleged breach of 3/21.2016 contract to an 8/31/2006 judgment strictly to support a Rooker-Feldman defense to help fabricate immunity for a Commissioner.

Pro Se litigants' court submission are to be construed liberally and held to less stringent standards than submissions of lawyers. If the court can reasonably read the submissions, it should do so despite failure to cite proper legal authority, confusion of legal theories, poor syntax and sentence construction or litigant's unfamiliarity with rule requirements. See Boag v. MacDougall, 454 U.S. 364; Estelle v. Gamble, 429 U.S. 97, 106; Conley v. Gibson, 355 U.S. 41, 45-46; Haines v. Kerner, 404 U.S. 519. Holding Pro Se petition can not be held in same standards as pleading drafted by attorneys.

### **CRITERIA TO PUBLISH AN OPINION** **Standards for certification**

An opinion of a Court of Appeal or a superior court appellate division-whether it affirms or reverses a trial court order or judgment-should be certified for publication in the Official Reports if the opinion:

- (1) Establishes a new rule of law;
- (2) Applies an existing rule of law to a set of facts significantly different from those stated in published opinions;
- (3) Modifies, explains, or criticizes with reasons given, an existing rule of law;
- (4) Advances a new interpretation, clarification, criticism, or construction of a provision of a constitution, statute, ordinance, or court rule;
- (5) Addresses or creates an apparent conflict in the law;
- (6) Involves a legal issue of continuing public interest;

- (7) Makes a significant contribution to legal literature by reviewing either the development of a common law rule or the legislative or judicial history of a provision of a constitution, statute, or other written law;
- (8) Invokes a previously overlooked rule of law, or reaffirms a principle of law not applied in a recently reported decision; or
- (9) Is accompanied by a separate opinion concurring or dissenting on a legal issue, and publication of the majority and separate opinions would make a significant contribution to the development of the law.

The facts contained herein clearly 1-10 apply to the instant matter warrant publication by this court

A federal district court can take jurisdiction of a state court case if the claimant proves the state court is "hostile," but this is a very narrow and complex legal concept, requiring a strong showing of bias or unfair treatment within the state court that significantly prejudices the claimant's ability to receive a fair hearing; typically, this would involve demonstrating a pattern of rulings against the claimant's interests based on factors like prejudice or discrimination, not just a single unfavorable decision. Therefore;

**OFFER OF PROOF –**  
**Malicious Conduct , Blatant Corruption**

Concurrently filed offer of proof of Criminal intent of a Criminal Enterprise working withing the orange county judicial system using the color of office to maliciously prosecute and extort money. An outline demonstrating egregious behavior that fully deviated from proper judicial course of business , shows bias, corruption, abuse of power and violating ethical rules of conduct..

The result of their actions, the underlying claim falls within the narrow exception where a Commissioners actions are not protected without subject matter jurisdiction and or without a signed stipulation to be a judge exposing all who followed trying to cover up his actions to the same liability.

**CONCLUSION**

Based on the foregoing Appellate respectfully request this court to grant Petition for Re-hearing and Petition for Rehearing EnBanc and reverse the district courts decision and respectfully request the opinion to be published.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Edw. L. Clark Jr.", with a stylized flourish at the end.

Edward L. Clark Jr.  
ProSe Litigant



**WORD COUNT CERTIFICATION**  
**Rule 8.504**

That I hereby certify that this APPELLATE PETITION FOR REHEARING and PETITION FOR REHEARING EN BANC contains 3900 words as measured by Microsoft Word in Microsoft Office Software. Maximum allowed 4,000 , excluding Cover, Table of Contents and Authorities



By : Edward L. Clark Jr.  
Pro Se Litigant

**IN THE UNITED STATES COURT OF APPEAL  
STATE OF CALIFORNIA  
NINTH DISTRICT**

**Case 23-5628, 23-55717  
Civil Case Docket For Case # 8:22-cv-01390-MWF-JPR**

**CERTIFICATE OF SERVICE**

I Hereby certify that on the 7<sup>th</sup> day of March, 2025, I personally served via US Mail a true copy of the within, Case # 23-5628 & 23-5717 Petition For Rehearing & Petition En Banc, at the time and place stated hereunder to:

**Plaintiff**

**Edward L. Clark , Jr.**

represented by **Edward L. Clark , Jr.**  
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PRO SE

**Defendant**

**The State of California**

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TERMINATED: 05/02/2023

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**Defendant**

**Yolanda V. Torres**  
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individual*

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**Defendant**

**Yolanda V. Torres**  
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**Defendant**

**Barry Michaelson**  
*Commissioner, individual*

represented by **Kevin M McCormick**  
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**Defendant**

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**Defendant**

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**Defendant**

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**Defendant**

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*208117, individual capacity*

**Defendant**

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**Defendant**

**Sheri Laughlin**  
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**Defendant**

**Deborah L Clark**  
*individual capacity*

**Defendant**

**The Moshtael Family Law  
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Office Of The Clerk  
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U.S, Court Of Appeals  
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San Francisco, Calif. 94103-1526

1 original; 6 Bound Petition For Rehearing & Petition EnBanc

I declare under the penalty of perjury under the laws of the State of California that  
the foregoing is true and correct.

Executed at Huntington Beach, Calif on March 7, 2025.

Signature of Declarant

  
Nicholas Califato

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 24 2025

FOR THE NINTH CIRCUIT

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

EDWARD L. CLARK,

Plaintiff-Appellant,

v.

STATE OF CALIFORNIA; et al.,

Defendants-Appellees.

Nos. 23-55628  
23-55715

D.C. No. 8:22-cv-01390-MWF-JPR

MEMORANDUM\*

Appeals from the United States District Court  
for the Central District of California  
Michael W. Fitzgerald, District Judge, Presiding

Submitted February 18, 2025\*\*

Before: SILVERMAN, WARDLAW, and DESAI, Circuit Judges.

Edward L. Clark appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action arising out of state court divorce proceedings. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Seismic Reservoir 2020, Inc. v. Paulsson*, 785 F.3d 330, 333 (9th Cir. 2015)

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

\*\* The panel unanimously concludes these cases are suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

(dismissal under Fed. R. Civ. P. 12(b)(1)); *Noel v. Hall*, 341 F.3d 1148, 1154 (9th Cir. 2003) (dismissal under the *Rooker-Feldman* doctrine). We affirm.

The district court properly dismissed Clark's action for lack of subject matter jurisdiction under the *Rooker-Feldman* doctrine because Clark's claims are a "de facto appeal" of a prior state court judgment or are "inextricably intertwined" with that judgment. *See id.* at 1163-65 (discussing proper application of the *Rooker-Feldman* doctrine); *see also Carmona v. Carmona*, 603 F.3d 1041, 1050-51 (9th Cir. 2010) (*Rooker-Feldman* doctrine barred plaintiff's claims seeking to enjoin state family court orders); *Reusser v. Wachovia Bank, N.A.*, 525 F.3d 855, 860 (9th Cir. 2008) (*Rooker-Feldman* doctrine bars a claim of extrinsic fraud if the alleged fraud has been separately litigated in a state action); *Safe Air for Everyone v. Meyer*, 373 F.3d 1035, 1039 (9th Cir. 2004) ("In resolving a factual attack on jurisdiction, the district court may review evidence beyond the complaint without converting the motion to dismiss into a motion for summary judgment.").

The district court did not abuse its discretion in denying Clark's motion for disqualification and recusal because Clark failed to establish any basis for relief. *See United States v. Hernandez*, 109 F.3d 1450, 1453-54 (9th Cir. 1997) (setting forth standard of review and discussing standard for recusal under 28 U.S.C. §§ 144 and 455). We reject as unsupported by the record Clark's contentions that the magistrate judge had a conflict of interest or that either the district or



magistrate judge was biased against him.

The district court did not abuse its discretion in denying Clark's motion to alter or amend the judgment and for relief from judgment because Clark failed to demonstrate any basis for relief. *See Sch. Dist. No. 1J, Multnomah County, Or.*, 5 F.3d 1255, 1262-63 (9th Cir. 1993) (setting forth standard of review and grounds for relief under Federal Rule of Civil Procedure 60).

The district court did not abuse its discretion in dismissing Clark's action without leave to amend because amendment would be futile. *See Cervantes v. Countrywide Home Loans, Inc.*, 656 F.3d 1034, 1041 (9th Cir. 2011) (setting forth standard of review and explaining that dismissal without leave to amend is proper where amendment would be futile).

We do not consider matters not specifically and distinctly raised and argued in the opening brief, or arguments and allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009). We do not consider documents and facts not presented to the district court. *See United States v. Elias*, 921 F.2d 870, 874 (9th Cir. 1990).

All pending motions and requests are denied.

**AFFIRMED.**

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

MAR 10 2025

Nos. 23-55628; 23-55715

FILED  
DOCKETED \_\_\_\_\_  
DATE \_\_\_\_\_ INITIAL \_\_\_\_\_

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IN THE  
**UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT**

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EDWARD L. CLARK JR.  
Plaintiff - Appellate,  
v.  
STATE OF CALIFORNIA; ET AL,  
Defendant – Appellees..

---

On Appeal from the United States District Court  
For the Ninth Circuit

---

**OFFER OF PROOF –**  
**“Special Circumstance” Malicious Conduct , Blatant Corruption**  
*Concurrently Filed With Petition For Re-Hearing & Rehearing En Banc*

---

EDWARD L. CLARK, Jr.  
5582 McFadden Ave.  
Huntington Beach CA 92649  
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**SPECIAL CIRCUMSTANCE – CRIMINAL INTENT WITH MALICE  
OUTLINED IN G064157**

Claimant appeals to this court to review the Special Circumstances of Criminal Allegation” and simply ask if not for gaming the judicial system to extort money or using to try to fabricate judicial immunity, why would a superior court judge **DENY a request by both parties litigants** to settle a case when both parties filed identical motions to enter settlement documents into the record.

The motions were supported with a JOINT REQUEST FOR JUDICIAL NOTICE signed by both parties litigants to judicially notice settlement documents. The settlement documents consisting of 3/21/2016 “Debt Settlement Agreement” and a Stipulation of Settlement dated 1/13//2014 witnessed and signed by a Superior Court Judge the Hon. Gregory Lewis in a proper civil court jurisdiction.. The stipulation clearly states the parties have settled and agree the entire underlying matter “Sham” put on by a commissioner was in breach of 3/21/2016 Debt Settlement Agreement.

One must look at the actions of a Superior Court Judge and ask why a Superior Court Judge intentionally manipulated the record and refuse to enter Petitioners three different request to dismiss case into the record.

1. If was just an error why would a judge refuse and deny a noticed motion to ensure the record is correct for appeal?
2. Why would a judge state on the record she doesn’t have the authority to order clerk to enter Petitioners three request to settle into the record? . Why would a judge state on the record as the presiding superior court judge, she doesn’t make the decisions they come from “UPSTAIRS”?

The reality was to prevent having in the record for review by this court to prove both parties have settled, the case is no longer at issue and want the court to remove the continued threat of extortion.

The conduct of an Orange County Commissioner, Orange County Superior Court Judges and their Supervisors colluding with complete disregard for the laws of our land stray so far from their ethical Fiduciary responsibility to be impartial with complete disregard to the rules of the court, the code of evidence, existing precedent and their oath of office, their actions are unprecedented warranting a review by this court.

**We start with UNDISPUTED MATERIAL FACTS IN EVIDENCE DISTRICT COURT TOOK JUDICIAL NOTICE**

**NOTE: Please refer to Defendants Excerpts (DE) to the record contained in Defendant's Request for Judicial Notice starting Page 1 Page id #616 for all references to the record herein**

The Report and Recommendation clearly shows the district court took judicial notice of undisputed material facts docket #10 [DE excerpts #821 ATTYSER 210 I. "The Judicial Notice Requests are Granted

1. 8/31/2006 Dissolution Judgement [DE p5 ID #620] Barring subject matter jurisdiction [DE P14, ID #629, #13]. in Family court absent respondent filing for bankruptcy. Executed and entered into the record by a Family Division Superior Court Judge.
2. 8/31/2006 The dissolution judgment had nothing to do with Alimony payments [DE 625 II(A) Alimony] .or Child Support [ DE 625 II (B)]
3. The 8/31/2006 judgment was satisfied with a fully executed Debt Settlement Agreement 3/21/2016 [DE #815 L13:15] Debt Settlement Agreement fully executed barring subject matter jurisdiction in any court including Family Court. [DE #649 p34 prg 2-5]

"Except to enforce the terms of this Agreement , each party agrees not to bring a claim of any kind against the other party to this Agreement concerning any matter released by this Agreement. *EACH PARTY FURTHER AGREES THAT THIS AGREEMENT CONSTITUTES A BAR TO ANY SUCH FUTURE CLAIMS.*"

4. The parties fully satisfied the 8/31/2006 judgment with a fully executed Debt Settlement Agreement 3/21/2016 that also barred subject matter jurisdiction in Family court [DE #649 p34 prg 2-4]

**The Corruption Begins**

5. 9/14/2017 Served Respondent with Debtors Exam, [DE #633 P18]; (FIRST ATTEMPT) signed by Commissioner Michaelson
6. 10/2/2017 Respondent filed objections informing the court of Filed Satisfaction of Judgment and 3/21/2016 Debt Settlement Agreement proving case was fully satisfied [DE 640 P25]
7. 11/3/2019 Debtors Exam Taken Off Calendar following a determination family court did not have subject matter jurisdiction and judgment fully satisfied.

**WITHOUT SUBJECT MATTER JURISDICTION WITH FULL KNOWLEDGE  
CASE 05D000275 WAS NO LONGER AT ISSUE ORANGE COUNTY SUPERIOR  
COURT, FAMILY DIVISION. EMBARKED ON A CAMPAIGN TO EXTORT  
MONEY**

8. 4/17/2018 [DE #654 p39] An order to appear in Family Court was served upon Appellate to determine amounts due executed by Judge Lon Hurwitz, Superior Court Judge (SECOND ATTEMPT)  
*(1-month after expired statute of limitation in civil court) and knowlege of the lack of subject matter jurisdiction*
9. RFO to appear executed by Judge Lon Hurwitz after the same court (Commissioner Michaelson) had already taken off calendar debtors exam for lack of subject matter jurisdiction and seeing proof case was fully satisfied.
10. 6/11/2018 The court entered a stipulation "For All Matters into the court record allowing a commissioner to preside over Debtors exam that is not signed by either of the parties litigants [Appellate Exhibits (AE) Book 3 Ex#18 P300]
11. On 8/22/2018 the court entered a second stipulation "For All Matters" into the court record, attempting to allow a commissioner to preside over a matter of dispute that is not signed by either of the parties litigants. [AE Book 3 Ex #19 P 304]]

*The evidence shows the bottom signature (initials) are that of James Wellman opposing counsel acting as if he were Respondent*

**THE STIPULATIONS SHOW NEITHER PARTIES LITIGANTS SIGNED  
A STIPULATION**

**All Orders issued by a court without subject matter Jurisdiction is VOID.**  
**All Orders issued by a person who is not a judge is VOID.**

**PROOF OF EXTORTION and CORRUPTION AT TRIAL References to Exhibits in  
 LOWER State Court**

*Fraud on the Court*

12. 8/22/2018 The evidence will show the 8/22/2018 stipulation was not entered into the record until March 8, or thereafter when counsel for Respondent asked the court for a stipulation the court was relying, Reminding the court a stipulation had not been executed, because Mr. Clark refused to sign. Yet it is in the record dated 8/22/2018.
13. 2/26/2019 Commissioner Barry Michaelson filed an un-signed Findings and Order. The evidence will show the signature line of Barry Michaelson is cut and pasted and was not executed until after Petitioner motion requesting the court to sign findings and order heard 4/15/2019.
14. 3/8/2019 The court heard and denied respondent motion to vacate VOID order issued by a Commissioner without authority
15. 7/31/2019 [CT P37:38 court minutes] 2019 L6 *"The court continues to act as temporary judge pursuant to stipulations filed -- one filed 6-11-18 and one filed 8-22-18"* referencing stipulations (7),(8) above

*Fraud on the Court*

16. 4/15/2019 Respondent filed motion requesting the court to sign 2/26/2019 Findings and ORDER after hearing because it had not been signed

{see attached hereto as Ex P6 footer *"REQUEST THAT COURT SIGN THE FINDINGS AND ORDER AFTER HEARING FILED FEBRUARY 26, 2019"*}.

Confirming the entry contained in the docket on February 26, 2019 alleging the Commissioner signed on February 26, 2019 is a FRAUD ON THE COURT! Was not signed on Feb. 26, 2019.

*The 4/15/2019 Findings and Order Exhibit. "A" of Petitioner motion is omitted from the court record, because it contradicted and disclosed the courts FRAUD backdating, cut and pasting signature line on Feb. 26, 2019 Findings and Order. Another example of Fraud by Court Commissioner.*

**[AR-8 P91-95] Exhibit "B" Meet and Confer Letter states**

#1: *"the order you state was filed on December 10, 2018 we have not agreed to any order as of todays date (March 13, 2019), A review of the docket should suffice to demonstrate to you that the order has not been filed and conclude your statement is false*

#2: *"Subsequent to the hearing go set aside order on 3/8/2018, the court was unable to provide me a stipulation signed by either your client or my client. I have attached as Exhibit "A" . In addition I have attached a copy of my clients drivers license so you can see his signature"*

An internal investigation by the court would reveal the 2/26/2019 order was originally filed un-signed, then replaced following 4/15/2019 hearing with order with a stamp of the commissioners name and then again replaced with a cut and pasted signature line sometime thereafter

17. 4/15/2019 Attached to Petitioner Findings and Order *Docket Exhibit "B"* [AR-8 P91] is Respondent counsel meet and confer letter dated March 13, 2019 filed by Petitioner confirming on [AR P91, #1] as of March 13, 2019 there was no order signed in the docket, and confirming both opposing counsel and Commissioner Michaelson knew the order issued was a VOID order issued by a person who did not have authority.

***ALL SUBSEQUENT ACTS HEREINAFTER WILL SUPPORT INTENTIONAL ACTS OF FRAUD ON THE COURT BY SUBSEQUENT JUDICIAL OFFICERS AND SUPERVISORS TO PREVENT INVESTIGATION BY THE COMMISSION ON JUDICIAL PERFORMANCE AND IN AN EFFORT TO CONCEAL EGGRIGISE JUDICIAL MISCONDUCT alleged in district court case Clark vs State of Calif...District Court Case 8:21-cv-01565-MWF-JPR .***

18. 7/31/2019 court minutes [CT P37:38 L6]

*"The court continues to act as temporary judge pursuant to stipulations filed -- one filed 6-11-18 [CT 15265845] and one filed 8-22-18"] [CT 15454166]*

19. 8/2/2019 Respondent filed a claim in civil court to litigate the terms of the 3/21/2016 Debt Settlement Agreement. *Clark v. Clark*: Case No. 30-2019-01087758 Sup. Ct. Orange County;
20. 7/12/21 Both parties litigants settled the terms contained in the 3/21/2016 contract and entered a joint stipulation [AR10 P125] witnessed by A Superior Court Judge the on. Gregory Lewis

**The following evidence was OMITTED FROM PREVIOUS APPEAL, NOT PROPERLY DESIGNATED IN THE RECORD BY APPELLATE**

21. 6/3/2022 [ **AR-10 P113-136**] Respondent filed a Motion to Show Cause pursuant to Rule 3.1385(b). With attached:  
     Exhibit "A" Proof of Service [AR P120-123] w/attached letter of explanation for review of procedure after judgment  
     Exhibit "B" Joint Stipulation of Settlement [AR P125-127]  
     Exhibit "C" Satisfaction of Judgment entered by Petitioner [AR P129-130]  
     Exhibit "D" Debt Settlement Agreement 3/21/2016 [AR P133-135]
22. 6/3/2022 [ **CT P41-42**] The court minutes confirms no cause shown, no appearance by Petitioner, court denied Respondent request to dismiss pursuant to rule 3.1385(b)
23. 6/22/2022, In evidence, The lower court took judicial notice of settlement documents; [attached hereto **Exhibit "C"** [crt rpt tr P 34, Lines 10-12] and rule 3.1385(b)]
24. 7/22/2022 [ **CTY P44-45**] The court denies motion to reconsider pursuant to Rule 3.1385(b) dismissing order issued by a Commissioner
25. 8/5/2022 [ **AR P139-140**] The first request for the court to take judicial notice of settlement documents
26. 12/20/2020 [ **AR-9 P97-111**] Appeal Opinion G058284  
     States [AR-9 P99] only 1 of 13 issues on appeal survive fatal opening brief **THEREFORE FACTS: *As we are required to do, "we recite facts in the manner most favorable to the judgment"***

**Check court transcripts**

27. 1/13/2023 The court was asked in open court and the court confirmed what ever it previously took judicial notice of, is still judicially noticed by the court confirming settlement documents are already in evidence
28. Please take Judicial Notice, [ **CT 49-50 1/13/2023**] minute order] although the court confirmed it took judicial notice of settlement documents in open court, and without any opposition, failed to disclose in the minutes it took judicial notice then proceeded to deny motion to set aside and vacate order without cause



**FRAUD AND DECEIT**  
**THE COURT REJECTED PETITIONERS THREE REQUEST TO DISMISS**  
**ACTIONS BY A COMMISSIONER AND REFUSED TO ENTER INTO THE**  
**COURT DOCKET AS EVIDENCE FOR APPEAL**

29. 7/28/2023 [CT P 51 minute order] The court acknowledged it has received three request "BY PETITIONER" for dismissal

The court set on its own motion a status conference to discuss dismissal

30. 8/3/2023 [CT P 53-54 minute order] the court denied Respondent CCP170.6 challenge to recuse Judge Yolanda Tores
31. 8/17/2023 [CT P 55-56 minute order] The court denies "Petitioner" request for dismissal, of order issued by commissioner and vacates status conference from its own motion to discuss dismissal
32. 9/20/2023 [AR-12 p146-160] Case G061697 Appeal Opinion #2  
 [AR-12 P149] Facts "We recite facts from the prior appeal that are pertinent to this case"  
 Despite irrelevancy
33. 10/6/2023 [CT P 58-59 minute order] the court denies the request to enter "Petitioner (3) request to dismiss into the record for appeal purposes disclosing on the record she doesn't have the authority.

[see crt rptr transcripts dated Oct 6, 2023 p10 L5:L13]

***Respondent:** I'm just trying to have the record reflect exactly what happened, your honor, so that going forward it makes sense and we don't have to try and figure this out again*

***The Court:** "So I have the request, AND I CANNOT—I HAVE NO POWER TO HAVE THOSE REFLECTED ON THE REGISTER OF ACTIONS; THAT'S OUTSIDE OF MY CONTROL; THAT'S SOMETHING HOW THEY MANAGE UPSTAIRS. SO ITS BEYOND MY CONTROL; THAT'S SOMETHING THEY MANAGE UPSTAIRS, number one; two AGAIN, I DO NOTE THAT YOU WANTED THE 7/28/2023 REQUEST FOR DISMISSAL FILED BY THE PETITIONER REFLECTED IN THE register of actions. I do understand that—and the 8/2/23 – and again dismissal request – you want that reflected; again. I cannot do that.*

34. 10/27/2023 [ "CT P71-85] "Petitioner filed a request to enter settlement documents into the record

35. 10/27/2023 [CT 60-70] "Petitioner file JOINT Request for the Court to take Judicial Notice in support of her motion to enter settlement documents into the record
  36. 12/20/2023 [CT 86-87] Respondent Submits and Agrees to Petitioner request to enter settlement documents into the record.
  37. 1/3/2024 [CT P88-89] Respondent in open court submits to Petitioner request (motion) to enter settlement documents into the record. The courts tentative was to grant request bu declined to do so because Petitioner (an out of state litigant did not appear for her own motion. Thereby continuing until 1/25/2024 ordering the clerk to give notice ultimately continued to March 14, 2024
  38. 2/1/2024 [CT P 91-101] Respondent files the exact same motion as Petitioner requesting the court to enter settlement documents into the record to prevent any misunderstanding both parties litigants are asking the court to do the same thing i.e "Conclude case"
  39. 2/15/2024 [CT P104:110] Respondent was forced to file ex-parte motion to ask the court to show both identical hearings filed by each party on the court docket requesting the court to enter settlement documents into the record.
  40. 3/14/2024 [CT P118-119] Issues before the court were Petitioners request to enter settlement documents into the record filed 10/27/2023; a joint request for the court to take judicial notice of settlement documents filed 10/27/2023; Respondent identical request to enter settlement documents into the record filed 2/1/2024.
  41. 3/14/2024 [CT P118] Respondent did not appear and has not telephoned, despite authorization for remote appearance, she was noticed by the court clerk. The court denied both Petitioners request and Respondent request to enter settlement documents into the record despite previously taking judicial notice of settlement documents motions. [Attached as Ex p1-2 rfj & ex P4 crt rprr tr l\$-112]
- Please take judicial notice, the court minutes [CT P 118:119] only reflects the court denying Respondent request to enter settlement documents into the record and again fails to address (CONCEALS) Petitioners (RFO) request to enter settlement documents into the record, and fails to address both parties Joint request to take judicial notice of settlement documents filed by Petitioner also executed by Respondent.*
42. 3/14/2024 [RT crt rprr tr p 13 L4:23] Judicial admission the court has been properly noticed

*Respondent: "Is the court aware that the parties have tried to settle this case? Is the court aware that both parties are asking the court to enter debt settlement agreement into the record?"*

*The Court: "I'm aware of the request for relief that are sought and the RFO's that have been filed. YES, I'm aware of that."*

43. 3/14/2024 The court again took judicial notice of settlement documents indirectly. Refused current request to judicially notice settlement documents but stated if she did it before, then they are judicially noticed.. Referencing documents judicially noticed in (21) above. Before she denied motion
44. 3/25/2024 [CT P 120-136] Respondent filed motion to set aside order issued denying both Petitioner and Respondent separate motions to enter Debt Settlement Agreement dated 3/21/206 into the record: **SUBJECT OF APPEAL #1**
45. 3/25/2024 [CT 137-202] Respondent simultaneous motion to Vacate all VOID order.  
SUBJECT OF APPEAL #2.

### Conclusion

The above evidence is outlined in current appeal pending G064157 in the Fourth Appellate District and presented herein to demonstrate a "Special Circumstance of Fraud and Deceit with Malice" to first fool and fabricate immunity for this court to use in support of a Rooker-Feldman Defense and second to cover up criminal acts by refusing to let the parties litigants settle the case.

Respectfully Submitted,



Edward L. Clark Jr.  
ProSe Litigant

**IN THE UNITED STATES COURT OF APPEAL  
STATE OF CALIFORNIA  
NINTH DISTRICT**

**Case 23-5628, 23-55717  
Civil Case Docket For Case # 8:22-cv-01390-MWF-JPR**

**CERTIFICATE OF SERVICE**

I Hereby certify that on the 7<sup>th</sup> day of March, 2025, I personally served via US Mail a true copy of the within, Case # 23-5628 & 23-5717 OFFER OF PROOF "SPECIAL CIRCUMSTANCE, at the time and place stated hereunder to:

**Plaintiff**

**Edward L. Clark , Jr.**

represented by **Edward L. Clark , Jr.**  
5582 McFadden Ave  
Huntington Beach, CA 92649  
714-448-7145  
PRO SE

**Defendant**

**The State of California**

represented by **Molly S Murphy**  
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of California  
California Department of Justice  
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**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

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TERMINATED: 05/02/2023

**Defendant**

**Lon Hurwitz**  
*Superior Court Judge,  
individual*

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kevin\_mccormick@roadrunner.com  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Lon Hurwitz**  
*Superior Court Judge, official  
capacity*

represented by **Kevin M McCormick**  
(See above for address)  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Yolanda V. Torres**  
*Superior Court Judge,  
individual*

represented by **Kevin M McCormick**  
(See above for address)  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Yolanda V. Torres**  
*Superior Court Judge, official  
capacity*

represented by **Kevin M McCormick**  
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**ATTORNEY TO BE NOTICED**

**Defendant**

**Barry Michaelson**  
*Commissioner, individual*

represented by **Kevin M McCormick**  
(See above for address)  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Barry Michaelson**  
*Commissioner, official  
capacity*

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**ATTORNEY TO BE NOTICED**

**Defendant**

**Navid Moshtael**

*Officer of the Court SBA No.  
242282, individual capacity*

**Defendant**

**Navid Moshtael**

*Officer of the Court SBA No.  
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**ATTORNEY TO BE NOTICED**

**Defendant**

**Erin Noonan**

*Officer of the Court SBA No.  
198688, individual capacity*

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**(See above for address)**

**ATTORNEY TO BE NOTICED**

**Defendant**

**Erin Noonan**

*Officer of the Court SBA No.  
198688, official capacity*

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**(See above for address)**

**ATTORNEY TO BE NOTICED**

**David D Samani**

**(See above for address)**

**ATTORNEY TO BE NOTICED**

**Defendant**

**James Wellman**  
*Officer of the Court SBA No.*  
*116357, individual capacity*

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**ATTORNEY TO BE NOTICED**

**David D Samani**  
(See above for address)  
**ATTORNEY TO BE NOTICED**

**Defendant**

**James Wellman**  
*Officer of the Court SBA No.*  
*116357, official capacity*

**Defendant**

**Lance Duran**  
*Officer of the Court SBA No.*  
*208117, individual capacity*

**Defendant**

**Lance Duran**  
*Officer of the Court SBA No.*  
*207117, official capacity*

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(See above for address)  
**ATTORNEY TO BE NOTICED**

**David D Samani**  
(See above for address)  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Sheri Laughlin**  
*Officer of the Court SBA No.*  
*153083, individual capacity*

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(See above for address)  
**ATTORNEY TO BE NOTICED**

**David D Samani**  
(See above for address)  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Sheri Laughlin**  
*Officer of the Court SBA No.*  
*153083, official capacity*

**Defendant**

**Deborah L Clark**  
*individual capacity*

**Defendant**

**The Moshtael Family Law  
Firm**  
*a professional Corporation*

represented by **Christina M Guerin**  
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**ATTORNEY TO BE NOTICED**

**David D Samani**  
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**ATTORNEY TO BE NOTICED**

District Court  
The Hon. Judge Fitzgerald  
350 West First Street Room 4311  
Los Angeles, Calif 90012

Office Of The Clerk  
James Browning Courthouse  
U.S, Court Of Appeals  
95 Seventh Street  
San Francisco, Calif. 94103-1526

1 original; 6 Bound Petition For Rehearing & Petition EnBanc

I declare under the penalty of perjury under the laws of the State of California that  
the foregoing is true and correct.

Executed at Huntington Beach, Calif on March 7, 2025.

Signature of Declarant

  
Nicholas Califato



**23-55628, 23-55715**

Edward L. Clark  
5582 McFadden Avenue  
Huntington Beach, CA 92649

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**NOT FOR PUBLICATION**  
**UNITED STATES COURT OF APPEALS**  
**FOR THE NINTH CIRCUIT**

**FILED****FEB 24 2025****MOLLY C. DWYER, CLERK**  
**U.S. COURT OF APPEALS****EDWARD L. CLARK,****Plaintiff-Appellant,****v.****STATE OF CALIFORNIA; et al.,****Defendants-Appellees.****Nos. 23-55628**  
**23-55715****D.C. No. 8:22-cv-01390-MWF-JPR****MEMORANDUM\***

Appeals from the United States District Court  
for the Central District of California  
Michael W. Fitzgerald, District Judge, Presiding

Submitted February 18, 2025\*\*

Before: SILVERMAN, WARDLAW, and DESAI, Circuit Judges.

Edward L. Clark appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action arising out of state court divorce proceedings. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Seismic Reservoir 2020, Inc. v. Paulsson*, 785 F.3d 330, 333 (9th Cir. 2015)

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

\*\* The panel unanimously concludes these cases are suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

(dismissal under Fed. R. Civ. P. 12(b)(1)); *Noel v. Hall*, 341 F.3d 1148, 1154 (9th Cir. 2003) (dismissal under the *Rooker-Feldman* doctrine). We affirm.

The district court properly dismissed Clark's action for lack of subject matter jurisdiction under the *Rooker-Feldman* doctrine because Clark's claims are a "de facto appeal" of a prior state court judgment or are "inextricably intertwined" with that judgment. *See id.* at 1163-65 (discussing proper application of the *Rooker-Feldman* doctrine); *see also Carmona v. Carmona*, 603 F.3d 1041, 1050-51 (9th Cir. 2010) (*Rooker-Feldman* doctrine barred plaintiff's claims seeking to enjoin state family court orders); *Reusser v. Wachovia Bank, N.A.*, 525 F.3d 855, 860 (9th Cir. 2008) (*Rooker-Feldman* doctrine bars a claim of extrinsic fraud if the alleged fraud has been separately litigated in a state action); *Safe Air for Everyone v. Meyer*, 373 F.3d 1035, 1039 (9th Cir. 2004) ("In resolving a factual attack on jurisdiction, the district court may review evidence beyond the complaint without converting the motion to dismiss into a motion for summary judgment.").

The district court did not abuse its discretion in denying Clark's motion for disqualification and recusal because Clark failed to establish any basis for relief. *See United States v. Hernandez*, 109 F.3d 1450, 1453-54 (9th Cir. 1997) (setting forth standard of review and discussing standard for recusal under 28 U.S.C. §§ 144 and 455). We reject as unsupported by the record Clark's contentions that the magistrate judge had a conflict of interest or that either the district or

magistrate judge was biased against him.

The district court did not abuse its discretion in denying Clark's motion to alter or amend the judgment and for relief from judgment because Clark failed to demonstrate any basis for relief. *See Sch. Dist. No. 1J, Multnomah County, Or.*, 5 F.3d 1255, 1262-63 (9th Cir. 1993) (setting forth standard of review and grounds for relief under Federal Rule of Civil Procedure 60).

The district court did not abuse its discretion in dismissing Clark's action without leave to amend because amendment would be futile. *See Cervantes v. Countrywide Home Loans, Inc.*, 656 F.3d 1034, 1041 (9th Cir. 2011) (setting forth standard of review and explaining that dismissal without leave to amend is proper where amendment would be futile).

We do not consider matters not specifically and distinctly raised and argued in the opening brief, or arguments and allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009). We do not consider documents and facts not presented to the district court. *See United States v. Elias*, 921 F.2d 870, 874 (9th Cir. 1990).

All pending motions and requests are denied.

**AFFIRMED.**

## **UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT**

### **Information Regarding Judgment and Post-Judgment Proceedings**

#### **Judgment**

- This Court has filed and entered the attached judgment in your case. Fed. R. App. P. 36. Please note the filed date on the attached decision because all of the dates described below run from that date, not from the date you receive this notice.

#### **Mandate (Fed. R. App. P. 41; 9th Cir. R. 41-1 & -2)**

- The mandate will issue 7 days after the expiration of the time for filing a petition for rehearing or 7 days from the denial of a petition for rehearing, unless the Court directs otherwise. To file a motion to stay the mandate, file it electronically via the appellate electronic filing system or, if you are a pro se litigant or an attorney with an exemption from the electronic filing requirement, file one original motion on paper.

#### **Petition for Panel Rehearing and Petition for Rehearing En Banc (Fed. R. App. P. 40; 9th Cir. R. 40-1 to 40-4)**

##### **(1) Purpose**

##### **A. Panel Rehearing:**

- A party should seek panel rehearing only if one or more of the following grounds exist:
  - A material point of fact or law was overlooked in the decision;
  - A change in the law occurred after the case was submitted which appears to have been overlooked by the panel; or
  - An apparent conflict with another decision of the Court was not addressed in the opinion.
- Do not file a petition for panel rehearing merely to reargue the case.

##### **B. Rehearing En Banc**

- A party should seek en banc rehearing only if one or more of the following grounds exist:
  - Consideration by the full Court is necessary to secure or maintain uniformity of the Court's decisions; or
  - The proceeding involves a question of exceptional importance; or

- The opinion directly conflicts with an existing opinion by another court of appeals or the Supreme Court and substantially affects a rule of national application in which there is an overriding need for national uniformity.

**(2) Deadlines for Filing:**

- A petition for rehearing or rehearing en banc must be filed within 14 days after entry of judgment. Fed. R. App. P. 40(d).
- If the United States or an agency or officer thereof is a party in a civil case, the time for filing a petition for rehearing is 45 days after entry of judgment. Fed. R. App. P. 40(d).
- If the mandate has issued, the petition for rehearing should be accompanied by a motion to recall the mandate.
- See Advisory Note to 9th Cir. R. 40-1 (petitions must be received on the due date).
- An order to publish a previously unpublished memorandum disposition extends the time to file a petition for rehearing to 14 days after the date of the order of publication or, in all civil cases in which the United States or an agency or officer thereof is a party, 45 days after the date of the order of publication. 9th Cir. R. 40-4.

**(3) Statement of Counsel**

- A petition should contain an introduction stating that, in counsel's judgment, one or more of the situations described in the "purpose" section above exist. The points to be raised must be stated clearly.

**(4) Form & Number of Copies (9th Cir. R. 40-1; Fed. R. App. P. 32(c)(2))**

- The petition shall not exceed 15 pages unless it complies with the alternative length limitations of 4,200 words or 390 lines of text.
- The petition must be accompanied by a copy of the panel's decision being challenged.
- An answer, when ordered by the Court, shall comply with the same length limitations as the petition.
- If a pro se litigant elects to file a form brief pursuant to Circuit Rule 28-1, a petition for panel rehearing or for rehearing en banc need not comply with Fed. R. App. P. 32.

- The petition or answer must be accompanied by a Certificate of Compliance found at Form 11, available on our website at [www.ca9.uscourts.gov](http://www.ca9.uscourts.gov) under *Forms*.
- Attorneys must file the petition electronically via the appellate electronic filing system. No paper copies are required unless the Court orders otherwise. If you are a pro se litigant or an attorney exempted from using the appellate ECF system, file one original petition on paper. No additional paper copies are required unless the Court orders otherwise.

**Bill of Costs (Fed. R. App. P. 39, 9th Cir. R. 39-1)**

- The Bill of Costs must be filed within 14 days after entry of judgment.
- See Form 10 for additional information, available on our website at [www.ca9.uscourts.gov](http://www.ca9.uscourts.gov) under *Forms*.

**Attorneys Fees**

- Ninth Circuit Rule 39-1 describes the content and due dates for attorneys fees applications.
- All relevant forms are available on our website at [www.ca9.uscourts.gov](http://www.ca9.uscourts.gov) under *Forms* or by telephoning (415) 355-8000.

**Petition for a Writ of Certiorari**

- The petition must be filed with the Supreme Court, not this Court. Please refer to the Rules of the United States Supreme Court at [www.supremecourt.gov](http://www.supremecourt.gov).

**Counsel Listing in Published Opinions**

- Please check counsel listing on the attached decision.
- If there are any errors in a published opinion, please send a letter **in writing within 10 days** to:
  - Thomson Reuters; 610 Opperman Drive; PO Box 64526; Eagan, MN 55123 (Attn: Maria Evangelista, [maria.b.evangelista@tr.com](mailto:maria.b.evangelista@tr.com));
  - **and** electronically file a copy of the letter via the appellate electronic filing system by using the Correspondence filing category, or if you are an attorney exempted from electronic filing, mail the Court one copy of the letter.

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

**Form 10. Bill of Costs**

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**SUPREME COURT OF THE UNITED STATES  
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**COPY**

October 10, 2025

Edward L. Clark, Jr.  
5582 McFadden Ave.  
Huntington Beach, CA 92649

RE: Clark, Jr. v. CA  
USAP9 23-55628, 23-55715

Dear Mr. Clark, Jr.:

The above-entitled petition for a writ of certiorari was postmarked October 8, 2025 and received October 10, 2025. The papers are returned for the following reason(s):

The petition is out-of-time. The date of the lower court judgment or order denying a timely petition for rehearing was July 2, 2025. Therefore, the petition was due on or before September 30, 2025. Rules 13.1, 29.2 and 30.1. When the time to file a petition for a writ of certiorari in a civil case (habeas action included) has expired, the Court no longer has the power to review the petition.

The time for filing a petition for a writ of certiorari is not controlled by the date of the issuance of the mandate. Rule 13.3.

Your petitions and check no. 2345 in the amount of \$300.00 are herewith returned.

Sincerely,  
Scott S. Harris, Clerk

By:

Sara Simmons  
(202) 479-3023

**COPY**

Enclosures