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APPENDIX A

In the
United States Court of Appeals
For the Eleventh Circuit

No. 24-12949

ROBERT JONES,

Plaintiff-Appellant,

versus

THE LAMAR COMPANY, LLC,
A Louisiana Limited Liability Company,
LAMAR ADVERTISING COMPANY,
THE LAMAR COMPANIES,
LAMAR MEDIA CORPORATION,

Defendants-Appellees.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 8:23-cv-01461-CEH-AAS

ON PETITION FOR REHEARING AND PETITION FOR
REHEARING EN BANC

Before ROSENBAUM, GRANT, and MARCUS, Circuit Judges.

PER CURIAM:

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The Petition for Rehearing En Banc is DENIED, no judge in regular active service on the Court having requested that the Court be polled on rehearing en banc. FRAP 40. The Petition for Panel Rehearing also is DENIED. FRAP 40.

APPENDIX B

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 24-12949
Non-Argument Calendar

ROBERT JONES,

Plaintiff-Appellant,

versus

THE LAMAR COMPANY, LLC,
A Louisiana Limited Liability Company,
LAMAR ADVERTISING COMPANY,
THE LAMAR COMPANIES,
LAMAR MEDIA CORPORATION,

Defendants-Appellees.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 8:23-cv-01461-CEH-AAS

Before ROSENBAUM, GRANT, and MARCUS, Circuit Judges.

PER CURIAM:

Robert Jones, proceeding pro se, appeals the district court's order dismissing his amended civil complaint, alleging that The Lamar Company, LLC ("Lamar") violated Florida law through its actions in previous state court proceedings. On appeal, Jones argues that: (1) the court erred in dismissing his complaint for lack of subject-matter jurisdiction under the *Rooker-Feldman* doctrine¹; and (2) the court abused its discretion by not granting him leave to further amend his complaint. After careful review, we affirm.

We review a district court's decision that it lacks subject-matter jurisdiction de novo. *Behr v. Campbell*, 8 F.4th 1206, 1209 (11th Cir. 2021). We review the grant of a motion to dismiss for failure to state a claim under Rule 12(b)(6) de novo, accept the plaintiff's allegations as true, and construe them in the light most favorable to the plaintiff. *Caterpillar Fin. Servs. Corp. v. Venequip Mach. Sales Corp.*, 147 F.4th 1341, 1346 (11th Cir. 2025). We review a district court's decision whether to grant further leave to amend a complaint for abuse of discretion, *Pinnacle Advert. & Mktg. Grp., Inc. v. Pinnacle Advert. & Mktg. Grp., LLC*, 7 F.4th 989, 999–1000 (11th Cir. 2021) (leave to amend), but we review de novo whether granting leave to amend is futile, *L.S. ex rel. Hernandez v. Peterson*, 982 F.3d 1323, 1328 (11th Cir. 2020). A court abuses its discretion if it applies an incorrect legal standard, follows improper procedures, or makes clearly erroneous findings of fact. *Peer v. Lewis*, 606

¹ The *Rooker-Feldman* doctrine derives from *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923), and *D.C. Court of Appeals v. Feldman*, 460 U.S. 462 (1983).

1209. We've described the *Rooker-Feldman* doctrine's application like this:

[I]t is based explicitly on the statutory limitations of federal district courts' jurisdiction. Only when a losing state court litigant calls on a district court to modify or "overturn an injurious state-court judgment" should a claim be dismissed under *Rooker-Feldman*; district courts do not lose subject matter jurisdiction over a claim "simply because a party attempts to litigate in federal court a matter previously litigated in state court."

Id. at 1210. So, if a federal plaintiff presents some independent claim, albeit one that denies a legal conclusion that a state court has reached in a case to which he was a party, then there is jurisdiction. *Exxon Mobil Corp.*, 544 U.S. at 293. Yet, the doctrine "bars all appeals of state court judgments -- whether the plaintiff admits to filing a direct appeal of the judgment or tries to call the appeal something else." *Behr*, 8 F.4th at 1211. The claim must "at its heart challenge[] the state court decision itself." *May v. Morgan Cnty. Ga.*, 878 F.3d 1001, 1005 (11th Cir. 2017). The injury the plaintiff complains of "must be caused by the judgment itself." *Behr*, 8 F.4th at 1212. Courts must use a claim-by-claim basis, deciding "whether resolution of each individual claim requires review and rejection of a state court judgment." *Id.* at 1213.

We've emphasized that a plaintiff's "claim for relief *does* matter," clarifying that "claims that seek only damages for constitutional violations of third parties -- not relief from the judgment

of the state court -- are permitted," while claims that directly seek relief from the state court's judgment are not. *Id.* at 1214. In other words, "[i]f the source of the plaintiff's injury is the state-court judgment itself, then *Rooker-Feldman* applies." *Efron v. Candelario*, 110 F.4th 1229, 1236 (11th Cir. 2024), *cert. denied*, 145 S. Ct. 1958 (2025). This inquiry "remains the question for a federal court regardless of the form in which the plaintiff brings his or her claims." *Id.*

In *Behr*, we reviewed the dismissal of a complaint based on the *Rooker-Feldman* doctrine. 8 F.4th at 1208–09. The *Behr* plaintiffs alleged that their federal due-process claims resulted "from the use of falsified and/or coerced information as a basis for the proceedings and decisions" and by the state's restricted access to the courts. *Id.* at 1213. At oral argument, the plaintiffs clarified that they did not raise the violations to reverse a state-court decision that had removed children from their father's custody, but did so to get monetary damages. *Id.* ("[T]hey are not raising these due process claims so that we can 'review and reject' the state court's child custody judgment."). We concluded that asking the federal court to consider whether the state court violated constitutional rights and caused damages -- where the plaintiffs were not asking the district court to reject the state court judgment -- fell outside the *Rooker-Feldman* doctrine's boundaries. *Id.*

In *Efron*, we found that the *Rooker-Feldman* doctrine barred a plaintiff's constitutional claims, even though the plaintiff did not explicitly ask to overturn a state judgment. 110 F.4th at 1238. The

state court had reinstated the plaintiff's yearly payments to his former wife, and his wife successfully sought enforcement of this decision. *Id.* at 1232–33. In his § 1983 action, Efron alleged that his former wife and her attorney, through fraud and misrepresentation, had recruited the state judge to issue “a corrupt decision” and conspired to deprive him of a fair legal process. *Id.* at 1236–37. We rejected Efron’s claim that he was seeking monetary damages and not the invalidation of the state court judgment, since “there is no distinguishing between” the damages caused by the state judges’ alleged constitutional violations and the state court’s disposition of his case. *Id.* at 1236–38. In essence, the plaintiff sought to nullify the state court judgment’s effect “by mandating the return of the money the [state court] decisions ordered [the plaintiff] to pay and explicitly seeking a finding that the [state court] decisions were ‘wrongful,’ [and] ‘corruptly procured.’” *Id.* at 1237–38. Thus, his constitutional claims “amount[ed] to a request that the district court review and reject the state court judgment.” *Id.* at 1238.

In a footnote in *Efron*, we noted that we have never recognized an extrinsic fraud exception to the *Rooker-Feldman* doctrine and declined to do so. *Id.* at 1232 n.2. Further, even though other circuits have recognized an exception to the *Rooker-Feldman* doctrine where the state court judgment is void ab initio due to the state court’s lack of jurisdiction, we have never adopted that exception. *Casale v. Tillman*, 558 F.3d 1258, 1261 (11th Cir. 2009).

A court must dismiss an action sua sponte if it “determines at any time that it lacks subject-matter jurisdiction.” Fed. R. Civ.

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P. 12(h)(3). “A dismissal for lack of subject matter jurisdiction is not a judgment on the merits and is entered without prejudice.” *Stalley ex rel. U.S. v. Orlando Reg’l Healthcare Sys., Inc.*, 524 F.3d 1229, 1232 (11th Cir. 2008). When the district court improperly dismisses with prejudice a claim for lack of jurisdiction, we usually vacate and remand for entry of a dismissal without prejudice. *DiMaio v. Democratic Nat’l Comm.*, 520 F.3d 1299, 1303 (11th Cir. 2008); *Boudloche v. Conoco Oil Corp.*, 615 F.2d 687, 688–89 (5th Cir. 1980).²

Generally, a plaintiff proceeding pro se must receive at least one opportunity to amend the complaint if he might be able to state a claim by doing so before the district court dismisses a complaint with prejudice. *Woldeab v. Dekalb Cnty. Bd. of Educ.*, 885 F.3d 1289, 1291–92 (11th Cir. 2018); see also *Silberman v. Miami Dade Transit*, 927 F.3d 1123, 1132–33 (11th Cir. 2019) (noting that in some situations, further leniency -- or “an extra dose of grace” -- may be warranted “in recognition of the difficulty in proceeding pro se”). A district court need not allow amendment in the event of undue delay, bad faith, repeated failure to cure deficiencies, undue prejudice to the opposing party, or futility of the amendment. *Foman v. Davis*, 371 U.S. 178, 182 (1962). A proposed amendment is futile if the complaint, as amended, would still be subject to dismissal. *Hall v. United Ins. Co. of Am.*, 367 F.3d 1255, 1263 (11th Cir. 2004). “Leave to amend would be futile if an

² In *Bonner v. City of Prichard*, 661 F.2d 1206, 1209 (11th Cir. 1981) (en banc), we adopted as binding precedent all Fifth Circuit decisions issued before October 1, 1981.

amended complaint would still fail at the motion-to-dismiss or summary-judgment stage.” *Peterson*, 982 F.3d at 1332. “[T]he question is whether ‘the underlying facts or circumstances relied upon by a plaintiff may be a proper subject of relief.’” *Id.*

Here, Jones’s amended complaint, which is the operative one for our purposes, alleged that Lamar -- as the owner of a billboard sign on Jones’s property -- violated Florida law through its actions in prior Florida state court proceedings. Jones claimed that he had filed an eviction action in state court against Lamar after it failed to pay rent and/or late fees for its billboard, but that Lamar violated Jones’s due process rights in the state court eviction proceedings by depriving Jones of notice and the opportunity to be heard and fraudulently causing the state court to enter judgment in Lamar’s favor. In addition, Jones alleged, Lamar persuaded the state court to grant it attorney’s fees by producing false documents, lying, and deceiving the state court and then placed fraudulent liens of at least \$17,000 on Jones’s land to recover its attorney’s fees.

Count One of Jones’s amended complaint, filed in the United States District Court for the Middle District of Florida, alleged that Lamar violated Fla. Stat. § 817.535 by filing for fraudulent liens on Jones’s property and wrongfully forcing Jones to pay attorney’s fee liens out of the property’s sale proceeds. In Counts Two through Six, Jones listed four allegedly fraudulent instruments filed by Lamar and respective statutory damages for each violation. In Count Seven, Jones claimed that Lamar committed intentional infliction of emotional distress (“IIED”) against him and

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caused him physical injuries by intentionally inducing stress through its litigation practices in state court proceedings seeking attorney's fees. In Count Eight, Jones alleged that Lamar's state litigation practices also caused him to lose enjoyment in life, and in Count Nine, Jones alleged that Lamar's actions caused him to lose earning capacity.

After several rounds of filings in district court, the court entered an order granting Lamar's amended motion to dismiss Jones's amended complaint with prejudice and denied him leave to further amend his complaint as futile. The district court found that Count One was barred by the *Rooker-Feldman* doctrine because granting Jones relief on his claim that he was wrongfully required to pay attorney's fees as a result of the state trial court decision would necessarily have required the district court to overturn the state court judgment, thereby removing the district court's jurisdiction under *Rooker-Feldman*. For the remaining Counts Two through Nine, the district court found that Jones failed to allege sufficient facts to state a claim for relief against Lamar because, among other things: (1) Counts Two through Six cited statutes involving criminal penalties, not civil penalties; (2) Count Seven failed to allege facts that demonstrated Lamar committed outrageous conduct, as required to state an IIED claim under Florida law, and because Lamar's actions in defending itself in litigation were privileged under Florida law; and (3) Counts Eight and Nine merely set forth elements of damages, not causes of action in Florida. The district court also detailed Jones's multiple requests to

amend his complaint after filing an amended complaint as of right and dismissed Jones's motion to amend as futile.

On appeal, Jones's primary argument is that the district court erred in dismissing Count One for lack of subject-matter jurisdiction under *Rooker-Feldman*, but we disagree. In Count One, Jones alleged that Lamar had defrauded the state court to persuade it to grant attorney's fees to Lamar. Jones sought monetary damages to recoup the attorney's fees he paid from the sale of his property pursuant to the state court order -- a claim that would have required the district court to decide whether the state court reached the wrong decision based on Lamar's filing of allegedly false instruments. So, for Jones to prevail, the district court effectively would have had to reverse the state court decision, which means that his claim is barred by *Rooker-Feldman*. *Efron*, 110 F.4th at 1236–38.

Jones argues that the *Rooker-Feldman* doctrine does not apply here because he was not listed as a loser in state court, the injuries he suffered were caused by Lamar and not a state court judgment, and his federal action alleging fraud against Lamar was different than his eviction action against Lamar in state court. These arguments miss the mark. Deciding Count One would have required the district court to nullify the state court's judgment granting attorney's fees because that judgment was against Jones's property and permitted Lamar to file liens on his property, which is what Jones expressly seeks to recover for. *Id.* at 1236; *May*, 878 F.3d at 1005; *Exxon Mobil Corp.*, 544 U.S. at 291. Jones also claims that the

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district court was allowed to review the state court judgment because it was void for lacking jurisdiction, but we've never recognized this exception to the *Rooker-Feldman* doctrine. *Casale*, 558 F.3d at 1261; *see also Efron*, 110 F.4th at 1232 n.2.

As for the remaining counts in Jones's amended complaint - Counts Two through Nine - the district court dismissed them for failure to state a claim upon which relief could be granted under Rule 12(b)(6).³ However, Jones has abandoned on appeal any challenge to the district court's dismissal of Counts Two through Nine because he only made one passing statement in his initial brief that the district court erred in doing so. *Sapuppo*, 739 F.3d at 681. Therefore, we affirm the district court's dismissal of those claims with prejudice. *Timson*, 518 F.3d at 874. In any event, to the extent Jones argues that the district court abused its discretion by not granting him leave to further amend his complaint, any amendment would have been futile. *Silberman*, 927 F.3d at 1132-33; *Peterson*, 982 F.3d at 1332. As the record reflects, Jones's further amended complaint would still have been subject to dismissal because he could not plead plausible allegations on these claims without running afoul of the *Rooker-Feldman* doctrine, plausibly offer sufficient, viable support for his IIED claim, or plausibly plead

³ In dismissing the complaint, the district court took judicial notice of the state court proceedings without converting the motion to dismiss into a motion for summary judgment, which is permissible under our case law. *See Lozman v. City of Riviera Beach*, 713 F.3d 1066, 1075 n.9 (11th Cir. 2013) ("Although this matter is before the court on a motion to dismiss, we may take judicial notice of the court documents from the state eviction action.").

cause of actions not recognized under Florida law. *Hall*, 367 F.3d at 1263; *Peterson*, 982 F.3d at 1332.

In short, we agree with the district court that it lacked jurisdiction over Count One based on the *Rooker-Feldman* doctrine. However, the district court did not expressly state that its dismissal of Count One for lack of subject-matter jurisdiction under the *Rooker-Feldman* doctrine was without prejudice, as it should have done since it was imposing a jurisdictional dismissal that did not reach the merits. *Stalley*, 524 F.3d at 1232. Accordingly, we vacate the district court's dismissal as to Count One and remand with instructions that the district court should dismiss Count One without prejudice for lack of jurisdiction. *DiMaio*, 520 F.3d at 1303.

**AFFIRMED IN PART, VACATED AND REMANDED
WITH INSTRUCTIONS IN PART.**

APPENDIX C

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

ROBERT JONES,

Plaintiff,

v.

Case No: 8:23-cv-1461-CEH-AAS

THE LAMAR COMPANY, L.L.C.,
LAMAR ADVERTISING, LAMAR
ADVERTISING COMPANY, THE
LAMAR COMPANIES and LAMAR
MEDIA CORPORATION,

Defendants.

ORDER

This matter comes before the Court on Defendants' Amended Motion to Dismiss Amended Complaint (Doc. 18). Defendants seek dismissal of the Amended Complaint under *Rooker-Feldman*.¹ Alternatively, Defendants argue dismissal is warranted based on the principles of *res judicata*, collateral estoppel, and the litigation privilege, and because the Amended Complaint is a shotgun pleading that fails to state

¹ The *Rooker-Feldman* doctrine derives from *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923), and *D.C. Court of Appeals v. Feldman*, 460 U.S. 462 (1983). The doctrine precludes federal court review of final state-court judgments. See *Casale v. Tillman*, 558 F.3d 1258, 1260 (11th Cir. 2009).

a cause of action. Plaintiff opposes Defendants' motion and has filed multiple motions seeking leave to amend his complaint. Docs. 20, 21, 28, 37, 40, 54.² Defendants oppose

amendment as futile. The Court, having considered the motion and being fully advised in the premises, will grant Defendants' Amended Motion to Dismiss Amended Complaint and will dismiss this action with prejudice. Because Plaintiff has amended his complaint once as a matter of course, as permitted by Fed. R. Civ. P. 15, and because further amendment would be futile, leave to amend will be denied.

I. JURISDICTION

When Plaintiff first filed his Complaint in July 2023, he included a cause of action for violation of his civil rights under 42 U.S.C. § 1983. Doc. 1. Thus, Plaintiff sought to invoke the Court's original jurisdiction pursuant to 28 U.S.C. § 1331 based on his federal claim. Before Defendants answered the Complaint, Plaintiff filed an Amended Complaint, wherein Plaintiff dropped the federal claim and asserted only state law causes of action. Doc. 7. The Amended Complaint alleges the Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332(a).

Federal courts must *sua sponte* inquire into an action's subject matter jurisdiction whenever such jurisdiction may be lacking. *Cadet v. Bulger*, 377 F.3d 1173, 1179 (11th Cir. 2004). Because the Amended Complaint did not adequately allege the citizenship

² Plaintiff's motions for leave to amend (Docs. 20, 21, 28, 37, 40, 54) are due to be denied because Plaintiff already amended his complaint once as a matter of right, and based on the Court's review of the proposed amended complaints, amendment would be futile.

of the parties to allow the Court to determine whether subject-matter jurisdiction based on diversity of citizenship exists, the Court issued an Order to Show Cause to Plaintiff. Doc. 47. Additionally, because Defendants identified “Lamar Advertising Company” as an inactive Florida corporation, *see* Doc. 18 at 1, and had not yet filed Disclosure Statements, the Court directed Defendants to promptly file Disclosure Statements pursuant to Local Rule 3.03 and Fed. R. Civ. P. 7.1(a)(2). Doc. 48. The initial

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corporate disclosures filed by Defendants in response to the Court’s order were incomplete (Doc. 49), and the Court directed that amended disclosures be filed (Doc. 50). Defendants filed their amended disclosures on May 8, 2024. Docs. 51, 52.

According to the amended disclosures, Defendants are not citizens of Florida. In the Amended Complaint, Plaintiff is alleged to be a citizen of Florida. Doc. 7 ¶ 9. Accordingly, diversity of citizenship exists.

In response to the Court’s order to show cause, Plaintiff contends that his newly filed Fourth Amended Complaint gives rise to the Court’s original jurisdiction based on federal claims³ asserted under 18 U.S.C. § 1001,⁴ 42 U.S.C. § 1983,⁵ and 28 U.S.C. § 1654.³ Additionally, the Fourth Amended Complaint alleges that the Court has

³ Plaintiff’s proposed Fourth Amended Complaint seeks to add claims for violations of 18 U.S.C. § 1001, 42 U.S.C. § 1983, and 28 U.S.C. § 1654. Plaintiff cannot state a claim against Defendants based on these statutes, and thus amendment is futile. Regardless, the Court has determined that diversity jurisdiction exists.

³ Plaintiff’s proposed claim under 28 U.S.C. § 1654 fails because this statute does not give rise to a cause of action. *See* 28 U.S.C. § 1654 (“In all courts of the United States the parties may plead and conduct their own cases personally or by counsel as, by the rules of such courts,

⁴ Section 1001 imposes criminal liability for making false statements to federal authorities. See 18 U.S.C. § 1001(a); see also, *United States v. Fern*, 696 F.2d 1269, 1273 (11th Cir. 1983) (“The purpose of § 1001 is clearly to protect the Government from fraud and deceit. The reach of the statute covers all materially false statements, including non-monetary fraud, made to any branch of the Government.”). Moreover, subsection (a) “does not apply to a party to a judicial proceeding, or that party’s counsel, for statements, representations, writings or documents submitted by such party or counsel to a judge or magistrate in that proceeding.” 18 U.S.C.A. § 1001(b). In any event, section 1001 does not give rise to civil liability. ⁵ Similarly, any claim under 42 U.S.C. § 1983 would fail because Defendants were not state actors or acting under color of state law, that is, their challenged actions are not “fairly attributable to the State.” See *Harvey v. Harvey*, 949 F.2d 1127, 1130 (11th Cir. 1992) (quoting *Lugar v. Edmondson Oil Co.*, 457 U.S. 922, 937 (1982) (“For a defendant’s actions to be fairly attributable to the state, ‘[f]irst, the deprivation must be caused by the exercise of some right or privilege created by the State or by a rule of conduct imposed by the State or by a person for whom the State is responsible.... Second, the party charged with the deprivation must be a person who may fairly be said to be a state actor.’”).

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jurisdiction based upon diversity of citizenship of the parties. Doc. 55 ¶¶ 1–6, 8, 9. The Court did not give Plaintiff leave to file a Fourth Amended Complaint.⁴ The parties’ diverse citizenship having now been established, the Court proceeds to address the operative complaint, the Amended Complaint at Doc. 7, and Defendants’ Amended Motion to Dismiss directed to the Amended Complaint. Doc. 18.

II. BACKGROUND⁵

Plaintiff, Robert Jones, who is proceeding *pro se*, initiated this action against Defendants on July 3, 2023. Doc. 1. Before Defendants responded to the initial complaint, Plaintiff filed an Amended Complaint. Doc. 7. In his nine-count Amended

⁴ Plaintiff has moved for leave to file a Fourth Amended Complaint. Doc. 54. Because Amendment would be futile, the Court will deny leave to amend.

⁵ The following statement of facts is derived from the Amended Complaint (Doc. 7), the allegations of which the Court must accept as true in ruling on the instant Motion to Dismiss. *Linder v. Portocarrero*, 963 F.2d 332, 334 (11th Cir. 1992); *Quality Foods de Centro Am., S.A. v. Latin Am. Agribusiness Dev. Corp. S.A.*, 711 F.2d 989, 994 (11th Cir. 1983). The Court also considers documents attached to the Motion to Dismiss to the extent that they are central to the plaintiff’s claim and undisputed. See *Day v. Taylor*, 400 F.3d 1272, 1276 (11th Cir. 2005).

Complaint, Plaintiff sues Lamar Advertising, Lamar Advertising Co., the Lamar Companies, and the Lamar Company, L.L.C. *Id.* Plaintiff seeks monetary relief from Defendants for violation of “Florida Statute Chap. 817, Sec. 535 Unlawful Filing of Records Against Plaintiff [sic] Real Property” (Count 1) and intentional infliction of emotional distress (Count 7). *Id.* at 1. Counts 2 through 6 are predicated on violations of another subsection of Section 535, but they do not re-allege the preceding

respectively, are permitted to manage and conduct causes therein.”). Section 1654 merely provides that a party may proceed either *pro se* or through counsel. Relevant here, this provision does not give Plaintiff, a non-attorney, the right to conduct a case on behalf of someone else, such as his daughter.

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paragraphs and therefore are based on only the one to two sentences beneath the headings. *See* Doc. 7 at 12–13, ¶¶ 61–66. Count 8, which incorporates all preceding counts and allegations, sues for damages because of harm to his lifestyle. Doc. 7 at 21–22. And Count 9 sues for economic damages because of physical injuries. *Id.* at 22–23.

The allegations in the Amended Complaint are somewhat rambling and disjointed. However, construing Plaintiff’s *pro se* pleadings liberally, a fair reading of the Amended Complaint reflects that Plaintiff’s claims arise out of a dispute for rent and late fee payments owed by Defendants under a billboard sign lease. Doc. 7 ¶¶ 10–17. The advertising sign, owned by Defendants, was located on real property owned by Plaintiff and/or his daughter, Tichinia Jones. *Id.* Plaintiff and his daughter filed two eviction actions in Hillsborough County state court to evict Defendants from the property for the failure to pay rent and late fee payments pursuant to the lease

agreement. *Id.* ¶ 18; *see* Case Nos. 17-CC-012407 and 17-CC-026201, in the County Court in and for Hillsborough County, Florida. Defendants filed a counterclaim in the state court eviction actions. Doc. 7 ¶ 44. Ultimately, Defendants obtained judgments against Plaintiff for attorney's fees and costs and filed liens against Plaintiff's real property. Doc. 18 at 23–35. The attorneys' fee judgments were satisfied when a third party purchased the property from Plaintiff and the purchase money was held in escrow to satisfy the judgments/liens. Doc. 17 at 124–26, 128.⁶

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In his Amended Complaint, Plaintiff alleges that on April 20, 1994, he acquired the parcel of real property located at 1745 East Hillsborough Avenue, Tampa, Florida. Doc. 7 ¶ 10. On December 3, 2003, Plaintiff purported to convey the property to his daughter, Tichinia Jones. *Id.* ¶ 11. However, when the property was sold in 2021, it was discovered that the quit claim of the property to his daughter in May 2021 was defective, and Tichinia Jones never held ownership to the subject property.⁷ *Id.* ¶ 12.

In 2015 Lamar owned a billboard advertising sign that was located on Plaintiff's real property. *Id.* ¶ 13. In October 2016, Defendants had a one-year written agreement with Tichinia Jones regarding the lease of the property for purposes of the sign. *Id.* ¶ 14. According to Plaintiff, there was no written agreement between himself and

⁶ The Court granted Defendants' motion requesting the Court take judicial notice of the state court proceedings. Docs. 17, 58. Additionally, the Court may *sua sponte* take judicial notice of pleadings filed in the state court dockets, which were not included in Doc. 17.

⁷ This fact is contradicted by the Quit Claim deed and the underlying pleadings in which the state court recognized Tichinia Jones as the owner of the property. *See* Doc. 17 at 118–19

Defendants from 2016 until 2021; the agreement was with his daughter and Defendants. *Id.* ¶¶ 14, 15. Plaintiff terminated the lease agreement in December 2016 because Defendants purportedly failed to timely mail their annual rent payment and to pay the associated late fee. *Id.* ¶¶ 16, 17. The lease agreement assessed a \$175 fee for late rental payments whenever the lessee is delinquent, but Defendants failed to comply with the late fee payment. *Id.* ¶ 17.

In 2017, Plaintiff and his daughter filed an eviction action against Lamar in County Court to evict Lamar from Plaintiff's real property. *Id.* ¶ 18. Plaintiff alleges

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that Lamar deprived Plaintiff of his rights under Florida law § 83.06.⁸ *Id.* ¶ 19. According to Plaintiff, Defendants created false documents in the eviction case to support their claim for attorney's fees against Plaintiff and his daughter, through a "non-prevailing-party agreement." *Id.* ¶ 20. Plaintiff alleges the Defendants used lies and deception to induce the County Court to enter judgment against him and his daughter. *Id.* ¶ 21. The Defendants recorded liens against Plaintiff's commercial real estate in excess of \$14,000, plus interest, for the attorney's fees award in their favor. *Id.* ¶ 22. Plaintiff alleges the lien was based on fraud and deception because the attorney's

⁸ Section 83.06, Florida Statutes, provides that "[w]hen any tenant refuses to give up possession of the premises at the end of the tenant's lease, the landlord . . . may demand of such tenant double the monthly rent, and may recover the same at the expiration of every month . . ." Fla. Stat. § 83.06(1).

fee provision of the agreement pertained to “general insurance Indemnify.” *Id.* ¶ 23. Plaintiff further contends that the Defendants deprived him of due process because they failed to mail notice of the court hearing date to his daughter’s home mailing address, and she was unable to attend the hearing on September 14, 2017. *Id.* ¶ 24. Defendants wrongfully received judgment in their favor based upon the liability insurance attorney’s fee provision. *Id.* ¶ 25.

Plaintiff asserts further wrongful conduct in Defendants’ filing of their attorney’s fee claim more than six months prior to the eviction action Plaintiff filed. *Id.* ¶ 26. Defendants failed to mail notice of the court hearing date to Plaintiff or his daughter. *Id.* ¶ 27. Plaintiff alleges the December 8, 2017 writ of execution obtained by Defendants against Plaintiff’s real estate was fraudulently recorded. *Id.* ¶ 28. The

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falsified documents deprived Plaintiff of his rights under Florida’s Constitution. *Id.* ¶ 29. Plaintiff further alleges the County Court granted Defendants’ motion without a hearing, depriving him of notice or an opportunity to object. *Id.* ¶¶ 30–33. But Plaintiff also alleges that he attended the December 8, 2017, hearing but was denied a meaningful opportunity to be heard or to object. *Id.* ¶ 35. He indicates that he was “barred” and “escorted” from the courtroom on December 8, 2017, which prevented him from objecting to the forgery or presenting any evidence on his own behalf. *Id.* ¶ 40. Plaintiff asserts that Defendants “forced” Plaintiff to pay over \$17,000. *Id.* ¶ 36.

Defendants purportedly disregarded official records in which Tichinia Jones was not listed as a property owner and recorded a lien against her for their own

financial gain. *Id.* ¶ 42. Plaintiff alleges that Defendants falsified documents several times. *Id.* ¶ 43. According to Plaintiff, Defendants filed a frivolous counterclaim against him, scheming through the court system to add more to their attorney's fee claim. *Id.* ¶ 44.

In Count 1, Plaintiff sues Defendants under Florida Statute § 817.535 for unlawful filing of records against Plaintiff's real property. *Id.* ¶¶ 45–60. In 2021, when Defendants had liens on Plaintiff's commercial property, Defendants did not have an agreement with Plaintiff. *Id.* ¶ 46. Plaintiff alleges the Billboard Lease did not entitle Defendants to prevailing party attorney's fees against Jones. *Id.* ¶ 47. The Defendants' liens prevented Plaintiff's property from having a clear and clean title and interfered with the sale of the property. *Id.* ¶¶ 49, 50. Plaintiff asserts that Defendants should have

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known their recorded liens were fraudulent because Tichinia Jones's name had been removed from the official records in 2017. *Id.* ¶ 52. Plaintiff requests the Court levy civil penalties against Defendants for filing of false records and to void the state court judgments. *Id.* ¶ 55. Plaintiff seeks actual damages, punitive damages, and civil penalties assessed against Defendants under Florida Statute § 817.535 for Defendants' alleged falsification of documents used to obtain judgment in their favor. *Id.* ¶ 60.

In Counts 2 through 6, Plaintiff seeks to impose statutory penalties under Florida Statute § 817.535 for the various documents filed in the public record that he claims are false. *Id.* ¶¶ 61–66.

In Count 7, Plaintiff sues for intentional infliction of emotional distress caused by Defendants' conduct in the state court litigation. Doc. 7 ¶¶ 67–105. He claims he has suffered physical and emotional injuries due to Defendants' fraudulent conduct in taking advantage of Plaintiff when he was only trying to protect his real estate from being stolen and to provide for his family. *Id.* ¶¶ 70–73. Plaintiff alleges he attended another hearing that occurred on June 16, 2022, requesting the state court void the judgment based on newly discovered evidence of the Defendants' fraudulent and wrongful conduct. *Id.* ¶ 95. According to Plaintiff, he was barred from making his arguments. *Id.* ¶ 101. He seeks damages for Defendants' "intentional, extreme, and outrageous conduct." *Id.* ¶ 105.

In Count 8 Plaintiff sues Defendants for "loss of enjoyment of life" because Defendants caused irreparable harm to his lifestyle by their conduct in the state court litigation. *Id.* ¶ 10. In Count 9, he requests damages for physical injuries, actual economic damages, and loss of earning capacity. *Id.* ¶¶ 107–112.⁹

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In the Amended Complaint, Plaintiff seeks \$260,546.79¹⁰ in damages, which he itemizes as follows: \$4,726.99 for fraud lien; \$14,793.50 for fraud lien; \$17,264.97 for fraud lien; \$9,700 for attorney fees incurred from March 2018 through January 2020

⁹ The proposed Second Amended Complaint adds three new counts (labeled 7, 8, and 9) that seek statutory penalties for the filing of allegedly fraudulent documents, and he separates into two counts his claims for physical injuries (Count 12) and loss of earning capacity (Count 13). Doc. 28-1. Similarly, the proposed Third Amended Complaint (Doc. 40-1) does not include any new claim that is not barred by *Rooker-Feldman* or otherwise fails to state a claim. He adds a claim for fraud (Count 14), but again, his allegations arise out of dissatisfaction with the handling and disposition of his state court eviction lawsuits.

¹⁰ Based on the Court's calculation, the itemized damages total \$260,400.79, not \$260,546.79.

in state court Case No. 18-CA-012041; \$15,000 in attorney's fees from January 2020 through June 2021 for representation of Plaintiff and Tichinia Jones in Case No. 18CA-012041; \$7,200 for attorney's fees representing Tichinia Jones in state court Case Nos. 17-CC-012407 and 17-CC-026201; \$4,030.99 for hold over tenant rent; \$1,236.50 for fees and costs associated with state court Case No. 16-CC-012358; \$6,838.84 for hold over tenant rent; \$2,646.00 for hold over rent late fees; \$4,895 for attorney fees and out-of-pocket costs for Robert Eckard & Associates; \$650 for court transcript and printing fee from July 2022; \$9,247.00 for attorney's fees; \$24,945.00 for medical expenses on intentional infliction of emotional distress; \$12,500.00 for relief requested for statutory civil penalties; \$124,326.00 for loss of earning capacity; and \$400 for district court filing fee. Doc. 7 ¶¶ 113–128.

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Defendants, The Lamar Advertising Company, The Lamar Company L.L.C., and The Lamar Company d/b/a The Lamar Companies (collectively referred to as “Defendants” or “Lamar”) move to dismiss Plaintiff's Amended Complaint arguing the *Rooker-Feldman* doctrine bars Plaintiff's claims. Doc. 18. Alternatively, Defendants contend that the doctrines of *res judicata*, collateral estoppel, and/or the litigation privilege warrant dismissal of Plaintiff's Amended Complaint. Defendants additionally argue that the Amended Complaint is a shotgun pleading and that it fails to state a cause of action. Defendants attach to their motion copies of the state court orders assessing fees and costs against Plaintiff from the county court litigation. Doc.

18 at 23–35. Additionally, Defendants request the Court take judicial notice of the court filings¹¹ in the cases of *Tichinia Jones and Robert Jones v. Lamar Company, LLC*, filed in the County Court of the Thirteenth Judicial Circuit, in and for Hillsborough County, Florida, Case No.: 17-CC-012407; *Tichinia Jones and Robert Jones v. The Lamar Company*, filed in the County Court of the Thirteenth Judicial Circuit, in and for Hillsborough County, Case No.: 17-CC-026201; and *Tichinia Jones and Robert Jones v. Lamar Company, LLC*, filed in the District Court of Appeal of Florida – Second District; Case No.: 2D22-2338.¹² Doc. 17.

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III. LEGAL STANDARD

A. Motion to Dismiss

To survive a motion to dismiss under Rule 12(b)(6), a pleading must include a “short and plain statement of the claim showing that the pleader is entitled to relief.” *Ashcroft v. Iqbal*, 556 U.S. 662, 677-78 (2009) (quoting Fed. R. Civ. P. 8(a)(2)). Labels, conclusions and formulaic recitations of the elements of a cause of action are not sufficient. *Id.* (citing *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)).

¹¹ The Court granted Defendants’ motion requesting the Court take judicial notice of the state court proceedings. Doc. 58.

¹² The Second District Court of Appeal *per curiam* affirmed the appeal in Lamar’s favor. *See Jones v. Lamar Co., LLC*, 360 So. 3d 1126 (Fla. 2d DCA 2023). The Supreme Court of Florida dismissed Plaintiff’s appeal. *Jones v. Lamar Co., LLC*, No. SC20-93, 2020 WL 369481, at *1 (Fla. Jan. 22, 2020). Additionally, Plaintiff’s petitions for writ of certiorari to the Second District Court of Appeal and to the United States Supreme Court were denied. *See Jones v.*

Furthermore, mere naked assertions are not sufficient. *Id.* A complaint must contain sufficient factual matter, which, if accepted as true, would “state a claim to relief that is plausible on its face.” *Id.* (quoting *Twombly*, 550 U.S. at 570). “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* (citation omitted). The court, however, is not bound to accept as true a legal conclusion stated as a “factual allegation” in the complaint. *Id.*

A facial attack on subject matter jurisdiction under Rule 12(b)(1) “requires [] the court merely to look and see if [the] plaintiff has sufficiently alleged a basis of subject matter jurisdiction, and the allegations in his complaint are taken as true for the purposes of the motion.” *Lawrence v. Dunbar*, 919 F.2d 1525, 1529 (11th Cir. 1990) (citations omitted). In assessing a motion to dismiss pursuant to Rule 12(b)(1) the Court affords Plaintiff the same safeguards as those provided in opposing a Rule 12(b)(6)

Lamar Co., LLC, 141 S. Ct. 331 (2020); *Jones v. Lamar Co., LLC*, 291 So. 3d 559 (Fla. 2d DCA 2019).

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motion, it considers all allegations of the complaint as true and is confined to the four corners of the complaint. *Id.*

Pleadings from *pro se* litigants are held to a less stringent standard than pleadings drafted by attorneys. *Tannenbaum v. United States*, 148 F.3d 1262, 1263 (11th Cir. 1998). However, they still must meet minimal pleading standards. *Pugh v. Farmers Home Admin.*, 846 F. Supp. 60, 61 (M.D. Fla. 1994).

B. Documents Attached to Motion to Dismiss

“[A] court may consider a document attached to a motion to dismiss without converting the motion into one for summary judgment if the attached document is (1) central to the plaintiff’s claim and (2) undisputed.” *Day v. Taylor*, 400 F.3d 1272, 1276 (11th Cir. 2005); see *Brooks v. Blue Cross & Blue Shield of Fla., Inc.*, 116 F.3d 1364, 1369 (11th Cir. 1997) (“[W]hen the plaintiff refers to certain documents in the complaint and those documents are central to the plaintiff’s claim, then the Court may consider the documents part of the pleadings for purposes of Rule 12(b)(6) dismissal, and the defendant’s attaching such documents to the motion to dismiss will not require conversion of the motion into a motion for summary judgment.”) “A document is central to a complaint when it is a ‘necessary part of [the plaintiff’s] effort to make out a claim.’ *Madura v. Bank of Am., N.A.*, 767 F. App’x 868, 870 (11th Cir. 2019) (per curiam) (alteration in original) (quoting *Day*, 400 F.3d at 1276). “In this context, ‘undisputed’ means the authenticity of the document is not challenged.” *Day*, 400 F.3d at 1276. Additionally, under Rule 201(b) of the Federal Rules of Evidence, judicial

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notice of an adjudicative fact is appropriate when such fact (1) is generally known within the court’s territorial jurisdiction; or (2) is capable of being accurately and readily determined from sources whose accuracy cannot reasonably be questioned.

Fed. R. Evid. 201(b).

IV. DISCUSSION

Defendants request the Court dismiss Plaintiff's claims with prejudice based on the *Rooker-Feldman* doctrine.¹³ Doc. 18. In general, the *Rooker-Feldman* doctrine prohibits federal district courts from reviewing state court decisions. *Nicholson v. Shafe*, 558 F.3d 1266, 1270 (11th Cir. 2009). The result of the *Rooker-Feldman* doctrine is to prevent district courts from exercising subject matter jurisdiction over "cases brought by state-court losers complaining of injuries caused by state court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments." *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005).

Rooker-Feldman does not, however, prevent a "district court from exercising subject-matter jurisdiction simply because a party attempts to litigate in federal court a matter previously litigated in state court." *Behr v. Campbell*, 8 F.4th 1206, 1211 (11th Cir. 2021) (citing *Nicholson*, 558 F.3d at 1274 (quoting *Exxon Mobil*, 544 U.S. at 293)). The doctrine is not intended to be a "broad means of dismissing all claims related in

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one way or another to state court litigation. Its application is narrow and . . . simple." *Behr*, 8 F.4th at 1212. In *Exxon Mobil Corp.*, the Supreme Court sought to rein in the *Rooker-Feldman* doctrine by emphasizing the doctrine's limited applicability, which it

¹³ Defendants alternatively argue that Plaintiff's claims are barred by the doctrines of *res judicata*, collateral estoppel and/or the litigation privilege. Defendants also argue that the Amended Complaint fails to state a claim.

has narrowly confined to suits that invite reversal or rejection of a state-court judgment. 544 U.S. 280, 284.

Rooker Feldman is properly invoked when Plaintiff complains of injuries caused by the state court judgment itself. *Id.* In determining whether *Rooker-Feldman* applies to bar a plaintiff's claims, the Eleventh Circuit has stated that a claim-by-claim approach is the correct approach. *Id.* at 1213. The Court addresses, in turn, each of Plaintiff's claims in the Amended Complaint.

A. Count 1 is Barred by *Rooker-Feldman*

Count 1 of the Amended Complaint sues Defendants for "unlawful filing of records against Plaintiff[s] real property" in violation of Florida Statute Chapter 817, Section 535. In relevant part, § 817.535, Fla. Stat., provides:

(2)(a) A person who files or directs a filer to file, with the intent to defraud or harass another, any instrument containing a materially false, fictitious, or fraudulent statement or representation that purports to affect an owner's interest in the property described in the instrument commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

...

(8)(a) Any person adversely affected by an instrument filed in the official record which contains a materially false, fictitious, or fraudulent statement or representation has a civil cause of action under this section without regard to whether criminal charges are pursued under subsection (2).

Fla. Stat. § 817.535(2)(a), (8)(a).

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In this count, Plaintiff alleges that he and his family were wrongfully forced to pay the attorney's fee liens out of the property's sale proceeds. Doc. 7 ¶¶ 46, 53. He

alleges that he was the rightful owner of the subject property, not his daughter Tichinia Jones. *Id.* ¶¶ 51, 52. By his allegations, Plaintiff seeks an order from this court deeming the judgments void and finding that the attorney fee liens were fraudulent. *Id.* ¶¶ 53, 55. Plaintiff seeks to recover the financial losses he incurred from the liens being satisfied from the sale of his property, as well as the legal fees and costs he incurred in litigating the state court eviction lawsuits in state court. Count 1 of Plaintiff's Amended Complaint specifically requests this Court void the state court attorney's fee judgments against him.

Although Plaintiff's claims here do not seek eviction as sought in the state court litigation, it remains the case that "a state court loser cannot avoid *Rooker-Feldman's* bar by cleverly cloaking [his] pleadings in the cloth of a different claim." *Behr*, 8 F.4th at 1211 (quoting *May v. Morgan County*, 878 F.3d 1001, 1005 (11th Cir. 2017)); *see also Feldman*, 460 U.S. at 468–69 (upholding dismissal for lack of jurisdiction because the Supreme Court recognized that plaintiffs' claims were one and the same where plaintiffs asked the district court to overturn the state court's judgment and to also declare that the state court acted "arbitrarily and capriciously" by denying their claim). Plaintiff seeks recovery under Florida Statute § 817.535 for Defendants' allegedly obtaining and recording fraudulent liens, but for Plaintiff to prevail, this Court must overturn the state court judgments. In Count 1, Plaintiff seeks reversal or rejection of

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the state-court judgments. Pursuant to the *Rooker-Feldman* doctrine, this Court is without jurisdiction to do so.

B. Counts 2 through 6 Fail to State a Claim

In Counts 2 through 6 of the Amended Complaint, Plaintiff requests this Court assess civil penalties of \$2,500 for each of Defendants' alleged violations of "SubSect.2" and removal of the alleged fraudulent documents from the official record. Plaintiff does not incorporate any of the prior factual allegations into Counts 2 through 6. And, therefore, the one to two sentence counts alleging statutory violations without any factual predicate fail to state a claim against these Defendants.

Even if the Court construes these counts to include prior allegations, the claims still fail. In Counts 2 through 6, Plaintiff seeks an assessment of statutory penalties for violation of "SubSect.2." Subsection (2) of Florida Statute § 817.535 provides that "[a] person who files or directs a filer to file, with the intent to defraud or harass another, any instrument containing a materially false, fictitious, or fraudulent statement or representation that purports to affect an owner's interest in the property described in the instrument commits a felony of the third degree[.]" Fla. Stat. § 817.535(2)(a). Thus, the provision provides for criminal penalties, not civil penalties. Plaintiff may not file criminal charges against the Defendants or obtain criminal penalties. Counts 2 through 6 fail to state a claim against these Defendants. Moreover, leave to amend would be futile because, as discussed in the section above, for Plaintiff to prevail on his claims that the documents are fraudulent would necessarily require this Court to overturn the state court judgments, which *Rooker-Feldman* precludes.

C. Count 7 Fails to State a Claim¹⁴

Count 7 of the Amended Complaint attempts to state a cause of action against Defendants for intentional infliction of emotional distress. Doc. 7 ¶¶ 67–105. The Florida Supreme Court adopted the following definition for the tort of intentional infliction of emotional distress (“IIED”): “One who by extreme and outrageous conduct intentionally or recklessly causes severe emotional distress to another is subject to liability for such emotional distress, and if bodily harm to the other results from it, for such bodily harm.” *E. Airlines, Inc. v. King*, 557 So. 2d 574, 575 (Fla. 1990). The elements of a claim for IIED under Florida law are: “(1) deliberate or reckless infliction of mental suffering; (2) outrageous conduct; (3) the conduct caused the emotional distress; and (4) the distress was severe.” *Liberty Mutual Insurance Co. v. Steadman*, 968 So. 2d 592, 594 (Fla. 2d DCA 2007). A complaint fails to state a claim for IIED if it contains merely conclusions, as opposed to facts supporting each element of an IIED cause of action. *See E. Airlines, Inc.*, 557 So. 2d at 576.

Relevant here, Plaintiff’s Amended Complaint fails to allege facts that demonstrate outrageous conduct by Defendants. When evaluating the second factor, the conduct must be “so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency.” *Metro. Life Ins. Co. v. McCarson*, 467 So. 2d 277, 278–79 (Fla. 1985). Moreover, liability will not exist where conduct that is

¹⁴ *Rooker-Feldman* does not bar Plaintiff’s claim in Count 7, given the doctrine’s limited application. Moreover, because an IIED claim was not asserted or litigated in the state court proceedings, Defendants’ arguments that the claim is barred by the doctrines of *res judicata* and/or collateral estoppel would similarly be unavailing.

extreme and outrageous is nevertheless privileged, such as where a defendant insists upon their legal rights in a permissible way, “even though [they are] well aware such insistence is certain to cause emotional distress.” *Id.* at 279. In *Metropolitan Life Insurance Company*, the insurer had the right to demand proof of ineligibility for Medicare before providing coverage to an employee’s wife. *Id.* Although this demand had “tragic results,” the insurance company was asserting its legal rights in a permissible manner and its actions were considered privileged under the circumstances, and therefore the conduct could not serve as a basis for an IIED claim. *Id.* In *Ponton v. Scarfone*, 468 So. 2d 1009, 1011 (Fla. 2d DCA 1985), the court explained that the burden of objectively evaluating the claimed misconduct falls on the judiciary as a matter of law. Thus, it is up to the court to determine whether the conduct is “atrocious, and utterly intolerable in a civilized community” to support an IIED claim. *Id.* This is a high standard for a plaintiff to meet. For example, in *Clemente v. Horne*, 707 So. 2d 865, 867 (Fla. 3d DCA 1998), a landlord’s constructive eviction of tenants who were in a “continuous state of severe emotional distress as a result of not having adequate alternative housing” did not rise to the level of extreme and outrageous conduct required to satisfy the second element of IIED.

Considering the allegations in Count 7 of the Amended Complaint, the Court finds that Plaintiff’s allegations fall far short of alleging facts that show Defendants’ conduct to be “atrocious, and utterly intolerable in a civilized community” to support his IIED

claim. In Count 7, Plaintiff alleges as follows: Defendants intentionally inflicted emotional distress in their pursuits to collect payment from a judgment in

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their favor. Doc. 7 ¶ 69. Defendants caused him to become “overwhelmingly stressed,” as well as caused him “headaches, abdominal pain symptoms, high blood pressure” and trouble sleeping. *Id.* ¶ 70. Defendants intentionally caused him stress that resulted in Plaintiff having trouble eating, excessive diarrhea, weight loss, and an Ulcerative

Colitis diagnosis that did not exist prior to the Defendants’ actions. *Id.* ¶¶ 81–83.

Defendants’ “intent to cause serious emotional distress” has had an impact on Plaintiff’s physical health in other ways—including increased pressure in the eyes leading to blindness and reduction in vision. *Id.* ¶¶ 71, 72. Defendants stressed Plaintiff by their filing of motions in county court. *Id.* at ¶¶ 75, 76. Plaintiff had to hire several different attorneys to “defend against” Defendants’ “ongoing fraudulent activities” and that cost him thousands of dollars, adding to his stress, headaches, and abdominal pain. *Id.* ¶¶ 77, 78. According to Plaintiff, Defendants have “stolen, deceived and or scammed through the Courts, Plaintiff, and his poor family out of about \$38,000.00 in one lump sum.” *Id.* ¶ 80. Plaintiff alleges Defendants pursued multiple avenues to execute “fraudulent” judgments against him—including foreclosure and auction—and did so without notice to the Plaintiff. *Id.* ¶¶ 84–86. Plaintiff further alleges that at a June 16, 2022 hearing, Defendants “continued their evil path of intentional wrongful conduct” when Defendants prevailed on their motions through “made-up fraudulent

statements” and Plaintiff was “deprived opportunity to enter the Court room, and opportunity to seek justice and or relief from Defendant’s fraudulent activities.” *Id.* ¶¶ 93–100. Plaintiff complains that in 2022, the county court “barred” him from the court

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room and threatened sanctions against him if he attempted to file any more motions for relief. *Id.* ¶ 101.

Plaintiff alleges that “reasonable minds could conclude” Defendants committed outrageous conduct when they, among other things, intentionally filed false documents, unlawfully detained Plaintiff’s real estate while refusing to acknowledge Plaintiff as a property owner, and intentionally filed for attorney’s fees while refusing to return Plaintiff’s proceeds from the property sale. *Id.* ¶ 103. For these reasons, Plaintiff submits that Defendants’ conduct should be labelled as “intentional, extreme, and outrageous conduct, and utterly intolerable in a [c]ivilized [c]ommunity.” *Id.* ¶ 105.

For the most part, Plaintiff’s allegations in Count 7 are conclusory and without factual predicate. He repeatedly references Defendants’ conduct as being fraudulent, intentional and outrageous, but he fails to allege any specific facts to substantiate these allegations. Considering the facts Plaintiff does allege, the allegations do not rise to the level of outrageousness to support a claim for IIED under Florida law. Moreover, Defendants’ conduct in defending against the state court eviction claims and filing a counterclaim in connection with those proceedings was not only permissible and legal,

but also would be privileged from any IIED claim, even if the conduct resulted in causing Plaintiff emotional distress. *See Metro. Life Ins. Co.*, 467 So. 2d at 279.

Although Plaintiff has not been granted leave to file another complaint, he has continued to file multiple motions seeking leave to amend and filed multiple proposed amended complaints. The Court has considered the proposed amended complaints for

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the sole purpose of determining whether a more carefully drafted complaint would state a cause of action. After considering the additional allegations asserted by Plaintiff in the multiple subsequently proposed amended complaints, amendment would be futile. Plaintiff fails to allege any new facts that could be considered atrocious or outrageous that would give rise to a cause of action for IIED. In the pleading titled “First Amended Complaint” (Doc. 12)¹⁵ filed September 13, 2023, Plaintiff alleges the same conclusory statements in his IIED claim as in the Amended Complaint, with only a few additional details. Plaintiff includes that he was treated at The Eye Institute of West Florida for his vision difficulties. Doc. 12 at ¶ 77. Plaintiff reasserts that the stress was a result of Plaintiff being “unable to prevail against such rich, and large billboard sign companies” that were “certainly taking advantage of a low-income family.” *Id.* ¶ 80. Plaintiff also adds “alcohol abuse” to his physical symptoms resulting from the stress. *Id.* ¶ 86. Similarly, Plaintiff’s proposed “Second Amended

¹⁵ Although labeled First Amended Complaint, Doc. 12 would be Plaintiff’s second amended complaint. The Amended Complaint (Doc. 7) filed on August 11, 2023 is the first amended complaint.

Complaint”¹⁶ (Doc. 28), “Third Amended Complaint”²⁰ (Doc. 40), and “Fourth Amended Complaint”¹⁷ (Doc. 55) contain no new factual allegations which would support a claim for IIED. Because Plaintiff fails to allege facts that state a claim for IIED against these Defendants, Count 7 of the Amended Complaint is due to be dismissed.

D. Counts 8 and 9 Fail to State a Claim

In Count 8 of the Amended Complaint, Plaintiff asserts a claim for “Loss of Enjoyment of Life.” Doc. 7 at 21–22. Procedurally, this claim is defective because it realleges and incorporates by reference all prior counts of the amended complaint. *See, e.g., Weiland v. Palm Beach Cnty. Sheriff's Office*, 792 F.3d 1313, 1321 (11th Cir. 2015) (a complaint that contains multiple counts where each count adopts the allegations of all preceding counts constitutes a shotgun pleading). But, even more critical, the claim fails because there is no independent cause of action for “Loss of Enjoyment of Life” under Florida law. Similarly, in Count 9 Plaintiff sues for “Actual Economic Damages because of Physical Injuries.” Doc. 7 ¶ 109. These are not causes of action in the state of Florida, but rather are elements of damages.

E. Further Amendment is Futile

Plaintiff has filed multiple requests to amend his complaint. Docs. 20, 21, 28,

¹⁶ Although labeled Second Amended Complaint, this is Plaintiff's third amended complaint. ²⁰ Although labeled Third Amended Complaint, this is Plaintiff's fourth amended complaint.

¹⁷ Although labeled Fourth Amended Complaint, this is Plaintiff's fifth amended complaint.

37, 40, 54. Plaintiff amended his complaint once as a matter of right under Rule 15. As discussed above, the Court finds further amendment would be futile. Accordingly, leave to amend the Amended Complaint is due to be denied. *See Burger King Corp. v. Weaver*, 169 F.3d 1310, 1320 (11th Cir. 1999) (“[T]he denial of leave to amend is justified by futility when the complaint as amended is still subject to dismissal.”); *Mizzaro v. Home Depot, Inc.*, 544 F.3d 1230, 1255 (11th Cir. 2008) (“Because justice does not require district courts to waste their time on hopeless cases, leave may be denied if a proposed amendment . . . fails to state a claim.”).

Accordingly, it is

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ORDERED:

1. Defendants’ Amended Motion to Dismiss Amended Complaint (Doc. 18) is **GRANTED**. Count 1 of the Amended Complaint is dismissed for lack of jurisdiction. Counts 2 through 9 are dismissed with prejudice for failure to state a claim.

2. Plaintiff’s motions to amend (Docs. 20, 21, 28, 37, 40, 54) are **DENIED** as Plaintiff has already been afforded one opportunity to amend his complaint as a matter of right pursuant to Fed. R. Civ. P. 15 and because the Court finds further amendment would be futile.

3. The Clerk is directed to terminate any pending motions and deadlines and close this case.

DONE AND ORDERED in Tampa, Florida on August 13, 2024.

Charlene Edwards Honeywell
Charlene Edwards Honeywell
United States District Judge

Copies to:
Robert Jones, *pro se*
Counsel of Record

APPENDIX D

IN THE COUNTY COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA
CIVIL DIVISION

TICHINIA JONES and ROBERT JONES,

Plaintiffs,

v.

Case No.: 17-CC-012407

LAMAR COMPANY, LLC,

Defendant.

ORDER GRANTING DEFENDANT'S MOTION FOR ATTORNEY'S FEES AND
COSTS

THIS CAUSE came before the Court on September 14, 2017 on Defendant's, Lamar Company, LLC, Motion for Attorney's Fees and Costs. Plaintiff, Robert Jones, and Julie Landrigan Ball, Esquire on behalf of the Defendant, appeared at the hearing. Plaintiff, Tichinia Jones, failed to appear at the hearing. The Court reviewed the file, heard argument of counsel, and heard the testimony of Defendant's witnesses, and based thereon finds the following:

1. Plaintiff, Robert Jones, does not own the real property subject to the Sign Location Lease ("the Lease"), he did not execute the Lease, and he lacks standing to be heard in this matter.

2. Plaintiff, Robert Jones, is also not a practicing attorney and may not represent Plaintiff, Tichinia Jones, in this contested, non-residential eviction matter.

3. Defendant is entitled to recover attorney's fees and costs incurred in this action from Plaintiff, Tichinia Jones, pursuant to paragraph 10 of the Sign Location Lease.

4. The Court reviewed Defendant's Motion for Attorney's Fees and Costs filed in this action, along with the attorney fee time and cost itemization.

5. The Court heard the testimony of defendant's counsel, Julie Landrigan Ball, Esquire, and Robert C. Chilton, Esquire as to the amount of attorney's fees incurred, the hourly rate charged and the reasonableness thereof.

6. Defendant's counsel testified that she and her staff expended 43.1 hours in this case, incurring \$10,608.00 in attorney's fees and legal assistant's fees.

7. Defendant also incurred \$15.49 in costs. The Court finds these costs to be necessary and reasonable cost to be taxed against Plaintiff, Tichinia Jones.

8. Defendant's counsel charges \$310.00 per hour for Benjamin W. Hardin, Jr., Esquire, \$295.00 per hour for Julie Landrigan Ball, Esquire, \$220.00 per hour for Thomas Daugustinis, Esquire, and \$90.00 per hour for legal assistants. The Court finds these rates to be reasonable.

9. The Court also heard the testimony of Robert C. Chilton, Esquire, who testified that the fees charged by Defendant's counsel and her staff were reasonable for the local area for similar legal services, and were reasonable based on the expertise and reputation of Defendant's counsel.

10. Mr. Chilton further testified that he spent 6.5 hours at \$275.00 per hour incurring \$1,787.50 in attorney's fees reviewing Defendant's counsel's file, meeting with Defendant's counsel, and attending the hearing to provide his testimony in this matter.

11. The Court considered the factors outlined in *Florida Patient Compensation Fund v. Rowe*, 472 So. 2d 1145

(Fla. 1985) and finds that the time and labor Defendant's counsel expended is reasonable based on the novelty and difficulty of the questions involved, the amount in controversy, the result obtained, and the experience, reputation and ability of Defendant's counsel.

12. Defendant's counsel possessed the skill required to perform the legal services properly.

13. The attorney's fees charged by the Defendant's counsel are equivalent to the fees customarily charged locally for similar legal services.

14. The Defendant's counsel's fees were fixed and not contingent.

Based on the foregoing, it is hereby

ORDERED AND ADJUDGED

15. Plaintiff, TICHINIA JONES, shall pay Defendant, LAMAR COMPANY, LLC, whose address is 3760 New Tampa Highway, Lakeland, FL 33815, \$12,410.99 for attorney's fees and costs incurred in this action, all of which shall bear interest at the rate of 5.17% per year.

16. Within forty-five (45) days of the date of entry of this Order, Plaintiff, TICHINIA JONES, shall complete Florida Civil Procedure Form 1.977(a), Fact Information Sheet, and provide a copy of the completed form and all supporting documents to Defendant's attorney, Julie Landrigan Ball, Esquire, at P.O. Box 3604, Lakeland, FL 33802.

DONE AND ORDERED in Hillsborough County, Florida on
September 24, 2017.



HONORABLE MICHAEL S. WILLIAMS
COUNTY COURT JUDGE

Copies to:

Tichinia Jones, P.O. Box 89832, Tampa, FL 33689

Robert Jones, P.O. Box 89832, Tampa, FL 33689

Julie Landrigan Ball, Esquire, P.O. Box 3604, Lakeland, FL
33802

APPENDIX E

IN THE COUNTY COURT OF THE THIRTEENTH JUDICIAL CRICUIT
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA
CIVIL DIVISION

2017 DEC 11 PM 3:30

TICHINIA JONES and ROBERT JONES,

Plaintiffs,

v.

Case No.: 17-CC-012407

LAMAR COMPANY, LLC

Defendant.

ORDER GRANTING AMENDED MOTION FOR POST-JUDGMENT ATTORNEY'S
FEES AND COSTS

THIS CAUSE came before the Court on Defendant's, LAMAR COMPANY, LLC, Amended Motion for Post-Judgment Attorney's Fees and Costs, and the Court having reviewed an Affidavit of Post Judgment Attorney's Fees and Costs filed by Defendant's counsel, having reviewed the file, and being otherwise duly advised, it is hereby

ADJUDGED

1. Defendant's counsel and staff expended 19.2 hours in post-judgment services, incurring \$3,281.00 in attorney's fees and legal assistant's fees, along with costs of \$679.98, for a total of \$3,960.98.

2. The Court finds 19.2 hours to be reasonable.

3. Defendant's counsel charges \$310.00 per hour for

Daugustinis, Esquire, \$125.00 per hour for Florida Registered Paralegal and \$90.00 per hour for legal assistants. The Court finds these rates to be reasonable.

4. The Court considered the factors outlined in *Florida Patient Compensation Fund v. Rowe*, 472 So. 2d 1145 (Fla. 1985) and finds that the time and labor Defendant's counsel expended is reasonable based on the novelty and difficulty of the questions involved, the amount in controversy, the result obtained, and the experience, reputation and ability of Defendant's counsel.

5. Defendant's counsel possessed the skill required to perform the legal services properly.

6. The attorney's fees charged by the Defendant's counsel are equivalent to the fees customarily charged locally for similar legal services.

7. The Defendant's counsel's fees were fixed and not contingent.

Based on the foregoing, it is hereby

ORDERED AND ADJUDGED

8. Defendant's Amended Motion for Post-Judgment Attorney's Fees and Costs is hereby GRANTED.

9. Plaintiff, TICHINIA JONES, shall pay Defendant, LAMAR COMPANY, LLC, whose address is 3760 New Tampa Highway, Lakeland,

incurred in this action, all of which shall bear interest at the rate of 5.35% per year.

DONE AND ORDERED in Hillsborough County, Florida on

December 8, 2017



HONORABLE MICHAEL S. WILLIAMS
COUNTY COURT JUDGE

Copies to:

Tichinia Jones, P.O. Box 89832, Tampa, FL 33689

Robert Jones, P.O. Box 89832, Tampa, FL 33689

Julie Landrigan Ball, Esquire, P.O. Box 3604, Lakeland, FL 33802

19 12/11/2017 WRIT OF EXECUTION (CIVIL) AS TO REAL PROPERTY

(20) 12/11/2017 ORDER GRANTING MOTION TO - FOR

18 12/06/2017 NOTICE OF FILING Correspondence to Plaintiffs ATTACHED

14 11/30/2017 REQUEST 30 MINS HEARING MOTION FOR STAY
WITHOUT A BOND WHILE APPEAL IS PENDING

(17) 11/30/2017 AMENDED MOTION TO - FOR POST-JUDGMENT ATTORNEY'S
FEES AND COSTS

15 11/29/2017 MOTION FOR POST-JUDGMENT ATTORNEY'S FEES AND
COSTS

16 11/29/2017 MOTION FOR ISSUANCE OF WRIT OF EXECUTION AS TO
REAL PROPERTY

APPENDIX F

IN THE COUNTY COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY FLORIDA
CIVIL DIVISION

TICHINIA JONES and ROBERT JONES

Plaintiffs,

v.

Case No.: 17-CC-026201

THE LAMAR COMPANY,

Defendant.

FINAL JUDGMENT FOR DEFENDANT, THE LAMAR COMPANY, AND
ORDER GRANTING DEFENDANT'S MOTION FOR ATTORNEY'S FEES PURSUANT
TO FLORIDA STATUTE §57.105

THIS CAUSE came before the Court on December 8, 2017 on a final hearing as to Plaintiffs' July 7, 2017 pro-se "Complaint-Tenant Eviction for Delinquent Late Fee Rent Payments," and on Defendant's Motion for Attorney's Fees Pursuant to Florida Statute §57.105. Julie Landrigan Ball, Esquire, appeared on behalf of Defendant, THE LAMAR COMPANY. Plaintiff, TICHINIA JONES, appeared on her own behalf. This Court previously held that Plaintiff, ROBERT JONES, lacked standing to prosecute the case and was excluded from any and all further hearings in this matter, and prohibited from filing any pleadings in this matter. Despite the Court's prior ruling, Plaintiff, ROBERT JONES, attended the December 8, 2017 hearing, attempted to present arguments in the case, and was thereafter escorted from the courtroom.

COURT
2018 JAN -2 PM
CLERK OF
CIRCUIT CA

After hearing argument of Defendant's counsel and Plaintiff, TICHINIA JONES, reviewing the file, and being otherwise duly advised, it is hereby

ORDERED AND ADJUDGED:

1. Plaintiffs are not entitled to the relief requested in the Complaint filed in this action.

2. Defendant, THE LAMAR COMPANY, is the prevailing party in this action and a Final Judgment is hereby entered in favor of Defendant, THE LAMAR COMPANY, as to all claims of Plaintiffs' complaint.

3. Plaintiffs are not entitled to recover any rent, late fees, and/or any other alleged damages from Defendant and shall take nothing from Defendant in this matter.

4. Defendant is entitled to recover all attorney's fees and costs incurred in this matter from Plaintiffs, Tichinia Jones and Robert Jones, pursuant to paragraph 10 of the Lease and Fla. Stat. §57.105.

5. The Court reserves jurisdiction to enter further orders as to the amount of attorney's fees and costs Defendant is entitled to recover from Plaintiffs, and the enforcement of any such order.

DONE AND ORDERED on:

December 29, 2017
Gaston J. Fernandez
GASTON J. FERNANDEZ
COUNTY JUDGE

Copies to:

Tichinia Jones, P.O. Box 89832, Tampa, FL 33689

Robert Jones, P.O. Box 89832, Tampa, FL 33689

Julie Landrigan Ball, Esquire, P.O. Box 3604, Lakeland, DL 33802