Obstacles to Federal Jurisdiction

Rooker-Feldman and Other Abstention Doctrines

By Michael R. Dezsi

A client walks into your office, claiming he was recently evicted by his landlord, a governmental agency. He wants to file an action in federal court, raising constitutional claims based on due process and equal protection. Before filing an action in federal court, you must consider the potential obstacles to federal jurisdiction, including the doctrines of *Rooker-Feldman,* preclusion, and abstention. Collectively, the doctrines present significant obstacles to staying in federal court. Understanding the basics of the doctrines should allow you to quickly spot any possible hurdles to federal jurisdiction.

Rooker-Feldman Doctrine

The *Rooker-Feldman* doctrine is a judicially created doctrine that strips federal courts of jurisdictions over certain matters that have been decided by a state tribunal. The *Rooker-Feldman* doctrine finds its roots in the full faith and credit clause of the Constitution, as codified by Congress in the full faith and credit statute.[1] Under the full faith and credit statute, federal courts must give the same preclusive effect to state court judgments that the judgments would be given in the courts of the state from which the judgment was entered.[2] The doctrine takes it name from two Supreme Court decisions that were rendered 60 years apart.[3] In both cases, plaintiffs sought to challenge in federal court the decisions of a state court tribunal. In *Rooker,* the Court held that "no court of the United States other than this court could entertain a proceeding to reverse or modify the [state court] judgment."[4]

In *Feldman,* the Court reaffirmed that "the United States District Court is without authority to review final determinations of the District of Columbia Court of Appeals in judicial proceedings." In footnote 16 of the *Feldman* opinion, the Court indicated that a constitutional claim inextricably intertwined with the state court decision is also barred from federal review. Since the Supreme Court's decision in *Feldman* more than 20 years ago, federal courts have broadly interpreted *Rooker-Feldman* to bar not only direct attacks of state court judgments, but also claims that are "inextricably intertwined" with those state court judgments.[5] The broad interpretation resulted in the federal courts invoking the *Rooker-Feldman* doctrine to dismiss hundreds of civil rights cases.[6]

Because of the federal circuits' inconsistent application of the *Rooker-Feldman* doctrine, the United States Supreme Court granted certiorari in *Exxon Mobile Corp v Saudi Basic Industries Corp.*[7] In *Exxon,* a foreign corporation owned predominantly by

Rooker-Feldman

the Saudi government sued two Exxon Mobile subsidiaries in Delaware Superior Court, seeking declaratory judgment. About two weeks after the Saudi corporation filed suit in state court, Exxon countersued in federal court, invoking subject matter jurisdiction under 28 USC 1330, which authorizes federal courts to hear claims against foreign states. The Saudi corporation moved to dismiss the federal action, which the district court denied, and filed an interlocutory appeal. During the pendency of the federal action, Exxon won a judgment before the state tribunal.

On appeal, the third circuit considered whether the federal court had subject matter jurisdiction under the *Rooker-Feldman* doctrine because Exxon's claim had already been litigated in state court. Exxon argued that *Rooker-Feldman* could not apply because it filed its federal suit *before* the state-court judgment was rendered. The third circuit rejected Exxon's argument and concluded that such an interpretation of the *Rooker-Feldman* doctrine "would be encouraging parties to maintain federal actions as 'insurance policies' while their state court claims were pending."[8] Accordingly, the third circuit held that once Exxon's claims had been litigated to judgment in state court, the *Rooker-Feldman* doctrine precluded the federal district court from proceeding.

Unanimously, the Supreme Court reversed the decision of the third circuit and held that Exxon's federal action was not barred by the *Rooker-Feldman* doctrine. Writing for the Court, Justice Ruth Bader Ginsburg reaffirmed the basic principle that the federal courts have original jurisdiction under 28 USC 1331, and jurisdiction is not impeded simply because there is a parallel state court action. Justice Ginsburg further noted that the doctrine is confined to "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."[9] Justice Ginsburg cautioned, however, that principles of preclusion or application of the abstention doctrines may nevertheless permit or require the federal court to stay or dismiss the federal action in favor of the state-court litigation.

Significantly, the *Exxon* decision has required the federal courts to rethink the application of the *Rooker-Feldman* doctrine to claims that appear to be "inextricably intertwined" with state court litigation. As Justice Ginsburg aptly opined, if a federal plaintiff "present[s] 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 and state law determines whether the defendant prevails under principles of preclusion." In *McCormick v Braverman,* Judge Clay, writing for a panel of the sixth circuit, recently emphasized that "the *Rooker-Feldman* doctrine is not a panacea to be applied whenever state [and federal] court decisions…potentially or actually overlap."[10] Essentially, the court must look to the source of injury to determine if a claimant can challenge a state court judgment.

The sixth circuit has set forth a "source of injury" test to differentiate claims attacking state court judgments and independent claims over which a federal court may assert jurisdiction. If the source of injury is the state court decision, then the *Rooker-Feldman* doctrine precludes federal jurisdiction. However, if there is some other source of injury, such as a third party's actions, then the plaintiff asserts an independent claim.[11]

In summary, the Court's decision in *Exxon* and the sixth circuit's decision in *McCormick* make clear that the *Rooker-Feldman* doctrine bars federal review of state court judgments while reaffirming

FAST FACTS:

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Unlike the *Rooker-Feldman* doctrine, the abstention doctrines come into play when there are parallel state and federal proceedings involving similar or overlapping issues.

An important exception to the abstention doctrines is based on flagrantly unconstitutional state laws dealing with core First Amendment speech.

that the federal courts maintain original jurisdiction in parallel state and federal proceedings. However, when a matter is proceeding simultaneously in both state and federal courts, the federal court may apply one of four abstention doctrines and decline to exercise jurisdiction. If a state court judgment is rendered during the pendency of the federal matter, the federal court must also consider principles of preclusion.

Abstention Doctrines

Unlike the *Rooker-Feldman* doctrine, the abstention doctrines come into play when there are parallel state and federal proceedings involving similar or overlapping issues. The abstention doctrines, based on principles of federalism and comity, are narrow exceptions to the duty of a federal court to exercise its properly invoked jurisdiction. Several abstention doctrines take their names from the cases in which they first appeared.

Pullman Abstention

Pullman abstention was the first such doctrine announced by the Supreme Court in 1941.[12] The doctrine permits federal courts to allow state courts to decide substantial constitutional issues that involve important areas of state policy. The doctrine allows a state court to correct its unconstitutional practices without the intervention of the federal courts. Generally, a federal court will retain jurisdiction over the matter pending the state court's resolution of the constitutional question.

Burford Abstention

Burford abstention allows a federal court sitting in diversity jurisdiction to abstain in cases involving particularly complex areas of state law.[13] *Burford* abstention may be appropriate when a case presents difficult questions of state public policy, or when federal review may disrupt state efforts to establish coherent public policies.[14] There is no formulaic test for determining when dismissal is appropriate under *Burford,* and the Supreme Court has indicated that the doctrine applies to suits both in equity and law.[15]

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Younger Abstention

Younger abstention generally directs a federal court to abstain from hearing a case that is currently pending before the state court.[16] In *Younger v Harris,* the plaintiff was indicted in state court for violating California's Criminal Syndicalism Act. While the state charges were pending, plaintiff filed suit in federal district court seeking to enjoin the state court prosecution claiming that the California law was unconstitutional on its face and inhibited free speech. The district court held that it had jurisdiction to hear plaintiff's claims and found that the California statute in question was unconstitutional on its face in violation of the First and Fourteenth Amendments.

The United States Supreme Court reversed and held that the plaintiff failed to demonstrate irreparable injury sufficient to overcome the principles of federalism and comity. The Court further found that the "existence of a 'chilling effect,' even in the area of First Amendment rights, has never been considered a sufficient basis, in and of itself, for prohibiting state action." Thus, absent extraordinary circumstances, the possibility that a statute is facially unconstitutional does not justify an injunction against the state's attempts at good-faith enforcement. Generally, *Younger* abstention applies only when the federal plaintiff is a party to the state court proceeding.[17] Since the parties must be identical for *Younger* abstention purposes, the parties will almost always contend with res judicata after entry of a state court judgment.

Colorado River Abstention

Colorado River abstention also comes into play when there are parallel state and federal court proceedings.[18] In *Colorado River,* the Supreme Court held that federal courts may abstain from hearing a case solely because there is similar litigation pending in state court. *Colorado River* abstention is rooted in considerations of "wise judicial administration" and the general prohibition against duplicative litigation. Application of *Colorado River* abstention does not require identical, but merely "substantially similar," proceedings. Unlike *Younger, Colorado River* abstention may apply even if the state and federal parties are not identical.[19] When the parties are not identical, the federal court will not have to deal with issues of res judicata once there is a state court judgment.

The sixth circuit has articulated the following factors to determine whether a federal court should apply *Colorado River* abstention: (1) whether the state court has assumed jurisdiction over any res or property, (2) whether the federal forum is less convenient

to the parties, (3) avoidance of piecemeal litigation, (4) the order in which jurisdiction was obtained, (5) whether the source of governing law is state or federal, (6) the adequacy of the state court action to protect the federal plaintiff's rights, (7) the relative progress of the state and federal proceedings, and (8) the presence or absence of concurrent jurisdiction.[20]

An important exception to the abstention doctrines is based on flagrantly unconstitutional state laws dealing with core First Amendment speech. For example, in *City of Houston v Hill,* the Supreme Court considered whether abstention was appropriate when plaintiff was challenging a local ordinance that criminalized the "interruption" of a police officer.[21] The state argued that the Court should abstain from deciding the question to allow the state court an opportunity to resolve the challenge. The Supreme Court disagreed and held that in cases involving a facial challenge to a statute, the pivotal question in determining whether abstention is appropriate is whether the statute may be interpreted to render unnecessary the federal constitutional question. The *Houston* Court found that there was simply no way in which to define conduct or speech that constituted the "interruption" of a police officer, and therefore the ordinance was unconstitutional on its face. Under such circumstances, the Court concluded that abstention was inappropriate.

The application of the abstention doctrines appears somewhat puzzling and uncertain in light of the Supreme Court's decision in *Exxon,* where the Court reaffirmed the principle that federal courts enjoy concurrent jurisdiction over matters pending in state court. In any event, an attorney wishing to file in federal court should closely examine any prior or pending state court proceedings to determine whether the federal action is barred by *Rooker-Feldman,* preclusion, or abstention doctrines. ■

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FOOTNOTES

1. Title 28 USC 1738.
2. *Kremer v Chemical Construction Corp,* 456 US 461, 466 (1982.)
3. *Rooker v Fidelity Trust Co,* 263 US 413 (1923); *District of Columbia Court of Appeals v Feldman,* 460 US 462 (1983).
4. *Id.*
5. *Pennzoil Co v Texaco Inc,* 481 US 1, 25 (1987) (Marshall, J., concurring).
6. Lewis and Norman, *Civil Rights Law and Practice* (St. Paul, MN: Thomson/West, 2d ed, 2004), § 5.27, p 429.
7. *Exxon Mobil Corp v Saudi Basic Indus Corp,* 544 US 280 (2005).
8. *Exxon Mobil Corp v Saudi Basic Indus Corp,* 364 F3d 102, 104 (CA 3, 2004).
9. *Exxon,* 544 US at 284.
10. *McCormick v Braverman,* 451 F3d 382 (CA 6, 2006).
11. *Id.*
12. *Railroad Comm v Pullman Co,* 312 US 496 (1941).
13. *Burford v Sun Oil Co,* 319 US 315 (1943).
14. *Caudill v Eubanks Farms, Inc,* 301 F3d 658 (CA 6, 2002).
15. *Quackenbush v Allstate Ins Co,* 517 US 706, 727 (1996).
16. *Younger v Harris,* 401 US 37 (1971).
17. *Gottfried v Medical Planning Serv, Inc,* 142 F3d 326, 329 (CA 6, 1998).
18. *Colorado River Water Conservation District v United States,* 424 US 800 (1976).
19. *Heitmanis v Austin,* 899 F2d 521, 528 (CA 6, 1990).
20. *Id.* at 527.
21. 482 US 451 (1987).