Back to Basics

To the Editor:

I feel obligated to comment on the article by Michael R. Dezsi, "Obstacles to Federal Jurisdiction: *Rooker-Feldman* and *Other* Abstention Doctrines" [emphasis added], which appeared in the February 2007 *Michigan Bar Journal.* I commend Mr. Dezsi for his insight by selecting *Rooker-Feldman,* preclusion, and abstention. With immunity issues already addressed, he made an invaluable contribution to the major obstacles by making that addition complete. However, the article contains fundamental inaccuracy and, to a significant degree, ignores an instructional portion of an introductory holding of the primary case it discussed, *Exxon Mobile Corp v Saudi Basic Indus Corp,* 544 US 280 (2005). That instructional portion states as follows:

> *Rooker-Feldman* does not otherwise override or supplant preclusion doctrine or augment the circumscribed [abstention] doctrines that allow federal courts to stay or dismiss proceedings in deference to state-court actions. *Id.* at 284.

The article's fundamental inaccuracy is apparent at its beginning when attempting to explain "the basics" of the doctrines. It states that "[t]he *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," 28 USC 1738. However, the *Rooker-Feldman* doctrine has absolutely nothing to do with the Full Faith and Credit Act, 28 USC 1738. That pertains to preclusion, which is not even a jurisdictional matter as *Rooker-Feldman* is. I thought *Exxon Mobile* made that very clear. To be sure, when subsequently addressing *Exxon Mobile,* in *Lance v Dennis,* 546 US 459 (2006), the Court clearly distinguished *Rooker-Feldman* from the Full Faith and Credit Act, 28 USC 1738, i.e., preclusion law. It held that principles of privity, used in determining application of preclusion law, are not to be associated with or applied to the *Rooker-Feldman* doctrine, and the Court outright stated that *Rooker-Feldman* is not simply preclusion by another name. Whether reading *Exxon Mobile* alone, or in conjunction with *Lance,* without any doubt, the *Rooker-Feldman* doctrine is not to be associated with preclusion and the Full Faith and Credit Act in any way whatsoever.

Some federal judges erroneously refer to *Rooker-Feldman* as an abstention doctrine in their published opinions (the article's title implies the same mistake). However, the "roots" of *Rooker-Feldman* are found by judicial interpretation of a portion of a jurisdictional Act of Congress, i.e., now 28 USC 1257, "…that appellate jurisdiction to reverse or modify a state-court judgment is lodged…exclusively in this Court." *Exxon Mobile,* 544 US at 283.

The Court is trying its best to instruct and make clear to everyone that *Rooker-Feldman,* preclusion, and abstention are all separate and distinct, to avoid any further conflating of the doctrines, or the principles of the doctrines, through confusion, and limit the application of the *Rooker-Feldman* doctrine by recognizing its proper contours.

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Response from the Author

In his letter to the editor, Mr. Lawrence takes issue with my statement that "[t]he *Rooker-Feldman* doctrine finds its roots in the full faith and credit clause of the Constitution." Mr. Lawrence also claims that my article equates the *Rooker-Feldman* doctrine with principles of preclusion. My article contains no such representation. I merely explain that the *Rooker-Feldman* doctrine is a *judicially created* doctrine with its origins dating back to 1923 when the Supreme Court decided *Rooker v Fidelity Trust Co,* 263 US 413 (1923).

Rooker-Feldman consists of two distinct concepts. First, a litigant cannot use the federal court to challenge a judgment of the state court. This concept is substantially similar to the Full Faith and Credit Clause of the Constitution. The second concept is that only the United States Supreme Court has jurisdiction to review a final state court judgment. 28 USC 1257. By focusing solely on § 1257, Mr. Lawrence overlooks the first, and equally important, concept of the doctrine, which is that unless and until the United States Supreme Court reverses or modifies a state court judgment, that judgment must be respected by the federal court.

While Mr. Lawrence may disagree with our historical interpretation of the *Rooker-Feldman* doctrine, I emphasize that the specific rationale for the doctrine has never been enunciated. Indeed, the United States Supreme Court recently commented that "[n]either *Rooker* nor *Feldman* elaborated a rationale for a wide-reaching bar on the jurisdiction of lower federal courts…." *Lance v Dennis,* 126 S Ct 1198 (2006). It is for this reason that the courts have loosely referred to the *Rooker-Feldman* doctrine as "a combination of the abstention and res judicata doctrines." *United States v Owens,* 54 F3d 271, 274 (CA 6, 1995).

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