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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

RAJAKUMARI SUSHEELKUMAR o/b/o
OMANA THANKAMMA

Plaintiffs,

v.

JASON SIMS., *et al.*

Defendants.

CASE NO. 19CV-1881-JCC-MLP

OMANA THANKAMMA'S FAMILY'S
JOINT RESPONSE TO SHOW CAUSE
AND REQUEST FOR INJUNCTIVE RELIEF

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2 **I. SYNOPSIS AND RELIEF REQUESTED**

3 COMES NOW plaintiffs Jayakrishnan Nair (hereinafter, "Jay"), only son of Omana
4 Thankamma, Alleged Incapacitated Person (AIP) and Citizen of India (who became incapacitated
5 from strokes while visiting Jay in the USA during her 14th annual visit), Rajakumari Susheelkumar
6 ("Raji", only daughter of Omana), Jayakumar Nair (only brother of Omana), and Sukanya Susheel
7 (only grandchild of Omana), who in unison (the "Family") are empanelled to speak for all Omana's
8 close relatives & family, to herein provide the cause why the Habeas Corpus filed by her family
9 should not be dismissed. They also most respectfully request this Most Venerable Court to **allow**
10 **Family to make arrangements to fly Omana back to India,** and to immediately let her reestablish
11 contact with her family and friends, and to end this abominable and dastardly solitary confinement
12 that she is being illegally subjected to, against all fundamental human values and basic rights; only
13 for the nefarious (and stated in writing in emails) purpose of accelerating her death.
14

15
16 Family had full unrestricted access to her until July 5th, but on the next business day after
17 her daughter made a police report (July 3rd) with Seattle Police detailing the horrendous condition
18 she was found (covered with blisters and lying in her dried feces and vomit, and left to die per the
19 instructions of the guardian and administrator Roger Moore, per nurse Tedla Ulukele - please see
20 the pictures attached in Reference 1 and Exhibit Q: eyewitness Kavesh Sharma's report), Raji was
21 held in false arrest for five hours at Harborview, and since then all efforts by all family (both in USA
22 and India) to make any contact with her has been denied, even a phone call.
23

24 Family, wherefore and hereby in unison in humble genuflection, pray to this Honorable
25 Court to act in its most benevolent expedient urgency possible to save the innocent life of a
26 clinically depressed quadriplegic [Omana's Medical Issues as well as Dr. Janice Edwards evaluation,
27 attached as Exhibit M, clearly shows she needs mental stimulation to be able to survive, therefore
28

1 this isolation is yet another pernicious way of accelerating her death, as the guardian has stated in
2 several emails as her diabolical intent], before she succumbs to the most severe distress from
3 complete isolation and deprivation of all mental stimulation such as religious activities, which upon
4 belief and information is being intentionally placed on her to illegally cut short her life; as she has
5 become a stateless burden to this so-called "guardian" trying to dispose her off.
6

7 It should be noted that save the family and her speech therapist, Omana is NOT able to
8 communicate with anyone else, even through a Malayalam interpreter, due to suffering from slurred
9 speech that will take a Malayalam speaker to visually follow her lip movement to understand what
10 she is trying to say. Therefore, in the last SIX months, Omana has not been able to communicate
11 with any human being in the outside world as Family is her only outlet for social interaction and
12 emotional connection, the vital cogs that holds the sanity of any person let alone a sick old mother
13 who RELIES on family for basic needs. There is absolutely no legal reason for this evil other than
14 inflicting murderous distress on all of Family, as a way of buttressing their defense in the ongoing
15 Federal Case, and for retaliation for the complaints filed against them.
16

17 State Courts have been unable to delve into the details of the facts to understand their true
18 motivations, and have been made a complete mockery [Please see Exhibit A: Transcript of the
19 hearing on Motion for Revision on the Petition to Terminate Guardianship and VAPO against
20 guardian, which were both denied through the Court being deceived with obvious lies from Mr.
21 Ciric, as this Honorable Court is aware from the facts in C19-01296. Also attached as Exhibit B is
22 the transcript from the earlier hearing on the same matter by Commissioner Velategui. Anybody of
23 minimum common sense who has read all the evidence, considered the timeline of events and can
24 understand the ulterior motivations and conflict of interest that the guardian has, cannot escape the
25 logical conclusion that both these transcripts prove that the State Courts were unable to understand
26 the big picture or reconstruct the facts and were completely deceived by the abominably twisted
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1 verbal diarrhea from Mr. Ciric] of through subversive tactics and lies.

2 Furthermore, the State Court is also in clear and most blatant contempt of this Court's
3 order [Exhibit J] denying all fees to the guardian for appearing in the ongoing Federal Case.
4 Notwithstanding, the guardian's attorney petitioned State Court for the SAME fees that have been
5 disallowed by this Honorable Court, and received a judgment of \$40,000 plus, of which \$30,000 was
6 for attorney fees for representation in this ongoing Federal Court. Plaintiffs in their supplemental
7 brief to the motion for revision, pointed this out to the state court [Exhibit C]. Despite this, the State
8 Court has now entered a judgment allowing \$132,000 (although it appears Judge McHale may have
9 used one digit too many in the number by "mistake" - please see Pg2, line 3 on Exhibit D) in
10 "attorney fees" to Mr. Ciric (almost entirely for representing Ms. Copeland in C19-1296-MJP), in
11 direct, irrational, impudent and brazen contempt of this Court.
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14 The simple truth of the matter, as preponderance of evidence corroborate, is simply that
15 Omana was staying with the best possible care and love and happiness at her son's luxury 6-bed
16 home (coincidentally the same home the Hon. Clerk of this Court William McCool and his family
17 were staying in years earlier), and for absolutely no reason other than incompetence of Snoqualmie
18 police and Adult Protection Service, was taken from there and placed in the most murderous and
19 filthiest "facility" officially in the USA (and possible the entire planet), as can be seen both from the
20 CMS' SFF [Exhibit I - it is officially the bottom most dweller in the dreaded Table B, containing the
21 two dozen worst of worst shelter/care facilities nationwide] list and from the numerous terrible
22 reviews, as can be seen from the attached declaration by Jayakumar Nair.
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25 Family tried to ameliorate her situation through discreetly sending photos of her neglect
26 to the guardian, even initiated 43 hours of live video through Youtube to the guardian from her room
27 to show her that her diapers are never changed when soiled for hours, and that call light was never
28 getting answered. After the so-called "guardian" was apathetic and disdainful of Omana's condition,

1 and even went to the evil extent of proposing her murder to the Family in India through emails and
2 phone calls, they were left with no choice but to intimate this matter to Senators, ACLU, Long Term
3 Care ombudsman, Human Rights Watch organizations, as well as Dr. Paul Ramsey and other
4 leadership at DSHS and Harborview. Raji booked emergency tickets to save her mother from
5 Paramount, and rest is known history.

6
7 Although guardian had proposed, in an email dated May 15, to move her back to Jay's
8 home if he reinstates her private insurance and pays for her private care as before, and furthermore
9 had also offered (in a CR68 offer: attached to Jayakumar Nair's Declaration) to pay for her return to
10 India if the Plaintiffs settle this lawsuit for \$1, she has shamelessly somersaulted on the State Court
11 and alleged "inappropriate behavior" from the aforementioned 43 hours of live video, from which
12 Mr. Ciric has pathetically plucked couple of screenshots of a most loving son hugging his sick dying
13 mom and kissing her in the cheek, and added to her response to the petition to terminate VAPO
14 [Exhibit E]. Although Judge McHale admits on [Exhibit F: Addendum to Order] that he never
15 actually viewed the videos of the youtube live sessions that Jay had initiated to show Omana's
16 condition to Ms. Copeland (the links to which were included in the Reply to the Response [Exhibit
17 G], along with [Exhibit H] a joint declaration by the siblings in support of terminating this specious
18 and illegal "guardianship"), it still did not stop him from upholding the Commissioner's earlier
19 decision to deny both the petitions for termination of guardianship and for VAPO against the
20 guardian, and to award speciously huge fees to the guardian. In the meanwhile, Family's attorneys
21 tried to make contact with Ms. Thankamma, but they were both turned away from Harborview by
22 the security personnel quite ungraciously, as can be seen from their declarations attached hereto as
23 Declaration of Paul Barrera and Declaration of Dan Young. Both have now turned into witnesses.

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27 This Honorable Court has the mandate to act when substantial injustice and
28 unconstitutional maladies are manifest in State Court orders obtained through fraud, deception and

1 corruption [Please see Exhibit A]. Omana is a citizen of India who has only been visiting USA for
2 the sake of spending time with her beloved son. Otherwise she has no rhyme or reason to even be in
3 this country, and would prefer to be with her brother and daughter back in India. Given her last
4 months of illegal solitary incarceration, her brother (please see attached declaration from Mr.
5 Jayakumar) is taking the initiative to bring his sister back to India. Guardian has repeatedly stated
6 she is in agreement to relocate Omana to India, as can be seen from the exhibits attached to his
7 declaration, therefore all parties are in agreement that it is indeed the best outcome for this situation
8 for Omana. There is absolutely no legal or logical reason for Omana to be held in isolation in USA.
9

10 Accordingly, the Family is moving this most Honorable Court for injunctive relief allowing
11 Family to make the transportation arrangements. She is medically stable, and her son has been
12 taking care of her assiduously at home for almost 5 years since her first stroke that paralyzed her
13 waist down, and therefore is well aware of her care details (as can be seen from Dr. Nayak's
14 assessment in his medical report from March 12th, and also the fact that during the 5 years under his
15 care at home, Omana not only never suffered any harm, but also has thrived and recuperated). Please
16 see Exhibit M: CNA Ashley Redican's statement, and Exhibit K, Dr. Nayak's medical evaluation,
17 and Exhibit L, report by Psychologist Dr. Edwards that shows Omana is a conscious and alert
18 individual who can still do arithmetic by mind better than most people in the population. She has
19 sovereign authority over her person, and had expressed it in [Exhibit N]. Therefore the guardianship
20 imposed on Omana is illegal even by State statutory definition. Furthermore, as a foreign citizen, her
21 right to return to her country is immutable. Her family does not recognize Ms. Copeland as her
22 guardian, but only as a psychopathic criminal who attempted to murder her. They have full standing
23 to bring this action on Omana's behalf, as Omana is an Indian citizen visiting the USA, not a US
24 national. As can be seen from the police report [Exhibit O], it was nothing more than a
25 misunderstanding by a neighbor (who has since apologized, she was not even aware of Omana's
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1 existence) from whom the maid requested to borrow a blender, which resulted in this pathetic circus.

2 As a matter of fact, son had even sent a detailed email to the cop [Exhibit P], and even
3 thanked him for coming out. All that happened since is nothing more than a complete failure of the
4 state legal system, and Omana had denied any guardianship. She wants to return to her home in
5 India. Therefore our plan includes to purchase First Class tickets (so she can lay down comfortably)
6 for the shortest available flight path (Singapore Airlines: Seattle-Singapore-Thiruvananthapuram) of
7 only 18 hours, with her son accompanying her. At Thiruvananthapuram, she would be transferred to
8 highest quality care at the Ananthapuri Hospital¹, which is ranked one of the best hospitals in Asia.
9 If this Court requires, Family in India is willing to produce a Statement of Care Plan signed by her
10 long-term Primary Care Physician in India, and financially endorsed by Family in India along with
11 proof of assets. Omana has every right, as a visiting tourist, to return to her country as she is not
12 wanted for any criminal case in the USA. Holding her hostage is in blatant violation of the Indo-
13 American travel treaties (signed circa 1954 by then Heads of States Nehru and Eisenhower, allowing
14 safe passages for citizens of either nation through the other), the 1949 Geneva Convention that states
15 nationals of ratifying sovereign states (which includes the USA and India) cannot be held prisoner
16 against their will by another ratifying state, as well as the terms of her B1/B2 visa that allows her to
17 return to her home in India anytime she chooses to end her trip to the USA.
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21 King County is just one of 39 Counties in the State of Washington, which by itself is only
22 one of 50 states in the nation of USA, one among 195 member states of United Nations. Therefore it
23 is a seriously megalomaniacal overexertion of powers by a local County Court and State authorities
24 to illegally and most dastardly place an international traveler from a foreign sovereign state under an
25 unwanted "guardianship", or to deny her all access to her family and friends (for the "crime" of her
26 daughter exposing her premeditated murder attempt and complaining about it to the authorities).
27 Therefore the Family is BEGGING this court to provide the injunctive relief that allows Family to
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¹ <https://www.ananthapurihospitals.com/>

1 make her expedient travel arrangements, and for a temporary restraining order against Defendants
2 Ms. Copeland, Harborview and DSHS from interfering with her right to associate with her family in
3 India through video conference held by her son at her room, until the day of her return. We do not
4 object if Harborview wishes to have its security present during their visits, for whatever reason,
5 despite the fact that her children are both very well educated, successful and respectable members of
6 Society with no criminal convictions. Omana's condition is deteriorating by the minute, yearning in
7 agony to see her children and speak to her family, and her dying wish is to breathe her last at her
8 beloved home of more than 50 years in India, in the loving presence of all who she cares and loves
9 (and vice versa). Neither she, nor her family has done anything to deserve this crucifying separation.
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II. STATEMENT OF ISSUES

1. Should the Court allow Omana to exercise her immutable right, as guaranteed by Indo-US travel treaties, Geneva Convention and terms of her B1/B2 visitor visa, to return to her home country and reunite with her family, so she can fulfill her last, dying wish of breathing her last in India? (YES)
2. Should the Court end Omana's ILLEGAL separation from all the rest of her friends and family despite her right to associate with persons of her choosing per RCW 11.92.195? (Yes)
3. Should the Court end Omana's ILLEGAL separation from all the rest of her friends and family as guardian has failed to apply for a protection order within 14 days (let alone six months) of placing such arbitrary & baseless Draconian restrictions on closely related family members qualified under 11.92.150, as stipulated by RCW 11.92.195 (c) (iii)? (Yes)
4. Should the Court end Omana's illegal solitary confinement through an emergency TRO as it can lead to her premature death from anxiety and unnecessary stress from the agony of isolation? (YES)
5. Should the Court end Omana's illegal solitary confinement as she HAD TIMELY OPPOSED AND REJECTED the DSHS protection in her declaration to Court, which means the guardianship *ab initio* is in violation of RCW 74.34.067(7) that clearly states that AIP has a statutory right to refuse protective services (as she exercised timely)? (Yes)
6. Should the Court end Omana's illegal solitary confinement because it infringes on Omana's and her family's constitutional and civil rights (42 U.S.C. §1983) for familial association? (Yes)
7. Should the Court allow Omana her constitutional right to exercise Hindu religion (such as listening to hymns and doing Pujas by her bed) for which she entirely depends on her Family? (Yes)
8. Should the Court end Omana's isolation which is in blatant violation of the Guardianship settlement requiring her placed within 25 miles of home ONLY for family's unrestrained access? (YES)
9. Should the Court grant injunctive relief allowing Omana's Family to make her travel arrangements so she can return to live with her family in India under expert local medical care? (YES)

1 10. Should the Court grant Omana's family's request to speak with Ms. Thankamma and ascertain
2 her condition (unknown for the last six months) before it is too late, as she is in terrible distress? (YES)

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4 **III. EVIDENCE RELIED UPON**

- 5
6 1) Exhibits (A-E) attached herein
7 2) Declaration of Jayakumar Nair, AIP's brother, attached herein, assuring financial & logistical support.
8 3) Declaration of Family Attorney Paul Barrera, with 8 Exhibits
9 4) Declaration of Family Attorney Dan Young
10 5) Pictures of Omana's condition at Paramount, documented in Reference 1.
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IV. STATEMENT OF FACTS

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2 Omana Thankamma is a 77 year quadriplegic that was staying happily and contentedly
3 at her son's home in Washington where she had him as the primary caregiver, a certified live-in CNA
4 (Ashley Redican) a live-in maid (Alexandria Hall), a visiting respite CNA (Karina Conspicion) and three
5 therapies each week of Physiotherapy, Speech Therapy and Occupational Therapy from Providence
6 Health Services. In addition, she had an active social & religious life and was doing better than
7 prognosis. She never suffered any harm during the 4+ years that she had been under Jay's care at home.
8

9 She vehemently opposed all efforts [Exhibit K] from Adult Protection Services to place her at a
10 different facility as she thoroughly enjoyed staying at home with family. especially due to the language
11 barrier and the fact that she could only communicate in Malayalam with those familiar with her
12 Dysarthria. Family agreed to appointing a guardian only under certain conditions that were thought to
13 be favorable to Omana, such as naturalization and Medicaid, and getting unrestricted access to her
14 family by being placed at a Skilled Nursing Facility within 25 miles of Jay's home. However, the DSHS-
15 appointed Guardian Channa Copeland has completely been a disaster. She has failed to initiate her
16 naturalization application, and has dumped Omana into a shelter home not equipped take care of her as
17 she did not have the money to pay for her insurance or Medicaid coverage that would have enabled
18 Omana to be at a Skilled Nursing Facility as was promised to her family. After Jay, Kavesh, Hariprasad
19 and all other family and friends in USA that visited Omana at Paramount Shelter for Homeless
20 unanimously complained to Guardian about her pathetic condition being left for hours in vomit and
21 excreta, the Guardian blocked all access to her and kept her in isolation. Her laptops and cell phones
22 were taken away and she was in incredible anguish and panic.
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25 Raji flew in from India to check on her mother and went to Paramount on 6/13 to see her hand
26 having severe inflammation injuries consistent with bullosis diabeticorum, and was drenched in dry
27 vomit and left to die. She was having a high fever and was delirious. She was moved to Harborview
28 Burn ICU after a lot of insistence with the staff that had been asked by the guardian to let her die.

1 After Omana was stabilized with Insulin at Harborview, Raji and Jay filed complaints with DSHS
2 and Seattle Police about their mother's attempted murder on July 3d. On July 5th, as they were visiting
3 their mother as usual, they were told that they would not be allowed to visit again. This was clearly a
4 retaliation for the police complaint they filed, as there had been no restrictions on visits thereto.

5 As of date of filing it has been six months since anybody from Omana's family has even been
6 allowed a phone call to her. She is being held in illegal isolation only with the view to accelerate her
7 death through the most inhuman, cruel and evil murder modus operandi of illegal solitary confinement.
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1 **V. LEGAL ANALYSIS**

2 **Rooker-Feldman Does Not Apply**

3
4 This is a case with many parallels, as noted below, where one party is abusing and corrupting
5 the state legal system for taking out surreptitious orders ex-parte, without service or notification, and
6 deceiving Courts with unconscionable lies made under penalty of perjury. The following case law has
7 held that when State Courts have been fraudulently abused and deceived, Rooker-Feldman does not
8 bar the Federal Court from superseding such illegal orders through its Constitutional authority to
9 uphold the Federal laws and Constitution itself. Furthermore, only the Congress and Federal Courts are
10 authorized to hear matters infringing treaties between United States and sovereign states such as India,
11 and therefore the guardianship holding a foreign citizen in illegal custody as hostage is illegal to begin
12 with, as the State Courts do not have the authority to interfere with her rights to repatriate to India.
13

14
15 **MCCORMICK V. BRAVERMAN**

16 In McCormick v. Braverman, 451 F.3d 382, 384 (6th Cir.2006), the plaintiff filed suit in federal
17 court contending that she was the owner of certain real property and that the defendants illegally
18 interfered with her ownership. More specifically, the plaintiff alleged that the defendants engaged in
19 fraud and misrepresentation in state-court divorce proceedings involving the real property at issue. Id.
20 at 388. Assessing the plaintiff's allegations, the court held that while some were indeed barred by the
21 Rooker-Feldman doctrine, the remainder were "independent" claims over which the federal courts had
22 jurisdiction. The non-barred claims were as follows: (1) the defendants committed fraud and
23 misrepresentation in the divorce proceedings; (2) the defendants intentionally did not make the
24 plaintiff a party to the litigation concerning the order of receivership over the real property; and (3) the
25 defendants committed an abuse of process in the divorce proceedings. Id. at 392.
26

27 Focusing on the source of the alleged injuries, the court held that "[n]one of these claims assert
28 an injury caused by the state court judgments.... Instead, Plaintiff asserts independent claims that those

1 state court judgments were procured by certain Defendants through fraud, misrepresentation, or other
2 improper means...." Id.

3 This is extremely relevant in this context, as the only contested State Court proceeding was the
4 VAPO, in which the defendants DSHS and Randy Wilson misleadingly influenced Commissioner Judson
5 with lies in the petition, who in turn denied Jay's due process rights in granting a VAPO. This falls
6 squarely in the above category of judgments not barred by Rooker Feldman as the defendants had
7 procured the same through " fraud, misrepresentation, or other improper means...." exactly as above.
8

9
10 **FIGER V. FERRY**

11 In Fieger v. Ferry, 471 F.3d 637, 639 (6th Cir.2006), with respect to Attorney Fieger's challenge
12 to Michigan's recusal rule, after four State Supreme Court justices refused to recuse themselves, the
13 Sixth Circuit Court of Appeals held that it was not barred by Rooker-Feldman, as "the source of Fieger's
14 alleged injury is not the ... state court judgments; it is the purported unconstitutionality of Michigan's
15 recusal rule as applied in future cases. Such a claim is independent of the past state court judgments."
16 Id. at 646. This is clearly the controlling case law logic in this present Complaint: the SOURCE of the
17 injuries, even for the (LESS THAN HALF OF THE TOTAL 50) Federal Claims in the present Complaint
18 affected by the guardianship, is NOT the State Court judgments, but the UNCONSTITUTIONALITY of the
19 blatant crimes such as battery, torture, attempted murder, intentional infliction of emotional distress,
20 abuse, neglect, conversion, false arrest, violation of civil and fourteenth amendment rights, violation of
21 repatriation rights to India, violation of religious rights etc. Therefore this Honorable Federal Court
22 retains subject matter jurisdiction on this matter and over Ms. Thankamma, as ultimately all matters
23 involving the violation of Constitution, Federal laws and matters of International treaties between
24 United States and other sovereign nations (like India) are DE FACTO the subject matter jurisdiction of
25 only two entities: the Congress and the Federal Courts. Thus this Court retains the full Subject Matter
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1 Jurisdiction by default on this case, and in deciding that Omana has to be handed back to her family in
2 India, whereby she can fulfill her dying wish of seeing her extended family and her home of 60+ years.

3
4 **ADKINS V. RUMSFELD**

5 In Adkins v. Rumsfeld, 464 F.3d 456, 460 (4th Cir.2006), the Hon. Court has held that a federal
6 plaintiff who was injured by a state-court judgment is **NOT** invariably seeking review and rejection of
7 that judgment. The court held that "even if these plaintiffs were `state-court losers complaining of
8 injuries caused by state-court judgments rendered before the district court proceedings commenced,' ...
9 they were not `inviting district court review and rejection of those judgments.'" Id. at 464 (quoting
10 Exxon Mobil, 544 U.S. at 284, 125 S.Ct. 1517).

11
12 A declaration that the federal statute was unconstitutional as applied would prevent the
13 continued transmission of payments to the plaintiffs' former spouses. Id. "Such a declaration would not,
14 however, amount to appellate reversal or modification of a valid state court decree entered in an
15 individual plaintiff's divorce case. At bottom, an examination of the federal constitutional challenge
16 presented here against the [statute] does not require scrutinizing and invalidating any individual state
17 court judgment." Id. **As such, the plaintiffs' federal suit did not require the prohibited exercise of**
18 **appellate jurisdiction by the district court.**

19
20 From the above analysis, it is clear that whenever a State Court decision is inherently in (or
21 leads to the) violation of a Constitutional right or Federal Statute, challenging the constitutionality will
22 not fall under the Rooker-Feldman doctrine, as the Federal Courts are seen as the ultimate guardians of
23 the Constitution and therefore has INHERENT subject matter jurisdiction, as manifest in the present
24 case. What this requirement targets is whether the plaintiff's claims will require appellate review of
25 state-court decisions by the district court. Prohibited appellate review "consists of a review of the
26 proceedings already conducted by the `lower' tribunal to determine whether it reached its result in
27 accordance with law." Bolden v. City of Topeka, Ks., 441 F.3d 1129, 1143 (10th Cir.2006).
28

1 It is important to distinguish such appellate review from those cases in which "a party attempts
2 to litigate in federal court a matter previously litigated in state court," Exxon Mobil, 544 U.S. at 293, 125
3 S.Ct. 1517, or in which "the federal plaintiff and the adverse party are simultaneously litigating the
4 same or a similar dispute in state court," Noel v. Hall, 341 F.3d 1148, 1163 (9th Cir.2003) (cited with
5 approval in Exxon Mobil). If the matter was previously litigated, **there is jurisdiction as long as the**
6 **"federal plaintiff present[s] some independent claim," even if that claim denies a legal conclusion**
7 **reached by the state court.** Exxon Mobil, 544 U.S. at 293, 125 S.Ct. 1517. **Ditto the Case here for**
8 **Independent Claims.** NONE of the claims against the guardian have been considered by State Court.
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10 When "the second court tries a matter anew and reaches a conclusion contrary to a judgment
11 by the first court, without concerning itself with the bona fides of the prior judgment," the second, or
12 federal, court "is NOT conducting appellate review, regardless of whether compliance with the second
13 judgment would make it impossible to comply with the first judgment." Bolden, 441 F.3d at 1143. In
14 the case of simultaneous litigation, both suits may proceed under the well-established rule allowing
15 parallel state and federal litigation. Noel, 341 F.3d at 1163. In neither of these situations, unlike in a suit
16 seeking review of a state-court judgment, "does Rooker-Feldman bar subject matter jurisdiction in
17 federal district court, for in neither situation is the federal plaintiff complaining of legal injury caused
18 by a state court judgment because of a legal error committed by the state court." Id. at 1164. Instead,
19 "in both situations, the plaintiff is complaining of legal injury caused by the adverse party." This is
20 particularly relevant here as the Plaintiffs are NOT alleging a legal injury CAUSED by the State Court
21 judgment, but only that it had not been followed at all, and therefore to either terminate it as a NEW
22 proceeding per RCW 11.88.120 for cause, or at the least replace the guardian with the standby showing
23 that the Plaintiffs are not in the least contesting or complaining of the original state order. All the
24 injuries were caused by the ILLEGAL conduct of the defendants, NOT IN THE LEAST by the order itself,
25 which was initially perceived as a blessing in disguise to overload her care expenses.
26
27
28

1 **LANCE V. DENNIS**

2 In Lance v. Dennis, 546 U.S. 459, 464-66, 126 S.Ct. 1198, 163 L.Ed.2d 1059 (2006), the Supreme
3 Court again emphasized that Rooker-Feldman is a "narrow doctrine" that "applies only in limited
4 circumstances." In light of this admonition, Courts have recognized that "caution is now appropriate in
5 relying on our pre-Exxon formulation of the Rooker-Feldman doctrine," which focused on whether the
6 state and federal suits were "inextricably intertwined." Gary v. Braddock Cemetery, 517 F.3d 195, 200
7 n. 5 (3d Cir.2008). See also McCormick, 451 F.3d at 394 ("In Exxon, the Supreme Court implicitly
8 repudiated the circuits' post-Feldman use of the phrase `inextricably intertwined' to extend Rooker-
9 Feldman to situations where the source of the injury was not the state court judgment.").

10
11 Although the term "inextricably intertwined" was used twice by the Supreme Court in Feldman,
12 reliance on this term has caused lower federal courts to apply Rooker-Feldman too broadly. The
13 phrase "inextricably intertwined" does not create an additional legal test or expand the scope of
14 Rooker-Feldman beyond challenges to state-court judgments. The phrase "inextricably intertwined,"
15 however, "has no independent content. It is simply a descriptive label attached to claims that meet the
16 requirements outlined in Exxon Mobil." [4] Hoblock, 422 F.3d at 87.

17
18 **Are all the causes that the plaintiffs allege starting from a two year period BEFORE the**
19 **start of the state action, encompassing SEVEN brand new defendants and three new plaintiffs**
20 **never named in any prior state action, and identifying a broad range of claims that have nothing**
21 **to do with any of the verbiage in the order (and some have to do with the nonperformance of the**
22 **same) in any way possible of any stretch of wildest imagination "narrowly inexplicably**
23 **intertwined as a direct application " of the guardianship order? The answer to that has to be a**
24 **resoundingly emphatic "NO".**

25
26 **JOHNSON V ORR**

27
28 Even in Johnson v Orr, the Court had indeed found that the Treasurer was only following the
State Court Order when they denied the Tax Deed that Johnson wanted. However, THAT IS NOT THE

1 CASE HERE AS THE DEFEDANTS ARE IN CLEAR CONTEMPT OF THE STATE COURT ORDER BY NOT
2 PROVIDING FAMILY ACCESS TO OMANA, IN BLATANT DISREGARD TO THE ORDER THAT STATES SHE
3 MUST BE KEPT WITHIN 25 MILES OF PLAINTIFFS HOME. WHY ELSE THAT CLAUSE COULD BE
4 THERE? THE CLAUSE SHOWS THE STATE COURT AGREED OMANA NEEDS HER FAMILY TO SURVIVE.

5 Therefore the Plaintiffs are averring that their injuries (at least some part of them) arose since
6 the defendant Ms. Channa Copeland, IS IN CONTEMPT OF STATE COURT ORDER, as she did not follow
7 or obey the stipulations to NOT change her POLST Code without family's permission and to keep
8 Omana at a SNF within 25 miles of our home as was agreed, obviously ONLY for the logical purpose of
9 providing us access. This is not a result of defendants following the Court order, but the total and exact
10 OPPOSITE from CONTEMPT so the Rooker Feldman does not apply here in the same way as it had in
11 Johnson v Orr. All the negotiated points in the settlement has been NAKEDLY VIOLATED by defendants.

12
13
14 **BROKAW V. WEAVER**

15 In Brokaw v. Weaver, 305 F.3d 660, 662 (7th Cir.2002), the plaintiff alleged that her relatives
16 and officials conspired to cause the state to forcibly remove her from her parents' home. She contended
17 that "the defendants conspired — prior to any judicial involvement — to cause false child neglect
18 proceedings to be filed, resulting in her removal from her home in violation of her... substantive and
19 procedural due process rights" and explained "that she [wa]s seeking damages for the conspiracy, not
20 for the state court's decision in the child neglect proceeding." Id. at 665.

21
22 The court held that *Nesses* applied as the plaintiff was "alleging that the people involved in the
23 decision to forcibly remove her from her home and her parents ... violated her constitutional rights,
24 independently of the state court decision." Id. Even if the plaintiff would not have suffered any damages
25 from the alleged conspiracy absent the state-court order, **her claim was not barred by Rooker-**
26 **Feldman "because her claim for damages is based on an alleged independent violation of her**
27 **constitutional rights. It was this separate constitutional violation which caused the adverse**
28 **state court decision.**" Id. at 667; see also Ernst v. Child & Youth Servs., 108 F.3d 486, 491-92 (3d

1 Cir.1997) (holding that a claim alleging that defendants violated plaintiff's due process rights by
2 making biased recommendations to the state court, resulting in an improper ruling, was not barred by
3 Rooker-Feldman as it was separate from the state-court judgment).[6] *Ernst v CYS* is discussed more
4 further below. Plaintiffs in the present matter believe this is the controlling case law most applicable to
5 this present situation. Omana was removed forcibly from her home, due to the defendants' conspiracy,
6 almost exactly identical to Brokaw v. Weaver. This violated Omana's and the plaintiff's constitutional
7 rights INDEPENDENT of the State Court decision.

8
9 Therefore regardless of whether Plaintiffs suffered any injury from the State Court orders of
10 guardianship and the accompanying VAPO, their Federal claims listed in this Complaint are NOT barred
11 by Rooker Feldman for the exact same reason that the claim for damages are based on independent
12 violation of their constitutional rights. It was this separate constitutional violation which caused the
13 adverse State Court Decision, PRECISELY as above. Of all the case law we researched, we found none
14 more DIRECTLY & PERFECTLY CONTROLLING as Brokaw as the situations have several parallels.

15
16 The Hon. Court further notes: "the fact that the plaintiff's pursuit of [her] federal claims could
17 ultimately show that the state court judgment was erroneous [does] **NOT** automatically make Rooker-
18 Feldman applicable." Long, 182 F.3d at 555-56. Rather, the appropriate question is whether "the
19 federal plaintiff [is] seeking to set aside a state court judgment, or does [s]he present some
20 independent claim, albeit one that denies a legal conclusion that a state court has reached in a case to
21 which he was a party. GASH Assoc. v. Village of Rosemont, 995 F.2d 726, 728 (7th Cir.1993). And we
22 have concluded that A.D. presents an independent claim. See supra at 665. "

23
24 In the present Complaint, plaintiffs are seeking a Jury trial that would ultimately show with
25 conclusive medical evidence and testimonies that defendants had engaged in devious conspiracy to
26 commit murder of Omana through withholding insulin as her injuries and glucose charts corroborate,
27 among other several other violent and nefarious crimes perpetrated against the plaintiffs.

28 **HOLLOWAY V. BRUSH,**

1 In Holloway, a mother brought a Section 1983 action against the county and the county social
2 worker alleging that they had improperly interfered with her right to the custody of her children.
3 Holloway, 220 F.3d at 772. The Sixth Circuit held that the **Rooker-Feldman doctrine did not bar the**
4 **mother's federal claim because she was not seeking review of the custody decision, which was**
5 **an entirely separate state matter.** Id. at 778-79. Instead, as the court in Holloway explained, the
6 mother's **claim presented a distinct question as to "whether certain actions in the course of**
7 **those proceedings may have involved a violation of her federal constitutional rights for which**
8 **the responsible party may be held liable for damages.**" Id. at 779.

9 This is plain as daylight the **exact replica of the situation here: Q.E.D.**

10
11
12 **ERNST V. CHILD & YOUTH SERVICES OF CHESTER COUNTY**

13
14 Similarly, in Ernst, 108 F.3d 486, the Third Circuit held that Rooker-Feldman did not bar a claim
15 based on alleged constitutional violations stemming from child custody proceedings. Id. at 491-92. In
16 Ernst, a grandmother, who had sole guardianship of her granddaughter, sued the child welfare
17 department and case workers alleging substantive and procedural due process claims after the
18 defendants removed and retained custody of her granddaughter for five years. Id. at 488-89.

19
20 The court held that "the Rooker-Feldman doctrine did not preclude the district court from
21 deciding those claims because a ruling that the defendants violated Ernst's right to substantive due
22 process by making recommendations to the state court out of malice or personal bias would not have
23 required the court to find that the state court judgments made on the basis of those recommendations
24 were erroneous." Id. at 491-92. The court further reasoned that "it is clear that deciding the substantive
25 due process claims did not involve federal court review of a state court decision because Ernst's
26 substantive due process claims were never decided by the state court." Id. at 492.

27
28 "When a plaintiff seeks to litigate a claim in a federal court, the existence of a state court
judgment in another case bars the federal proceeding under Rooker-Feldman only when entertaining

1 the federal court claim would be the equivalent of an appellate review of that order. For that reason,
2 Rooker-Feldman applies only when in order to grant the federal plaintiff the relief sought, the federal
3 court must determine that the state court judgment was erroneously entered or must take action that
4 would render that judgment ineffectual. FOCUS, 75 F.3d at 840. Those circumstances are not present
5 here." This exact set of circumstances also apply to the current matter, as ABSOLUTELY NONE of the 50
6 claims that the plaintiffs are pursuing will require a determination that ANY state court judgment was
7 erroneously entered.

8
9 Statutes allow guardianship orders to be terminated or modified at any time without
10 contending the original order itself - as times and circumstances change a guardianship will need to be
11 modified in accordance with the best interest of the Ward or Child under guardianship- for example
12 when the Child grows up and becomes an adult. Therefore **guardianship orders are not final orders.**
13 and there is enough maneuverability to modify or terminate for or without cause at any later point in
14 time. None of the relief that the Plaintiffs seek involve any direct invalidation of any final state court
15 order, and therefore the **Rooker bar plainly does not apply as the case with Ernst above.** The
16 Rooker-Feldman doctrine did not preclude the district court from deciding those claims because a
17 ruling that the defendants violated Ernst's right to substantive due process by making
18 recommendations to the state court out of malice or personal bias would not have required the court to
19 find that the state court judgments made on the basis of those recommendations were erroneous.
20

21 A dependency adjudication involves a determination that a child is without proper parental
22 care or control, 42 Pa.C.S.A. § 6302; In the Interest of J.M., 438 Pa.Super. 409, 652 A.2d 877, 880 (1995),
23 and subsequent decisions regarding custody and placement are made on the basis of the best interests
24 of the child. 42 Pa. C.S.A. § 6351; In the Interest of Laura Sweeney, 393 Pa.Super. 437, 574 A.2d 690
25 (1990). Neither an adjudication of dependency nor a determination of the appropriate disposition of a
26 dependent child is based on the intentions or states of mind of the party seeking the dependency
27 adjudication. Therefore, a finding that the CYS defendants violated Ernst's right to substantive due
28

1 process would not have involved the invalidation of any conclusion or judgment reached by the state
2 court. **Parallels between the Ernst and this case concentrate on the determination of Omana's**
3 **need for a guardian by DSHS, which was based on improper motive and an incompetent Police**
4 **report, and the Ernst case where she also alleges the improper motive by CYS, show the same**
5 **analysis is necessary. This further establishes Rooker Feldman is inappropriate.**

6 Most Congruently, in this case also, a determination that the agents employed by State agency
7 DSHS and City of Snoqualmie acted inappropriately by charging Jay with an abandonment criminal
8 matter when there is a signed statement by a registered CNA and another adult that they were home,
9 as well as the other procedural violations and misrepresentations to Commissioner Judson to obtain
10 the VAPO, would NOT require this Court to find that the State Court orders such as the guardianship or
11 VAPO made on the basis of those misrepresentations were erroneous, just as in the case with Ernst
12 above. Therefore, yet once again it is FIRMLY established Rooker is inapplicable to the present matter.

13
14
15 **NOEL V. HALL**

16 The Supreme Court has never, outside of Rooker and Feldman themselves, employed the
17 doctrine to hold that a federal district court is without subject matter jurisdiction. The Court has barely
18 discussed the doctrine since its decision in Feldman, although in three later cases it has held that the
19 doctrine does not apply. In Verizon Maryland Inc. v. Public Service Commission, 535 U.S. 635, 644 n. 3,
20 122 S.Ct. 1753, 152 L.Ed.2d 871 (2002), it held that Rooker-Feldman does not apply to a suit in which
21 review is sought in federal district court of "executive action, including determinations made by a state
22 administrative agency." In Johnson v. De Grandy, 512 U.S. 997, 1006, 114 S.Ct. 2647, 129 L.Ed.2d 775
23 (1994), **it held that Rooker-Feldman does not apply to a federal court suit brought by a non-**
24 **party to the state court suit.** And in Pennzoil Co. v. Texaco, Inc., 481 U.S. 1, 107 S.Ct. 1519, 95 L.Ed.2d
25 1 (1987), it did not dismiss for lack of subject matter jurisdiction, but rather abstained under Younger
26 v. Harris, 401 U.S. 37, 91 S.Ct. 746, 27 L.Ed.2d 669 (1971). See also Pennzoil, 481 U.S. at 18, 107 S.Ct.
27
28

1 1519 (Scalia, J., concurring) ("I do not believe that the so-called Rooker-Feldman doctrine deprives the
2 Court of jurisdiction....").

3
4 **ATLANTIC COAST LINE RAILROAD V. BROTHERHOOD OF LOCOMOTIVE ENGINEERS**

5
6 As the U.S. Supreme Court wrote in Atlantic Coast Line Railroad v. Brotherhood of Locomotive
7 Engineers, 398 U.S. 281, 90 S.Ct. 1739, 26 L.Ed.2d 234 (1970), where the federal plaintiff does not
8 complain of a legal injury caused by a state court judgment, but rather of a legal injury caused by an
9 adverse party, Rooker-Feldman does not bar jurisdiction. Almost all of the Plaintiff's allegations in this
10 present matter for legal injuries were caused by adverse parties, and NOT allowed by State Courts.
11

12
13 **OVERLAPPING JURISDICTIONS AND SIMULTANEOUS LITIGATIONS ARE PERMITTED:**

14 "[T]he state and federal courts had concurrent jurisdiction in this case, and neither court was
15 free to prevent either party from simultaneously pursuing claims in both courts." Id. at 295, 90 S.Ct.
16 1739 (citing Kline v. Burke Constr. Co., 260 U.S. 226, 43 S.Ct. 79, 67 L.Ed. 226 (1922)). The Court has
17 recognized that this rule can produce "inefficient simultaneous litigation in state and federal courts on
18 the same issue.... But this is one of the costs of our dual court system...." Parsons Steel, Inc. v. First Ala.
19 Bank, 474 U.S. 518, 524-25, 106 S.Ct. 768, 88 L.Ed.2d 877 (1986); see also Doran v. Salem Inn, Inc., 422
20 U.S. 922, 928, 95 S.Ct. 2561, 45 L.Ed.2d 648 (1975) ("[T]he very existence of one system of federal
21 courts and 50 systems of state courts, all charged with the responsibility for interpreting the United
22 States Constitution, suggests that on occasion there will be duplicating and overlapping adjudication of
23 cases which are sufficiently similar in content, time, and location to justify being heard before a single
24 judge had they arisen within a unitary system."); Green v. City of Tucson, 255 F.3d 1086, 1097-98 (9th
25 Cir.2001) (en banc) (holding that parallel state and federal litigation is inherent in our legal system,
26 and that "the possibility of duplicative litigation is a price of federalism"). Therefore having one narrow
27
28

1 determination by a State Court in no way precludes the plaintiffs from pursuing arguably related claims
2 concurrently in both Federal and State Courts.

3
4 **KOUGASIAN V. TMSL, INC. & THE THEORY OF EXTRINSIC FRAUD ON COURT**

5 In Kougasian v. TMSL, Inc., 359 F. 3d 1136, 2004, the 9th Circuit Court of Appeals found as
6 follows:" Applying our general formulation from Noel v. Hall, we conclude that the Rooker-Feldman
7 doctrine does not apply to this case. While Kougasian seeks relief from the judgments of the state
8 courts in Kougasian I and II, she does not allege that she has been harmed by legal errors made by the
9 state courts. Rather, she alleges that the defendants' wrongful conduct has caused her harm. In the
10 words of Noel v. Hall, she does not assert "as a legal wrong an allegedly erroneous decision by a state
11 court," but rather "an allegedly illegal act or omission by an adverse party." Id. Ditto logic applies to the
12 present case at hand, as the plaintiffs are not asserting any legal wrong from the Guardianship Order
13 itself, which they would have welcomed if it was actually obeyed. Instead, much of the injuries and
14 claims are from the violation of the Guardianship order in complete contempt of the State Court by the
15 defendants. The Hon. Court further expounded on the concept of Extrinsic Fraud on Court: "It has long
16 been the law that a plaintiff in federal court can seek to set aside a state court judgment obtained
17 through extrinsic fraud. In Barrow v. Hunton, 99 U.S. (9 Otto) 80, 25 L.Ed. 407 (1878), the Supreme
18 Court distinguished between errors by the state court, which could not be reviewed in federal circuit
19 court, and fraud on the state court, which could be the basis for an independent suit in circuit court.
20 (The federal circuit court was a trial court at that time.) Anticipating the Rooker-Feldman doctrine, the
21 Court wrote: The question presented with regard to the jurisdiction of the Circuit Court is, whether the
22 proceeding ... is or is not in its nature a separate suit, or whether it is a supplementary proceeding so
23 connected with the original suit as to form an incident to it, and substantially a continuation of it. If the
24 proceeding is merely tantamount to the common-law practice of moving to set aside a judgment for
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1 irregularity, or to a writ of error, or to a bill of review or an appeal, it would belong to the latter
2 category, and the United States court could not properly entertain jurisdiction of the case.

3 On the other hand, if the proceedings are tantamount to a bill in equity to set aside a decree for
4 fraud in the obtaining thereof, then they constitute an original and independent proceeding, and
5 according to the doctrine laid down in *Gaines v. Fuentes* (92 U.S. [(2 Otto)] 10, 23 L.Ed. 524), the case
6 might be within the cognizance of the Federal courts.

7 The distinction between the two classes of cases may be somewhat nice, but it may be affirmed
8 to exist. In the one class there would be a mere revision of errors and irregularities, or of the legality
9 and correctness of the judgments and decrees of the State courts; and in the other class, the
10 investigation of a new case arising upon new facts, although having relation to the validity of an actual
11 judgment or decree, or the party's right to claim any benefit by reason thereof. *Id.* at 82-83; see also
12 *MacKay v. Pfeil*, 827 F.2d 540, 543-44 (9th Cir.1987).

13 Extrinsic fraud on a court is, by definition, not an error by that court. It is, rather, a wrongful act
14 committed by the party or parties who engaged in the fraud. Rooker-Feldman therefore does not bar
15 subject matter jurisdiction when a federal plaintiff alleges a cause of action for extrinsic fraud on a state
16 court and seeks to set aside a state court judgment obtained by that fraud." By misrepresenting facts to
17 Commissioner Judson, Commissioner Velagetui and Judge McHale, defendants DSHS, Randy Wilson and
18 City of Snoqualmie had committed Extrinsic Fraud on the King County Superior Court to obtain a
19 specious VAPO against the Plaintiff Jay. This further cements that the Rooker bar should not be applied
20 here. Futhermore, they claim to have taken another specious VAPO without Mr. Nair, without ever
21 servng or notifying him, which is yet another definition of extrinsic fraud on the State Courts.
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24

25 **LONG V. SHOREBANK DEVELOPMENT CORP**

26 In *Long v. Shorebank Development Corp.*, 182 F.3d 548, the 7th Circuit Court of Appeals
27 concluded that the plaintiff's FDCPA **claims were not barred by the Rooker-Feldman doctrine**
28 **because they were "independent of and complete prior to the entry of the eviction order."** *Id.* at

1 556. See also id. (noting that "[i]t makes no difference that Long may also deny the correctness of the
2 eviction order in pursuing these claims"). **This exact situation applies in this present Complaint,**
3 **where several of the claims (such as Malicious Prosecution and Bad Faith Insurance) against**
4 **multiple defendants (like City of Snoqualmie and Molina Insurance) were identically**
5 **"independent and complete" before any proceeding was even started in the State Courts.**

6 Long further explained that "the Rooker-Feldman doctrine can apply only where the plaintiff
7 had a reasonable opportunity to raise his federal claim in state proceedings." Long, 182 F.3d at 558
8 (quoting Wood v. Orange County, 715 F.2d 1543, 1547 (11th Cir. 1983)). Long concluded that because
9 the plaintiff could not have presented her due process claims before the state court during the forcible
10 entry and detainer proceedings, Long did not have a reasonable opportunity to raise her claims in state
11 court. Id. at 558-59. Accordingly, Long held that the Rooker-Feldman doctrine did not apply to bar the
12 plaintiff's due process claim. Id. at 561. This exception to the Rooker-Feldman doctrine is significant,
13 and therefore we reiterate: While the Rooker-Feldman doctrine bars federal subject matter jurisdiction
14 over issues raised in state court, and those inextricably intertwined with such issues, **"an issue cannot**
15 **be inextricably intertwined with a state court judgment if the plaintiff did not have a reasonable**
16 **opportunity to raise the issue in state court proceedings."** Id. at 558. This is directly applicable in
17 the matter here as the **Plaintiffs have had no opportunity to raise their federal claims in any state**
18 **court during the proceedings.**

19 As a matter of fact they were even denied their due process rights in the only contested matter
20 to date, the VAPO, which furthermore does NOT restrict Jayakumar or Rajakumari from removing Ms.
21 Thankamma from any facility (only Jayakrishnan). Therefore her brother and daughter have full
22 authority to organize her travel plans and to remove her from Harborview. Her family in India does not
23 recognize Ms. Copeland as her guardian, as they are not under the jurisdiction of King County Superior
24 Court. Furthermore, it is insane to continue to allow someone who attempted to murder her ward to be a
25 guardian for not only the victim, but for anyone, including her own children.

1 **JENSEN V. FOLEY**

2 In Jensen v. Foley, 295 F.3d 745 (7th Cir.2002), the parents of infant Kayla Jensen sued the
3 Illinois Department of Children and Family Services, along with local law enforcement officers, after the
4 defendants removed Kayla from her parents' custody without a pre-deprivation hearing. Based on
5 Brokaw v. Mercer County, 235 F.3d 1000 (7th Cir.2000), the Jensens argued that the removal was
6 unconstitutional because the defendants lacked probable cause or exigent circumstances. The district
7 court dismissed the Jensens' claims, concluding that they were barred by the Rooker-Feldman doctrine.
8

9 On appeal, Seventh Circuit held that the Rooker-Feldman doctrine did not apply because that
10 doctrine "bars a plaintiff from bringing a § 1983 suit to remedy an injury inflicted by the state court's
11 decision," id. at 747, whereas "the injury that the plaintiffs here complain of was caused not by the state
12 court's temporary custody order, but by the underlying taking of Kayla by the DCFS agents and local
13 officers....." Id. at 748. In this present matter of Omana, she was similarly taken from Home BEFORE
14 any court ordered the VAPO. Therefore injury was caused by City of Snoqualmie's agent Officer
15 Fischbeck's actions of taking Omana from home and furthermore from actions of DSHS to ask
16 Harborview Hospital to not release her with Jay, as attested by the Hospital Social Worker Ms. Sauda
17 Porter. The injuries and claims were not caused by the VAPO or State Order, but by decisions of the
18 defendants a priori.

19
20 Thus, there really is no reason of lack of Subject Matter Jurisdiction to allow repatriation of Omana to
21 India. She is certain to get ample care, love, peace and joy at her home in India with her brother and
22 daughter, as well as her extended family, former colleagues at KSEB and friends to give her compassion
23 and love, which is all she desires. Holding her in isolation is the most terrible evil possible to do to her.
24

25 **TODD V. WELTMAN**

26 In Todd v. Weltman, Weinberg & Reis Co., LPA, 434 F. 3d 432 - Court of Appeals, 6th Circuit
27 2006, the Hon. Court held as follows: " Rooker-Feldman doctrine does not preclude jurisdiction over
28 Plaintiff's claim. Defendant in the instant case claims this Court lacks subject matter jurisdiction

1 because Plaintiff's federal claim is inextricably intertwined with the Ohio state court decision that
2 Defendant's affidavit was valid. This argument ignores the fact that Plaintiff here does not complain of
3 injuries caused by this state court judgment, as the plaintiffs did in Rooker and Feldman. Instead, after
4 the state court judgment, Plaintiff filed an independent federal claim that Plaintiff was injured by
5 Defendant when he filed a false affidavit. This situation was explicitly addressed by the Exxon Mobil
6 Court when it stated that even if the independent claim was inextricably linked to the state court
7 decision, preclusion law was the correct solution to challenge the federal claim, not Rooker-Feldman.
8 See supra." This case law is NICELY APPOSITE to this matter as, as with the above matter, we too are
9 not in the LEAST complaining of the state court order AT ALL, and instead requesting EITHER
10 termination for good cause OR specific performance by replacing Channa with Standby Guardian Mr.
11 Stewart Wallin, with instructions to restore unrestrained visitation rights as clearly enunciated both in
12 the VAPO and the Guardianship order explicitly, and is also strongly recommended by the psychiatrist
13 Dr. Janice Edwards who evaluated Omana as part of the guardianship, (whose report is attached as [Ex:
14 D26 at Docket 1]). Notice how Dr. Edwards report shows it is critical for Omana's mental health to
15 remain in touch with her loved ones, and how Omana repeatedly talks of the need to be with her son
16 and family. In the present circumstances, repatriating Ms. Thankamma to her family is the best option
17 for Omana per legislative intent that clearly asks for the LEAST RESTRICTIVE OPTION RCW 11.88.005.
18 Also See Hoblock v. Albany County Bd. of Elections, 422 F.3d 77, 87-88 (2d Cir. 2005) ("[F]ederal
19 plaintiffs are not subject to the Rooker-Feldman bar unless they complain of an injury caused by a state
20 judgment."). None of the injuries are caused by the Judgment, and but a few by Contempt of the Same.

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23
24 **SKINNER V. SWITZER**

25 In Skinner v. Switzer, 131 S. Ct. 1289, 2011. the Supreme Court explains as follows: " As we
26 explained in Exxon Mobil Corp. v. Saudi Basic Industries Corp., 544 U.S. 280, 125 S.Ct. 1517, 161 L.Ed.2d
27 454 (2005), **the Rooker-Feldman doctrine has been applied by this Court only twice**, i.e., only in
28 the two cases from which the doctrine takes its name: first, Rooker v. Fidelity Trust Co., 263 U.S. 413,

1 44 S.Ct. 149, 68 L.Ed. 362 (1923), then 60 years later, District of Columbia Court of Appeals v. Feldman,
2 460 U.S. 462, 103 S.Ct. 1303, 75 L.Ed.2d 206 (1983). Both cases fit this pattern: The losing party in state
3 court[9] filed suit in a U.S. District Court after the state proceedings ended, complaining of an injury
4 caused by the state-court judgment and seeking federal-court review and rejection of that judgment.
5 Alleging federal-question jurisdiction, the plaintiffs in Rooker and Feldman asked the District Court to
6 overturn the injurious state-court judgment."

7
8 It is important to note that this narrow pattern DOES NOT fit the present case in the Least, as
9 we are not seeking any review, nor have we been injured by the Order per se, which if followed
10 correctly, would have instead been BENEFICIAL for the plaintiffs in several ways - allowing Plaintiff Jay
11 to resurrect his full time career that has been on hold for 5 years since 2014 becoming a work at home
12 entrepreneur forced from becoming her full time primary caregiver since the debilitating FIRST stroke,
13 as well as unloading the financial burden of hiring two live-in helpers, private insurance and private
14 pay therapies, all of which are exorbitantly expensive that he had been bearing out of pocket for years.

15 The Supreme Court further concludes: " Skinner's litigation, in light of Exxon, encounters no
16 Rooker-Feldman shoal. "If a federal plaintiff `present[s][an] independent claim," it is not an
17 impediment to the exercise of federal jurisdiction that the "same or a related question" was earlier
18 aired between the parties in state court. id., at 292-293, 125 S.Ct. 1517 (quoting GASH Assocs. v.
19 Rosemont, 995 F.2d 726, 728 (C.A.7 1993); first alteration in original); see In re Smith, 349 Fed.Appx.
20 12, 18 (C.A.6 2009) (Sutton, J., concurring in part and dissenting in part) (a defendant's federal
21 challenge to the adequacy of state-law procedures for postconviction DNA testing is not within the
22 "limited grasp" of Rooker-Feldman). As earlier noted, see supra, at 1296-1297, Skinner does not
23 challenge the adverse CCA decisions themselves; instead, he targets as unconstitutional the Texas
24 statute they authoritatively construed. As the Court explained in Feldman, 460 U.S., at 487, 103 S.Ct.
25 1303, and reiterated in Exxon, 544 U.S., at 286, 125 S.Ct. 1517, a state-court decision is not reviewable
26 by lower federal courts, but a statute or rule governing the decision may be challenged in a federal
27
28

1 action.[10] Skinner's federal case falls within the latter category. There was, therefore, no lack of
2 subject-matter jurisdiction over Skinner's federal suit." By virtue of the same exact same lines of
3 reasoning -this present motion to allow Omana to return to India follows the same pattern that the
4 highest Court in this nation has deemed as being the bar for voiding Rooker Feldman.

Omana's Isolation has no legal basis as VAPO does not restrain visits

8 The Vulnerable Adult Protection Order that DSHS obtained against Jay (by incorrectly accusing
9 him ONLY of not hiring qualified caregivers and NOTHING ELSE as can be seen from the APS Petition)
10 is attached herein as Exhibit B. The VAPO has no restrictions against Jay other than disallowing him
11 from removing her from a facility, and there is NO VAPO against any other plaintiff at all. Therefore to
12 hold Omana in isolation over 60 days without any legal basis is beyond evil and sadistic.

13 *Note: The guardian claims to have obtained a new VAPO, but no personal service has been made against*
14 *Mr. Nair, and he was never notified of even a court date. It is therefore nothing more than yet another*
15 *malicious and fraudulent abuse of process. He has never been served the order either.*

Psychologist Dr. Edwards' Report shows Omana needs her Family

19 The evaluation of Omana's mental abilities by Dr. Edwards is attached as Exhibit M. It is clear
20 that Omana is a highly functional individual who can still do arithmetic by mind that most average
21 persons cannot. Dr. Edwards has stated that Omana is capable of holding a conversation, understands
22 Court proceedings, LOVES her son and her home, and would want to return home. She also showed
23 awareness of her location, time, and answered General Knowledge Questions such as "who was the
24 previous president of USA". To hold such an individual in isolation is beyond cruel, it is CRIMINAL.

Omana's Isolation is in violation of Legislative Intent (RCW 11.88.005)

1 *"It is the intent of the legislature to protect the liberty and autonomy of all people of this state, and to*
2 *enable them to exercise their rights under the law to the maximum extent, consistent with the capacity of*
3 *each person. The legislature recognizes that people with incapacities have unique abilities and needs, and*
4 *that some people with incapacities cannot exercise their rights or provide for their basic needs without the*
5 *help of a guardian. However, their liberty and autonomy should be restricted through the guardianship*
6 *process only to the minimum extent necessary to adequately provide for their own health or safety, or to*
7 *adequately manage their financial affairs."*

8
9 It is clear to everyone that in Omana's case this mandate was reversed: she was taken from a
10 well-provided for home to a homeless shelter where she was abused and conspired to be murdered.
11 After her children foiled the attempt, she is being kept in solitary incarceration for nearly 60 days as of
12 date. This is the very opposite of the legislative intent as can be surmised by any reasonable person.

13
14
15 **Omana's Isolation is in violation of RCW 74.364.067 (7)**

16 RCW 74.364.067(7) is very clear that an alleged incapacitated person may CHOOSE to not
17 accept the protective services from DSHS, which Omana had exercised very vehemently in her
18 declaration to Court [Exhibit N]. Therefore any proceeding thereon is moot by statutory definition.

19
20 **Omana's Isolation is in violation of Guardianship Settlement Order**

21
22 Page 5, Line 15 of the order clearly states that Omana should be kept in a facility no further
23 than 25 miles from Plaintiff's residence in Redmond, clearly for the purpose of facilitating their
24 unrestricted access as any reasonable person can surmise. But for the guarantee for this access and her
25 naturalization (and thus Medicaid coverage eligibility), this guardianship was completely useless.

26
27 **Omana's Isolation is in violation of Plaintiff's Civil Rights**

1 U.S. Constitution as well as 42 U.S.C. §1983 grants Plaintiffs the rights to familial consortium
2 and association, which have been denied by this isolation. Not even the APS' complaint alleges any
3 reason for concern about Plaintiffs visits with Omana, and the complaint and the guardianship is
4 ENTIRELY centered on adequate care being provided at home. The Guardian has repeatedly said that
5 she is willing to release Omana with family if they put up money for her care. Therefore it is clear that
6 the isolation serves no legitimate purpose other than retaliation (for complaining about her horrible
7 neglect at Paramount), and intentional infliction of emotional distress on Omana and her family.
8

9
10 **Omana's Isolation is in violation of RCW 11.92.195(c)(iii)**

11 Guardian has failed to apply for a protection order within 14 days (let alone 62 days) of placing
12 such arbitrary & baseless Draconian restrictions on closely related family members qualified under
13 11.92.150, as stipulated by RCW 11.92.195 (c) (iii). The isolation commenced two days after her
14 children complained to Seattle Police about her attempted murder through withholding of insulin at
15 Paramount, a wholly owned subsidiary of Harborview that desperately wants to cover this up.
16

17
18 **Omana's Isolation is in violation of RCW 11.92.190.**

19 Guardian is in violation of RCW 11.92.190. according to which Omana cannot be detained
20 against her will (as she currently has been for the last 62 days). *"Any court order, other than an order*
21 *issued in accordance with the involuntary treatment provisions of chapters 10.77, 71.05, and 72.23 RCW,*
22 *which purports to authorize such involuntary detention or purports to authorize a guardian or limited*
23 *guardian to consent to such involuntary detention on behalf of an incapacitated person shall be void and*
24 *of no force or effect".*
25

26
27 **Omana's Isolation is in violation of her Religious Rights**
28

1 Omana has a Federal right to exercise her Hindu religion which has been seriously impacted by
2 this illegal solitary confinement. She needs her son or daughter to play the Hymns she likes on her
3 laptop, or to help her do "Puja" (Hindu Ritual) using her limited mobility in right hand. She has not
4 been able to do either in the last 62 days due to this illegal isolation, causing severe grief.

5
6 **Grounds for Application for Temporary Restraining Order**

7 "The standard for issuing a TRO is the same as that for issuing a preliminary injunction".
8 Walker vs County of Santa Clara 2011 WL 4344212 at *2 (N.D. Cal 2011). "A plaintiff seeking a
9 preliminary injunction must establish that he is likely to succeed on the merits, that he is likely to suffer
10 irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and
11 that an injunction is in the public interest.". Winter vs Natural Res. Def. Council. U.S 7, 20 (2008).
12

13
14 "If Plaintiffs show a likelihood of irreparable injury, a preliminary injunction is
15 appropriate" "when a plaintiff demonstrates that serious questions going to the merits were raised
16 and the balance of hardships tips sharply in the plaintiff's favor." Alliance for the Wild Rockies vs
17 Cottrell, 632 F.3d 1127, 1134-35 (9th Cir. 2011).
18

19
20 "It is always in public interest to prevent the violation of a party's constitutional rights",
21 Melendres v. Arpaio, 695 F. 3d 990, 1002 (9th Cir 2012). The balance of equities tips in the Plaintiff's
22 favor for the same reason, because a TRO will enable Omana's children to save their mother's
23 invaluable, precious life that cannot compared or pitted against anything materialistic, let alone no loss
24 whatsoever that is even possible for the defendants from extending Omana's life.
25

26 **Need for a Temporary Restraining Order**
27
28

1 As discussed above, Plaintiff face serious, irreversible harm of Omana's impending death from a
2 stroke or organ failure from anxiety and panic. It would be a miracle to be able to stop it on time but it
3 may not be too late, but there is simply no time left to save her life, and hence the expeditious Pro Se
4 application for the TRO. Her sugar levels always spike up when she is in agony and stress, as she must
5 be without being able to communicate with her children, and not knowing why she is being held in
6 solitary confinement. This isolation is a deliberate effort to suck away all her remaining will to live.
7

8 **VI. CONCLUSION AND HUMBLE PRAYER**

9
10 Raji and Jay are desperate to be able to speak to their mother before she dies from this planned
11 extrajudicial execution, which is now into it's 172nd day as of date of filing where Omana has been in
12 complete isolation. from Family. The TRO is absolutely the only hope to stop her cruel illegal murder.
13 The Court should kindly consider this poor Quadriplegic's agonized mental state and her incredible
14 yearning to be with her children during her last days. On humanitarian grounds, it is prayed that the
15 Court will allow Omana to be reunited ASAP with her Family before she succumbs to her stress. Family,
16 as can be seen from the declaration by Jayakumar Nair, is most desperate to reestablish contact with
17 Omana, and to take her back to India. They are not even requesting any financial assistance from the
18 defendants. All they are requesting is to be allowed to book tickets so she can be safely and comfortably
19 repatriated to India. as is her immutable right. Her state of mind is unknown and inexpressible.
20

21 Furthermore, it is humbly prayed that Omana should be allowed to receive visits from Jay, the
22 only family member currently in the United States, until she is able to board to flight to India. This is
23 critical for her emotional and medical reasons, and also as he is the only one able to coordinate video
24 conference so she can speak in Malayalam with all her extended friends and family in India, something
25 she used to do everyday from home. Her mental stimulation is essential to stem further brain atrophy.
26

27 Today is Christmas, the day of love and compassion in remembrance of the birth of the greatest
28 man who ever walked the earth, who too was literally crucified by an abysmally dysfunctional "legal

1 system", for the crime of spreading love. Omana and her family have **similarly never done anything**
2 **wrong**, and have always respected and revered all the laws of the United States. Her family had done
3 absolutely everything humanly possible to take the best care of her privately, defraying exorbitant
4 costs, under the circumstances so she can be happy and peaceful (for which she relies on her children).
5 They had never spent a single Christmas in their entire lives without speaking with Omana or cutting a
6 cake. Albeit a Hindu, Omana had always revered the message of Christ. Her Only Question to this Most
7 Honorable Court, on this birthday of Christ, is this: "Would HE approve her ongoing crucifixion?"
8

9
10 **DATED: 12/25/2019**

11 Most Respectfully Submitted,

12
13
14 

15 _____
16 Jayakumar Nair
17 Brother of AIP
18 12/25/2019

19
20 

21 _____
22 Rajakumari Susheelkumar
23 Daughter of AIP
24 12/25/2019

25
26
27 

28 _____
Sukanya Susheel
Granddaughter of AIP
12/25/2019



Jayakrishnan Nair
Son of AIP
12/25/2019