IN THE UNITED STATES DISTRICT COURT
FOR THE XXXXXXXX DISTRICT OF XXXXXXX
XXXXXXXX DIVISION

Cause No.: 9:99-CV-123-ABC

Firstname X. LASTNAME, Petitioner (Xxxxxxx below),	)	In a petition for removal from the Circuit Court of Xxxxxxx County, Xxxxxx
v.	)	
Firstname X. LASTNAME, Respondent (Xxxxxx below),	)	State court cause no.: ##########
and,	)	
Firstname X. LASTNAME, Respondent (Xxxx below)	)	Honorable Just-Us Justice, Judge

Motion to Correct Errors

Come now the Petitioners, Man X. and Woman Y. Xxxxxxx, in response to the remand order by this Court, moving to correct the same as plainly erred within the Seventh Circuit, by stating:

1. This Court has personally violated the Petitioners' rights to be free from different forms of discrimination, and has committed both class discrimination and racial discrimination against us.

2. This Court has personally violated the Petitioners' rights of equal access to the courts that are guaranteed to us by the Sixth Amendment to the United States Constitution.

3. There are different accountability methods available for redress of such injustices.

ERRORS OF FACT

4. The undersigned Petitioners take very strong exception with the all-too-hasty decision by this Court to remand the instant removal back into the hands of demonstrated state court fraud.

5. The undersigned Petitioners, now and hereby incorporate by reference, the same as if fully set forth herein (H.I.), their recent *Response to Motion to Dismiss Petition for Removal*.

6. In said remand order, this Court essentially did little more than parrot the "arguments" of Ex-Spouse's counsel, Attorneys R. Crooks – each of which was clearly demonstrated as mere fraud and sheer frivolousness by the Petitioners' said *Response*.

7. Indeed, this Court expressly stated its reliance upon the same fraudulent and frivolous "arguments" of Ex-Spouse's counsel, by footnoting, on page 1 of its remand order: "*In concluding that remand is appropriate, this court has considered the arguments in that motion*."

8. The undersigned Petitioners note, for the record, that this Court has had their *Response* in its possession for nearly two (2) weeks, and yet has failed to correct any of its own plain errors.

9. TWICE the undersigned Petitioners made perfectly clear to this Court that they were not seeking to re-adjudicate the merits of the underlying state guardianship (probate) proceedings.

10. TWICE the undersigned Petitioners made perfectly clear to this Court that they were, in fact, only seeking to vindicate their federal statutory rights to have equal civil rights under law.

11. EACH of the so-called "arguments" of Ex-Spouse's counsel made within his "motion to dismiss" [sic, "*remand*"], of which this Court expressly stated its reliance upon, were meritless:

a) Respondent's counsel opened his "argument" with alleging that this Court lacks jurisdiction, but that was easily laid to rest, TWICE, because removal is a statutory action;

b) Respondent's counsel continued his "argument" with claiming abstention doctrines, but that was easily laid to rest, due to the binding rulings of the United States Supreme Court;

c) Respondent's counsel continued his "argument" with his manifestly frivolous "res judicata" claim, but that was easily laid to rest, since none of the four (4) prongs were met;

d) Respondent's counsel continued his "argument" with ridiculously attempting to lodge an attack under 28 USC § 1915, which is, of course, PLRA law, and wholly inapplicable; and,

e) Respondent's counsel finished his "argument" mistaking that a state case can "only" be removed within the first thirty (30) days, and which this Court parroted, in direct violation of the Petitioners' statutory authority vested under the **second** paragraph of 28 USC 1446(b).

12. Respondent's counsel was clearly in plain error, and by merely parroting any of the same "arguments", this Court has also *affirmatively* placed itself into plain error, or even worse.

ERRORS OF LAW

13. Moreover, the Seventh Circuit Court of Appeals has distinguished this Court's erroneous basis and reliance on either the *Rooker-Feldman* doctrine and "domestic relations exception".

14. A plaintiff cannot overcome *Rooker-Feldman* merely by incanting the word "conspiracy," but must claim that the defendants "'so far succeeded in corrupting the state judicial process as to obtain a favorable judgment.'" *Loubser v. Thacker*, 440 F.3d 439, 441 (7th Cir. 2006) (quoting *Nesses v. Shepard*, 68 F.3d 1003, 1005 (7th Cir. 1995)). This is exactly what has happened within the instant state court proceedings, and the Petitioners have duly claimed the same.

15. *See also*, the recent Seventh Circuit decision in a similar probate case alleging dishonest state court proceedings. In *Jones v. Brennan*, 2006 U.S. App. LEXIS 20734, the Court stated:

> The judge dismissed the suit on the pleadings on the authority of the Rooker-Feldman doctrine. District of Columbia Court of Appeals v. Feldman, 460 U.S. 462, 103 S. Ct. 1303, 75 L. Ed. 2d 206 (1983); Rooker v. Fidelity Trust Co., 263 U.S. 413, 44 S. Ct. 149, 68 L. Ed. 362 (1923). **This was a mistake**. The doctrine, which forbids a federal court other than the Supreme Court to entertain an appeal from a decision by a state court, **is inapplicable when the plaintiff is not attacking a state court judgment**. Exxon Mobil Corp. v. Saudi Basic Industries Corp., 544 U.S. 280, 291-94, 125 S. Ct. 1517, 161 L. Ed. 2d 454 (2005); TruServ Corp. v. Flegles, Inc., 419 F.3d 584, 591 (7th Cir. 2005).
>
> *Jones*, at *2-3.
>
> As recently clarified by the Supreme Court, the exception "reserves to state probate courts the probate or annulment of a will and the administration of a decedent's estate; it also precludes federal courts from endeavoring to dispose of property that is in the custody of a state probate court. **But it does not bar federal courts from adjudicating matters**

outside those confines and otherwise within federal jurisdiction." Marshall v. Marshall, 126 S. Ct. 1735, 1748, 164 L. Ed. 2d 480 (2006).

Jones, at *4.

16. *See also* the Seventh Circuit's similar recent decision in *Davit v. Davit*, 2006 U.S. App. LEXIS 7738,*;173 Fed. Appx. 515:

> We recently reaffirmed our precedent holding that **the Rooker-Feldman doctrine does not apply to claims** that a "defendant in a civil rights suit 'so far succeeded in corrupting the state judicial process as to obtain a favorable judgment.'" Loubser v. Thacker, 440 F.3d 439, 2006 U.S. App. LEXIS 5773, No. 05-3058, 2006 WL 549011, at *2 (7th Cir. Mar. 8, 2006) (quoting Nesses v. Shepard, 68 F.3d 1003, 1005 (7th Cir. 1995)).

Davit, at *5-6.

17. See also *Loubser v. Thacker*, itself:

> The grounds on which the district court dismissed Loubser's suit were erroneous. The claim that a defendant in a civil rights suit "so far succeeded in corrupting the state judicial process as to obtain a favorable judgment" is not barred by the Rooker-Feldman doctrine. Nesses v. Shepard, 68 F.3d 1003, 1005 (7th Cir. 1995). Otherwise there would be no federal remedy other than an appeal to the U.S. Supreme Court, and that remedy would be ineffectual because the plaintiff could not present evidence showing that the judicial proceeding had been a farce, cf. Moore v. Dempsey, 261 U.S. 86, 91, 43 S. Ct. 265, 67 L. Ed. 543 (1923) (Holmes, J.); one cannot present evidence to an appellate court.

Loubser, at *5-6, and:

> The domestic-relations exception to federal jurisdiction is not applicable to this case either. A federal court cannot grant or annul a divorce, but that is not what Loubser is seeking.

Loubser, at *7.

18. See also *Standefer v. United States*, 447 U.S. 10, 23, 100 S. Ct. 1999, 64 L. Ed. 2d 689 (1980) ("Contemporary principles of collateral estoppel . . . strongly militate against giving an [unreviewable judgment] preclusive effect" (citing Restatement (Second) of Judgments § 68.1 (Tent. Draft No. 3, 1976)); see also Restatement (Second) of Judgments § 28(1) (1980) ("Although an issue is actually litigated and determined by a valid and final judgment, and the determination is essential to the judgment, relitigation of the issue in a subsequent action

between the parties is not precluded [when t]he party against whom preclusion is sought could not, as a matter of law, have obtained review of the judgment in the initial action").

19. The instant removal is, and was, a statutory proceeding under 28 USC § 1443 for the denial of equal civil rights by a state court against the Petitioners. Any litigant within any state court proceeding may file a removal to federal court under the express statutory language of 28 USC § 1443(1), for the denial of equal civil rights, and **without regard to race, color, or creed**.

20. While the historical backdrop of appeals considered by the United States Supreme Court, so far, might seem to suggest, superficially, that *only Negroes* have protection under 28 USC § 1443, **the very essence and act** of denying the Petitioners protection *under the exact same law* is nothing short of committing **racial discrimination** against them, simply because they are white. Moreover, when even *they, as white citizens* are not allowed to enjoy, equally, the protections statutorily and constitutionally afforded *other* white citizens, that is denial of Equal Protection.

21. Indeed, this **manifestly repugnant racial discrimination** *against white citizens* is clearly enough, on its own, to inherently warrant and demand appeal all the way to the United States Supreme Court, and further to file class action suit against the esteemed Supreme Court Justices, individually, and the Federal Government, should the same Justices deny certiorari or relief.

22. The only types of state cases that may not be removed are listed in 28 USC § 1445, and the instant state court case is not one, and was not one, of those four (4) types, and it never was.

23. The Petitioners did not, and do not, *have* to be "defendants" to file a removal. *See* 28 USC § 1441(b) & (c). Regardless, the state court is treating the Petitioners *exactly like* defendants.

24. *See* the opinion of the United States Supreme Court, in *Georgia v. Rachel*, 384 U.S. 780 (1966), as to the clear intention of Congress in enacting amendments to 28 USC § 1443:

> "It would be extremely difficult to specify with precision the kinds of cases which ought to be removable under section 1443. This is true because of the many and varied circumstances

which can and do arise in civil rights matters. Accordingly, it seems advisable to allow the courts to deal case by case with situations as they arise, and to fashion the remedy **so as to harmonize it with the other statutory remedies** made available for denials of equal civil rights." 110 Cong. Rec. 6956. (emphasis added)

Georgia, 384 U.S. at 794.

25. The undersigned Petitioners were – and are – absolutely entitled to statutory removal. They have clearly shown that their civil and constitutional rights have not, and cannot, be enforced in the instant state court. The reputation and function of the entire federal judiciary, at large, if not at least the entire Seventh Circuit, and this Court in particular, is at stake here.

26. Simultaneously [with the filing of the removal petition *sub judice*], the Petitioners also request the same to be treated, in the alternative, as a complaint made pursuant to 42 U.S.C. § 1983 seeking the appropriate injunctive relief against the state court proceedings.

SUMMARY

27. This Court has considered and relied, at least in part, upon the frivolousness and fraud of "arguments" by an "attorney", but has so far completely ignored on point authorities of the undersigned *pro se* litigants. That is not only a blatant matter of Class Discrimination, but is also a manifest matter of denial of Equal Protection, and also a matter of denial of Equal Access.

28. For God's sake, the Petitioners have *already duly informed and complained to this Court that* ***the state court judge threatened them if they dare even speak of the U.S. Constitution***.

29. It is time for this Court to correct its plain errors, to start *supporting* the U.S. Constitution, to VACATE its remand, and to proceed accordingly, pursuant to the provisions of written law.

WHEREFORE, the Petitioners, Man X. and Woman Y. Xxxxxxx, now move and demand this Court to forthwith VACATE its order of remand accordingly, further move this Court for admonishment against Respondent's counsel regarding his previous and any future pleadings, and for all other relief just and proper in the premises.

Respectfully submitted,

_____ _____
Man X. Xxxxxxx Woman Y. Xxxxxxx

CERTIFICATE OF SERVICE

We hereby certify that, on this _____ day of August, 2006, a true copy of the foregoing *Motion to Correct Errors*, by depositing the same in the United States mail, first class postage prepaid, has been duly served upon:

Attorneys R. Crooks, # 9999-99
Dewey, Cheatham, and Howe
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City, State 99999

Respectfully submitted,

_____ _____
Man X. Xxxxxxx Woman Y. Xxxxxxx

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