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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 HARESH MIRCHANDANI and
12 INDRA MIRCHANDANI,
13 Plaintiffs,

14 v.

15 BMO HARRIS BANK, N.A.
16 successor to M&I MARSHALL &
17 ILSLEY BANK,
18 Defendant.

Case No.: 17-cv-2090-BTM-BGS

**ORDER GRANTING
DEFENDANT'S MOTION TO
DISMISS [ECF NO. 9]**

19 Pending before the Court is Defendant BMO Harris Bank, N.A.'s motion to
20 dismiss Plaintiffs Hareesh Mirchandani's and Indra Mirchandani's Complaint.
21 (Def.'s Mot. to Dismiss ("Def.'s MTD"), ECF No. 49.) On June 16, 2018, Plaintiffs
22 filed what the Court will construe as an opposition to Defendant's motion to
23 dismiss. (ECF No. 14.) For the reasons discussed below, Defendant's motion to
24 dismiss is **GRANTED**.

25 **I. BACKGROUND**

26 In 2014, Plaintiffs filed a complaint against Defendant in the Superior Court
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1 of Arizona, County of Maricopa¹. (Def.'s MTD, Ex. A.) Plaintiffs alleged that
2 Defendant engaged in predatory lending when it issued their business, SS
3 Quality Fuels LLC ("Quality"), a swap loan, as well as breached several loan
4 agreements when it sold Quality's loans to TradeCor Desert Sky II, LLC. (Id. at
5 3–5.) Plaintiffs, the sole members of Quality, served as signatories to the loan
6 agreements. (Id.) The Arizona Superior Court dismissed Plaintiffs' complaint
7 with prejudice and held that Plaintiffs, as guarantors to the loan agreements, did
8 not have standing to bring the lawsuit as the claims belonged to Quality. (Def.'s
9 MTD, Ex. E at 4.) On appeal, the Arizona Court of Appeals affirmed the standing
10 issue and a claim of judicial bias. (Id. at 11.) The Supreme Court of Arizona
11 denied Plaintiffs' petition for review. (Def.'s MTD, Ex. G.)

12 On October 11, 2017, Plaintiffs initiated this action against Defendant
13 alleging a 42 U.S.C. § 1983 violation. (Compl., ECF No. 1.) Plaintiffs allege that
14 this action arises out of the dismissed state court action. (Compl. at 2.) Plaintiffs
15 contend that the Arizona Superior Court did not follow the law when it dismissed
16 their state court action against Defendant and should have recused because of a
17 conflict of interest. (Id.) Plaintiffs petition this Court to overturn the Arizona
18 Superior Court's decision and retry the case. (Compl. at 2–3.)

19 **II. DISCUSSION**

20 Defendant moves to dismiss Plaintiffs' action, arguing that pursuant to
21 Federal Rule of Civil Procedure ("FRCP") 12(b)(1), the Court lacks subject matter
22 jurisdiction under the *Rooker-Feldman* doctrine. In the alternative, Defendant
23 argues that the Complaint fails to state a claim under FRCP 12(b)(6). Because
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26 ¹ Defendant requests that the Court take judicial notice of filings and court rulings from the underlying action in the
27 Arizona state courts. (ECF No. 10.) Federal Rule of Evidence 201(b) permits a court to "judicially notice a fact
28 that is not subject to reasonable dispute because it can be accurately and readily determined from sources whose
accuracy cannot reasonably be questioned." Specifically, a court may take judicial notice of prior decisions and
court records. *See Holder v. Holder*, 305 F.3d 854, 866 (9th Cir. 2002) (taking judicial notice of state court
decisions and briefs in determining whether plaintiff's claims were barred by claim preclusion). Therefore, the
Court grants Defendant's request for judicial notice of exhibits A through H.

1 the Court agrees with Defendant that it lacks subject matter jurisdiction, it need
2 not reach the 12(b)(6) argument.

3 The *Rooker-Feldman* doctrine “prohibits a federal district court from
4 exercising subject matter jurisdiction over a suit that is a de facto appeal from a
5 state court judgment.” *Kougasian v. TMSL, Inc.*, 359 F.3d 1136, 1139 (9th Cir.
6 2004). *Rooker-Feldman* only applies to “cases brought by state-court losers
7 complaining of injuries caused by state-court judgments rendered before the
8 district court proceedings commenced and inviting district court review and
9 rejection of those judgments.” *Exxon Mobil Corp. v. Saudi Basic Indus., Corp.*,
10 544. U.S. 280, 284 (2005). The Ninth Circuit has provided the following guidance
11 regarding the doctrine’s role in federal courts:

12 If a federal plaintiff asserts as a legal wrong an allegedly erroneous
13 decision by a state court, and seeks relief from a state court judgment
14 based on that decision, *Rooker-Feldman* bars subject matter
15 jurisdiction in federal district court. If, on the other hand, a federal
16 plaintiff asserts as a legal wrong an allegedly illegal act or omission
17 by an adverse party, *Rooker-Feldman* does not bar jurisdiction.

18 *Noel v. Hall*, 341 F.3d 1148, 1164 (9th Cir. 2003).

19 As pled, Plaintiffs’ lawsuit is a de facto appeal of the Arizona state
20 courts’ decisions. Plaintiffs allege that the Arizona state court did not follow
21 the law and was conflicted because Defendant made a contribution to
22 Judge David Udall’s cousin’s campaign. (Compl. at 2.) Plaintiffs allege
23 that this “corruption” constitutes a section 1983 violation. (Id.) As a
24 remedy, Plaintiffs request that this Court “overturn” the Arizona state court
25 decisions and retry the merits of the case. As the Ninth Circuit notes,
26 *Rooker-Feldman* bars this exact lawsuit. *Noel*, 341 F.3d at 1164.

27 Accordingly, the Court lacks subject matter jurisdiction over this
28 action and Defendant’s motion to dismiss is granted.

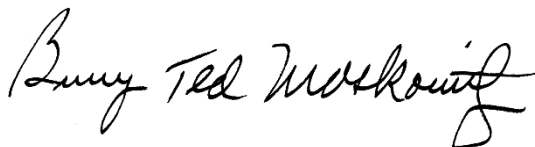
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1 **III. CONCLUSION**

2 For the reasons discussed above, Defendant's motion to dismiss (ECF No.
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4 **IT IS SO ORDERED.**

5 Dated: July 16, 2018



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7 Barry Ted Moskowitz, Chief Judge
8 United States District Court
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