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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

COURTNEY HALVORSEN,  
  
Plaintiff,  
  
v.  
  
PETERSON ENTERPRISES, INC., a  
Washington corporation, dba VALLEY  
EMPIRE COLLECTION,  
  
Defendant.

NO: 2:16-CV-00287-RMP  
  
ORDER DENYING DEFENDANT’S  
MOTION TO DISMISS

BEFORE THE COURT is Defendant’s Motion to Dismiss Plaintiff’s  
complaint for lack of subject matter jurisdiction pursuant to Fed. R. Civ. P.  
12(b)(1). ECF No. 6. The Court has reviewed Plaintiff’s Complaint (ECF No. 1),  
Defendant’s Motion to Dismiss (ECF No. 6), Plaintiff’s Response to Defendant’s  
Motion to Dismiss (ECF No. 9), Defendant’s Reply (ECF No. 10), and Plaintiff’s  
Notice of Supplemental Authority (ECF No. 12), and is fully informed.

**BACKGROUND**

On August 10, 2015, Defendant filed a writ of garnishment and an affidavit  
for garnishment in support of the writ to collect a judgment of \$451.70, accrued

1 interest of \$4.61, and collection costs of \$134.00 for a total of \$590.31. ECF No.  
2 7-1. This writ of garnishment instructed Plaintiff's employer to withhold funds  
3 owed to Plaintiff in the amount of the judgment, interest, and costs. *Id.* On  
4 October 15, 2015, the Spokane County District Court entered a Judgment on  
5 Answer of Garnishee Defendant awarding Defendant, Peterson Enterprises, INC.,  
6 the sum of \$590.31 to be paid by Plaintiff's employer from the withheld funds.  
7 ECF No. 7-4. On November 4, 2015, Defendant filed a Satisfaction of Judgment  
8 certifying that the judgment had been fully paid. ECF No. 7 at 5.

9 On August 9, 2016, Plaintiff filed a complaint with this Court requesting  
10 class action status and asserting that Defendant's writ of garnishment was invalid  
11 because the affidavit for garnishment that accompanied the writ omitted essential  
12 requirements under WASH. REV. CODE § 6.27.060 and attempted to collect fees and  
13 costs on the void writ of garnishment. ECF No. 1. In the complaint, Plaintiff  
14 alleges that this omission and the actions by Defendant violated the Fair Debt  
15 Collection Practices Act (FDCPA), the Washington Consumer Protection Act, and  
16 the Washington Collection Agency Act. Plaintiff's prayer for relief includes a  
17 request for declaratory relief, injunctive relief, money damages, and attorney fees.

18 *Id.*

## 19 **JURISDICTION**

20 Defendant's challenge to Plaintiff's complaint is focused on Fed. R. Civ. P.  
21 12(b)(1), a lack of subject matter jurisdiction. ECF No. 6. The party asserting

1 jurisdiction bears the burden of establishing subject matter jurisdiction on a motion  
2 to dismiss for lack of such jurisdiction. *In re Dynamic Random Access Memory*  
3 *(DRAM) Antitrust Litigation*, 546 F.3d 981, 984 (9th Cir. 2008). Dismissal for  
4 lack of subject matter jurisdiction is appropriate if the complaint on its face,  
5 considered in its entirety, fails to allege facts sufficient to establish subject matter  
6 jurisdiction. *Id.*

7 Plaintiff alleges that this Court has subject matter jurisdiction under 15  
8 U.S.C. § 1692k(d), the FDCPA, 28 U.S.C. § 1337, Commerce and Antitrust  
9 Regulations, and 28 U.S.C. § 1331, Federal Question, and supplemental  
10 jurisdiction under 28 U.S.C. § 1367. ECF No. 1 at 3.

11 Defendant challenges subject matter jurisdiction based on the *Rooker-*  
12 *Feldman* doctrine. ECF No. 6. The *Rooker-Feldman* doctrine is a jurisdictional  
13 rule that “prevents federal courts from second-guessing state court decisions by  
14 barring the lower federal courts from hearing de facto appeals from state-court  
15 judgments.” *Bianchi v. Rylaarsdam*, 334 F.3d 895, 898 (9th Cir. 2003); *See also*  
16 *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923); *D.C. Ct. of Appeals v. Feldman*,  
17 460 U.S. 462 (1983). The Ninth Circuit has found the following:

18 A de facto appeal exists when “a federal plaintiff asserts as a legal  
19 wrong an allegedly erroneous decision by a state court, and seeks relief  
20 from a state court judgment based on that decision.” [*Noel v. Hall*, 341  
21 F.3d 1148, 1164 (9th Cir. 2003)]. In contrast, if “a federal plaintiff  
asserts as a legal wrong an allegedly illegal act or omission by an  
adverse party, *Rooker-Feldman* does not bar jurisdiction.” *Id.* Thus,  
even if a plaintiff seeks relief from a state court judgment, such a suit  
is a forbidden de facto appeal only if the plaintiff also alleges a legal

1 error by the state court. *Maldonado v. Harris*, 370 F.3d 945, 950 (9th  
2 Cir. 2004); *Kougasian v. TMSL, Inc.*, 359 F.3d 1136, 1140 (9th Cir.  
3 2004) (“[A] plaintiff must seek not only to set aside a state court  
4 judgment; he or she must also allege a legal error by the state court as  
5 the basis for that relief”).

6 *Bell v. City of Boise*, 709 F.3d 890, 897 (9th Cir. 2013). If a claim is found to be a  
7 de facto appeal, the federal plaintiff may not seek to litigate an issue that is  
8 “inextricably intertwined” with the state court decision from which the forbidden  
9 de facto appeal is brought. *Noel*, 341 F.3d at 1158.

10 The facts alleged by Plaintiff on all causes of action orbit around the  
11 omission of necessary language in the affidavit for garnishment prepared by  
12 Defendant, and Defendant’s actions in attempting to execute an invalid writ. ECF  
13 No. 1 at 7-12. While there is a Judgment on Answer issued by the state court,  
14 Plaintiff is not asserting that the state court committed legal error in its judgment,  
15 but rather asserts as a legal wrong an illegal act and/or omission on the part of  
16 Defendant. As such, Plaintiff’s claims are independent of the state judgment that  
17 was rendered against her and do not constitute a de facto appeal. Therefore, the  
18 *Rooker-Feldman* doctrine does not preclude subject matter jurisdiction.

19 The Court acknowledges that in paragraph 8.6 of the complaint, Plaintiff  
20 requests injunctive relief under WASH. REV. CODE § 19.16.450. ECF No. 1 at 20.  
21 Under this provision, if a violation of WASH. REV. CODE § 19.16.250 is established,  
the licensee is precluded from collecting interest, service charge, attorneys’ fees,  
collection costs, delinquency charges, or any other fees or charges other than the

1 original claim or obligation. The state court's judgment addresses a garnishment  
2 amount that includes interest, attorney fees, and additional fees. ECF No. 7-1 at 6,  
3 7-4. Arguably, under this request for injunctive relief, Plaintiff is requesting relief  
4 from the state court judgment. However, as set forth in *Bell*, since Plaintiff is  
5 asserting a legal wrong resulting from the act or omission of an adverse party, even  
6 with the request for relief from the state court judgment the complaint does not  
7 constitute a de facto appeal. Therefore, this Court maintains subject matter  
8 jurisdiction in this case under the statutes alleged by Plaintiff.

9 Accordingly, **IT IS HEREBY ORDERED THAT:**

10 1. Defendant's Motion to Dismiss, **ECF No. 6**, is **DENIED**.

11 The District Court Clerk is hereby directed to enter this Order, and provide  
12 copies to counsel.

13 **DATED** July 14, 2017.

14 *s/ Rosanna Malouf Peterson*  
15 ROSANNA MALOUF PETERSON  
16 United States District Judge  
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