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5 UNITED STATES DISTRICT COURT  
6 EASTERN DISTRICT OF WASHINGTON  
7

8 HALLMARK CARE SERVICES,  
9 INC., et al.,

10 Plaintiffs,

11 v.

12 SUPERIOR COURT OF STATE OF  
13 WASHINGTON FOR SPOKANE  
COUNTY; SPOKANE COUNTY,

14 Defendants.

NO. 2:17-CV-00129-JLQ

MEMORANDUM OPINION AND  
ORDER RE: MOTION TO DISMISS  
AND MOTION FOR CR 11  
SANCTIONS

15 BEFORE THE COURT is the Defendants' Motion to Dismiss (ECF No. 11) and  
16 Defendants' Motion for CR 11 Sanctions (ECF No. 18). After the Motion to Dismiss was  
17 filed, the court directed the parties to address the *Rooker-Feldman* doctrine in the  
18 Response and Reply briefs because it was not addressed in the Motion. *See* (ECF No. 16).  
19 The parties submitted response and reply briefs on both Motions. This Order memorializes  
20 the court's ruling on the Motions.

21 **I. Introduction/Background**

22 All well-pleaded facts are accepted as true for the purposes of the Motion to  
Dismiss.

23 On March 13, 2015, the Washington State Supreme Court issued an order  
24 suspending Lori Petersen from the practice of guardianship for one year. *See* (ECF No. 1-  
25  
26

1 1 at 2-3).<sup>1</sup> The Supreme Court also ordered Petersen to pay costs to the Certified  
2 Professional Guardian Board. (ECF No. 1-1 at 3). The suspension was set to begin on  
3 March 20, 2015. (ECF No. 1-1 at 2-3).

4 On March 17, 2015, Spokane County Superior Court Commissioner Rachelle  
5 Anderson sent a letter to Petersen acknowledging receipt of the Supreme Court order and  
6 directing Petersen to submit a “specific plan as to each individual you represent” no later  
7 than 4:00 p.m. on March 19, 2015. (ECF No. 1-1 at 5). The letter attached a list of  
8 guardianship cases, some of which were assigned to Petersen, and others to Hallmark Care  
9 Services, Inc. (“Hallmark”), doing business as Castlemark Guardianship and Trust  
10 (“Castlemark”), and Hallmark Care Services, Inc., doing business as Eagle Guardianship  
11 and Professional Services (“Eagle”). (ECF No. 1 at ¶14).

12 On March 18, 2015, attorney John Pierce, representing Petersen, sent a letter to  
13 Commissioner Anderson stating counsel was filing a motion with the Washington  
14 Supreme Court seeking to stay the suspension for 60 to 90 days. (ECF No. 1-1 at 7).  
15 Counsel’s letter disclosed Petersen would be petitioning the court to transfer her cases to  
16 another guardian, but asserted the process would take “approximately 4-6 weeks.” (ECF  
17 No. 1-1 at 7-8). Additionally, counsel disputed whether cases assigned to Castlemark or  
18 Eagle were subject to the suspension order. (ECF No. 1-1 at 7).

19 On March 26, 2015, the Washington Supreme Court granted a stay of the  
20 suspension to allow Petersen to work with the Certified Professional Guardian Board to  
21 ensure her clients were properly transferred to another guardian. (ECF No. 1 at ¶18).

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24 <sup>1</sup> On a motion to dismiss, the court may consider “material which is properly  
25 submitted as part of the complaint” and documents whose “authenticity ... is not contested”  
26 without converting the motion to dismiss into a motion for summary judgment. *Lee v. City  
of Los Angeles*, 250 F.3d 668, 688-89 (9<sup>th</sup> Cir. 2001) (citations omitted). The court may also  
take judicial notice of “matters of public record.” (*Id.*) (citation omitted).

1 On April 1, 2015, Lewis County Superior Court Judge James Lawler, a member of  
2 the Certified Professional Guardian Board, sent Petersen a letter stating the Board would  
3 review the status of all guardianships associated with Petersen. (ECF No. 1-1 at 10). The  
4 letter directed Petersen to provide information by April 10, 2015, including: all  
5 guardianship appointments in the name of Lori Petersen, Empire Care, Castlemark,  
6 Hallmark, or Eagle; a plan for compliance with transferring her cases to another guardian;  
7 and information about every person associated with any guardianship business where  
8 Petersen was a designated guardian or an individual certified professional guardian. (ECF  
9 No. 1-1 at 10-11).

10 On April 1, 2015, Hallmark held a shareholders meeting and elected a new director,  
11 officer, and proxy to ensure Petersen was not involved in the business during her one year  
12 suspension. (ECF No. 1 at ¶¶22-23). Hallmark also added another professional guardian.  
13 (ECF No. 1 at ¶24).

14 On April 7, 2015, Hallmark received four documents from the Spokane County  
15 Superior Court Guardianship Monitoring Program Coordinator. (ECF No. 1 at ¶27). The  
16 first document was a letter from Spokane County Superior Court Judge Kathleen  
17 O'Connor addressed to Hallmark stating "Hallmark/Castlemark/Eagle's ownership is in  
18 question" because the ownership was "confidential." (ECF No. 1-1 at 19). Because  
19 ownership had not been disclosed to the court "[d]espite inquiries on multiple occasions,"  
20 the letter stated Petersen's association with those agencies was brought "into question."  
21 (ECF No. 1-1 at 19). The letter stated "[t]he Court will not appoint as a successor guardian  
22 any certified professional guardian associated with Hallmark or with entities falling under  
23 the Hallmark umbrella." (ECF No. 1-1 at 19). Additionally, the letter stated a special  
24 master would be appointed "to oversee the transition process and individual guardians ad  
25 litem will determine successor guardians." (ECF No. 1-1 at 19). Lastly, the letter required  
26 Hallmark to post a \$100,000 surety bond to secure payment of fees. (ECF No. 1-1 at 19).

1 The second document was a letter from Judge O'Connor to local certified  
2 professional guardians. (ECF No. 1-1 at 21). The letter disclosed that guardians ad litem  
3 would be contacting the recipients "to take on several cases due to the recent suspension  
4 of CPG Lori Petersen." (ECF No. 1-1 at 21).

5 The third document was a letter from Judge O'Connor to local guardians ad litem  
6 informing them the court would be assigning 125 cases "currently assigned to Ms.  
7 Petersen and/or agencies with which she is involved." (ECF No. 1-1 at 21).

8 The final document was an Order Appointing Special Master, signed by Spokane  
9 County Superior Court Judge Ellen Kalama Clark for the 125 cases discussed in the prior  
10 letters. (ECF No. 1-1 at 26-32). The Order appointed retired Superior Court Judge Paul  
11 Bastine as special master. (ECF No. 1-1 at 31).

12 On April 7, 2015, attorney Pierce, representing Hallmark, sent a letter to Judge  
13 Lawler in response to the April 1 letter. (ECF No. 1-1 at 15-17). The letter states Petersen  
14 was in the process of "transferring certain cases" to Hallmark. (ECF No. 1-1 at 15). The  
15 letter stated Hallmark had moved to be appointed as successor guardian in Petersen's  
16 cases. (ECF No. 1-1 at 15). The letter also referred to letters and orders from Judge  
17 O'Connor and Judge Kalama Clark. (ECF No. 1-1 at 15-16).

18 On April 17, 2015, Petersen and Hallmark contested the actions of the Spokane  
19 County Superior Court by filing a motion for reconsideration. (ECF No. 1 at ¶34). The  
20 motion for reconsideration argued the Superior Court: (1) lacked jurisdiction to expand on  
21 the Supreme Court Order suspending Petersen; (2) lacked authority to order the \$100,000  
22 bond and appointment of special master; and (3) failed to give Hallmark due process  
23 because it allegedly did not receive notice or a right to appear and defend against the  
24 Order Appointing Special Master. (ECF No. 1 at ¶34). The motion also sought  
25 clarification of a number of issues regarding who was presiding over the reassignment of  
26

1 guardianships and whether there was a hearing that led to the Order Appointing Special  
2 Master. (ECF No. 1 at ¶35).

3 On May 4, 2015, Spokane County Superior Court Commissioners held a hearing  
4 wherein Petersen and Hallmark were removed as guardians of record. (ECF No. 1 at ¶36).  
5 Counsel for Hallmark and Petersen was present at the hearing and objected to the removal  
6 of his clients in each of the cases. (ECF No. 1 at ¶¶38-39).

7 On May 8, 2015, a deputy prosecutor from the Spokane County Prosecutor's Office  
8 entered a limited notice of appearance on behalf of the Spokane County Superior Court.  
9 (ECF No. 1 at ¶42). The deputy prosecutor then filed a memorandum in support of the  
10 court's Order and actions taken with regard to Petersen and Hallmark. (ECF No. 1 at ¶44).

11 On May 13, 2015, a hearing was held where counsel for Petersen and Hallmark was  
12 present, but the deputy prosecutor was not. (ECF No. 1 at ¶46). Counsel informed the  
13 court that a deputy prosecutor had appeared on behalf of the Superior Court and asserted  
14 the hearing should be postponed until the deputy prosecutor was present. (ECF No. 1 at  
15 ¶47). The hearing proceeded without the deputy prosecutor present. (ECF No. 1 at ¶47).

16 On May 18, 2015, Petersen and Hallmark's motion for reconsideration was heard  
17 by Judge Kalama Clark. (ECF No. 1 at ¶¶50, 52). Counsel for Petersen and Hallmark  
18 presented argument on the issues raised in the motion. (ECF No. 1 at ¶51). In the court's  
19 ruling on the motion, Judge Kalama Clark stated the court was the petitioner in the  
20 proceedings and the Order Appointing Special Master was presented *ex parte*. (ECF No. 1  
21 at ¶52). It appears the court denied the motion for reconsideration. *See* (ECF No. 1 at ¶52).

22 On May 13, 2015, Petersen and Hallmark filed a notice of appeal to Division III of  
23 the Washington Court of Appeals regarding the Order Appointing Special Master. *See In*  
24 *re Guardianship of Holcomb*, No. 33356-6, Dkt. #1 (Wash. Ct. App. Div. III). On July 23,  
25 2015, the Court of Appeals issued a motion to determine appealability. (*Id.* at Dkt. #26);  
26 (ECF No. 12-1 at 23). After receiving briefing, a Commissioner for the Court of Appeals

1 issued an order on August 26, 2015. (ECF No. 12-1). The Commissioner found neither  
2 Petersen nor Hallmark were aggrieved parties based on their removal as guardians. (ECF  
3 No. 12-1 at 23-25). The Commissioner further found Hallmark was an aggrieved party as  
4 to the order assessing fees against it. (ECF No. 12-1 at 26).

5 A review of the online docket shows the state court appeal was eventually dismissed  
6 by Division III in April 2017, and a motion for discretionary review was filed in the  
7 Washington Supreme Court on May 1, 2017. *See* No. 33356-6 (Wash. Ct. App. Div. III);  
8 Dkt. #1, No. 94454-7 (Wash. Sup. Ct.). The Washington Supreme Court denied the  
9 motion on June 22, 2017 and no further filings have been made. *See* No. 94454-7 (Wash.  
10 Sup. Ct.).

11 On April 6, 2017, Petersen and Hallmark (“Plaintiffs”) initiated the instant federal  
12 court action by filing the Complaint. (ECF No. 1). The Complaint alleges six causes of  
13 action against the Spokane County Superior Court and Spokane County (“Defendants”):  
14 (1) lack of due process by failing to follow the state rules of civil procedure and local  
15 court rules regarding initiating a civil action; (2) judicial abuse of authority by taking *ex*  
16 *parte* action against and issuing *ex parte* orders against Petersen and Hallmark in cases  
17 those judges and commissioners were not assigned; (3) lack of due process by failing to  
18 follow the process for removal of a guardian under the Revised Code of Washington; (4)  
19 lack of due process by failing to follow the process set forth by the Certified Professional  
20 Guardian Board for removal of a guardian; (5) lack of due process by failing to give due  
21 regard to the definitions of good standing for a certified professional guardian or certified  
22 professional guardianship under state court rules; and (6) breach of the separation of  
23 powers doctrine by taking executive administrative actions against Petersen and Hallmark.  
24 (ECF No. 1 at ¶¶58-67).

25 On May 19, 2017, Defendants filed the Motion to Dismiss (ECF No. 11). The  
26 Motion argues Defendants are entitled to absolute judicial immunity, Plaintiffs lack any

1 property right in continued guardianships, and Plaintiffs' claims are barred by *res*  
2 *judicata*. (ECF No. 11). On June 8, 2017, the court held a telephonic hearing in this matter  
3 wherein the court raised the issue of whether Plaintiffs' claims are barred under the  
4 *Rooker-Feldman* doctrine and subsequently issued an Order on this issue. (ECF No. 16).  
5 On June 15, 2017, Plaintiffs filed a Response to the Motion to Dismiss and addressed the  
6 *Rooker-Feldman* doctrine. (ECF No. 17). On June 27, 2017, Defendants filed a Reply.  
7 (ECF No. 20).

8 On June 20, 2017, Defendants filed a Motion for CR 11 Sanctions. (ECF No. 18).  
9 The Motion seeks costs and attorneys' fees based on Plaintiffs' claims being frivolous.  
10 (ECF No. 18). On June 23, 2017, Plaintiffs filed a Response. (ECF No. 19). On June 28,  
11 2017, Defendants filed a Reply. (ECF No. 22).

12 Both the Motion to Dismiss and Motion for Sanctions were submitted for decision  
13 without oral argument.

## 14 **II. Discussion**

### 15 **A. Motion to Dismiss**

16 To survive a motion to dismiss, the pleading must allege sufficient facts, which,  
17 accepted as true, "state a claim to relief that is plausible on its face." *Bell Atlantic Corp. v.*  
18 *Twombly*, 550 U.S. 544, 570 (2007). A claim is plausible on its face when "the plaintiff  
19 pleads factual content that allows the court to draw the reasonable inference that the  
20 defendant is liable for the misconduct alleged." *Ashcroft v. Iqbal*, 556 U.S. 662, 678  
21 (2009). In considering a motion to dismiss under Fed.R.Civ.P. 12(b)(6), "the court accepts  
22 the facts alleged in the complaint as true." *Balistreri v. Pacifica Police Dept.*, 901 F.2d  
23 696, 699 (9<sup>th</sup> Cir. 1990). However, a claim may be dismissed "based on the lack of a  
24 cognizable legal theory." (*Id.*). While a court may not generally consider evidence outside  
25 of the complaint in a Fed.R.Civ.P. 12(b)(6) motion, the court may consider "material  
26 which is properly submitted as part of the complaint" and documents the complaint

1 “necessarily relies” on and whose authenticity “is not contested.” *Lee v. City of Los*  
2 *Angeles*, 250 F.3d 668, 688 (9<sup>th</sup> Cir. 2001) (quoting *Parrino v. FHP, Inc.*, 146 F.3d 699,  
3 705-06 (9<sup>th</sup> Cir. 1998)). A motion brought under Fed.R.Civ.P. 12(c) is “functionally  
4 identical” to a motion under Fed.R.Civ.P. 12(b)(6) and courts apply the “same standard.”  
5 *Dworkin v. Hustler Magazine, Inc.*, 867 F.2d 1188, 1192 (9<sup>th</sup> Cir. 1989). The “principal  
6 difference” between the two motions “is the tim[ing] of filing.” (*Id.*).

### 7 **1. *Rooker-Feldman***

8 Under *Rooker-Feldman*, “a federal district court does not have subject matter  
9 jurisdiction to hear a direct appeal from the final judgment of a state court.” *Noel v. Hall*,  
10 341 F.3d 1148, 1154 (9<sup>th</sup> Cir. 2003). The doctrine takes its name from two Supreme Court  
11 decisions: *Rooker v. Fidelity Trust*, 263 U.S. 413 (1923) and *District of Columbia v.*  
12 *Feldman*, 460 U.S. 462 (1983).

13 Federal courts must dismiss the complaint “if claims raised in the federal court  
14 action are ‘inextricably intertwined’ with the state court’s decision such that the  
15 adjudication of the federal claims would undercut the state ruling or require the district  
16 court to interpret the application of state laws or procedural rules.” *Bianchi v. Rylaarsdam*,  
17 334 F.3d 895, 898 (9<sup>th</sup> Cir. 2003); *see Worldwide Church of God v. McNair*, 805 F.2d 888,  
18 892 (9<sup>th</sup> Cir. 1986) (“claims are ‘inextricably intertwined’ if the district court must  
19 ‘scrutinize not only the challenged rule itself but the [state court’s] application of the  
20 rule.”). “*Rooker-Feldman* looks to federal law to determine ‘whether the injury alleged by  
21 the federal plaintiff resulted from the state court judgment itself or is distinct from that  
22 judgment.” *Bianchi*, 334 F.3d at 900-01 (quoting *Garry v. Geils*, 82 F.3d 1362, 1365 (7<sup>th</sup>  
23 Cir. 1996)); *see also*, (*id.* at 900) (stating the *Rooker-Feldman* doctrine “does not require  
24 [the federal court] to determine whether or not the state court fully and fairly adjudicated  
25 the constitutional claim. Nor is it relevant whether the state court’s decision is *res judicata*  
26 or creates the law of the case under state law.”).



1 Plaintiffs argued to the Spokane County Superior Court that the actions taken were  
2 unconstitutional, beyond statutory and court rule authority, and were done *ex parte*  
3 without notice or opportunity to be heard by Plaintiffs. *See* (ECF No. 1 at ¶¶34, 46-47).  
4 When their motion was denied, Plaintiffs appealed to the Washington State Court of  
5 Appeals and Washington State Supreme Court. *See* (ECF No. 12-1); *In re Guardianship of*  
6 *Holcomb*, No. 33356-6 (Wash. Ct. App. Div. III); No. 94454-7 (Wash.).

7 Each of Plaintiffs' six causes of action herein challenges the specific acts taken  
8 against Plaintiffs and alleges those acts were unconstitutional. *See* (ECF No. 1 at ¶¶58-67).  
9 Plaintiffs seek damages for "the wrongful damage to the businesses of Hallmark and  
10 Petersen including the wrongful taking, without due process, of all of the Plaintiff's [sic]  
11 goodwill and going concern of their business." (ECF No. 1 at ¶68). To find for Plaintiffs  
12 on any one of their claims, the court would have to evaluate and find the acts of the  
13 Spokane County Superior Court were unconstitutional. Plaintiffs seek to have this court  
14 reverse the decisions of the state court system, which is improper and lies beyond this  
15 court's subject matter jurisdiction. It is immaterial that those arguments were rejected on  
16 procedural grounds on appeal.

17 To the extent Plaintiffs bring new claims for damages, those claims are inextricably  
18 intertwined with the state court decisions. Awarding damages for loss of business  
19 goodwill presumes a finding of unconstitutional conduct by the state court. Such  
20 arguments are indistinguishable from the arguments made in the state proceedings.  
21 Whether Plaintiffs initiated the state court proceedings is immaterial for the *Rooker-*  
22 *Feldman* doctrine, and Plaintiffs cite no cases suggesting otherwise. To the extent the time  
23 to seek modification of the Washington Supreme Court's order denying the motion for  
24 discretionary review has not passed, the fact the appeal may be technically ongoing does  
25 not prevent application of *Rooker-Feldman*. *See In re Birting Fisheries, Inc.*, 300 B.R.  
26 489, 498 n.9 (9<sup>th</sup> Cir. 2003); *In re Metcalf*, 92 Wn. App. 165, 175 n.6 (1998).

1 For all of the above reasons, the court finds this matter should be dismissed as a *de*  
2 *facto* appeal of state court decisions. Any new claims are inextricably intertwined with the  
3 state court decisions and this court could not render judgment for Plaintiffs without  
4 disturbing the findings made by the state courts. Additionally, as shown below, the claims  
5 are subject to dismissal based on judicial immunity.

## 6 **2. Judicial Immunity**

7 “It is well settled that judges are generally immune from suit for money damages.”  
8 *Duvall v. County of Kitsap*, 260 F.3d 1124, 1133 (9<sup>th</sup> Cir. 2001); *see Adkins v. Clark*  
9 *County*, 105 Wn.2d 675, 677 (1986) (“It is well settled judges are immune from liability  
10 for damages from acts committed within their judicial capacity, even if accused of acting  
11 maliciously and corruptly”). “[J]udicial immunity does not apply to non-judicial acts, i.e.  
12 the administrative, legislative, and executive functions that judges may on occasion be  
13 assigned to perform.” *Duvall*, 260 F.3d at 1133; *see Adkins*, 105 Wn.2d at 677-78 (“To  
14 find liability, the actions of the defendant judge must be in clear absence of all  
15 jurisdiction, not simply in excess of jurisdiction.... acts by a judge or judicial officer will  
16 be protected by immunity from civil action for damages if they are intimately associated  
17 with the judicial process.”).

18 “[A] judge will not be deprived of immunity because the action he took was in error  
19 ... or was in excess of his authority.” *Mireles v. Waco*, 502 U.S. 9, 12-13 (1991) (quotation  
20 and citation omitted). “Judicial immunity applies ‘however erroneous the act may have  
21 been, and however injurious in its consequences it may have proved to the plaintiff.’”  
22 *Ashelman v. Pope*, 793 F.2d 1072, 1075 (9<sup>th</sup> Cir. 1986). Judicial immunity is only  
23 overcome if the actions were “nonjudicial actions, *i.e.*, actions not taken in the judge’s  
24 judicial capacity” or were “actions, though judicial in nature, taken in the complete  
25 absence of all jurisdiction.” *Mireles*, 502 U.S. at 11-12.

1 The Ninth Circuit considers four factors to determine whether an act is judicial in  
2 nature: (1) “the precise act is a normal judicial function”; (2) “the events occurred in the  
3 judge’s chambers”; (3) “the controversy centered around a case then pending before the  
4 judge”; and (4) “the events at issue arose directly and immediately out of a confrontation  
5 with the judge in his or her official capacity.” *Duvall*, 260 F.3d at 1133 (quoting *Meek v.*  
6 *County of Riverside*, 183 F.3d 962, 967 (9<sup>th</sup> Cir. 1999)). “These factors are to be construed  
7 generously in favor of the judge and in light of the policies underlying judicial immunity.”  
8 *Ashelman*, 793 F.2d at 1076; *see also*, (*id.*) (“Jurisdiction should be broadly construed to  
9 effectuate the policies supporting immunity”).

10 Washington statutory law states “[a]t any time after establishment of a guardianship  
11 or appointment of a guardian, the court may, upon the death of the guardian or limited  
12 guardian, or, for other good reason, modify or terminate the guardianship or replace the  
13 guardian.... Such action may be taken based on the court’s own motion.” RCW  
14 11.88.120(1)(a); *see In re Hemrich’s Guardianship*, 187 Wn. 21, 26 (1936) (“Acting  
15 under the authority of this statute, the court always has power, under proper  
16 circumstances, to remove a guardian”). “Although governed by statute, guardianships are  
17 equitable creations of the court and it is the court that retains ultimate responsibility for  
18 protecting the ward’s person and estate.” *In re Guardianship of Lamb*, 173 Wn.2d 173,  
19 184 (2011) (quoting *In re Guardianship of Hallauer*, 44 Wn. App. 795, 797 (1986)); *see*  
20 RCW 11.92.010 (“Guardians ... shall at all times be under the general direction and  
21 control of the court making the appointment.”). “The court having jurisdiction of a  
22 guardianship matter is said to be the superior guardian of the ward, while the person  
23 appointed guardian is deemed to be an officer of the court.” *In re Lamb*, 173 Wn.2d at 190  
24 (quoting *Seattle First National Bank v. Brommers*, 89 Wn.2d 190, 200 (1977)).

25 Contrary to Plaintiffs’ argument, the state court could lawfully initiate removal  
26 proceedings against Plaintiffs as guardians. As such, Defendants were not acting “in the

1 clear absence of jurisdiction.” Rather, the Defendants were acting in a normal judicial  
2 function. Whether the statutory procedure was fully followed is immaterial to determine  
3 whether judicial immunity attaches. As there is statutory authority for the court to initiate  
4 removal proceedings, the court finds Defendants acted in a normal judicial function.

5 Plaintiffs admit they “have no idea where these events occurred.” (ECF No. 17 at  
6 8). The fact Plaintiffs lack personal knowledge is not dispositive in determining whether  
7 the events at issue took place in the judge’s chambers. All letters were sent on the Superior  
8 Court letterhead, and the Order Appointing Special Master bore the signature of Judge  
9 Kalama Clark and the seal of the Clerk of the Court. Judge Kalama Clark allegedly stated  
10 the Order was presented *ex parte*. This court has no basis to believe these acts were done  
11 anywhere other than in the state court judge’s chambers. Accordingly, the court finds the  
12 acts occurred within the judge’s chambers.

13 As discussed above, the Spokane County Superior Court had the statutory right to  
14 initiate removal proceedings. *See* RCW 11.88.120(1)(a). The removal proceedings, while  
15 initiated by the court, constitute a case then pending before the court. Plaintiffs’  
16 contentions otherwise are unpersuasive. The fact it was initiated by the court does not  
17 disqualify it as a pending case, nor does the timing thereof change the analysis. Plaintiffs’  
18 claims regarding the failure to follow statutory procedures for removal is not before this  
19 court. *See supra* §(A)(1). For these reasons, the court finds the actions of Defendants  
20 concerned a then-pending case.

21 The court observes the unusual factual history of this case where the state court  
22 proceedings were initiated by the state court and were not in response to a particular  
23 confrontation. However, the fact the matter was initiated by the state court does not make  
24 it any less judicial in nature. *See Ashelman*, 793 F.2d at 1078 (“As long as the judge’s  
25 ultimate acts are judicial actions taken within the court’s subject matter jurisdiction,  
26 immunity applies.”). The entirety of the proceedings were in fact a confrontation with

1 state court judges acting in their judicial capacity. While the state court was the initiator,  
2 this court finds the events at issue were immediately and directly related to acts performed  
3 in a judicial capacity.

4 In light of all of the foregoing, the court finds Defendants are entitled to judicial  
5 immunity. Based on the court's rulings on the *Rooker-Feldman* doctrine and judicial  
6 immunity, the court will not address the other arguments in the Motion to Dismiss.

7 **B. Motion for Fed.R.Civ.P. 11 Sanctions**

8 Defendants' Motion for Sanctions argues: (1) "Plaintiffs' claims are not warranted  
9 by existing law or by a nonfrivolous argument for modifying or reversing existing law";  
10 and (2) "[a]ny attorney conducting a reasonable inquiry of the law before filing these  
11 claims would have discovered that they are legally baseless." (ECF No. 18 at 3). Plaintiffs  
12 assert the Motion for Sanctions "is a red herring - an attempted distraction by a party who  
13 is terrified of the facts that will come out through discovery in the course of this action."  
14 (ECF No. 19 at 10). The majority of the parties' briefs re-argue the merits of the claims  
15 addressed at length in the Motion to Dismiss briefing.

16 In the Reply, Defendants, for the first time, cite 42 U.S.C. § 1988 as a basis for an  
17 award of attorney's fees. *See* (ECF No. 22 at 2). The court will not consider this basis  
18 because it was not raised in the Motion for Sanctions and because Defendants do not  
19 otherwise argue or establish a basis for an award pursuant to that statute.

20 "By presenting to the court a pleading, written motion, or other paper ... an attorney  
21 ... certifies that to the best of the person's knowledge, information, and belief, formed after  
22 an inquiry reasonable under the circumstances: (1) it is not being presented for any  
23 improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the  
24 cost of litigation; [and] (2) the claims, defenses, and other legal contentions are warranted  
25 by existing law or by a nonfrivolous argument for extending, modifying, or reversing  
26 existing law or for establishing new law." Fed.R.Civ.P. 11(b)(1)-(2). When the complaint

1 is the focus of a motion brought pursuant to Fed.R.Civ.P. 11, “a district court must  
2 conduct a two-prong inquiry to determine (1) whether the complaint is legally or factually  
3 baseless from an objective perspective, and (2) if the attorney has conducted a reasonable  
4 and competent inquiry before signing and filing it.” *Holgate v. Baldwin*, 425 F.3d 671,  
5 676 (9<sup>th</sup> Cir. 2005) (quotation marks and citation omitted). For this test, the term  
6 “frivolous” means “a filing that is *both* baseless *and* made without a reasonable and  
7 competent inquiry.” (*Id.*) (emphasis in original) (citation omitted).

8 As discussed at length *supra*, the court found Plaintiffs’ claims barred under the  
9 *Rooker-Feldman* doctrine and by judicial immunity. While Defendants are clearly entitled  
10 to dismissal of Plaintiffs’ claims, the court does not find Plaintiffs’ claims are baseless or  
11 frivolous. The fact defense counsel did not raise *Rooker-Feldman* until the court brought it  
12 to counsel’s attention demonstrates the claims were not objectively baseless. The court  
13 does not find counsel failed to conduct a reasonable inquiry before filing the Complaint.

### 14 **III. Conclusion**

15 Plaintiffs’ claims herein are the same and inextricably intertwined with those made  
16 in the Washington state court proceedings. Plaintiffs’ arguments against application of the  
17 *Rooker-Feldman* doctrine are unavailing. Additionally, Defendants are entitled to judicial  
18 immunity. While the court finds dismissal appropriate, the court does not find Plaintiffs’  
19 claims frivolous or baseless. Accordingly, the Motion to Dismiss is Granted and the  
20 Motion for Sanctions is Denied.

#### 21 **IT IS HEREBY ORDERED:**

- 22 1. The Motion to Dismiss (ECF No. 11) is **GRANTED** as set forth herein.
- 23 2. The Motion for CR 11 Sanctions (ECF No. 18) is **DENIED** as set forth  
24 herein.

1 3. The Clerk is directed to enter Judgment dismissing the Complaint (ECF No.  
2 1) and the claims therein **WITH PREJUDICE** and without costs or  
3 attorneys' fees to any party.

4 **IT IS SO ORDERED.** The Clerk is hereby directed to enter this Order and  
5 Judgment, furnish copies to counsel, and close this file.

6 Dated July 27, 2017.

7 s/ Justin L. Quackenbush  
8 JUSTIN L. QUACKENBUSH  
9 SENIOR UNITED STATES DISTRICT JUDGE

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