IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT COURT OF MARYLAND

LATASHA ROUSE, et al,	*	
Plaintiffs,	*	
v.	*	CIVIL NO. JKB-22-0129
WES MOORE, et al.,	*	
Defendants.	*	

* * * * * * * * * * * * *

MEMORANDUM IN SUPPORT OF
MOTION TO DISMISS PLAINTIFFS' AMENDED COMPLAINT

Defendants Wes Moore, sued solely in his official capacity as the Governor of the State of Maryland (the "Governor"), and the Honorable Matthew Fader, the Honorable Steven B. Gould, the Honorable Byrnja M. Booth, the Honorable Shirley M. Watts, the Honorable Michele D. Hotten, the Honorable Jonathan Biran, and the Honorable Angela M. Eaves, sued solely in their official capacities as Justices of the Supreme Court of Maryland (the "Justices"), (collectively hereinafter the "State"), move to dismiss Plaintiffs' amended complaint and provide this memorandum of law in support.

Respectfully Submitted,

ANTHONY G. BROWN
Attorney General of Maryland

/s/ Rachel L. Stewart
RACHEL L. STEWART
Federal Bar No. 27352
Kevin M. Cox
Federal Bar No. 29012
Assistant Attorneys General

200 St. Paul Place, 20th Floor
Baltimore, Maryland 21202
rstewart@oag.state.md.us
kcox@oag.state.md.us
(410) 576–7934 (telephone)
(410) 576–6393 (facsimile)

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Attorneys for Defendants

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INTRODUCTION

This case concerns whether the Governor and the Justices of Maryland—which is one of 48 states that have adopted the Uniform Enforcement of Foreign Judgments Act ("UEFJA")[1] and have similar relevant collection laws—may be sued for allegedly violating the Servicemembers Civil Relief Act ("SCRA" or the "Act"), 50 U.S.C. § 3901, *et seq*., for not requiring in their official capacities judgment creditors who register foreign judgments in Maryland to file a servicemember affidavit when registering a foreign judgment from another state or when attempting to collect on domesticated judgments in Maryland, and for not appointing counsel if a debtor is an active-duty servicemember. Plaintiffs seek a novel and unsupported interpretation of the law that will upend decades of law and practice throughout the country. This is especially true considering that not even the SCRA applies the affidavit and assignment of counsel provisions to the execution of judgments. Rather, such provisions are only required under the SCRA when obtaining default judgments.

Plaintiffs recently settled their claims against their former Defendant/creditor, George LeMay ("LeMay"), for a sum exceeding six times the registered foreign judgments against them and have been fully compensated. Yet, Plaintiffs maintain their case against the Governor and recently added the Justices not because they violated the SCRA, but because Plaintiffs are merely unhappy with the laws of Maryland and the Maryland Rules and wish for them to be changed. Instead of seeking to change Maryland law and the Maryland Rules through the proper legislative and rule-making process, Plaintiffs continue their pursuit against

[1] While California and Vermont have not adopted the UEFJA, their laws likewise do not support Plaintiffs' strained interpretation of the relevant law here.

the State for money damages and equitable relief. For reasons ranging from immunity to Plaintiffs' misinterpretation of the law, this case should be dismissed.

Plaintiffs were three active-duty servicemembers and their respective dependent spouses who are residents of states outside of Maryland. LeMay obtained default judgments against Plaintiffs in the state courts of Nevada or Texas. Plaintiffs believe that LeMay engaged in fraudulent activity relating to the underlying consumer transactions leading to the default judgments. Thereafter, LeMay registered/enrolled the default judgments in the District Court of Maryland (the "District Court") as foreign judgments pursuant to the UEFJA and Section 11-801 of the Courts and Judicial Proceedings Article of the Maryland Annotated Code.

When registering the foreign judgments in the District Court LeMay did not file an affidavit with the District Court certifying whether Plaintiffs are active-duty servicemembers. Plaintiffs assert that LeMay was required to under the SCRA, and that the Governor and the Justices are somehow responsible for LeMay not being required to under the UEFJA and the Maryland Rules. Plaintiffs also claim that their due process rights were violated by the UEFJA and the Maryland Rules because the UEFJA and the Maryland Rules permit the registration of foreign judgments and collection activities in the absence of minimum contacts with Maryland. LeMay then attempted to collect on the registered foreign judgments through Maryland's garnishment proceedings which, again, Plaintiffs assert that the State is liable. Plaintiffs desire that the State be liable for the registration of the foreign judgment, the issuance of writs of garnishment, judgments entered on writs of garnishment, and subpoenas issued in aid of execution of the foreign judgments under the SCRA's private right of action provision, 50 U.S.C. § 4042.

All registered foreign judgments by LeMay against Plaintiffs in Maryland—and, presumably in the originating states—have been vacated and there are no pending collection proceedings. It is also unclear whether LeMay collected/received any of Plaintiffs' money. What is clear, however, is that the Governor and the Justices never had any connection with Plaintiffs and there is no live case or controversy between them making the State liable.

The State is entitled to dismissal of the amended complaint for the following reasons: (1) the SCRA does not apply to the registration of foreign judgments or ancillary collection efforts; (2) Maryland is required to provide full faith and credit to judgments of other states and Maryland courts are not required to have personal jurisdiction over a judgment debtor for registration of a foreign judgment or related collection efforts; (3) the SCRA does not preempt the UEFJA or the Maryland Rules on collection of judgments; (4) Plaintiffs' claim is barred by (a) Eleventh Amendment immunity, (b) legislative immunity; (c) judicial immunity; and (d) the *Rooker-Feldman* doctrine; (5) Plaintiffs' claims are moot and they lack standing; and (6) this Court should decline jurisdiction relating to declaratory relief.

STATEMENT OF FACTS

The SCRA

The SCRA requires the filing of an affidavit of the defendant's military service ***prior*** to entry of a ***default judgment*** against a defendant in a civil action or proceeding. 50 U.S.C. § 3931(a), (b)(1). The section of the statute at issue is titled "Protection of servicemembers against ***default*** judgments"[2] (emphasis added) and provides, in relevant part, as follows:

[2] Tellingly, the phrase "default judgments" is in the title of the statute and the phrase "foreign judgments" is not included anywhere in the SCRA statutory scheme. No known case or statute holds that the SCRA applies to the registration of foreign judgments. Plaintiffs'

> **(a) Applicability of section**
>
> This section applies to any civil action or proceeding, including any child custody proceeding, in which the defendant does not make an appearance.
>
> **(b) Affidavit requirement**
>
> **(1) Plaintiff to file affidavit**
>
> In any action or proceeding covered by this section, the court, before entering judgment for the plaintiff, shall require the plaintiff to file with the court an affidavit—
>
> **(A)** stating whether or not the defendant is in military service and showing necessary facts to support the affidavit; or
>
> **(B)** if the plaintiff is unable to determine whether or not the defendant is in military service, stating that the plaintiff is unable to determine whether or not the defendant is in military service.
>
> **(2) Appointment of attorney to represent defendant in military service**
>
> If in an action covered by this section it appears that the defendant is in military service, the court may not enter a judgment until after the court appoints an attorney to represent the defendant. If an attorney appointed under this section to represent a servicemember cannot locate the servicemember, actions by the attorney in the case shall not waive any defense of the servicemember or otherwise bind the servicemember.

50 U.S.C. § 3931(a), (b)(1) (bolding in original).

The SCRA creates a private cause of action for violations of the SCRA. 50 U.S.C. § 4042. Section 4042, titled, "Private right of action," allows for equitable or declaratory relief, "all other appropriate relief, including money damages," and attorneys' fees and costs. *Id.* When the Act is viewed as a whole, the SCRA's private right of action provision was meant

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counsel has been repeatedly requested to provide any known rule or statute and has likewise been unable to locate any.

to serve as a deterrent to creditors like LeMay.[3] Specifically, aggrieved servicemembers may sue plaintiff creditors for violations of the SCRA when attempting to obtain default judgments. Section 4042 was not meant, however, to apply to courts, court clerks, trial judges, governors, and appellate judges when not acting in an official capacity solely as creditors because, for example, how could governors and appellate judges possibly violate the plain language of § 3931(b) of the SCRA under such circumstances?

The UEFJA

The UEFJA outlines a procedure by which a judgment creditor files an authenticated copy of a judgment entered by a federal or state court along with an affidavit providing the last known address information of both the judgment creditor and judgment debtor. Md. Code Ann., Cts. & Jud. Proc. §§ 11-801 through 803(a) ("Cts. & Jud. Proc."). The clerk of the court in which the foreign judgment is filed is required to then send a notice of the filing of the foreign judgment to the judgment debtor. *Id.* at § 11-803(b); Md. Rules 2-623(a)(2), 3-623(b). The registering of a foreign judgment in Maryland is not the creation of a new judgment in Maryland and does not require the filing of a new action, but rather it is the act of domesticating the judgment of a sister state.[4] *See e.g.*, Md. Trial Judges' Benchbook, Civ. Proc. (1999), The

[3] No known case or statute recognizes a private cause of action under the SCRA against anyone other than a creditor, especially a governor or appellate judges.

[4] "An application for registering a foreign judgment [under the UEFJA] does not require a court order as a condition precedent to registration." Wash. AGO 1953-55 NO. 97 (Wash. A.G.), 1953 WL 45099 (citing 50 C.J.S. 495 and 496, Judgments, section 892 and recognizing that "'The enforcement in one state of a judgment of another state is in pursuance of the constitutional provision' [Article IV, section 1, United States Constitution] 'for giving 'full faith and credit' to such judgments, which requires the states to afford like means of enforcing foreign and domestic judgments'").

Md State Bar Assoc., Inc., § 2-710 Foreign Judgments, MTJB MD-CLE CI-3, (under the UEFJA, "it is not necessary to file an independent action in the State upon a foreign judgment entitled to full faith and credit; the foreign judgment is to be filed in the District Court . . . and notice thereof is to be given to the judgment debtor.") (emphasis added).

Plaintiffs claim that the UEFJA violates the SCRA because Maryland does not require the judgment creditor to file a military service affidavit and the State court to appoint counsel to the debtor at the time of registering the foreign judgment. (ECF No. 42, Am. Compl. ¶¶ 50, 71, 123, 158, 171.) However, the affidavit and appointment of counsel requirements of the SCRA, 50 U.S.C.A. § 3931(b), do not apply to the domestication of a foreign judgment. 50 U.S.C. § 3931(a), (b)(1).

The Plaintiffs and Their Underlying Foreign Judgment Cases with LeMay

There are three pairs of married Plaintiffs: (1) the Rouses; (2) the Rileys; and (3) the Davines. What the three set of Plaintiffs have in common is that LeMay obtained judgments against Plaintiffs in sister states to Maryland (Texas and Nevada) and then recorded/enrolled and attempted to collect on those foreign judgments in Maryland's District Court. (ECF No. 42 ¶¶ 3, 53, 62, 77, 86, 129, 142.)

The Rouses

The foreign judgment against the Rouses was registered in Maryland on June 21, 2021. Exhibit 1 at 1; Exhibit 2 at 1. The total amount was $2,688.64. Exhibit 1 at 2. On July 9, 2021, the Rouses filed a motion to vacate. *Id.* at 3. The basis of the motion was that LeMay defrauded the Rouses into entering a fraudulent debt and that LeMay did not fulfill his contractual obligation(s) by failing to provide the product(s) purchased by the Rouses. *See*

Exhibit 3; (ECF No. 42 ¶¶ 33-34).

Less than one-month later, on July 19, 2021, the registering of the foreign judgment was vacated. Exhibit 1 at 4. The underlying case of the Rouses in Maryland was, therefore, closed as quickly as it was filed. *Id.* at 2. The case was open for less than 30 days. *Id.*

Additionally, on July 13, 2021, Plaintiffs' counsel in the instant case entered his appearance on behalf of the Rouses and filed a motion to dismiss, claiming among other things that the original judgment was void. *Id.* at 1, 3, 4. Thus, Plaintiffs' counsel in this case also represented the Rouses in LeMay's collection of foreign judgment action against the Rouses. *Id.* The Governor and the Justices also had no involvement with the Rouses. Exhibit 1.

The Rileys

The foreign judgment against the Rileys was registered in Maryland on August 12, 2020. Exhibit 4 at 1; Exhibit 5 at 1. The total amount was $4,964.44. Exhibit 3. On July 26, 2021, the Rileys filed a motion to dismiss based on fraudulent activities of LeMay, which argued that the there was no existing underlying foreign judgment. Exhibit 6 at 1. Like the Rouses, the Rileys also argued that LeMay defrauded the Rileys into entering a fraudulent debt and that LeMay did not fulfill his contractual obligation(s) by failing to provide the product(s) purchased by the Rileys. *See id.* at 12.

On September 30, 2021, Plaintiffs' counsel in the instant case entered his appearance on behalf of the Rileys. Exhibit 4 at 1, 6. Thus, Plaintiffs' counsel in this case also represented the Rileys in LeMay's collection of foreign judgment action against the Rileys. *Id.* On October 1, 2021, the Rileys' July 26, 2021, motion to dismiss was granted. Subsequent motions to vacate garnishments of property were likewise granted. *Id.*at 8. The Governor and the Justices

had no involvement with the Rileys. Exhibit 4.

The Davines

The foreign judgment against the Davines was registered in Maryland on June 30, 2020. Exhibit 7 at 1; Exhibit 8 at 1. The total amount was $4,771.81.[5] Exhibit 7 at 2. On November 24, 2021, Plaintiffs' counsel in the instant case entered his appearance on behalf of the Davines and filed a motion to dismiss, claiming among other things that the original judgment was void. *Id.* at 2, 4. Thus, Plaintiffs' counsel in this case also represented the Davines in LeMay's collection of foreign judgment action against the Davines. *Id.* LeMay then filed a motion to dismiss and vacate on January 4, 2023, which was nearing the time of the settlement conference in the instant case. *Id.* at 5; (ECF No. 37 ¶ 1.) That order was granted, and the case was closed on January 31, 2023. Exhibit 7 at 1, 5. The Governor and the Justices had no involvement with the Davines. Exhibit 7.

Procedural History of the Instant Lawsuit

Plaintiffs filed their original complaint on January 18, 2022. (ECF No. 1.) They initially only sued LeMay and the Governor. (*Id.*) Plaintiffs' claims against LeMay were for violations of the SCRA and Maryland consumer protection laws. (*Id.* at 33-40.) Plaintiffs' claims against the State were under the Supremacy Clause and the SCRA for alleged violations of the SCRA. (*Id.* at 41-46.)

On June 3, 2022, the State filed a motion to dismiss, arguing in part that Plaintiffs' claims were barred by Eleventh Amendment immunity and that the SCRA does not operate as

[5] Collectively, the three foreign judgments registered by LeMay against all three pairs of Plaintiffs in Maryland total $12,424.89.

Plaintiffs alleged. (ECF Nos. 23, 23-1.) LeMay adopted the State's motion. (ECF No. 29.) Plaintiffs responded by requesting leave to amend. (ECF No. 28-1.)

On August 29, 2022, the Parties requested referral of the case to a magistrate judge for a settlement conference. (ECF No. 30.) That request was granted. (ECF No. 31.) On January 24, 2023, the Parties attended a settlement conference before then Magistrate Judge Matthew J. Maddox. (ECF No. 37.) Plaintiffs settled their claims against only LeMay. (*See* ECF Nos. 37, 40-1.)

Being unsatisfied with only suing the Governor, Plaintiffs amended their complaint on March 3, 2023, to include the Justices. (ECF No. 42.) This motion to dismiss follows.

Plaintiffs' Claim in the Amended Complaint

Plaintiffs essentially claim in their 56-page amended complaint that the SCRA requires judgment creditors to file an affidavit certifying to the court whether judgment debtors are active-duty service members when filing foreign judgments or attempting to collect on foreign judgments. They further claim that the UEFJA violates the SCRA because Maryland does not appoint counsel to debtors at the time of registering of foreign judgments. (ECF No. 42, Am. Compl. ¶¶ 50, 71, 123, 158, 171.) Plaintiffs further claim that the SCRA preempts the UEFJA, rendering it inapplicable, and that the UEFJA violates Plaintiffs' due process rights as it allows the registration of foreign judgments and collection efforts in Maryland where Plaintiffs allegedly do not have any contacts. (*Id.* ¶ 52.)

The amended complaint contains one count. (*Id.* at 49.) Plaintiffs specifically sue under the "Supremacy Clause, U.S. Const. Art. VI" and the SCRA and its private cause of action provision. (*Id.*)

Plaintiffs assert that the Governor, who may recommend (not create) legislation for the Maryland General Assembly's consideration, and the Justices, who have the authority to make changes to the Maryland Rules, are liable for alleged violations of the SCRA and because Plaintiffs want Defendants to change Maryland law and the Maryland Rules. (See ECF No. 42, ¶¶ 27-29.) They seek preliminary and permanent injunctive and declaratory relief, including reasonable attorneys' fees and costs, against the State. (*Id.* at 55.) They also want the Governor and the Justices to expunge Plaintiffs' Maryland cases. (*Id.*) Finally, in addition to the substantial settlement received from LeMay, each pair of Plaintiffs further seek monetary damages against the State in excess of $75,000. (*Id.* at 56.)

ARGUMENT

I. STANDARD OF REVIEW.

A. Motion to Dismiss Pursuant to Federal Rule of Civil Procedure 12(b)(1).

A motion to dismiss under Federal Rule of Civil Procedure 12(b)(1) for lack of subject matter jurisdiction challenges a court's authority to hear the matter alleged in a complaint. *See Davis v. Thompson*, 367 F. Supp. 2d 792, 799 (D. Md. 2005); *see e.g., Davani v. Virginia Dept. of Transp.*, 434 F.3d 712 (4th Cir. 2006) (reviewing dismissal of the plaintiff's claims under the *Rooker-Feldman* doctrine for lack of subject matter jurisdiction). Under Rule 12(b)(1), Plaintiffs bear the burden of proving, by a preponderance of the evidence, the existence of subject matter jurisdiction. *Demetres v. East West Const., Inc.*, 776 F.3d 271, 272 (4th Cir. 2015). A challenge to jurisdiction under Rule 12(b)(1) may proceed as a facial challenge, asserting that the allegations in the complaint are insufficient to establish subject matter jurisdiction. *Kerns v. United States*, 585 F.3d 187, 192 (4th Cir. 2009) (citation omitted).

B. Motion to Dismiss Pursuant to Federal Rule of Civil Procedure 12(b)(6).

A motion to dismiss for failure to state a claim is governed by Federal Rule of Civil Procedure 12(b)(6), which authorizes the dismissal of a complaint if it fails to state a claim upon which relief can be granted. To survive a motion under Rule 12(b)(6), a complaint must contain facts sufficient to "state a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007); *Ashcroft v. Iqbal*, 556 U.S. 662, 684 (2009). "A motion to dismiss will be granted if there is either a 'lack of cognizable legal theory' or 'the absence of sufficient facts alleged under a cognizable legal theory.'" *Quraishi v. Shalala*, 962 F. Supp. 55, 57 (D. Md. 1997) (citation omitted). Dismissal is appropriate when the defect appears on the face of the complaint and will be with prejudice when there is no remedy to be had by an amendment of the complaint. *Id.*

When ruling on a motion to dismiss, courts may consider documents explicitly incorporated into the complaint by reference or documents that are integral to the complaint and authenticity is undisputed. *Goines v. Calley Cmty. Servs. Bd.*, 822 F.3d 159, 166 (4th Cir. 2016) (citing *Tellabs, Inc. v. Makor Issues & Rights, Ltd.*, 551 U.S. 308, 322 (2007 and *Sec'y of State for Defense v. Trimble Nav. Ltd.*, 484 F.3d 700, 705 (4th Cir. 2007)). Considering such documents does not convert a motion to dismiss to a summary judgment. *Goldfarb v. Mayor & City Council of Baltimore*, 791 F.3d 500, 508 (4th Cir. 2015).

II. THE SCRA DOES NOT APPLY TO THE UEFJA OR ANCILLARY COLLECTION EFFORTS ON A REGISTERED FOREIGN JUDGMENT.

A. Maryland Must Provide Full Faith and Credit to Other States.

Maryland is required to provide full faith and credit to judgments of other states. U.S. Const. Art. IV, § 1; *Hampton v M'Connel*, 16 US 234, 235 (1818). To streamline the

registration of another state's judgments, Maryland, like 48 other states,[6] adopted the UEFJA. Cts. & Jud. Proc. § 11-801, *et seq*.; *Stevenson v. Edgefield Holdings, LLC*, 244 Md. App. 604, 613-14 (Md. App. 2020) (acknowledging purpose of UEFJA). Failure to register or put limitations on the registration of foreign judgments would violate the Constitution.[7] Interestingly, Plaintiffs' argument is that the procedural requirements of compliance with the SCRA (a federal law) trumps the requirement under the United States Constitution that requires states to provide full faith and credit to judgments of sister states.

B. Basic Tenets of Statutory Construction Confirm the SCRA Does Not Apply to the UEFJA.

The court's objective when interpreting a statute is "to ascertain and implement the intent of Congress," which "can most easily be seen in the text of the Acts it promulgates." *Broughman v. Carver*, 624 F.3d 670, 674–75 (4th Cir. 2010). Where Congress has not defined a term, courts are "bound to give the word its ordinary meaning unless the context suggests otherwise." *Aziz v. Alcolac, Inc.*, 658 F.3d 388, 392-393 (4th Cir. 2011).

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[6] "Enforcement of Foreign Judgments Act". Uniformlaws.org. (last visited Apr. 4, 2023).

[7] "Even though 'full faith and credit' is mandatory, the states have never wholly resolved the problem of its implementation." The UEFJA "settles one of those problems." *See supra* note 5 at "Summary". Without the UEFJA, "a person who obtains a valid judgment of a court in one state likely will have to re-litigate the enforcement of that judgment in any other state. Such a state of affairs clearly violates the spirit of 'full faith and credit' and is a burden on those who have obtained a judgment in one state and who must take it to other states for enforcement for whatever reason." *Id.* A state that enacts the UEFJA "permits enforcement of a judgment of another state upon the mere act of filing it in the office of a Clerk of Court. The act of filing the foreign judgment gives it the effect of being a judgment of the court in the state in which it is filed. The process of enforcement then goes forward as if the judgment is a domestic one." *Id.*

The plain language of the pertinent provision of the SCRA does not support the application of the SCRA to the UEFJA and Plaintiffs' strained interpretation. The SCRA refers to "plaintiff" and "defendant." *Id*. At the time of filing a foreign judgment under the UEFJA, there are no "plaintiffs" or "defendants" as the rights of the parties have already been adjudicated. The UEFJA, refers to a "judgment creditor" and a "judgment debtor." Cts. & Jud. Proc. §§ 11-803, 804 and 805.

Further, the UEFJA refers to the *filing* of a "foreign judgment" which is defined as a "judgment, decree, or order of a court . . . that is entitled to full faith and credit in this State." Cts. & Jud. Proc. §§ 11-801, 802. The UEFJA applies to a judgment that has already been entered by another court and is simply given credit or effect in Maryland. On the other hand, the provision of the SCRA at issue applies to matters upon which a judgment has not yet been entered. *See* 50 U.S.C. § 3931.

In addition, the purpose of the SCRA is not furthered by applying it to the UEFJA. The SCRA provides procedures to protect servicemembers in civil actions or proceedings which require the attendance of a "defendant" before entry of a default judgment. 50 U.S.C. § 3931 (a), (b). The requirements of an affidavit and assignment of counsel are for the "protection of servicemembers against default judgments". 50 U.S.C. § 3931(b).

Alternatively, the UEFJA only provides a procedure for the filing of the foreign judgment once the plaintiff—who presumably complied with the SCRA and which was confirmed in the originating/foreign state court—obtained a judgment and became a judgment creditor. *See* Cts. & Jud. Proc. § 11-803. To require a judgment creditor to file a second affidavit of a former defendant/now judgment debtor's military service status and to require

state courts to appoint counsel to the debtor does not prevent the entry of a judgment against a servicemember (who does not have an opportunity to defend himself in light of his military service) as the judgment has already been entered. The only purpose served in imposing an affidavit requirement in registering a foreign judgment would be to interfere with the full faith and credit clause of the United States Constitution and thwart a judgment creditor's efforts to collect on a judgment.

C. No State or Federal Court Agrees with Plaintiffs' Strained Interpretation and Attempted Application of the SCRA to the UEFJA.

The interpretation or application of the SCRA's affidavit and appointment of counsel provisions to registration of foreign judgments advocated by Plaintiffs is not supported by any state or the federal court. No state court rule or statute known to undersigned counsel includes any reference to the SCRA or incorporates any similar protections for servicemembers when registering a foreign judgment. Likewise, 28 U.S.C. § 1963, which controls the registration of judgments from other districts in federal court, also does not include any similar provision as set forth in the SCRA nor any reference to compliance with the SCRA when registering a judgment. Exhibit 9. Thus, Plaintiffs urge this Court to find the State liable for not only following the practice and procedure of 47 other states in terms of registering and collecting on foreign judgments, but also for following what *this* Court does.

D. The SCRA is Inapplicable to Maryland's Enforcement Proceedings.

Similarly, the SCRA is inapplicable to Maryland's enforcement of judgment proceedings. Enforcement of a money judgment may only be had in accordance with the Maryland Rules and statutes. Md. Rules 2-631, 3-631. The Maryland Rules provide methods of execution on real and personal property and garnishments on wages and bank accounts. *See*

generally Md. Rules 2-641 through 2-646, 3-641 through 3-646.

Money judgment enforcements are not civil cases or proceedings to which a defendant servicemember need appear. *See Mensah v. MCT Fed. Credit Union*, 446 Md. 525, 533 (2016) (garnishment proceedings are ancillary matters and not new causes of action) (citing *Medical Mut. Liability Ins. Soc. of Maryland v. Davis*, 389 Md. 95, 117 (2005)). Furthermore, the procedures for executing upon money judgments do not include entry or the risk of entry of default judgments against a former defendant/judgment debtor.[8] Rather, it is a procedure used to satisfy an already existing judgment. *See Davis*, 389 Md. at 171. Moreover, enforcement procedures are between the judgment creditor and the party in possession of the judgment debtor's asset which is the subject of the levy or garnishment. *Id.* Accordingly, the SCRA both in form and purpose does not apply to judgment enforcement proceedings.

E. The SCRA has a Separate Provision for Collection of Judgments.

That Section 3931 of the SCRA—the affidavit and appointment of counsel provision—is not intended to apply to the registration or collection of foreign judgments is further supported by the fact that the SCRA has a *separate provision* which provides protections to servicemembers in the *collection* of judgments. 50 U.S.C. § 3934, entitled "Stay or vacation of execution of judgments, attachments, and garnishments," provides, in relevant part, as follows:

[8] Plaintiffs refer to the entry of a judgment in a garnishment proceeding. (ECF No. 42 ¶ 50). Presumably, they are referring to a judgment on a garnishment which is entered against a garnishee (*e.g.*, a bank), not the judgment debtor. *See* Md. Rules 2-645(j), 3-645(j).

> **(a) Court action upon material affect determination**
>
> If a servicemember, in the opinion of the court, is materially affected by reason of military service in complying with a court judgment or order, the court may on its own motion and shall on application by the servicemember—
>
> > **(1)** stay the execution of any judgment or order entered against the servicemember; and
> >
> > **(2)** vacate or stay an attachment or garnishment of property, money, or debts in the possession of the servicemember or a third party, whether before or after judgment.

50 U.S.C. § 3934 (bolding in original).

A similar provision is included in Section 3931(g) of the SCRA, which provides for the voiding of judgments entered in violation of the default judgment protections. 50 U.S.C. § 3934(g). Had Congress intended for the affidavit and assignment of counsel provisions to apply to the execution/collection of judgments, then Congress would have explicitly stated.

III. THE UEFJA AND ENFORCEMENT OF REGISTERED JUDGMENTS DO NOT VIOLATE THE DUE PROCESS RIGHTS OF OUT-OF-STATE JUDGMENT DEBTORS.

Plaintiffs claim that the registration of a foreign judgment and concomitant collection efforts violate the due process clause of the Fourteenth Amendment as they allow for a deprivation of the rights of a judgment debtor without requiring the judgment debtor to have sufficient minimum contacts with the registering state so as not to offend traditional notions of justice and fair play required by *Int'l Shoe Co. v. Washington*, 326 U.S. 316 (1945). (ECF No. 42, ¶ 42.) As the judgment rendering state would have been required to satisfy *International Shoe* and protect the now judgment debtor's due process rights prior to entering the judgment against the debtor, there is no requirement of personal jurisdiction over the judgment debtor in the registration of an already existing judgment or enforcement of that

judgment between a garnishor and a garnishee.

Although the issue of the application of a judgment debtor's due process to the registration of a foreign judgment in Maryland under the UEFJA has arguably not been specifically decided by the federal or Maryland courts, guidance can be found in the analysis of the issue with respect to the parallel federal statute. The UEFJA is modeled after 28 U.S.C. § 1963, which similarly allows for the registration of money judgments entered in federal courts in other federal districts. *Weiner v. Blue Cross of Maryland, Inc.*, 730 F. Supp. 674, 677 (D. Md. 1990), *aff'd sub nom. Weiner v. Blue Cross & Blue Shield of Maryland, Inc.*, 925 F.2d 81 (4th Cir. 1991).

In registering a federal court judgment in another district (*i.e.*, a foreign judgment), the Ninth Circuit held that the filing forum does not have to have personal jurisdiction over the judgment debtor. *Fidelity National Financial, Inc. v. Friedman*, 935 F.3d 696 (9th Cir. 2019). Judge Richard D. Bennett of this Court considered *Fidelity National* and other courts that had come to the same conclusion and held that the court in which the judgment is registered need not have personal jurisdiction over the judgment debtors for a judgment to be registered. *USCC Distribution Co., LLC v. G&S Wireless, LLC*, No. CV RDB-21-0329, 2021 WL 2315456 (D. Md. June 7, 2021). This Court found in *G&S Wireless* that the absence of personal jurisdiction over the judgment debtor was both supported by the plain language of the statute and the purpose. *Id.* at *2.

Like the federal filing of foreign judgments, the UEFJA only requires the filing of an authenticated copy of a judgment to register the judgment in Maryland. Cts. & Jud. Proc. § 11-802(a)(1). Both the plain language and the purpose of the UEFJA support a finding that no

personal jurisdiction over the judgment debtor is needed to file a judgment in Maryland. Neither the plain language of the statute nor the purpose in providing a streamlined procedure for registering judgments would be served by requiring personal jurisdiction before filing.

The issue of registration and enforcement of a foreign judgment was also discussed by the Supreme Court in *Shaffer v. Heitner*, 433 U.S. 186 (1977). The Court stated, in *dicta*, that the presence of a judgment debtor's assets in the forum provides a jurisdictional basis for proceedings to enforce a previously rendered foreign judgment, even if the forum state and the defendant's property therein had no connection to the claim underlying the judgment. Specifically, the Court stated that "Once it has been determined by a court of competent jurisdiction that the defendant is a debtor of the plaintiff, there would seem to be no unfairness in allowing an action to realize on that debt in a State where the defendant has property." *Id.* at 210, n. 36. This was true "whether or not that State would have jurisdiction to determine the existence of the debt as an original matter." *Id.* The Court further stated that "a wrongdoer 'should not be able to avoid payment of his obligations by the expedient of removing his assets to a place where he is not subject to an in personam suit.'" *Id.* at 210 (citation omitted). To allow otherwise would render a judgment debtor "judgment proof" by simply moving his assets to a state where the court lacked *in personam* jurisdiction.[9]

[9] Whether due process requirements are satisfied with respect to registration and enforcement of foreign judgments was also questioned but not decided in two Maryland appellate cases. *Livingston v. Naylor*, 173 Md. App. 488, 495, 499-500 (2007) (acknowledging the Supreme Court's statements in *Shaffer* and noting that other courts decided that personal jurisdiction was not needed in registering and/or enforcing a judgment against a debtor who had property in the state); *Mensah v. MCT Federal Credit Union*, 446 Md. 525, 542, 526-27 (2016) (finding due process was satisfied and that a judgment creditor could enforce judgments against a non-resident judgment debtor without personal jurisdiction over the debtor when the judgments were obtained in Maryland but at the time of enforcement the judgment debtor was

To require personal jurisdiction over every judgment debtor when registering foreign judgments would be to ignore the full faith and credit due to a sister state's judgments as well as ignore the language and purpose of the UEFJA. Furthermore, it would potentially render any money judgment uncollectible as it would allow judgment debtors to move assets (which could be used to satisfy judgments) to states that do not have personal jurisdiction over the judgment debtor. The Supreme Court in *Shaffer* recognized this risk and affirmatively stated that allowing registration and collection of a judgment in a state that did not have personal jurisdiction over the debtor was proper. 433 U.S. at 210, n. 36. Accordingly, a judgment debtor's due process rights are not violated by the registration of a judgment and enforcement in a state without jurisdiction over the debtor.

IV. THE SCRA DOES NOT PREEMPT THE UEFJA OR THE MARYLAND RULES ON ENFORCEMENT OF JUDGMENTS BECAUSE THEY DO NOT CONFLICT.

Plaintiffs claim that the SCRA preempts the UEFJA thereby invalidating the UEFJA. (ECF No. 42, Am. Compl. ¶ 52.)[10] In the absence of specific preemption language in the

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no longer a Maryland resident); *see also Desiano v. Envision Foods, Inc.*, No. SUCV201600713C, 2017 WL 4872545, at *4 (Mass. Super. Sept. 21, 2017) (same, citing to 15 cases in support).

[10] Besides the SCRA, Plaintiffs sole count is also brought under the "Supremacy Clause, U.S. Const. Art. VI." (ECF No. 42, 49.) However, the Supremacy Clause "does not create a cause of action. It instructs courts what to do when state and federal law clash, but is silent regarding who may enforce federal laws in court, and in what circumstances they may do so." *Armstrong v. Exceptional Child Ctr., Inc.*, 575 U.S. 320, 325 (2015). The Court has rejected the view that the Supremacy Clause provides an independent right of action. *Id.* at 326. Instead, the Court has held that the "ability to sue to enjoin unconstitutional actions by [both] state and federal officers" is a judicially-created remedy that is not premised upon an implied right of action contained within the Supremacy Clause. *Id.* at 327. Therefore, because the Supremacy Clause does not authorize a cause of action to challenge state laws alleged to conflict with federal law generally, the sole count of the amended complaint, purportedly brought under the Supremacy Clause, fails to state a claim upon which relief can be granted.

statute at issue, the state statute must conflict in language or operation with the federal statute for preemption to occur. *Arizona v. United States*, 567 U.S. 387, 399 (2012) (citations omitted). No conflict exists between the SCRA and the UEFJA to invalidate the UEFJA.

As discussed above, the SCRA requires a plaintiff, by affidavit, to advise of a defendant's military service status prior to entry of a *default* judgment. 50 U.S.C. § 3931 (b)(1). If the defendant is in military service, the court must appoint an attorney to represent the defendant before entering judgment. *Id.* at (b)(2).

The UEFJA, however, provides that when registering a *foreign* judgment, the judgment creditor must file an affidavit with the last known addresses of both the judgment creditor and judgment debtor. Cts. & Jud. Proc. § 11-803(a). The SCRA and UEFJA are clearly different statutes not intended to be read together. One is for obtaining default judgments and the other is for registering foreign judgments. Despite Plaintiffs' desire to the contrary, there is no conflict.

V. PLAINTIFFS' CLAIM IS BARRED BY ELEVENTH AMENDMENT IMMUNITY.

A. The State Enjoys Eleventh Amendment Immunity.

The claims brought against the State are barred by Eleventh Amendment immunity.[11] The Eleventh Amendment bars suit, for either legal or equitable relief, in federal courts against states, state agencies and state officials acting in an official capacity, unless Congress abrogates the immunity, or the state waives it. *Bd. of Trs. of Univ. of Alabama v. Garrett*, 531 U.S. 356,

[11] The Eleventh Amendment provides that "[t]he judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State." U.S. Const. amend XI.

363 (2001); *Puerto Rico Aqueduct and Sewer Authority v. Metcalfe & Eddy, Inc*., 506 U.S. 139, 144-45 (1993); *see also Sossamon v. Texas*, 563 U.S. 277, 284 (2011) ("For over a century now, th[e] [U.S. Supreme] Court has consistently made clear that 'federal jurisdiction over suits against unconsenting States "was not contemplated by the Constitution when establishing the judicial power of the United States."'") (citation omitted).

To override Eleventh Amendment sovereign immunity "Congress must 'mak[e] its intention to abrogate unmistakably clear in the language of [a pertinent] statute.'" *Coleman v. Court of Appeals of Maryland*, 566 U.S. 30, 35 (2012) (citation omitted). Here there has been neither Congressional abrogation of the states' sovereign immunity for claims brought under the SCRA, 50 U.S.C. § 4042, nor waiver by the State.

While the SCRA creates a private right of action, it does not abrogate a state's immunity to such claims under the Eleventh Amendment, nor have states waived their immunity. 50 U.S.C. § 4042. The only two courts known to have addressed this issue agree. *Webb v. California*, No. CV 17-8499-DMG (KSX), 2018 WL 6184776, at *4-5 (C.D. Cal. Mar. 15, 2018) (holding that SCRA's private cause of action "is not the same as a waiver of sovereign immunity" and that "Absent an express and unequivocal waiver of California's sovereign immunity, Plaintiff may not seek relief against the State in this Court.") (citing *Sossamon*, 563 U.S. at 282 for the proposition that the "Religious Land Use and Institutionalized Persons Act of 2000's ('RLUIPA') private right of action does not amount to a state's waiver of sovereign immunity"); *Hofelich v. Hawaii*, No. CV 11-00034-DAE-BMK, 2011 WL 2117013, at *9-10 (D. Haw. May 25, 2011) (barring SCRA claims against the state of Hawaii under Eleventh Amendment and sovereign immunity).

Since *Webb* and *Hofelich* were decided, the United States Supreme Court decided *Torres v. Texas Dept. of Public Safety*, 142 S. Ct. 2455 (2022). Plaintiffs argue (*albeit* incorrectly) that the State waived its Eleventh Amendment immunity under *Torres*. (ECF No. 42, ¶¶ 18, 163.) As discussed below, *Torres* is distinguishable and inapplicable.

B. The State's Sovereign Immunity was not Waived or Abrogated.

Plaintiffs claim that *Torres* held that states waived their Eleventh Amendment immunity relative to the SCRA and, therefore, money damages may be awarded against the State here. (ECF No. 42, ¶¶ 163-64.) That is not exactly the holding of *Torres*.

Torres did not involve the SCRA. Rather, the claim at issue was a state's failure to rehire a servicemember following the completion of his duty in violation of the Uniformed Services Employment and Reemployment Rights Act ("USERRA"), 38 U.S.C. § 4301, *et seq*. *Id.* at 2461. The USERRA requires the reemployment or rehire of a servicemember who has left his employment for military service upon his return.[12] *Id*. § 4312(a). While the Court held that by ratifying the constitution, the states agreed their sovereignty would yield to the national power to raise and support the armed forces and thus Congress could exercise its power to authorize private damages suits against nonconsenting states, the State of Texas was the actual wrongdoer in *Torres*. *See Torres*, 142 S. Ct. at 2466-467.

The *Torres* plaintiff enlisted as a member of the U.S. Army Reserves in 1989 and served as a Texas state trooper starting in 1998. *Tex. Dep't of Pub. Safety v. Torres*, 583 S.W.3d 221, 223 (Tex. App. 2018), *rev'd and remanded*, 213 L. Ed. 2d 808, 142 S. Ct. 2455 (2022). In

[12] The USERRA applies to and protects servicemembers from employers (including explicitly states as employers), whereas the SCRA applies to and protects servicemembers from creditors.

2007, he was deployed to Iraq, where he developed a lung condition. *Id.* He was honorably discharged in 2008 and, because of his service-related medical condition, the plaintiff requested that his state employer (Texas) allow him to return to a different position. *Id.* Texas refused, offering instead a "temporary duty offer" to his prior trooper position. *Id.* The plaintiff resigned and sued for monetary damages under the USERRA. *Id.* Texas moved to dismiss based on its sovereign immunity, the trial court rejected the state's immunity claim, and the United States Court of Appeals for the Fifth Circuit reversed and dismissed the suit. *See Torres v. Texas Dep't of Pub. Safety*, No. 2017-CCV-61016-1, 2017 WL 8226710, at *1 (Tex. Cnty. Ct. Nov. 21, 2017), *rev'd*, 583 S.W.3d 221 (Tex. App. 2018), *rev'd and remanded*, 213 L. Ed. 2d 808, 142 S. Ct. 2455 (2022).

On appeal to the Supreme Court, the Court reversed the court of appeals. *Torres*, 142 S. Ct. 2455. The Court held that by ratifying the Constitution, the states agreed their sovereignty yielded to the national power to raise and support the armed forces, and thus Congress *could*—if it wanted to—exercise its power to authorize private damages suits against nonconsenting states. *Id.* at 2466-67. In sum, states do not have Eleventh Amendment immunity with respect to claims arising under federal laws related to "raising and supporting" the military.

Significant to the instant case, however, is that *Torres* expressly relied on the fact that the USERRA *expressly* '"supersedes any State law . . . that reduces, limits, or eliminates in any manner any right or benefit provided by this chapter, including the establishment of additional prerequisites to the exercise of any such right or the receipt of any such benefit.'" *Torres*, 142 S. Ct. at 2459 (quoting 38 U.S.C. § 4302(b)). There is no such similar provision

in the SCRA and, as discussed below, Congress clearly knows how to include abrogating and waiver language in statutes and evidently chose not to include such language in the SCRA. Naturally, had Congress intended to abrogate or waive Eleventh Amendment immunity under the SCRA, then it would have expressly done so.

The USERRA expressly contemplates and allows for relief against states (including Maryland)—as an employer—which the SCRA does not. *Compare* 38 U.S.C. § 4323 (explicitly permitting claims against states and outlining a servicemembers' "rights with respect to the State or private employer") with 50 U.S.C.A. § 4042 (silent as to actions against states). The Court found this particularly persuasive. *Torres*, 142 S. Ct. at 2466 (recognizing that Congress specifically intended to authorize USERRA suits against states and, thus, drafted the statute accordingly).

In contrast, the SCRA says nothing about whether aggrieved persons may obtain relief against states. *See Webb*, 2018 WL 6184776, at *5; 50 U.S.C. § 4042. Plaintiffs' assertion to the contrary that the State—specifically, the Governor and appellate judges—can *somehow* be liable in a civil action for the entering of a judgment in favor of a creditor in the absence of an affidavit of the debtor's military service is unprecedented and unsupported by any state or federal law or any state or federal court. Unlike the USERRA, there is nothing in the SCRA which indicates that the civil action provision under the SCRA was intended to allow actions against the Governor and the Justices, or by implication the State, for alleged erroneous applications (or nonapplication) of the requirements of the SCRA.

Additionally, *Torres* also found that not applying the USERRA to states "would permit States to thwart national military readiness." 142 S. Ct. at 2468. If a state "decided to protest

a war by refusing to employ returning servicemembers, Congress, on Texas' telling, would be powerless to authorize private reinstatement suits against those States. The potentially debilitating effect on national security would not matter." *Id.* at 2469. Here though, there is no such risk related to the SCRA. Judgments were already entered against Plaintiffs in the foreign states and they had an opportunity to defend those claims.

As the USERRA is distinguishable from the SCRA, *Torres* furthers the position that Congress did not abrogate (much less intend to abrogate) the states' Eleventh Amendment immunity for claims arising under the SCRA.

VI. LEGISLATIVE IMMUNITY BARS PLAINTIFFS' CLAIM.

Plaintiffs' allegations as to how or why the Governor and Justices are liable for the asserted non-compliance or violations of the SCRA by the District Court are tenuous, at best. Nonetheless, Plaintiffs assert that the Governor, who may *recommend* (not create) legislation for the Maryland General Assembly's consideration, and the Justices, who have the authority to make changes to the Maryland Rules, are liable for alleged violations of the SCRA. (*See* ECF No. 42, ¶¶ 27-29.) In sum, Plaintiffs claim that the Governor and the Justices are civilly liable under the SCRA for the laws of Maryland, specifically the UEFJA, and the Rules of Civil Procedure, which Plaintiffs allege conflict with or fail to accommodate the alleged requirements of the SCRA. (*See generally id.*). As Plaintiffs' claim in their amended complaint arises out of the law/rule-making or legislative duties of the Governor and the Justices, Defendants are entitled to immunity for such claims.

Legislative immunity is enshrined in the Maryland Constitution and has been recognized by the Supreme Court. Md. Const., Art. 3, § 18; Md. Decl. Rights, Art. 10; *Tenney*

v. Brandhove, 341 U.S. 367, 376 (1951). It has been extended to apply to not just legislators, but executive and judicial officials who perform legislative functions. *See Mandel v. O'Hara*, 320 Md. 103 (1990); *Supreme Court of Virginia v. Consumers Union of U.S., Inc*., 446 U.S. 719, 734 (1980). "[T]he functions of approving or vetoing bills and recommending matters for legislation" are entitled to protection under the doctrine of legislative immunity. *United States v. Mandel*, 415 F. Supp. 1025, 1031 (D. Md. 1976).

Plaintiffs assert that the Governor is responsible for the alleged violations of the SCRA because he has the duty to "inform the Legislature of the condition of the State and recommend to [*sic*] their consideration such measures as he may judge necessary and expedient." (ECF No. 42, ¶ 27(d).) It is this activity which the *Mandel* court specifically recognized as entitled to legislative immunity. *See Mandel*, 415 F. Supp. at 1031. Accordingly, the Governor is entitled to immunity for the claims asserted against him here.

Similarly, the Supreme Court recognized that the activities of the Justices are also immune from claims arising out of their rule-making responsibilities. In *Supreme Ct. of Virginia v. Consumers Union of U. S., Inc.*, 446 U.S. 719, 733–34 (1980), the Court held that the Virginia Supreme Court was entitled to immunity for exercising their delegated legislative authority in issuing the Bar Code. The Court held that where state legislators would be immune for refusing to amend a law in the wake of cases indicating that the law "in some respects would be held invalid," the same legislative immunity would apply to the state supreme court justices exercising their delegated legislative rule-making power. *Id.* Accordingly, where the Justices exercise the State's legislative power with respect to their enactment or alleged refusal to amend the Maryland Rules, they are immune from suit. *See id.*

VII. JUDICIAL AND QUASI-JUDICIAL IMMUNITY BARS PLAINTIFFS' CLAIM.

This case is likewise barred by absolute and quasi-judicial. Judges "are not liable to civil actions for their judicial acts." *Stump v. Sparkman*, 435 U.S. 349, 355-56 (1978). This absolute judicial immunity bars claims based on judicial acts, no matter how "erroneous the act may have been, and however injurious in its consequences it may have proved to the plaintiff." *Bradley v. Fisher*, 80 U.S. 335, 347 (1871); *id*. at 355-56; *see Dean v. Shirer*, 547 F.2d 227, 231 (4th Cir. 1976). "'[I]t is a general principle of the highest importance to the proper administration of justice that a judicial officer, in exercising the authority vested in him, shall be free to act upon his own convictions, without apprehension of personal consequences to himself.'" *Mireles v. Waco*, 502 U.S. 9, 19 (1991) (*per curiam*) (citation omitted); *Parker v. State*, 337 Md. 271, 281 (1995) (quoting *Bradley v. Fisher*, 13 Wall. 335,347, 20 L. Ed. 646, 649 (1872)).

The protection afforded by absolute judicial immunity is critically important because "'[l]iability to answer to everyone who might feel himself aggrieved by the action of the judge . . . would destroy that independence without which no judiciary can be either respectable or useful.'" *Id*. To safeguard the independence of "the judicial system," which adequately "provides other avenues of relief for disappointed litigants," both the Supreme Court and this Court have concluded that "no judge 'can [ ] be subjected to responsibility for [a judicial act] in a civil action, however erroneous the act may have been, and however injurious in its consequences it may have proved to the plaintiff.'" *Id*. at 281-82 (brackets in original).

Maryland has also made clear that the shield of judicial immunity extends beyond judges to protect other individuals whose public duties are "'necessary to the proper

administration of justice.'" *D'Aoust v. Diamond*, 424 Md. at 598 (quoting *Gill v. Ripley*, 352 Md. 754, 771 (1999)). "The general rule is that those individuals, when performing tasks that are integral to the judicial process, enjoy the same immunity that is applicable to the judges."[13] *Gill*, 352 Md. at 77l. Thus, individuals such as "court clerks are entitled to judicial immunity 'when performing tasks that are integral to the judicial process[.]'" *D'Aoust*, 424 Md. at 599 (quoting *Gill*, 352 Md. at 771). Absolute judicial immunity, therefore, protects court clerks and other court personnel "who perform functions that are integral to the judicial process." *Gill*, 352 Md. at 773.

Significantly, Plaintiffs would have been unsuccessful if they had sued the courts, judges, clerks, governors or the states in the originating states for violation of the SCRA for entering the default judgments against Plaintiffs. *See Bey v. Bruey*, No. CIV.09-1092(JBS), 2009 WL 961411, at *3-5 (D. N.J. Apr. 8, 2009) (dismissing claim against court clerk for allegedly improperly entering a default judgment and applying quasi-judicial immunity because "the entry of default has historically been a judicial function"); *Lundahl v. Zimmer*,

[13] Similarly, the Fourth Circuit and the District of Columbia Circuit have recognized that "absolute immunity 'applies to all acts of auxiliary court personnel that are basic and integral part[s] of the judicial function."' *Jackson v. Houck*, 181 F. App'x 372, 373 (4th Cir. 2006) (quoting *Sindram v. Suda*, 986 F.2d 1459, 1461 (D.C. Cir. 1993)). *See also Wvmore v. Green*, 245 F. App'x, 780,783 (10th Cir. 2007) (affirming district court's granting of absolute quasi-judicial immunity to the state court clerk because her actions were "judicial act[s] . . . having an integral relationship with the judicial process."); *Bush v. Rauch*, 38 F.3d 842, 847 (6th Cir. 1994) (extending absolute quasi-judicial immunity to non-judicial officers "performing tasks so integral or intertwined with the judicial process that these persons are considered an arm of the judicial officer who is immune"); *Kincaíd v. Vail*, 969 F .2d 594, 601 (7th Cir. 1992), *cert denied sub nom, Sciefers v. Vail*, 506 U.S. 1062 (1993) (extending immunity to a judge's subordinates performing "functions that are more administrative in character"); *Rodriguez v. State*, 285 N.Y.S.2d 896 (1967) (court clerk entitled to judicial immunity for performing a quasi-judicial act related to processing paperwork relating to the sentencing process).

296 F.3d 936, 939 (10th Cir. 2002) (same). The result should be no different in Maryland in terms of the registration of foreign judgments in Maryland obtained on default judgments.

Plaintiffs' claim arises out of an alleged violation of 50 U.S.C. § 3931. Specifically, Plaintiffs complain that Section 3931 was violated by the District Court in allowing LeMay to register foreign judgments and collect on those judgments without filing an affidavit with respect to the Plaintiffs' military service status, or Plaintiffs being appointed counsel. Plaintiffs assert that the alleged failure of the District Court's (whether through District Court Judges, District Court clerks, or otherwise) to comply with the purported affidavit and counsel requirements of Section 3931 when domesticating foreign judgments somehow inures to the Governor and Justices and subjects the State to liability for any damages allegedly sustained, including declaratory relief and attorneys' fees.

Everything Plaintiffs complain of are judicial functions and acts of the District Court that are integral to the judicial process that are entitled to judicial immunity. Plaintiffs sued the Governor and the Justices in their official capacities and claim to therefore be suing the State. Regardless of who Plaintiffs sue, the State is entitled to judicial immunity for anyone who may purportedly be responsible for the alleged violations of the SCRA in Maryland as Plaintiffs have plead them (whether through the actions of District Court Judges, District Court clerks, or otherwise).

VIII. PLAINTIFFS' CLAIM IS MOOT AND THEY DO NOT HAVE STANDING.

There are no judgments in Maryland registered against Plaintiffs or ancillary collection proceedings. As such, Plaintiffs' claims are moot, and they have no standing to proceed against the State because there is no active case or controversy.

"[N]o principle is more fundamental to the judiciary's proper role in our system of government than the constitutional limitation of federal-court jurisdiction to actual cases or controversies." *Dreher v. Experian Info. Solutions, Inc.*, 856 F.3d 337, 343 (4th Cir. 2017) (quoting *Spokeo, Inc. v. Robins*, 578 U.S. 330, 343, (2016)). "It is a bedrock principle that Article III of the Constitution confines the federal courts to the adjudication of 'actual, ongoing cases or controversies.'" *Snyder v. Maryland*, No. CV ELH-20-1030, 2023 WL 35249, at *2 (D. Md. Jan. 3, 2023) (citations omitted). A case or controversy is one "traditionally amenable to and resolved by the judicial process." *Uzuegbunam v. Preczewski*, 141 S. Ct. 792, 798 (2021) (citations omitted).

The "Mootness doctrine is grounded in Article III's 'case-or-controversy limitation on federal judicial authority.'" *Jonathan R. by Dixon v. Just.*, 41 F.4th 316, 325 (4th Cir.), *cert. denied sub nom. Just. v. Jonathan R.*, 214 L. Ed. 2d 137, 143 S. Ct. 310 (2022) (citations omitted). The doctrine confirms that a cognizable interest in the outcome of an action is required to bring suit and that the doctrine's demands extend past the filing of the complaint, insisting on "an actual controversy . . . at all stages of review." *Id.* (citations omitted). "[A] case is moot when the issues presented are no longer 'live' or the parties lack a legally cognizable interest in the outcome." *Telco Commc'n, Inc. v. Carbaugh*, 885 F.2d 1225, 1230 (4th Cir. 1989) (citations omitted).

In the instant matter, the Plaintiffs lack a legally cognizable interest in the outcome of this case. Simply stated, Plaintiffs have no present, on-going interest for which this Court may exercise its jurisdiction. Therefore, Plaintiffs do not have standing and their claim is moot.

IX. ALTERNATIVELY, THIS COURT LACKS JURISDICTION UNDER THE *ROOKER-FELDMAN* DOCTRINE.[14]

Assuming, *arguendo*, that Plaintiffs are correct that the registration of foreign judgments in Maryland are "judgments" for purposes of the SCRA, then Plaintiffs' claim is inextricably intertwined with the State court decisions in LeMay's underlying three cases with Plaintiffs (both in the State and the originating jurisdictions) and the *Rooker-Feldman* doctrine bars Plaintiffs' request for redress in this Court.

The amended complaint argues that the registration of foreign judgments, subpoena for financial information, issuance of writs of garnishment and judgments on garnishments are all "judgments" under the SCRA and were all wrongfully entered in Maryland in violation of Plaintiffs' due process rights and federal law. Assuming, *arguendo*, Plaintiffs are correct, then in essence Plaintiffs are de facto attacking orders and judgments of the State in federal court, or even the original default judgments from Maryland's sister states.

Further, Plaintiffs assert that they are entitled to damages against the State because of the District Court's purported wrongful actions. The alleged incorrectness of entering "judgments" in State court is an integral part of Plaintiffs' claim and must be decided in their favor for the award of damages they seek. Accordingly, this Court does not have jurisdiction to hear this matter and it should be dismissed.

Astonishingly, Plaintiffs also want this Court to order the Governor and the Justices to expunge Plaintiffs' State cases. (ECF No. 42, ¶¶ 12, 74, 75(f), 126, 127(d), 159, 160(d), 183.)

[14] The *Rooker-Feldman* doctrine is "a jurisdictional doctrine." *Brown & Root, Inc. v. Breckenridge*, 211 F.3d 194, 202 (4th Cir. 2000). While a jurisdictional doctrine might logically be discussed first in this memorandum of law, it is placed near the end of this memorandum so that the Court may evaluate the doctrine in context.

Naturally, this is something the Governor and the Justices cannot do.

A federal court lacks jurisdiction to overturn state court decisions. *Dist. of Columbia Ct. of Appeals v. Feldman*, 460 U.S. 462, 476 (1983); *Rooker v. Fidelity Tr. Co.*, 263 U.S. 413, 416 (1923). Only the Supreme Court has jurisdiction to review state court judgments. 28 U.S.C. § 1257.

Under the *Rooker-Feldman* doctrine, if a party seeks redress in the federal district court for the injury caused by a state-court decision, "his federal claim is, by definition, 'inextricably intertwined' with the state-court decision, and is therefore outside of the jurisdiction of the federal district court." *Davani*, 434 F.3d at 719 (citing *Exxon-Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005)). The *Rooker-Feldman* doctrine applies regardless of whether plaintiffs asserted the basis of their claim in the state court action. *Id.* at 718-719. The doctrine "divests the district court of jurisdiction where 'entertaining the federal claim [w]ould be the equivalent of an appellate review of [the state court] order.'" *Jordahl v. Democratic Party of Virginia*, 122 F.3d 192, 202 (4th Cir. 1997). Continuing, the Fourth Circuit held that the controlling question in the *Rooker–Feldman* analysis as follows:

> if 'in order to grant the federal plaintiff the relief sought, the federal court must determine that the [state] court judgment was erroneously entered or must take action that would render the judgment ineffectual,' *Rooker–Feldman* is implicated.

Id. (citations omitted).

Here, Plaintiffs were represented by their counsel in both the underlying State actions and the instant federal action. Plaintiffs are specifically seeking redress for an alleged injury purportedly caused by a State court action in allowing the registration of foreign judgments and related collection activities in asserted violation of the SCRA. Their claims could have

been made in the underlying cases. Additionally, Plaintiffs are, in effect, challenging the judgments of the originating states (Texas and Nevada). While Plaintiffs do not specifically seek reversal of the District Court's actions (as the judgments were vacated, they have no need), they do seek relief from the federal court that the foreign judgments were erroneously entered in Maryland and request that this Court take action to order the Governor and the Justices to expunge Plaintiffs' underlying States cases.

Success on Plaintiffs' claim before this Court depends on the determination that the state court actions of Maryland, Nevada, and Texas were legally incorrect, and therefore, are inextricably intertwined with state court decisions outside the jurisdiction of the federal court. Accordingly, Plaintiffs' claim is barred by *Rooker-Feldman*.

X. THERE IS NO CLAIM FOR DECLARATORY RELIEF AND EVEN IF SO, THIS COURT SHOULD DECLINE JURISDICTION.

While declaratory relief is a remedy under 50 U.S.C. § 4042 with respect to a violation of the SCRA, Plaintiffs also claim jurisdiction is proper under the Declaratory Judgment Act, 28 U.S.C. § 2201. (*See* ECF No. 42, ¶ 23.) The Declaratory Judgment Act provides that "[i]n a case of actual controversy within its jurisdiction . . . any court of the United States, upon filing of an appropriate pleading, may declare the rights and legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought." 28 U.S.C. § 2201. In order to satisfy Article III's case-or-controversy requirement, a declaratory judgment action must involve a dispute that is "definite and concrete, touching the legal relations of parties having adverse legal interests'; and that it be 'real and substantial' and 'admi[t] of specific relief through a decree of a conclusive character, as distinguished from an opinion advising what the law would be upon a hypothetical state of facts." *Medimmune, Inc.*

v. Genentech, Inc., 549 U.S. 118, 127 (2007) (citations and quotations omitted). "It has long been settled that a federal court has a measure of discretion to decline to entertain a declaratory judgment action that is otherwise properly within its jurisdiction." *LWRC Intern., LLC v. Mindlab Media, LLC*, 838 F. Supp. 2d 330 (D. Md. 2011) (citing *Pub. Affairs Assoc., Inc. v. Rickover*, 369 U.S. 111, 112 (1962)). While the discretion is not absolute, a court may decline to exercise jurisdiction "for 'good reason.'" *Id.* (quoting *Aetna Cas. & Sur. Co. v. Quarles*, 92 F.2d 321, 324 (4th Cir. 1937)).

There is no "real and substantial" dispute warranting declaratory action in this case. The Governor and the Justices did not and do not have an interest in the registration or collection of LeMay's foreign judgments and collection efforts against Plaintiffs. Plaintiffs and the Governor and the Justices do not have legal interests adverse to each other, and there has never been a "relationship" between Plaintiffs and the Governor and the Justices. There is also no "sufficient immediacy" to warrant the issuance of a declaratory judgment. *Id.* Moreover, "'[p]ast exposure to [purported] illegal conduct does not in itself show a present case or controversy.'" *Gardner v. Montgomery Cnty. Teachers Fed. Credit Union*, 864 F. Supp. 2d 410, 421 (D. Md. 2012) (quoting *City of Los Angeles v. Lyons*, 461 U.S. 95, 102 (1983)). Here, the conduct at issue is exclusively past conduct and not the proper subject of a declaratory judgment.

CONCLUSION

For the foregoing reasons, Defendants respectfully request that their motion to dismiss be granted and that the amended complaint be dismissed with prejudice.

Respectfully Submitted,

ANTHONY G. BROWN
Attorney General of Maryland

/s/ *Rachel L. Stewart*
RACHEL L. STEWART
Federal Bar No. 27352
Kevin M. Cox
Federal Bar No. 29012
Assistant Attorneys General
200 St. Paul Place, 20th Floor
Baltimore, Maryland 21202
rstewart@oag.state.md.us
kcox@oag.state.md.us
(410) 576–7934 (telephone)
(410) 576–6393 (facsimile)

Attorneys for Defendant

April 7, 2023

United States District Court for the District of Maryland
Civil Case No. 1:22-cv-00129-JKB

EXHIBIT LIST

Exhibit	Description
1	*LeMay v. Rouse*, Case No. D-122-JG-21-000018 Maryland Case Search Docket
2	*LeMay v. Rouse*, Case No. D-122-JG-21-000018 MDEC Portal Docket
3	*LeMay v. Rouse*, Case No. D-122-JG-21-000018 Motion to Vacate
4	*LeMay v. Riley*, Case No. D-07-JG-20-000173 Maryland Case Search Docket
5	*LeMay v. Riley*, Case No. D-122-JG-20-000173 MDEC Portal Docket
6	*LeMay v. Riley*, Case No. D-122-JG-20-000173 Motion to Dismiss
7	*LeMay v. Davines*, Case No. D-07-JG-20-000146 Maryland Case Search Docket
8	*LeMay v. Davines*, Case No. D-07-JG-20-000146 MDEC Portal Docket
9	USDC Form AO 451 Clerk's Certification of a Judgment to be Registered in Another District