IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

HARRY L. BOWLES,

Plaintiff,

-vs-

Case No. A-08-CA-808-SS

HOME INSURANCE COMPANY IN LIQUIDATION (N.H.) and TEXAS PROPERTY A ND CASUALTY INSURANCE GUARANTY ASSOCIATION,

Defendants.

ORDER

BE IT REMEMBERED on this day the Court reviewed the file in the above-styled cause, and specifically Plaintiff Harry L. Bowles ("Bowles") Motion for a Permanent Injunction [contained within #1], Defendant Texas Property and Casualty Insurance Guaranty Association ("TPCIGA")'s Motion to Dismiss for Lack of Jurisdiction [#4], TPCIGA's Motion to Dismiss for Failure to State a Claim [#5], Defendant Home Insurance Company in Liquidation (N.H.) ("HICIL")'s Motion to Dismiss for Lack of Subject Matter Jurisdiction [#6], HICIL's Motion to Dismiss for Failure to State a Claim or Alternatively Motion for Judgment on the Pleadings [#7], Bowles' Motion for a Temporary 90-day Suspension of Litigation [#11], HICIL's response thereto [#12], TPCIGA's response thereto [#13], and Bowles' reply [#14]. Having considered the aforementioned documents, the case file as a whole, and the applicable law, the Court enters the following order.

BACKGROUND

I. Factual Background

EXHIBIT L

The relevant facts of this case are convoluted, and entirely impossible to extract from Bowles' pleadings alone. But the undisputed facts laid out by Defendants indicate the story begins in New Hampshire where, on June 11, 2003, Home Insurance Company ("Home"), a New Hampshire insurance company, was declared insolvent. *See* Home's Mot. Dismiss [#6] at Tab A. Defendant Home Insurance Company in Liquidation (N.H.) ("HICIL") is the liquidating agency for the Home Insurance Company.[1] Shortly thereafter, an Order of Liquidation for HICIL was issued by the Superior Court for the State of New Hampshire, Merrimack County. Under the Order of Liquidation, all persons are permanently enjoined from any act to collect, assess, or recover a claim against HICIL other than by filing a Proof of Claim with the Liquidator. *See id.* at Ex. C, Tab F, ¶ n.

Prior to its insolvency, Home Insurance Company had issued a professional liability policy (the "Policy") to Bishop, Peterson, & Sharp (the "Insured Law Firm"). Defendants allege while the Insured Law Firm was under the coverage of the Policy, Bowles sent letters to the firm expressing his dissatisfaction with its work and demanding fee reductions. Under the Policy, a "claim" was defined as a "demand received by the insured for money or services, including the service of a suit." *Id.* Thus, the Insured Law Firm reported a claim to Home of acts or omissions that potentially invoked coverage under the Policy, based on Bowles' letters. Defendants assert because the Policy is a third-party liability policy, which provides the Insured Law Firm with defense and indemnity benefits where coverage is otherwise afforded, this notice of a potential covered claim was all that was necessary to potentially invoke coverage under the Policy.

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[1]Accordingly, all reference to acts or events prior to the Order of Liquidation refer to Home, and all references to acts or events post the Order of Liquidation refer to HICIL.

The Policy was entered into in January of 1992, and was ultimately set to expire on February 6, 1994. Bowles filed suit (the "Malpractice Suit") against the Insured Law Firm and one of its partners, Bishop, in August of 1995 in Harris County, Texas.[2] Bowles claims he never made a legal malpractice complaint of any kind against against the Insured Law Firm and its President ("Bishop") for malpractice prior to the Policy's expiration on February 6, 1994. *See* Compl. at ¶ 15. However, Defendants represent the Insured Law Firm's claim was timely reported during its coverage under the Policy, and have filed affidavits asserting the same, because Bowles' earlier letters to the Insured Law Firm invoked notice of a potential claim. *See* Barta, Walker Affs. According to Defendants, Home thereafter undertook to provide a defense in the Malpractice Suit, subject to any reservation of rights raised by the pleadings.

On June 26, 2003, HICIL (formerly Home) was designated as an "impaired insured" by the Texas Commissioner of Insurance, and thus had to forward its entire claim file to Defendant Texas Property and Casualty Insurance Guaranty Association ("TPCIGA") under Subchapter G of the Texas Property and Casualty Insurance Act (the "Act"), as the Malpractice Suit potentially constituted a "covered claim" under the Act. Under the Act, TPCIGA thereafter had a statutory duty to defend the Insured Law Firm, and HICIL had no further direct involvement in the Malpractice Suit.

Bowles now claims TPCIGA exceeded its statutory authority by retaining defense counsel to defend the Insured Law Firm in the Malpractice Suit, and submitted a false affidavit in connection with that suit. He further complains this conduct by TPCIGA and an alleged bias on the part of the

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[2]Specifically, the case is Cause No. 1995-43235, in the 151st District Court in Harris County, Texas.

trial judge in favor of Bishop (the other defendant in the Malpractice Suit) resulted in the improper entry of take nothing summary judgments in favor of the Insured Law Firm, and later in favor of Bishop. Compl. at ¶¶ 18-40.[3]

Bowles did not file a Proof of Claim with respect to the Insured Law Firm until February 4, 2008 (the "2008 Bishop Proof of Claim"). On October 22, 2008, HICIL's Liquidator sent a Notice of Determination with respect to the 2008 Bishop Proof of Claim (the "Notice of Determination"), disallowing it on the basis that his claims had previously been adjudicated in the Insured Law Firm's favor, and Bowles had not been awarded any damages against it. The notice set forth the steps Bowles could take if he wanted to dispute the determination.

On October 27, 2008, Bowles filed the present lawsuit against HICIL and TPCIGA (collectively, "Defendants"). On December 20, 2008, he filed an objection to the Notice of Determination in the New Hampshire proceeding, which will be heard by a court-appointed referee pursuant to the Order Establishing Procedures Regarding Claims, with review available of any decision made by the referee in the Merrimack County Superior Court and the New Hampshire Superior Court.

II. Bowles' Contentions

In his complaint, Bowles requests "injunctive relief from fraud and conspiracy involving an expired and void insurance policy." *See* Compl. [#1]. Bowles claims the "express purpose of []his lawsuit is to obtain a judgment from this Court holding that Defendants [], in conspiracy with Bishop, officiously intermeddled in Bowles' underlying private legal malpractice lawsuit [the

[3]Plaintiff alleges specifically that the trial court's bias in favor of Bishop arose from Bishop's political activity on behalf of the Republican Party and by virtue of his marriage to a Harris County District Judge. *See* Compl. at ¶¶ 19-21.

Malpractice Suit] against Bishop and [the Insured Law Firm]." *Id.* at ¶ 3. Bowles requests a permanent injunction to prohibit Defendants from continuing their activity as "interlopers" in the Malpractice Suit, and specifically a "cease and desist order" enjoining Defendants from any activity in connection with the Malpractice Suit. *Id.* at ¶¶ 4, 30. Bowles further requests a finding Defendants engaged in fraud and conspiracy, a finding they violated state law by using a false document and committing perjury in a legal proceeding, and seeks money damages for a litany of claims, including fraud, conspiracy, tortious interference and document tampering. *Id.* at ¶¶ 4, 69-71.

In his recent motion for suspension, Bowles further requests a 90-day suspension of the above-styled lawsuit to allow the New Hampshire Superior Court to resolve matters "critical to the litigation in this Court." *See* Pl.'s Mot. for Temp. Susp. [#11] at ¶ 37. Bowles acknowledges there is a disputed claim proceeding in progress in the Merrimack County Superior Court, based on his objections to the Liquidator's rejection of his 2008 Proof of Claim (in the Notice of Determination). *Id.* at ¶¶ 2, 11. Bowles claims the determination to be made in the Merrimack County Superior Court involves "fact issues of primary importance" in this Court, and thus asserts there is "an issue of parallel jurisdiction." *Id.* at ¶ 2.

ANALYSIS

Defendants have each filed a motion to dismiss for lack of subject matter jurisdiction and for failure to state claim upon which relief can be granted. *See* Mots. Dismiss [#4, 5, 6, 7]. Plaintiff has not responded to any of the four motions within the allotted time, and therefore under Local Rule CV-7, the Court may grant the motions as unopposed. Nevertheless, the Court has considered each motion on its merits.

The Court finds, after reviewing all the pleadings in this case, that Bowles by signing his complaint has violated Rule 11 of the Federal Rules of Civil Procedure. Under Rule 11, when Bowles signs pleadings in this case, he must, under the law, be certifying to the best of his knowledge, information, and belief formed after an inquiry reasonable under the circumstances that (1) his pleadings are not being presented for any improper purpose such as to harass or cause unnecessary delay or needless increase in the cost of litigation; (2) that his claims and legal contentions are warranted by existing law or by a non-frivolous argument for the extension, modification, or reversal of existing law or for establishing new law; and (3) that his allegations of factual contentions have evidentiary support or will likely have evidentiary support after a reasonable opportunity for further investigation or discovery. FED. R. CIV. P. 11(b). The Court finds Bowles has violated Rule 11, specifically because his claims and legal contentions are not warranted by existing law or by a non-frivolous argument for the extension, modification, or reversal of existing law or for establishing new law. The Court so finds for the following reasons.[4]

I. Plaintiff has asserted no valid cause of action

First, Bowles has alleged no basis for a valid cause of action against either of the Defendants. Instead, Bowles has alleged a litany of indecipherable complaints against them, including (as far as the Court can tell) claims of fraud, conspiracy, officious intermeddling, tortious interference, perjury,

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[4]The Court is, of course, cognizant of its duty when reviewing a plaintiff's complaint to construe the plaintiff's allegations as liberally as possible. *Haines v. Kerner*, 404 U.S. 519, 92 S. Ct. 594 (1972). This is especially true given the Plaintiff's pro se status in the present case, as "a pro se complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers." *Erickson v. Pardus*, 127 S.Ct. 2197, 2200 (2007) (internal citation omitted) (quoting *Estelle v. Gamble*, 429 U.S. 97, 106 (1976)). However, a plaintiff's pro se status also does not offer him "an impenetrable shield, for one acting pro se has no license to harass others, clog the judicial machinery with meritless litigation and abuse already overloaded court dockets." *Farguson v. MBank Houston, N.A.*, 808 F.2d 358, 359 (5th Cir. 1986).

obstruction of justice, document tampering, damage to his property rights and "right of access" to the courts, and violations of Texas Penal Code § 37.09. *See, e.g.* Compl. at ¶ 68. But Bowles has yet, in all of his long, tortured pleadings, to explain why Defendants' provision of a defense to the Insured Law Firm under the Policy presents any basis for a claim by Bowles—a third party claimant—against them, or what duty Defendants have or had to Bowles.

Many of the causes of action alleged by Bowles are not recognized in Texas or under federal common law. *See, e.g. Martin v. Morgan Drive Away, Inc.*, 665 F.2d 598, 605 n.5 (5th Cir. 1982) (recognizing there is no federal common law claim of "champerty" or officious intermeddling); *McCloskey v. San Antonio Traction Co.*, 192 S.W. 1116, 1119-20 (Tex. Civ. App. 1917) (recognizing there is no claim for officious intermeddling under Texas law); *Trevino v. Ortega*, 969 S.W.2d 950, 953 (Tex. 1998) (recognizing there is no independent tort for perjury or spoilation); *Kale v. Palmer*, 791 S.W.2d 628, 632 (Tex. App.–Beaumont 1990) (same); *Ondemir v. Bexar Cty. Clerk*, 2001 WL 1136074 at *2 (Tex. App.–San Antonio, 2001) (not designated for publication) (recognizing obstruction of justice is not a civil cause of action, but a criminal act subject to prosecution under the Texas Penal Code."). Furthermore, Bowles alleges a violation of a Texas Penal Code § 37.09, but does not assert any basis for his apparent belief he may bring a civil action based on an alleged violation of a penal statute. In fact, he cannot, as the penal statute in question does not expressly create a private cause of action. *See Reeder v. Daniel*, 61 S.W.3d 359, 362 (Tex. 2001) ("the fact that the Legislature enacts a criminal statute does not necessarily mean that this Court may recognize a civil cause of action predicated upon that statute.").

Similarly, Bowles' constitutional claims are nonsensical: even taking his allegations as true, he has no "right of access" or due process claim based on them. He is correct in his implication a

cause of action is a property right protected by the Fourteenth Amendment, and access to courts is a protected interest based on the First Amendment right to petition and the Fifth and Fourteenth Amendment due process clauses. *Ryland v. Shapiro*, 708 F.2d 967, 972-73 (5th Cir. 1983). But the constitutional right of access to courts is a facilitative right "designed to ensure that a citizen has the opportunity to exercise his or her legal rights to present a cognizable claim to the appropriate court, and if that claim is meritorious, to have the court make a determination to that effect and order the appropriate relief." *Foster v. City of Lake Jackson*, 28 F.3d 425, 430 (5th Cir. 1994). The Fifth Circuit has found the right of access "to be implicated where the ability to file suit was delayed, or blocked altogether." *Id.* In other words, the Fifth Circuit characterizes the right of access as encompassing the right to ***initiate suit***. *Id.* at n. 7. The right of access does ***not*** guarantee a certain outcome or "particular form of remedy," or a right to proceed without one's claims being contested. *Gibbes v. Zimmerman*, 290 U.S. 326, 332 (1933).

Bowles' constitutional claim that he was denied right of access or due process is therefore without merit. He does not allege he was unable to pursue his claims against the Insured Law Firm—his complaint shows quite the opposite, in fact. His allegations are principally that the Insured Law Firm was afforded a defense in the Malpractice Suit, and the judge in that case ultimately (and allegedly unfairly) ruled against him.[5] But because it is abundantly clear from his allegations Bowles was able to initiate suit against the Insured Law Firm and his right to do so was not impaired in any way by either of the Defendants, he has not stated a claim for violation of his due process or right of access to the courts.

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[5]Specifically, it is undisputed a final take nothing judgment was entered with respect to Bowles' claims against the Insured Law Firm, and an interlocutory take nothing summary judgment has been entered with respect to his claims against Bishop in the Malpractice Suit.

Furthermore, no cause of action for a violation of ***any*** alleged constitutional right can exist against Defendants under § 1983 unless Bowles has alleged facts which would comprise "state action" on the part of Defendants.[6] *See Monroe v. Pape*, 365 U.S. 167, 184 (1961); *Dennis v. Sparks*, 449 U.S. 24, 27 (1980). Bowles makes a single conclusory assertion Defendants "engaged in joint actions under color of law in conspiracy with a state actor, either a state district judge or judges, or in conspiracy with an agent or agency of the state," Compl. at ¶ 8, but he alleges no specific facts indicating Defendants willfully participated in joint action with the state or its agents to deprive him of his constitutional rights. It is well-settled that conclusory allegations of conspiracy, without specific facts, are insufficient to state a claim for relief under § 1983. *See, e.g. Young v. Biggers*, 938 F.2d 565, 569 (5th Cir. 1991) ("Plaintiffs who assert conspiracy claims under civil rights statutes must plead the operative facts upon which their claim is based. Bald allegations that a conspiracy existed are insufficient.").

Bowles also has not alleged a cause of action for conspiracy under 42 U.S.C. § 1985.[7] A civil conspiracy claim pursuant to § 1985 requires a showing that: (1) two or more persons conspired to obstruct justice in a state court proceeding, and (2) race or class-based animus motivated the conspirators. *Daigle v. Gulf State Utilities Co.*, 794 F.2d 974, 979 (5th Cir. 1986). The statutory

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[6]Nevertheless, the Court analyzed Bowles' constitutional claims on the merits in the preceding paragraphs simply to show he has not alleged a viable constitutional claim against Defendants, whether they colluded with state actors or otherwise.

[7]The relevant portion of § 1985(2) provides:

> [O]r if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws[.]

language of § 1985 has been interpreted by the Supreme Court to mean that some racial or otherwise class-based discriminatory animus must drive the conspirators' actions. *Griffin v. Breckenridge*, 403 U.S. 88, 91 (1971). Because there is absolutely no allegation in Bowles' complaint that he is a member of any protected class or Defendants acted with any racial or otherwise class-based, invidiously discriminatory animus, Bowles' allegations do not support a claim for conspiracy under § 1985.[8]

Indeed, Bowles has not even alleged how he could possibly be in privity with Defendants, such that they owed him a duty of any kind. TPCIGA is not an insurer, and does not engage in the business of insurance. TEX. INS. CODE § 462.102. It is a distinct entity created by statute, with only one duty to a third party claimant: to pay the full amount of a "covered claim." *See id.* § § 462.302 ("[TPCIGA]'s liability is limited to the payment of covered claims."). In the present case, Bowles does not state a claim for recovery of a covered claim from TPCIGA—instead, Bowles' claims against it are based entirely on his assertions TPCIGA exceeded its statutory authority by retaining defense counsel to defend the Insured Law Firm in the Malpractice Suit and submitted a false affidavit in connection with that suit. *See* Compl. at ¶ 68. In other words, his claims are expressly based on his contention his malpractice claims against the Insured Law Firm were ***not*** covered under the Policy issued by Home Insurance. *See* Compl. at ¶¶ 15-17. Bowles' allegations make it clear he is not seeking payment of a "covered claim" from TPCIGA, and therefore he does not state a valid claim for recovery from TPCIGA.

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[8]Again, Bowles' allegations are conclusory and almost impossible to untangle. But even given the widest reading possible, it is clear they do not state a claim for conspiracy under § 1985.

As for HICIL, the Order of Liquidation entered by the New Hampshire court unambiguously enjoins commencing any actions against HICIL except through the liquidation process in New Hampshire. *See* HICIL's Mot. Dismiss at Ex. C, Tab F ("Order of Liquidation"), ¶ (n)(1). Bowles himself recognizes the existence of the provision, although he challenges "its hypocrisy in permanently banning actions against" HICIL. Pl.'s Mot. Temp. Susp. at ¶ 30. He contends this Court should not extend comity to the New Hampshire court's order simply because the order "works to protect tortfeasors from prosecution for fraud and deceit while preventing victims from seeking and obtaining relief." *Id.* at ¶ 31. But Bowles is not prevented from obtaining relief against HICIL under the Order of Liquidation, he simply has to do it through the liquidation process in New Hampshire (which he is presently doing, and is the basis of his request for suspension).

Article IV, Section 1 of the United States Constitution requires each state to give full faith and credit to the public acts, records, and judicial proceedings of every other state. The full faith and credit clause requires a valid judgment from one state be enforced in other states regardless of the laws or public policy of the other states. *Underwriters Nat'l Assurance Co. v. North Carolina Life & Accident & Health Ins. Guar. Ass'n*, 455 U.S. 691, 714 (1982). Injunctions against suits in other states that may interfere with the receivership process have been afforded full faith and credit by the United States Supreme Court. *See id.* (ordering North Carolina court to grant full faith and credit to injunction against bringing or prosecuting suits entered by Indiana receivership court).

Similarly, in *Bard v. Charles R. Myers Ins. Agency*, 839 S.W.2d 791 (Tex. 1992), the Texas Supreme Court found an order from a Vermont receivership contained an injunction prohibiting the prosecution of any action against the carrier, and thus the court found it proper to grant full faith and credit and dismiss a Texas state action brought against an insurance carrier for conspiracy. The court

found "the intent of the Vermont receivership court is clear—claims were to be brought against the estate according to the procedures set out in the liquidation order and in no other way. The type of injunction entered by the Vermont court is fundamental in assuring that this single procedure is maintained." *Id.* at 795. The court noted the liquidation order and Texas public policy required the claim be asserted in the receivership proceeding in Vermont. *Id.*

Bowles has not given the Court any reason to doubt that granting full faith and credit to the Order of Liquidation of the New Hampshire court is proper. Indeed, he has filed a motion asking to stay the present case in order to have certain matters essential to this case to be addressed by the referee in New Hampshire, with whom he has filed more than one proof of claim. *See, e.g.* Pl.'s Mot. Temp. Susp. at ¶ 19. Under the Order of Liquidation, Bowles is enjoined and restrained from bringing suit against HICIL except in accordance with the procedures set up by the Merrimack Superior Court; therefore, in accordance with that order, he cannot state any valid claim against HICIL over which this Court has jurisdiction. *See* Order of Liquidation.

II. This Court does not have subject matter jurisdiction

Not only has Bowles failed to allege a meritorious claim against either Defendant, he has failed to state a valid basis for either diversity jurisdiction or federal question jurisdiction as well. Without doing so, he cannot proceed in this Court.

It is axiomatic that "[f]ederal courts are courts of limited jurisdiction." *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). The courts derive the power to perform their judicial function solely from the grants of authority found in the Constitution and the various jurisdictional statutes passed by Congress. *Id.* Thus, the Court is constrained to adjudicate only those cases within the parameters of the jurisdiction vested in it by the Constitution and the

Congress. The Court begins with a presumption that a suit lies outside its jurisdiction and places the burden of establishing subject matter jurisdiction on the party seeking to have the case heard in the federal forum. *Howery v. Allstate Ins. Co.*, 243 F.3d 912, 916 (5th Cir. 2001).

District courts have original jurisdiction of "all civil actions arising under the Constitution, laws, or treaties of the United States," as well as jurisdiction over civil actions where complete diversity exists and the amount in controversy exceeds the sum of $75,000, exclusive of interest and costs. 28 U.S.C. §§ 1331, 1332(a). As discussed previously, Bowles' claims arising under the Constitution or federal law—his due process and right of access claims—are entirely without merit, and thus do not support a finding of federal question jurisdiction.[9] Therefore, the Court turns to the question of whether it has diversity jurisdiction. *See Caterpillar Inc. v. Williams*, 482 U.S. 386, 392 (1987) (holding either diversity of citizenship or federal-question jurisdiction is required to support a district court's subject matter jurisdiction").

For the purposes of diversity jurisdiction, the jurisdictional statute has long been interpreted to mandate a rule of "complete diversity." *See, e.g., Caterpillar, Inc. v. Lewis*, 519 U.S. 61, 68 (1996). Complete diversity requires the citizenship of each plaintiff be diverse from the citizenship of each defendant. *Id.* TPCIGA asserts it is a resident of Texas, as is Bowles, and therefore there is no diversity of citizenship jurisdiction under 28 U.S.C. § 1332.[10] Bowles alleges TPCIGA is a

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[9]The mere recitation of a constitutional violation does not suffice to establish federal question jurisdiction if "the contention is frivolous or patently without merit." *Murphy v. Inexco Oil Co.*, 611 F.2d 570, 573 (5th Cir. 1980). If the constitutional provision invoked is "clearly immaterial and is invoked solely for the purpose of obtaining jurisdiction or if the claim is wholly insubstantial and frivolous," a court is without federal question jurisdiction. *Holland/Blue Streak v. Barthelemey*, 849 F.2d 987, 989 (5th Cir. 1988).

[10]Specifically, TPCIGA asserts (in accordance with its creating statute) it is a "nonprofit unincorporated legal entity...composed of all member insurers," and thus it is the citizen of every

state agency, but even if his contention is true complete diversity does not exist in this case. "[S]uits against state agencies are considered suits against the state, except where the agency is endowed with such a separate and distinct existence that its activities are not those of the State," and "a State cannot be made a party defendant in a federal district court by a private litigant based upon diversity of citizenship." *Johnson v. Texas Dep't of Corrections*, 373 F. Supp. 1108, 1109 (S.D. Tex. 1974).

Finally, even if Bowles were able to establish a basis for this Court's jurisdiction, the primary thrust of Bowles' complaint is the adverse results he suffered in the Malpractice Suit at the hands of the Harris County district judge. His complaint is thus, in large part, simply an attack on the judgment of the state court. The *Rooker/Feldman* doctrine provides that federal district courts lack jurisdiction to entertain collateral attacks on state court proceedings, or claims inextricably intertwined with reviewing the validity of such judgments. *Liedtke v. State Bar of Texas*, 18 F.3d 315, 317 (5th Cir. 1994). Therefore, "[i]f a state trial court errs the judgment is not void, it is to be reviewed and corrected by the appropriate state appellate court." *Id.*

The casting of a complaint in the form of a civil rights action cannot circumvent this rule, as absent specific law to the contrary federal district courts are courts of original jurisdiction, and lack appellate jurisdiction to review, modify, or nullify final orders of state courts. *Id.*; *and see Jordaan v. Hall*, 275 F.Supp.2d 778, 789 (N.D. Tex. 2003). In *Jordaan*, the district judge imposed Rule 11 sanctions where he determined the complaint was "nothing more than a thinly veiled attempt to circumvent the state appellate process and to collaterally attack—in the guise of a federal civil rights action—the validity of a state court divorce decree and other related orders." *Jordaan*, F.Supp.2d

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state where its insurer members are citizens, including Texas. *See* TEX. INS. CODE § 462.051.

at 789. The judge determined "[a] reasonable amount of research" certainly would have revealed to the plaintiff the *Rooker-Feldman* jurisdictional bar to filing such claims in a United States district court. *Id.* In the present case, the Court likewise finds any reasonable amount of research would have revealed to Plaintiff his claims were improperly brought in a United States district court.

CONCLUSION

For the plethora of reasons detailed in the foregoing order, the Court finds Plaintiff Harry Bowles' complaint and his claims and legal contentions therein are entirely frivolous, and are not warranted by existing law or by a non-frivolous argument for the extension, modification, or reversal of existing law, in clear violation of Federal Rule of Civil Procedure 11.

IT IS THEREFORE ORDERED that Plaintiff Harry Bowles, by filing his Complaint, has violated Rule 11 of the Federal Rules of Civil Procedure and, therefore, has twenty-one (21) days in which to either: (1) file a new complaint against Defendants pursuant to Rule 8 of the Federal Rules of Civil Procedure;[11] or (2) file a voluntary dismissal of this lawsuit against all defendants. Otherwise, sanctions will be applied by the Court pursuant to Rule 11, including a money judgment for the attorney's fees incurred by all parties sued, and this judgment will be rendered against Bowles with a writ of execution issued against him. At the end of the twenty-one day period, the Court will also, pursuant to its inherent authority,

[11]Rule 8 specifically states that "a pleading shall contain (1) a short and plain statement of the grounds upon which the Court's jurisdiction depends . . . , (2) a short and plain statement of the claim showing that the pleader is entitled to relief . . . , and (3) a demand for judgment for the relief the pleader seeks." The rule further demands that each averment of the pleading must be simple, concise, and direct.

issue such other sanctions as are necessary and proper if Bowles has not filed an amended complaint asserting valid causes of action or a voluntary dismissal.

SIGNED this the 2nd day of April 2009.

SAM SPARKS
UNITED STATES DISTRICT JUDGE