Comment

The Rook That Would Be King: *Rooker-Feldman* Abstention Analysis After *Saudi Basic*

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The Rooker-Feldman *doctrine prevents federal district courts from assuming jurisdiction in cases that seek review of state court judgments. For years, the doctrine was applied widely—often barring federal jurisdiction in cases far beyond the scope of the original doctrine. In 2005, the Supreme Court in* Saudi Basic *intervened to clarify* Rooker-Feldman *and to curtail its more extravagant applications. Ten years on, this Comment presents an original empirical analysis of the effects of the* Saudi Basic *decision on* Rooker-Feldman *analysis in federal district courts. The findings suggest that* Rooker-Feldman *abstention remains a popular tool for declining federal jurisdiction. Moreover, data suggest that its application has actually proliferated following the* Saudi Basic *decision, raising questions about the efficacy of the Court's intervention and the development of procedural doctrine at the Supreme Court.*

Introduction

The *Rooker-Feldman* doctrine compels district courts to decline jurisdiction when state court losers seek appellate review of state court judgments in federal district court.[1] In *Exxon Mobil Corp. v. Saudi Basic*

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1. Lance v. Dennis, 546 U.S. 459, 460 (2006).

Industries Corp., the Supreme Court sought to correct overbroad application of the *Rooker-Feldman* doctrine in district courts and to narrow its power to bar suits.[2] Ten years later, this Comment considers whether *Saudi Basic* ever realized those ambitions. Using empirical techniques to measure aggregate trends in district court litigation, I argue that district court behavior following *Saudi Basic* is inconsistent with a reduction in *Rooker-Feldman* abstention. Instead, *Rooker-Feldman* abstention post-*Saudi Basic* has increased significantly and continues to displace traditional preclusion analysis. The result is a case study in Supreme Court intervention fallen flat: despite the Supreme Court's pointed attempts to curtail the doctrine's use, district courts continue to apply it. Accordingly, the data presented underscore questions about the extent to which district courts respond to the development of procedural doctrine in the Supreme Court.

This Comment proceeds in three parts. In Part I, I begin with an overview of *Rooker-Feldman* and its application in district courts prior to *Saudi Basic*. In Part II, I conduct an empirical analysis of *Saudi Basic*'s effects on aggregate district court behavior. I examine changes in the incidence with which *Rooker-Feldman* appears on district court dockets as well as the rate at which it is employed to bar suits. Surveying the relevant data, I find that the Supreme Court and district courts live in different worlds when it comes to *Rooker-Feldman* abstention analysis: while *Saudi Basic* signaled the Supreme Court's intention to narrow *Rooker-Feldman*, the case has had virtually no effect in curtailing its use by district courts. Finally, in Part III, I offer a brief analysis of the results. Because *Rooker-Feldman* creates an absolute jurisdictional bar, it serves as a convenient way for courts to discharge suits on preclusion-*like* grounds without engaging in actual preclusion analysis (often a messy, fact-intensive enterprise). In effect, the doctrine beckons to preclusion principles while applying more absolutely and uniformly than preclusion analysis ever could.[3] In the end, I conclude that *Saudi Basic* holds clues about the relationship between the refinement of procedural doctrine at the Supreme Court and its practical application in district courts. These data suggest that district courts do not always listen when the Supreme Court speaks. Absent new guidance, it seems unlikely that district courts will substantially alter the manner in which they apply *Rooker-Feldman*. In the meantime, this study strongly suggests that *Rooker-Feldman* is as alive as ever and widely supplanting traditional preclusion analysis in district courts.

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2. 544 U.S. 280, 283 (2005).

3. Issue preclusion (collateral estoppel) and claim preclusion (*res judicata*) principles require courts to engage in "what can become a fact intensive determination of what actually was at issue and decided" in earlier cases. Eugene J. Kelley, Jr. et al., *The* Rooker-Feldman *Doctrine: An Analysis of Its Application in Today's Legal Environment*, 61 CONSUMER FIN. L.Q. REP. 559, 561 (2007). Because *Rooker-Feldman* is jurisdictional, courts can use the doctrine to dismiss cases in their entirety. Preclusion, by contrast, would require the dismissal of particular claims within a case or the estoppel of litigation of particular issues; it does not compel a "clean," wholesale dismissal.

I. *Rooker-Feldman*, *Saudi Basic*, and *Lance*

For decades, *Rooker-Feldman* enjoyed wide application in federal district courts, barring state court losers from appealing to federal court to undo state judgments.[4] In the case that gave rise to the doctrine, *Rooker v. Fidelity Trust Co.*, plaintiff Dora Rooker sought relief from an Indiana Supreme Court judgment by refashioning her claim as a constitutional challenge and filing suit in federal district court.[5] Affirming the district court's dismissal of her suit, the Supreme Court concluded that if a federal district court took such a case, it "would be an exercise of appellate jurisdiction" when the "jurisdiction possessed by the District Courts is strictly original."[6] *Rooker* sat largely dormant in Supreme Court jurisprudence for the next sixty years, serving primarily as guidance on the finality of state court judgments in federal preclusion analysis.[7]

The Supreme Court revisited the doctrine in 1983 when it decided *District of Columbia Court of Appeals v. Feldman*.[8] *Feldman* arose from a challenge to the District of Columbia's rules for bar admission. After the plaintiffs' challenge was rejected by the District of Columbia courts, the plaintiffs sought review in federal district court.[9] The district court dismissed the case for lack of jurisdiction. The Supreme Court affirmed by holding that the plaintiffs' federal complaint would improperly require the district court to review final judicial acts of a state court.[10]

Though the Supreme Court did not rule directly on the doctrine's breadth or general application until *Saudi Basic* in 2005,[11] federal circuit courts gradually developed a fractious *Rooker-Feldman* common law.[12] Even as circuit treatment varied, most courts applied the doctrine to bar suits under one of two conditions: (1) when a federal court plaintiff expressly seeks the

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4. 544 U.S. at 283.

5. Rooker v. Fid. Trust Co., 263 U.S. 413, 414-15 (1923).

6. *Id.*

7. *See, e.g.*, Fishgold v. Sullivan Drydock & Repair Corp., 328 U.S. 275, 282-83 (1946) (citing *Rooker* for the proposition that "a prior judgment 'is a finality as to the claim or demand in controversy, concluding parties and those in privity with them, not only as to every matter which was offered and received to sustain or defeat the claim or demand, but as to any other admissible matter which might have been offered for that purpose.'" (quoting Cromwell v. County of Sac, 94 U.S. 351, 352 (1877)).

8. 460 U.S. 462 (1983).

9. *Id.* at 467.

10. *Id.* at 487-88 (noting that the plaintiffs' claims were "inextricably intertwined" with final state court determinations). The District of Columbia Court of Appeals is treated as a state court for *Rooker-Feldman* purposes; it is a different court from the United States Court of Appeals for the District of Columbia Circuit, a federal appellate court.

11. The Supreme Court noted in *Saudi Basic* that, at the time of the decision, the doctrine had been "applied by this Court only twice." 544 U.S. 280, 283 (2005).

12. *See* Thomas McLemore, Comment, *The* Rooker-Feldman *Doctrine: Did* Exxon *Rein in the Doctrine or Leave Lower Federal Courts with as Little Guidance as Before?*, 31 OKLA. CITY U. L. REV. 361, 365-67 (2006) (discussing application of *Rooker-Feldman* after *Feldman*).

appellate review of a state judicial act;[13] or (2) when a federal plaintiff's case is "inextricably intertwined" with a state court judgment such that appellate review is effectively required.[14] An issue is "inextricably intertwined . . . if the federal claim succeeds only to the extent that the state court wrongly decided the issues before it."[15] As outlined in *Rooker* and *Feldman*, the assumption of jurisdiction by a district court in either situation directly contravenes two statutory requirements of federal jurisdiction: the limitation of federal district courts to original jurisdiction, and the exclusive authorization of the Supreme Court to hear reviews of state court judgments.[16] As a result, the doctrine bars district court jurisdiction and mandates dismissal of federal court challenges to state court final judgments.[17] Over time, a range of noteworthy cases "misappl[ied]" *Rooker-Feldman*, drawing criticism from academic commentators and, later, the corrective ire of the Supreme Court.[18] With a sense of the doctrine's growing indiscrimination, scholars and judges began to conclude that the district courts had expanded the doctrine's effective reach far beyond the narrow holdings in *Rooker* and *Feldman*.[19] In 2005, the Supreme Court intervened.

By the time the Supreme Court ruled in *Saudi Basic*, twenty-two years had passed since the Court substantially addressed the contours of *Rooker-Feldman*. *Saudi Basic* concerned dueling state and federal countersuits between Exxon Mobil Corporation ("Exxon") and Saudi Basic Industries Corporation ("SABIC") over a revenue sharing agreement.[20] The question before the Court was whether a state court judgment in favor of a federal plaintiff would implicate *Rooker-Feldman* and bar a concurrent federal countersuit.[21] Emphatically, the Court answered "no." Reversing the Third Circuit, the Supreme Court held that:

> The *Rooker-Feldman* doctrine . . . is confined to cases of the kind from which the doctrine acquired its name: cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court

13. Susan Bandes, *The* Rooker-Feldman *Doctrine: Evaluating Its Jurisdictional Status*, 74 NOTRE DAME L. REV. 1175, 1182-83 (1999).

14. 460 U.S. at 483 n.16 (1983).

15. Pennzoil Co. v. Texaco Inc., 481 U.S. 1, 25 (1987) (Marshall, J., concurring). This is one of the few cases by the Supreme Court that offered post-*Feldman* guidance on *Rooker-Feldman*'s requirements. *See* Bandes, *supra* note 13, at 1201.

16. *See* Bandes, *supra* note 13, at 1180-81 (discussing the dual rationales for *Rooker-Feldman* abstention). Habeas proceedings are, of course, an exception to this rule.

17. *Id.*

18. Exxon Mobil v. Saudi Basic Indus. Corp., 544 U.S. 280, 283 (2005) (citing Moccio v. New York State Office of Court Admin., 95 F.3d 195, 199-200 (2d Cir. 1996)). *See also* McLemore, *supra* note 12, at 365.

19. *See, e.g.*, *Kamilewicz v. Bank of America Corp.*, 100 F.3d 1348, 1351 (7th Cir. 1996) (Easterbrook, J., dissenting); Bandes, *supra* note 13, at 1183.

20. 544 U.S. at 289.

21. *Id.*

> proceedings commenced and inviting district court review and rejection of those judgments.[22]

The Court continued that beyond this "narrow ground," the doctrine "does not otherwise override or supplant preclusion doctrine or augment the circumscribed doctrines that allow federal courts to stay or dismiss proceedings in deference to state-court actions."[23] In *Saudi Basic*, the federal plaintiff had suffered no injury; as a defendant in state court, it *won*. Though the Court admitted that "[t]his case surely is not the 'paradigm situation in which *Rooker–Feldman* precludes a federal district court from proceeding,'" it framed the overall decision as a warning to district courts about the wide overreach then employed by district courts applying *Rooker-Feldman*.[24] While the decision *reversed* a determination that *Rooker-Feldman* applied, it nonetheless provided a four-part test for ascertaining the "narrow" confines in which the doctrine applies:[25]

> First, the federal court plaintiff must have lost in state court. Second, the plaintiff must complain of injuries caused by the state court judgment. Third, the plaintiff must be asking the federal district court to review and reject the state court judgment. Finally, the state court judgment must have been rendered before the federal district court proceedings commenced.[26]

Apart from a series of loosely connected observations about preclusion law and other abstention doctrines available to courts, the Supreme Court did not further articulate its holding that "*Rooker-Feldman* does not . . . override or supplant preclusion doctrine" or the abstention doctrines.[27]

A year later, the Supreme Court revisited *Rooker-Feldman* in *Lance v. Dennis*, again overturning a district court's overbroad application of the doctrine.[28] *Lance* arose from a redistricting dispute in Colorado in which a federal district court "dismissed the plaintiffs' suit on the ground that they were in *privity* with a state-court loser."[29] The Supreme Court held that *Rooker-Feldman* is inapplicable when the party against whom the doctrine is invoked is not actually a party in the state court proceeding.[30] The decision emphasizes *Rooker-Feldman*'s narrowness, though little in the opinion offers much

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22. *Id.* at 284.
23. *Id.*
24. *Id.* at 293 (quoting Exxon Mobil Corp. V. Saudi Basic Indus. Corp., 364 F.3d 102 (3d Cir. 2004)).
25. *See* Dustin E. Buehler, *Jurisdiction, Abstention, and Finality: Articulating A Unique Role for the* Rooker-Feldman *Doctrine*, 42 SETON HALL L. REV. 553, 599 (2012); Kelley, *supra* note 3, at 563; McLemore, *supra* note 12.
26. Kelley, *supra* note 3, at 563.
27. 544 U.S. at 284.
28. Lance v. Dennis, 546 U.S. 459 (2006).
29. *Id.* at 460 (emphasis supplied).
30. *Id.*

assistance to district courts seeking to comply with the Court's instruction (beyond the new, highly specific holding that nonparties should not fall within the ambit of *Rooker-Feldman* analysis).[31]

A range of academic commentary followed, most of which predicted *Rooker-Feldman*'s demise.One observer reviewed sample district and circuit court decisions released in the year following *Saudi Basic*, offering an anecdotal yet optimistic account of the doctrine's decline.[32] Others issued broader predictions, noting the Supreme Court's strong warning to district courts and forecasting a renaissance for traditional preclusion analysis.[33] One author went so far as to declare the *Rooker-Feldman* doctrine interred and composed a mock obituary for it.[34] Common to nearly all commentary, however, was a deep sense that the Supreme Court had succeeded in substantially curtailing *Rooker-Feldman* abstention once and for all.[35]

II. Aggregate Trends in District Court Dispositions After *Saudi Basic*

A. Background and Methods

Nearly ten years after *Saudi Basic* and *Lance*, the academy has yet to produce a conclusive answer as to whether the Supreme Court succeeded in curtailing *Rooker-Feldman* abstention. There exists no systematic follow-on study assessing the decisions' effects on district courts over time. Using original empirical analysis, this Comment seeks to capture aggregate behavior at the district court level both before and after *Saudi Basic*. It begins from the assumption that the Supreme Court's aim in *Saudi Basic* and *Lance* was to substantially limit the doctrine's use to the "narrow ground occupied" by the holdings in *Rooker* and *Feldman*.[36] It follows that if the Supreme Court's ambitions were realized, district courts should, on the whole, apply *Rooker-Feldman* in fewer overall cases after *Saudi Basic* and *Lance* than before (all else held constant).[37] Put differently, if *Saudi Basic* and *Lance* represented

31. *Id.* at 464 ("Our cases since *Feldman* have tended to emphasize the narrowness of the *Rooker–Feldman* rule . . . *Rooker–Feldman* . . . is a narrow doctrine.").

32. *E.g.*, McLemore, *supra* note 12, at 374 (after reviewing a sample of district court cases, stating that "it seems that *Exxon* did actually limit application of the doctrine").

33. *See, e.g.*, Kelley, *supra* note 3, at 563.

34. Samuel Bray, Rooker-Feldman *(1923-2006)*, 9 GREEN BAG 2D 317 (2006).

35. *See, e.g.*, Kelley, *supra* note 3, at 563; Andrew Hessick III, *The Common Law of Federal Question Jurisdiction*, 60 ALA. L. REV. 895, 925 (2009) (noting that the "decision was based on the conclusion that the Court's created *Rooker-Feldman* doctrine had been extended too far").

36. *Exxon Mobil v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005). *See id.* at 283 ("Variously interpreted in the lower courts, the doctrine has sometimes been construed to extend far beyond the contours of the *Rooker* and *Feldman* cases, overriding Congress' conferral of federal-court jurisdiction concurrent with jurisdiction exercised by state courts, and superseding the ordinary application of preclusion law pursuant to 28 U.S.C. § 1738." (citing, as an example, Moccio v. N.Y. State Office of Court Admin., 95 F.3d 195, 199–200 (2d Cir. 1996))).

37. A change in the overall level of litigation could affect the number of cases that apply *Rooker-Feldman* over time.

"shots across the bow" by the Supreme Court, an attentive response by district courts would register through a corresponding decrease in the incidence of *Rooker-Feldman* abstention cases.[38] At a minimum, district court attentiveness to *Saudi Basic* and *Lance* would be inconsistent with a significant increase in *Rooker-Feldman* analysis.

The principal technique for this study was to measure the incidence of *Rooker-Feldman* analysis at the district court level both before and after the release of *Saudi Basic* and *Lance*. I proceeded by measuring the incidence of district court citations for *Rooker-Feldman* analysis against two baseline proxies for overall trends in civil and criminal litigation.[39] Three discrete queries were entered into electronic case databases of federal lawsuits: (1) an "incidence query" measuring how often the doctrine was cited by courts; (2) a "baseline query" measuring how often two unrelated, relatively constant topics were cited; and (3) an "applied" query measuring how often the doctrine was actually applied when cited. Each query conducted a targeted database search for four time periods: two four-year periods preceding the *Saudi Basic* and *Lance* decisions and two four-year periods following. For each of the four periods, the data were tallied and subdivided by cases in (1) circuit courts, (2) district courts, and (3) bankruptcy courts, then further subdivided by reporter cases and total cases.[40] The study then secured data on citations to "Fourth Amendment" and "auto! accident" in each of the same four-year periods.[41] This methodology allowed me to secure a baseline figure for both criminal (Fourth Amendment) and civil (auto accidents) litigation activity in the justice system overall, and against which to measure changes in *Rooker-Feldman* abstention analysis.[42] By measuring the incidence of these three variables over four discrete time periods—two prior to *Saudi Basic* and *Lance* and two following—the study captures overall trends in both (1) the incidence of *Rooker-Feldman* analysis by district courts, as well as (2) its relationship to overall changes in litigation trends.[43]

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38. *See Lance v. Dennis*, 546 U.S. 459, 464 (2006) (characterizing *Saudi Basic* as a warning for district courts not to extend *Rooker- Feldman* beyond its "narrow" confines).

39. I also collected data for *Rooker-Feldman* incidence at United States Courts of Appeals and United States Bankruptcy courts. Though these data are outside the purview of this Comment, the same trends identified below are consistent with changes in behavior at circuit courts and bankruptcy courts. These data are on file with the author.

40. A second database was then used to conduct the same searches to measure for relative consistency in the data. Westlaw was the primary database used; Lexis was the second database.

41. The "!" character directs the search tool to capture all variations on the word "auto," including both "auto" and "automobile." This approach was taken in order to secure a more complete universe of automobile cases.

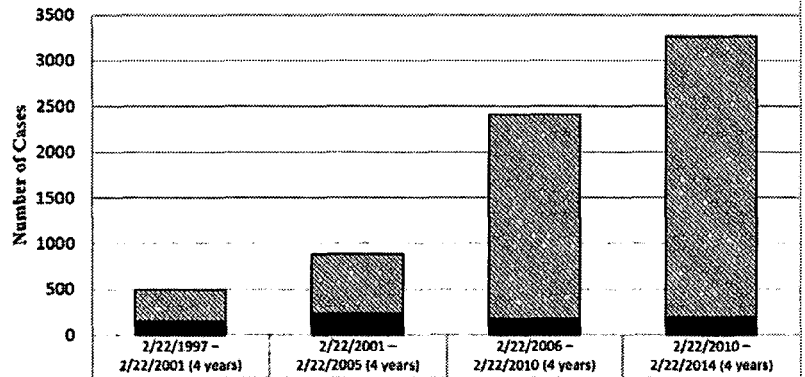
42. These queries were selected because they appear to be relatively constant legal issues over time that reflect changes in overall litigation and database breadth for both criminal and civil cases. *Rooker-Feldman* abstention arises in both civil and criminal proceedings.

43. These were measured by running electronic database queries for all federal district circuit court cases in specified time periods.

Second, I sought to ascertain how many *Rooker-Feldman* cases resulted in abstention (that is, cases in which the doctrine was applied rather than merely discussed). To isolate these cases, the study ran queries for "Rooker-Feldman" within twenty-five words of words and phrases that district courts often use when applying the doctrine to decline jurisdiction such as "applies;" "lacks jurisdiction;" and "bars." I did the same to find cases where courts chose not to apply the doctrine, substituting words that district courts use when rejecting *Rooker-Feldman* arguments ("does not bar;" "does not apply;" "inapplicable"). The results from this part of the study are far more tentative than the analysis of overall citation counts. Still, the queries produced significantly more targeted results than the first set. The search for cases resulting in abstention generally found these cases; the search for cases where abstention did not apply found those cases, too.[44] The results appear below.

B. Results

Table 1: District Court Citations to *Rooker-Feldman*



	2/22/1997 – 2/22/2001 (4 years)	2/22/2001 – 2/22/2005 (4 years)	2/22/2006 – 2/22/2010 (4 years)	2/22/2010 – 2/22/2014 (4 years)
Total Cases	347	656	2239	3066
Reported Cases	149	231	172	197

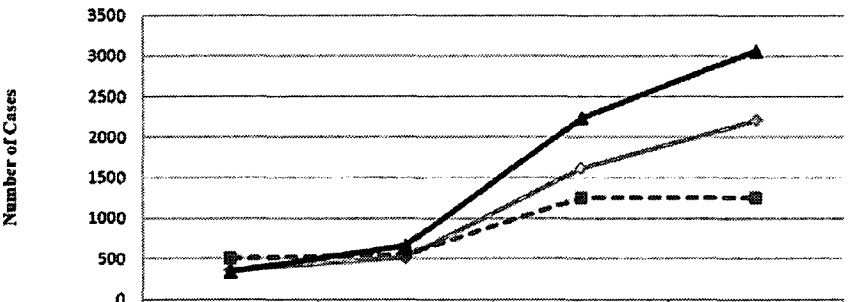
The raw numbers reflect database scope as much as litigation trends; for this reason, any finding is limited by the extent to which it hews with–or departs from–the benchmark queries for relatively constant, unrelated litigation topics. And yet, even with this limitation, the results of the analysis are striking: when it comes to *Rooker-Feldman* abstention, the Supreme Court and the

44. I reached this conclusion by examining a sample grouping of cases returned by each search query.

district courts live in different worlds. At a minimum, the data suggest that *Saudi Basic* has not slowed the appearance or application of *Rooker-Feldman* abstention analysis in district court cases. Indeed, much of the data are consistent with a significant *increase* in the number of cases citing and applying *Rooker-Feldman* after *Saudi Basic* and *Lance*. As depicted in Table 1, nearly *ten times* more district court cases cite *Rooker-Feldman* from 2010 to 2014 than from 1997 to 2001.[45]

The data remain striking even when set against database benchmark queries for unrelated but relatively constant topics. As Table 2 illustrates, the number of *Rooker-Feldman* cases grew much faster over time than the number of cases returned for similar queries concerning the Fourth Amendment (mostly criminal cases) or auto accidents (mostly civil).

Table 2: Total Cases Comparison



	Period 2/22/1997 – 2/22/2001 (4 years)	Period 2/22/2001 – 2/22/2005 (4 years)	Period 2/22/2006 – 2/22/2010 (4 years)	Period 2/22/2010 – 2/22/2014 (4 years)
4th Amend.	366	518	1612	2213
Auto	504	555	1251	1248
Rooker	347	656	2239	3066

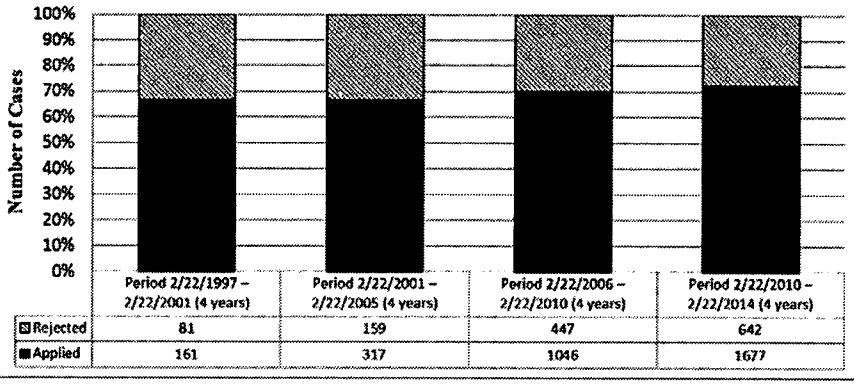
Unequivocally, the data do not suggest that *Rooker-Feldman* is appearing on district court dockets at a lower rate than it did in the period before *Saudi Basic* and *Lance*—the very period of overreach that prompted the Supreme Court's intervention.[46] And, when *Rooker-Feldman* arises, courts were just as likely to "say yes" to it (and dismiss the underlying case) before *Saudi Basic* and *Lance* as after. For example, courts appear to apply the doctrine at a relatively steady, increasing rate over time (as reflected in Tables 4 and 5). *Saudi Basic*'s "significant narrowing" does not appear to have registered at all.

45. Roughly proportional growth numbers appear for circuit court cases during the same time. The increase in Court of Appeals cases was slightly less than in the district courts. This is consistent with many complaints about the particular difficulty *Rooker-Feldman* creates for vulnerable or underrepresented plaintiffs. *See* Bandes, *supra* note 13, at 1186-87. These suits are less likely to appear at the Court of Appeals. Accordingly, a significant increase in district court litigations applying *Rooker-Feldman* would result in a smaller, though still significant, increase in Court of Appeals cases.

46. Exxon Mobil Corp. v. Saudi Basic Indus. Corp., 544 U.S. 220, 283 (2005).

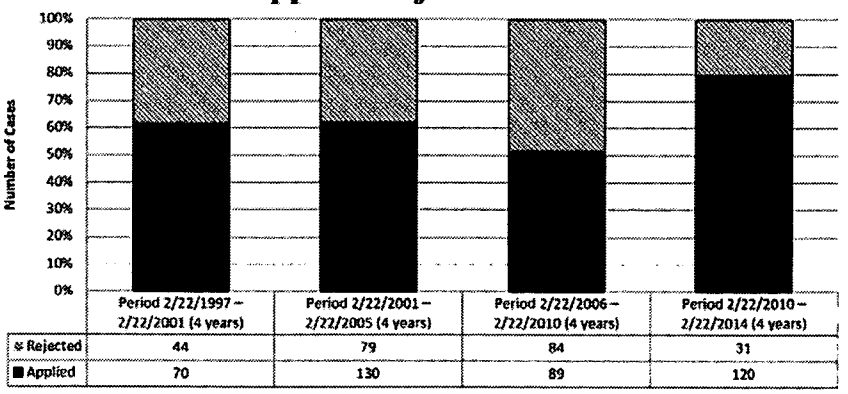
In fact, when it comes to cases appearing in federal reporters (as opposed to all federal cases), the data are even more confounding for the Supreme Court's would-be intervention: the last four years show a significant *increase* in reporter cases that apply the doctrine to dismiss suits (this occurs in nearly eight out of ten cases in which the doctrine is cited, the highest of any period recorded).

Table 3: Total Cases Applied/Rejected



	Period 2/22/1997 – 2/22/2001 (4 years)	Period 2/22/2001 – 2/22/2005 (4 years)	Period 2/22/2006 – 2/22/2010 (4 years)	Period 2/22/2010 – 2/22/2014 (4 years)
Rejected	81	159	447	642
Applied	161	317	1046	1677

Table 4: Reported Cases Where Applied/Rejected



	Period 2/22/1997 – 2/22/2001 (4 years)	Period 2/22/2001 – 2/22/2005 (4 years)	Period 2/22/2006 – 2/22/2010 (4 years)	Period 2/22/2010 – 2/22/2014 (4 years)
Rejected	44	79	84	31
Applied	70	130	89	120

All told, the results of the analysis are strongly inconsistent with the ambitions of *Saudi Basic* and *Lance*.[47] At a minimum, the data suggest that *Saudi Basic* did not slow *Rooker-Feldman*'s appearance or application in district courts. More likely, it appears from the analysis that *Rooker-Feldman* cases *grew* in number and did so substantially faster than the overall increase in litigation generally. Further, the data broadly suggest that courts have not actually applied *Rooker-Feldman* any less frequently to bar suits after *Saudi Basic* and *Lance*. In sum, despite the Supreme Court's dual interventions in *Saudi Basic* and *Lance*, abstention analysis under *Rooker-Feldman* remains a popular enterprise at the district court. Hundreds of cases cite the doctrine each year, and the number continues to grow despite an unambiguous expression of disapproval by the Supreme Court. Though these findings are by no means conclusive, they draw into question the efficacy of the Supreme Court's guidance in *Saudi Basic* and *Lance*.

III. Analysis

At the very least, the data show that the Court's stated ambitions in *Saudi Basic* and *Lance* are unrealized. This final Part offers an explanation for why *Rooker-Feldman* abstention remains steady. It concludes with some takeaways on the relationship between the Supreme Court and federal district courts.

First, judicial efficiency concerns may account for *Rooker-Feldman*'s persistent presence at the district court.[48] *Rooker-Feldman* is a powerful, all-too-tempting tool for district courts because it "may offer a surer way of dismissing a federal case . . . on jurisdictional grounds, rather than conducting what can become a fact-intensive determination of what was actually at issue and decided in the earlier case."[49] In the words of one, the doctrine "encourages jurisdictional helplessness" by giving district courts an easy way out of tricky preclusion analysis.[50] If helplessness at the district court is a symptom of *Rooker-Feldman*, however, then it is a learned helplessness. Though district courts have other tools for dispensing with unwanted suits that involve state court judgments,[51] *Rooker-Feldman*'s appeal in such situations may be too hard to resist.

A more radical interpretation, consistent with the data above, is that the Supreme Court's recent attention to the doctrine has actually awakened its use in district courts. That is, *Saudi Basic* may have had a reverse signaling effect for certain district courts which previously applied the doctrine sparingly, if at

47. Lance v. Dennis, 546 U.S. 459, 464 (2006) (explaining that *Saudi Basic* is a warning for district courts to narrow their application of *Rooker-Feldman*).

48. Efficacy is a persistent concern in the literature prior to *Saudi Basic*. *See, e.g.*, Kelley, *supra* note 3, at 562-63.

49. Kelley, *supra* note 3, at 562.

50. Bandes, *supra* note 13, at 1207.

51. *E.g.*, Younger v. Harris, 401 U.S. 37 (1971) (applying abstention doctrine for on-going parallel state proceedings).

all. Further research is required to corroborate this hypothesis. Still, it is not hard to imagine a district court reading *Saudi Basic* as both disapproving of wild overreaches of *Rooker-Feldman* and broadcasting its continued (if narrow) availability. Phrased another way, it may be that prior to *Saudi Basic*, *Rooker-Feldman* was both misapplied *and* under-applied. If more district courts had known about it or known it would survive under Supreme Court scrutiny, perhaps more would have used it—for better or for ill.

The data also present an important case study in the relationship between the development of procedural doctrine at the Supreme Court and its application in district courts. Although this case study is far from a complete model of Article III intra-branch relations, the data call into question the extent to which district courts actually listen to—or apply—developments at the Supreme Court. It is difficult to survey the findings without getting the distinct sense that the Supreme Court's intervention barely registered. From one perspective, it may be that old procedural habits "die hard" in the district court. From another perspective, it may demonstrate the level of doctrinal specificity that district courts require to effectively implement complicated procedural changes, whether in abstention doctrine or more broadly. After all, even though the rhetoric of *Saudi Basic* and *Lance* is broad and assertive, the actual holdings in the cases are exceedingly narrow. In effect, the Court identified two situations in which the doctrine did *not* apply; it identified no new case or fact pattern in which the doctrine *would* apply. As a result, district courts looking to take up the Supreme Court's charge have only negative fact patterns against which to measure their own cases. All told, *Saudi Basic* and *Lance* represent serious missed opportunities for the Court to refine, clarify, and curtail *Rooker-Feldman* analysis.

Conclusion

Post-*Saudi Basic*, the Supreme Court and district courts maintain remarkably different stances toward the application of *Rooker-Feldman* abstention analysis. This empirical analysis of district court behavior following the *Saudi Basic* and *Lance* decisions suggests that district courts persist in widely applying the doctrine and may have even increased the rate at which they invoke *Rooker-Feldman* to decline jurisdiction. Absent a new intervention by the Court, this trend is likely to continue.