103 Fed.Appx. 431, 2004 WL 1367927 (C.A.2 (N.Y.))
(Not Selected for publication in the Federal Reporter)
(Cite as: 103 Fed.Appx. 431, 2004 WL 1367927 (C.A.2 (N.Y.)))

C

This case was not selected for publication in the Federal Reporter.

United States Court of Appeals,
Second Circuit.
Lidia SWIATKOWSKI and Michael Swiatkowski,
Plaintiffs-Counter-Defendants-Appellants,
v.
BANK OF AMERICA, NT & SA, as Successor by Merger to Bankamerica National Trust Company (New York) as Trustee, Manton, Sweeny, Gallo, Reich & Bolz, LLP, Sweeney, Gallo & Reich, and Citimortgage Inc., Defendants-Counter-Claimants-Appellees.
No. 03-7895.

June 17, 2004.

Background: Borrowers brought action against mortgage lenders alleging consumer harassment, violation of settlement plan, wrongful foreclosure, and related claims. The United States District Court for the Eastern District of New York, Arthur D. Spatt, J., dismissed complaint, and borrowers appealed.

Holding: The Court of Appeals held that *Rooker-Feldman* doctrine barred suit.
Affirmed.

West Headnotes

Courts 106 ⚿509

106 Courts
106VII Concurrent and Conflicting Jurisdiction
106VII(B) State Courts and United States Courts
106k509 k. Vacating or Annulling Decisions. Most Cited Cases
Rooker-Feldman doctrine barred borrowers' action against mortgage lenders alleging consumer harassment, violation of settlement plan, wrongful foreclosure, and related claims, where action effectively sought to re-litigate judgment of foreclosure entered against borrowers in state court.

***431** Appeal from the United States District Court for the Eastern District of New York (Arthur D. Spatt, District Judge).
UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the judgment of the District Court is AFFIRMED.Lidia Swiatkowski and Michael, Swiatkowski, Massepequa, NY, for Appellants, pro se.

Rashel M. Mehlman, Manton, Sweeney, Gallo, Reich & Bolz, LLP, Rego Park, NY, for Appellees.

PRESENT: WALKER, Chief Judge, OAKES, and POOLER, Circuit Judges.

SUMMARY ORDER

****1** Plaintiffs-counter-defendants-appellants Lidia and Michael Swiatkowski ("the Swiatkowskis") appeal from an order of the district court for the Eastern District of New York (Arthur D. Spatt, *District Judge*), dismissing their July 2002 complaint alleging, *inter alia*, that defendants (1) committed "consumer harassment;" (2) rejected their mortgage payments in violation***432** of a settlement plan; (3) conspired to force them to leave their home; (4) "deceived the court" and initiated a foreclosure action based on "misleading information;" and (5) caused them to suffer medical and credit problems. In August 2003, the district court granted the defendants' motion to dismiss under Federal Rule of Civil Procedure 12(b)(1), holding that under the *Rooker-Feldman* doctrine, the court lacked subject matter jurisdiction: even reading the complaint liberally, the court found that the Swiatkowskis' lawsuit was effectively seeking to re-litigate a judgment of foreclosure entered against them by the state court. We affirm.

© 2009 Thomson Reuters. No Claim to Orig. US Gov. Works.

We review a district court's dismissal for lack of subject matter jurisdiction *de novo*. *See Luckett v. Bure,* 290 F.3d 493, 496 (2d Cir.2002). It is well settled that inferior federal courts lack jurisdiction to review state court decisions. *See D.C. Court of Appeals v. Feldman,* 460 U.S. 462, 482, 103 S.Ct. 1303, 75 L.Ed.2d 206 (1983); *Rooker v. Fidelity Trust Co.,* 263 U.S. 413, 416, 44 S.Ct. 149, 68 L.Ed. 362 (1923); *Doctor's Assocs., Inc. v. Distajo,* 107 F.3d 126, 138 (2d Cir.1997); *Gentner v. Shulman,* 55 F.3d 87, 89 (2d Cir.1995). The *Rooker-Feldman* doctrine bars not only claims that involve direct review of a state court decision, but also claims that are "inextricably intertwined" with a state court decision. *Moccio v. New York State Office of Court Admin.,* 95 F.3d 195, 198 (2d Cir.1996). As we agree that the Swiatkowskis' claims are plainly covered by the *Rooker-Feldman* doctrine, the district court was correct in finding that it did not have jurisdiction to hear their lawsuit.

The district court found that subject matter jurisdiction was lacking for still another reason: jurisdiction was predicated on 28 U.S.C. § 1332, and there was not complete diversity between the parties. *See Cresswell v. Sullivan & Cromwell,* 922 F.2d 60, 68 (2d Cir.1990) ("It is well established that for a case to come within this statute there must be complete diversity and that diversity is not complete if any plaintiff is a citizen of the same state as any defendant."). Because the Swiatkowskis and two of the defendants are New York citizens, the requirements for diversity jurisdiction cannot be met in this case. Accordingly, we also affirm on this alternative ground.

****2** We have carefully considered all the Swiatkowskis' arguments, including those advanced in their 28J letter of June 2004, and find them to be without merit.

For the reasons set forth above, the judgment of the district court is hereby AFFIRMED.

C.A.2 (N.Y.),2004.
Swiatkowski v. Bank of America, NT & SA

103 Fed.Appx. 431, 2004 WL 1367927 (C.A.2 (N.Y.))

END OF DOCUMENT

© 2009 Thomson Reuters. No Claim to Orig. US Gov. Works.