

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

NIKELLE S. MEADE,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 00-101-JJF
	:	
SIMON PROPERTY GROUP	:	
(DELAWARE) INC.,	:	
	:	
Defendant.	:	

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Nikelle S. Meade, Esquire of Brown McCarroll & Oaks Hartline, Austin, Texas.  
Pro Se Plaintiff.

Frederick W. Iobst, Esquire, Matthew Denn, Esquire of Young, Conaway, Stargatt, & Taylor,  
Wilmington, Delaware.  
Attorneys for Defendant.

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**MEMORANDUM OPINION**

September 28, 2001  
Wilmington, Delaware

**FARNAN, District Judge.**

The litigation pending in this Court was preceded by the Plaintiff filing a lawsuit in the United States District Court for the Western District of Texas (“Texas Court”) in 1998, in which Defendant Simon Property Group (Delaware) Inc. (“Defendant”) was one of four named defendants. The complaint in the Texas lawsuit alleged that all four defendants were liable to Plaintiff for three violation of 42 U.S.C. § 1983, intentional infliction of emotional distress, false imprisonment, slander by acts, and assault, due to an incident at the Dillard Department Store in Texas’s Lakeline Mall on October 30, 1996.<sup>1</sup> On January 14, 2000, the Texas Court dismissed without prejudice Plaintiff’s claims against Defendant due to a lack of jurisdiction.

On February 18, 2000, Plaintiff filed the instant lawsuit against Defendant in this Court, based on the same incident at the Lakeline Mall, alleging violations of Section 1983, false imprisonment, slander per se by acts or words, and assault. (D.I. 1).

After resolving motions for summary judgment and after a jury trial on the merits, the Texas Court entered judgment in favor of all the remaining defendants on all of Plaintiff’s claims on September 8, 2000. (D.I. 17 at A27-A43; D.I. 31, Exh. A).

On November 8, 2000, this Court granted Defendant’s Partial Motion for Summary Judgment

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<sup>1</sup> For purposes of this motion, the Court assumes as true the following allegations: (1) Defendant is 1% general partner of Golden Ring Mall Co., L.P. (“Golden Ring”), (2) Golden Ring is 1% general partner of Simon Property Group (Texas) (“Simon-Texas”), (3) Simon-Texas operates Lakeline Mall, and (4) Lakeline Mall’s employee committed the act giving rise to the instant litigation. The four above entities were the defendants in the Texas litigation.

as to Plaintiff's Section 1983 claims, and also granted Plaintiff's unopposed motion to dismiss her claim for slander by acts. (D.I. 29). As a result, the only remaining claims in this action are for false imprisonment and assault. On December 6, 2000, Defendant filed a Motion for Summary Judgment (D.I. 30), contending that Plaintiff's false imprisonment and assault claims are barred under the doctrine of collateral estoppel because of the jury verdict in the Texas litigation on these claims. (D.I. 31 at 6-7). Plaintiff failed to file papers in opposition to Defendant's motion as required by Court Order (D.I. 35), so the Court will resolve the motion on the papers submitted.

In a diversity jurisdiction action, unless a "substantial federal interest" exists, a district court should apply the law of collateral estoppel of the state law that governs the suit. Albanese v. Emerson Elec. Co., 552 F. Supp. 694, 698 (D. Del. 1982). Since no federal interest is involved and because Texas state law governs the instant dispute, Texas's rules of collateral estoppel apply. See Sellon v. General Motors Corp., 521 F. Supp. 978, 981 (D. Del. 1981) (holding that in federal diversity tort actions pending in Delaware, the law of the place of injury is applicable). Under Texas law, collateral estoppel prevents re-litigating an ultimate issue of fact if: (1) an issue decided in a previous action was "actually litigated," (2) was essential to the prior judgment, and (3) was identical to an issue in a pending action. Texas Dep't of Pub. Safety v. Petta, 44 S.W.3d 575, 579 (Tex. 2001). Mutuality is not required, and it applies "when the party against whom it is asserted had a full and fair opportunity to litigate the issue in the prior suit." Id.

There is no doubt that collateral estoppel bars Plaintiff's false imprisonment and assault claims against Defendant. The claims arise from the same facts for which the defendants in the Texas litigation were found not to be liable. Because Defendant was only sued due to its ownership interest in the

Lakeline Mall, the Texas judgment precludes a finding that Defendant is liable in the instant action.

Accordingly, the Court concludes that collateral estoppel bars Plaintiff's false imprisonment and assault claims, and that Defendant's motion for summary judgment must be granted.

An appropriate Order will be entered.

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(DELAWARE) INC.,	:	
	:	
Defendant.	:	

**ORDER**

At Wilmington this 28 day of September, 2001 for the reasons set forth in the Memorandum Opinion issued this day;

IT IS HEREBY ORDERED that:

1. Defendant's Motion for Summary Judgment (D.I. 30) is **GRANTED**.
2. Defendant's Motion for Protective Order (D.I. 26) is **DENIED AS MOOT**.
3. Judgment is entered in favor of Defendant and against Plaintiff on all counts.

JOSEPH J. FARNAN, JR.  
UNITED STATES DISTRICT JUDGE