

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

DR. RICHARD HAEFNER,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 00-393-RRM
	)	
CATHERINESCHUYLER,	)	
	)	
Defendant.	)	

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**MEMORANDUM OPINION**

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Dr. Richard Haefner, pro se, Shoshone, California; plaintiff.

Daniel L. McKenty, Esquire and Steven F. Mones, Esquire, McCullough, McKenty & Kafader, P.A., Wilmington, Delaware; counsel for defendant.

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Wilmington, Delaware  
October 11, 2001

McKELVIE, District Judge

This is a tort case. Plaintiff Dr. Richard Haefner is a United States citizen and California resident. Defendant Catherine Schuyler is a United States citizen and Delaware resident. On April 11, 2000, Haefner, proceeding pro se, filed his complaint in this case, asserting diversity jurisdiction under 28 U.S.C. § 1332. In his complaint, Haefner raises six claims against Schuyler: (i) assault; (ii) battery; (iii) intentional infliction of emotional distress; (iv) negligent infliction of emotional distress; (v) damage to property; and (vi) fraud and abuse of legal process.

On June 8, 2000, Schuyler moved to dismiss the complaint, pursuant to Federal Rules of Civil Procedure 8(c) and 12(b)(6), for failure to state a claim upon which relief can be granted. Schuyler argues that Haefner's complaint is barred by the doctrine of collateral estoppel because he was tried and convicted by the Court of Common Pleas of the State of Delaware of crimes against Schuyler that are directly related to his allegations in this case. On June 30, 2000, Schuyler moved for the court to impose sanctions on Haefner pursuant to Federal Rule of Civil Procedure 11, arguing that Haefner's complaint is frivolous and was filed for the sole purpose of harassing Schuyler.

This is the court's decision on Schuyler's motion to dismiss and motion for sanctions.

## I. FACTUAL AND PROCEDURAL BACKGROUND

In the procedural context of a motion to dismiss, the court must assume that all of the facts alleged in the complaint are true. Schrob v. Catterson, 948 F.2d 1402, 1405 (3d Cir. 1991). Accordingly, this section first will set forth the facts as alleged by Haefner. However, because Schuyler's motion also raises the affirmative defense of collateral estoppel, pursuant to Federal Rule of Civil Procedure 8(c), the court will also set forth the factual and procedural record of Haefner's criminal trial.

The court thus draws facts from the following sources: Haefner's complaint, the State of Delaware v. Haefner trial transcript, the State of Delaware v. Haefner sentencing hearing transcript, the Court of Common Pleas of the State of Delaware for New Castle County Sentencing Report, and the Court of Common Pleas Restitution Opinion and Order.

### A. Allegations of Haefner's Complaint

The disputed incident between Haefner and Schuyler occurred on January 6, 1998 at a parking lot in the Milltown Shopping Center. The altercation began when Schuyler scolded Haefner for leaving his fifteen year old blind cocker spaniel in a shopping cart outside of the Liquor World liquor store. According to Haefner's complaint, Schuyler, "without provocation or justification," approached him, beat on the door of his vehicle with a wine bottle and attempted to hit him on the face and head with the bottle. Haefner further alleges that Schuyler hit him on his arms and shoulders with the bottle and kicked

him in the groin. Haefner asserts that he suffers from asthma and clinical depression and receives monthly disability checks from Social Security.

Haefner alleges that, following the incident, he called the police. The responding officer allegedly asked Haefner whether he would like to press charges against Schuyler, but he declined. No charges were brought against either Schuyler or Haefner at that time. According to the complaint, Schuyler then hired a third party to conduct an investigation of Haefner's background. From the investigation, Schuyler apparently learned that, approximately twenty-five years ago, Haefner had been charged with child molestation. Haefner was found not guilty of that charge and his record has been expunged. Haefner alleges that Schuyler then contacted the police and notified them that she would like to press charges. Haefner was thereafter charged with misdemeanor assault and misdemeanor criminal mischief.

B. Decision by the Court of Common Pleas of the State of Delaware for New Castle County

1. Haefner's Criminal Trial

On May 27, 1998, the Court of Common Pleas of the State of Delaware for New Castle County found Haefner guilty of assault in the third degree and criminal mischief. At Haefner's trial, the State set forth the following version of what happened on January 6, 1998 in the Milltown Shopping Center parking lot.

After exiting Liquor World, Schuyler observed a dog, that she believed was abandoned, sitting in a shopping cart. Schuyler approached the dog and noticed tags on it. She and an unknown female decided they would take the dog to a local veterinarian in an attempt to locate the owner.

After she placed her shopping bags in her Isuzu Trooper, Schuyler moved her vehicle closer to the dog. At about the time that Schuyler and the unknown female were about to remove the dog from the cart, plaintiff Richard Haefner, the dog's owner, exited Liquor World. Haefner allegedly yelled at Schuyler and the unknown female, stating that he was the dog's owner. A verbal argument then ensued between the three people.

Schuyler asserted that Haefner followed her after she attempted to extricate herself from the situation. Haefner then allegedly struck Schuyler's vehicle with a bottle. Harriet Stacey and Raymond Giordano, two witnesses to the event, stated in their police interviews that they observed Haefner hit Schuyler's vehicle.

Schuyler then allegedly told Haefner to get away from her car, and he proceeded to leave. At that time, Schuyler followed Haefner to his vehicle in an attempt to record his vehicle tag number. After Schuyler pulled up behind Haefner's vehicle, Haefner allegedly grabbed her neck and pulled her out of her vehicle. John Parks, another witness, stated in his police interview that Haefner did in fact grab Schuyler by the neck and pull her out of the vehicle.

Haefner then allegedly kicked and punched Schuyler with his fist. Witnesses, Raymond Simpson, April Wells, and Tinika Miller stated in their police interviews that they saw Haefner attack Schuyler. After the alleged attack, Schuyler dialed 911 from her cellular phone and received medical attention. She sustained injuries that included a dislocated jaw, loosening of teeth, contusions on her upper right lip and neck, and laceration to her mouth that required stitches.

The above version of the incident was corroborated by testimony from multiple witnesses, the Delaware State Police Investigation Report of January 6, 1998, and the Delaware State Police Investigation Supplement Report of January 16, 1998.

At trial, Haefner argued that the State's version of the incident was wrong. Haefner contended that Schuyler acted aggressively towards him and kicked him in the groin and that his actions against her were in self-defense. Haefner also alleged that Schuyler struck and damaged his vehicle, despite the fact that the responding police officer noted in his Police Investigation Report that he found no indication of any damage to Haefner's vehicle.

## 2. Haefner's Sentencing

On June 29, 1998, the Court of Common Pleas held a sentencing hearing. For the charge of assault in the third degree, the court sentenced Haefner to incarceration for a term of one year, of which the balance was to be suspended after serving thirty days. This was to be followed by a one year period of Level II probation. Conditions of the

probation included: 1) payment of restitution to Schuyler; 2) completion of an anger control program; 3) continuation of treatment for his mental health problems; and 4) no contact with Schuyler or her family. In addition, the court ordered Haefner to pay the costs of prosecution. For the charge of criminal mischief, the court sentenced Haefner to incarceration for one year, which was suspended immediately and to be followed by a period of one year of Level II probation.

At the sentencing hearing, Haefner accepted responsibility for his actions stating that “I do take responsibility for this incident.” State of Delaware v. Haefner, CM No. 98-01-1788-1789, Hr’g Tr. at 185 (May 27, 1998).

### 3. Haefner’s Restitution Hearing

On June 24, 1999, the Court of Common Pleas held a restitution hearing to determine the amount of recovery for Schuyler’s out-of-pocket expenses, which Haefner would be required to pay to Schuyler as a condition of his probation. At the hearing, the court heard testimony from Schuyler, Haefner, various witnesses and the pre-sentence officer. The court received into evidence the Pre-sentence Report, which included Haefner’s financial status and Schuyler’s Victim Loss Statements. The Victim Loss Statements included an attached verification of loss sustained by Schuyler for personal injuries and property damage. Schuyler testified that as a result of the incident she had incurred out-of-pocket medical and auto repair fees to date of \$3,504.00 and submitted evidence that an additional \$325.53 in medical fees had been paid by her insurance

company. Along with her Victim Loss Statement, Schuyler also presented documentation from two of her doctors that set forth the restorative dental work that was necessary to correct the trauma sustained as a result of Haefner's criminal conduct. The total estimated cost of the dental restoration was \$37,920.00.

The court determined that Haefner proximately caused Schuyler's injuries and proximately caused damages to Schuyler's vehicle. The court also found that the medical expenses were reasonable and necessary. In making this determination, the court noted the severe extent of Schuyler's injuries:

[Schuyler] sustained severe injuries as a result of the January 6, 1998 incident, including a cut to her mouth requiring stitches and the loosening of teeth holding a plate in her mouth that now must be replaced. Her jaw was also dislocated to such a degree that she has been unable to chew solid food since the assault and caused her to lose weight in excess of 32 pounds. All of the projected dental work is restorative rather than cosmetic in nature and will take approximately two years to complete.

State of Delaware v. Haefner, CM No. 98-01-1788-1789, Restitution Op. and Order at 9 (June 25, 1999).

The court granted restitution to Schuyler in the amount of \$3,504.00, the full amount of her submitted out-of-pocket expenses that arose from the incident. Based on an assessment Haefner's financial capabilities, the court ordered Haefner to pay at least \$100.00 per month. The court concluded its order by noting that, pursuant to 11 Del. C. § 4104(d), it would retain jurisdiction over Haefner until the restitution order and any



supplemental restitution orders arising from future medical expenses, including Schuyler's restorative dental work, were paid in full.

C. Notice of Appeal filed to Superior Court of the State of Delaware for New Castle County and the Supreme Court of the State of Delaware

On January 18, 2000, the Superior Court of the State of Delaware for New Castle County denied Haefner's motion to proceed in forma pauperis. On February 28, 2000, the Supreme Court of the State of Delaware dismissed Haefner's Petition for Allowance of Appeal from an interlocutory order of the Superior Court, stating that "[u]nder the Delaware Constitution, only a final judgment may be reviewed by this Court in a *criminal* case." Haefner v. State of Delaware, No. 76, 2000, Order at ¶ 2 (Del. February 28, 2000) (emphasis in original). On March 27, 2000, the Superior Court dismissed Haefner's appeal for lack of jurisdiction, because, under the Delaware Constitution, only cases in which the sentence exceeds one month of imprisonment, or a fine exceeding one hundred dollars are directly appealable to the Superior Court. See Del. Const. Art. IV § 28.

D. Complaint filed in United States District Court for the District of Delaware

In his complaint, Haefner alleges six causes of action against Schuyler that all relate to his allegations that, in contrast to the determination of the Court of Common Pleas, *she* attacked and beat *him*. First, Haefner alleges a claim for assault, arguing any contact that he initiated with Schuyler was in self-defense. Second, Haefner alleges a claim for battery, arguing that Schuyler physically attacked him, causing him physical

impairment and pain. Third, Haefner alleges a claim for intentional infliction of emotional distress. Fourth, Haefner alleges a claim for negligent infliction of emotional distress. Both of these claims are based on allegations of emotional distress that arose from Schuyler's alleged attack on him. Fifth, Haefner alleges a claim for damage to property, asserting that Schuyler damaged his vehicle. Last, Haefner alleges a claim for fraud and abuse of process, arguing that during the restitution proceeding against him Schuyler failed to disclose that she had a preexisting dental condition prior to the January 6, 1998, incident.

## II. DISCUSSION

### A. Motion to Dismiss

Schuyler has moved to dismiss all of Haefner's claims. She claims that each of Haefner's claims is barred by the doctrine of collateral estoppel, arguing that Haefner's criminal conviction should bar the retrial of issues in this civil case that were actually litigated and decided in Haefner's criminal trial.

Collateral estoppel, also known as issue preclusion, bars the "relitigation of a matter that has been litigated and decided" in a previous case. Lomax v. Nationwide Mut. Ins. Co., 776 F. Supp. 870, 874 (D. Del 1991), rev'd on other grounds, 964 F.2d 1343 (3d Cir. 1992). As the Supreme Court explained in Parklane Hosiery Co. v. Shore, 439 U.S. 322, 326 (1979), "[c]ollateral estoppel . . . has the dual purpose of protecting litigants

from the burden of relitigating an identical issue with the same party . . . and of promoting judicial economy by preventing needless litigation.”

In determining the collateral estoppel effect of a state proceeding, a federal court must apply the law of the state where the criminal proceeding took place and must also ascertain whether the party against whom the estoppel is asserted had a full and fair opportunity to litigate the issue decided in the state court. Anela v. City of Wildwood, 790 F.2d 1063, 1068 (3d Cir.), cert. denied, 479 U.S. 949, 107 (1986). Under Delaware law, there are four requirements that must be satisfied for a finding of collateral estoppel: (1) the issue in the present case must be identical to the issue in the previous case; (2) the issue must have been fully litigated in the previous case; (3) the issue must have been “material and relevant” to the disposition of the previous case; and (4) the determination of the issue in the previous case must have been “necessary and essential” to the judgement in the previous case. Lomax, 776 F. Supp. at 874-75; cf. Tyndall v. Tyndall, 238 A.2d 343, 346 (Del .1968). In this case, Schuyler seeks to use collateral estoppel defensively; Schuyler, as defendant, seeks to bar Haefner from relitigating an issue that he previously litigated and lost. See Parklane, 439 U.S. at 329.

1. Does collateral estoppel bar the litigation of Haefner’s claims for battery, assault, intentional infliction of emotional distress, negligent infliction of emotional distress, and property damage?

With respect to Haefner’s claims for battery, assault, negligent and intentional infliction of emotional distress, and property damage, the court finds that each of the

requirements for applying collateral estoppel has been met. Haefner raised and litigated each of these five claims in the Court of Common Pleas. The Court of Common Pleas criminal conviction of Haefner precludes him from relitigating the disputed facts underlying his conviction.

Haefner bases his claims for battery, assault, intentional and negligent infliction of emotional distress, and property damage on Schuyler's allegedly unprovoked attack on him. After reviewing the factual record and hearing testimony pertaining to Schuyler's alleged conduct, the alleged damages she caused to Haefner's vehicle, and his alleged resulting distress and depression, the Court of Common Pleas definitively concluded that each of his allegations were without merit. Moreover, that court expressly determined that Haefner was the one who attacked Schuyler and that he had not acted in self-defense.

At trial, the Court of Common Pleas stated:

The Court also finds that there was an intentional act on your part Mr. Haefner and that your explanation on the stand was not believable at all by the Court. Nor is your argument of self-defense accepted by the Court as trier of fact. Self-defense requires some credible evidence and I found no credible evidence whatsoever of your defense.

State of Delaware v. Haefner, CM No. 98-01-1788-1789, Hr'g Tr. at 163 (May 27, 1998).

Haefner apparently does not contest that the issues that underlie his current tort claims were raised and adjudicated by the Court of Common Pleas or that they were material and necessary to the Court of Common Pleas judgment. Rather, Haefner argues that collateral estoppel does not apply in this case because he did not have a full and fair

opportunity to litigate the issues in the state criminal proceeding. In support of his argument, Haefner relies on Looney v. City of Wilmington, Delaware, 723 F. Supp. 1025, 1033 (D. Del. 1989). Haefner claims that certain language in Looney invoked the general sentiment of the Restatement (Second) of Judgments, § 28 (1982), which suggests an exception to the general rule of collateral estoppel when the party against whom preclusion is sought could not, as a matter of law, obtain review of the judgment in the initial action. See id.; Restatement (Second) of Judgments, § 28(1) (1982).

Haefner's reliance on Looney is misplaced. In Looney, the plaintiff had been convicted in the Municipal Court of the City of Wilmington of the criminal charge of menacing. Plaintiff then brought a federal civil rights action, pursuant to 42 U.S.C. § 1983, against the City of Wilmington and two police officers in their individual and official capacities alleging that the defendant's violated his rights under the Fourth and Fourteenth Amendments to the United States Constitution to be free from unreasonable search and seizure. Plaintiff also alleged a state law claim of battery against the defendants. The defendants moved for summary judgment on a variety of grounds and sought to use the collateral estoppel effect of the plaintiff's menacing conviction to preclude the plaintiff from relitigating a particular issue relating to the battery claim. In discussing the issue of collateral estoppel, the Looney court ruled that while it was correct that plaintiff was unable to appeal his menacing conviction because the \$100 fine was below the amount in controversy requirement that Delaware law requires for a direct

appeal, see Del. Const. Art. IV § 28, plaintiff nonetheless could have sought a writ of certiorari to the Superior Court, but failed to do so. The court in Looney found that, even though the scope of review afforded pursuant to a writ of certiorari was more limited than that of a direct appeal, the use of collateral estoppel should not be barred because Looney failed to seek any review. Looney, 723 F. Supp. at 1033.

In this case, as in Looney, the court finds that collateral estoppel should not be barred where “review is available, but is not sought.” Restatement (Second) of Judgments § 21(1) cmt. a (1982). Haefner had a full and fair opportunity to litigate the very issues that he raises before this court in the Court of Common Pleas. Moreover, Haefner had the incentive to litigate issues relating to his fault fully, because of the threat of fines and incarceration in the criminal proceeding before the Court of Common Pleas. He litigated the issues of his fault and lost. After his conviction in the Court of Common Pleas, Haefner failed to file a writ of certiorari. The only petition that Haefner filed in the Supreme Court of Delaware is a “Petition for Allowance of Appeal,” in which he prematurely sought review from the Superior Court’s denial of plaintiff’s motion to proceed in forma pauperis. Haefner’s own failure to file a writ of certiorari cannot rob the Court of Common Pleas’ findings of their preclusive effect.

In sum, Haefner’s allegations of wrongful conduct on the part of Schuyler involve the very issues that were fully addressed and ruled upon in the previous criminal action against Haefner. The Court of Common Pleas determined that Haefner was guilty of

assault against Schuyler based on the standard of beyond a reasonable doubt, a standard that is more stringent than the preponderance of the evidence standard that would be applicable in Haefner's civil action before this court. In making its determination, the Court of Common Pleas decided that Haefner committed criminally wrongful acts against Schuyler during the January 6, 1998 incident. Haefner is now attempting to relitigate in this court the issue of his fault by arguing that Schuyler was the wrongdoer. He cannot do so. Because Schuyler has established all of the required elements of collateral estoppel, Haefner is barred from raising his first five claims in this court.

2. Should Haefner's fraud and abuse of process claim be dismissed?

Haefner also raises a claim for fraud and abuse of process, alleging that Schuyler "used a legal process against [him] primarily to accomplish a purpose for which it is not designed. . . ." and that Schuyler "engaged and continues to engage in an effort to harass [him] and to cause him financial and emotional injury." Pl. Compl. at ¶ 42. As a preliminary matter, the court notes that the restitution proceeding was initiated pursuant to an order of the Court of Common Pleas and not by the defendant in this case.

Haefner is correct that his fraud and abuse of process claim is not subject to collateral estoppel because it has not yet been fully litigated. Nonetheless, this is both the improper time and improper place for Haefner to raise this claim. Haefner's own papers demonstrate that the matter is still open in the courts of the State of Delaware. The Court of Common Pleas has retained jurisdiction over the restitution proceedings to consider

medical expenses that were estimated, but not yet incurred, such as expenses relating to Schuyler's dental reconstruction. Therefore, as a matter of comity, this federal court will abstain from asserting jurisdiction over Haefner's restitution-based claim. See Younger v. Harris, 401 U.S. 37 (1971) (federal courts should not interfere with ongoing state proceedings). Moreover, even if the restitution matter were fully adjudicated by the state court, this court's subject matter jurisdiction over the claim would be precluded by the Rooker-Feldman doctrine, which provides that "a party losing in state court is barred from seeking what in substance would be appellate review of the state judgment in a United States District Court based on the losing party's claim that the state judgment itself violates the loser's rights . . . .", Johnson v. DeGrandy, 512 U.S. 997, 1005-1006 (1994). Because the relief that Haefner seeks would require this court to review the state court's restitution decision, this court would not assert subject matter jurisdiction over Haefner's restitution-based claim. See Rooker v. Fidelity Trust, 263 U.S. 413 (1923); District of Columbia Ct. of Appeals v. Feldman, 460 U.S. 462 (1983); 28 U.S.C. § 1257.

#### B. Motion for Sanctions

Schuyler has also moved for the court to impose sanctions against Haefner, pursuant to Federal Rule of Civil Procedure Rule 11 and Local Rule 1.3(a), on the grounds that his complaint was without merit and was filed for an improper and harassing purpose. Therefore, in addition to seeking a dismissal, she requests that the court award



her court costs, reasonable attorney fees, and any additional fines and penalties that the court deems appropriate.

Dr. Haefner should be aware that his filing in this case borders on frivolous and that his intent to harass Ms. Schuyler is clear. He should be on notice that future filings by him regarding this matter, in this court or other courts, that are patently frivolous or brought expressly for the purpose of harassment will not be tolerated. Neither this court nor any other court will hesitate to impose appropriate sanctions based on the record in this case.

Further, while the court declines to impose sanctions at this time, to the extent that Ms. Schuyler wants to pursue the imposition of sanctions, the court invites her to re-file a motion for sanctions within thirty days that sets forth the specific relief she seeks from this court and provides a factual record of the costs and attorney fees she has incurred in this matter, and any other such relief she seeks.

### III. CONCLUSION

In sum, Haefner is barred from recovery under the doctrines of collateral estoppel and judicial abstention. The court will enter an order in accordance with this memorandum opinion.