# Appendix A

FILED: May 20, 2019

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

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No. 19-1256
(4:17-cv-00081-AWA-LRL)

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BRIAN L. DAVIS

Plaintiff - Appellant

v.

7-ELEVEN, INC.

Defendant - Appellee

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J U D G M E N T

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In accordance with the decision of this court, the judgment of the district court is affirmed.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ PATRICIA S. CONNOR, CLERK

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

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**No. 19-1256**

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BRIAN L. DAVIS,

Plaintiff - Appellant,

v.

7-ELEVEN, INC.,

Defendant - Appellee.

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Appeal from the United States District Court for the Eastern District of Virginia, at Newport News. Arenda L. Wright Allen, District Judge. (4:17-cv-00081-AWA-LRL)

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Submitted: May 16, 2019 Decided: May 20, 2019

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Before DIAZ and THACKER, Circuit Judges, and HAMILTON, Senior Circuit Judge.

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Affirmed by unpublished per curiam opinion.

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Brian L. Davis, Appellant Pro Se. David L. Dayton, KALBAUGH, PFUND & MESSERSMITH, PC, Norfolk, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Brian L. Davis appeals the district court's order granting 7-Eleven, Inc.'s motion to dismiss Davis' claims alleging his civil rights were violated when he was banned from a particular store after being accused of shoplifting. We have reviewed the record and find no reversible error. Accordingly, we affirm for the reasons stated by the district court. *See Davis v. 7-Eleven, Inc.*, No. 4:17-cv-00081-AWA-LRL (E.D. Va. Mar. 1, 2019). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

*AFFIRMED*

# Appendix B

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Newport News Division



BRIAN L. DAVIS,

Plaintiff,

v.

ACTION NO. 4:17cv81

7-ELEVEN INC.,

Defendant.

**DISMISSAL ORDER**

Plaintiff Brian L. Davis ("Plaintiff"), an African American male, filed this *pro se* action against Defendant 7-Eleven Inc. ("Defendant"), alleging that Defendant unlawfully banned Plaintiff from one of Defendant's stores located in Hampton, Virginia. Before the Court are the following motions:

(1) Defendant's Motion to Dismiss, ECF No. 30;

(2) Plaintiff's Motion to Strike Memorandum of Law in Support ("Motion to Strike"), ECF No. 34;

(3) Defendant's Motion to Quash Pro Se Plaintiff's Motion to Strike Memorandum of Law in Support ("First Motion to Quash"), ECF No. 35;

(4) Plaintiff's Motion to Compel, ECF No. 36; and

(5) Defendant's Motion to Quash Plaintiff's Motion to Compel ("Second Motion to Quash"), ECF No. 38.

The Court concludes that oral argument is unnecessary because the facts and legal arguments are adequately presented in the parties' briefs. For the reasons set forth below, Plaintiff's Motion to Strike, ECF No. 34, is **DENIED**; Defendant's First Motion to Quash, ECF No. 35, is **DISMISSED as moot**; Plaintiff's Motion to Compel, ECF No. 36, is **DENIED**; Defendant's

Second Motion to Quash, ECF No. 38, is **DISMISSED as moot**; and Defendant's Motion to Dismiss, ECF No. 30, is **GRANTED**.

## I. Procedural Background

Plaintiff initiated this action on July 11, 2017, by filing an application to proceed *in forma pauperis* ("IFP Application"), along with a proposed Complaint. IFP Appl., ECF No. 1. On August 15, 2017, the Court granted Plaintiff's IFP Application and directed the Clerk to file Plaintiff's Complaint. Order, ECF No. 2. On October 11, 2017, Defendant filed a Motion to Dismiss. Mot. Dismiss, ECF No. 5. Plaintiff filed a timely response in opposition to Defendant's Motion to Dismiss ("Opposition"). Opp'n, ECF No. 7. Upon review of his Opposition, it appeared to the Court that Plaintiff sought to file an Amended Complaint. Order at 2, ECF No. 10 (noting that Plaintiff's Opposition included references to another federal statute and an intention to "cure the defect[s]" of the initial Complaint). On January 9, 2018, the Court entered an Order that (i) granted Plaintiff leave to file an Amended Complaint; and (ii) dismissed Defendant's Motion to Dismiss as moot. *Id.* at 2-3.

Plaintiff filed an Amended Complaint, and Defendant filed a Motion to Dismiss Plaintiff's Amended Complaint. Am. Compl., ECF No. 12; Mot. Dismiss Am. Compl., ECF No. 14. In addition to filing a response in opposition to Defendant's dismissal motion ("Opposition"), Plaintiff filed, among other things, three Motions to Amend. Opp'n, ECF No. 16; Mot. Amend, ECF No. 19; Second Mot. Amend, ECF No. 20; Third Mot. Amend, ECF No. 24. Upon review of Plaintiff's Motions to Amend, it appeared to the Court that Plaintiff sought to (i) add two exhibits – a Bill of Particulars and a Grounds of Defense from a related state court case – to his Amended Complaint; and (ii) rely on the content therein to provide further details regarding the issues in this action. Order at 4, ECF No. 28. On August 1, 2018,

the Court granted Plaintiff's request, and directed the Clerk to (i) attach the two additional exhibits to Plaintiff's Amended Complaint; and (ii) file the combined document as a separate entry on the docket titled, "Plaintiff's Second Amended Complaint." *Id.* at 4-5. Additionally, the Court dismissed Defendant's dismissal motion as moot, and ordered Defendant to file a responsive pleading to Plaintiff's Second Amended Complaint within fourteen days. *Id.* at 5.

Defendant filed a timely Motion to Dismiss on August 13, 2018, and provided Plaintiff with a proper *Roseboro* notice pursuant to Rule 7(K) of the Local Civil Rules for the United States District Court for the Eastern District of Virginia. Mot. Dismiss at 2, ECF No. 30; *see also* E.D. Va. Loc. Civ. R. 7(K). Plaintiff filed a timely opposition ("Opposition"), and Defendant filed a timely reply ("Reply"). Opp'n, ECF No. 32; Reply, ECF No. 33.

On September 4, 2018, Plaintiff filed a Motion to Strike, in which he asks the Court to strike Defendant's Reply. Mot. Strike, ECF No. 34. In response, Defendant filed its First Motion to Quash, in which it asks the Court to quash Plaintiff's Motion to Strike. First Mot. Quash, ECF No. 35. On September 24, 2018, Plaintiff filed a Motion to Compel, in which Plaintiff asks the Court to compel Defendant to provide him with a transcript pertaining to one of Plaintiff's related state court cases. Mot. Compel, ECF No. 36. In response, Defendant filed its Second Motion to Quash, in which it asks the Court to quash Plaintiff's Motion to Compel. Second Mot. Quash, ECF No. 38. All pending motions are ripe for decision.

## II. Plaintiff's Second Amended Complaint

In his Second Amended Complaint, Plaintiff, an African American male, claims that he was banned from Defendant's store at 1451 Big Bethel Road, Hampton, Virginia 23666 in September of 2016. Second Am. Compl. at 2, Ex. E. Plaintiff claims that the store manager, Laura Allen, told Plaintiff, in front of others, that he was "ban[ned] for shoplifting." *Id.*, Ex. E.

Plaintiff claims that he has "never shoplift[ed] in [his] life," and that Ms. Allen "told a false statement." *Id.*

On October 26, 2016, Randy Wilson, an employee of Defendant, left a voicemail for Plaintiff on Plaintiff's mother's telephone. Second Am. Compl. at 2-11. In the voicemail, Mr. Wilson stated:

> Mr. Davis, this is Randy Wilson calling from 7-Eleven regarding the customer inquiry you called in. My understanding is that you're not very happy with the decision from the store manager as to why you can't come into the store. In speaking with her, we found that you were banned from the store due to an issue with some Doritos, and I believe a police officer was involved. So at this time we can't offer you to come back to the store. Then you came back in a second time with the newspapers and was asked not to read the newspaper and apparently that didn't sit well with you either. And I apologize for that, but unfortunately we can't have our customers coming in reading newspapers. So I just wanted to call you and let you know that unfortunately we can't ask you to come back to this location. We do have another location at the end of Saunders and on Route 17. Please feel free to frequent that. Thank you and have a good day.

*Id.*, Ex. C.[1]

On November 1, 2016, Plaintiff filed a Warrant in Debt, Case No. GV16014127-00, in the Hampton General District Court.[2] Reply, Ex. 1, ECF No. 33-1. In his Warrant in Debt, Plaintiff alleged: "The manager Laura Allen falsely accused me of shoplifting and ban[ned] me from the store outside in public." *Id.* Plaintiff filed a Bill of Particulars in Case

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[1] Plaintiff saved Mr. Wilson's voicemail to a CD, and attached a copy of the CD as Exhibit C to Plaintiff's Second Amended Complaint. Second Am. Compl., Ex. C.

[2] Defendant attached a copy of Plaintiff's Warrant in Debt in Case No. GV16014127-00 to its Reply. Reply, Ex. 1, ECF No. 33-1. Although Plaintiff did not attach a copy of the Warrant in Debt to his Second Amended Complaint, the Warrant in Debt, as well as the other filings in Plaintiff's state court actions discussed herein, are matters of public record of which this Court may properly take judicial notice. *See Philips v. Pitt Cty. Mem. Hosp.*, 572 F.3d 176, 180 (4th Cir. 2009).

No. GV16014127-00 on December 1, 2016, in which Plaintiff alleged that Ms. Allen's decision to ban Plaintiff from the store at 1451 Big Bethel Road in Hampton, Virginia for shoplifting "violated [Plaintiff's] civil rights," "defame[d] [Plaintiff's] character," violated Plaintiff's "equal access" rights under 42 U.S.C. § 2000a, and constituted "intentional[] inflict[ion] [of] emotional distress." Second Am. Compl., Ex. E.

Following a trial on February 27, 2017, the Hampton General District Court dismissed Case No. GV16014127-00. Reply, Ex. 1. Plaintiff appealed the dismissal of his case to the Hampton Circuit Court, and the appeal was assigned Case No. CL17-495.[3] *Id.*, Exs. 1-2. On July 10, 2017, the Hampton Circuit Court entered an Order that dismissed Case No. CL17-495 with prejudice. *Id.*, Ex. 2. The next day, on July 11, 2017, Plaintiff initiated this action. IFP Appl., ECF No. 1.

In the case before this Court, Plaintiff again claims that Defendant's decision to ban Plaintiff from its store at 1451 Big Bethel Road in Hampton, Virginia violated Plaintiff's rights. Second Am. Compl. at 1-20. Specifically, Plaintiff alleges that Defendant's actions violated Plaintiff's rights under 42 U.S.C. § 1981 and 42 U.S.C. § 2000a. *Id.* at 1-2. Plaintiff claims that Defendant racially discriminated against him, failed to take "proper steps" to ensure that Plaintiff was "treated fairly," failed to take "proper steps" to ensure that the statements made by Mr. Wilson were "true or false," denied Plaintiff his "right to enter the public accommodated

[3] The Court notes that on May 31, 2017, while Case No. CL17-495 remained pending before the Hampton Circuit Court, Plaintiff initiated an action against Defendant in this Court based on Defendant's decision to ban Plaintiff from its store at 1451 Big Bethel Road in Hampton, Virginia. *See* IFP Appl., *Davis v. 7-Eleven, Inc.*, No. 4:17cv58 (E.D. Va. May 31, 2017), ECF No. 1; Compl. at 1-5, *Davis v. 7-Eleven, Inc.*, No. 4:17cv58 (E.D. Va. June 8, 2017), ECF No. 3. After the Court provided Plaintiff an opportunity to file an Amended Complaint, the Court dismissed Action No. 4:17cv58 without prejudice on June 30, 2017, pursuant to 28 U.S.C. § 1915(e)(2). *See* Dismissal Order, *Davis v. 7-Eleven, Inc.*, No. 4:17cv58 (E.D. Va. June 30, 2017), ECF No. 6.

store," and denied Plaintiff "the right to contract as was enjoyed by white citizens." *Id.* at 1-18.

III. Plaintiff's Motion to Strike

On or about July 28, 2017, Plaintiff filed a second Warrant in Debt against Defendant in the Hampton General District Court, Case No. GV17010731-00.[4] *See* Mem. Supp. Mot. Dismiss at 2, ECF No. 31; *see also* Virginia Court Case Information website, available at: http://www.courts.state.va.us/caseinfo/home.html. When Defendant filed its Reply in support of its Motion to Dismiss, it attached a copy of a transcript from a hearing held in Case No. GV17010731-00 as an exhibit. Reply, Ex. 3, ECF No. 33-3. Plaintiff subsequently filed a Motion to Strike, in which he asks the Court to strike Defendant's Reply because Plaintiff believes that the transcript attached to the Reply is "defective or insufficient." Mot. Strike at 2, ECF No. 34.

The Court notes Plaintiff's position; however, the Court finds that Plaintiff's disagreement with the content of the transcript does not justify Plaintiff's request to strike Defendant's Reply from the record. *See* Fed. R. Civ. P. 12(f) (explaining that a court may strike "an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter" from a pleading). The Court further notes that the content of the transcript does not impact its decision in this case because, as explained below, the Court grants Defendant's Motion to Dismiss on grounds unrelated to Case No. GV17010731-00. Accordingly, Plaintiff's Motion to Strike, ECF No. 34, is

[4] The Court notes that the Hampton General District Court dismissed Case No. GV17010731-00 on February 2, 2018, and Plaintiff appealed the dismissal to the Hampton Circuit Court. Based on a review of publicly available information on the Virginia Court Case Information website, it appears that the Hampton Circuit Court dismissed Plaintiff's appeal on October 9, 2018. *See* http://www.courts.state.va.us/caseinfo/home.html.

**DENIED**, and Defendant's First Motion to Quash, ECF No. 35 (which seeks to quash Plaintiff's Motion to Strike), is **DISMISSED as moot.**

IV. Plaintiff's Motion to Compel

As summarized in more detail below, Defendant argues in its Motion to Dismiss that Plaintiff's action is barred by the doctrine of res judicata. Mem. Supp. Mot. Dismiss at 8-11, ECF No. 31. Defendant claims that the issues in this lawsuit "have already been litigated in General District Court" and "decided on the merits of a final judgment." *Id.* at 11. In his Motion to Compel, Plaintiff asks the Court to compel Defendant to provide Plaintiff with a transcript pertaining to the first case filed by Plaintiff in the Hampton General District Court, Case No. GV16014127-00. Mot. Compel at 1, ECF No. 36. Plaintiff requests the transcript to determine "if 42 U.S. Code § 2000a was tried in Hampton [G]eneral [D]istrict [C]ourt." *Id.* Plaintiff appears to believe that if the General District Court Judge "did not make a decision" in Case No. GV16014127-00 that specifically "pertain[ed] to 42 U.S. Code § 2000a," then res judicata should not bar Plaintiff's § 2000a claim in this action. *Id.* at 2.

As explained more fully below, the doctrine of res judicata does not require proof that the specific claims asserted in a subsequent action were actually litigated and decided in a prior action. *See infra* Part V.B. As such, it is unnecessary to review the details of a transcript from Case No. GV16014127-00 to determine which specific causes of action were discussed by the General District Court Judge prior to dismissal. Instead, as explained in Part V.B., Plaintiff's Second Amended Complaint, the exhibits attached thereto, and the publicly available state court records (of which this Court may properly take judicial notice) are sufficient for this Court to find that Plaintiff's claims in this action are barred by the doctrine of res judicata. *See infra* Part V.B. Accordingly, Plaintiff's Motion to Compel, ECF No. 36, is **DENIED**, and Defendant's Second

Motion to Quash, ECF No. 38 (which seeks to quash Plaintiff's Motion to Compel), is **DISMISSED as moot.**

## V. Defendant's Motion to Dismiss

### A. Standard of Review Under Federal Rule 12(b)(6)

Defendant seeks to dismiss Plaintiff's Second Amended Complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. A motion to dismiss under Rule 12(b)(6) should be granted if a complaint fails to "allege facts to state a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). A Rule 12(b)(6) motion "tests the sufficiency of a complaint and 'does not resolve contests surrounding the facts, the merits of a claim, or the applicability of defenses.'" *Johnson v. Portfolio Recovery Assocs., LLC*, 682 F. Supp. 2d 560, 567 (E.D. Va. 2009) (quoting *Republican Party of N.C. v. Martin*, 980 F.2d 943, 952 (4th Cir. 1992)). As such, the Court must accept all factual allegations contained in the Second Amended Complaint as true and draw all reasonable inferences in favor of Plaintiff. *Johnson,* 682 F. Supp. 2d at 567. In ruling on a Rule 12(b)(6) motion, the Court may rely upon the allegations of the Second Amended Complaint and documents attached as exhibits or incorporated by reference. *Simons v. Montgomery Cty. Police Officers*, 762 F.2d 30, 31 (4th Cir. 1985). In addition, the Court "may properly take judicial notice of matters of public record." *Philips v. Pitt Cty. Mem. Hosp.*, 572 F.3d 176, 180 (4th Cir. 2009).

### B. Discussion

Defendant argues, among other things, that Plaintiff's action is barred by the doctrines of issue preclusion and claim preclusion – two doctrines that fall under the general rubric of res judicata. Mem. Supp. Mot. Dismiss at 8-11, ECF No. 31. As this Court has explained, res judicata may serve to bar not only "future claims in the forum issuing the judgment," but also

"future claims in all federal and state courts." *Martin-Bangura v. Commonwealth Dep't of Mental Health*, 640 F. Supp. 2d 729, 735 (E.D. Va. 2009); *see also* 28 U.S.C. § 1738 (requiring that state judicial proceedings "shall have the same full faith and credit in every court within the United States . . . as they have by law or usage in the courts of such State . . . from which they are taken"). In determining whether a prior state court judgment bars a subsequent federal action, federal courts apply a two-step inquiry. *Martin-Bangura*, 640 F. Supp. 2d at 735. "First, federal courts 'must look to state law to determine the preclusive effect of a state court judgment.'" *Id.* (citing *In re Genesys Data Techs., Inc.*, 204 F.3d 124, 128 (4th Cir. 2000)). If the federal court determines, after analyzing the applicable state law, that a second action is precluded, the "federal court must then determine whether Congress has created an exception to the operation of § 1738 for the cause of action pending in federal court." *Id.* If state law "bars relitigation of the claim or issue, and if Congress has created no applicable exception to § 1738, then the federal action is precluded by the prior state proceeding." *Id.* at 735-36.

To invoke the doctrine of issue preclusion, Virginia law requires:

> (1) the parties to the two proceedings must be the same; (2) the factual issue sought to be litigated must have been actually litigated in the prior proceeding; (3) the factual issue must have been essential to the judgment rendered in the prior proceeding; and (4) the prior proceeding must have resulted in a valid, final judgment against the party to whom the doctrine is sought to be applied.

*Id.* at 736. To invoke the doctrine of claim preclusion, Virginia law requires a showing that: (1) a prior judgment exists that was final and valid; (2) the parties are identical or are in privity with each other; and (3) the claim made in the subsequent lawsuit arises out of, or relates to, the same occurrence, conduct or transaction upon which the prior lawsuit was based. *Buzzell v. JP*

*Morgan Chase Bank*, No. 3:13cv668, 2014 U.S. Dist. LEXIS 106108, at *14 (E.D. Va. July 31, 2014); *see also Martin-Bangura*, 640 F. Supp. 2d at 737-38.[5]

In its Motion to Dismiss, Defendant argues that Plaintiff's claims are barred by issue preclusion and claim preclusion. Mem. Supp. Mot. Dismiss at 8-11. As explained above, Plaintiff filed a Warrant in Debt in the Hampton General District Court on November 1, 2016, Case No. GV16014127-00, in which he alleged that (i) he was banned from Defendant's store at 1451 Big Bethel Road in Hampton, Virginia for shoplifting; (ii) the shoplifting accusations were false; and (iii) the decision to ban Plaintiff violated his "civil rights," defamed him, violated his "equal access" rights under 42 U.S.C. § 2000a, and constituted "intentional[] inflict[ion] [of] emotional distress." Reply, Ex. 1; Second Am. Compl., Ex. E. The Hampton General District Court dismissed Case No. GV16014127-00 following a trial on February 27, 2017, and the Hampton Circuit Court dismissed Plaintiff's appeal with prejudice on July 10, 2017. Reply, Exs. 1-2. Plaintiff filed his IFP Application and proposed Complaint in this Court the following day. IFP Appl.

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[5] Virginia's claim preclusion law is found in Rule 1:6(a) of the Rules of the Supreme Court of Virginia, which states:

> **Rule 1:6. Res Judicata Claim Preclusion.**
> (a) *Definition of Cause of Action.* A party whose claim for relief arising from identified conduct, a transaction, or an occurrence, is decided on the merits by a final judgment, shall be forever barred from prosecuting any second or subsequent civil action against the same opposing party or parties on any claim or cause of action that arises from that same conduct, transaction or occurrence, whether or not the legal theory or rights asserted in the second or subsequent action were raised in the prior lawsuit, and regardless of the legal elements or the evidence upon which any claims in the prior proceeding depended, or the particular remedies sought. A claim for relief pursuant to this rule includes those set forth in a complaint, counterclaim, cross-claim or third-party pleading.

Va. Sup. Ct. R. 1:6(a).

Under these circumstances, the Court finds that Virginia's laws on issue preclusion and claim preclusion bar this action. With respect to issue preclusion, it is clear that (i) the parties in this action are the same as those in Case No. GV16014127-00 before the Hampton General District Court; (ii) the factual issues regarding Defendant's decision to ban Plaintiff from its store at 1451 Big Bethel Road in Hampton were actually litigated in Case No. GV16014127-00; (iii) such factual issues were essential to the judgment rendered in Case No. GV16014127-00; and (iv) Case No. GV16014127-00 resulted in a valid, final judgment against Plaintiff. *See Martin-Bangura*, 640 F. Supp. 2d at 736. With respect to claim preclusion, it is clear that (i) the judgment in Case No. GV16014127-00 was final and valid; (ii) the parties in this action are the same as those in Case No. GV16014127-00; and (iii) the claims made in this lawsuit arise out of, or relate to, the same conduct upon which Case No. GV16014127-00 was based.[6] *See Buzzell*, 2014 U.S. Dist. LEXIS 106108, at *14; *see also Martin-Bangura*, 640 F. Supp. 2d at 737-38. Further, the Court has not found, and Plaintiff has not offered, any evidence that Congress has created an exception to the operation of § 1738 that would apply to the claims before this Court. For these reasons, Defendant's Motion to Dismiss, ECF No. 30, is **GRANTED**, and this action is dismissed in its entirety.

[6] In his Opposition, Plaintiff argues, among other things, that "res judicata should not be applied to this case" without "strict proof that law 42 U.S. Code § 2000a was judged or was not judged in that case!" Opp'n at 1-2, ECF No. 32. As explained above, under Virginia law, the doctrine of claim preclusion prohibits a party from asserting a claim for relief against a defendant, that arises from the same conduct or occurrence that was decided on the merits in a prior case, "**whether or not the legal theory or rights asserted in the second or subsequent action were raised in the prior lawsuit.**" Va. Sup. Ct. R. 1:6(a) (emphasis added). As such, Plaintiff's request for "strict proof" that the Hampton General District Court specifically addressed his § 2000a claim is unnecessary.

## VI. Conclusion

For the reasons set forth above, Plaintiff's Motion to Strike, ECF No. 34, is **DENIED**; Defendant's First Motion to Quash, ECF No. 35, is **DISMISSED as moot**; Plaintiff's Motion to Compel, ECF No. 36, is **DENIED**; Defendant's Second Motion to Quash, ECF No. 38, is **DISMISSED as moot**; and Defendant's Motion to Dismiss, ECF No. 30, is **GRANTED**.

Plaintiff may appeal this Dismissal Order by forwarding a written notice of appeal to the Clerk of the United States District Court, Newport News Division, 2400 West Avenue, Newport News, Virginia 23607. The written notice must be received by the Clerk within thirty days from the date of entry of this Dismissal Order.

The Clerk is **DIRECTED** to send a copy of this Dismissal Order to Plaintiff and counsel for Defendant.

IT IS SO **ORDERED**.

Arenda L. Wright Allen
United States District Judge

Norfolk, Virginia
March 1ST, 2019

Additional material from this filing is available in the Clerk's Office.