Circuit Court for Montgomery County
Case No: C-15-CV-23-003106

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 401

September Term, 2024

EMMANUEL EDOKOBI

v.

PIPER INDUSTRIAL L.P., ET AL.

Nazarian,
Beachley,
Harrell, Glenn T., Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Harrell, J.

Filed: May 20, 2025

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

On 14 August 2023, Emmanuel Edokobi, appellant, filed in the Circuit Court for Montgomery County a complaint against numerous defendants, including Piper Industrial L.P. ("Piper") and its principal, Mimi Brodsky Kress, in her personal capacity, appellees.[1] We shall refer to that case, which was circuit court case number C-15-CV-23-003106, as "the civil case." Edokobi filed several amended complaints, in the course of which he added and dismissed claims against various defendants. On 6 December 2023, he filed a fourth amended complaint against: (1) the Honorable Zuberi Bakari Williams, in his personal capacity and in his official capacity as an associate judge of the District Court of Maryland, sitting in Montgomery County; (2) Kathy Hefner, in her personal capacity and in her official capacity as the administrative clerk of the District Court of Maryland, sitting in Montgomery County; (3) Piper; and, (4) Kress, in her personal capacity. All of the defendants filed motions to dismiss the fourth amended complaint. Piper and Kress filed also a motion for attorneys' fees pursuant to Maryland Rule 1-341.[2]

The circuit court dismissed Judge Williams and Hefner in their personal and official capacities. A hearing on Piper and Kress's motions to dismiss and request for attorneys'

[1] Appellant proceeds here, as he did below, in proper person.

[2] Maryland Rule 1-341 provides, in part:

> (a) **Remedial authority of court.** — In any civil action, if the court finds that the conduct of any party in maintaining or defending any proceeding was in bad faith or without substantial justification, the court, on motion by an adverse party, may require the offending party or the attorney advising the conduct or both of them to pay to the adverse party the costs of the proceeding and the reasonable expenses, including reasonable attorneys' fees, incurred by the adverse party in opposing it.

fees was held on 22 May 2024. The court dismissed (with prejudice) the case against both Piper and Kress, determined that the case "was filed without substantial justification under the law[,]" granted the request for attorneys' fees, and ordered Piper and Kress to submit a verified statement setting forth the information required by Rule 1-341. On 31 May 2024, Edokobi filed a request for en banc review. Several days later, on 3 June 2024, he filed a notice of appeal, giving rise to the present appeal from the court's decision to grant the motion to dismiss the fourth amended complaint.[3]

On 14 June 2024, Edokobi filed various post-judgment motions, including a motion requesting that Piper and Kress provide him medical treatment, a motion to strike an affidavit, a motion requesting that Piper and Kress refund to him $12,080, and a motion seeking to provide substantial justification for bringing and maintaining his action, all of which were denied by separate orders issued on 22 July 2024.

Piper and Kress filed an affidavit from their attorney and a billing statement from the law firm that represented them, as required by Rule 1-341(b) and the court's order. In a written order issued on 22 August 2024, the court entered judgment in favor of Piper and Kress for attorneys' fees in the amount of $22,246. Five days later, Edokobi filed a notice of appeal, giving rise to a related appeal currently before this Court in *Edokobi v. Piper Industrial L.P., et al.*, No. 1276, Sept. Term, 2024.

[3] Edokobi filed also notices of appeal on 25 April, 14 May, and 21 May 2024.

ISSUES PRESENTED

Edokobi presents eleven issues for our consideration, all of which challenge the circuit court's decision to dismiss his fourth amended complaint in the civil case. The issues, as presented by appellant, are as follows:

> 1. Whether the trial court erred in dismissing civil case No: C-15-CV-23-003106 contrary to Maryland's requirements for granting summary judgment and without court's evidential hearing[;]
>
> 2. Whether the trial court erred in not considering tenant's complaint that landlord did not give **tenant 30 days' written notice** pursuant to Md. code ann. Real prop. § 8-402.1 (2) (a) as to count 1 of the Fourth Complaint Amendment[;]
>
> 3. Whether the trial court erred in not considering tenant's complaint that the landlord unlawfully seized tenant's two months security deposit of $6,720.00 in violation of Md. Code Real Property § 8-203.1(7) as to count 3 of the Fourth Complaint Amendment[;]
>
> 4. Whether the trial court erred in denying tenant's request for a psychologist who provides treatments for tenant should be called to determine tenant's psychological treatments of **emotional distress and anxiety, and depression, and constant fears and sleepless nights and spam**, which restarted on Monday August 28, 2023 as a result of great shock that tenant suffered from landlord's **Locking** tenant's factory and the court denying tenant's request for landlord to provide medical treatment to tenant and **Independent Medical Examination ("IME")** pursuant to Md. rule 2-402(g)(1)(a) and Rule 5-702[;]
>
> 5. Whether the trial court erred in accepting and considering landlord's **defective** motion for summary judgment which was filed without supporting **affidavit** pursuant to Maryland Rule 2-501(a) and the court refusal to strike landlord's **defective** motion for summary judgment[;]
>
> 6. Whether the trial court erred in the interpretation that Md. code ann., real prop. § 8-402.1(2)(a) and Md. Code, Real Property §8-203.1, (7) as to counts 1, 2, 3, 4, 5, 6, 40, 41 and 42 are applied only to residential lease[;]

7. Whether the trial court erred in denying tenant's request for landlord to refund $12,080.00 to tenant for security deposit of $6,720.00 and partial rent payment of $5,360.00[;]

8. Whether the trial court erred in not considering tenant's complaint of racial discrimination against landlord as to count 16 of the Fourth Complaint Amendment[;]

9. Whether the trial court erred in not considering tenant's complaint of racial discrimination against landlord as to count 18 of the Fourth Complaint Amendment[;]

10. Whether the trial court erred in not considering tenant's complaint of racial discrimination against landlord as to count 19 of the Fourth Complaint Amendment[;]

11. Whether the trial court erred in not considering tenant's complaint of fraud against landlord as to count 13 of the Fourth Complaint Amendment[.]

For the reasons to be explained, we shall affirm.

BACKGROUND

A. The Landlord-Tenant Case

This appeal has its origins in a commercial landlord-tenant relationship between the parties. On 31 January 2022, Edokobi signed a five-year lease, to commence on 1 March 2022, for a commercial warehouse located at 7895-O Cessna Avenue in Gaithersburg, Maryland. He leased the warehouse for the purpose of producing personal protective face masks and bathroom tissue paper. Under the terms of the lease agreement, Edokobi was to pay Piper rent in the annual amount of $40,320, payable in equal monthly installments of $3,360.

On 3 May 2023, Piper filed a complaint in the District Court of Maryland, sitting in Montgomery County, case number D-061-LT-23-013868, seeking repossession of the

rental property. Among other things, Piper alleged that Edokobi failed to pay rent from January through May 2023. The action was limited to repossession of the property; there was no request for damages. After a hearing, which Edokobi did not attend, the District Court entered judgment for possession of the premises in favor of Piper. The District Court issued a warrant of restitution directing the sheriff to "deliver possession of the premises to" Piper unless Edokobi paid within sixty days the sum of $18,640, plus costs of $55. On 25 August 2023, the sheriff effectuated the warrant of restitution for eviction.

Edokobi filed a notice of appeal to the Circuit Court for Montgomery County. In that case, number C-15-CV-23-003151, he filed numerous motions, including, but not limited to, a motion to dismiss for insufficient process and insufficient service of process, a request for the court to send "investigators" to the subject premises, a request for the court to order Piper to unlock the door at the subject premises, and a request for the court to intervene to prevent him from suffering prejudice. The court denied all of Edokobi's motions. After a hearing on 20 February 2024, the circuit court affirmed the judgment of the District Court. No further action was taken in that case. We shall refer to the District Court case and circuit court case, number C-15-CV-23-003151, collectively as "the landlord-tenant case."

B. The Civil Case

On 14 August 2023, Edokobi filed his initial complaint in the civil case; that is, Circuit Court for Montgomery County case number C-15-CV-23-003106.[4] Ultimately, he filed several amended complaints that added and dismissed various defendants. The case at hand arises from his fourth amended complaint filed on 6 December 2023. In that complaint, the named defendants were: (1) the Honorable Zuberi Bakari Williams, in his personal capacity and in his official capacity as an associate judge of the District Court of Maryland, sitting in Montgomery County; (2) Kathy Hefner, in her personal capacity and her official capacity as the administrative clerk of the District Court of Maryland, sitting in Montgomery County; (3) Piper; and, (4) Kress. Attached to the fourth amended complaint were, among other things, affidavits signed by Edokobi stating that he did not receive thirty days' written notice that he was in violation of the lease and that Piper desired to repossess the leased premises, that Piper and Kress did not return his security deposit, and that he was not given credit for three months of partial rent payments totaling $6,000.

The fourth amended complaint was expressed in fifty-eight counts. In two of them, counts 21 and 23, Edokobi asserted claims against Judge Williams and Hefner. In counts 26, 27, 28, 32, and 33, he asserted claims against Judge Williams only. In three counts,

[4] The initial complaint identified five defendants: Piper, Kress, the Honorable Sherri Koch, in her personal capacity and in her official capacity as the administrative judge for the District Court of Maryland, sitting in Montgomery County, the Honorable Zuberi Bakari Williams, in his personal capacity and in his official capacity as an associate judge of the District Court of Maryland, sitting in Montgomery County, and Kathy Hefner, in her personal capacity and her official capacity as the administrative clerk of the District Court of Maryland, sitting in Montgomery County.

numbers 29, 30, and 34, he asserted claims against Hefner only. None of those counts concern us here.

Three counts set forth claims against Kress only. In Count 15, Edokobi asserted a claim of promissory estoppel against Kress based on her alleged deviation from a promise to allow him to resume full rental payments when he started production of his product line. In Count 19, Edokobi alleged that Kress discriminated against him on the basis of race by monitoring his movements with closed-circuit television. In Count 20, Edokobi alleged that Kress, along with Judge Williams, and Hefner, intentionally inflicted emotional distress upon him. The remaining forty-five counts set forth allegations against Piper and Kress.[5]

[5] Edokobi made the following allegations against Piper and Kress:

Count 1: they failed to provide thirty days' written notice that he was in violation of the lease and that Piper desired to repossess the premises as required by § 8-402.1(2)(A) of the Real Property ("RP") Article of the Maryland Code.
Count 2: they failed to provide fourteen days' written notice that he was in violation of the lease and desired to repossess the premises as required by RP § 8-402.1(2)(B).
Count 3: they failed to return his security deposit of $6,720 pursuant to RP § 8-203.1(7).
Count 4: they failed to provide a written list of charges against his security deposit within forty-five days after termination of the tenancy as provided by RP § 8-203.1(a)(5).
Count 5: they failed to provide him a receipt for payment of his security deposit pursuant to RP § 8-203.1(b) and (c).
Count 6: they violated RP § 8-203 in failing to return his security deposit because there was no damage to the premises.
Count 7: they abused the judicial system "to torpedo" his manufacturing business.
Count 8: they exposed him to "financial hardship" by filing their claim for unpaid rent without giving him thirty days' written notice pursuant to RP § 8-402.1(2)(A) and by locking the premises on 25 August 2023.
Count 9: they denied him equal protection of the law by failing to provide thirty days' written notice as required by RP § 8-402.1(A).

(continued…)

Count 10: they denied him equal protection of the law by failing to serve him with the summons "in good time" so he could file a notice of intention to defend.
Count 11: they negligently and intentionally misrepresented their claims of unpaid rent.
Count 12: they made a fraudulent claim of unpaid rent in the amount of $18,640.
Count 13: they made a fraudulent claim for unpaid rent in the amount of $18,640 and concealed his security deposit of $6,720 and three months' of partial rent payments, in a total amount of $6,000, made from February through April 2023.
Count 14: they "perpetrated unjust enrichment" upon him by filing a fraudulent claim of unpaid rent in the amount of $18,640.
Count 16: in failing to give him thirty days' written notice pursuant to RP § 8-402.1(2)(A), they committed racial discrimination against him, "[a] Blackman Of Nigerian Descent[.]"
Count 17: they engaged in racial discrimination by failing to return his security deposit, in violation of RP § 8-203.1(7).
Count 18: in seizing his security deposit, they engaged in racial discrimination by treating him differently from other tenants when he was the only "Blackman Of Nigerian Descent Who Leased A Warehouse[.]"
Count 22: Piper and Kress, along with Judge Williams and Hefner, violated his due process rights under the Fourteenth Amendment to the United States Constitution by depriving him of "Fair And Representation In The (Closed) Case District Court Case No. D-061-LT-23-013868 On Friday June 9, 2023."
Count 24: Piper and Kress, along with Judge Williams and Hefner, used a fraudulent claim of unpaid rent to lock him out of his factory.
Count 25: they engaged in a civil conspiracy with Judge Williams and Hefner to deprive him of equal protection of the law by "pasting" the case summons in the District Court case on the front door of the rented premises which caused him not to be aware of, and to not appear at, the hearing on 9 June 2023.
Count 31: Piper and Kress, along with Judge Williams and Hefner, abused the judicial process.
Count 35: Piper and Kress, along with Judge Williams and Hefner, conspired to wrongfully detain his industrial machines, raw materials, factory operating equipment, and office operating equipment.
Count 36: Piper and Kress, along with Judge Williams and Hefner, committed negligence and gross negligence in making a fraudulent claim of unpaid rent and locking his factory.
Count 37: Piper and Kress, along with Judge Williams and Hefner, aided and abetted a breach of fiduciary duty by filing fraudulent claims for unpaid rent when Judge Williams and Hefner knew that Piper and Kress were providing false accounts.
Count 38: they breached an implied duty of good faith, fair dealing, and candor in filing a fraudulent claim for unpaid rent.
Count 39: they breached their fiduciary duties by intentionally filing a fraudulent claim for unpaid rent.

(continued…)

Count 40: they violated RP "§ 8-203; (4)" by failing to return his security deposit with interest.
Count 41: they violated RP § 8-203(f)(1)(i) by failing to "remove" "Two Months Security Deposit In The Of Amount Of $6,720.00 From Their Unpaid Rent[.]"
Count 42: they violated RP § 8-203(3)(l) by failing to provide a list of damages to the rental property.
Count 43: they intentionally filed a fraudulent claim for unpaid rent.
Count 44: Piper and Kress, along with Judge Williams and Hefner, engaged in a civil conspiracy to destroy his manufacturing business.
Count 45: they maliciously tampered with his manufacturing business.
Count 46: they tortiously interfered with his manufacturing business.
Count 47: Piper and Kress, along with Judge Williams and Hefner, engaged in a "Conspiracy To Negligence[.]"
Count 48: they demonstrated a hateful attitude towards him.
Count 49: they engaged in fraud and misrepresentation in violation of Maryland's Consumer Protection Act, § 13-303(1) of the Commercial Law Article of the Maryland Code.
Count 50: they made an affirmative misrepresentation of fact in filing a fraudulent claim for unpaid rent.
Count 51: they engaged in "The Concealment Of Fact Complaint" by filing a fraudulent claim for failure to pay rent.
Count 52: they engaged in disparate treatment by intentionally evicting him, "[a] Blackman Of Nigeria Descent[.]"
Count 53: they intentionally exposed him to a hostile business environment that included lack of "Peace Or Progress" confrontation "With Hostility Of Curses And Humiliation And Despicable Texts And Verbal Abuses[.]"
Count 54: they retaliated against him by failing to provide thirty days' written notice that he was in violation of the lease because he filed a "Legal Action" against them.
Count 55: they made false representation to another party by filing their fraudulent claim for unpaid rent.
Count 56: Edokobi sought a "Declaratory Judgment In The Amount Of Fifty-Five Million United States Dollars" against Piper and Kress, as well as Judge Williams and Hefner.
Count 57: Edokobi asserted a claim against Piper, Kress, Judge Williams, and Hefner for "Punitive Judgment" in the amount of $110,000,000.
Count 58: Edokobi sought a permanent injunction compelling Piper and Kress to unlock the leased premises, barring them from bringing "Fearsome Looking People" into his factory, barring them from threatening eviction and the removal of his equipment, and barring them from taking his industrial machinery and raw materials.

Judge Williams and Hefner filed a motion to dismiss the fourth amended complaint, which the court granted. That decision is not challenged in this appeal. Piper and Kress filed a motion to dismiss the fourth amended complaint or, in the alternative, motion for summary judgment. A hearing on that motion was held on 22 May 2024. In granting the motion to dismiss, the court found that the case was "really an effort to relitigate what happened in the District Court." The court recognized that Edokobi was disappointed with the outcome of the landlord-tenant case in the District Court, that he appealed that case, and that his argument of improper service had been considered and rejected and was no longer before the court. The court held that the landlord-tenant case was "a final and enrolled judgment" and that matters litigated in that case were "conclusive." The circuit court dismissed the fourth amended complaint "in its entirety as to all 58 counts[,]" stating:

> The Court having reviewed the complaint and having determined that there is no mechanism by which the Court believes that the plaintiff could amend the complaint to satisfactorily allege a cause of action in this matter will dismiss the complaint and all 58 counts with prejudice in this matter at this time.

In granting the motion to dismiss, the court addressed specifically certain of the claims in the fourth amended complaint. The court determined that § 8-402.1 of the Real Property ("RP") Article of the Maryland Code was not applicable to the facts and, as a result, all counts based on that statute failed to state a claim upon which relief could be granted. Similarly, all claims based on RP § 8-203.1 failed to state a claim upon which relief could be granted because Title 8, Subtitle 2 of the Real Property Article applied "solely to residential leases" and the leased property at issue was "conceded" to be commercial. The court determined that Edokobi's claims of "abuse of the judicial system

and using the judicial system to destroy his manufacturing business activities" referred back to RP § 8-402.1 and did not state a claim upon which relief could be granted. The court held also that "civil conspiracy . . . is not an independent cause of action."

The court also addressed additional counts of the fourth amended complaint as follows:

> [Count] 36 is again a negligence claim based upon this concern about the unpaid rent; and the aiding and abetting again on 37 is not an independent cause of action; 38, good faith in fair dealing, is not an independent cause of action; 39, the breach of fiduciary duty, one, there is no adequate fiduciary duty pled or alleged in the case; and, 40, again a violation of Maryland Real Property 8-203, which restates the earlier complaint which is not applicable in this case; 41, similar 8-203; 42, 8-203; and 43 says it's an attempt for fraudulent claim of unpaid rent. That is finally adjudicated in the District Court action, which was appealed, and which is a final and enrolled judgment of the court.
>
> Civil conspiracy again in 45 is not an independent caution [sic] of action; malicious act of tampering with plaintiff's manufacturing business, again, based upon the allegations set forth above, which deal with the security deposit and the amount of rent that was allegedly due which has been finally adjudicated; tortious interference claim failed to state a claim upon which relief can be granted in this matter; 47 is the conspiracy, again there's not an independent cause of action for conspiracy and the underlying facts relate to the enrolled judgment from the District Court; 48 is, again, it doesn't state a claim that the court recognized this as a cause of action, hateful attitude.
>
> Again 48 is tortious interference with business. Again, it's not an interference with the contract or prospective advantage with the enforcement of a lease, which the District Court has concluded was breached due to the failure to pay rent which was appealed and affirmed. Conspiracy to the negligence, 47, again conspiracy is not an independent caution [sic] of action; again, 48 is the hateful action; 49, violations of fraud or misrepresentation under Maryland Commercial Law Article 13-303 and Consumer Protection Act, which is not applicable, and this is not a consumer transaction.
>
> [Count] 50 is affirmative misrepresentation of fact complaint, again, relates back to the failure to pay rent claim, which is foreclosed by the ruled judgment; concealment of complaint, again, similarly the enrolled judgment would deal with that; 52 is the alleged disparate treatment, again all of these claims relate back to the rent claim, and the allegation in here is that they

> intentionally evicted plaintiff with a fraudulent claim of failure to pay rent. The fact that there's an enrolled final judgment in that case precludes this Court from relitigating that matter; similarly with 53 and as well as 54. 55, again, it's all covered within the previous judgment of the court.
>
> * * *
>
> [Count] 57 is a claim for punitive damages. Again it doesn't state an independent cause of action and, again, given the fact that the underlying claims do not state a claim, there is no claim for punitive damages. The last claim is a claim for a permanent injunction. The Court, again there being no basis to grant relief, finds that there's no basis to grant a permanent injunction in this matter.

Lastly, the court addressed Edokobi's request for a declaratory judgment, stating:

> [Count] 56 is a request for declaratory judgment. What the Court would declare is the judgment in the case is the declaration in the case. Wait, let me make sure. It does include these defendants, but the declaration that the Court would make is that the claims sought by the plaintiff in this matter are foreclosed by the final and enrolled judgment of the District Court of Maryland in the failure to pay rent claim as well as in the appeal of that matter that [sic] to this Court, which affirmed the judgment of the District Court, and so the declaration of rights would be that the parties are bound by that final and enrolled judgment of the District Court as appealed and affirmed by the Circuit Court for Montgomery County, which has now become final.

We shall refer to additional facts as relevant in our discussion of the issues presented.

STANDARD OF REVIEW

The circuit court's decision to grant a motion to dismiss is a question of law, which we review without deference. *Chavis v. Blibaum & Assocs., P.A.*, 476 Md. 534, 551 (2021); *Talbot Cnty. v. Miles Point Prop., LLC*, 415 Md. 372, 384 (2010). We must determine whether the circuit court's conclusions are correct as a matter of law. *Floyd v. Mayor & City Council of Baltimore*, 463 Md. 226, 241 (2019). When reviewing a circuit court's grant of a motion to dismiss, "'we look only to the allegations in the complaint and any

exhibits incorporated in it[.]'" *Worsham v. Ehrlich*, 181 Md. App. 711, 722 (2008) (quoting *Smith v. Danielczyk*, 400 Md. 98, 103-04 (2007)). We '"accept all well-pled facts in the complaint, and reasonable inferences drawn from them, in a light most favorable to the non-moving party[.]"' *Sprenger v. Pub. Serv. Comm'n of Md.*, 400 Md. 1, 21 (2007) (quoting *Converge Servs. Grp., LLC v. Curran*, 383 Md. 462, 475 (2004)). '"Dismissal is proper only if the alleged facts and permissible inferences, so viewed, would, if proven, nonetheless fail to afford relief to the plaintiff."' *Pendleton v. State*, 398 Md. 447, 459 (2007) (cleaned up) (quoting *Ricketts v. Ricketts*, 393 Md. 479, 492 (2006)). We will affirm a dismissal "on any ground adequately shown by the record, even one upon which the circuit court has not relied or one that the parties have not raised." *Harris v. McKenzie*, 241 Md. App. 672, 678 (2019) (quotation marks and citations omitted).

RES JUDICATA **AND COLLATERAL ESTOPPEL**

Some of the issues raised in the instant case relate to issues that were addressed in the landlord-tenant case. For that reason, we pause to discuss the doctrines of *res judicata* and collateral estoppel. The doctrine of *res judicata*, or claim preclusion, prevents a party from relitigating a claim after it has been fully and fairly adjudicated. *Anne Arundel Cnty. Bd. of Educ. v. Norville*, 390 Md. 93, 106-07 (2005). A party invoking *res judicata* must prove:

> 1) that the parties in the present litigation are the same or in privity with the parties to the earlier dispute;
> 2) that the claim presented in the current action is identical to the one determined in the prior adjudication; and,
> 3) that there was a final judgment on the merits.

Colandrea v. Wilde Lake Cmty. Ass'n, Inc., 361 Md. 371, 392 (2000). Under the defense of *res judicata*,

> a judgment between the same parties and their privies is a final bar to any other suit upon the same cause of action and is conclusive, not only as to all matters decided in the original suit, *but also as to matters that could have been litigated in the original suit*.

Id. (emphasis in original).

The doctrine of collateral estoppel, or issue preclusion, has been described as "when an issue of fact or law is actually litigated and determined by a valid and final judgment, and the determination is essential to the judgment, the determination is conclusive in a subsequent action between the parties, whether on the same or a different claim." *Id.* at 387 (cleaned up). In short, collateral estoppel prevents a party from relitigating a fact or legal issue that has been actually litigated. Collateral estoppel has a four-part test:

> 1. Was the issue decided in the prior adjudication identical with the one presented in the action in question?
> 2. Was there a final judgment on the merits?
> 3. Was the party against whom the plea is asserted a party or in privity with a party to the prior adjudication?
> 4. Was the party against whom the plea is asserted given a fair opportunity to be heard on the issue?

Bank of N.Y. Mellon v. Georg, 456 Md. 616, 626 (2017) (citing *Colandrea*, 361 Md. at 391).

DISCUSSION

I.

A. Disputes of Material Fact

Edokobi argues that the circuit court erred in dismissing his fourth amended complaint "contrary to Maryland's requirements for granting summary judgment and without" an evidentiary hearing. He asserts that there was a genuine dispute of material fact, that the circuit court failed to hold an evidentiary hearing, and that he was denied an opportunity to question Kress on a variety of issues. We disagree.

Piper and Kress filed their motion to dismiss pursuant to Maryland Rule 2-322(b), on the ground that the fourth amended complaint failed to state a cause of action upon which relief could be granted. Although they argued, in the alternative, that summary judgment should be granted, the circuit court did not consider any materials outside the pleadings and treated the motion as a motion to dismiss, which did not require an evidentiary hearing. The trial judge made this clear to Edokobi at the motions hearing, stating:

> THE COURT: You do understand that this is not an evidentiary hearing here today. This is a motion to dismiss, which is merely a motion that I'll look at the complaint in the case and decide whether or not reading the complaint in a light most favorable to you –
>
> [EDOKOBI]: Yes.
>
> THE COURT: -- and drawing all inferences in favor of you, does the complaint state a cause of action for which relief could be granted, so there's not any evidence. There's no testimony here today. This is merely on the papers.

The court applied the proper legal standard for a motion to dismiss and neither the lack of an evidentiary hearing nor the court's refusal to allow Edokobi to question witnesses was erroneous.

B. Emotional Distress and Request for Psychologist and IME

Edokobi makes two arguments relating to his claim of emotional distress. First, he challenges the circuit court's decision to dismiss his claim for intentional infliction of emotional distress by Piper and Kress, set forth in Count 20 of the fourth amended complaint. He argues that there was a genuine dispute of material fact with respect to the "emotional distress, anxiety, depression, constant fears, sleepless nights and spam," which "restarted" on 28 August 2023, "as a direct result of **great shock** that [he] suffered from landlord **Locking** [his] factory" on 25 August 2023. He maintains that Piper and Kress took him by surprise and that his "life cannot tolerate shock due to [his] previous health condition."

Edokobi failed to set forth a *prima facie* claim for intentional infliction of emotion distress. Even if he had, the circuit court did not err in dismissing Count 20. The issue of whether Piper and Kress were entitled to repossession of the rental property was resolved conclusively in the landlord-tenant case. The District Court judge granted Piper and Kress repossession of the rental property. That case was appealed to the circuit court, which affirmed. For that reason, Edokobi's argument here is barred by the doctrine of collateral estoppel. Piper and Kress could not be held liable for the intentional infliction of emotional distress resulting from their repossession and securing the space rented by Edokobi because they were entitled to repossess the property.

Edokobi's second argument involves a post-judgment motion. On 14 June 2024, twenty-one days after the circuit court entered judgment dismissing the fourth amended complaint, Edokobi filed a "Motion/Petition Request for Medical Treatment and Independent Medical Examination (IME), Pursuant to Maryland Rule 2-402(G)(1)(A)."[6] In that motion, he asserted that he suffered from emotional distress, anxiety, depression, constant fears, sleepless nights and "spams" intentionally inflicted upon him by Piper and Kress when they locked down his factory on 25 August 2023. He asserted that on Monday, 28 August 2023, he suffered "severe shock" and "dizziness" when he went to the rented premises and discovered he was locked out. He called his doctor, who arranged for him to see a "psychiatric doctor" whom he continued to see until the time his post-judgment motion was filed.

Edokobi requested that the circuit court appoint an expert to provide an IME and a "Physician Expert Witness With Expert Medical Opinions Pursuant To Maryland Rule 2-402(G)(1)(A)." He suggested that the physician would provide expert testimony about his mental health conditions that started when Piper and Kress locked him out of his business and prevented him from starting production of the items he intended to manufacture beginning in August 2023. The circuit court denied Edokobi's motion on 22 July 2024. He did not file a notice of appeal within thirty days of the circuit court's decision, but instead

[6] That motion did not toll the time for filing an appeal from the circuit court's decision to dismiss the case.

filed a notice of appeal on 27 August 2024, after the court entered an award of attorneys' fees in favor of Piper and Kress pursuant to Rule 1-341.

Even assuming that this issue was preserved properly for our consideration, Edokobi would not prevail. The court in the landlord-tenant case granted Piper and Kress repossession and that case was appealed to the circuit court, which affirmed. As we have stated already, Piper and Kress were entitled to repossess their property. Because that issue was resolved conclusively in the landlord-tenant case, Edokobi is estopped from challenging that determination. Piper and Kress could not be held liable for the intentional infliction of emotional distress caused allegedly by locking a property that they were entitled to repossess.

II.

Edokobi contends that the circuit court erred in dismissing the fourth amended complaint because it failed to consider that Piper and Kress did not give him thirty days' written notice, pursuant to RP § 8-402.1(a)(1)(i)2.A. We disagree.

The issue of notice and service of process was addressed in the landlord-tenant case and, as a result, Edokobi is estopped from relitigating that issue here. Even if he could raise that issue again, he would fare no better because RP § 8-402.1(a)(1)(i)2.A. does not apply to the case at hand. A landlord's remedy for repossession of property for non-payment of rent is specifically addressed in RP § 8-401(a), which, at the time the District Court action was filed, provided, as it does now, that "[w]henever the tenant or tenants fail to pay the rent when due and payable, it shall be lawful for the landlord to have again and repossess the premises in accordance with this section."

As RP § 8-402.1 was not applicable in the underlying action, which was based on repossession for a failure to pay rent, and the case was specifically controlled by RP § 8-401, the circuit court did not err in granting the motion to dismiss.

III.

Edokobi argues that the circuit court erred in failing to consider that Piper and Kress retained two months' rent, in the amount of $6,720, as a security deposit in violation of RP § 8-203.1(a)(7), which provides:

> (a) A receipt for a security deposit shall notify the tenant of the following:
>
> * * *
>
> (7) A statement that failure of the landlord to comply with the security deposit law may result in the landlord being liable to the tenant for a penalty of up to 3 times the security deposit withheld, plus reasonable attorney's fees.

This argument is without merit.

Title 8, Subtitle 2 of the Real Property Article is not applicable in this case because the subject lease was commercial in nature, not residential. *See* RP § 8-201(a) ("This subtitle is applicable only to residential leases unless otherwise provided."). Even assuming, *arguendo*, that RP § 8-203.1 applied to security deposits with respect to commercial leases, the lease in this case provided, in pertinent part:

> 4. SECURITY DEPOSIT: Tenant shall deposit with Landlord two month's rent in the amount of Six Thousand Seven Hundred Twenty and 00/100 Dollars ($6,720.00) per the terms outlined in the addendum as security for the faithful performance of Tenant's obligations hereunder. Tenant hereby agrees that this security deposit will not be applied to rent due under this Lease or to the last month's rent and that the conditions under which Landlord will hold and be obligated subsequently to return the security deposit are as follows:

> a. Full term of Lease has expired.
>
> b. Tenant has given the Landlord at least ninety (90) day's written notice that it will vacate the Premises.
>
> c. Tenant does vacate the Premises at the termination of Lease and returns keys thereto.
>
> d. Premises, inside and out, are left in "broom clean" condition and undamaged (except ordinary wear and tear).
>
> e. **That there are no unpaid late charges, delinquent rent, court costs or attorneys' fees or other monies owed by Tenant to Landlord**.
>
> If Tenant has complied with each of the above requirements, Landlord agrees that said security deposit will be returned without payment of interest thereon. **If Tenant violates any of the above requirements, Landlord may apply a part of, or all of the security deposit to cover the cost or expense incurred or deficiency existing in any monies due to the Landlord for failure to comply with the provisions of this Lease and the matters as set forth in paragraph 4(a) through (e) and the Landlord shall also have the right to proceed with any other legal or equitable remedies available to it.**

(Emphasis added.)

Piper was clearly permitted to apply all or part of the security deposit to the deficiency created by Edokobi's unpaid rent. Accordingly, the circuit court did not err in dismissing claims based on a violation of RP § 8-203.1(a)(7).

IV.

Edokobi's fourth argument repeats the arguments previously made with respect to his "Motion/Petition Request for Medical Treatment and Independent Medical Examination (IME), Pursuant to Maryland Rule 2-402(G)(1)(A)" and his claim for emotional distress. We addressed those arguments previously.

V.

Edokobi contends that the circuit court erred in accepting and considering Piper and Kress's "defective motion for summary judgment which was filed on" 8 January 2024 without a supporting affidavit, as required by Md. Rule 2-501(a). He argues

> that landlord did not provide **supporting affidavit for landlord's motion for summary judgement** [sic] because landlord provided **fraudulent** claim of unpaid rent of $18,640.00 against tenant and that, **tenant was not owing** $18,640.00 of unpaid rent and **tenant did not admit of failure to pay** rent $18,640.00 as landlord **fraudulently** claimed in the defective motion for summary judgment.

We disagree. As we explained earlier, the circuit court considered Piper and Kress's motion as a motion to dismiss, not a motion for summary judgment. There was no requirement that they provide an affidavit in support of the motion to dismiss. Moreover, any argument Edokobi might have asserted with respect to whether he owed rent would have been barred by the doctrines of *res judicata* or collateral estoppel, as that claim was raised, considered, and resolved in the landlord-tenant case. Lastly, we take note that Edokobi acknowledged that he made only partial rent payments to the landlord, Piper. It is irrelevant whether he owed $18,640 or some other amount because neither Piper nor Kress sought a money judgment against him for the unpaid rent. They were entitled to maintain their action to repossess the property as long as there was some amount of rent that was unpaid.

Edokobi maintains further that Piper and Kress failed to provide an affidavit in support of their motion for attorneys' fees which were requested pursuant to Md. Rule 1-341. That issue is not properly before us in the present case. The circuit court's award of

attorneys' fees is the subject of another appeal, *Edokobi v. Piper Industrial L.P., et al.*, No. 1276, Sept. Term, 2024.

VI.

Edokobi contends that the circuit court erred in determining that certain sections of the Real Property Article of the Maryland Code applied to residential leases and not commercial leases such as the one at issue. Specifically, he directs our attention to various subsections of RP §§ 8-203, 8-203.1, and 8-402.1. He maintains that, as a result of the circuit court's erroneous determination, it erred in dismissing Counts 1-6 and 40-42 of the fourth amended complaint. We disagree.

Title 8, subtitle 2 of the Real Property Article addresses residential leases. *See* RP § 8-201(a) ("This subtitle is applicable only to residential leases unless otherwise provided."). In Counts 40, 41, and 42, Edokobi alleged that Piper and Kress violated RP §

8-203(e)(4),[7] § 8-203(f)(1)(i),[8] and § 8-203(h)(3)(i),[9] respectively. In Count 6, Edokobi alleged that Piper and Kress violated RP §8-203(f)(2)[10] by failing to return his security deposit. Similarly, in Counts 3, 4, and 5, Edokobi alleged violations of RP §§ 8-203.1(a)(7), (a)(5), and (b),[11] all of which address receipts for security deposits. As RP § 8-203 and RP § 8.203.1 are not applicable to the commercial lease at issue here, the circuit court did not err in dismissing Counts 3, 4, 5, 6, 40, 41, and 42 of the fourth amended complaint.

[7] In the fourth amended complaint and in his Brief, Edokobi references RP "§8-203;(4)" but from his quotation from that section, it is clear he is referring to RP § 8-203(e)(4), which provides that "[i]f the landlord, without a reasonable basis, fails to return any part of the security deposit, plus accrued interest, within 45 days after the termination of the tenancy, the tenant has an action of up to threefold of the withheld amount, plus reasonable attorney's fees."

[8] RP § 8-203(f)(1)(i) provides that

> [t]he security deposit, or any portion thereof, may be withheld for unpaid rent, damage due to breach of lease or for damage by the tenant or the tenant's family, agents, employees, guests or invitees in excess of ordinary wear and tear to the leased premises, common areas, major appliances, and furnishings owned by the landlord.

[9] RP § 8-203(h)(3)(i) provides that "[i]f a landlord fails to send the list of damages required by paragraph (2) of this subsection, the right to withhold any part of the security deposit for damages is forfeited."

[10] In the fourth amended complaint and in his Brief, Edokobi references RP "§ 8-203; (2)," but from his quotation from that section, it is clear he is referring to RP § 8-203(f)(2), which provides "[t]he security deposit is not liquidated damages and may not be forfeited to the landlord for breach of the rental agreement, except in the amount that the landlord is actually damaged by the breach or the amount of a surcharge authorized under § 7-301(c)(5)(ii) of the Courts Article."

[11] In the fourth amended complaint and in his Brief, Edokobi references RP "§8-203.1, (7)," "§8-203.1, (5)," and "§ 8-203.1, (B)," but from his quotations from those sections, it is clear he is referring to RP §§ 8-203.1(a)(7) and (5) and (b).

Edokobi challenges also the dismissal of Counts 1 and 2 of the fourth amended complaint. He questions whether RP § 8-402.1(2)(A) and (2)(B)[12] apply only to residential leases. In Count 1 of the fourth amended complaint, he alleged that Piper and Kress failed to provide thirty days' written notice in violation of RP § 8-402.1(a)(1)(i), which provides:

> (a)(1)(i) Subject to § 8-406 of this subtitle and where an unexpired lease for a stated term provides that the landlord may repossess the premises prior to the expiration of the stated term if the tenant breaches the lease, the landlord may make complaint in writing to the District Court of the county where the premises is located if:
>
> 1. The tenant breaches the lease;
>
> 2. A. The landlord has given the tenant 30 days' written notice that the tenant is in violation of the lease and the landlord desires to repossess the leased premises; or
>
> B. The breach of the lease involves behavior by a tenant or a person who is on the property with the tenant's consent, which demonstrates a clear and imminent danger of the tenant or person doing serious harm to themselves, other tenants, the landlord, the landlord's property or representatives, or any other person on the property and the landlord has given the tenant or person in possession 14 days' written notice that the tenant or person in possession is in violation of the lease and the landlord desires to repossess the leased premises; and
>
> 3. The tenant or person in actual possession of the premises refuses to comply.

In Count 2 of the fourth amended complaint, Edokobi alleged that Piper and Kress violated RP "§ 8-402.1 (2)(B)" by failing to provide him with fourteen days' written notice. We infer from the quoted passages in the fourth amended complaint, that Edokobi was referring to RP § 8-402.1(a)(1)(i)2.B.

The provisions of RP § 8-402.1 apply to proceedings for repossession of premises upon a breach of a lease other than for non-payment of rent. The landlord-tenant case was

[12] From the references in the fourth amended complaint, we infer that Edokobi is referring to RP § 8-402.1(a)(1)(i)1, 2.A., and 2.B.

based on Piper and Kress's claim for repossession of the rental property on the ground of non-payment of rent. That issue is addressed specifically in RP § 8-401(a), which provides that "[w]henever the tenant or tenants fail to pay the rent when due and payable, it shall be lawful for the landlord to have again and repossess the premises in accordance with this section." The procedures for issuing and serving the summons and for provision of written notice are set forth in that statute. The record shows that the issue of sufficiency of service of process was addressed in the landlord-tenant case. For those reasons, the circuit court did not err in dismissing Edokobi's claims based on asserted violations of RP § 8-402.1.

VII.

Edokobi contends that the circuit court erred in denying his request for Piper and Kress to refund $12,080, consisting of his security deposit of $6,720 and partial rent payments of $5,360 paid in January, February, and March 2023. He argues that the failure to return his security deposit violated RP "§ 8-203.1, (7)." We infer from the record that Edokobi was referring to RP § 8-203.1(a)(7). As we held previously, RP § 8-203.1 applies only to residential leases. In addition, as we noted, Paragraph 4 of the lease provided that, if Edokobi failed to make his rent payments, Piper was permitted to "apply a part of, or all of the security deposit to cover" any deficiency in monies due. Edokobi does not argue, and the record before us does not show, that subsequent to the filing of the landlord-tenant case, he made any rent payments. For that reason, Piper and Kress are correct in noting that even if they applied the security deposit of $6,720 to the unpaid rent of $18,640, Edokobi would still have a balance due for unpaid rent. Even if he was given credit for the amount of partial rent payments he claimed he made, he would still have an unpaid balance. Under

RP § 8-401(a), Piper had the right to repossess the premises for unpaid rent. For those reasons, the circuit court did not err in denying Edokobi's request.

VIII.

Edokobi contends that the circuit court erred in failing to consider his complaint of racial discrimination set forth in Count 16 of the fourth amended complaint. In that count, Edokobi alleged that Piper and Kress discriminated against him because he "is a Blackman of Nigerian descent for" whom they "did not bother to give" thirty days' written notice pursuant to RP "§ 8-402.1(2)(A)." We infer from the fourth amended complaint and Edokobi's Brief that he meant to reference RP § 8-402.1(a)(1)(i)2.A., which provides that a landlord may repossess the premises prior to the expiration of the stated term if, among other things, "[t]he landlord has given the tenant 30 days' written notice that the tenant is in violation of the lease and the landlord desires to repossess the leased premises[.]" His claim is without merit.

Preliminarily, we note that Edokobi failed to establish a *prima facie* case of racial discrimination. In *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973), the United States Supreme Court laid out a burden-shifting framework that first requires a plaintiff to establish a *prima facie* case of discrimination. A plaintiff must show: (1) he is a member of a protected class; (2) he suffered an adverse employment action; (3) he was performing his job duties at a level that met his employer's legitimate expectations at the time of the adverse employment action; and, (4) the circumstances of the adverse action or discharge "raise a reasonable inference of unlawful discrimination." *Nerenberg v. RICA of S. Md.*, 131 Md. App. 646, 663 (2000) (quotation marks and citation omitted). Edokobi did not

allege that he had an employment relationship with Piper or Kress. Neither did he allege any other relationship, point to any specific statute, or set forth any facts to support a claim for racial discrimination.

Even if he had, his claim would fail for other reasons. The issue of sufficient notice was addressed in the landlord-tenant case, where Edokobi raised specifically the issue of sufficiency of process and service of process. That issue is, therefore, barred by the doctrine of collateral estoppel. Even if it was not, as we have already noted, RP § 8-402.1 does not apply to the instant case. Piper and Kress's complaint against Edokobi was based on RP § 8-401. They were not required to give notice pursuant to RP § 8-402.1. The claim of racial discrimination arising out of a failure to give notice under a statute that is not applicable to the case fails to state a claim upon which relief could be granted. For those reasons, we conclude that the circuit court did not err in dismissing Count 16.

IX.

In a similar argument, Edokobi contends that the circuit court erred in dismissing Count 18 of the fourth amended complaint in which he alleged Piper and Kress discriminated against him on the basis of race when they treated him differently from another tenant "by seizing" his security deposit in the amount of $6,720. Edokobi alleged that he was the "only Blackman of Nigerian descent who leased a warehouse" from Piper and Kress at the Cessna Avenue location and that they returned a security deposit to another tenant within seven days, but did not return his security deposit. Again, Edokobi failed to set forth a *prima facie* case of racial discrimination. In addition, we noted previously that, under the terms of Paragraph 4 of the lease agreement, Piper was permitted to retain the

security deposit to cover any deficiency in the rent owed to it. Edokobi acknowledged that for certain months he made only partial rent payments. Therefore, there is no dispute that he failed to pay all of the rent that was owed. Because Piper was entitled to retain the security deposit, the claim of racial discrimination arising out of a failure to return the security deposit failed to state a claim upon which relief could be granted. Accordingly, the circuit court did not err in dismissing Count 18.

X.

Edokobi makes a similar argument with respect to his claim of racial discrimination in Count 19 of the fourth amended complaint. In that count, he alleged that he is a "Blackman of Nigerian descent" and that Kress discriminated against him on the basis of race when she used a neighboring tenant's closed-circuit television to monitor his movements within Piper and Kress's "industrial complex." Again, Edokobi failed to set forth a *prima facie* case of racial discrimination. Even viewing all inferences in a light most favorable to Edokobi, Count 19 failed to state a claim upon which relief can be granted. Maryland Rule 2-305 requires that a complaint "contain a clear statement of the facts necessary to constitute a cause of action and a demand for judgment for the relief sought." Edokobi did not satisfy that. He did not reference any state or federal statute or allege any relationship, or set forth any facts from which the basis of his allegation of racial discrimination could be ascertained. As Edokobi failed to allege, with specificity, sufficient facts to state a *prima facie* case of discrimination on the basis of race, the circuit court did not err in dismissing Count 19.

XI.

Edokobi contends that the circuit court erred in dismissing his claims of fraud set forth in Counts 12 and 13 of the fourth amended complaint. In Count 12, he alleged that Piper and Kress's claim for unpaid rent in the amount of $18,640 was fraudulent. In Count 13, he alleged that Piper and Kress defrauded him by claiming unpaid rent in the amount of $18,640 and by concealing that he had paid a security deposit in the amount of $6,720, as well as partial rent in the total amount of $6,000.

As to both claims of fraud, Edokobi failed to state a claim upon which relief could be granted. In order to establish a civil claim of fraudulent misrepresentation, a plaintiff must prove by clear and convincing evidence that, among other things, the defendant made a false representation. *Md. Env't Tr. v. Gaynor*, 370 Md. 89, 97 (2002). To establish a claim of fraudulent concealment, a plaintiff must prove, by clear and convincing evidence, that, among other things, the defendant owed a duty to the plaintiff to disclose a material fact and failed to do so. *Lloyd v. Gen. Motors Corp.*, 397 Md. 108, 138 (2007).

Edokobi failed to establish that the amount of unpaid rent claimed by Piper and Kress was false. In the landlord-tenant case, it was established conclusively that Edokobi did not pay the full amount of rent owed under the lease and that the amount of unpaid rent was $18,640. Any re-litigation of those issues with respect to the fraud claims in the civil case was barred by the doctrine of collateral estoppel. Furthermore, Edokobi acknowledged that he made only partial rent payments under the lease agreement. As we noted previously, the lease agreement permitted Piper to retain the security deposit under specified circumstances, including the failure to pay the rent owed. Edokobi failed also to allege the

existence of any duty in tort owed to him by Piper or Kress. *Blondell v. Littlepage*, 413 Md. 96, 119 (2010) ("As a threshold matter, one of the essential elements of causes of action in negligence and fraudulent concealment is the existence of a duty between the parties."). Here, the rights and duties of the parties were contractual. Any breach of the lease would give rise to a breach of contract claim, not a tort claim. For those reasons, the circuit court did not err in dismissing Counts 12 and 13.

JUDGMENT OF THE CIRCUIT COURT FOR MONTGOMERY COUNTY AFFIRMED; COSTS TO BE PAID BY APPELLANT.