UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1295

September Term, 2015

SONA HASSAN, ET AL.

v.

SAMIR SHAMS

Berger,
Nazarian,
Harrell, Glenn T., Jr.
(Retired, Specially Assigned),

JJ.

Opinion by Harrell, J.

Filed: July 20, 2016

This litigation is an inter-family dispute, but does not involve family law as such. Appellants, Sona Hassan and her husband Sayed Hassan, filed suit in the Circuit Court for Howard County for defamation and malicious prosecution committed allegedly against them by her brother, Samir Shams, Appellee. The complaint was amended to add defamation claims asserted by their three sons, Ashraf, Ehab and Emery, also Appellants here.[1] After a bench trial, the circuit court, relying on a final judgment in an earlier suit between Samir and Sona in Iowa, denied Appellants' flagship defamation claims on *res judicata* grounds. The court dismissed Sona's malicious prosecution claim. For the following reasons, we agree with the circuit court and affirm its judgment.

FACTS AND LEGAL PROCEEDINGS

Sona Hassan and Samir Shams are siblings. When both resided in Maryland, they attended religious services at the Dar Al Taqwa Mosque and were well known in the Mosque community. In 2003, Samir accepted a position as an interpreter with the U.S. military, which required that he relocate to Iraq for a period of time. Before he left for the position in Iraq later that year, Samir entered into an oral agreement with Sona whereby he would grant her access to a bank account in his name so that she could provide for his three children (who remained in the U.S.) and pay in a timely manner Samir's periodic bills. A bank account was set-up in Des Moines, Iowa, where Samir

[1] In this opinion, we will refer generally to the parties by their first names purely for the sake of clarity. Sayed, Ashraf, Ehab, and Emery may be referred to jointly at times in this opinion as the Hassans.

would deposit his paychecks while he was abroad. Sona was given signed blank checks to draw money from that account, as needed, to attend to Samir's affairs.

Between 2003 and 2006 while Samir was in Iraq, and although Sona provided money to Samir's children and paid his bills from the account, Samir alleged that she wrote checks from that account for her personal purposes as well. The alleged personal expenditures totaled $271,773.93, which was used to purchase real property in Howard County, Maryland, for her family, including her husband and three sons.

When Samir returned from Iraq and discovered the "missing" money, he claimed that he asked Sona to return the money, but she refused. In 2011, Samir, now living in Iowa, filed suit there against Sona for conversion, breach of fiduciary duty, breach of contract, and fraud.[2] Starting in January 2012, Samir began to send e-mails to other members of the Shams and Hassan families and members of the Dar Al Taqwa Mosque community accusing the Hassans of stealing money from him.

On or about 15 May 2012, Samir contacted the Office of the State's Attorney for Howard County requesting that that office investigate Sona for criminal theft. Brian Furlong, Esquire, an Assistant State's Attorney for Howard County, sent a letter to Sona

[2] This case rose to the Iowa Supreme Court on procedural questions, but was heard on remand on the merits by a state District Court in March 2015.

informing her of the investigation. Ultimately, the State's Attorney did not file any criminal charge against Sona in the matter.[3]

As a result of the emails and Samir's phone call to the State's Attorney, Sona filed early in 2015 in the Iowa litigation a counter-claim against Samir for libel. The trial in Iowa was held in March of 2015 before a jury. The jury found Sona liable for conversion, breach of fiduciary duty and breach of contract, but did not find her liable for fraud. Samir was awarded $148,501.60 in damages. As for Sona's libel counter-claim, the jury awarded her $14,566.25 in compensatory damages and $15,000 in punitive damages.

Meanwhile, in Maryland, Sona and Sayed filed in March 2014 the complaint in the present litigation in the circuit court seeking damages for defamation (as to both of them) and malicious prosecution (as to Sona alone) arising from the same facts as under laid her counter-claim for libel in the Iowa suit. The defamation claims of their three sons, Ashraf, Ehab and Emery, were added in an amended complaint filed in August 2014. Samir's 15 October 2014 motion for a stay pending the outcome of the Iowa litigation was granted and, after the final judgment was entered in Iowa, the case in Maryland proceeded.

[3] Sona retained an attorney to represent her as regards the criminal investigation. Her attorney wrote to Mr. Furlong regarding Sona's position. The closure of the investigation followed later in 2012.

Prior to trial, Samir filed multiple Motions for Summary Judgment to bar all of the plaintiffs' defamation claims based on a theory of *res judicata* flowing from the Iowa litigation between he and Sona. The circuit court granted prior to trial his motion for summary judgment as to Sona's defamation claim, but allowed the other Hassans' defamation claims to proceed.[4] A bench trial was held on 16 June 2015. The circuit court entered its judgment on 22 June 2015, stating that the plaintiffs' claims for defamation were barred by the doctrine of *res judicata*. The circuit court denied also Sona's claim for malicious prosecution.

Sayed and the sons filed a Motion to Alter or Amend the Judgment, in which they argued that their claims should not have been disposed of on a theory of *res judicata* because they were not parties to the Iowa litigation and their interests were not represented by Sona in the Iowa case. The children argued that their claims for defamation were separate and distinct from those of their mother or father because of lack of privity and the nature of the injuries they suffered. The motion was denied by the circuit court. This timely appeal followed. Additional facts will be provided within our analysis, as necessary.

QUESTIONS PRESENTED

Appellants present two questions for our consideration:

[4] The grant of summary judgment as to the defamation claim brought by Sona is not part of this appeal.

1. Did the Circuit Court err in finding that the claims of Sayed Hassan, Ashraf Hassan, Ehab Hassan, and Emery Hassan for defamation were barred by *res judicata*?

2. Did the Circuit Court err in denying the claim of Sona Hassan for malicious prosecution?

For the following reasons, we hold that the Circuit Court for Howard County did not err and, consequently, we affirm its judgment.

STANDARD OF REVIEW

For a bench trial, Maryland Rule 8-131(c) articulates our standard of review:

> When an action has been tried without a jury, the appellate court will review the case on both the law and the evidence. It will not set aside the judgment of the trial court on the evidence unless clearly erroneous, and will give due regard to the opportunity of the trial court to judge the credibility of the witnesses.

The Court of Appeals "acknowledged that Rule 8–131(c) does not always require a solitary standard of review, but rather there are often 'interrelated standards' applicable." *Kusi v. State*, 438 Md. 362, 382, 91 A.3d 1192, 1203 (2014). We are to defer to the circuit court and will not set aside any of its factual findings unless the finding is clearly erroneous. The ultimate questions of whether *res judicata* bars the Hassans' claims and whether the denial of Sona's malicious prosecution claim was proper are questions of law that will be reviewed without deference because they are purely legal questions deserving an independent appellate review. *State v. Neger*, 427 Md. 582, 595, 50 A.3d 591, 599 (2012).

DISCUSSION

I. Defamation Claims

a. Contentions

The Hassans contend that their defamation claims were not barred by *res judicata* because "the claim of Sona Hassan in the Iowa case was independent of the claims of the Maryland plaintiffs." The Hassans maintain that they were not in privity with Sona with regard to the prosecution of her libel claim in the Iowa litigation.

Samir responds that the circuit court's judgment is correct because the Hassans' Maryland claims are barred by the final judgment in the Iowa case. Further, Samir urges that the circuit court defined properly privity in relation to the application of *res judicata*.

b. Analysis[5]

[5] No party appears from their briefs or oral argument to have considered that the first line of inquiry by a Maryland court in a *res judicata* analysis, when the first judgment was entered by a foreign court (here an Iowa court), is that we should apply the relevant *res judicata* principles of the foreign jurisdiction, as explained by the Court of Appeals in *Anne Arundel Cnty. Bd. of Educ. v. Norville*, 390 Md. 93, 108, 887 A.2d 1029, 1037 (2005) (internal citations omitted) ("In state court, the law of the state in which the judgment was rendered determines the preclusive effect"); *see also Rourke v. Amchem Prods., Inc.*, 384 Md. 329, 342, 863 A.2d 926, 933 (2004) ("under the Maryland law of conflict of laws, the *res judicata* effect to be given to the judgment of another State is that which the judgment would have in the State where it was rendered").

We have looked at the relevant law in Iowa state courts and found that Iowa law on *res judicata* is analogous to those standards followed by Maryland courts as regards its state court actions, *see Spiker v. Spiker*, 708 N.W.2d 347, 353 (Iowa 2006); *see also Bennett v. MC No. 619, Inc.*, 586 N.W.2d 512, 516 (Iowa 1998) ("a final judgment rendered by a court of competent jurisdiction on the merits is conclusive as to the rights of the parties and their privies, and, as to them, constitutes an absolute bar to a subsequent action involving the same claim, demand or cause of action"); *Arnevik v.*

(Continued…)

The main thrust of *res judicata* is to protect "the courts, as well as the parties, from the attendant burdens of relitigation [and to foster] reliance on judicial action by minimizing the possibilities of inconsistent decisions." *Anne Arundel Cnty. Bd. of Educ. v. Norville*, 390 Md. 93, 107, 887 A.2d 1029, 1037 (2005) (citation omitted). Maryland law requires three elements to coalesce in order to preclude a subsequent claim by reason of *res judicata*:

> 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 valid final judgment on the merits.

Esslinger v. Baltimore City, 95 Md. App. 607, 616, 622 A.2d 774, 779 (1993) (citation omitted); s*ee also Donald B. Spangler, et al. v. Peggy McQuitty, et vir.*,___ Md. ___ (2016), (No. 69, September Term 2015) (filed 12 July 2016) (slip op. at 30) (recognizing these required elements for *res judicata* purposes). It is clear that "[w]hen a prior court has entered a final judgment as to the matter sought to be litigated in a second court, the claim analysis is usually uncomplicated." *Norville*, 390 Md. at 108, 887 A.2d at 1038.

(…continued)
Univ. of Minnesota Bd. of Regents, 642 N.W.2d 315, 321 (Iowa 2002) (applying a transactional approach to the same claim and underlying facts analysis for *res judicata* purposes).

Therefore, because there is no material difference in this regard between Maryland and Iowa law, we proceed with our analysis, applying primarily Maryland authorities (as the circuit court and the parties did) as the outcome would be the same were Iowa law applied.

i. Valid Final Judgment

If "a final judgment exists as to a controversy between parties, those parties and their privies are barred from relitigating any claim upon which the judgment is based." *Norville*, 390 Md. at 108, 887 A.2d at 1037. Here, the circuit court explained that the Iowa litigation resulted in a final judgment on the merits:

> It's clear that Mr. Shams had a disagreement with his sister, Sona Hassan, about money. It's clear that they didn't agree on whether there was money left over from the money that Mr. Shams had earned while he was working overseas. It's not clear to me that that's ever really been resolved to either of their satisfaction. However, it had been resolved, because the court in Iowa made a decision on it, and we're all bound by it. I'm bound by it, and everyone else is bound by it. And the decision was that Ms. Hassan owed her brother money, and a judgment has been entered, and we're bound by that. Whether I agree or disagree, whether anyone agrees or disagrees, that's – that's a fact that we can't get around in this case.

There is no dispute between the parties that the prior litigation in Iowa resulted in a valid final judgment, with a jury awarding damages to both Samir and Sona. Thus, the first required element for proper application of *res judicata* has been met here.

ii. Same Claim

Identical claims may be "grouped by 'transaction' pragmatically, 'giving weight to such considerations as whether the facts are related in time, space, origin or motivation, whether they form a convenient trial unit, and whether their treatment as a unit conforms to the parties' expectations or business understanding or usage.'" *Douglas v. First Sec. Fed. Sav. Bank, Inc.*, 101 Md. App. 170, 188, 643 A.2d 920, 929 (1994) (citing *DeLeon v. Slear*, 328 Md. 569, 590, 616 A.2d 380, 390 (1992). This approach to determining

whether claims are identical for *res judicata* purposes requires primarily that the same facts be present when comparing the relevant claims:

> Under the transactional approach, if the two claims or theories are based upon the same set of facts and one would expect them to be tried together ordinarily, then a party must bring them simultaneously. Legal theories may not be divided and presented in piecemeal fashion in order to advance them in separate actions.

Norville, 390 Md. at 109, 887 A.2d at 1038.[6]

Here, the circuit court explained that it viewed the facts underlying the claims in the Maryland and Iowa cases as identical:

> The current action is identical. I understand the Claimants come from different perspectives on this, and all five of the Plaintiffs had a different perspective on the defamation. They probably had different damages, different reactions. . . . [but] it's the exact same e-mail [impugning the Hassans as participants in, or knowing beneficiaries of, Sona's conduct].

This assessment of the factual record is not clearly erroneous, nor is its application incorrect as a matter of law in the court's *res judicata* analysis. The 10 January 2012 and

[6] Both Maryland and Iowa have adopted the transactional approach described in Restatement (Second) of Judgments, which explains that claims are considered identical when:

> Among the factors relevant to a determination whether the facts are so woven together as to constitute a single claim are their relatedness in time, space, origin, or motivation, and whether, taken together, they form a convenient unit for trial purposes. . . . But the opposite does not hold true; even when there is not a substantial overlap, the second action may be precluded if it stems from the same transaction or series.

Pavone v. Kirke, 807 N.W.2d 828, 837 (Iowa 2011) (citing Restatement (Second) of Judgments § 24 cmt. *b,* at 199 (1982)).

1 March 2012 e-mails in evidence in the Iowa trial, as alleged anew in the amended Maryland complaint, implicate primarily Sona, but mention Sayed and the three children, whereas a translation of the 21 February 2012 e-mail from its original Arabic language made general accusations against the family, but singled-out no specific family member. The 5 August 2012 e-mail[7] was sent with the subject line "My Sister, her husband and their kidis [sic] stolen my life saving," thus implicating the entire family in the transaction involving Samir's money and the conversion by Sona. Moreover, all of these e-mails (which were in evidence and/or about which testimony was received in both cases) involved the same set of facts involving the accusations of theft and were sent by Samir arguably with the same motivation. Although the multiple e-mails were sent over a number of months, that fact alone does not serve to distinguish separate claims by the Hassans. All of the e-mails presented a similar claim of defamation under the same set of facts that undergirded Samir's claim of conversion and/or Sona's claim of libel in the Iowa case, and thus, the claims are identical for purposes of *res judicata* analysis.

iii. Same Party or Parties in Privity

The class of "parties" in a lawsuit "includes all persons who have a direct interest in the subject matter of the suit, and have a right to control the proceedings, make defense, examine the witnesses, and appeal if an appeal lies." *Cochran v. Griffith Energy*

[7] The e-mails were written primarily in an Arabic language and were translated for the court proceedings. Any grammatical errors are either in the original or result from the translation process.

Servs., Inc., 426 Md. 134, 141, 43 A.3d 999, 1002 (2012) (quoting *Ugast v. LaFontaine,* 189 Md. 227, 232–33, 55 A.2d 705, 708 (1947)). Even if a person is not named as a party in a lawsuit, that person may be considered to be in privity with the named parties in the prior suit:

> [W]here persons, although not formal parties of record, *have a direct interest in the suit,* and in the advancement of their interest take open and substantial control of its prosecution, *or they are so far represented by another that their interests receive actual and efficient protection*, any judgment recovered therein is conclusive upon them to the same extent as if they had been formal parties.

Cochran, 426 Md. at 141, 43 A.3d at 1002-03 (quoting *Ugast,* 189 Md. at 232–33, 55 A.2d at 708) (emphasis added in *Cochran*).

Of significance to the present case, the "family relationship itself, of course, is a major factor." *Cochran*, 426 Md. at 142, 43 A.3d at 1004. In *Cochran*, the Court of Appeals relied on a case from Nebraska which explained that:

> [T]he facts remain that the parents and sons had a close, mutual relationship with respect to the property and that all three suits arise out of the same occurrence. As noted by one commentator, "it has come to be recognized that the privity label simply expresses a conclusion that preclusion is proper."

Cochran, 426 Md. at 143, 43 A.3d at 1004 (citing *VanDeWalle v. Albion Nat. Bank*, 500 N.W.2d 566, 573 (Neb. 1993)). The Court of Appeals cited to, with favor, in *Cochran*, additional out-of-state cases in support of its the conclusion that a close family

relationship may be an important factor in determining the existence of privity.[8] One of these cases, decided by the Supreme Court of Alaska, barred subsequent claims by family members because the family members "knew of [the father's] federal litigation, and [had] actually participated in the case." *Donnelly v. Eklutna, Inc.*, 973 P.2d 87, 93 (Alaska 1999). Our Court of Appeals concluded, based on these authorities, that, although a family relationship is not sufficient alone to establish conclusively privity, an increased

[8] The foreign cases cited favorably in *Cochran v. Griffith Energy Servs., Inc.*, 426 Md. 134, 142-43, 43 A.3d 999, 1004 (2012) include:

> *Jaffree v. Wallace,* 837 F.2d 1461, 1467 (11th Cir.1988) ("Although a familial relationship need not, in and of itself, confer privity status, it does constitute an important factor when assessing the preclusive effects of a prior adjudication.");
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> *Donnelly v. Eklutna, Inc.,* 973 P.2d 87, 93 (Alaska 1999) (finding an entire family in privity with one family member where "the claims all derive from the family's common occupancy and are essentially identical" to the claim the first member advanced, where the family knew of the first member's litigation, and one of the other members testified at the first member's trial);
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> *Tisher v. Norwest Capital Mgmt. & Trust Co.,* 859 P.2d 984, 260 Mont. 143, 149 (1993) ("[W]e have defined privies as those who are so connected with the parties in estate or in blood or in law as to be identified with them in interest and, consequently, to be affected with them by litigation[.]"); and,
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> *Garcia v. Rehrig Int'l, Inc.,* 99 Cal. App.4th 869, 121 Cal.Rptr.2d 723, 728–29 (2002) (holding a child was in privity with his parents, and thus barred from filing a subsequent lawsuit, where the parents had sued previously a manufacturer, because the child's interests were represented adequately in the prior action, and the child was represented by the same counsel as his parents).

level of involvement in the earlier case could lead nevertheless to preclusion of a similar claim in a later suit.

Here, the main appellate challenge mounted by the Hassans is that there was a lack of privity between them and Sona in the pursuit of her counter-claim for libel in Iowa. As to privity, the circuit court in Maryland concluded that, although it was clear that the Hassans had been implicated and affected by the e-mails Samir sent to their Mosque community and might have damages claims in addition to those of Sona, any defamation claims had been fully litigated already:

> When we look at the principle of *res judicata*, there's three elements; privity of the parties, whether the current action is identical to prior litigation, and whether there's been a final judgment. . . But when we talk about privity of parties, it's the exact same e-mail. It's the exact same mosque community. Oddly, they all have security clearances. What a – if that doesn't tell me this is an honest family, I don't know what would. There's extreme privity; they're in the same family. Everything is identical. And the principle of *res judicata* is not just to protect the parties from litigation, but to protect the courts.

All of the defamation claims in Maryland arise from the same e-mails in the libel counter-claim in Iowa, which emails were addressed to the family's mosque community and included all members of the Hassan family. Likewise, the testimony at the circuit court hearing in Maryland was telling as to the privity between the Hassans and Sona. All of the family members testified before the circuit court that they were aware of the litigation in Iowa, regardless of whether they attended those trial proceedings, and were aware even then of all of the e-mails sent by Samir.

Sayed's testimony made it clear that he was aware of the e-mails and the accusations made in them: "Now when this e-mail came out, and the rumor spread, spreading the rumors, and people starting, you know doubting my honesty. . . And – and I've been humiliated, and they – people – other people just take me and push me away." He stated further that it was a very humiliating thing that "the *family* experienced." (emphasis added). Additionally, as a member of the Board of Directors for Dar al Taqwa, Ashraf received all of the e-mails Samir sent to the mosque community.

Ehab and Emery testified in the Iowa trial.[9] The Hassans referred consistently to the alleged defamatory e-mails as attacks on their family, not on any one individual. Ehab referred to the e-mails as all "part of the campaign; it's – it's a continuous thing." Emery explained:

> Q: And so then when the e-mail refers to the kids, that you – you would be in that?
> A: Yeah, this includes all five of us.
> . . .
> Q: And was that direct – did you feel that that was direct at you?
> A: Yeah, me and my family. I knew that he was – he had made statements that he was going to destroy my mother. And so after – shortly after that, I see the e-mails start coming, and – and this is – this was just heart-breaking for my entire family.

It is apparent that all of the parties were on notice of the lawsuit in Iowa. The interests of Sayed, Ashraf, Ehab and Emery were represented sufficiently by Sona in that lawsuit. The judgment awarded in Iowa should be conclusive as to them as well. If the Hassans

[9] Ehab testified in support of Sona's libel counter-claim; Emery in defense of Samir's conversion claim against Sona.

had separate claims for additional damages for libel or defamation, those claims could and should have been asserted in the Iowa proceeding. Thus, we hold that the circuit court did not err in ruling that the Hassans were in privity with Sona.

As a result of the final judgment in Iowa, the identical nature of the claims in both suits, and the privity between the parties, the defamation claims alleged in Maryland by the Hassans were barred properly under *res judicata.*

II. Malicious Prosecution

a. Contentions

Sona contends that she established the elements of malicious prosecution because she was able to show that Samir's communications with the Howard County State's Attorney caused a criminal investigation to be initiated and that, because no charges were filed, the case was resolved in her favor. She argues further that termination of the investigation without charges was evidence of a lack of probable cause on Samir's part in the first instance and, therefore, the requirements to proceed with a malicious prosecution claim were proven.

Samir responds that the circuit court was correct in concluding that his testimony at the Maryland trial, and his statements relating to the Iowa case, indicated a good faith basis to believe that his money had been stolen. Further, Samir argues that because the State's Attorney did not indicate why no charges were filed, "it cannot be stated with certainty that the lack of prosecution was due to an absence of probable cause." Thus,

Samir maintains that Sona failed to establish a *prima facie* case for malicious prosecution.

b. Analysis

Civil malicious prosecution is defined essentially as "the beginning or continuing of a legal prosecution with malice and without probable cause against another, where the proceedings terminate in favor of the other person." *Montgomery Ward v. Wilson*, 339 Md. 701, 710, 664 A.2d 916, 920 (1995). A plaintiff must show:

> (a) a criminal proceeding instituted or continued by the defendant against the plaintiff, (b) termination of the proceeding in favor of the accused, (c) absence of probable cause for the proceeding, and (d) "malice", or a primary purpose in instituting the proceeding other than that of bringing an offender to justice.

Montgomery Ward, 339 Md. at 714, 664 A.2d at 922 (quoting *Durante v. Braun*, 263 Md. 685, 688, 284 A.2d 241, 243 (1971).

It is undisputed that the first two elements are present in this case.[10] Thus, we are left to decide only whether Sona was able to show the remaining two elements: the absence of probable cause and malice. When determining the existence of probable cause for a malicious prosecution claim, "the focus is on those facts known to, and genuinely believed by, the one initiating or continuing the prosecution when it is initiated or continued." *Palmer Ford, Inc. v. Wood*, 298 Md. 484, 495, 471 A.2d 297, 302-03 (1984). In the face of a reasonable belief of the putative criminal defendant's culpability,

[10] Samir concedes this in his brief.

it is unlikely that malice exists because "[a] person acts with malice if his primary purpose in starting a prosecution is other than bringing the offender to justice." *Montgomery Ward*, 339 Md. at 710, 664 A.2d at 920. If, however, there is a lack of probable cause, the "'malice' element of malicious prosecution may be inferred from a lack of probable cause." *Montgomery Ward*, 339 Md. at 717, 664 A.2d at 924 (citations omitted).

Here, the objective indicia of malicious prosecution was represented principally by two points of contact with the State's Attorney: a phone call between Samir and Assistant State's Attorney Furlong and Furlong's letter to Sona indicating that a criminal investigation had been initiated. The circuit court concluded that, because (1) Samir had a sincere belief that Sona stole from him and (2) the Iowa verdict found against Sona on Samir's conversion claim, that Samir's belief that a crime had been committed was reasonable:

> When I look at what is malicious prosecution – when a person is responsible for starting a criminal proceeding who directs or requests a prosecution based on information the person knows is false. . . That didn't happen. The jury agreed with him, that she had converted the funds to her own use. Or withholds information a reasonable person would realize might affect the decision to prosecute, or give inaccurate or incomplete information to those who prosecute. . . . When Mr. Furlong declined to prosecute, I don't have any evidence that anything went any further. "He said she took my money," and I think that's all he said. "She wrongfully took my money, and that's all I know that she said." Mr. Furlong investigated; that's where it went. I have no question then, and I have no question now, that Mr. Shams believes he's owed money and he passionately wants it back. I don't believe that he made any intentional false statements or necessarily any unintentional false statements when dealing with the State's Attorney's Office. So I have to deny Plaintiffs' claim for malicious prosecution.

The verdict in Iowa finding Sona liable for civil conversion and Samir's facially sincere belief that Sona had committed a theft are not consistent with a lack of probable cause. No member of the Office of the State's Attorney testified nor were any of that office's records introduced at the bench trial in Maryland. Although it appears no charges were ever filed by the Howard County State's Attorney, Samir's intention in seeking an investigation cannot be said clearly to support that his actions arose from malice alone. We cannot hold that the circuit court erred in denying this claim.

III. Conclusion

Because we find all of the elements for *res judicata* present, we affirm the rejection of the Hassans' defamation claims against Samir. We hold further that there was no reversible error in the denial of Sona's malicious prosecution claim. The judgment of the circuit court shall be affirmed.

JUDGMENT OF THE CIRCUIT COURT FOR HOWARD COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANTS.