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February 2010

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Member News

Teague Campbell Dennis & Gorham Attorneys Successfully Defend National Retail Store

Teague Campbell Dennis & Gorham, LLP (Raleigh, NC) attorneys Dayle A. Flammia and Edward S. Schenk III successfully defended a national retail store in a case arising from an alleged unlawful, racially-motivated detention of a suspected shoplifter.



Dayle A. Flammia

Edward S. Schenk III

Teague Campbell Attorneys Successfully Defend National Retail Store

Posted by [primerus](#) on February 12, 2010 —

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Dayle A. Flammia and Edward S. Schenk III obtained Summary Judgment on all claims asserted in the Complaint, including Intentional Infliction of Emotional Distress (IIED) and Punitive Damages.

On the day of the incident, the store's inventory control team was monitoring another store guest on video surveillance. That guest was, in actuality, the shoplifter who was attempting to steal a pair of blue jeans. Due to a miscommunication, plaintiff was identified as the shoplifter when she was leaving the store. Plaintiff was detained briefly at the store's exit by one store team member and questioned. The store team member quickly realized his mistake and apologized to plaintiff. After the detention, which lasted no longer than 10 minutes, plaintiff was offered and accepted refreshments in the store's concession area, where she was further consoled. The entire detention was captured on video.

Prior to being confronted with the video evidence in her deposition, plaintiff alleged she had been detained 20-30 minutes and was "publicly berated" in front of "a large crowd" of store team members and other store guests. The video told a much different story. Plaintiff alleged she sought medical treatment but failed to produce any medical records indicating that she had been diagnosed with any condition or prescribed any medication related to the incident. Four years after the incident, she claimed to continue to suffer from anxiety, fear, sleeplessness and distress. Prior to Summary Judgment, plaintiff demanded \$250,000 to settle her claim.

The Motion for Summary Judgment, which was heard on December 1, 2009, was filed on two grounds. First, Teague Campbell asserted the North Carolina "Shopkeeper's Privilege." Under N.C.G.S. § 14-72.1(c), merchants who have probable cause to suspect shoplifting are generally not subject to civil liability for detaining the suspected shoplifter, so long as the detention is reasonable in nature, scope and duration.

Next, Teague Campbell argued that, as a matter of law, there was simply no "extreme and outrageous conduct" sufficient to support the IIED claim. Rather, the detention was reasonable in nature and time and, afterward, plaintiff was treated as appropriately as possible under the circumstances. Plaintiff also failed to produce competent evidence that she actually suffered "severe emotional distress" as that phrase has been defined in North Carolina. Defense counsel tendered the surveillance video to the judge during the Summary Judgment hearing who viewed it in open court prior to issuing his ruling on December 9, 2009.

For more information on Teague Campbell, visit the [International Society of Primerus Law Firms](#) or [tcdg.com](#).

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