No. 132430

Nos. 132430, 132511, Consolidated

In The Supreme Court Of Illinois

JEFFREY WILSON,
Plaintiff-Appellant /
Cross-Appellee,

v.

NAPLETON'S GOLDCOAST IMPORTS, INC., d/b/a Napleton's Aston Martin of Chicago,

Defendant-Appellee / Cross-Appellant.

On Appeal from Appellate Court of Illinois, Third Judicial Circuit, No. 3-24-0079

There on Appeal from the Circuit Court of the Eighteenth Judicial Court, DuPage County, Illinois, No. 18 L 1245

The Honorable Judge
David E. Schwartz, Presiding

BRIEF OF THE ILLINOIS CHAMBER OF COMMERCE AND THE CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA AS *AMICI CURIAE* IN SUPPORT OF DEFENDANTS-APPELLANTS

Gregory M. Schweizer
Counsel of Record
Johnathan Hall
EIMER STAHL LLP
224 South Michigan Avenue,
Suite 1100
Chicago, Illinois 60604
(312) 660-7600
gschweizer@eimerstahl.com
jhall@eimerstahl.com

Counsel for Amici Curiae

POINTS OF AUTHORITIES

INTEREST OF *AMICI CURIAE*

The Illinois Chamber of Commerce is a nonprofit organization composed of businesses and organizations of all types across Illinois. Members of the Illinois Chamber consist of many mid-sized businesses as well as large international companies headquartered in this state. The Illinois Chamber works collaboratively with trade organizations on specific policy issues. It is dedicated to strengthening Illinois's economy and business climate for job creators. Accordingly, the Illinois Chamber provides businesses with a voice as it works with state lawmakers to make business-related policy decisions. The Illinois Chamber also operates its Amicus Briefs Program to bring attention to specific cases and provide information relevant to the Illinois business community for courts to consider.

The Chamber of Commerce of the United States of America ("the U.S. Chamber") is the world's largest business federation. It represents approximately 300,000 direct members and indirectly represents the interests of more than three million companies and professional organizations of every size, in every industry sector, and from every region of the country. An important function of the U.S. Chamber is to represent the interests of its members in matters before Congress, the Executive Branch, and the courts. To that end, the U.S. Chamber regularly files amicus curiae briefs in cases, like this one, that raise issues of concern to the nation's business community.

Amici have a substantial interest in the proper application of damages doctrines that affect the predictability and fairness of Illinois's judicial system. This appeal concerns whether Illinois courts will meaningfully supervise jury trials and remediate jury awards that exceed any reasonable relationship to a plaintiff's actual injury. Because excessive and standardless verdicts distort business planning, increase litigation and insurance costs, divert resources from employees and communities, and undermine public confidence, *amici* submit this brief to explain why established judicial tools—such as remittitur, election of remedies, and careful scrutiny of vague damages categories—should be applied here and by trial courts across Illinois.

INTRODUCTION AND SUMMARY OF ARGUMENT

This appeal presents a classic example of a runaway jury verdict. A plaintiff—who elected to retain an Aston Martin he claimed to be misled about—received out-of-pocket costs *in addition to* noneconomic "aggravation" damages, along with extraordinary punitive damages. Even after remittitur—a step the trial court rightly took to reduce the conscience-shocking jury award—the punitive and "aggravation" toppers exceeded plaintiff's diminution damages by up to seventy-fold, all the while allowing him to keep the luxury vehicle at issue. That outcome is untethered to the plaintiff's actual injury, unreasonable, and excessive.

There is no dispute that Illinois law allows for noneconomic and punitive damages in appropriate circumstances. There should also be no dispute that runaway jury verdicts are a bad thing. As many states recognize, those awards are not good for states, not good for communities, and not good for business. This case presents an opportunity to address—and provide guidance to trial courts regarding how to approach—excessive damages awards in a way that is consistent with Illinois law. Unlike many states, the Illinois Constitution curtails the ability of the legislature to limit such awards with damages caps. Instead, courts must police unreasonable damages awards, including those that contain shocking noneconomic and punitive enhancements on top of compensatory damages. Courts in this state can and should invoke time-tested judicial tools to accomplish this mandate, such as remittitur, election of damages, and

scrutiny of standardless enhancements like "aggravation damages." Unfortunately, trial courts are not currently deploying these tools in a manner that gives businesses confidence to operate in Illinois. Guidance from this Court can help encourage trial courts to better exercise their role in guarding against runaway jury awards, and, in so doing, help restore a sense of predictability to businesses and ensure that the courts are not used to generate unreasonable windfalls at the expense of communities.

ARGUMENT

Trial courts in Illinois have an obligation to prevent unreasonable and conscience-shocking jury awards. *See Richardson v. Chapman*, 175 Ill. 2d 98, 113 (1997); *Best v. Taylor Mach. Works*, 179 Ill. 2d 367, 412 (1997). Failure to do so is reversible error. *See Best*, 179 Ill. 2d at 412–13. Illinois courts are, however, falling short on this responsibility. This case illustrates the consequences of that failure and provides a fitting occasion for this Court to reaffirm the judicial tools available to trial courts in discharging their duty to guard against excessive jury awards.

I. Excessive And Unpredictable Jury Awards Impose Costs On Illinois's Economy And Harm Other Parties.

Businesses need stability to operate. And yet, large jury awards—driven primarily by punitive damages and other noneconomic damages—give rise to "stark unpredictability." *Exxon Shipping Co. v. Baker*, 554 U.S. 471, 499 (2008). When the law permits such open-ended damages enhancements, businesses divert resources away from employee compensation, health benefits,

capital investment, and community support and instead reserve funds for litigation exposure. *Cf.* Richard A. Nagareda, *Mass Torts in a World of Settlement* 126 (2007) ("[P]unitive damages are a substantial source of variance in the tort system—something that, in turn, increases the uncertainty over the ultimate parameters of the defendant's liability."). Nowhere is this dynamic more evident than in Illinois, where the state's reputation for outsized verdicts has hurt the business climate. In its April 2026 report, the U.S. Chamber Institute for Legal Reform ("ILR") concluded that Illinois "has earned a reputation for no-injury lawsuits and nuclear verdicts," is "viewed as having one of the most challenging legal environments in the nation for civil defendants," and that "[t]he ability to recover unlimited noneconomic and punitive damage awards . . . drive[s] litigation." U.S. Chamber Inst. for Legal Reform, *The Illinois Challenge: Excessive Litigation and Liability in the Land of Lincoln*, 3 (Apr. 2026).[1] That reputation matters because it influences where (and whether) businesses choose to invest. *See id.* at 5 ("Illinois's litigation environment also affects its business climate. And the reality is that businesses are leaving Illinois." (citation modified)). Illinois can ill afford to ignore the conditions that cause businesses to leave the state. Between 1994 and 2023, Illinois lost 2,616 businesses to other states, and in 2023 alone, Illinois ranked third in terms of lost busi-

[1] https://instituteforlegalreform.com/wp-content/uploads/2026/04/ILR-Illinois-Briefly-WEB-April-2026.pdf.

nesses, trailing only New York and California. *Id.* at 5 (citing Bryce Hill, *Businesses Moving Out of Illinois Triples Since Pandemic*, Ill. Pol'y Inst. (Aug. 12, 2025)).[2]

Empirical evidence supports businesses' negative perception of Illinois's litigation climate. A recent study found that U.S. tort costs exceeded $529 billion in 2022—equal to 2.1% of GDP and more than $4,200 per household nationwide—and that Illinois ranked among the higher-cost states at $4,281 per household. David McKnight & Paul Hinton, *Tort Costs in America: An Empirical Analysis of Costs and Compensation of the U.S. Tort System* 2, 21 (3d ed. Nov. 2024). Those costs are growing faster than the economy itself: between 2016 and 2022, tort costs rose at an average annual rate of 7.1%, outpacing both inflation (3.4%) and average GDP growth (5.4%), causing tort costs as a share of GDP to rise from 1.9% to 2.1%. *Id.* at 2, 18. The study further explains that "[e]xcessive costs of the tort system can adversely affect businesses and individuals," and that significant indirect costs and liability risks result from the way the tort system operates. *Id.* at 10. Those externalities are substantial: the risk of litigation discourages the development of new products; potential liability influences where businesses choose to operate, including by reducing

[2] https://www.illinoispolicy.org/businesses-moving-out-of-illinois-triples-since-pandemic.

"manufacturing cost competitiveness" and deterring "foreign direct investment"; and excesses in the tort system "lower worker productivity and employment" by forcing business to reallocate resources. *Id.* at 10–11.[3]

Various other state legislatures and courts have recognized the same concerns. In Colorado, the legislature determined that awards for noneconomic losses "often unduly burden the economic, commercial, and personal welfare of persons in this state" and enacted limitations on such damages "for the protection of the public peace, health, and welfare." Colo. Rev. Stat. § 13-21-102.5(1). In Maryland, the state's highest court similarly recognized that a cap on noneconomic damages "may lead to greater ease in calculating premiums, thus making the market more attractive to insurers, and ultimately may lead to reduced premiums, making insurance more affordable for individuals and organizations performing needed services." *Murphy v. Edmonds*, 601 A.2d 102, 115 (Md. 1992); *see also Fein v. Permanente Med. Grp.*, 695 P.2d 665, 681–83 (Cal. 1985) (upholding noneconomic damages cap as rationally related to reducing insurance costs, noting the legislature identified "the unpredictability

[3] *See also* W. Kip Viscusi, *The Social Costs of Punitive Damages Against Corporations in Environmental and Safety Torts*, 87 Geo. L.J. 285, 285 (1998) (concluding that punitive damages awards may pose a "catastrophic threat of corporate insolvency"); Andrew F. Daughety & Jennifer F. Reinganum, *Everybody Out of the Pool: Products Liability, Punitive Damages, and Competition*, 13 J. L. Econ. & Org. 410, 411 (1997) (observing that punitive damages may be "competitively disadvantageous for U.S. firms"); *cf. Engle v. Liggett Grp., Inc.*, 945 So. 2d 1246, 1263–64 (Fla. 2006) (requiring review of punitive damages to ensure some relationship to the defendant's ability to pay and to avoid economic castigation or bankruptcy).

of the size of large noneconomic damage awards, resulting from the inherent difficulties in valuing such damages and the great disparity in the price tag which different juries placed on such losses"); *Atlanta Oculoplastic Surgery, P.C. v. Nestlehutt*, 691 S.E.2d 218, 221 (Ga. 2010) (describing legislative findings concerning diminished access to and increased costs of liability insurance); *Judd v. Drezga*, 103 P.3d 135, 145 (Utah 2004) (recognizing that damages caps may reduce healthcare costs and increase the availability of malpractice insurance); *M.D. v. United States*, 745 F. Supp. 2d 1274, 1281 (M.D. Fla. 2010) (explaining that damages caps enhance predictability, limit exposure, reduce malpractice-insurance premiums, and promote the availability of quality healthcare).

Although the Illinois Constitution limits legislative caps on noneconomic damages as unauthorized "legislative remittitur[s]," *see Lebron v. Gottlieb Mem'l Hosp.*, 237 Ill. 2d 217, 233, 930 N.E.2d 895, 905 (2010), the policy rationales for such legislative remittiturs articulated by courts in other states remain persuasive for the judicial remittiturs that are left to perform this essential function in Illinois. Those authorities recognize that excessive damages awards undermine confidence in the civil justice system, distort business planning, and divert resources away from communities. For many businesses operating on thin margins, these choices are especially agonizing. Rather than funding investments that would inure to the benefit of employees and the community, such as health insurance and increased compensation,

these businesses are forced to build a "rainy day fund" to protect against a dissatisfied customer obtaining an outsized award over a dispute appropriately remedied through economic damages. *Cf. Means v. Shyam Corp.*, 44 F. Supp. 2d 129, 133 (D.N.H. 1999) (upholding the cap on damages for small businesses under the federal Civil Rights Act based on the "interest of Congress in promoting the economic viability of small business against the potentially devastating impact of large awards"). Illinois courts should look to the rationales articulated elsewhere when deciding whether a verdict is excessive—not to insulate wrongdoers, but to preserve a judicial system that compensates for genuine injury without imposing needless costs.

II. Courts Have, And Should Use, Well-Established Tools To Prevent Windfalls In Runaway Jury Verdicts.

Illinois law provides trial courts with at least three tools to fulfill their obligation to prevent unreasonable and conscience-shocking jury awards. Given the perception that Illinois is an outlier in producing unreasonable verdicts—a circumstance well illustrated by the case before this Court—trial courts would benefit from this Court encouraging the use of these tools to bring Illinois closer in line to its peers. *See supra*, at 7–8.

First, remittitur provides a direct means of correcting excessive awards. An award is excessive if it "falls outside the range of fair and reasonable compensation or results from passion or prejudice, or if it is so large that it shocks the judicial conscience." *Richardson v. Chapman*, 175 Ill. 2d 98, 113 (1997).

This Court has emphasized that "[t]he deference given to the careful deliberative process of the jury is overcome if, after examining the evidence presented at trial, the trial judge determines that the jury verdict is excessive." *Best v. Taylor Mach. Works*, 179 Ill. 2d 367, 412 (1997). In that event, "the judge may not allow the verdict to stand but must act to correct the injustice; and the failure to do so is, itself, error." *Id.* at 412–13 (quoting *Haid v. Tingle*, 219 Ill. App. 3d 406, 410 (1991)). Indeed, "*it is essential* to the proper conduct of a jury trial that the trial court possess the power to refuse to enter judgment on an unjust jury verdict, unless the plaintiff consents to remit the excess." *Haid*, 219 Ill. App. 3d at 412 (citation modified). The practice of remittitur serves not only fairness in the individual case, but also "both the administration of justice and the conclusion of litigation." *Hillmann v. City of Chi.*, 66 F. Supp. 3d 1109, 1115 (N.D. Ill. 2014) (quoting *Best*, 179 Ill. 2d at 412).

This Court has endorsed applying these principles to remit excessive jury awards when the plaintiff suffered little to no actual damages. *See, e.g.*, *Slovinski v. Elliot*, 237 Ill. 2d 51, 64, 927 N.E.2d 1221, 1228 (2010) (remitting jury award where "the jury's verdict with respect to compensatory damages shows limited harm to plaintiff," the jury found no damages for loss of reputation or lost wages, and despite an emotional distress award, "there was no evidence of any physical harm to plaintiff"). And remittitur has been applied in cases much like Appellee's, as well. *See, e.g.*, *Wedmore v. Jordan Motors, Inc.*, 589 N.E.2d 1180, 1183, 1186 (Ind. Ct. App. 1992) (affirming trial court's 95%

reduction of punitive damages—from $400,000 to $20,000—in fraud case where the car dealer only misrepresented the condition of the vehicle's paint, the physical damage was "minor in nature," posed no threat of personal injury, and the plaintiff still owned the vehicle, which had a mileage in excess of 100,000 miles at the time of trial); *cf. Gent v. Collinsville Volkswagen, Inc.*, 116 Ill. App. 3d 496, 505 (1983) (reducing punitive damages from $12,000 to $3,000 in auto dealer consumer fraud case where compensatory damages were $6,000).

Here, while the trial court below did remit the punitive damages award,[4] it still left in place punitive damages far exceeding any reasonable punishment and entirely divorced from the plaintiff's harm. What's more, the court left in place the aggravation damages topper, which should shock the conscience, given that the plaintiff got to keep the car he liked.

Second, in consumer fraud cases like this one, the election-of-remedies doctrine prevents obtaining overlapping recovery for the same alleged fraud. A plaintiff who establishes fraudulent inducement has two mutually exclusive choices: she may rescind a purchase and seek restitution; or she may affirm the transaction and recover damages. *In re Green*, 241 B.R. 187, 199 (Bankr.

[4] This brief does not address the procedural questions about the mechanics of remittitur. Regardless of the Court's determination on that issue, robust use of remittitur to police runaway jury awards is critical to ensuring that Illinois strikes the right balance of fairness in its verdicts.

N.D. Ill. 1999). When the plaintiff elects to affirm and keep the product, damages are limited to the benefit-of-the-bargain measure: "the difference between the actual value of the property sold and the value the property would have had if the representations had been true." *Gerill Corp. v. Jack L. Hargrove Builders, Inc.*, 128 Ill. 2d 179, 196 (1989); *see also Mulligan v. QVC, Inc.*, 382 Ill. App. 3d 620, 627 (2008) (noting application of the benefit-of-the-bargain rule in consumer-fraud cases); *Roboserve, Inc. v. Kato Kagaku Co.*, 78 F.3d 266, 274 (7th Cir. 1996) (similar). "Rescission plus damages would," in contrast, "amount to double recovery for a single injury." *Green*, 241 B.R. at 199.

In the case before the Court, the trial court failed to enforce this either-or choice. The proper options were for plaintiff to (1) return the luxury sports car and be restored to his original position by being paid back his out-of-pocket costs in purchasing the car and maintaining it; or (2) keep the car and receive in damages only the diminution in value of the car once the fraud was accounted for. Instead, he got some of both: he retained the car *and* recovered the out-of-pocket costs of purchasing and maintaining it. That is double recovery. The separate, noneconomic "aggravation and inconvenience" damages and punitive damages were *additional* enhancements, which were excessive for the reasons described *supra* and *infra.*

Third, courts must scrutinize standardless damages categories that risk functioning as free-floating enhancements rather than compensation for a distinct legal injury. Illinois law permits noneconomic damages and even damages

for the aggravation of a pre-existing ailment or condition. *See* Ill. Pattern Jury Instr., Civil, No. 30.01; *Luye v. Schopper*, 348 Ill. App. 3d 767, 772–74 (2004). Illinois law does not, however, endorse a limitless award of "aggravation and inconvenience" damages under the Consumer Fraud and Deceptive Business Practices Act—approved by the panel below—for a plaintiff who retained the benefit of the transaction and suffered no separate physical injury. So framed, "aggravation and inconvenience" becomes an open-ended category untethered to a distinct injury. The Illinois legislature and courts have repeatedly cautioned against such a result. *See, e.g.*, *Best*, 179 Ill. 2d at 385 (recounting legislative findings, in the context of establishing a cap on compensatory damages, that found "noneconomic losses have no monetary dimension, and no objective criteria or jurisprudence exists for assessing or reviewing noneconomic damages awards."); *Tri-G, Inc. v. Burke, Bosselman & Weaver*, 222 Ill. 2d 218, 252 (2006) ("Jurors do not possess a roving commission to find such damages as they please.").

Nor, on their face, do "aggravation and inconvenience" damages make much sense in business litigation. Every plaintiff who alleges wrongdoing by a business with which he interacts will no doubt claim to be aggravated by the experience and inconvenienced by having to litigate it. *See Wilson v. Napleton's Goldcoast Imports, Inc.*, 2025 IL App (3d) 240079, ¶ 139 ("[T]he Act was not designed to soothe bruised feelings but, rather, to redress real financial harm.") (Anderson, J., concurring in part and dissenting in part); *cf. Avery v. State*

Farm Mut. Auto. Ins. Co., 216 Ill. 2d 100, 197–98, 835 N.E.2d 801, 860 (2005) (rejecting "specification damages" as "entirely inappropriate for [a] consumer fraud claim" because they "are not, in fact, real or measurable damages and, hence, in no way constitute 'actual damage' within the meaning of the Act"); *Giammanco v. Giammanco*, 253 Ill. App. 3d 750, 762, 625 N.E.2d 990, 1000 (1993) ("A fraud action does not afford a remedy for harm to one's pride."). Recognizing a new category of damages to compensate for the frustration that comes with a negative business experience is an invitation for excessive jury awards. Indeed, if ill-defined "aggravation" damages were allowed, it would not be long before every plaintiff seeks this enhancement. While compensating plaintiffs who suffer physical harm is a longstanding principle of the law, awarding a customer who can be fully remedied through economic damages with additional damages for being vaguely aggravated by a business experience is not. The subjective degree of grievance a party feels from a business dispute should not turn into a basis for an outlandish damages enhancement. Accordingly, this Court should not allow "aggravation and inconvenience" damages to become a free-floating noneconomic category, unmoored from a doctrinal basis, distinct injury, or some objective principle.

* * *

In short, this case provides an opportunity for this Court to clarify that trial courts must rigorously apply doctrines—election of remedies, remittitur, and meaningful scrutiny of standardless damages categories—as a means to

fulfill their obligation to prevent excessive jury awards. When jury awards remain tied to actual injury rather than produce unjustified windfalls, communities across Illinois will benefit from the resulting improvement in the business climate.

CONCLUSION

For these reasons, and those presented by Defendant-Appellant, the decision of the Appellate Court should be reversed.

Dated: May 8, 2026

Respectfully submitted,

/s/ Gregory M. Schweizer
Gregory M. Schweizer
Counsel of Record
Johnathan Hall
EIMER STAHL LLP
224 South Michigan Avenue,
Suite 1100
Chicago, Illinois 60604
(312) 660-7600
gschweizer@eimerstahl.com
jhall@eimerstahl.com

Rule 341(c) Certificate of Compliance

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 15 pages.

/s/ Gregory M. Schweizer
Gregory M. Schweizer

Notice of Filing and Certificate of Service

The undersigned certifies that on May 8, 2026, the foregoing was filed with the Clerk of the Supreme Court of Illinois using the court's electronic filing system and served on all parties to this appeal that are listed with that system.

Dated: May 8, 2026

Respectfully submitted,

/s/ Gregory M. Schweizer
Gregory M. Schweizer
Counsel of Record
Johnathan Hall
EIMER STAHL LLP
224 South Michigan Avenue,
Suite 1100
Chicago, Illinois 60604
(312) 660-7600
gschweizer@eimerstahl.com
jhall@eimerstahl.com