

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION**

John Doe,)	
)	
Plaintiff,)	
)	
v.)	No. 2022 L 002140
)	
Board of Education of J. Sterling Morton High)	
School District 201; Hector Garcia, as agent;)	
Manuel Isquierdo, as agent, and Jane Reynolds,)	
individually and as agent,)	
)	
Defendants.)	

MEMORANDUM OPINION AND ORDER

The Code of Civil Procedure provides for a judgment notwithstanding the verdict (*n.o.v.*) or a new trial under certain limited circumstances and if there exists reversible error. The alleged errors identified by the defendant do not meet the high evidentiary threshold necessary to justify post-trial relief. For this reason, the defendant’s motion for a judgment *n.o.v.* or a new trial must be denied.

Facts

In August 1998, John Doe enrolled as a student at Morton East High School. At the time, the Board of Education of J. Sterling Morton High School District 201 (“District”) employed Jane Reynolds as a music teacher. Doe was one of Reynolds’s students. In her music class, Reynolds began paying special attention to Doe, and he began visiting her classroom during lunch periods and after classes ended in the afternoon. In December 1998, the relationship became sexual and lasted through May 2002.

Reynolds sexually abused Doe regularly both in her vehicle and at her house. Some of the abuse took place on District property and during school hours. Reynolds often drove Doe to and from school, and he spent a significant amount of time at her residence, including overnight stays. Doe also spent an increasing amount of time with Reynolds after school and would often stay with her until 7:00 p.m.

Doe’s mother, Dora Mendoza, grew increasingly concerned about her son’s whereabouts as well as his relationship with Reynolds. In early 1999, she met with the high school’s principal, Manuel Isquierdo, to discuss her concerns. Mendoza

told Isquierdo that her son was spending significant time with Reynolds outside of the school day, including evenings, and that he would not arrive home until 10:00 p.m. after being dropped off by Reynolds in her car. Mendoza told Isquierdo that she was concerned her son's relationship with Reynolds was sexual. Mendoza also informed Isquierdo that she had attempted to confront Reynolds about the relationship on multiple occasions, but that Reynolds had evaded her; as a result, there were no changes in the amount of time that Reynolds spent with Doe. Mendoza also told Isquierdo that her son's behavior had changed dramatically, that he had become unusually aggressive and secretive—changes Mendoza attributed to the increasing amount of time Doe was spending with Reynolds.

Doe dropped out of Morton East in May 2000, but the alleged sexual abuse of Doe by Reynolds continued until about 2002. During this time, no District representative ever questioned Doe about his relationship with Reynolds. On March 4, 2022, Doe filed a complaint against the District, Garcia, Isqueirdo, and Reynolds. Doe alleged that Reynolds sexually assaulted him for approximately four years and that District officials knew Reynolds was conducting an inappropriate relationship with Doe but failed to fulfil their mandatory reporting duties imposed by state statute.

This case was tried before this court and a jury on February 21, 24-28, and March 4-7, 10-11. The jury returned a verdict in Doe's favor and awarded him \$15,000,001 in damages. The District filed a post-trial motion for a judgment *n.o.v.* or, in the alternative, for a new trial. Doe filed a response brief, and the District filed a reply. On August 6, 2025, this court heard oral argument on the District's motion.

Analysis

I. Motion for a Judgment *N.O.V.*

The District brings its motion for judgment *n.o.v.* pursuant to Code of Civil Procedure section 2-1202. 735 ILCS 5/2-1202. The code authorizes the issuance of a judgment *n.o.v.* if “all of the evidence, when viewed in its aspect most favorable to the opponent, so overwhelmingly favors [a] movant that no contrary verdict based on that evidence could ever stand.” *Steed v. Rezin Orthopedics & Sports Med., S.C.*, 2021 IL 125150, ¶ 34 (quoting *York v. Rush-Presbyterian-St. Luke's Med. Cntr.*, 222 Ill. 2d 147, 178 (2006) (quoting, in turn, *Pedrick v. Peoria & Eastern R.R. Co.*, 37 Ill. 2d 494, 510 (1967)).). The entry of a judgment *n.o.v.* is inappropriate if reasonable minds could differ as to the inferences and conclusions to be drawn from the facts. *York*, 222 Ill. 2d at 178. A reviewing court, including a trial court on a post-trial motion, “should not usurp the function of the jury and substitute its judgment on questions of fact fairly submitted, tried, and determined from the evidence which did not greatly preponderate either way.” *Id.* (quoting *Maple v. Gustafson*, 151 Ill.

2d 445, 452-53 (1992)). A reviewing court is not to reweigh the evidence, determine credibility of witnesses, or substitute its judgment simply because the jury could have drawn other inferences or conclusions. *Schiller v. HomeServices of Ill., LLC*, 2024 IL App (3d) 220405, ¶ 35.

The District argues this court erred at trial in three primary ways: (1) by allowing mention of the Illinois Department of Children and Family Services (“DCFS”) report; (2) by precluding the District from asserting discretionary immunity; and (3) by permitting Doe’s willful and wanton claim despite a lack of evidence. As to the first argument, the District argues that this court should have barred Doe from presenting evidence that anyone from the District failed to report Reynolds’s abuse of Doe to DCFS and, therefore, failed to comply with the Abused and Neglected Child Reporting Act (“ANCRA”). To that end, the District correctly points out that there is no private right of action for a violation of ANCRA. *John Doe 1 v. North Cent. Behav. Health Sys., Inc.*, 352 Ill. App. 3d 284, 287 (3d Dist. 2004). According to the District, it follows that, as the jury heard evidence of an alleged improper ANCRA violation, the jury improperly conflated that as evidence of the District’s willful and wanton conduct. The improper use of the ANCRA evidence constitutes reversible error.

Doe acknowledges that he did not bring a claim under ANCRA. According to Doe, the evidence of the District’s failed reporting highlighted its state of mind—that it knew of the ongoing abuse—and the applicable duty of care—the willful and wanton standard. *John Doe 1* supports that conclusion by barring a private right of action under ANCRA, *id.*; but the case says nothing about whether an ANCRA violation is otherwise inadmissible as evidence. *Id.* It is also not lost on this court that the District failed to request a limiting instruction clarifying that ANCRA provides no private remedy. Given the state of the record, there appears to be no error.

The District next argues that this court erred by precluding the District from asserting discretionary immunity as authorized by the Local Governmental and Governmental Employees Tort Immunity Act. 745 ILCS 10/2-201. The Act shields local public entities and their employees from liability for certain discretionary actions taken while making policy decisions, even if those actions involve an abuse of discretion. 745 ILCS 10/2-201. Conduct is discretionary if it is performed on a given set of facts in a prescribed manner, in obedience to a mandate of legal authority, and without reference to the official’s discretion as to the propriety of the act. *Harrison v. Hardin Comm. Sch. Dist.*, 197 Ill. 2d 466, 472 (2001); *Harinek*, 181 Ill. 2d 335, 343 (1998). Conduct is considered to be policy making if it involves balancing competing interests and making a judgment call as to what solution will best serve those interests. *Harrison*, 197 Ill. 2d at 472; *Harinek*, 181 Ill. 2d at 342. Discretionary immunity bars both negligence and willful and wanton claims. *Harinek*, 181 Ill. 2d at 347; *In re Chicago Flood Lit.*, 176 Ill. 2d 179, 195-96 (1997).

Thus, a local public entity claiming immunity under section 2-201 must establish that: (1) “its employees held either a position involving the determination of policy or a position involving the discretion” and (2) “the employee[s] engaged in both the determination of policy and the exercise of discretion when performing the act or omission from which the plaintiff’s injury resulted.” *Andrews v. Metropolitan Water Reclamation Dist. of Greater Chicago*, 2019 IL 124283, ¶ 27.

Here, the District failed to demonstrate that Garcia and Isquierdo were policymakers or that they had anything to do with creating District policies and weighing risks and benefits on the District’s behalf. Quite simply, the District did not produce any evidence showing that any of its employees had policymaking authority. The District also failed to satisfy the second prong by showing that Garcia and Isquierdo weighed competing interests of reporting the alleged abuse and then proceeded to make a judgment call based on that analysis. While the District claims to have investigated Reynolds, the District produced no evidence of Isquierdo, Garcia, or any other employee’s investigative actions after the alleged abuse had been reported by Mendoza. Indeed, Garcia claimed to have had no knowledge of the allegations, meaning that he could not have balanced the risks or benefits of taking any action. Further, the Illinois Supreme Court has made plain that immunity cannot be extended to inaction. *Monson v. City of Danville*, 2018 IL 122486, ¶ 33. As the District failed to produce evidence of the investigative steps its employees took after Mendoza reported the abuse, the District’s employees cannot qualify for immunity. Extending immunity to such inaction would stand the Tort Immunity Act’s plain language on its head and incentivize local public entities to do nothing as opposed to acting in the public’s best interest.

The District next argues that there was insufficient evidence on which a reasonable jury could have found in Doe’s favor on the willful and wanton claim. As mentioned above, to set aside a jury verdict, a defendant must show that the trial record contains absolutely no evidence from which the jury could have reasonably concluded in the plaintiff’s favor. *York*, 222 Ill. 2d at 178. While willful and wanton conduct is distinct from ordinary negligence, *Doe v. Coe*, 2019 IL 123521, ¶ 34, the evidence presented during trial did not so overwhelmingly favor the District, or fall so short, that a reasonable jury could not find for Doe on the willful and wanton conduct claim. The District cites *Neuhengen v. Global Experience Specialists, Inc.*, 2018 IL App (1st) 160322, which states that a plaintiff must plead and prove “either deliberate intention to harm or a conscious disregard for the plaintiff’s welfare,” which, in this trial, Doe did. Indeed, Doe presented multiple instances tending to show that the District engaged in a pattern of conduct exhibiting disregard for Doe’s welfare. This conduct could easily have been interpreted by the jury as reflecting a conscious indifference to Doe’s well-being and provided a sufficient basis for the jury to have reasonably found in Doe’s favor on the willful and wanton conduct claim.

II. Motion for a New Trial

The Code of Civil Procedure authorizes the filing of a post-trial motion to seek a new trial. 735 ILCS 5/2-1202(b). “On a motion for a new trial, the trial court will set aside the jury verdict and order a new trial only if (1) the jury verdict is contrary to the manifest weight of the evidence or (2) serious and prejudicial errors were made at trial in the exclusion or admission of evidence.” *McHale v. W.D. Trucking, Inc.*, 2015 IL App (1st) 132625, ¶ 56. “A verdict is considered to be against the manifest weight of the evidence only when the opposite result is clearly evident or where the jury’s findings are unreasonable, arbitrary, and not based upon any of the evidence.” *Bland v. Q-West, Inc.*, 2023 IL App (2d) 210683, ¶ 10. “[F]or a new trial based on the evidentiary rulings, the law requires finding the error caused substantial prejudice and affected the outcome.” *Browning v. Advocate Health & Hosp. Corp.*, 2023 IL App (1st) 221430, ¶ 64. The moving party bears the burden of establishing substantial prejudice. *Ramirez v. FCL Builders, Inc.*, 2014 IL App (1st) 123663, ¶ 198.

As established above, a jury verdict will not be disturbed based solely on the manifest-weight-of-the-evidence prong. Rather, for a new trial to be granted, a defendant must prove that the court’s rulings resulted in serious and prejudicial errors that affected the trial’s outcome. The District raises 11 issues that it claims constitute prejudicial error. As explained below, each of these issues lacks the necessary predicate of an objection having been made on the record during the trial. *Snowstar Corp. v. A&A Air Cond. & Refrig. Serv., Inc.*, 2024 IL App (4th) 230757, ¶ 63. In other words, it is improper to raise any of these issues for the first time in a post-trial motion. *Id.*

A. Use of the Word “Rape”

The District did not object to Doe’s use of the word “rape” during trial. Rather, the District merely presented a motion in limine that it presented before trial. The District should have renewed its objection if it wanted to raise as error the use of the word “rape” during the trial. Absent an objection, the argument is waived. Even if not waived, there is nothing in the record to indicate that the jury considered the word so inflammatory that it prejudiced their decision making.

B. Introduction of *Pesce* Lawsuit

The District argues that Doe’s counsel introduced the existence of *Pesce v. J. Sterling Morton High Sch., Dist. 201*, 830 F.2d 789 (7th Cir. 1987), to demonstrate to the jury that the District had notice of Reynolds’s conduct, and that plaintiff did not properly introduce the case before presenting it as evidence. This argument seeks to prove too much. Doe’s counsel did not introduce the *Pesce* case to show specifically that the District had notice of Reynolds’s conduct, but as evidence

showing an institutional failure to comply with mandated reporting obligations dating back to 1986. Doe relied on two witnesses, Isquierdo and Ronald Bolandi, to lay the foundation for introducing the *Pesce* lawsuit, and both testified about the expectations for a school district following such a lawsuit, including taking steps to prevent repeated mistakes and to address systemic issues. Placed in its proper context, it is plain that no prejudice occurred from the proper introduction of the *Pesce* lawsuit as evidence at trial.

C. Introduction of Pizarro's Testimony

As noted above, “[t]he law in Illinois is well established that, to preserve any alleged error for appeal, a party must object specifically both at trial and in a posttrial motion.” *Snowstar*, 2024 IL App (4th) 230757, ¶ 63. The filing of a motion *in limine* is insufficient—the District also needed to have objected to the introduction of Pizarro’s testimony to be able to raise this issue in a post-trial motion. The District’s mere objection to a leading question during Pizarro’s testimony was insufficient to preserve the alleged error.

Pizarro’s testimony was, in fact, relevant to the alleged sexual abuse of Doe by Reynolds based on the defense presented by the District that Doe had fabricated his allegations. Pizarro’s testimony illustrated to the jury a pattern of conduct, and Doe’s counsel used that testimony to establish Doe’s credibility with the jury. Pizarro’s testimony was, therefore, relevant to this case, specifically the issue of the alleged sexual abuse of Doe by Reynolds. The introduction of Pizarro’s testimony was not error and is not a basis for a new trial.

D. Introduction of Truancy

As the District did not object at trial to the introduction of the issue of Doe’s truancy, the District cannot now for the first time raise an objection in a post-trial motion. Any objection has been waived.

E. Cumulative Expert Testimony

For the District to have a valid argument that Doe presented cumulative expert testimony, the District would have needed to preserve the issue by objecting specifically to the testimony of each of Doe’s expert witnesses. Objections as to a certain line of questioning, such as scope or relevance, are in sufficient to preserve an argument for subsequent review. *Snowstar*, 2024 IL App (4th) 230757, ¶ 63. Further, as Doe correctly argues, overlapping or corroborative evidence that offers distinctive insights remains admissible. *People v. Williams*, 392 Ill. App. 3d 359, 369 (1st Dist. 2009). Here, the District did not identify which portions of which expert witnesses’ testimony were cumulative, and it did not provide any examples of

overlapping or repetitive testimony; rather, the District simply stated that the witnesses' testimonies were cumulative.

Even if the experts' testimony were cumulative, the District has failed to show that the cumulative nature of the evidence affected the outcome of the trial in any way. Absent such prejudicial affect, the District has not presented a valid post-trial argument.

F. Jury Instruction on Missing Evidence

The District argues that the jury should not have been given Illinois Pattern Instruction 5.01—Missing Evidence Instruction because the documents, if they existed at all, were significantly outdated and would not have been unfavorable to the District had they been produced. Doe argues that the evidence supports the conclusion that the documents did exist and Isquierdo acknowledged that the documents were missing at trial. (Isquierdo, 3/4 a.m., 133:11-134:16, 191:22-192:12). Further, the 5.01 jury instruction was narrowly tailored and addressed only the absence of documents mentioned or those that were referenced in other documents about which the jury was aware. As it is likely the documents existed, and it is certain the District did not produce them, the narrowly drafted instruction was proper and is not now grounds for a new trial.

G. Jury Instruction on *Respondeat Superior*

The District also argues that it was error for this court not to issue a jury instruction on *respondeat superior*, and that it was therefore unclear to the jury that the District could not be vicariously liable for Reynolds's conduct. Yet both Doe and the District agree that vicarious liability did not apply to the given facts and that Doe did not seek to hold the District vicariously liable for Reynolds's conduct. As vicarious liability was never a triable issue, and neither party intended it to be a triable issue, the issuance of a "no *respondeat superior*" instruction would have been redundant, unnecessary, and confusing. Instead, the instructions as tendered clearly limited liability to the District's own conduct and inaction. There was simply no need to instruct the jury on an issue that the parties never raised. In sum, the District did not meet its burden of proof that the failure to provide either instruction constituted "serious prejudice" that warrants the issuance of a new trial. *Studt v. Sherman Health Sys.*, 2011 IL 108182, ¶ 28.

H. Dr. Medlin's Testimony

For expert testimony to be admissible at trial, a party must make a proper disclosure pursuant to Illinois Supreme Court Rule 213(f)(3). The District argues that one of Doe's expert witnesses, Dr. Medlin, testified about the physical effects of trauma absent having made any disclosure prior to her taking the stand. Yet Doe's

Rule 213(f)(3) disclosures for Dr. Medlin indicate that she would be testify about the permanent harm sexual grooming can have on individuals, and specifically identifies various medical conditions that Doe has experienced resulting from the trauma he endured. Further, as Dr. Medlin is a psychologist, it is entirely expected that she would be able to testify about the physical symptoms commonly associated with trauma and that Doe experienced those symptoms.

I. Damages

A jury's damages award is not be disturbed unless: (1) the jury ignored a proven element of damages; (2) the verdict resulted from passion or prejudice; or (3) the award bears no reasonable relationship to the loss. *Gill v. Foster*, 157 Ill. 2d 304, 315 (1993). Here, the District argues that the jury excessively compensated Doe given his success in his adult life despite his being sexually abused by Reynolds as a teenager. Part of Doe's success the District points to is the evidence that he has had two long-term personal relationships and has been successful in building a business. Yet Doe's apparent personal and commercial success does not negate the pain and suffering that the jury apparently believed he has endured. During the trial, Doe's fiancée testified to the wide range of marital issues they have encountered and the mental health issues she sees him struggle with on a daily basis. The fact that Doe has had substantial personal relationships, is present in his children's lives, and has achieved success in employment does not diminish the loss he suffered as a teenager and carries with him today. It was the jury's job to weigh all of that evidence and calculate Doe's losses. That determination is entitled to substantial deference in all trials, including this one.

J. Cross-Examination of Dr. Nanos

The District argues that it was improperly barred from questioning Dr. Nanos about her forensic interviews with Doe. Yet during cross-examination, the District attempted to question Dr. Nanos about her forensic interviews of Doe as well as his contact with the DuPage Crisis Center. Those subjects had not been brought up during Dr. Nano's direct examination; therefore, any inquiry would have been beyond the scope. Further, the District has provided no evidence that this line of questioning could have affected the jury's deliberations or their outcome. This singular issue is plainly an insufficient basis for requesting a new trial.

K. Misconduct by Plaintiff's Counsel

The District argues that the display of the three monkey statues—See No Evil, Hear No Evil, and Speak No Evil—during Doe's counsel's opening statement is improper. There is no question that the display of the statues was improper; the relevant inquiry at this stage is whether the display influenced any of the jurors. It should be noted that once the District's counsel brought the statues' display to the

court's attention, this court ordered that they be removed. There is no evidence, however, that any juror could see the statues from the jury box. Even if a juror could see the general shape of each statue—a squared column—it is unknown whether any juror could see the monkeys' shapes and discern what they were depicting. And even if that could be presumed, it is unknown whether the presence of the statues influenced any juror to favor the plaintiff or whether any juror held the overt display against Doe. These unanswered questions point out that the District has the burden of providing evidence demonstrating that the prejudice was “manifest and irremediable.” *Mykytiuk v. Stamm*, 196 Ill. App. 3d 928, 936 (1st Dist. 1990). In this instance, the District has not meet its burden and, therefore, a new trial will not be granted despite the affront to the court's decorum.

The District also argues that the physical comforting Doe's attorneys gave him during the course of the trial was overly effusive and gave the jury the impression that Doe was psychologically fragile. Yet Doe's mental state was a key point in his case, and was raised multiple times during the course of the trial. There was testimony from multiple witnesses that Doe has had and continues to have mental health issues. For example, there was testimony that Doe had previously contacted a crisis hotline. Further, Doe's fiancée testified that she sees him struggle with his mental health. Finally, when the District's counsel raised the issue with this court, this court ordered Doe's attorneys to keep displays of physical comfort to a minimum, which they subsequently did. As such, Doe's attorneys' conduct does not constitute prejudice warranting a new trial.

Conclusion

For the reasons presented above, it is ordered that:

The District's motion for a judgment *n.o.v.* or, in the alternative, a new trial, is denied.

John H. Ehrlich, Circuit Court Judge