

At nearly the same time, two police tactical vehicles were travelling west on Jackson and observed Walker's car fleeing. The first vehicle, occupied by Officers Tyler Alexander and Curtis Alequin, activated the vehicle's emergency lights and sirens as they turned into the Jackson and Hamlin intersection. After completing the turn onto Hamlin, the officers promptly deactivated the vehicle's emergency equipment. The second vehicle, occupied by Officers Michael Walsh, Michael Baciuc, and Audrey Webb followed the first tactical vehicle into the intersection and then north on Hamlin.

As the two tactical vehicles proceeded north on Hamlin, Walker continued to accelerate. Walker put significant distance between his car and the three police vehicles. While Essex curbed the community safety vehicle, both tactical vehicles passed the community safety vehicle while proceeding north on Hamlin to monitor Walker's flight. At the South Adams and South Hamlin intersection, Alexander maneuvered the tactical vehicle across the center line and to the west of the tree planters and proceeded north in Hamlin's southbound lanes. Walker continued to accelerate.

By the time Walker's vehicle reached the West Madison and South Hamlin intersection, he was travelling more than 80 miles per hour and had not stopped accelerating. At that time, Walker's car was approximately 750 feet north of the closest tactical vehicle and approximately 900 feet north of the second tactical vehicle. Walker drove through a red light for northbound Hamlin traffic and swerved to avoid striking cars traveling east on Madison.

It is estimated that while Walker was fleeing through the Madison and Hamlin intersection, the Hyundai was travelling approximately 80 miles per hour. Walker lost control of the Hyundai and crashed into a car parked on the east side of Hamlin just north of the intersection. Mark Pulice, Jr., and Nancy Mayer were seated in that vehicle. As a result of the collision, Pulice, Jr., died and Mayer was significantly injured. Walker jumped out of the Hyundai and fled on foot. After a brief foot chase, police officers apprehended Walker.

The plaintiffs, Mark Pulice, Sr., as special administrator of the estate of Mark Pulice, Jr., and Nancy Mayer filed suit. They alleged that the police officers involved in this incident were willful and wanton and disregarded the safety of Pulice, Jr., and Mayer by engaging in an improper police pursuit of Walker.

From May 26 through June 2, 2026, the parties tried this case before this court and a jury. The jury returned a general verdict in favor of the City. The jury also answered special interrogatories that the conduct of each police officer—Essex, Santos, Alequin, Walsh, Baci, and Webb—was not willful and wanton. Pulice, Sr., and Mayer filed their post-trial motion seeking a new trial. The parties fully briefed the motion.

Analysis

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 (internal citation omitted). "[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, ¶ 49. The moving party bears the burden of establishing substantial prejudice. *Ramirez v. FCL Builders, Inc.*, 2014 IL App (1st) 123663, ¶ 198.

In their post-trial motion, the plaintiffs allege that this court made eight errors, the cumulative effect of which deprived them of a fair trial. Notably, in their reply brief, the plaintiffs only discuss the first two alleged errors.

1. Plaintiffs’ Motion *in limine* Number Nine

The plaintiffs contend that the City violated this court’s ruling granting the plaintiffs’ motion *in limine* number nine, which requested that the court “bar argument or inference that the Plaintiffs failed to call a nonparty witness.” Pls.’ Ex. A, at 6. The alleged violation of the motion *in limine* occurred during the City’s closing argument. At that time, the City’s counsel told the jury that “Plaintiff, although he’s been telling you from opening statement that Ezell Walker is a cause and is reckless, didn’t even call him in their case, I had to call them [sic].” Pls.’ Ex. B 56:4-7. The plaintiffs’ counsel contemporaneously objected, and this court sustained the objection. *Id.* 56:8-9. The plaintiffs did not ask for a mistrial, seek a curative instruction, or ask this court to instruct the jury to disregard the comment. *Id.*

A simple violation of a motion *in limine* does not automatically entitle a party to a new trial but can warrant one if the order granting the motion is specific, the violation is clear, and the violation deprived a party of a fair trial. *Harrell v. City of Chicago*, 2025 IL App (1st) 240119, ¶ 42. Additionally, improper comments in opening statements or closing arguments may warrant a new trial only if, based on a view of the trial in its entirety, the comments were so substantially prejudicial that the outcome of the trial would have been different but for the improper comments. *Davis v. City of Chicago*, 2014 IL App (1st) 122427, ¶ 84.

Here, it is evident that the City’s attorney violated this court’s ruling on the plaintiffs’ motion *in limine* number nine, but it is equally not evident that the violation deprived the plaintiffs of a fair trial. Apart from the isolated comment identified above, the City’s attorney made no further reference to or argument regarding the plaintiffs’ failure to call a nonparty witness. Further, the jury’s special interrogatory answers demonstrate that the plaintiffs failed to prove that any of the police officers acted willfully and wantonly. It is also important to note that this court in its preliminary cautionary instructions told the jury to disregard any statement if this court sustained an objection. Def.’s Ex. 5 138:6-10.

2. Defendant's Misstatement of Proximate Cause

The plaintiffs contend that during the City's closing argument, the City's attorney misstated the legal definition of proximate cause and that the alleged misstatement prejudiced the plaintiffs. The colloquy at issue is as follows:

Defendant's Counsel: Let's talk about proximate cause. Plaintiff would have you believe that just because the police were involved in this accident, that means they are a proximate cause or a legal cause. But proximate cause does not mean any cause; we're in a court of law.

Plaintiffs' Counsel: Objection, misstates the law.

Court: Overruled.

Defendant's Counsel: Thank you Judge. Proximate cause is called that for a reason. It's signifying that we're talking about something other than just any cause or any involvement. Proximate cause refers to a wrongful act to which a defendant can be held legally responsible for the injury. That's what we're talking about. Here, we don't have a wrongful act to begin with. So none of those actions can be a proximate cause unless you decide that one of those instances of conduct I just described was willful and wanton, intent to show harm, utter indifference, or conscious disregard. So if you don't think any of the conduct was willful and wanton, you don't even get to proximate cause.

Def.'s Ex. 13 52:17-24; 53:1-16. The plaintiffs' argument that these statements unfairly prejudiced them fails for two reasons.

First, immediately following the parties' closing arguments, the court instructed the jurors on proximate cause using Illinois Pattern Instruction 15.01, which the plaintiffs proffered. "[I]mproper arguments can be corrected by proper jury instructions, which carry more weight than the arguments of counsel." *People v. Green*, 2017 IL App (1st) 152513, ¶ 98 (internal quotation and citation omitted); *Calloway v. Bovis Lend Lease*, 2013 IL App 112746, ¶ 107. While the City's characterization of proximate cause does not precisely track IPI 15.01, the jurors were ultimately given the precise definition that the plaintiffs had requested in their proposed jury instructions.

Second, the jury's special interrogatory answers indicate that the jury did not need to consider proximate cause at all. This court instructed the jury that the plaintiffs had to show that the police officers acted in a certain manner, that in acting in that manner the officers were willful and wanton, and that the police

officers' willful and wanton conduct proximately caused the plaintiffs' injuries or death. Def.'s Ex. 13 86:19-24; 87:1-7. The jury's special interrogatory answers establish that none of the officers acted willfully and wantonly; therefore, the jury did not have to consider whether their conduct proximately caused the plaintiffs' injuries or death. The plaintiffs have, accordingly, failed to show that they were prejudiced by the proximate cause comments made by the City's attorney in closing argument.

3. Kuroski's Testimony as to Walker's Flight

The plaintiffs argue that this court erred by permitting the defendant's expert witness, Thomas Kuroski, to speculate about what Walker could or could not have seen as he sped away from the Jackson and Hamlin intersection. Yet the content of Kuroski's testimony does not speculate about Walker's actual perspective. As the colloquy provides:

Defendant's Counsel: Are you aware that [Walker] said that he believed that if the cars that were chasing him would have stopped or slowed down, that he myself [*sic*] would have stopped or slowed down? Are you aware that he said that?

Kuroski: Correct.

Defendant's Counsel: And what do you say in response to that?

Plaintiffs' Counsel: Objection: calls for opinion outside of his scope.

Court: Overruled.

Kuroski: We've got several things that would take place with respect to that. First of all, neither Officer Alexander or Officer Walsh had their lights and sirens active at the time that we would be talking about them being past the initial location. And in addition to that, you've got the fact that Alexander, who was closest to Walker based on the positioning and the information from the reconstructionist, you've got a situation where Alexander is on the opposite side of the street where the trees line in that area in between the north and southbound street. And so because of the fact that it's totally into the other lane and you've got trees that divide that area and also the distance involved—We also know from the graphics from the reconstructionist that those squad cars were significantly behind. They were like 700 and 800-some feet behind even at the time of the crash.

Def.'s Ex. 11 35:16-36:19. Although the plaintiffs contend that Kuroski's testimony heavily alludes to Walker being unable to see Alexander's police vehicle, Kuroski

never actually opined as to whether Walker could or could not see Alexander. Rather, Kuroski testified concerning the factual circumstances of Walker's flight and his testimony was properly based on Alexander's and Walsh's deposition testimony as well as the accident reconstructionist reports pursuant to Illinois Rule of Evidence 703. The plaintiffs have, therefore, failed to show that they were unfairly prejudiced by the inclusion of Kuroski's testimony.

4. The Defendant's Willful and Wanton Instruction

The plaintiffs argue that this court erred by instructing the jury on willful and wanton conduct by using the entirety of the pattern jury instruction with no modifications. The instruction provides as follows:

When I use the expression "willful and wanton conduct" I mean a course of action which shows an actual or deliberate intention to harm or which, if not intentional, shows an utter indifference to or conscious disregard for a person's own safety and the safety of others.

Illinois Pattern Jury Instructions—Civil 14.01 (2026). The plaintiffs contend that their proposed instruction, which solely focused on utter indifference or conscious disregard was more appropriate based on their allegations.

As the Supreme Court has explained the rule:

Whenever Illinois Pattern Jury Instructions (IPI), Civil, contains an instruction applicable in a civil case, giving due consideration to the facts and the prevailing law, and the court determines that the jury should be instructed on the subject, the IPI instruction shall be used, unless the court determines that it does not accurately state the law.

Ill. S. Ct. R. 239(a). Further, "[a]ll that is required to justify the giving of an instruction is that there be some evidence in the record to justify the theory of the instruction. The evidence may be insubstantial." *Heastie v. Roberts*, 226 Ill. 2d 515, 543 (2007).

It is plain that there existed some evidence to justify the inclusion of the "actual or deliberate intention to harm" language in IPI 14.01. The plaintiffs' police procedure expert, Andrew Scott, testified extensively about the police officers' conduct leading up to the crash. Scott's testimony blurred the line between intentional conduct and conscious disregard for the safety of others by opining that the officers made deliberate, intentional choices to violate departmental internal orders governing pursuits and intentionally and improperly pursued Walker to the point of causing the crash. Scott's testimony left an open question as to whether the police officers acted with intent to harm the plaintiffs or acted with conscious

disregard as to the plaintiffs' safety. Instructing the jury with the entirety of IPI 14.01 was, therefore, proper.

5. Scott's Disciplinary History

The plaintiffs argue that this court erred by denying their motion *in limine* number 20A that requested this court to bar inquiry into Scott's disciplinary history. Scott was, in fact, disciplined by the State of Florida in 2006 for alleged misuse of power during his tenure as police chief for the city of Boca Raton. This court determined that evidence of Scott's prior disciplinary history went to his credibility and, therefore, denied plaintiffs' motion *in limine* number 20A. At trial, Scott testified as an expert witness in the field of police procedures, and the City's counsel cross-examined Scott about his disciplinary history.

In both their motion for a new trial and motion *in limine* number 20A, the plaintiffs argue that impeaching Scott based on his disciplinary history is akin to impeaching a witness using proof of conviction of a prior crime. They cite to *People v. Montgomery* in which the Supreme Court held that prior convictions may be used to impeach only if those convictions are less than 10 years old and involved a crime punishable by imprisonment in excess of one year or a crime involving dishonesty or false statement. 47 Ill. 2d 510, 516-17 (1971).

The error with the plaintiffs' argument is that Scott testified as an expert witness. The Supreme Court has plainly written that impeaching an expert witness's credibility is extremely important to bring facts to the jury that may reasonably discount that witness's credibility. *Trower v. Jones*, 121 Ill. 2d 211, 217 (1988). Moreover, impeaching the credibility of an expert witness through inquiry into the expert's disciplinary or professional history is unquestionably permitted. *See Cetera v. DiFilippo*, 404 Ill. App. 3d 20, 34-36 (1st Dist. 2010) (Illinois Department of Professional Responsibility reprimand admissible for impeaching medical expert witness). Here, the plaintiffs offered Scott's expert testimony to show that the police officers involved in this incident failed to follow standard police procedures but, instead, caused the crash. Evidence that Scott, himself, had been disciplined for failing to follow police procedures went directly to his credibility as an expert witness. This court, therefore, properly permitted cross-examination of Scott as to his disciplinary history.

6. Scott's Second Ethical Investigation

The plaintiffs contend that this court erred by allowing references to Scott's second ethics investigation in violation of its ruling on the plaintiffs' motion *in limine* number 20B. In that motion *in limine*, the plaintiffs sought to bar any inquiry and mention of Scott's involvement in a police-involved shooting in 1988. Pls.' Ex. G 4. This court granted that motion *in limine*.

This argument fails because the City's attorneys made no reference during trial about Scott's participation in a police-involved shooting. Rather, the relevant colloquy states:

Defendant's Counsel: You were also being investigated by the Florida ethics commission for two separate incidents, correct?

Scott: Yes.

Plaintiffs' Counsel: Objection, Your Honor.

Court: Overruled.

Defendant's Counsel: And these incidents were covered in the Florida TVs [sic] and Newspapers?

Scott: Yes, they were.

Pls.' Ex. I 8:2-11. Conspicuously absent from this portion of the trial transcript is any mention of Scott having participated in a shooting. Moreover, the plaintiffs' motion *in limine* number 20B does not mention that the Florida ethics commission ever investigated Scott for his involvement in the shooting. From the face of the trial record, the City's attorney did not violate this court's ruling on the plaintiffs' motion *in limine* number 20B and, therefore, the plaintiffs suffered no prejudice as to that motion *in limine*.

7. Ezell Walker's Arrest

The plaintiffs argue that this court erred by permitting the City to introduce evidence concerning Walker's eventual arrest following the collision. The plaintiffs contend that this evidence was either irrelevant under Illinois Rule of Evidence 401 or, if relevant, was needlessly cumulative under Rule of Evidence 403. Under Rule 401, evidence is relevant if it has any tendency to make the existence of any fact of consequence to the determination of a case more or less probable. Ill. R. Evid. 401. Under Rule 403, relevant evidence may be excluded if it is needlessly cumulative. Ill. R. Evid. 403.

In this trial, the circumstances surrounding Walker's arrest were plainly relevant, as they tended to disprove the plaintiffs' theory that the police officers proximately caused the collision. The officers' bodycam footage of Walker's escape on foot after the crash and his subsequent arrest tended to prove the City's assertion that the only pursuit that occurred started after Walker had exited his vehicle. Additional bodycam footage of Walker riding in an ambulance during which

time he commented that he believed the police officers were chasing someone else was relevant to show Walker's reasoning behind his flight and tended to show that he was the sole proximate cause of the plaintiffs' injuries and death. The plaintiffs have not succeeded in showing that the evidence offered concerning Walker's arrest was irrelevant and they have failed to show that the evidence was needlessly cumulative. The plaintiffs' motion for a new trial based on the admission of evidence based on Walker's arrest must, therefore, be denied.

8. Jury Selection

The plaintiffs argue that this court erred by denying their motion to dismiss a prospective juror who previously had worked as a police officer and had been involved in police pursuits. The plaintiffs have argued themselves out of asserting any prejudicial error occurred during jury selection. The plaintiffs cite to *Flynn v. Edmonds* in which the court ruled that a trial court's rulings on challenges for cause "will only be reviewed when an objectionable juror was forced upon the party after it had exhausted its peremptory challenges." 236 Ill. App. 3d 770, 782 (4th Dist. 1992) (emphasis removed). Here, the plaintiffs had not exhausted their peremptory challenges and, in fact, used one to strike the juror they had found to be objectionable. Def.'s Ex. 3 141:18-22. The plaintiffs were, therefore, not prejudiced by this court's denial of their motion to dismiss a prospective juror, and no error occurred with respect to jury selection.

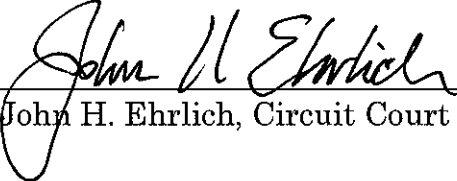
Conclusion

To prevail on a motion for a new trial, the plaintiffs bear the burden to show that cumulative errors caused substantial prejudice and influenced the outcome of the jury's verdict. They have failed to do so here. For the reasons stated above,

It is ordered that:

1. The plaintiffs' post-motion for a new trial is denied; and
2. The October 13, 2026, status date is stricken.

Dated: September 29, 2026


John H. Ehrlich, Circuit Court Judge

