2017 IL App (1st) 152443-U
No. 1-15-2443

THIRD DIVISION
March 8, 2017

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

HARRY BARNETT,	)	Appeal from the Circuit Court
	)	of Cook County.
Plaintiff-Appellee,	)	
	)	
v.	)	No. 13 L 11778
	)	
ROBERT GRANT BAKER,	)	The Honorable
	)	Thomas More Donnelly,
Defendant-Appellant.	)	Judge Presiding.

JUSTICE PUCINSKI delivered the judgment of the court.
Presiding Justice Fitzgerald Smith and Justice Cobbs concurred in the judgment.

ORDER

¶ 1 *Held:* The evidence, viewed in a light most favorable to the plaintiff, supports the jury's verdict and award of punitive damages. The judgment of the circuit court denying defendant's motion for judgment *n.o.v.* is affirmed.

¶ 2 Plaintiff Harry Barnett brought claims of intentional infliction of emotional distress (IIED) and malicious prosecution against defendant Robert Grant Baker in 2013. Following a two-day trial, the jury returned a general verdict in favor of plaintiff and awarded him $7500 in compensatory damages and $50,000 in punitive damages. On appeal, defendant challenges the verdict and the award of punitive damages. For the reasons that follow, we affirm.

¶ 3 BACKGROUND

¶ 4 Pursuant to Supreme Court Rule 323(d) (eff. Dec. 13, 2005), the following facts were stipulated to by the parties in an "Agreed Statement of Facts" jointly filed in the trial court on July 15, 2016, and based on verified pleadings in the common law record.

¶ 5 At trial, plaintiff testified on his own behalf and stated that defendant was his roommate for about two weeks in April 2010, but then moved into the apartment unit across the hall without paying his share of the rent and utilities per the sublease he entered into with plaintiff's previous roommate, Simon Tumansky. Shortly thereafter, defendant offered to buy a chair and ottoman from plaintiff and they agreed upon a price of $20. Defendant gave plaintiff a check for $60, a portion of which was for the two pieces of furniture and the remainder was for someone to come and clean plaintiff's apartment. Subsequently, defendant emailed plaintiff demanding he not cash the $60 check, questioning whether plaintiff's apartment had been professionally cleaned.

¶ 6 Plaintiff testified about an incident that occurred while he was having lunch with his friend Mark Lundgren. Plaintiff received a barrage of phone calls and text messages from defendant and discussed his concerns with a police officer who was passing by. The police officer accompanied plaintiff and Lundgren to the apartment building where he placed a note under defendant's front door asking defendant to leave plaintiff alone. Plaintiff continued to receive unwanted text messages from defendant and called the police, who issued defendant a "Harassment by Electronic Device" citation and advised him to not contact plaintiff.

¶ 7 Plaintiff also testified that defendant named his wireless internet server "HARRY SWALLOWS," "FOXY BROWN," and "Get your shine box." He stated that defendant slammed his apartment door deadbolt between 30 and 50 times, late at night and early in the

morning to agitate his three dogs. Plaintiff found garbage bags thrown in front of the garage door instead of the side of the hall. He also received over 200 "blocked" phone calls from defendant, who denied any involvement in a deposition.

¶ 8 Plaintiff recounted an incident in the first floor hallway of the apartment building when defendant confronted him and said, "You better not f*ck with me, my uncle is James Baker, the former Secretary of State under the Reagan administration."

¶ 9 He then identified an exhibit as a document published by the Illinois Department of Professional Regulation that defendant slid under his front door. The document listed, among others, an individual named "Henry Barnett," whose permanent employee registration card application was denied, and who was no longer able to practice under the provisions of the Illinois Private Detective, Private Alarm, Private Security, and Locksmith Act of 1993. The word "CONGRATS!!!" is scrawled in defendant's handwriting with an arrow drawn toward "Henry Barnett," who is not plaintiff.

¶ 10 Plaintiff added that defendant slid five copies of a lawsuit that plaintiff had filed against the landlord of the apartment building under his front door, and that defendant pried open his mailbox on several occasions, even after building maintenance replaced the mailbox lock with a more secure one.

¶ 11 Plaintiff recounted an incident in which defendant spat at him from his apartment balcony. Plaintiff wiped defendant's saliva off the ground and returned to his apartment. He called the police when defendant shoved coins and plastic eating utensils under his front door, but defendant denied the accusation and was not arrested. He also suspected defendant had placed coffee grounds, chocolate, and hot peppers in his dog trailer to poison his dogs.

¶ 12 Plaintiff testified about an incident on July 9, 2010, involving defendant that occurred in the presence of his friend, Diane Arends, and led to plaintiff's arrest for assault. Plaintiff retained an attorney and had two court appearances. Plaintiff rejected a plea deal and demanded trial. The assault charge was ultimately stricken off the call with leave to reinstate. He added that he paid his attorney $620 to expunge his arrest record and owed another $1000 for his representation in the matter, and that he was paying his present attorney between $17,000 and $18,000.

¶ 13 Plaintiff testified that the ordeal was "extremely distressing, embarrassing, and unpleasant for him." He stated that he endured months of harassment and felt unsafe in his home and the apartment building as a result of defendant's "erratic and irrational and aggressive actions." Plaintiff explained that he lost sleep because defendant slammed his deadbolt, which made his dogs bark. He eventually moved out of his apartment and was unable to find a new apartment in the same neighborhood with three dogs. Plaintiff stated that he has chest pain, and his chest hairs are graying from the stress of being arrested and charged with a misdemeanor. He believes that he has what a social worker explained to be post traumatic stress disorder.

¶ 14 On cross-examination, plaintiff testified that he did not see a psychiatrist for his dealings with defendant because he could not afford one. He explained that he did not miss any work because he is self-employed. He also stated that he spent about half the year in the Florida Keys, during the winter months. Plaintiff denied that he used the words "with a gun" when he said to defendant, "I'd rather just shoot you in the head."

¶ 15 Plaintiff also presented the testimony of Diane Arends, who visited in 2010 and stayed at plaintiff's apartment at 22 East Elm Street in Chicago, Illinois. During her stay, she heard the

deadbolt on defendant's back door slam back and forth every night, and she observed newspapers and plastic eating utensils thrown in the stairway leading up to plaintiff's apartment.

¶ 16 Arends testified that around 11:30 p.m. on July 9, 2010, she and plaintiff left the apartment to walk his dogs. She heard the deadbolt on defendant's back door slam back and forth as she walked out of the apartment and then heard plaintiff say, "Grant you need to go see your therapist," as she continued toward the stairwell. Plaintiff and his dogs accompanied Arends down the stairs and through the hallway toward the front door of the apartment building where they encountered defendant.

¶ 17 Arends testified that defendant asked plaintiff, "Where ya going, Harry?" and "Why don't you get a job Harry, you didn't even go to college." Defendant followed them outside and said, "I'm not afraid of you Harry, why don't you go ahead and hit me Harry." Plaintiff responded, "I'd rather just shoot you in the head," and defendant held up his arms with a cell phone in his right hand and said, "Thanks, I just taped that."

¶ 18 Arends estimated that defendant was about 15 feet away from her and about 5 feet away from plaintiff at the time. She described defendant's behavior as agitated and aggressive. Arends testified that she did not perceive plaintiff's response to defendant as a threat, and "that it was simply 'trash talk' in response to defendant's trash talk."

¶ 19 Arends testified that she, plaintiff, and his dogs returned to the apartment at 12:30 a.m. While washing her hands in the kitchen, she heard a knock and answered the front door. She observed plaintiff in handcuffs with police officers, who did not ask her any questions and informed her that they were taking plaintiff to the police station. Arends then went to the police station and arranged plaintiff's release on bail.

¶ 20 Plaintiff also presented the testimony of Mark Lundgren, who testified that he was having lunch with plaintiff at Corner Bakery when plaintiff received a series of unwanted phone calls and text messages from defendant. They asked a police officer walking by for assistance and the officer accompanied them to the apartment building where he placed a note under defendant's front door asking defendant to leave plaintiff alone. Undeterred, defendant continued to call plaintiff, this time, inquiring about a vehicle that plaintiff was selling. Later, Lundgren and plaintiff found a note from defendant on the windshield of plaintiff's vehicle.

¶ 21 Next, defendant testified as an adverse witness and stated that he made as many as fifty 911 calls about plaintiff stalking him. When asked about his phone records that plaintiff subpoenaed and which reflected 200 calls to plaintiff at all hours from his phone, "defendant said looking back he should not have made the calls but was trying to get plaintiff to stop stalking him." The phone records were subsequently admitted into evidence without objection. Defendant stated that he had no proof of plaintiff stalking him because he thought it was illegal to photograph someone in public. He also admitted leaving a note on the windshield of plaintiff's vehicle that suggested there was an outstanding restraining order against plaintiff even though that was not so.

¶ 22 Defendant further testified that he felt threatened when plaintiff said to him, "I'd rather shoot you in the head," but he conceded that plaintiff never said "with a gun"; he merely presumed that is what plaintiff meant. He also admitted that plaintiff did not possess or display a gun at the time, nor was he aware whether plaintiff owned a gun. However, defendant denied damaging plaintiff's vehicle or mailbox, leaving garbage in undesignated areas, or slamming his deadbolt to disturb plaintiff's dogs.

¶ 23 Thereafter, defendant testified on his own behalf in support of his counterclaim that the publication of his medical prescription form constituted the tort of public disclosure of private facts. At the end of defendant's testimony, plaintiff rested and the court denied his oral motion for a directed verdict.[1]

¶ 24 During the jury instruction conference, plaintiff's counsel submitted, among others, Verdict Form B, which stated, "We the jury, find for Harry Barnett and against Grant Baker on Mr. Barnett's Complaint." Defense counsel expressed his opinion that separate verdict forms should be submitted for each count of the complaint, namely IIED and malicious prosecution, but he did not submit separate verdict forms for consideration.

¶ 25 On June 16, 2015, the jury returned a general verdict in favor of plaintiff on his complaint and awarded damages as follows: "Pain and suffering - $0, Severe Emotional Distress - $7,500 and Punitive Damages - $50,000." The court entered judgment on the verdict and awards, but reserved ruling on defendant's[2] motion for judgment notwithstanding the verdict (judgment *n.o.v.*) until a hearing on July 30, 2015.

¶ 26 Following the hearing, for which there is no report of proceedings or agreed statement of facts, the court entered an order denying defendant's motion for judgment *n.o.v.* On August 7, 2015, defendant filed a notice of appeal seeking reversal of the trial court's order of July 30, 2015, denying his motion for judgment *n.o.v.*

¶ 27 ANALYSIS

¶ 28 In this appeal, defendant contends that the jury's award of punitive damages is grossly excessive and in violation of settled law. He also contends that the jury's verdict is against the

[1] The jury subsequently returned a verdict in favor of defendant on his counterclaim and awarded punitive damages in the amount of $1500. The award was vacated by the court on July 30, 2015.
[2] Although the court's order refers to *plaintiff's* motion for judgment notwithstanding the verdict, the common law record shows that it was *defendant's* motion.

manifest weight of the evidence and should be reversed. These questions involve various standards of review. *Gomez v. The Finishing Co., Inc.*, 369 Ill. App. 3d 711, 718 (2006).

¶ 29 A judgment *n.o.v.* should only be granted when all of the evidence, viewed in the light most favorable to the nonmoving party, so overwhelmingly favors the movant that no contrary verdict based on the evidence could ever stand. *Lazenby v. Mark's Construction, Inc.*, 236 Ill. 2d 83, 100 (2010). Correspondingly, a judgment *n.o.v.* should not be granted if "'reasonable minds might differ as to inferences or conclusions to be drawn from the facts presented.'" *Id.* (quoting *Pasquale v. Speed Products Engineering*, 166 Ill. 2d 337, 351 (1995)). "When reviewing a ruling on a motion for a judgment *n.o.v.*, a reviewing court will not reweigh the evidence or evaluate the credibility of the witnesses, as these functions are within the unique province of the jury." *Gulino v. Zurawski*, 2015 IL App (1st) 131587, ¶ 59. "A motion for a judgment *n.o.v.* presents a question of law as to whether there was a complete failure to substantiate a key element of the plaintiff's case, and as such, the circuit court's ruling on such a motion is subject to *de novo* review." *Id.*

¶ 30 We review a trial court's decision to award punitive damages using a three-step approach, considering:

> "'(1) whether punitive damages are available for the particular cause of action, using a *de novo* standard; (2) whether, under a manifest weight of the evidence standard, the defendant or defendants acted fraudulently, maliciously or in a manner that warrants such damages; and (3) whether the trial court abused its discretion in imposing punitive damages.'" *Dubey v. Public Storage, Inc.*, 395 Ill. App. 3d 342, 355 (2009) (quoting *Caparos v. Morton*, 364 Ill. App. 3d 159, 178 (2006)).

¶ 31 As to the first consideration,[3] defendant notes that punitive damages are not allowed in IIED cases where compensatory damages have been awarded to the plaintiff, citing the rationale of *Knierim v. Izzo*, 22 Ill. 2d 73, 88 (1961), and *Kohlmeier v. Shelter Insurance Co.*, 170 Ill. App. 3d 643, 656 (1988), "that compensatory damages serve as punishment (*i.e.* punitive damages) in 'IIED' cases." He then argues that the $50,000 punitive damage award should be vacated where the jury awarded plaintiff $7500 for "Severe Emotional Distress," all or part of which must be attributed to plaintiff's IIED claim as compensatory damages.

¶ 32 Plaintiff responds, and we agree, that regardless of whether punitive damages are available under an IIED claim, the jury's award of punitive damages did not run afoul of Illinois law because punitive damages are available in cases like the one at bar where the alleged facts brought the claim for punitive damages under the independent tort of malicious prosecution. See *Ely v. National Super Markets, Inc.*, 149 Ill. App. 3d 752, 761 (1986) (recognizing the independent tort of malicious prosecution); *Wait v. First Midwest Bank/Danville*, 142 Ill. App. 3d 703, 709 (1986) ("To support the existence of an independent tort, a plaintiff must therefore allege facts which bring the claim for punitive damages under a recognized tort theory."). Aside from exceptions not applicable here, "punitive damages have been available in malicious prosecution actions for at least 125 years." *Swick v. Liautaud*, 169 Ill. 2d 504, 522 (1996) (McMorrow, J., specially concurring).

¶ 33 Moreover, despite defendant's unsupported assertion that "the jury's Severe Emotional Distress award of $7,500 is in reality the jury's assessment" of compensatory damages on

[3] Although plaintiff cites *Franz v. Calaco Development Corp.*, 352 Ill. App. 3d 1129, 1138 (2004), for the proposition that the trial court's decision to submit the question of punitive damages to the jury will not be overturned absent an abuse of discretion, our supreme court precedent has applied a *de novo* standard of review. *Koehler v. Packer Group, Inc.*, 2016 IL App (1st) 142767, ¶ 86.

plaintiff's claim of IIED, we observe that compensatory damages are equally available under a malicious prosecution claim (see, *e.g.*, *Swick*, 169 Ill. 2d at 511), and "[w]hen there is a general verdict [as here] and more than one theory is presented, the verdict will be upheld if there was sufficient evidence to sustain either theory, and the defendant, having failed to request special interrogatories, cannot complain." *Witherell v. Weimer*, 118 Ill. 2d 321, 329 (1987), *quoted in Dillon v. Evanston Hospital*, 199 Ill. 2d 483, 492 (2002). As plaintiff points out, section 2-1201(d) of the Code of Civil Procedure (Code) provides in pertinent part:

> "(d) If several grounds of recovery are pleaded in support of the same claim, whether in the same or different counts, an entire verdict rendered for that claim shall not be set aside or reversed for the reason that any ground is defective, if one or more of the grounds is sufficient to sustain the verdict[.]" 735 ILCS 5/2-1201(d) (West 2016).

¶ 34 Defendant replies that section 2-1201(d) applies only when "several grounds of recovery are pleaded in support of the same claim," which is not the case here because "plaintiff's claims—malicious prosecution and IIED—are not the same 'claim.'" We observe, however, that "*the supreme court's rulings* with regard to general verdicts provide that when *multiple claims*, theories, or defenses were *presented* to the jury, without the submission of special interrogatories or separate verdict forms, the return of a general verdict creates a presumption that the evidence supported at least one of the *claims*, theories, or defenses and will be upheld." (Emphases added.) *Great American Insurance Company of New York v. Heneghan Wrecking and Excavating Company, Inc.*, 2015 IL App (1st) 133376, ¶ 15 (and cases cited therein). Put another way, "where several causes of action are charged and a general verdict results, the verdict will be sustained if there are one or more good causes of action or counts to support it." *Moore v. Jewel Tea Co.*, 46 Ill. 2d 288, 294 (1970).

¶ 35 Here, the jury was presented with claims of IIED and malicious prosecution and, in the absence of a special interrogatory regarding the basis of the jury's finding, returned a general verdict for plaintiff. These circumstances give rise to a presumption that the jury found in favor of plaintiff on every claim raised and presented. *Lazenby v. Mark's Construction, Inc.*, 236 Ill. 2d 83, 102 (2010). Moreover, had defendant wished to discover upon which count or counts the jury returned its verdict, he could have submitted a separate form of verdict as to each claim, and having failed to do so, he cannot complain or take advantage of his own omission. *Moore*, 46 Ill. 2d at 294; *Eaglin v. Cook County Hospital*, 227 Ill. App. 3d 724, 733-34 (1992) (and cases cited therein).

¶ 36 As to the second consideration, we review the jury's determination of punitive damages on plaintiff's malicious prosecution claim to determine if its judgment was against the manifest weight of the evidence. *Dubey*, 395 Ill. App. 3d at 355. To recover for malicious prosecution, plaintiff must plead and prove (*Independence Plus, Inc. v. Walter*, 2012 IL App (1st) 111877, ¶ 18): (1) the commencement/continuance of an original criminal/civil judicial proceeding by defendant; (2) the termination of that proceeding in favor of plaintiff; (3) the absence of probable cause for that proceeding; (4) malice on the part of defendant; and (5) damages accruing to plaintiff (*Turner v. City of Chicago*, 91 Ill. App. 3d 931, 934 (1980)). The absence of one of these elements is fatal to a claim of malicious prosecution. *Swick*, 169 Ill. 2d at 512. Where, as here, the malicious prosecution is based on the commencement of criminal proceedings, no showing of special injury is required. *Voga v. Nelson*, 115 Ill. App. 3d 679, 682 (1983). "Special injury" has been defined as "injury not necessarily resulting in any and all suits prosecuted to recover for like causes of action." (Internal quotation marks omitted.) *Independence Plus, Inc.*, 2012 IL App (1st) 111877, ¶ 18 (and cases cited therein).

¶ 37 As support for his claim that plaintiff failed to prove his malicious prosecution claim, defendant argues that there existed probable cause to arrest plaintiff based on the threatening language he used against him, that there is no proof that the assault case was dismissed because he was deemed innocent, that the case was commenced by the Chicago police with the concurrence of the State, that there is an absence of malice given the threat of violence from plaintiff, and that plaintiff cannot point to any damages beyond those routinely associated with a misdemeanor prosecution. Without any analysis until his reply brief, defendant simply cites two cases for the proposition that probable cause to arrest may be based upon threatening language, one case for the proposition that plaintiff must prove a favorable termination, and another for the proposition that plaintiff's lack of special damages, standing alone, defeats a malicious prosecution claim. He also provides no analysis supporting his conclusory assertion that there is an absence of malice given the threat of violence from plaintiff.

¶ 38 "The appellate court is not a depository in which the appellant may dump the burden of argument and research." *Thrall Car Manufacturing Co. v. Lindquist*, 145 Ill. App. 3d 712, 719 (1986). "Citations to authority that set forth only general propositions of law and do not address the issues presented do not constitute relevant authority for purposes of Rule 341(h)(7)." *Robinson v. Point One Toyota, Evanston*, 2012 IL App (1st) 111889, ¶ 54. "A contention that is supported by some argument but no authority does not meet the requirements of Rule 341 and is considered forfeited." *Crull v. Sriratana*, 388 Ill. App. 3d 1036, 1045 (2009). "Rule 341(h)(7) provides that '[p]oints not argued [in the opening brief] are waived and *shall not be raised in the reply brief*.' (Emphasis added.) Ill. S. Ct. R. 341(h)(7)." *McCann v. Dart*, 2015 IL App (1st) 141291, ¶ 19. "Arguments that violate Rule 341 do not merit consideration and can be rejected solely for that reason." *Kic v. Bianucci*, 2011 IL App (1st) 100622, ¶ 23. Defendant in this case

did not argue the merits of his underlying claims in his opening brief and has, therefore, waived consideration of the merits on appeal. *McCann*, 2015 IL App (1st) 141291, ¶ 19.

¶ 39 We nonetheless reject defendant's assertion that there was probable cause to arrest plaintiff merely because defendant testified that he felt threatened when plaintiff said to him, "I'd rather shoot you in the head." Relying on *Salmen v. Kamberos*, 206 Ill. App. 3d 686, 691 (1990), plaintiff points out, and we agree, that this case "presents a simple question of credibility" and that "defendant's entire argument is based on the assumption that [defendant] was telling the truth." We are mindful that the issue of whether defendant had probable cause to bring criminal charges against plaintiff was a question of fact for the jury, which chose not to believe that defendant truly felt threatened by plaintiff's statement. *Salmen*, 206 Ill. App. 3d at 691. We are also mindful that although the lack of probable cause alone does not establish malice, the trier of fact may infer malice from the absence of probable cause where, as here, there is no other credible evidence that refutes that inference. *Id.* Accordingly, we conclude that the jury's determination of lack of probable cause and malice are not against the manifest weight of the evidence. *Id.* In so concluding, we necessarily reject defendant's bald assertion that there is an absence of malice given the threat of violence from plaintiff.

¶ 40 We also reject defendant's assertion that the case was commenced by the Chicago police with the concurrence of the State, and not by him. "Liability in a malicious-prosecution case extends to *all persons* who played a significant role in causing the prosecution of the plaintiff." (Emphasis added.) *Bianchi v. McQueen*, 2016 IL App (2d) 150646, ¶ 72. Moreover, "the attribution of police action to a defendant requires that the defendant requested, directed or pressured an officer into swearing out a complaint for plaintiff's arrest, or that defendants knowingly gave false information to the police." *Denton v. Allstate Insurance Co.*, 152 Ill. App.

3d 578, 583. Here, defendant testified that he felt threatened when plaintiff said to him, "I'd rather shoot you in the head." Defendant conceded, however, that plaintiff never said "with a gun," and he admitted that plaintiff did not possess or display a gun at the time, and he was not aware whether plaintiff owned a gun. We conclude that defendant played a significant role in causing the prosecution of plaintiff because he knowingly gave false information to the police about an ill-perceived threat involving a gun. *Id.*

¶ 41 Likewise, we reject defendant's assertion that there is no proof that the assault case was terminated favorably for plaintiff. "While the plaintiff in a malicious prosecution action must prove termination of the former action in his favor, it is not essential that there have been a trial and verdict of acquittal upon the charge involved." *Rich v. Baldwin*, 133 Ill. App. 3d 712, 714 (1985). Rather, we observe that the circuit court's decision to strike the assault charge against plaintiff with leave to reinstate represented a favorable outcome for plaintiff, which terminated when the State was precluded from seeking reinstatement of the assault charge. *Ferguson v. City of Chicago*, 213 Ill. 2d 94, 102-04 (2004). "That period was marked by the expiration of the statutory speedy-trial period," which plaintiff, here, correctly points out had safely occurred by the time he filed his malicious prosecution claim in 2013. *Id.*

¶ 42 We further reject defendant's assertion that plaintiff's lack of special damages, standing alone, defeats a malicious prosecution claim because no showing of a special injury is required for malicious prosecution actions, like the one at bar, based on the commencement of criminal proceedings. *Voga*, 115 Ill. App. 3d at 682.

¶ 43 As to the third and final consideration, we do not find that the trial court abused its discretion in assessing punitive damages. An abuse of discretion occurs when no reasonable person would take the view adopted by the trial court. *Dubey*, 395 Ill. App. 3d at 356. Here, we

find that a reasonable person could find that plaintiff deserved a punitive damage award on the malicious prosecution claim. *Id.*

¶ 44 Defendant nonetheless maintains that the punitive damage award was excessive and argues that our supreme court in *Lawlor v. North American Corp. of Illinois*, 2012 IL 112530, noted with approval a reduction of punitive damages to an amount equal to the compensatory damages, and that this analysis applies here. Because defendant did not argue the merits of this claim in his opening brief, he has waived consideration of its merits on appeal. *McCann*, 2015 IL App (1st) 141291, ¶ 19.

¶ 45 Aside, "[t]he highly factual nature of the assessment of punitive damages dictates that a great amount of deference should be afforded the determination made at the trial court level, and to reflect that deference and the highly factual nature of the determination, we review the assessment of punitive damages on a manifest-weight-of-the-evidence standard." *Turner v. Firstar Bank, N.A.*, 363 Ill. App. 3d 1150, 1161-62 (2006). "A reviewing court will not disturb an award of punitive damages on grounds that the amount is excessive unless it is apparent that the award is the result of passion, partiality, or corruption." *Deal v. Byford*, 127 Ill. 2d 192, 204 (1989). We are mindful that punitive damages "are not awarded as compensation, but serve instead to punish the offender and to deter that party and others from committing similar acts of wrongdoing in the future." *Loitz v. Remington Arms Co.*, 138 Ill. 2d 404, 414 (1990), *quoted in Slovinski v. Elliot*, 237 Ill. 2d 51, 57-58 (2010). Although not exhaustive, relevant circumstances in reviewing a punitive damages award include the nature and enormity of the wrong, the financial status of defendant, and defendant's potential liability. *Deal*, 127 Ill. 2d at 204.

¶ 46 We are not in a position to reevaluate the credibility of the witnesses who testified at trial. *Deal*, 127 Ill. 2d at 204. Defendant does not direct our attention to, nor do we find anything

indicating that the jury's assessment of punitive damages in the amount of $50,000 was excessive. *Id.* Defendant does not argue that the punitive damage award was the result of passion, partiality, or corruption. Rather, defendant argues in his reply brief that plaintiff did not present any provable damages as a result of his arrest and prosecution for assault, which ignores the difference between the purposes of compensatory and punitive damages (*Turner*, 363 Ill. App. 3d at 1159) and the difference between their standards of proof (*Tri-G, Inc. v. Burke, Bosselman & Weaver*, 222 Ill. 2d 218, 260 (2006)). In his posttrial motion for judgment *n.o.v.*, defendant stated that he would offer testimony with respect to his financial situation and his ability to satisfy any monetary judgment entered against him, but in the absence of a report of proceedings or agreed statement of facts, we must presume that the jury's award of punitive damages had a sufficient factual basis and conformed to the law. *Robinson v. Point One Toyota, Evanston*, 2012 IL App (1st) 111889, ¶ 59. Notwithstanding, we observe that defendant's financial status is but one factor for the jury to consider and plaintiff is not required to present such evidence. *Ford v. Herman*, 316 Ill. App. 3d 726, 734 (2000).

¶ 47 The evidence adduced at trial, when viewed in a light most favorable to plaintiff, supports the jury's verdict and award of punitive damages, and thus we will not disturb the trial court's denial of defendant's motion for judgment *n.o.v.* *Gomez*, 369 Ill. App. 3d at 720.

¶ 48 CONCLUSION

¶ 49 For the reasons stated, we affirm the judgment of the circuit court of Cook County denying defendant's motion for judgment *n.o.v.*

¶ 50 Affirmed.