2016 IL App (4th) 150983-U

NO. 4-15-0983

FILED
September 28, 2016
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

GERRI WHITCOMB,	)	Appeal from
Plaintiff-Appellee,	)	Circuit Court of
v.	)	McLean County
MENG HORNG, Individually, and MENG HORNG, M.D., S.C.,	)	No. 10L119
Defendants-Appellants.	)	Honorable
	)	Rebecca Simmons Foley,
	)	Judge Presiding.

PRESIDING JUSTICE KNECHT delivered the judgment of the court.
Justices Turner and Holder White concurred in the judgment.

ORDER

¶ 1 *Held*: (1) After a general verdict finding the defendant surgeon negligent on allegations of operative or postoperative conduct, defendants cannot prove the trial court committed reversible error by sending the allegations of postoperative conduct to the jury because defendants, in the absence of seeking special interrogatories, cannot prove they were prejudiced by the instruction.

(2) Defendants, by relying on case law involving medical expert testimony on standards of care, did not prove the trial court committed reversible error in allowing plaintiff's treating general internist, not qualified to testify to the proper standard of care for obstetrician-gynecologists, to testify regarding the cause of plaintiff's injuries.

(3) Defendants did not prove they were prejudiced by plaintiff's counsel's improper comments during closing argument or cumulatively over the course of the trial.

¶ 2 In June 2008, plaintiff, Gerri Whitcomb, underwent a hysterectomy. After her surgery, plaintiff experienced injuries due to an occlusion in her right ureter. Plaintiff endured

multiple procedures and surgeries to correct the occlusion.

¶ 3 In June 2010, plaintiff filed suit against defendants, alleging Dr. Meng Horng, a board-certified obstetrician-gynecologist (OB-GYN), was negligent in not discovering during her hysterectomy or in the period after surgery a misplaced stitch occluding her right ureter. After one mistrial due to a hung jury, a jury, in July 2015, found defendants negligent and awarded approximately $500,000 in damages.

¶ 4 Defendants appeal, arguing (1) the trial court erroneously instructed the jury on plaintiff's claims of postoperative negligence when no evidence was presented showing the injuries would have been avoided if the occlusion would have been found during that time; (2) the trial court erroneously allowed plaintiff's primary-care physician to testify as to causation when the same physician was unqualified to testify to the standard of care for OB-GYN's; and (3) plaintiff's counsel improperly argued during closing plaintiff may lose her kidney or need dialysis when no evidence supported that conclusion. We affirm.

¶ 5 I. BACKGROUND

¶ 6 On June 26, 2008, Dr. Horng operated on plaintiff, performing a total abdominal hysterectomy with a bilateral salpingo-oophorectomy, which involved the removal of plaintiff's uterus, cervix, fallopian tubes, and ovaries. Dr. Lisa Emm assisted. Plaintiff remained hospitalized until June 30, 2008, when she was discharged.

¶ 7 At some point in time after her hysterectomy, the timing of which the parties dispute, plaintiff suffered right flank pain and other symptoms indicating an injury to her right ureter, a tube that allows urine to pass from the kidneys to the bladder. Ureters go from the kidney down the side wall of the pelvis, turn, and go over the top of the vagina near the cervix.

During a hysterectomy, physicians clamp blood vessels that pass over ureters. Ureteral injury is a known risk of hysterectomies. Such injury can occur even in the absence of negligence.

¶ 8 Beginning July 11, 2008, plaintiff underwent multiple procedures attempting to remove the obstruction. These attempts failed. On July 15, 2008, plaintiff had a nephrostomy tube inserted. A nephrostomy tube passes through the skin into the part of the kidney where urine is produced and drains the urine outside the patient's body. In January 2009, plaintiff underwent surgery in Indianapolis, Indiana, to free the ureter above the obstruction and connect it to the bladder. Because the length of plaintiff's ureter above the obstruction was insufficient, the procedure performed was called a refluxing reimplantation, meaning the urine would sometimes flow back up the ureter to the kidney. Dr. Richard Bihrle, who performed the refluxing reimplantation, testified the surgery was successful and he did not anticipate future problems. Plaintiff, however, testified she experienced nine urinary-tract infections and a possible kidney infection since the reimplantation. The parties dispute whether these infections resulted from the reimplantation.

¶ 9 Plaintiff alleged her injuries resulted from Dr. Horng's negligence. Plaintiff asserted Dr. Horng, during the hysterectomy, misplaced a stitch that partially occluded her ureter. In her third amended complaint, plaintiff asserted Dr. Horng was negligent and liable in (1) failing to identify, inspect, visualize, or palpate plaintiff's ureter adequately; (2) failing to confirm the right ureter's integrity before closing; (3) failing to exclude ureteral injury when plaintiff experienced postoperative flank pain; (4) failing to order an intravenous pyelogram (IVP) immediately after the first postoperative ultrasound was abnormal; (5) assuming no ureteral injury in the presence of postoperative obstructive uropathy; and (6) failing to order

certain tests before discharge when plaintiff exhibited signs and symptoms of ureteral injury.

¶ 10 In July 2013, the first trial was held on plaintiff's claims. The trial ended with a hung jury.

¶ 11 The second trial began in July 2015. We need not summarize the entire trial for this appeal. Among the witnesses testifying on plaintiff's behalf were John Douglas Davis, a board-certified OB-GYN at the University of Florida, and plaintiff's primary-care physician, Paul Pedersen, a general internist board-certified in internal medicine. Dr. Davis opined he was almost 100% certain a stitch through the ureter caused plaintiff's injuries. Dr. Davis opined Dr. Horng breached the standard of care by not visualizing the ureters at any time during the procedure. Dr. Davis testified Dr. Horng did not meet the standard of care by failing to confirm the integrity of Whitcomb's right ureter. Regarding postoperative care, Dr. Davis testified Dr. Horng did not meet the standard of care when he failed to exclude ureteral injury when Whitcomb experienced postoperative flank pain and when he failed to order an IVP immediately after the first postoperative ultrasound revealed mild dilation of the ureter and kidney, indicating some urine backup. Dr. Horng, according to Dr. Davis, assumed no ureteral injury and this assumption violated the standard of care.

¶ 12 Plaintiff's primary-care physician testified he had been plaintiff's primary-care physician since 1991. On July 15, 2008, Dr. Pedersen ordered "a [computerized tomography (CT)] directed puncture right renal collecting system." Dr. Pedersen ordered the test because of the history of the hysterectomy with a partial obstruction to the outflow of urine from the kidney with suspicion of suture at the distal ureter. Dr. Pedersen testified, after a hysterectomy, there were five or six causes of ureteral obstruction, with a suture being the most common of those

causes. Dr. Pedersen was permitted, over objection, to opine the occluded ureter occurred during the hysterectomy:

> "Q. *** Is it your opinion that the occluded right distal ureter was caused by the hysterectomy?
>
> ***
>
> A. I believe it occurred during the hysterectomy.
>
> Q. A stitch during the hysterectomy occluded the ureter?
>
> A. I believe that is true.
>
> Q. And that's your opinion based upon a reasonable degree of medical certainty or medical opinion in your treatment of this patient for years. Correct?
>
> A. Yes."

On cross-examination, Dr. Pedersen was questioned about his lack of licensure as an OB-GYN, and he admitted he was not testifying to the standard of care for an OB-GYN. Dr. Pedersen had no opinion on the quality of care provided by Dr. Horng or Dr. Emm or whether either doctor caused plaintiff's injuries.

¶ 13 Before Dr. Pedersen opined a stitch occluded plaintiff's ureter, defendants moved to exclude Dr. Pedersen's testimony. The trial court observed the cases relied upon by defendants explicitly applied to expert medical testimony on the issue of the standard of care. The court allowed the testimony and further found the following:

> "[W]e have Dr. Pedersen who is a board-certified physician, who has been this patient's treating physician for many

years. He's testified and/or will testify as to his experience and training. While he's acknowledged he wasn't present during the surgery but—and has not reviewed the records, that goes to weight. The jury has to determine what weight to give to that particular testimony, but he's not barred. He will be allowed to testify with regard to those previously disclosed opinions as to causation."

¶ 14 In response, defendants presented their own expert testimony to dispute the conclusions of plaintiff's experts. Defendants' position at trial was, in part, that ureteral injury occurs during hysterectomies in the absence of negligence. Defendants emphasized the testimony of two of plaintiff's urologists, who testified they did not know the mechanism that caused plaintiff's injuries. Defendants disputed the timing of the existence of plaintiff's symptoms of ureteral injury, presenting evidence such symptoms did not exist until after her discharge. Defendants emphasized Dr. Horng's and Dr. Emm's testimony, which showed due care was used during and after plaintiff's hysterectomy.

¶ 15 At the jury-instruction conference, defendants argued the trial court should not send plaintiff's instruction No. 11 to the jury. Plaintiff's proposed instruction alleged the following charges of negligence:

"[D]efendant was negligent in one or more of the following respects:

a. failing to adequately identify, inspect, visualize, or palpate plaintiff's right ureter;

b. failing to confirm the integrity of plaintiff's right ureter

before closing;

c. failing to exclude ureteral injury in the presence of postoperative flank pain;

d. failing to order an IVP immediately after the first postoperative ultrasound which was abnormal;

e. assuming there was no ureteral injury in the presence of postoperative obstructive uropathy; and

f. failing to order an IVP or CT with [intravenous] contrast prior to discharge when the patient postoperatively exhibited signs and symptoms of ureteral injury, including fever, flank pain, pyelonephritis and occult blood in the urine and had an abnormal ultrasound."

¶ 16 Defendants' proposed instruction included only the allegations regarding the conduct occurring during surgery. Defendants objected to plaintiff's instruction, arguing no expert testified whether the attempts to repair the blockage could have been avoided had the alleged stitch been discovered postoperatively. The trial court overruled defendants' objection and instructed the jury on postoperative negligence.

¶ 17 During closing argument, plaintiff's counsel made the following statements, to which defendants objected:

"There's no dispute and no evidence from Dr. [Vicken] Chalian is wrong or that Dr. Pedersen is wrong when they testified that each successive infection does more and more and more

> damage to that right kidney, and that's going to continue for the rest of her life. She's always going to have these bouts of pyelonephritis. Where that ultimately leaves her we actually don't know.
>
> But if it gets worse, if she has to have a kidney removed, if she has to go on dialysis, she does not have the opportunity to come back and ask for an adjustment with respect to any award that you might feel she's entitled to."

Defendants objected, arguing plaintiff was asking the jury to speculate and award damages not based on evidence.

¶ 18 The trial court agreed with defendants and found no medical testimony establishing plaintiff would need dialysis or a kidney replacement. Upon a request by defendants, the court advised the jury the following: "Ladies and gentlemen, the objection is sustained. You'll be directed to disregard the argument relating to dialysis and kidney *** [r]emoval and surgery." Plaintiff's counsel continued by telling the jury the record showed "a finite number of nephrons within your kidney" and each "infection kills more of those nephrons," and plaintiff would suffer through this the rest of her life. Plaintiff's counsel suggested a sum of $150,000 to $300,000 for past and future pain and suffering.

¶ 19 During deliberations, the jury reported it was unable to reach a unanimous verdict. The trial court sent the matter back for further deliberations. The jury returned with a verdict in plaintiff's favor for approximately $500,000.

¶ 20 This appeal followed.

¶ 21 II. ANALYSIS

¶ 22 A. Jury Instruction

¶ 23 Defendants first argue the trial court erred in instructing the jury it could find Dr. Horng negligent based on his postoperative conduct. Defendants concede plaintiff presented at least some evidence at trial supporting the first two allegations of neglect, allegations regarding Dr. Horng's conduct during surgery. Defendants argue, however, the remaining allegations—those involving postoperative conduct—were improperly presented to the jury as a basis for finding negligence. Defendants contend no expert testified, with a reasonable degree of medical certainty, plaintiff would have avoided injury from additional procedures if Dr. Horng acted non-negligently postoperatively.

¶ 24 In response, plaintiff argues defendants twice forfeited this argument. Plaintiff maintains defendants failed to seek a directed verdict on the allegations of postoperative conduct and, therefore, may not argue the trial court erroneously denied their request for such a verdict. In addition, plaintiff contends defendants' argument is barred by the "two-issue rule," codified in section 2-1201(d) of the Code of Civil Procedure (Code) (735 ILCS 5/2-1201(d) (West 2012)). Last, plaintiff, without developing an argument supporting the trial court's decision to allow plaintiff's instruction or citing the record, simply notes defendants ignore "the testimony of doctors Davis, Mueller and Bihrle."

¶ 25 We begin by considering plaintiff's forfeiture arguments. As to the first forfeiture argument, defendants maintain, although they did not specifically use the term "directed verdict," they did submit an alternate instruction without the allegations of postoperative neglect and asked the trial court to not instruct the jury on those allegations because of the lack of

evidence on causation.

¶ 26 We agree with defendants and find they, in effect, requested a directed verdict. At the jury-instruction conference, defendants' counsel asked the trial court to find causation could not be proved regarding the postoperative conduct and not to send the issues to the jury:

> "My objection is that the Plaintiff failed to present any evidence that the outcome in this case would have been different if this problem had been diagnosed in the postoperative period. Plaintiff must present expert testimony that there would have been a change in how this all occurred or how the care followed therefrom. And so the failure to do that would mean that the, to do that means that there is a failure of proof; and so the allegations of paragraph—I'm sorry. The allegations set forth in paragraphs C, D, E and F of this Plaintiff's instruction number 11 should not go to the jury because there's a failure of proof on that issue."

Defendants did not forfeit consideration of their claim by not seeking a directed verdict.

¶ 27 As to the second argument regarding forfeiture, defendants maintain the two-issue rule does not apply when counsel requests the issues be withdrawn. In support, defendants cite no cases, but rely upon the language in section 2-1201(d) of the Code (735 ILCS 5/2-1201(d) (West 2012)), which allows an exception when an objection was made and prejudice is shown.

¶ 28 Section 2-1201(d) of the Code states the two-issue rule as follows:

> "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; nor shall the verdict be set aside or reversed for the reason that the evidence in support of any ground is insufficient to sustain a recovery thereon, unless before the case was submitted to the jury a motion was made to withdraw that ground from the jury on account of insufficient evidence and it appears that the denial of the motion was prejudicial." *Id.*

¶ 29 In this case, the jury entered a general verdict of negligence after being instructed it could do so on multiple grounds, including Dr. Horng's conduct during surgery and after surgery. Defendants concede in their opening brief, as they did when they proposed an alternate instruction, sufficient evidence supported sending the issue of the operative conduct to the jury. Moreover, as we have concluded below, defendants' remaining challenges to the verdict fail. Thus, under section 2-1201(d), the verdict may be supported on that ground and should not be reversed based on the failure of insufficient evidence to support a finding of negligence on the other grounds.

¶ 30 The question then arises whether the exception contained in section 2-1201(d) applies, which would allow a reversal of the verdict. The exception permits reversal if "a motion was made to withdraw that ground from the jury on account of insufficient evidence and it appears that the denial of the motion was prejudicial." *Id.* As we determined above, defendants sought "to withdraw that ground from the jury on account of insufficient evidence" (*id.*) when they proposed the alternate jury instruction and asked the trial court not to send the issue of

postoperative care to the jury.

¶ 31 Defendants, however, cannot establish prejudice. Regarding prejudice, defendants cite no case law and argue the allegations "sent an improper message to the jury" that "at least some evidence at trial supported the claims." Defendants further contend the alleged errors impugned Dr. Horng's ability and encouraged the jury to find negligence on the other charges.

¶ 32 This attempt to prove prejudice is insufficient as the case law establishes, in light of the general verdict of negligence, the failure of defendants to submit special interrogatories precludes a finding of prejudice. In *Foley v. Fletcher*, 361 Ill. App. 3d 39, 50, 836 N.E.2d 667, 676 (2005), a medical malpractice case, the First District found "defendants are unable to show prejudice because they cannot show that the jury based its verdict on the instruction at issue" as "[n]either side requested special interrogatories." In *Jablonski v. Ford Motor Co.*, 398 Ill. App. 3d 222, 250-52, 923 N.E.2d 347, 373-74 (2010), *rev'd on other grounds*, 2011 IL 110096, 130, 955 N.E.2d 1138, the Fifth District rejected a claim of prejudice in the absence of special interrogatories when the defendants argued the unsupported and unrecognized claims went to the jury. While the Supreme Court of Illinois has not explicitly held prejudice cannot be proved absent special interrogatories, the court has applied the two-issue rule to bar claims when no special interrogatories were filed. See *Dillon v. Evanston Hospital*, 199 Ill. 2d 483, 492, 771 N.E.2d 357, 363 (2002); see also *Lazenby v. Mark's Construction, Inc.*, 236 Ill. 2d 83, 101, 923 N.E.2d 735, 746-47 (2010).

¶ 33 Without a special interrogatory showing the jury found defendants negligent on postoperative conduct alone, we cannot conclude defendants were prejudiced. Section 2-1201(d)

bars defendants' claim.

¶ 34 B. Dr. Pedersen's Causation Testimony

¶ 35 Defendants next contend the trial court erroneously allowed Dr. Pedersen, plaintiff's general internist and treating physician, to testify, based on a reasonable degree of medical certainty, a stitch made during plaintiff's hysterectomy occluded the ureter. Defendants maintain a witness who is incompetent to testify to the standard of care is incompetent to render an opinion on causation. In support, defendants rely on the following cases: *Purtill v. Hess*, 111 Ill. 2d 229, 489 N.E.2d 867 (1986), *Sullivan v. Edward Hospital*, 209 Ill. 2d 100, 806 N.E.2d 645 (2004), and *Alm v. Loyola University Medical Center*, 373 Ill. App. 3d 1, 866 N.E.2d 1243 (2007). These cases establish the prerequisites for expert testimony on "the proper standards of diagnosis, care, and treatment." *Purtill*, 111 Ill. 2d at 242, 489 N.E.2d at 872. The purported expert must (1) be "a licensed member of the school of medicine about which he proposes to express an opinion," and (2) "show that he is familiar with the methods, procedures, and treatments ordinarily observed by other physicians, in either the defendant physician's community or a similar community." *Id*. at 243, 489 N.E.2d at 872-73.

¶ 36 We agree with the trial court's conclusion the authorities on which defendants rely apply to expert testimony on the *standard of care* and not opinion testimony on a cause of an injury. For example, in *Purtill*, the court expressly stated the analysis applies when "an expert medical witness seek[s] to express an opinion *** as to the *proper standards of diagnosis, care, and treatment* that should have been followed in a particular case." (Emphasis added.) *Id*. at 242, 489 N.E.2d at 872; see also *Sullivan*, 209 Ill. 2d at 112-13, 806 N.E.2d at 653-54 . Section 8-2501 of the Code (735 ILCS 5/8-2501 (West 2012)), cited in defendants' reply brief, also

expressly applies to determine whether an expert witness "can testify on the issue of the appropriate *standard of care*." (Emphasis added).

¶ 37 These cases do not bar Dr. Pedersen's testimony, as he did not testify as to the standard of care or whether Dr. Horng breached said standard. To establish the standard of care, plaintiff presented the testimony of Dr. Davis, a licensed OB-GYN whose qualifications are not challenged on appeal. Dr. Davis meets the requirements of *Purtill*. Instead, Dr. Pedersen testified he was treating plaintiff for a ureteral injury that occurred during the hysterectomy. Dr. Pedersen learned plaintiff's medical history, drew conclusions from that history, and ordered tests accordingly. The standard-of-care authority on which defendants rely does not establish the trial court erroneously allowed Dr. Pedersen to testify regarding his opinion as to the cause of plaintiff's injuries.

¶ 38 We further disagree with defendants' characterization of Dr. Pedersen's testimony as a "thinly veiled declaration" regarding a breach of the standard of care. Defendants characterize Dr. Pedersen's testimony of the stitch in the ureter as a "serious" and "horrible mistake," even though Dr. Pedersen never testified the stitch resulted from a "mistake." Dr. Pedersen's testimony establishes his opinion a suture occluded plaintiff's ureter. It does not alone necessitate a finding the standard of care had been breached. Only when considered in the context of Dr. Davis's testimony may a jury conclude the standard of care was breached.

¶ 39 Even if the trial court incorrectly permitted Dr. Pedersen's testimony on cause, the record shows reversal is not required. Error is reversible error only if the error results in substantial prejudice. *McNeil v. Ketchens*, 2011 IL App (4th) 110253, ¶ 22, 964 N.E.2d 66. Defendants suffered no prejudice by the admission of this testimony. Dr. Pedersen did not opine

the suture was the fault of Dr. Horng or Dr. Emm or a breach of the standard of care. In addition, Dr. Pedersen was not the only source of the causation testimony. The jury heard the same conclusion from Dr. Davis, a licensed OB-GYN. Moreover, the jury was aware of Dr. Pedersen's lack of expertise in this area as defendants' counsel highlighted the matter during questioning.

¶ 40 C. Plaintiff's Counsel's Remarks During Closing Argument

¶ 41 Defendants contend plaintiff's counsel improperly argued during closing argument plaintiff may lose her kidney or be forced to go on dialysis. According to defendants, although the trial court sustained its objection to the comments, the damage had been done, as the jury awarded "$300,000 for pain and suffering 'reasonably certain to be experienced in the future as a result of the injuries.' " Defendants, maintain plaintiff's counsel, knowing he faced an uphill battle following the first hung jury, made other improper remarks. Defendants cite two: (1) an argument during Dr. Emm's testimony, and (2) a comment during opening statement. Defendants, without citation, refer to "dozens of other examples of improper remarks during trial." This, according to defendants, created prejudice and resulted in reversible error.

¶ 42 During closing argument, attorneys draw reasonable inferences from the evidence and aid the jury in arriving at a verdict based on the evidence and the law. *Auten v. Franklin*, 404 Ill. App. 3d 1130, 1154, 942 N.E.2d 500, 520 (2010). When counsel objects to improper argument and the trial court sustains that objection, "any error is considered cured and, if the trial was fair as a whole and the evidence sufficient to support the verdict," we will not reverse the judgment on appeal. *Id.* at 1154, 942 N.E.2d at 521. In addition, when a few errors during trial do not prejudice the appellant, the cumulative-error doctrine does not apply. *Pister v. Matrix*

Service Industrial Contractors, Inc., 2013 IL App (4th) 120781, ¶ 97, 998 N.E.2d 123.

¶ 43 We begin by addressing a misrepresentation by defendants. Defendants maintain the jury awarded plaintiff $300,000 for *future* pain and suffering. Defendants do so by quoting the jury verdict form as awarding $300,000 for pain and suffering "reasonably certain to be experienced in the future as a result of the injuries." The verdict form, however, expressly shows the $300,000 was awarded for both *past and future* pain and suffering, as requested by plaintiff in closing argument. On the form, there is a space for damages after the following: "[t]he pain and suffering experienced and reasonably certain to be experienced in the future as a result of the injuries." (Emphasis added.) The verdict form fails to establish prejudice.

¶ 44 We further find no reversible error in plaintiff's closing argument or in the alleged cumulative effect of other errors. Plaintiff's statement was improper. Plaintiff cites no evidence in the record supporting the contention she may experience kidney failure. However, the trial court found the same, sustaining defendants' objection and telling the jury to disregard the improper comments. The trial court cured the error. See *Barnett*, 404 Ill. App. 3d at 1154, 942 N.E.2d at 521.

¶ 45 As to defendants' contentions other improper comments added to the error by plaintiff's counsel and cumulatively resulted in prejudice, those were either cured, unobjected to, or not supported by citation to the record. The first alleged error cited by defendants occurred during Dr. Emm's testimony. While Dr. Emm testified, plaintiff's counsel began to argue with Dr. Emm:

"Q. Questions concerning this patient's postoperative course as far as her ureteral injury is concerned, you would agree

with me that those questions are best left to the urologist, the people who treated her for that, correct?

A. If a urologic injury is identified in the postoperative period, but it was not identified during the postoperative period.

Q. And I think there's a reason for that. It wasn't looked for, but ***."

Defendants promptly objected to the statement and it was stricken. The trial court, on defense counsel's request, directed the jury to disregard plaintiff counsel's statement.

¶ 46 When the second alleged error occurred, defendants did not object. During opening statement, plaintiff's counsel stated the following: "Lastly, if this in fact is a known risk of the procedure, and if this injury which you claim is a known risk of the procedure, *** why aren't you looking for that known complication?" Because defendants did not object, defendants cannot complain of this error. See *Twait v. Olson*, 104 Ill. App. 3d 191, 198, 432 N.E.2d 1244, 1251 (1982) (finding "errors were either waived or were so inconsequential as to have not been prejudicial—whether considered singly or together").

¶ 47 Defendants' remaining arguments regarding "dozens of other examples of improper remarks" are also forfeited. Defendants failed to cite the record in support of these alleged examples and did not develop argument in violation of Illinois Supreme Court Rule 341(h)(7) (eff. Jan. 1, 2016)). A court of review "is not simply a depository into which a party may dump the burden of argument and research." *People ex rel. Illinois Department of Labor v. E.R.H. Enterprises, Inc.*, 2013 IL 115106, ¶ 56, 4 N.E.3d 1.

¶ 48 Due to defendants' forfeiture, defendants' argument is supported by two improper

remarks that were addressed and cured by the trial court. The record establishes a sufficient evidentiary basis for the verdict and defendants have not shown they were denied a fair trial. Reversal is not required. See *Barnett*, 404 Ill. App. 3d at 1154, 942 N.E.2d at 521.

¶ 49 III. CONCLUSION

¶ 50 We affirm the trial court's judgment.

¶ 51 Affirmed.