

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Salvatore Zicarelli,)	
)	
<i>Plaintiff</i>)	
)	No. 17-cv-3179
-vs-)	
)	(Judge Tharp)
Thomas J. Dart, etc., et al)	
)	
<i>Defendants.</i>)	

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that Salvatore Zicarelli, plaintiff
above named, hereby appeals to the United States Court of Appeals for the
Seventh Circuit from the orders entered on August 27, 2024 (ECF Nos. 875
and 876).

/s/ Kenneth N. Flaxman
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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

SALVATORE ZICCARELLI,)	
)	
Plaintiff,)	
)	
v.)	No. 17 CV 3179
)	
THOMAS J. DART, COOK COUNTY,)	Judge John J. Tharp, Jr.
and WYLOLA SHINNAWI,)	
)	
Defendants.)	

ORDER

For the reasons stated below, the defendants’ motion for judgment as a matter of law [866] is granted. If the judgment is later vacated or reversed, the defendants’ motion for a new trial is granted. The plaintiff’s post-trial request for equitable relief [868] is denied.

STATEMENT

Plaintiff Salvatore Zicarelli argues that his former employer, the Cook County Sheriff’s Office, Sheriff Thomas Dart, and Wylola Shinnawi, a Sheriff’s Office employee (together, “the Sheriff’s Office”), interfered with his rights under the Family and Medical Leave Act of 1993 (“FMLA”), 29 U.S.C. § 2601 *et seq.*, in violation of FMLA § 2615(a)(1), by discouraging him from using leave, which caused him to resign from the Sheriff’s Office on September 20, 2016, while he still had 176 hours of FMLA leave remaining. On March 12, 2024, following a two-day trial, a jury returned a verdict in his favor, awarding \$240,000 in damages.¹ ECF No. 856.

Both parties filed post-verdict motions. The Sheriff’s Office filed a motion for judgment as a matter of law (“JMOL”), a new trial, or remittitur of the damages award. ECF No. 866. The Sheriff’s Office argues that no reasonable jury could find interference or that the Sheriff’s Office’s actions caused Mr. Zicarelli prejudice. In addition, the Sheriff’s Office argues that Mr. Zicarelli would not have been able to return to work within his remaining FMLA leave at the time of his resignation nor did he intend to return to work at the end of an FMLA leave, so “the FMLA does not apply.” Mem. Supp. Defs.’ Renewed Rule 50(b) Motion, Rule 59 Motion, and, in Alt., Mot. Remittitur (“Mem. Supp. Defs.’ Mot.”) 14, ECF No. 867. Mr. Zicarelli filed a post-trial request for equitable relief. ECF No. 868. He seeks four years of pension seniority and associated additional pension benefits on the grounds that the jury’s award is an award of back pay for the 2017-to-2020 period, so the jury necessarily decided that he would have worked for four more years absent the Sheriff’s Office’s interference with his FMLA rights.

¹ The jury verdict also purported to award attorney’s fees, but an award of attorney’s fees is not within the jury’s province to provide or deny.

For the reasons stated in more detail below, the Court concludes that while the evidence at trial was sufficient for a reasonable jury to find that the Sheriff's Office interfered with Mr. Zicarelli's FMLA rights, the evidence was insufficient as a matter of law to establish that the actions of the Sheriff's Office caused Mr. Zicarelli prejudice. Accordingly, the Sheriff's Office's motion for JMOL is granted and, for the same reasons, conditional on reversal or vacatur of the Court's judgment, the Sheriff's Office's motion for a new trial is granted. Mr. Zicarelli's post-trial request for equitable relief is denied.

I. Background²

Mr. Zicarelli worked for the Sheriff's Office for twenty-seven years, leaving in September 2016. In January 2016, the Sheriff's Office approved Mr. Zicarelli for intermittent FMLA leave of up to seven days per month for pain impeding mobility, a shoulder injury, anxiety, and post-traumatic stress disorder ("PTSD"). As the year progressed, Mr. Zicarelli's PTSD worsened (in his words, his PTSD "[g]ot dramatic"). Trial Tr. vol. 1, at 216:3, Mar. 11, 2024, ECF No. 864. In response, his doctor recommended that he undergo an eight-week hospitalization program and take permanent disability. To act on this recommendation, Mr. Zicarelli contacted the Cook County Pension Fund. *See* Trial Tr. vol. 2, at 252:23-253:13, 260:8-16, Mar. 12, 2024, ECF No. 865. The pension fund told him that he would need to extinguish his FMLA leave before he could claim disability benefits. Mr. Zicarelli updated his doctor with this information, and his doctor directed him to "[u]se your FMLA, and you take everything from there." Trial Tr. vol. 1, at 216:17.

In response to his doctor's direction to use his remaining FMLA leave, Mr. Zicarelli called the Sheriff's Office's FMLA coordinator, Ms. Shinnawi. The call took place in the afternoon, sometime after 3 o'clock, within the week before September 20, 2016. *Id.* at 217:21-218:14. Mr. Zicarelli testified that, "[a]ll I said was, 'Salvatore Zicarelli, Badge No. 14229[.] . . . I'm with external operations. I'm seriously ill. My doctor wants me to take the rest of my FMLA. How much do I have left?'" *Id.* at 218:17-20. Ms. Shinnawi responded, "[y]ou used serious amount of time of FMLA. Do not use any more or you will be disciplined." *Id.* at 219:2-3. Mr. Zicarelli testified that the call ended after this exchange; it lasted only two or three minutes.

Mr. Zicarelli resigned from the Sheriff's Office on Tuesday, September 20, 2016. As of his resignation, he had 176 hours of FMLA leave remaining in 2016 (the FMLA provides 480 hours per year, and he had already used 304 hours). *See id.* at 155:12-18, 162:16. To take FMLA leave, employees require approval. As stated above, Mr. Zicarelli had approval for intermittent FMLA leave of seven days per month. To take his remaining four weeks of FMLA leave in a single, continuous period of absence, however, he would have needed to submit a new request supported by certification from his doctor. *See id.* at 142:1-143:17.

Mr. Zicarelli did not fill out an application for continuous FMLA leave. After his phone call with Ms. Shinnawi, he "used a little bit" of intermittent FMLA leave, for which he had existing approval. Trial Tr. vol. 2, 256:5. Mr. Zicarelli's timesheet, admitted into evidence as Joint Exhibit

² For the purposes of the Sheriff's Office' motion, the Court considers the evidence in the light most favorable to Mr. Zicarelli. Where the Court only includes one version of the facts in the background section, the Court includes the version most favorable to Mr. Zicarelli (most significantly, the Court omits Ms. Shinnawi's version of her call with Mr. Zicarelli).

5, indicates that he took FMLA leave from Tuesday, September 6 to Thursday, September 8, 2016 (three consecutive days), and again on Monday, September 19, 2016. *See* ECF No. 31 Ex. 2 at FMLA 00065. On Tuesday, September 20, 2016, Mr. Zicarelli resigned from the Sheriff's Office. Mr. Zicarelli testified that his phone call with Mr. Shinnawi took place the week before his resignation, which means that he took at least one day of FMLA leave between the call and his resignation. He was not disciplined for taking this or any prior FMLA leave.

Mr. Zicarelli attributes his resignation to his phone call with Ms. Shinnawi. He testified that he took "disciplined" to mean "fired." Trial Tr. vol. 1, at 219:4-6. Ms. Shinnawi's "threat" that he would be fired if he took more FMLA leave, as he interpreted her statement, caused him to have a nervous breakdown. *Id.* at 221:1. After his call with Ms. Shinnawi, he "immediately" called his union. *Id.* at 220:14. Union representative Dennis Andrew told him that the union could not assist him until he was fired. As Mr. Zicarelli testified, "I still had FMLA, so I used a little bit before I got fired, or thought I'd get fired." Trial Tr. vol. 2, at 256:5-6. Then, "instead of endangering others' lives and mine" (he does not explain further), "I discharged out." Trial Tr. vol. 1, 221:8-9. But absent Ms. Shinnawi's threat, "I would have continued to take my FMLA." Trial Tr. vol. 2, at 254:8. Per different portions of Mr. Zicarelli's testimony, in the but-for world where he continued to take his FMLA leave, he would have (1) extinguished his FMLA and taken permanent disability; (2) worked until he reached 30 years of service (three more years); or (3) worked until age 60 (seven to eight more years). *Compare* Trial Tr. vol. 2, at 253:13-14 (stating that "I would have extinguished everything else I had and go [sic] on disability") *with id.* at 270:12 (stating that "I intend [sic] to work until I was 60 or 30 years were up").

On April 27, 2017, Mr. Zicarelli filed this action, alleging violations of his rights under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*, the Age Discrimination in Employment Act of 1967, 29 U.S.C. § 621 *et seq.*, the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 *et seq.*, and the FMLA. Compl., ECF No. 1. The action was initially assigned to Judge Ronald A. Guzmán. After discovery, on June 20, 2018, Judge Guzmán granted the Sheriff's Office's motion for summary judgment on all claims. *Zicarelli v. Dart* ("Zicarelli I"), No. 17 C 3179, 2018 WL 3046956, at *2-3 (N.D. Ill. June 20, 2018). On appeal, the Seventh Circuit reversed in part and remanded, concluding that Mr. Zicarelli "presented sufficient evidence to defeat summary judgment on his claim of FMLA interference through alleged discouragement" but affirming otherwise. *Zicarelli v. Dart* ("Zicarelli II"), 35 F.4th 1079, 1081 (7th Cir.), *cert. denied*, 143 S. Ct. 309 (2022).

The action was reassigned to this Court on May 8, 2023, and it proceeded to trial on March 11, 2024. On March 12, 2024, the jury returned a verdict in Mr. Zicarelli's favor on his FMLA claim and awarded damages of \$240,000. ECF No. 856.

II. Discussion

The Court starts with the Sheriff's Office's renewed motion for JMOL under Rule 50(b) and, for the reasons explained below, grants this motion. Under Rule 50(c), if a court grants a renewed motion for JMOL, it must also conditionally rule on any motion for a new trial. Therefore, the Court also considers the Sheriff's Office's motion for a new trial. For the same reasons that the Court grants the Sheriff's Office's Rule 50(b) motion, the Court conditionally orders a new trial if the judgment is later vacated or reversed. Accordingly, without considering whether the jury found

that Mr. Ziccarelli would have worked for four more years had he continued to take his FMLA leave, the Court denies Mr. Ziccarelli's post-trial motion for equitable relief. The Court does not reach the Sheriff's Office's alternative motion for remittitur.

A. Rule 50(b) Motion

Under Rule 50, a court may grant a motion for judgment as a matter of law against a party if “the court finds that a reasonable jury would not have a legally sufficient evidentiary basis to find for the party on [a dispositive] issue” and the party was fully heard on that issue during the trial. Fed. R. Civ. P. 50(a)(1). A party may move for judgment as a matter of law under Rule 50(a) “at any time before the case is submitted to the jury.” Fed. R. Civ. P. 50(a)(2). This “motion must specify the judgment sought and the law and facts that entitle the movant to the judgment.” *Id.* If the court denies the Rule 50(a) motion, “the court is considered to have submitted the action to the jury subject to the court's later deciding the legal questions raised by the motion,” and the movant may file a renewed motion for JMOL after trial. Fed. R. Civ. P. 50(b).

To recover for a violation of FMLA § 2615(a)(1) on an interference theory, a plaintiff must show FMLA interference and prejudice. In its opinion reversing summary judgment against Mr. Ziccarelli, the Seventh Circuit explained Mr. Ziccarelli's burden as follows:

[T]o show an FMLA interference violation under § 2615(a)(1), Ziccarelli must show that: (i) he was eligible for FMLA protections; (ii) the Sheriff's Office was covered by the FMLA; (iii) he was entitled to leave under the FMLA; (iv) he provided sufficient notice of his intent to take leave; and (v) the Sheriff's Office interfered with, restrained, or denied FMLA benefits to which he was entitled. To recover for a violation of § 2615(a)(1), Ziccarelli must also show he was prejudiced by the unlawful actions of the Sheriff's Office.

Ziccarelli II, 35 F.4th at 1089 (internal citations omitted). As to the fifth element of interference above, the Seventh Circuit held that “[i]t is enough that Ziccarelli presents evidence allowing a reasonable jury to conclude that the Sheriff's Office discouraged him from exercising his FMLA rights.” *Id.* at 1090. Prejudice “mean[s] harm resulting from the violation.” *Id.* at 1084. As to these requirements, this Court instructed the jury as follows: “you must determine whether the Sheriff Office's actions would have discouraged a reasonable employee from taking FMLA leave and caused him to be prejudiced. This test uses an objective standard based on how a reasonable employee might react, not Mr. Ziccarelli's subjective feelings.” Trial Tr. vol. 2, 299:20-25.³

³ As the Court will explain in more detail, whether the Sheriff's Office's actions caused Mr. Ziccarelli to be prejudiced is a question of whether Ms. Shinnawi's statements to Mr. Ziccarelli caused him not to take more FMLA leave. The further question of how to calculate damages, if Mr. Ziccarelli proved an FMLA violation and prejudice, is separate. In relation to the damages question, the Seventh Circuit stated that “[w]e do not see how an employee in plaintiff's situation could reasonably just give up and walk away from his job, benefits, and treatment plan entirely based on one conversation in which, under his version of the facts, the employer's representative was simply wrong” and that “[t]he district court may have its hands full on remand, particularly if plaintiff tries to blame snowballing consequences, including even early retirement, on his

The Sheriff's Office has moved for JMOL under Rule 50(b) based on two arguments: First, it argues that no reasonable jury could find that "the Sheriff's Office's actions would have discouraged a reasonable employee from taking FMLA leave *and caused him to be prejudiced*." Mem. Supp. Defs.' Mot. 12. Second, it argues that "because Plaintiff could not return to work within the proscribed time provided by FMLA, nor did he intend to return at the end of an FMLA leave, the FMLA does not apply and this Court should enter judgment in favor of the Sheriff's Office pursuant to Rule 50(b)." *Id.* at 15. The Sheriff's Office does not explicitly link this second argument to any of the elements of Mr. Zicarelli's FMLA claim. The Court interprets it as an argument that Mr. Zicarelli failed to adduce evidence allowing a reasonable jury to find for him on the last element of an FMLA interference violation, based on the Sheriff's Office's reliance on *Knighten v. Advocate Aurora Health, Inc.*, No. 19-CV-07913, 2021 WL 4282601 (N.D. Ill. Sept. 21, 2021), although the Sheriff's Office misapplies *Knighten*.⁴ Therefore, the Court construes the Sheriff's Office's Rule 50(b) motion as arguing that a reasonable jury would not have a legally sufficient evidentiary basis to find for Mr. Zicarelli on the issues of (1) whether the Sheriff's Office interfered with Mr. Zicarelli's FMLA benefits and (2) prejudice.

Mr. Zicarelli opposes the Sheriff's Office's Rule 50(b) motion for JMOL on procedural and substantive grounds. As to procedure, he argues that the Sheriff's Office's preverdict motion for JMOL did not preserve its arguments because the Sheriff's Office did not specify the grounds for the motion. As to substance, he argues that a reasonable jury could return a verdict in his favor if they credited his testimony as opposed to Ms. Shinnawi's testimony.

Therefore, the Court asks the following questions: Did the preverdict motion for JMOL preserve the arguments in the postverdict motion? If so, do those arguments prevail?

conversation with Shinnawi." *Zicarelli*, 35 F.4th at 1090. In opposing application of an objective standard, the plaintiff conceded that it was not objectively reasonable for Mr. Zicarelli to quit based on Ms. Shinnawi's statements during the call. 2/28/24 Pretrial Conf. Tr., at 9:17-20, 10:6-12, 12:8-10, ECF No. 851. This damages issue would be relevant to the Sheriff's Office's motion for remitter, but the Court does not reach that motion, so it does not decide whether damages for early retirement would be compensable had Mr. Zicarelli proved FMLA interference and prejudice (the Court decides that he did not).

⁴ *Knighten* involved a plaintiff who alleged that her employer (the defendant) had failed to reinstate her to her original position after a six-month absence for a stroke. *Id.* at *2. The *Knighten* Court held that the plaintiff had failed to plausibly allege the last element of an FMLA interference violation based on a denial-of-benefits theory because she was "unable to return to work at the end of the 12-week period of FMLA leave, [so her employer] was no longer legally bound to protect her job." *Id.* at *3. Because she advanced a denial-of-benefits theory, she had to show that she was entitled to the relevant benefits (reinstatement to her original position), but she could not make this showing because she was unable to return to work at the end of twelve weeks. Mr. Zicarelli, however, advances a discouragement theory, so he needed to show that his employer discouraged him from taking FMLA leave to which he was entitled (a different showing), and whether he would have been able to return to work after taking that leave is not relevant to this showing (it could be relevant to damages, but that is not the province of Rule 50). Thus, *Knighten* is inapposite.

1. Procedure

A Rule 50(b) motion can only be granted on grounds specifically advanced in a preverdict motion for JMOL: a Rule 50(b) motion is only a renewal of the preverdict motion, and Rule 50(a) requires a preverdict motion for JMOL to “specify the judgment sought and the law and facts that entitle the movant to the judgment.” Fed. R. Civ. P. 50(a)(2); *see also* Fed. R. Civ. P. 50 advisory committee’s note to 2006 amendment. “[T]he purpose of the rule is to allow the responding party an opportunity to cure any defect in its case before it is submitted to the jury.” *Laborers’ Pension Fund v. A & C Env’t, Inc.*, 301 F.3d 768, 777 (7th Cir. 2002). The Seventh Circuit has taken a functional approach towards determining whether a party’s preverdict motion for JMOL preserved its arguments. *See id.* at 778 (holding that a party’s arguments for JMOL had been preserved where “a timely motion for JMOL [had] been made” and “the opposing party and the district court were well aware of the grounds supporting the motion” based on the motions in limine).

In this case, at the close of the plaintiff’s case, prior to the verdict, counsel for the Sheriff’s Office stated, “Judge, before we finish. I want to file a motion for a judgment of a directed finding. Do we do that in front of the jury or at sidebar?,” and the Court replied, “It’s of record now. I’ll take it under advisement.” Trial Tr. vol. 2, 277:17-21. In this exchange, the Sheriff’s Office did not support its motion for JMOL with argument, but the Court alerted Mr. Zicarelli to grounds for a Rule 50 motion against him during the pretrial conference, stating:

I [am skeptical] that Mr. Zicarelli’s damages could include . . . the loss of his job. . . . I don’t expect that there’s going to be testimony that suggests that damages . . . stemming from or arising in connection with or caused by his resignation will be appropriately considered to be direct damages. But I’m going to let the question . . . go to the jury, and we will see what the jury does with it, understanding that the Court then has the option, if I feel that the damage award is unjustified, to entertain a Rule 50 motion or remitter motion with respect to damages.

3/8/24 Pretrial Conf. Tr., at 37:3-16, ECF No. 863; *see also id.* at 39:7-11 (“I’m not making any definitive ruling because we don’t have the fully developed factual record of what this conversation consisted of, which is why I’m leaving open the possibility to a Rule 50 motion with respect to damages.”).

The Court interprets the Sheriff’s Office’s preverdict motion for JMOL as incorporating the grounds discussed at the pretrial conference: that Mr. Zicarelli presented insufficient evidence “with respect to damages,” or more precisely for the purpose of a motion for JMOL (rather than remittitur), prejudice. Prejudice means harm, and damages are the quantification of that harm. Mr. Zicarelli was well aware of this argument for JMOL, which serves the function of Rule 50. The grounds for JMOL discussed at the pretrial conference did not include insufficient evidence of interference, however. The Sheriff’s Office failed to make an argument on these grounds until after the jury’s verdict, which is too late. Accordingly, the only argument for JMOL that the Court considers on the merits is the following: even if the Sheriff’s Office’s actions would have discouraged a reasonable employee from taking FMLA leave, Mr. Zicarelli failed to present sufficient evidence for a reasonable jury to find that these actions caused him prejudice.

2. Substance

To succeed on an FMLA interference claim, Mr. Zicarelli must present evidence of prejudice. The FMLA “provides no relief unless the plaintiff can prove that he was prejudiced by the violation” on which his claim is based. *Franzen v. Ellis Corp.*, 543 F.3d 420, 426 (7th Cir. 2008); *see also Zicarelli II*, 35 F.4th at 1084 (“If a plaintiff shows a violation of § 2615(a)(1), winning relief requires the plaintiff to show ‘prejudice,’ meaning harm resulting from the violation.”). Mr. Zicarelli’s theory is that Ms. Shinnawi’s statements caused him not to take his remaining FMLA leave for 2016. This theory of prejudice is viable, *Zicarelli II*, 35 F.4th at 1090, but evidence must substantiate the theory for the jury’s verdict to stand. Here, the Court asks whether “the evidence as a whole, when combined with all reasonable inferences permissibly drawn from that evidence, is sufficient to allow a reasonable jury to find” that Ms. Shinnawi’s statements caused Mr. Zicarelli prejudice. *Hall v. Forest River, Inc.*, 536 F.3d 615, 619 (7th Cir. 2008). “Although [the Court] must determine that more than a mere scintilla of evidence supports the verdict, [it] do[es] not make credibility determinations or weigh the evidence.” *May v. Chrysler Grp., LLC*, 716 F.3d 963, 971 (7th Cir. 2013) (internal quotation marks and citations omitted).

Based on the record at summary judgment, the Seventh Circuit held that sufficient evidence of prejudice existed to create a jury issue. *Zicarelli II*, 35 F.4th at 1090. “[T]he standard for granting summary judgment ‘mirrors’ the standard for judgment as a matter of law, such that ‘the inquiry under each is the same.’” *Reeves v. Sanderson Plumbing Prod., Inc.*, 530 U.S. 133, 150 (2000) (quoting *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 250-51 (1986)). Therefore, the Sheriff’s Office’s motion for JMOL must fail unless the trial evidence materially differed from the evidence at summary judgment with respect to prejudice.

It did. One important piece of evidence, not recognized at the summary judgment stage, emerged at trial: after his phone call with Ms. Shinnawi, Mr. Zicarelli took more FMLA leave. On the stand, Mr. Zicarelli testified that within the span of about a week, he spoke with Ms. Shinnawi on the phone, took “a little bit” of FMLA leave, then resigned from the Sheriff’s Office. Records admitted into evidence corroborate his testimony: on September 19, 2016, the day before his resignation, his timesheet shows that he took eight hours of FMLA leave. *See* ECF No. 31 Ex 2 at FMLA 00065. In the summary judgment record, his timesheet was included as an exhibit to his deposition. *Id.* The significance of this record was not recognized, however. The Sheriff’s Office quoted Mr. Zicarelli’s deposition testimony that his call with Ms. Shinnawi occurred “close to the time of [resignation],” but neither party made any mention of when Mr. Zicarelli last took FMLA leave. Defs.’ Mem. Supp. Mot. Summ. J. 3, Ex. 1 at ¶ 12, ECF No. 30. The Seventh Circuit’s holding regarding prejudice was predicated on Mr. Zicarelli not having taken his remaining FMLA leave for 2016 after his conversation with Ms. Shinnawi. *See Zicarelli II*, 35 F.4th at 1090 (“Evidence of a link between Shinnawi’s alleged discouragement and Zicarelli’s decision not to take his remaining FMLA leave for 2016 is sufficient to require a trial.”). *See also* 2/28/24 Pretrial Conf. Tr., at 12:14-16 (explaining that the Seventh Circuit vacated the summary judgment ruling on the interference claim because “there was a link between Shinnawi’s alleged discouragement and Zicarelli’s decision not to take FMLA leave for 2016”). This link was severed at trial.

The Court concludes that Mr. Zicarelli presented insufficient evidence of prejudice for a reasonable jury to find for him on this issue. Notwithstanding the threats attributed to Ms.

Shinnawi,⁵ Mr. Zicarelli took FMLA leave after his phone call with Ms. Shinnawi, and he was not disciplined for taking that leave (or any prior leave). This fact negates any reasonable inference that Ms. Shinnawi's statements in her phone call with Mr. Zicarelli caused him not to take FMLA leave. Accordingly, the trial evidence is insufficient to support a jury finding of prejudice, and the Court grants the Sheriff's Office JMOL on this basis.

B. Motion for a New Trial

"If the court grants a renewed motion for [JMOL], it must also conditionally rule on any motion for a new trial by determining whether a new trial should be granted if the judgment is later vacated or reversed." Fed. R. Civ. P. 50(c)(1). The Sheriff's Office moved for a new trial under Rule 59, so the Court conditionally rules on that motion. After a jury trial, a district court may grant a new trial on all or some of the issues "for any reason for which a new trial has heretofore been granted in an action at law in federal court." Fed. R. Civ. P. 59(a)(1)(A). Situations covered by this authorization include the situation where "the verdict was against the [manifest] weight of the evidence. *Mejia v. Cook Cnty., Ill.*, 650 F.3d 631, 633 (7th Cir. 2011). In evaluating a motion for a new trial, as opposed to a motion for JMOL, a court can consider arguments made for the first time after the jury's verdict, and "the district court has the power to . . . assess[] the credibility of the witnesses and the comparative strength of the facts put forth at trial." *Id.* Thus, the Court has the power to grant a new trial based on insufficient evidence of interference or prejudice.

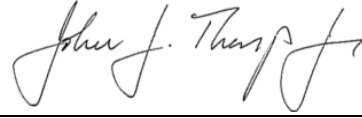
The Court starts with the issue of interference. The Court is bound by the Seventh Circuit's holding that "[t]hreatening to discipline an employee for seeking or using FMLA leave to which he is entitled clearly qualifies as interference with FMLA rights." *Zicarelli II*, 35 F.4th at 1090. Mr. Zicarelli testified that Ms. Shinnawi told him, "[d]o not use any more [FMLA leave] or you will be disciplined," which is materially the same as his testimony at his deposition. Trial Tr. vol. 1, 219:2-3. Ms. Shinnawi provides a different account of her phone call with Mr. Zicarelli, but this is a "he said, she said" situation, and the jury could believe Mr. Zicarelli's account. Therefore, the evidence supports a jury finding that the Sheriff's Office's actions would have discouraged a reasonable employee from taking FMLA leave.

Next, the Court returns to the issue of prejudice. For the same reasons above, the Court finds insufficient evidence of prejudice. An FMLA plaintiff must prove prejudice to prevail, so the Court concludes that the jury's verdict is against the manifest weight of the evidence, and the Court conditionally orders a new trial if the judgment is later vacated or reversed.

* * *

⁵ Again, this ruling assumes that the jury accepted Mr. Zicarelli's version of the phone call with Ms. Shinnawi; the Court is not resolving any credibility questions.

For the reasons stated above, the Sheriff's Office's motion for JMOL is granted, and its motion for a new trial is conditionally granted if the judgment is later vacated or reversed. Mr. Zicarelli's post-trial motion for equitable relief is denied.

A handwritten signature in black ink, reading "John J. Tharp, Jr.", written in a cursive style.

John J. Tharp, Jr.
United States District Judge

Date: August 7, 2024

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

SALVATORE ZICCARELLI,

Plaintiff,

v.

THOMAS J. DART, COOK COUNTY,
and WYLOLA SHINNAWI,

Defendants.

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No. 17 CV 3179

Judge John J. Tharp, Jr.

JUDGMENT ORDER

This action having been decided by Judge John J. Tharp, Jr. on the defendants' motion for judgment as a matter of law, it is hereby ORDERED:

Judgment is hereby entered in favor of the defendants and against plaintiff Salvatore Zicarelli. Defendants are entitled to recover costs.

Dated: August 7, 2024



John J. Tharp, Jr.
United States District Judge

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Zicarelli v. Dart et al
Assigned to: Honorable John J. Tharp, Jr
Demand: \$75,000
Case in other court: 19-02864
19-03435
20-01017

Cause: 42:2000e Job Discrimination (Employment)

Plaintiff

Salvatore Zicarelli

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TERMINATED: 06/24/2022

V.

Defendant

Thomas J. Dart
Sheriff of Cook County, Illinois

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TERMINATED: 07/06/2022

Defendant

Cook County
*a Municipal Corporation and Body
Politie*

represented by **Kathleen Cunniff Ori**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Andrew Joseph Creighton
(See above for address)
TERMINATED: 07/15/2019

Kevin William Frey
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TERMINATED: 01/08/2018

Nazia Hasan
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Nile N. Miller
(See above for address)
TERMINATED: 07/06/2022

Patricia Maria Fallon
(See above for address)
TERMINATED: 07/06/2022

Defendant

Wyola
*FMLA representative and employee of
Thomas J. Dart, Cook County Sheriff*

represented by **Kathleen Cunniff Ori**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Andrew Joseph Creighton
(See above for address)
TERMINATED: 07/15/2019

Nazia Hasan
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ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
04/27/2017	<u>1</u>	COMPLAINT filed by Salvatore Ziccarelli; Jury Demand. Filing fee \$ 400, receipt number 0752-13119855. (Attachments: # <u>1</u> Exhibit EEOC Charge)(Greco, Michael) (Entered: 04/27/2017)
04/27/2017	<u>2</u>	CIVIL Cover Sheet (Greco, Michael) (Entered: 04/27/2017)
04/28/2017		CASE ASSIGNED to the Honorable Ronald A. Guzman. Designated as Magistrate Judge the Honorable Maria Valdez. (rc,) (Entered: 04/28/2017)
05/01/2017	<u>3</u>	MINUTE entry before the Honorable Ronald A. Guzman: The Court orders the parties to appear for an initial status hearing. All parties shall refer to and comply with Judge Guzman's requirements for the initial appearance as outlined in Judge Guzman's case management procedures, which can be found at: www.ilnd.uscourts.gov. Status hearing set for 6/21/2017 at 09:30 AM. Mailed notice (is,) (Entered: 05/01/2017)
05/17/2017	<u>4</u>	ATTORNEY Appearance for Plaintiff Salvatore Ziccarelli by Michael Jeffrey Greco (Greco, Michael) (Entered: 05/17/2017)
05/30/2017	<u>5</u>	DESIGNATION of Andrew Joseph Creighton as U.S. Attorney for Defendants Cook County, Thomas J. Dart (Creighton, Andrew) (Entered: 05/30/2017)
05/30/2017	<u>6</u>	ATTORNEY Appearance for Defendants Cook County, Thomas J. Dart by Patricia Maria Fallon (Fallon, Patricia) (Entered: 05/30/2017)
06/05/2017	<u>7</u>	WAIVER OF SERVICE returned executed by Cook County, Thomas J. Dart. Cook County waiver sent on 5/17/2017, answer due 7/17/2017; Thomas J. Dart waiver sent on 5/17/2017, answer due 7/17/2017. (Creighton, Andrew) (Entered: 06/05/2017)
06/19/2017	<u>8</u>	WITHDRAWING <i>Patricia M. Fallon</i> as counsel for Defendants Cook County, Thomas J. Dart and substituting Kevin William Frey as counsel of record (Frey, Kevin) (Entered: 06/19/2017)
06/19/2017	<u>9</u>	STATUS Report [<i>Joint Initial Status Report</i>] by Salvatore Ziccarelli (Greco, Michael) (Entered: 06/19/2017)
06/21/2017	<u>10</u>	MINUTE entry before the Honorable Ronald A. Guzman: Initial status hearing held on 6/21/2017. Defendants to answer or otherwise plead by 7/21/2017. Amended pleadings and joinder of parties due by 9/19/2017. All fact discovery ordered closed by 1/16/2018. NO EXTENSIONS. Status hearing set for 1/17/2018 at 09:30 AM. Discovery supervision and all discovery motions including protective orders without authority to extend discovery deadlines is being referred to the designated magistrate

		judge. Mailed notice (is,) (Entered: 06/21/2017)
06/21/2017	<u>11</u>	Pursuant to Local Rule 72.1, this case is hereby referred to the calendar of Honorable Maria Valdez for the purpose of holding proceedings related to: discovery supervision and all discovery motions including protective orders without authority to extend discovery deadlines. (is,) Mailed notice. (Entered: 06/21/2017)
06/21/2017	<u>12</u>	MINUTE entry before the Honorable Maria Valdez: Initial status hearing is set before Magistrate Judge Maria Valdez on 6/29/17 at 10:00 a.m., in Courtroom 1041. Parties shall deliver a copy of an initial status report, to Judge Valdezs Courtroom Deputy, Lisa Provine, Room 1036, two business days before the initial status hearing. The parties must follow the format for an Initial Status Report found on the Judge's website available at www.ilnd.uscourts.gov, or the parties can contact courtroom deputy, Lisa Provine, at (312)408-5135 for a copy. If the parties have recently prepared and filed an initial status report, the submission of the previously filed initial status report is sufficient. Mailed notice (lp,) (Entered: 06/21/2017)
06/29/2017	<u>14</u>	MINUTE entry before the Honorable Maria Valdez: Magistrate Judge Status hearing held on 6/29/2017 and continued to 8/31/2017 at 10:00 AM. Mailed notice (lp,) (Entered: 07/05/2017)
07/03/2017	<u>13</u>	ATTORNEY Appearance for Defendant Wyola by Andrew Joseph Creighton (Creighton, Andrew) (Entered: 07/03/2017)
07/21/2017	<u>15</u>	ANSWER to Complaint with Jury Demand by Cook County, Thomas J. Dart, Wyola(Creighton, Andrew) (Entered: 07/21/2017)
07/21/2017	<u>16</u>	NOTICE by All Defendants re answer to complaint <u>15</u> (Creighton, Andrew) (Entered: 07/21/2017)
08/31/2017	<u>17</u>	MINUTE entry before the Honorable Maria Valdez: Magistrate Judge status hearing held on 8/31/17. Plaintiff's counsel was not present for today's hearing. Status hearing is set for 10/12/17 at 10:00 a.m. Mailed notice (lp,) (Entered: 08/31/2017)
10/05/2017	<u>18</u>	MINUTE entry before the Honorable Maria Valdez: The status hearing set for 10/12/17 at 10:00 a.m. before Judge Valdez will be held in Courtroom 1743, instead of Courtroom 1041. Mailed notice (lp,) (Entered: 10/05/2017)
10/12/2017	<u>19</u>	MINUTE entry before the Honorable Maria Valdez: Magistrate Judge status hearing held on 10/12/17 and continued to 11/30/17 at 10:00 a.m. Plaintiff to submit a settlement demand letter to Defendant as soon as possible. Mailed notice (ym,) (Entered: 10/12/2017)
10/17/2017	<u>20</u>	AGREED Qualified Protective Order. Signed by the Honorable Maria Valdez on 10/17/2017: Mailed notice (lp,) (Entered: 10/17/2017)
11/30/2017	<u>21</u>	MINUTE entry before the Honorable Maria Valdez: Magistrate Judge Status hearing held on 11/30/2017 and continued to 1/11/18 at 10:00 a.m. Mailed notice (smm) (Entered: 11/30/2017)
01/08/2018	<u>22</u>	WITHDRAWING <i>Kevin Frey</i> as counsel for Defendants Cook County, Thomas J. Dart and substituting Nile N. Miller as counsel of record (Miller, Nile) (Entered: 01/08/2018)
01/11/2018	<u>23</u>	MINUTE entry before the Honorable Maria Valdez: Magistrate Judge status hearing held on 1/11/18. Parties advise the Court that discovery is complete. All matters relating to the referral of this action having been resolved, the case is returned to the assigned judge. Mailed notice (lp,) (Entered: 01/11/2018)
01/11/2018	<u>24</u>	MINUTE entry before the Honorable Maria Valdez:Minute entry dated 1/11/18, docket entry <u>23</u> is amended as follows: Magistrate Judge status hearing held on 1/11/18. Plaintiff's counsel did not appear for today's hearing. Defendants' counsel advised the Court that discovery is complete. All matters relating to the referral of this action having been resolved, the case is returned to the assigned judge. Mailed notice (lp,) (Entered: 01/11/2018)
01/17/2018	<u>25</u>	MINUTE entry before the Honorable Ronald A. Guzman: Status hearing held on 1/17/2018. Parties report that discovery has been completed. Defendants' motion for summary judgment to be filed on or before 2/21/2018. Response due by 3/21/2018.

		Reply due by 4/4/2018. Ruling to be by mail. Mailed notice (is,) (Entered: 01/17/2018)
02/07/2018	<u>26</u>	MOTION by Defendants Cook County, Thomas J. Dart, Wyola for extension of time <i>file motion for summary judgment</i> (Attachments: # <u>1</u> Exhibit Attestation)(Creighton, Andrew) (Entered: 02/07/2018)
02/07/2018	<u>27</u>	NOTICE of Motion by Andrew Joseph Creighton for presentment of extension of time <u>26</u> before Honorable Ronald A. Guzman on 2/15/2018 at 09:30 AM. (Creighton, Andrew) (Entered: 02/07/2018)
02/07/2018	<u>28</u>	MINUTE entry before the Honorable Ronald A. Guzman: Defendants' agreed motion for extension of time to 3/9/2018 to file motion for summary judgment <u>26</u> is granted. Plaintiff's response due by 4/9/2018. Reply due by 4/23/2018. Motion hearing noticed for 2/15/2018 is stricken and no appearance is required. Mailed notice (is,) (Entered: 02/07/2018)
03/09/2018	<u>29</u>	MOTION by Defendants Cook County, Wyola, Thomas J. Dart for summary judgment (Creighton, Andrew) (Entered: 03/09/2018)
03/09/2018	<u>30</u>	MEMORANDUM (Creighton, Andrew) (Entered: 03/09/2018)
03/09/2018	<u>31</u>	RULE 56 (a)(3) Statement (Attachments: # <u>1</u> Exhibit Exhibit List, # <u>2</u> Exhibit Complaint, # <u>3</u> Exhibit Ziccarelli Deposition, # <u>4</u> Exhibit Shinnawi Deposition)(Creighton, Andrew) (Entered: 03/09/2018)
03/09/2018	<u>32</u>	NOTICE by All Defendants (Creighton, Andrew) (Entered: 03/09/2018)
04/09/2018	<u>33</u>	MOTION by Plaintiff Salvatore Ziccarelli for extension of time to file response/reply as to memorandum in support of motion <u>30</u> , Rule 56 statement <u>31</u> , motion for summary judgment <u>29</u> [Unopposed] (Greco, Michael) (Entered: 04/09/2018)
04/09/2018	<u>34</u>	NOTICE of Motion by Michael Jeffrey Greco for presentment of motion for extension of time to file response/reply <u>33</u> before Honorable Ronald A. Guzman on 4/12/2018 at 09:30 AM. (Greco, Michael) (Entered: 04/09/2018)
04/10/2018	<u>35</u>	MINUTE entry before the Honorable Ronald A. Guzman: Plaintiff's motion for extension of time to file response to Defendants' motion for summary judgment (unopposed) <u>33</u> is granted. Plaintiff's response due by 4/23/2018. Defendants' reply due by 5/7/2018. Motion hearing noticed for 4/12/2018 is stricken and no appearance is required. Mailed notice (is,) (Entered: 04/10/2018)
04/23/2018	<u>36</u>	MOTION by Plaintiff Salvatore Ziccarelli for extension of time to file response/reply to MSJ 2d Ext. – unopposed (Greco, Michael) (Entered: 04/23/2018)
04/24/2018	<u>37</u>	NOTICE of Motion by Michael Jeffrey Greco for presentment of motion for extension of time to file response/reply <u>36</u> , motion for summary judgment <u>29</u> before Honorable Ronald A. Guzman on 5/3/2018 at 09:30 AM. (Greco, Michael) (Entered: 04/24/2018)
04/24/2018	<u>38</u>	MINUTE entry before the Honorable Ronald A. Guzman: Plaintiff's motion for extension of time to file response to Defendants' motion for summary judgment (unopposed) <u>36</u> is granted. Plaintiff's response due by 5/7/2018. Defendants' reply due by 5/21/2018. Motion hearing noticed for 5/3/2018 is stricken and no appearance is necessary. Mailed notice (is,) (Entered: 04/24/2018)
05/07/2018	<u>39</u>	MOTION by Plaintiff Salvatore Ziccarelli for extension of time to file response/reply as to memorandum in support of motion <u>30</u> , Rule 56 statement <u>31</u> , motion for summary judgment <u>29</u> (Greco, Michael) (Entered: 05/07/2018)
05/07/2018	<u>40</u>	NOTICE of Motion by Michael Jeffrey Greco for presentment of motion for extension of time to file response/reply <u>39</u> before Honorable Ronald A. Guzman on 5/17/2018 at 09:30 AM. (Greco, Michael) (Entered: 05/07/2018)
05/08/2018	<u>41</u>	MINUTE entry before the Honorable Ronald A. Guzman: Plaintiff's motion for third extension of time to file response to Defendants' motion for summary judgment <u>39</u> is granted. This is a final extension for the filing of Plaintiff's response brief. Plaintiff's response due by 5/14/2018. Defendants' reply due by 5/29/2018. Motion hearing noticed for 5/17/2018 is stricken and no appearance is necessary. Mailed notice (is,) (Entered: 05/08/2018)

05/14/2018	<u>42</u>	MEMORANDUM by Salvatore Ziccarelli in Opposition to motion for summary judgment <u>29</u> (Attachments: # <u>1</u> Supplement LR 56.1(b)(3)(B) Response to Defendants' Statement of Facts, # <u>2</u> Supplement LR 56.1(b)(3)(C) Counter-Statement of Material Facts, # <u>3</u> Affidavit Affidavit of Plaintiff Salvatore Ziccarelli)(Greco, Michael) (Entered: 05/14/2018)
05/14/2018	<u>43</u>	RULE 56 Local Rule 56.1(b)(3)(B) Statement by Salvatore Ziccarelli regarding motion for summary judgment <u>29</u> <i>Response to Defendants' Statement of Facts</i> (Attachments: # <u>1</u> Supplement LR 56.1(b)(3)(C) Counter-Statement, # <u>2</u> Affidavit Affidavit of Salvatore Ziccarelli)(Greco, Michael) (Entered: 05/14/2018)
05/14/2018	<u>44</u>	RULE 56 Local Rule 56.1(b)(3)(C) Statement by Salvatore Ziccarelli regarding motion for summary judgment <u>29</u> <i>Counter-Statement of Material Facts</i> (Attachments: # <u>1</u> Affidavit Affidavit of Plaintiff Salvatore Ziccarelli)(Greco, Michael) (Entered: 05/14/2018)
05/14/2018	<u>45</u>	AFFIDAVIT by Plaintiff Salvatore Ziccarelli in Opposition to MOTION by Defendants Cook County, Wyola, Thomas J. Dart for summary judgment <u>29</u> (Greco, Michael) (Entered: 05/14/2018)
05/22/2018	<u>46</u>	MOTION by Defendants Cook County, Thomas J. Dart, Wyola for extension of time to file response/reply (Creighton, Andrew) (Entered: 05/22/2018)
05/22/2018	<u>47</u>	NOTICE of Motion by Andrew Joseph Creighton for presentment of motion for extension of time to file response/reply <u>46</u> before Honorable Ronald A. Guzman on 5/24/2018 at 09:30 AM. (Creighton, Andrew) (Entered: 05/22/2018)
05/22/2018	<u>48</u>	MINUTE entry before the Honorable Ronald A. Guzman: Defendants' agreed motion for extension of time to 6/8/2018 to file reply in support of motion for summary judgment <u>46</u> is granted. Motion hearing noticed for 5/24/2018 is stricken and no appearance is required. Mailed notice (is,) (Entered: 05/22/2018)
06/08/2018	<u>49</u>	REPLY by Cook County, Thomas J. Dart, Wyola in support of summary judgment. (Creighton, Andrew) Docket Text Modified by Clerk's Office on 6/11/2018 (jh,). (Entered: 06/08/2018)
06/08/2018	<u>50</u>	DEFENDANTS' Answer to Plaintiff's Local Rule 56 (B)(3) Counter- Statement of Material Facts. (Creighton, Andrew) Docket Text Modified by Clerk's Office on 6/11/2018 (jh,). (Entered: 06/08/2018)
06/08/2018	<u>51</u>	NOTICE by All Defendants (Creighton, Andrew) (Entered: 06/08/2018)
06/20/2018	<u>52</u>	MEMORANDUM Opinion and Order Signed by the Honorable Ronald A. Guzman on 6/20/2018: Defendants' motion for summary judgment <u>29</u> is granted. All other pending motions are denied as moot. Civil case terminated. [For further details see Statement]. Mailed notice (is,) (Entered: 06/20/2018)
06/20/2018	<u>53</u>	ENTERED JUDGMENT on 6/20/2018. Mailed notice(is,) (Entered: 06/20/2018)
07/18/2018	<u>54</u>	MOTION by Plaintiff Salvatore Ziccarelli for reconsideration regarding order on motion for summary judgment,, memorandum opinion and order,, terminated case,, set/clear flags, <u>52</u> , entered judgment <u>53</u> (Greco, Michael) (Entered: 07/18/2018)
07/18/2018	<u>55</u>	NOTICE of Motion by Michael Jeffrey Greco for presentment of motion for reconsideration <u>54</u> before Honorable Ronald A. Guzman on 8/2/2018 at 09:30 AM. (Greco, Michael) (Entered: 07/18/2018)
07/19/2018	<u>56</u>	MINUTE entry before the Honorable Ronald A. Guzman: The briefing schedule as to as to Plaintiff's motion for reconsideration <u>54</u> is as follows: Defendants' response due by 8/9/2018. Reply due by 8/23/2018. The Court will rule electronically. Motion hearing noticed for 8/2/2018 is stricken and no appearance is necessary. Mailed notice (is,) (Entered: 07/19/2018)
07/30/2018	<u>57</u>	MOTION by Defendants Cook County, Thomas J. Dart, Wyola for extension of time to file response/reply (Creighton, Andrew) (Entered: 07/30/2018)
07/30/2018	<u>58</u>	NOTICE of Motion by Andrew Joseph Creighton for presentment of motion for extension of time to file response/reply <u>57</u> before Honorable Ronald A. Guzman on 8/2/2018 at 09:30 AM. (Creighton, Andrew) (Entered: 07/30/2018)

07/31/2018	<u>59</u>	MINUTE entry before the Honorable Ronald A. Guzman: Defendants' agreed motion for extension of time to 8/21/2018 to file their response to plaintiff's motion to reconsider <u>57</u> is granted. Reply due by 9/5/2018. Motion hearing noticed for 8/2/2018 is stricken and no appearance is necessary. Mailed notice (is,) (Entered: 07/31/2018)
08/21/2018	<u>60</u>	RESPONSE by Cook County, Thomas J. Dart, Wyolain Opposition to MOTION by Plaintiff Salvatore Ziccarelli for reconsideration regarding order on motion for summary judgment,, memorandum opinion and order,, terminated case,, set/clear flags, <u>52</u> , entered judgment <u>53</u> <u>54</u> (Creighton, Andrew) (Entered: 08/21/2018)
08/21/2018	<u>61</u>	NOTICE by All Defendants (Creighton, Andrew) (Entered: 08/21/2018)
12/11/2018	<u>62</u>	ORDER Signed by the Honorable Ronald A. Guzman on 12/11/2018: Plaintiff's motion for reconsideration of this Court's June 20, 2018 memorandum opinion and order (Dkt. # 52) granting summary judgment to Defendants <u>54</u> is denied. Motions for reconsideration are intended to give litigants an opportunity to seek to correct manifest errors of law or fact, or to present newly discovered evidence. <i>Bordeon v. Chi. Sch. Reform Bd. of Trs.</i> , 233 F.3d 524, 529 (7th Cir. 2000). Motions to reconsider are not an opportunity for litigants to reargue the merits of their claim. <i>Neal v. Newspaper Holdings, Inc.</i> , 349 F. 3d 363, 368 (7th Cir. 2003). Plaintiff's motion is simply asking the Court to take another look. The Court has done so and finds no manifest errors of law or fact in its June 20, 2018 order. Mailed notice (is,) (Entered: 12/11/2018)
01/10/2019	<u>63</u>	MOTION by Plaintiff Salvatore Ziccarelli for extension of time to file <i>Notice of Appeal under FRAP 4(a)(5)</i> (Greco, Michael) (Entered: 01/10/2019)
01/10/2019	<u>64</u>	NOTICE of Motion by Michael Jeffrey Greco for presentment of motion for extension of time to file <u>63</u> before Honorable Ronald A. Guzman on 1/22/2019 at 09:30 AM. (Greco, Michael) (Entered: 01/10/2019)
01/10/2019	<u>81</u>	NOTICE of appeal by Salvatore Ziccarelli regarding orders <u>80</u> . (kp,) (Entered: 12/12/2019)
01/10/2019	<u>89</u>	NOTICE of appeal by Salvatore Ziccarelli regarding orders <u>62</u> , <u>52</u> , <u>53</u> per USCA order dated 1/3/2020. (mc,) (Entered: 01/03/2020)
01/11/2019	<u>65</u>	MINUTE entry before the Honorable Ronald A. Guzman: Plaintiff's motion for an extension of time to file a notice of appeal <u>63</u> is denied. Plaintiff's counsel states that he has been unable to meet with Plaintiff to "discuss the issues and probable outcomes of appeal, and secure from Plaintiff the funds to file the Notice of Appeal" by the deadline because he has been engaged in the preparation of a motion for a different case. Federal Rule of Appellate Procedure 4(a)(5)(A)(ii) states that a party may obtain an extension of the 30-day deadline to file a notice of appeal in a civil case if the party shows excusable neglect or good cause. "The term 'excusable neglect' as used in Rule 4(a)(5) refers to the missing of a deadline as a result of things such as misrepresentations by judicial officers, lost mail, and plausible misinterpretations of ambiguous rules." <i>McCarty v. Astrue</i> , 528 F.3d 541, 544 (7th Cir. 2008). "In general, the standard of good cause applies in situations where the need for the extension of time to file a notice of appeal is occasioned by something out of the movant's control. <i>Thomas v. McElroy</i> , No. 10 C 424, 2011 WL 5828219, at *2 (S.D. Ill. Nov. 18, 2011) (alterations, internal quotation marks, and citations omitted). The reason provided by Plaintiff's counsel for seeking the extension meets neither of these requirements. Accordingly, the motion is denied. Motion hearing noticed for 1/22/2019 is stricken and no appearance is necessary. Mailed notice (is,) (Entered: 01/11/2019)
06/19/2019	<u>66</u>	MOTION by Plaintiff Salvatore Ziccarelli to alter judgment <i>under Fed. Rule Civ. P. 60(b)(6)</i> (Attachments: # <u>1</u> Affidavit Supplemental Affidavit of Salvatore Ziccarelli, # <u>2</u> Affidavit Affidavit of Salvatore Ziccarelli)(Greco, Michael) (Entered: 06/19/2019)
06/19/2019	<u>67</u>	NOTICE of Motion by Michael Jeffrey Greco for presentment of motion to alter judgment <u>66</u> before Honorable Ronald A. Guzman on 7/23/2019 at 09:30 AM. (Greco, Michael) (Entered: 06/19/2019)
06/24/2019	<u>68</u>	MINUTE entry before the Honorable Ronald A. Guzman: The briefing schedule as to Plaintiff's Fed. Rule Civ.P. 60(b)(6) motion for relief from order of June 20, 2018 granting defendants' motion for summary judgment <u>66</u> is as follows: Defendants' response due by 7/15/2019. No reply to be filed unless directed by the Court. The parties will be notified of the Court's ruling electronically. Motion hearing noticed for

		July 23, 2019 is stricken and no appearance is necessary. Mailed notice (is,) (Entered: 06/24/2019)
07/15/2019	<u>69</u>	WITHDRAWING <i>Andrew J. Creighton</i> as counsel for Defendants Cook County, Thomas J. Dart, Wyola and substituting Kathleen Cunniff Ori as counsel of record (Ori, Kathleen) (Entered: 07/15/2019)
07/15/2019	<u>70</u>	RESPONSE by Cook County, Thomas J. Dartin Opposition to MOTION by Plaintiff Salvatore Ziccarelli to alter judgment <i>under Fed. Rule Civ. P. 60(b)(6)</i> <u>66</u> (Ori, Kathleen) (Entered: 07/15/2019)
07/23/2019	<u>71</u>	NOTICE by Salvatore Ziccarelli re notice of motion <u>67</u> , MOTION by Plaintiff Salvatore Ziccarelli to alter judgment <i>under Fed. Rule Civ. P. 60(b)(6)</i> <u>66</u> <i>WITHDRAWAL of Plaintiff's Fed. Rule Civ. P. 60(b)(6) Motion for Relief from Judgment Filed on June 19, 2019</i> (Greco, Michael) (Entered: 07/23/2019)
07/23/2019	<u>72</u>	Statement by Salvatore Ziccarelli. (nsf,) (Entered: 07/23/2019)
08/22/2019	<u>73</u>	MOTION by Plaintiff Salvatore Ziccarelli for leave to appeal <i>Orders of June 20, 2018 and December 11, 2018 under Listenbee v. City of Milwaukee</i> (Greco, Michael) (Entered: 08/22/2019)
08/26/2019	<u>74</u>	NOTICE of Motion by Michael Jeffrey Greco for presentment of motion for leave to appeal <u>73</u> before Honorable Ronald A. Guzman on 9/3/2019 at 09:30 AM. (Attachments: # <u>1</u> Supplement Motion for Leave to File Notice of Appeal Instant)(Greco, Michael) (Entered: 08/26/2019)
08/26/2019	<u>75</u>	MINUTE entry before the Honorable Ronald A. Guzman: Plaintiff's motion for leave to appeal <u>73</u> is denied. It is the Court of Appeals' role to determine whether it has jurisdiction to hear an appeal. Motion hearing noticed for 9/3/2019 is stricken and no appearance is necessary. Mailed notice (is,) (Entered: 08/26/2019)
09/25/2019	<u>76</u>	NOTICE of appeal by Salvatore Ziccarelli regarding orders <u>65</u> , <u>75</u> , <u>62</u> Filing fee \$ 505. Receipt number: 4624230742. (rp,) (Entered: 09/26/2019)
09/26/2019	<u>77</u>	NOTICE of Appeal Due letter sent to counsel of record regarding notice of appeal <u>76</u> (rp,) (Entered: 09/26/2019)
09/26/2019	<u>78</u>	TRANSMITTED to the 7th Circuit the short record on notice of appeal <u>76</u> . Notified counsel (rp,) (Entered: 09/26/2019)
09/26/2019	<u>79</u>	ACKNOWLEDGMENT of receipt of short record on appeal regarding notice of appeal <u>76</u> ; USCA Case No. 19-2864 (rp,) (Entered: 09/26/2019)
12/12/2019	<u>80</u>	ORDER dated 12/12/2019 from the 7th Circuit regarding notice of appeal <u>76</u> ; Appellate case no. : 19-2864 ; IT IS ORDERED that the present appeal (192864) is DISMISSED because the notice of appeal is untimely. Accordingly, IT IS FURTHER ORDERED that the Clerk of the District Court redocket counsel's motion to extend time to appeal (district court docket entry no. 63) as a notice of appeal with a filing date of January 10, 2019. The Clerk should then promptly send that paper to the Clerk of the Court of Appeals, as required under Fed. R. App. P. 3(d)(1), so that it can be docketed as a new appeal. See Fed. R. App. P. 12(a). (kp,) (Entered: 12/12/2019)
12/12/2019	<u>82</u>	NOTICE of Appeal Due letter sent to counsel of record regarding notice of appeal <u>81</u> . (kp,) (Entered: 12/12/2019)
12/12/2019	<u>83</u>	TRANSMITTED to the 7th Circuit the short record on notice of appeal <u>81</u> . Notified counsel. (kp,) (Entered: 12/12/2019)
12/13/2019	<u>84</u>	ACKNOWLEDGMENT of receipt of short record on appeal regarding notice of appeal <u>81</u> ; USCA Case No. 19-3435 (mc,) (Entered: 12/13/2019)
12/13/2019	<u>85</u>	CIRCUIT Rule 3(b) Fee Notice (mc,) (Entered: 12/13/2019)
12/26/2019	<u>86</u>	SEVENTH CIRCUIT transcript information sheet by Salvatore Ziccarelli. (jh,) (Entered: 12/27/2019)
01/03/2020	<u>87</u>	MANDATE of USCA dated 1/3/2020 regarding notice of appeal <u>76</u> ;USCA No.19-2864 ; No record to be returned. (mc,) (Entered: 01/03/2020)

01/03/2020	<u>88</u>	CERTIFIED copy of order dated 12/12/2019 from the 7th Circuit regarding notice of appeal <u>76</u> ; Appellate case no. : 19-2864 (mc,) (Entered: 01/03/2020)
01/03/2020	<u>90</u>	TRANSMITTED to the 7th Circuit the short record on notice of appeal <u>89</u> . Notified counsel (mc,) (Entered: 01/03/2020)
01/06/2020	<u>91</u>	ACKNOWLEDGMENT of receipt of short record on appeal regarding notice of appeal <u>89</u> ; USCA Case No. 20-1017. (sxb,) (Entered: 01/06/2020)
01/14/2020	<u>92</u>	SEVENTH CIRCUIT transcript information sheet by Salvatore Ziccarelli (mc,) (Entered: 01/14/2020)
02/19/2020	<u>93</u>	USCA ORDER dated 2/19/2020 from the 7th Circuit regarding notice of appeal <u>81</u> , notice of appeal <u>89</u> ; Appellate case no. : 19-3435, 20-1017 :IT IS ORDERED that appeal no. 20-1017 is administratively CLOSED. No appellate filing fees for appeal no. 20-1017 shall be imposed. IT IS FURTHER ORDERED that the February 5, 2020, order to show cause in appeal no. 19-3435 is DISCHARGED. (mc,) (Entered: 02/19/2020)
03/06/2020	<u>94</u>	MINUTE entry before the Honorable Ronald A. Guzman: Plaintiff's motion to alter judgment <u>66</u> is withdrawn per notice <u>71</u> and statement <u>72</u> . Mailed notice (is,) (Entered: 03/06/2020)
03/12/2020	<u>95</u>	MANDATE of USCA dated 3/12/2020 regarding notice of appeal <u>81</u> , notice of appeal <u>89</u> ;USCA No.20-1017 ; No record to be returned. (mc,) (Entered: 03/12/2020)
03/12/2020	<u>96</u>	CERTIFIED copy of order dated 2/19/2020 from the 7th Circuit regarding notice of appeal <u>81</u> , notice of appeal <u>89</u> ; Appellate case no. : 19-3435, 20-1017 : IT IS ORDERED that appeal no. 20-1017 is administratively CLOSED. No appellate filing fees for appeal no. 20-1017 shall be imposed. IT IS FURTHER ORDERED that the February 5, 2020, order to show cause in appeal no. 19-3435 is DISCHARGED. Briefing shall proceed as follows: 1. The brief and required short appendix of the appellant are due by March 4, 2020. 2. The brief of the appellee is due by April 3, 2020. 3. The reply brief of the appellant, if any, is due by April 24, 2020. (mc,) (Entered: 03/12/2020)
08/13/2020	<u>97</u>	ORDER dated 8/13/2020 from the 7th Circuit regarding notice of appeal <u>81</u> ; Appellate case no. 19-3435: Accordingly, IT IS ORDERED that BrianWolfman, GEORGETOWN UNIVERSITY LAW CENTER, 600 New Jersey AvenueN.W., Washington, DC 20001, wolfmanb@georgetown.edu, is appointed to representplaintiff-appellant Salvatore Ziccarelli. Counsel is directed to contact theplaintiff-appellant immediately. IT IS FINALLY ORDERED that the District Court add attorney Brian Wolfman to their CM/ECF database for purposes of accessing District Court documents.(ec,) (Entered: 08/13/2020)
06/23/2022	<u>98</u>	MANDATE of USCA dated 06/23/2022 regarding notice of appeal <u>81</u> ; USCA No.19-3435; No record to be returned. (rc,) (Entered: 06/23/2022)
06/23/2022	<u>99</u>	CERTIFIED COPY OF USCA JUDGMENT dated 06/01/2022 regarding notice of appeal <u>81</u> ; USCA No. 19-3435; The district court's grant of summary judgment on Ziccarelli's FMLA interference claim is REVERSED and the case is REMANDED for further proceedings on that claim consistent with the opinion. The summary judgment for defendants on Ziccarelli's FMLA retaliation claim is AFFIRMED. The above is in accordance with the decision of this court entered on this date. Each party shall bear its own costs on appeal. (rc,) (Entered: 06/23/2022)
06/23/2022	<u>100</u>	CERTIFIED COPY OF OPINION from the USCA for the 7th Circuit; Argued 10/28/2021; Decided 06/01/2022 in USCA case no. 19-3435. (rc,) (Entered: 06/23/2022)
06/23/2022		(Court only) *****Case Reopened. (kp,) (Entered: 05/05/2023)
06/24/2022	<u>101</u>	MINUTE entry before the Honorable Ronald A. Guzman: Status hearing set for 7/6/2022 at 10:30 a.m. The hearing will be via telephone conference. Throughout the telephonic hearing, each speaker will be expected to identify themselves for the record before speaking. Please note that the conference call-in will be used by all cases that are on the court's calendar for the said date, therefore counsel must be in a quiet area while on the line and must have the telephone muted until your case is called.

		Members of the public and media will be able to call in to listen to this hearing. The call-in number is (888) 684-8852 and the access code is 1246152. Counsel of record will receive an email the day before the telephonic hearing with instructions to join the call. Persons granted remote access to proceedings are reminded of the general prohibition against photographing, recording, and rebroadcasting of court proceedings. Violation of these prohibitions may result in sanctions, including removal of court issued media credentials, restricted entry to future hearings, denial of entry to future hearings, or any other sanctions deemed necessary by the Court. Mailed notice. (kp,) (Entered: 06/24/2022)
06/24/2022	<u>102</u>	MOTION by Plaintiff Salvatore Ziccarelli leave to file appearance of attorney Kenneth N. Flaxman and to terminate appearance of original attorney (Flaxman, Kenneth) (Entered: 06/24/2022)
06/24/2022	<u>103</u>	MINUTE entry before the Honorable Ronald A. Guzman: Attorney Kenneth N. Flaxman's motion for leave to file appearance on behalf of Plaintiff and to terminate appearance of original attorney Michael J. Greco <u>102</u> is granted. Mailed notice. (kp,) (Entered: 06/24/2022)
06/24/2022	<u>104</u>	ATTORNEY Appearance for Plaintiff Salvatore Ziccarelli by Kenneth N Flaxman (Flaxman, Kenneth) (Entered: 06/24/2022)
07/06/2022	<u>105</u>	MINUTE entry before the Honorable Ronald A. Guzman: Telephonic status hearing held on 7/6/2022. Oral motion by Defendants to terminate counsel on record Patricia Fallon and Nile Miller is granted. Jury trial set for August 21, 2023 at 9:00 a.m. Final pretrial order and motions in limine shall be filed by July 21, 2023, and responses due by July 28, 2023. Pretrial conference set for August 3, 2023 at 1:00 p.m. The parties shall file a statement within 7 days with an estimated length of the trial. Mailed notice. (kp,) (Entered: 07/06/2022)
10/11/2022	<u>106</u>	MINUTE entry before the Honorable Ronald A. Guzman: The parties are directed to file on October 18, 2022 a joint report on the status of Defendants' petition for a writ of certiorari and any settlement discussions. Mailed notice. (kp,) (Entered: 10/11/2022)
10/17/2022	<u>107</u>	STATUS Report <i>[JOINT]</i> by Salvatore Ziccarelli (Flaxman, Kenneth) (Entered: 10/17/2022)
10/18/2022	<u>108</u>	MINUTE entry before the Honorable Ronald A. Guzman: The Court has reviewed the parties' status report, which indicates that the Supreme Court denied Defendants' petition for a writ of certiorari on October 11, 2022; Plaintiff intends to make a settlement demand by November 8, 2022; and the parties are on track for the scheduled trial date of August 21, 2023. The Court encourages the parties to pursue settlement diligently as the Court will likely be moving trial dates forward as COVID-19 restrictions abate. The Court will keep the parties apprised of any changes in the trial date. The parties shall file a report on the status of settlement discussions on December 9, 2022. Mailed notice (ags) (Entered: 10/18/2022)
12/09/2022	<u>109</u>	STATUS Report <i>[JOINT]</i> by Salvatore Ziccarelli (Flaxman, Kenneth) (Entered: 12/09/2022)
01/05/2023	<u>110</u>	MINUTE entry before the Honorable Ronald A. Guzman: The parties shall file a report on the status of settlement discussions on January 13, 2023. Mailed notice. (kp,) (Entered: 01/05/2023)
01/13/2023	<u>111</u>	STATUS Report by Salvatore Ziccarelli (Flaxman, Kenneth) (Entered: 01/13/2023)
01/17/2023	<u>112</u>	MINUTE entry before the Honorable Ronald A. Guzman: The parties are directed to file a status report on settlement discussions no later than January 24, 2023. Mailed notice. (kp,) (Entered: 01/17/2023)
01/25/2023	<u>113</u>	STATUS Report by Salvatore Ziccarelli (Flaxman, Kenneth) (Entered: 01/25/2023)
01/26/2023	<u>114</u>	MINUTE entry before the Honorable Ronald A. Guzman: Status report on settlement shall be filed February 2, 2023. The report shall contain a substantive statement regarding where the parties stand on settlement. In anticipation of the possibility of the trial date being moved forward as noted in the Court's order of 10/18/22, the Court strikes the July 21, 2023 date for the filing of the pretrial order and motions in limine. The pretrial order and motions in limine are due March 31, 2023, and any responses

		are due April 7, 2023. Mailed notice. (kp,) (Entered: 01/26/2023)
01/27/2023	<u>115</u>	ATTORNEY Appearance for Plaintiff Salvatore Ziccarelli by Joel A. Flaxman (Flaxman, Joel) (Entered: 01/27/2023)
02/02/2023	<u>116</u>	STATUS Report by Salvatore Ziccarelli (Flaxman, Kenneth) (Entered: 02/02/2023)
02/03/2023	<u>117</u>	MINUTE entry before the Honorable Ronald A. Guzman: The parties are directed to file a report on the status of settlement on March 3, 2023. If at any time the parties desire a referral to the magistrate judge for settlement discussions, they shall file a motion. Mailed notice. (kp,) (Entered: 02/03/2023)
03/03/2023	<u>118</u>	STATUS Report <i>[JOINT]</i> by Salvatore Ziccarelli (Flaxman, Kenneth) (Entered: 03/03/2023)
03/06/2023	<u>119</u>	MINUTE entry before the Honorable Ronald A. Guzman: The parties are directed to file a detailed report on the status of settlement on March 20, 2023. Mailed notice. (kp,) (Entered: 03/06/2023)
03/17/2023	<u>120</u>	STATUS Report <i>[JOINT]</i> by Salvatore Ziccarelli (Flaxman, Kenneth) (Entered: 03/17/2023)
03/21/2023	<u>121</u>	ATTORNEY Appearance for Defendants Cook County, Thomas J. Dart, Wyola by Nazia J. Hasan (Hasan, Nazia) (Entered: 03/21/2023)
03/21/2023	<u>122</u>	MOTION by Plaintiff Salvatore Ziccarelli to authorize additional discovery and to extend time to file pre-trial order (Flaxman, Kenneth) (Entered: 03/21/2023)
03/27/2023	<u>123</u>	MINUTE entry before the Honorable Ronald A. Guzman: This case is before the Court on remand from the Seventh Circuit. On July 6, 2022, the Court set an August 21, 2023 trial date. Before the Court is Plaintiff's motion <u>122</u> to conduct expert discovery for 90 days or, in the alternative, to extend the pretrial-order filing date, which is granted in part and denied in part. Ten days before the pretrial order is due, Plaintiff moves for the first time to conduct discovery on damages, stating that "[a] fair presentation of plaintiff's case on damages will be aided by expert testimony from a forensic economist," and he "also intends to call one or more of his treating psychiatrists. Defendants did not depose the psychiatrist who was treating plaintiff when he left employment with the Sheriff... [and] [b]ecause discovery has closed, plaintiff has not disclosed the psychiatrists with whom he has treated in the interim." In the alternative, Plaintiff asks for an additional 30 days to file the pretrial order. Defendants object to both requests. The Court denies Plaintiff's request, for the first time, to conduct expert discovery at this late date, over 9 months after the trial date was set. Plaintiff's request for an extension on the filing of the pretrial order is granted. The pretrial order and motions in limine are due April 28, 2023. Mailed notice. (kp,) (Entered: 03/27/2023)
03/30/2023	<u>124</u>	TRANSCRIPT OF PROCEEDINGS held on 1/17/18 before the Honorable Ronald A. Guzman. Order Number: 45499. Court Reporter Contact Information: Joseph Rickhoff, 312-435-5562, joseph_rickhoff@ilnd.uscourts.gov. IMPORTANT: The transcript may be viewed at the court's public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through the Court Reporter/Transcriber or PACER. For further information on the redaction process, see the Court's web site at www.ilnd.uscourts.gov under Quick Links select Policy Regarding the Availability of Transcripts of Court Proceedings. Redaction Request due 4/20/2023. Redacted Transcript Deadline set for 5/1/2023. Release of Transcript Restriction set for 6/28/2023. (Rickhoff, Joseph) (Entered: 03/30/2023)
04/26/2023	<u>125</u>	MOTION by Plaintiff Salvatore Ziccarelli for extension of time to file <i>pre-trial order [JOINT]</i> (Flaxman, Kenneth) (Entered: 04/26/2023)
04/27/2023	<u>126</u>	MINUTE entry before the Honorable Ronald A. Guzman: The parties' joint motion to extend the filing date for the pretrial order to May 12, 2023 <u>125</u> is granted. Mailed notice. (kp,) (Entered: 04/27/2023)

05/08/2023	<u>127</u>	EXECUTIVE COMMITTEE ORDER: It appearing that 17 CV 3179, Ziccarelli v. Dart, is currently assigned to the Hon. Ronald A. Guzman. Judge Guzman has requested that 17 CV 3179, Ziccarelli v. Dart, be reassigned to the Hon. John J. Tharp Jr. pursuant to 28 USC §294(b); therefore IT IS HEREBY ORDERED THAT the Clerk of Court shall reassign 17 CV 3179, Ziccarelli v. Dart, to Judge Tharp. Case reassigned to the Honorable John J. Tharp, Jr for all further proceedings. Honorable Ronald A. Guzman no longer assigned to the case. Signed by Executive Committee on 5/8/2023. (jk2,) (Entered: 05/08/2023)
05/09/2023	<u>128</u>	MINUTE entry before the Honorable John J. Tharp, Jr:The trial set for 08/21/2023 before Judge Guzman, and the parties' deadline to file a pretrial order and motions in limine, are stricken. By 05/24/2023, the parties shall file a joint reassignment status report in accordance with the case procedures listed on Judge Tharp's web page. A status hearing and scheduling conference is set for 05/31/2023 at 9:30 a.m. For instructions regarding participation in, or access to, the telephone hearing, see the standing order on telephone hearings on Judge Tharp's web page (https://www.ilnd.uscourts.gov/judge-info.aspx?79eF+7uiX7ewBj/ITKrjoA==). Mailed notice (air,) (Entered: 05/09/2023)
05/23/2023	<u>129</u>	STATUS Report <i>Joint Reassignment Status Report</i> by Cook County, Thomas J. Dart, Wyola (Hasan, Nazia) (Entered: 05/23/2023)
05/24/2023	<u>130</u>	MOTION by Plaintiff Salvatore Ziccarelli for extension of time to complete discovery (Flaxman, Kenneth) (Entered: 05/24/2023)
05/25/2023	<u>131</u>	MINUTE entry before the Honorable John J. Tharp, Jr: The Court has received the defendant's motion for an extension of time to complete discovery <u>130</u> . The parties should be prepared to discuss the motion during the hearing scheduled for 5/31/2023. Mailed notice (air,) (Entered: 05/25/2023)
05/31/2023	<u>132</u>	MINUTE entry before the Honorable John J. Tharp, Jr:Status hearing held and continued to 7/12/23 at 9:00 a.m. as an in-person hearing in Courtroom 2303. Written response to Defendant's motion to reopen discovery <u>130</u> is due by 6/14/23; reply is due by 6/28/23. Counsel should review their calendars for early 2024 trial dates to discuss at the next hearing. Mailed notice (air,) (Entered: 05/31/2023)
06/14/2023	<u>133</u>	RESPONSE by Cook County, Thomas J. Dart, Wyolain Opposition to MOTION by Plaintiff Salvatore Ziccarelli for extension of time to complete discovery <u>130</u> (Hasan, Nazia) (Entered: 06/14/2023)
06/28/2023	<u>134</u>	REPLY by Plaintiff Salvatore Ziccarelli to response in opposition to motion <u>133</u> (Flaxman, Kenneth) (Entered: 06/28/2023)
07/12/2023	<u>135</u>	MINUTE entry before the Honorable John J. Tharp, Jr:Motion hearing held. For reasons stated on the record, Defendant's motion to reopen discovery <u>130</u> , is granted. Parties have until 11/17/23 to conduct any additional discovery regarding damages. [FIRM DEADLINE]. Parties agree to a trial date of 1/16/24. An in-person pretrial conference is set on 1/8/24 at 2:00 p.m. Preliminary pretrial order (see the Court's website for required form and content) due 12/8/23.Responses and objections to the preliminary pretrial order, motions in limine, and proposed voir dire to be submitted by 12/15/23. Mailed notice (air,) (Entered: 07/12/2023)
09/27/2023	<u>136</u>	MOTION by Plaintiff Salvatore Ziccarelli for protective order [AGREED] (Flaxman, Kenneth) (Entered: 09/27/2023)
09/28/2023	<u>837</u>	MINUTE entry before the Honorable John J. Tharp, Jr.: The plaintiff's uncontested motion for a qualified protective order <u>136</u> is granted. Enter Order. Mailed notice (air,) Modified on 9/29/2023 (air,). (Entered: 09/29/2023)
09/28/2023	<u>838</u>	QUALIFIED Protective Order Signed by the Honorable John J. Tharp, Jr on 9/28/2023. Mailed notice(air,) (Entered: 09/29/2023)

12/07/2023	<u>839</u>	MINUTE entry before the Honorable John J. Tharp, Jr:Due to an internal scheduling conflict, the in-person pretrial conference is rescheduled to 01/05/2024 at 2:00 p.m. in Courtroom 2303. Mailed notice (air,) (Entered: 12/07/2023)
12/08/2023	<u>840</u>	MOTION by Defendants Cook County, Thomas J. Dart, Wyolain limine (Attachments: # <u>1</u> Exhibit Exhibit A)(Ori, Kathleen) (Entered: 12/08/2023)
12/08/2023	<u>841</u>	PROPOSED Pretrial Order (Attachments: # <u>1</u> Exhibit A List of Exhibits, # <u>2</u> Exhibit B Proposed Voir Dire, # <u>3</u> Exhibit C Jury Instructions)(Flaxman, Kenneth) (Entered: 12/08/2023)
12/08/2023	<u>842</u>	AMENDED proposed pretrial order <u>841</u> <i>[limited to attachment 1, list of exhibits]</i> (Flaxman, Kenneth) (Entered: 12/08/2023)
12/08/2023	<u>843</u>	MOTION by Plaintiff Salvatore Ziccarelli in limine (Flaxman, Kenneth) (Entered: 12/08/2023)
12/15/2023	<u>844</u>	RESPONSE by Defendants Cook County, Thomas J. Dart, Wyola to motion in limine <u>843</u> (Ori, Kathleen) (Entered: 12/15/2023)
12/15/2023	<u>845</u>	RESPONSE by Plaintiff Salvatore Ziccarelli to motion in limine <u>840</u> (Attachments: # <u>1</u> Exhibit Revised Instructions, # <u>2</u> Exhibit Collective-Bargaining Agreement, # <u>3</u> Errata 2015 FMLA Application)(Flaxman, Kenneth) (Entered: 12/15/2023)
12/20/2023	<u>846</u>	MINUTE entry before the Honorable John J. Tharp, Jr:Due to scheduling conflicts, the trial date of 1/16/24 is stricken. The pretrial conference scheduled for 2:00 p.m. on 1/5/24 is converted to an in-person status hearing, at which a new trial date will be set. Mailed notice (air,) (Entered: 12/20/2023)
12/21/2023	<u>847</u>	MINUTE entry before the Honorable John J. Tharp, Jr:The status hearing on January 5, 2024 will be held at 3:00 pm. [TIME CHANGE ONLY]. Mailed notice (air,) (Entered: 12/21/2023)
12/28/2023	<u>848</u>	ANNUAL REMINDER: Pursuant to <u>Local Rule 3.2 (Notification of Affiliates)</u> , <u>any nongovernmental party, other than an individual or sole proprietorship, must file a statement identifying all its affiliates known to the party after diligent review or, if the party has identified no affiliates, then a statement reflecting that fact must be filed. An affiliate is defined as follows: any entity or individual owning, directly or indirectly (through ownership of one or more other entities), 5% or more of a party. The statement is to be electronically filed as a PDF in conjunction with entering the affiliates in CM/ECF as prompted. As a reminder to counsel, parties must supplement their statements of affiliates within thirty (30) days of any change in the information previously reported. This minute order is being issued to all counsel of record to remind counsel of their obligation to provide updated information as to additional affiliates if such updating is necessary. If counsel has any questions regarding this process, this LINK will provide additional information. Signed by the Executive Committee on 12/28/2023: Mailed notice. (tg,) (Entered: 12/28/2023)</u>
01/05/2024	<u>849</u>	MINUTE entry before the Honorable John J. Tharp, Jr: Hearing held. Trial is reset for 3/11/24. Pretrial conference set on 2/28/24 at 2:00 p.m. in courtroom 2303. Mailed notice (air,) (Entered: 01/05/2024)
02/28/2024	<u>850</u>	MINUTE entry before the Honorable John J. Tharp, Jr:Pretrial conference held and continued to 3/8/24 at 10:00 a.m. Rulings on motions in limine are entered as stated on the record. Without objection, Wylola Shinnawi is dismissed with prejudice. Mailed notice (air,) (Entered: 02/29/2024)
03/07/2024	<u>851</u>	TRANSCRIPT OF PROCEEDINGS held on February 28, 2024 before the Honorable John J. Tharp, Jr. Pretrial Conference. Order Number: 48158. Court Reporter Contact Information: Kelly M. Fitzgerald, kmftranscripts@gmail.com, 312-818-6626. IMPORTANT: The transcript may be viewed at the court's public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through the Court Reporter/Transcriber or PACER. For further information on the redaction process, see the Court's web site at www.ilnd.uscourts.gov under Quick Links select Policy

		Regarding the Availability of Transcripts of Court Proceedings. Redaction Request due 3/28/2024. Redacted Transcript Deadline set for 4/8/2024. Release of Transcript Restriction set for 6/5/2024. (Fitzgerald, Kelly) (Entered: 03/07/2024)
03/08/2024	<u>852</u>	MINUTE entry before the Honorable John J. Tharp, Jr:Pretrial conference held. Trial to commence 3/11/24 at 9:00 a.m. Mailed notice (air,) (Entered: 03/08/2024)
03/11/2024	<u>853</u>	MINUTE entry before the Honorable John J. Tharp, Jr:Jury trial begun and continued to 3/12/24 at 9:00 a.m. Mailed notice (air,) (Entered: 03/12/2024)
03/12/2024	<u>854</u>	MINUTE entry before the Honorable John J. Tharp, Jr: Jury trial held. Jury begins deliberations. The jury unanimously finds that Mr. Ziccarelli has proven his FMLA claim by a preponderance of the evidence; value of damages in the amount of \$240,000 + attorney fees. Trial concluded. Enter Judgment. Post trial motions due by April 9, 2024. Mailed notice (air,) (Entered: 03/12/2024)
03/12/2024	<u>855</u>	JUDGMENT Order Signed by the Honorable John J. Tharp, Jr on 3/12/2024. Mailed notice(air,) (Entered: 03/12/2024)
03/12/2024	<u>856</u>	JURY Verdict entered in favor of Plaintiff and against Defendant. (Mailed Notice) (RESTRICTED) (jh,) (Entered: 03/14/2024)
03/12/2024	<u>857</u>	JURY Note. (jh,) (Entered: 03/14/2024)
03/12/2024	<u>858</u>	JURY Notes. (jh,) (Entered: 03/14/2024)
03/12/2024	<u>859</u>	JURY Notes. (jh,) (Entered: 03/14/2024)
03/12/2024	<u>860</u>	Entered in Error. (rc,) Modified on 3/15/2024 (rc,). (Entered: 03/14/2024)
03/12/2024	<u>861</u>	Entered in Error. (rc,) Modified on 3/15/2024 (rc,). (Entered: 03/14/2024)
03/15/2024	<u>862</u>	NOTICE of Correction regarding jury notes <u>860</u> , jury notes <u>861</u> . (rc,) (Entered: 03/15/2024)
03/29/2024	<u>863</u>	TRANSCRIPT OF PROCEEDINGS held on March 8, 2024 before the Honorable John J. Tharp, Jr. Pretrial Conference. Order Number: 48309. Court Reporter Contact Information: Kelly M. Fitzgerald, kmftranscripts@gmail.com, 312-818-6626. IMPORTANT: The transcript may be viewed at the court's public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through the Court Reporter/Transcriber or PACER. For further information on the redaction process, see the Court's web site at www.ilnd.uscourts.gov under Quick Links select Policy Regarding the Availability of Transcripts of Court Proceedings. Redaction Request due 4/19/2024. Redacted Transcript Deadline set for 4/29/2024. Release of Transcript Restriction set for 6/27/2024. (Fitzgerald, Kelly) (Entered: 03/29/2024)
03/29/2024	<u>864</u>	TRANSCRIPT OF PROCEEDINGS held on March 11, 2024 before the Honorable John J. Tharp, Jr. Jury Trial, Volume 1. Order Number: 48309. Court Reporter Contact Information: Kelly M. Fitzgerald, kmftranscripts@gmail.com, 312-818-6626. IMPORTANT: The transcript may be viewed at the court's public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through the Court Reporter/Transcriber or PACER. For further information on the redaction process, see the Court's web site at www.ilnd.uscourts.gov under Quick Links select Policy Regarding the Availability of Transcripts of Court Proceedings. Redaction Request due 4/19/2024. Redacted Transcript Deadline set for 4/29/2024. Release of Transcript Restriction set for 6/27/2024. (Fitzgerald, Kelly) (Entered: 03/29/2024)

03/29/2024	<u>865</u>	TRANSCRIPT OF PROCEEDINGS held on March 12, 2024 before the Honorable John J. Tharp, Jr. Jury Trial, Volume 2. Order Number: 48309. Court Reporter Contact Information: Kelly M. Fitzgerald, kmftranscripts@gmail.com, 312-818-6626. IMPORTANT: The transcript may be viewed at the court's public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through the Court Reporter/Transcriber or PACER. For further information on the redaction process, see the Court's web site at www.ilnd.uscourts.gov under Quick Links select Policy Regarding the Availability of Transcripts of Court Proceedings. Redaction Request due 4/19/2024. Redacted Transcript Deadline set for 4/29/2024. Release of Transcript Restriction set for 6/27/2024. (Fitzgerald, Kelly) (Entered: 03/29/2024)
04/09/2024	<u>866</u>	MOTION by Defendants Cook County, Thomas J. Dart, Wyola for judgment not withstanding the verdict <i>Renewed Rule 50(b) Motion, Rule 59 Motion, and, in the alternative, Motion for Remittitur</i> (Hasan, Nazia) (Entered: 04/09/2024)
04/09/2024	<u>867</u>	MEMORANDUM by Cook County, Thomas J. Dart, Wyola in support of motion for judgment not withstanding the verdict <u>866</u> <i>Renewed Rule 50(b) Motion, Rule 59 Motion, and, in the alternative, Motion for Remittitur</i> (Hasan, Nazia) (Entered: 04/09/2024)
04/09/2024	<u>868</u>	MOTION by Plaintiff Salvatore Ziccarelli for equitable relief (Flaxman, Kenneth) (Entered: 04/09/2024)
04/10/2024	<u>869</u>	MINUTE entry before the Honorable John J. Tharp, Jr: The defendants' motion to dismiss <u>866</u> is taken under advisement. The plaintiff's response is due by 5/8/24; the defendants' reply is due by 5/22/24. The plaintiff's post-trial request for equitable relief <u>868</u> is also taken under advisement. The defendants' response is due by 5/8/24; the plaintiff's reply is due by 5/22/24. Mailed notice (air,) (Entered: 04/10/2024)
05/07/2024	<u>870</u>	RESPONSE by Cook County, Thomas J. Dart in Opposition to MOTION by Plaintiff Salvatore Ziccarelli for equitable relief <u>868</u> (Ori, Kathleen) (Entered: 05/07/2024)
05/08/2024	<u>871</u>	MEMORANDUM by Salvatore Ziccarelli in Opposition to motion for judgment not withstanding the verdict <u>866</u> (Flaxman, Kenneth) (Entered: 05/08/2024)
05/08/2024	<u>872</u>	RESPONSE by Salvatore Ziccarelli in Opposition to MOTION by Defendants Cook County, Thomas J. Dart, Wyola for judgment not withstanding the verdict <i>Renewed Rule 50(b) Motion, Rule 59 Motion, and, in the alternative, Motion for Remittitur</i> <u>866</u> EXHIBITS TO ECF No. 871 (Flaxman, Kenneth) (Entered: 05/08/2024)
05/22/2024	<u>873</u>	REPLY by Cook County, Thomas J. Dart, Wyola to memorandum in opposition to motion <u>871</u> and in support of renewed Rule 50(b) motion, Rule 59 motion, and in the alternative motion for remittitur (Hasan, Nazia) (Entered: 05/22/2024)
05/22/2024	<u>874</u>	REPLY by Plaintiff Salvatore Ziccarelli to response in opposition to motion <u>870</u> for equitable relief (Flaxman, Kenneth) (Entered: 05/22/2024)
08/07/2024	<u>875</u>	ORDER Signed by the Honorable John J. Tharp, Jr on 8/7/2024: For the reasons stated below, the defendants' motion for judgment as a matter of law <u>866</u> is granted. If the judgment is later vacated or reversed, the defendants' motion for a new trial is granted. The plaintiff's post-trial request for equitable relief <u>868</u> is denied. (For further details see order) Mailed notice (air,) (Entered: 08/07/2024)
08/07/2024	<u>876</u>	JUDGMENT Order Signed by the Honorable John J. Tharp, Jr on 8/7/2024. Mailed notice (air,) (Entered: 08/07/2024)
08/07/2024	<u>877</u>	NOTICE of appeal by Salvatore Ziccarelli regarding orders <u>876</u> , <u>875</u> Filing fee \$ 605, receipt number AILNDC-22335901. Receipt number: n (Flaxman, Kenneth) (Entered: 08/07/2024)

		08/07/2024)
08/08/2024	<u>878</u>	NOTICE of Appeal Due letter sent to counsel of record regarding notice of appeal <u>877</u> . (rc,) (Entered: 08/08/2024)
08/08/2024	<u>879</u>	TRANSMITTED to the 7th Circuit the short record on notice of appeal <u>877</u> . Notified counsel. (rc,) (Entered: 08/08/2024)