2026 IL App (1st) 251380-U
No. 1-25-1380
Order filed November 25, 2026

NOTICE: This order was filed under Illinois Supreme Court Rule 23(b) and is not precedential except in the limited circumstances allowed under Rule 23(e)(1).

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

THIRD DIVISION

SANTA'S VILLAGE, LLC d/b/a Santa's Village Enterprises, Plaintiff-Appellee,

v.

NOAH PROPERTIES, LLC, Defendant-Appellant.

Appeal from the Circuit Court of Cook County.
Honorable Loveleen K. Ahuja, Judge, Presiding.
No. 23 M1 110024

JUSTICE LAMPKIN delivered the judgment of the court.
Justices Rochford and Rice concurred in the judgment.

ORDER

¶ 1 *Held*: In litigation alleging the defendant property owner breached the contracts by failing to pay for the plaintiff's snow removal services, defendant waived review of the trial court's denial of defendant's motion for a directed finding by presenting evidence in defendant's case-in-chief. Further, the trial court did not abuse its discretion by permitting plaintiff's witness to testify. And the trial court's judgment and damages award in favor of plaintiff were not against the manifest weight of the evidence.

¶ 2 Plaintiff Santa's Village, LLC, doing business as Santa's Village Enterprises (Santa's Village) sued defendant Noah Properties, LLC (Noah Properties) for breach of contract, alleging Noah Properties failed to pay for Santa's Village's snow and ice removal services. After a bench trial, the court ruled in favor of Santa's Village and awarded it damages, fees, and court costs.

¶ 3 On appeal, Noah Properties argues that the trial court's (1) denial of a directed finding for Noah Properties was erroneous where Santa's Village failed to present evidence that it performed under the contracts, (2) decision to permit a Santa's Village's witness to testify was an abuse of discretion based on Santa's Village's failure to disclose the subject matter and opinions of that witness's testimony, and (3) judgment and damages award in favor of Santa's Village was against the manifest weight of the evidence.

¶ 4 For the reasons that follow, we affirm the judgment of the trial court.[1]

¶ 5 I. BACKGROUND

¶ 6 Plaintiff Santa's Village operated an amusement and water park and, in the off-season, provided snow and ice removal services to clients. In October 2022, defendant Noah Properties entered into six snow and ice management contracts with Santa's Village for six properties owned by Noah Properties. Under the contracts, Santa's Village agreed to provide snow and ice removal services at the six properties in a "workmanlike manner consistent with customary industry practices." The contracts provided Santa's Village would provide the services automatically on the occasion of sufficient precipitation without the need for any request from Noah Properties. Specifically, Santa's Village would perform plowing, shoveling, and chemical treatment periodically throughout the facilities' operating hours if Santa's Village deemed it necessary to maintain safe aisles, entrances, exits, parking spaces, loading docks, etc. for employees' and customers' ingress and egress from the facility. Further, Noah Properties agreed to pay Santa's Village in accordance with the quoted and selected rates listed in the contracts.

[1]In adherence with the requirements of Illinois Supreme Court Rule 352(a) (eff. July 1, 2018), this appeal has been resolved without oral argument upon entry of a separate written order.

¶ 7 In May 2023, Santa's Village sued Noah Properties for breach of contract, alleging Noah Properties failed to pay for all the snow and ice removal services Santa's Village provided at the six properties.

¶ 8 Noah Properties sent interrogatories and requests for production to Santa's Village, which included interrogatory No. 18, which asked Santa's Village, pursuant to "Illinois Supreme Court Rule 213(g), [to] provide the name and address of each opinion witness who will offer any testimony." Interrogatory No. 18 also asked Santa's Village to state, "the subject matter on which the opinion witness is expected to testify"; the "conclusions and/or opinions of the opinion witness and the basis therefore, including reports of the witness, if any"; the "qualifications of each opinion witness, including a curriculum vitae and/or resume"; and the "identity of any written reports of the opinion witness regarding this occurrence."

¶ 9 In its August 2024 answer to interrogatory No. 18, Santa's Village stated it did not intend to call expert witnesses but reserved the right to seasonably supplement. Santa's Village added it intended "to call Jason Sierpien, Manuel Ocampo and Bryan Kopeck, as lay witnesses, all of whom can be contacted [through Santa's Village's counsel]." Elsewhere in its answer to the interrogatories, Santa's Village identified Sierpien as the president of Santa's Village.

¶ 10 The circuit court held a bench trial in June 2025. Before the bench trial started, Noah Properties, in an oral motion, moved *in limine* to bar Santa's Village's witnesses pursuant to Illinois Supreme Court Rule 213(f) (eff. Jan. 1, 2018), arguing Santa's Village failed to disclose the subject matter of their testimony, Rule 213 compliance was mandatory, and Santa's Village bore the burden of disclosure.

¶ 11 Santa's Village responded that it disclosed its witnesses; Noah Properties failed to seek additional discovery after new defense counsel filed an appearance; and Sierpien was the president

of Santa's Village, had worked 32 years in the snow removal business, and would testify to his experience in the industry and the unpaid services Santa's Village performed for Noah Properties.

¶ 12 The trial court reserved ruling on the motion, stating the court would address objections as testimony was presented and Noah Properties could raise its objections during trial if it believed any unwarranted expert opinion was elicited.

¶ 13 During its case-in-chief, Santa's Village called, as an adverse witness, Malgorzata Poplawski, who was Noah Properties' director of property management. She testified about her job duties, the terms of the parties' contracts, Santa's Village's invoices, and her phone conversations or e-mails with Sierpien or his staff.

¶ 14 Santa's Village presented for admission into evidence, *inter alia*, the invoices it sent to Noah Properties for services provided under the six contracts from December 16, 2022, to February 22, 2023. The invoices indicated the date and type of services provided, partial payments made, and the balance due. Though the parties stipulated to the admission of the invoices, Noah Properties did not stipulate to the service descriptions contained in the invoices because the parties disputed what work was done.

¶ 15 Santa's Village also presented testimony from Sierpien, who testified that Santa's Village timely and professionally performed snow and ice removal services for its clients. He testified about the contract terms with Noah Properties; the use of the latest equipment technology for all clients; the use of WeatherWorks snow reports in determining when service was necessary; his staff and their job duties; the positive feedback from Noah Properties' employees regarding Santa's Village's services; the lack of any correspondence from Noah Properties complaining about the services provided; the invoices, which were sent to Noah Properties within 24 hours of providing snow and ice removal services; payments Noah Properties made without any mention of a dispute;

his telephone conversation with Poplawski; and his efforts to collect the $88,968 outstanding balance from Noah Properties. He also testified about an incident that occurred at two of the properties subject to the parties' contracts, where the city's snowplows had pushed snow or ice back onto areas of the properties that Santa's Village had previously plowed. Sierpien testified he went to the properties personally to ensure that his staff took care of the problem.

¶ 16 Noah Properties objected to portions of Sierpien's testimony on foundation and personal knowledge grounds, including questions regarding whether services were performed at the properties in question. The trial court sustained those objections. The court also sustained objections to Sierpien's testimony concerning work allegedly performed by Santa's Village's staff and subcontractors. On cross-examination, Sierpien testified regarding his limited role with respect to the properties owned by Noah Properties, acknowledging that he did not personally perform the snow or ice removal services at any of the six Noah Properties' properties.

¶ 17 At the conclusion of Santa's Village's case-in-chief, Noah Properties moved for a directed finding, arguing Santa's Village failed to present a *prima facie* case for breach of contract because Santa's Village had not established its performance under the contracts with evidence showing it provided the services billed in its invoices. The trial court denied the motion, stating Santa's Village showed its performance based on the admitted evidence, the contracts, and Sierpien's testimony.

¶ 18 During its case-in-chief, Noah Properties presented Lisa Rose of Allin/Rose Consulting, Inc., as an expert witness on snow and ice removal. Rose reviewed the invoices, spreadsheets, and the parties' pleadings, discovery, and contracts. She analyzed whether Santa's Village's snow and ice remediation was supported by weather data. She testified regarding her methodology, including her evaluation of the contract pricing, Santa's Village's listed services, and the weather data. She testified that industry best practices included contemporaneous documentation of services

provided by photographs, timestamps, or personnel or subcontractor records, but Santa's Village did not have such contemporaneous documentation of its services. She opined that the value of the services Santa's Village should have performed was $58,050. She had no opinion on whether Santa's Village performed any of the listed services.

¶ 19 Noah Properties also presented Poplawski as an opinion witness. She testified about tenants' complaints to her regarding Santa's Village's services; her communications with the third-party management company Noah Properties had hired to manage its properties; her conversations with Sierpien or his staff regarding invoice payments; her text messages with a Santa's Village employee; her review of the invoices for accuracy and comparison with invoices from other snow removal companies that worked at Noah Properties' other properties; and the written report she prepared in March 2023 based on that review.

¶ 20 Poplawski opined that Santa's Village double and triple billed Noah Properties for certain services, billed Noah Properties for services Santa's Village did not perform, and failed to provide all necessary snow and ice removal services under the contracts. After the owners of Noah Properties reviewed Poplawski's report, they concluded Santa's Village could not reasonably justify $22,175 of the total amount it charged Noah Properties. Accordingly, Noah Properties concluded that its unpaid balance was $35,875, *i.e.*, $22,175 deducted from $58,050, which was the expert's opinion on the value of Santa's Village's services.

¶ 21 At the conclusion of closing arguments, the trial court issued an oral judgment in favor of Santa's Village and awarded damages in the full amount pled, *i.e.*, $88,968. The court stated there was no dispute that a contract existed, that services were performed, or about the payments Noah Properties made; rather, the dispute centered on "the unmade payments, and there is a vast disagreement about the amount." The court found that Sierpien's testimony was credible; he had

not "strayed far from *** the industry standards [for snow and ice removal]," which standards varied among a growing number of industry groups; the contemporaneous invoices Sierpien sent to Noah Properties within 24 hours after Santa's Village provided services sufficiently described the work done, and why, when, and where it was done; the weather data supported the work Santa's Village listed in the invoices; Poplawski's report was not persuasive because Noah Properties "was poorly managed when it came to their invoices with regard to salt and snow removal"; and there was no evidence that Noah Properties had any issues with Santa's Village's services since December 2022 until February 2023, when Santa's Village said it would suspend its services due to the unpaid invoices. The court also awarded Santa's Village $16,990 in attorney fees and costs.

¶ 22 Noah Properties timely appealed.

¶ 23 II. ANALYSIS

¶ 24 A. Directed Finding

¶ 25 Noah Properties argues the trial court erred in denying its motion for a directed finding because Santa's Village failed to make a *prima facie* breach of contract claim since Santa's Village failed to present any admissible evidence of its performance under the contracts.

¶ 26 In Illinois, where there is no jury, if a defendant moves at the close of the plaintiff's case for a directed finding or judgment in the defendant's favor under section 2-1110 of the Code of Civil Procedure (735 ILCS 5/2-1110 (West 2022)), and the court denies the motion, "the defendant may proceed to adduce evidence in support of his or her defense, in which event the motion is waived." *Id.* This waiver extends to any appellate review. See *Fear v. Smith*, 184 Ill. App. 3d 51, 55 (1989).

¶ 27 Here, there was no jury trial; Noah Properties moved for a directed finding at the close of Santa's Village's case; the court denied that motion; and thereafter Noah Properties introduced

evidence in support of its defense during its case-in-chief. Accordingly, Noah Properties waived any complaint that the trial court's denial of its motion for a directed finding was error.

¶ 28 B. Sierpien's Testimony and Supreme Court Rule 213(f)

¶ 29 Noah Properties argues the trial court abused its discretion when it allowed Sierpien to testify because Santa's Village had failed, under Rule 213(f), to identify the subjects on which he would testify at trial. Noah Properties argues this nondisclosure caused it unfair surprise and prejudice because Sierpien had no personal knowledge of performance under the contracts but his testimony was "outcome-determinative" since it was the "sole source" of Santa's Village's evidence of performance. Noah Properties also argues Santa's Village attempted to "recast" Sierpien from a lay witness to an undisclosed controlled expert witness, seeking to present corporate-representative conclusions under the guise of the less exacting Rule 213(f) disclosure for lay witnesses.

¶ 30 In response, Santa's Village argues Noah Properties has forfeited review of this claim, the trial court properly allowed Sierpien's lay witness testimony because Noah Properties failed to serve any Rule 213(f)(1) interrogatories on Santa's Village, and the trial court's admission of Sierpien's testimony was not an abuse of discretion.

¶ 31 "The exclusion or admission of evidence by the circuit court is reviewed under an abuse of discretion standard and will not be reversed absent an abuse of that discretion." *Kim v. Mercedes–Benz, U.S.A., Inc.*, 353 Ill. App. 3d 444, 452 (2004). "An abuse of discretion may be found only where no reasonable man would take the view adopted by the circuit court." *Id.*

¶ 32 We find that Noah Properties forfeited its objection to Sierpien's testimony by failing to object when this evidence was introduced.

¶ 33 "A motion *in limine* merely presents an issue of admissibility of evidence which is likely to arise at trial, in a pretrial setting. As such, the order, like any other interlocutory order, remains subject to reconsideration by the court throughout the trial." *Romanek-Golub & Co. v. Anvan Hotel Corp.*, 168 Ill. App. 3d 1031, 1040 (1988). When a motion *in limine* is made, the trial judge has broad discretion to grant or deny it or choose not to entertain it. *People v. Owen*, 299 Ill. App. 3d 818, 823 (1998). "If the trial judge considers the motion and denies it, the unsuccessful movant must specifically object to the evidence when it is offered at trial." *Schuler v. Mid-Central Cardiology*, 313 Ill. App. 3d 326, 333-34 (2000). This rule on forfeiture includes cases where the basis of the objection to testimony is based on Rule 213. *Id.*

¶ 34 Here, though the trial court stated it reserved ruling on the motion, the court effectively denied it because the court ruled it would address objections as testimony was presented and Noah Properties could raise its objections during the trial if Noah Properties believed any unwarranted expert opinion was elicited. Consequently, Noah Properties was obligated to object to the evidence at the time it was introduced to preserve this issue for appeal. See *id.* Though Noah Properties made various objections to Sierpien's testimony based on foundation and speculation, it forfeited review of its Rule 213(f) overall objection to Sierpien testifying in any capacity by failing to object when the evidence was introduced.

¶ 35 Forfeiture aside, the trial court did not abuse its discretion by admitting Sierpien's testimony.

¶ 36 "Rule 213(f) is intended to provide litigants with a degree of certainty and predictability in the trial process and prevent trial by 'ambush.' " *American Service Insurance Co. v. Olszewski*, 324 Ill. App. 3d 743, 748 (2001). Rule 213(f) requires a party, "[u]pon written interrogatory," to furnish the identity and address for each witness who will testify. Ill. S. Ct. R.

213(f) (eff. Jan. 1, 2018). Further, subsection (1) of Rule 213(f) provides, regarding a lay witness, *i.e.*, "a person giving only fact or lay opinion testimony," that the party must "identify the subjects on which the witness will testify." Ill. S. Ct. R. 213(f)(1). A party's "answer is sufficient if it gives reasonable notice of the testimony, taking into account the limitations on the party's knowledge of the facts known by and opinions held by the witness." *Id.*

¶ 37 According to the record, when Noah Properties sent interrogatories to Santa's Village, it erroneously referred to section (g) of Rule 213 when it asked Santa's Village to provide, *inter alia*, the subject matter on which each *opinion* witness is expected to testify, and the conclusions or opinions of the opinion witness and the basis therefore, including any reports of the witness. Santa's Village's answer stated it did not intend to call *expert* witnesses but intended to call Sierpien, among others. Santa's Village, however, did not identify the subjects on which Sierpien would testify, which was a violation of Rule 213(f)(1).

¶ 38 Nevertheless, "the failure to comply with Rule 213 does not automatically require the exclusion of a noncomplying party's witnesses or testimony." *Granville Tower Condominium Ass'n v. Escobar*, 2022 IL App (1st) 200362, at ¶ 52. Should there be a violation of Rule 213(f), this court, in determining whether the trial court abused its discretion in allowing or barring a witness's testimony, must consider these six factors: "(1) the surprise to the adverse party; (2) the prejudicial effect of the testimony; (3) the nature of the testimony; (4) the diligence of the adverse party; (5) the timely objection to the testimony; and (6) the good faith of the party calling the witness." (Internal quotation marks omitted.) *Pancoe v. Singh*, 376 Ill. App. 3d 900, 913 (2007).

> "In determining whether an abuse of discretion has occurred, we consider the purposes meant to be served by the discovery rules, including Rule 213. [Citation.] The rules are intended to work together to discourage tactical gamesmanship and avoid surprise

[citation], by ensuring that discovery is completed no later than 60 days prior to a trial." *Brdar v. Cottrell, Inc.*, 372 Ill. App. 3d 690, 700 (2007).

¶ 39 Our review of the record and the six above-listed factors supports the trial court's decision to allow Sierpien to testify as a lay witness.

¶ 40 First, any surprise to Noah Properties was minimal because, in a breach of contract case over unpaid invoices, it was likely that Santa's Village would call Sierpien, its president, to discuss in general the terms of the contracts, the nature of the services provided, and the invoices sent and payments received. Further, Noah Properties can hardly claim surprise about the subjects on which Sierpien testified because Noah Properties' employee and witness, Poplawski, was familiar with the underlying facts of the case, knew Sierpien's role in Santa's Village's business, and testified about directly dealing with him regarding the unpaid invoices. Further, Santa's Village's responses to other interrogatories posed by Noah Properties apprised it of Santa's Village's position and the facts it intended to rely on to support its case.

¶ 41 Second, any prejudicial effect on Noah Properties was similarly minimal. Noah Properties' argument that Sierpien's testimony was the "sole source" of Santa's Village's evidence of its performance under the contracts and, thus, was "outcome-determinative" of the trial court's judgment in favor of Santa's Village is neither persuasive nor accurate. Specifically, the trial court's finding that Santa's Village had performed snow and ice removal services under the contracts was based, in addition to Sierpien's credible testimony, on evidence showing Santa's Village sent Noah Properties the invoices within 24 hours after Santa's Village provided the services it claimed it had performed; those invoices described the work allegedly performed, including why, when, and where that work was done; the weather data supported Santa's Village's work as listed in the invoices; Noah Properties was poorly managed regarding the issue of the

snow and ice removal invoices, which rendered Poplawski's testimony and report about Santa's Village's alleged nonperformance of services unpersuasive; and Noah Properties had no issues with Santa's Village's services since December 2022 until late February 2023, when Santa's Village informed Noah Properties that work would be suspended until Noah Properties made its overdue payments for the services Santa's Village had rendered. Further, Noah Properties conceded that Santa's Village had performed at least some work at the properties through Poplawski's testimony and Noah Properties' position that the value of Santa's Village's work was $58,050 and Noah Properties' unpaid balance was $35,875.

¶ 42 Third, Noah Properties' characterization of the nature of Sierpien's testimony as being expert witness testimony is not accurate. According to the record, Noah Properties' counsel ensured during Sierpien's direct examination that he was not allowed to testify as to any matters beyond his personal knowledge, with the trial court even explicitly stating as much over the course of Sierpien's testimony. Sierpien's direct testimony began with a description of his position as president of Santa's Village, the parties' contracts, and Santa's Village's procedures, all of which he had personal knowledge. Then, Sierpien was questioned about his personal knowledge of any disputes or complaints from Noah Properties. He then discussed his personal knowledge of Santa's Village's billing and invoicing procedures, and whether the billing and invoicing—for which he was ultimately responsible—created accurate records.

¶ 43 If Sierpien testified to matters outside his personal knowledge or gave opinion testimony, it occurred during Noah Properties' cross-examination and was elicited by its counsel. See *McMath v. Katholi*, 191 Ill. 2d 251, 255 (2000) (a party cannot complain of an error that the party created). At one point, Santa's Village's counsel objected to a line of

questioning from Noah Properties' counsel as being overly speculative and beyond Sierpien's personal knowledge.

¶ 44 Fourth, Noah Properties failed to exercise diligence where Santa's Village's challenged interrogatory answer was filed about 10 months prior to the trial but Noah Properties never moved to compel the information or attempted to remedy the purported deficiency. The facts here concerning Noah Properties' lack of diligence are similar to those in *Brdar*, 372 Ill. App. 3d 690, and *Athans v. Williams*, 327 Ill. App. 3d 700 (2002). In *Brdar*, 372 Ill. App. 3d at 700-01, the party objecting to the witness's testimony had advance knowledge of the defective disclosure but failed to seek a fuller disclosure or move to compel compliance with Rule 213. Instead, the objecting party brought a motion to exclude the testimony on the eve of trial. *Id.* Under those circumstances, this court held that the trial court did not abuse its discretion in denying the motion to exclude the testimony. *Id.* at 701.

¶ 45 In *Athans*, 327 Ill. App. 3d at 702, the trial court barred the defendant from testifying at trial as a sanction for his failure to disclose the subject matter of his testimony as requested in the plaintiff's Rule 213(f) interrogatories. This court held that the trial court abused its discretion where (1) the defendant's answers to other interrogatories posed by the plaintiff apprised the plaintiff five months before the trial of the defendant's position and the facts he intended to rely on for his defense, and (2) the plaintiff failed to raise an objection until the defendant took the stand at trial. *Id.* at 702-04.

¶ 46 Here, Noah Properties neither took a deposition to learn more about Sierpien's possible testimony nor attempted to clarify the situation under Supreme Court Rule 201(k) (eff. Mar. 17, 2023). Rather, Noah Properties waited until the day of trial to move *in limine* to bar Sierpien's testimony despite having received Santa's Village's interrogatory answers 10

months before the trial. Further, Santa's Village's answers to other interrogatories posed by Noah Properties apprised it of Santa's Village's position and the facts it intended to rely on to support its claims.

¶ 47 Fifth, Noah Properties failed to timely object to Sierpien's testimony. As discussed above, Noah Properties failed to object to this evidence based on inadequate Rule 213(f) disclosure when this evidence was introduced during the trial.

¶ 48 Sixth, the record indicates Santa's Village did not act in bad faith throughout the process. When Santa's Village answered the interrogatory at issue, which asked solely about "opinion witnesses," Santa's Village's response—that it did not intend to call expert witnesses but intended to call the three listed lay witnesses—indicates Santa's Village likely misinterpreted the interrogatory as asking only about the opinions of expert witnesses.

¶ 49 Based on our consideration of the relevant factors, we conclude the trial court did not abuse its discretion in allowing Sierpien to testify as a lay witness.

¶ 50 C. Evidence of Performance of the Contract

¶ 51 Noah Properties argues the trial court's judgment in favor of Santa's Village was against the manifest weight of the evidence because Santa's Village failed to meet its burden to prove it performed under the terms of the contracts. Noah Properties argues Sierpien had no personal knowledge of performance because he did not perform any snow or ice removal at the six properties in question and Santa's Village did not present testimony from any employee or subcontractor who performed those services at the six properties. Noah Properties also argues that the services listed in the invoices were not admissible evidence of performance and Santa's Village failed to offer any time records, photographs, or video to show performance.

¶ 52 In a civil case, "the party with the burden of persuasion must prove his or her case by a preponderance of the evidence." *Bazydlo v. Volant*, 164 Ill. 2d 207, 212-13 (1995). "A proposition proved by a preponderance of the evidence is one that has been found to be more probably true than not true." *Id.* "In a bench trial, it is the function of the trial judge to weigh the evidence and make findings of fact." *Kalata v. Anheuser-Busch Companies, Inc.*, 144 Ill. 2d 425, 433 (1991). "A trial court's findings of fact will not be overturned unless they are against the manifest weight of the evidence." *Cosmopolitan National Bank v. County of Cook*, 103 Ill. 2d 302, 318 (1984). "A decision is against the manifest weight of the evidence only when an opposite conclusion is apparent or when the findings appear to be unreasonable, arbitrary, or not based on the evidence." *Eychaner v. Gross*, 202 Ill. 2d 228, 252 (2002). "The court on review must not substitute its judgment for that of the trier of fact." *Kalata*, 144 Ill. 2d at 434.

¶ 53 "A party need not prove [its] case using direct evidence ***." *Prignano v. Prignano*, 405 Ill. App. 3d 801, 818 (2010). "The trial judge, as fact finder, is entitled to draw reasonable inferences from the testimony and evidence presented at trial." *1472 N. Milwaukee, Ltd. v. Feinerman*, 2013 IL App (1st) 121191, ¶ 31. "Circumstantial evidence will suffice whenever an inference may reasonably be drawn therefrom." *Dowd & Dowd, Ltd. v. Gleason*, 352 Ill. App. 3d 365, 376 (2004); see *Eskridge v. Farmers New World Life Insurance Co.*, 250 Ill. App. 3d 603, 610 (1993) ("Circumstantial evidence is the proof of certain facts and circumstances from which the fact finder may infer other connected facts which usually and reasonably follow according to the common experience of mankind.").

¶ 54 First, we address Noah Properties' assertions regarding the trial court's evidentiary rulings concerning the invoices. According to Noah Properties, the "invoice descriptions were explicitly limited 'solely to the [issue of the unpaid] balance,' " "the trial court relied on evidence she had

already ruled inadmissible," "the trial court *** limited the invoices to balance only," and "the trial court treat[ed] excluded material as proof of performance." Noah Properties' characterizations of the trial court's rulings regarding the admission of the invoices and consideration of the information contained within the invoices are not entirely accurate.

¶ 55 The trial court never ruled that the descriptions of Santa's Village's services in the invoices were "inadmissible" and "excluded." Rather, the court admitted the parties' contracts and Santa's Village's invoices into evidence based on the parties' stipulations, which included a qualification concerning the descriptions of services in the invoices. Further, the trial court did not treat the descriptions of services listed in the invoices as proof that Santa's Village had performed those services.

¶ 56 According to the record, the trial court had overruled Noah Properties' objection to Santa's Village calling Poplawski as an adverse witness without disclosing her as such. During Santa's Village's direct examination of Poplawski, the court admitted into evidence two of the contracts over Noah Properties' objection to the admission of these documents through Poplawski. Later, the court asked Santa's Village's counsel if a stipulation could expedite the admission of the remaining contracts, and the parties stipulated that they entered into the six contracts, Poplawski was the overall director of the property managers, and Santa's Village's invoices showed that Noah Properties owed a remaining balance. During a recess, the parties discussed a stipulation concerning the invoices. After the recess, the court admitted into evidence the contracts based on the parties' aforementioned stipulation. The court also admitted the invoices based on the parties' stipulation to their admission "solely to the balance"; Noah Properties' was not stipulating to the description of the services included in the invoices because Noah Properties disputed whether Santa's Village had performed those services.

¶ 57 Based on all the evidence that was introduced, the trial court could reasonably infer that it was more likely than not that Santa's Village had performed the snow and ice removal work at the properties. The court found that the industry standards for snow and ice removal as set forth by a growing number of industry groups varied among those groups, and Sierpien had not "strayed far from the industry standards." The court found that Sierpien's testimony about his personal knowledge of the parties' contracts, Santa's Village's procedures, Santa's Village's creation of accurate records through its billing and invoicing procedures, and the lack of any timely disputes or complaints from Noah Properties was credible. The invoices, which were sent to Noah Properties within 24 hours after work was done, were contemporaneous business records that described the work Santa's Village claimed it had done and why, where, and when it was done. Moreover, weather data corroborated the work Santa's Village claimed it performed, as listed in the contemporaneous invoices.

¶ 58 During Santa's Village's direct examination of Poplawski as an adverse witness, she testified Santa's Village had done at least some snow and ice removal under the terms of the contracts. Both Poplawski and Rose used the invoices as the foundation for their own analyses, and Poplawski discounted only some, but not all, of the services referenced therein. During Poplawski's direct examination by Noah Properties, the trial court questioned her about what services she contended were not performed and what evidence she had to substantiate that lack of performance. Poplaski, however, could not specifically identify a single service that Santa's Village had charged Noah Properties that, to her knowledge, had not been performed. Rose testified she had no opinion on whether Santa's Village had performed the work.

¶ 59 In its ruling, the trial court found that Noah Properties was poorly managed regarding the issue of the snow and ice removal invoices, and this made Poplawski's testimony and report about

Santa's Village's alleged nonperformance of services unpersuasive. The court explained how allegations in Poplawski's testimony and report regarding Santa's Village double or triple billing for services was contradicted by the weather data, which showed that returning to the properties to provide further services was appropriate given the precipitation, accumulation, or icing that occurred throughout the day. The court also noted the absence of any correspondence showing Noah Properties had any issue with Santa's Village's performance under the contracts until Santa's Village contacted Noah Properties near the end of February 2023 regarding its unpaid balance and the suspension of services. Further, Noah Properties conceded Santa's Village had done some snow and ice removal work at the properties based on the position of the owners of Noah's Properties that the value of Santa's Village's services was only $58,050, so Noah Properties' unpaid balance was only $35,875, as opposed to Santa's Village's claim that the unpaid balance was $88,968.

¶ 60 Based on our review of the record, we conclude the trial court's finding that Santa's Village performed snow and ice removal services at Noah Properties' six properties was not against the manifest weight of the evidence.

¶ 61 D. Damages Award

¶ 62 Noah Properties argues the trial court's $88,968 damages award in favor of Santa's Village was against the manifest weight of the evidence because Noah Properties' expert witness, Rose, provided the only reliable calculation of damages, *i.e.*, $35,875. Noah Properties argues the contracts required Santa's Village to perform the snow and ice removal services in a workmanlike manner consistent with customary industry practices, so the reasonableness of Santa's Village's charges and damages claim necessarily depended on whether services were performed and documented in accordance with those customs. Noah Properties argues Santa's Village's "self-serving invoices" were not a reasonable basis for computing damages because the self-generated

invoices, standing alone, did not establish damages with reasonable certainty since the invoices merely assumed that the work described therein was performed and that the amounts charged were reasonable. According to Noah Properties, when the nature and value of the services provided and billed are the central issues in dispute, corroborating evidence, such as witness testimony, expert analysis, or a combination of multiple sources of proof, is required.

¶ 63 Following a bench trial, a damages award is reviewed under the manifest weight of the evidence standard. *Slyce Coal Fired Pizza Company v. Metropolitan Square Plaza, LLC,* 2025 IL App (1st) 221279, ¶ 171. A plaintiff cannot recover damages that are "remote, speculative, or uncertain," meaning the plaintiff must "establish an actual loss with measurable damages in order to recover." *Union Tank Car Co. v. NuDevco Partners Holding, LLC*, 2019 IL App (1st) 172858, ¶ 27. "[D]amages are only uncertain if their existence is uncertain, not if the amount is uncertain." *Doornbos Heating v. James D. Schlenker*, 403 Ill. App. 3d 468, 487 (2010). "[S]o long as the existence of damages is certain, a plaintiff need not necessarily establish the precise amount of damages." *Union Tank Car Company*, 2019 IL App (1st) 172858, ¶ 27.

¶ 64 We have already addressed above and rejected Noah Properties' argument that Santa's Village failed to establish it had performed the work charged in the invoices because, *inter alia*, the invoices merely assumed that the work described therein was performed. Accordingly, we limit our analysis to whether the damages award of $88,968 was against the manifest weight of the evidence.

¶ 65 Contrary to Noah Properties' argument, Santa's Village did not rely on the invoices, "standing alone," as the only evidence of the reasonableness of its damages claim, which was calculated based on Noah Properties' unpaid balance for the amounts Santa's Village had charged for its services. As discussed above, Sierpien testified credibly about the accuracy of Santa's

Village's contemporaneous invoices, which were sent to Noah Properties within 24 hours after Santa's Village did the work listed therein. Further, Sierpien's and Poplawski's testimony established that Noah Properties neither timely complained about nor disputed the services or prices listed in the invoices. Also, neither Poplawski's testimony nor report established that Santa's Village had double or triple billed Noah Properties for Santa's Village's work. Further, the weather data supported Santa's Village's performance of the services that were listed in the invoices. Moreover, the parties had agreed to the value of Santa's Village's services and reasonableness of its prices based on the parties' signed contracts, which listed Santa's Village's prices for various services.

¶ 66 The record also supports the conclusion that Rose's expert testimony about the value of the services Santa's Village should have provided was not persuasive. In her analysis, Rose compared the service dates listed in Santa's Village's invoices with weather reports from the records of the National Oceanic and Atmospheric Administration (NOAA). Rose, however, admitted that her calculations were based on NOAA records from only two data points whereas Santa's Village's assessment of the weather was based on six data points and, thus, was more accurate. Rose also admitted her analysis was based on her incorrect assumption that Santa's Village had not engaged with a professional weather service. Further, Rose explained that the question of whether to double-salt or triple-salt the properties was dependent on the circumstances and was at the discretion of Santa's Village as the service-provider.

¶ 67 Noah Properties cites *Midwest Software, Ltd. v. Willie Washer Manufacturing Co.*, 258 Ill. App. 3d 1029, 1050 (1994), for the proposition that a statement of account, standing alone, does not constitute proof of services rendered or proof that those services were properly authorized. We

have no issue with this proposition but, as discussed above, the invoices were not the sole proof that Santa's Village performed the services listed in the invoices.

¶ 68 Given the evidence before the trial court, its $88,968 damages award in favor of Santa's Village was not against the manifest weight of the evidence.

¶ 69 III. CONCLUSION

¶ 70 For the reasons stated, we affirm the judgment of the circuit court.

¶ 71 Affirmed.