

NOTICE

Decision filed 10/29/26. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

2026 IL App (5th) 241339-U

NO. 5-24-1339

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

NOTICE

This order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

ELLIANDER AELFRIC ELDRIDGE and
MELISSA LYN SCHARFINSKI,

Plaintiffs-Appellants,

v.

STANISLAUS D. KOCHANSKI,

Defendant-Appellee.

) Appeal from the
) Circuit Court of
) Madison County.
)
)
) No. 24-SC-541
)
) Honorable
) Ronald S. Motil,
) Judge, presiding.

JUSTICE BOLLINGER delivered the judgment of the court.
Justices Boie and Vaughan concurred in the judgment.

ORDER

¶ 1 *Held:* The circuit court did not err in granting judgment in favor of the defendant, granting the motion to quash the plaintiffs' subpoena, and denying the plaintiffs' motion to dismiss. The judgment of the circuit court is affirmed.

¶ 2 Plaintiffs appeal from the Madison County circuit court's order of October 1, 2024, which, *inter alia*, granted the motion brought by the City of Alton to quash plaintiffs' subpoena, and awarded judgment in favor of defendant. Plaintiffs further appeal from the circuit court's November 18, 2024, denial of their motion to reconsider. For the reasons explained below, we affirm.

¶ 3

I. BACKGROUND

¶ 4 This matter arises from a small claims action filed by plaintiffs, Elliander Eldridge and Melissa Scharfinski, against defendant, Stanislaus D. Kochanski, on March 7, 2024. Plaintiffs alleged, *inter alia*, that a rotten tree on defendant's property fell onto plaintiffs' neighboring property, causing significant damage to their home and their shed. They claimed that defendant was aware of the tree's hazardous condition and chose not to address it, and that he interfered with contractors' efforts to repair the damage. Plaintiffs also included various additional claims of property damage and trespass from other alleged acts made by defendant.

¶ 5 Defendant filed a motion to dismiss the complaint. The circuit court granted the motion on June 12, 2024, and allowed plaintiffs to amend their complaint, limited to only the issue of negligent property damage. The court also ordered that Eldridge, who had previously only appeared by Zoom, must appear in person for the non-jury trial.

¶ 6 Plaintiffs filed an amended complaint on June 25, 2024. The amended complaint included only the allegations regarding the fallen tree, which plaintiffs now specified occurred on March 9, 2019. Defendant filed a motion to dismiss the amended complaint on July 17, 2024. The circuit court set the matter for a non-jury trial, and allowed the parties time for limited discovery.

¶ 7 On September 18, 2024, plaintiffs served subpoenas to appear at trial on Mark Birmingham, a representative from defendant's insurance carrier, Shelter Insurance (Shelter), and Dawn Voss, in her capacity as an employee of the City of Alton, in the Building and Zoning Department. The City of Alton filed a motion to quash the subpoena on Voss, and attached Voss's sworn affidavit that she had no independent, direct knowledge of any of the allegations in the matter.

¶ 8 The trial took place on September 27, 2024. Plaintiffs appeared, with Eldridge appearing in person and Scharfinski, via Zoom. Eldridge also brought his caregiver with him, who told the court that she was there to remind him to “settle down” and “talk slower” due to his respiratory health issues. Defendant appeared in person and through counsel. An attorney for the City of Alton was also present, and the circuit court began the hearing by addressing the city’s motion to quash the subpoena on Voss.

¶ 9 Counsel for the city stated that Voss was a code inspector with no independent knowledge of the factual allegations regarding the tree in question. Eldridge argued that Voss’s testimony was necessary because she was a home inspector who inspected the tree before it fell, had prior knowledge of its condition and that it would fall, and determined whether to issue any citations regarding the tree. Eldridge further alleged that he had communications with Voss that established her prior knowledge. The circuit court then stated that the relevant, narrow issue at trial was whether defendant’s tree fell on plaintiffs’ property and, if so, what damage it had caused. Thus, the court quashed the subpoena, concluding that the trial could proceed without Voss’s testimony.

¶ 10 The circuit court next addressed defendant’s motion to dismiss the amended complaint. Defendant withdrew the motion in part, and the court denied the remainder. The court then allowed plaintiffs to make their opening statement, reminding them that although plaintiffs’ disputes with defendant regarding their neighboring properties had a lengthy history, the present matter was limited to whether a tree from defendant’s property fell on plaintiffs’ property, and whether defendant was negligent.

¶ 11 Eldridge delivered his opening statement, and said that plaintiffs were seeking \$10,000 in damages. He acknowledged that plaintiffs had accepted “portions” of the insurance proceeds

provided by Shelter.¹ Next, defendant's counsel stated that the tree fell during a severe thunderstorm and heavy winds. Defendant had no prior knowledge that there was anything wrong with the tree, and had seen flowers blooming on it every spring. Plaintiffs filed an insurance claim, an inspector reviewed the damage, and Shelter paid the amount that it determined it owed.

¶ 12 Eldridge then testified about the fallen tree and resulting damages, including showing photo and video exhibits from the day after the tree fell, as well as before and after photos from plaintiffs' property. The court asked whether plaintiffs had accepted any money from Shelter. Eldridge responded that he had received \$4,803.65 in total, which included money that went directly to plaintiffs and money paid directly to contractors on plaintiffs' behalf. He also submitted a letter from Shelter reflecting this sum.

¶ 13 The circuit court then instructed Eldridge to call the plaintiffs' subpoenaed witness, Mark Birmingham. Birmingham testified that he remembered inspecting a tree in plaintiffs' yard, but did not remember the details of that specific inspection. He further could not answer Eldridge's questions about the insurance claim, stating that he was not a claims adjuster and the questions were outside of his knowledge.

¶ 14 On cross-examination, Birmingham testified that he was the insurance agent for both plaintiffs and defendant, and had observed their neighboring properties before and after 2019, the year of the incident. He described his inspection of plaintiffs' property prior to 2019, for the purposes of writing two separate insurance policies, on their house and their business. He detailed various issues he observed and recorded regarding the house, including cracks in the foundation and damaged bricks. He only observed the house from ground level, and could not see whether

¹As both parties were at some point insured by Shelter, we note for clarity that references to insurance payments made to plaintiffs relating to damage from the tree came from defendant's policy.

there was a hole in the roof. Birmingham further stated that Eldridge had pointed out some trees to him, and Birmingham testified that his “usual[] stock answer” to this issue was to say that a property owner is within his rights to cut off any dead branches that hang over his property, so that they do not fall.

¶ 15 Birmingham also observed the tree at issue during his pre-2019 inspection. He stated that he did not do any testing or special inspection of the tree, and that he was not an arborist or otherwise certified to determine whether a tree is dead or not. He did not make any comments to defendant about the tree, as he did not consider it his place to do so, and did not believe the tree was dangerous. In his professional role of assessing risk and hazard, if he had believed the tree posed any danger to either party’s property, he would have said something.

¶ 16 After the tree fell, Birmingham was contacted by plaintiffs and was told that there was damage to their house and shed. He did not inspect the damage, as that was not a function of his job as an insurance agent. He further stated that he was not informed of any details about the interior damage, which would have been dealt with by an insurance adjuster. Birmingham did receive a call from Eldridge saying that Shelter had not paid him enough to make the necessary repairs; Birmingham told him he needed to speak with someone else.

¶ 17 Birmingham also testified about other inspections he had made of plaintiffs’ property after the tree fell. He stated that plaintiffs’ policy was not renewed because they had set up a “makeshift greenhouse” on the property, and Birmingham observed water hoses intertwined with electrical cords, which he reported to Shelter. He denied that the nonrenewal had anything to do with the fallen tree.

¶ 18 Eldridge sought to have admitted into evidence the cancellation letter he received from Shelter, which he argued only mentioned damage caused by the tree, and not the greenhouse

operation. The circuit court sustained defendant's counsel's objection to the letter based on relevance and lack of authentication. The circuit court also denied Eldridge's oral motion to strike Birmingham's prior testimony about the reason for the nonrenewal of his insurance policy.

¶ 19 After concluding with Birmingham's questioning, Eldridge stated that he had further evidence to submit. The circuit court asked him to detail the specific damage he was claiming as a result of the tree, including a breakdown of costs. Eldridge submitted a \$1,200 proposal from a contractor for removing wood and debris from plaintiffs' property, which Eldridge stated that he paid, rather than Shelter. Eldridge contended that defendant interfered with the contractor's work, and Eldridge was forced to remove the wood himself. He attempted to introduce into evidence photos of him with a pile of wood he was working on removing, but the court sustained defendant's counsel's objection that he could not recover for self-help.

¶ 20 Eldridge testified that the removal of the destroyed shed cost him \$900, and replacing it cost \$678. His exhibit showed that Shelter paid him \$326.79 for the damaged shed, and the circuit court noted that an insurance company would factor in the age and condition of the shed, which appeared very rusted in plaintiffs' photos. Eldridge had also estimated that the shed was at least 15 years old in 2019. Eldridge attempted to introduce an invoice from 2012 showing an estimate he received for the cost of painting some portion of the rooms of the house as evidence of how much it would cost him to repair the interior damage done by the tree. Defendant's counsel objected, and the court asked Eldridge if he had any documented estimate of the repairs necessitated by the fallen tree, which he did not.

¶ 21 The court then asked him to account for the remainder of the \$10,000 plaintiffs were claiming in damages, aside from the previously-discussed \$1,200 and \$326.79 figures. Eldridge testified that plaintiffs' insurance rate increased after their previous policy from Shelter was not

renewed. The circuit court sustained defendant's counsel's objection to plaintiffs' including that amount as damages.

¶ 22 Next, Eldridge sought to enter into evidence an email from a contractor with an estimate for replacing plaintiffs' roof, and further testified that he spoke with other contractors and all of them said that plaintiffs needed the entire roof replaced and that it would cost more than \$10,000. The circuit court sustained defendant's counsel's objection to the roofing estimate email on the bases of a lack of foundation and hearsay.

¶ 23 Eldridge also produced a document from Shelter indicating that it paid \$1,800 for tree removal services. However, he contended that he still had to spend an additional \$1,200 because the contractors who received the \$1,800 only put the wood in a pile, and plaintiffs received a citation from the city for the piled-up tree debris and had to remove it. He further stated that plaintiffs experienced various electrical issues with their major kitchen appliances and some light fixtures some days after the tree fell. He did not have any evidence establishing a connection between these issues and any damage from the tree.

¶ 24 On cross-examination, Eldridge testified that he had tree inspectors look at the tree before it fell, and was told it was "definitely going to fall." He did not have any documentation of these inspections to submit to the court. Eldridge did not test the tree personally, and he did not have any photos of the tree when it was still standing with him in court. He was not an arborist, but stated that he was a biologist. Eldridge was also asked about the photos and video he had submitted of the tree when it was on the ground. He denied that they showed the tree with leaves on it, instead saying that the leaves were from vines that had grown around the tree and eventually killed it.

¶ 25 Eldridge further testified that he had tried to speak with defendant about the tree after branches from it fell onto his property in 2017, but defendant refused to speak with him. He also

emailed Dawn Voss, the City of Alton employee, about the matter. He did not know whether anyone from the city ever spoke with defendant about the tree.

¶ 26 Defendant's counsel asked the circuit court to take judicial notice of the fact that it was raining on the night that the tree fell, and showed a weather forecast from that date. Eldridge denied that it was raining that night, and introduced a video he had recorded on his phone a few minutes after the tree fell, which he argued established that it was neither rainy nor particularly windy. Eldridge was asked whether he personally saw the tree fall onto the roof of his house, and he said he did not. He acknowledged that his insurance company conducted an inspection of his property after the incident, but he stated that only the exterior was inspected. He said he received reimbursement for a portion of the money he spent to hire the contractors who cleaned up the debris. He also stated that he told the contractors to pile the wood where the tree had previously stood, on defendant's property, which led to the contractors stopping work after defendant complained. Eldridge argued that by doing so, defendant interfered with the contractors' work.

¶ 27 Eldridge further stated that he believed in November of 2017 that the tree was a danger, because parts of the tree almost fell on him at that time. Between then and when the tree fell in March of 2019, he said he tried and failed to speak with defendant, and he contacted the city's Building and Zoning Department. The latter told him that there was nothing the city could do. Eldridge asserted that there was nothing else he could legally do to stop the danger posed by the tree. He considered suing defendant, but could not afford a lawyer or locate an appropriate form to complete and file.

¶ 28 Next, defendant testified on his own behalf. He denied that the tree ever appeared to be dead, and said that it bloomed every spring, although in March of 2019, it was still too early in the season to see any flowers on it. He said no one ever contacted him in any way about the tree,

including plaintiffs, Birmingham, or any tree inspectors. He never thought it posed any danger, and if he had, he would have had it taken care of, since it could have fallen in a direction that would have damaged his own property. He was also never told of any tree branches falling on plaintiffs' property.

¶ 29 Defendant did not have any memory of the night the tree fell. Afterwards, he did see people walking around on plaintiffs' property and tossing cut-up tree pieces over the fence and into his yard, so he told them that they had to stop dumping on his property. According to defendant, Eldridge told the workers that it was defendant's tree so "it's going to get thrown over that fence." Defendant said the workers left because they did not want to deal with the conflict.

¶ 30 Defendant further testified that he had observed plaintiffs' roof prior to the incident, and thought it to be in poor condition—he noted a "very large hole" in the roof that had been there for approximately six years, that plaintiffs at some point filled with spray foam. Defendant estimated that he first saw the shed on plaintiffs' property about 10 years ago.

¶ 31 Lastly, defendant's counsel called Eldridge as an adverse witness. Eldridge was asked about the \$1,200 invoice that he paid for the debris removal. He acknowledged that the quoted cost of removing the wood off-site, rather than onto defendant's property, was \$3,300, which he said he could not afford. Defense counsel asked the circuit court to offset any potential judgment against defendant by \$1,200 because of plaintiffs' illegal dumping of the debris onto defendant's property.

¶ 32 During final argument, Eldridge contended that defendant should have known to remove the vines growing around the tree so that the tree did not die and fall, and that a reasonable property owner should periodically inspect his property and take action on any hazards. He also repeated that he had tried talking to defendant, but was ignored. He further alleged that he buried the tree

debris in a large hole he dug on his property, because he received a citation that he believed was the result of defendant filing a complaint with the city. He added that the cost of removing the wood could have gone to other repairs, like the roof, but he was forced to prioritize the wood due to the citation. Scharfinski argued that the wind that night was not blowing hard enough to topple a large tree.

¶ 33 Defendant's counsel argued, *inter alia*, that plaintiffs were inconsistent on the extent of the damage allegedly caused by the tree, having originally described it as minimal. They had filed suit five years after the incident—two days before the statute of limitations expired—and without any documentation proving the damages they claimed. Counsel further argued that, even if defendant had a duty to plaintiffs, there was no evidence of any breach of that duty where defendant lacked any knowledge of a dead tree on his property. Additionally, plaintiffs did very little to mitigate their damages, and violated Illinois law by dumping wood onto defendant's property.

¶ 34 Following final argument, the circuit court stated that it was ruling in favor of defendant because plaintiffs had failed to meet their burden of proof by a preponderance of the evidence. The court said that plaintiffs were asking it to speculate as to the true damages in the case. The court raised the example of the roof, stating that there was already wear and tear to the roof before the tree fell, and there was no evidence showing how much of the damage was caused by the tree. Additionally, the shed that plaintiffs claimed was destroyed appeared to already be rusted in the pre-incident photos. The court also noted that Shelter assessed the property and paid plaintiffs approximately \$4,800 plus the return of their deductible, and Eldridge's testimony was that plaintiffs did not use any of that money to make the repairs they argued were necessitated by the fallen tree.

¶ 35 The court had also asked plaintiffs whether they had any testimony from anyone who had inspected the tree and formed an opinion about what specific damage it had caused, but plaintiffs offered only unsupported speculation. Lastly, regarding the parties' conflicting testimony about whether the flowers that blossomed on the tree were from the tree or the vines, the court determined that plaintiffs had not met their burden of proof of showing that defendant had any knowledge that the tree was dead.

¶ 36 On October 1, 2024, the circuit court entered an order reflecting its oral rulings at trial. The court granted the City of Alton's motion to quash the subpoena served on Voss, denied defendant's motions to dismiss the amended complaint and to challenge standing, and entered judgment in favor of defendant. Plaintiffs filed a motion to reconsider and/or rehear the case on October 25, 2024, raising several issues. First, they argued that that the circuit court erred in granting the City of Alton's motion to quash the subpoena on Voss on the grounds that she had no relevant knowledge, because plaintiffs had email communications with Voss showing that she was aware of their concerns about the tree, and that she personally inspected the tree.

¶ 37 Next, they argued that the Illinois Supreme Court's policy on access for people with disabilities was violated in several ways during the trial because the circuit court ordered one of the plaintiffs to appear in person. Plaintiffs contended that Scharfinski's limited mobility entirely prevented her from being able to appear in person, so Eldridge was forced to appear, and needed to wear a respirator while he was around other people. They further alleged that because the trial went on for several hours, Eldridge was forced to wear the respirator for longer than was safe for his health, and he suffered in various ways; this made it hard for him to answer questions and remember his line of argument. Plaintiffs additionally stated that this, coupled with the court's

requiring Eldridge to jump around to various points and deviate from the order in which he had prepared to deliver his argument and testimony, impaired his ability to fully present his case.

¶ 38 Plaintiffs also disputed the circuit court's weighing and consideration of much of the evidence and testimony presented, including the following: the condition and health of the tree before it fell; whether vines killed the tree; the reason for Shelter cancelling plaintiffs' policy with them; the condition of plaintiffs' house and shed prior to the damage caused by the tree; defendant's testimony that plaintiffs never spoke with him about the tree; and that Eldridge was qualified, as a biologist, to know of the tree's condition, and should have been treated as an expert witness. In making these arguments, plaintiffs challenged the circuit court's failure to allow them to enter various proposed exhibits into evidence or to develop various lines of testimony by granting defendant's many objections. Plaintiffs further stated that, after the circuit court said they did not present any proof that they had had an arborist inspect the tree, they hired an arborist to write a written report based on the video of the tree that plaintiffs had entered into evidence. Plaintiffs argued that the court should accept this report as newly-discovered evidence that was unavailable before trial because plaintiffs could not afford to pay for an arborist's inspection at that time. Plaintiffs attached a copy of the arborist's report to their motion.

¶ 39 Plaintiffs further challenged the circuit court's refusal to allow them to enter into evidence certain unspecified "documentation from a person qualified to inspect the tree who wrote that they found the tree to be rotten." Plaintiffs alleged that accepting this documentation would have allowed them to meet their burden of proving that the tree fell as a result of neglect.

¶ 40 Lastly, plaintiffs argued that the circuit court committed a factual error by determining that they received more than \$5,000 from Shelter for their insurance claim, and that the evidence they submitted showed otherwise. Plaintiffs included several paragraphs of additional argument about

the money they received, the money they spent on repairs, and what amounts they should be allowed to recover as damages.

¶ 41 Also on October 25, 2024, plaintiffs filed a motion for sanctions against defendant and one of his attorneys for knowingly lying and committing perjury by asserting that the tree was alive and healthy prior to the incident. In support, plaintiffs attached and referred to the same arborist's report discussed in their motion to reconsider and/or rehear the case. Specifically, plaintiffs argued that the white flowers that bloomed on the tree each spring were from vines that were wrapped around the tree and killing it, rather than from the tree itself. Plaintiffs also asked for sanctions against defendant's attorneys for "repeatedly filing motions in bad faith with the intent of being overly burdensome," and for not sending plaintiffs copies of every motion filed. Plaintiffs did not specify which motions they were challenging or claiming not to have received.

¶ 42 On October 30, 2024, the circuit court entered an order denying plaintiffs' request to rehear the case, and set a hearing date on the motion to reconsider. Also on October 30, 2024, the circuit court entered an order denying plaintiffs' motion for sanctions.

¶ 43 The hearing on plaintiffs' motion to reconsider took place on November 18, 2024. Eldridge began by arguing that, throughout the trial, the court disallowed much of his proposed evidence. This included Voss's testimony, a report from an inspection of the tree, and email communications with the City of Alton. He also mentioned the new arborist's report and argued that it showed that the tree was dead. He further stated that he could not have obtained the report earlier because plaintiffs could not afford it then. Defendant's counsel argued, *inter alia*, that this report was not valid new evidence for the purposes of a motion to reconsider.

¶ 44 The circuit court allowed Eldridge to present plaintiffs' motion to reconsider, although it informed him that he would not be allowed to relitigate the case. Eldridge spoke to the points in

plaintiffs' motion, addressing the testimony, evidence, and lines of argument that he was not allowed to present; his disagreement with the court's findings regarding the damage to his roof and shed, as well as how much plaintiffs paid for repairs and what was paid for by Shelter; whether defendant knew of the dangerous condition of the tree; why he should have been allowed to testify as an expert witness because of his background in biology; and why he should have been allowed to submit physical copies of his exhibits to the court in advance and appear at trial via Zoom due to his disabilities.

¶ 45 Regarding the last point, the circuit court explained that Eldridge's disabilities had no impact on the court's ruling that plaintiffs failed to meet their burden of proof. The court added that it had allowed breaks during trial, and Eldridge never asked for any additional break time. The court also explained the purpose of the local rule requiring in-person attendance, and that it promoted fairness for the opposing party.

¶ 46 After hearing argument from both parties, the circuit court stated that it was denying plaintiffs' motion, and its ruling remained that they failed to meet their burden of proof that defendant bore any liability, and failed to present anything more than speculation as to damages. The court entered a written order to that effect on the same date. This appeal followed.

¶ 47 II. ANALYSIS

¶ 48 On appeal, plaintiffs raise the following arguments: (1) that by denying their request to appear remotely, the circuit court violated their rights under the Americans with Disabilities Act (ADA), the Illinois Human Rights Act, and the Supreme Court of Illinois Policy on Access for People with Disabilities, which impaired their ability to fully participate at trial; (2) that the court abused its discretion by quashing plaintiffs' subpoena of Voss; (3) that the court erred by refusing to consider the arborist's report submitted with plaintiffs' motion to reconsider as new evidence;

(4) that the court’s evidentiary rulings and findings regarding damages were against the manifest weight of the evidence; and (5) that the court erred in denying plaintiffs’ motion for sanctions.

¶ 49

A. Plaintiffs’ Appellant Brief

¶ 50 As an initial note, defendant argues that we should strike plaintiffs’ appellant brief or dismiss the appeal because their brief fails to comply with Illinois Supreme Court Rule 341. Specifically, defendant contends that the plaintiffs’ statement of facts is argumentative and lacks citations to the record, and their brief lacks an argument section containing citations to the record on appeal and to relevant legal authority. Ill. S. Ct. R. 341(h)(6), (7) (eff. Oct. 1, 2020).

¶ 51 A reviewing court “is not a depository in which the burden of argument and research may be dumped.” *Holzrichter v. Yorath*, 2013 IL App (1st) 110287, ¶ 80. Our supreme court rules “are not advisory suggestions, but rules to be followed.” *Zale v. Moraine Valley Community College*, 2019 IL App (1st) 190197, ¶ 32. We recognize that plaintiffs are proceeding without counsel on this appeal. However, their *self-represented* status does not relieve them of the burden of complying with the court’s rules. *Holzrichter*, 2013 IL App (1st) 110287, ¶ 78.

¶ 52 When an appellant’s brief does not follow these rules, we have the inherent authority to dismiss the appeal. *Id.* However, we also have discretion to consider the arguments on their merits in the interest of obtaining a just result. See *Epstein v. Davis*, 2017 IL App (1st) 170605, ¶ 22. Here, we agree with defendant that plaintiffs’ brief does not contain citations to the record on appeal and their statement of facts is improperly argumentative. They do, however, include some citations to Illinois caselaw. Ultimately, we find that the deficiencies in plaintiffs’ appellant brief do not prevent us from reviewing their arguments on appeal. We further disregard any argument plaintiffs make outside of the proper section of their brief.

¶ 53 B. Record on Appeal and Plaintiffs’ Disability Argument

¶ 54 Next, defendant argues that plaintiffs failed to submit a proper record on appeal, as they did not include a transcript or alternative record of the June 12, 2024, hearing during which the circuit court ruled that at least one plaintiff must appear in person at trial. It is the appellant’s duty to provide a sufficiently complete record of the lower court proceedings to support the claims on appeal. *Midstate Siding & Window Co. v. Rogers, Inc.*, 204 Ill. 2d 314, 318-19 (2003). If the relevant proceedings were not recorded and no transcript exists, the appellant is obligated to file a bystander’s report or an agreed statement of facts. *Id.*; Ill. S. Ct. R. 323(c), (d) (eff. July 1, 2017). In the absence of a sufficiently complete record on appeal, “the reviewing court will presume that the order entered by the trial court was in conformity with the law and had a sufficient factual basis. [Citations.] The court will resolve any doubts arising from the incompleteness of the record against the appellant.” *Rogers*, 204 Ill. 2d at 319; see also *Foutch v. O’Bryant*, 99 Ill. 2d 389, 392 (1984). Furthermore, as with plaintiffs’ deficient appellant brief, plaintiffs are not entitled to greater leniency as self-represented litigants. *Holzrichter*, 2013 IL App (1st) 110287, ¶ 78.

¶ 55 In the present matter, one of plaintiffs’ contentions on appeal is that the circuit court violated federal and state disability laws, as well as local court policy, by disallowing Eldridge to appear remotely at trial. They argue that this had the effect of depriving them of the opportunity to fully present their case. Plaintiffs did not include a transcript, bystander’s report, or agreed statement of facts for the June 12, 2024, hearing at which the court made its ruling.

¶ 56 Without a transcript or acceptable alternative, we cannot determine whether the circuit court’s ruling was in error. See *King v. Find-A-Way Shipping, LLC*, 2020 IL App (1st) 191307, ¶ 31 (where record did not contain any evidence to support appellant’s claim that the trial court applied an incorrect standard, reviewing court presumes that the challenged decision was fully

supported by evidence presented to the trial court). Moreover, the circuit court has “broad discretion” to determine if remote participation is appropriate in a case. Ill. S. Ct. R. 241, Committee Comments (rev. Feb. 2, 2023). Rule 45, addressing remote appearances in circuit court proceedings, further provides, in relevant part, that a judge presiding over a case

“in which the option to appear remotely without any advance approval is permitted may, in the exercise of the judge’s discretion, require a case participant to attend a court proceeding in person for reasons particular to the specific case, including the failure of a case participant to follow applicable standards of decorum. When exercising such discretion, the judge shall inform case participants on the record if they are required to attend a future court proceeding in person.” Ill. S. Ct. R. 45(b)(1) (eff. Mar. 1, 2026).

Here, the court entered an order providing plaintiffs with the required advance notice. Therefore, as plaintiffs have not provided us with any basis upon which to determine that the circuit court abused that discretion, we therefore presume that the court’s determination was properly supported by legal authority and any evidence before the court.

¶ 57 Additionally, as defendant notes, the record that we do have before us—specifically, the trial transcript—contradicts plaintiffs’ position that they were deprived of meaningful access to the judicial system. As the circuit court stated in denying plaintiffs’ motion to reconsider, the court allowed a four-and-a-half-hour trial. The court also allowed for breaks, including a lunch recess, and Eldridge at no point asked for any additional pauses in the proceedings. Plaintiffs further chose to represent themselves, regardless of their arguments about not being able to afford an attorney.

¶ 58 Eldridge also had a caregiver in court with him, who explained that she was there to help remind him to regulate his breathing and speaking, and he was using a respirator throughout trial. While the record shows that it was sometimes difficult for Eldridge to be heard because of the respirator, it is clear from the transcript that he presented his case and was allowed to repeat himself where someone could not make out his words. It is apparent from the record and from plaintiffs’ arguments before both this court and the court below that plaintiffs’ allegations regarding access

and opportunity to fully litigate the case stem from their dissatisfaction with the court’s rulings, rather than any genuine violation of their rights as disabled litigants.

¶ 59 C. Voss Subpoena

¶ 60 We next turn to plaintiffs’ argument that the circuit court erred in granting the City of Alton’s motion to quash their subpoena of city employee Voss. The use of subpoenas

“is a judicial process, and courts have broad and flexible powers to prevent abuses of their process. [Citation.] ‘For good cause shown, the court on motion may quash or modify any subpoena ***.’ 735 ILCS 5/2-1101 (West 2010). We review a circuit court’s decision to quash a subpoena for abuse of discretion.” *Parkway Bank & Trust Co. v. Korzen*, 2013 IL App (1st) 130380, ¶ 62.

The abuse-of-discretion standard is highly deferential—an abuse occurs “only when the trial court’s decision is arbitrary, fanciful, or unreasonable or where no reasonable person would take the view adopted by the trial court.” *Seymour v. Collins*, 2015 IL 118432, ¶ 41.

¶ 61 Here, counsel for the city filed a motion to quash Voss’s subpoena in advance of trial, and included an affidavit from Voss stating that she had no direct, independent knowledge of the facts alleged in the case, and no relevant testimony to offer. At trial, Eldridge contended that Voss inspected the tree before it fell, had prior knowledge that it would fall, and made certain determinations regarding whether or not to issue citations regarding the tree. The circuit court granted the city’s motion, determining that the trial was limited to the narrow issue of whether defendant’s tree fell on plaintiffs’ property and, if so, what damage it caused to their home and shed. The court determined that there were sufficient sources of evidence on these points without requiring Voss to testify as well.

¶ 62 The trial transcript supports the court’s position—between the combined testimony and evidence offered by Eldridge, defendant, and plaintiffs’ witness Birmingham, the court had sufficient facts before it to rule on the matter. To the extent that the court stated that plaintiffs

offered only speculation on the question of damages, plaintiffs did not even allege that they believed Voss had relevant knowledge on this topic.

¶ 63 Eldridge also tried to introduce email correspondence between plaintiffs and Voss from 2017 to show that she did, in fact, inspect the tree and knew it would fall. The circuit court sustained defendant's counsel's objection to the proposed exhibit on the basis of a lack of foundation. We find no error in the court's decision to exclude the correspondence, and further agree with defendant that emails from 2017 would not have established that Voss had any memory of the tree in 2024, or ever knew that it would fall in 2019. Indeed, as defendant notes, it makes no mention of Voss ever inspecting or opining on the tree.

¶ 64 There was no evidence presented that challenged the contents of Voss's sworn affidavit, or that connected any knowledge Voss may have had to whether defendant was ever aware that the tree posed any hazard. Birmingham, who actually did have testimony to offer about observing the tree and inspecting the parties' respective properties for the purpose of writing insurance policies for both sides, stated that he did not speak with defendant about any dangers posed by the tree on his property. In conclusion, we find no error in the circuit court's quashing plaintiffs' subpoena of Voss.

¶ 65 D. Plaintiffs' Posttrial Arborist's Report

¶ 66 The purpose of a motion to reconsider is to "bring to the court's attention newly discovered evidence, changes in the law, or errors in the court's previous application of the existing law." *In re Marriage of Epting*, 2012 IL App (1st) 113727, ¶ 41. Newly discovered evidence is evidence "that was not available prior to the hearing and trial courts should not allow litigants to stand mute, lose a motion, and then frantically gather evidentiary material to show that the court erred in its ruling." *General Motors Acceptance Corp. v. Stoval*, 374 Ill. App. 3d 1064, 1078 (2007). To

present newly discovered evidence, the movant must show that it “existed before the initial hearing but had not yet been discovered or was otherwise unobtainable,” and he must provide a reasonable explanation for why that evidence was not previously available. *Stringer v. Packaging Corp. of America*, 351 Ill. App. 3d 1135, 1141 (2004). We will not reverse the circuit court’s decision granting or denying a motion to reconsider based on new evidence absent an abuse of discretion. *Id.* at 1140.

¶ 67 In the present matter, plaintiffs admit that the report did not exist before trial, because, as they argue, they could not afford to hire an expert to prepare a report until some point after trial. While we acknowledge their financial circumstances, it is clear that this report neither existed, nor was unattainable, prior to the trial date. Plaintiffs do not state how they were unable to afford to hire an expert at any point before trial—going back as far as 2017, when they started to be seriously concerned about the tree—but were then able to do so within the 30-day deadline to file a motion to reconsider. Furthermore, Eldridge insinuated at trial that he did have an expert inspect the tree previously, but he did not have any documentation of the alleged inspection. Finally, even if this new report was acceptable as new evidence, plaintiffs could not establish that defendant knew of any dangers posed by the tree based on a report prepared long after it had fallen. We therefore reject as unreasonable plaintiffs’ attempts to explain why they did not have the report prepared in time for trial.

¶ 68 E. Circuit Court’s Evidentiary Rulings and Findings of Fact

¶ 69 Plaintiffs mention two specific issues in their challenge to the circuit court’s evidentiary rulings and factual findings regarding damages. First, they contend that the court discounted or excluded evidence of damage to plaintiffs’ shed because it was rusty before the incident. Second, they argue that the court should not have considered the fact that they received some insurance

reimbursement for their damages, because under the collateral source rule, insurance payments cannot reduce a tortfeasor's liability.

¶ 70 As a preliminary note, to the extent that plaintiffs challenge any of the circuit court's determinations regarding admitting or excluding evidence, allowing certain lines of questioning, assessing the credibility of the parties and witnesses, and resolving conflicting testimony, we note that all of these fall within the sound discretion of the circuit court. We will not disturb any such determinations absent an abuse of discretion; we further will not substitute the circuit court's decisions on factual findings with our own where the circuit court was best positioned to assess the demeanor and credibility of the witnesses. *Wilbourn v. Cavalenes*, 398 Ill. App. 3d 837, 847-48 (2010); *Samano v. Temple of Kriya*, 2020 IL App (1st) 190699, ¶ 43.

¶ 71 Regarding their first point, plaintiffs' own photo exhibits showed that the shed was rusted, and Eldridge estimated that it was at least 15 years old when the tree fell on it. Eldridge testified that it would cost \$678 to replace the shed with a new one, but the circuit court explained to him that he would only be entitled to the fair market value of the shed. Additionally, Eldridge stated that he received \$326.79 from Shelter for the shed damages. On appeal, plaintiffs argue that the circuit court disregarded all damage caused by the tree because the shed was already in poor condition. This misstates the record. Plaintiffs bore the burden of proving their damages, and they failed to prove either the amount of damages they sought or that defendant owed them any amount of money. Furthermore, as explained above, we find no abuse of discretion in the court's findings on this point, as well as its decisions to sustain defendant's counsel's objections to various alleged contractor estimates and repair documents Eldridge attempted to introduce at trial.

¶ 72 Finally, even if the circuit court excluded any evidence regarding damages to the shed, plaintiffs could not show that this impacted the outcome of the case. See *Wilbourn*, 398 Ill. App.

3d at 848 (“[A] party is not entitled to reversal based upon the trial court’s evidentiary rulings unless the error substantially prejudiced the aggrieved party and affected the outcome of the case.”). The circuit court ruled that plaintiffs had not met their burden of proof on any part of their negligence claim, including that defendant knew of any danger, that he had a duty to plaintiffs, or that he breached that duty.

¶ 73 Regarding plaintiffs’ invocation of the collateral source rule, we agree with both of defendant’s arguments in response. First, at trial, Eldridge spoke at length about the insurance payments plaintiffs received, and never objected to the introduction of these payments. Second, the insurance payments in question came from defendant’s policy, and not “from a source wholly independent of, and collateral to, the tortfeasor,” as required by the rule. *Wills v. Foster*, 229 Ill. 2d 393, 399 (2008). We also add that even if we agreed with plaintiffs, they failed to establish that defendant committed any tort.

¶ 74 F. Denial of Plaintiffs’ Motion for Sanctions

¶ 75 Finally, regarding the denial of plaintiffs’ motion for sanctions against defendant and his attorneys, there is no record of the circuit court’s reasoning for this decision. As such, for the same reasons we explained in addressing plaintiffs’ argument about accessibility, we presume there was sufficient legal and factual basis for the court’s decision. This presumption is strengthened by the fact that plaintiffs presented only conclusory statements and no evidentiary support for their allegations against defendant and his attorneys. Furthermore, in our review of whether the circuit court’s judgment in favor of defendant was proper, we found nothing that would support plaintiffs’ positions that defendant knowingly lied in his testimony or that his counsel filed any frivolous, bad-faith motions.

¶ 76

III. CONCLUSION

¶ 77 For the reasons stated, the circuit court did not err in entering judgment in favor of the defendant and denying the plaintiffs' subsequent motion to reconsider. The judgment of the circuit court is affirmed.

¶ 78 Affirmed.