

In the
Supreme Court of Illinois

JEFFREY WILSON,

Plaintiff-Appellant,

v.

NAPLETON'S GOLDCOAST IMPORTS, INC.,
d/b/a Napleton's Aston Martin of Chicago,

Defendant-Appellee/Cross-Appellant.

On Appeal from the Appellate Court of Illinois,
Third Judicial District, No. 3-24-0079.
There Heard on Appeal from the Circuit Court of Du Page County, Illinois,
County Department, Law Division, No. 18-L-1245.
The Honorable **David E. Schwartz**, Judge Presiding.

**BRIEF OF *AMICUS CURIAE* ILLINOIS DEFENSE COUNSEL
IN SUPPORT OF APPELLEE AND CROSS-APPELLANT**

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INTEREST OF *AMICUS CURIAE*

Illinois Defense Counsel (IDC) is an association of Illinois attorneys who devote a substantial portion of their practice to the representation of business, corporate, insurance, professional, governmental, and other individual defendants in civil litigation. For more than 50 years, it has been the mission of IDC to ensure civil justice with integrity, civility, and professional competence.

IDC has a substantial interest in maintaining the continuity, uniformity and predictability of Illinois law. In particular, IDC has a substantial interest in one of the primary issues presented by this appeal—namely, whether the Illinois Consumer Fraud and Deceptive Business Practices Act (815 ILCS 505/1, *et seq.*) (the “Consumer Fraud Act”) authorizes awards of money damages for “aggravation and inconvenience.” If the Act is interpreted to authorize awards of money damages for “aggravation and inconvenience” as opposed to a cognizable injury, such an interpretation will have far-reaching consequences not just in Consumer Fraud Act cases but throughout civil litigation. Because there truly is no precedent in Illinois law for awarding money damages to compensate a litigant for aggravation or inconvenience, such an interpretation will open the floodgates to claims by litigants who have suffered nothing that established Illinois law would recognize as an injury in fact. This outcome would increase burdens on the courts based on a novel legal theory. It also would cause widespread confusion and unpredictability, because there are no established standards for pleading or proving an entitlement to damages for “aggravation and inconvenience,” much less for calculating any such damages. IDC has a substantial interest in advocating for an interpretation of the Consumer Fraud Act that would maintain the continuity, uniformity and predictability of Illinois law.

IDC respectfully submits that it offers unique insights and analysis that may assist the Court with its resolution of this appeal. IDC's role as a representative of the defense bar in Illinois makes it uniquely qualified to explain why the appellate court's interpretation of the Consumer Fraud Act in this case contravenes the well-established presumption "that the legislature did not intend to create inconvenient, absurd, or unjust results." *People v. Reed*, 2025 IL 130595, ¶ 26. The inconvenient, absurd and unjust results of the appellate court's misinterpretation of the Consumer Fraud Act would disproportionately impact defendants in civil litigation by exposing them to liabilities that the General Assembly could not reasonably have intended. IDC therefore offers a unique perspective on the consequences of the appellate court's opinion, and it respectfully submits that its perspective may assist the Court in its review of that opinion.

ARGUMENT

I. Interpreting the Consumer Fraud Act to authorize awards of money damages for "aggravation and inconvenience" would cause inconvenient, absurd and unjust results that the General Assembly could not reasonably have intended.

In his partial dissent from the majority opinion in the appellate court, Justice Anderson offered a scholarly analysis of the Consumer Fraud Act and explained in great detail why the Act cannot reasonably be interpreted to authorize an award of damages for aggravation and inconvenience. See *Wilson v. Napleton's Goldcoast Imports, Inc.*, 2025 IL App (3d) 240079, ¶¶ 117-142. While this *amicus* brief will not attempt to replicate or echo Justice Anderson's thoughtful analysis, IDC wishes to underscore and elaborate on an important point that Justice Anderson made at the end of his opinion: "Including 'aggravation and inconvenience' as compensable damages erodes the statute's focus, blurs the boundary between legal wrongs and ordinary consumer dissatisfaction, and opens the

courthouse doors to every minor grievance masquerading as a legal harm.” *Id.*, ¶ 139. Treating our court system as “a consumer service counter at the mall” not only “burdens courts with trivial claims but also invites speculative damage claims, since aggravation and inconvenience are inherently subjective, unquantifiable, and elastic.” *Id.*

IDC respectfully submits that the Consumer Fraud Act was not intended to create such “inconvenient, absurd, [and] unjust results.” *Reed*, 2025 IL 130595, ¶ 26. Justice Anderson did not overstate the patently absurd consequences of interpreting the Act to authorize awards of money damages for aggravation and inconvenience.

First, if the appellate court’s interpretation of the Act is affirmed, the resulting burden on our courts will be immense. Plaintiffs in all pending and future Consumer Fraud Act cases would surely seek damages for aggravation and inconvenience. On top of that, plaintiffs who suffered nothing that would ordinarily be considered a cognizable injury will now litigate Consumer Fraud Act cases that otherwise would never have been filed—all on the theory that, even if an actual injury was non-existent or minimal, a potential recovery for aggravation and inconvenience could more than justify the cost of litigation. After all, everyone who has even considered filing a Consumer Fraud Act claim would say that their consumer transaction was aggravating and inconvenient. No one who believes a consumer transaction was unfair or deceptive in some way would also describe that transaction as pleasant or trouble-free. If nothing else, such a person would feel aggravated by the transaction’s perceived unfairness or deception.

The resulting burden on our courts cannot be measured solely by the sheer number of newly filed claims for aggravation and inconvenience damages. That burden would be magnified by the impossibility of measuring any such damages. Opening the floodgates to

a deluge of new claims would be a daunting challenge for our court system even if the damages for those new claims were easy to calculate. There is no standard, however, for calculating damages for aggravation and inconvenience. Indeed, in this case, it is unclear how the jury arrived at \$25,000 as the amount of compensatory damages for the plaintiff's aggravation and inconvenience.

The plaintiff in this case may point out that Illinois courts adjudicate claims for emotional distress. The difference is that emotional distress is an observable phenomenon. It manifests itself in demonstrable ways. See, *e.g.*, *Thornton v. Garcini*, 237 Ill. 2d 100, 110 (2010) ("Plaintiff testified that she was depressed, and could not eat, or sleep"). "Aggravation," by contrast, is nothing more than an irritation or a provocation. See *Aggravation* (third definition, informal), Merriam-Webster Dictionary, <https://www.merriam-webster.com/dictionary/aggravation> (last visited May 5, 2026). That does not rise to the level of "emotional distress" and ordinarily does not manifest itself in any observable way. People ordinarily do not suffer diagnosable mental health disorders or lose the ability to eat or sleep over mere "aggravation."

Awarding damages for "inconvenience" is even further removed from normal conceptions of injury and damages. "The measure of damages in an action for fraud is determined from the loss to the plaintiff rather than from the gain to the defendant. The rationale which underlies this so-called benefit of the bargain rule is that the defrauded party is entitled to be placed in the same financial position as he would have been in had the misrepresentations in fact been true." *Martin v. Allstate Ins. Co.*, 92 Ill. App. 3d 829, 835 (1981) (internal citations omitted). Inconvenience, by contrast, has nothing to do with either any loss to the plaintiff or any gain to the defendant. It is instead based on the notion

that a transaction was not as easy as it might have been. See *Inconvenient*, Merriam-Webster Dictionary (“not convenient especially in giving trouble or annoyance: inopportune”), <https://www.merriam-webster.com/dictionary/inconvenient> (last visited May 5, 2026); see also *id.*, *Convenience* (fourth definition, “freedom from discomfort: ease”), <https://www.merriam-webster.com/dictionary/convenience> (last visited May 5, 2026).

The notion that damages should be awarded because a transaction ought to have been easier or more pleasant for one of the parties is totally foreign to the law. It would, as Justice Anderson aptly noted, transform courts into customer service counters. See 2025 IL App (3d) 240079, ¶ 139. Courts should not be burdened with petty grievances over whether a consumer’s interactions with a salesperson were as easy or as pleasant as possible, and they certainly should not be asked to calculate damages for a consumer’s disappointment over an interaction with a salesperson.

Second, even beyond this burden on the courts, the appellate court’s interpretation would throw much of damages law into uncertainty, even outside the context of the Consumer Fraud Act. As discussed below, the Consumer Fraud Act makes no mention of aggravation or inconvenience. See generally 815 ILCS 505/10a (provision of Consumer Fraud Act on an action for actual damages). Affirmance of the appellate court’s opinion will therefore lead to claims that other statutes similarly authorize awards of money damages for aggravation and inconvenience, notwithstanding that those statutes likewise make no mention of any of those things. Litigants may also cite an opinion affirming the appellate court’s opinion as authority for the proposition that damages for aggravation and inconvenience are recoverable even in negligence or contract actions. The outcome will be

widespread confusion and uncertainty over whether litigants in a wide array of disputes can recover damages for petty annoyances that caused no discernable harm to the plaintiff or any gain to the defendant.

II. If the General Assembly wanted to authorize awards of money damages for “aggravation and inconvenience,” it would have clearly and expressly said so.

Again, the General Assembly presumptively did not intend absurd, unjust or inconvenient results. *Reed*, 2025 IL 130595, ¶ 26. Based on the Consumer Fraud Act’s plain language, there is no reason to believe that the General Assembly intended any of the absurd and unjust outcomes discussed above.

If the General Assembly intended the Consumer Fraud Act to create totally new categories of damages that were previously unknown in Illinois law, it would have said so. See *Thomas v. Khoury*, 2021 IL 126074, ¶ 13 (observing that, if the General Assembly had intended a statute to create a brand new legal rule, “it would have said so, explicitly”). Legislators do not hide elephants in mouseholes. *People ex rel. Ryan v. Agpro, Inc.*, 214 Ill. 2d 222, 228 (2005) (quoting *Whitman v. American Trucking Associations*, 531 U.S. 457, 468, 121 S.Ct. 903, 909-10, 149 L.Ed.2d 1, 13 (2001)). The relevant provision of the Consumer Fraud Act says nothing about damages for “aggravation,” “inconvenience,” or anything even remotely comparable. See 815 ILCS 505/10a.

The appellate court noted that the Consumer Fraud Act should be construed liberally. See 2025 IL App (3d) 240079, ¶ 70. Even a liberal construction, however, cannot add words to a statute that the General Assembly chose to omit. *Rosenbach v. Six Flags Ent. Corp.*, 2019 IL 123186, ¶ 24 (this Court may not “add provisions not found in the law”); *Hagen v. City of Rock Island*, 18 Ill. 2d 174, 179 (1959) (“The plain meaning of the

language used is always the safest guide to follow in construing any act and the courts have no right to read into a statute words not found therein either by express inclusion or by fair implication”). The Consumer Fraud Act is a thorough and highly detailed statute, yet it never even mentions “aggravation” or “inconvenience.” See generally 815 ILCS 505/1, *et seq.* If the General Assembly intended the Act to combat aggravation or inconvenience, or if it wanted to open the courthouse doors to anyone who felt aggrieved by a lack of anticipated convenience, one would expect the General Assembly to have expressed such an intention in some way at least once in the Act’s detailed provisions.

The appellate court’s interpretation of the Consumer Fraud Act rested in part on legislative silence. The appellate court pointed out that aggravation and inconvenience damages were held to be recoverable under the Act in *Morris v. Harvey Cycle & Camper, Inc.*, 392 Ill. App. 3d 399, 402-03 (2009), and that since 2009, “the legislature has not amended the statute to exclude damages for noneconomic harm.” See 2025 IL App (3d) 240079, ¶¶ 68-69.

In his partial dissent, Justice Anderson explained why this *lack* of legislative activity is not reliable evidence of what the General Assembly intended when it *did* enact the Consumer Fraud Act many years earlier. See 2025 IL App (3d) 240079, ¶ 136. In a recent opinion, this Court similarly refused to read anything into the General Assembly’s failure to amend a statute. *Rainey v. Retirement Bd. of Policemen’s Annuity & Benefit Fund of City of Chicago*, 2025 IL 131305, ¶ 21. Indeed, the legislature’s failure to amend a statute says little or nothing about what the statute was originally intended to accomplish. Legislative inactivity “frequently betokens unawareness, preoccupation, or paralysis.” *Zuber v. Allen*, 396 U.S. 168, 185 n. 21 (1969).

To the extent legislative silence merits consideration, the far more relevant silence is the General Assembly’s silence about “aggravation” or “inconvenience” at the time it drafted and enacted the Consumer Fraud Act. That is the moment when the General Assembly articulated what it wanted the Consumer Fraud Act to prohibit and what remedies it wanted to make available to consumers. Its decision to make some remedies available without specifying others—particularly when those other remedies would have marked a sea change in the law—is meaningful. See *White v. Barrett*, 45 Ill. 2d 206, 211 (1970) (*expressio unius est exclusio alterius*). Its failure to amend the Consumer Fraud Act years later in response to an appellate court opinion is not. See *Rainey*, 2025 IL 131305, ¶ 21.

CONCLUSION

Illinois Defense Counsel respectfully requests that this Court reverse the opinion of the appellate court to the extent it affirmed the circuit court’s award of money damages for the plaintiff’s “aggravation and inconvenience.”

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Respectfully submitted,

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One of Its Attorneys

SUPREME COURT RULE 341(c) CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) table of contents and points of authorities, the Rule 341(c) certificate of compliance, notice of filing and proof of service, and those matters to be appended to the brief under Rule 342(a), is 8 pages.

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NOTICE OF FILING and PROOF OF SERVICE

In the Supreme Court of Illinois

JEFFREY WILSON,	)	
	)	
<i>Plaintiff- Appellant,</i>	)	
v.	)	No. 132430
	)	
NAPLETON'S GOLDCOAST IMPORTS, INC.,	)	
d/b/a Napleton's Aston Martin of Chicago,	)	
	)	
<i>Defendant- Appellee/Cross-Appellant.</i>	)	

The undersigned, being first duly sworn, deposes and states that on May 8, 2026, there was electronically filed and served upon the Clerk of the above court the Brief of Amicus Curiae. Service of the Brief will be accomplished electronically through the filing manager, Odyssey EfileIL, to the following counsel of record:

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Within five days of acceptance by the Court, the undersigned states that 13 paper copies of the Brief bearing the court's file-stamp will be sent to the above court.

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Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct.

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