

132430

132430

Nos. 132430, 132511, Consolidated

IN THE  
SUPREME COURT OF ILLINOIS

|                                                                                                                                                                          |                                                                                                                                                                                                                                                                                        |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| JEFFREY WILSON,<br><br>Plaintiff-Appellant<br><br>v.<br><br>NAPLETON'S GOLDCOAST<br>IMPORTS, INC. d/b/a Napleton's<br>Aston Martin of Chicago,<br><br>Defendant-Appellee | Appeal from the Appellate Court of<br>Illinois, Third Judicial Circuit, No.<br>3-24-0079<br><br>There on Appeal from the Circuit<br>Court for the Eighteenth Judicial<br>Circuit, DuPage County, Illinois,<br>No. 18 L 1245<br><br>The Honorable David E. Schwartz,<br>Judge Presiding |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**ILLINOIS TRIAL LAWYERS ASSOCIATION AMICUS BRIEF IN SUPPORT  
OF PLAINTIFF-APPELLEE, JEFFREY WILSON**

Michael J. Phillips  
mphillips@phillipslegal.com  
Attorney for Amicus Curiae  
Illinois Trial Lawyers Association  
Phillips Law Offices  
161 North Clark Street, Suite 4925  
Chicago, IL 60601  
312-346-4262

E-FILED  
3/16/2026 4:33 PM  
CYNTHIA A. GRANT  
SUPREME COURT CLERK

## **POINTS AND AUTHORITIES**

|                                                                                                                                                           |                 |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
| <b><u>INTRODUCTION.....</u></b>                                                                                                                           | <b><u>1</u></b> |
| <b><u>STATEMENT OF FACTS .....</u></b>                                                                                                                    | <b><u>2</u></b> |
| <b><u>ARGUMENT .....</u></b>                                                                                                                              | <b><u>4</u></b> |
| <b><u>I.     Remittitur is a Narrow Safety Value that Must Yield to the Constitutional Right to Trial by Jury .....</u></b>                               | <b><u>4</u></b> |
| Ill. Const. 1970, art. I, § 13.....                                                                                                                       | 4               |
| <u>Richardson v. Chapman</u> , 175 Ill. 2d 98, 113, 676 N.E.2d 621, 628 (1997) .....                                                                      | 4               |
| <u>Anderson v. Liberty Lobby, Inc.</u> , 477 U.S. 242, 255 (1986) .....                                                                                   | 4               |
| <u>Dimick v. Schiedt</u> , 293 U.S. 474, 486 (1935) .....                                                                                                 | 4               |
| <u>Anderson v. Liberty Lobby, Inc.</u> , 477 U.S. 242, 255 (1986) .....                                                                                   | 5               |
| Suja A. Thomas, <i>Re-Examining the Constitutionality of Remittitur</i> , 64 Ohio St. L.J. 731 (2003).....                                                | 6               |
| <b><u>II.    The Appellate Court Should be Required to Address the Procedural AND Substantive Validity of Remittitur Before Ordering Remand .....</u></b> | <b><u>6</u></b> |
| <u>Wilson v. Napleton’s Gold Coast Imports, Inc.</u> , 2025 IL App (3d) 240079.....                                                                       | 7               |
| <u>Haid v. Tingle</u> , 219 Ill. App. 3d 406 (1991) .....                                                                                                 | 8               |
| <b><u>III.   Treating Remittitur as a Procedural Formality Erodes the Constitutional Role of the Jury and Invites Piecemeal Litigation.....</u></b>       | <b><u>9</u></b> |
| <u>Busik v. Levine</u> , 307 A.2d 571, 575 (N.J. 1973).....                                                                                               | 10              |

|                                                                                                                              |    |
|------------------------------------------------------------------------------------------------------------------------------|----|
| Nancy Simmons, Nikki Farris, <i>Will the Medical Bankruptcy Fairness Act Offer A Cure for Distressed Medical Debtors?</i> 36 |    |
| Cal. Bankr. J. 9 (2022) .....                                                                                                | 11 |

## **INTRODUCTION**

The Illinois Trial Lawyer's Association (hereinafter "ITLA") is a not-for-profit association whose members specialize in representing injured victims of torts and their families. ITLA has a longstanding tradition of promoting access to the courts and protecting the rights of people who have been injured and the families of people who have died as the result of wrongful conduct. ITLA members prepare *pro bono* briefs *amicus curiae* on issues that are of significant interest to its members' clients. ITLA believes the opinion of this Honorable Court on the issues presented in this case will have a substantial effect upon those people represented by the ITLA's members, as well as having a substantial effect upon public safety in the State of Illinois. ITLA tenders this brief as *Amicus Curiae* to provide the court with its views in resolving certain questions raised by this case. This brief is submitted in support of the position of plaintiff.

**STATEMENT OF FACTS**

The Illinois Trial Lawyers Association hereby incorporates by reference the Statement of Facts set forth in the brief of the plaintiff.

This case presents fundamental questions about the constitutional limits of remittitur and the sequence of appellate review. Remittitur is permissible only when a jury's verdict clearly exceeds the bounds of law and when the court gives the party against whom remittitur is granted the choice to accept it or proceed with a new trial. The trial court did not follow that well established principle. Additionally, where the substantive validity of remittitur is properly presented on appeal, a reviewing court **should** determine whether that demanding standard for remittitur is satisfied before remanding.

Here, the trial court did not give plaintiff the constitutional choice to accept the remittitur or proceed to a new trial on damages and, thereafter, the appellate court's refusal to address whether remittitur was substantively warranted was not simply a departure from Mook v. Johnson, 2018 IL App (3d) 170229, but it reflected a broader misapplication of remittitur as a procedural formality rather than an extraordinary remedy permitted only in narrowly defined circumstances. By declining to conduct the substantive review and treating the defect of the trial court as only one of form rather than substance, the appellate court improperly permitted judicial substitution for the jury's determination of damages.

## **ARGUMENT**

### **I. Remittitur is a Narrow Safety Valve that Must Yield to the Constitutional Right to Trial by Jury.**

A remittitur of a jury’s verdict is not a mechanism for judicial second-guessing of a jury’s damages award. It is a narrow safety valve reserved only for verdicts that are legally unconscionable or unsustainable. Our State’s Constitution guarantees that “the right by jury as heretofore enjoyed shall remain **inviolable**.” Ill. Const. 1970, art. I, § 13 (emphasis added). A trial court that substitutes its own view of the evidence for that of twelve sworn jurors, or relies upon considerations outside the record, renders that guarantee hollow.

The determination of damages **is a question reserved to the trier of fact**, and a reviewing court will not lightly substitute its opinion for the judgment rendered in the trial court. Richardson v. Chapman, 175 Ill. 2d 98, 113, 676 N.E.2d 621, 628 (1997) (emphasis added). Damages may be awarded on the basis of credibility determinations, weighing of the evidence, and the drawing of legitimate inferences from the facts; these are all jury functions, not those of a judge. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 255 (1986). Maintenance of the jury as a fact-finding body is of such importance and occupies so firm a place in our history and jurisprudence that any seeming curtailment of the right to a jury trial should be scrutinized with the utmost care. Dimick v. Schiedt, 293 U.S. 474, 486 (1935).

A damages award is excessive only if it falls outside the range of fair and reasonable compensation, results from passion or prejudice, or if it is so large that it shocks the judicial conscience. Anderson, 477 U.S. at 255. The right to trial by jury depends on entrusting the jury to quantify damages based on its firsthand evaluation of the evidence. Unfounded judicial reductions of a jury's verdict undermine this core function. After years of investigation, discovery, and the parties' acceptance of the risks inherent in trial, it is antithetical to the right of trial by jury for a court to substitute its own judgment for the jury's evaluation of damages evidence with its own.

Because the stakes of remittitur are so high, it is integral that the court properly decide if remittitur is necessary on the facts. Any argument that remittitur simply offers a fair and impartial "do-over" ignores that the plaintiff, who bears the burden of proof, has already shown their hand to the defendant, whether in their style, themes, arguments, evidence, or trial strategy. Offering plaintiff the choice between a reduced verdict and a damages-only retrial on compensatory and/or punitive damages is an illusory remedy. In the setting of punitive damages, this divorces the concept of punishment from the jury's consideration of the defendant's conduct, thus undermining the very purpose of punitive damages: punishment and deterrence. The "choice" between accepting remittitur and risking a new trial under these conditions is almost entirely one-sided.

The data bears this out: in a study of 168 federal district court cases in which remittitur was offered as an alternative to a new trial, plaintiffs accepted the remittitur in 71% of cases and settled in an additional 27%. Only 2% of plaintiffs elected to proceed to a new trial. Suja A. Thomas, *Re-Examining the Constitutionality of Remittitur*, 64 Ohio St. L.J. 731 (2003). Thus, in 98% of cases, the plaintiff did not pursue retrial. When a court intervenes to reduce a verdict absent any error by the parties, it effectively places the consequences of judicial disagreement on the plaintiff alone by forcing acceptance of a diminished recovery or the expense and strategic disadvantage of a second trial.

For these reasons, both the entry of remittitur and its appellate review demand the utmost respect and deference to the jury's assessment of damages.

## **II. The Appellate Court Should Be Required to Address the Procedural AND Substantive Validity of Remittitur Before Ordering Remand.**

As remittitur is permissible only where a verdict falls outside the range of fair and reasonable compensation or shocks the judicial conscience, a reviewing court should determine that those conditions exist *before* remanding on a procedural basis.

Accordingly, as the Appellate Court noted, a trial court *must* afford the plaintiff the choice of accepting or refusing the remittitur, with the proviso that the failure to accept will lead to a new trial on damages. Wilson

v. Napleton's Gold Coast Imports, Inc., 2025 IL App (3d) 240079, ¶ 34.

That did not occur in this case, as the trial court declined to enter judgment on the verdict and instead granted defendant's post-trial motion seeking remittitur without offering plaintiff an opportunity to accept or reject. By unilaterally reducing the verdict and entering relief *without first presenting plaintiff with the choice* to accept or reject the remittitur, the trial court invaded the province of the jury and contravened the settled procedural safeguards that condition the validity of remittitur. Yet the appellate court did not answer whether any reduction of the jury's verdict was justified in the first place and instead stopped short of the analysis the law requires. The plaintiff's right to accept or reject remittitur ensures voluntariness; it does not eliminate the reviewing court's duty to examine whether the trial court had authority to reduce the verdict in the first instance.

Rather than determine whether the verdict satisfied the demanding threshold identified in Richardson, it characterized the defect as "procedural" and remanded for re-entry of a procedurally proper remittitur. In doing so, the court prioritized form over substance and presumed the existence of a lawful remittitur while declining to determine whether one was authorized in the first place.

The appellate court justified this disposition by relying on Haid v. Tingle, 219 Ill. App. 3d 406 (1991), and reasoning that it was "in no way

certain” how the parties would respond on remand. But Haid does not establish a requirement of certainty before a reviewing court may address the substantive validity of remittitur. The portion of Haid cited by the appellate court concerns the statutory limits on appellate jurisdiction and the procedural options available following a remittitur; it does not create a threshold rule permitting appellate courts to defer review of whether remittitur was warranted.

Nor was the remittitur issue speculative or collateral in this case. The appellate court addressed numerous substantive issues on appeal, including evidentiary rulings and compensatory damages determinations. The validity of the remittitur was fully presented and fully briefed. Declining to resolve that question did not promote judicial economy; it postponed an issue that will inevitably recur following remand. If anything, the appellate court’s approach alters the statutory posture under Rule 366(b)(2)(ii) (a plaintiff who consents to remittitur may challenge only if the opposing party appeals) and makes meaningful review of remittitur less likely.

The appellate court’s remand postponed the review of whether remittitur was substantively justified and placed the burden on plaintiff either to accept the reduced judgment and depend upon the opposing party to initiate further review, or to reject remittitur and seek discretionary review of an order granting a new trial. Neither path

guarantees prompt or definitive resolution of whether the jury's verdict was lawfully reduced. Where the substantive validity of remittitur is squarely presented on appeal, a reviewing court should determine whether the verdict was legally excessive under the standard articulated in Richardson before ordering remand for procedural compliance. If remittitur lacks substantive foundation, the proper disposition is reinstatement of the jury's verdict—not re-entry of remittitur in proper form. Addressing that question at the appellate level would have preserved finality, ensured meaningful appellate review, and respected the constitutional role of the jury.

### **III. Treating Remittitur as a Procedural Formality Erodes the Constitutional Role of the Jury and Invites Piecemeal Litigation.**

Remittitur occupies a narrow and carefully constrained place in Illinois jurisprudence. It exists not as a mechanism for judicial recalibration of damages, but as a limited corrective measure when a verdict exceeds the bounds of law. As this Court has long recognized, the assessment of damages is a core function of the jury.

When a reviewing court treats remittitur as a mere procedural formality—correcting its mechanics without first determining whether its substantive predicate exists—the extraordinary nature of the remedy is

diminished. The demanding threshold of remittitur risks becoming secondary to questions of procedural compliance. Such an approach shifts remittitur from a constitutional safety valve into a routine instrument of judicial adjustment.

The implications extend beyond this case. If appellate courts may remand for re-entry of remittitur without addressing whether the verdict was legally excessive, review of a single damages determination becomes fragmented across successive appeals. The result is delayed finality, increased expense, and uncertainty for litigants statewide. Judicial economy is not served by postponing inevitable questions of substantive validity.

Moreover, the jury system depends upon the principle that verdicts will be disturbed only when the law clearly requires it. The constitutional guarantee that the right to trial by jury shall remain “inviolable” is not preserved by deferring review. Where a jury’s verdict has been reduced, the legitimacy of that reduction must be addressed directly and promptly. Allowing remittitur to proceed without immediate substantive scrutiny risks eroding public confidence in the civil justice system and the stability of jury determinations. Delay in the disposition of cases impacts both other litigants who must wait their turn and the taxpayers who support our judicial system. Busik v. Levine, 307 A.2d 571, 575 (N.J. 1973). It also has concrete consequences for injured individuals who rely upon jury awards

to obtain medical care, replace lost income, and restore financial stability. Delayed or procedurally constrained review of a reduction in damages prolongs uncertainty and postpones relief that a jury has already determined to be warranted.

If this approach is allowed to stand as precedent, the ramifications will be particularly acute in personal injury litigation. It is estimated that approximately two-thirds of consumer bankruptcies are caused by medical issues, whether they are triggered by the unexpected high costs of medical care, or by the cost of missing work and wages. Nancy Simmons, Nikki Farris, *Will the Medical Bankruptcy Fairness Act Offer A Cure for Distressed Medical Debtors?* 36 Cal. Bankr. J. 9 (2022) (citations omitted). For individuals already facing the financial consequences of serious injury, the law must provide timely and meaningful resolution of the issues affecting their recovery, not prolonged litigation driven by procedural form rather than substantive review.

Remittitur is justified only in rare circumstances. Ensuring that those circumstances are found before procedural correction is ordered preserves both the integrity of the doctrine and the central role of the jury in Illinois courts.

### **CONCLUSION**

For the reasons stated, this Court should reverse the judgment of the appellate court clearly hold that a party against who a remittitur is

granted must be given a choice to accept a remittitur or proceed to a new trial as well as hold that where the substantive validity of remittitur is properly presented on appeal, a reviewing court must determine whether the remittitur is proper before remanding for procedural compliance.

Respectfully submitted,

/s/ Michael J. Phillips

Attorney for *Amicus Curiae*  
Illinois Trial Lawyers Association

PHILLIPS LAW OFFICES  
161 North Clark Street  
Suite 4925  
Chicago, Illinois 60601  
TEL (312) 346-4262  
FAX (312) 346-0003

ILLINOIS TRIAL LAWYERS ASSOCIATION  
401 West Edwards Street  
Springfield, Illinois 62704  
TEL (217) 789-0755  
FAX (217) 789-0810

**CERTIFICATE OF COMPLIANCE**

I certify that this amicus brief conforms to the requirements of Rules 341(a) and (b). The length of the brief, excluding the pages containing the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a) is 12 pages.

By: /s/Michael J. Phillips