
IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2026

SYLWIA SIWIK,	)	Appeal from the Circuit Court
	)	of the 18th Judicial Circuit,
Plaintiff-Appellant,	)	Du Page County, Illinois,
	)	
v.	)	Appeal No. 3-25-0593
	)	Circuit No. 23-LA-67
JASMINE ENTERPRISES INCORPORATED,	)	
	)	Honorable
Defendant-Appellee.	)	David E. Schwartz,
	)	Judge, presiding.

PRESIDING JUSTICE HETTEL delivered the judgment of the court, with opinion.
Justices Brennan and Anderson concurred in the judgment and opinion.

OPINION

¶ 1 Plaintiff, Sylwia Siwik, appeals from the Du Page County circuit court’s final judgment in favor of defendant, Jasmine Enterprises Incorporated, on plaintiff’s claim for unpaid commissions, which she brought under the Sales Representative Act (Act) (820 ILCS 120/0.01 *et seq.* (West 2022)). For the following reasons, we affirm.

¶ 2 I. BACKGROUND

¶ 3 A. General Background

¶ 4 On May 25, 2023, plaintiff filed a one-count first amended complaint against defendant. In her complaint, plaintiff alleged that, around July 27, 2019, she and defendant entered into a Sales Representative Agreement (agreement). Plaintiff attached a copy of the agreement as an exhibit to her first amended complaint.

¶ 5 Section 1.1 of the agreement appointed plaintiff as defendant's sales representative and authorized her to act in her role as defendant's "exclusive agent to promote, market and sell" bridal, bridesmaid, and mother-of-bride dresses sold and distributed under defendant's trademarks or brand names. Section 3.1 of the agreement provided that plaintiff "shall start to earn a commission of [s]even and a [h]alf percent (7.5%) of the net amount of [d]resses ordered by and shipped to customers" and that "[a] sale should not be deemed to have occurred, for purposes of calculating [c]ommission, and commissions shall not be deemed earned or due and payable to [plaintiff] unless and until [defendant] has actually shipped the order to the customers." Additionally, sections 6.1 and 6.2 of the agreement provided as follows:

"6.1 During the term of this [a]greement, [plaintiff] shall not, directly or indirectly, undertake or enter into any arrangement or efforts to promote, market or sell any type of bridal, bridesmaid or mother-of-the-bride dresses which in the sole determination of [defendant] is deemed to compete with the [d]resses. [Plaintiff] shall not represent or carry any product for other companies for which the representative territory falls outside the [t]erritory under this [a]greement, unless prior written agreements with such other companies are in existence as of the date of this [a]greement.

6.2 In the event [plaintiff] is in violation of [s]ection 6.1 above, this [a]greement shall automatically and immediately terminate regardless of whether [defendant] provides [plaintiff] with any written or verbal notice of termination. As liquidated damages for such

breach, [plaintiff] shall relinquish any and all rights and claims to any commission which is or may otherwise become due and payable to [plaintiff].”

Section 7.1 of the agreement authorized either party to terminate the agreement by providing at least 30 days’ written notice to the other party, and section 7.2 of the agreement authorized defendant to terminate the agreement “upon 10 days prior notice to [plaintiff] upon the occurrence of *** [plaintiff being] in violation of any of the terms of [the] [a]greement.”

¶ 6 In her first amended complaint, plaintiff alleged that, around April 21, 2022, she e-mailed a letter terminating the agreement effective May 22, 2022, to Kyle Yin, the president of defendant, and Cynthia Yin, the vice-president of defendant. Plaintiff further alleged that Kyle acknowledged receipt of the letter on the same day that she sent it and that, three days later, she was locked out of defendant’s computer system, reasonably believed that she had been locked out, and, “therefore, considered herself discharged from her duties with [defendant] as of April 25, 2022.” Plaintiff also alleged that, around April 26, 2022, she sent defendant “a list of all her orders that were booked but unshipped as of April 20, 2022. She requested that [d]efendant provide her with a schedule of when she would be paid her commissions on those orders,” but stated that defendant “has refused to pay [her] any of her outstanding earned commissions.” Plaintiff alleged that, as of the date of her first amended complaint, defendant had failed to pay her \$40,397.18 that it owed her in commissions, in violation of the Act.

¶ 7 On February 18, 2025, plaintiff filed a motion for partial summary judgment. In her motion, plaintiff asserted that defendant had refused to pay her the commissions that she was owed because defendant believed that plaintiff had violated section 6.1 of the agreement, and thereby “triggered” section 6.2 of the agreement, by signing a contract to work for Morilee Madeline Gardner (Morilee), one of defendant’s competitors. Plaintiff argued that section 6.2 of the agreement was

an invalid liquidated damages clause in that its purpose was to punish plaintiff rather than to compensate defendant for any actual losses that it might have incurred. Plaintiff also argued that section 6.2 of the agreement was void in that it violated section 2 of the Act. See *id.* § 2.

¶ 8 One day after plaintiff filed her motion for partial summary judgment, defendant filed its own motion for summary judgment. In its motion, defendant argued that there was no genuine dispute of material fact and that it was entitled to judgment as a matter of law.

¶ 9 On May 14, 2025, the circuit court entered an order in which it found that section 6.2 of the agreement did not “run afoul of” section 2 of the Act and was “not a penalty but rather a valid liquidated damages provision.” The court further found that there was a genuine issue of material fact regarding the date of plaintiff’s termination. Accordingly, the court denied plaintiff’s motion for partial summary judgment and defendant’s motion for summary judgment and scheduled the matter for trial.

¶ 10 B. Bench Trial and Notice of Appeal

¶ 11 On September 2 and 3, 2025, a bench trial was held. Kyle testified that defendant typically engaged both employees and sales representatives, the latter of which were non-employees whose main duty was to travel to stores within their individual territories, which each comprised a group of states. Kyle further testified that he had sole decisionmaking authority over the hiring of sales representatives and that both he and Cynthia had decisionmaking authority over the agreements that sales representatives would execute upon being engaged by defendant and over the termination of sales representatives.

¶ 12 As to defendant’s sales representative agreements, Kyle testified that they were drafted by Cynthia, who was a licensed attorney and who would confer with him regarding any modifications to the agreements. Kyle explained that defendants’ sales representative agreements were based on

an original template agreement that Cynthia had prepared in 1991. Kyle further explained that, if a sales representative were to violate section 6.1 of defendant's sales representative agreements, then defendant would be damaged by both the representative's early departure and the representative's engagement in competitive activity. Kyle stated that "the sooner [the violation] the more [damage to defendant]" and that the damages to defendant for competitive activity would be lost revenue.

¶ 13 Kyle further testified that Cynthia had initially drafted section 6.2 of the original template agreement to "include[***] damages of \$50,000," but that he and Cynthia had later amended the section "to as it [was] in [plaintiff's] agreement" after a different sales representative had stated, "[Y]ou know, my commission compared to this is much smaller so you can take this out." Kyle also testified that he and Cynthia had modified section 6.2 of the original template agreement for the additional reason that damages "were very difficult to determine ahead of time" and depended on "the time, the situation, the conduct, even the competition." Kyle elaborated on the difficulty of assessing damages as follows:

"Say, take [plaintiff's] case, this was 2019, and then her violation was happen 2022. We don't know when she will—what time in the selling season, maybe she will violate in January or February or March or April or May or June; right? We don't know. We cannot foresee.

* * *

[Y]ou see the sales commission every month has a different amount. So every month—the selling season is six months. So the contract is six months. So if the season just started and you, all of a sudden, quit and then work for—or you carrying other people's line in January, the damage to the company will be the whole season. If you do that in

February, that will be four months. If you do it in March, it will be three months. The case that we have here is April, but my damage is three months. So it's very hard to determine exactly what was the damage. Besides, if she quit, say, I notify you I'm going to quit in one month and then in—the next day she sign her agreement with other people, right, so, you know, it's very, very—we don't know what will happen in the future. In 2019, we don't know what will happen.

* * *

I just explained about the time, right, and then there are many, many others, you know like my customers; right? So the future sales. Even the—I will just give you one example. Say, in our case here, [plaintiff] sent me a termination letter saying April 21st and she will leave May 22nd. If she complete—if she leave May 22nd, in the middle, she doesn't do anything, she just sit there.”

¶ 14 Additionally, Kyle testified that he had discussed the agreement with plaintiff before she signed it. As to plaintiff's commissions, Kyle stated that, on the tenth day of each month, defendant paid her “everything shipped minus return for the previous month.” Kyle further stated that the last commission payment that plaintiff had received was “in the mid April range of 2022” and that the payment had been “reflective of payment *** for dresses that had shipped through March 31st of 2022.”

¶ 15 Next, Kyle testified that he understood plaintiff's April 21, 2022, e-mail to mean that she had intended to terminate her relationship with defendant effective May 22, 2022. Kyle further testified that, on April 26, 2022, he sent plaintiff an e-mail in which he stated that one of defendant's account managers would pay plaintiff her commission pursuant to the terms of the agreement. Kyle testified that, subsequently, on April 30 or May 1, 2022, he had learned that

plaintiff had become affiliated with Morilee from Morilee's April 30, 2022, internal announcement, indicating that that plaintiff was working for them. According to Kyle, Morilee's May 3, 2022, internal announcement stated, "[B]ravo, something like that. She already took three orders, you know, *** look at her, she has 18 years of experience." Kyle explained that some of defendant's customers had also informed him that plaintiff was working for Morilee. He said that, on May 3, 2022, after he learned that plaintiff had become affiliated with Morilee, defendant sent plaintiff a notice stating that her relationship with defendant was terminated.

¶ 16 On cross-examination, Kyle testified that, in deciding to revise section 6.2 of the original template agreement, he had also considered the information that defendant's sales representatives would have at the time when a sales representative agreement was terminated. Kyle explained that, throughout their work, defendant's sales representatives would acquire confidential information concerning defendant, such as defendant's past performance within a given territory, defendant's best-selling product, product price points, defendant's sales strategy, defendant's costs, and customers' purchase history.

¶ 17 Additionally, Kyle testified that, on May 10, 2022, defendant did not pay plaintiff commissions for April 2022. Kyle explained that this was because defendant believed that plaintiff had violated section 6.1 of the agreement in April 2022 and that, consequently, she was not entitled to commissions for that month.

¶ 18 Cynthia testified that, if one of defendant's sales representatives were to "agree[***] with a competitor but *** not engage[***] in any transactions on behalf of that competitor," then the damage to defendant would be the confusion to defendant's customer "if a representative walks into the door to the customer's store as a representative of [defendant] but then *** was actually selling somebody else." Cynthia further testified that the damage to defendant would be less if "the

sales representative agreed to work with a competitive entity after the term of the agreement and continue[d] out their term fully with [defendant] selling only [defendant's] products.” Cynthia also testified that, “[i]n the event that the sales representative did sell competitive dresses,” the damage to defendant would be lost sales. Cynthia explained that, in each of the three scenarios, however, the amount in damages owed to defendant would be difficult to calculate. Cynthia also explained that, at some point, the “liquidated damages clause of \$50,000” was removed from the original template agreement because defendant’s sales representatives prior to plaintiff had stated that it “was just too big a sum for them.”

¶ 19 Additionally, Cynthia testified that plaintiff had negotiated some of the terms in the agreement. Cynthia further testified that she had understood plaintiff’s subsequent April 21, 2022, e-mail to convey that plaintiff intended to terminate her relationship with defendant on May 22, 2022. Cynthia stated that she prepared the May 3, 2022, termination notice after Kyle had told her that a customer had circulated an announcement that plaintiff had begun working with Morilee and she saw the e-mails exchanged between Kyle and plaintiff.

¶ 20 On cross-examination, Cynthia testified that defendant would “definitely be hurt” by the “carrying [of] competitor lines” because defendant operated within a “small industry” with “only so many manufacturers out there,” defendant being one of the smaller manufacturers. On redirect examination, Cynthia explained that defendant and Morilee sold identical products, which would contribute to customer confusion if defendant’s sales representatives were also affiliated with Morilee.

¶ 21 Plaintiff testified that, on April 26, 2022, she was unable to sign into defendant’s system. Plaintiff further testified that she had subsequently contacted multiple customer service representatives, who then informed her that there was no problem with defendant’s system.

Plaintiff explained that she never received any communication from defendant and therefore assumed that her relationship with defendant had been terminated.

¶ 22 Plaintiff further testified that, “after [she] resigned” from defendant, she contacted a friend of hers who worked for Morilee and who informed her that Morilee had an opening. Plaintiff stated that she and Morilee subsequently executed an April 27, 2022, agreement, pursuant to which she had agreed to work as a sales representative in Morilee’s social occasion division.

¶ 23 On cross-examination, plaintiff testified that she had seen other sales representative agreements prior to the agreement that she and defendant executed. Plaintiff further testified that, before she signed the agreement with defendant, she had first read the agreement and requested that portions of the agreement other than its sections 6.1 and 6.2 be revised.

¶ 24 After hearing witness testimony and the parties’ closing arguments, the circuit court found that plaintiff had failed to prove that defendant had terminated its relationship with her on April 26, 2022, by locking her out of its system. The court further found that, consequently, plaintiff had breached section 6.1 of the agreement by “approximately April 28th at the latest” by “clearly under[taking] to promote market and/or sell competitor’s products well before the May 22nd resignation date.” Additionally, the court found that, because plaintiff had breached section 6.1 of the agreement, no commissions were due to plaintiff and the Act no longer applied. The court also found that the liquidated damages clause in section 6.2 of the agreement was valid and enforceable. Based on its findings, the court then entered judgment in favor of defendant and against plaintiff.

¶ 25 On November 10, 2025, plaintiff filed a notice of appeal.

¶ 26 II. ANALYSIS

¶ 27 On appeal, plaintiff argues that the circuit court incorrectly interpreted the provisions of the Act. More specifically, plaintiff asserts that section 2 of the Act “creates an absolute obligation

that the principal ‘shall pay all commissions due within 13 days of termination,’ ” and that section 1 of the Act dictates that a commission becomes due once a sales representative performs the acts required by the governing contract. See 820 ILCS 120/1, 2 (West 2022). Plaintiff argues that “[t]he legislature’s use of the word ‘shall’ [in section 1 of the Act] created a mandatory obligation by statute that cannot be subverted by private agreement” and that sections 1 and 2 of the Act must be jointly interpreted to mean that, whereas “[a] contract may define the *calculation* of a commission, *** it cannot create a post-performance hurdle that results in forfeiture.” (Emphasis in original.) Plaintiff further argues that the evidence at trial established that she had earned \$9,519 in commissions for April 2022 and that defendant “willingly withheld [her] earned commissions for an indefinite period of time, citing to a forfeiture provision, following her termination.” According to plaintiff, “[b]y upholding [section 6.2 of the agreement, which] allow[ed] a principal to withhold commissions upon termination, the trial court permitted a functional waiver of the Act’s mandatory thirteen-day payment deadline.”

¶ 28 Plaintiff’s argument raises issues of statutory construction and contract interpretation. The primary objective of statutory construction is to ascertain and give effect to the intent of the legislature, the most reliable indicator of which is the plain and ordinary meaning of the language of the statute itself. *iMotorsports, Inc. v. Vanderhall Motor Works, Inc.*, 2022 IL App (2d) 210785, ¶ 14. When statutory language is clear and unambiguous, a court must give effect to the language without resort to other aids of construction. *Wynn v. Illinois Department of Human Services*, 2017 IL App (1st) 160344, ¶ 43. “A court may not depart from the plain language of the statute and read into it exceptions, limitations, or conditions that are not consistent with the express legislative intent.” *iMotorsports*, 2022 IL App (2d) 210785, ¶ 14. Additionally, “[b]ecause all provisions of a statutory enactment are viewed as a whole, words and phrases should not be construed in

isolation, but must be interpreted in light of other relevant provisions of the statute.” *People ex rel. Madigan v. Bertrand*, 2012 IL App (1st) 111419, ¶ 21.

¶ 29 Similarly, the objective of contract interpretation is to ascertain and give effect to the intent of the parties. *Carey v. Richards Building Supply Co.*, 367 Ill. App. 3d 724, 726-27 (2006). “A court will first look to the language of the contract itself to determine the parties’ intent.” *Thompson v. Gordon*, 241 Ill. 2d 428, 441 (2011). In doing so, “a court must consider the document as a whole and not focus on isolated portions of the document.” *Salce v. Saracco*, 409 Ill. App. 3d 977, 981 (2011). “If the language of a contract is clear and unambiguous, the intent of the parties must be determined solely from the language of the contract itself, which should be given its plain and ordinary meaning, and the contract should be enforced as written.” *Id.* The construction of statute and the interpretation of a contract present questions of law that we review *de novo*. *iMotorsports*, 2022 IL App (2d) 210785, ¶ 14.

¶ 30 In instituting the Act, “the Illinois General Assembly *** deemed it a ‘fundamental policy of the state’ within the meaning of [section 2 of the Act] to protect the relative bargaining power and thus the commissions of sales representatives working in Illinois.” *Midwest Enterprises, Inc. v. Generac Corp.*, No. 91 C 2229, 1991 WL 169059, at *4 (N.D. Ill. Aug. 27, 1991); see *Maher & Associates, Inc. v. Quality Cabinets*, 267 Ill. App. 3d 69, 75 (1994) (“The court in *Midwest* concluded that the *** Act constitutes the legislature’s pronouncement that protecting sales representatives is fundamental public policy in Illinois. [Citation.] We agree.”). Section 1(2)(A) of the Act mandates that “[w]hen a commission becomes due shall be determined” by “[t]he terms of the contract between the principal and salesperson.” 820 ILCS 120/1 (West 2022). Section 2 of the Act further mandates that “[a]ll commissions due at the time of termination of a contract between a sales representative and principal shall be paid within 13 days of termination” and that

“[a]ny provision in any contract between a sales representative and principal purporting to waive any of the provisions of [the] Act shall be void.” *Id.* § 2.

¶ 31 Otherwise stated, the plain language of sections 1 and 2 of the Act establishes that the terms of a governing sales representative agreement dictate whether the sales representative who is party to the agreement has become entitled to commissions, and, if so, by when. Such language further establishes that it is only when the terms of a sales representative agreement provide that the sales representative is actually entitled to commissions at the time of termination of the agreement that the principal’s duty to pay the commissions within 13 days of termination is then triggered. Accordingly, if, pursuant to the terms of a sales representative agreement, a sales representative is not entitled to commissions at the time of termination of the agreement, then the principal does not violate the Act by declining to pay the representative commissions within 13 days of the termination.

¶ 32 In light of our understanding of sections 1 and 2 of the Act, we turn to analyzing whether, in this case, plaintiff was entitled to commissions at the time of the termination of the agreement, pursuant to the agreement’s terms. Relevant to our analysis, section 3.1 of the agreement provided that plaintiff was entitled to “a commission of [s]even and a [h]alf percent (7.5%) of the net amount of [d]resses ordered by and shipped to customers” and that commissions would be “deemed earned or due and payable to [plaintiff once defendant] ha[d] actually shipped the order to the customers.” However, section 6.1 of the agreement also prohibited plaintiff from “directly or indirectly, undertak[ing] or enter[ing] into any arrangement or efforts to promote, market or sell any type of bridal, bridesmaid or mother-of-the-bride dresses which in the sole determination of [defendant] is deemed to compete with the [d]resses,” as well as from “represent[ing] or carry[ing] any product for other companies for which the representative territory falls outside the [t]erritory under [the]

[a]greement, unless prior written agreements with such other companies are in existence as of the date of [the] [a]greement.” Section 6.2 of the agreement stated that the agreement would “automatically and immediately terminate” if plaintiff were to breach section 6.1 and that, “as liquidated damages for such breach, [plaintiff would] relinquish any and all rights and claims to any commission which is or may otherwise become due and payable to [plaintiff].”

¶ 33 Said differently, section 3.1 of the agreement established that one condition to commissions being due to plaintiff was that customers ordered dresses that defendant actually shipped to them. Section 3.1 also established that the earliest time when commissions would become due to plaintiff was when defendant shipped the dresses to the customers. However, that commissions first became due to plaintiff when defendant shipped customers their orders does not, without more, mean that the commissions would always remain due to her up until the termination of the agreement. Notably, the agreement itself did not state that such was the case. Rather, to the contrary, by stating that plaintiff was to “relinquish” her rights and claims to commissions “due” upon violating section 6.1 of the agreement, section 6.2 of the agreement effectively provided that commissions that were initially due when defendant shipped the dresses to the customers would become no longer due at any later time that plaintiff were to be found to have violated section 6.1 and the agreement were to therefore terminate.

¶ 34 As to whether this reading of the agreement comports with the Act, we note once more that section 2 of the Act mandates the payment only of “commissions due *at the time of termination of a contract* between a sales representative and principal.” (Emphasis added.) *Id.* If the legislature’s intent were to ensure that principals paid commissions due at any point prior to the termination of a sales representative agreement, then the legislature would have had no need to use language that referred only to “commissions due at the time of termination” of such an agreement. *Cf. Jones v.*

Steck, 2020 IL App (3d) 180548, ¶ 22 (stating that the rules of statutory construction require courts to avoid statutory interpretations that would render the language of the statute superfluous or meaningless). To avoid rendering the legislature’s use of such language superfluous, we construe section 2 of the Act to provide that an agreement would improperly waive the section’s provisions if the agreement required the sales representative party to the agreement to give up his or her rights or claims to commissions due at the time of the termination of the agreement. See *id.* We further construe section 2 of the Act to provide that such an agreement would not waive the section’s provisions if the agreement provided that commissions that were due prior to the termination of the contract would become no longer due at the time of termination, on account of an interceding event. See *id.* Moreover, we conclude that, because section 6.2 of the agreement merely provided that no commissions were due to plaintiff at the time of the termination of the agreement, as a consequence of her violation of section 6.1 of the agreement, the circuit court properly found that section 6.2 of the agreement comported with the Act.

¶ 35 Next, plaintiff argues that the circuit court erred by finding that the liquidated damages clause in section 6.2 of the agreement was valid and enforceable. Plaintiff asserts that the clause’s requirement that “a sales representative [***] agree in advance to give up their legal entitlement to commissions as a penalty for a breach” is “similar [to] a contractual waiver of rights through a mechanism known as a forfeiture clause which are expressly prohibited under the Act.” Plaintiff also asserts that the forfeiture of earned commissions that the liquidated clause required was not a reasonable forecast of defendant’s damages in the event of plaintiff’s breach, making the clause an unenforceable penalty for said breach. Because we have already determined that section 6.2 of the agreement complies with the Act, we will limit the remainder of our analysis to addressing plaintiff’s second assertion.

¶ 36 “It is a general rule of contract law that, for reasons of public policy, a liquidated damages clause that operates as a penalty for nonperformance or as a threat to secure performance will not be enforced.” *Jameson Realty Group v. Kostiner*, 351 Ill. App. 3d 416, 423 (2004). Conversely, a liquidated damages clause will be enforced if the damages provided for are of “ ‘an amount that is reasonable in the light of the anticipated or actual loss caused by the breach and the difficulties of proof of loss,’ ” with “ ‘[a] term fixing unreasonably large liquidated damages [being] unenforceable on grounds of public policy as a penalty.’ ” *Penske Truck Leasing Co. v. Chemetco, Inc.*, 311 Ill. App. 3d 447, 454 (2000) (quoting Restatement (Second) of Contracts § 356 (1981)). “There is no fixed rule applicable to all liquidated-damages agreements, and each one must be evaluated on its own facts and circumstances.” *Id.* Nevertheless, under Illinois law, a liquidated damages clause is generally valid and enforceable when the following elements are met:

“ ‘(1) the parties intended to agree in advance to the settlement of damages that might arise from the breach; (2) the amount of liquidated damages was reasonable at the time of contracting, bearing some relation to the damages which might be sustained; and (3) actual damages would be uncertain in amount and difficult to prove.’ ” *Med+Plus Neck & Back Pain Center, S.C. v. Noffsinger*, 311 Ill. App. 3d 853, 860 (2000) (quoting *Grossinger Motorcorp, Inc. v. American National Bank & Trust Co.*, 240 Ill. App. 3d 737, 749 (1992)).

Whether a contractual provision constitutes a valid liquidated damages clause is a question of law. *Penske Truck Leasing*, 311 Ill. App. 3d at 454.

¶ 37 At trial in this case, plaintiff and Cynthia each testified that plaintiff had negotiated the terms of the agreement before plaintiff signed it. Kyle similarly testified that he and plaintiff had discussed the terms of the agreement leading up to its execution.

¶ 38 Furthermore, Kyle and Cynthia both testified in relation to how the agreement's measure of liquidated damages related to the actual damages that defendant would sustain upon plaintiff breaching section 6.1 of the agreement. More specifically, Kyle explained that, in the event of a breach of section 6.1, defendant would be damaged by both the representative's early departure and the representative's engagement in competitive activity, the latter of which would cause defendant to lose revenue. Kyle also explained that, in deciding to include the liquidated damages clause in section 6.2, he had also considered the fact that defendants' sales representatives would acquire defendant's confidential information during the course of their work. Kyle stated that "the sooner [the breach of section 6.1,] the more [damage to defendant]." Additionally, Cynthia stated that part of the damage to defendant that would result from a sales representative's breach of section 6.1 would be the resulting confusion to defendant's customers. Cynthia explained that defendant operated within a "small industry," with "only so many manufacturers out there"; that defendant was one of the smaller manufacturers; and that defendant and Morilee sold identical products.

¶ 39 Kyle and Cynthia also testified that damages caused by a sales representative's breach of section 6.1 of one of defendant's sales representative agreements would be difficult to calculate prior to the time of the breach. Kyle explained that he and Cynthia had revised section 6.2 of the original template agreement to include the liquidated damages clause reflected in plaintiff's agreement only after sales representatives prior to plaintiff had expressed to him and Cynthia that the \$50,000 damages amount that the section originally provided for was too large in comparison to the amount that the representatives actually earned in commissions. Kyle further explained that the amount of damages caused by a breach of section 6.1 of defendant's sales representative agreements would vary, depending on, for example, the timing of the breach, the circumstances

surrounding the breach, the exact nature of the conduct constituting the breach, and the competition at hand. Additionally, Kyle testified that the commissions that defendant refused to pay plaintiff were from the very month that defendant believed that plaintiff had violated section 6.1 of the agreement and, therefore, the plaintiff was no longer entitled to commissions.

¶ 40 Although plaintiff now broadly asserts that the liquidated damages clause in section 6.2 of the agreement was not a reasonable forecast of defendant's actual damages caused by a breach of section 6.1 of the agreement, none of the specific facts that Kyle and Cynthia testified to regarding their measure of liquidated damages were meaningfully contested at trial. Therefore, we conclude that the circuit court properly found that the liquidated damages clause in section 6.2 of the agreement was valid and enforceable. See *Pierce v. B&C Electrical, Inc.*, 104 Ill. App. 3d 309, 311, 314-16 (1982) (concluding that a contract provision was a valid liquidated damages clause based, in part, on a witness's uncontradicted testimony at trial that the relevant amount in damages was uncertain). We also uphold the circuit court's final judgment in favor of defendant and against plaintiff.

¶ 41 III. CONCLUSION

¶ 42 The judgment of the circuit court of Du Page County is affirmed.

¶ 43 Affirmed.

Siwik v. Jasmine Enterprises Inc., 2026 IL App (3d) 250593

Decision Under Review: Appeal from the Circuit Court of Du Page County, No. 23-LA-67; the Hon. David E. Schwartz, Judge, presiding.

**Attorneys
for
Appellant:** Allison L. Bosley and Diana C. Servos, of S.T. Legal Group, of Deerfield, for appellant.

**Attorneys
for
Appellee:** Marc D. Sherman, of Marc D. Sherman & Colleagues, P.C., of Lincolnwood, for appellee.
