

2026 IL App (1st) 251212-U
No. 1-25-1212
Order filed September 25, 2026

Sixth Division

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).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

DANIEL NAPOLES,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellant,	)	Cook County
	)	
v.	)	No. 19 L 12406
	)	
NORTHEAST ILLINOIS REGIONAL	)	
COMMUTER RAILROAD CORPORATION,	)	
d/b/a METRA,	)	Honorable
	)	John H. Ehrlich,
Defendant-Appellee.	)	Judge, Presiding.

JUSTICE EVANS delivered the judgment of the court.
Justices Pucinski and Hyman concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court: (1) properly granted partial summary judgment in favor of Metra; (2) did not abuse its discretion by refusing to give “missing evidence instruction” (Illinois Pattern Jury Instructions, Civil, No. 5.01 (approved Dec. 8, 2011) (hereinafter IPI Civil No. 5.01)); and (3) did not abuse its discretion by barring plaintiff from eliciting the results of a post-incident investigation.

¶ 2 Plaintiff Daniel Napoles, an employee of Northeast Illinois Regional Commuter Railroad Corporation—doing business as Metra, brought a negligence suit against Metra under the Federal Employers’ Liability Act (FELA) (45 U.S.C. § 51 *et seq.* (2020)). Napoles sought damages for

injuries he sustained as a passenger in a motor vehicle accident involving a Metra pickup truck. The case ultimately proceeded to a jury trial and concluded with a verdict and final judgment in favor of Metra. Napoles appeals, and for the reasons that follow, we affirm.

¶ 3

I. BACKGROUND

¶ 4 Metra is a public corporation, organized under the Regional Transportation Authority Act (70 ILCS 3615/1.02 *et seq.*, (West 2018)). It operates a public commuter rail system serving a six-county region in northeast Illinois.

¶ 5 On November 21, 2016, Napoles, who was working for Metra as an assistant signalperson, was riding in the front passenger seat of a Metra pickup truck (a 2004 Chevy Silverado 2500) driven by his co-worker, Mike Collopy. Collopy was driving, speeding westbound on Interstate 90 heading to a job site. As they approached the exit to Route 25, a semi-truck merged into their lane from the right. The Metra truck crashed into the rear end of the semi-truck, which did not stop.

¶ 6 Napoles alleged that the collision caused him to be violently thrust forward into the dashboard and windshield and then sideways into the passenger door, resulting in serious injuries. Napoles claimed that although he was wearing his seatbelt and he heard the locking mechanism “click,” the seatbelt failed to restrain him and the airbag failed to deploy.

¶ 7 On November 8, 2019, Napoles filed a FELA complaint against Metra in the circuit court of Cook County. He alleged that Metra committed one or more of the following negligent acts or omissions: (a) failed to provide a safe workplace; (b) failed to maintain the Metra truck in a safe condition; (c) failed to equip the truck with functional seatbelts and airbags; (d) failed to remove the truck from service when it knew or should have known that it was unsafe; (e) failed to warn of unsafe work conditions; and (f) was otherwise careless and negligent.

¶ 8 Following discovery, Metra moved for summary judgment. Metra argued in part that its

inspection of the Metra truck revealed no reports of any defects with the seatbelts or airbags. Metra asserted that there were no triable issues of material fact to support Napoles's claims that the airbag and/or seatbelt were defective or that Metra had notice of the alleged defects.

¶ 9 On December 6, 2021, the circuit court granted in part and denied in part Metra's motion for summary judgment. The court granted the motion with respect to paragraph (c) of Napoles's complaint, which alleged that Metra was negligent in failing to equip the Metra truck with functional seatbelts and airbags. The court, however, denied the motion as to Napoles's remaining FELA claims.

¶ 10 In granting partial summary judgment, the court observed that the truck's seatbelts and airbags were routinely inspected for defects and were determined to be in satisfactory condition. Evidence was presented that Metra conducted monthly inspections of its vehicle and that Collopy's Metra truck was inspected a month before the accident. The court noted that on the day of the accident, Napoles claimed he was able to secure his seatbelt and heard a "click," indicating it was securely fastened. The court determined that Napoles failed to provide evidence supporting his assertion that "the airbag was defective or that the impact of the collision was sufficient to engage release of the airbag." The court found that Napoles's "allegations of a defective airbag or seatbelt rest solely on his own speculation and conjecture and are insufficient to defeat summary judgment."

¶ 11 In denying summary judgment on the remaining claims, the court held that Metra had a duty to provide its employees with a reasonably safe place to work, which included maintaining its vehicles in a safe condition. The court found that evidence had been presented showing that the Metra truck's floorboard was rusted out to the point where you could see the road through the floorboard. In addition, the doors to the truck would not stay closed and had to be locked to prevent

them opening. The court noted that the following issues were repeatedly identified in the truck's maintenance reports:

“[F]ront seats need repairs, need four new tires, A/C doesn't work, rear bumper needs repairs, passenger side taillight does not work, needs an oil change, ground straps for engine compartment needs repair, check engine light is on, no headliner, the ignition needs repair, needs wipers, rusted door jambs, multiple dents, [and] the vehicle has been involved in multiple accidents.”

¶ 12 The court concluded that Napoles “established triable facts as to whether or not the defective conditions of the vehicle constitute an unsafe place to work, which defeats [Metra's] Motion for Summary Judgment.”

¶ 13 Metra subsequently moved to reconsider, arguing that Napoles failed to establish that Metra knew or should have known that Collopy's speeding could have foreseeably caused Napoles's injuries. The court denied Metra's motion for reconsideration.

¶ 14 The court reasoned that “[s]peed [was] only one element in determining whether Collopy's reaction when the semi-truck merged into his driving lane created an unsafe place to work.” The court held that triable issues of fact remained as to not only whether Collopy was speeding at the time of the accident, but also whether he reacted reasonably when he saw the semi-truck merging into his driving lane. The court further held that maintenance records for the Metra truck created triable issues of fact as to whether the truck's alleged poor condition created an unsafe work environment.

¶ 15 On February 3, 2025, after the parties failed to reach a settlement agreement, the case was scheduled for jury trial. The court granted Metra's motion *in limine* barring Napoles from eliciting the results of a post-incident investigation conducted by Metra, which revealed that Collopy was

scheduled to be disciplined for speeding at the time of the accident. The court determined that the results of the investigation constituted an inadmissible remedial measure and were potentially prejudicial, in that the jury could use the results to establish “a standard of negligence.” The court noted that Collopy admitted in his deposition that he was speeding at the time of the accident. The court added, “I don’t think the jury needs anything more than that.”

¶ 16 The jury trial commenced on February 6, 2025, at which the following relevant testimony was presented.

¶ 17 Collopy, a foreperson signalperson with Metra, testified that on the date of the accident, he was driving a Metra pickup truck westbound on Interstate 90, heading to a job site. Napoles was riding as a passenger in the front seat. Collopy was driving in the middle lane with the flow of the traffic, approaching the exit to Route 25, when he noticed a semi-truck to his right. The semi-truck sped up and passed him, and suddenly “jumped over” into his driving lane. The semi-truck then “slammed” on its breaks. Collopy did not have time to apply his brakes. Collopy did not know what speed he was traveling “at the point of impact,” but acknowledged that Metra determined he was driving in excess of the posted speed limit at the time of the collision. Collopy added that he did not realize he was driving through a construction zone until he was standing on the side of the highway after the accident.

¶ 18 Collopy acknowledged that his Metra truck was equipped with a GPS system that tracked the truck’s location and speed. He testified that he never saw any GPS data, so he was unable to state whether the data would show he was speeding at the time of the accident.

¶ 19 Raymond Monty, a foreperson signalperson with Metra, testified that on the date of the accident, he was driving his large “boom truck” westbound on Interstate 90, a few minutes behind Collopy, heading to the same job site. At some point, he observed construction work along the

interstate. The two right lanes “abruptly” merged into the middle lane. He claimed that other than traffic cones, there were no warning or merge signs in the construction area to alert drivers of the lane closures. Monty testified: “There were no signs. It just all of a sudden I’m driving. And you had to merge over.” Monty acknowledged that he became “upset” when he arrived at the scene of the accident because “there were no advanced warnings” and he was almost involved in a similar accident in the same area.

¶ 20 Like Collopy, Monty acknowledged that Metra trucks were equipped with GPS systems that tracked their location and speed. Monty had heard that GPS data from Collopy’s Metra truck indicated Collopy was speeding at the time of the accident.

¶ 21 David Moore, a former director of signal construction for Metra, was called upon to investigate the accident. Moore testified that on the date of the accident, he traveled to the scene, and on the way, observed construction work in the area. He spoke with Monty at the scene. Monty was “upset” that the construction crews had closed the traffic lanes without adequate warnings. Monty “was very hot about the whole situation and he was complaining to the foreman on the construction crews on the highway.”

¶ 22 Moore acknowledged that GPS systems in Metra trucks could be utilized to determine whether a Metra employee was complying with Metra highway safety rules. Moore testified that a day after the accident, he reviewed GPS data to determine the speed Collopy’s Metra truck was traveling at the time of impact. When asked what happened to the GPS data, Moore responded that copies of the data were filed and given to the hearing officer for investigation.

¶ 23 Outside the presence of the jury, Napoles made an offer of proof through Moore, stating that Collopy was charged with violating Metra Safety Rule 107.4. The rule requires employees to obey traffic laws, comply with posted speed limits, and operate vehicles at reasonable speeds.

¶ 24 Napoles’s trial testimony differed from the trial testimonies of Collopy and Monty in several respects. Unlike Collopy and Monty, Napoles testified that in the construction zone, he observed concrete barriers and a traffic sign directing drivers to merge left. He testified that prior to the rear-end collision, the Metra truck was traveling approximately a tractor-trailer length behind the semi-truck, which had merged into the middle lane. Napoles claimed that the semi-truck slowed down, and when he glanced over at the speedometer in the Metra truck, he noticed it was traveling in excess of 70 miles per hour. According to Napoles, the Metra truck was closing the distance between the two vehicles, and it looked like Collopy was “not paying attention to the road” when he collided with the rear end of the semi-truck.

¶ 25 Napoles’s testimony was called into question by a statement he allegedly gave a doctor the day of the accident:

“Mr. Napoles states that he was a passenger in his company vehicle traveling on I-90 when a trailer suddenly merged into their lane. *** Mr. Napoles states the driver of his vehicle tried to brake, but ended up rear-ending the trailer going less than 60 miles per hour.”

¶ 26 During the jury instruction conference, Napoles tendered “missing evidence instruction” IPI Civil No. 5.01, which permits the jury to draw negative inferences from a party’s failure to produce particular evidence—here, the GPS data. The trial court refused to give the jury instruction. The court noted that after Moore testified that copies of the data were filed and given to the hearing officer, “there was no follow-up question as to what” Metra ultimately did with the data; “there was no question asked as to what Metra did with [the data].” The court determined that the lack of such evidence precluded giving the jury instruction.

¶ 27 The jury returned a unanimous verdict in favor of Metra, and the trial court entered

judgment on the verdict. The court subsequently entered an order denying Napoles' post-trial motions for judgment notwithstanding the verdict or, in the alternative, for a new trial. This timely appeal followed.

¶ 28

II. ANALYSIS

¶ 29 Napoles raises three arguments on appeal. The trial court: (1) erred in granting partial summary judgment in favor of Metra; (2) abused its discretion by refusing to give IPI Civil No. 5.01; and (3) abused its discretion by barring him from eliciting the results of a post-incident investigation by Metra, which revealed that Collopy was speeding at the time of the accident. We address each argument in turn.

¶ 30

A. Grant of Summary Judgment

¶ 31 “The purpose of summary judgment is to determine whether a genuine issue of material fact exists that would require a trial.” *Hodges v. St. Clair County*, 263 Ill. App. 3d 490, 492 (1994). Summary judgment is appropriate where “the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” 735 ILC 5/2-1005(c) (West 2012). “In determining whether a genuine issue as to any material fact exists, a court must construe the pleadings, depositions, admissions, and affidavits strictly against the movant and liberally in favor of the opponent.” *Gilbert v. Sycamore Municipal Hospital*, 156 Ill. 2d 511, 518 (1993). “A triable issue precluding summary judgment exists where the material facts are disputed, or where, the material facts being undisputed, reasonable persons might draw different inferences from the undisputed facts.” *Adams v. Northern Illinois Gas Co.*, 211 Ill. 2d 32, 43 (2004). Our review of a summary judgment order is *de novo*. *Id.*

¶ 32 “Actions brought in state court under FELA are governed by federal substantive law, and

federal decisions control our interpretation of that statute.” *Brzinski v. Northeast Illinois Reginal Commuter R.R. Corp.*, 384 Ill. App. 3d 202, 204 (2008). FELA is a negligence statute that provides federal remedies for railroad employees injured on the job. *Martin v. Union Pacific R.R. Co.*, 663 F.Supp.3d 833, 843 (N.D. Ill. 2023); *Abernathy v. Eastern Illinois R.R. Co.*, 940 F.3d 982, 988 (7th Cir. 2019).

¶ 33 “FELA provides, in pertinent part, that ‘[e]very common carrier by railroad * * * shall be liable in damages to any person suffering injury while he is employed by such carrier * * * for such injury * * * resulting in whole or in part from the negligence of any of the officers, agents, or employees of such carrier, or by reason of any defect or insufficiency, due to its negligence, in its cars * * * or other equipment.’ ” *Brzinski*, 384 Ill. App. 3d at 204 (quoting 45 U.S.C. § 51 (2000)).

¶ 34 The statute “imposes on railroads a general duty to provide a safe workplace.” *Holbrook v. Norfolk Southern Railway Co.*, 414 F.3d 739, 741 (7th Cir. 2005). “Because it is meant to offer broad remedial relief to railroad workers, a plaintiff’s burden when suing under the FELA is significantly lighter than in an ordinary negligence case.” *Id.* at 741-42. “[A] railroad will be held liable where ‘employer negligence played any part, even the slightest, in producing the injury.’ ” *Id.* at 742 (quoting *Rogers v. Missouri Pac. R.R. Co.*, 352 U.S. 500, 506, 77 S. Ct. 443, 1 L.Ed.2d 493 (1957)). That being said, FELA does not “render a railroad an insurer of its employees.” *Id.* “Thus, to survive a motion for summary judgment a plaintiff must still offer ‘evidence proving the common law elements of negligence, including duty, breach, foreseeability, and causation.’ ” *Brzinski*, 384 Ill. App. 3d at 205 (quoting *Williams v. National R.R. Passenger Corp.*, 161 F.3d 1059, 1061-62 (7th Cir. 1998)).

¶ 35 Napoles argues that whether Metra could have reasonably foreseen the unsafe condition of

the seatbelt was a question of fact for the jury to decide and was not an appropriate matter for summary judgment. In support of this argument, Napoles seizes upon the trial court's statement that "[t]here is a question of fact as to whether Metra should have reasonably discovered the unsafe condition of the seatbelts had it not delegated the responsibility of identifying maintenance issues to untrained and unqualified laypersons."

¶ 36 Napoles reads this statement out of context. The statement was made in context of the trial court's determination that Metra's policy of allowing "crews who had no qualifications in auto mechanics to inspect [its] vehicles," raised a question of fact as to whether Metra breached its duty to maintain the vehicles in a safe condition. The court concluded that Napoles "established triable facts as to whether or not defective conditions of the vehicle constitute an unsafe place to work, which defeats [Metra's] Motion for Summary Judgment."

¶ 37 Napoles suggests that evidence showing that certain parts of the Metra truck were in disrepair created an inference that his seatbelt was defective. We disagree. Junk yards are full of wrecked vehicles that still have functioning seatbelts. Conversely, it is common knowledge that some newer model vehicles, that are functional in every way, have been subject to recalls because of malfunctioning seatbelts. See *e.g.*, *Nemir v. Mitsubishi Motors Corp.*, 381 F.3d 540, 544 (6th Cir. 2004). The fact that a vehicle has a faulty transmission or brake system does not create an inference that the vehicle's seatbelts are defective.

¶ 38 In the instant case, the foreseeability element of Napoles's FELA negligence claim is at issue, and therefore we focus our analysis on that element.

¶ 39 To establish the foreseeability of an unsafe work condition, a plaintiff must show that the employer had actual or constructive notice of that harmful condition. *Holbrook*, 414 F.3d at 742. Here, the alleged harmful condition is the seatbelt Napoles was wearing at the time of the accident.

¶ 40 Actual notice will be found where there is evidence demonstrating that the defendant knew of the dangerous condition before the plaintiff's accident. See *Haslett v. United Skates of America, Inc.*, 2019 IL App (1st) 181337, ¶ 52. Proof of actual notice is not required, however, if constructive notice can be shown. *Olivarius v. Tharaldson Property Management, Inc.*, 695 F.Supp.2d 824, 832 (N.D. Ill. 2010). To establish constructive notice, it must be shown that the defect was substantial enough and that it existed for a sufficient length of time that a reasonable person would conclude that immediate repairs were necessary. *Kelly v. State of Illinois*, 50 Ill. Ct. Cl. 146, 151 (1998).

¶ 41 Here, Napoles failed to present sufficient evidence to create a question of fact as to actual or constructive notice. Evidence was presented demonstrating that the subject seatbelt was routinely inspected for defects and was determined to be in satisfactory condition. This negated any claim of actual notice. Likewise, there was no evidence that Metra had constructive notice of the alleged defective seatbelt. Napoles acknowledged that prior to the accident, his seatbelt was securely fastened and that he heard the locking mechanism "click." In addition, there was no evidence of any prior complaints or reports of problems with the seatbelt.

¶ 42 We find that the trial court properly granted partial summary judgment in favor of Metra concerning the operation of the seatbelt. Napoles failed to present any evidence that Metra had any actual or constructive notice of the purportedly defective seatbelt. See *e.g., Sportsman v. BNSF Railway Co.*, No. 4:10CV513 TIA, 2011 WL 2134373, at *6-7 (E.D. Mo. May 26, 2011) (affirming grant of summary judgment against FELA plaintiff where record was devoid of any evidence showing that defendant railroad was negligent for failing to discover allegedly defective seatbelt in a van plaintiff was riding in as a passenger).

¶ 43

B. IPI Civil No. 5.01

¶ 44 Napoles next contends that the trial court abused its discretion by refusing to give “missing evidence instruction” IPI Civil No. 5.01, concerning GPS speed data from the Metra truck. This instruction allows the jury to infer that any evidence not offered, but within the control of a party, is adverse to that party. *First National Bank of LaGrange v. Lowrey*, 375 Ill. App. 3d 181, 210 (2007). Napoles argues that the missing evidence instruction would have enhanced his credibility and enabled the jury to infer that the missing GPS data was adverse to Metra.

¶ 45 IPI Civil No. 5.01 may be given where some foundation is presented for each of the following:

“(1) the evidence was under the control of the party and could have been produced through the exercise of reasonable diligence; (2) the evidence was not equally available to the adverse party; (3) a reasonably prudent person under the same or similar circumstances would have offered the evidence if he believed the evidence to be in his favor; and (4) no reasonable excuse for the failure has been shown.” *Jenkins v. Dominick’s Finer Foods, Inc.*, 288 Ill. App. 3d 827, 831 (1997).

¶ 46 “IPI 5.01 is not warranted where the missing evidence is merely cumulative of the facts already established.” *Id.* The decision to give the instruction is within the sound discretion of the trial court, whose decision will not be disturbed absent an abuse of that discretion. *Dunning v. Dynegy Midwest Generation, Inc.*, 2015 IL App (5th) 140168, ¶ 84. “A trial court abuses its discretion only when the ruling is arbitrary, fanciful, or unreasonable, or where no reasonable person would take the view adopted by the trial court.” *Wakenight v. Katherine Shaw Bethea Hospital*, 2026 IL App (4th) 251048, ¶ 83.

¶ 47 We find no abuse of discretion in the trial court’s refusal to tender IPI Civil No. 5.01

concerning the GPS data. Although there was testimony indicating that the GPS data may have been obtained following the accident, the record does not conclusively establish what happened to it afterward. At the jury instruction conference, Metra proffered a reasonable excuse for failing to produce the data. Metra stated that Collopy pled guilty to the speeding charges and therefore he never underwent a disciplinary hearing. Metra reasoned that the fact that a disciplinary hearing never occurred likely led to the routine destruction of the hearing officer's file, which was said to have included the GPS data. Courts have determined that the routine destruction of records "in the normal course of business" does not support a missing evidence instruction. See *Laport v. Lake Michigan Management Co.*, 252 Ill. App. 3d 221, 227 (1991).

¶ 48 Moreover, even assuming the trial court abused its discretion by refusing to give the missing evidence instruction, Napoles was not prejudiced because the missing evidence would have been cumulative of evidence already before the jury. See *Dunning v. Dynegy Midwest Generation, Inc.*, 2015 IL App (5th) 140168, ¶ 85.

¶ 49 Collopy testified that his Metra truck was equipped with a GPS system that tracked the truck's location and speed. He acknowledged that Metra determined that he was driving in excess of the posted speed limit at the time of the collision. Monty testified that Metra trucks were equipped with GPS systems that tracked their location and speed. Monty stated that he had heard that GPS data from Collopy's Metra truck, indicated Collopy was speeding at the time of the accident. Moore testified that GPS systems in Metra trucks could be used to determine whether a Metra employee was complying with Metra highway safety rules. He testified that a day after the accident, he reviewed the GPS data to determine the speed Collopy's truck was traveling at the time of the collision.

¶ 50 GPS data from Collopy's Metra truck would have been cumulative to the above testimony.

In sum, Metra proffered a reasonable excuse for failing to produce the GPS data and Napoles was not prejudiced because the missing evidence was cumulative of evidence already before the jury. The trial court's refusal to tender missing evidence instruction IPI Civil No. 5.01 was not arbitrary, fanciful, or unreasonable, and therefore we find that the court did not abuse its discretion.

¶ 51 C. Admission of Evidence

¶ 52 Napoles finally contends that the trial court abused its discretion by barring him from eliciting the results of a post-incident investigation by Metra, which showed that Collopy was scheduled to be disciplined for speeding in violation of Metra Safety Rule 107.4. The trial court granted Metra's pretrial motion *in limine* barring Napoles from eliciting these results based on its determination that the results constituted an inadmissible remedial measure. The court also found that admission of the results would be potentially prejudicial in that the jury could use the results to establish "a standard of negligence." The court further noted that in his deposition, Collopy admitted that he was speeding at the time of the accident. The court added, "I don't think the jury needs anything more than that."

¶ 53 Napoles argues that Metra's finding that Collopy was speeding in violation of Metra Safety Rule 107.4, "is not a post occurrence remedial measure." Napoles contends that he should have been permitted to examine Moore "regarding the GPS data, what it revealed about the speed of the truck leading up to the collision, and what happened to the data after the investigation."

¶ 54 "A trial court's decision regarding whether to admit evidence is reviewed for an abuse of discretion." *Bulger v. Chicago Transit Authority*, 345 Ill. App. 3d 103, 110 (2003). In addition, "[a]n error in the exclusion or admission of evidence does not require reversal unless one party has been prejudiced or the result of the trial has been materially affected." *DiCosolo v. Janssen Pharmaceuticals, Inc.*, 2011 IL App (1st) 093562, ¶ 32. We find no error or abuse of discretion.

¶ 55 The trial court found that admission of the post-incident investigation results could potentially mislead the jury regarding the standard of negligence. We do not believe that this finding constituted an abuse of discretion. Our court has determined that “even relevant evidence may be excluded if its probative value is substantially outweighed by its prejudicial impact or potential to confuse or mislead the jury.” *Private Bank v. Silver Cross Hospital & Medical Centers*, 2017 IL App (1st) 161863, ¶ 61.

¶ 56 The trial court also determined that the post-incident investigation results constituted an inadmissible remedial measure. The term “remedial” has been defined in part as “[a]ffording or providing a remedy; providing the means of obtaining redress.” Black’s Law Dictionary 1296 (7th ed. 1999). “Evidence of post-accident remedial measures is not admissible to prove prior negligence.” *Herzog v. Lexington Township*, 167 Ill. 2d 288, 300 (1995); *Bulger*, 345 Ill. App. 3d at 111. This exclusionary rule is based on several reasons: “(1) a strong public policy favors encouraging improvements to enhance public safety; (2) subsequent remedial measures are not considered sufficiently probative of prior negligence, because later carefulness may simply be an attempt to exercise the highest standard of care; and (3) a jury may view such conduct as an admission of negligence.” *Id.* (citing *Herzog*, 167 Ill. 2d at 300).

¶ 57 There are several exceptions to the rule. “[P]ost-accident remedial measures may be admissible for purposes such as proving ownership or control of property where disputed by the defendant, proving feasibility of precautionary measures where disputed by the defendant, or impeachment without inference of prior negligence.” *Bulger*, 345 Ill. App. 3d at 111(citing *Herzog*, 167 Ill. 2d at 300-03). Napoles has not argued that any of these exceptions apply in the instant case, but even if he had, we would still find no abuse of discretion.

¶ 58 Napoles made an offer of proof through Moore, stating that Collopy was charged with

violating Metra Safety Rule 107.4, for failing to obey traffic laws, comply with posted speed limits, and operate motor vehicles at reasonable speeds. Thus, Metra's decision to investigate the accident, charge Collopy with violating the safety rule, and schedule him for a disciplinary hearing, "fell within the scope of inadmissible post-accident remedial actions." See *Bulger*, 345 Ill. App. 3d at 112. This evidence was not offered to show ownership or control of property, prove feasibility of precautionary measures, or impeach a witness. Rather, it was offered for the "impermissible and highly prejudicial purpose of proving" Collopy's negligence. *Id.*

¶ 59 Moreover, Naples was not prejudiced by the trial court's decision to bar him from presenting evidence of the post-accident remedial measures because this evidence was cumulative of evidence presented through the testimonies of Collopy, Monty, and Moore. As aforementioned, all three testified relating to Collopy's speed at the time of the accident.

¶ 60 "The exclusion of evidence is harmless where the evidence excluded was fully established by other evidence and also where the evidence offered was merely cumulative." *Chuhak v. Chicago Transit Authority*, 152 Ill. App. 3d 480, 486 (1987). Here, the admission of the post-accident remedial measures would have conveyed nothing more to the jury than it was already aware of and would have been cumulative. The trial court's decision did not deprive the jury of any probative evidence, and we find that the court did not abuse its discretion.

¶ 61 III. CONCLUSION

¶ 62 For the foregoing reasons, we affirm the judgment of the trial court.

¶ 63 Affirmed.