

No. 1-15-1229

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

CELIA GOMEZ and JOSEFA TORRES,)	Appeal from the
)	Circuit Court of
Plaintiffs-Appellants,)	Cook County
)	
v.)	No. 11 L 5339
)	
HOME DEPOT U.S.A., INC., JOSE MARTINEZ, and)	
RAMIRO NUNEZ,)	Honorable
)	Sheryl A. Pethers,
Defendants-Appellees.)	Judge Presiding.

JUSTICE PIERCE delivered the judgment of the court.
Justices Neville and Mason concurred in the judgment.

ORDER

¶ 1 *Held:* (1) The trial court's order granting summary judgment in favor of defendants on Gomez's false imprisonment claims is reversed and remanded; (2) the trial court's orders granting summary judgment in favor of defendants on plaintiffs' remaining claims are affirmed, including all of Torres' claims; (3) the trial court's order denying plaintiffs' motion for sanctions is affirmed; and (4) the trial court's order striking Gomez's prayer for punitive damages from the amended complaint is reversed.

¶ 2 Plaintiffs Celia Gomez and Josefa Torres filed this action for false imprisonment, assault, battery, intentional infliction of emotional distress, negligent infliction of emotional distress, and defamation, after defendants investigated Gomez for suspected retail theft at two separate Home Depot stores on two separate days. During discovery, plaintiffs requested production of

surveillance video and a written report from the investigation. Defendants asserted the video and report did not exist and plaintiffs moved for sanctions. The trial court denied plaintiffs' motion for sanctions. Thereafter, defendants moved to strike plaintiffs' prayer for punitive damages, which was granted. Defendants then moved for summary judgment on plaintiffs' complaint. The trial court granted the motion, except as to one of Gomez's defamation claims. After further briefing, the trial court granted summary judgment in favor of defendants on Gomez's defamation claim. Plaintiffs appeal the orders denying plaintiffs' motion for sanctions, striking their prayer for punitive damages, and granting summary judgment in favor of defendants. For the following reasons, we reverse in part, affirm in part, and remand for further proceedings.

¶ 3

BACKGROUND

¶ 4 Plaintiffs filed a 37-count amended complaint against Home Depot U.S.A., Inc. (Home Depot), and two of its employees, Jose Martinez, and Ramiro Nunez, (collectively, defendants), alleging claims of false imprisonment, assault, battery, intentional infliction of emotional distress, negligent infliction of emotional distress, and defamation. The allegations concerned the conduct of Home Depot employees on September 14, 2010, at a Home Depot store located at 1919 N. Cicero Avenue, Chicago, IL (the Cicero store), and on September 15, 2010, at a Home Depot store located at 2555 North Normandy, Chicago, IL (the Normandy store). The allegations in the operative complaint are as follows.

¶ 5 On September 14, 2010, Celia Gomez and her sister, Josefa Torres, shopped at the Cicero store. While shopping, Gomez picked up two battery packages and placed them in the front of her shopping cart. Defendants Martinez and Nunez, Home Depot asset security personnel, claimed they saw Gomez later stuff the batteries into her shirt. After paying for other items,

plaintiffs began to exit when they were surrounded by security personnel, one of whom grabbed Gomez by the arm. They escorted Gomez to the store security office, where Martinez and Nunez allegedly blocked the only exit from the security office and questioned her about the batteries. Torres remained outside the store and was not detained. She later felt faint but refused the offer of another Home Depot employee to call an ambulance. The Home Depot employees searched Gomez's purse but did not find any store property. Gomez claimed that she was detained for 30 minutes. Jackie Suarez, a non-asset protection employee of Home Depot, was present, and provided Nunez a copy of a written report of the incident. Gomez was then released to attend to Torres.

¶ 6 On September 15, 2010, Gomez and Torres visited the Normandy store. Plaintiffs bought two cans of paint and as they were leaving the store, defendant Martinez, who was not on duty, followed them, stopped Gomez and searched her shopping cart. Martinez allegedly made defamatory statements, including calling her a thief, "verbally assault[ing] Gomez in front of a large crowd of bystanders that had gathered, shouting that Gomez was a fugitive from justice, imputing criminal activity to Gomez and making false statements about Gomez's reputation."

¶ 7 On September 26, 2011, plaintiffs propounded a discovery request to produce video footage of plaintiffs entering, shopping at, and exiting the Cicero and Normandy stores on the relevant days. In response, defendants instructed plaintiffs to "[s]ee video footage previously produced," referring to two previously-produced videos of plaintiffs attempting to exit the Cicero and Normandy stores.¹ Thereafter, plaintiffs filed supplemental interrogatories and a

¹ This video footage does not appear in the record, accordingly, we cannot confirm the contents of the videos or when defendants specifically produced them.

supplemental request to produce documents, including a request for the production of written statements prepared by Home Depot employees. Defendants answered explaining they had no data or documents satisfying the requests.

¶ 8 On November 20, 2012, plaintiffs filed a motion for discovery sanctions against defendants pursuant to Illinois Supreme Court Rule 219 (eff. July 1, 2002), requesting that the trial court enter default judgment, strike defendants' answers, and bar defendants from introducing evidence regarding the alleged videotapes. Plaintiffs contended that defendants had intentionally destroyed footage depicting plaintiffs' activity inside the Cicero and Normandy stores. Plaintiffs asserted that the stores had fixed, operational cameras that should have recorded plaintiffs' conduct. Plaintiffs pointed to the deposition of Home Depot's Asset Protection Manager, Patricio Ramirez, who testified that Home Depot policy requires the retention of all video footage depicting apprehended subjects at specified points inside Home Depot stores. Plaintiffs further argued that defendants failed to produce the written statement prepared by Jackie Suarez during Gomez's detention.

¶ 9 Defendants responded to plaintiffs' motion for sanctions by arguing that they produced all available footage of plaintiffs in the Home Depot stores. Defendants also cited to Ramirez's deposition, where he testified that video cameras "were not operational in the areas at the Cicero Store where it would show Gomez taking the batteries from the display and later concealing them on her body." In fact, cameras were normally only located under canopies, customer entrances and exits, and sometimes in the faucet and power tool sections. Defendants further argued that although Jackie Suarez witnessed Gomez's detention, she never made a written report of the incident. Therefore, the evidence plaintiffs claimed defendants destroyed, in fact,

never existed. After hearing, in a handwritten order, the trial court denied plaintiffs' motion for discovery sanctions.

¶ 10 Defendants moved for summary judgment on all of plaintiffs' claims based in part on the affirmative defense of a shopkeepers' privilege. A copy of that motion is not contained in the record. On February 11, 2015, the trial court granted defendants' summary judgment on all claims except for "count 31 for defamation" against Home Depot. The court requested additional briefing and defendants filed a supplemental motion for summary judgment on the remaining defamation count. In this motion, defendants argued that summary judgment was proper because there was no evidence that the alleged statement was published, there was no evidence of special damages, Gomez was not identified in Martinez's statements, and Gomez invited the statements. Defendants further argued that even if the statements were published, they were not in fact defamatory.

¶ 11 Plaintiffs responded by arguing that Martinez's statements constituted defamation *per se* because they concerned an offense punishable by imprisonment. Further, plaintiffs argued Martinez's statement identified Gomez; Gomez did not invite the statements made against her; and the statement was published because numerous bystanders were nearby when the statements were made.

¶ 12 On March 26, 2015, after hearing, the trial court entered "Summary judgment in favor of all defendants *** on all of Plaintiffs' Defamation Counts of the Amended Complaint." Plaintiffs then timely filed this appeal.

¶ 13 ANALYSIS

¶ 14 On appeal, plaintiffs argue that the trial court: (1) abused its discretion in denying

plaintiffs' Illinois Supreme Court Rule 219(c) motion for sanctions; (2) erred in granting summary judgment in favor of defendants on the non-defamation claims; (3) erred in granting defendants' motion to strike plaintiffs' request for punitive damages; and (4) erred in granting summary judgment in favor of defendants on the defamation claims.

¶ 15 First, plaintiffs argue the trial court abused its discretion by denying plaintiffs' motion to impose Illinois Supreme Court Rule 219 discovery sanctions against defendants.

¶ 16 During discovery, plaintiffs requested that Home Depot produce video footage of plaintiffs as they entered, shopped at, and exited the Cicero and Normandy stores. Defendants only produced two videos depicting plaintiffs as they exited the two stores. Defendants asserted they had no other video footage and no written reports of Gomez's detention. Plaintiffs moved for sanctions arguing that defendants destroyed this evidence. As a sanction, plaintiffs requested that the trial court: (1) enter default judgment in favor of plaintiffs; (2) strike defendants' pleadings; and (3) bar defendants from entering evidence as to the destroyed evidence's content.

¶ 17 In response, defendants asserted there were no operational cameras in the area where Gomez picked up the batteries and allegedly hid them in her shirt. In addition, there were no employee notes or written records of Gomez's in-store detention. Thus, the allegedly destroyed evidence never existed and therefore could not have been destroyed.

¶ 18 Illinois Supreme Court Rule 219 affords a trial judge broad discretion in imposing a sanction appropriate under the specific circumstances. *Locasto v. City of Chicago*, 2014 IL App (1st) 113576, ¶ 26. A reviewing court must give considerable deference to the trial court's decision and will not reverse the decision absent an abuse of discretion. *Cirrincione v. Westminster Gardens Ltd. Partnership*, 352 Ill. App. 3d 755, 761 (2004). The refusal to impose

any sanction is not an automatic abuse of discretion. *Boatmen's National Bank of Belleville v. Martin*, 155 Ill. 2d 305, 314 (1993). Where discretion has been vested in the trial court, only a clear abuse of discretion or an application of impermissible legal criteria justifies reversal. *Id.*

¶ 19 Illinois Supreme Court Rule 219 provides that if a party unreasonably fails or refuses to comply with discovery procedures, the court may: (1) bar the offending party from maintaining any particular claim, counterclaim, or defense relating to that issue; (2) enter default judgment against the offending party as to claims or defenses asserted in any pleading to which that issue is material; or (3) strike any portion of the offending party's pleadings relating to that issue. The goal of discovery sanctions is to accomplish complete discovery and not to punish a party. *Singer v. Treat*, 145 Ill. App. 3d 585, 592 (1986). Thus, the trial court should only impose drastic sanctions when a party demonstrates "deliberate, contumacious or unwarranted disregard of the court's authority." (Internal quotation marks omitted.) *Reyes v. Menard, Inc.*, 2012 IL App (1st) 112555, ¶ 26 (citing *Perry v. Minor*, 319 Ill. App. 3d 703, 711 (2001)). The entry of default judgment and striking of pleadings are considered the most drastic sanctions. *Reyes*, 2012 IL App (1st) 112555, ¶ 46; *Pickering v. Owens-Corning Fiberglas Corp.*, 265 Ill. App. 3d 806, 820 (1994).

¶ 20 Here, plaintiffs have not established that defendants destroyed evidence. Rather, they point to a Home Depot policy that only describes how records must be retained once created. In sum, plaintiffs argue that because Home Depot has a policy for retention of in-store video recordings, the evidence they requested should have existed and because it was not produced, it must have been intentionally destroyed. We find that plaintiffs' conclusion is not factually supported and is insufficient to establish that defendants destroyed evidence, or engaged in

“deliberate, contumacious or unwarranted disregard of the court’s authority.” *Reyes*, 2012 IL App (1st) 112555 ¶ 26. Plaintiffs have not refuted defendants’ representations that cameras did not record customer activity in every area of the store and that no reports or notes of Gomez’s detention exist. Because plaintiffs have not established that defendants destroyed evidence, and plaintiffs have not sustained their burden of proof, we find the trial court properly exercised its discretion in declining to issue sanctions against defendants. *Id.* ¶ 46; *Pickering*, 265 Ill. App. 3d at 820.

¶ 21 Next, plaintiffs argue that the trial court erred by granting summary judgment in favor of defendants on plaintiffs’ non-defamation claims. Plaintiffs argue that the trial court granted summary judgment solely on the shopkeepers’ privilege, which provides in relevant part:

“(a) Detention. Any merchant who has reasonable grounds to believe that a person has committed retail theft may detain the person, on or off the premises of a retail mercantile establishment, in a reasonable manner and for a reasonable length of time for all or any of the following purposes:

* * *

(3) To make reasonable inquiry as to whether such person has in his possession unpurchased merchandise and to make reasonable investigation of the ownership of such merchandise[.]” 720 ILCS 5/16-26 (West 2014).

¶ 22 On this record, we cannot agree with plaintiffs that the trial court’s decision was based solely on the shopkeepers’ privilege. The record on appeal does not contain a transcript or bystander’s report of the hearing on defendants’ motion, nor does it include defendants’ motion for summary judgment or any exhibits attached thereto. The record does, however, include

plaintiffs' response and defendants' reply to the motion.² Our review of those filings shows that the parties argued whether the shopkeepers' privilege precluded liability and whether plaintiffs could establish any issue of fact on each one of their individual claims. The handwritten order granting defendants' partial summary judgment motion on the non-defamation claims simply states that "[a]fter review and consideration of all of the briefs and all of the exhibits submitted, and after consideration of oral argument, the Court finds that summary judgment in favor of all Defendants is granted on all counts of Plaintiffs' Complaint and Amended Complaint[.]"

Therefore, it is not clear from this record that the trial court's order granting summary judgment in favor of defendants on plaintiffs' non-defamation claims was based solely on the shopkeepers' privilege.

¶ 23 We also find that plaintiffs have forfeited any challenge to the trial court's order granting summary judgment in favor of defendants on Torres' claim of false imprisonment at the Cicero store, both plaintiffs' claims of false imprisonment at the Normandy store, and both plaintiffs' claims of assault, battery, intentional infliction of emotional distress, and negligent infliction of emotional distress at the Cicero and Normandy stores. In their appellate brief, plaintiffs make no argument regarding any of these claims. They offer no citations to the record in support of their general position that summary judgment was improper, fail to examine whether the shopkeepers' privilege would even apply to claims of assault, battery, intentional infliction of emotional distress, or negligent infliction of emotional distress, and fail to define the basic elements of each

² The record reflects that plaintiffs attached to their response to summary judgment the deposition transcripts of Gomez, Torres, Martinez, Nunez, and Suarez, and thus the testimony therein was properly before the trial court for consideration on summary judgment. See 735 ILCS 5/2-1005(c) (West 2014).

of these claims. This court is not a depository in which the appellant may dump the burden of argument and research (*Housing Authority of Champaign County v. Lyles*, 395 Ill. App. 3d 1036, 1040 (2009)), and it is not the job of this court to scour the record and make arguments for the appellant. *In re Estate of Parker*, 2011 IL App (1st) 102871, ¶ 47. Therefore, any challenge to the summary judgment order as it relates to those claims has been forfeited. Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013) (argument section of appellant brief “must contain contentions of the appellant and reasons therefor, with citation to authorities and pages of record relied on”); *Lyles*, 395 Ill. App. 3d at 1040 (the failure to properly develop an argument does “not merit consideration on appeal and may be rejected for that reason alone”). Due to plaintiffs’ forfeiture, we affirm the trial court’s order granting summary judgment in favor of defendants on Torres’ claim of false imprisonment at the Cicero store, both plaintiffs’ claims of false imprisonment at the Normandy store, and both plaintiffs’ claims of assault, battery, intentional infliction of emotional distress, and negligent infliction of emotional distress at the Cicero or Normandy stores.

¶ 24 However, we agree that Gomez has sufficiently demonstrated that the trial court erred in granting summary judgment in favor of defendants on her claims of false imprisonment at the Cicero store against Martinez (count I), Nunez (count XV), and Home Depot (count XXII).

¶ 25 Summary judgment is appropriate where there is no genuine issue as to any material fact, and the moving party is entitled to judgment as a matter of law. 735 ILCS 5/2-1005(c) (West 2014). Summary judgment should only be granted “where the right of the moving party is clear and free from doubt.” *Williams v. Manchester*, 228 Ill. 2d 404, 417 (2008). Therefore, summary judgment is precluded where “the material facts are disputed or where, the material facts being

undisputed, reasonable persons might draw different inferences from the undisputed facts.” *Id.*

At the summary judgment stage, all evidence must be construed in favor of the nonmoving party. *Richardson v. Bond Drug Co. of Illinois*, 387 Ill. App. 3d 881, 884 (2009). A trial court’s ruling on summary judgment is a question of law reviewed *de novo*. *Id.* When reviewing an appeal from the grant of summary judgment the function of the court is limited to “determining whether the trial court correctly concluded that no genuine issue of material fact was raised and, if none was raised, whether judgment as a matter of law was correctly entered.” *American Family Mutual Insurance Co. v. Page*, 366 Ill. App. 3d 1112, 1115 (2006). Because our review is *de novo*, we review the evidence that was before the trial court to determine if there is a triable issue of fact as to whether defendants had reasonable grounds or probable cause to believe that plaintiffs committed retail theft.

¶ 26 As noted above, the shopkeepers’ privilege requires a merchant to have “reasonable grounds to believe that a person has committed retail theft” before detaining a person. 720 ILCS 5/16-26 (West 2014). And while plaintiffs’ brief fails to set forth the elements of a false imprisonment claim, our supreme court has observed that such a claim requires showing that “the plaintiff was restrained or arrested by the defendant, and that the defendant acted without having reasonable grounds to believe that an offense was committed by the plaintiff.” *Meerbrey v. Marshall Field & Co., Inc.*, 139 Ill. 2d 455, 474 (1990). Our supreme court has also observed that while the existence of probable cause is generally a question of law, if the operative facts underlying the arrest are in dispute, it becomes a question of fact. *Poris v. Lake Holiday Property Owners Ass’n*, 2013 IL 113907, ¶ 63. Probable cause is defined as a state of facts which, if known, would lead a person of ordinary caution and prudence to believe or entertain a strong and

honest suspicion that the person arrested is guilty. *Id.* ¶ 63 (citing *Lappin v. Costello*, 232 Ill. App. 3d 1033, 1042 (1992)). Probable cause is an absolute bar to a claim of false imprisonment. *Martel Enterprises v. City of Chicago*, 223 Ill. App. 3d 1028, 1034 (1991).

¶ 27 In *Poris*, a member of a property owners association was pulled over by an association security officer for speeding in violation of the association’s rules. 2013 IL 113907, ¶ 15.

Plaintiff alleged in part that he was falsely imprisoned. *Id.* ¶ 18-19. The trial court granted summary judgment in favor of the association on all counts. *Id.* The appellate court reversed summary judgment in favor of the association on plaintiff’s false imprisonment claim and entered judgment in favor of plaintiff, holding that the security officer lacked probable cause to stop plaintiff because the traffic violation was not a violation of a penal statute and thus not an “offense.” *Id.* ¶ 24.

¶ 28 The supreme court reversed the appellate court’s judgment on the false imprisonment claim. After finding that the association could validly enforce its own rules and regulations by issuing citations to its members for speeding, the court held that plaintiff could not establish that the security officer lacked reasonable grounds or probable cause, (*id.* ¶ 62), and the parties agreed that the security officer's radar showed plaintiff driving at 34 miles per hour in a 25-mile-per-hour zone. *Id.* ¶ 64. This was an absolute bar to plaintiff’s claim of false imprisonment. It is important to note that in *Poris*, the plaintiff’s challenge to probable cause was not factual, but instead focused on whether the security officer was permitted to stop him.

¶ 29 Here, Gomez argues that *Gaszak v. Zayre of Illinois, Inc.*, 16 Ill. App. 3d 50 (1973) supports her position that the facts underlying the stop were in dispute. In *Gaszak*, defendant’s employee testified that he asked the plaintiff to exit through a particular door as she was

attempting to leave a department store. Plaintiff then walked back into the store through a checkout aisle, and defendant's employee testified that plaintiff removed some items from under her coat, placed them on a display counter, returned to a checkout counter, paid for certain other items, and was stopped when she attempted to leave. *Id.* at 52. Plaintiff testified that she was waiting in a checkout line with a pair of baby pants when she realized she needed to leave, and she placed the pants on a counter before attempting to exit. When she was told she needed to exit through a different door, she retrieved the pants she had laid down, paid for them, and was then stopped. *Id.* at 53. The trial court granted a directed verdict in favor of the defendant, finding that the statutory shopkeepers' privilege in effect at the time did not require possession. *Id.* at 55-56. This court reversed, holding that the evidence, viewed in a light most favorable to the plaintiff, did not overwhelmingly favor defendants. *Id.* at 56. Furthermore, we held that where defendants did not actually see plaintiff pick up an article and leave without paying for it, plaintiff's account of the incident created a question of fact that should have been resolved by the jury. *Id.* at 57.

¶ 30 Defendants' primary argument in this appeal is that summary judgment based on the shopkeepers' privilege was correct. Defendants contend that *Gaszak* does not support Gomez's arguments because *Gaszak* was considering a prior version of the shopkeepers' privilege that required "probable cause," whereas the current version of the statute requires "reasonable grounds." Defendants fail to explain the difference. Our supreme court in *Poris* was unconcerned with the distinction in a similar context. See *Poris*, 2013 IL 113907, ¶ 62.

¶ 31 We agree with Gomez that there is a question of fact in this case as to whether defendants had probable cause to stop her at the Cicero store. There is no dispute that Gomez picked up batteries while shopping. She testified that she placed the batteries in the basket portion of the

shopping cart. She also testified that she placed a box containing an air filter on top of her purse, which was in the baby seat section of the cart. Gomez testified that, while shopping, she took the air filter out of her cart and left it, along with the batteries, elsewhere in the store. Martinez testified that Gomez placed the batteries on top of her purse. He further testified that he would begin his surveillance when a customer places items such as batteries into the baby seat of the shopping cart if they also had personal belongings there. He testified that Gomez put the air filter in the basket portion of the shopping cart and that he observed her place another item in the basket. He subsequently observed her place the batteries down the front of her shirt that resulted in a visible bulge. He never testified as to whether he observed Gomez remove the air filter or any other item from the cart. As described above, there was no video of Gomez shopping in the store, and thus the circumstances leading to the stop come down to a credibility determination. We further note that, although it does not relate precisely to whether there was probable cause to stop Gomez, defendants never recovered any batteries from Gomez. Construing the evidence in the light most favorable to Gomez, as we must, we find there are genuine issues of material fact as to whether defendants had probable cause to stop Gomez as she exited the Cicero store. We therefore reverse the order of summary judgment on Gomez's claims of false imprisonment at the Cicero store against Martinez (count I), Nunez (count XV), and Home Depot (count XXII), and remand for further proceedings.

¶ 32 Next, Gomez argues that the trial court erred in granting summary judgment in favor of defendants on her defamation claims against Martinez and Home Depot related to the Normandy store incident.

¶ 33 Defamation is the publication of disreputable untruths about another to a third party.

Suhadolnik v. City of Springfield, 184 Ill. App. 3d 155, 185 (1989). Statements imputing the commission of a crime are defamatory *per se*. *Solaia Technology, LLC v. Specialty Publishing Co.*, 221 Ill. 2d 558, 579-80 (2006). A higher standard of precision and particularity is required when pleading and proving a claim for defamation *per se*. *Green v. Rogers*, 234 Ill. 2d 478, 494 (2009). This heightened standard is necessary to establish whether the alleged defamatory communication supports a cause of action. *Suhadolnik*, 184 Ill. App. 3d at 187.

¶ 34 In her appellate brief, without citing to the record and in a conclusory fashion, Gomez argues that “[t]he Circuit Court erred in granting summary judgment to Defendant Martinez on the defamation count because Plaintiffs established the elements of defamation through testimony at deposition.” Gomez does not identify in her brief any statement she asserts is defamatory.

¶ 35 In the amended complaint, Gomez alleges that “Martinez verbally assault[ed] Gomez in front of a large crowd *** shouting that Gomez was a fugitive from justice, imputing criminal activity to Gomez and making false statements about her reputation.” In the fact section of her appellate brief, Gomez asserts that Martinez stated she was a thief and the target of an arrest warrant. Yet, none of these statements are included in the discussion of this issue on appeal. Of the remaining four paragraphs supporting this issue, only one paragraph discusses why Gomez believes the trial court erred in granting summary judgment in favor of defendants. That paragraph addresses whether a defamatory statement was heard by a third party. In short, Gomez has supplied no reference to the proceedings in the trial court and no adequate argument or citation on appeal from which we can consider and rule on whether the trial court correctly entered summary judgment in favor of defendants.

¶ 36 As a reviewing court, we are entitled to have the issues on appeal clearly defined, with a cohesive legal argument presented. *Express Valet, Inc. v. City of Chicago*, 373 Ill. App. 3d 838, 855 (2007). Gomez neglects to identify the defamatory statement which she asserts was proven in deposition testimony, and also fails to cite the deposition as support that this assertion can be found in the record, again violating Rule 341(h)(7). Thus, we find Gomez forfeited this issue on appeal, and affirm summary judgment in favor of defendants on her defamation claims on that basis.

¶ 37 Lastly, Gomez argues that the trial court erred in granting defendants' motion to strike her prayer for punitive damages. We will address this argument solely as it relates to Gomez's remaining claims for false imprisonment in light of our determination above. Gomez fails to cite to the record in support of her argument on this issue, once again violating Rule 341(h)(7). The record does not include defendants' motion to strike the prayer for punitive damages, but does include Gomez's response and defendants' reply to the motion, along with the trial court's written order granting the motion to strike pursuant to section 2-604.1 of the Code of Civil Procedure (735 ILCS 5/2-604.1 (West 2014)). A trial court's ruling on a motion made pursuant to section 2-604.1 is reviewed *de novo*. *LaSalle National Bank v. Willis*, 378 Ill. App. 3d 307, 310 (2007).

¶ 38 Section 2-604.1 provides in relevant part:

“In all actions on account of bodily injury or physical damage to property, based on negligence, *** where punitive damages are permitted no complaint shall be filed containing a prayer for relief seeking punitive damages. However, a plaintiff may, pursuant to a pretrial motion and after a hearing before the court, amend the complaint to

include a prayer for relief seeking punitive damages. The court shall allow the motion to amend the complaint if the plaintiff establishes at such hearing a reasonable likelihood of proving facts at trial sufficient to support an award of punitive damages. *** “ 735 ILCS 5/2-604.1 (West 2014).

In light of our determinations above, the trial court erred in striking Gomez’s request for punitive damages in her false imprisonment claims because pleading punitive damages for this cause of action is not precluded by section 2-604.1. 735 ILCS 5/2-604.1 (West 2014). Gomez’s false imprisonment claim is not one “on account of bodily injury or physical damage to property, based on negligence,” and thus falls outside the scope of section 2-604.1. We therefore reverse the trial court’s order striking plaintiffs’ request for punitive damages in counts I, XV, and XXII of the amended complaint.

¶ 39

CONCLUSION

¶ 40 In conclusion, we reverse the trial court’s order granting summary judgment in favor of defendants on Gomez’s claims of false imprisonment at the Cicero store against Martinez (count I), Nunez (count XV), and Home Depot (count XXII). We affirm the trial court’s order granting summary judgment in favor of defendants on the remainder of plaintiffs’ claims, including all of Torres’ claims. We affirm the trial court’s order denying plaintiffs’ motion for discovery sanctions. We reverse the trial court’s order striking Gomez’s request for punitive damages in counts I, XV, and XXII. This matter is remanded for further proceedings.

¶ 41 Reversed in part; affirmed in part; remanded.