

No. 1-13-2753

**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).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST DISTRICT

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REGINALD HART,	)	Appeal from the Circuit Court
	)	of Cook County.
	)	
Plaintiff-Appellant,	)	
	)	
v.	)	Nos. 08 L 12234
	)	12 L 6514
	)	
JEWEL FOOD STORE, INC.,	)	Honorable
	)	Mary A. Mulhern,
Defendant-Appellee.	)	Judge, Presiding.

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JUSTICE HOFFMAN delivered the judgment of the court.  
Presiding Justice Connors and Justice Delort concurred in the judgment.

**ORDER**

*Held:* The judgment of the trial court was affirmed where the plaintiff forfeited arguments by filing brief which did not comply with Supreme Court Rules and where the evidence supported the jury's verdict in favor of the defendant.

¶ 1 The plaintiff, Reginald Hart, alleged claims of assault, battery, false arrest, and false imprisonment against the defendant, Jewel Food Store Inc., after a security guard employed by Jewel called the police to have him removed from the store. Following a jury trial resulting in

Jewel's favor, the plaintiff appealed *pro se*, raising numerous arguments attacking the circuit court's decisions on pretrial motions, evidentiary issues, and the jury's verdict. For the reasons that follow, we affirm.

¶ 2 On November 3, 2008, the plaintiff filed a complaint *pro se*, alleging, *inter alia*, claims for assault, battery, false arrest, and false imprisonment against Jewel. The plaintiff claimed that, on March 25, 2008, Kevin Simmons, a security guard employed by Jewel, unlawfully restrained and assaulted him, forcing him to leave and re-enter a Jewel store, located in Chicago, against his will. Jewel defended the suit, claiming that the plaintiff acted in an abusive manner toward its employee, Vicky Frisson, and refused to leave the store. After Simmons escorted the plaintiff out of the store and into the Jewel parking lot, he attempted to re-enter the store and acted in a threatening manner toward Simmons. Simmons then detained the plaintiff and had Frisson call the Chicago Police Department to arrest him for criminal trespass.

¶ 3 During the proceedings, the plaintiff moved for a default judgment, which the circuit court denied. The plaintiff appealed that court order, and we dismissed that appeal for lack of jurisdiction in a summary order dated September 30, 2009. See *Hart v. Jewel Food Store, Inc.*, No. 1-09-1037 (unpublished order under Supreme Court Rule 23). Thereafter, the circuit court dismissed, with prejudice, one fraud count from the plaintiff's sixth amended complaint. The plaintiff appealed that order to which Jewel filed a motion to dismiss that appeal. This court granted Jewel's motion to dismiss on May 24, 2012.

¶ 4 The plaintiff and Jewel subsequently filed motions for summary judgment, which the circuit court denied on the basis a question of fact existed as to the encounter between the plaintiff and Simmons. The matter proceeded to a jury trial on the plaintiff's seventh amended complaint. On June 28, 2013, the jury returned verdicts on all counts in favor of Jewel. On

August 28, 2013, the circuit court denied the plaintiff's post-trial motion for judgment *n.o.v.*, motion for reconsideration, and motion for certification under Illinois Supreme Court Rule 308 (eff. Feb. 26, 2010). The plaintiff appealed, inarticulately raising 22 contentions of error related to the circuit court's decisions regarding various evidentiary issues and pretrial motions and attacking the jury's verdict.

¶ 5 At the outset, Jewel argues that we should strike the plaintiff's brief for failing to comply with Illinois Supreme Court Rule 341 (eff. Feb. 6, 2013) and Illinois Supreme Court Rule 342 (eff. Jan. 1, 2005). Jewel states that striking the plaintiff's brief is warranted when he has failed to comply with these rules even after this court's February 11, 2014, order striking his initial brief for this reason. We agree with Jewel that, despite our explicit order, the plaintiff's brief still fails to comply with Rules 341 and 342, namely by failing to include a table of contents of the record as required by Rule 342(a) and failing to cite to relevant facts and authority in support of coherent contentions of error as required by Rule 341(e) and (h). Accordingly, the plaintiff's arguments on appeal are forfeited. See *Klein v. Caremark Int'l, Inc.*, 329 Ill. App. 3d 892, 905 (2002) (stating that arguments inadequately presented on appeal are forfeited as reviewing courts are entitled to have issues clearly defined with pertinent authority cited and coherent arguments presented).

¶ 6 Forfeiture aside, to the extent we may discern the plaintiff's arguments, they lack merit. The plaintiff argues that Jewel failed to answer his complaint and instead filed a motion to dismiss it, which Jewel was allowed to do under the Code of Civil Procedure (Code) (735 ILCS 5/2-615 (West 2008)). Next, the plaintiff argues that Jewel's video surveillance video, which was admitted into evidence during trial, was "editorialized" and that Jewel failed to tender the video in a "DVD format in order" for him to "have an editorial advantage." The plaintiff fails to

argue that the video was inadmissible or articulate what scenes were edited from the DVD that Jewel tendered. Regarding the dismissed fraud claim, the plaintiff contends he properly stated a claim for fraud, but he fails to point to any allegations that support the elements of fraud, such as a false statement of material fact which he relied upon to his detriment. See *Miller v. William Chevrolet/GEO, Inc.*, 326 Ill. App. 3d 642, 648 (2001) (setting forth elements of fraud). Thus, the circuit court's dismissal of the fraud claim under section 2-615 of the Code (735 ILCS 5/2-615 (West 2008)), a decision which we review *de novo*, was proper.

¶ 7 The plaintiff further claims that the circuit court's ruling overruling his objection to the testimony of Jewel's expert witness, David Schaffner, on the basis that he was a "time-barred employee" was inconsistent with the court's earlier order in which it denied his motion to disallow Schaffner's testimony. However, the plaintiff admits that his motion to disallow Schaffner's testimony was based on the same reason, that Schaffner was a "time-barred employee," and that the court overruled his objection by simply reminding him of the earlier ruling. Contrary to the plaintiff's argument, the circuit court's handling of the objection was not inconsistent with its previous ruling.

¶ 8 The plaintiff next contends that the circuit court erred when it denied to tender his proposed special interrogatories to the jury. The plaintiff's two proposed interrogatories asked (1) whether the video surveillance supported Jewel's claim that he "poked and stood in the personal space of" Jewel employee Vicky Frisson and Kevin Simmons and (2) whether the video supported his claim that Simmons "manhandled" him and forced him back into the Jewel store, "causing an assault, battery, false arrest and false imprisonment." "Special interrogatories are used for the purpose of testing a general verdict against the jury's conclusion concerning the ultimate controlling facts." *Warren v. LeMay*, 142 Ill. App. 3d 550, 578 (1986); see also, 735

ILCS 5/2-1108 (West 2012)) (stating special interrogatories may be submitted to the jury by the court upon request of a party to find upon any material question of fact). To be in proper form, a special interrogatory must relate to one of the ultimate facts upon which the rights of the parties depend "and must be such that an answer responsive thereto must be inconsistent with some general verdict that might be returned." *Id.* "When a special interrogatory is in proper form, the trial court has no discretion but to submit it to the jury." *Id.* Here, the plaintiff's interrogatories were not in proper form as they did not relate to any of the ultimate facts upon which the parties' rights depended upon, and therefore, the circuit court did not err in refusing to tender them to the jury. See *Jones v. DHR Cambridge Homes, Inc.*, 381 Ill. App. 3d 18, 38 (2008) (stating that a trial court's denial of a request for a special interrogatory presents a question of law and is reviewed *de novo*).

¶9 Finally, to the extent the plaintiff argues that the evidence does not support the jury's verdict, we disagree. The plaintiff testified that Frisson was rude to him and that Simmons manhandled him and forced him to re-enter the back of the store against his will. Jewel presented conflicting evidence. Frisson testified that the plaintiff was rude, hostile, abusive, and vulgar toward her and that Simmons asked him to leave on numerous occasions. Frisson further testified that: Simmons escorted the plaintiff to the store's vestibule; the plaintiff exited the store; and, the plaintiff attempted to re-enter the store. Frisson stated that, when the plaintiff attempted to re-enter the store, Simmons detained him. Simmons testified consistently with Frisson, and he further stated that, when the plaintiff attempted to re-enter the store, he acted in a threatening manner. Fearing for his safety and the welfare of other Jewel employees and customers, Simmons detained the plaintiff and asked Frisson to call the police. Video surveillance from Jewel's security system depicted the events described by Frisson and Simmons. Additionally,

Schaffner testified that the plaintiff shopped at Jewel at least 297 times after the incident, refuting the plaintiff's claim of damages that he now feared Jewel stores. It was the function of the jury to determine the weight and credibility of the conflicting evidence submitted by the parties. See *Rodgers v. Withers*, 229 Ill. App. 3d 246, 250 (1992). Here, the jury clearly concluded that the evidence presented by Jewel was more credible. Under these facts, we cannot say that the circuit court erred when it denied the plaintiff's motion for judgment *n.o.v.* (See *Maple v. Gustafson*, 151 Ill. 2d 445, 453 (1992) (stating judgment *n.o.v.* is properly entered only in limited cases where the evidence, when viewed in light most favorable to the opponent, so overwhelmingly favors the movant that no contrary verdict could stand)), and we cannot disturb the jury's verdict where it is not against the manifest weight of the evidence (*Rodgers*, 229 Ill. App. 3d at 250 (stating the reviewing court will not set aside a jury verdict unless it is against the manifest weight of the evidence)).

¶ 10 For the reasons stated, we affirm the judgment of the circuit court of Cook County.

¶ 11 Affirmed.