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IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

LAURA KILBURG, WAYNE MEREDITH,)	Appeal from the
and LEONARD WALEJESKI,)	Circuit Court of
)	Cook County.
Plaintiffs-Appellants,)	
)	No. 08 L 005944
v.)	
)	Honorable
EXCHANGE CUBED, LLC, a Delaware)	Thomas E. Flanagan,
LLC; MERCHANTS' EXCHANGE, LLC, a)	Judge, presiding.
Missouri LLC; DAVID L. JUMP; ROBERT)	
J. STEWART; STEPHEN D. HURST;)	
MERCHANTS' EXCHANGE, LLC, a)	
Delaware LLC; ME GROUP TRANS SUB,)	
LLC, a Delaware LLC; ME NEWCO, LLC, a)	
Delaware LLC; and MERCHANTS GROUP)	
LLC, a Delaware LLC,)	
)	
Defendants-Appellees.)	

JUSTICE COBBS delivered the judgment of the court.
Justices Howse and Ellis concurred in the judgment.

ORDER

¶ 1 *Held:* Individual officers and directors could not be held liable for unpaid compensation under section 13 of the Wage Payment and Collection Act (820 ILCS 115/13 (West 2004)), where the trial court found that the corporations which employed plaintiffs were unable to pay the compensation. Plaintiffs were not entitled to

attorneys' fees where they failed to produce any evidence regarding their fees and costs. The trial court did not abuse its discretion in denying plaintiffs' motion to reconsider and correct damages where there was no clear indication that the court miscalculated damages.

¶ 2 Plaintiffs Laura Kilburg, Wayne Meredith, and Leonard Walejeski appeal several orders arising out of their unpaid compensation suit against David Jump; Robert Stewart; Stephen Hurst; Exchange Cubed, LLC; Merchants' Exchange, LLC; and four other related corporate entities. They contend that the trial court erroneously interpreted section 13 of the Wage Payment and Collection Act (the Act) (820 ILCS 115/13 (West 2004)) to require a showing of wrongful intent when it vacated its initial finding of liability against Jump, Stewart, and Hurst. Plaintiffs also contend that the trial court erroneously denied their motion for attorneys' fees and costs. Finally, plaintiffs argue that the trial court erred in calculating damages because it misapprehended plaintiffs' evidentiary exhibit summarizing their unpaid wages. We affirm.

¶ 3

BACKGROUND

¶ 4

In 1999, defendants David Jump, Robert Stewart, and Stephen Hurst (collectively "Individual Defendants") worked together to convert defendant Merchants' Exchange LLC from a cash commodities exchange based in St. Louis, Missouri, into an electronic futures exchange based in Chicago, Illinois. As part of the project, the Individual Defendants created a separate legal entity, defendant Exchange Cubed LLC, to provide technical support and system management for Merchants' Exchange. Jump served as chairman of the board of directors for both companies. Hurst served on the board of directors for each company and was also the president of Exchange Cubed. Stewart also served on each company's board of directors and was the president of Merchants' Exchange.

¶ 5 Exchange Cubed hired plaintiff Len Walejeski to develop and implement a commodities trading system in August 2001. The company hired plaintiff Laura Kilburg to test software in November 2001. It hired plaintiff Wayne Meredith as a technical lead in May 2002. All three plaintiffs were also investors with an ownership interest in Exchange Cubed and Merchants' Exchange.

¶ 6 Eventually, Merchants' Exchange and Exchange Cubed began to experience money problems due to a lack of revenue. In 2004, the companies lost their lease and Hurst had the companies' physical property moved to a storage locker.

¶ 7 In 2006, Hurst was approached by an individual with a developed trading platform who was interested in Merchants' Exchange's dormant license with the Commodity Futures Trading Commission. Hurst met with new investors who invested \$2 million in an attempt to revive the license with the new trading platform. Merchants' Exchange would serve as an investor to the new ownership entities formed. As part of the effort, four new entities were formed: defendants Merchants' Exchange LLC, a new Delaware LLC; ME Group Trans Sub LLC; ME Newco LLC; and Merchants Group LLC (collectively "New Defendants").

¶ 8 **Plaintiffs' Lawsuit**

¶ 9 Plaintiffs' filed the current action against Merchants' Exchange, Exchange Cubed, and the Individual Defendants on May 30, 2008. The complaint alleged one count of conspiracy to violate the Act and one count of fraud. At issue in the current appeal, the complaint also alleged that Merchants' Exchange, Exchange Cubed, and the Individual Defendants violated the Act by failing to pay each of the three plaintiffs their full wages between July 31, 2002 and June 15, 2004. Plaintiffs subsequently amended their complaint to allege several counts against the New Defendants regarding trust fund doctrine and successor liability.

¶ 10 Prior to trial, the trial court granted defendants Jump and Stewart's motion for summary judgment on the fraud and conspiracy counts.

¶ 11 Bench Trial

¶ 12 At the bench trial, Walejeski testified that he earned an annual salary of \$185,000 at Exchange Cubed during the time period relevant to this case. During 2002, both the payroll and vendor invoices of both Merchants' Exchange and Exchange Cubed were handled by John Pietrowicz, both companies' chief financial officer. Walejeski explained that vendor invoices would be provided to either Stewart or Hurst for approval and then all invoices were compiled by Pietrowicz who would in turn send them to Jump for final approval. Pietrowicz left the companies in October 2003 and Walejeski and Kilburg took over his responsibilities. Walejeski would compile the invoices, and if Jump gave his approval, Kilburg would "cut checks." For payroll, Hurst would indicate to Walejeski and Kilburg when they could run payroll and then direct them "who to pay and who not to pay."

¶ 13 Walejeski further testified that, beginning July 31, 2002, his paycheck was reduced by 20% because Exchange Cubed was short of funds. Peter Lee, the chief operating officer of Merchants' Exchange, told employees about the reduction and Walejeski objected. Walejeski was paid at this reduced rate for 10 pay periods. During this period, Hurst informed Walejeski that the company was seeking additional funding. In December 2002, "it was determined" that most of the staff's wages would be reduced by 50%. Walejeski's wages, however, were completely unpaid for the next three pay periods. Hurst held meetings with the employees and informed them that they would be paid "when the money came in." He would also say, "It's not if, it's when you get paid." In February 2003, Hurst succeeded in raising additional money for the companies and employees were once again paid their full

wages each period. However, they were not reimbursed for the previous reduced pay periods. Later in the year, funds ran low again and the companies stopped paying employees. During the 21 pay periods between September 15, 2003, and June 15, 2004, Walejeski was paid for only three periods. He left the company on June 2, 2004, because he was not being paid and because the office was being closed for failure to pay its rent. During the periods when the companies were not paying employees, they did pay other bills including rent, communications, utilities, and healthcare.

¶ 14 Meredith testified that he was hired to work for Exchange Cubed by Walejeski for a base salary of \$105,000. From July 31, 2002, until December 15, 2002, Meredith's paychecks were reduced by 20%. For the next three pay periods Meredith's pay was reduced by almost 50%. Meredith and other employees frequently complained about the reductions. Between February 2003 and August 2003 Meredith again received his wages without reduction. Beginning September 15, 2003, until June 15, 2004, Meredith only received compensation for 3 of the 21 pay periods. For each of the periods, employees were not told until the end of the pay period that checks would not be issued. Periodically, Hurst would hold informal meetings where he informed the employees that there was no money to pay payroll. He often told them that "It's not if we were going to get paid, but when we were going to get paid." Stewart was at several of these meetings.

¶ 15 On January 30, 2004, Meredith sent Walejeski an email indicating that he considered himself "severed from the company" and demanding his owed wages. It also indicated that Meredith was going to file a claim under the Act. Shortly thereafter, Hurst telephoned Meredith and told him that there was a promising deal that would bring money into the company, but that they needed to keep systems functioning in order to secure the deal. Based

on this conversation, Meredith returned to work. On March 9, 2004, he emailed Hurst and complained that vendors were being paid while the employees were not. Around this time, Meredith again tendered his resignation to the company. Once more Hurst told him that there was "a very large deal in the works" in the near future. Meredith again returned to work. He resigned permanently on June 2, 2004.

¶ 16 Kilburg testified that she was hired by Walejeski at a base salary of \$100,000. As with Meredith, Kilburg's paychecks were reduced by 20% From July 31, 2002, until December 15, 2002, and reduced by 50% for the following three pay periods. She complained about the reductions but continued to work because Hurst told employees that imminent deals would bring money into the company. From September 15, 2003, until June 15, 2004, Kilburg also received compensation for only 3 of the 21 pay periods. When employees would ask if they would be paid, Hurst would hold small meetings informing them that they would not. Stewart was present at some of these meetings. During the period when employees were not being paid, Exchange Cubed continued to make payments to vendors. If there was money available, the company would pay things like rent or utilities, and anything "needed to keep the operations running." Rent was about \$9,000 per month and other vendors were paid "hundreds of thousands of dollars." Kilburg was familiar with the accounting records of the companies and opined that they did not have the money to "keep the doors open" in May 2004.

¶ 17 Plaintiffs also introduced several documents into evidence including a schedule of their wages due and unpaid, as well as invoices and other documents reflecting payments to vendors during the periods when defendants were underpaying or not paying their employees. The wage schedule indicated that Walejeski was owed \$15,416.66 for the period

when his pay was reduced by 20%; \$23,124.99 for wages withheld by 100%¹; \$115,624.95 for fully unpaid wages; \$111,770.83 for bonuses; and \$185,000 in severance. The schedule showed Kilburg was owed \$8,333.30 for the period when her pay was reduced by 20%; \$5,666.67 for the 50% reduction; \$65,577.97 for fully unpaid wages; \$3,205.13 for vacation pay; \$48,333.33 for bonuses; and \$100,000 in severance. It showed Meredith was owed \$8,750 for the period when his pay was reduced by 20%; \$6,291.66 for the 50% reduction; \$66,028.85 for fully unpaid wages; \$3,365.38 for vacation pay; \$43,750 for bonuses; and \$105,000 in severance.

¶ 18 Hurst testified that he was the president of Exchange Cubed and also a member of both companies' boards of directors. Merchants' Exchange opened for trading activity in the summer of 2002, after spending \$8.5 million in two years of development. However, no significant trading ever occurred on the company's platform. In June 2002, Hurst and Lee, Merchants' Exchange's chief operating officer, began meeting with the employees as the companies' financial circumstances became "dire." At the first meeting, Lee told the employees that they were "burning through" money without business and that everyone needed to take a pay cut to gain the investors' confidence. When everyone began to complain, Lee informed them that the only other option was to "let people go." Hurst then took the employees of Exchange Cubed aside and told them "It is not a matter of if you're going to get paid; it's when you're going to get paid, and if that ever changes *** I will tell you." As the circumstances became worse, Hurst started hosting the meetings weekly. On December 31, 2003, Hurst sent an email to plaintiffs and others indicating that the companies were "in very, very bad shape." He began using his own money to pay employees and every payroll made

¹ The schedule separates the period where Walejeski was unpaid but other employees were paid at 50% from the period where all employees were completely unpaid.

after February 1, 2003, came from his personal money including his mortgage and retirement savings.

¶ 19 During the period when employees were underpaid or not paid, the companies continued to pay vendors essential to running the business. At monthly meetings they would prioritize vendor invoices and if there was money left over after paying essential vendors then the remaining money went to payroll. Near the end of 2003, Meredith told Hurst that paying vendors before employees violated the Act. Consequently, the companies stopped paying any bills until "everyone" had talked and there was a group decision to pay vendors. Hurst testified that he wondered everyday how the employees would be paid, and approved payment requests to vendors when he knew the employees were not being paid.

¶ 20 Stewart, the president of Merchants' Exchange and a director of both companies, testified that he commuted to the company weekly from his home in Minnesota. He was present for some meetings held by Hurst regarding the reduction in the employees' wages. He approved the payment of vendors for Merchants' Exchange and some for Exchange Cubed, as did Jump. Stewart stopped traveling to the companies in August or September 2003. On cross-examination, Stewart was asked if he knew plaintiffs were working without being paid. He responded, "[W]e worked to be very transparent with folks. I know that everyone had been told there was no more cash. And if people wanted to keep coming in and contributing so that their equity would become worth something, that was great. If they chose not to come in, that was great, too."

¶ 21 Jump, the chairman of the board for Merchants' Exchange, testified that he did not make any decisions regarding whether plaintiffs would be paid and denied that his approval was required for every check written by Exchange Cubed. He testified that the board of directors

knew "that we had a certain amount of money that had been invested and we knew we received periodic updates that it was getting spent. So we – we had some understanding of what our burn rate was." At board meetings in 2003, the board discussed that "some of the officers had advised the employees that there was no money to pay them and that some of the workers were coming to work; some were not."

¶ 22 The trial court found that defendants had knowingly violated the Act in a written order on September 17, 2013. The court noted that plaintiffs had had their pay reduced and then wholly withheld, and stated that Kilburg claimed a total unpaid wages of \$65,577.97; Meredith claimed a total of \$66,028.85; and Walejeski claimed total unpaid wages of \$138,750.00. It awarded plaintiffs the following amounts:

"1. Laura Kilburg: \$65,577.97; \$3,205.13 Vacation; \$100,000 Severance; No more bonus by right. \$168,783.10.

2. Wayne Meredith: \$66,028.85; \$105,000.00; Severance; \$3,365.00 Vacation; No more bonus by right. \$174,393.85.

3. Leonard Walejeski: \$138,750.00; \$185,000.00; Severance; No more bonus by right. \$323,750.00."

¶ 23 Motions to Reconsider

¶ 24 Both plaintiffs and defendants filed motions to reconsider the court's order. Defendants argued, *inter alia*, that the Individual Defendants could not be held personally responsible because the companies lacked the ability to pay the employees the amounts due them, and thus, could not have knowingly permitted the violation. Plaintiffs argued that the court had failed to award statutory interest and attorneys' fees and had failed to explicitly rule on the fraud and conspiracy counts. Plaintiffs subsequently amended their motion, arguing that the

court had inadvertently failed to include the unpaid wages from the period when plaintiffs' wages were reduced.

¶ 25 After lengthy oral arguments on the motions, the trial court entered an order on April 4, 2014, vacating its original trial order as it applied to the Individual Defendants. The court explained that it believed the inability of the companies to pay plaintiff's wages, plaintiffs' awareness of the companies' financial hardships, and "the *scienter* of Defendants" were all relevant components of its finding that the Individual Defendants had not knowingly permitted nonpayment of wages. The court noted that the evidence showed that the Individual Defendants had contributed their own money to the failing companies which showed a lack of wrongful *scienter* and that the plaintiffs "acquiesce[ed]" for many months by continuing to work without pay.

¶ 26 The trial court entered a subsequent order on April 7, 2014, which explicitly found for defendants on the conspiracy and fraud counts. It also noted that plaintiffs had failed to present a list of attorneys' fees or costs of litigation.

¶ 27

First Appeal and Remand

¶ 28 Plaintiffs filed an appeal challenging the September 17, August 4, and August 14 orders. They then moved to dismiss their appeal and on July 18, 2014, this Court dismissed the appeal as relating to the business entities and remanded the case to the trial court for resolution of plaintiffs' request for statutory interest and reasonable attorneys' fees and costs against the business defendants. We subsequently amended that order and dismissed plaintiffs' appeal as to the Individual Defendants and remanded.

¶ 29 On remand, the trial court entered a series of separate orders on September 29, 2014. The first order granted plaintiffs interest on their awards against Exchange Cubed, Merchants'

Exchange, and the New Defendants, compounded monthly at 2% beginning in June 2004. The next order ruled that two counts of plaintiffs' complaint, irrelevant to the current appeal, were moot. Another order repeated the trial court's findings in favor of defendants on the fraud and conspiracy counts in plaintiffs' complaint. The final order dismissed plaintiffs' complaint with prejudice as it applied to the Individual Defendants.

¶ 30 The trial court filed another order on October 13, 2014, which set a date for plaintiffs to present their attorneys' fees and costs. The order indicated that the trial court had not received an amount requested as of that date. On October 27, 2014, plaintiffs filed a motion requesting a determination that they had a right to statutory attorney fees pursuant to subsection 14(a) of the Act. 820 ILCS 115/14(a) (West 2014). The motion also requested that the court "correct" the damages awarded as requested in their amended motion to reconsider and the awarded prejudgment interest to reflect a higher damage award.

¶ 31 On November 5, 2014, the trial court entered an order denying plaintiffs' request for attorneys' fees. The order also denied, *inter alia*, "Plaintiffs' motion to increase damages." The court referenced plaintiffs' October 27 motion and explained that it was denying plaintiffs' request for attorneys' fees because they had never presented a statement of their relevant fees and costs. The court also stated that plaintiffs' request to increase damages was beyond the scope of this court's remand.

¶ 32

ANALYSIS

¶ 33

Individual Defendants' Liability

¶ 34

Plaintiffs initially contend that the trial court erred in vacating its initial order finding the Individual Defendants liable under section 13 of the Act. They argue that the trial court improperly based its decision on a finding that the Individual Defendants did not act with a

wrongful intent, despite the fact that section 13 only requires knowing action for a finding of liability. They also argue that the trial court wrongfully found that they acquiesced to nonpayment. Defendants respond that plaintiffs' contention would establish an action for vicarious liability under the Act, whereas the Supreme Court of Illinois has established that section 13 requires proof of an individual's intentional wrongdoing. Defendants also argue that both Exchange Cubed and Merchants' Exchange did not have the funds to pay plaintiffs' wages, and therefore the Individual Defendants could not have knowingly permitted nonpayment because payment was impossible. Defendant Stewart additionally argues that the record establishes that he had no control over plaintiffs' wages and thus could not be liable under section 13.

¶ 35 Plaintiffs' argument concerns the meaning of the phrase "knowingly permit" in section 13 of the Act (820 ILCS 115/13 (West 2004)), which is a matter of statutory interpretation subject to *de novo* review. *Andrews v. Kowa Printing Corp.*, 217 Ill. 2d 101, 106 (2005). This appeal, however, also requires us to scrutinize the trial court's findings of fact. We must do so deferentially, upholding those findings unless against the manifest weight of the evidence. *Shulte v. Flowers*, 2013 IL App (4th) 120132, ¶ 19. A factual decision is against the manifest weight of the evidence when the opposite conclusion is clearly apparent from the record. *D.J. Masonry Co. v. Industrial Comm'n*, 295 Ill. App. 3d 924, 930 (1998).

¶ 36 Section 3 of the Act requires every employer "at least semi-monthly, to pay every employee all wages earned during the semi-monthly pay period." 820 ILCS 115/3 (West 2004). Similarly, section 5 requires payment of all final compensation, including unused vacation days, by the next scheduled payday after the employee's departure. 820 ILCS 115/5 (West 2004). Liability for a failure to abide by the Act extends to "[a]ny officers of a

corporation or agents of an employer who knowingly permit such employer to violate" the Act. See 820 ILCS 115/13 (West 2004). Thus, personal liability is restricted to "those individual decision makers who knowingly permitted the Wage Act violation." *Andrews*, 217 Ill. 2d at 109.

¶ 37 Permission, as required by section 13, requires the individual to have the ability to direct payment by the employing company. *Elsener v. Brown*, 2013 IL App (2d) 120209, ¶ 66. Accordingly, "where payment is impossible, permission is impossible." *Id.* Thus, Illinois courts have repeatedly held that an individual cannot knowingly permit a violation under the Act where the employer in question was unable to pay compensation. *Id.*; see also *Ashley v. IM Steel, Inc.*, 406 Ill. App. 3d 222, 242 (2010) ("We recognize that a corporation's inability to pay employees eliminates any possibility that the employer acted willfully when failing to compensate employees, thereby negating liability under the Act.")

¶ 38 Having reviewed the trial court's September 17 order, it is clear that the court based its ruling on three findings of fact: (1) the Individual Defendants did not act with a wrongful *scienter*, (2) plaintiffs' actions and knowledge of the companies' situation was akin to acquiescence, and (3) the companies' situation rendered them unable to pay plaintiffs' compensation. Although plaintiffs focus on the propriety of the trial court's discussion of *scienter* and its discussion of acquiescence, consideration of these findings is unnecessary in light of the trial court's finding regarding the inability to pay. Such a finding is dispositive of plaintiffs' claims under section 13 of the Act. See *Elsener*, 2013 IL App (2d) 120209, ¶ 66. It is axiomatic that the appellate court reviews the trial court's judgment, not its reasoning, and we may affirm that judgment based upon any basis evident in the record. See, e.g., *Bruel & Kjaer v. Village of Bensenville*, 2012 IL App (2d) 110500, ¶ 22.

¶ 39 The testimony of each witness depicted the dire financial straits of the two companies. Hurst described how the companies had quickly exhausted their funds and could not establish revenue to replace it. He also testified that both he and Jump injected their own money into the companies and that several of the employees' paychecks came directly from his personal mortgage and retirement funds. While the companies were able to make some vendor payments, including rent and healthcare for the employees, other vendors were left unpaid. Viewing all the evidence produced at trial, we cannot say that the trial court's finding that the companies lacked the ability to pay plaintiffs was against the manifest weight of the evidence.

¶ 40 Plaintiffs argue that the companies' ability to pay some of its vendors forecloses a finding that they were unable to pay compensation. They argue that an employer is presumed to have the ability to pay wages and final compensation if it continues to do business, citing the Illinois Administrative Code. 56 Ill. Admin. Code 300.640 (b) (2011). Defendants respond that the Department of Labor's regulations are not binding on this court. However, even if we assume, *arguendo*, that the presumption of ability to pay was raised and applicable in the court below, it does not invalidate the trial court's findings. A rebuttable presumption is not evidence, although it shifts the burden of production to the opposing party. *Diederich v. Walters*, 65 Ill. 2d 95, 102 (1976). Once a presumption is rebutted by contrary evidence it no longer has any function at trial. *Cooper v. Chicago Transit Authority*, 153 Ill. App. 3d 511, 519 (1987). Here, defendants presented evidence that the companies could only pay some creditors and that the businesses required the injection of the Individual Defendants' personal money to operate. Thus, the trial court's determination that Merchants' Exchange and

Exchange Cubed were unable to pay plaintiffs' compensation was not against the manifest weight of the evidence even in light of a rebuttable presumption.

¶ 41 Plaintiffs also argue that investments made by new investors in 2006 rendered both companies able to pay their compensation. We find this argument unpersuasive. Hurst's testimony clearly indicated that the investment was made after plaintiffs' had resigned and the companies had been dormant for two years. Plaintiffs offer no explanation for how this money, designated by investors for specific and detailed purposes, could have been used to pay plaintiffs two years prior to it having been invested.

¶ 42 **Attorneys' Fees and Costs**

¶ 43 Plaintiffs next argue that "the trial court never determined if statutory interest, attorney fees and costs were recoverable." As to statutory interest, we note that the record affirmatively contradicts plaintiffs' argument. One of the trial court's orders on September 29, 2014, explicitly awarded plaintiffs 2% interest as required by the Act. See 820 ILCS 115/14 (West 2012).

¶ 44 As to attorneys' fees and costs, plaintiffs' initial argument that the trial court failed to rule is also incorrect. The trial court denied plaintiffs' request for fees in an order on November 5, 2014. Plaintiff appears to additionally argue that the trial court's denial of fees was erroneous. They point to multiple motions in which they requested that the court "declare that plaintiffs have the right to their statutory fees in this case" pursuant to subsection 14(a) of the Act (820 ILCS 115/14(a) (West 2012)), which they allege the trial court did not specifically rule on. However, plaintiffs do not contest that they failed to produce for the court an accounting of the attorneys' fees and legal costs they sought to claim. Plaintiffs bore the burden of presenting sufficient evidence for the trial court to determine whether the fees and costs

sought were reasonable. *Young v. Alden Gardens of Waterford, LLC*, 2015 IL App (1st) 131887, ¶ 102. Despite multiple requests from the trial court, plaintiffs failed to deliver any evidence supporting their request for attorneys' fees. Instead, they repeated blanket requests for unspecified fees. Accordingly, they failed to meet their burden and the trial court's denial of their request for attorneys' fees and costs was proper.

¶ 45 Calculation of Damages

¶ 46 Plaintiffs lastly contend that the trial court erred in its calculation of damages. They posit that the trial court inadvertently omitted several sums in their schedule of unpaid wages when it awarded damages, particularly the wages from when plaintiffs' wages were reduced by 20 and 50%. Defendants respond that the trial court did not err, but rather purposefully awarded damages only for periods in which the plaintiffs' compensation was fully withheld.

¶ 47 We first note that this contention in plaintiffs' appellate brief is completely devoid of legal citation. This court "is not a depository into which the burden of research may be dumped and failure to cite legal authority in the argument section of a party's brief waives the issue for review." *Campbell v. Wagner*, 303 Ill. App. 3d 609, 613 (1999). However, even if we were to disregard plaintiffs' waiver, their contention is without merit.

¶ 48 Generally, a motion to reconsider is reviewed for an abuse of discretion. *Pence v. Ne. Illinois Regional Commuter R.R. Corp.*, 398 Ill. App. 3d 13, 16 (2010). Plaintiffs hypothesize, without citing any explicit support in the record, that the trial court mistakenly omitted the periods when employees were paid reduced wages from its damage consideration, and also incorrectly overstated Walejeski's unpaid wages from the period in which all employees received no pay. The only support plaintiffs offer for their contention is citation to trial exhibits summarizing their claimed damages. Defendants, equally without

explicit support in the record, suggest that the trial court rejected plaintiffs' claims of reduced wages, and argue that the damages granted correctly correspond to the sum of wages that were wholly unpaid to plaintiffs. Having reviewed the evidence presented at trial and considered the damages awarded by the trial court, both plaintiffs' and defendants' suggestions are equally plausible and equally speculative explanations of the trial court's tabulation of damages. However, we must also consider that plaintiffs made these arguments to the trial court in both oral arguments and written briefs. Confronted with its supposed errors, the trial court chose to deny plaintiffs motion to adjust the damages awarded. Plaintiffs have made no argument challenging the damage award's conformity with the law. They argue only that the court made a factual error in its consideration. As there is no clear indication in the record that such an error occurred, we cannot find that it abused its discretion based solely on plaintiffs' conjecture. See *In re Marriage of Carpenter*, 286 Ill. App. 3d 969, 976 (1997).

¶ 49

Conclusion

¶ 50

For the foregoing reasons, we affirm the judgment of the circuit court of Cook County.

¶ 51

Affirmed.