

No. 1-10-0616

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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THE CAMERON ORGANISATION, INC.,	)	Appeal from the Circuit Court of
	)	Cook County
Plaintiff-Appellant,	)	
	)	
v.	_____)	No. 03 L 4774
	)	
GEORGE GUY a/k/a BUDDY GUY and GBG	)	
ENTERPRISES, INC.,	)	Honorable Charles R. Winkler,
	)	Judge Presiding.
Defendants-Appellees.	)	

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Justice Murphy delivered the judgment of the court.

Justices Neville and Steele concurred in the judgment.

**ORDER**

*HELD:* Where plaintiff failed to plead a definite duration for an oral contract between parties for royalty compensation and expert testimony that the contract as alleged could provide commissions for perpetuity, the trial court did not err in striking plaintiff's claim for damages in perpetuity.

*HELD:* Where plaintiff's expert prepared a report of prospective damages that was stricken by the trial court, it was not abuse of discretion to bar expert testimony about new computations made at the time of trial that were not provided to the opposing party during discovery and were based on speculation.

*HELD:* Where trial court barred testimony concerning a prior lawsuit against plaintiff, it properly exercised its discretion in limiting the testimony of plaintiff's witness concerning prior business dealings and a resulting lawsuit against defendants.

*HELD:* Where the terms of an oral agreement between the parties were at issue and the jury made a determination that the relationship between the parties ended on a date certain and awarded damages consistent with that finding, trial court did not err in affirming that damages calculation and denying remittitur.

Plaintiff, The Cameron Organisation, Inc., filed the underlying action against defendants, George "Buddy" Guy and GBG Enterprises, Inc., seeking damages for breach of contract and *quantum meruit*. Plaintiff, a corporation engaged in music management and collection of royalty income, filed its third amended complaint on November 8, 2004. Plaintiff alleged that it entered into contracts with defendants for personal management services and to locate, secure, collect and monitor sources of royalty and residual income on behalf of defendant, in consideration for a percentage of the proceeds of income secured. Plaintiff advanced six counts sounding in breach of contract and *quantum meruit*. Prior to trial, the trial court granted defendants' motions *in limine* to strike plaintiff's first claim that it was entitled to a percentage of royalty compensation in perpetuity and to bar certain evidence. Following a jury trial, the jury returned a verdict in favor of plaintiff.

Plaintiff argues on appeal that the trial court erred in striking its first count since it did not claim that it sought compensation in perpetuity. Plaintiff also asserts the trial court erred in barring his expert's testimony on damages and in refusing rebuttal testimony regarding defendant's past business dealings. Plaintiff also argues that the trial court erred by failing to increase the jury's award of damages because it was not consistent with the evidence at trial. For the following reasons we affirm.

## I. BACKGROUND

### A. Motions *In Limine*

Prior to trial, defendants moved *in limine* to: strike plaintiff's claim that it was entitled to a percentage of royalty compensation in perpetuity; bar the testimony of plaintiff's witness Howard Ellison as an expert because his testimony lacked foundation and was entirely speculative; bar evidence of Guy's prior dealings with personal managers other than plaintiff; and bar the testimony of Martin Salzman as irrelevant, speculative, and prejudicial. The trial court denied the motion to bar the testimony of Salzman without prejudice, granting defendants the option to renew the motion during trial. The court also reserved ruling on defendants' motion to bar the testimony of plaintiff's expert Ellison.

The trial court granted defendants' motion to strike plaintiff's claim in Count I of its third amended complaint for perpetual damages. While the transcript of the hearing on the motion is not of record, the trial court clarified in later proceedings that are of record that any claim for damages based on a percentage of royalty compensation were limited up to the present date of the trial. Defendant's motion to bar testimony of Guy's prior dealings with other personal managers, Salzman in particular, was granted. Specifically, the trial court barred questioning concerning conflicts between Salzman and Guy or any resulting lawsuit from their professional relationship.

### B. Stipulated Facts

The parties stipulated to certain facts for trial. Plaintiff was incorporated in Illinois in 1973 as the Scott A. Cameron Organisation. Plaintiff was renamed The Cameron Organisation and incorporated in California in 1990. In 2002, plaintiff returned to incorporate in Illinois as

No. 1-10-0616

The Cameron Organisation.

Guy had recorded for and received royalty checks from record companies such as Polygram, Zomba/Silverton, Atlantic Records, ARC Music, Alligator Records and Broadcast Music, Inc. (BMI). In 1987, Scott Cameron was an employee of plaintiff corporation and represented to Guy that he would try to collect unpaid royalties from Chess Records. Plaintiff successfully obtained royalties from Chess Records and was paid 33% of all unpaid and due royalties. Plaintiff alleged in its complaint that it received commissions of 20% from the Chess Records royalties and 5-10% of other unpaid royalties that it secured.

In 1991 plaintiff was also hired to act as Guy's personal manager. Defendant GBG was formed in 1994 to control Guy's touring and merchandising finances. Finally, the parties stipulated that Guy fired plaintiff on March 1, 2001, "for good reason recognized under law to terminate the relationship" and plaintiff did not work on Guy's Spring 2001 tour after that date.

### C. Evidence and Testimony at Trial

Testimony at trial showed that in 1987 while backstage at a Carlos Santana concert at Poplar Creek Music Theater, Scott Cameron approached Guy and inquired into whether he was receiving royalty compensation from his Chess Records recordings. When Guy informed him that he was not, Cameron offered to collect those royalties for a percentage of the income and Guy accepted his offer. Cameron testified that he reached an agreement with Martin Salzman on the terms of his commissions, but no written agreement was created. Plaintiff received 33% of the royalties owed through 1987 and a continuing 20% of payments as long as Guy was to receive payments.

No. 1-10-0616

In 1991, plaintiff and Guy entered into a second oral agreement for personal management services. Guy testified that this was a handshake agreement that would last as long as he and Cameron were in agreement and that if they began to disagree, the relationship would end. Plaintiff became responsible for reviewing contracts, arranging travel and accommodations, scheduling interviews and similar duties. The parties agreed that plaintiff would be paid 10% of newly created revenue streams.

Guy's wife and an accountant took care of managing his finances. With respect to plaintiff, Guy testified that his wife paid bills submitted by plaintiff upon receipt. Guy had a separate booking agent the entire time plaintiff served as his personal manager, who negotiated and arranged Guy's tours and submitted proposals for tour shows to either Guy or plaintiff. Plaintiff did not modify proposals, but took care of aforementioned duties while on tour.

Guy did not know how much or at what percentage plaintiff's compensation was paid with respect to the royalties received or manager services provided. However, he testified that he came to understand that plaintiff had been taking funds that were not part of their agreement. He stated that, prior to trial he and counsel determined that number to be \$118,000. He also testified that he confronted plaintiff about this sometime prior to his dismissal and, while he told him to stop taking those funds, he did not demand repayment.

On March 1, 2001, defendants terminated plaintiff. Payments had been timely made to plaintiff up to that date, but plaintiff alleged compensation for his management services remained due. Plaintiff submitted copies of invoices for unpaid commissions and expenses that had not been reimbursed. Guy testified that all bills that had been submitted from 1987 to 1991 had been

No. 1-10-0616

timely paid, despite the fact he often did not know how much or what they were for. He testified that his wife paid the bills when they came in because he trusted plaintiff and he did not have the statements reviewed by his accountant. With respect to Salzman, despite granting the motion *in limine* concerning Salzman, the trial court allowed plaintiff to inquire of Guy whether he fired Salzman because he did not trust him, reasoning it was “important that the jury understand where the witness is at this time and where the plaintiff is at this time.”

Based on defendants’ motion in *limine* and the court’s reserving ruling, the court conducted *voir dire* of plaintiff’s expert witness, certified public accountant Howard Ellison. Ellison testified that he prepared a report with the understanding that the commissions received by plaintiff would be earned in perpetuity. He explained that commissions could be perpetually received for as long as Guy lived, then by his estate, and then, because plaintiff corporation also lives into perpetuity, theoretically into perpetuity. Ellison stated that he did not have a written contract setting out the terms, so he understood it to be perpetual, but prepared calculations based on a 30-year period as an “actual date in perpetuity” to determine a value.

Ellison utilized plaintiff’s royalty commission invoices from 1992 to 2000 to create an average annual cash value and then calculated a present value based on that 30-year period. He also testified that he could cutoff that period to the date of trial, based on adjustments made that day. On cross-examination, Ellison stated that he computed his figures based on the commission statements provided by plaintiff and that could have concluded commissions from all sources that paid Guy. The trial court denied the offer of proof and barred Ellison’s testimony as too speculative.

Additional evidence was presented concerning the touring operations for defendants and the industry standards for personal managers and royalty commissions. Defendants' expert testified that a personal manager owes a fiduciary duty to his client as well as a duty of loyalty to the client. A finder of royalty commissions typically collects a commission only on the first lump sum for unpaid royalties and a continuing percentage of future payments is not provided. Furthermore, testimony was provided that because of the duties of personal managers, one should not receive royalties for recordings completed before the term as personal manager began - or continue to receive payments after the term of representation ends.

#### D. Jury Verdict and Posttrial Motions

The jury entered a verdict in favor of plaintiff and awarded \$1,423.11 for royalties collected from February 1 - 26, 2001, excluding royalties from BMI and ARC for that same time period. The jury awarded \$3,292.62 for merchandising income detailed on plaintiff's statement dated August 15, 2000, to March 15, 2001. Any totals listed for March 15, 2001, were not included. All expense reimbursements claimed by plaintiff from its report dated September 2000 - April 2001, were awarded for a total of \$1,101.76. The jury did not award any royalties for the time after plaintiff's termination. The jury did not award any commissions for the tour performed by Guy after he fired plaintiff.

Plaintiff filed a motion for new trial. Plaintiff argued that the trial court erred in barring the testimony of Salzman and Ellison, granting defendants motion to dismiss count I, and in barring testimony to rebut defendant's character assertions. Plaintiff also argued that the jury mistakenly determined damages based on the date of the invoices and not the dates services were

rendered. The trial court denied the motion and this appeal followed.

## II. ANALYSIS

### A. Motions *In Limine* and Evidentiary Issues

Plaintiff argues that the trial court erred in granting three motions *in limine* by defendants seeking to bar its claim for damages in perpetuity and certain evidence. The question of whether the granting of a motion *in limine* was proper is subject to the discretion of the trial court. *Petraski v. Thedos*, 382 Ill. App. 3d 22, 26 (2008). Likewise, a challenge made to the trial court's ruling on the admissibility of evidence is reviewed under an abuse of discretion standard. *Mulloy v. American Eagle Airlines, Inc.*, 358 Ill. App. 3d 706, 711 (2005). The trial court is vested with the discretion to determine the relevance and admissibility of this evidence regardless of whether it is expert or lay testimony. *Id.* at 711-12. Relevant evidence has any tendency to make the existence of any material fact more probable or less probable and testimony grounded in guess, surmise, or conjecture is irrelevant for this purpose. *Petraski*, 382 Ill. App. 3d at 27. A trial court abuses its discretion only when no reasonable person would agree with the trial court. *Dawdy v. Union Pacific R.R. Co.*, 207 Ill. 2d 167, 177 (2003).

#### 1. Striking Plaintiff's Claim for Perpetual Damages

Plaintiff first argues that the trial court erred in granting defendants' motion *in limine* to dismiss Count I of his third amended complaint because he sought perpetual damages. It claims that the contract was not perpetual in duration but was terminable upon the occurrence of a specific event - Guy's death. Plaintiff argues that the question of the duration of a contract is a question of fact that should have been submitted to the jury. *First National Bank of Cicero v.*



No. 1-10-0616

*Sylvester*, 196 Ill. App. 3d 902, 910 (1990). Therefore, it contends that on appeal the trial court's interpretation of the contract is reviewed *de novo*. *Erlenbush v. Largent*, 353 Ill. App. 3d 949, 952 (2004).

Defendants respond that neither the motion nor the transcript of the hearing on the motion are of record and, therefore, plaintiff has forfeited this issue. Plaintiff argues that the missing motion and transcript are irrelevant to resolving this matter because the issue here is not the trial court's ruling on the motion, but the trial court's interpretation of the contract. Plaintiff argues that this is simply inaccurate and strategic misdirection by defendant. As noted above, while the transcript of the hearing is not of record, the trial court made clear during later proceedings that any claim for damages was limited up to the present date of the trial.

Plaintiff argues that it never sought damages in perpetuity and always maintained that the contract between the parties would only last "as long as Guy should receive those royalties." Plaintiff points to arguments before the court, its pleadings, and the deposition transcripts in arguing that this has been its consistent position. Plaintiff asserts that this termination event requires a finding that the contract was not perpetual in duration, but one for a defined term terminable upon the occurrence of the condition of Guy's death. Citing, *Jespersion v. Minnesota Mining and Manufacturing Co.*, 288 Ill. App. 3d 889, 893 (1997).

First, plaintiff initially argued that the trial court dismissed Count I of its complaint. However, the record clearly indicates, despite the missing motion and hearing transcript, that this was not the case. The trial court struck plaintiff's claim for perpetual damages and barred only that claim and evidence concerning damages in perpetuity. The trial court specifically noted that

No. 1-10-0616

Count I survived and plaintiff could seek damages to the date of trial.

With respect to plaintiff's claim that the trial court erred in interpreting the contract to be of indefinite nature, we agree with defendants that the trial court properly made this determination. Plaintiff alleged in several paragraphs of its third amended complaint that: it was entitled to an ongoing percentage of the royalty/residue income it secured; Cameron testified that he formed an agreement with Guy that would allow for commissions as long as Guy received them; and Ellison testified and prepared a report that the oral contract was without duration and assumed perpetual so he completed computations on a 30-year time frame. The next day of proceedings, plaintiff sought to file a fourth amended complaint seeking payments until the death of Guy.

The trial court determined that it would not allow presentation of evidence of damages in perpetuity as they are forbidden by law in Illinois. The trial court opined that this evidence would only serve to prejudice or confuse the jury and waste time at trial. Furthermore, because there had been no prior pleadings alleging a timeframe, the trial court denied that request at such a late date.

Defendants' claim that plaintiff's reliance on the appellate court's opinion in *Jespersion* is improper because our supreme court heard that case and issued an opinion is incorrect. The appellate court opinion was not reversed and the principle that a contract is for a fixed duration when the parties agree on a specific termination event stands. However, as defendants argue, Illinois law also is clear that, without a defined event, contracts of indefinite nature are disfavored and construed as terminable at will by the courts. *Jespersion*, 183 Ill. 2d 290, 295

No. 1-10-0616

(1998). While it is also true that consideration of the terms of a contract is reserved for the trier of fact, in this case there were no allegations alleging a definite term in plaintiff's complaints.

Accordingly, the trial court's finding that as alleged, the contract was not perpetual in duration, but terminable at will and plaintiff could not seek damages in perpetuity. Throughout discovery there was no ability to examine this allegation as raised at the start of trial. It is important to note that the trial court did not dismiss the entire complaint, but simply limited plaintiff to the ability to seek damages as pled and allowed by Illinois law. Accordingly, granting defendants' motion and striking the claim for damages in perpetuity was not an abuse of the trial court's discretion.

## 2. Barring Expert Testimony on Damages

Plaintiff also argues that the trial court erred in granting defendants' motion *in limine* to bar the testimony of his expert on damages, Howard Ellison, as speculative and lacking foundation. Plaintiff argues that, despite the inadmissibility of speculative or remote evidence on damages, future damages may be recoverable if reasonably certain to follow. *Diaz v. Legat Architects, Inc.*, 397 Ill. App. 3d 13, 45 (2009). Despite this, plaintiff adds that with foundation it is not improper for experts to opine on probabilities or possibilities based on assumed facts. *Buford v. Chicago Housing Authority*, 131 Ill. App. 3d 235, 245 (1985).

Plaintiff asserts that Ellison, a certified public accountant, was properly established as an expert and the very nature of prospective damages involves assumptions and a degree of speculation. Plaintiff argues that Ellison provided a proper and accurate report based on available facts and explained the assumptions he made in determining that his projections were

certain to follow based on past history and trends. Plaintiff argues that the written contracts that it negotiated to recover royalties were all defined with the limited duration of the life of Guy.

As noted above, the trial court barred Ellison's opinions because his original computations were based on the faulty premise of perpetuity, but his revised computation was only made at trial and not disclosed and open to review by defendants prior to trial. Ellison testified that because the oral agreement between the parties did not contain any duration, it was assumed to be perpetual because Guy could receive royalties for his life and his estate would follow and also because the corporate entities are presumed to survive in perpetuity as well. He testified during *voir dire*, however, that modifying his projections to the date of trial was a simple procedure.

Defendants also point to Ellison's reliance on many revenue streams that were either non-recurring or of fixed duration that Ellison included in his projections. Plaintiff does not rebut this argument, instead falling back to its argument that the trial court erred in barring evidence of future damages, as addressed above. Plaintiff contends that Ellison was established as an expert and the pertinent question is whether his testimony would aid the trier of fact by explaining an issue beyond one's ordinary knowledge. *Torres v. Midwest Development Company*, 383 Ill. App. 3d 20, 26 (2008). Plaintiff concludes that Ellison's testimony should have been allowed and the trier of fact should have been granted the opportunity to accord weight to the testimony.

We found above that the trial court did not err in barring the introduction of evidence of perpetual damages. Ellison prepared a report under this theory and testified to computations made just five minutes prior to his *voir dire* examination. As noted by defendants, the only

expression by the trial court on this issue was its concern regarding the lack of disclosure of Ellison's revised computations troubling. Ellison was examined on how he arrived at his calculations and the limited material he was provided to support his findings. Based on the record, Ellison's own testimony on the lack of a written contract and defined terms and the failure to provide the revised computations during discovery, it cannot be said the trial court abused its discretion in barring Ellison's testimony.

### 3. Barring Evidence of Defendant's Past Dealings With Other Managers

Plaintiff also argues that the trial court erred in granting defendants' motion *in limine* to bar testimony of Guy's past dealings with any managers other than plaintiff, in particular, Martin Salzman. Plaintiff notes that the trial court denied the motion *in limine* to bar the testimony of Salzman, but barred the line of testimony concerning his past dealings with Guy as personal manager, in particular his lawsuit against Guy. Plaintiff also notes that the trial court allowed defendants to make statements during opening arguments regarding Guy's good character as well as Guy's testimony concerning his "word" and the fact that he paid bills when due. Plaintiff contends that this argument and testimony cast a positive light on Guy's good character and credibility and the trial court's failure to allow testimony in rebuttal was an abuse of its discretion.

Plaintiff contends that the proffered testimony of Salzman would have impeached Guy's testimony that he always paid his bills. Plaintiff asserts that Salzman would have testified to matters from his tenure as Guy's personal manager that would have rebutted Guy's character assertions and his credibility. Plaintiff concludes that defendants opened the door with the

No. 1-10-0616

statements and testimony presented and it was prejudicial for the trial court to refuse to reconsider its ruling barring Salzman's testimony.

Defendants argue that it is necessary to first consider the trial court's grant of plaintiff's motion to bar testimony concerning plaintiff's dealings with prior clients. Subsequently, defendants filed their motion *in limine* to bar the testimony of Guy's dealings with other clients and managers. Defendants note that the trial court denied their motion to bar Salzman's testimony, but in the process, plaintiff's counsel concurred with the trial court's observation that Salzman's deposition testimony did not support plaintiff's theory as Salzman had little recall of details of his relationship and his testimony would be speculative and of no purpose to the jury. They add that defense counsel also noted he intended to only inquire into the Chess/MCA Royalty deal with Salzman, and the issue was waived. Furthermore, defendants note that the trial court allowed defense counsel to inquire of Guy why he fired Salzman, thereby allowing examination of Guy's prior dealings with managers.

Plaintiff argues on appeal that the trial court erred because it failed to allow questioning following statements made at trial, and in denying its posttrial motion arguing the same. However, this issue was not raised during trial and as defendants argue, raising the issue in a posttrial motion did not preserve the issue and resulted in waiver. In Illinois, an order *in limine* is interlocutory in nature and subject to reconsideration throughout trial, thereby providing the trial court flexibility to modify the order. Proper and timely objections at trial is required for a reviewing court to consider the issue. *Chubb/Home Insurance Cos. v. Outboard Marine Corporation*, 238 Ill. App. 3d 558, 567-68 (1992). Plaintiff did not make such an objection and

No. 1-10-0616

does not argue such before this court and this issue was not properly preserved for appeal.

Waiver notwithstanding, defendants also correctly conclude that the trial court did not abuse its discretion in limiting the examination of Salzman to avoid discussion of prior dealings as personal manager for Guy. Based on the admittedly limited value of his deposition testimony and the obvious prejudicial effect of introducing evidence of Salzman's lawsuit against Guy, the trial court determined this evidence would be prejudicial. As defendants note, the trial court did allow questioning of Guy by plaintiff concerning the acrimonious end of his relationship with Salzman. The trial court granted plaintiff's motion to bar evidence concerning prior lawsuits against it and did likewise for defendants while denying defendants' motion *in limine* to bar Salzman's testimony in its entirety. The trial court weighed the probative value and prejudice from the proposed testimony and properly exercised its discretion in limiting Salzman's testimony at trial.

#### B. Computation of Damages

Finally, plaintiff argues that the trial court erred in failing to modify the damages awarded by the jury to correctly reflect the evidence at trial. Plaintiff argues that the jury misapplied dates and invoices admitted as evidence at trial when computing damages. Plaintiff asserts that an inadequate verdict may be enlarged by *additur* where there is a "specific, definitely calculable item" and where amendment is not allowed, grant a retrial on damages where the verdict is against the manifest weight of the evidence. *Yep Hong v. Williams*, 6 Ill. App. 2d 456, 460-61 (1955). Defendants add that the fact that the verdict is less than the claimed damages is not determinative and the trial court may not reweigh the evidence, but may intervene only if the

No. 1-10-0616

verdict is “palpably inadequate or against the manifest weight of the evidence.” *Wilkinson v. Mullen*, 27 Ill. App. 3d 804, 809 (1975). This is particularly the case where the jury is not instructed such that it is confined to a precise damage calculation. *Tyco Electronics Corp. v. Illinois Tool Works, Inc.*, 384 Ill. App. 3d 830, 835 (2008). Because there was evidence of record to limit certain claimed damages, we affirm the jury’s findings.

At trial, the parties stipulated that: plaintiff was terminated on March 1, 2001, for good reason under Illinois law; plaintiff did not work on Guy’s Spring 2001 tour after that date; and BMI and Alligator Records royalties had been received by Guy prior to the time plaintiff was hired. The jury was instructed that plaintiff claimed that it was not paid for the following items for work performed prior to its termination date: (1) miscellaneous income of \$26,778.63; (2) merchandising income of \$4,302.33; (3) tour dates of \$70,464.50; and (4) reimbursements of \$1,101.76. The trial court indicated that defendants asserted that plaintiff did not sustain damages and the jury was required to consider each claim separately and decide what damages, if any, plaintiff was entitled.

The parties’ stipulations and copies of the plaintiff’s exhibits including the invoices to defendants were sent with the jury for deliberations. As noted above, the jury found for plaintiff and awarded damages of \$1,423.11 for miscellaneous income, \$3,292.82 for merchandising, \$1,101.76 for reimbursements for a total of \$5,817.69. No award was entered related to plaintiff’s claim for damages related to tour dates.

Plaintiff argues that the jury mistakenly awarded damages for invoiced items prior to March 1, 2001. It argues that this was arbitrary and manifestly erroneous because it ignored



No. 1-10-0616

evidence that plaintiff worked on the Spring tour before the dates of the tour and earned commissions and merchandising income before that termination date that came due at a later date. Specifically, plaintiff cites to royalty income received from the use of one of Guy's songs by Cingular that was secured before March 1, 2001, but not paid out until May 30, 2001.

Plaintiff also points to commissions awarded by the jury from royalties received by ENT Partners received in January 2001, but not April 2001, despite the fact they were earned prior to the termination date. Plaintiff argues that it is clear the jury ignored the evidence and arbitrarily denied plaintiff his entitled damages.

Based on the record it is clear that the jury was charged with determining the parameters of the oral agreement between the parties. It was instructed that if it found in plaintiff's favor, it was responsible for determining the damages. It cannot be said that its conclusions are palpably inadequate or against the manifest weight of the evidence.

For the specific arguments plaintiff advances on appeal, plaintiff's invoice indicates that the royalty commissions from the ENT Partners payments listed with a January 2001 date were paid by Guy and the jury cut off damages at the termination date. As for awarding zero damages for the tour dates, testimony was provided concerning the duties of a personal manager on tour, in particular, those which plaintiff undertook. Furthermore, it was stipulated that plaintiff did not work on the Spring 2001 tour. Testimony was also given that the contract with Cingular that was paid on May 30, 2001, was arranged by another party.

Based on the evidence of record and the jury's instructions, the award was not against the manifest weight of the evidence. Unlike the typical situation where *additur* is granted, there are

No. 1-10-0616

no unliquidated damages or lack of discretion. Here, the jury was required to consider the testimony and evidence at trial to determine the disputed terms of an oral agreement between two parties. Following the stipulated termination date and evidence of payments made, the jury properly determined an award for plaintiff and the evidence of record does not require modification of that award or reversal for new trial on damages.

### III. CONCLUSION

For the foregoing reasons, the trial court's rulings on defendants' motions *in limine* and evidentiary matters and the jury verdict and award are affirmed.

Affirmed.