
IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

KATHLEEN SPIES and ALAN SPIES,	)	Appeal from the
	)	Circuit Court of
Plaintiffs-Appellants,	)	Cook County
	)	
v.	)	No. 2020L008663
	)	
ABDUL AMINE and AMINE, M.D. S.C.,	)	The Honorable
	)	Frank J. Andreou,
Defendants-Appellees.	)	Judge Presiding.

JUSTICE WILSON delivered the judgment of the court, with opinion.
Presiding Justice Oden Johnson concurred in the judgment and opinion.
Justice Mitchell concurred in part and dissented in part, with opinion.

OPINION

¶ 1 Plaintiffs, Kathleen Spies and Alan Spies, appeal from the entry of judgment in favor of defendants in this medical malpractice action. Before trial, the circuit court barred plaintiffs' retained medical expert from offering opinions on proximate causation and damages because those opinions were not disclosed under Illinois Supreme Court Rule 213(f)(3) (eff. Jan. 1, 2018) and, in any event, the expert declined at his deposition to offer them. The court then entered judgment for defendants, finding that plaintiffs could not establish a causal connection between the alleged deviations from the standard of care and the damages claimed. For the reasons that follow, we affirm in part and reverse in part.

¶ 2

I. BACKGROUND

¶ 3

A. Medical Treatment and Underlying Allegations

¶ 4

Before the treatment at issue, Kathleen had a history of chronic back pain. In 2015, after a work-related injury, defendant Dr. Abdul Amine, M.D., implanted an intrathecal morphine pump to help manage that pain. An intrathecal morphine pump is a device implanted under the skin that delivers pain medication through tubing into the intrathecal space, the area around the spinal cord that contains cerebrospinal fluid (CSF).

¶ 5

On or about May 17, 2017, Kathleen presented to Advocate Christ Medical Center with symptoms attributed to opiate withdrawal. After it was determined that her intrathecal morphine pump was malfunctioning, Dr. Amine performed surgery on May 19, 2017, to address the malfunctioning pump and catheter system (the first surgery).

¶ 6

Dr. Amine's operative report for the first surgery described removal of the old pump, implantation of a new pump, and insertion of a new catheter. It recited that "old tubing was attached and the pump inserted." The record also contains an edited version of the report in which "old" is struck and replaced, so that the sentence reads that "new tubing was attached and the pump inserted." Defendants maintained that the original reference to "old tubing" was a typographical error and that the new catheter was in fact connected to the new pump. Plaintiffs relied on the original language to allege that Dr. Amine left old catheter tubing in place without removing, securing, or ligating it, leaving a segment through which CSF could escape. The discrepancy between the two versions of the operative report later became a subject of expert discovery.

¶ 7

Plaintiffs alleged that during the first surgery Dr. Amine "inserted a new intrathecal catheter" but "improperly attach[ed] the old, non-functioning catheter to the new morphine pump," "improperly tested the new catheter, which was not attached to the pump," and "failed to properly

ligate and secure the excess catheters left in [Kathleen's] body.” Plaintiffs further alleged that, following the first surgery, Kathleen “experienced a leak of [CSF], from her intrathecal catheter,” along with headaches and blackouts, which necessitated a second surgery performed by Dr. Amine on May 26, 2017 (the second surgery), to locate and repair the leak.¹

¶ 8 Dr. Amine’s operative report for the second surgery stated that he observed CSF leaking from the “old tubing” that remained in the spinal-fluid space. To stop the leak, Dr. Amine tied knots in the old tubing, ligated it with Nurolon suture, and buried it. Kathleen returned to Dr. Amine’s office for suture removal on June 8, 2017, the last date on which Dr. Amine treated her.

¶ 9 Plaintiffs alleged that, following the two surgeries, Kathleen continued to suffer severe headaches and recurrent blackouts over the next three years, more severe than any she had experienced before. On November 28, 2017, Dr. Brendan Gaynor performed surgery to remove Kathleen’s implanted pain pump. Dr. Gaynor’s operative note stated that the pump was removed because Kathleen was not tolerating the therapy due to medication side effects and discomfort from the pump beneath her skin. The operative note further stated that, when Dr. Gaynor disconnected the catheter and removed the pump, he observed “no egress,” or leak, of CSF from the tubing. The remaining intrathecal catheters were not removed.

¶ 10 On April 14, 2020, Kathleen was seen by Dr. Ryan Trombly by virtual visit for chronic back pain, leg pain, daily migraines, and pain between her shoulder blades. Dr. Trombly noted that Dr. Gaynor had removed Kathleen’s intrathecal pump in 2017 and that her headaches had worsened since that time. After reviewing imaging, Dr. Trombly determined that Kathleen had

¹The record contains inconsistent references to the date of the second surgery. Plaintiffs’ brief refers to May 26, 2017, while Dr. Ryan Zengou’s disclosure and other portions of the record refer to May 27, 2017. Dr. Amine’s operative report identifies May 26, 2017, as the surgery date and May 27, 2017, as the date the report was created.

severe stenosis at L4-L5 and L5-S1 and required treatment for spinal headaches and lumbar decompression.

¶ 11 On May 12, 2020, Dr. Trombly removed Kathleen's spinal cord stimulators and her retained intrathecal pain-pump catheters. His operative report reflected that CSF leaked after a catheter was removed but did not identify the location of the leak. The following day, Dr. Trombly performed lumbar decompression and fusion procedures. Kathleen testified that her blackouts and severe headaches resolved after the May 2020 surgery. She continued treatment with Dr. Trombly for low-back pain and later underwent an L2-L4 fusion in November 2023.

¶ 12 B. The Operative Complaint and the Claims

¶ 13 On September 20, 2022, Kathleen and Alan filed their operative fourth amended complaint naming as defendants Abdul Amine, M.D., his professional corporation, Abdul Amine, M.D., S.C., and several other health-care providers. In the counts relevant to this appeal, Kathleen alleged that Dr. Amine deviated from the standard of care during and after the May 19, 2017, surgery by, among other things, failing to properly install and ligate the catheter tubing, resulting in chronic headaches, blackouts, and other injuries. Alan also alleged a derivative claim for loss of consortium.

¶ 14 Plaintiffs also attached to the complaint the certificate of merit and reviewing health professional's report required by section 2-622 of the Code of Civil Procedure (Code) (735 ILCS 5/2-622 (West 2022)). The author of the section 2-622 report was later identified as Dr. Ryan Zengou.

¶ 15 C. The Rule 213(f)(3) Disclosure and Deposition

¶ 16 During pretrial discovery, plaintiffs initially disclosed Dr. Jonathan Citow as their controlled expert witness under Illinois Supreme Court Rule 213(f)(3) (eff. Jan. 1, 2018). Plaintiffs

thereafter moved to substitute their Rule 213 disclosures, and the circuit court entered an order granting the motion to substitute on April 1, 2024. On April 29, 2024, plaintiffs disclosed Dr. Ryan Zengou, a board-certified neurosurgeon practicing in Tulsa, Oklahoma, as their sole retained medical expert under Rule 213. Dr. Zengou never treated Kathleen; he was retained to review the medical records and offer opinions concerning the standard of care applicable to Dr. Amine's surgical treatment.

¶ 17 Dr. Zengou's Rule 213(f)(3) disclosure, which was substantially identical to his earlier section 2-622 report, stated, among other things, that he had reviewed Kathleen's records and would testify that Dr. Amine "improperly attach[ed] the old, non-functioning catheter to the new morphine pump," "failed to properly ligate and secure the excess catheters left in Kathleen Spies' body," that "[a]fter surgery, Plaintiff Kathleen Spies experienced headaches, which are a known sequela of a CSF leak." The disclosure further stated that "spinal headaches can also be a symptom of an ongoing leak of CSF" and that plaintiff's "blackouts" were "another known symptom of a CSF leak." The disclosure also stated that in May 2020 Dr. Trombly suspected and surgically discovered an ongoing CSF leak and that Dr. Amine's failure to investigate and correct a potential CSF leak between May 2017 and May 2020 "was outside the standard of care."

¶ 18 Dr. Zengou was deposed on May 28, 2024. As to the standard of care, Dr. Zengou testified that his criticism was conditional, stating that his "whole basis" for the criticism "was whether the old catheter was hooked up to the new pump" and that "[t]hat's all I can base it on." He explained that his criticism was based on Dr. Amine's original operative note, which referred to "old tubing" being attached. When later asked about the edited operative note reflecting that "the new tubing was attached," Dr. Zengou acknowledged that, based on that note, the procedure complied with the standard of care.

¶ 19 On redirect, Dr. Zengou was asked about an edited or corrected version of the operative note and testified, “[b]ased on the edited version, it looks like it was corrected *** I didn’t have an edited version, no deposition.” On re-cross, he was asked about the discrepancy and testified, “That’s correct. We all make typos.”

¶ 20 As to causation and damages, Dr. Zengou repeatedly testified that he was not offering opinions on the sequelae or injuries plaintiff allegedly sustained:

“Q. *** And then whatever sequelae or injuries Ms. Spies sustained as a result of that CSF leak, you’re not going to comment on; is that fair?

A. That’s fair. And my initial review was that there—my main question was whether the old catheter was hooked up and a new catheter was left in place not hooked up to the pump.

* * *

Q. Okay. And then in terms of the sequelae and injury Ms. Spies had, that’s not something you’re commenting on, true?

A. True. I don’t know what the outcomes were of those things. I reviewed records. There was a question of CSF of spinal headaches. I don’t know if that was ever evaluated. I don’t know.

* * *

Q. And in terms of whether or not there was a second CSF leak preoperatively, you don’t have an opinion, fair?

A. Correct.”

¶ 21 The parties disputed the scope and effect of Dr. Zengou’s disclosure and deposition testimony. Defendants asserted that Dr. Zengou’s disclosure did not contain an opinion that Dr.

Amine's alleged negligence proximately caused Kathleen's headaches, blackouts, or other claimed damages and that his deposition testimony confirmed he would not offer such opinions at trial. Defendants further asserted that Dr. Zengou had limited his standard-of-care criticism after reviewing the edited operative note. Plaintiffs, in turn, maintained that Dr. Zengou's disclosed opinions adequately placed defendants on notice of his causation and damages testimony or, at a minimum, that such testimony was a natural and logical corollary of his Rule 213(f)(3) disclosure. Plaintiffs further maintained that any narrowing of Dr. Zengou's standard-of-care criticism went to the weight and credibility of his testimony, not its admissibility.

¶ 22 D. Motions *in Limine* and Judgment

¶ 23 On June 14, 2024, the morning of trial, the circuit court heard oral arguments on defendants' motions *in limine*, including motion *in limine* No. 7, which sought to bar Dr. Zengou from offering (1) standard-of-care and (2) causation and damages testimony. In addition, it requested dismissal of the action if he were barred from offering either form of testimony, for failure to establish a claim. The court denied part one of the motion, and that ruling is not challenged on appeal.

¶ 24 The court then addressed part two of the motion concerning causation and damages. Reviewing the deposition transcript on the record, the court observed that Dr. Zengou testified that he was "not going to comment on" Kathleen's sequelae or injuries she sustained as a result of the CSF leak, that he "[didn't] know *** the outcomes" of those symptoms, and could not causally connect them to the alleged negligence. The court acknowledged that dismissing a claim pursuant to a motion *in limine* was an "unusual request" but found that impaneling a jury would be futile because the record contained no expert testimony linking the alleged breach to the claimed injury. Concluding that plaintiffs could not prove the essential element of proximate causation without

that testimony, the circuit court granted part two of motion *in limine* No. 7 and entered judgment in favor of defendants.

¶ 25 In a written order entered June 18, 2024, the court memorialized its evidentiary rulings. Consistent with its oral pronouncement, the court denied part one of motion *in limine* No. 7, which concerned Dr. Zengou’s standard-of-care opinions, but granted part two, barring him from testifying regarding damages “for the reasons stated on the record.”

¶ 26 E. Plaintiffs’ Motion to Reconsider

¶ 27 Following a granted extension of time, plaintiffs filed a motion to reconsider the circuit court’s June 14 and June 18, 2024, rulings on August 2, 2024. The motion was fully briefed, but before the motion could be heard, plaintiffs’ counsel, Albert Brooks Friedman, died. The circuit court stayed its ruling on the motion and granted plaintiffs until March 10, 2025, to retain substitute counsel. When plaintiffs had not retained new counsel by that date, the court granted them a final extension until June 4, 2025.

¶ 28 On June 4, 2025, plaintiffs’ current counsel, William Fitzpatrick, was granted leave to appear and to file a supplemental brief in support of the motion. Defendants thereafter filed a supplemental response, and the court set the motion for argument on July 23, 2025. Following argument, the court denied the motion. In its ruling, the court stated that it “treat[ed] the original Defendants request for dismissal in motion *in limine* #7 as a motion for summary judgment and grants it in favor of defendant.” The court also addressed the procedure it had followed, stating that “the mechanism of dismissal *** can’t be a motion *in limine* *** dismissing the case by way of a motion *in limine* is not proper.” The court concurrently “denie[d] the plaintiffs request to require the defendant to file a motion for summary judgment and den[ied] plaintiffs[’] request to respond to the motion for summary judgment.”

¶ 29 Plaintiffs filed a timely notice of appeal on August 21, 2025. This court has jurisdiction over this appeal pursuant to Illinois Supreme Court Rule 301 (eff. Feb. 1, 1994).

¶ 30 II. ANALYSIS

¶ 31 This appeal presents two related but analytically distinct questions. First, whether the circuit court erred in granting that portion of defendants’ motion *in limine* No. 7 that barred plaintiffs’ sole Rule 213(f)(3) expert, Dr. Zengou, from testifying on proximate causation and damages. Second, whether the circuit court, having barred that testimony, properly entered judgment for defendants. Because proximate causation in this case required expert testimony, the evidentiary ruling was necessarily dispositive. We address the two issues in turn.

¶ 32 A. Standard of Review

¶ 33 The parties dispute the applicable standard of review. Defendants contend that the decision to bar Dr. Zengou was an evidentiary ruling reviewed for an abuse of discretion (see *Gomez v. The Finishing Co.*, 369 Ill. App. 3d 711, 723 (2006)), and that the balance of the court’s order, having disposed of the case as a matter of law, is reviewed *de novo* (see *Zameer v. City of Chicago*, 2013 IL App (1st) 120198, ¶ 12). Plaintiffs contend that *de novo* review governs in its entirety because, in denying reconsideration, the circuit court expressly stated that it was treating defendants’ request for dismissal in motion *in limine* No. 7 as a motion for summary judgment. See *Adams v. Northern Illinois Gas Co.*, 211 Ill. 2d 32, 43 (2004).

¶ 34 We begin with the evidentiary ruling. It is well settled that the decision to admit or exclude evidence is in the trial court’s “inherent power” and will not be disturbed absent an abuse of discretion. *Agnew v. Shaw*, 355 Ill. App. 3d 981, 990 (2005). An abuse of discretion occurs where the trial court acts arbitrarily without conscientious judgment, exceeds the bounds of reason, and ignores recognized principles of law. *Alm v. Loyola University Medical Center*, 373 Ill. App. 3d

1, 4 (2007). A ruling on a motion *in limine* is reviewed *de novo* only where the issue it presents is a pure question of law. *Schandelmeier-Bartels v. Chicago Park District*, 2015 IL App (1st) 133356, ¶ 25. Here, the decision to bar Dr. Zengou's testimony did not present a pure question of law. It required the circuit court to evaluate the scope of his disclosed opinions and deposition testimony and to determine whether plaintiffs had an adequate evidentiary basis to elicit causation and damages opinions at trial. We therefore review that ruling for an abuse of discretion.

¶ 35 We are unpersuaded by plaintiffs' contention that the circuit court's later characterization of its ruling as a summary judgment requires *de novo* review of the decision to bar Dr. Zengou's testimony. The standard of review is not dictated by the label the circuit court attached to its ruling; it depends on the nature of the appellant's contentions and the question presented for review. *In re Estate of Burd*, 354 Ill. App. 3d 434, 436 (2004). Plaintiffs cite no authority for the proposition that a circuit court's treatment of the resulting disposition as summary judgment displaces the abuse of discretion standard otherwise governing the antecedent evidentiary ruling. Even accepting that the court treated the resulting disposition as a summary judgment, that characterization does not govern the standard applicable to the underlying decision to bar Dr. Zengou's causation and damages opinions, which turned on the scope and adequacy of his disclosed and sworn opinions and remains an evidentiary determination reviewed for an abuse of discretion.

¶ 36 The separate question—whether the circuit court properly entered judgment after excluding that testimony—is reviewed *de novo*. That determination, that the exclusion left plaintiffs unable to prove an essential element and thereby entitled defendants to judgment as a matter of law, is a dispositive legal ruling. See *In re Pension Reform Litigation*, 2015 IL 118585, ¶ 43 (reviewing court reviews the trial court's decision on a question of law *de novo*). Accordingly,

we apply an abuse of discretion standard to the evidentiary ruling and *de novo* review to the resulting judgment.

¶ 37 B. The Circuit Court Did Not Abuse Its Discretion in Barring Dr. Zengou’s Causation
and Damages Testimony

¶ 38 Plaintiffs contend that the circuit court erred in barring Dr. Zengou from offering causation and damages opinions, arguing that those opinions were adequately disclosed, or were at least a natural and logical corollary to the opinions set forth in his Rule 213(f)(3) disclosure. For the reasons that follow, we find that the circuit court did not abuse its discretion.

¶ 39 To prevail in a medical-malpractice action, plaintiffs have the burden of proving (1) the proper standard of care by which to measure a defendant’s conduct, (2) a negligent breach of the standard of care, and (3) that the resulting injury was proximately caused by the breach. *Seef v. Ingalls Memorial Hospital*, 311 Ill. App. 3d 7, 15 (1999). Each element must be established through expert testimony. *Id.* As to causation in particular, the connection between the alleged deviation and the injury “must be established by expert testimony to a reasonable degree of medical certainty,” and it “must not be contingent, speculative, or merely possible.” *Townsend v. University of Chicago Hospitals*, 318 Ill. App. 3d 406, 413 (2000). Where a plaintiff cannot create a triable issue on proximate cause, no *prima facie* case exists. *Id.*

¶ 40 “The purpose of discovery rules, governing the ‘timely disclosure of expert witnesses, their opinions, and the bases for those opinions[,] is to avoid surprise and to discourage strategic gamesmanship.’ ” *Spaetzel v. Dillon*, 393 Ill. App. 3d 806, 812 (2009) (quoting *Thomas v. Johnson Controls, Inc.*, 344 Ill. App. 3d 1026, 1032 (2003)). Rule 213 disclosures are mandatory and strict compliance is required. *Sullivan v. Edward Hospital*, 209 Ill. 2d 100, 109 (2004). At the same time, the rule is to be liberally construed to do substantial justice between the parties, and it

operates as “a shield to prevent unfair surprise but not a sword to prevent the admission of relevant evidence on the basis of technicalities.” Ill. S. Ct. R. 213, Committee Comments (adopted Mar. 28, 2002); *Clayton v. County of Cook*, 346 Ill. App. 3d 367, 377 (2004).

¶ 41 Rule 213(f)(3) requires parties to furnish, among other things, the subject matter, conclusions, and opinions of controlled expert witnesses who will testify at trial. Ill. S. Ct. R. 213(f)(3) (eff. Jan. 1, 2018). Illinois Supreme Court Rule 213(g) (eff. Jan. 1, 2018) limits expert opinions at trial to “[t]he information disclosed in answer to a Rule 213(f) interrogatory, or in a discovery deposition.” An expert “may elaborate on a disclosed opinion as long as the testimony states *logical corollaries* to the opinion rather than new reasons for it.” (Emphasis in original.) *Jones v. Beck*, 2014 IL App (1st) 131124, ¶ 16. Conversely, an opinion that was never properly disclosed falls outside the scope of permissible direct examination and, “[e]xcept upon a showing of good cause,” “shall not be admissible upon objection.” Ill. S. Ct. R. 213(g) (eff. Jan. 1, 2018).

¶ 42 Applying these principles, the dispositive question is not whether Dr. Zengou was critical of Dr. Amine’s care as plaintiffs suggest, but whether he disclosed—and was prepared to offer—an admissible opinion, to a reasonable degree of medical certainty, that Dr. Amine’s alleged deviations proximately caused Kathleen Spies’s claimed injuries, including her postoperative headaches and blackouts. On this record, he did not.

¶ 43 Dr. Zengou’s Rule 213(f)(3) disclosure stated that, during the first surgery, Dr. Amine “improperly attach[ed] the old, non-functioning catheter to the new morphine pump,” “improperly tested the new catheter, which was not attached to the pump” and failed to “ligate and secure the excess catheters.” Those statements identify alleged deviations from the standard of care during the first surgery, but they do not disclose an opinion that those deviations proximately caused Kathleen’s claimed injuries. The disclosure addressed symptomology only after the second

surgery, stating that, “[a]fter surgery, [Kathleen] experienced headaches, which are a known sequela of a CSF leak,” that “[s]pinal headaches can also be a symptom of an ongoing leak of CSF,” and that her “blackouts” were “another known symptom of a CSF leak.” Plaintiffs rely on those statements as causation opinions, or at least as a basis from which causation testimony at trial would be a logical corollary. We disagree. The statements describe only a general medical association that headaches and blackouts *can* be symptoms of a CSF leak. They do not express an expert opinion that Kathleen’s *particular* headaches or blackouts were, more likely than not, proximately caused by a leak attributable to Dr. Amine’s alleged negligence.

¶ 44 To the extent Dr. Zengou’s written disclosure left any doubt about whether he would offer a causation opinion, his deposition eliminated it: he confirmed he had no such opinion. At his deposition, Dr. Zengou repeatedly and affirmatively declined to offer any opinion on the sequelae of the claimed CSF leak, namely, the headaches and blackouts that form the core of plaintiffs’ claimed damages. When asked whether those sequelae were “outside [his] area of expertise—or outside [his] knowledge base,” he answered, “Correct.” When asked whether he was going to comment on “whatever sequelae or injuries Kathleen sustained as a result of that CSF leak,” he responded, “That’s fair. *** my main question was whether the old catheter was hooked up and a new catheter was left in place not hooked up to the pump.” And again, when asked whether he was going to comment on “sequelae and injury,” he was unequivocal: “True. I don’t know what the outcomes were of those things *** There was a question of CSF or spinal headaches. I don’t know if that was ever evaluated. I don’t know.” At most, Dr. Zengou’s testimony shows that the opinions he was prepared to offer concerned Dr. Amine’s alleged deviation from the standard of care, not whether that deviation caused Kathleen’s claimed injuries. Nothing in his disclosure or deposition indicates that he believed, to a reasonable degree of medical certainty, that Kathleen’s headaches

were caused by a CSF leak attributable to Dr. Amine’s negligence. Thus, the trial court did not abuse its discretion in barring Dr. Zengou from offering at trial a causation opinion that he disclaimed under oath in his deposition. See *Mack v. Viking Ski Shop, Inc.*, 2014 IL App (1st) 130768, ¶ 19 (holding trial court did not abuse its discretion in excluding proximate cause testimony where the opinion was never disclosed and the expert testified at deposition that he did not intend to offer it).

¶ 45 Plaintiffs nevertheless argue that the circuit court should have construed Dr. Zengou’s disclosure more liberally. They acknowledge that although Dr. Zengou’s disclosures were “not optimal,” they were sufficient to permit him to testify that defendants’ deviations caused the CSF leak requiring the second surgery and that the leak “might or could” have caused Kathleen’s headaches and blackouts, citing *Geers v. Brichta*, 248 Ill. App. 3d 398, 407 (1993). We are not persuaded. We acknowledge the general rule that “[a] physician may testify to what *might or could* have caused an injury despite any objection that the testimony is inconclusive.” (Emphasis added.) *Id.* But that principle presupposes an expert with a reliable foundation for the opinion. In *Geers*, each physician had personally examined the plaintiff, reviewed her medical history, and stated that the opinion was offered to a reasonable degree of medical certainty. *Id.* at 408. On that basis, the testimony was admitted. *Id.*

¶ 46 Dr. Zengou provided no such foundation. Physicians “may testify to what *might or could* have caused an injury,” so long as their opinions are based on reliable sources of information such as examination of the patient or his medical records. (Emphasis added.) *Ackerman v. Yapp*, 2020 IL App (1st) 182708, ¶ 43 (citing *Iaccino v. Anderson*, 406 Ill. App. 3d 397, 407 (2010)). Here, Dr. Zengou never examined Kathleen. He also testified that he had “reviewed the medical records from [Advocate Health Hospitals] *** years ago,” and that he received only approximately 80

pages of nursing records shortly before his deposition. Nothing in the record shows that he reviewed the full, pertinent course of Kathleen's care necessary to support a causation opinion. Plaintiffs acknowledge the limitation in his record review but argue that it bears only on the weight or credibility of his opinions, not their admissibility, and that the adequacy of his foundation was not yet at issue because the case did not proceed to trial. But plaintiffs, as the proponents of the testimony, were required to establish a reliable foundation for the causation opinion they sought to elicit. See *id.* ¶¶ 39 (proponent of expert testimony must establish both the expert's qualifications and the reliability of the information underlying the opinion). On this record, they did not do so.

¶ 47 Nor did Dr. Zengou state, to a reasonable degree of medical certainty or anything equivalent, that Dr. Amine's alleged deviations were a proximate cause of Kathleen's injuries. As discussed above, he expressly declined to speculate or offer an opinion on that theory. Thus, plaintiffs failed to establish both that Dr. Zengou had a reliable foundation for the proposed causation opinion and that he had disclosed such an opinion in the first place in either plaintiffs' Rule 213 disclosure or deposition. Accordingly, we cannot say that the circuit court abused its discretion in barring his causation testimony.

¶ 48 We turn to plaintiffs' principal contention that a causation opinion was a natural and logical corollary to Dr. Zengou's disclosed opinions, such that barring it was an unduly rigid application of Rule 213. Particularly, plaintiffs' allege Dr. Zengou opined in his disclosure and deposition that "headaches and blackouts can be among the symptoms of a spinal fluid leak" and that "a natural and logical corollary to that opinion would be the opinion that the post-operative headaches and blackouts suffered by the Plaintiff might or could have been caused by the CSF Leak she

experienced after the May 19, 2017 surgery” and “whether they were or not is a factual issue for the jury.”

¶ 49 The logical-corollary doctrine permits an expert to elaborate upon a disclosed opinion; it does not permit a party to supply, for the first time at trial, an opinion that was never disclosed at all. As this court has recognized, trial testimony does not violate Rule 213 where it “did not advance a new theory of negligence or new reasons for [the expert’s] opinion” (*Foley v. Fletcher*, 361 Ill. App. 3d 39, 48 (2005)), or where the opinion is “ ‘an elaboration on, or a logical corollary to, the originally revealed opinion’ ” (*Aguilar-Santos v. Briner*, 2017 IL App (1st) 153593, ¶ 50 (quoting *Spaetzel*, 393 Ill. App. 3d at 813)). But “there is a fine line between elaboration and a new opinion; if the witness crosses that line, the testimony should be excluded.” 10 Jeffrey S. Kinsler & Jay E. Grenig, *Illinois Practice, Civil Discovery* § 13:30 & n.24 (2d ed. 2025) (collecting cases); see *Lisowski v. MacNeal Memorial Hospital Ass’n*, 381 Ill. App. 3d 275, 291-92 (2008) (expert witness was not entitled to testify in medical malpractice action regarding patient’s alleged depression after surgical procedure, where expert’s disclosure failed to specify that expert would testify regarding depression and suicide). The disclosure of a retained expert’s opinions and their bases “is a bright line rule and must be followed.” *Seef*, 311 Ill. App. 3d at 24.

¶ 50 The premise common to the cases permitting elaboration is the prior disclosure of an underlying opinion that the trial testimony refines. Here, that premise is plainly absent. Plaintiffs’ Rule 213(f)(3) disclosure described plaintiff’s headaches and blackouts as “known sequela” or “symptom[s]” of a CSF leak, but it did not disclose an opinion that Dr. Amine’s alleged deviations proximately caused those injuries, stated to a reasonable degree of medical certainty. Nor did Dr. Zengou supply such an opinion at his deposition; to the contrary, he testified that the sequelae of the claimed CSF leak fell outside his knowledge base and that he was not going to comment on

them. A causation opinion that was never disclosed, and that the expert expressly declined to offer, cannot be the logical corollary of a disclosed causation opinion because no such opinion existed to elaborate upon.

¶ 51 Plaintiffs' citation of *Meeks v. Dissanayake*, 2021 IL App (1st) 191420-U, is factually distinguishable. In *Meeks*, the reviewing court found that the expert's pretrial disclosures included an opinion that the defendant nurses' deviations " 'proximately caused the [d]ecedent's death,' " such that the challenged trial testimony was a permissible elaboration of a disclosed proximate-cause opinion. *Id.* ¶ 72. Here, by contrast, no proximate-cause opinion was disclosed in the first instance. *Meeks* thus illustrates the very requirement that defeats plaintiffs' position: a corollary must elaborate upon a disclosed opinion, and there was none.

¶ 52 Moreover, neither does the absence of the phrase "to a reasonable degree of medical certainty" in the Rule 213, by itself, establish that the circuit court barred Dr. Zengou on a mere formality. We agree with plaintiffs that there is "no magic" in that formulation and that an expert's failure to recite it does not render an otherwise grounded causation opinion inadmissible. See *Dominguez v. St. John's Hospital*, 260 Ill. App. 3d 591, 595 (1993). But the circuit court did not bar Dr. Zengou because his disclosure omitted this term of art. It barred him because the substance of a case-specific causation opinion, an opinion connecting Dr. Amine's alleged deviations to plaintiff's headaches and blackouts, was never disclosed and never offered. The principle plaintiffs invoke excuses the absence of particular words; it does not excuse the absence of the opinion itself.

¶ 53 C. Plaintiffs' Common-Knowledge Theory of Causation

¶ 54 Plaintiffs alternatively contend that, even if Dr. Zengou's causation testimony was properly barred, dismissal of the entire action was error because certain components of their claim required no expert causation testimony. They observe that the CSF leak following the first surgery, and the

resulting need for a corrective second surgery, are undisputed. From this, plaintiffs reason that, because the circuit court permitted Dr. Zengou to testify to a standard-of-care deviation, a jury finding such a deviation could award the damages attendant to the second surgery (*i.e.*, medical expenses, associated pain and suffering, any scarring or temporary disability, etc.) without expert causation testimony. Plaintiffs rely on *Bombagetti v. Amine*, 254 Ill. App. 3d 817 (1993), for the proposition that, in such circumstances, causation is obvious, and the resulting damages fall within the common knowledge of laypersons.

¶ 55 Although we agree with the general rule derived from *Bombagetti*, we disagree that it applies here. Foremost, a plaintiff in a medical-malpractice action must present at least some evidence on every essential element of the claim; absent such evidence, the defendant is entitled to judgment as a matter of law. *Sullivan*, 209 Ill. 2d at 123. Those elements are the applicable standard of care, a negligent deviation from that standard, and an injury proximately caused by the deviation. *Seef*, 311 Ill. App. 3d at 15. “Unless the medical professional’s negligence is ‘grossly apparent’ or the treatment at issue is within the common knowledge of a layperson, ‘expert medical testimony is required to establish the applicable standard of care and the medical professional’s deviation therefrom.’ ” *White v. Advocate Condell Medical Center*, 2026 IL App (1st) 240450, ¶ 122 (quoting *Gulino v. Zurawski*, 2015 IL App (1st) 131587, ¶ 60). Proximate cause, in turn, must be established by expert testimony to a reasonable degree of medical certainty; “ ‘[t]he mere possibility of a causal connection is not sufficient’ ” and the causal connection may not be “ ‘contingent, speculative or merely possible.’ ” *Id.* (quoting *Susnis v. Radfar*, 317 Ill. App. 3d 817, 827 (2000)). Thus, deviation from the standard of care, standing alone, does not establish proximate cause.

¶ 56 Moreover, *Bombagetti* does not advance plaintiffs’ theory; if anything, it illustrates why it fails. In that case, the surgeon removed the wrong spinal disc, an error that indisputably necessitated a second, corrective surgery. *Bombagetti*, 254 Ill. App. 3d at 818. Months later, the patient suffered a new back injury that was diagnosed as a facet dislocation. *Id.* at 818-19. After a directed verdict established the defendant’s breach, the only questions that remained were proximate cause and damages. *Id.* at 819. The plaintiff’s expert testified that the wrong-level surgery caused the spine to collapse and shift, producing retrolisthesis and subluxation, and that these conditions were, with a “ ‘fairly high probability,’ ” responsible for the patient’s later pain—though he acknowledged no “ ‘objective evidence’ ” that the facet had been compromised by the error. *Id.* at 819, 821. The defendant and his own expert conceded that the error more probably than not caused the plaintiff’s injury, even though the defendant’s expert could not identify the precise level at which the facet dislocation occurred, testifying that, if such a dislocation existed, it could have occurred elsewhere in the spine. *Id.* at 821. On those admissions, the trial court directed a verdict against the defendant on negligence and proximate cause, leaving only damages for the jury. *Id.*

¶ 57 *Bombagetti* thus establishes a limited principle: a medical expert may testify to more than one possible cause of an injury without identifying the precise cause, leaving to the jury whether the evidence establishes causation. *Id.* at 821-22. But that principle presupposes an expert opinion establishing some causal link in the first instance. In *Bombagetti*, the plaintiff’s expert, though unable to state the cause with certainty, connected the wrong-level surgery to the plaintiff’s later spinal conditions and pain, and the defendant and his own expert conceded that point. *Id.* at 822. Plaintiffs have offered no comparable opinion here. As discussed, their Rule 213(f)(3) disclosure did not state, to a reasonable degree of medical certainty, that Dr. Amine’s alleged deviations

proximately caused Kathleen's injuries after either surgery or necessitated the subsequent surgery. As a matter of law, Dr. Zengou could not testify beyond the scope of that disclosure. In any event, he affirmatively declined at his deposition to offer such an opinion, eliminating any claimed ambiguity in the disclosure regarding the scope of his causation testimony. *Bombagetti* therefore does not cure the absence of a disclosed causation opinion from Dr. Zengou.

¶ 58 Nor can lay inference or common knowledge fill that gap. Even accepting that Kathleen had a CSF leak after the first surgery and required a second surgery, those facts establish only a sequence of events. They do not answer the antecedent medical question whether any assumed deviation by Dr. Amine caused the leak, Kathleen's later symptoms, or the need for the subsequent surgery. In a medical-malpractice action, proximate cause must be established through expert testimony to a reasonable degree of medical certainty; a causal connection that is merely possible, speculative, or inferred from sequence alone is insufficient. *White*, 2026 IL App (1st) 240450, ¶ 122. This case presented a complex causation inquiry involving neurosurgical procedures, which was further complicated by Kathleen's extensive medical history and the record's indication that she had experienced similar, though less severe, symptoms before Dr. Amine's treatment. Determining whether any deviation during either May 2017 procedure caused the spinal-fluid leak or Kathleen's later symptoms therefore required medical expertise beyond ordinary lay understanding. See, e.g., *Advincula v. United Blood Services*, 176 Ill. 2d 1, 23-24 (1996) (and cases cited therein); *Walski v. Tiesenga*, 72 Ill. 2d 249, 257 (1978) (noting that examples of this exception in medical malpractice cases include instruments left in a patient's body after surgery and X-ray burns). The record reveals no glaring, self-evident negligence; the issue instead turns on competing interpretations of operative findings and medical records. The narrow common-knowledge exception therefore does not apply.

¶ 59 D. Entering Judgment Based on Motion *in Limine* No. 7 Was Reversible Error

¶ 60 Plaintiffs next challenge the circuit court’s entry of judgment after it barred Dr. Zengou from offering causation and damages testimony. Although we have concluded that the evidentiary ruling itself was not an abuse of discretion, a separate question remains whether that ruling supplied a proper procedural basis for terminating plaintiffs’ entire action before trial. We conclude that it did not.

¶ 61 Foremost, plaintiffs’ briefing on this point is limited. Their opening brief invokes the circuit court’s conversion principally to support *de novo* review but does not separately develop, with pertinent authority, an argument that the conversion itself was improper. Generally, a point not supported by argument and authority is deemed forfeited. See Ill. S. Ct. R. 341(h)(7) (eff. Oct. 1, 2020); see also *Hall v. Naper Gold Hospitality LLC*, 2012 IL App (2d) 111151, ¶ 12 (“Mere contentions, without argument or citation to authority, do not merit consideration on appeal.”). Nevertheless, forfeiture is a limitation on the parties, not on this court’s authority, and we may consider an inadequately developed issue where the record permits meaningful review. See *Vance v. Joyner*, 2019 IL App (4th) 190136, ¶¶ 80-81; *Marzouki v. Najar-Marzouki*, 2014 IL App (1st) 132841, ¶ 12. We exercise that discretion here. We review *de novo* whether, after excluding Dr. Zengou’s opinions, the circuit court properly entered judgment for defendants. *Pension Reform Litigation*, 2015 IL 118585, ¶ 43.

¶ 62 We do not understand Illinois law to permit a motion *in limine* to be used as a substitute for the procedures governing dispositive motions. “Motions *in limine* are not designed to obtain rulings on dispositive matters but, rather, are designed to obtain rulings on *evidentiary* matters outside the presence of the jury.” (Emphasis in original.) *Cannon v. William Chevrolet/Geo, Inc.*, 341 Ill. App. 3d 674, 681 (2003). Unlike a motion *in limine*, recognized dispositive procedures

provide the nonmoving party with defined protections concerning notice and an opportunity to respond, amend, or present opposing evidence before judgment is entered. See, *e.g.*, 735 ILCS 5/2-615(a) (West 2024) (requiring the movant to “point out specifically the defects complained of, and shall ask for appropriate relief,” thereby giving the nonmovant notice and an opportunity to respond or amend); *id.* § 2-619(c) (permitting the nonmovant to present “affidavits or other proof” denying or otherwise defeating the asserted grounds for dismissal); *id.* § 2-1005(c) (affording the nonmovant an opportunity to demonstrate a genuine issue of material fact); see also Cook County Cir. Ct. R. 2.1(f) (Aug. 21, 2000) (providing that, “except by prior leave of court and for good cause shown,” summary judgment motions must be presented for “entry of a briefing schedule” no later than 45 days before trial).

¶ 63 Illinois courts have reversed where the *in limine* procedure was used to circumvent those protections. In *Silverstein*, the defendants orally moved *in limine* on the scheduled trial date to bar the plaintiff’s standard of care expert. *Silverstein v. Brander*, 317 Ill. App. 3d 1000, 1002-03 (2000). The court ruled the next day and disqualified the expert. *Id.* at 1003. Defendants immediately sought summary judgment and, after being required to submit a written motion, obtained a hearing less than 24 hours later despite the plaintiff’s request for the response time afforded by the local rules. *Id.* at 1003-04. Defense counsel candidly admitted that he had presented the motion as one *in limine* “‘for [his] own strategic reasons.’ ” *Id.* at 1004. This court reversed, holding that defendants could not use the *in limine* procedure to “avoid the requirements for dispositive motions” after “misleadingly present[ing] a potentially dispositive motion as a motion *in limine*.” *Id.* at 1005-06.

¶ 64 *Peterson v. Randhava*, 313 Ill. App. 3d 1 (2000), reached the same result, although, outside the *in limine* context. There, during the pretrial stage, defendants filed an Illinois Supreme Court

Rule 137 (eff. Feb. 1, 1994) sanctions motion, based on an allegedly false allegation within the complaint, and the circuit court thereafter stayed discovery on all issues except that allegation. *Peterson*, 313 Ill. App. 3d at 5. After denying sanctions, the court *sua sponte* treated the sanctions motion as one for summary judgment and simultaneously entered judgment for defendants. *Id.* at 5-6. This court reversed, holding that the plaintiff had neither adequate notice that summary judgment would be considered nor an opportunity to develop and present evidence concerning the other issues raised by his complaint. See *id.* at 10-12.

¶ 65 The improper use of an *in limine* motion to obtain dispositive relief, however, does not invariably require reversal. In *Seef*, an action arising from the stillbirth of the plaintiffs' child, the hospital moved *in limine* one week before trial to bar testimony that its nurses deviated from the standard of care by failing to notify the treating physician sooner, arguing that plaintiffs could not establish that the alleged delay proximately caused the child's death. *Seef*, 311 Ill. App. 3d at 11-12. The trial court granted the motion, and the hospital immediately sought and was granted dismissal of the claim against it for a lack of proximate cause. *Id.* at 12. On appeal, even assuming *arguendo* that the dismissal was actually an untimely summary judgment ruling, this court affirmed because plaintiffs lacked expert testimony establishing proximate cause and the treating physician testified that earlier notice would not have altered his treatment. See *id.* at 17-20. Thus, "there were no genuine issues of material fact for a jury to consider," and further proceedings would have been a "useless act." (Internal quotation marks omitted.) *Id.* at 18-20.

¶ 66 *Okic v. Fullerton Surgery Center, Ltd.*, 2019 IL App (1st) 181074, adopted that rationale and labeled it as a prejudice inquiry. There, the circuit court granted several motions *in limine*, one week before trial, that ultimately barred the plaintiff from presenting any evidence that his surgery had been negligently performed. See *id.* ¶¶ 81-85. On appeal, this court held that the motions were

“improper and untimely dispositive motions” but resulted in “no actual prejudice” because, *inter alia*, the plaintiff identified no other evidence or anticipated testimony that could support his surgical-negligence claim. *Id.* ¶¶ 84-85.

¶ 67 Plaintiffs’ procedural challenge therefore presents two questions: whether, as in *Silverstein* and *Peterson*, they were deprived of the protections accompanying dispositive relief and, if so, whether, as in *Seef* and *Okic*, the error nevertheless caused no actual prejudice. We conclude that plaintiffs were deprived of those protections and that the deprivation was prejudicial.

¶ 68 Although presented, argued, and ruled upon as a motion *in limine*, motion *in limine* No. 7 sought more than the exclusion of Dr. Zengou’s standard of care and causation testimony. It also sought dismissal of the entire case upon a favorable evidentiary ruling, asserting that plaintiffs would then have “no expert to comment on standard of care or damages” and that “this matter should be dismissed.” The circuit court acknowledged its peculiar posture at the June 14 hearing, describing it as “an unusual request to have a case dismissed *in limine*,” and observing that, “because we’re at trial now *** I can’t grant summary judgment.” Nevertheless, after limiting Dr. Zengou’s causation and damages testimony, the court entered judgment for defendants, concluding in its written order that plaintiffs “cannot establish a causal connection between the alleged deviations from the standard of care and the damages claimed.” Neither the oral ruling nor the written judgment identified a specific procedural vehicle for that disposition. At the reconsideration hearing, however, the court clarified, “I am converting it to summary judgment, and I’m granting it in favor of the defense.”

¶ 69 Indeed, motion *in limine* No. 7 was, in substance, an untimely motion for summary judgment. See *Peterson*, 313 Ill. App. 3d at 9 (a motion should be treated according to its substance rather than its title). Accordingly, once defendants sought dismissal of the action based on the

evidentiary ruling, that relief had to be pursued through the procedures governing summary judgment.

¶ 70 We recognize, however, that the timing of defendants' dispositive request was largely a product of the case's unusual procedural posture. Trial was scheduled for June 14, 2024. Plaintiffs did not disclose Dr. Zengou until April 29, 2024, and defendants did not depose him until May 28, 2024, only 17 days before trial. It was only then that the limits of Dr. Zengou's opinions became clear, after the 45-day summary-judgment deadline had passed. Thus, unlike in *Silverstein*, nothing in the record suggests that defendants had an earlier opportunity to raise the dispositive issue but strategically chose instead to proceed by motion *in limine*. Even so, the timing did not eliminate the procedural protections accompanying dispositive relief. Rule 2.1(f) permitted defendants to seek leave, for good cause, to present an otherwise untimely summary judgment motion, thereby affording plaintiffs notice and an opportunity to respond. Cook County Cir. Ct. R. 2.1(f) (Aug. 21, 2000) (permitting a summary judgment motion after the 45-day deadline upon prior leave of court and good cause shown).

¶ 71 Nonetheless, the record suggests that the circuit court viewed further dispositive procedure as unnecessary because, in its view, the causation deficiency could not be cured. At the June 14 hearing, after barring Dr. Zengou's causation testimony, the court concluded that plaintiffs lacked an expert who could connect the alleged negligence to Kathleen's injuries. It reasoned that "if you don't have the evidence now and I impanel a jury, the evidence isn't going to change," and that a directed verdict in defendants' favor would likely follow at the close of plaintiffs' case. That view persisted on reconsideration, where the court explained that it saw no reason to impanel a jury and have the parties present their evidence "only to have me say *** you don't have causation," because, in its view, "[t]hat issue *** [was] not *** in dispute." The court then converted its ruling

to summary judgment and granted judgment for defendants. When plaintiffs objected and requested the procedural safeguards accompanying summary judgment, including an opportunity to respond, the court nevertheless adhered to its ruling.

¶ 72 Although the circuit court did not expressly invoke *Seef* and *Okic*, its ruling tracked their general rationale that the absence of dispositive procedural protections may be nonprejudicial where the record establishes that the nonmovant lacks the evidence needed to sustain the claim. See *Seef*, 311 Ill. App. 3d at 18-20 (affirming dismissal of the claim against the hospital where plaintiffs lacked expert causation testimony and identified no other evidentiary support in the record); *Okic*, 2019 IL App (1st) 181074, ¶¶ 82-85 (affirming the dispositive exclusion of a surgical-negligence theory where the record made clear that plaintiff could not present evidence supporting the foreclosed claim). We conclude, however, that rationale does not apply here because the present record does not establish that plaintiffs could not present other competent evidence of causation.

¶ 73 For instance, we agree with plaintiffs that Dr. Amine was not foreclosed as a potential source of evidence bearing on causation. A defendant physician may be called as an adverse witness and may provide professional opinion testimony, although the burden of eliciting and introducing the necessary proof remains with the plaintiff. See *Fawcett v. Reinertsen*, 131 Ill. 2d 380, 385-86 (1989) (recognizing that a plaintiff may seek to establish the standard of care through the defendant physician's professional opinion testimony as an adverse witness). Although *Fawcett* concerned the standard of care, *Bombagetti* illustrates that a defendant physician's medical testimony may form part of the evidence supporting proximate cause when considered with other medical testimony. See *Bombagetti*, 254 Ill. App. 3d at 821-22 (considering the

defendant physician’s testimony together with other expert testimony in concluding that the evidence sufficiently supported proximate causation).

¶ 74 Here, in his operative report from the second surgery, Dr. Amine documented that Kathleen returned with CSF collecting around the pump pocket, that he “definitely determined that there [was] a CSF leak somewhere,” and that the leak prompted him to return her to surgery. During that procedure, he found “[n]o leakage from the new pump or the new tubing” and identified that “the leakage was from the old tubing,” which he then ligated. Dr. Amine likewise testified at his deposition that, if Kathleen was experiencing a headache at that time, it was “probably because of the little fluid leaking.” This account was consistent with plaintiffs’ theory that the original catheter tubing had not been properly secured or ligated during the first surgery, and it potentially linked the resulting leak to Kathleen’s headache and the need for a second procedure.

¶ 75 We emphasize the limited significance of this evidence to the issue before us. We do not hold that Dr. Amine’s testimony establishes proximate cause, that plaintiffs may establish causation through his testimony alone, or that plaintiffs ultimately can satisfy their burden of proof. Nor do we determine what testimony would be admissible on remand or what evidence would be sufficient to establish causation. Those questions remain open because the record does not reveal what Dr. Amine himself might have said had he been asked. It is that evidentiary gap, not any assessment of the merits, that defines our narrow holding: unlike in *Seef* and *Okic*, the present record does not establish that plaintiffs could present no competent evidence to support their claims or that judgment for defendants was therefore inevitable.

¶ 76 That conclusion also accords with the broader principles governing dispositive relief. The Code of Civil Procedure is to be “liberally construed” so that controversies are determined “according to the substantive rights of the parties.” 735 ILCS 5/1-106 (West 2024). And although

summary judgment is an appropriate means of disposing of litigation where warranted, it remains “a drastic means of disposing of litigation and, therefore, should be allowed only when the right of the moving party is clear and free from doubt.” *Adams*, 211 Ill. 2d at 43. The record here falls short of that standard. Thus, before plaintiffs’ entire action could be terminated, they were entitled to the procedures governing that dispositive determination.

¶ 77 Nor was this deprivation harmless. Prejudice may exist where it is impossible to know “what countervailing evidence the nonmovant might have presented if given notice and time to sufficiently respond to the dispositive motion.” *Okic*, 2019 IL App (1st) 181074, ¶ 81 (citing *Peterson*, 313 Ill. App. 3d at 10-11). Plaintiffs were never afforded that opportunity, and for the reasons already discussed, we cannot say that adherence to the proper procedure would have been a “useless act.” (Internal quotation marks omitted.) *Seef*, 311 Ill. App. 3d at 20.

¶ 78 Accordingly, although the circuit court did not abuse its discretion in barring Dr. Zengou’s undisclosed causation testimony, the resulting dispositive judgment on the *in limine* motion cannot stand. We therefore reverse the judgment entered for defendants and remand for further proceedings consistent with this order. We express no opinion as to how the circuit court should proceed on remand, including whether, in its discretion, it should permit the filing of a formal dispositive motion or proceed directly to trial.

¶ 79 III. CONCLUSION

¶ 80 For the foregoing reasons, the judgment of the circuit court is affirmed in part and reversed in part.

¶ 81 Affirmed in part and reversed in part; cause remanded.

¶ 82 JUSTICE MITCHELL, concurring in part and dissenting in part:

¶ 83 The circuit court correctly recognized that this medical malpractice case could not proceed to a jury trial after plaintiffs’ own expert expressly disclaimed any opinion that the alleged

deviation from the applicable standard of care caused plaintiffs' injury. Under Illinois law, proof of a deviation, standing alone, is not enough. A plaintiff must establish that the deviation proximately caused the complained-of injury, and in the ordinary medical malpractice case, that causal connection must be established through competent expert testimony to a reasonable degree of medical certainty. *Simmons v. Garces*, 198 Ill. 2d 541, 556 (2002). Indeed, in *Lopez v. Northwestern Memorial Hospital*, 375 Ill. App. 3d 637, 646 (2007), this court affirmed the removal of theories from the jury where the plaintiff failed to present expert testimony connecting the alleged breach to the injury. That is precisely what occurred here.

¶ 84 My esteemed colleagues in the majority nevertheless reverse, permitting the case to proceed despite the absence of expert testimony on an indispensable element of plaintiffs' claim. While a jury may draw reasonable inferences from evidence, it may not supply evidence that a plaintiff's own expert has affirmatively declined to provide. While our cases have recognized that using a motion *in limine* as a dispositive motion is improper, it does not constitute reversible error unless the nonmovant can demonstrate unfair prejudice. See *Okic v. Fullerton Surgery Center, Ltd.*, 2019 IL App (1st) 181074, ¶¶ 81-85. Here, plaintiffs can show no prejudice because their counsel, Albert Brooks Friedman, argued the issue extensively, plaintiffs had every opportunity to come forward with contrary evidence, and the circuit court reviewed the expert's deposition in its entirety before making its ruling. Even now, years later, plaintiffs cannot point to any admissible expert testimony in the record that fills the causation gap. That is fatal to plaintiffs' case.

¶ 85 The suggestion that the defendant-doctor might supply the missing causation testimony is pure speculation and is actually contradicted by the record. Illinois courts have consistently held that a plaintiff cannot rely on speculation that an opponent's admission might prove her case. See *Shramek v. General Motors Corp.*, 69 Ill. App. 2d 72, 80-82 (1966); *Price v. Lunan Roberts, Inc.*,

2023 IL App (1st) 220742, ¶ 25. Rather, a plaintiff must present evidentiary facts—pleadings, depositions, admissions on file, or affidavits. In the record before us, in the defendants’ answers to plaintiffs’ Illinois Supreme Court Rule 213 (eff. Jan. 1, 2018) interrogatories, the defendant-doctor expressly denied plaintiffs’ theory: “Dr. Amine will disagree with each and every criticism raised within the Complaint, and he will disagree with each allegation of negligence articulated by plaintiffs’ experts.” He would testify that “any of the injuries the plaintiff sustained following her surgery are known and recognized risks that occurred in the absence of negligence.”

¶ 86 In short, because no admissible expert testimony established the necessary link between the alleged breach and plaintiffs’ injury, the circuit court properly entered judgment for defendants. I would affirm the judgment below in all respects.

Spies v. Amine, 2026 IL App (1st) 251630

Decision Under Review: Appeal from the Circuit Court of Cook County, No. 2020-L-008663; the Hon. Frank J. Andreou, Judge, presiding.

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