No. 87426-8

COURT OF APPEALS DIVISION ONE
OF THE STATE OF WASHINGTON

In the Matter of

SID BADRI

SID BADRI,

Plaintiff - Appellant,

v.

ALASKA AIRLINES,

Defendant - Defendant.

PETITION FOR REVIEW

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TABLE OF AUTHORITIES

A. Identity of Petitioner

COMES NOW the Petitioner, Sid Badri, by and through his attorney of record, Rodney R. Moody, and hereby requests this Court accept review of the Court of Appeals, Div. One decision affirming Summary Judgment on July 14, 2025, and denying Reconsideration on August 28, 2025.

B. Court of Appeals Decision

The Petitioner seeks review of the Court of Appeals ruling upholding the Trial Court's granting of summary judgment.

C. Issues Presented for Review

1. Does the decision of Division One of the Court of Appeals disregard established authority regarding the standard on summary judgment by refusing to consider evidence submitted by the Petitioner in response to the Motion for Summary Judgment.
2. Does the decision of Division One of the Court of Appeals disregard the authority established in *Swanson v. Liquid Air Corp.*, 118 Wn.2d 512, 826 P.2d 664 (1992), when the decision supporting summary judgment permits an employer to create an eternal escape hatch with impunity under the claim of employment at will while making promises intended to influence the decision of a potential employees to accept employment.

D. Statement of the Case

Sid Badri retired from his professional career in commercial aviation, having safely flown the Boeing 737 for more than 8,000 hours and instructing new pilots on the 737 for more than four years. CP 310.

In 2021 he was hired by Alaska to become a simulator instructor for the 737. CP 310. He interviewed for this position with

the General Manager for Training, Scott Nielson, who informed him that this position would be a "train to proficiency" position. Based on his experience actually flying the 737 as well as having instructed on this aircraft, Badri understood the term train to proficiency as Alaska making a commitment to train him according to their policies and practices until he became proficient with each Task. CP 310–11.

While completing the PT #4 proficiency test on March 31st, Badri was experiencing significant back pain which required him to leave the training process. CP 313, 317. He did not work for the remainder of March through December 2022. In September 2022 he had two separate surgical procedures on his back. CP 313

Badri was released by his surgeon to return to work on January 9, 2023. CP 314. He immediately contacted Alaska HR to inquire when he could return to training. CP 314. Reggie Williams-Rolle with Alaska HR on January 17, 2023, forwarded an email to Chelsea Ozolin, who had replaced Nielson, informing her that Alaska had received a return to work note for Badri and inquiring whether Alaska could accommodate a requirement of not lifting more than 30 pounds or working more than eight hours per day. CP 353. That same day she replied asking "when is his return?" CP 353. Williams-Rolle

replied the same day informing her Bradi was able to return as early as tomorrow.

On January 19, 2023, Ozolin was again asked by Williams-Rolle via email if Alaska could accommodate the restrictions. She replied that same day stating, "We can accommodate." CP 352. She also indicated that Alaska was in the process of reviewing Badri's records, informing Williams-Rolle they did not have a schedule for him to return yet. CP 352. On January 25th Williams-Rolle again inquired by email of Ozolin asking "will you reach out to him regarding his first scheduled shift back?" CP 351. Olson replied stating, "We are connecting with legal tomorrow for next steps and will keep you posted, and we will also reach out to Sid as well." CP 351.

On January 27, 2023, Azlan contacted Badri via phone and notified him they were terminating his employment. CP 314. The termination letter was dated January 20, 2023. CP 357. The claimed reason given was that Badri was terminated, "due to your inability to successfully complete required training and meet the qualifications for your role." CP 357.

A review of the training records submitted in response to the motion for summary judgment demonstrates that through the time of

his termination Badri had, contrary to the assertion of Alaska, demonstrated proficiency in each Task performed to that date. CP 338-48.

E. Argument

RAP 13.4(b)(1) provides the basis for this Court's acceptance of this Petition for review.

WLAD

To establish a prima facie case of disparate treatment disability discrimination, a plaintiff must show that he was (1) disabled; (2) subject to an adverse employment action; (3) doing satisfactory work; and (4) discharged under circumstances that raise a reasonable inference of unlawful discrimination. *Brownfield v. City of Yakima*, 178 Wn.App. 850, 873, 316 P.3d 533 (2014). To survive summary judgment the nonmoving party need only show that a reasonable judge or jury *could* find that the plaintiff's disability was a substantial factor motivating the employer's adverse actions. *Riehl v. Foodmaker, Inc.,* 152 Wn.2d 138, 149, 94 P.3d 930 (2004). (Emphasis in original).

It is undisputed that Badri was disabled and was subjected to an adverse employment action. The Trial Court granted summary judgment on the WLAD claim based on written argument from Alaska which failed to cite a single case in support of its argument stating, "the Court finds that

when construing all facts and reasonable inferences in the light most favorable to the nonmoving party, there is insufficient evidence in this record to create a genuine issue of material fact for trial on any of the claims and no reasonable jury could find that discrimination was a substantial factor in the employer's adverse employment action." In doing so the Trial Court disregarded in their entirety Badri's training records which when properly reviewed demonstrates proficiency in every task he was permitted to take. These training records are in the record, disputed as to their interpretation and material to this litigation.

The Trial Court also disregarded the testimony of Badri as well as his partner in training, Robert Soelberg, that this training was being conducted during the recent Covid pandemic with substantial breaks between training sessions and no continuity of instructors essentially creating a breakdown in the training process by Alaska because of the unprecedented pandemic related events.

The Trial Court further disregarded the testimony that Badri's back related issues were causing him significant trouble in the training program including even getting into and out of the simulator seat. The Trial Court disregarded that immediately upon receiving released to return to work from his surgeon Badri contacted Alaska HR inquiring when he could restart training as well as the acknowledgment by Ozolin that Alaska

could accommodate the minimal physical accommodations. The Trial Court disregarded Ozlin's response that she did not have a time for Badri to restart the training process until after she had the opportunity to talk to "legal", and she then terminated Badri's employment under the stated pretext that he had failed to show proficiency in training on a plane that he had actually flown for more than 8,000 hours and instructed in for over four years prior to joining Alaska. Badri also established that despite the chaotic training program created by the pandemic he was able to successfully demonstrate proficiency on every task for which he actually tested.

Given the authority that to survive summary judgment Badri need only show that a reasonable jury *could* find that the plaintiff's disability was a substantial factor motivating the employer's adverse actions, the Trial Court's simplistic statement without any discussion which itself was based on argument by Alaska without citation to any authority, was wrong as a matter of law.

Division One engaged in the same minimalistic analysis disregarding significant factual evidence presented by Badri. Division One acknowledges that Badri put forth his training records but then makes the mistaken argument that the training records do not show Badri was demonstrating satisfactory performance. Badri's successful completion

demonstrating proficiency is a contested issue of material fact that cannot be decided on summary judgment. *Preston v. Duncan*, 55 Wn.2d 678, 681, 349 P.2d 605 (1960). Division One then makes the erroneous argument that Alaska provided Badri extra training, which did not occur. The "extra training" Badri received was received as a result of his supporting his partner/student, Soelberg. Division One then states, "Still, after five months in the program, Badri could not successfully complete the simulator module before he suspended his training to address his back issues. Again, a dispute material issue of fact. The records submitted by Badri when reviewed accurately demonstrate that he did, in fact, demonstrate proficiency in every task. Division One also makes the statement, "the records show that he had been actively training for more than five months, well beyond the three-month average time for completion." This argument, again, disregards the statements submitted by both Badri and Soelberg that the length of this training program was created not by any deficiency of Badri, but rather by the circumstances of the ongoing Covid pandemic and Alaska's failure to adjust the training program accordingly.

Whether this Court agrees with the assessment of these facts is immaterial. The responsibility of the Trial Court as well as Division One on a motion for summary judgment is to consider all of the evidence

presented in the light most favorable to the nonmoving party, Badri. Both Courts have failed to do so selectively choosing to emphasize select facts instead of the required consideration of all the evidence in the light most favorable to Badri. Division One failed to abide by the proper standards on Summary Judgment. These decisions should be reversed and the matter remanded to the King County Superior Court for trial.

Breach of Contract

In *Swanson v. Liquid Air Corp.,* 118 Wn.2d 512, 826 P.2d 664 (1992), this Court stated, "we reject the premise that this disclaimer can, as a matter of law, effectively serve as an eternal escape hatch for employers who may then make whatever unenforceable promises of working conditions is to its benefit to make." Id. at 532. "An employer's inconsistent representations can negate the effect of a disclaimer[.]" Id. at 532. This authority was also recognized by Division One when it addressed it with approval in *Kuest v. Regent Living,* 111 Wn.App. 36, 53, 43 P.3d 23 (2002).

The Court in *Kuest* noted that like the plaintiff in *Swanson,* Kuest received the progressive disciplinary policy and was repeatedly told to use it after she signed the disclaimer. Kuest testified that prior to accepting employment at Region, she received oral assurances that she would have a long history with Regent and that Regent followed a progressive

disciplinary policy. The court further noted that Regent also continued to use the policy after Kuest was hired. *Id.* at 27-28.

This Court held, "Therefore, we believe that the effect of the disclaimer must be resolved by the trier of fact." "Material facts are in dispute on whether Regent negated the effect of the disclaimer through later inconsistent representations and practices and whether Kuest justifiably relied on these representations, rather than the disclaimer." "This issue was improperly resolved on summary judgment." Id. at 27-28.

This is the exact same situation that is present with Badri. As in *Kuest*, Badri was assured that his position was "train to proficiency." Alaska continued to act in conformity with this policy by permitting Badri the opportunity to receive additional training as requested.

As in *Swanson* and upheld by Division One in the *Kuest* decision, the effect of the train to proficiency commitment is factually disputed, must be resolved by a trier of fact, and is improperly decided on summary judgment. The ruling of the Trial Court granting summary judgment and the decision to uphold this decision on appeal are both legal error.

F. Conclusion

The granting of summary judgment on both causes of action was legal error. Both the Trial Court and Division One selectively emphasized

facts supportive of Alaska and failed to consider all the evidence in the light most favorable to Badri as required.

RESPECTFULLY SUBMITTED this 29th day of September 2025.

/s/ Rodney R. Moody
WSBA #17416
Attorney for Appellant

I hereby certify that this Opening Brief
contains 2242 words and complies with RPC 18.17.

CERTIFICATE OF SERVICE

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I declare under the penalty of perjury of the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge.

SIGNED at Lynnwood, Washington this 29th day of September 2025.

/s/ Rodney R. Moody

Exhibit A

Honorable Annette M Messitt

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

SID BADRI,

Plaintiff,

v.

ALASKA AIRLINES, a foreign for profit corporation,

Defendant.

Case No. 23-2-16816-0 SEA

ORDER GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

BEFORE THE COURT is Defendant Alaska Airlines's Motion for Summary Judgment. The Court has considered:

1. Defendant's Motion for Summary Judgment, and declarations and all papers filed therewith;
2. Plaintiff's Opposition to the Motion for Summary Judgment, and declarations and all papers filed therewith;
3. Defendant's Reply in Support of Its Motion For Summary Judgment, and all papers filed therewith;
4. All other pleadings and the case file; and
5. Arguments of the parties.

/

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/

The Court recognizes that summary judgment for an employer is rarely appropriate under the Washington Law Against Discrimination because of the difficulty of proving discriminatory motivation in decisions to terminate employment. However, the Court finds that when construing all facts and reasonable inferences in the light most favorable to the non-moving party, there is insufficient evidence in this record to create a genuine issue of material fact for trial on any of the claims and no reasonable jury could find that discrimination was a substantial factor in the employer's adverse employment action.

IT IS HEREBY ORDERED, ADJUDGED, and DECREED that Defendant's Motion for Summary Judgment is GRANTED.

DATED THIS October 25, 2024

Superior Court Judge Annette M Messitt

King County Superior Court
Judicial Electronic Signature Page

Case Number:	23-2-16816-0
Case Title:	BADRI VS ALASKA AIRLINES
Document Title:	ORDER RE SUMMARY JUDGMENT
Signed By:	Annette Messitt
Date:	October 25, 2024

Judge: Annette Messitt

This document is signed in accordance with the provisions in GR 30.

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Exhibit B

FILED
7/14/2025
Court of Appeals
Division I
State of Washington

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

SID BADRI, Appellant, v. ALASKA AIRLINES, a foreign for profit corporation, Respondent.	No.87426-8-I UNPUBLISHED OPINION

BOWMAN, A.C.J. — Sid Badri appeals the trial court's summary judgment dismissal of his claims against Alaska Airlines (Alaska) for violation of the Washington Law Against Discrimination (WLAD), chapter 49.60 RCW, breach of contract, and negligent misrepresentation. We affirm.

FACTS

Badri is a retired commercial airline pilot with over 8,000 hours of experience flying the Boeing 737 aircraft. He also has four years of experience training pilots to fly the 737. In 2021, Badri applied to be a Boeing 737 flight simulator instructor for Alaska. Scott Nielsen, Alaska's general manager of training, interviewed Badri for the position. During the interview, Nielsen told Badri that the job would be a " 'train to proficiency' " position.

Alaska offered Badri the position. It sent him an offer letter that included a paragraph titled "At-will employment," which explained, in relevant part:

> This offer letter does not alter the at-will nature of your employment. The employment relationship may be ended at any time by you or Alaska Airlines for any reason, with or without notice or cause.

Badri accepted the position and began Alaska's flight instructor training on September 24, 2021.

Alaska's flight instructor training consists of three separate modules. The training is approved by the Federal Aviation Administration (FAA) and follows the "Advanced Qualification Program" (AQP) metric. The AQP allows for flexible techniques and performance-based training. And it includes a concept called "train-to-proficiency." "Train-to-proficiency" means "an instructor-in-training will not be 'checked off' for a task until the trainee is proficient, regardless of how many hours are spent on that task." To advance through the training process, a potential instructor must complete each step of the program sequentially.

Alaska rates instructors on both "qualifying" and "gate" events. A candidate qualifies for an event by showing proficiency at that task. Proficiency is achieved by scoring a rating of 3 or 4. A candidate clears gate events by showing cumulative proficiency at the skills learned in the qualifying events. In October 2021, Badri passed the first module, which was the "ground school portion of the training."

On October 22, 2021, Badri began the second module, which is simulator training and consists of six parts. Despite Badri's significant experience flying and instructing on the Boeing 737, he struggled to show proficiency in these

events. In part 1, Badri failed to show proficiency in 9 of the 19 qualifying events, even after several attempts at repeating them. In part 2, Badri showed proficiency in many of the events, but he received nonqualifying scores in tasks for which he had once shown proficiency. He also failed to show proficiency in another task. And in part 3, Badri failed to show proficiency in 10 events, 9 of which he had previously shown proficiency.

Badri kept training, and Alaska restarted his rating process in March 2022. Badri showed proficiency in all the events in part 1. Then, in part 2, Badri failed to show proficiency for 2 events, both of which he had qualified for in his first round of testing. And in part 3, he failed to show proficiency in the same event he had failed during his first attempt at training. Based on his performance, Alaska gave Badri "extra training" on March 29, 2022. During that training, Badri failed to show proficiency in 3 tasks. Still, Alaska moved Badri to part 4 of the simulator training on March 30. In part 4, Badri failed to show proficiency in 10 events.

On March 31, 2022, Alaska again gave Badri "extra training." In that training, he continued to struggle to show proficiency in several gate events. That same day, Badri's instructor noticed Badri was having trouble getting in and out of the pilot seat because of back pain and notified Nielsen. Nielsen decided that Badri needed to "fix his medical issues" before finishing his training. He told Badri " 'not [to] come back until his back was healed.' "

Badri suspended his training and left the facility. Alaska kept Badri on full salary until August 30, 2022. On August 31, Badri went on short-term disability

under the FMLA[1] to address his back issues. Then, in September 2022, he had two back surgeries. And in December 2022, Alaska changed his employment status to " 'Leave of Absence.' " On December 30, Badri's attending surgeon completed a work status report, saying Badri could return to work on January 9, 2023 but should not lift more than 30 pounds until March 2, 2023.

While Badri was on leave, Chelsea Ozolin replaced Nielsen as Alaska's general manager of training. She reviewed the status of instructors in training to determine whether any were taking longer than expected without improvement. Ozolin identified Badri as one of the individuals. She noticed Badri "had been in the program for a relatively long time and was not improving as [she] hoped." And that "[e]ven after restarting part of one program, when [Badri] should have the skills completely mastered, he was struggling with many aspects of it." She determined he was not going to be successful and decided to terminate him. On January 27, 2023, Ozolin called Badri and terminated him because of his " 'inability to successfully complete the required training and meet the qualifications for [his] role.' "

In September 2023, Badri sued Alaska for violating the WLAD, breach of contract, and negligent misrepresentation. Alaska moved for summary judgment on all three causes of action. The trial court granted its motion and dismissed Badri's lawsuit.

Badri appeals.

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[1] Family and Medical Leave Act of 1993, 29 U.S.C. § 2601.

ANALYSIS

Badri argues the trial court erred by dismissing at summary judgment his WLAD, contract, and negligent misrepresentation claims. We address each argument in turn.

We review a trial court's grant of summary judgment de novo. *McDevitt v. Harborview Med. Ctr.*, 179 Wn.2d 59, 64, 316 P.3d 469 (2013). Summary judgment is appropriate only when "there is no genuine issue as to any material fact and . . . the moving party is entitled to a judgment as a matter of law." CR 56(c).

A defendant moving for summary judgment can challenge whether the plaintiff produced competent evidence to support the essential elements of their claim. *See Boyer v. Morimoto*, 10 Wn. App. 2d 506, 519, 449 P.3d 285 (2019). The plaintiff must then provide sufficient evidence to support those elements. *Young v. Key Pharms., Inc.*, 112 Wn.2d 216, 225, 770 P.2d 182 (1989). The plaintiff may not rely on the allegations in their pleadings. *Id.* Instead, the plaintiff must respond with evidence setting forth specific facts to show that there is a genuine issue for trial. *Id.* at 225-26. We consider all facts submitted and draw all reasonable inferences therefrom in a light most favorable to the nonmoving party. *Ellis v. City of Seattle*, 142 Wn.2d 450, 458, 13 P.3d 1065 (2000). If the plaintiff fails to meet their burden, summary judgment for the defendant is proper. *See Knight v. Dep't of Lab. & Indus.*, 181 Wn. App. 788, 795-96, 321 P.3d 1275 (2014).

1. The WLAD

Badri argues the court erred by dismissing at summary judgment his discriminatory discharge claim. We disagree.

The WLAD prohibits employers from discharging any employee based on a protected characteristic, including the presence of any "sensory, mental, or physical disability." RCW 49.60.180. Violation of this provision supports a discriminatory discharge claim. *Mackey v. Home Depot USA, Inc.*, 12 Wn. App. 2d 557, 570, 459 P.3d 371 (2020). Because direct evidence of discriminatory intent is rare, plaintiffs may rely on circumstantial, indirect, and inferential evidence to establish discriminatory action. *Mikkelsen v. Pub Util. Dist. No. 1 of Kittitas County*, 189 Wn.2d 516, 526, 404 P.3d 464 (2017). In that regard, Washington courts have adopted the *McDonnell Douglas*[2] three-step evidentiary burden-shifting framework for discriminatory discharge claims. *Id.* Under this framework, a plaintiff must make a prima facie case of discriminatory discharge by showing that they were (1) within a statutorily protected class, (2) discharged by the defendant, and (3) doing satisfactory work. *Mackey*, 12 Wn. App. 2d at 571. If a plaintiff establishes a prima facie case, it creates a rebuttable presumption of discrimination. *Mikkelsen,* 189 Wn.2d at 527.

The burden then shifts to the defendant, who must " 'articulate a legitimate, nondiscriminatory reason' " for the discharge. *Mikkelsen,* 189 Wn.2d at 527 (quoting *Scrivener v. Clark Coll.*, 181 Wn.2d 439, 446, 334 P.3d 541 (2014)). The defendant need not persuade the court that it was actually

[2] *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 93 S. Ct. 1817, 36 L. Ed. 2d 668 (1973).

motivated by the nondiscriminatory reason, only that the defendant's evidence, if taken as true, would permit the conclusion that there was a nondiscriminatory reason. *Id.* at 533.

If the defendant meets its burden, the plaintiff must then produce sufficient evidence that shows the defendant's alleged nondiscriminatory reason was a "pretext." *Mikkelsen,* 189 Wn.2d at 527.

> "An employee may satisfy the pretext prong by offering sufficient evidence to create a genuine issue of material fact either (1) that the defendant's reason is pretextual or (2) that although the employer's stated reason is legitimate, discrimination nevertheless was a substantial factor motivating the employer."

Id. (quoting *Scrivener,* 181 Wn.2d at 446-47). An employee can show that a stated reason for termination is pretext in several ways, including

> "that the reason has no basis in fact, it was not really a motivating factor for the decision [or] it lacks a temporal connection to the decision or was not a motivating factor in employment decisions for other employees in the same circumstances."

Scrivener, 181 Wn.2d at 447-48[3] (quoting *Kuyper v. Dep't of Wildlife,* 79 Wn. App. 732, 738-39, 904 P.2d 793 (1995)). The plaintiff need not show that discrimination was the only motivating factor for the discharge because an employer's decision may be based on both legitimate and illegitimate reasons. *Mikkelsen,* 189 Wn.2d at 534.

Here, the parties do not dispute that Badri was part of a protected class or that Alaska discharged him. And Badri argues that he showed satisfactory performance by putting forth training records "demonstrating that he did, in fact, successfully complete every Task until the time he was forced to leave the

[3] Alteration in original.

training program." But the training records do not show that Badri was demonstrating satisfactory performance. Instead, they show that despite his extensive experience flying the 737, Badri struggled to complete the simulator training module. He failed several tasks and had to repeat some events several times to qualify. And he could not show consistency at the tasks after qualification. As a result, Alaska provided Badri extra training. Still, after five months in the program, Badri could not successfully complete the simulator module before he suspended his training to address his back issues.

Other than his bare assertion that the training records show he successfully completed every task, Badri offers no evidence that he demonstrated satisfactory performance. Instead, he argues that Alaska overstates his poor performance. According to Badri, "[t]wo separate Tasks associated with [part 4] were mistakenly not checked as having demonstrated proficiency." But the record shows that Badri failed to perform 10 other events to proficiency in that section. And while Badri performed those events to proficiency on March 30, 2022, he failed to show proficiency in several of the same events during his extra training on March 31. His failure to consistently show proficiency in the qualifying tasks amounts to a failure of gate events. As Ozolin explains in her declaration,

> [f]ailure of a gate event is a much more serious occurrence than failure of a qualifying event, because the latter is intended to be a training exercise while the former is intended to be a test on skills the candidate has now learned.

Finally, Badri argues it was taking him longer than expected to complete the training because when he began the program, he was "simply sitting [in the

simulator] to occupy a seat while another individual was training." But even if the start of Badri's training was delayed, the records show that he had been actively training for more than five months, well beyond the three-month average time for completion. And that when he suspended training, Badri had yet to complete at least two parts of the second module and the entire third.

The evidence does not show a prima facie case of discriminatory discharge. Instead, it supports Alaska's legitimate nondiscriminatory explanation that it terminated Badri for his " 'inability to successfully complete the required training and meet the qualifications for [his] role.' "

Still, pointing to *Gambini v. Total Renal Care, Inc.*, 486 F.3d 1087 (9th Cir. 2007), Badri argues that discrimination was a substantial factor in Alaska's decision to terminate his employment. In that case, the employee informed her supervisor that she was seeking medical treatment for bipolar disorder and that the condition caused her to engage in outbursts and other impulsive behavior. *Id.* at 1091. Later, her employer terminated her based on " 'violent outbursts,' " which she alleged resulted from her bipolar disorder. *Id.* at 1091-92, 1094. The Ninth Circuit concluded the evidence that the employer fired her for conduct caused by her disability amounted to evidence that her disability was a substantial factor in the decision to terminate her employment. *Id.* at 1094.

This case is not like *Gambini*. Badri shows no evidence that his poor performance in training was related to his back issues. And the record shows that Alaska discharged him for his poor performance. So, Badri fails to show that Alaska terminated him for conduct resulting from his disability.

The trial court did not err by dismissing Badri's WLAD claim at summary judgment.[4]

2. Breach of Contract

Badri argues the court erred by dismissing his breach of contract claim. Badri acknowledges that his employment contract was terminable "at-will." But he claims Alaska modified that contract with a promise to train him to proficiency rather than terminate him for poor performance. We disagree.

Employment relationships in Washington are generally terminable at-will by either party. *Thompson v. St. Regis Paper Co.*, 102 Wn.2d 219, 223, 685 P.2d 1081 (1984). But the at-will nature of an employment agreement can be modified in three ways. *Kuest v. Regent Assisted Living, Inc.*, 111 Wn. App. 36, 48, 43 P.3d 23 (2002) (citing *DePhillips v. Zolt Constr. Co.*, 136 Wn.2d 26, 34-37, 959 P.2d 1104 (1998)). First, the parties may expressly agree to modify its terms. *Id.* Second, the parties' conduct may create an implied modification of the terms. *Id.* And third, an equitable claim may exist where an employer makes promises of specific treatment for conduct that precludes enforcement of the at-will aspect of the employment agreement. *Id.*

[4] Badri also argues that the temporal proximity from Alaska's discovery of his disability to his discharge shows that discrimination was a substantial factor in its decision to terminate his employment. But Alaska discovered Badri's disability in March 2022. And it discharged him 10 months later in January 2023. Badri fails to explain how that discharge 10 months after Alaska learned of his disability shows discriminatory intent. Particularly when Badri purportedly resolved the issues with his back weeks before his termination.

When determining whether an implied agreement modified the at-will nature of employment,

> courts will look at the alleged "understanding", the intent of the parties, business custom and usage, the nature of the employment, the situation of the parties, and the circumstance of the case to ascertain the terms of the claimed agreement.

Roberts v. Atl. Richfield Co., 88 Wn.2d 887, 894, 568 P.2d 764 (1977). An employee's subjective understanding or expectation as to a term of their employment is not enough to establish an implied agreement to modify the nature of their employment. *Id.*

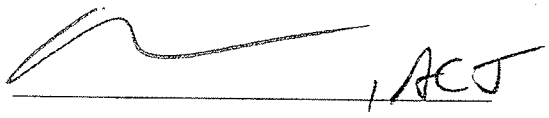
Badri argues that Nielsen's promise to train him to proficiency changed the at-will nature of his employment such that he could be not be terminated for poor performance. But the evidence shows that the term "train-to-proficiency" is customarily used in the industry to describe an FAA-approved AQP training metric. Ozolin stated in her declaration that

> [t]rain-to-proficiency simply means that an instructor-in-training will not be "checked off" for a task until the trainee is proficient, regardless of how many hours are spent on that task. It is not a guarantee of employment—it is a threshold requirement for serving as an instructor. AQP programs still include review boards and other checks to ensure that trainees who are not advancing can be identified and separated if need be.

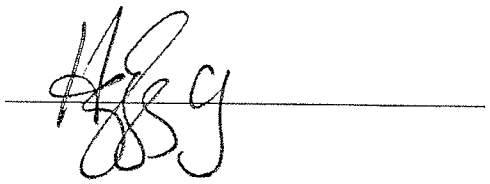
Badri offers no evidence to the contrary. Indeed, Badri agrees that the term "train-to-proficiency" did not amount to a promise not to terminate him for poor performance. In his deposition, Badri said that he "never thought of" train-to-proficiency as a guarantee of employment.

Because Badri fails to show that the parties agreed to modify his at-will employment, the trial court did not err by dismissing his breach of contract claim.[5]

We affirm summary judgment for Alaska.



WE CONCUR:



[5] Badri also argues the court erred by dismissing his negligent misrepresentation claim. He contends Alaska failed to comply with Nielsen's commitment "that the position was train to proficiency" and then fired him for "failing to meet training standards." Because we determine the term "train-to-proficiency" did not guarantee Badri employment, he cannot show that Alaska engaged in misrepresentation. The court did not err by dismissing that claim.

Exhibit C

FILED
8/28/2025
Court of Appeals
Division I
State of Washington

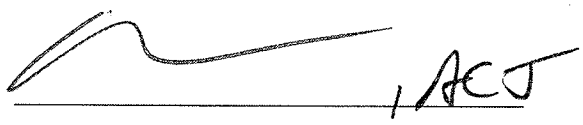
IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

SID BADRI, Appellant, v. ALASKA AIRLINES, a foreign for profit corporation, Respondent.	No.87426-8-I ORDER DENYING MOTION FOR RECONSIDERATION

Appellant Sid Badri filed a motion for reconsideration of the opinion filed on July 14, 2025. A majority of the panel has determined that the motion should be denied. Now, therefore, it is hereby

ORDERED that the motion for reconsideration is denied.

FOR THE COURT:



Judge

LAW OFFICE OF RODNEY R. MOODY

September 29, 2025 - 1:36 PM

Filing Petition for Review

Transmittal Information

Filed with Court:	Supreme Court
Appellate Court Case Number:	Case Initiation
Appellate Court Case Title:	Sid Badri, Appellant v. Alaska Airlines, Respondent (874268)

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