IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

ROGER DAIGNAULT, Appellant, v. PACIFIC NORTHWEST REGIONAL COUNCIL OF CARPENTERS, DOUG TWEEDY, and CASS PRINDLE, Respondents.	)	NO. 64908-6-I DIVISION ONE UNPUBLISHED OPINION FILED: May 16, 2011

Lau, J. — Roger Daignault appeals the trial court's dismissal of his wrongful discharge claim against his former employer, Pacific Northwest Regional Council of Carpenters[1] (Council). Daignault claims the Council's personnel policy modified his at-will employment status and that his termination violated the policy's progressive discipline, for-cause termination, and appeal procedures. But because any promises were effectively disclaimed and because Daignault received the appeal to which he

[1] This is the Council's current title. Daignault makes no separate arguments on appeal regarding the named individual respondents. We therefore collectively refer to all respondents as the "Council."

was entitled, we affirm the trial court's order granting the Council's summary judgment motion.

FACTS

Viewed in the light most favorable to Daignault, the record reveals the following facts. In 1991, Daignault, a carpenter and active union member, moved to Washington state and joined Local 1144. In 1998, John Steffens appointed Daignault as a business representative to the Council. The Council is a labor organization that governs local unions affiliated with the United Brotherhood of Carpenters and Joiners of America and the individual members of such affiliates.

As a business representative, Daignault assisted people "doing carpenter work" and would "try and organize contractors to deal with contractor problems or questions as well as membership questions." He also represented the Council in collective bargaining, filed and processed grievances, enforced Council contracts, instructed new members about organization, and forged relationships with contractors to build market share. After his appointment, Daignault remained an active Local 1144 member. He served as its warden, recording secretary, and Council delegate.

The executive secretary/treasurer (EST) manages the Council. The EST is "responsible for the management and supervision of the field activities, business office(s), and for conducting the daily business of the Council." The EST sets Council policy and has "the authority to hire, suspend, promote or terminate Council representatives and organizers, subject to the approval of the executive committee of the Council."

In 2004, the Council elected Doug Tweedy the new Council EST and Daignault continued on as the Council's business representative. For four years, Daignault reported to Tweedy without incident.

The Council's employee personnel policy, originally adopted in October 1996, was modified on February 16, 2008. On February 26, Daignault received a copy of this policy and dated, printed and signed his name below the acknowledgment:

> I understand that my continuing employment is subject only to the terms of this policy, that the Employment Policy does not create a contract of employment or a right to employment, and that the Pacific Northwest Regional Council of Carpenters has the discretion to terminate my employment subject only to appeal to the Regional Council Executive Committee and further appeal as may be provided in the UBC [United Brotherhood of Carpenters and Joiners of America] Constitution.

The personnel policy's section on discipline and termination states:

> **Section 4 Discipline and Termination**
> **4.1 General Statement**
> It is the policy of the Regional Council that principles of corrective and reasonable discipline should apply to employees covered by this policy. In situations where employee misconduct is minor and correctable in nature, discipline short of termination is appropriate. Consideration therefore should be given in instances of less severe employee misconduct to the policies set forth below, with the understanding that specific situations may lead to less or more discipline that is set forth below. The Regional Council retains the right to terminate an employee immediately even for one act of misconduct if that act is sufficiently severe or harmful to the interests of the Regional Council, in which case the policy of progressive discipline set forth in Section 4.2 would not apply.
> **4.2 Discipline**
> As noted in Section 4.1, consideration should be given to the following, in cases where employee misconduct is minor and correctable in nature:
> A) Any employee of the Regional Council who fails to:
> 1. obey orders or assignments;
> 2. adhere to Regional Council Policy; or Regional Council Vehicle Policy,
> 3. perform duties in a reasonable or timely fashion; and/or;
> 4. conducts him/her self in a manner which reflects discredit on any

Local Union, Regional Council, or the United Brotherhood of Carpenters shall be discipline[d] as follows:

a) One oral or written warning which shall remain a part of employee's personal file.
b) Upon the second infraction, not necessarily for the same offense, shall be grounds for suspension without pay for a period of one to two weeks.
c) The third infraction, not necessarily for the same offense, but occurring within one year, shall be grounds for suspension or up to 20 working days without pay or termination of employment, at the discretion of the Executive Secretary.

4.3 Termination

A) Termination of employment by the Regional Council shall be at the discretion of the Executive Secretary for acts which are severe in nature or harmful to the interests of the Regional Council, for repeated infractions as covered in Section 4.2, or for other reasons including the following:

1. Violation of the UBC Nomination and Election Procedures while on duty.
2. Theft.
3. Conviction of a crime that would disqualify an individual for a union office under the Landrum-Griffin Act.
4. Loss of Valid State Drivers License and/or the ability to drive.
5. Not insurable for auto insurance.
6. Economic reasons.
7. Insubordination.

B) Any employee whose employment is terminated and is eligible for re-hire shall retain such rights for any job for which he/she may qualify for a period of six months immediately following termination.

C) Any employee that has been employed Twelve (12) months or longer, whose employment is terminated by the Executive Secretary may appeal his/her termination to the Regional Council Executive Committee.

And Section 5, immediately before the acknowledgment discussed above, states:

Section 5 – Resolving Disagreements Over Application Of These Policies

It is Regional Council policy that disputes between union staff and union leadership be resolved within the union structure. Accordingly, any claim of violation of these policies is addressable solely by appeal to the Regional Council Executive Committee. The decision of the Executive Committee shall be final, subject to any review which may be available under the Constitution of the United Brotherhood of Carpenters and

> Joiners of America. <u>These policies create[] no rights enforceable against the Regional Council in a court of law.</u>

(Emphasis added.)

Daignault also signed a document entitled "Payment of Union Dues and Fees" requiring him to pay union dues and fees as a condition of his employment. This document also states, "Employment terms and appeal rights are set by the Council delegates and the Executive Board."

Tweedy sought reelection to the Council's EST position. He asked Daignault if he was "on his team." Daignault responded, "[Y]eah, I'm on your team, Doug, but . . . that doesn't mean I have to vote for you." According to Daignault, Tweedy

> stood up and proceeded to tell me how dumb I was, how that I was lucky to qualify to be a business agent, how that he had the best people on staff that were possible from the council and, you know, it just went on and on and he kept — you know, he said — he took a piece of paper and he said, here, resign, because, you know, and I said, no, that's not my decision to make, Doug, that's your decision to make.

Daignault ran against Tweedy for the EST position. Daignault believed the Council was "going in a bad direction." Although "organizing was fine," he thought the Council was "pulling away from representing [its] members." Daignault wanted to "take a look at where we didn't want to go before, which was the light commercial, the big box stores, residential, and go about trying to build relationships and get better training and bringing in more apprentices and bringing in more qualified people." He felt he offered a clear choice from Tweedy.

Daignault took vacation time to run his campaign. Tweedy won the election with about 150 votes and Daignault received about 103 or 104 votes. Two days later,

Tweedy terminated Daignault as the Council's business representative. In a letter to Daignault, Tweedy wrote,

> On behalf of the Regional Council I would like to thank you for your service to the Council and the Brotherhood. However, going forward, I do not believe that you will be faithful to my programs, policies or priorities. Accordingly, I hereby terminate you from your appointed position with the Council.
>
> This does not, and will not, affect your elected position as a delegate or your position as a union member.

Daignault appealed his termination to the Council executive committee. At the appeal hearing, Daignault "protested that [he] had not violated any of the personnel policies and that there were no grounds to terminate [him]." Tweedy responded, "You know why you got fired. You ran against me." The executive committee required Daignault to leave the room when Doug Tweedy presented argument on the grounds for Daignault's termination. The Council executive committee upheld Daignault's termination.

After this determination, Daignault spoke to several executive committee members.[2] According to Daignault, one member told him, "[T]here is no appeal process," rather, the executive board does what it wants regardless of the rules it is administering. Another member told Daignault he voted against termination because Tweedy did not follow the personnel policies, and another member said there was insufficient information to support the termination. The personnel policy prescribes no specific procedures to be used in the appeal process.

[2] No depositions, declarations, or sworn testimony from these committee members appear in our record.

On April 15, 2009, Daignault sued the Council, Tweedy, Cass Prindle (regional manager of the Council), and others, alleging (1) "Wrongful Discharge: Tort"[3] and (2) "Wrongful Discharge: Violation of Personnel Policy." His complaint alleged:

> 52. All employees of defendant, Council, are afforded employment rights as set forth in a document entitled Pacific Northwest Regional Council of Carpenters Personnel Policy For All Employees (hereinafter referred to as Personnel Policy).
> 53. The Personnel Policy sets out both procedural and substantive due process rights of employees of the Council who have completed their probationary term.
> 54. Plaintiff had completed his probationary term with the Council and had both procedural and substantive due process rights under the Personnel Policy.
> 55. Upon receiving the notice of termination from his employment, plaintiff made an appeal to the E-board which is the governing board of the Council.
> 56. Defendant, Council, through its agents, Prindle, Tweedy, and its E-Board, did not afford plaintiff his procedural and due process rights in the conduct of the process that led to his termination and appeal therefrom.

The Council filed a motion for summary judgment on September 11, 2009, to dismiss Daignault's claims. But Daignault's counsel conducted no discovery and submitted no summary judgment response. Therefore, the court considered only the Council's submissions and granted its motion without oral argument.

When Daignault retained new counsel, he moved for reconsideration and to continue the summary judgment hearing. He also moved the court to consider his late-filed materials, reschedule the summary judgment hearing, and grant additional time to conduct discovery to oppose the Council's motion. The court granted the motion for reconsideration, agreed to consider Daignault's untimely response, but it denied the motion to continue to conduct more discovery.

[3] Daignault abandoned his "Wrongful Discharge: Tort" claim and argues no constitutional theories on appeal.

The court ruled that Daignault's "acknowledgment is a clear acceptance of the Council's disclaimer." "In light of the disclaimer, the Personnel Policy does not form the basis for an express or implied contract claim." As to the Council's Labor-Management Reporting and Disclosure Act of 1959 preemption argument, the court ruled, "The court need not reach this argument, but rules that the claims are not preempted."

Daignault appeals the order granting summary judgment for the Council and denying the continuance motion.

Standard of Review

This court reviews an order granting summary judgment de novo, engaging in the same inquiry as the trial court. Lake v. Woodcreek Homeowners Ass'n, 169 Wn.2d 516, 526, 243 P.3d 1283 (2010). Summary judgment is appropriate only where there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. CR 56(c); Jones v. Allstate Ins. Co., 146 Wn.2d 291, 300-01, 45 P.3d 1068 (2002). "A material fact is one upon which the outcome of the litigation depends in whole or in part." Atherton Condo. Apt.-Owners Ass'n Bd. of Dirs. v. Blume Dev. Co., 115 Wn.2d 506, 516, 799 P.2d 250 (1990).

ANALYSIS

Daignault contends that issues of fact remain on his contract claims based on the personnel policy. He argues that genuine issues of material fact exist on whether "the Personnel Policy contained enforceable promises of specific treatment in specific situations" and "whether the Council breached its contract . . . when it terminated him without cause or a meaningful appeal conducted in good faith and with fair dealing."

Appellant's Br. at 13, 27. The Council responds by asserting preemption under the federal Labor-Management Reporting and Disclosure Act. It also asserts Daignault fails to establish issues of fact on his specific treatment and express or implied contract claims. And the parties dispute the effect of the policy's acknowledgment provision.[4]

In general, an employment contract that is indefinite in duration may be terminated by either the employer or the employee at any time, with or without cause. Thompson v. St. Regis Paper Co., 102 Wn. 2d 219, 223, 685 P.2d 1081 (1984). An "at-will" employment relationship can be modified, however, by provisions contained in an employee handbook or similar document. Swanson v. Liquid Air Corp., 118 Wn.2d 512, 520, 826 P.2d 664 (1992). This exception to the at-will employment rule is limited in that "[o]nly those statements in employment manuals that constitute promises of specific treatment in specific situations are binding." Stewart v. Chevron Chem. Co., 111 Wn.2d 609, 613, 762 P.2d 1143 (1988). Also, a contract is terminable by the employer only for cause if there is an expressed or implied agreement to that effect. Thompson, 102 Wn.2d at 233.

Employers may avoid being bound by statements in employment manuals if, "[t]hey can specifically state in a conspicuous manner that nothing contained therein is intended to be part of the employment relationship and are simply general statements of company policy." Thompson, 102 Wn.2d at 230-31. "[T]o be effective, a disclaimer . . . must be communicated to the employee." Swanson, 118 Wn.2d at 529. The effect

[4] Daignault does not claim the acknowledgment was inconspicuous, i.e., buried among voluminous pages or a haze of fine print.

of a disclaimer may be decided as a matter of law when reasonable minds cannot differ.[5] Nelson v. Southland Corp., 78 Wn. App. 25, 30, 894 P.2d 1385 (1995).

We first address the dispositive question of whether the acknowledgment effectively disclaims any promises of specific treatment and contract remedies. Daignault contends that issues of fact remain on his specific treatment and contract claims. In particular, he claims the personnel policy provides for termination based only on "repeated infractions," acts severe or harmful to the Council's interests or for any other reasons listed in the policy. He also claims the policy outlines procedures for progressive discipline applicable to less severe actions. And according to Daignault, the Council retained no discretion in the policy to terminate him without cause and an appeal to the Executive Board "conducted with good faith and fair dealing." Appellant's Br. at 16.

The facts surrounding the acknowledgment are undisputed. The Council modified its personnel policy in February 2008. On February 26, 2008, Daignault signed an acknowledgment that stated:

> I understand that my continuing employment is subject only to the terms of this policy, that the Employment Policy does not create a contract of employment or a right to employment, and that the Pacific Northwest Regional Council of Carpenters has the discretion to terminate my employment subject only to appeal to the Regional Council Executive Committee and further appeal as may be provided in the UBC Constitution.

He dated, printed, and signed his name under this acknowledgment. Significantly, the sentence in section 5 of the personnel policy immediately preceding the

[5] This opinion refers to the disclaimer in the acknowledgment and section 5 of the personnel policy collectively as the "acknowledgment."

acknowledgment states, "These policies create[] no rights enforceable against the Regional Council in a court of law."[6]

Daignault argues that the acknowledgment language is unclear, ambiguous, and internally inconsistent. He argues that "while the second clause suggests that the Council does not intend to be bound by the terms of the Personnel Policy, [the] first and the third clauses of the sentence set clear limitations on the authority of the employer." Appellant's Br. at 21. For this assertion, he relies on the language, "I understand that my continuing employment is subject only to the terms of this policy" and "the Pacific Northwest Regional Council of Carpenters has the discretion to terminate my employment subject only to appeal to the Regional Council Executive Committee and further appeal as may be provided in the UBC Constitution." (Emphasis added.) Daignault maintains that the emphasized language above is inconsistent because it "reinforces the employer's intention to be bound by the terms of the policy, at the same time as it states that the policy does not create a contract." Appellant's Br. of 22. We disagree.

When viewed in context, we find no such inconsistency. Nothing in the personnel policy requires that an employee receive progressive discipline or a particular appeal procedure.[7] Where possible, we harmonize provisions in an

[6] We note that below on summary judgment, Daignault submitted a copy of the personnel policy but failed to include the acknowledgment and disclaimer provisions at issue here.

[7] And we conclude reasonable minds cannot differ on the meaning of the disputed policy provisions. These provisions are clear and unambiguous. And Daignault's signed acknowledgment confirms, "I have read and fully understand my

agreement to give effect to all the provisions. See Nishikawa v. U.S. Eagle High, LLC, 138 Wn. App. 841, 849, 158 P.3d 1265 (2007). Because the personnel policy's discipline and termination provisions use discretionary (should), rather than mandatory (shall) language as discussed below, the acknowledgment does not give rights and at the same time take them away as Daignault implies. The acknowledgment is internally consistent.

For example, the discipline and termination provisions use the discretionary term "should" rather than "shall"—"that principles of corrective and reasonable discipline should apply to employees" and application of progressive discipline "should be given in instances of less severe employee misconduct." (Emphasis added.) The use of this discretionary language is consistent with the Council's retained right to "terminate an employee . . . even for one act of misconduct" and to terminate an employee "at the discretion of the Executive Secretary." (Emphasis added.) The specific language used here indicates no intent by the Council to create enforceable rights based on its personnel policy.

And the discretionary policy language here distinguishes the cases Daignault relies on to support his inconsistent policy language argument. In Swanson v. Liquid Air Corp., 118 Wn.2d 512, 826 P.2d 664 (1992), the court reversed summary judgment in favor of the employer. At issue were two writings from the employer. One was a revised 200-page employee benefit manual mailed to all employees that contained a

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rights and obligations as set forth in the Policy." The record shows no evidence Daignault expressed any confusion or misunderstanding over the discipline and termination policy's meaning at any time.

disclaimer purporting to render plaintiff an employee at will, "regardless of any agreement or company promise to the contrary . . . ." Swanson, 118 Wn.2d at 515. The disclaimer was not mentioned in the cover letter or otherwise referenced. The other writing was a later "Memorandum of Working Conditions" distributed to some employees, plaintiff included, that stated "at least one warning" was to be given before termination for all but specified instances of misconduct. Swanson, 118 Wn.2d at 516 (emphasis omitted). The memorandum apparently did not contain a disclaimer, and plaintiff claimed that in meetings with employer representatives regarding the second writing, there was no mention of a disclaimer. The second writing was issued in an employer effort to prevent union certification. Plaintiff, who was fired for fighting, contended this was inconsistent with the written policies in the second writing promising a warning prior to discharge.

But Swanson is distinguishable from this case. First, the Council clearly communicated the acknowledgment to Daignault, and he makes no argument to the contrary. Second, the "at will" disclaimer in Swanson conflicted with the mandatory language within the manual. For example,

> [t]he work rights provision lists specific employee misconduct which "shall be deemed sufficient and proper cause for discharge without prior notice", for example, use of drugs on duty or carrying unauthorized passengers. The provision states, however, that "[i]n all other instances of misconduct, at least one warning, shall be given."

Swanson, 118 Wn.2d at 524. No such mandatory language exists in the personnel policy, as discussed above. There is no conflict.

Daignault also relies on Carlson v. Lake Chelan Community Hospital, 116 Wn.

App. 718, 732, 75 P.3d 533 (2003). This court interpreted the following disclaimer language and held it insufficient to disclaim promises of progressive discipline in the handbook. "'This Handbook is intended as a set of general guidelines and should not be construed as a contract or covenant of your employment. Management reserves the right, at any time, to revise this Handbook, wholly or in part.'" Carlson, 116 Wn. App. at 730.

Division Three of this court reasoned,

> While the first sentence suggests that LCCH [Lake Chelan Community Hospital] did not intend to be bound by the procedures in the Handbook, the second sentence suggests that the employer is accepting some limitation on its authority in that management agrees that it can change the Handbook at any time, not that management retains the authority to act apart from the procedures in the Handbook.

Carlson, 116 Wn. App. at 732.

But Carlson is also distinguishable. There, the evidence at trial established that LCCH management viewed handbook procedures as enforceable obligations. Carlson, 116 Wn. App. at 733. Here, there is no evidence that the personnel policy creates mandatory obligations on the employer. The acknowledgment unequivocally states that the personnel policy creates no contract of employment or a right to employment and the Council has discretion to terminate employment.

Daignault also argues that Thompson requires an employer to state affirmatively that it retains discretion over termination decisions in the workplace and that this personnel policy contains no "at will" language. But Daignault cites no authority for the proposition that an employer must use the words "at will." And in addition to the

extensive use of discretionary language, the personnel policy makes clear that an employee has no "right to employment" and the personnel policy is not "enforceable . . . in a court of law."[8] We conclude no reasonable person reading the acknowledgment could be confused or misled as to its effect.

But even assuming the acknowledgment's invalidity, the personnel policy makes no promise of specific treatment in specific situations because the relevant discipline and termination provisions are merely discretionary.[9] In Stewart, 11 Wn.2d at 613, the employee manual suggested, regarding layoff decisions, that management "should" consider job performance and experience when making its decision. As here, the court deemed this language merely advisory and therefore insufficient to imply a contract based on specific promises of treatment. Stewart, 111 Wn.2d at 614; see also Hill v. J.C. Penney, Inc., 70 Wn. App. 225, 234-35, 852 P.2d 1111 (1993) (employee manual not explaining or promising any discharge procedures cannot form basis of implied contract).

Similarly, in Birge v. Fred Meyer, Inc., 73 Wn. App. 895, 872 P.2d 49 (1994), the court examined a policy stating that certain violations, including dishonesty and other unspecified employment conduct that the company considered equally serious, would result in termination without warning and that other types of conduct would result in

[8] Daignault argues for the first time on appeal that this disclaimer is unconscionable. Because the issue is not preserved, we decline to consider it. RAP 2.5.

[9] Daignault claims the personnel policy provisions at issue entitle him to progressive discipline, termination only for cause, and more process than he received at his appeal hearing.

disciplinary action, but usually in termination only after a prior warning. Fred Meyer thereby reserved to itself the discretion to terminate employees at will. Because the company retained discretion, Birge could not establish any factual issues regarding the existence of a promise for specific treatment under specific circumstances—the requirement of a warning. Birge, 73 Wn. App. at 900.

And in Drobny v. Boeing Co., 80 Wn. App. 97, 907 P.2d 299 (1995), we affirmed summary judgment in the employer's favor, holding no implied contract existed that required progressive discipline when employer retained discretion to determine whether the conduct was serious enough to merit termination without cause without recourse to

progressive discipline. Like Stewart, Birge, and Drobny, the personnel policy here makes no promise of specific treatment in specific situations.

Appeal Right

Daignault claims that he received only a "sham appeal." The personnel policy provides for an "appeal to the Regional Council Executive Committee." It prescribes no specific procedures applicable to the appeal process and Daignault identifies none. He received the appeal he was promised. There is no issue of fact on breach. See Trimble v. Wash. State Univ., 140 Wn.2d 88, 93-96, 993 P.2d 259 (2000) (no issue of fact on breach because professor received the process he was promised).

Daignault also argues that he was entitled to an appeal conducted in good faith and fair dealing. Our Supreme Court has specifically rejected good faith and fair

dealing claims in the employee handbook context. "'[T]o imply into each employment contract a duty to terminate in good faith would . . . subject each discharge to judicial incursions into the amorphous concept of bad faith.'" Thompson, 102 Wn.2d at 227 (quoting Parnar v. Americana Hotels, Inc., 65 Haw. 370, 377, 652 P.2d 625 (1982)). Accordingly, this claim is without merit.[10]

Contract Claim

Even assuming the acknowledgment's invalidity, Daignault also argues that an express or implied contract provides that he could only be fired for cause. Daignault makes no assertion that he could only be fired for cause under the collective bargaining agreement. Instead, he argues the personnel policy created such a requirement. See, e.g., Appellant's Br. at 29. While the Council responds that Daignault does not present sufficient reasoned argument or case authority to support such an argument, it also maintains he presents no evidence such a contract exists. For the reasons discussed above, we conclude the personnel policy creates no enforceable promise of for-cause termination. And Daignault establishes no justified reliance under the circumstances here where the personnel policy makes no promises of specific treatment.

[10] We recognize that our Supreme Court has suggested "under some egregious circumstances an implied covenant of good faith may be appropriate." Trimble, 140 Wn.2d at 97. But because the issue of why this case presents "egregious circumstances" has not been briefed, we decline to address it. "[W]e will not review an issue that was addressed by an inadequate argument or that is given only passing treatment." Timson v. Pierce County Fire Dist. No. 15, 136 Wn. App. 376, 385, 149 P.3d 427 (2006).

Summary Judgment Continuance

Daignault also argues, "The trial court abused its discretion when it denied Daignault's motion for continuance of the summary judgment hearing." Appellant's Br. at 38. The Council replies that (1) Daignault had no good reason for the delay, (2) Daignault did not state what new evidence he wished to discover, and (3) the new discovery would raise no issue of fact. The trial court ruled, "Setting aside the procedural irregularity of the plaintiff's request within his motion for reconsideration, the plaintiff has failed to identify whom he hopes to depose, or what material facts he believes will be revealed. Nor does the plaintiff offer any reason for failing to conduct such discovery earlier."

"A trial court's decision on a CR 56(f) motion is reviewed for an abuse of discretion." Mossman v. Rowley, 154 Wn. App. 735, 742, 229 P.3d 812 (2009).

The trial court may deny a motion for a continuance when (1) the requesting party does not have a good reason for the delay in obtaining the evidence, (2) the requesting party does not indicate what evidence would be established by further discovery, or (3) the new evidence would not raise a genuine issue of fact. Butler v. Joy, 116 Wn. App. 291, 299, 65 P.3d 671 (2003); see also CR 56(f).

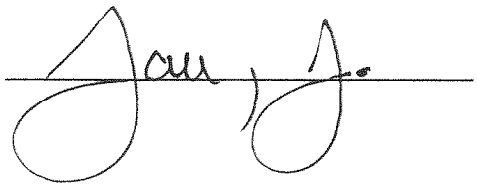
Here, the continuance motion did not satisfy these requirements. Daignault's new counsel admitted there was no good reason for former counsel's delay. Daignault also did not explain what evidence would be established by further discovery or how it would raise a genuine issue of material fact.[11] Accordingly, the trial court did not abuse

[11] Daignault's continuance motion included an attached declaration from his

its discretion in denying the continuance motion.

CONCLUSION[12]

We hold as a matter of law that any alleged promises in the personnel policy were effectively disclaimed. Even if we assume the acknowledgment's invalidity, the personnel policy makes no enforceable promises of specific treatment. And the trial court properly denied Daignault's summary judgment continuance motion. The dismissal of Daignault's claims on summary judgment and denial of his motion to continue are affirmed.



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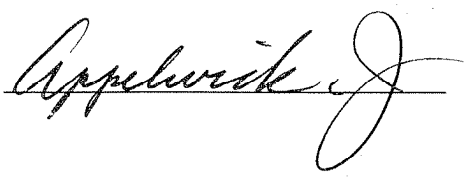

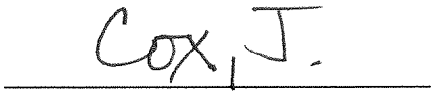

counsel that states, "[I]t would be very desirable for the Plaintiff to depose members of the Executive Board to examine the policies, procedures, and safeguards to determine whether Plaintiff had a reasonable expectation that this appeal would be heard in good faith or . . . conducted in good faith." But because our Supreme Court has rejected good faith claims in the employee handbook context, and because the personnel policy made no promise that specific procedures would be used in the appeal, this issue is immaterial.

[12] Given our disposition, we do not address the Council's federal law preemption claim.