

Fifth Circuit Court of Appeal
State of Louisiana

No. 26-C-209

GLENN P. KELLY, M.D., F.A.C.C.

versus

EAST JEFFERSON PHYSICIANS GROUP, L.L.C.

ON APPLICATION FOR SUPERVISORY REVIEW FROM THE TWENTY-FOURTH JUDICIAL
DISTRICT COURT
PARISH OF JEFFERSON, STATE OF LOUISIANA
NO. 863-503, DIVISION "G"
HONORABLE E. ADRIAN ADAMS, JUDGE PRESIDING

September 02, 2026

JUDE G. GRAVOIS
JUDGE

Panel composed of Judges Jude G. Gravois,
John J. Molaison, Jr., and Scott U. Schlegel

WRIT GRANTED; JUDGMENT REVERSED, SUMMARY
JUDGMENT GRANTED; CLAIMS DISMISSED

JGG
JJM
SUS

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GRAVOIS, J.

Defendant/relator, East Jefferson Physicians Group, L.L.C. (“EJPG”), seeks this Court’s supervisory review of the trial court’s April 15, 2026 judgment which denied in part its motion for summary judgment as to plaintiff/respondent, Glenn P. Kelley, M.D., F.A.C.C.’s, claims against EJPG for breach of contract and detrimental reliance. For the following reasons, we grant the writ application, reverse the trial court’s judgment, grant summary judgment in favor of EJPG, and dismiss all of Dr. Kelley’s remaining claims against EJPG with prejudice.

FACTS AND PROCEDURAL HISTORY

Dr. Kelley is a cardiologist who has practiced medicine at East Jefferson General Hospital since approximately 2008. On October 4, 2022, Dr. Kelley was diagnosed with colon cancer. On November 5, 2022, Dr. Kelley executed a “Revised and Restated Physician Employment Agreement” with EJPG, effective on October 14, 2022. Section 1 of the employment agreement contains the following provision concerning its term:

The term of this Agreement begins October 14, 2022 (“**Effective Date**”) and shall continue in full force for a period of three (3) years (“**Initial Term**”).

(Emphasis in original.)

Section 17 of the agreement also contains a “Without Cause Termination” provision which provides, in part, as follows:

Either you or EJPG may terminate your employment at any time “**without cause**” upon **ninety (90) days**’ prior written notice to the other.

(Emphasis in original.)

On October 27, 2023, Dr. Kelley received written notice from EJPG that he was being terminated, effective on January 25, 2024.

On April 4, 2025, Dr. Kelley filed a petition for damages against EJPG for breach of contract, unjust enrichment, and detrimental reliance. In his petition, Dr. Kelley asserted that while on paid sick

leave for colon cancer, he was terminated without cause by EJPG. He claimed: (1) EJPG breached his employment agreement with EJPG because the agreement was not terminable at will, but rather was for a specific term of three years; (2) EJPG was enriched by including a non-compete clause in the agreement, impoverishing Dr. Kelley without justification; and (3) Dr. Kelley relied on EJPG to his detriment to uphold its end of the agreement and representations it made that it would provide him with health insurance, employ him, and allow him to maintain his patient profile knowing he had colon cancer.

In due course, EJPG filed a motion for summary judgment, arguing that Dr. Kelley was lawfully terminated by EJPG under the terms of his employment agreement. EJPG argued that the agreement states that EJPG may terminate Dr. Kelley at any time, without cause, upon giving him 90 days' prior written notice. Since Dr. Kelley admitted that he received the required 90 days' prior written notice of termination, there was no breach of contract. Additionally, EJPG argued that Dr. Kelley cannot bring an unjust enrichment claim that is related to or based on a contractual provision. Finally, EJPG argued that Dr. Kelley's detrimental reliance claim fails since it is "unreasonable as a matter of law" to rely on the continuation of at-will employment and on representations that are inconsistent with a written contract.

In opposition, Dr. Kelley argued that the employment agreement was for a fixed term and therefore not terminable at will since an employment agreement cannot simultaneously be for a fixed term and terminable at will. Dr. Kelley also argued that his detrimental reliance claim does not rest on the employment agreement, but on EJPG's promise that it would not harm him and would continue to provide his health insurance.¹

Following a hearing on March 23, 2026, the trial court signed a written judgment on April 15, 2026, granting in part and denying in part EJPG's motion for summary judgment. The court granted the motion

¹ In his opposition, Dr. Kelley did not challenge EJPG's argument regarding the unjust enrichment claim.

for summary judgment as to the unjust enrichment claim but denied it as to the breach of contract and detrimental reliance claims. In written reasons for judgment, the court found that there were conflicting contractual provisions regarding whether the agreement is for a fixed three-year term or is terminable at will, thus creating a genuine issue of material fact that precluded summary judgment.

In this writ application, EJPG argues that parties to an employment agreement may contract for a fixed term while also including a provision allowing either party to terminate the agreement early, without cause. Additionally, EJPG contends Dr. Kelley knew when he signed the agreement he could be terminated at any time, and no promises were made to Dr. Kelley beyond the terms contained in the employment agreement.

In response to the writ application, Dr. Kelley argues there are only two types of contracts for hire in Louisiana: term contracts and contracts terminable at will. He argues that even assuming both a term clause and an at will clause can exist in the same contract, there is still an obligation of good faith. In the present case, firing Dr. Kelley cost him his health insurance while he was undergoing cancer treatment. Regarding his claim of detrimental reliance, Dr. Kelley argues he is not relying on the employment agreement; the basis of his claim is the idea that EJPG would not harm him by making promises it would not keep, specifically regarding the continuation of his health insurance.

Pursuant to La. C.C.P. art. 966(H), this Court assigned the case for briefing and permitted the parties an opportunity to request oral argument.²

LAW AND ANALYSIS

“After an opportunity for adequate discovery, a motion for summary judgment shall be granted if the motion, memorandum, and supporting documents show that there is no genuine issue as to material

² La. C.C.P. art. 966(H) provides: “On review, an appellate court shall not reverse a trial court's denial of a motion for summary judgment and grant a summary judgment dismissing a case or a party without assigning the case for briefing and permitting the parties an opportunity to request oral argument.”

fact and that the mover is entitled to judgment as a matter of law.” La. C.C.P. art. 966(A)(3). “The burden of proof rests with the mover. Nevertheless, if the mover will not bear the burden of proof at trial on the issue that is before the court on the motion for summary judgment, the mover’s burden on the motion does not require him to negate all essential elements of the adverse party’s claim, action, or defense, but rather to point out to the court the absence of factual support for one or more elements essential to the adverse party’s claim, action, or defense. The burden is on the adverse party to produce factual support sufficient to establish the existence of a genuine issue of material fact or that the mover is not entitled to judgment as a matter of law.” La. C.C.P. art. 966(D)(1).

On appeal, our review of summary judgments is *de novo* under the same criteria that govern the trial court’s consideration of whether summary judgment is appropriate. *Bryant v. Ray Brandt Dodge, Inc.*, 19-464 (La. App. 5 Cir. 3/17/20), 292 So.3d 190, 195. Thus, appellate courts ask the same questions the trial court does in determining whether summary judgment is appropriate: whether there is any genuine issue of material fact, and whether the mover is entitled to judgment as a matter of law. *Breaux v. Fresh Start Properties, L.L.C.*, 11-262 (La. App. 5 Cir. 11/29/11), 78 So.3d 849, 852.

Breach of Contract Claim

In Louisiana, the employer-employee relationship is a contractual one. As such, an employer and employee may negotiate the terms of an employment contract and agree to any terms not prohibited by law or public policy. *Read v. Willwoods Community*, 14-1475 (La. 3/17/15), 165 So.3d 883, 886–87.

A contract constitutes the law between the parties. La. C.C. art. 1983. Interpretation of a contract is the determination of the common intent of the parties. La. C.C. art. 2045. When the terms of the contract are clear and explicit, and lead to no absurd consequences, no further interpretation may be made in search of the parties’ intent and the contract must be enforced as written without resorting to extrinsic evidence. La. C.C. art. 2046; *Ardent Servs., LLC v. G & V Investments*,

LLC, 23-253 (La. App. 5 Cir. 2/28/24), 382 So.3d 1080, 1088, *writ denied*, 24-402 (La. 5/29/24), 385 So.3d 701. When the terms of a contract are susceptible to more than one interpretation, or there is uncertainty as to its provision, or the parties' intent cannot be ascertained from the language employed, parol evidence is admissible to clarify the ambiguity or show the intention of the parties. *Russo v. OnPath Fed. Credit Union*, 23-537 (La. App. 5 Cir. 5/29/24), 388 So.3d 1274, 1279–80.

Interpretation of a contract and, specifically, the issue of whether a contract is ambiguous, is a question of law properly determined at the summary judgment stage. *Semco LLC v. Grand Ltd.*, 16-342 (La. App. 5 Cir. 5/31/17), 221 So.3d 1004, 1035, *writ denied*, 17-1291 (La. 11/6/17), 229 So.3d 475; *First Bank and Trust v. Redman Gaming of Louisiana, Inc.*, 13-369 (La. App. 5 Cir. 12/12/13), 131 So.3d 224, 228.

Louisiana law provides that employment contracts are either fixed term or terminable at will. *Read*, 165 So.3d at 887. Under a limited term contract, the parties agree to be bound for a certain period during which the employee is not free to depart without assigning cause, nor is the employer at liberty to dismiss the employee without cause. *Id.*; *see also* La. C.C. arts. 2746³ and 2749.⁴ Conversely, an “at will” employee is subject to dismissal by his employer at any time, for any reason, without the employer incurring liability for wrongful discharge. *Barton v. Jefferson Par. Sch. Bd.*, 14-761 (La. App. 5 Cir. 5/28/15), 171 So.3d 316, 324; *see also* La. C.C. art. 2747.⁵ In the absence of a contract or an agreement establishing a fixed term of employment, the employee is considered to have an “at will”

³ La. C.C. art. 2746 provides: “A man can only hire out his services for a certain limited time, or for the performance of a certain enterprise.”

⁴ La. C.C. art. 2749 provides: “If, without any serious ground of complaint, a man should send away a laborer whose services he has hired for a certain time, before that time has expired, he shall be bound to pay to such laborer the whole of the salaries which he would have been entitled to receive, had the full term of his services arrived.”

⁵ La. C.C. art. 2747 provides: “A man is at liberty to dismiss a hired servant attached to his person or family, without assigning any reason for so doing. The servant is also free to depart without assigning any cause.”

employment by default. *Quebedeaux v. Dow Chem. Co.*, 01-2297 (La. 6/21/02), 820 So.2d 542, 545.

In *Amer v. Roberts*, 15-0599 (La. App. 1 Cir. 11/9/15), 184 So.3d 123, the plaintiff, a physician, filed suit against his former employer, Baton Rouge General Medical Center. The plaintiff entered into a one-year employment agreement that allowed either party to terminate the agreement without cause with 30 days' prior written notice. The plaintiff was terminated after receiving 30 days' prior written notice. *Id.* at 126. On appeal, the plaintiff argued the hospital breached the employment agreement by terminating his employment without cause, contending that the "without cause" provision conflicts with other contractual provisions and is therefore null. *Id.* at 131. The court found that the "without cause" provision "qualified the term of employment." *Id.* at 132 (citing *Shepard v. Phycor of Ruston, Inc.*, 29,181 (La. App. 2 Cir. 5/7/97), 711 So.2d 288, 292). Specifically, the court stated that the "without cause" provision "essentially reduced the term of the employment contract from one year to thirty days, as either party could terminate the agreement without cause by providing the required notice." *Id.* at 132. The court ultimately found that the hospital exercised its right under the employment agreement to terminate the plaintiff without cause after giving the plaintiff 30 days' prior written notice, and the trial court did not err in granting the summary judgment and dismissing the breach of contract claim. *Id.* at 134.

In the present case, the agreement between the parties was effective for three years beginning October 14, 2022. As to the termination of Dr. Kelley's employment, the parties agreed to the following provision:

Either you or EJPG may terminate your employment at any time "**without cause**" upon **ninety (90) days**' prior written notice to the other.

(Emphasis in original.)

Upon *de novo* review, we find this provision clear and unambiguous—Dr. Kelley's employment could be terminated upon 90 days' prior written notice by EJPG. There is no dispute that Dr. Kelley

received such notice. The “without cause” provision “qualified” the term provision. We agree with the court’s logic in *Amer*, that the “without cause” provision essentially reduced the term of the employment agreement from three years to 90 days, as either party could terminate the agreement without cause by providing the required 90 days’ prior written notice. *See Amer, supra*, at 132. Further, this termination clause does not violate public policy.⁶ Although harsh with respect to Dr. Kelley, we are constrained by the law to enforce the terms of the employment agreement he voluntarily entered into with EJPG.

In Dr. Kelley’s supplemental brief, he argues for the first time that, even if his employment and compensation were validly terminated under Section 17 of the agreement, ambiguity remains as to whether other obligations under the agreement, including his benefits, continued until expiration of the three-year term. He argues that Section 8 of the agreement does not make continued employment a condition to the entitlement of benefits.⁷ Dr. Kelley contends that his breach of contract claim cannot be dismissed because EJPG has not established that termination of his employment necessarily terminated his benefits or every other obligation under the agreement.

Dr. Kelley did not raise this claim in his petition for damages, and it was not brought before the trial court in opposition to this motion for summary judgment.⁸ Appellate courts generally will not consider

⁶ *See Jackson v. Housing Authority for Parish of St. James*, 05-665 (La. App. 5 Cir. 3/14/06), 926 So.2d 606, where this Court found that a “without cause” termination provision in a three-year employment contract was not against the public policy of Louisiana or federal law. This Court found that the plaintiff signed and agreed to the terms of the contract which she was free to refuse, and the defendant was not prohibited from terminating the plaintiff at will. *Id.* at 610.

⁷ Section 8, entitled “Benefits,” provides: “Physician will be entitled to participate in those certain employment benefits applicable to EJPG’s similarly situated employed physicians as set forth in EJPG’s policies, which benefits are subject to review, modification, or termination by EJPG from time to time.”

⁸ In his petition for damages, Dr. Kelley argued EJPG breached the contract in the following respects: 1) failure to provide 90 days prior written notice of termination; 2) filing a false document with the Louisiana Workforce Commission stating that plaintiff voluntarily resigned his position with EJPG; 3) the agreement is not terminable at will because it contains a specific term of three years and therefore EJPG breached the contract; 4) EJPG enticed plaintiff to enter into the agreement under false pretenses in order to acquire plaintiff’s patient profile and prevent him from competing; 5) plaintiff did not breach the contract, and therefore, EJPG terminated the agreement without cause.

issues raised for the first time on appeal. *Goines v. Cash America, Inc. of Louisiana*, 21-727 (La. App. 5 Cir. 10/5/22), 351 So.3d 714, 719; Uniform Rules—Courts of Appeal, Rule 1-3. Therefore, because this was not properly raised in the trial court, we will not consider this argument now.

Accordingly, because there are no genuine issues of material fact and EJPB is entitled to judgment as a matter of law on the breach of contract claim, we conclude that the trial court erred in denying summary judgment on the breach of contract claim.

Detrimental Reliance Claim

Detrimental reliance is designed to prevent injustice by barring a party, under special circumstances, from taking a position contrary to his prior acts, admissions, representations, or silence. *Louisiana Office of Risk Mgmt. v. Richard*, 13-0890 (La. 10/15/13), 125 So.3d 398, 402. Claims for detrimental reliance are governed by La. C.C. art. 1967, under which a party may be obligated by a promise when he knew or should have known that the promise would induce the other party to rely on it to his detriment and the other party was reasonable in so relying. *Russo*, 388 So.3d at 1280–81. To prove a claim for detrimental reliance, the plaintiff must prove: (1) a representation by conduct or word; (2) justifiable reliance; and (3) a change in position to one's detriment because of the reliance. *Id.* at 1281. The focus of analysis of a detrimental reliance claim is not whether the parties intended to perform, but instead, whether a representation was made in such a manner that the promisor should have expected the promisee to rely upon it, and whether the promisee so relies to his detriment. *Suire v. Lafayette City-Par. Consol. Gov't*, 04-1459 (La. 4/12/05), 907 So.2d 37, 59.

Claims of detrimental reliance must be examined strictly and carefully. *625 LaBarre Rd., LLC v. Par. of Jefferson*, 21-133 (La. App. 5 Cir. 11/3/21), 330 So.3d 1201, 1206.

In his deposition, Dr. Kelley stated that he was diagnosed with cancer on October 4, 2022. On that day, he spoke with Jennifer Parks

about his diagnosis and his need to take a leave of absence. He received the employment agreement from EJPG when he was on a leave of absence. He signed the agreement on November 5, 2022, with an effective date of October 14, 2022. When he signed the agreement, he believed it was “extremely unlikely” that he would be able to perform the work that EJPG was hiring him to do. He signed the agreement thinking that if he could come back to work, he would still have a job. He understood that EJPG could terminate him under some circumstances.

In Dr. Kelley’s responses to EJPG’s request for admissions, he stated that the employment agreement is the document and/or communication that supports his detrimental reliance claim.

Dr. Kelley argues that the continuation of his medical insurance was critical to him, and a basis of his detrimental reliance claim is the “idea that EJPG would not harm him by making promises it would not keep” regarding the continuation of his health insurance. In support of his argument, Dr. Kelley presented the affidavit of Jennifer Parks, who served as EJPG’s Chief Administrative Officer in October 2022. In her affidavit, Ms. Parks recalled that Dr. Kelley came into her office on October 4, 2022 and informed her that he had just been diagnosed with Stage IV colon cancer and would require an extended leave of absence to undergo treatment. She stated that the agreement at issue was presented to Dr. Kelley in November 2022 when he was on FMLA leave and undergoing chemotherapy. Contract negotiations with Dr. Kelley and his group of cardiologists had been ongoing for several months. EJPG knew he had cancer at that time. Ms. Parks attested that “the agreement he signed in November 2022 as an employed physician with East Jefferson provided for health insurance benefits, along with other benefits offered employed physicians, which were eventually terminated by EJPG for reasons unknown to [her].”

Upon *de novo* review, based on the evidence presented, we conclude that Dr. Kelley has failed to show a representation or promise made by EJPG upon which he relied to his detriment. He stated in his deposition that he understood he could be terminated under the

agreement. Although Dr. Kelley references Ms. Parks' affidavit, she neither states that she made promises to him, nor identifies any promises or representations made to him. Ms. Parks stated only that the agreement provided for health insurance benefits. It is important to note that the agreement also provided:

This Agreement and any attached Exhibit or Addendum constitute the entire agreement among the parties relating to your employment by EJPG, and this Agreement supersedes and replaces any prior written or verbal negotiations, agreements, or understandings of the parties.

Therefore, we conclude that because there is no evidence that EJPG made any representations or promises to Dr. Kelley by conduct or word to his detriment, other than what is contained in the written employment agreement, there are no genuine issues of material fact and EJPG is entitled to judgment as a matter of law on the detrimental reliance claim.

CONCLUSION AND DECREE

For the foregoing reasons, EJPG's writ application is granted, the trial court's April 15, 2026 judgment which denied EJPG's motion for summary judgment as to the claims of breach of contract and detrimental reliance is reversed, summary judgment is granted in favor of EJPG, and all of Dr. Kelley's remaining claims against EJPG are dismissed with prejudice.

**WRIT GRANTED; JUDGMENT
REVERSED, SUMMARY JUDGMENT
GRANTED; CLAIMS DISMISSED**

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
STEPHEN J. WINDHORST
JOHN J. MOLAISSON, JR.
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NOTICE OF JUDGMENT AND CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE OPINION IN THE BELOW-NUMBERED MATTER HAS BEEN DELIVERED
IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 2-16.4 AND 2-16.5** THIS DAY
SEPTEMBER 2, 2026 TO THE TRIAL JUDGE, CLERK OF COURT, COUNSEL OF RECORD AND ALL PARTIES
NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

CURTIS B. PURSELL
CLERK OF COURT

26-C-209

E-NOTIFIED

24TH JUDICIAL DISTRICT COURT (CLERK)
HONORABLE E. ADRIAN ADAMS (DISTRICT JUDGE)
AMY L. MCINTIRE (RELATOR)
MARY W. SMITH (RESPONDENT)

PETER J. ROTOLO, III (RELATOR)
WILLIAM M. KELLY (RELATOR)

BOBBY RAY T. MALBROUGH
(RESPONDENT)

MAILED