

**IN THE COURT OF APPEALS OF IOWA**

No. 1-506 / 11-0018  
Filed October 5, 2011

**GEOFFREY TODD GRAY,**  
Plaintiff-Appellant,

**vs.**

**TERRY HARDING and  
JACK HAYNES,**  
Defendants-Appellees.

---

Appeal from the Iowa District Court for Polk County, Robert B. Hanson,  
Judge.

Employee appeals the district court's summary dismissal of his fraudulent  
misrepresentation and intentional interference with employment claims.

**AFFIRMED.**

Paige Fielder and Whitney Judkins of Fiedler Law Firm, P.L.C.,  
Urbandale, for appellant.

Michael A. Giudicessi, Emily S. Hildebrand Pontius, and Britt L. Teply of  
Faegre & Benson, L.L.P., Des Moines, for appellees.

Heard by Eisenhauer, P.J., and Doyle and Mullins, JJ.

**EISENHAUER, P.J.**

Todd Gray's at-will employment was terminated in September 2009 for signing a contract and booking flights for a trip without obtaining the appropriate approvals. Gray sued two of his supervisors and now appeals the district court's summary dismissal of his fraudulent misrepresentation and intentional interference with employment claims. The district court ruled Gray could not establish the "justifiable reliance" element of his fraud claim against Terry Harding, his supervisor. The court dismissed the intentional interference claim because "Gray has not alleged that Harding or Haynes [Harding's supervisor] committed any act with the sole or predominant purpose of financially injuring or destroying Gray." We affirm.

**I. Background Facts and Proceedings.**

In September 2003, Gray was hired as senior vice president of the golf and turf division of Wells Fargo Financial Leasing, Inc. (WFFL). This division provides loans and leases to golf courses. Gray signed an employment agreement stating his employment is "at-will." Gray knew Wells Fargo did not need a reason to terminate him nor did Gray need a reason to quit.

In 2009, Gray's immediate supervisor was Terry Harding. Harding reported to Jack Haynes, who started indirectly supervising Gray in 2005. Haynes, in turn, reported to Tim Reese, the president of WFFL. In 2009, Reese reported to Greg Janasko, the executive vice president of Wells Fargo Financial. Janasko reported to Dave Kvamme, the president of Wells Fargo Financial.

For several years, Gray organized a golf and turf division annual trip. In March 2009, Wells Fargo announced trips would require approval by executive-

level management. In a March 25, 2009 e-mail, Harding advised Gray: “Any future expenses for trade shows, dinner sponsorships, and client events must be approved in advance for the balance of 2009.” Gray’s e-mail reply to Harding (copy to Haynes and Reese) states:

I will suspend (temporarily until you, [Reese, Haynes] and I) have an opportunity to discuss) our annual appreciation/earned reward/recognition trip. I save through my travel budget for this, and it . . . includes only our biggest vendors. We need to discuss, but there is visibility to this and I understand.

Gray understood “any business-related travel or incentive-related travel . . . was to be approved in advance.” On June 2, 2009, Gray e-mailed Harding and Haynes (copy to Reese) proposing a September trip to Canada. Gray provided a “for versus against” analysis and stated:

Due to the political climate [federal government loaning TARP funds to Wells Fargo and other major banks] . . . I suspended our program several months ago for obvious reasons. For what I believe are sound business reasons, I would like to re-visit that decision and request your rather immediate support.

In early or mid-June 2009, Haynes and Reese spoke to Reese’s supervisor, Janasko, about Gray’s proposal. Haynes states:

We explained that [Gray] wanted to have the trip in Canada. The immediate response was, no, we’re not going to do any trips over the border . . . that’s out of the question. Let’s see if he can put a business case together to draw up something for a U.S. trip.

Several e-mails about Gray’s proposed trip were sent on June 16, 2009. At 10:03 a.m., Haynes e-mailed Harding and Gray (copy to Reese):

Guys, Just to follow-up our conversation regarding the G&T client trip please resubmit the initial request outlining the plan keeping the activities and events in the US versus Canada. Once we get this [Reese] will submit to Anne Grimm [CFO Wells Fargo Financial] and Dave Kvamme for approval.

At 10:11 a.m., Gray replied in an e-mail to Haynes and Harding (copy to Reese):

I will move slightly south to Washington State to try to assemble similar characteristics. . . . [Details numerous benefits of a Canadian trip].

I'll find an alternative. I TOTALLY understand the visibility. Was trying to have unreal bang for almost no \$\$.

At 10:13 a.m., Haynes replied to Harding and Gray (copy to Reese): "Sounds good. Just update your initial request with current information and we will send it on for approval." At 10:19 a.m., Gray replied to Haynes and Harding (copy to Reese): "Got it." Gray, therefore, acknowledged to Harding, Haynes, and Reese he understood the need for additional information as well as the need for additional approvals.

At 10:45 a.m. that same day, Gray e-mailed Andrea Kallhoff and Jeremy Hillebrand, employees who reported directly to him, stating:

Subject: Fall business meeting  
Has been approved with the condition that we have it in the United States. If we think there will still be ample bang for our buck (I still do if we hurry) then we have to find something that is comparable to last year . . . in services and price and get moving.

Gray testified:

Q. So when you send out [this e-mail] to your team, you're touting that it's been approved. And it hasn't has it? A. No, it hadn't. . . . I don't believe I was lying to my teammates. I believe I had a conversation with [either or both] Terry Harding and Jack Haynes about it not being a business issue. Canada had been resolved. It was off the table. And as soon as we do some homework, and it's approved, we're fine. That's what I believe I characterized to [Kallhoff and Hillebrand].

The next day, Gray e-mailed Kallhoff and Hillebrand and asked them to spend time looking at potential locations. Gray understood the trip was not approved and the team “had a lot of homework to do yet.”

Another series of e-mails about the annual trip occurred on July 8, 2009. At 9:48 a.m., Reese e-mailed Haynes asking: “Where do we stand [on] pulling the info together on [Gray’s] revised golf meeting (moving from Canada to the US)?” At 10:03 a.m., Haynes e-mailed Gray (copy to Harding): “Do you have a revised plan so we can submit up the chain?”

At 11:41 a.m., Gray replied in a lengthy e-mail to Haynes (copy to Harding and Reese) and again argued the benefits of a trip to Canada:

Yes, but again, I need help and for you and [Reese] to make a decision. As you recall, I had done all of the research on what I had planned and proposed for our fall meeting. That plan was consistent with our strategy and budget.

I had selected a [\$35K USD] Canadian meeting place . . . for the following [six] reasons . . . .

A switch to the US is understandable due to the visibility and appearance of “Junkets” which I happen to support and agree with. . . . Here are [three] US issues:

. . . .

[Provides names of potential attendees.]

. . . .

[Summarizes benefits of trip to Canada]

Revised plan . . . will not achieve our G&T goal of building for late 2009 and 2010/2011, nor will it assist in my efforts to stay within the budget . . . .

Your call. I will continue to do my best.

An immediate response is key. It has taken a bunch of time to do the research on Plan B locations. Got to get some dates and a program out sooner than later.

At 12:49 p.m., Haynes e-mailed Gray (copy to Harding and Reese): “A few questions: 1. How much do we have budgeted for this year’s event? 2. How much did we spend on last year’s event? 3. What options have you explored so

far in the US?” At 3:20 p.m., Gray replied to Haynes (copy to Harding and Reese) and answered the three questions. Gray stated he explored Hawk’s Cay and Sandestin Resort in Florida and Harbor Town, South Carolina. Further, “[a]ll are nice, Harbor [T]own being the most notable, but not over the top. . . . They are all acceptable, but will not ‘inspire’ attending . . . .” Gray ended by stating the Canadian location is a “home run because it allows me to have more people and be less expensive. I can kill 30 trips all in 3 days.”

Earlier, at 12:51 p.m., Haynes e-mailed Gray (copy to Reese and Harding): “How did you[r] research into Washington turn out?” At 3:32 p.m., Gray replied (copy to Reese and Harding): “Poorly . . . . The place I have in Canada has everything at the site . . . .” Nothing in Gray’s reply suggests a trip in the United States.

At 3:48 p.m., Haynes e-mailed Gray (copy to Harding and Reese):

*Nobody manages their budget better than you. I’m ok . . . providing . . . the event justifies the expense. You need to ensure your business case clearly outlines and justifies the budgeted expense and the event itself as Dave Kvamme still needs to sign off. As far as the location is concerned we still need to keep this within the United States . . . . This decision comes from Greg [Janasko] and Ann [Grimm] so we need to comply.*

*Send the business case over to [Reese] and [me] when you are set.*

(Emphasis added.) Gray did not reply with a business case submission to Reese and Haynes. Instead, at 3:55 p.m., Gray replied to Haynes (copy to Harding and Reese):

*Then the US can’t meet my budget, and likely may not meet the business objectives. . . . I understand, but I can make a better business case to Kvamme for Canada . . . .*

*The US one (regardless of what Greg [Janasko] and/or Ann [Grimm]) said, is actually less effective, more expensive, and far*

more visible? I'm in, but would like THEM to justify their business case for that to me first.

Can you arrange that? . . .

Thoughts? I have NO problem talking to Greg/Ann I just want him to tell me that he is ok with an inferior business decision. . . . I was supportive initially, then did all my homework . . . . I'm just doing my job.

Gray testified Harding orally represented the annual trip was approved. Initially, Gray couldn't recall if Harding's statement occurred on July 6 or July 7 and "July 8 to me is also on or about July 7." After reviewing a July 8 e-mail from Gray to Kallhoff and Hillebrand at 4:13 p.m., Gray stated "my complete memory has now been jogged" and he testified Harding's oral representation occurred shortly before this e-mail to Gray's subordinates. The 4:13 p.m. Gray to Kallhoff/Hillebrand e-mail states:

Subject: Incentive

I was wrong and am losing the argument. We actually will make a less effective and more expensive decision for our meeting.

Looks like US only. Jack [Haynes] and Tim [Reese] are afraid to present a business case to Greg [Janasko].

I told them I want to skip Greg and go to Kvamme.

Gray testified:

Q. So by 4:13 in the afternoon on Wednesday, [July 8], you knew the trip had not been approved? . . . A. No, that's actually—that's actually the opposite.

Q. All right. So you believe that this [4:13] e-mail . . . can be interpreted that the trip had been approved? A. Not actually interpreted. . . . [M]y complete memory has now been jogged . . . I'll simply state July 8 late in the day is the day that Terry Harding indicated to me by telephone that my trip was approved as long as it was in the United States.

. . . I remember—this is what I remember like it was five minutes ago and now it makes—well, makes sense to me. . . .

[Thirty] minutes before that, the ongoing discussion about Canada and Canada being off the board and Tim Reese weighing in saying what part of Canada do you not understand, there's no foreign travel . . . that was me being stubborn and belligerent about

the economic and business case for having the less expensive, more effective trip.

Within a half an hour, Terry Harding called me and said, lost the argument. Your business trip is approved, but it has to be in . . . the United States. Within minutes, I turned around and [sent the 4:13 p.m., July 8 Kallhoff/Hillebrand e-mail].

Jack [Haynes] and Tim [Reese], no offense to them, were not going to present the business case to Greg Janasko. That's the interpretation. That's what happened . . . on or about July 7.

Q. You wanted to skip Greg [Janasko] and go to Kvamme. Did you go to Dave Kvamme? A. No, I was frustrated. We were making a bad decision. We were having the trip in the United States . . . .

I understood. I didn't agree with it and it was frustrating. I said that to Terry on the phone when he said your trip is approved. My immediate response was . . . Terry, I can't believe that we're going to spend more money, have the trip at a worse spot, and get less bang for the buck and not be able to have the same amount of people there. And [Harding's] response to me almost word for word was, "Todd, shut up. You got the order, end of conversation."<sup>[1]</sup> And he was right.

Q. That's what Terry [Harding] said? A. Yes. Shut up. You got the order. In which case, I turned around and immediately crafted or drafted this [4:13 e-mail to Kallhoff/Hillebrand]. . . .

I don't believe anybody in the chain of command presented the business case and the dollar savings and the effectiveness and the fact it wasn't foreign or a junket to Dave Kvamme. I was comfortable doing it. I knew it wasn't my role. I still wanted to do it.

But per Terry Harding, I said uncle, we got the order.

Harding testified he did not tell Gray the 2009 trip had been approved, but rather told Gray he had the order to put a business case together for a trip within the United States and to quit pursuing a trip to Canada. Harding stated:

I would not have misunderstood whether the trip was approved or not. A trip of that nature and expense would not have come by a phone call. . . . [T]here would have been documentation specifically with a business case attached indicating the trip was approved.

---

<sup>1</sup> Gray's affidavit resisting summary judgment states: "On approximately July 8, 2009, Terry Harding informed me that the trip had been approved."



At 4:31 p.m., in response to Gray's e-mail stating he wanted Greg Janasko/Ann Grimm to justify *their* business case to *him* [Gray], Reese (Haynes's supervisor) replied to Gray and Haynes (copy to Harding):

OK, time for me to weigh in. . . . [W]e have cancelled all similar activities . . . . This request was intended to be treated as an exception and . . . *I asked for more information and alternatives to see . . . what seemed to be justifiable from a cost standpoint and maybe just a bit less high profile.* There is no . . . support (including from me) for anything done internationally and that includes Canada. *The cost is not the issue relative to higher level approval.* . . . I wanted to minimize the risk . . . which obviously is a concept that has fallen on deaf ears. This decision is not something that anyone should have to justify from above as I have now stated the decision regarding Canada is final. . . .

*If the alternative is truly inferior, I then question whether the meeting should occur at all.* Cost is always an issue . . . and we are under intense expense pressure. Now, if you would like to discuss the options in an intelligent manner, please feel free to include me in the discussions.

*Next time when I ask for alternatives, I want alternatives and not a request for justification from senior management.* . . .

(Emphasis added.) Therefore, after the alleged oral representation by Harding of the trip's approval, Reese provided a written directive on any possible trip, questioned whether the trip should occur at all, and did so simultaneously to Gray, Harding, and Haynes. About one-half hour later, Gray replied to Reese *without* copy to Haynes and Harding:

Thank you for the input. This meeting . . . is the most efficient way to meet with, and gain leverage from everyone being in one place at one time.

. . . .

Respectfully, I have done a significant amount of research both before and since your request. . . . This meeting is not a junket, or employee recognition.

I apologize for this upsetting you to this extent.

Next, Gray (5:12 p.m.) forwarded his response to Reese to both Haynes and Harding, stating:

Just sent to Tim [Reese] without a cc to either of you.

Frankly, some support would be handy. . . . Although I appreciate the lecture, I may be the last person that needs versing on important business elements or “appearance”. [Complains about the expenses paid by Wells Fargo for two other trips.] Obviously I don’t know what I’m doing.

Gray testified:

Q. Did you ever get a communication from Jack Haynes that said, a decision has been made, the trip in the United States is approved? A. No. I got a communication from Terry Harding telling me your trip is approved.

The next morning, July 9, 2009, Reese replied to Gray:

If it is clear to you the risks associated with this event then you should not need anyone else to justify their position on why holding the event in Canada might be a bad idea. *In developing a successful business plan, the plan must factor in the benefits to the business along with any associated risks.* I am telling you that holding the event in Canada is too much risk for me, anyone above me, or Wells Fargo to support. That being said, I have not been involved with the analysis of alternative locations which, I assume, you have discussed with Terry [Harding] or Jack [Haynes]. Since that was the one request I made at the start of this discussion *and I have not yet seen anything regarding the alternatives* I am not sure why I am even involved in the discussions *at this point.*

(Emphasis added.) Gray testified: “Q. When after July 9, 2009, did you send any of the alternatives directly to Mr. Reese? A. I don’t recall ever sending anything directly to Mr. Reese.” Within the hour, Gray e-mailed a reply to Reese:

I am aware, and after my homework . . . which included airline travel costs, all meeting costs, timing, etc. I shared the information. *It was suggested that I summarize AGAIN the business case* (business not political). I got the original message several months ago when I originally suspended the meeting plan . . . I already had the full program researched and planned when I suspended it, along with several other marketing related activities that could have potentially been misinterpreted.

(Emphasis added.)

Subsequently, Gray had Kallhoff “mak[e] preliminary telephone calls to a couple of sites in the Florida Keys.” Prior to July 21, Gray had no information about Ocean Key Resort in Key West, Florida. Kallhoff e-mailed Ocean Key numerous times. At Gray’s direction, on July 30, 2009, Kallhoff e-mailed Ocean Key Resort: “We would like to go ahead and book the rooms we discussed.”

On August 11, 2009, Kallhoff told Ocean Key that Gray would be signing the resort’s contract. On August 13, 2009, Ocean Key sent a draft contract. Gray had the draft for approximately one week and gave it only to Kallhoff and Hillebrand to “mark it up.” Gray states he discussed the draft contract with Harding.

Without further e-mail or other written communication to Harding, Haynes, or Reese, on August 20, 2009, Gray signed a contract with Ocean Key Resort for a November 2009 meeting. Gray did not provide Haynes with a copy of the contract prior to his acceptance. Gray “admits that he did not advise Haynes in advance that he was executing [the contract].” Gray states he discussed the contract and trip details with Harding and trusted Harding “would inform . . . Haynes if necessary.”

The \$11,655 deposit costs were split between the corporate credit cards (P-card) of Kallhoff (reported directly to Gray) and Hillebrand (reported directly to Gray). The contract contained a liquidated damages provision and Gray was aware WFFL would be bound to pay the entire contract price if the 2009 trip was cancelled.

Ruth White is an administrative assistant at WFFL and reports to Haynes. White provides support services to the golf and turf division. After the contract was signed, Gray and Kallhoff gave White trip information to organize in a binder.

Kallhoff's affidavit states:

6. I did not receive any information or communication in person, by email or other means from Terry Harding or Jack Haynes that led me to believe a 2009 incentive trip was approved.

7. I am not aware that Terry Harding had any involvement in choosing Ocean Key Resort as the destination for the 2009 incentive trip or knew the contract was being signed to have the trip at Ocean Key Resort.

Hillebrand and Tara Hageman (reported directly to Hillebrand) state Harding actively assisted Gray and his staff in planning the trip, Harding knew people on the guest list had accepted an invitation to attend, and Harding knew the dates had been finalized. Further, Hillebrand states: "In early July 2009, Todd Gray told me that he had been informed that the trip was approved." Additionally, Hageman states Harding "knew that the customers I contacted had accepted the invitation to attend the trip and that their flights had been booked."

Gray authorized booking air transportation for the Florida trip and White booked the flights. White explained:

At Todd Gray's direction, I booked the flights for clients to travel to Ocean Key Resort in Florida and charged them to the corporate credit cards held by [Kallhoff, Hillebrand, Dunn, and Hageman] all of whom reported to Todd Gray or to his direct reports. I was instructed by Mr. Gray to place the charges on their "P-cards" and not on his own corporate credit card.

Haynes states it was "really radio silence" from July 9 until September 2, 2009, when Haynes learned from White that a contract had been signed, a Florida trip planned, and airline tickets purchased. Haynes explained: "I felt the

trip was a nonevent [prior to White conversation] because it just went totally silent. I thought the trip was a moot point and not going to happen because nothing's bubbled up to me." White's affidavit states:

10. On or about September 2, 2009, Jack Haynes asked me to make travel arrangements for him using Wells Fargo's new corporate travel service so that I could become aware of the new system.

11. I told Jack Haynes that I already had experience with the new travel service because of all the flights I had booked for Todd Gray for the client event in Florida.

12. Jack Haynes looked surprised and shocked [and] inquired about the flights I was booking for Todd . . . .

After the conversation with White, Haynes left messages for Gray to call him. Haynes also called Harding and asked if he was aware Gray had signed a contract for a client event at Ocean Key Resort and was told Harding had no idea Gray booked a trip. Haynes asked Harding: "[D]id he ever submit a business case? . . . Call him and find out where this business case is. I want to see it." Haynes informed Reese that Gray had booked the 2009 trip. Haynes and Reese contacted Wanda Conway, a Wells Fargo employee relations consultant.

Also on September 2, 2009, Harding called Gray. Gray's and Harding's recollection of the phone call differs. Gray states:

The nature of the conversation was Todd [Gray], I need you to do something for me. . . . I need you to write a business case for your trip . . . .

My immediate response was fairly animated . . . . Terry [Harding] that trip has been approved for four months or three months, or whatever. It's 90 percent planned. The hotel contract is signed. The airline tickets are booked. The vendors and clients are going. The response from Mr. Harding was, I know, relax. There is major CYA [cover your ass] going on here at the company and I just need you to do it.

In contrast, Harding states he called Gray and asked if he had submitted a business case and, if not, to get it to Haynes. Harding testified he did not tell Gray “there was major CYA going on.”

After Harding’s call, Gray sent a September 2, 2009 e-mail to Haynes (copy to Harding) stating: “Terry [Harding] called and requested that I send you an update for my November business meeting in Florida for the golf and turf Channel.” Gray provided an estimated range of the trip’s costs and noted: “Several of the attendees will be driving to the meeting, which is an assist for us on overall travel costs.” Gray listed attendees and stated two businesses “have accepted and are now tentative for the meeting, as they are quite disenchanted with WFFL . . . .” Gray did not provide the trip’s location, did not state he had already signed a contract, and did not indicate a deposit had been paid. Gray asserts this e-mail is his submission of “another business case to Haynes.”

After Haynes and Gray met on September 3, 2009, Haynes placed Gray on administrative leave and told him there would be an investigation. Later in the day, Haynes terminated Gray’s employment “for violating our code of ethics policy as it relates to the trip and not having the necessary level of approval that was clearly outlined several times for incentive golf and turf trip.” On September 4, 2009, Haynes sent an e-mail to Conway, with copy to Harding, summarizing his meeting with Gray:

I met with Todd Gray on Thursday September 3 . . . to determine why he had financially committed WFFL to a client event in November 2009 when he was well aware of our current corporate stance on incentive trips. I inquired as to why he signed a hotel contract . . . and booked travel . . . when he received clear and documented direction to submit a business case for a United

States based trip, to Tim Reese and me so we could take to Dave Kvamme for discussion and possible approval.

[Gray] responded by saying he thought the trip was approved. Initially, he could not recall who advised him and in what form it was communicated. Then he indicated Terry Harding advised him it was approved and he would have to search his emails because he is not sure if it was verbal [or] in electronic format. I asked if he received Dave Kvamme's approval and he responded saying "I don't know". I asked if he ever wrote and submitted to Terry, Tim, or myself a business case for a client trip in the United States. [Gray] responded by saying "I don't know." [Gray] stated Terry [Harding] was aware of what was going on. I advised [Harding] was aware [Gray] was looking into locations and associated costs but had no idea that a contract was signed and airline tickets were purchased.

WFFL cancelled the 2009 trip and paid the resort over \$20,000. Also on September 4, 2009, Gray discussed his concerns about his termination with Conway. Conway's report describes the phone call:

[H]e thought for [two] business months that the business meeting was approved. Mr. Gray stated he felt he had an e-mail in early July 2009 giving him approval. Mr. Gray recalled Mr. Harding informing him that his business meeting was approved as long as it was in the United States.

Wells Fargo treated Gray's inquiry as an appeal of his termination. Gray acknowledges "Wells Fargo was free to terminate [his] employment with or without cause as long as it did not terminate him for an illegal reason." Conway conducted interviews, and her notes of a September 8, 2009 phone call with Harding state:

[Conway]: [Gray's] concern is that you would have heard his conversations w/team on the event and why wouldn't you have said something about getting approval on the event.

[Harding]: He still knew full well that he needed to get approvals—yes I knew he was planning—booking is different.

I knew he was planning it—but not aware he was spending money . . . .

. . . .

[Harding]: I know I can't approve this . . . he knows I can't approve that, Jack [Haynes] can't even approve it finally and Tim [Reese] can't either – there were no \$ put forth for the business case

. . . .

[Conway]: . . . [H]e is disputing his termination and what he is saying is that you had approved the event.

[Harding]: I didn't give him approval – he was arguing back to Canada – I told him that *you have the order to pursue the US* or he might have zero.

[Conway]: Let me ask again, do you feel termination was appropriate here?

. . . .

[Harding]: . . . [C]ould he make the assumption that he could pursue the event – yes – the part I struggle with is signing the contract and putting the deposit split between the pcards.

[Conway]: Has this been common for pcard use?

[Harding]: No, it isn't common for us to have trips like this anyway – typically for a deposit we would have requested a check – if it was approved then why wouldn't he get the check?

(Emphasis added.) On September 15, 2009, Conway submitted a detailed report and concluded “Employee Relations supports” Gray's termination.

In February 2010, Gray filed a petition against Harding and Haynes alleging fraudulent misrepresentation and intentional interference with an employment relationship. At his August 2010 deposition, Gray was questioned about the information included in Conway's final report:

Q. Mr. Gray did receive and respond to a July 8 and 9, 2009 E-mail exchange between himself, Mr. Reese, Mr. Haynes, and Mr. Harding where Mr. Gray was told he needed to ensure his business case clearly outlined and justified the budgeted expense and that the event itself still needed Mr. Kvamme to sign off. Do you disagree with her conclusions there? A. No.

Q. [Conway] then concludes Mr. Gray was directed to send the business case to Mr. Reese and Mr. Haynes. Do you agree with that? A. I believe so.

Q. [Conway] then writes, No additional e-mails were received from Mr. Gray regarding the client event until September 2, 2009 when the resort hotel and some air flights had already been booked. Is that a correct statement? A. Yes.



Gray also testified Haynes never told him the 2009 trip had been approved.

In October 2010, Harding and Haynes moved for summary judgment. At the November 2010 hearing on the motion, Gray conceded summary judgment should be granted to Haynes on Gray's fraudulent misrepresentation claim. In December 2010, the trial court granted summary judgment and this appeal followed.

## **II. Standard of Review.**

We review rulings on motions for summary judgment for errors at law. *Sain v. Cedar Rapids Cmty. Sch. Dist.*, 626 N.W.2d 115, 121 (Iowa 2001). Summary judgment is appropriate only when the entire record demonstrates that no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law. *Stevens v. Iowa Newspapers, Inc.*, 728 N.W.2d 823, 827 (Iowa 2007). We review the evidence in the light most favorable to the nonmoving party. *Id.*

## **III. Fraudulent Misrepresentation—Justifiable Reliance.**

Gray argues the district court erred in finding no genuine issue of material fact as to whether Gray could have justifiably relied on Harding's alleged July 8 oral misrepresentation that the trip had been approved.

"Justifiable reliance is an essential element of a claim for fraud." *Spreitzer v. Hawkey State Bank*, 779 N.W.2d 726, 736 (Iowa 2009). "[T]he justified standard . . . means the reliance . . . depends on the qualities and characteristics of the particular plaintiff and the specific surrounding circumstances." *Id.* at 737. Further:

The justifiable-reliance standard does not mean a plaintiff can blindly rely on a representation. Instead, the standard requires plaintiffs to utilize their abilities to observe the obvious, and the entire context of the transaction is considered to determine if the justifiable-reliance element has been met.

. . . .  
 An additional factor has been identified in cases involving oral representations. This factor considers whether the oral representation clearly contradicts a written agreement. In such instances, reliance on the oral representation by a plaintiff can be utterly unjustified in the face of a clear written contradiction. . . . This approach is consistent with the established view that the justifiable-reliance element means a plaintiff cannot close his or her eyes to an obvious contradiction.

*Id.* at 737-38 (citations omitted).

On appeal, Gray argues he and his supervisor, Harding, repeatedly discussed the fact the business case for the trip in the United States was exactly the same as the business case for the trip in Canada. Gray believed Harding had communicated that fact to upper management and, therefore, no purpose would be served by his submitting an identical business case. However, Gray testified:

Q. You have nothing either in documents, statements, any kind of paper, any kind of oral statements to show . . . Jack Haynes knew Terry Harding had informed [you] the trip had been approved? A. That's correct.

Q. You then say . . . Haynes knew [you] and [your] staff were making arrangements for the trip. In fact, Mr. Haynes' assistant [White] worked many hours on the project over the course of several months.

My same question to you is: What documents, what paper, what E-mails, what correspondence, what communications, what records, what statements do you have to establish that Jack Haynes knew [you] and your staff were making arrangements for the trip. A. None.

Gray points out both Harding and Haynes testified Gray could reasonably rely on what he was told by Harding. Additionally, Gray argues:

Given that, despite Reese's emails of July 8 and July 9, 2009, Harding told [Gray] that the trip had been approved, [Gray] reasonably believed that upper management had accepted his previously submitted business case and that Harding had communicated to them that the business case had not changed.

After our review of the "specific surrounding circumstances" and "the entire context of the transaction," we note Gray did not send any e-mails regarding the 2009 Florida trip to Haynes or Reese after July 9, 2009, and until September 2, 2009, when the hotel and some air flights had already been booked. Prior to July 9, 2009, Gray sent numerous e-mails discussing the trip to Harding, Haynes, and Reese as a recipient/copy group. Additionally, Gray testified:

Q. Did you personally send a business case to Tim Reese and Jack Haynes at any point after Wednesday, July 8, 2009? A. I can't recall. As I previously stated, the business case was exactly the same. The difference was the cost and the location.

.....

Q. Did you send a written business case or an E-mail business case to Tim Reese and to Jack Haynes at any time after the [Florida] information . . . was gathered by Andrea Kallhoff? A. . . . I don't recall. The business case was identical. The site cost was different. The variances in site cost [were] researched, available, discussed with Terry Harding on multiple occasions, and sent, and also available openly from Ruth White to anybody that wanted it.

Q. But you don't recall sending anything yourself to Jack Haynes or Time Reese after July 8, 2009; isn't that correct? A. That's correct.

We find no find no error in the district court's analysis:

Here, there is no evidence upon which Gray could say that he justifiably relied on Harding's alleged oral misrepresentation. Even if Gray interpreted Harding's July 8, 2009, comment as approval for the trip, Gray was not justified in relying on the statement. The e-mails of July 8 and July 9, 2009, involving Gray, Haynes, Reese, and Harding, show that Gray still needed to submit a detailed business case for the trip and that the trip still needed to be approved by Kvamme.

Further, much of the correspondence came after Harding made the alleged statement. In addition, Gray . . . promptly replied to and forwarded e-mails on July 8, 2009. Given the written correspondence, Gray cannot show that he justifiably relied on the “you got the order” statement made by Harding.

#### **IV. Intentional Interference with At-Will Employment.**

Gray argues the court erred in summarily dismissing his intentional interference claim because a reasonable jury could find Harding and Haynes interfered with his employment relationship with Wells Fargo.

It is undisputed that Gray’s employment was terminable at will. “An at-will employee may be terminated at any time as long as there was a legitimate business purpose behind the employer’s actions.” *Hill v. Winnebago Indus., Inc.*, 522 N.W.2d 326, 329 (Iowa Ct. App. 1994). However, we recognize the tort of intentional interference with contract “is available even when the contract is terminable at will.” *Reihmann v. Foerstner*, 375 N.W.2d 677, 683 (Iowa 1985).

Gray urges us to not follow case-law precedent because it “makes no sense to analyze an existing contract for employment, even employment at will, the same as we would analyze prospective contractual relations.” We disagree.

The Iowa Supreme Court has ruled:

Both theories . . . intentional interference with contract and intentional interference with prospective business relations, require proof that the defendant intentionally and improperly interfered with the relationship at issue. The distinction between these torts is that *to recover for interference with prospective business relations, a plaintiff must prove the defendant acted with the sole or predominant purpose to injure or financially destroy the plaintiff.* . . . [T]hese contracts were terminable at will. We have previously held that *contracts terminable at will are more properly protected as a prospective business advantage rather than as a contract.* Consequently, the higher standard of proof requiring substantial

evidence that the defendant's predominant or sole motive was to damage the plaintiff is required.

*Compiano v. Hawkeye Bank & Trust*, 588 N.W.2d 462, 464 (Iowa 1999)

(emphasis added) (citations omitted). Additionally:

We begin our analysis by observing the underlying [employment] contract was terminable at-will. . . . [T]he standard of proof is more demanding when the employment contract is at-will, and our law of contract interference applies different rules. A higher standard is required because interference with at-will employment contracts only gives rise to the interference with a future expectancy, not a legal right. The situation, therefore, is more analogous to the interference with a prospective contractual relation, with the corresponding greater freedom of action on the part of the defendant.

The torts of interference with an existing contract and interference with a prospective contractual relation both require the interference to be "improper." The term "improper," however, is defined differently for each tort. In . . . interference with a prospective contract, the defendant's purpose must be to financially injure or damage plaintiff's business. There must be substantial evidence of a predominant motive by the defendant to terminate the contract for improper reasons. This same requirement is applied to at-will employment contracts.

*RTL Distrib., Inc., v. Double S. Batteries, Inc.*, 545 N.W.2d 587, 590 (Iowa Ct. App. 1996) (citations omitted).

Accordingly, Gray must prove Harding and/or Haynes "acted with the sole or predominant purpose to injure or financially destroy" him. See *Compiano*, 588 N.W.2d at 464. If the interference is a necessary consequence of actions taken for a different purpose, the acts may be deemed intentional, but are not "improper." See *id.* at 466. "If a defendant acts for two or more purposes, his improper purpose must predominate in order to create liability." *Willey v. Riley*, 541 N.W.2d 521, 527 (Iowa 1995).

Gray states he “believes that Defendants acted to protect their own livelihoods by misrepresenting to Wells Fargo that Harding had not assured him the trip had been approved.” We turn to the district court’s analysis:

Even assuming, for the sake of argument, (1) that Harding told Gray that the 2009 trip had been approved and (2) that Haynes had communicated to someone that the 2009 trip had been approved, Gray’s claim is not sufficient to survive a motion for summary judgment. Gray has not alleged that Harding or Haynes committed any act with the sole or predominant purpose of financially injuring or destroying Gray. In his petition, Gray alleges:

32. [Haynes/Harding] acted in their private interests and outside the scope of their employment . . . by acting with the improper purpose of protecting themselves from discipline or termination at [Gray’s] expense.

Even if [this] allegation is taken as true, [it shows] that Harding and Haynes acted out of fear or to “cover [their] ass[es]”; the allegations do not show that Harding and Haynes acted with the sole or predominant purpose of financially injuring or destroying Gray. . . . In addition, even if Harding and Haynes had acted with more than one purpose, the “improper purpose must predominate in order to create liability.” Gray has not alleged any improper purpose that predominated over any other purposes.

Moreover, in Gray’s resistance brief, Gray states that Harding’s “primary motive was probably not to financially destroy Todd Gray, but to cover [Harding’s] own behind at Gray’s expense.” Gray also asserts that “Hardings statements [to Gray about the major CYA going on here at the company] also clearly imply that Haynes was attempting to protect himself from discipline related to his approval of the trip.” Gray’s deposition testimony is in line with the statements made in his brief:

Q. What information do you have that you can tell us about today that shows that their purpose was to harm you?  
 A. . . . [P]aragraph 32 reads that the Defendants acted . . . with the improper purpose of protecting themselves. That would be the CYA portion of the September 2 panic telephone call . . . and by almost natural progression, somebody’s being CYA’d, somebody’s going to be at the other end of the CYA.

Q. Do you believe that . . . A. Does that answer the question? So what evidence do I have that it was designed to hurt me? None. I believe there is an overwhelming

amount that shows to protect themselves. By definition, I get hurt.

Q. But you believe the intent was to protect themselves. A. I'm not sure—yes is the answer to your question.

In sum, Gray's brief, as well as his deposition testimony, further support the court's determination that Gray has not shown that Harding's and Hayne's sole or predominate motive for the interference was to financially damage or destroy Gray.

(Citations omitted.) We conclude the district court correctly ruled, as a matter of law, "there is no genuine issue of material fact with respect to whether Harding and Haynes intentionally and improperly interfered with" Gray's at-will employment contract with Wells Fargo.

We have considered the issues Gray raises on appeal and the issues not specifically addressed are without merit.

**AFFIRMED.**