United States Court of Appeals
For the Eighth Circuit

No. 21-3720

Pradheep Chhalliyil

Plaintiff - Appellant

v.

Foodchain ID Group, Inc., a Delaware corporation doing business in Iowa; Heather Secrist, individually and in her corporate capacities

Defendants - Appellees

Appeal from United States District Court
for the Southern District of Iowa - Central

Submitted: July 22, 2022
Filed: July 29, 2022
[Unpublished]

Before GRUENDER, MELLOY, and KOBES, Circuit Judges.

PER CURIAM.

Pradheep Chhalliyil appeals the district court's[1] adverse grant of summary judgment in his removed employment discrimination action. After careful review of the record and the parties' arguments on appeal, we conclude that the grant of summary judgment was proper. See Banks v. John Deere & Co., 829 F.3d 661, 665 (8th Cir. 2016) (grant of summary judgment is reviewed de novo). Accordingly, we affirm. See 8th Cir. R. 47B.

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[1]The Honorable Rebecca Goodgame Ebinger, United States District Judge for the Southern District of Iowa.

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No: 21-3720

Pradheep Chhalliyil

Appellant

v.

Foodchain ID Group, Inc., a Delaware corporation doing business in Iowa and Heather Secrist, individually and in her corporate capacities

Appellees

Appeal from U.S. District Court for the Southern District of Iowa - Central
(4:20-cv-00291-RGE)

ORDER

The petition for rehearing by the panel is denied.

September 16, 2022

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF IOWA

Pradheep Chhalliyil

CIVIL NUMBER: 4:20-cv-00291-RGE-SBJ

Plaintiff(s),

v.

JUDGMENT IN A CIVIL CASE

Foodchain ID Group, Inc. and Heather Secrist

Defendant(s).

☐ **JURY VERDICT.** This action came before the Court for trial by jury. The issues have been tried and the jury has rendered its verdict.

☑ **DECISION BY COURT.** This action came before the Court. The issues have been considered and a decision has been rendered.

IT IS ORDERED AND ADJUDGED:

Defendants' Motion for Summary Judgment is granted. Judgment is entered in favor of defendants against plaintiff.

Date: October 29, 2021

CLERK, U.S. DISTRICT COURT

/s/ K. Watson

By: Deputy Clerk

APPENDIX - A

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

PRADHEEP CHHALLIYIL, Plaintiff, v. FOODCHAIN ID GROUP, INC., and HEATHER SECRIST, individually and in her corporate capacities, Defendants.	**No. 4:20-cv-00291-RGE-SBJ** **ORDER GRANTING DEFENDANTS' MOTION TO ORDER FACTS AS UNDISPUTED AND DENYING PLAINTIFF'S MOTION FOR LEAVE TO SUPPLEMENT**

I. INTRODUCTION

Plaintiff Pradheep Chhalliyil sues his former employer, Defendant FoodChain ID Group, Inc., and Defendant Heather Secrist, a Senior Vice President at FoodChain, alleging national origin discrimination and breach of contract. Defendants move for summary judgment, and pursuant to Local Rule 56, include a statement of material facts. Chhalliyil resists Defendants' motion and responds to the statement of material facts. Defendants move the Court to order certain facts contained in their statement of material facts as undisputed. Chhalliyil moves to supplement his responses to Defendants' statement of undisputed facts. For the reasons stated below, the Court grants Defendants' motion and denies Chhalliyil's motion.

II. BACKGROUND

Chhalliyil filed a three-count complaint against Defendants: national origin discrimination, in violation of the Iowa Civil Rights Act (ICRA), Iowa Code § 216.1, et seq. (Count I); national origin discrimination, in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq. (Count II); and breach of contract, in violation of Iowa law (Count III). Am. Compl. ¶¶ 36–50, ECF No. 10. Defendants move for summary judgment on all counts. Defs.'

Mot. Summ. J., ECF No. 33. Chhalliyil resists. Pl.'s Resist. Defs.' Mot. Summ. J., ECF No. 41. Accompanying their motion for summary judgment is Defendants' statement of material facts. Defs.' Statement Undisputed Facts Supp. Mot. Summ. J., ECF No. 33-1. Defendants' statement of material facts sets forth numbered paragraphs containing facts Defendants allege the parties do not contest. *See id.* Chhalliyil responded to Defendants' statement of material facts. Pl.'s Resp. Defs.' Statement Undisputed Facts, ECF No. 41-2.

Defendants move under Federal Rule of Civil Procedure 56(e) for the Court to order certain facts contained in their statement of material facts as undisputed. Defs.' Mot. Order Facts Undisputed, ECF No. 42. In his resistance, Chhalliyil denies some paragraphs, admits certain paragraphs, and requests leave to supplement his responses to some paragraphs. Pl.'s Resist. Defs.' Mot. Order Facts Undisputed, ECF No. 47. Separately, Chhalliyil moves to supplement his responses to Defendants' statement of material facts. Pl.'s Mot. Leave Suppl., ECF No. 49.

Paragraphs 44–45 and 122–23 are the only factually contested paragraphs at issue in the present motions. Chhalliyil denied paragraphs 44 and 45, and qualified paragraphs 122 and 123. ECF No. 41-2 ¶¶ 44–45, 122–123. In his resistance to Defendants' motion to order facts as undisputed, Chhalliyil now denies paragraphs 44–45 and 122–23. ECF No. 47 ¶ 3; Pl.'s Br. Supp. Resist. Defs.' Mot. Order Facts Undisputed 1, ECF No. 47-1. Because these paragraphs are the only factually contested paragraphs, the Court addresses them specifically.

Defendants' statement of material fact in paragraph 44 states, "Secrist has her notes from the meeting that contain 'metadata' which confirm the time and date the notes were created. (Metadata Information, Chhalliyil Deposition exhibit 7; APP 121)." ECF No. 33-1 ¶ 44. Paragraph 45 states, "[t]he metadata from the notes confirm the notes were created in August of 2018 when Secrist states the meeting occurred. (Metadata Information, Chhalliyil Deposition Exhibit 7; APP 121)." ECF No. 33-1 ¶ 45. Chhalliyil denied paragraphs 44 and 45 with the same

response, stating,

> The metadata information shown in . . . Exhibit 7 . . . merely shows that Defendant Secrist created a document on August 23, 2018, that was finished a week later on August 30, 2018, but it otherwise has no evidentiary value. . . . Plaintiff denies that Defendant Secrist met with him in August 2018 to discuss his performance shortfalls . . . .

ECF No. 41-2 ¶ 45. "Chhalliyil Deposition Exhibit 7" is contained in Defendants' appendix supporting their motion for summary judgment. *See* ECF No. 33-2 at APP 121. It shows metadata from an electronic document provided by Secrist. *See id.*

Defendants' statement of fact in paragraph 122 states:

> Maharishi International University is a non-profit university located in Fairfield, Iowa, founded by Maharishi Mashesh Yogi. Maharishi emphasizes consciousness-based education, specifically adhering to principles of transcendental meditation and innovative sustainability, including non-genetically modified food products. (Maharishi International University about MIU Website; APP 180).

ECF No. 33-1 ¶ 122. Defendants' statement of fact in paragraph 123 states:

> John Fagan, FoodChain's founder was intricately involved with Maharishi University. Fagan practices transcendental meditation and is a non-GMO activist. The tie between FoodChain and Maharishi was not beneficial to FoodChain in terms of FoodChain's presence in the market and in terms of what the competitors used as leverage against FoodChain in the marketplace concerning non-GMO. (Secrist Depo, p. 85:2–18; APP 108).

Id. ¶ 123. Chhalliyil responded to paragraphs 122 and 123 as follows:

> Plaintiff qualifies Defendants' Statement of Undisputed Fact Paragraph[s] 122 [and 123]. Plaintiff asserts that Defendant Secrist was racist during meetings (Chhalliyil Depo, p. 54:12–25, PL APP 57); that Defendant Secrist used racist terminology such as 'poor Asian quality' when describing technology products available for his laboratory use, and ordered him to not use Asian products (Chhalliyil Depo, p. 55:1–6, PL APP 58, p. 63:1–16, PL APP 62, p. 65:8–20, PL APP 63, p. 108:2, PL APP 79, p. 111:22–25, PL APP 82); that Defendant Secrist used racist terminology when describing products made in different regions of the world, such as "Chinese" products (Chhalliyil Depo, 73:16–20, PL APP 64, . . . p. 74:16–24, PL APP 65, p. 111:22–25, PL APP 82); that Defendant Secr[is]t[ ] made statements about distancing Defendant FoodChain ID from Fairfield, Iowa Maharishi residents and employees at its Fairfield, Iowa office location (Chhalliyil Depo, 55:13–25, PL APP 58, p. 56:13–25, PL APP 59, p. 108:3–4, PL APP 79, p. 112:1, PL APP 83); [and] that other FoodChain ID employees complained to him about Defendant

Secrist being racist (Chhalliyil Depo, 59:13–25, PL APP 60, p. 60:14 PL APP 61). ECF No. 41-2 ¶¶ 122–23.

The Court charts the other paragraphs at issue in Defendants' statement of material facts below. *See* ECF No. 33-1. The chart sets forth Chhalliyil's initial responses to the paragraphs at issue; Defendants' objections to Chhalliyil's responses; and Chhalliyil's responses to Defendants' motion to order each paragraph as undisputed. *See* ECF Nos. 41-2, 47, 47-1.

Paragraphs from Defendants' Statement Undisputed Facts, ECF No. 33-1	Chhalliyil's Response to Defendants' Statement Undisputed Facts, ECF No. 41-2	Defendants' Objections to Chhalliyil's Responses, ECF No. 42-1	Chhalliyil's Response to Defendants' Motion to Order Facts as Undisputed, ECF Nos. 47, 47-1
17, 19, 20	Qualifies	Violates Fed. R. Civ. P. 56(c)(1)(B), (c)(2)	Requests leave to supplement response
22, 23	Qualifies	Violates Fed. R. Civ. P. 56(c)(1)(B), (c)(2)	Admits
26	Qualifies	Violates Fed. R. Civ. P. 56(c)(1)(B), (c)(2)	Requests leave to supplement response
28	Denies in part, qualifies in part	Record contradicts response	Admits
29, 30, 31, 34, 35, 38	Denies in part, and admits in part	Record contradicts response	Requests leave to supplement response
32, 33, 37, 39, 40	Denies and qualifies	Record contradicts response	Requests leave to supplement response
56, 59	Denies and provides narrative	Violates Fed. R. Civ. P. 56(c)(1)(B), (c)(2)	Requests leave to supplement response
57, 58	Qualifies and provides narrative	Violates Fed. R. Civ. P. 56(c)(1)(B), (c)(2)	Admits
61	Qualifies and provides narrative	Violates Fed. R. Civ. P. 56(c)(1)(A)	Admits
62	Qualifies and provides narrative	Violates Fed. R. Civ. P. 56(c)(1)(B), (c)(2)	Requests leave to supplement response
70[1]	Denies and provides narrative	Violates Fed. R. Civ. P. 56(c)(1)(B), (c)(2)	Does not respond

[1] Chhalliyil fails to respond to Defendants' motion as to paragraph 70. *See* ECF No. 42 ¶ 2; ECF No. 47 ¶¶ 2–4; ECF No. 47-1 at 2–4. The Court considers the factual statements contained in paragraph 70 as undisputed for purposes of Defendants' motion for summary judgment. *See* Fed. R. Civ. P. 56(e); LR 56.

71[2]	Qualifies and provides narrative	Violates Fed. R. Civ. P. 56(c)(1)(B), (c)(2)	Does not respond
75, 76, 77	Qualifies and provides narrative	Violates Fed. R. Civ. P. 56(c)(1)(A)	Requests leave to supplement response
78, 79	Admits and adds assertion	Violates Fed. R. Civ. P. 56(c)(1)(A)	Admits
81, 82, 85	Denies for lack of information	Violates Fed. R. Civ. P. 56(c)(1)(A)	Admits
84	Qualifies and provides narrative	Violates Fed. R. Civ. P. 56(c)(1)(A)	Requests leave to supplement response
87	Qualifies and provides narrative	Violates Fed. R. Civ. P. 56(c)(1)(A)	Admits
88, 89, 90	Qualifies and provides narrative	Violates Fed. R. Civ. P. 56(c)(1)(A)	Requests leave to supplement response
95, 98, 99, 100, 101, 103, 106, 107	Qualifies and provides narrative	Violates Fed. R. Civ. P. 56(c)(1)(A)	Requests leave to supplement response
102, 110, 118, 119, 120	Qualifies and provides narrative	Violates Fed. R. Civ. P. 56(c)(1)(A)	Admits
114, 115, 116, 117	Qualifies and adds assertion	Violates Fed. R. Civ. P. 56(c)(1)(A)	Admits
121, 124, 125,	Qualifies and adds assertion	Non-responsive, argumentative, and makes improper arguments	Admits
124, 125	Qualifies and provides narrative	Non-responsive, argumentative, and makes improper arguments	Admits
126, 128	Qualifies, provides narrative, and adds assertion	Non-responsive, argumentative, and makes improper arguments	Requests leave to supplement response
127, 129, 130, 131, 132, 133, 134	Qualifies, provides narrative, and adds assertion	Non-responsive, argumentative, and makes improper arguments	Admits
135, 136	Neither admits, denies, or qualifies; provides narrative	Non-responsive, argumentative, and makes improper arguments	Admits

[2]Chhalliyil fails to respond to Defendants' motion as to paragraph 71. *See* ECF No. 42 ¶ 2; ECF No. 47 ¶¶ 2–4; ECF No. 47-1 at 2–4. The Court considers the factual statements contained in paragraph 71 as undisputed for purposes of Defendants' motion for summary judgment. *See* Fed. R. Civ. P. 56(e); LR 56.

142	Qualifies and provides narrative	Violates Fed. R. Civ. P. 56(c)(1)(A)	Admits
143	Denies and provides narrative	Violates Fed. R. Civ. P. 56(c)(1)(A)	Requests leave to supplement response

The parties do not request oral argument. ECF No. 42; ECF No. 47. Finding the parties' briefing and exhibits adequately present the issues, the Court decides the motion without oral argument. *See* LR 7(c); Fed. R. Civ. P. 78(b).

Additional facts are set forth below as necessary.

III. LEGAL STANDARD

Under Federal Rule of Civil Procedure 56, "[t]he court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). "A party asserting that a fact cannot be or is genuinely disputed must support the assertion by: . . . citing to particular parts of materials in the record." Fed. R. Civ. P. 56(c)(1)(A). "If a party fails to properly support an assertion of fact or fails to properly address another party's assertion of fact as required by Rule 56(c), the court may: (1) give an opportunity to properly support or address the fact; [or] (2) consider the fact undisputed for purposes of the motion . . . ." Fed. R. Civ. P. 56(e)(1)–(2).

"Local Rule 56(b) serves as a supplement to Federal Rule of Civil Procedure 56." *Anderson v. Bristol, Inc.*, 936 F. Supp. 2d 1039, 1045 n.1 (S.D. Iowa Mar. 25, 2013). Local Rule 56 requires the moving party to file a "statement of material facts setting forth each material fact as to which the moving party contends there is no genuine issue to be tried." LR 56(a)(3). The resisting party must file a "response to the [moving party's] statement of material facts in which the resisting party expressly admits, denies, or qualifies each of the moving party's numbered statements of fact . . . ." LR 56(b)(2). "The district court has considerable leeway in the application of its local rules" and broad discretion to manage its docket. *Martinez v. Union Pac. R.R. Co.*, 82 F.3d 223,

227 (8th Cir. 1996); *see Landis v. N. Am. Co.*, 299 U.S. 248, 253 (1936).

IV. ANALYSIS

Defendants argue the Court should order the facts identified in their motion as undisputed because Chhalliyil's response to Defendants' statement of material facts fails to comply with Federal Rule of Civil Procedure 56. ECF No. 42-1 at 1–2. Chhalliyil resists Defendants' motion as to paragraphs 44, 45, 122, and 123. ECF No. 47-1 at 1. He argues the assertions contained in these paragraphs cannot be presented as admissible evidence and should be denied under Federal Rule of Civil Procedure 56(c)(2). *Id.* As to paragraphs 17, 19, 20, 26, 29–35, 37–40, 56, 59, 62, 75–77, 84, 88–90, 95, 98, 99, 100–03, 106–07, 126, 128, and 143, Chhalliyil requests leave of court to supplement his responses. *Id.* at 1–2. He moves separately to supplement these paragraphs. ECF No. 49. As to paragraphs 22–23, 28, 57–58, 61, 78–79, 81–82, 85, 87, 102, 110, 114–21, 124–25, Chhalliyil now admits the factual information contained therein. ECF No. 47-1 at 1; *see also supra* Part II.

"The Southern District of Iowa's Local Rule 56(b) is in place to 'prevent a district court from engaging in the proverbial search for a needle in the haystack.'" *Anderson*, 936 F. Supp. 2d at 1046 (quoting *N.W. Bank & Trust Co. v. First Ill. Nat'l. Bank*, 354 F.3d 721, 725 (8th Cir. 2003)). Local Rule 56(b) states:

> A response to an individual statement of material fact that is not expressly admitted must be supported by references to those specific pages, paragraphs, or parts of the pleadings, depositions, answers to interrogatories, admissions, exhibits, and affidavits that support the resisting party's refusal to admit the statement, with citations to the appendix containing that part of the record.

LR 56(b). "The failure to respond to an individual statement of material fact, with appropriate appendix citations, may constitute an admission of that fact." *Id.* "The concision and specificity required by Local Rule 56[ ] seek to aid the district court in passing upon a motion for summary judgment, reflecting the aphorism that it is the parties who know the case better than the judge."

N.W. Bank & Trust Co., 354 F.3d at 725 (citing *Waldridge v. AM. Hoechst Corp.*, 24 F.3d 918, 922 (7th Cir. 1994)). Local Rule 56 imposes "exacting obligation[s] . . . on a party contesting summary judgment to highlight which factual averments are in conflict as well as what record evidence there is to confirm the dispute." *Waldridge*, 24 F.3d at 921–22.

The Court may permit supplementation of summary judgment materials if such supplementation will aid the record. In *Anderson v. Bristol, Inc.*, the district court considered the plaintiff's amended filings in ruling on the defendant's motion for summary judgment. 936 F. Supp. 2d at 1047. The court found the plaintiff's amendments "would provide a fuller and clearer record" and "justice requires the most complete record possible when ruling on a motion for summary judgment." *Id.* However, the court noted the plaintiff's amended material "frequently rehashe[d] legal arguments covered in previous pleadings." *Id.* Thus, the court did not consider the improper legal arguments in ruling on the defendant's motion for summary judgment. *Id.* In *Northwest Bank & Trust Co. v. First Illinois National Bank*, the Eighth Circuit affirmed the district court's finding that the plaintiff's response to defendant's statement of material facts failed to comply with Local Rule 56. 354 F.3d at 725. The Eighth Circuit noted the plaintiff's "filings were replete with conclusory allegations and legal argument, obfuscating any concise and specific statements of material fact." *Id.* The Eighth Circuit upheld the district court's decision to consider the defendant's statement of material facts as admitted for purposes of deciding the defendant's motion for summary judgment. *Id.* at 724–25.

Considering the Court's discretion in applying the local rules, the Court first addresses Defendant's motion to order paragraphs 44, 45, 122, and 123 undisputed. Then the Court addresses Chhalliyil's request to supplement his response to various paragraphs of Defendants' statement of material facts.

Paragraphs 44 and 45 concern the alleged August 2018 meeting between Secrist and

Chhalliyil. The Court accepts as true the existence of the metadata information as stated in paragraphs 44 and 44. Paragraph 44 states, "Secrist has her notes from the [August 2018] meeting that contain metadata which confirm the time and date the notes were created." ECF No. 33-1 ¶ 44. Paragraph 45 states, "The metadata from the notes confirm the notes were created in August of 2018 when Secrist states the meeting occurred." *Id.* ¶ 45. Defendants' phrasing in paragraphs 44 and 45 acknowledges the occurrence of the August 2018 meeting. *See* ECF No. 33-1 ¶¶ 44–45. However, in paragraph 42, Defendants recognize Chhalliyil disputes the occurrence of the August 2018 meeting. *Id.* ¶ 42. In his response to paragraphs 44 and 45, Chhalliyil denies "Defendant Secrist met with him in August 2018 to discuss his performance shortfalls . . . ." ECF No. 41-2 ¶¶ 44–45. Chhalliyil includes citations to his own deposition testimony denying the occurrence of the meeting. *See id.* He also qualifies his response, explaining "[t]he Metadata information . . . merely shows that Defendant Secrist created a document on August 23, 2018, that was finished a week later . . . , but it otherwise has no evidentiary value." *Id.* Because Chhalliyil fails to point to evidence raising a factual issue as to the metadata's existence, the Court considers the existence of the metadata information as undisputed for purposes of ruling on Defendants' motion for summary judgment. *See* LR(56); Fed. R. Civ. P. 56(e). However, Chhalliyil's denial as to the occurrence of the August 2018 meeting was appropriately made. The Court recognizes a question of fact exists as to whether the August 2018 meeting occurred. The Court considers the factual dispute for purposes of ruling on Defendants' motion for summary judgment.[3]

Paragraphs 122 and 123 concern facts regarding Maharishi University. The Court finds Chhalliyil's responses to paragraphs 122 and 123 fail to comply with Local Rule 56. Paragraph

[3] In the Court's forthcoming order granting Defendants' motion for summary judgment, the Court finds the existence of the August 2018 meeting has no bearing on the Court's analysis.

122 states, in part, "Maharishi International University is a non-profit university located in Fairfield, Iowa, founded by Maharishi Mashesh Yogi." ECF No. 33-1 ¶ 122. Paragraph 123 states, in part, "John Fagan, FoodChain's founder was intricately involved with Maharishi University." ECF No. 33-1 ¶ 123. Chhalliyil responds to both paragraphs as follows: "Defendant Secrist was racist during meetings . . . used racist terminology when describing technology products available for his laboratory use [and] when describing products made in different regions of the world . . . ." ECF No. 41-2 ¶¶ 122–23. Chhalliyil's statements are unresponsive and argumentative. *Cf. N.W. Bank & Trust Co.*, 354 F.3d at 725. Commenting on the moving party's statement of material facts through a response is not the appropriate manner to argue to the Court. *See* LR 56(b)(1)–(2); *see also N.W. Bank & Trust Co.*, 354 F.3d at 725. Chhalliyil fails to provide information or citations that substantively relate to the factual allegations in paragraphs 122 and 123 as required under Federal Rule of Civil Procedure 56 and Local Rule 56. And he makes allegations about Defendants' conduct unrelated to the factual statements. *See, e.g.*, ECF No. 41-2 ¶ 123 ("Defendant Secrist was racist during the meetings."). As such, the Court exercises its discretion under Federal Rule of Civil Procedure 56(e) and Local Rule 56. *See* Fed. R. Civ. P. 56(e); LR 56(b). The Court considers the facts contained in paragraphs 122 and 123 undisputed for purposes of ruling on Defendants' motion for summary judgment. *See* Fed. R. Civ. P. 56(e); LR 56(b).

Finally, Chhalliyil seeks to supplement additional paragraphs concerning projects and alleged incidents from his employment at FoodChain. Chhalliyil failed to comply with Local Rule 56 in his response to paragraphs 17, 19, 20, 26, 29, 30–35, 37–40, 56, 59, 62, 75–77, 84, 88–90, 95, 98–101, 103, 106–07, 126, 128, and 143. Chhalliyil's responses to Defendants' statement of material facts were argumentative and failed to include citations to evidence relating to the stated facts. *See* LR 56(b); *cf. N.W. Bank & Trust Co.*, 354 F.3d at 725. Instead, he included conclusory

allegations to the factual statements offered by Defendants. *See, e.g.*, ECF No. 41-2 ¶¶ 75–77, 84; *cf. N.W. Bank & Trust Co.*, 354 F.3d at 725. In other instances, he provided argument rather than drawing the Court's attention to evidence demonstrating genuine triable issues. *See, e.g.*, ECF No. 41-2 ¶¶ 76–77. In some paragraphs Chhalliyil denied or qualified factual statements derived from deposition testimony without providing counter evidence. *See, e.g.*, *id.* ¶¶ 59, 75–77, 95–100. Chhalliyil provides no explanation as to why he did not comply with Local Rule 56 or Federal Rule of Civil Procedure 56 in his responses.

Supplementation of Chhalliyil's response to Defendants' statement of undisputed facts will not remedy his noncompliance with Local Rule 56. Chhalliyil fails to inform the Court about the substance of his requested supplementation. He points to no additional evidence from which to supplement his answers. The Court is not concerned it lacks the record to appropriately decide Defendants' motion for summary judgment. *Cf. Anderson*, 936 F. Supp. 2d at 1047. Defendants and Chhalliyil provided extensive evidence in their appendices. *See* Defs.' Br. Supp. Mot. Summ. J., ECF No. 36; Defs.' App. Supp. Mot. Summ. J., ECF No. 33-2; Pl.'s Br. Supp. Resist. Defs.' Mot. Summ. J., ECF No. 41-1; Pl.'s App. Supp. Resist. Defs.' Mot. Summ. J., ECF No. 41-4. As such, the Court exercises its discretion under Local Rule 56 and Federal Rule of Civil Procedure 56(e) and denies Chhalliyil's motion to supplement his responses to Defendants' statement of facts in paragraphs 17, 19, 20, 26, 29, 30–35, 37–40, 56, 59, 62, 75–77, 84, 88–90, 95, 98–101, 103, 106–07, 126, 128, and 143. *Cf. N.W. Bank & Trust Co.*, 354 F.3d at 725. The Court considers the facts contained in these paragraphs as undisputed for purposes of deciding Defendants' motion for summary judgment. *See* Fed. R. Civ. P. 56(e)(2); LR 56(b).

V. CONCLUSION

Chhalliyil provides no evidence indicating there is a factual issue as to the existence of the metadata Defendants allege is from the document created by Secrist in August 2018. As such, the

Court considers the existence of the metadata noted in Defendants' statement of material facts paragraphs 44 and 45 as undisputed. Because Chhalliyil fails to comply with Local Rule 56 and Federal Rule of Civil Procedure 56 as to paragraphs 122 and 123, the Court considers these facts undisputed as well. As to supplementing his responses, Chhalliyil points to no additional evidence with which to supplement his responses to Defendants' statement of material facts. He also fails to demonstrate the record is incomplete and requires supplementation to aid the Court in deciding Defendants' motion for summary judgment.

Accordingly, **IT IS ORDERED** that Defendants FoodChain ID Group, Inc. and Heather Secrist's Motion to Order Facts as Undisputed, ECF No. 42, is **GRANTED.**

IT IS FURTHER ORDERED that Plaintiff Pradheep Chhalliyil's Motion for Leave to Supplement Pursuant to Rule 56(e)(1), ECF No. 49, is **DENIED.**

IT IS SO ORDERED.

Dated this 28th day of October, 2021.

REBECCA GOODGAME EBINGER
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

PRADHEEP CHHALLIYIL, Plaintiff, v. FOODCHAIN ID GROUP, INC., and HEATHER SECRIST, individually and in her corporate capacities, Defendants.	**No. 4:20-cv-00291-RGE-SBJ** **ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

I. INTRODUCTION

Plaintiff Pradheep Chhalliyil sues his former employer, Defendant FoodChain ID Group, Inc., and Defendant Heather Secrist, a Senior Vice President at FoodChain. Chhalliyil alleges claims for national origin discrimination under the Iowa Civil Rights Act and Title VII, and breach of contract under Iowa law. Defendants move for summary judgment on all claims. Because Chhalliyil fails to generate a genuine issue of material fact as to his claims, the Court grants Defendants' motion for summary judgment.

II. FACTUAL SUMMARY

The following facts are either uncontested or, if contested, viewed in the light most favorable to Chhalliyil, the nonmoving party.[1] *See Matsushita Elec. Indus. Co., Ltd. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986).

Chhalliyil is of Indian national origin. Pl.'s App. Supp. Resist. Defs.' Mot. Summ. J.

[1]The Court granted Defendants' Motion to Order Facts as Undisputed. Order Granting Defs.' Mot. Order Facts Undisputed & Denying Pl.'s Mot. Suppl., ECF No. 57; *see* Defs.' Mot. Order Facts Undisputed, ECF No. 42. The Court denied Chhalliyil's Motion for Leave to Supplement. ECF No. 57; *see* Pl.'s Mot. Leave Suppl., ECF No. 49.

PL. APP. 011, ECF No. 41-4. He immigrated to the United States from India. Defs.' Statement Undisputed Facts Supp. Mot. Summ. J. ¶ 1, ECF No. 33-1. In 2000, FoodChain hired Chhalliyil as a Senior Scientist. *Id.*; Defs.' App. Supp. Mot. Summ. J. APP 109, ECF No. 33-2. FoodChain is a worldwide expert in the certification and technical testing of food. ECF No. 33-1 ¶ 6.

Bernd Schoel immigrated to the United States from Germany. *Id.* ¶ 16. He is the Technical Director at FoodChain. *Id.* ¶ 13. At the time of the events alleged in the complaint, FoodChain's research and development department consisted of Schoel and Chhalliyil. *Id.* ¶ 128. Schoel was Chhalliyil's supervisor and conducted Chhalliyil's performance reviews from 2007 to 2017. *See id.* ¶¶ 47–49. Chhalliyil viewed Schoel as a colleague. *Id.* ¶ 46.

In his role at FoodChain, Chhalliyil conceptualized research and development ideas. *Id.* ¶ 15. After Chhalliyil completed the conceptualization stage, Schoel validated Chhalliyil's experiment results and translated a successful experiment into standard operating procedures. *Id.* ¶ 18. Dan Smith, FoodChain's Director of Operations, then worked the resulting standard operating procedures into FoodChain's operations. *Id.* ¶¶ 13, 19–20. Schoel and Smith are department heads at FoodChain. *Id.* ¶ 119. Secrist, FoodChain's Senior Vice President and Managing Director of the Americas, would meet with FoodChain's board of directors regularly to present information on the status of projects based on updates from Chhalliyil and Schoel. *Id.* ¶¶ 5, 113–14. Middle management and staff did not attend meetings with the board of directors. *Id.* ¶ 116. Secrist also conducted meetings with FoodChain's department heads. *See id.* ¶¶ 117–18

Around November 2009, FoodChain received defective products from a supplier located in India. *Id.* ¶ 103. Secrist requested quality assurance information from the supplier. *Id.* ¶ 104; *see* ECF No. 33-2 at APP 110–13 (email regarding quality assurance). Secrist informed Schoel and Chhalliyil that FoodChain would no long order products from the Indian supplier due to the defective products and lack of quality control information. ECF No. 33-1 ¶ 103. Secrist also

indicated FoodChain would not purchase products from "Asian" or "Chinese" start-up companies that did not have extensive quality control information. *Id.* ¶¶ 103, 106. Secrist used statements like "no Asian product" and "no Asian company's product." *Id.* ¶ 109. Secrist wanted to purchase products from companies with quality control information in locations where FoodChain already operated to avoid importing products through customs. *Id.* ¶ 105. FoodChain did not operate in India or China. *Id.* ¶ 107. Chhalliyil testified FoodChain received defective products from the Indian supplier in 2009 or 2010. Chhalliyil Dep. 62:25, 63:1–5, ECF No. 33-2 at APP 18–19.

In 2010 or 2011, Secrist told Chhalliyil she wanted to distance FoodChain from Maharishi International University and FoodChain's founder John Fagan. ECF No. 33-1 ¶ 121. Maharishi International University is a non-profit university located in Fairfield, Iowa. *Id.* ¶ 122. The University emphasizes consciousness-based education and adheres to principles of transcendental meditation and non-genetically modified food product sustainability. *Id.* Fagan practices transcendental meditation and is a non-genetically modified food activist. *Id.* ¶ 123. Secrist wanted to separate FoodChain from Maharishi International University because transcendental meditation is not a part of FoodChain's business. *Id.* ¶ 124. She believed an association between Maharishi International University, Fagan, and FoodChain did not benefit FoodChain against competitors in the food testing industry. *See id.* ¶ 123.

In 2018, FoodChain was developing a project called Direct Lyse. *Id.* ¶ 9. Direct Lyse was a streamlined testing method that reduced the time needed to prepare test samples. *Id.* ¶¶ 9–10. Schoel, Smith, Chhalliyil, and Secrist worked as a team on Direct Lyse to translate research and development ideas into the laboratory. *See id.* ¶¶ 22–25. The deadline for the Direct Lyse project was December 31, 2018; Chhalliyil knew the Direct Lyse deadline. *Id.* ¶¶ 56–57.

From April to May 2018, Chhalliyil took an extended leave to travel to India. *Id.* ¶ 26. In approving the leave, Secrist told Chhalliyil it was important he achieve the research

and development objectives for 2018 when he returned. *Id.* When Chhalliyil returned from India, Secrist grew concerned with his performance. *Id.* ¶ 27. Secrist testified she met with Chhalliyil in August 2018, to discuss his lack of productivity, engagement, and initiative. Secrist Dep. 25:16–19, ECF No. 33-2 at APP 84. She addressed concerns with Chhalliyil's performance—such as failing to reach agreed-upon milestones, working on personal tasks during work time, not working full eight-hour days, and not consistently presenting his data using the auto-calculator so the Direct Lyse team could validate and evaluate the data. ECF No. 33-1 ¶¶ 30–31. Secrist set forth specific improvements Chhalliyil needed to accomplish by December 31, 2018, "including using the auto-calculator consistently, providing written summaries of his experiments, conducting more experiments per week, preparing for weekly meetings, and functioning as a team player." *Id.* ¶¶ 34–35. Chhalliyil denies the August 2018 meeting occurred. *Id.* ¶ 42. Chhalliyil alleges Secrist spoke with Schoel about Chhalliyil's performance issues, and Schoel alerted Chhalliyil to Secrist's concerns. *Id.* ¶ 43. Secrist provides "a summary of the discussion" she allegedly had with Chhalliyil at the August 2018 meeting. ECF No. 33-2 at APP 118–21. The summary includes metadata indicating the document was created in August 2018. *Id.* at APP 121. Secrist's summary outlines her concerns with Chhalliyil's work performance and directions for Chhalliyil to improve. *Id.* at APP 119–20.

Chhalliyil alleges a different meeting with Secrist occurred in August 2018. ECF No. 33-1 ¶ 51. At this meeting, Chhalliyil alleges Secrist entered into an oral agreement with him whereby if he completed the Direct Lyse project by December 31, 2018, Secrist would tell upper management that Chhalliyil had "successfully brought a new technology . . . which [the] competitors d[id not] have and should be rewarded with stock options." *Id.* ¶ 52; Chhalliyil Dep. 159:23–160:6, ECF No. 33-2 at APP 61–62. Chhalliyil does not allege Secrist promised a specific quantity of stock options. ECF No. 33-1 ¶ 53.

Earlier in 2018, Secrist and Chhalliyil met to discuss a gene editing project. *Id.* ¶ 74. Chhalliyil alleges he told Secrist he would not create new technology for the gene editing project unless he received stock options. *Id.* ¶ 75. Chhalliyil alleges Secrist promised him stock options if he created the gene editing technology. *Id.* ¶ 78. Secrist does not have the authority to grant FoodChain stock options to employees. *Id.* ¶ 85. Secrist alleges she told Chhalliyil she would communicate his request for stock options to FoodChain's upper management. *Id.* ¶ 77. She also alleges only FoodChain executives have stock options *Id.* Secrist addressed Chhalliyil's request for stock options with FoodChain's former CEO and FoodChain's current CEO. *Id.* ¶ 81. Chhalliyil alleges FoodChain provides other employees with stock options for significant contributions to FoodChain's growth and performance. *Id.* ¶ 83.

Secrist alleges she did not see clear improvements from Chhalliyil regarding the Direct Lyse project. *Id.* ¶ 54. Chhalliyil did not change his performance or engagement in any way from August 2018 to December 31, 2018. *Id.* ¶ 56. Chhalliyil did not complete the Direct Lyse testing phase by the December 31, 2018 deadline. *Id.* ¶¶ 58–59. Chhalliyil did not provide written summaries of his experiments. *Id.* ¶ 54. On January 10, 2019, Secrist terminated Chhalliyil, explaining his

> productivity was low and there was insufficient progress on experiments and that [his] engagement was low . . . [he was] not working full 8-hour days and working on personal items while on work time, and there was a lack of follow-through with a plan for increasing efficiency in productivity at work . . . , [and his] performance [from August 2018 to the date of termination had] not improved.

Chhalliyil Dep. 174:4–22, ECF No. 33-2 at APP 68.

Chhalliyil filed a three-count complaint against Defendants, alleging national origin discrimination in violation of the Iowa Civil Rights Act (ICRA), Iowa Code § 216.1, et seq. (Count I); national origin discrimination, in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq. (Count II); and breach of contract, in violation of Iowa law (Count III).

Am. Compl. ¶¶ 36–50, ECF No. 10. Now before the Court is Defendants' motion for summary judgment on all counts. ECF No. 33. Chhalliyil resists. ECF No. 41. The parties do not request oral argument. *Id.*; ECF No. 33. Finding the parties' briefing and exhibits adequately present the issues, the Court decides the motion for summary judgment without oral argument. *See* LR 7(c); Fed. R. Civ. P. 78(b).

Additional facts are set forth below as necessary.

III. LEGAL STANDARD

Under Federal Rule of Civil Procedure 56, the Court must grant a party's motion for summary judgment if no genuine issues of material fact exist and the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(a); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322–23 (1986). A genuine issue of material fact exists where the issue "may reasonably be resolved in favor of either party." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 250 (1986). "Only disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment. Factual disputes that are irrelevant or unnecessary will not be counted." *Id.* at 248.

When analyzing whether a party is entitled to summary judgment, a court "may consider only the portion of the submitted materials that is admissible or useable at trial." *Moore v. Indehar*, 514 F.3d 756, 758 (8th Cir. 2008) (internal quotation marks omitted) (quoting *Walker v. Wayne Cnty.*, 850 F.2d 433, 434 (8th Cir. 1988)). The nonmoving party "receives the benefit of all reasonable inferences supported by the evidence, but has 'the obligation to come forward with specific facts showing that there is a genuine issue for trial.'" *Atkinson v. City of Mt. View*, 709 F.3d 1201, 1207 (8th Cir. 2013) (quoting *Dahl v. Rice Cnty.*, 621 F.3d 740, 743 (8th Cir. 2010)). "In order to establish the existence of a genuine issue of material fact, a plaintiff may not merely point to unsupported self-serving allegations." *Anda v. Wickes Furniture Co., Inc.*,

517 F.3d 526, 531 (8th Cir. 2008) (cleaned up). "The plaintiff must substantiate [the] allegations with sufficient probative evidence that would permit a finding in [plaintiff's] favor." *Smith v. Int'l Paper Co.*, 523 F.3d 845, 848 (8th Cir. 2008) (internal quotation marks and citation omitted). "Where the record taken as a whole could not lead a rational trier of fact to find for the nonmoving party, there is no genuine issue for trial," and the moving party is entitled to judgment as a matter of law. *Torgerson v. City of Rochester*, 643 F.3d 1031, 1042–43 (8th Cir. 2011) (en banc) (internal quotation marks and citation omitted).

Courts do not "treat discrimination differently from other ultimate questions of fact." *St. Mary's Honor Ctr. v. Hicks*, 509 U.S. 502, 524 (1993) (internal quotation marks and citation omitted); *accord Torgerson*, 643 F.3d at 1043. "Courts may not second-guess employers' business decisions" because "employers are free to make employment decisions so long as they do not discriminate unlawfully." *Robinson v. Am. Red Cross*, 753 F.3d 749, 754 (8th Cir. 2014) (internal quotation marks and citation omitted).

IV. DISCUSSION

A. National Origin Discrimination (Count I and Count II)

Defendants argue they are entitled to summary judgment on Chhalliyil's national origin discrimination claims because Chhalliyil fails to establish a prima facie case of national origin discrimination. Defs.' Br. Supp. Mot. Summ. J. 15–19, 22–30, ECF No. 32-1. Additionally, Defendants argue they provide legitimate, nondiscriminatory reasons for terminating Chhalliyil, and he fails to provide evidence demonstrating Defendants' reasons for terminating him are pretext. *Id.* at 29–30. Chhalliyil resists, arguing he establishes a prima facie case of national origin discrimination. Pl.'s Br. Supp. Resist. Defs.' Mot. Summ. J. 10–14, ECF No. 41-1. He also contends he puts forth sufficient evidence demonstrating Defendants' actions were pretext for national origin discrimination. *Id.* at 9.

Because national origin discrimination claims under the ICRA and Title VII are subject to the same analysis, the Court analyzes Counts I and II together. *See Heisler v. Nationwide Mut. Ins. Co.*, 931 F.3d 786, 794 (8th Cir. 2019).

Under Title VII, it is unlawful for an employer "to . . . discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's . . . national origin . . . ." 42 U.S.C. § 2000e-2(a)(1). The ICRA similarly states it "shall be an unfair or discriminatory practice for any . . . [p]erson to . . . discharge any employee, or to otherwise discriminate in employment against . . . any employee because of the . . . national origin . . . of such . . . employee." Iowa Code § 216.6(1)(a). "The term 'national origin' on its face refers to the country where a person was born, or, more broadly, the country from which his or her ancestors came." *Espinoza v. Farah Mfg. Co., Inc.*, 414 U.S. 86, 88 (1973). To prevail under either the ICRA or Title VII, a plaintiff must show the adverse employment action was motivated by a defendant's discriminatory intent. *See Pippen v. State*, 854 N.W.2d 1, 9 (Iowa 2014) ("In a disparate treatment case [under the ICRA], the plaintiff bears the burden of showing he or she has been harmed by discriminatory animus of the employer."); 42 U.S.C. § 2000e-2(m) ("[A]n unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a motivating factor for any employment practice, even though other factors also motivated the practice."). To present a claim for discrimination under the ICRA and Title VII, a plaintiff must show either direct evidence or indirect evidence of unlawful discrimination. *Twymon v. Wells Fargo & Co.*, 462 F.3d 925, 933 (8th Cir. 2006).

Chhalliyil relies on indirect evidence to support his national origin discrimination claims. ECF No. 41-1 at 8. The Court utilizes the familiar *McDonnell Douglas* framework for claims of discrimination based on indirect evidence. *See Carter v. Atrium Hosp.*, 997 F.3d 803, 808 (8th Cir. 2021); *Vung v. Swift Pork Co.*, 423 F. Supp. 3d 640, 659 (S.D. Iowa 2019); *McDonnell*

Douglas Corp. v. Green, 411 U.S. 792, 802 (1973). Under the *McDonnell Douglas* framework, the employee first bears the burden of establishing a prima facie case of discrimination. *Carter*, 997 F.3d at 808. "To establish a prima facie case of discrimination, a plaintiff must show (1) he is a member of a protected class, (2) he met his employer's legitimate expectations, (3) he suffered an adverse employment action, and (4) the circumstances give rise to an inference of discrimination." *Pye v. Nu Aire, Inc.*, 641 F.3d 1011, 1019 (8th Cir. 2011). Summary judgment is proper on a discrimination claim if any essential element of the prima facie case is "not supported by specific facts sufficient to raise a genuine issue for trial." *Grant v. City of Blytheville, Ark.*, 841 F.3d 767, 773 (8th Cir. 2016) (internal quotation marks and citation omitted).

If the employee establishes a prima facie case, the burden shifts to the employer to articulate a legitimate, nondiscriminatory reason for the adverse employment action. *Pye*, 641 F.3d at 1019; *see also McDonnell Douglas*, 411 U.S. at 802. If the employer meets this burden, the plaintiff must show the employer's actions were pretext for unlawful discrimination. *Beasley v. Warren Unilube, Inc.*, 933 F.3d 932, 938 (8th Cir. 2019); *see also McDonnell Douglas*, 411 U.S. at 804–05. "The ultimate burden of persuading the trier of fact that the defendant intentionally discriminated against the plaintiff remains at all times with the plaintiff." *Beasley*, 933 F.3d at 937 (internal quotation marks and citation omitted).

Applying the *McDonnell Douglas* framework, the Court finds Chhalliyil fails to demonstrate the circumstances surrounding his termination give rise to an inference of discrimination as required to establish a prima facie case. Even if Chhalliyil established a prima facie case, he fails to show Defendants' legitimate, nondiscriminatory reasons for terminating him were pretextual. The Court grants Defendants' motion on Counts I and II.

1. Prima facie case of national origin discrimination

Defendants do not contest that Chhalliyil is a member of a protected class or that

he experienced an adverse employment action. *See* ECF No. 32-1 at 19–30. The Court finds Chhalliyil fails to demonstrate a genuine issue of material fact as to an inference of discrimination, as required to demonstrate a prima facie case of national origin discrimination. *Cf. Pye*, 641 F.3d at 1019. As such, the Court need not examine the final element of the prima facie case: whether Chhalliyil met his employer's legitimate expectations. *Cf. id.*

A plaintiff can establish an inference of discrimination "in a variety of ways, such as by showing more-favorable treatment of similarly-situated employees who are not in the protected class, or biased comments by a decisionmaker." *Id.* A plaintiff's evidence must be "sufficiently related to the adverse employment action in question to support" an inference of discrimination. *Walton v. McDonnell Douglas Corp.*, 167 F.3d 423, 426 (8th Cir. 1999).

Chhalliyil points to no evidence indicating Defendants treated similarly situated employees not in his protected class preferentially. *Cf. Pye*, 641 F.3d at 1019. Chhalliyil alleges Schoel and Smith were given promotions and were not "disciplined for failing to meet the team's deadline." ECF No. 41-1 at 9; *see also* Chhalliyil Dep. 126:21–127:6, ECF No. 33-2 at APP 46–47. Schoel and Smith were not similarly situated to Chhalliyil. The record demonstrates Schoel was FoodChain's Technical Director and Chhalliyil's supervisor. *See* ECF No. 33-2 at APP 109. Schoel's job included "tak[ing] the technology from R&D and . . . giv[ing it] to production" by validating technology ideas Chhalliyil developed and creating standard operating procedures. Chhalliyil Dep. 127:18–21, 135:17–137:2, ECF No. 33-2 at APP 47, 49–50. Smith was FoodChain's Director of Operations and oversaw eleven employees in a separate department from Chhalliyil's. ECF No. 33-2 at APP 109. Smith was a "technician," who translated the standard operating procedures and integrated them into FoodChain's operation and workflow. Chhalliyil Dep. 137:3–9, ECF No. 33-2 at APP 50. Smith also worked with customers, while Chhalliyil was "a research scientist and develop[ed] technologies." *Id.* at 130:22–24, 137:3–9. Schoel and Smith

did not have the same job title or responsibilities as Chhalliyil. *See id.* at 135:3–10. Schoel supervise Chhalliyil's work, and Smith worked in a different department than Chhalliyil. Chhalliyil provides no evidence indicating Schoel and Smith were similarly situated to him. Finally, even if Chhalliyil could show any coworkers not in a protected class were similarly situated to him, nothing in the record indicates Defendants' alleged preferential behavior toward any of Chhalliyil's coworkers was related to his termination. *Cf. Walton*, 167 F.3d at 426. Chhalliyil fails to point to sufficient evidence of favorable treatment of similarly situated employees so as to support an inference of discrimination.

Secrist's alleged discriminatory statements are not sufficiently related to Chhalliyil's termination to support an inference of discrimination. *Cf. id.* The record indicates Secrist referenced the geographic locations of companies that provided defective products to FoodChain using statements such as "no Chinese" and "no Asian product." *See* Chhalliyil Dep. 62:22–63:16, 65:8–13, 75:4–25, 76:1–6, ECF No. 33-2 at APP 18–22; Secrist Dep. 77:18–79:10, ECF No. 33-2 at APP 103–05. Secrist also commented to Chhalliyil about distancing FoodChain from Maharishi International University and Fagan. ECF No. 33-1 ¶ 121. The record does not indicate Secrist's statements referred to Chhalliyil or identified Chhalliyil by his national origin. *Cf. Walton*, 167 F.3d at 427 (finding plaintiff failed to establish a prima facie case of age discrimination when employer's statements could not be understood as derogatory to older employees, generally, and the employer made no specific reference to the plaintiff's age). The record also provides no indication Secrist ever associated Chhalliyil with Maharishi International University. Secrist's statements about "Indian" or "Asian" companies and her comments about Maharishi University do not "create a reasonable inference of discrimination, as they do not suggest discriminatory animus without resorting to speculation." *Xuan Huynh v. U.S. Dept. of Transp.*, 794 F.3d 952, 959–60 (8th Cir. 2015) (internal quotation marks and citation omitted).

Additionally, Secrist's statements and comments are not temporally linked to Chhalliyil's termination. *Cf. Walton*, 167 F.3d at 426. Secrist's statements about Asian companies were made in 2009 to 2012 and her comments about Maharishi International University were made in 2010 or 2011—many years before Chhalliyil's termination in January 2019. *See* Chhalliyil Dep. 62:25–63:1, 63:17–21, 65:23–24, ECF No. 33-2 at APP 18–20; ECF No. 33-1 ¶ 121. Given the lapse of time, Secrist's statements and comments are insufficient to support an inference of discrimination. *Cf. Floyd v. State of Mo. Dept. of Social Servs., Div. of Family Servs.*, 188 F.3d 932, 938 (8th Cir. 1999) (finding the plaintiff's coworkers' "Christian references" did not constitute the basis for an inference of discrimination in the pretext analysis because they were not temporally linked to the adverse employment action). Chhalliyil fails to point to sufficient evidence of discriminatory statements by a decision maker to support an inference of discrimination.

Chhalliyil provides no other evidence indicating Defendants' treatment of him gives rise to an inference of discrimination. *Cf. Pye*, 641 F.3d at 1019. Chhalliyil alleges he was denied stock options, denied his paycheck, denied promotion, and excluded from meetings due to his national origin. ECF No. 41-1 at 11–14. Chhalliyil provides no evidence demonstrating similarly situated employees or even non-management employees received stock options when he did not. Additionally, the record contains no evidence Defendants withheld or denied Chhalliyil pay. In fact, Chhalliyil testified that when he was paid the wrong amount, FoodChain's accounting department remedied the error. Chhalliyil Dep. 99:1–100:2, ECF No. 33-2 at APP 36–37. As to Defendants' failure to promote him, the record indicates Chhalliyil was the sole research and development scientist. *Id.* at APP 109. Chhalliyil points to no evidence of an employment position at FoodChain into which he could be promoted or of a research and development department Chhalliyil could have presided over. In fact, Chhalliyil testified he did not want Schoel's

supervisory position and did not apply for it. ECF No. 33-1 ¶ 135; Chhalliyil Dep. 127:16–22, ECF No. 33-2 at APP 47. As to Chhalliyil's exclusion from meetings, the record indicates Secrist routinely presented information she received from Schoel and Chhalliyil to FoodChain's board of directors. ECF No. 33-1 ¶¶ 114–15, 118–19.

Ultimately, Chhalliyil speculates as to the significance of the alleged harms. Speculation fails to generate genuine issues of material fact as to discriminatory animus. *Cf. Xuan Huynh*, 794 F.3d at 959–60. It is not the Court's role to second-guess employers' business decisions as long as they do not discriminate unlawfully *Cf. Robinson*, 753 F.3d at 754. Chhalliyil fails to put forth evidence sufficient to generate a genuine issue of material fact as to whether Defendants' treatment of him gives rise to an inference of discrimination.

Because Chhalliyil fails to demonstrate a genuine issue of material fact as to an inference of national origin discrimination in Defendants' decision to terminate him, he cannot establish a prima facie case of national origin discrimination. *See Walton*, 167 F.3d at 426–28. Defendants are entitled to summary judgment on Counts I and II on this ground. *Cf. Grant*, 841 F.3d at 773.

2. Legitimate, nondiscriminatory reason

Even assuming Chhalliyil could establish a prima facie case of national origin discrimination, Defendants offer legitimate, nondiscriminatory reasons for terminating Chhalliyil. *See* ECF No. 32-1 at 20–22. An explanation of legitimate, nondiscriminatory reasons "must be clear and reasonably specific." *Canning v. Creighton Univ.*, 995 F.3d 603, 611 (8th Cir. 2021) (internal quotation marks omitted) (quoting *Tex. Dep't of Cmty. Affs. v. Burdine*, 450 U.S. 248, 258 (1981)). "[T]his burden is not onerous and does not require proof by a preponderance of the evidence." *Id.* (internal quotation marks and citation omitted).

Defendants submit they terminated Chhalliyil because his productivity was low, he made insufficient progress on experiments, his work performance from August 2018 had not improved,

and he failed to meet project deadlines, including the Direct Lyse project deadline of December 31, 2018. *See* ECF No. 32-1 at 8, 29; Chhalliyil Dep. 17:44–176:10, ECF No. 33-2 at APP 68–70. Defendants' explanation is clear and specific. *Cf. Canning*, 995 F.3d at 611. Secrist's deposition testimony and Schoel's affidavit support Defendants' proffered explanation. *See* Secrist Dep. 72:17–21, ECF No. 33-2 at APP 102; Chhalliyil Dep. 169:11–19, 174:4–175:13, 175:23–176:4, ECF No. 33-2 at APP 64, 68–70; Schoel Aff. ¶¶ 9–10, ECF No. 33-2 at APP 178. As such, Defendants provide legitimate, nondiscriminatory reasons for terminating Chhalliyil.

3. Pretext

Because Defendants present legitimate, nondiscriminatory reasons for their decision to terminate Chhalliyil, the burden shifts to Chhalliyil to demonstrate Defendants' reasons are pretext for national origin discrimination. *See Beasley*, 933 F.3d at 938. Chhalliyil fails to meet this burden. Because he cannot show Defendants' legitimate, nondiscriminatory reasons for terminating him were pretext for national origin discrimination, his national origin discrimination claims fail.

To show a proffered reason is pretext for discrimination, a plaintiff must establish "*both* that the reason was false, *and* that discrimination was the real reason." *St. Mary's Honor Ctr.*, 509 U.S. at 515; *accord Maxfield v. Cintas Corp. No. 2*, 427 F.3d 544, 551 (8th Cir. 2005). The plaintiff's burden to show pretext "requires more substantial evidence of discrimination than required to make a prima facie case" because the evidence of pretext is viewed in light of the employer's proffered reason. *Johnson v. Securitas Sec. Servs. USA, Inc.*, 769 F.3d 605, 611 (8th Cir. 2014). A plaintiff may demonstrate pretext by showing an employer: treated similarly situated employees differently, failed to follow its own policies, or shifted its explanation for its employment decision. *Edwards v. Hiland Roberts Dairy, Co.*, 860 F.3d 1121, 1125–26 (8th Cir. 2017). A plaintiff may also demonstrate pretext by showing a decisionmaker made

biased comments. *Pye*, 641 F.3d at 1019. "The evidence must do more than raise doubts about the wisdom and fairness of the employer's opinions and actions—it must create a real issue as to the genuineness of the employer's perceptions and beliefs." *Rooney v. Rock-Tenn Converting Co.*, 878 F.3d 1111, 1118 (8th Cir. 2018). To survive summary judgment, a plaintiff must point to "enough admissible evidence to raise genuine doubt as to the legitimacy of the defendant's motive." *DePriest v. Milligan*, 823 F.3d 1179, 1186 (8th Cir. 2016) (internal quotation marks and citation omitted) (analyzing pretext in gender discrimination context).

"At the pretext stage, the test for determining whether employees are similarly situated to a plaintiff is a rigorous one." *Bone v. G4S Youth Servs., LLC*, 686 F.3d 948, 956 (8th Cir. 2012) (internal quotation marks and citation omitted). The plaintiff must "show that [he] and the employees outside of [his] protected group were similarly situated in all relevant respects." *Id.* (internal quotation marks and citation omitted). "[T]he individuals used for comparison must have dealt with the same supervisor, have been subject to the same standards, and engaged in the same conduct without any mitigating or distinguishing circumstances." *Clark v. Runyon*, 218 F.3d 915, 918 (8th Cir. 2000).

As discussed above in the prima facie case analysis, Chhalliyil fails to identify sufficient comparators to demonstrate discrimination was the real reason for his termination. *See supra* Part IV.A.1; *cf. Edwards*, 860 F.3d at 1125–26. Schoel and Smith are insufficient comparators, and the record does not indicate any other similarly situated coworkers not in Chhalliyil's protected class were treated differently than Chhalliyil. *See supra* Part IV.A.1.

Chhalliyil provides no evidence indicating Defendants' proffered reasons for terminating him for failure to meet project deadlines were false. *Cf. Maxfield*, 427 F.3d at 551. Chhalliyil contends Secrist did not meet with him in August 2018 regarding his performance. ECF No. 33-1 ¶ 42. He also indicates Direct Lyse, like other projects at FoodChain, was a team

project with Secrist, Schoel, and Smith. ECF No. 44-1 at 9; *see also* Chhalliyil Dep. 135:14–22, 137:3–9, 147:3–12, ECF No. 33-2 at APP 49–50, 54. Chhalliyil argues he was the only person who was fired for failure to complete Direct Lyse by the deadline, and he could not complete the project because he did not have the proper equipment. *See* ECF No. 41-1 at 9. The record does not support Chhalliyil's alleged recollection of the events, and he relies solely on his own self-serving allegations. *Cf. Anda*, 517 F.3d at 531. The record indicates Chhalliyil knew the Direct Lyse deadline was December 31, 2018, and the Direct Lyse team relied on Chhalliyil to complete his work in order for Schoel and Smith to complete theirs. *See* Chhalliyil Dep. 135:17–22, 148:20–149:8, 155:11–13, ECF No. 33-2 at APP 49, 55–56, 60. The record also demonstrates Secrist authorized the purchase of a pipette Chhalliyil requested for the Direct Lyse project, and FoodChain provided equipment the research team agreed on for the Direct Lyse project. *See* Secrist Dep. 62:14–19, ECF No. 33-2 at APP 99; Schoel Aff. ¶¶ 11–14, ECF No. 33-2 at APP 178. Chhalliyil did not complete his work on the Direct Lyse project by the deadline. *See id.* at 152:2–4.

Chhalliyil fails to show his failure to improve his work deficiencies was a false reason to terminate him. *Cf. Maxfield*, 427 F.3d at 551. Even assuming the August 2018 meeting with Secrist regarding Chhalliyil's work deficiencies did not occur, Chhalliyil was aware of some areas for improvement in his work and knew the Direct Lyse deadline. *See* Chhalliyil Dep. 168:4–21, ECF No. 33-2 at APP 63. Chhalliyil testified he made no improvements to his work after deficiencies were brought to his attention and did not meet the Direct Lyse deadline. *See id.* at 152:2–4, 169:11–15. Nothing in the record creates "a real issue" as to Defendants' stated reasons for terminating Chhalliyil. *Cf. Rooney*, 878 F.3d at 1118.

Chhalliyil provides no other evidence suggesting discrimination was the real reason for his termination. *Cf. Maxfield*, 427 F.3d at 551. The record contains no evidence Defendants shifted

their reasons for terminating Chhalliyil. *Cf. Edwards*, 860 F.3d at 1126. The only evidence in the record as to national origin are Secrist's statements from 2010 to 2012 including, "Indian companies" or "Asian quality is poor" or "No Chinese," and Secrist's 2010 and 2011 comments about distancing FoodChain from Maharishi International University. *See, e.g.*, Secrist Dep. 77:23–78:22, ECF No. 33-2 at APP 103–04; Chhalliyil Dep. 55:2–19, 62:8–12, 62:22–63:24, 76:1–6, ECF No. 33-2 at APP 15, 18–19, 21, 23. Secrist's use of terms such as "Indian" and "Asian" in reference to small companies in those geographic regions and in a context removed from Chhalliyil or his termination does not "raise genuine doubt as to the legitimacy of" Defendants' reason for terminating Chhalliyil. *Cf. DePreist*, 823 F.3d at 1186. Secrist's "comments do not suggest discriminatory animus without resorting to speculation." *Takele v. Mayo Clinic*, 576 F.3d 834, 839 (8th Cir. 2009) (finding no pretext based on defendants' alleged references to foreigners). Similarly, Secrist's 2010 or 2011 comments about distancing FoodChain from Maharishi International University does not bear on Defendants' explanation for terminating Chhalliyil in 2019. *Cf. id.* As explained above, these statements and references do not demonstrate an inference of discrimination against Chhalliyil. *See supra* Part IV.A.1. The record contains no evidence that discrimination was the real reason for Chhalliyil's termination.

Chhalliyil fails to meet his burden to demonstrate Defendants' proffered reasons for terminating him were pretext for discrimination. *Cf. Maxfield*, 427 F.3d at 551. Because Chhalliyil fails to identify a genuine issue of material fact as to pretext, his claims for national origin discrimination must fail. Defendants are entitled to summary judgment on Counts I and II.

B. Breach of Contract (Count III)

Defendants argues they are entitled to summary judgment on Chhalliyil's claim for breach of contract as a matter of law. ECF No. 32-1 at 30–32. Defendants argue the record contains no evidence demonstrating the existence of an oral contract between Chhalliyil and

Secrist or Chhalliyil and FoodChain. *Id.* at 31–32. Chhalliyil resists, arguing an oral contract existed. ECF No. 41-1 at 15. He contends the contract terms were clear: "if he worked with the team and successfully completed the project by December 31, 2018, he would receive extra compensation in the form of stock options." *Id.* Chhalliyil also argues Defendants did not provide the necessary equipment for him to complete the project by the deadline. *Id.* at 5; ECF No. 10 ¶ 48.

> To establish a breach of contract claim under Iowa law, a plaintiff must demonstrate:
>
> (1) the existence of a contract; (2) the terms and conditions of the contract; (3) that [plaintiff] has performed all the terms and conditions required under the contract; (4) the defendant's breach of the contract in some particular way; and (5) that plaintiff has suffered damages as a result of the breach.

Iowa Mortg. Ctr., L.L.C. v. Baccam, 841 N.W.2d 107, 110–11 (Iowa 2013) (internal quotation marks omitted) (quoting *Molo Oil Co. v. River City Ford Truck Sales, Inc.*, 578 N.W.2d 222, 224 (Iowa 1998)). "To prove an oral contract, the terms must be sufficiently definite for a court to determine with certainty the duty of each party and the conditions relative to performance." *Bowser v. PMX Indus., Inc.*, 545 N.W.2d 898, 899 (Iowa 1996). "A party breaches a contract when, without legal excuse, it fails to perform any promise which forms a whole or a part of the contract." *Molo Oil Co.*, 578 N.W.2d at 224.

Chhalliyil fails to provide evidence demonstrating the existence of an oral contract. *Cf. Baccam*, 841 N.W.2d at 110–11; *see* ECF No. 41-1 at 15. Chhalliyil appears to allege Secrist promised him stock options on two different occasions relating to two separate projects. *See* ECF No. 33-1 ¶¶ 51–53 (Direct Lyse), 74–78 (gene editing). In August 2018, Secrist allegedly promised Chhalliyil stock options if he completed the Direct Lyse project by December 31, 2018. *See id.* ¶¶ 51–53. Earlier in 2018, Secrist allegedly promised him stock options if he completed a gene editing project by the end of 2018. *See id.* ¶¶ 74–78. Chhalliyil points to no evidence—aside

from his own self-serving statements—as to the existence of an oral contract and its terms on either project. *See* Chhalliyil Dep. 117:13–23, 119:20–120:25, 159:25–160:10, ECF No. 33-2 at APP 40–42, 61–62; ECF No. 41-1 at 15. Self-serving allegations cannot form the basis of a genuine issue of material fact at the summary judgment stage. *Cf. Anda*, 517 F.3d at 531. Further, the record does not support the existence of an oral contract for stock options as to either project. Secrist did not have the authority to provide stock options to employees. Secrist Dep. 59:4–11, ECF No. 33-2 at APP 98. FoodChain only provided executives with stock options. *Id.* at 58:17–22. Chhalliyil fails to show an individual with authority to grant stock options promised them to him or that he held an executive position at FoodChain. This evidence is insufficient to raise a genuine issue of fact as to the existence of an oral contract for stock options.

Additionally, the record contains insufficient evidence for the Court to determine with "certainty the duty of each party and the conditions relative to performance." *Bowser*, 545 N.W.2d at 899. Chhalliyil testified, Secrist promised to "give [him] a decent reward," for the Direct Lyse project, but Chhalliyil does not point to evidence indicating the quantity of stock Secrist allegedly promised him. Chhalliyil Dep. 160:7–10, ECF No. 33-2 at APP 62. Nor does Chhalliyil point to any evidence regarding the quantity of stock allegedly promised for his work on the gene editing project. These indefinite terms are insufficient to form an oral contract for either the Direct Lyse or the gene editing project. *Cf. Baccam*, 841 N.W.2d at 110–11. Because Chhalliyil fails to demonstrate a genuine issue of material fact as to the existence of an oral contract, his claim for breach of contract fails as a matter of law. Defendants are entitled to summary judgment on Count III.

V. CONCLUSION

Chhalliyil fails to establish a prima facie case for national origin discrimination under the ICRA or Title VII. He also fails to generate a genuine issue of fact as to whether Defendants'

proffered reasons for terminating him were pretext for national origin discrimination. Finally, Chhalliyil fails to present evidence sufficient to demonstrate the existence of an oral contract.

Accordingly, **IT IS ORDERED** that Defendants FoodChain ID Group, Inc.'s and Heather Secrist's Motion for Summary Judgment, ECF No. 33, is **GRANTED.**

The Clerk of Court shall enter judgment in favor of Defendants and against Plaintiff. The parties are responsible for their costs.

IT IS SO ORDERED.

Dated this 28th day of October, 2021.

REBECCA GOODGAME EBINGER
UNITED STATES DISTRICT JUDGE