

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 23 2026

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

MICHELLE LYNN BURNELL,

Plaintiff - Appellant,

v.

LEWIS BRISBOIS BISGAARD & SMITH,
LLP; HEATHER M. JENSEN, Attorney,
Managing Attorney, in her individual
capacity; ANNEMARIE MCDOWELL,

Defendants - Appellees.

No. 25-180

D.C. No.

2:22-cv-00265-JLR

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
James L. Robart, District Judge, Presiding

Submitted September 22, 2026**

Before: OWENS, COLLINS, and SUNG, Circuit Judges.

Michelle Lynn Burnell appeals pro se from the district court's summary judgment in her action alleging federal and state law claims arising from her

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

employment. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the district court's ruling on cross-motions for summary judgment. *U.S. Sec. & Exch. Comm'n v. Hui Feng*, 935 F.3d 721, 728 (9th Cir. 2019). We affirm.

The district court properly granted summary judgment for defendants on Burnell's claim for disability discrimination under the Americans with Disabilities Act ("ADA") and the Washington Law Against Discrimination ("WLAD") because Burnell failed to raise a genuine dispute of material fact as to whether she suffered any adverse employment action or discrimination because of a disability. *See Snead v. Metro. Prop. & Cas. Ins. Co.*, 237 F.3d 1080, 1087 (9th Cir. 2001) (setting forth elements of a prima facie case of disability discrimination under the ADA); *Fell v. Spokane Transit Auth.*, 911 P.2d 1319, 1328 (Wash. 1996) (setting forth same under the WLAD).

The district court properly granted summary judgment for defendants on Burnell's claim for failure to accommodate because Burnell failed to raise a triable dispute as to whether defendants failed to accommodate her. *See Samper v. Providence St. Vincent Med. Ctr.*, 675 F.3d 1233, 1237 (9th Cir. 2012) (setting forth elements of a claim for failure to accommodate under the ADA); *Riehl v. Foodmaker, Inc.*, 94 P.3d 930, 934 (Wash. 2004) (setting forth same under the WLAD), *abrogated in part on other grounds by Mikkelsen v. Pub. Util. Dist. No. 1*, 404 P.3d 464 (Wash. 2017).

The district court properly granted summary judgment for defendants on Burnell’s claim for disability-based harassment because Burnell failed to raise a triable dispute as to whether she was “subjected to harassment because of [her] disability, and [whether] the harassing conduct was sufficiently severe or pervasive to alter the conditions of [her] employment and create an abusive work environment.” *Mattioda v. Nelson*, 98 F.4th 1164, 1174 (9th Cir. 2024) (citation and internal quotation marks omitted) (setting forth requirements of a claim for disability-based harassment under the ADA).

The district court properly granted summary judgment for defendants on Burnell’s claim for retaliation because Burnell failed to establish a triable dispute as to whether she suffered any adverse employment action because of a protected activity. *See Pardi v. Kaiser Found. Hosps.*, 389 F.3d 840, 849 (9th Cir. 2004) (setting forth elements of a prima facie case of retaliation under the ADA); *Cornwell v. Microsoft Corp.*, 430 P.3d 229, 234 (Wash. 2018) (setting forth same under the WLAD).

The district court properly granted summary judgment for defendants on Burnell’s state law claims for negligent hiring and intentional infliction of emotional distress because Burnell failed to raise a triable dispute as to whether defendants were liable for these claims. *See Anderson v. Soap Lake Sch. Dist.*, 423 P.3d 197, 206 (Wash. 2018) (setting forth requirements of a claim for negligent

hiring); *Reyes v. Yakima Health Dist.*, 419 P.3d 819, 825 (Wash. 2018) (setting forth elements of a claim for intentional infliction of emotional distress).

The district court did not abuse its discretion in denying Burnell’s motion for reconsideration because Burnell failed to present “newly discovered evidence” or show “clear error” or “an intervening change in the controlling law.” *Guenther v. Lockheed Martin Corp.*, 972 F.3d 1043, 1058 (9th Cir. 2020) (citation and internal quotation marks omitted).

All pending motions are denied.

AFFIRMED.