

**\*\*\* FOR PUBLICATION \*\*\***

---

OPINION BY MOON, C.J., CONCURRING IN PART  
AND DISSENTING IN PART

I agree with the majority that the circuit court erred in concluding that, as a matter of law, plaintiff-appellant Bobbie L. French's lifting restriction did not constitute a substantial impairment of a major life activity. I also agree with the majority that summary judgment was appropriate as to French's claims of age and gender discrimination. However, I agree with Justice Nakayama that, as in this case, when the claimed impairment is not substantially limiting by its nature, the plaintiff is required to produce comparative evidence indicating that the average person in the general population can either (1) perform the major life activity that the plaintiff cannot or (2) perform the activity under conditions, in a manner, or for a duration that the plaintiff cannot.