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6 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
7 AT SEATTLE

8 W. GARY OLSON,  
9 Plaintiff,  
10 v.  
11 EDWINA S. UEHARA, *et al.*,  
12 Defendants.

Case No. C13-0782RSM

ORDER GRANTING DEFENDANTS'  
MOTION FOR SUMMARY JUDGMENT

13  
14 **I. INTRODUCTION**

15 This matter comes before the Court on Defendants' Motion for Summary Judgment.  
16 Dkt. #147. Defendants seek summary dismissal of all remaining claims in this case. Plaintiff  
17 argues that there are material questions of fact on all claims, and therefore summary judgment  
18 is not appropriate. Dkt. # 155. For the reasons set forth below, the Court GRANTS  
19 Defendants' motion summary judgment and DISMISSES this case.  
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21 **II. BACKGROUND**

22 In ruling on the parties' prior cross-motions for partial summary judgment, this Court  
23 set forth the facts relevant to this case and incorporates them by reference herein. Dkt. #133.  
24

25 **III. DISCUSSION**

26 **A. Summary Judgment Standard**

27 Summary judgment is appropriate where "the movant shows that there is no genuine  
28 dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed.

ORDER  
PAGE - 1

1 R. Civ. P. 56(a); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247 (1986). In ruling on  
2 summary judgment, a court does not weigh evidence to determine the truth of the matter, but  
3 “only determine[s] whether there is a genuine issue for trial.” *Crane v. Conoco, Inc.*, 41 F.3d  
4 547, 549 (9th Cir. 1994) (citing *Federal Deposit Ins. Corp. v. O’Melveny & Meyers*, 969 F.2d  
5 744, 747 (9th Cir. 1992)). Material facts are those which might affect the outcome of the suit  
6 under governing law. *Anderson*, 477 U.S. at 248.  
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8 The Court must draw all reasonable inferences in favor of the non-moving party. *See*  
9 *O’Melveny & Meyers*, 969 F.2d at 747, *rev’d on other grounds*, 512 U.S. 79 (1994). However,  
10 the nonmoving party must make a “sufficient showing on an essential element of her case with  
11 respect to which she has the burden of proof” to survive summary judgment. *Celotex Corp. v.*  
12 *Catrett*, 477 U.S. 317, 323 (1986). Further, “[t]he mere existence of a scintilla of evidence in  
13 support of the plaintiff’s position will be insufficient; there must be evidence on which the jury  
14 could reasonably find for the plaintiff.” *Anderson*, 477 U.S. at 251.  
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### 16 **B. Prior Ruling on Plaintiff’s Employment Status**

17 This Court has previously determined that Plaintiff was not a faculty member at the  
18 time of his termination from employment, but was instead considered to be a Professional Staff  
19 employee. Dkt. #133 at 7-8. This is significant because Professional Staff employees are  
20 employed “at-will” and are not subject to the same policies and procedures as faculty members.  
21 Indeed, the Court has already determined that the Faculty Code did not apply to him at that  
22 time. *Id.* The Court has further determined that, at the time of his employment separation,  
23 Plaintiff had no legitimate interest in continued employment. *Id.* at 8-10. However, the Court  
24 also determined that Plaintiff had been appointed as Lecturer, a faculty position, during the  
25 2010-2011 academic year, which ended in June 2011. *Id.* at 8. The Court’s prior rulings  
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1 continue to inform the Court with respect to the remaining claims in this matter, as further  
2 discussed below.

### 3 **C. Retaliation Under WLAD**

4 Plaintiff first brings a claim under Washington’s Law Against Discrimination  
5 (“WLAD”), alleging that he suffered retaliation for refusing to implement University policies  
6 he believed were discriminatory. Dkt. #22 at ¶¶ 98-104. Specifically, he testified that he  
7 believed University policies that “satisfactory progress and satisfying a loan was defined by  
8 completing ten credits, being registered for ten credits” made it more difficult for the  
9 economically poorer students to maintain their financial aid status. Dkt. #149, Ex. E at 45:6-11  
10 and 46:2-9. Thus, he utilized what he claims to be a University-wide practice of awarding non-  
11 degree credits to those students, in an effort to lessen the discriminatory effect of the general  
12 minimum credit requirement and related policies. Dkt. #155 at 16.

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15 RCW 49.60.210(1) provides:

16 It is an unfair practice for any employer . . . to discharge, expel or otherwise  
17 discriminate against any person because he or she has opposed any practices  
18 forbidden by this chapter, or because he or she has filed a charge, testified,  
19 or assisted in any proceeding under this chapter.

20 *Id.* To maintain a retaliation claim under the WLAD, chapter 49.60 RCW, a plaintiff must  
21 establish that (1) he participated in a statutorily protected activity, (2) an adverse employment  
22 action was taken against him, and (3) his activity and employer’s adverse action were causally  
23 connected. *Hollenback v. Shriners Hosps. For Children*, 149 Wn. App. 810, 821, 206 P.3d 337  
24 (2009). Plaintiff need not show that retaliation was the only or “but for” cause of the adverse  
25 employment action, but he or she must establish that it was at least a substantial factor. *Allison*  
26 *v. Housing Auth. of City of Seattle*, 118 Wn.2d 79, 85-96, 821 P.2d 34 (1991). Defendants  
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1 argue, and the Court agrees, that Plaintiff has no evidence to support the first prong of this  
2 standard.

3         There is no evidence in the record supporting Mr. Olson’s contention that he was  
4 granting “ghost credits” to students in order to alleviate what he believed were discriminatory  
5 policies at the time he engaged in that action. Indeed, his own email correspondence with the  
6 financial aid office states that he was granting the credits for the purpose of qualifying such  
7 students for the financial aid they would receive if they were registered full time rather than  
8 less than full time. Dkt. #165, Ex. A at 1. Significantly, he notes that he granted “ghost  
9 credits” to those students who had “completed requirements, but need[] to be registered for 10  
10 credits.” *Id.* (emphasis added). Further, his deposition testimony corroborates that intent. Dkt.  
11 #149, Ex. E at 83:14-84:3, 84:14-21, and 85:13-22. Likewise, he admits that there is no  
12 evidence of any intent on behalf of the School of Social Work or the University to discriminate  
13 against disabled or minority students through the implementation of their policies. *See* Dkt.  
14 #149, Ex. E at 138:8-13. While he may now attempt to justify his actions by asserting his  
15 belief that University policies had a discriminatory effect on certain classes of students, there is  
16 no evidence to support that position at the time he was granting such credits.  
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20         Further, Plaintiff has not expressed any belief of retaliatory intent as motivation for his  
21 termination. Defendant Uehara made the decision to terminate him. However, he has testified  
22 that she was not “out to get [him].” Dkt. #149, Ex. E at 137:6-12. He further testified that Ms.  
23 Uehara was “very committed to helping disadvantaged students” but that she disagreed with the  
24 way he “went about it.” Dkt. #149, Ex. E at 138:14-22. He also testified that Ms. Uehara  
25 wanted him to help disadvantaged students, but wanted him to do it in other ways. Dkt. #149,  
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1 Ex. E at 139:2-21. He ultimately characterized the conflict as a difference in “academic  
2 principles.” Dkt. #149 at 143:12-17.

3 Finally, even if Plaintiff were able to make a *prima facie* case of retaliation under the  
4 WLAD, Defendants have demonstrated that there was no pretext for his termination. *See Renz*  
5 *v. Spokane Eye Clinic*, 114 Wn. App. 611, 618-19, 60 P.3d 106 (2002). In *Renz*, the  
6 Washington Court of Appeals explained:  
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8 if the employer produces some evidence of a nondiscriminatory reason for  
9 the discharge, the temporary presumption of retaliatory discharge  
10 established by the *prima facie* evidence is rebutted and removed. Once the  
11 presumption is removed, the burden shifts back to the employee. The  
12 employee must then create a genuine issue of material fact by showing that  
13 the employer’s stated reason for the adverse employment action was a  
14 pretext for what was a discriminatory or retaliatory purpose. An employee  
15 can demonstrate that the reasons given by the employer are not worthy of  
16 belief with evidence that: (1) the reasons have no basis in fact, or (2) even if  
17 based in fact, the employer was not motivated by these reasons, or (3) the  
18 reasons are insufficient to motivate an adverse employment decision. If the  
19 employee fails to do this, the employer is entitled to dismissal as a matter of  
20 law.

21 *Id.* (citations omitted).

22 Here, Defendants were required to meet certain criteria established by federal law to  
23 participate in, *inter alia*, federal loan and grant programs. *See* Dkt. #147 at 11. The internal  
24 audit triggered by Mr. Olson’s email regarding his awarding of “ghost credits” ultimately  
25 concluded that students received more than \$200,000 in financial aid that they were not entitled  
26 to as a result of the “ghost credits” granted by Mr. Olson. Dkt. # 156, Ex. A. This is what  
27 motivated Defendants’ decision to discipline. Dkt. #156, Exs. A, B, and C. The Dean of the  
28 School of Social Work specifically commented that while Mr. Olson’s motivations appeared to  
be altruistic, the result of his actions was a “significant negative impact” on the University and  
the School, particularly because they would have to pay back financial aid and scholarship

1 monies that had been incorrectly awarded to students who would not have otherwise qualified  
2 for financial aid. Dkt. #156, Ex. C at 75-76. Plaintiff has failed to demonstrate that the stated  
3 reason for discipline has no basis in fact, nor has Plaintiff demonstrated that Defendants were  
4 not motivated by that reason or that the reason is insufficient to motivate the employment  
5 decisions in this case.

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7 As a result, Plaintiff fails to establish that he engaged in a statutorily-protected activity  
8 that would trigger potential liability under the WLAD, or that the reason for his disciplinary  
9 action was pretextual in any manner. Accordingly, this claim is DISMISSED.

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11 **D. First Amendment Retaliation**

12 Plaintiff also brings several claims of alleged retaliation for exercising his various rights  
13 under the First Amendment of the United States Constitution. Dkt. #22 at ¶¶ 129-145, 172-  
14 183 and 184-195. In order to determine whether a government employer impermissibly  
15 retaliated against an employee for engaging in protected speech, the Court must follow a  
16 sequential five-step inquiry. *Eng v. Cooley*, 552 F.3d 1062, 1070 (9th Cir. 2009)  
17 (“unravel[ing]” and clarifying the test set forth in *Pickering v. Bd. of Educ.*, 391 U.S. 563, 568,  
18 (1968)). First, the plaintiff bears the burden of showing that the speech addressed an issue of  
19 public concern. *Id.* (citing *Connick v. Myers*, 461 U.S. 138 (1983)). Second, the plaintiff bears  
20 the burden of showing the speech was spoken in the capacity of a private citizen and not a  
21 public employee. *Id.* at 1071 (citing *Garcetti v. Ceballos*, 547 U.S. 410, 421-22 (2006)).  
22 Third, the plaintiff bears the burden of showing the employer “took adverse employment action  
23 . . . [and that the] speech was a ‘substantial or motivating’ factor in the adverse action.” *Id.*  
24 (citing *Freitag v. Ayers*, 468 F.3d 528, 543 (9th Cir. 2006)). “[B]ecause these are sequential  
25 steps, a plaintiff’s failure to satisfy a single one necessarily concludes [the Court’s] inquiry.”  
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1 *Johnson v. Poway Unified Sch. Dist.*, 658 F.3d 954, 961-62 (9th Cir. 2011) (internal quotation  
2 marks and citations omitted). If the plaintiff is able to satisfy the first three steps, “the burden  
3 shifts to the [employer] to show: (4) whether [it] had an adequate justification for treating the  
4 employee differently from other members of the general public; and (5) whether [it] would  
5 have taken the adverse employment action even absent the protected speech.” *Robinson v.*  
6 *York*, 566 F.3d 817, 822 (9th Cir. 2009) (internal quotation marks and citations omitted).  
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8 *I. Matters of Public Concern*

9 The Court first turns to whether Mr. Olson’s speech touched on a matter of public  
10 concern. In his opposition to summary judgment, Plaintiff focuses on two areas of “speech” –  
11 first, his plan to publicize the availability of Soc 599B registration on his blog, and second,  
12 awarding grades and credit for Soc 599B. Dkt. #155 at 22. To determine whether a plaintiff  
13 spoke on a matter of public concern, a court examines the content, form, and context of the  
14 speech to determine if it was made on a matter of public concern, with content being the most  
15 important factor. *Connick v. Myers*, 461 U.S. 138, 147-48 (1983); *Havekost v. U.S. Dep’t of*  
16 *the Navy*, 925 F.2d 316, 318 (9th Cir. 1991). “The employee’s motivation and the chosen  
17 audience are among the many factors to be considered in light of the public’s interest in the  
18 subject matter of the speech.” *Johnson v. Multnomah County, OR*, 48 F.3d 420, 425 (9th Cir.  
19 1995). When the speech is not directed towards the media or the public at large, it is unlikely  
20 that it was speech touching on a matter of public concern. *Roe v. City and County of San*  
21 *Francisco*, 109 F.3d 578, 585 (9th Cir. 1997). Further, “[s]peech that deals with ‘individual  
22 personnel disputes and grievances’ and that would be of ‘no relevance to the public’s  
23 evaluation of the performance of governmental agencies’ is generally not of ‘public concern.’”  
24 *Eng*, 552 F.3d at 1070 (citing *Coszalter v. City of Salem*, 320 F.3d 968, 973 (9th Cir. 2003)).  
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1 With respect to Plaintiff's plan to post certain information to his blog, the Court finds  
2 that Plaintiff's speech touches on a matter of public concern, but not for the reasons  
3 propounded by Plaintiff. Plaintiff focuses his analysis on the information he planned to post,  
4 but that he admits was never actually posted. Dkts. #22 at ¶ 39, #155 at 12 and #156, Ex. G at  
5 161:13-19. Thus, this Court must examine the speech that did occur, which was his  
6 communication to the financial aid office that he would like to post certain information on his  
7 blog. Dkts. #22 at ¶ 38 and #165, Ex. A. In *Desrochers v. City of San Bernardino*, the Ninth  
8 Circuit Court of Appeals held that the essential question as to whether a public employee's  
9 speech involves matters of public concern for purposes of a First Amendment retaliation claim,  
10 is whether the speech addresses a matter of public as opposed to personal interest. *See*  
11 *Desrochers v. City of San Bernardino*, 572 F.3d 703, 708 (9<sup>th</sup> Cir. 2009). The Court finds that  
12 Plaintiff's communication, while only internal, does touch on a matter of public concern,  
13 namely, credits available to qualify students for financial aid. *See id.* at 714.

16 With respect to Plaintiff's argument that awarding "ghost credits" for Soc 599B is  
17 protected speech, the Court is not convinced. Plaintiff relies on *Brown v. Li*, 308 F.3d 939 (9th  
18 Cir. 2003) for the proposition that awarding credit is protected speech. That argument  
19 misconstrues the holding in *Brown*. In that case, the Ninth Circuit Court of Appeals  
20 determined that thesis committee members had the right not to approve a student's thesis,  
21 especially where the names of the members of the committee were in the thesis and they were  
22 jointly responsible for the content. *Brown*, 208 F.3d 952. That is not like the instant situation.  
23 Moreover, while there are Circuits that have recognized a protected First Amendment right in  
24 the letter grade assigned by a professor, the Court is not aware of any case finding such a  
25 protected right in granting "ghost credits" for no real work performed. *See Parate v. Isobar*,



1 868 F.2d 821, 828 (6th Cir. 1989). Indeed, other Circuits have criticized *Parate*, distinguishing  
2 the rights of professors in the classroom versus those out of the classroom, and allowing  
3 University officials to make changes with respect to grades. *See, e.g., Brown v. Armenti*, 247  
4 F.3d 69 (3d. Cir 2001); *Stronach v. Va. State Univ.*, 2008 U.S. Dist. LEXIS 2914 (E.D. Va. Jan.  
5 15, 2008).

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7 *2. Public Employee Versus Private Citizen*

8 Because the Court has determined that Plaintiff's inquiry to the Financial Aide office  
9 regarding "ghost credits" involved matters of public concern, the Court must next determine  
10 whether Mr. Olson was speaking in his capacity as a public employee or whether he was  
11 speaking as a private citizen. *See Eng*, 552 F.3d at 1070-71. The Court agrees with Defendants  
12 that Mr. Olson was speaking in his capacity as a public employee.

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14 "If [the plaintiff's] speech owes its existence to his position as a teacher, then [the  
15 plaintiff] spoke as a public employee, not as a citizen, and our inquiry is at an end." *Johnson*  
16 658 F.3d at 966 (internal quotations omitted). Speech by a teacher while at school and during  
17 school hours will more than likely be considered speaking "as a teacher" and not "as a citizen."  
18 *See Johnson* 658 F.3d 967. Likewise, the Ninth Circuit has explained that "teachers do not  
19 cease acting as teachers each time the bell rings or the conversation moves beyond the narrow  
20 topic of curricular instruction. . . . Rather . . . teachers *necessarily* act as teachers for purposes  
21 of a *Pickering* inquiry when at school or a school function, in the general presence of students,  
22 in a capacity one might reasonably view as official." *Johnson* 658 F.3d 967 (citing *Pelozo v.*  
23 *Capistrano Unified Sch. Dist.*, 37 F.3d 517, 522-23 (9th Cir. 1994) (emphasis in original).

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26 Here, any speech Mr. Olson alleges was the basis for retaliation was made in his role as  
27 a public employee. Indeed, the very purpose of his inquiry to the Financial Aid office was to  
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1 ascertain that he was appropriately awarding “ghost credits” to students in order to render them  
2 eligible for financial aid. *See* Dkt. #149, Ex. E at 83:14-84:3 and 84:14-21. Further, the speech  
3 was made via his work email, during regular school hours. *See* Dkt. #165, Ex. A. Thus,  
4 Plaintiff cannot prove the second element of his retaliation claim as a matter of law and his  
5 claim must be dismissed.

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7 *3. Speech as Motivating Factor*

8 Even if Plaintiff could demonstrate that he was speaking as a private citizen and not as a  
9 public employee, the Court finds that he cannot demonstrate that his speech was the motivating  
10 factor for his discipline. Indeed, Plaintiff’s own testimony belies that such motivation existed.  
11 Plaintiff testified that he had made his practice of awarding ghost credits known to faculty  
12 members and administrators prior to his discipline, and that some agreed with his approach  
13 while others did not. *See* Dkt. #156, Ex. G at 48:15-49:7. At the same time he acknowledges  
14 that he had been a “model employee” for 27 years, with no history of discipline, and that he had  
15 engaged in such practice “for several years openly.” Dkt. #155 at 12. Further, as discussed  
16 above, it is clear that the practice of awarding “ghost credits,” along with the results of the audit  
17 (concluding that students had received more than \$200,000 in financial aid to which they were  
18 not entitled), were the motivation for the discipline, not Mr. Olson’s communication with the  
19 Financial Aid office itself. *See* Section C., *supra*. As a result, Plaintiff cannot prove the third  
20 element of his retaliation claim, and the claim must be dismissed.

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23 **E. Breach of Contract**

24 Plaintiff continues to argue that his resignation in lieu of termination constitutes a  
25 breach of contract because he was a Faculty member, and therefore Defendants were required  
26 to follow the Faculty Code. *See* Dkt. #155 at 28-29. He apparently ignores this Court’s prior  
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1 finding that he was not a member of the Faculty at the time the decision was made to terminate  
2 his employment. *See* Section B., *supra*. For the same reasons previously discussed, Plaintiff  
3 was not subject to the provisions of the Faculty Code at the time of his resignation.  
4 Accordingly, this claim is dismissed.

5 **F. RCW 42.46.040 – Unlawful Enforcement of Unpublished Rule**

6 Plaintiff next argues that his discipline was unlawful because it is based on policies that  
7 are not published, namely, he argues that the University of Washington has no published policy  
8 providing that he may not grant credits for students who do not demonstrate competence in the  
9 material of a course. Dkt. #155 at 29-30. Plaintiff asserts that Washington’s Public Records  
10 Act (“PRA”) creates a theory of liability under which he may recover. The Court is not  
11 persuaded. Plaintiff relies on RCW 42.56.040 in support of his argument. However, that  
12 section of the PRA simply mandates that state agencies must publish rules which guide the  
13 public in making public records requests to such agencies. *See* RCW 42.56.040(1). Plaintiff’s  
14 reliance on RCW 42.56.040(2) is also misguided. That section provides that no member of the  
15 public shall be adversely affected without notice or publication of a “matter required to be  
16 published.” RCW 42.56.040(2). Plaintiff provides no binding or persuasive legal authority  
17 providing any private cause of action under RCW 42.56.040 in the instant employment action.  
18 Nor does Plaintiff provide any binding or persuasive legal authority providing that RCW  
19 42.56.040 applies to the policies of the University of Washington that he asserts should be  
20 published. Accordingly, this claim is also dismissed.

21 **G. Due Process Violations**

22 Plaintiff also continues to argue that his Due Process rights have been violated. Dkt.  
23 #155 at 30-32. The Court dismissed the majority of Plaintiff’s due process claims in its prior  
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1 summary judgment Order. Dkt. #133. Plaintiff appears to argue that he was not provided fair  
2 notice that the conduct in which he was engaged (granting “ghost credits” to student for the  
3 purpose of making them eligible for financial aid) was not allowed by the University. Dkt.  
4 #155 at 30-32. Plaintiff provides no meaningful discussion of this alleged right, nor does he  
5 provide any legal authority or discussion thereof either on point or even similar to the instant  
6 situation. Instead, he states in conclusory manner that civil litigants are entitled to a  
7 “constitutional fair notice.” *Id.* Without more, he cannot overcome Defendants’ motion.  
8 Accordingly, the remaining due process claims are also dismissed.  
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#### 10 **H. 11th Amendment Immunity**

11 Defendants argue that Plaintiff is precluded from bringing suit against the University of  
12 Washington or any individual defendants sued in their official capacities because they have not  
13 waived immunity under the 11<sup>th</sup> Amendment. Dkt. #147 at 13-14. Plaintiff concedes this  
14 argument with respect to any claims arising under 42 U.S.C. § 1983, except that he apparently  
15 believes that these Defendants are not immune to injunctive relief. Dkt. #155 at 32. Because  
16 Plaintiff concedes that these Defendants have immunity from the Section 1983 claims, all such  
17 claims against the University of Washington and the official capacity individual defendants are  
18 dismissed.  
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#### 21 **I. Alleged Violations of the Washington State Constitution**

22 In their motion for summary judgment, Defendants argued that Plaintiff is not entitled  
23 to recover for any alleged violations of his rights under Washington State’s Constitution. Dkt.  
24 #147 at 19-20. Plaintiff failed to respond to that argument. “If a party fails to file papers in  
25 opposition to a motion, such failure may be considered by the court as an admission that the  
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1 motion has merit.” Local Rule CR 7(b)(2). Accordingly, all claims based on alleged violations  
2 of the Washington State Constitution are dismissed.

3 **J. Defamation and False Light**

4 In their motion for summary judgment, Defendants also argued that Plaintiff has no  
5 evidence to support his claims for defamation or false light. Dkt. #147 at 20-22. Plaintiff  
6 failed to respond to that argument. “If a party fails to file papers in opposition to a motion,  
7 such failure may be considered by the court as an admission that the motion has merit.” Local  
8 Rule CR 7(b)(2). Accordingly, all claims for defamation or false light are dismissed.  
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10 **K. Blacklisting**

11 In their motion for summary judgment, Defendants also argued that Plaintiff is not  
12 entitled to recover for any alleged “blacklisting.” Dkt. #147 at 23-24. Plaintiff failed to  
13 respond to that argument. “If a party fails to file papers in opposition to a motion, such failure  
14 may be considered by the court as an admission that the motion has merit.” Local Rule CR  
15 7(b)(2). Accordingly, all claims based on alleged “blacklisting” are dismissed.  
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17 **L. Qualified Immunity**

18 In their motion for summary judgment, Defendants argue that all of the remaining  
19 individual defendants are entitled to qualified immunity. Dkt. #147 at 12-13. Rather than  
20 address the argument directly, Plaintiff asserts throughout his response that certain areas of law  
21 are clearly established and therefore the individual defendants do not enjoy qualified immunity.  
22 *See generally* Dkt. #155. Because the Court has dismissed all of Plaintiffs claims as a matter of  
23 law, as discussed herein, Plaintiff has failed to establish that any of the individuals violated his  
24 constitutional rights. As a result, the individual Defendants are entitled to qualified immunity  
25 and all claims against them must be dismissed.  
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**IV. CONCLUSION**

Having reviewed Defendants' Motions for Summary Judgment, the Response in opposition thereto and Reply in support thereof, along with the declarations and exhibits thereto and the remainder of the record, the Court hereby finds and ORDERS:

(1) Defendants' Motion for Summary Judgment (Dkt. #147) is GRANTED and all remaining claims are DISMISSED.

(2) This case is now CLOSED.

DATED this 2 day of December 2014.



RICARDO S. MARTINEZ  
UNITED STATES DISTRICT JUDGE