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

8 UNITED STATES OF AMERICA,

9 Plaintiff,

10 v.

11 CAROL L. ENGEN, et al.,

12 Defendants.

CASE NO. C18-712 RSM

ORDER ON PENDING MOTIONS

13  
14 **I. INTRODUCTION**

15 This matter is before the Court on Plaintiff United States' Motion for Summary Judgment  
16 Against Carol L. Engen. Dkt. #104. Also before the Court is Defendant King County's 12(c)  
17 Motion to Dismiss Defendant Engen's Crossclaims. Dkt. #105. Defendant Carol L. Engen ("Ms.  
18 Engen") opposes both motions. Dkts. #114 and #115. Following briefing of those motions, Ms.  
19 Engen filed various documents which the Court addresses in turn. Dkts. #113, #118, #119, #120,  
20 #121, #122, #123, #124, #127, #128, and #129. Having considered the matters, the Court grants  
21 the motion for summary judgment filed by Plaintiff United States of America (the "United  
22 States"), grants the motion to dismiss filed by Defendant King County ("King County"), and  
23 closes this matter.  
24

1 **II. BACKGROUND**

2 The Court has previously recounted the basic facts of this action:

3 Plaintiff alleges that Defendant Carol L. Engen (“Ms. Engen” or  
4 “Defendant”) filed insufficient tax returns “for the federal income tax years 2004  
5 to 2008.” Dkt. #1 at ¶ 14. As a result, “a duly authorized delegate of the Secretary  
6 of the Treasure made timely assessments against [Ms. Engen] for unpaid federal  
7 income taxes . . . , civil penalties . . . , penalties, interest, and other statutory  
8 additions.” *Id.* at ¶ 15. As of the filing of this action, those assessments amounted  
9 to \$250,880.66. *Id.* at ¶¶ 15, 19. Ms. Engen was provided notice of these  
10 assessments, but failed to pay. *Id.* at ¶¶ 17–19.

11 On or around April 19, 2017, Ms. Engen acquired “a parcel of real  
12 property commonly described as 16423 NE 15th Street, Bellevue, WA 98008  
13 (“Subject Property”)” after her husband passed away. *Id.* at ¶¶ 8–13. Ms. Engen  
14 executed and subsequently recorded an “Affidavit Re: Will and Transfer on Death  
15 Deed.” *Id.* at ¶ 13. On November 9, 2017, the United States Internal Revenue  
16 Service (“IRS”) recorded, against the Subject Property, “a Notice of Federal Tax  
17 Lien (“NFTL”) against [Ms. Engen] with respect to unpaid federal income tax  
18 liabilities” for the applicable periods. *Id.* at ¶ 24.

19 On May 15, 2018, Plaintiff initiated this action “to: (i) reduce to judgment  
20 the outstanding federal tax assessments against Defendant Carol L. Engen; and  
21 (ii) foreclose federal tax liens on” the Subject Property. *Id.* at ¶ 1. Ms. Engen  
22 shortly thereafter filed for bankruptcy, causing this Court to stay the matter  
23 pending resolution of Ms. Engen’s bankruptcy proceedings. Dkts. #5 and #6.  
24 After Ms. Engen’s bankruptcy action was dismissed, the Court lifted the stay . . . .

Dkt. #43 at 1–2 (alterations in original).

17 **III. DISCUSSION**

18 **A. United States’ Motion for Summary Judgment**

19 **1. Legal Standard**

20 Summary judgment is appropriate where “the movant shows that there is no genuine  
21 dispute as to any material fact and the movant is entitled to judgment as a matter of law.” FED.  
22 R. CIV. P. 56(a); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247 (1986). Material facts are  
23 those which might affect the outcome of the suit under governing law. *Anderson*, 477 U.S. at  
24 248. In ruling on summary judgment, a court does not weigh evidence to determine the truth of

1 the matter, but “only determine[s] whether there is a genuine issue for trial.” *Crane v. Conoco,*  
2 *Inc.*, 41 F.3d 547, 549 (9th Cir. 1994) (citing *Federal Deposit Ins. Corp. v. O’Melveny & Meyers,*  
3 969 F.2d 744, 747 (9th Cir. 1992)).

4 The non-moving party must present significant and probative evidence to support its  
5 claim or defense. *Intel Corp. v. Hartford Accident & Indem. Co.*, 952 F.2d 1551, 1558 (9th Cir.  
6 1991). “The mere existence of a scintilla of evidence in support of the [non-moving party’s]  
7 position will be insufficient; there must be evidence on which the jury could reasonably find for  
8 the [non-moving party].” *Anderson*, 477 U.S. at 251. Neither will uncorroborated allegations  
9 and self-serving testimony create a genuine issue of material fact. *Villiarimo v. Aloha Island Air,*  
10 *Inc.*, 281 F.3d 1054, 1061 (9th Cir. 2002); *T.W. Elec. Serv. v. Pac. Elec. Contractors Ass’n*, 809  
11 F. 2d 626, 630 (9th Cir. 1987). Rather, the non-moving party must make a “sufficient showing  
12 on [each] essential element of her case with respect to which she has the burden of proof” to  
13 survive summary judgment. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986).

14 On summary judgment, the Court views the evidence and draws inferences in the light  
15 most favorable to the non-moving party. *Anderson*, 477 U.S. at 255; *Sullivan v. U.S. Dep’t of*  
16 *the Navy*, 365 F.3d 827, 832 (9th Cir. 2004). However, where the non-moving party fails to  
17 properly support an assertion of fact or fails to properly address the moving party’s assertions of  
18 fact, the Court will accept the fact as undisputed. FED. R. CIV. P. 56(e). As such, the Court relies  
19 “on the nonmoving party to identify with reasonable particularity the evidence that precludes  
20 summary judgment.” *Keenan v. Allan*, 91 F.3d 1275, 1278–79 (9th Cir. 1996) (quotation marks  
21 and citations omitted). The Court need not “comb through the record to find some reason to deny  
22 a motion for summary judgment.” *Carmen v. San Francisco Unified Sch. Dist.*, 237 F.3d 1026,  
23 1029 (9th Cir. 2001); *Keenan*, 91 F.3d at 1279 (the court will not “scour the record in search of  
24 a genuine issue of triable fact”).

1           **2. The Record Before the Court**

2           The Court finds it appropriate to first clarify the record on which this motion is  
3 considered. On June 17, 2021, the Court addressed several pending motions and granted a motion  
4 to compel and for sanctions that had been filed by the United States. Dkt. #101. The Court found  
5 that Ms. Engen had “failed to timely respond to the United States’ First Set of Interrogatories and  
6 First Requests for Production of Documents, after being properly served with the same.” *Id.* at  
7 14. Similarly, the Court found that “Ms. Engen failed to attend [] her deposition after being  
8 served with proper notice.” *Id.* at 15. Due to her refusal to respond to proper discovery requests,  
9 even after being ordered to do so, the Court ordered that “Ms. Engen . . . will be prohibited from  
10 supporting or opposing designated claims or defenses, or from introducing designated matters in  
11 evidence.” *Id.* Additionally, the Court found and ordered that:

12           (i) It is established that Ms. Engen submitted documents purporting to be a return  
13 of tax for each of the civil penalties under 26 U.S.C. § 6702 assessed by the IRS  
14 as asserted in the Complaint (or amended complaint if applicable), and that Ms.  
15 Engen is the sole owner of the Subject Property; [and]

16           (ii) Ms. Engen is precluded from presenting testimonial evidence at either trial or  
17 summary judgment to challenge the claim that the United States is entitled to  
18 reduce to judgment the federal tax assessments (federal income taxes and civil  
19 penalties under 26 U.S.C. § 6702) against Ms. Engen asserted in the Complaint  
20 (or amended complaint if applicable), or to challenge the authenticity of various  
21 documents that contain her signature, including correspondence, tax returns, and  
22 other IRS Forms that were sent to the IRS and are the subject of the civil penalties  
23 at issue in this action.

19 *Id.*

20           In addition to these discovery violations and sanctions, Ms. Engen also failed to respond  
21 to the United States’ First Requests for Admissions to Carol L. Engen. *See* Dkt. #104-2 at 2–28.  
22 While Ms. Engen baldly asserts that she “has no record of receiving any Requests for Admissions  
23 from Plaintiff,” the United States fully explains, and provides proof, why this is not the case.  
24 Dkt. #117 at 2–3. In accordance with Federal Rule of Civil Procedure 36 and due to Ms. Engen’s

1 failure to respond, the United States’ requests for admissions are deemed admitted. FED. R. CIV.  
2 P. 36(a)(3).

3 Lastly, Ms. Engen has also failed to submit any evidence in support of her opposition to  
4 the United States’ motion for summary judgment and its supporting documents. Ms. Engen’s  
5 opposition does not point to any evidence that is already in the record. Rather, Ms. Engen baldly  
6 asserts that the United States’ evidence is not accurate without establishing a basis for doing so  
7 or supplying any evidence in support of her assertions. Ms. Engen fails to provide any basis for  
8 questioning the United States’ evidence.

9 Accordingly, the vast majority—if not all—of the facts supported by the United States’  
10 evidence are not contested. In her briefing, Ms. Engen raises several unsupported objections to  
11 the evidence submitted by the United States—some factual, some broadly “legal,” and some a  
12 combination of both. *See generally* Dkt. #114. However, the United States has fully  
13 responded—with citations to the specific evidence before the Court and the relevant legal  
14 authorities—and has demonstrated that Ms. Engen’s objections are without merit. *See* Dkt. #117  
15 at 2–4. Nevertheless, the Court has considered the record in the light most favorable to Ms.  
16 Engen and has drawn all reasonable inferences in her behalf.

### 17 **3. Summary Judgment in Favor of the United States is Appropriate**

18 The Court has reviewed the thorough record put together by the United States in this  
19 matter. The factual evidence submitted, in addition to the statements and arguments of the United  
20 States, clearly establishes that summary judgment in favor of the United States is appropriate.  
21 Accordingly, the Court adopts the United States’ motion and reply, including their recounting of  
22 the evidentiary record and their legal reasoning, in whole.<sup>1</sup> Dkts. #104 and #117.

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24 <sup>1</sup> Of course, the United States’ motion

1 In opposition, Ms. Engen has raised only unsupported quibbles with the record and  
2 subjective feelings as to why the United States has failed to satisfy legal requirements that Ms.  
3 Engen believes should be applicable. The Court has held the United States to its burden but will  
4 not meticulously nitpick the evidence and arguments to establish whether Ms. Engen’s overly  
5 broad objections<sup>2</sup> may be, to some extent, valid. Ms. Engen has been afforded the opportunity  
6 to discover evidence supporting her positions, to review the evidence and arguments provided by  
7 the United States, and to consult legal authorities to test the validity of her beliefs. Despite these  
8 opportunities, Ms. Engen has not brought specific issues before the Court. Rather, Ms. Engen  
9 rehashes broad objections that have previously been addressed by the Court and finds new  
10 molehills with which to make mountains. On the whole, Ms. Engen’s failure to submit evidence  
11 supporting her asserted defenses, to identify discrete issues with the evidence presented by the  
12 United States, and to formulate supportable legal arguments makes her opposition all but a  
13 nullity.<sup>3</sup> Summary judgment in favor of the United States, for the relief it seeks, is appropriate.

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16 <sup>2</sup> For example, Ms. Engen equivocates on the United States’ positions: “[The United States’]  
17 ‘arguments’ are so full of holes a truck could be driven through them.” Dkt. #114 at 9. Similarly,  
18 Ms. Engen questions the accuracy of the evidence introduced. *See id.* at 11 (“IRS records are  
19 notoriously inaccurate.”). But Ms. Engen does not support or quantify her speculation that the  
20 United States’ evidence and arguments are unsupported.

21 <sup>3</sup> Even if Ms. Engen’s opposition represented, in substance, a failure to oppose the United States’  
22 motion for summary judgment, the Court would not grant the motion as a matter of course. *See*  
23 *Heinemann v. Satterberg*, 731 F.3d 914, 916 (9th Cir. 2013) (“[A] motion for summary judgment  
24 may not be granted based on a failure to file an opposition to the motion.”); *Henry v. Gill Indus.,*  
*Inc.*, 983 F.2d 943, 950 (9th Cir. 1993). “Rule 56 requires district courts to assess whether ‘the  
motion and supporting materials’ entitle the movant to summary judgment.” *Heinemann*, 731  
F.3d at 916 (quoting FED. R. CIV. P. 56(e)(3)). However, “the opposing party’s failure to respond  
to a fact asserted in the motion permits a court to ‘consider the fact undisputed for purposes of  
the motion.’” *Id.* (quoting FED. R. CIV. P. 56(e)(2)). Likewise, an opposing party cannot rely on  
its unsubstantiated allegations to create genuine disputes as to material facts. *Moran v. Selig*,  
447 F.3d 748, 759 (9th Cir. 2006) (plaintiff cannot rely on unverified complaint “as evidence at  
the summary judgment stage”).

1           **B. The County’s Motion to Dismiss**

2           **1. Legal Standard**

3           Federal Rule of Civil Procedure 12(c) provides that “[a]fter the pleadings are closed but  
4 within such time as not to delay the trial, any party may move for judgment on the pleadings.”  
5 FED. R. CIV. P. 12(c). The same legal standard applies to a motion for judgment on the pleadings  
6 as to a motion to dismiss for failure to state a claim. *Cafasso v. Gen. Dynamics C4 Sys., Inc.*,  
7 637 F.3d 1047, 1055 n.4 (9th Cir. 2011). Thus, the Court must accept as true all material facts  
8 alleged in the pleadings and draw all reasonable inferences in favor of the nonmoving party. *See*  
9 *Fleming v. Pickard*, 581 F.3d 922, 925 (9th Cir. 2009). “Judgment on the pleadings is proper  
10 when the moving party clearly establishes on the face of the pleadings that no material issue of  
11 fact remains to be resolved and that it is entitled to judgment as a matter of law.” *Hal Roach*  
12 *Studios v. Richard Feiner & Co.*, 896 F.2d 1542, 1550 (9th Cir. 1990). Judgment may be based  
13 on the complaint’s lack of “a cognizable legal theory” or its lack of “sufficient facts alleged under  
14 a cognizable legal theory.” *Balistreri v. Pacifica Police Dept.*, 901 F.2d 696, 699 (9th Cir.1990)  
15 (quoting *Conley v. Gibson*, 255 U.S. 41, 45–46 (1957)).

16           **2. Dismissal of Ms. Engen’s Crossclaims Against the County is Appropriate**

17           The Subject Property is located within King County, Washington. As a primary taxing  
18 authority, King County benefits from a statutory real property tax lien which attaches to the  
19 Subject Property every January. Dkt. #105 at 2. Because of King County’s uncertain interest in  
20 the property, the United States made King County a defendant to this action.

21           Upon answering the United States’ complaint, Ms. Engen also alleged crossclaims against  
22 King County and counterclaims against the United States. Dkt. #59. The Court previously  
23 dismissed Ms. Engen’s counterclaims against the United States. *See* Dkt. #74. King County now  
24

1 seeks judgment on the pleadings and a dismissal of Ms. Engen’s crossclaims for a failure to state  
2 a valid legal claim. Dkt. #105.

3 King County identifies “the essence” of Ms. Engen’s crossclaim as her assertion “that  
4 King County does not have a valid tax lien against the Subject Property because ‘KING  
5 COUNTY’s ‘real estate’ tax scheme is foundationally unconstitutional as KING COUNTY lacks  
6 jurisdiction over Counterclaim (sic) Plaintiff’s land and possesses no lawful right of action to  
7 foreclose.” Dkt. #105 at 3 (quoting Dkt. #59 at p. 18, ln. 5–9) (notation in King County’s motion).

8 Rather than identifying her asserted claims and the basis for them, Ms. Engen argues that  
9 King County lacks evidence to overcome her claims, whatever they may be. Dkt. #115 at 3. But  
10 this wholly ignores the standard under which a motion for judgment on the pleadings is  
11 considered. The truth of Ms. Engen’s allegations is assumed. But Ms. Engen still must  
12 demonstrate that those allegations entitle her to relief under a cognizable legal theory.

13 Ms. Engen appears to argue that her legal claims spring from King County’s failure to  
14 respond to Ms. Engen’s prior request for an explanation and justification of its taxing authority.  
15 *Id.* at 3–4. But Ms. Engen provides no citations to legal authority establishing that she has a right  
16 to an explanation or that she can maintain a private cause of action in the absence of a sufficient  
17 explanation.<sup>4</sup> Ms. Engen’s complaints appear political and without a legal basis upon which she

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20 <sup>4</sup> Ms. Engen includes limited citations to legal authority. *See generally* Dkt. #115. First, Ms.  
21 Engen references subsections of Federal Rule of Civil Procedure 12, namely those referenced  
22 and identified in King County’s motion. *Id.* at 1. Second, Ms. Engen points to “Art. 1, Sec. 10,  
23 cl. 1 of the national Constitution.” *Id.* at 3. That clause provides that “[n]o State shall enter into  
24 any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit  
Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any  
Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any  
Title of Nobility.” Ms. Engen does not otherwise explain how these legal authorities apply to  
her asserted claims.



1 can seek relief. Accordingly, the Court finds that granting judgment on the pleadings in favor of  
2 King County and dismissing the crossclaims is appropriate.

### 3 **C. Ms. Engen’s Various Filings**

#### 4 **1. Motion to Stay**

5 Most notably, Ms. Engen filed a motion for an order staying the case. Dkt. #122. Ms.  
6 Engen’s motion specifically indicated that she had appealed this Court’s June 17, 2021, Order  
7 (Dkt. #101) to the Ninth Circuit Court of Appeals and argued that this Court should stay the  
8 matter pending a resolution of her appeal. *Id.* at 1–2. The United States opposed Ms. Engen’s  
9 request. Dkt. #126.

10 Concurrently, Ms. Engen filed a similar request in her appellate case. *See United States*  
11 *v. Engen*, No. 21-35540, Dkt. #5 (9th Cir. Aug. 17, 2021). In response, the United States filed a  
12 motion to dismiss Ms. Engen’s appeal because she sought to appeal a nonfinal order outside the  
13 scope of appealable collateral orders. *See United States v. Engen*, No. 21-35540, Dkt. #8 (9th  
14 Cir. Aug. 18, 2021). On September 17, 2021, the Ninth Circuit Court of Appeals granted the  
15 United States’ motion to dismiss the appeal and denied Ms. Engen’s pending motion to stay as  
16 moot. *See United States v. Engen*, No. 21-35540, Dkt. #10 (9th Cir. Sep. 17, 2021).

17 Ms. Engen’s request for a stay was based primarily on a potential conflict between the  
18 trial date in this matter and the briefing schedule before the Ninth Circuit. For the reasons stated  
19 in the United States’ brief, Ms. Engen’s request for a stay in this matter was not warranted. Dkt.  
20 #126. Any possible conflict between this Court and the Ninth Circuit has been resolved.  
21 Likewise, the Court’s decision to grant the motions for summary judgment and for judgment on  
22 the pleadings resolves this matter. Accordingly, the Court denies Ms. Engen’s motion for a stay  
23 as moot.



