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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 UNITED STATES OF AMERICA,

9 Plaintiff,

10 v.

11 ROBINSON BROS. CONSTR. INC.,

12 Defendant.

CASE NO. C11-5357 BHS

ORDER GRANTING
DEFENDANTS' MOTION FOR
PARTIAL SUMMARY
JUDGMENT

13 This matter comes before the Court on Defendants Mike Rakoz, Robinson Bros.
14 Constr. Inc., and Craig Sorenson's ("Defendants") motion for partial summary judgment
15 (Dkt. 46).

16 On May 9, 2011, the Government filed a complaint against Defendants asserting
17 numerous causes of action, including claims for negligent and intentional
18 misrepresentation. Dkt. 1. On July 17, 2013, Defendants filed a motion for summary
19 judgment on the misrepresentation claims. Dkt. 46. The Government failed to respond
20 which the Court considers an admission that Defendants' motion has merit. Local Rule
21 CR 7(b)(2).
22

1 With regard to the merits of the motion, the Government has failed to meet its
2 burden. On an issue where the nonmoving party will bear the burden of proof at trial, the
3 moving party can prevail merely by pointing out to the district court that there is an
4 absence of evidence to support the non-moving party's case. *Celotex Corp. v. Catrett*,
5 477 U.S. 317, 325 (1986). If the moving party meets the initial burden, the opposing
6 party must set forth specific facts showing that there is a genuine issue of fact for trial in
7 order to defeat the motion. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 250 (1986).

8 In this case, Defendants have shown that there is an absence of evidence to
9 support the Government's claims for negligent and intentional misrepresentation. Dkt.
10 46 at 7–11. The Government has failed to set forth specific facts showing that there is a
11 genuine issue of material fact for trial. Therefore, the Court **GRANTS** Defendants'
12 motion.

13 **IT IS SO ORDERED.**

14 Dated this 21st day of August, 2013.

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17 BENJAMIN H. SETTLE
18 United States District Judge
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