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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
SEATTLE DIVISION

STUART REGES,
Plaintiff,

v.

ANA MARI CAUCE, in her official
capacity as President of the University
of Washington;

MAGDALENA BALAZINSKA, in her
official and individual capacities as
Director of the Paul G. Allen School of
Computer Science & Engineering;

DAN GROSSMAN, in his official and
individual capacities as Vice Director of
the Paul G. Allen School of Computer
Science & Engineering; and

NANCY ALLBRITTON, in her official
and individual capacities as Dean of
the College of Engineering,
Defendants.

Civil Action No.: _____

**COMPLAINT FOR CIVIL RIGHTS
VIOLATIONS**

JURY DEMAND

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8 **Pro Hac Vice* Motions Forthcoming

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INTRODUCTION

1
2 1. Stuart Reges, an award-winning educator at the University of
3 Washington, is suing the University of Washington and its administrators to
4 vindicate his well-established First Amendment rights. After the University
5 encouraged professors to include a political statement on their course syllabi, it
6 disciplined and continues to investigate Professor Reges for expressing a dissenting
7 view.

8 2. In September 2020, University administrators encouraged professors
9 to include a statement on their syllabi recognizing that the land on which the
10 University sits was once owned by indigenous people. Professor Reges disagreed
11 with the University’s “Indigenous Land Acknowledgment Statement.”

12 3. Because syllabi are an integral part of the teaching and construction of
13 a college course, Professor Reges included a dissenting statement on his syllabus
14 which challenged his students and fellow faculty to think about the utility and
15 performative nature of land acknowledgment statements. To that end, Professor
16 Reges’s land acknowledgment stated that indigenous tribes “can claim historical
17 ownership of almost none of the land” on which the University sits, based on
18 philosopher John Locke’s well-known labor theory of property, under which
19 ownership derives from improving the land.

20 4. University administrators punished Professor Reges for his statement,
21 asserting that it caused a “disruption to instruction.” To the contrary, Professor
22 Reges reviewed his syllabus on the first day of class without incident.

1 5. The University created a “shadow” class section of Professor Reges’s
2 computer programming course—taught by a different professor, on tape—and
3 invited students to switch out of Professor Reges’s class section.

4 6. Meanwhile, other computer science professors included their own land
5 acknowledgment statements on their syllabi. But the University did not investigate
6 or punish them because those statements, unlike that of Professor Reges, were
7 consistent with the University’s viewpoint.

8 7. In addition, the University opened a protracted disciplinary
9 investigation into Professor Reges—which remains ongoing—in which the
10 Defendants are currently assembling a disciplinary committee to consider whether
11 to further punish or even terminate Professor Reges because of the views he
12 expressed in his dissenting statement. The specter of termination has had a chilling
13 effect on his speech as a public university faculty member.

14 8. The University has taken these actions despite settled law that holds
15 public university faculty have a First Amendment right to speak on matters of
16 public concern in their teaching and research because academic freedom is “a
17 special concern of the First Amendment[.]” *Keyishian v. Bd. of Regents*, 385 U.S.
18 589, 603 (1967). Faculty must remain free to express these views to fulfill their
19 duties to educate and challenge students, and to avoid a “pall of orthodoxy” on
20 campus. *Id.*

21 9. The value and utility of land acknowledgement statements exemplifies
22 such a matter of public debate. Defendants asked their faculty to wade into this

1 controversy by including a land acknowledgment statement in their syllabi, then
2 unconstitutionally discriminated against Professor Reges for swimming against the
3 current and offering a dissenting viewpoint. They did so by retaliating against him
4 through the creation of a “shadow” class section and subjecting him to a disciplinary
5 investigation under vague and overbroad university policies.

6 10. Specifically, Defendants alleged Reges violated various University
7 policies, including one that purports to ban any speech or conduct that is deemed
8 “unacceptable or inappropriate,” regardless of whether it rises to the level of unlaw-
9 ful discrimination or harassment. Judged in relation to its legitimate sweep, which
10 is minimal, this policy is unconstitutionally overbroad and vague.

11 11. Academic freedom is of “transcendent value” to our constitutional
12 tradition. *Id.* To safeguard that value, faculty like Professor Reges must remain free
13 to express their views without retaliation or censorship.

14 JURISDICTION AND VENUE

15 12. This action arises under the First and Fourteenth Amendments to the
16 United States Constitution; the Civil Rights Act of 1871, 42 U.S.C. §§ 1983 and
17 1988; and the Declaratory Judgment Act, 28 U.S.C. §§ 2201–02.

18 13. Plaintiff seeks declaratory and injunctive relief against Defendants in
19 their official capacities, including a ruling that Defendants are retaliating against
20 him for protected academic speech in violation of his First Amendment rights.

21 Plaintiff also seeks to enjoin Defendants’ unconstitutionally vague and overbroad
22 policy governing faculty expression. Finally, Plaintiff seeks compensatory damages

1 against Defendants Director Balazinska, Vice Director Grossman, and Dean
2 Allbritton in their individual capacities for violating his clearly established right to
3 speak freely in his teaching and academic writing.

4 14. Accordingly, this Court has jurisdiction over these federal claims under
5 28 U.S.C. §§ 1331 and 1343.

6 15. Venue is proper in this judicial district under 28 U.S.C. § 1391(b)(1)
7 because at least one of the Defendants resides in this District, and because all
8 Defendants are residents of the State of Washington.

9 16. Venue is also proper in this district under 28 U.S.C. § 1391(b)(2)
10 because a substantial part of the events giving rise to Professor Reges's claims
11 occurred in King County, Washington, which is located in the Seattle Division of the
12 Western District of Washington.

13 THE PARTIES

14 Plaintiff

15 17. Plaintiff Stuart Reges is a citizen of the United States and a resident of
16 Seattle, Washington.

17 18. For the last four decades, Professor Reges has focused on introductory
18 instruction in computer science and programming, developing and running
19 introductory programs at several universities.

20 19. Since 2004, Professor Reges has been a faculty member at the
21 University of Washington in the Paul G. Allen School of Computer Science &
22 Engineering (Allen School).

1 20. In addition to being an acclaimed teacher, Professor Reges has a long
2 history as an advocate for free speech, especially for the right to express dissenting
3 viewpoints. He has spoken publicly in local and national media about his struggle
4 with identity and mental health as a gay man in the 1970s and 1980s. And when he
5 was a professor at Stanford University in the early 1990s he publicly criticized the
6 War on Drugs. Stanford responded to this criticism by firing him.

7 21. At all times relevant to this Complaint, the University of Washington
8 employed Reges as a Principal Lecturer, or Teaching Professor, in the Allen School.

9 22. Professor Reges is suing in order to vindicate his constitutional rights.

10 **Defendants**

11 23. Defendant Ana Mari Cauce is the President of the University of
12 Washington “authorized to act for the Board of Regents in formulating, prescribing
13 and issuing rules, regulations, and executive orders not inconsistent with the
14 Bylaws, Standing Orders, Regent Policies, and other orders of the Board and
15 applicable state law for the immediate government of the University.” Bd. of
16 Regents Governance, Ch. 1. Defendant Cauce has been President of the University
17 of Washington since 2015. Twice during her tenure (in July of 2016 and August of
18 2020) she renewed “Executive Order 31,” the source of the University’s authority to
19 impose disciplinary or corrective action for conduct deemed “unacceptable” or
20 “inappropriate.” She is sued in her official capacity.

21 24. Defendant Magdalena Balazinska is the Director of the Paul G. Allen
22 School of Computer Science & Engineering at the University of Washington. She

1 ordered Professor Reges to remove his land acknowledgment statement from his
2 syllabus; created a “shadow” class section that met at the same time as Professor
3 Reges’s class; and is continuing to investigate Professor Reges for his statement, all
4 in violation of his constitutional rights. She is sued in both her official and
5 individual capacities.

6 25. Defendant Dan Grossman is the Vice Director of the Paul G. Allen
7 School of Computer Science & Engineering at the University of Washington. By
8 participating in Professor Reges’s first disciplinary meeting and assisting in the
9 ongoing investigation into Professor Reges, Vice Director Grossman is responsible
10 for violating Professor Reges’s constitutional rights. He is sued in both his official
11 and individual capacities.

12 26. Defendant Nancy Allbritton is the Dean of the College of Engineering
13 at the University of Washington. She is charging Professor Reges with a
14 disciplinary violation under Faculty Code Section 25-71, which governs alleged
15 violations of University policy and empowers the Dean to file formal statements of
16 charges that can lead to dismissal, reduction of salary, or suspension. Dean
17 Allbritton is also assembling a faculty disciplinary committee that will review those
18 charges. She is sued in both her official and individual capacities.

19 **FACTUAL ALLEGATIONS**

20 27. In 2011, the University of Washington awarded Professor Reges the
21 Distinguished Teaching Award, given to only seven professors each year based on
22 their subject matter expertise; enthusiasm and innovation in teaching and learning;

1 “ability to inspire independent and original thinking in students”; innovations in
2 course and curriculum design; and mentoring.

3 28. Professor Reges regularly receives very positive reviews from his
4 students.

5 ***Professor Reges Challenges the University of Washington’s Prescribed Land***
6 ***Acknowledgment Statement in His Syllabus.***

7 29. In a document called the “Allen School best practices for inclusive
8 teaching,” the Allen School suggests professors “make [their] course syllabus more
9 inclusive” by including an “Indigenous Land Acknowledgment Statement.”

10 30. The Allen School recommends that professors include the following
11 “example” land acknowledgment statement: “The University of Washington
12 acknowledges the Coast Salish peoples of this land, the land which touches the
13 shared waters of all tribes and bands within the Suquamish, Tulalip and
14 Muckleshoot nations.”

15 31. The University Office of Minority Affairs and Diversity’s webpage
16 states that the University’s Tribal Liaison developed the land acknowledgement
17 statement “over the course of several years” and that among other uses it “is spoken
18 by [University] leadership during events to acknowledge” the view “that our campus
19 sits on occupied land.”

20 32. On December 8, 2021, a faculty member emailed an article titled *Land*
21 *Acknowledgments’ Are Just Moral Exhibitionism* to the Allen School’s “diversity-
22 allies” listserv.

1 33. Professor Reges replied to the email stating he had been “thinking a lot
2 about land acknowledgments” and offering to organize a group discussion on the
3 topic. He also shared the land acknowledgment statement he intended to include in
4 his syllabus for his upcoming Winter quarter 2022 class: “I acknowledge that by the
5 labor theory of property the Coast Salish people can claim historical ownership of
6 almost none of the land currently occupied by the University of Washington.”

7 34. Subsequently, Professor Reges included this land acknowledgment
8 statement on the syllabus for his Computer Science and Engineering 143: Computer
9 Programming II class, which the Allen School assigned him to teach during the
10 Winter 2022 quarter.

11 35. Other computer science professors also included modified land
12 acknowledgment statements on their syllabi. These statements were consistent
13 with, but not always identical to, the Allen School’s recommended statement.

14 36. On January 4, 2022, the day after Professor Reges’s Computer Science
15 and Engineering 143 class met for the first time, Defendant Balazinska, Director of
16 the Allen School, sent Professor Reges an email ordering him to remove the
17 statement from his syllabus because it was “offensive” and created a “toxic
18 environment.”

19 37. In his reply email, Professor Reges refused to remove the statement,
20 and questioned why the Allen School was ordering him to delete his dissenting land
21 acknowledgment statement from his syllabus while allowing other faculty to include
22

1 modified statements in their syllabi that were more consistent with the University's
2 recommended statement.

3 38. Director Balazinska responded to Professor Reges by stating she would
4 "ask any instructor who uses a land acknowledgment other than the [University of
5 Washington] land acknowledgment to remove or replace it."

6 39. Director Balazinska then unilaterally removed Professor Reges's
7 dissenting land acknowledgment statement from the syllabus as it appeared on the
8 University's class portal, an online site where students can find syllabi, class
9 materials, and assignments.

10 40. Director Balazinska also emailed Professor Reges's students to
11 apologize for his "offensive" statement, and to provide three ways students could file
12 complaints against Professor Reges.

13 41. Despite Director Balazinska's response, other faculty at the Allen
14 School continue to include land acknowledgment statements in their syllabi that
15 differ from the University's own statement, so long as they express a viewpoint
16 consistent with the University's recommended version.

17 42. Thus, professors who agree with the University's viewpoint are free to
18 include or to modify the recommended land acknowledgement statement, but
19 faculty like Professor Reges who express a dissenting viewpoint are not.

20 43. In her email response, Director Balazinska also claimed that Professor
21 Reges's syllabus was "causing a disruption to instruction in [his] class."
22

1 44. Director Balazinska did not provide Professor Reges any examples of
2 disruption to instruction in his class.

3 45. In fact, no actual disruption of Professor Reges's class occurred.
4 Professor Reges taught his first class of the Winter quarter on January 3, 2022,
5 without incident and continued to teach nearly 400 students through the end of the
6 quarter on March 18, 2022.

7 46. During the Winter 2022 quarter, Professor Reges also helped to mentor
8 a group of students who won a computer programming contest for the first time in
9 several years.

10 ***Defendants Punish Professor Reges for His Use of the Dissenting Land***
11 ***Acknowledgment Statement.***

12 47. On January 7, 2022, Director Balazinska announced to all students in
13 Professor Reges's Computer Science and Engineering 143 class section that they
14 may switch into a new "shadow" class section, which would meet at the same time
15 as Professor Reges's class section.

16 48. The Allen School assigned a different professor to instruct this
17 "shadow" class section. During the Winter 2022 quarter, that professor instructed
18 the class using recorded lectures instead of live class sessions.

19 49. In a January 9, 2022, email to a news network, Director Balazinska
20 criticized Professor Reges's "invocation of Locke's labor theory of property" in his
21 syllabus on the asserted ground that it "dehumanizes and demeans Indigenous
22 people." Jason Rantz, *Rantz: UW administrator goes to war over Seattle professor's*
hilarious land acknowledgment joke, KTTH (Jan. 9, 2022), <https://mynorthwest.com>

1 /3301858/rantz-uw-admin-war-seattle-professors-land-joke/ [https://perma.cc/EKP9-
2 A4L4].

3 50. Defendant Balazinska created the “shadow” Computer Science and
4 Engineering 143 class section to punish Professor Reges for including his land
5 acknowledgment statement in his syllabus.

6 51. Approximately 170 students out of over 500 students (or around 30% of
7 Professor Reges’s class) switched to the new “shadow” class section.

8 52. Professor Reges continued teaching the other 70% of his students who
9 remained in his class through the end of the Winter 2022 quarter without
10 disruption or any other issues. He successfully administered the final exam and
11 distributed grades.

12 53. On January 11, 2022, the Foundation for Individual Rights and
13 Expression (FIRE)¹ sent President Cauce a letter urging the University to ensure
14 that faculty are free to decide whether and how to address the topic of land
15 acknowledgments in their syllabi and making clear that punishing faculty for
16 differing viewpoints by investigating them and creating new course sections violates
17 the First Amendment.

18 54. On February 23, 2022, Professor Reges sent an email to the Allen
19 School’s “diversity-allies” listserv, which is available to all students and faculty in
20
21

22 ¹ Formerly known as the Foundation for Individual Rights in Education, FIRE has since
23 expanded its mission to include protecting expressive rights outside of higher education.

1 the Allen School, in which he expressed his intent to again include his own version
2 of a land acknowledgment statement on his Spring quarter syllabus.

3 55. University administrators monitor the Allen School’s “diversity-allies”
4 listserv and review incoming messages before they are distributed to recipients.

5 56. University administrators reviewed Professor Reges’s February 23,
6 2022, email and allowed it to pass through to the Allen School’s “diversity-allies”
7 listserv.

8 57. On March 2, 2022, Director Balazinska sent Professor Reges a notice
9 letter that called him to a meeting to discuss allegations that “may, if true,
10 constitute a violation of” several University policies, including University of
11 Washington Executive Order 31.

12 58. Executive Order 31 provides “the University retains the authority to
13 discipline or take appropriate corrective action for any conduct that is deemed
14 unacceptable or inappropriate, regardless of whether the conduct rises to the level
15 of unlawful discrimination, harassment, or retaliation.”

16 59. Executive Order 31 applies to all members of the University of
17 Washington community, including academic personnel and students.

18 60. The notice letter cited three broad allegations against Reges,
19 ostensibly from University students, all relating to his land acknowledgment
20 statement. The letter cited: (1) Professor Reges’s land acknowledgement statement;
21 (2) Professor Reges’s email to the “diversity-allies” listserv that included his land
22 acknowledgment statement; and (3) an allegation from representatives of the

1 student employee union that his actions violated their collective bargaining
2 agreement with the University.

3 61. On March 8, 2022, Professor Reges met with Defendants Director
4 Balazinska and Vice Director Dan Grossman.

5 62. During the March 8 meeting, Director Balazinska informed Professor
6 Reges of the allegations against him and that she expected faculty to “interact
7 respectfully” and create a “welcoming,” “professional,” and “positive” environment.

8 63. At that meeting, Director Balazinska also said if Professor Reges
9 continued to use his land acknowledgment statement, she expected to receive more
10 complaints, and she considered those complaints to be a disruption to the delivery of
11 instruction.

12 64. During the meeting, Professor Reges also asked Director Balazinska to
13 confirm that he would not be in violation of University policy if he included the
14 University’s *own* land acknowledgment on future syllabi. Director Balazinska could
15 not confirm this.

16 65. Director Balazinska also indicated that if students were to complain
17 about him including the University’s land acknowledgment statement on his
18 syllabus, Professor Reges may be in violation of University policy.

19 66. Director Balazinska also could not confirm whether any of Professor
20 Reges’s students submitted the complaints, or whether they originated from other
21 University students who heard about the controversy.

1 67. On March 9, 2022, Director Balazinska provided Professor Reges with
2 a proposed resolution to the charges against him, which is the first step to resolving
3 alleged faculty policy violations under University of Washington Faculty Code 25-
4 71.B. The proposed resolution would have required Reges to, among other things,
5 “interact with peers, staff, and students in a way that demonstrates respect toward
6 all” and “create[] and maintain[] a professional, positive, and welcoming
7 environment.”

8 68. The proposed resolution Director Balazinska provided would also
9 require Professor Reges to “agree not to include . . . [his] version of the land
10 acknowledgment that was published in the [Computer Science and Engineering]
11 143 Winter 2022 online course syllabus in . . . future course syllabi.”

12 69. Reges declined the proposed resolution the next day.

13 70. On March 18, 2022, Nancy Allbritton, Dean of the University of
14 Washington College of Engineering, emailed Professor Reges to set up a meeting
15 “pursuant to [Faculty Code] Section 25-71.D,” which is the second step in the faculty
16 disciplinary process.

17 71. University Faculty Code Section 25-71.D governs “alleged violation[s]”
18 of University policy and empowers the Dean to determine whether “the alleged
19 violation is of sufficient seriousness to justify consideration of the filing of a formal
20 statement of charges that might lead to dismissal, reduction of salary, or suspension
21 for more than one quarter.”

1 72. On March 25, 2022, Professor Reges, represented by FIRE Staff
2 Attorney Katlyn Patton, met with Dean Allbritton as part of the second step in the
3 faculty disciplinary process.

4 73. At the March 25, 2022, disciplinary meeting, Dean Allbritton asked
5 Reges to speculate as to how students felt about his land acknowledgment
6 statement, and why the students who moved into the “shadow” class section chose
7 to do so.

8 74. Professor Reges reiterated that he continued to teach hundreds of
9 students who remained in his class section through the end of the Winter 2022
10 quarter without issue or disruption, despite the opportunity to join the “shadow”
11 class.

12 75. Dean Allbritton concluded the meeting by telling Professor Reges she
13 aimed to make the best decision possible concerning the investigation, but could not
14 guarantee a time period in which she would make that decision or a date that the
15 investigation would conclude.

16 76. Professor Reges followed through and included his dissenting land
17 acknowledgment statement on his Spring 2022 class syllabi for Computer Science
18 and Engineering 142 and a new C++ programming course for students who are not
19 Computer Science majors.

20 77. Director Balazinska and the Allen School again scheduled a competing
21 section of Professor Reges’s Computer Science and Engineering 142 class for the
22 Spring 2022 quarter.

1 78. On April 21, 2022, Dean Allbritton notified Professor Reges she
2 intended to proceed with formal charges against him.

3 79. Dean Allbritton also told Professor Reges she would convene a
4 committee to “look into this matter” under University Faculty Code Section 25-
5 71.D.3 and that she was in the process of selecting the members of the committee.

6 80. On May 19, 2022, Dean Allbritton told Professor Reges she was still
7 “in the process of assembling the committee.”

8 81. On June 9, 2022, Dean Allbritton told Professor Reges that the
9 “process of assembling the committee has taken some time,” that the University has
10 “identified potential members” of the committee, and it is “in the process of
11 gathering their acceptance[s] to serve on the committee.”

12 82. As of the date of this filing, Dean Allbritton has provided Professor
13 Reges with neither the written charges the disciplinary committee will consider, nor
14 with proposed dates for that disciplinary proceeding.

15 83. As with the Winter quarter, Professor Reges taught his Spring 2022
16 classes without incident through the end of the quarter on June 10, 2022.

17 84. Professor Reges received positive student reviews for the Spring 2022
18 quarter, including in response to the question of whether students feel welcomed
19 and respected in his class.

20 85. Professor Reges was and remains able to teach his class notwithstand-
21 ing his decision to challenge the University’s land acknowledgment statement by
22 including a dissenting statement on his syllabus.

1 86. Professor Reges is scheduled to teach Computer Science and
2 Engineering 143 again during the Fall 2022, Winter 2023, and Spring 2023
3 quarters. He is also scheduled to teach the C++ programming course for students
4 who are not Computer Science majors during the Winter 2023 quarter. This is the
5 lightest teaching load Professor Reges has ever been assigned.

6 87. Professor Reges intends to continue to exercise his expressive right to
7 challenge the University’s land acknowledgment by including his dissenting land
8 acknowledgment statement on his Fall 2022, Winter 2023, and Spring 2023 syllabi.

9 ***Defendants’ Actions Deprived Professor Reges of His Rights, Causing***
10 ***Emotional and Reputational Damage.***

11 88. As a direct and proximate cause of Defendants’ actions, Professor
12 Reges has suffered irreparable injury, including being deprived of his constitutional
13 rights to freedom of speech and due process.

14 89. Defendants’ actions—creating a “shadow” class and mounting a
15 protracted investigation, which carries the threat of termination—constitute
16 adverse actions that are “reasonably likely to deter” a reasonable employee from
17 engaging in protected activity under the First Amendment. *Coszalter v. City of*
18 *Salem*, 320 F.3d 968, 976 (9th Cir. 2003); *see also Levin v. Harleston*, 966 F.2d 85,
19 88–89 (2d Cir. 1992).

20 90. Defendants’ adoption and enforcement of overbroad policies restricting
21 faculty speech rights have caused Professor Reges and other University of
22 Washington faculty and students not before this Court irreparable harm because
23 the prohibition on “unacceptable” and “inappropriate” expression covers a broad

1 universe of constitutionally protected expression judged in relation to its *legitimate*
2 sweep—actionable harassment or retaliation, as properly legally defined. The policy
3 chills both Professor Reges and other faculty from exercising their right to engage in
4 expression on matters of public concern.

5 91. The terms “unacceptable” and “inappropriate” as included in the policy
6 are undefined and carry no reasonably objective plain meaning, and are therefore
7 impermissibly vague.

8 92. Defendants’ disciplinary investigation into Professor Reges presents an
9 ongoing injury because it creates a continuing risk of tarnishing Professor Reges’s
10 professional reputation and includes the threat of termination, which would cause
11 him additional emotional and reputational harm.

12 93. Professor Reges has experienced damages to his reputation and
13 significant emotional distress as a result of Defendants’ unconstitutional actions.
14 The ongoing investigation into his protected speech, and threat of termination,
15 leaves Professor Reges in an uncomfortable and untenable limbo, both
16 professionally and personally. While he remains employed, administrators have
17 effectively isolated him from the community in which he has worked for 18 years,
18 causing him significant emotional distress.

1 **FIRST CAUSE OF ACTION**
2 **Violation of Plaintiff's First Amendment Rights**
3 **(Against All Individual-Capacity Defendants)**

4 94. Plaintiff re-alleges and incorporates by reference each and every
5 allegation set forth in the preceding paragraphs of this Complaint.

6 95. It is clearly established under the First Amendment that “viewpoint
7 discrimination is . . . an egregious form of content discrimination. The government
8 must abstain from regulating speech when the specific motivating ideology or the
9 opinion or the perspective of the speaker is the rationale for the restriction.”

10 *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 829 (1995).

11 96. It is also clearly established that “teaching and academic writing that
12 are performed ‘pursuant to the official duties’ of a teacher and professor” are
13 constitutionally protected expression if they involve matters of public concern and
14 the professor’s First Amendment interests outweigh the university’s need for
15 efficiency as an employer. *Demers v. Austin*, 746 F.3d 402, 412 (9th Cir. 2014).

16 97. The University of Washington recognizes professors’ clearly
17 established right “to discuss all relevant matters in teaching” in its own policies.
18 University Faculty Code Section 24-33, last revised Jan. 9, 2014, <https://www.washington.edu/admin/rules/policies/FCG/FCCH24.html#:~:text=Academic%20freedom%20is%20the%20freedom,shared%20governance%20and%20the%20general>.

19 98. Faculty at colleges and universities construct their syllabi and course
20 content to both instruct and challenge students to consider diverse viewpoints—
21 these are integral parts of teaching.
22

1 99. By inviting faculty to include land acknowledgment statements on
2 their syllabi, the Allen School implicitly recognizes that speech about the history of
3 the University of Washington’s land (and competing moral or legal claims to it) falls
4 within the permissible faculty uses of syllabi.

5 100. Professor Reges challenged his students and fellow faculty to think
6 about the utility and performative nature of land acknowledgment statements by
7 including his own land acknowledgment statement on his syllabus.

8 101. Professor Reges’s land acknowledgment statement on his syllabus
9 constitutes expression protected by the First Amendment, including the right to
10 academic freedom.

11 102. Professor Reges’s land acknowledgment statement did not interfere
12 with his duties as a lecturer at the University. He continued to instruct hundreds of
13 students in his computer science class section, and recently led students to a win in
14 a coding competition.

15 103. Professor Reges expressed his view on land acknowledgment
16 statements to his students, at the University’s invitation, in the course of his
17 teaching.

18 104. Defendants discriminated against Professor Reges on the basis of
19 viewpoint when they required him to repeat only the University’s institutional
20 viewpoint, or to remain silent on this controversial public issue.

21 105. Defendants further discriminated against Professor Reges on the basis
22 of viewpoint when they disciplined him because he included a statement on his

1 syllabus that expressed a view the University and its administrators did not like,
2 and which Defendant Balazinska characterized as “offensive” and “inappropriate.”

3 106. As described above, Defendant Balazinska created a “shadow” class
4 section of Professor Reges’s Computer Science and Engineering 143 course and
5 Defendants Balazinska, Grossman, and Allbritton are pursuing an investigation
6 into Reges that carries with it the threat of termination. Defendants thus
7 unconstitutionally took a calculated and adverse employment action against Reges
8 in retaliation for his protected speech. *See Demers*, 746 F.3d at 406–07; *Levin*, 966
9 F.2d at 88.

10 107. As a direct and proximate result of Defendants’ viewpoint-
11 discriminatory actions, Professor Reges has suffered irreparable injury, including
12 being deprived of his constitutional right to free expression.

13 108. Professor Reges has no adequate legal, administrative, or other remedy
14 by which to prevent or minimize the continuing irreparable harm to his First
15 Amendment rights.

16 109. As a direct and proximate result of Defendants’ actions, Professor
17 Reges has suffered emotional distress and injury to his reputation. The University
18 has isolated him from the campus and departmental communities, placed his
19 livelihood in jeopardy, and has left the threat of termination hanging over his head
20 for months.

21 110. As a direct and proximate result of Defendants’ actions described
22 above, Professor Reges was deprived of his constitutional rights. As a legal

1 consequence of Defendants' violation of Plaintiff's First Amendment rights, which
2 are irreparable injuries *per se*, Professor Reges is entitled to compensatory damages
3 and the reasonable costs of this lawsuit, including reasonable attorneys' fees.
4 Professor Reges is seeking monetary damages against Defendants Balazinska,
5 Grossman, and Allbritton in their individual capacities.

6 **SECOND CAUSE OF ACTION**
7 **First Amendment Retaliation Under 42 U.S.C. § 1983**
8 **(Against All Individual-Capacity Defendants)**

9 111. Plaintiff re-alleges and incorporates by reference each and every
10 allegation set forth in the preceding paragraphs of this Complaint.

11 112. It is clearly established under the First Amendment that "a state
12 cannot condition public employment on a basis that infringes the employee's
13 constitutionally protected interest in freedom of expression." *Connick v. Myers*, 461
14 U.S. 138, 142 (1983).

15 113. As described above, Defendant Balazinska created a "shadow" class
16 section of Professor Reges's Computer Science and Engineering 143 course, in direct
17 response to his constitutionally protected land acknowledgment statement.

18 114. As described above, Defendants Balazinska, Grossman, and Allbritton
19 investigated Professor Reges for allegedly violating University policy based on his
20 constitutionally protected land acknowledgment statement.

21 115. By creating the "shadow" class section and investigating Professor
22 Reges for his protected speech, Defendants unconstitutionally took a calculated
23 adverse employment action against Professor Reges in retaliation for his protected

1 speech. *See Pickering v. Bd. of Educ.*, 391 U.S. 563 (1968); *Demers*, 746 F.3d at 406;
2 *Levin*, 966 F.2d at 88.

3 116. Defendants Balazinska, Grossman, and Allbritton violated Professor
4 Reges’s clearly established First Amendment rights as a university professor by
5 disciplining him for expressing a viewpoint in the course of his teaching that
6 dissented from the University’s prescribed viewpoint on a controversial public issue.

7 117. As a direct and proximate result of Defendants’ actions as described
8 above, Professor Reges was deprived of his constitutional rights. As a result of
9 Defendants’ violation of Plaintiff’s First Amendment rights, which are irreparable
10 injuries *per se*, he is entitled to compensatory damages and the reasonable costs of
11 this lawsuit, including reasonable attorneys’ fees.

12 **THIRD CAUSE OF ACTION**
13 **First Amendment Retaliation Under 42 U.S.C. § 1983**
14 **(Against All Defendants in Their Official Capacities)**

15 118. Plaintiff re-alleges and incorporates by reference each and every
16 allegation set forth in the preceding paragraphs of this Complaint.

17 119. As described above, Defendants Balazinska, Grossman, and Allbritton
18 created a “shadow” class section of Professor Reges’s Computer Science and
19 Engineering 143 course in reaction to his constitutionally protected land
20 acknowledgment statement. In doing so, Defendants unconstitutionally took
21 adverse employment action against Professor Reges in retaliation for his protected
22 speech. *See Pickering v. Bd. of Educ.*, 391 U.S. 563 (1968); *Demers*, 746 F.3d at 406;
Levin, 966 F.2d at 88.

1 120. Defendants Balazinska, Grossman, and Allbritton are also
2 unconstitutionally taking adverse employment action against Professor Reges by
3 investigating him because his constitutionally protected land acknowledgment
4 statement allegedly violated a vague and overbroad University policy.

5 121. Professor Reges has no adequate legal, administrative, or other remedy
6 by which to prevent or minimize the continuing irreparable harm to his First
7 Amendment rights.

8 122. As a direct and proximate result of Defendants' actions as described
9 above, Professor Reges was deprived of his constitutional rights. As a result of
10 Defendants' violations of Plaintiff's First Amendment rights, which are irreparable
11 injuries *per se*, Professor Reges is entitled to injunctive relief, including but not
12 limited to mandating that Defendants cease their investigation into Professor Reges
13 for his protected speech.

14 123. Professor Reges is also entitled to a permanent injunction against
15 Defendants creating "shadow" class sections in retaliation for his protected
16 expression. Professor Reges is further entitled to a declaration that Defendants'
17 investigating him because of his land acknowledgment statement and creating of a
18 "shadow" section of his course were unlawful retaliation for his protected
19 expression.

1 **FOURTH CAUSE OF ACTION**
2 **Facial Overbreadth Challenge to Executive Order 31**
3 **(Against President Cauce in Her Official Capacity)**

4 124. Plaintiff re-alleges and incorporates by reference each and every
5 allegation set forth in the preceding paragraphs of this Complaint.

6 125. A regulation violates the First Amendment for overbreadth if “a sub-
7 stantial number of its applications are unconstitutional, judged in relation to the
8 statute’s plainly legitimate sweep.” *United States v. Stevens*, 559 U.S. 460, 473
(2010) (quotations and citations omitted).

9 126. Under University of Washington Executive Order 31, “the University
10 retains the authority to discipline or take appropriate corrective action for any
11 conduct that is deemed *unacceptable* or *inappropriate, regardless of whether the*
12 *conduct rises to the level of unlawful discrimination, harassment, or retaliation.*”
13 (Emphasis added).

14 127. Executive Order 31 is unconstitutional on its face because it results
15 in a substantial number of unconstitutional applications, allowing the University
16 and its administrators to discipline faculty like Professor Reges for speech that is
17 protected by the First Amendment, but expresses a viewpoint that the University
18 wishes to suppress.

19 128. For example, the policy would support discipline against a student
20 or faculty member who, during a meeting, made a single offhand remark deemed
21 “inappropriate,” even if that remark was not harassing, discriminatory, or targeted
22 at any individual. It would also support discipline against a student or faculty

1 member who posted an “unacceptable” tweet criticizing the university president or
2 another official for their position on a public issue.

3 129. The policy’s legitimate sweep prohibits discrimination, harassment,
4 and retaliation, as properly defined by law, which are unprotected by the First
5 Amendment. *See, e.g., Davis v. Monroe Cnty. Bd. of Educ.*, 526 U.S. 629, 651 (1999)
6 (defining actionable harassment in the K-12 context as conduct that is “so *severe*,
7 *pervasive*, and *objectively* offensive, and that so undermines and detracts from the
8 victims’ educational experience, that the victim students are effectively denied
9 equal access to an institution’s resources and opportunities”) (emphasis added).

10 130. But by permitting “discipline” and “corrective action” against those
11 whose speech University administrators deem “unacceptable” or “inappropriate,”
12 even when it does not meet the legal definition of discrimination, harassment, or
13 retaliation, Executive Order 31 permits a broad range of unconstitutional
14 applications in violation of the First Amendment, as described above.

15 131. As a direct and proximate result of Executive Order 31, speakers in
16 the University community, including Professor Reges, have suffered irreparable
17 injury, including being deprived of their constitutional rights to free expression.
18 *Broadrick v. Oklahoma*, 413 U.S. 601, 611–12 (1973).

19 132. Professor Reges has no adequate legal, administrative, or other remedy
20 by which to prevent or minimize the continuing harm to his First Amendment
21 rights.

1 138. Executive Order 31 does not define “unacceptable” or “inappropriate,”
2 and those terms do not carry with them any reasonably objective plain meaning.

3 139. Executive Order 31 is unconstitutional on its face because it is so
4 vague as to provide no basis for clear and consistent application.

5 140. For example, Director Balazinska could not even confirm that
6 Professor Reges could safely include the University’s *own* land acknowledgment
7 statement on his syllabus because if students complain that could mean Professor
8 Reges violated the policy.

9 141. Executive Order 31 is unconstitutional on its face because it is so
10 vague that it authorizes arbitrary, capricious, and viewpoint-discriminatory
11 application, and fails to provide people of ordinary intelligence a reasonable oppor-
12 tunity to understand what expression is “unacceptable” or “inappropriate.”

13 142. The denial of constitutional rights is an irreparable injury *per se*, and
14 entitles the Plaintiff to injunctive relief. *Elrod v. Burns*, 427 U.S. 347, 373 (1976).

15 143. Professor Reges has no adequate legal, administrative, or other remedy
16 by which to prevent or minimize the continuing irreparable harm to his rights
17 under the First and Fourteenth Amendments.

18 144. Without declaratory and injunctive relief from this Court, the
19 University’s unconstitutional actions will continue, and Professor Reges and other
20 speakers in the University community will suffer irreparable harm indefinitely.

21 145. As a consequence of the University’s and Defendant Cauce’s violation
22 of Professor Reges’s First and Fourteenth Amendment rights, Professor Reges is

1 entitled to declaratory and injunctive relief declaring Executive Order 31
2 unconstitutional and enjoining its enforcement.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Professor Reges respectfully requests that this Court enter
5 judgment against Defendants and issue the following forms of relief:

6 A. Compensatory damages against the individual-capacity Defendants in
7 an amount to be determined by the Court to compensate Professor Reges for their
8 interference with his rights under the U.S. Constitution and for the significant
9 emotional distress and reputational harm he has experienced;

10 B. An injunction against Defendants from continuing to investigate
11 Professor Reges for his constitutionally protected speech on his syllabus;

12 C. An injunction against Defendants from creating future “shadow”
13 sections of Professor Reges’s classes in retaliation for his constitutionally protected
14 speech;

15 D. An injunction against Defendants from enforcing Executive Order 31
16 and any other vague, overbroad, or viewpoint discriminatory policy that prevents
17 Professor Reges from including his land acknowledgment statement on his syllabus;

18 E. A declaration that Defendants’ disciplinary investigation into Professor
19 Reges for his constitutionally protected speech on his syllabus violates the First
20 Amendment;

21 F. A declaration that Defendants’ creating “shadow” sections of Professor
22 Reges’s classes violates the First Amendment;

1 G. A declaration that Executive Order 31 is unconstitutionally vague and
2 overbroad;

3 H. Attorneys' fees and costs under 42 U.S.C. § 1988 and other applicable
4 law; and

5 I. All further legal and equitable relief as the Court may deem just and
6 proper.

7 **DEMAND FOR JURY TRIAL**

8 In compliance with Federal Rule of Civil Procedure 38, Plaintiff demands a
9 trial by jury on all issues so triable.

10 DATED: July 13, 2022

11 Respectfully submitted,

12 /s/ Robert A. Bouvatte
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9

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