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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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10 **FIRST CAUSE OF ACTION**

11 Violation of Plaintiff’s First Amendment Rights  
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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)<sup>1</sup> 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

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22 <sup>1</sup> 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           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.  
19 washington.edu/admin/rules/policies/FCG/FCCH24.html#:~:text=Academic%20freedom%20is%20the%20freedom,shared%20governance%20and%20the%20general](https://www.washington.edu/admin/rules/policies/FCG/FCCH24.html#:~:text=Academic%20freedom%20is%20the%20freedom,shared%20governance%20and%20the%20general).

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

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 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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