

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
WASHINGTON

Gary Levy v. Google LLC

Case No. C23-1678JLR · No. C23-1678JLR · Decided December 22, 2025

SUMMARY

The United States District Court for the Western District of Washington grants Google LLC’s motion for summary judgment in Gary Levy’s employment-related action and denies as moot Google’s motion to continue the trial date. The court concludes that Levy’s claim under Washington’s Silenced No More Act is not cognizable because his reported financial fraud did not concern conduct enumerated in the statute. The court also finds insufficient evidence of pretext for Levy’s wrongful-termination claim and insufficient evidence that Google interfered with or retaliated against him for exercising rights under Washington’s Paid Family and Medical Leave Act.

OPINION

1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE 9 10 GARY LEVY, CASE NO. C23-1678JLR 11 Plaintiff, ORDER v. 12
GOOGLE LLC, 13 Defendant. 14 15 I. INTRODUCTION 16 Before the court is Defendant
Google LLC’s (“Google”) (1) motion for summary 17 judgement and (2) motion to continue trial
date. (MSJ (Dkt. # 32); Reply (Dkt. # 75); 18 MCT (Dkt. # 83).)

Pro se Plaintiff Gary Levy opposes the motion for summary 19 judgment. (Resp. (Dkt. # 68).) The
court has considered the parties’ submissions, the 20 21 22 1 relevant portions of the record, and
the applicable law. Being fully advised,¹ the court 2 GRANTS Google’s motion for summary
judgment and DENIES as moot Google’s 3 motion to continue trial date. 4 II.

BACKGROUND 5 This case arises from Google’s termination of Mr. Levy’s employment. (See 6
generally Compl. (Dkt. # 1-1).) Google employed Mr. Levy as a manager in the 7 “augmented
reality and virtual reality space” from approximately December 2017 until 8 March 31, 2023.
(Fredrickson Decl. (Dkt. # 35) ¶ 2, Ex. 1 (“Levy Depo.”) at 69, 71; see 9 also id. ¶ 23, Ex. 22
 (“Termination Notice”).)

Mr. Levy reported to Vikram Natarajan, 10 Director of Partnerships. (Levy Depo. at 74.) Starting
in 2020, Mr. Levy assisted with a 11 partnership between Google and VeriSilicon, Inc. (“VSI”) to
co-design two silicon chips 12 for an augmented reality headset. (See Jordan Decl. (Dkt # 33) ¶ 3;
see also Levy Depo. 13 at 81-82.) 14 In November 2022, Mr. Levy’s team began reviewing its
2022 and 2023 budget 15 for the partnership with VSI.

(See Jordan Decl. ¶ 4.) In late 2022, after a Google team member noticed a discrepancy between the budget figures Mr. Levy provided and the budget figures in the budget sheets, Google convened a series of meetings. (Id. ¶¶ 4-6.) During the course of these meetings, Google learned that VSI had begun work on one of the chips without having any contract documents in place.

(See Cunningham Decl. (Dkt. 2021-1 Google requests oral argument and Mr. Levy does not. (See MSJ. at 1; Resp. at 1.) The court concludes that oral argument would not aid in its disposition of the motion. See Local 22 Rules W.D. Wash. LCR 7(b)(4). 1 # 34) ¶ 3.)

On November 29, 2022, Google asked Mr. Levy to provide information about the budget discrepancy. (See Frederickson Decl. ¶ 5, Ex. 4 (“Family Emergency Email”) 3 at 1 (discussing the VSI budget review).) Rather than provide the requested information, Mr. Levy shared that he had a family medical emergency and could not provide the requested information or participate in any meetings scheduled that day.

(See id. at 2.) By December 5, 2022, Mr. Levy had returned to work. (See Frederickson Decl. ¶ 9, Ex. 7 8.) On December 9, 2022, Mr. Levy and Darren Ward, Senior Director of Global Supply and one of Mr. Levy’s supervisors at Google, discussed on a call Mr. Levy’s health issues and plans to take leave from work effective that day. (See Frederickson Decl. ¶ 14, Ex. 10 13 (“Ward Depo.”) at 78-79; see also id. ¶ 15, Ex. 14 (“Ward HR Email”) at 1.)

Mr. Ward represents that, during their call, Mr. Levy purportedly made a threat that Mr. Ward believed was directed at Mr. Natarajan. (See Ward Depo. at 78-79.) On December 12, 2022, Mr. Levy’s team met to discuss the best method of recording contract payments to VSI. (See Jordan Decl. ¶ 8.) During the meeting, Mr. Levy disagreed with other members of the team about how best to calculate payments to VSI for work performed.

(Id.) As he left the meeting, Mr. Levy claimed “protection as a Sarbanes-Oxley whistleblower.” (Id.) That evening, (1) Mr. Levy sent a cryptic email to Augmented Reality Senior Director Shahram Izadi entitled “HELP” that stated, “Please help. Please send mobile” and included Mr. Levy’s phone number, (Frederickson Decl. ¶ 12, Ex. 11 (“Izadi Email”)); (2) Mr. Ward contacted Google’s human resources team to discuss Mr. Levy’s behavior and report the purported threat Mr. Levy made against Mr. Natarajan during their December 9, 2022 phone call, (see generally Ward HR Email); 1 and (3) Mr. Levy filed a complaint with Google alleging financial fraud pertaining to the deal between Google and VSI, (Frederickson Decl. ¶ 13, Ex. 12 (“Financial Fraud Ticket”) 3 at 1).

On December 13, 2022, the Google Security Operations Center (“GSOC”) reported to Mr. Ward and Mr. Natarajan that it had performed a well-being check on Mr. Levy and that Mr. Levy confirmed, during the check, that he was on leave until February 14, 2023. 6 (See Frederickson

Decl. ¶ 17, Ex. 16 (“GSOC Email”) at 2.) 7 Between August and October 2022, Google conducted annual performance 8 reviews of its employees during which it assigned “GRAD” ratings—a form of employee 9 performance review.

(See Ward Depo. at 45.) During this period, Mr. Natarajan and Mr. 10 Ward attempted to give Mr. Levy a lower performance review rating, referred to at 11 Google as a “Not Enough Impact” rating. (Id. at 154-55; see also Frederickson Decl. 12 ¶¶ 18-19, Exs. 17-18 (“Not Enough Impact Emails”) (describing Mr. Levy’s managers’ 13 unsuccessful attempt to give him a “Not Enough Impact” rating during his 2022 14 performance review).)

On December 27, 2022, Google denied the request because such a 15 rating (1) first requires a support check-in² and (2) cannot be assigned to a Google 16 employee currently on leave. (See Not Enough Impact Emails.) 17 Beginning in January 2023, Google conducted a company-wide reduction in force 18 (“RIF”) and terminated the employment of 12,000 employees. (See Frederickson Decl.

19 ¶ 22, Ex. 21 (“RIF Criteria”) (listing the employees selected for layoff and the selection 20 21 2 The parties dispute whether Mr. Natarajan and Mr. Levy had a support check-in meeting on December 7, 2022, prior to the start of Mr. Levy’s leave. (See Levy Depo. at 188-89; 22 see also Fredrickson Decl. ¶ 4, Ex. 3 (“Support Check-In Email”) at 1.) 1 criteria); see also id. ¶ 21, Ex. 20 (“Corrales Depo.”) at 108-09, 114 (describing how 2 Google determined which decisional units³ and employees would be terminated during 3 the layoff).)

Google asserts that it selected employees for termination based on their 4 location, historic performance, and skill set, but did not incorporate into the decision any 5 assessment of performance as determined by the GRAD rating process. (Id. at 109; id. at 6 122 (“We were very specifically instructed to ignore GRAD ratings.”); see also Ward 7 Depo. at 143-44 (describing Mr. Ward’s knowledge of the timing of and selection criteria 8 for the January 2023 RIF).)

On January 20, 2023, Google notified Mr. Levy that his 9 position had been eliminated, effective March 31, 2023, as part of the RIF. (See 10 Termination Notice.) Forty-three of 46 employees in Mr. Levy’s decisional unit were 11 selected for layoff. (See RIF Criteria.) 12 On October 3, 2023, Mr. Levy filed a complaint against Google in King County 13 Superior Court seeking damages and bringing claims for (1) retaliation under 14 Washington’s Silenced No More Act (“SNMA”), RCW 49.44.211(3); (2) wrongful 15 termination in violation of public policy; and (3) interference under the Washington Paid 16 Family and Medical Leave Act (“WPFMLA”), RCW 50A.40.010.

(See Compl. 17 ¶¶ 4.1-4.21.) Google removed the action to this court on November 2, 2023. (See Not. of 18 Removal (Dkt. # 1).) On August 29, 2025, Google filed the instant motion for summary 19 judgment as to all of Mr. Levy’s claims. (See generally MSJ.) 20 21 3 “A decisional unit is a group of an organization’s employees who were considered for 22 layoff.” (See MSJ at 9.)

1 III. ANALYSIS 2 The court first addresses the legal standard for awarding summary judgment and 3 then considers Google’s motion. 4 A. Legal Standard 5 Summary judgment is appropriate if the moving party shows that there is no 6 genuine dispute as to any material fact and the party is entitled to judgment as a matter of 7 law. Fed. R. Civ. P. 56(a). A fact is material if it may affect the outcome of the 8 case.

Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1985). A genuine dispute of 9 material fact exists if there is sufficient evidence for a reasonable jury to return a verdict 10 for the nonmoving party. *Id.* 11 The party moving for summary judgment bears the initial burden of informing the 12 court of the basis for the motion and identifying portions of the pleadings, depositions, 13 answers to interrogatories, admissions, or affidavits that demonstrate the absence of a 14 triable issue of material fact.

Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986). Where 15 the movant seeks summary judgment on a claim or defense on which the nonmovant 16 bears the burden of persuasion at trial, “the moving party must either produce evidence 17 negating an essential element of the nonmoving party’s claim or defense or show that the 18 nonmoving party does not have enough evidence of an essential element to carry its 19 ultimate burden of persuasion at trial.” *Nissan Fire & Marine Ins.*

Co. v. Fritz 20 Companies, Inc., 210 F.3d 1099, 1102 (9th Cir. 2000). If the moving party meets its 21 initial burden, the burden shifts to the nonmoving party to produce evidence supporting 22 its claims or defenses. *Id.* at 1103. If the nonmoving party does not produce evidence to 1 show a genuine issue of material fact, the moving party is entitled to summary 2 judgment.

Celotex Corp., 477 U.S. at 323. 3 “The court must view the evidence in the light most favorable to the nonmovant 4 and draw all reasonable inferences in the nonmovants favor.” *City of Pomona v. SQM N. 5 Am. Corp.*, 750 F.3d 1036, 1049 (9th Cir. 2014) (citing *Clicks Billiards, Inc. v. 6 Sixshooters, Inc.*, 251 F.3d 1252, 1257 (9th Cir. 2001)).

However, the party opposing 7 summary judgment must direct the court’s attention to “specific, triable facts.” S. 8 *California Gas. Co. v. City of Santa Ana*, 336 F.3d 885, 889 (9th Cir. 2003) (citation 9 omitted). “The mere existence of a scintilla of evidence in support of the plaintiff’s 10 position” is insufficient to defeat a motion for summary judgment.

Anderson, 477 U.S. at 11 252. “Where the record taken as a whole could not lead a rational trier of fact to find for 12 the nonmoving party, there is no genuine issue for trial.” *City of Pomona*, 750 F.3d at 13 1049-50 (quoting *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587 14 (1986)). 15 B. Silenced No More Act 16 Google first moves for summary judgment on Mr. Levy’s claim that Google 17 violated the SNMA “by retaliating against him for submitting

complaints of financial 18 fraud, Sarbanes-Oxley violations, and legal non-compliance.” (MSJ at 12 (citing Compl.

19 ¶¶ 4.2-4.3).) The court concludes that Google has shown that it is entitled to summary 20 judgment on Mr. Levy’s SNMA claim. 21 To state a claim for a violation of the SNMA, Mr. Levy must prove that Google 22 terminated his employment because he discussed or disclosed conduct that he 1 reasonably believed to be illegal harassment, illegal discrimination, illegal retaliation, wage and hour violations, or sexual assault, that is recognized as 2 illegal under state, federal, or common law, or that is recognized as against a clear mandate of public policy[.]

3 RCW 49.44.211(3). Google argues that the SNMA applies only to “illegal harassment, 4 illegal discrimination, illegal retaliation, wage and hour violations, or sexual assault” that 5 is either illegal under state, federal, and common law or that violates a clear mandate of 6 public policy. (MSJ at 12.)

Thus, according to Google, Mr. Levy’s claim that he was 7 terminated for reporting financial fraud is not cognizable under the SNMA. (Id.) In 8 response, Mr. Levy argues that because financial fraud is illegal under state and federal 9 law, reporting it “falls within the SNMA’s protective scope as conduct[] that is against a 10 clear mandate of public policy.” (Resp. at 29.)

The court agrees with Google that the 11 SNMA applies only to the disclosure or discussion of the types of unlawful conduct 12 expressly enumerated in the statute, and not more generally to conduct that violates 13 public policy.

Because Mr. Levy’s claim relates to disclosure of financial fraud, rather 14 than one of the subjects governed by the statute, Mr. Levy is not entitled to protection 15 under the SNMA. Therefore, the court grants Google’s motion for summary judgment on 16 Mr. Levy’s SNMA claim. 17 C. Wrongful Termination in Violation of Public Policy 18 Google also moves for summary judgment on Mr. Levy’s claim that Google 19 terminated his employment in violation of public policy because he reported “financial 20 21 22 1 fraud, illegal behavior, Sarbanes[-]Oxley violations, and legal non-compliance.” (MSJ at 2 15 (citing Compl. ¶ 4.14).4) 3 A burden-shifting framework governs claims for wrongful termination in violation 4 of public policy.

Martin v. Gonzaga Univ., 425 P.3d 837, 844 (Wash. 2018). Mr. Levy 5 must first establish a prima facie case that (1) his ““discharge may have been motivated 6 by reasons that contravene a clear mandate of public policy[.]”” and (2) his 7 “public-policy-linked conduct was a ‘significant factor’” in Google’s decision to 8 terminate his employment. Id. (citations omitted).

If he succeeds in establishing a prima 9 facie case, the burden shifts to Google to produce evidence supporting “a legitimate 10 nonpretextual nonretaliatory reason for [Mr. Levy’s] discharge[.]” Id. Finally, if Google 11 meets this burden, Mr. Levy bears the final burden of

showing either that Google’s 12 reason is pretextual or that his public-policy-linked conduct was nevertheless a 13 substantial factor motivating Google to terminate his employment.

Id. 14 Google argues that Mr. Levy cannot establish a prima facie case of wrongful 15 termination because he fails to demonstrate that his public-policy-linked conduct was a 16 “significant factor” in Google’s decision to terminate his employment and, even if he 17 could establish such a case, Mr. Levy cannot show that Google’s explanation for the 18 termination was pretextual.

(MSJ at 18-20.) In response, Mr. Levy asserts that he 19 satisfies the second element of the prima facie case and that Google’s reason for his 20 21 4 As pleaded, Mr. Levy’s wrongful termination claim pertains only to his report of financial fraud and is not based on alleged violations of the WPFMLA. (See Compl. ¶¶ 4.9- 22 4.15.) 1 termination is pretextual.

(Resp. at 17.) The court concludes that Google is entitled to 2 summary judgment on Mr. Levy’s claim for wrongful termination in violation of public 3 policy. 4 The court begins with the prima facie case. Google avers that Mr. Levy cannot 5 establish a prima facie case because he lacks evidence that his “public-policy-linked 6 conduct was a ‘significant factor’ in the decision” to terminate his employment.5 (See 7 Martin, 425 P.3d at 844; MSJ at 18-20.)

It is undisputed, however, that Mr. Levy 8 submitted an internal ticket with Google alleging financial violations; that Mr. Levy 9 asserted during a meeting that he was a Sarbanes-Oxley whistleblower; and that Google 10 terminated his employment shortly thereafter. (See Financial Fraud Ticket (setting forth 11 that Mr. Levy filed an internal report at Google asserting financial violations on 12 December 12, 2022); see Jordan Decl. ¶ 8 (stating that Mr. Levy claimed “protection as a 13 Sarbanes-Oxley whistleblower” during a December 12, 2022 meeting); see Termination 14 Notice (notifying Mr. Levy on January 20, 2023, of his imminent layoff)); see Kama v. 15 Mayorkas, 107 F.4th 1054, 1059 (9th Cir.

2024) (“Temporal proximity can support... a 16 prima facie case of retaliation[.]”) (citation omitted). Viewing this evidence in the light 17 most favorable to Mr. Levy, the court concludes that Mr. Levy has met his initial burden 18 to establish a prima facie case that his financial fraud complaint was a significant factor 19 in Google’s decision to terminate his employment.

20 21 5 For the purposes of its motion, Google does not argue that Mr. Levy cannot establish 22 the first prong of the claim. (See MSJ at 18 n.12.) 1 The second step of the burden-shifting framework requires Google to provide a 2 legitimate reason for Mr. Levy’s termination and to produce evidence supporting its 3 theory. See Martin, 425 P.3d at 844.

Here, Google has produced evidence that it 4 terminated Mr. Levy’s employment as part of a company-wide RIF and that Mr. Levy’s 5 complaint played no role in the decision to terminate his employment. (See, e.g., 6 Corrales Depo. at 108-109, 114 (setting forth Google’s timeline and

approach to selecting 7 employees for layoff); see also Termination Notice (setting forth the reason for Mr. 8 Levy's termination).)

Mr. Levy concedes that Google has met its burden at the second 9 step. (See Resp. at 16.) 10 At the third step, Mr. Levy asserts that Google's reason for terminating him is 11 pretextual because (1) Google continued its partnership with VSI; (2) Google had 12 structural defects in its RIF process; (3) Google purportedly fabricated evidence of a 13 December 2022 support check-in meeting; and (4) Mr. Ward was biased against him and 14 acted to proximately cause his termination.

(Resp. at 17-25). Mr. Levy fails to present 15 "both specific and substantial" evidence supporting any of these theories of pretext. 16 *Villiarimo v. Aloha Island Air, Inc.*, 281 F.3d 1054, 1062 (9th Cir. 2002) (citing *Godwin 17 v. Hunt Wesson, Inc.*, 150 F.3d 1217, 1222 (9th Cir. 1998)); see *id.* at 1061 ("[T]his court 18 has refused to find a 'genuine issue' where the only evidence presented is 19 'uncorroborated and self-serving' testimony.") (citation omitted).

20 1. Post-Termination Work Continuation 21 First, Mr. Levy argues that Google's reason for terminating him is pretextual 22 because Google held a series of meetings pertaining to the continuation of his work at 1 Google and to address issues that he identified regarding the VSI deal prior to his 2 departure. (See Resp. at 17-18.) Purporting to quote *Diaz v. Pan American World 3 Airways, Inc.*, 759 F.2d 464 (5th Cir.

1985), Mr. Levy asserts that (1) "the continuation of 4 plaintiff's work post-termination is dispositive proof that the position was not 5 eliminated[.]" and (2) "evidence that the position still existed after the plaintiff was 6 terminated is strong evidence of pretext[.]" (Resp. at 13, 17.) Mr. Levy, however, 7 provides an incorrect citation for *Diaz*, and the case does not include the quoted 8 language; to the contrary, it does not address pretext at all.

See generally *Diaz v. Pan 9 Am. World Airways, Inc.*, 442 F.2d 385 (5th Cir. 1971) (discussing the bona fide 10 occupational qualification defense to a Title VII discrimination claim).⁶ Furthermore, 11 Mr. Levy presents no evidence supporting his argument. Mr. Levy instructs the court to 12 review "Exhibit [X]" and "Exhibit [Y]" for evidence of such meetings, but these exhibits 13 were not included with his response and do not exist in the record.⁷ (See Resp. at 12-13; 14 see generally Dkt.)

15 6 In its reply, Google notes that Mr. Levy's opposition brief cites several cases that "do 16 not exist based on the citations provided" and includes "parentheticals and quotations to cases [that] do not exist in the cited cases themselves." (Reply at 2.)

The court has also identified 17 several such citations in Mr. Levy's brief. The court puts Mr. Levy on notice that such behavior will not be tolerated and could result in sanctions. The court is mindful of Mr. Levy's pro se status, but being a pro se litigant does not justify or excuse

misconduct of this nature. 18 7 After Mr. Levy submitted his response, the court ordered Mr. Levy to “file a declaration 19 that includes the exhibits he cites in his response brief[.]” (11/18/25 Order (Dkt. # 69) at 2 (so ordering).)

In response, Mr. Levy timely filed a single exhibit labled “Exhibit 63-1- 20 ‘Clawback[.]’” (Dkt. # 70; see also 12/3/25 Order (addressing Mr. Levy’s submission and rejecting any late-filed submissions in support of Mr. Levy’s opposition to Google’s motion).) Mr. Levy does not cite “Exhibit 63-1-Clawback” in his opposition and it is not clear to the court 21 how this exhibit supports the arguments contained therein.

Furthermore, he did not submit any of the exhibits he refers to or lists in his brief with his opposition. (See generally Dkt.; see also 22 1 Mr. Levy also asserts that the temporal proximity between his financial fraud 2 complaint and his termination, “coupled with additional circumstantial evidence,... can 3 support an inference of retaliation[.]” (Resp. at 16.)

To support this position, Mr. Levy 4 cites Villiarimo v. Aloha Island Air, Inc., 113 F.3d 212, 226 (9th Cir. 1997). Again, 5 however, Mr. Levy provides an incorrect citation and purports to quote language that 6 does not appear in the actual opinion. See generally Villiarimo, 281 F.3d at 1054.

In the 7 absence of controlling authority or sufficient evidence, the court rejects Mr. Levy’s 8 contention that Google’s purported continuation of its partnership with VSI is 9 demonstrative of pretext. 10 2. Structural Defects in Google’s RIF Process 11 Second, Mr. Levy asserts that purported “structural defects” in Google’s process 12 for implementing layoffs “reveal pretext[.]” (Resp. at 18.)

Mr. Levy contends that the 13 fact that there is no evidence in the record showing that Google planned a RIF before Mr. 14 Levy filed his financial fraud complaint shows that “the RIF was created post-hoc to 15 justify retaliation.” (Id. at 19.) Purporting to cite Springer v. Boeing, 138 Wash. App. 16 248 (1997), Mr. Levy asserts that “[t]he absence of contemporaneous documentation of 17 decisions is probative of pretext; such documentation is normally maintained by prudent 18 employers.” (Id. at 18.)

The court, however, is unable to locate Springer in any legal 19 database. In any event, Mr. Levy may not simply point to the absence of evidence in the 20 21 Resp. at 30-31.) The court need not, and will not, “scour the record in search of a genuine issue of triable fact” as relates to Mr. Levy’s claim for wrongful termination. Keenan v. Allan, 91 F.3d 22 1275, 1279 (9th Cir.

1996). 1 record to create a genuine issue of fact when he has the burden of proof. Mackey v. 2 Home Depot USA, Inc., 459 P.3d 371, 386 (Wash. Ct. App. 2020) (stating that in the final 3 step of the burden shifting framework governing wrongful termination, the employee 4 must “produce sufficient evidence to establish a question of fact as to pretext[.]”). 5 Furthermore, to the extent

Mr. Levy suggests that Google laid off 12,000 employees as a pretext for terminating his employment, this theory is not supported by any facts in the record.

(See generally Dkt.) Mr. Levy also argues that the lack of “written criteria, rubric, or methodology... to explain how skill set ratings were determined” is evidence of pretext. (Resp. at 19.) Again, however, Mr. Levy cites no authority or evidence to support his position.

To the contrary, Google produced the criteria it used to select employees for its RIF, namely location, historic performance, and skill set, and explained through testimony that Google prioritized retaining employees with a skill set that was in “high demand” or “difficult to replace[.]” (See Corrales Depo. at 114; see also RIF Criteria.) Mr. Levy identifies no facts in the record that suggest he had a skill set that was sufficiently in high demand or difficult to replace to justify his retention.

(See generally Resp.) Thus, in the absence of controlling authority or sufficient evidence, the court rejects Mr. Levy’s contention that any alleged structural defects in the RIF process are demonstrative of pretext. 3. December 7, 2022 Check-In Mr. Levy next asserts that Google’s evidence of a December 7, 2022 support check-in meeting was fabricated and, as a result, the court should draw the inference that “Google’s entire defense is pretextual.” (Resp. at 21 (citing *Reeves v. Sanderson Plumbing Prods., Inc.*, 530 U.S. 133, 145 (2000)).)

Although the parties dispute whether Mr. Natarajan indeed met with Mr. Levy on December 7, 2022, this dispute is not sufficient to establish a genuine issue of material fact because whether the check-in occurred is not material to the outcome of the case. See *Anderson*, 477 U.S. at 248 5 (limiting the designation of a fact as “material” only to those facts that may affect the outcome of the case).

In any event, Mr. Levy has not provided any evidence showing that any communication with Mr. Natarajan played a role in his termination, and the court finds that it is manifestly unreasonable to draw the inference that Google’s “entire defense is pretextual” from a dispute about whether the December 7 meeting took place. 4. Subordinate Animus Finally, Mr. Levy contends, under a “cat’s paw” theory of liability, that Mr. Ward was biased against him and influenced his supervisor, Chief Operating Officer Ana Corrales, to select Mr. Levy for termination.

(See Resp. at 23 (citing *Staub v. Proctor Hosp.*, 562 U.S. 411, 412 (2011)).) Under this theory, “a biased subordinate, who lacks decision making power, uses the formal decisionmaker as a dupe in a deliberate scheme to trigger a discriminatory employment action.” *City of Vancouver v. State Pub. Emp. Rels. Comm’n*, 325 P.3d 213, 222 (Wash. 2014) (cleaned up).8 18 19 20 8 Mr. Levy relies on *Bahrampour v. Lampert*, 356 F.3d 969, 983 (9th Cir.

2004), for the proposition that an “employer cannot isolate knowledge of wrongdoing from the decision- maker.” (Resp. at 25.) Bahrapour, however, is not an employment case, and the language Mr. 21 Levy purports to quote appears nowhere in that decision. See generally Bahrapour, 356 F.3d 969 (reviewing a grant of summary judgment in a prisoner civil rights case under 42 U.S.C. § 22 1983).

1 Although the record supports Mr. Levy’s contention that Mr. Ward was his 2 supervisor at Google and attempted to give him a “Not Enough Impact” rating in late 3 2022, he provides no competent evidence that Mr. Ward was biased against him or that 4 Mr. Ward’s attempt to rate him as such resulted in his termination. (See generally Dkt.; 5 see Resp. at 23 (alleging that Mr. Ward “[p]articipated in the RIF evaluation, knowing 6 his rating would determine [Mr.

Levy’s] fate”); see also Not Enough Impact Emails.) To 7 the contrary, Google produced evidence that Mr. Ward’s rating played no role in Mr. 8 Levy’s termination. (See Ward Depo. at 144-46; see also Corrales Depo. at 122.) 9 Consequently, the court rejects Mr. Levy’s subordinate animus theory of liability. 10 Ultimately, Mr. Levy does not point to competent evidence of the circumstances 11 that he asserts give rise to an inference of retaliation.

(See Resp. at 16, 25 (asserting that 12 work continuation, structural defects in the RIF process, fabricated documentation, and 13 subordinate animus, along with temporal proximity, give rise to an inference of 14 retaliation).)

Because he fails to provide any evidence that his termination was 15 pretextual, the court concludes that Google has shown that it is entitled to summary 16 judgment on Mr. Levy’s claim for wrongful termination. 17 D. Interference with Paid Family Medical Leave 18 Finally, Google moves for summary judgment on Mr. Levy’s claim that Google’s 19 conduct interfered with his ability to exercise his WPFMLA rights.

(See MSJ at 20 20 (citing Compl. ¶¶ 4.18, 4.19).) Google contends that Mr. Levy’s claim fails as a matter 21 of law because he cannot show that “Google used [his] leave as a negative factor in any 22 adverse employment decision, including [Mr. Levy’s] termination.” (Id.)

In response, 1 Mr. Levy argues that the fact that Google notified him of his termination while he was on 2 approved WPFMLA leave constitutes “per se interference[.]” (Resp. at 27.) The court 3 concludes that Google has shown that it is entitled to summary judgment on Mr. Levy’s 4 claim for interference with his paid family medical leave. 5 Under the WPFMLA, it is unlawful for an employer to: “(a) [i]nterfere with, 6 restrain, or deny the exercise of, or the attempt to exercise, any valid right provided under 7 [the WPFMLA]; or (b) [d]ischarge or in any other manner discriminate against any 8 employee for opposing any practice made unlawful by [the WPFMLA].” RCW 9 50A.40.010.

Because the WPFMLA “mirrors its federal counterpart,” courts “construe 10 its provisions in a manner consistent with similar provisions of the [Family and Medical 11 Leave Act of 1993 (“FMLA”).]” *Mooney v. Roller Bearing Co. of Am., Inc.*, No. C20- 12 1030LK, 2022 WL 1014904, at *21 (W.D. Wash. Apr. 5, 2022), amended on 13 reconsideration on other grounds, No. C20-01030LK, 2022 WL 1289600 (W.D.

Wash. 14 Apr. 29, 2022) (quoting *Crawford v. JP Morgan Chase NA*, 983 F. Supp. 2d 1264, 1269 15 (W.D. Wash. 2013) (internal quotation marks omitted). The FMLA, and thus the 16 WPFMLA, provides for two theories of recovery: (1) the interference theory, and (2) the 17 retaliation or discrimination theory. *Sanders v. City of Newport*, 657 F.3d 772, 777 (9th 18 Cir.

2011). Mr. Levy raises claims for both interference and retaliation under the 19 WPFMLA. (See Compl. ¶ 4.19.) 20 1. Interference 21 The elements of an interference claim under the FMLA, and thus the WPFMLA, 22 are (1) an entitlement to FMLA leave; (2) an adverse action by the plaintiff’s employer, 1 which interfered with the plaintiff’s right to take leave; and (3) a showing that the 2 employer’s adverse action was related to the exercise, or attempt to exercise, FMLA 3 rights.

Wilmuth v. Amazon.com Inc., No. C23-1774JNW, 2024 WL 5088337, at *8 4 (W.D. Wash. Dec. 12, 2024) (citing *Martinez Patterson v. AT&T Servs. Inc.*, No. C18- 5 1180RSM, 2021 WL 3617179, at *11 (W.D. Wash. Aug. 16, 2021)); see RCW 6 50A.40.010(1)(a).

The term “interference” includes “not only denial of FMLA rights, but 7 also instances where an employer discouraged an employee from using FMLA leave, 8 retaliated against an employee for exercising or attempting to exercise FMLA rights, or 9 ‘otherwise caused the employee to suffer an adverse employment action as a consequence 10 of taking FMLA leave.’” *Id.* (quoting *Martinez Patterson*, 2021 WL 3617179, at *11).

If 11 Mr. Levy establishes a prima facie interference claim, Google may avoid liability if it had 12 a legitimate reason to terminate Mr. Levy’s employment. See WAC 192-700-010(b) 13 (providing that an employee is not entitled to WPFMLA rights if “[t]he employer is able 14 to show that [the] employee would not otherwise have been employed at the time the 15 employee would return to work after the employee’s family or medical leave under [the 16 WPFMLA] ends.”).

17 The parties do not dispute that (1) Mr. Levy was entitled to take WPFMLA leave 18 and did take such leave from on or about December 13, 2022, until February 14, 2023, 19 (see, e.g., GSOC Email), and (2) that Mr. Levy suffered an adverse employment action, 20 (see Termination Notice). Mr. Levy, however, fails to put forward evidence “showing 21 that [Google’s termination of his employment] was related to the exercise, or attempt to 22 exercise, [his] FMLA rights[.]” (See generally Dkt; see also *Wilmuth*, 2024 WL 1 5088337, at *8.)

In response, Mr. Levy purportedly cites *Kelley v. Conan*, 555 F.3d 630, 2 634 (8th Cir. 2009) (per se violation when employer explicitly considers protected leave 3 in adverse action) and argues that the fact that he was “terminated while still on 4 [WPFMLA] leave” is “per se interference[.]” (Resp. at 26-27.)

The court, however, is 5 unable to locate this case in any legal database. Mr. Levy does not offer any competent 6 evidence for his claim and thus fails to show a genuine dispute as to any material fact. 7 (See Resp. at 28 (restating his argument that the RIF was a pretextual justification for 8 terminating his employment)); see also *Celotex Corp.*, 477 U.S. at 323.

Therefore, given 9 the lack of sufficient evidence or controlling law, the court grants Google’s motion for 10 summary judgment on Mr. Levy’s claim for interference under the WPFMLA. 11 2. Retaliation 12 Under the retaliation theory, the FMLA, and thus the WFMLA, prohibits 13 employers from discharging any individual “for opposing any practice made unlawful by 14 [the FMLA]” or otherwise participating in any proceedings governed by the FMLA.

29 15 C.F.R. § 2615(a)(2), (b); see RCW 50A.40.010(1)(b). If Mr. Levy establishes a prima 16 facie retaliation claim, and Google subsequently provides a legitimate, nondiscriminatory 17 reason for the adverse employment action, Mr. Levy bears the ultimate of showing that 18 Google’s stated reason is pretextual, either by showing that the court should reject 19 Google’s stated explanation because it is internally inconsistent or otherwise not 20 believable, or by showing that Google’s decision to terminate him was more likely 21 motivated by unlawful discrimination.

Crawford, 983 F. Supp.2d at 1269-70. 22 1 Here, Mr. Levy’s claim fails because he has not put forth facts showing he was 2 terminated “for opposing any practice made unlawful” by the WPFMLA or otherwise 3 participated in proceedings governed by the statute. (See generally Resp); see also 29 4 C.F.R. § 2615(a)(2), (b). Even if he had provided such facts and made a prima facie 5 showing of his claim, Mr. Levy has not put forward facts showing Google’s stated 6 reason for his termination is pretextual.

(Id.) Thus, with respect to his retaliation and 7 discrimination claim under the WPFMLA, Mr. Levy fails to show a genuine dispute as to 8 any material fact. See *Celotex Corp.*, 477 U.S. at 323. Consequently, the court concludes 9 that Google has shown that it is entitled to summary judgment on Mr. Levy’s claim for 10 interference under the WPFMLA. 11 Because the court grants Google’s motion for summary judgment as to all of Mr. 12 Levy’s claims, the court denies as moot Google’s motion to continue trial date.

13 // 14 // 15 // 16 // 17 // 18 // 19 // 20 // 21 // 22 // 1 IV. CONCLUSION 2 Therefore, for reason of the foregoing, the court GRANTS Google’s motion for 3 summary judgment (Dkt. # 32). Mr. Levy’s claim under the Silenced No More Act, 4 RCW 49.44.211(3); claim for wrongful

termination in violation of public policy; and 5 claims for interference and retaliation under the Washington Paid Family Medical Leave Act, RCW 50A.15.20 are DISMISSED with prejudice.

The court DENIES as moot Google's motion to continue trial date (Dkt. # 83). Dated this 2nd day of December, 2025. A JAMES L. ROBART United States District Judge