

AUG 12 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

MICHAEL NEWSOM,

Plaintiff - Appellant,

v.

BREMERTON SCHOOL DISTRICT;
BETTY HYDE; DENISE ZASKE;
KEVIN FERGUSON,

Defendants - Appellees.

No. 08-35590

D.C. No. 3:08-cv-05094-FDB

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Franklin D. Burgess, District Judge, Presiding

Submitted August 7, 2009**
Seattle, Washington

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Before: PREGERSON, NOONAN, and BEA, Circuit Judges.

Michael Newsom appeals two district court orders granting (1) the defendants' Rule 12(b)(6) motion to dismiss Newsom's state law claims for wrongful discharge in contravention of public policy, negligent hiring and retention, and intentional infliction of emotional distress; and (2) the defendants' Rule 56(b) motion for summary judgment with respect to Newsom's 42 U.S.C. § 1983 claims, which allege the defendants violated Newsom's procedural and substantive due process rights. We affirm.

Newsom's § 1983 claims lack merit. Even if Newsom had a property interest in his job, Newsom was afforded ample due process. *See Heath v. Redbud Hosp. Dist.*, 620 F.2d 207, 210 (9th Cir. 1980). Further, his termination for a "performance deficiency" did not impose a "stigma" upon Newsom. *See Stretton v. Wadsworth Veterans Hospital*, 537 F.2d 361, 366 (9th Cir. 1976).

Newsom's state law claims lack merit. Newsom failed to serve first upon the defendants a verified claim for damages in accordance with RCW 4.96.020. *See Schoonover v. State*, 116 Wn. App. 171, 184 (2003). Substantial compliance does not satisfy the statute. *Medina v. Public Util. Dist. No. 1*, 147 Wn. 2d 303, 316 (2002).

AFFIRMED.