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11 CALIFORNIA INSTITUTE OF TECHNOLOGY

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
13 COUNTY OF LOS ANGELES

14 DAVID COPPEDGE, an Individual,  
15 Plaintiff,

16 vs.

17 JET PROPULSION LABORATORY,  
18 form unknown; CALIFORNIA  
19 INSTITUTE OF TECHNOLOGY, form  
20 unknown; GREGORY CHIN, an  
21 Individual; CLARK A. BURGESS, an  
22 Individual; KEVIN KLENK, an Individual;  
23 and DOES 1 through 25, inclusive,  
24 Defendants.

Case No. BC435600

25 **SEPARATE STATEMENT OF**  
26 **UNDISPUTED MATERIAL FACTS IN**  
27 **SUPPORT OF DEFENDANT**  
28 **CALIFORNIA INSTITUTE OF**  
**TECHNOLOGY'S MOTION FOR**  
**SUMMARY JUDGMENT OR, IN THE**  
**ALTERNATIVE, SUMMARY**  
**ADJUDICATION OF ISSUES**

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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LOS ANGELES

JUL 01 2011

John A. Clarke, Executive Officer/Clerk  
By Amber Lafleur-Clayton Deputy  
AMBER LAFLEUR-CLAYTON

ORIGINAL

SEPARATE STATEMENT IN SUPPORT OF CALTECH'S MOTION FOR SUMMARY JUDGMENT OR, IN  
THE ALTERNATIVE, SUMMARY ADJUDICATION OF ISSUES

Pursuant to California Code of Civil Procedure Section 437c(b), Defendant California Institute of Technology ("Caltech") hereby submits the following Statement of Undisputed Material Facts and references to supporting evidence.

**ISSUE NO. 1:** Plaintiff's First Cause of Action for discrimination in violation of FEHA fails as a matter of law because he cannot establish a *prima facie* case: except for Plaintiff's layoff, none of the conduct at issue constitutes a legally cognizable adverse employment action, and none of the events alleged, including Plaintiff's layoff, give rise to an inference of discrimination based on actual or perceived religious creed.

Defendant's Undisputed Material Facts And Supporting Evidence:	Plaintiff's Response and Supporting Evidence:
Except for Plaintiff's layoff, none of the conduct at issue constitutes a legally cognizable adverse employment action.	
1. Caltech, a private, non-profit corporation, operates JPL, a Federally Funded Research and Development Center, pursuant to a prime contract with the National Aeronautics and Space Administration ("NASA"). <b>Clennan-Price Decl. ¶ 4.</b> <sup>1</sup>	
2. The employees who work at JPL are employed by Caltech. <b>Clennan-Price Decl. ¶ 5.</b>	
3. JPL is a "matrix" organization consisting of Program Offices and Line Management organizations. <b>Tr. 52:5-7</b> ("Q. And you understand that JPL or Caltech uses a matrix organization at JPL? A. Yes."); <sup>2</sup> <b>Clennan-Price Decl. ¶ 7;</b>	
4. Line Managers are responsible for the	

<sup>1</sup> Declarations are cited as "[Last Name of declarant] ¶ \_\_," and are filed concurrently herewith.

<sup>2</sup> Coppedge's deposition is cited as "Tr. [page]:[lines]." Other depositions are cited by deponent name. Cited testimony and exhibits are attached to the Declaration of James A. Zapp.

1 normal supervisory tasks such as preparing  
2 performance evaluations, recommending pay  
3 increases, promotions and discipline.

**Clennan-Price Decl. ¶ 7.**

4 5. Project management directs employees'  
5 work on projects. **Clennan-Price Decl. ¶ 7.**

6 6. Cassini is a joint NASA-European  
7 Space Agency ("ESA") project to study the  
8 planet Saturn and its satellites. **Chin 14:22-25**  
9 ("Q. What was the prime mission for Cassini,  
very briefly? . . . A. [T]o study the Saturnian  
system.").

10 7. In 2008, NASA extended the Cassini  
11 mission for two more years, and in 2010  
12 extended the mission a second time, but on a  
13 much smaller scale with approximately a 50%  
14 reduction in funding. **Chin 33:2-13** ("Q. . . .  
15 [T]he Cassini mission extended beyond the  
16 prime mission . . . A. [T]here are two  
17 extensions in the current environment. There  
18 was one extension . . . and then another one. . .  
19 Q. [A]re we currently in the phase of the  
20 second extension. A. Yes, sir."); **Chin 13:6-7**  
21 ("The Cassini program was entering a new  
22 phase, XXM, and the program cut its funding")  
23 **Chin 31:7-12** ("Q. So for fiscal year 2011,  
then, you were anticipating . . . at least a  
reduction of half of the workforce . . . ? A. We  
were anticipating a reduction of 50 percent of  
our funding.").

24 8. Coppedge initially worked at JPL as a  
25 contractor. **Tr. 50:18-22** ("Q. So is it correct  
26 that from September 1996 until March of 2003  
27 then, you worked for organizations that  
contracted with JPL to provide services? A.  
28 Yes.").

1 9. In March 2003, Burgess and Chin hired  
2 Coppedge as a Caltech employee. **Tr. 50:12-**  
3 **14** ("Q. . . . Your actual date of hire with  
4 Caltech at Jet Propulsion Laboratory was what  
5 date? A. March 2003."); **Tr. 51:14-16** ("Q.  
6 And then who hired you as a Caltech  
7 employee? A. Greg Chin."); **Burgess 10:5-10**  
8 ("Q. Between 1997 and 2010, at some point  
9 was an offer of employment at JPL extended to  
10 David? A. Yes. Q. Were you participating in  
11 the decision to make that offer? A. Yes, I  
12 was.").

13 10. Throughout his time at JPL (both as  
14 contractor and employee), Coppedge was one  
15 of several SAs on Cassini. **Tr. 181:12-13**  
16 ("[T]here was a Cassini system administration  
17 team."); **Tr. 184:8-9** ("I had been with Cassini  
18 since March 1997.").

19 11. Chin was Manager of Cassini's Mission  
20 Support and Services Office ("MSSO"),  
21 pursuant to which the Cassini SAs, including  
22 Coppedge, worked for him. **Tr. 268:25-269:4**  
23 (" . . . Grég Chin came on as the leader of Data  
24 and Computing Services, which he changed to  
25 MSSO, Mission Support and Services Office . .  
26 ."); **Chin 12:17-19** (" . . . I became the  
27 manager of a group we called the Mission  
28 Support And Services Office."); **Tr. 52:8-10**  
("Q. [T]he person you worked for was Greg  
Chin; correct? A. Yes.").

12. The SAs performed various computer-  
related tasks. **Tr. 169:5-8** ("A system  
administrator primarily is -- has to have a lot of  
technical skill and a wide variety of computer  
IT-related subjects and also honesty and  
integrity so they can be trusted with superuser

1 access to systems.”); **Chin 22:16-17** (“Their  
2 primary function is to support the servers and  
3 workstations.”); **Chin 22:20-23:13** (“It’s a  
4 wide-ranging function. . . the SA’s are involved  
5 in the early phases when we get new software  
6 deliveries. They’ll take them and install them  
7 on test systems so we can verify. And the SA’s  
8 can also be involved when the product is  
9 finally approved for delivery. And then they  
are the ones responsible for doing the official  
installation configuration of it. . .”).

10 13. Group Supervisor Burgess was  
11 Coppedge’s line manager and immediate  
12 supervisor until Burgess retired in September  
13 2010. **Tr. 52:11-15** (“Q. And who was your  
14 line manager then at the time that you joined  
15 JPL in March of 2003? A. Cab Burgess. Q.  
16 And Mr. Burgess was your group supervisor?  
17 A. Yes.”); **Burgess 11:22-25** (“Q. Now, from  
March 2003 to your retirement, David was a  
full-time employee working under your  
supervision; is that correct? A. Yes.”).

18 14. Kevin Klenk was Section Manager and  
19 Burgess’s immediate supervisor. **Tr. 52:19-**  
20 **52:21** (“Q. At some point in time, Kevin  
21 Klenk became the section manager? A.  
22 Yes.”); **Klenk 300:7-20** (“Q. What was your  
23 title . . . in 2009. A. In 2009, Section  
24 Manager. Q. . . . Your relationship to Cab  
25 Burgess as -- what was his title? A. Group  
26 Supervisor. Q. . . . You were his direct  
27 supervisor? A. Correct.”).

28 15. In 2000, Chin, with Burgess’s  
concurrence, made Coppedge lead of the  
Cassini SAs because he had the longest tenure  
of the SAs at the time. **Chin 101:18-20** (“Q.

Who is it that determines who the lead will be for the team? A. That was my responsibility.”); **Chin 102:6-12** (“Q. And what criteria did you utilize to determine who a team lead would be? A. Generally, I looked at the tenure of an individual . . . because there’s a lot of history and . . . if people have history, they might remember why we did something. And so usually just tenure.”); **Chin 110:16-19** (“So anybody could be team lead? A. Anyone could be, but I had just chose tenure as the primary thing, and I just stuck with it.”); **Chin 111:8-17** (“Q. But when did you assign David to the team lead position? A. . . .Probably around the early 2000 time period.”); **Chin 112:11-15** (“Q. But when you assigned him to team lead, did he have a long tenure at Cassini? A. Of the SA’s at that time, he had the longest tenure of the SA’s in that group at the moment.”); **Burgess 20:17-19** (“Q. Were you responsible for placing David in the role of team lead SA originally? A. Yes, I was in agreement with Greg’s choice.”); **Burgess 21:8-11** (“Q. Were there reasons why you selected David for that role? A. Generally, the reasons were at that time he was considered the most senior in the group.”).

16. “Lead” was not a formal job classification, but only an informal designation for some administrative activities that Coppedge performed in addition to his regular SA duties. **Burgess 20:6-16** (“Q. Can you describe what the team lead’s responsibilities were under your supervision? A. Well, it was an administrative-type task to lead the group. It wasn’t an official organizational position at

1 all. But primarily it was to provide status to the  
2 customer, namely Cassini project, and  
3 overseeing task assignments to others on the  
4 team, getting feedback from them, and  
5 reporting it, and just sending a general  
6 direction on where the SA team was going as a  
7 whole.”); **Burgess 117:6-14** (“Q. Team lead  
8 was a prestigious role, even if not an official  
9 role, wasn’t it? MS. FOX: Objection. Vague.  
10 A. I didn’t put the importance on that as David  
11 may have thought it to be. Like I say, it was an  
12 unofficial role. There wasn’t any designation  
13 anywhere other than just leading the team.  
14 There was no official position ever defined that  
15 explains anywhere what a team lead is or  
16 does.”); **Chin 110:3-14** (“Q. To be team lead  
17 of a team within MSSO or any other division or  
18 unit of JPL would signify some kind of special,  
19 privileged position, wouldn’t it? MR. ZAPP:  
20 Objection. Vague and misstates the evidence.  
21 A. No, sir. Q. No? You didn’t consider it to  
22 be a position of privilege at all? MR. ZAPP:  
23 Same objection. Vague. A. No, sir.”).

19 17. As lead, Coppedge acted as a conduit  
20 between MSSO and the project. He attended  
21 Chin’s weekly staff meetings and passed the  
22 information onto the SAs, consolidated  
23 individual SA weekly status reports for Chin  
24 and relayed information from the project to  
25 Chin. **Tr. 176:2-177:22** (“Q. Well, what did  
26 you see as your job duties and responsibilities  
27 when you were acting as the lead  
28 administrator? . . . . So one is acting as a  
liaison. Another one is the reporting and  
sometimes consolidating the input from the  
individual SAs into a consolidated report that

1 you provided to Mr. Chin; correct? ... [A]  
2 third thing was you also attended [weekly  
3 MSSO lead] meetings that Mr. Chin had ....  
4 Does that generally summarize the activities  
5 you did as a lead? A. Yes, and bring their  
6 concerns forward. And also, I would take  
7 notes to bring back to the ... system admin. Q.  
8 Acting sort of like, for lack of a better term, a  
9 conduit between the two entities? A. Yes.”);  
10 **Chin 102:13-22** (“Q. What is the purpose of a  
11 team lead? A. Well, the team leads are like –  
12 the project -- or my office is big, and I don’t  
13 have an opportunity to talk to each and every  
14 individual. So the team lead would come and  
15 sit in my meetings, and I’d make some  
16 announcements, maybe prioritize something,  
17 maybe Christmas party is coming up -- just  
18 make general announcements that way. And  
19 their job or task is to relay that information  
20 down to their respective smaller groups.”).

18. As a system administrator, it is  
important to work effectively with, and  
maintain a positive relationship with, the  
customer or user. **Tr. 173:17-22** (“Q. And as  
a systems administrator, is it true that one of  
your most important functions -- not the only  
one, but one of the most important functions is  
to be able to work effectively with the  
customer or user? A. Well, yes. . . .”); **Tr.**  
**174:3-13** (“Q. Is it correct to say that as a  
systems administrator, it’s very important for  
you to maintain a positive relationship with  
your customers and users? A. Yes . . .”).

19. Chin received complaints from twenty-  
five different managers and staff about  
Coppedge’s uncooperative attitude and poor



1 interpersonal skills. **Chin 80:15-81:18** ("Q. ...  
2 . Can you give me your impression of what the  
3 preponderance of complaints was generally  
4 related to? . . . . A. . . . so there were some  
5 technical issues, and there were some  
6 personality issues, and there are some  
7 performance issues."); **Chin 54:16-55:20** ("Q.  
8 Did any of their dissatisfaction relate to  
9 David's temperament? MR. ZAPP: Objection.  
10 Vague as to "Temperament." A.  
11 Temperament is a characteristic I guess you  
12 could use, yes. Q. What did they say about his  
13 temperament? MR. ZAPP: Same objection as  
14 to "Temperament." Go ahead. A.  
15 Noncooperative. Q. Was that the word they  
16 used? A. I don't recall if that's the exact word.  
17 Q. And did they describe to you why they felt  
18 that he was not cooperative? A. To the extent  
19 that people would make suggestions and Dave  
20 would -- "No, I can't do this" or "No." It was  
21 usually answering in a negative manner.");  
22 **Chin 82:15-84:22** ("Q. Now, you used the  
23 word "personality issues." . . . . what didn't  
24 they like about it? A. . . His personality in  
25 terms of they did not like working with him.  
26 They felt he was insincere. They would talk to  
27 him. They would believe he would not listen  
28 to them and has already formed an opinion  
about what he is going to do and just ignore  
them. And Dave -- and -- he didn't do  
anything feisty, angry, malicious. He was  
pleasant, but they felt he was being insincere  
about it. And I guess that annoyed them. Q.  
They feel he was stubborn? A. That would be  
a word that could be used, yes. Q. Did they  
say he was unpleasant? MR. ZAPP:

1 Objection. Vague. Q. Or words to that effect?  
 2 A. They said it would be unpleasant to be  
 3 working with David.”); **Chin 71:16-73:13** (“Q.  
 4 . . . But who else complained about David?  
 5 These are customers you’re talking about? A.  
 6 Customers, colleagues. Q. Well, I didn’t ask  
 7 you about colleagues, but why don’t we just get  
 8 all the names out right now, and we can go  
 9 through it. . . I’ll list the names of people  
 10 you’ve mentioned already, and then you can  
 11 add to that list so that we have it on one page.  
 12 Diane Conner, Barbara Larsen, Carol Wong,  
 13 Don Fleischman, Nancy Grenander, Pam  
 14 Woncik, Sue Linick, and Kathryn Weld. MR.  
 15 ZAPP: And Patti Smith. MR. BECKER: Patti  
 16 Smith. . . MR. BECKER: He was going to  
 17 add to the list. A. Tammy Fujii. . . . Margaret  
 18 Weisenfelder . . . Harvey Chien, Nick Patel,  
 19 Oscar Castillo, Robert Kremer, Bob Jobsky. . .  
 20 . Vicky Barlow, Carmen Vetter, Nancy  
 21 Grenander, Bob Mitchell, Julie Webster. . . .  
 22 Scott Edgington. . . Bruce Elgin; Marris  
 23 Rubio; Carol Boyles, . . . Mou Roy . . . . Don  
 24 Fleischman. That’s all the names I’m recalling  
 25 at the moment without sounding repetitive.”

20 20. There were several people who  
 21 complained about interacting with Coppedge  
 22 and/or chose not to work with him. **Tr.**  
 23 **534:22-535:18** (“Q. Isn’t it true that there were  
 24 several people who complained about  
 25 interacting with you and/or chose not to work  
 26 with you even though you may have disagreed  
 27 with their perceptions? Isn’t that in fact true? .  
 28 . . . The question is weren’t there several  
 people who complained about interacting with  
 you and/or chose not to work with you but to

1 work with others, even recognizing you may  
2 have disagreed with that perception? A. Yes .  
3 . .").

4 21. Chin coached Coppedge on how to  
5 improve his interactions with others.

6 **Chin 55:21-56:1** ("Q. Did you have a talk  
7 with David about the fact that people believed  
8 he was noncooperative at any time? A. Yes.

9 Q. More than one time? A. Yes."); **Chin**

10 **86:24-90:16** ("Q. Did you have any  
11 discussions with David concerning their  
12 complaints? A. Yes. . . . Q. What did you tell  
13 him as specifically as you can recall? A. Well,  
14 these are different type of communication  
15 skills, the things of how you deal with people,  
16 you know, one of the main things in dealing  
17 with customers is you have to listen to them. . .

18 . figure out what is the problem that they're  
19 trying to solve and work with the users instead  
20 of just saying, 'No, I can't do that.' . . . that is  
21 a common theme, is that Dave would be very  
22 negative on topics. . . . The preponderance of  
23 things that kept coming up was that Dave had a  
24 hard time working with people. And you  
25 know, I would think, well, maybe we try  
26 different communication strategies, and let's  
27 figure out how we can better improve the  
28 situation."); **Chin 334:2-5**. ("Q. And you  
would also have discussions about how to deal  
with the customer more effectively; right? A.  
Yes, sir.").

22. Cassini's Project Manager, Bob  
Mitchell, suggested several times that Chin  
should remove Coppedge from the project, but  
Chin defended Coppedge. **Tr. 204:12-205:12**  
("Q. Did Mr. Chin ever tell you that Program

1 Management asked him several times to  
 2 replace you? A. He said that. . . . Q. How  
 3 many times did Mr. Chin tell you that Program  
 4 Management had come to him and asked that  
 5 you be replaced? A. I don't know. At least  
 6 two. And he would say, 'And Dave, I stood up  
 7 for you, and I defended you.' Q. And is that  
 8 true? You believe that he did stand up and  
 9 defend you? A. Tammy says that's what he  
 10 did. I have no reason to doubt it."); **Chin**  
 11 **188:11-189:12** ("Bob [Mitchell] had suggested  
 12 strongly to me that there are things we should  
 13 do to improve our overall situation by it best to  
 14 get rid of David. Q. He said it would be best  
 15 to get rid of David? A. I cannot be sure of  
 16 those exact words, but I'm paraphrasing. He  
 17 said, 'What can we do to get David off  
 18 Cassini?' . . . Q. When was the first time he  
 19 made those comments or comments similar to  
 20 that? MR. ZAPP: Objection. Asked and  
 21 answered. Go ahead. A. Sometime in the  
 22 early 2000's."); **Chin 190:17-191:2** ("Q. Bob  
 23 Mitchell -- I would characterize his  
 24 conversations as 'We should really make a  
 25 change. You should get rid of him.' I have  
 26 had long discussions with Bob Mitchell about  
 27 what are the reasons, what are the facts, why.  
 28 We went into details about whatever instance  
 that may have popped up. Sometimes I felt  
 they were unwarranted. Sometimes valid  
 criticism. Okay. But I didn't think it rose to  
 the level of removing someone from a  
 project.").

23. When Chin told Burgess about these  
 complaints, Burgess tried to find another  
 project for Coppedge, but there were no

1 openings because JPL had fewer projects and  
2 positions over the years. **Chin 97:5-99:6** ("Q.  
3 Was there a time . . . in which you spoke to line  
4 management about your concerns about David  
5 where you felt that they should have removed  
6 him from your team? A. Yes . . . in early  
7 2000's. . . . I had talked to the line  
8 organization at that point, and I have  
9 subsequently talked to them almost yearly or at  
10 least quite frequently: 'Dave's not in a good  
11 situation on the Cassini program.' . . . Q. All  
12 right. What did you tell them? A. That 'David  
13 is probably not the best fit here, and we need to  
14 find other opportunities for David.' Q. You  
15 did tell that to Cab or somebody else? A. Cab  
16 Burgess. Q. What was Cab's response . . . A.  
17 As most group supervisors, he listens and took  
18 notes and says, 'Well, we'll see what we can  
19 do. Jobs are tight.' I know that. That's a  
20 general fact, that jobs are tight."); **Burgess**  
21 **60:9-22** ("Well, like I say, it went on for a  
22 number of years, and there was a lot of  
23 pressure on the project to find something else  
24 for David to do. It went on continually, and I  
25 kept looking for someplace to move him. In  
26 past years when we had more missions coming  
27 and going, there was always -- if somebody  
28 was having, let's say, a personality conflict,  
when there was a new mission starting, we  
could form new teams in support of them. We  
could move people around so whatever issues  
they had with their current or old customer  
would go away as they moved on to some other  
work task. And that wasn't happening. Our  
workplace at JPL was downsizing."); **Burgess**  
**61:8-15** ("Q. Did you ever consider having

1 him terminated? A. That was considered. Q.  
2 When? A. A number of times over those  
3 years. Q. And why was it not put into effect?  
4 A. Because I decided to somewhat protect him  
and try to find a new place for him.”).

5 24. Burgess did not document many  
6 criticisms in Coppedge’s annual performance  
7 reviews to maximize Coppedge’s chance to  
8 transfer to another project. **Burgess 58:14-**  
9 **59:7** (“I was looking for another position to  
10 transfer him to so I could have him removed so  
11 that problem that he was having with the rest of  
12 the people on the project would go away. The  
13 other members of his team were having success  
14 on dealing with those people, whereas he didn’t  
15 seem to be making any headway. Q. Did you  
16 document those facts in the ECAPS? A. I  
17 don’t believe I did. Q. Why not? A. Part of  
18 the transfer scenario that I had imagined would  
be -- one thing that would be involved in that  
would be the review of the documents by his  
prospective new customer, and I didn’t want to  
put too much negativity into the ECAPS.”).

19 25. On the morning of March 2, 2009,  
20 Cassini’s Digital Librarian, Margaret  
21 Weisenfelder, told Chin that Coppedge had  
22 harassed her in discussions about Proposition 8  
23 and that Coppedge appeared to be targeting  
24 JPL co-workers because a DVD Coppedge had  
25 given her about intelligent design had a post-it  
26 note on the back cover listing JPL co-workers  
27 (the list had a notation “Try Again” beside one  
28 of the names). **Chin 114:3-24** (“I had an  
individual who expressed a concern, a  
complaint. Two issues. One was David --  
well, they felt -- to the point they were being

1 harassed, and it was regarding Prop 8 and some  
2 religious aspects. The second thing was also  
3 that the individual brought up and said that  
4 David had a list of people that he was, quote,  
5 'targeting' . . ."); **Chin 128:11-129:8** ("Q. It  
6 says that Margaret came to your office to  
7 express a concern about being harassed by  
8 David" dash, dash, 'His belief in intelligent  
9 design and support for Prop 8.' What did she  
10 tell you about his belief in intelligent design  
11 and support for Prop 8 made her feel as though  
12 he was harassing her? A. I don't recall the  
13 exact words that Margaret used. . . but Dave  
14 was against gay marriages, and Margaret had  
15 the opinion that gay marriages were okay. And  
16 she felt that David wouldn't take no for an  
17 answer. And she said -- she tried to get Dave  
18 to leave, and . . . I believe David had said  
19 something, 'Is there anything I could do to  
20 convince or change your mind?' and she said  
21 'No.' and Dave would shake his head and  
22 leave. In summary, that's kind of what she  
23 relayed to me.").

24 26. On March 2, 2009, Chin spoke to  
25 Coppedge informally about what Weisenfelder  
26 reported to him in the hope of avoiding further  
27 (and even more serious) complaints. **Chin**  
28 **140:2:9** ("Margaret used the word  
'harassment.' I was not in a position to sit  
there, to judge whether it rose to the level or  
not. That was not my intent, my intent was an  
employee used a key word that can trigger  
formal complaints and things. I was trying to  
advise David not to do this. 'Stop it before we  
get ourselves into big trouble.'"); **Tr. 271:10-**  
**16** ("Q. So let's turn to the events of March 2,

1 2009. Now, there is a meeting where you and  
2 Greg Chin were alone, but it's my  
3 understanding that there was a meeting  
4 preceding . . . A. It was the weekly MSSO  
5 team lead meeting."); **Tr. Ex. 1012** (Coppedge  
6 notes summarizing what he believes was said  
during the March 2, 2009 meeting).

7 27. According to Coppedge, Chin was  
8 hostile and argumentative from the outset, said  
9 ID was religion, not science, accused  
10 Coppedge of "pushing" religion on colleagues  
11 and told him to stop bringing up religion and  
12 politics with others in the office, though he  
13 could discuss those topics during lunch or at  
14 home. **Tr. 275:1-7** ("Q. And did he make a  
15 statement to you to the point or to the effect  
16 that you shouldn't try to advocate your beliefs  
17 or question the beliefs of others? A. He put it  
18 a lot stronger than that. He claimed I was  
19 pushing my religion on people, and he was  
20 visibly angry and demanding that it had to  
21 stop."); **Tr. 276:5-15** ("Q.. So is it your  
22 testimony that Mr. Chin was visibly angry and  
23 hostile towards you at the very outset? . . . A.  
24 My recollection is that he was hostile and  
25 argumentative from the outset . . ."); **Tr. 278:2-**  
26 **15** ("Q. BY MR. ZAPP: And in fact, wasn't  
27 Mr. Chin's tone at the outset of the meeting  
28 one of trying to work with you, one of trying to  
give you sort of a heads-up that this is an issue  
that someone's complained about, so you ought  
to be careful about how you go about doing  
this? . . . THE WITNESS: No, my recollection  
is that he was argumentative and would not  
listen to reason. No matter what I said in my  
defense, he refused to accept it."); **Tr. Ex.**



1 **1012** (Coppedge notes summarizing what he  
2 believes was said during the March 2, 2009  
3 meeting).

4 28. During the March 2, 2009 meeting,  
5 Chin allegedly stated "You are not to talk about  
6 religion or politics with anyone in this office,  
7 or it will be difficult for you to maintain  
8 employment in this organization." **Tr. 290:2-**  
9 **15** ("Q. And at some point did Mr. Chin make  
10 any statement to the effect that if you continued  
11 to talk about intelligent design or other beliefs  
12 with people who have already said they're not  
13 interested, that that could have some limitation  
14 on your future employment opportunities? . .  
15 .THE WITNESS: I stated exactly what I  
16 recalled he remembered, that he looked me in  
17 the eye and said, 'You are not to talk about  
18 religion or politics with anyone in this office,  
19 or it will be difficult for you to maintain  
20 employment in this organization.'").

21 29. Coppedge told Chin that his words  
22 could be construed as creating a hostile work  
23 environment. **Tr. 295:2-296:5** ("Q. . . Did you  
24 tell Mr. Chin that he was creating a hostile  
25 work environment? . . . A. I said his words  
26 could be construed as creating a hostile work  
27 environment.").

28 30. On March 3, 2009, Coppedge  
summarized his version of the March 2, 2009  
meeting in an email to Chin. **Tr. Ex. 1014; Tr.**  
**329:22-330:6** ("Q. . . . Is Exhibit 1014 a true  
and correct copy of the email that you sent to  
Greg Chin and which you have described  
earlier as being your summary of the  
conversation? A. Yes. Q. And did you  
develop this email from the notes that you had

1 taken which we've marked previously as  
2 Exhibit 1012? A. Yes, I summarized them and  
3 redacted them for this purpose.”).

4 31. Chin did not respond to Coppedge's  
5 March 3, 2009 email. **Tr. 276:12-15** (“And I  
6 wrote down my recollections of the meeting  
7 and gave him an opportunity to respond and  
8 say is this correct? And he did not.”)

9 32. Chin notified his and Coppedge's  
10 management about the meeting and the hostile-  
11 work-environment comment. **Chin 151:4-  
12 154:3** (“‘Hostile work environment’ is another  
13 key phrase, a very sensitive one. . . . I thought  
14 about it. I go, ‘Oh, maybe I said it the wrong  
15 way.’ So I went and reported to my  
16 organization . . . that I had created a hostile  
17 work environment for [David] . . . . I was  
18 trying to just brief Cab. I told the AA and the  
19 people I notified because, ‘Look, I said  
20 something. . . I raised my voice because I was  
21 getting frustrated . . . and so if I created a  
22 hostile work environment, I later thought my  
23 choice of words were probably not the best  
24 choice of words. And I went and reported it  
25 and said, ‘Look, if I did something wrong, tell  
26 me.’”).

27 33. Human Resources Generalist Jhertaune  
28 Huntley investigated the issues surrounding the  
March 2, 2009 meeting. **Huntley Decl. ¶ 4.**

34. As part of her investigation, Huntley  
interviewed Coppedge, Chin, Burgess,  
Weisenfelder, Carmen Vetter, and Scott  
Edgington. **Huntley Decl. ¶¶ 5, 8.**

35. Chin described Weisenfelder's  
complaint. He also said that Coppedge had  
made another Cassini employee (Carmen

1 Vetter) uncomfortable by discussing his  
2 religious views in the workplace. **Huntley**  
3 **184:2-7** ("Q. You said you learned about  
4 Weisenfelder . . . from Greg Chin, you also  
5 learned about Carmen Vetter from Greg Chin?  
A. Yes."); **Huntley Decl. ¶ 6.**

6 36. When Huntley interviewed Coppedge,  
7 he volunteered that he had discussed Prop. 8  
8 with another co-worker (Scott Edgington) and  
9 that their conversation had become heated such  
10 that Coppedge had apologized the next day for  
11 his behavior. **Tr. 104:8-10** ("Q. You met with  
12 Ms. Huntley on March 5 of 2009; correct? A. I  
13 believe so."); **Tr. 345:1-346:8** ("Q. What did  
14 you tell her about Proposition 8 materials with  
15 Scott Edgington? A. . . I had no way of  
16 knowing this in advance, but he was apparently  
17 a very strong opponent of Prop 8. I didn't  
18 know that. And when I just offered him, 'Well,  
19 wouldn't you like to at least just read what it's  
20 about and what it says?' I pursued that with a  
21 few questions, and he engaged me with his  
22 reasons why not and why he didn't believe it.  
23 And we got into a conversation about it for  
24 some time that did become a little bit heated to  
25 the point where the next day, I went to him . . .  
26 . And it kind of surprised me how  
27 argumentative he got about it. I -- it got to the  
28 point where I backed off and realized nothing  
is being gained here. So I just cut it off. The  
next day I said, 'Scott, I just want to reaffirm to  
you that I consider you a friend. And I think  
yesterday's conversation got a little heated, and  
I just wanted you to know I appreciate you and  
I'm sorry for that. And will you forgive me?'  
He stood up and spontaneously shook my hand

1 as if he really appreciated my having the guts  
2 to do that.”); **Huntley 331:5-14** (“David stated  
3 that he had a heated conversation with Scott.  
4 When I asked him the question, you know,  
5 about the situation or the other situations, he  
6 volunteered that information with Scott  
7 Edgington. And he said it didn’t sit well with  
8 him because he knew that, you know, Scott and  
9 he didn’t agree. But he wanted to clear the air.  
10 So he approached him the next day or there  
11 afterwards and apologized.”); **Huntley Decl. ¶**  
12 **7.**

13 37. Weisenfelder described to Huntley the  
14 two incidents she reported to Chin. She  
15 explained that Coppedge’s persistence made  
16 her feel uncomfortable and that he stepped over  
17 the line by discussing politics and religion  
18 during work hours. **Weisenfelder 127:16-21**  
19 (“Q. Do you remember meeting with Jhertaune  
20 Huntley? A. Yes, I do. Q. Was March 19,  
21 2009, about the time that you remember  
22 meeting with her? A. It was in March.”);  
23 **Weisenfelder 145:22-147:12** (“Q. Looking at  
24 Exhibit 31, . . .’Margaret stated to Dave that  
25 she did not agree with his viewpoint on Prop 8  
26 and did not want to discuss the issue with him  
27 because he was so persistent.’ Now, your  
28 testimony earlier was that you didn’t tell him  
that you did not want to discuss the issue. You  
just told him you didn’t agree with him. Did  
you tell Jhertaune Huntley that you told David  
that you did not want to discuss the issue with  
him because he was so persistent? A. . . . It’s  
been two years . . . I’m not sure. I don’t have  
any reason to doubt Jhertaune’s notes, but I  
don’t have a specific recollection. BY MR.

1 BECKER: Q. Well, she underscores 'He was  
2 so persistent.' . . . Is it correct to say that you  
3 told Jhertaune Huntley that David was very  
4 persistent, in your view? A. I felt that he was  
5 being persistent. Q. Okay. But did you also  
6 tell her that you told David, 'David, you're  
7 being too persistent'? A. I might have, but I  
8 don't remember specifically. Q. And you felt  
9 that David was being persistent when he asked  
10 you whether there was anything he could say to  
change your mind; right? . . . THE WITNESS:  
Yes."); **Weisenfelder Ex. 31; Huntley Decl. ¶**  
**9.**

11 38. Vetter told Huntley that Coppedge had  
12 harassed her a few years earlier by demanding  
13 that she change the name of the Cassini  
14 "Holiday" Potluck to a "Christmas" Potluck.  
15 Coppedge had been so persistent that she had  
16 asked Chin to make Coppedge stop. **Vetter**  
**Ex. 26** (Huntley notes from Vetter interview;  
17 "A couple years (four to five years) he  
18 demanded that she put the word 'Christ' on the  
19 Holiday Potluck Invitation flier"); **Vetter**  
**116:17-19** ("Q. Do you recall meeting with  
20 Jhertaune Huntley on March 20th, 2009? A.  
21 Yes."); **Vetter 126:19-127:3** ("Q. Did you use  
22 the word "harassed" in your conversation with  
23 Jhertaune Huntley? A. Yes. Q. What did you  
24 mean by it? A. I mean the holiday potluck  
25 flier. I mean him wanting to talk to me about it  
26 whenever we ran into each other. That is what  
27 I meant. Q. So you felt he was harassing you;  
28 is that right? A. That is correct."); **Vetter**  
**130:15-20** ("I stated earlier that during this  
time when we were talking in the first  
paragraph about the potluck, he was harassing

1 me. And I did the appropriate thing by  
2 contacted Greg Chin, and it stopped. And that  
3 is what that first paragraph with Jhertaune is  
4 regarding.”); **Vetter 145:16-22** (“Q. But did  
5 you tell Jhertaune Huntley that he demanded  
6 that you put the word ‘Christ’ as opposed to the  
7 word ‘Christmas’ in the holiday party flier? .  
8 .THE WITNESS: I don’t recall everything we  
9 said or how she may have shorthanded it. I  
10 don’t recall.”); **Huntley Decl. ¶ 10.**

11 39. Edgington told Huntley that, after  
12 Coppedge had initiated a discussion about  
13 Prop. 8, Coppedge insulted him by saying that  
14 he “must be against having children” because  
15 he disagreed with Coppedge’s view on the  
16 proposition. **Edginton Ex. 27** (Huntley notes  
17 from Edgington interview; “David became  
18 more passionate about his viewpoint and kept  
19 going on about his personal views. Per Scott,  
20 David at one point stated ‘he must be against  
21 having children.’ Scott had to ask David to  
22 leave his office . . .”); **Edginton 28:4-6** (“Q.  
23 Do you recall meeting with Jhertaune Huntley  
24 on March 20th, 2009? A. Yes, I do.”);  
25 **Edginton 28:22-24** (“Q. What was the nature  
26 of that conversation? A. It was as a result of  
27 the incident where David came to talk to me  
28 about Proposition 8 . . .”); **Huntley Decl. ¶ 11.**

1 40. Edgington had to tell Coppedge twice  
2 to leave his office before he finally did so.  
3 **Edginton 80:25-81:8** (“Q. Did you tell  
4 [Vetter] that you asked him to leave two times?  
5 A. Yes. Q. Did you tell her that he refused to  
6 leave? A. I must have, yes. MS. FOX: He  
7 doesn’t want you to guess. To the best of your  
8 recollection. A. Yes.”); **Edginton 101:23-**

1 **103:2** ("Q. Dr. Edgington, a moment ago you  
 2 were testifying to the fact that you had felt  
 3 threatened in this meeting with David  
 4 Coppedge. Did you consider calling anyone to  
 5 assist you in that meeting? . . . . A. Well, my  
 6 first thought was anyone within, you know,  
 7 hearing range, the other was to call security and  
 8 . . . based on his behavior, I did not know how  
 9 the situation was really -- you know, what he  
 10 would do. You know, he's standing there,  
 11 going through his arguments and, you know,  
 12 talking in a louder tone to me. Here I am  
 13 sitting at my desk. I didn't know how things  
 14 would play out, whether he would leave or not.  
 15 so I was thinking, okay, maybe security might  
 16 be the proper thing to do. Q. Did you in the  
 17 end call security or anybody outside your office  
 18 for help? A. No, I did not because by the  
 19 second time I asked him to leave, he had left  
 20 the office.").

21 41. Based on her investigation, Huntley  
 22 concluded that Coppedge's behavior violated  
 23 Caltech's Unlawful Harassment Policy and its  
 24 Ethics and Business Conduct Policy. **Huntley**  
 25 **Decl. ¶ 12, Exs. A and B.**

26 42. Huntley recommended that Coppedge  
 27 receive a written warning for his conduct.  
 28 **Huntley Decl. ¶ 14.**

43. Burgess and Klenk agreed with  
 Huntley's recommendation. **Burgess 118:13-**  
**119:2** ("Q. Was the decision to issue the  
 written warning yours to make, or was it a  
 combination of yours and Kevin's or yours and  
 Kevin's and HR's or HR's? Whose was it? A.  
 It was a recommendation from HR to me. And  
 as you saw, there was no signature block on

1 there by Kevin. But I chose to share that with  
2 him on recommendation from hr since he was  
3 my immediate manager -- to include him in  
4 that until -- you know, so he was aware of it all  
5 before we actually delivered it to David. Q.  
6 Which is a way of saying it was your decision;  
7 right? A. Yes.”); **Klenk 130:18-23** (“Q. What  
8 was your involvement with respect to the  
9 written warning decision? A. I heard the  
10 feedback from hr concerning it. They reviewed  
11 what their findings were. They said what their  
12 recommendation was, and I supported that  
13 decision.”); **Huntley Decl. ¶ 14.**

14 44. On April 13, 2009, Burgess and Klenk  
15 delivered the written warning to Coppedge.  
16 **Tr. 406:12-14** (“Q. The 13th of April, that was  
17 the date of the disciplinary meeting? A.  
18 Yes.”); **Tr. Ex. 1018** (written warning, dated  
19 April 13, 2009); **Tr. 389:17-20** (“Q. Okay.  
20 All right. You recognize Exhibit 1018 as the  
21 warning letter that you received? A. Yes.”)  
22 **Klenk 306:5-19** (“Q. Were you advised by HR  
23 that you should play any particular part within  
24 that process? . . . A. HR suggested that I  
25 should attend the meeting with Cab and David.  
26 Q. Did they tell you what the basis of their  
27 suggestion was? A. I do not recall them  
28 saying any basis. Q. Did you have any  
understanding as to why they were asking you  
to participate in the meeting? . . . A. As I  
understand it, it was to support Cab in the  
meeting with David.”).

45. Coppedge acknowledges that Burgess  
and Klenk treated him courteously, and no one  
raised his voice, in the April 13, 2009; meeting.  
**Tr. 395:21-396:5** (“Q. And during the course



1 of the meeting, fair to say that none of you  
2 raised your voices; correct? A. Correct. Q.  
3 And Mr. Klenk and Mr. Burgess and you  
4 treated each other courteously even though  
5 there was disagreement obviously on some of  
6 the topics; correct? A. Well, for people who  
7 were not paying attention to what I was saying,  
8 yeah, they did that courteously.”).

9 46. Burgess and Klenk told Coppedge that  
10 the warning concerned the manner in which he  
11 had interacted with his co-workers, not the  
12 substance of what he had discussed. **Tr.**  
13 **395:12-20** (“Q. And is it correct that during  
14 the meeting, that Mr. Klenk and Mr. Burgess  
15 told you that it wasn’t the substance of what  
16 you were talking about but rather the way in  
17 which you were – paraphrasing it -- the way in  
18 which you were doing things that led to the  
19 warning letter, words to that effect? A. That  
20 was their talking points that they stuck to  
21 despite all the evidence I had to the contrary.”).

22 47. Klenk told Coppedge they had “no  
23 issue with people discussing religion and  
24 politics in the office so long as it’s not  
25 unwelcome or disruptive.” **Klenk 468:25-**  
26 **469:11** (“Q. Mr. Klenk, you referred me to the  
27 line in that transcript that says, “We have no  
28 issue with people discussing religion and  
politics in the office so long as it’s not  
unwelcome or disruptive”; is that right? A.  
Correct. Q. Is it your testimony that that was  
your attempt to inform Mr. Coppedge that he  
was free to discuss religion and politics so long  
as it was not unwelcome or disruptive? A.  
That was an explicit statement to that effect.”);  
**Klenk Ex. 44, at page 7** (transcript of tape

1 recording Coppedge made of April 13, 2009  
2 meeting, reflecting same).

3 48. Burgess made the decision to remove  
4 Coppedge as lead during the April 13, 2009  
5 meeting. **Burgess 96:18-20** ("I made the  
6 decision to remove him from the team lead  
7 during that meeting where the three of us  
8 talked about the letter.").

9 49. Burgess decided to remove Coppedge  
10 as lead because Chin had told Burgess about  
11 complaints regarding Coppedge for years, and  
12 this was another instance of Coppedge creating  
13 conflicts with others. **Burgess 96:20-97:4**  
14 ("And I came to the realization and conclusion  
15 that this was kind of like the straw that broke  
16 the camel's back, where I've had several years  
17 of input from various people through Greg that  
18 -- including the project manager, Bob Mitchell,  
19 was very uncomfortable and dissatisfied with  
20 David's performance. and so these issues that  
21 came up during this letter that we presented  
22 him finally was just -- I couldn't take it  
23 anymore."); **Klenk Ex. 44, at page 20**  
24 (transcript of tape recording Coppedge made of  
25 April 13, 2009 meeting; Burgess speaking:  
26 "And the idea there is that you won't have that  
27 interface to these people out there on the  
28 project that are complaining that they're  
uncomfortable with your actions."); **Tr.**  
**432:16-433:19** ("Q. What do you recall Mr.  
Burgess saying when he told you that he was  
relieving you of the lead responsibilities? . . .  
A. My recollection only, but the record states  
what was actually said, that because of the  
poisonous atmosphere that all of this had  
created, he felt it best to remove me from my

1 team lead position. Q. . . . And is -- do you  
2 recall him saying, "that all of this had created"?  
3 What did you understand him to be referring  
4 to? . . . A. I don't recall word for word what  
5 was said. It's a matter of record. But my  
6 understanding was that, as he said in this email,  
7 all of this started March 2, and it had created a  
8 -- an atmosphere of conflict, in his opinion, and  
9 he thought it best to remove me as team lead.").

10 50. When Burgess removed Coppedge as  
11 lead, there was no change in Coppedge's job  
12 classification, salary grade, pay or benefits. **Tr.**  
13 **49:6-25** ("Q. When you changed from being  
14 the team lead to no longer team lead, did your  
15 pay change? A. No. Q. Did your salary grade  
16 change? A. No. Q. Did any of your benefits  
17 change? A. No. Q. . . What was the date on  
18 which you no longer were lead? A. April 13,  
19 2009. Q. Do you know what your job  
20 classification was immediately before April 13,  
21 2009? A. In terms of the actual wording, I  
22 don't recall. Q. Did your job classification  
23 change in any way after April 13, 2009? A. I  
24 don't know. I don't think so, but I don't  
25 know.").

26 51. On May 1, 2009, Coppedge appealed  
27 his written warning and removal as lead to  
28 Human Resources. **Tr. 406:15-18** ("Q. May  
1, Appeal. That's a letter that you send to Ms.  
Saidiner requesting an appeal of the written  
warning? A. Yes."); **Tr. Ex. 1025** (May 1,  
2009 letter from Coppedge requesting appeal).

52. In connection with Coppedge's appeal,  
Klenk interviewed Huntley regarding her  
investigation and reviewed all the facts. **Klenk**  
**Tr. 388:16-389:21** ("Q. At the time that you

1 scheduled the meeting with David in August of  
2 2009, had you discussed with Jhertaune  
3 Huntley any of the details that we've been  
4 talking about earlier today? . . . A. Are you  
5 asking if I discussed additional details with  
6 Jhertaune after issuing the written warning and  
7 before I met with David -- Q. Yes. A. -- For  
8 his appeal? Q. Yes. A. Yes. Q. Was that in  
9 one conversation or multiple conversations? A.  
10 Multiple. . . . Q. Did you pose questions to  
11 Huntley in order to clear up some of the  
12 questions in your own mind? A. I posed  
13 questions to Ms. Huntley just to make sure I  
14 understood the details."); **Klenk Ex. 47**  
15 ("Written Response to Appeal") ("I have  
16 carefully reviewed the investigation that  
17 Jhertaune Huntley, human resources generalist,  
18 conducted regarding allegations that you  
19 approached various coworkers during JPL  
20 business hours to discuss your religious and  
21 political beliefs."); **Huntley Decl. ¶ 15.**

22 53. Klenk met with Coppedge regarding his  
23 appeal on August 25, 2009. **Tr. 123:5-9** ("Q.  
24 Right, but then you had another meeting with  
25 Mr. Klenk in August; correct? A. Oh, to  
26 follow up as part of the appeal. Q. Right. A.  
27 Yes."); **Tr. 530:7-9** ("Q. You met with Kevin  
28 Klenk on or about August 25, 2009; is that  
correct? A. If that's the date on my record,  
yes.").

54. Klenk's demeanor in the August 25,  
2009 meeting was polite and gentlemanly.  
There was no hostility during the meeting, and  
neither of them raised his voice. **Tr. 556:11-16**  
("I mean, he was being polite. For somebody  
who was stonewalling me, he was being very

1 polite and gentlemanly, as he always is. There  
2 was no raised voices. There was no hostility.  
3 But it was pointless. It was a futile exercise  
4 trying to get an appeal.”).

5 55. Klenk determined that Burgess had  
6 acted appropriately and denied Coppedge’s  
7 appeal. **Klenk Ex. 47** (“Written Response to  
8 Appeal”) (“Although I can certainly understand  
9 that you are not happy with the findings of the  
10 investigation and the decision to remove you  
11 from your lead role, I did not find any  
12 additional information to support reversing the  
13 actions taken against you.”).

14 56. Klenk sent Coppedge a memorandum  
15 summarizing his decision regarding  
16 Coppedge’s appeal. **Tr. Ex. 1031** (September  
17 21, 2009 email from Klenk to Coppedge,  
18 attaching the Written Response to Appeal:  
19 “David: Please find attached my written  
20 response to your appeal. Sincerely, Kevin  
21 Klenk”).

22 57. On April 7, 2010, at Human Resources’  
23 direction, Burgess and Klenk again met with  
24 Coppedge and rescinded the April 13, 2009  
25 warning, but not his removal as lead. **Tr.**  
26 **572:2-8** (“Q. . . [Y]ou did have a meeting with  
27 Kevin Klenk, and I’ll represent that was on or  
28 about April 7, 2010; is that correct? A. Yes.  
Q. And this was the meeting that was you, Mr.  
Klenk, and Mr. Burgess? A. Yes.”); **Tr.**  
**167:4-14** (“Q. -- Mr. Coppedge, in the last  
paragraph it says, “On April 7, 2010 . . . the  
division manager and group supervisor  
summoned me again,” . . . basically this was a  
meeting where, number one, the warning letter  
was rescinded but, number two, you were not

1 restored to -- not restored as a lead; correct? A.  
2 Yes. . . ."); **Klenk 441:7-11** ("Q. Whose  
3 decision was it to withdraw that written  
4 warning from David's personnel file? A. This  
5 was HR's recommendation. Q. Hr? A.  
6 Correct."); **Klenk 456:16-19** ("Q. Do you  
7 recall having a meeting with David where you  
8 informed him that the written warning was  
9 going to be rescinded? A. Correct.").

8 58. Klenk and Burgess informed Coppedge  
9 that Human Resources had concluded that an  
10 oral admonition (rather than a formal written  
11 warning) was sufficient to make Coppedge  
12 aware of how he should conduct himself.  
13 **Klenk 456:20-457:2** ("Q. Do you recall telling  
14 him during that meeting that it had been  
15 inappropriately issued? A. I believe I said that  
16 it was more appropriate just to leave it as a  
17 verbal admonishment. Q. Why did you tell  
18 him that? A. Because when I talked with HR,  
19 they suggested that was adequate."); **Klenk**  
20 **476:14-477:5** ("Q. When was that? A. The  
21 verbal admonishment? Q. Yes. A. That  
22 would be April of 2009. Q. April 2009. At  
23 the April 13th meeting? A. That was when the  
24 written warning was issued. Q. When was the  
25 verbal? A. That same meeting. . . . in April  
26 we gave him a written warning and described  
27 what happened to him. Okay. Our verbal  
28 discussion with David served as the verbal  
admonishment, and we thought that was  
sufficient."); **Tr. 573:18-575:4** ("Q. And Mr.  
Klenk told you in this meeting that the written  
warning of April 13, 2009 was being removed;  
correct? A. Yes. Q. . . . When you inquired  
about what that meant, he told you that

1 basically it was the same as if it had never  
2 existed; correct? A. Yes. Q. And so it's no  
3 longer -- was no longer part of your personnel  
4 file; correct? A. That's right. . . . Q. He did  
5 tell you that the determination had been made  
6 that the verbal admonishment that you had had  
7 with them was sufficient; correct? A. I think  
8 so. Yes. Well, not a formal verbal reprimand .  
9 . . . Q. And what he simply said is that he was  
just verbally advising you to try and be  
sensitive to others as you spoke to them about  
subjects; correct? A. Yes.”).

10 59. On April 14, 2010, Coppedge filed the  
11 instant lawsuit, asserting claims for religious  
12 discrimination and harassment, retaliation and  
13 wrongful demotion. **Plaintiff's Complaint,**  
**filed April 14, 2010.**

14 60. On May 4, 2010, Burgess and Nick  
15 Patel spoke to Coppedge to remind him to use  
16 work time productively, following reports  
17 suggesting he had not been doing so. **Tr.**  
18 **584:10-23** (“Q. Did you have a meeting with  
19 Cab Burgess and Nick Patel at some point in  
20 May of 2004? A. Yes, I did. Q. And what  
21 was the subject matter of the meeting, if you  
22 recall? A. Out of the blue, Nick was accusing  
23 me of various things. And I was caught quite  
24 by surprise by this meeting. So it's all  
25 recorded in my thoughts from that day. Q. All  
26 right. Was one of the issues that came up the  
27 fact that Nick felt that you weren't showing  
28 initiative in taking on work that needed to be  
done? A. He said that, but I thought that was  
outrageous.”); **Tr. 648:22-649:2** (“Q. Well,  
did you receive any kind of written  
documentation of the earlier meeting with Mr.

1 Patel and Mr. Burgess on May 4? A. No. Q.  
2 It was just a discussion; correct? A. Yeah, it  
3 was just a discussion.”).

4 **None of the events alleged, including**  
5 **Plaintiff’s layoff, give rise to an inference of**  
6 **discrimination based on actual or perceived**  
7 **religious creed.**

8 61. Defendant incorporates by reference  
9 Undisputed Material Fact Nos. 7, 15-60.  
10 Defendant incorporates by reference  
11 Supporting Evidence for Undisputed Fact  
12 Nos. 7, 15-60.

13 62. When Cassini’s Second Extended  
14 Mission began in October 2010, there was a  
15 significant reduction in funding, implicating  
16 personnel reductions, and System  
17 Administration was reorganized. **Chin 36:3-19**  
18 (“Q. In other words, the budget cuts projected  
19 three years ago for fiscal 2011; right? A.  
20 Correct. Q. The 50 percent reduction  
21 projected for 2011, that was never altered by  
22 the additional funding received for the two  
23 extended missions, was it? . . . A. No. Project  
24 -- we are told funding for each phase. That  
25 second phase which started in fiscal year ‘11 --  
26 and we call it XXM, extended extended  
27 mission, the budget for that was independent  
28 from the prior budget.”); **Tr. 790:1-5** (“Q.  
Prior to the project going into the second  
extended mission, were you informed that the  
budget for the Cassini project was going to be  
reduced when it, in fact, did go into the second  
extended mission? A. Yes. That was general  
knowledge.”); **Chin 30:21-24** (“When an  
organization says you’re only going to have 50  
percent of your funding, that has workforce  
implications.”); **Chin 32:3-6** (“Project



1 Manager said, "You should expect a 50 percent  
2 budget reduction and, conversely, also  
3 significant -- same -- similar amounts of  
4 reduction in staff."); **Tr. 794:7-10** ("Q. And  
5 the reduction in budget necessarily meant that  
6 there were going to be reductions in staff;  
7 correct? A. Obviously."); **Chin 36:21-37:6**  
8 ("Q. Was MSSO reorganized in 2010 at some  
9 point? . . . Yes. . . .The project manager  
10 dissolved MSSO and distributed the functions  
11 of -- each of the functions to different entities  
12 or spread it among his existing [sic]. Q. Who  
13 is the project manager? Mitchell? A. Robert  
14 Mitchell, yes."); **Conner 20:9-21:1** ("Q.  
15 Under MSSO, there was a division or  
16 department called Systems Administration; is  
17 that correct? . . . Do you have a similar group  
18 under IUS? A. Yes. Q. . . . And those are  
19 various system administrators? A. Yes. . . . Q.  
20 Do they perform the same functions that the  
21 Systems Administrators under MSSO  
22 performed, to your knowledge? A. To my  
23 knowledge, yes.").

19 63. Chin warned the SAs at least two years  
20 before the funding reduction that it would  
21 occur and that no one would be guaranteed a  
22 slot. **Tr. 768:18-24** ("Q. But, in fact, as early  
23 as January 2009, Mr. Chin specifically told you  
24 and other systems administrators that there  
25 would be reductions in the next year or two in  
26 the Cassini program; isn't that right? . . . A.  
27 Yes."); **Tr. 769:8-18** ("Q. Well, in January  
28 2009, which was, what, more than a year and a  
half before -- or almost two years before your  
layoff occurred, Mr. Chin had told all of the  
SAs that when the reductions occur, that no one

1 would be guaranteed a slot; correct? . . . THE  
2 WITNESS: He spoke to the group generally,  
3 yes. Did not give any indication to any one  
4 individual, including me, of who was most  
likely to be laid off.”).

5 64. Project Manager Mitchell dissolved  
6 MSSO in late 2010. **Chin 36:21-37:6** (“Q.  
7 Was MSSO reorganized in 2010 at some point?  
8 A. In calendar 2010? Yes. Q. And how was  
9 it reorganized? A. In beginning of fiscal year  
10 ‘11, which is September, October 2010, the  
11 project manager dissolved MSSO and  
12 distributed the functions of -- each of the  
13 functions to different entities or spread it  
among his existing [sic]. Q. Who is the  
project manager? Mitchell? A. Robert  
Mitchell, yes.”).

14 65. System Administration became part of  
15 Integrated Uplink Systems (“IUS”), managed  
16 by Diane Conner. **Conner 17:10-19** (“Q. I  
17 understand there was a restructuring that  
18 occurred recently, and I understood that you  
19 are heading a department known as -- and  
20 maybe it’s not a department; so I don’t want to  
21 be misstating it. Integrated Uplink Systems.  
22 A. Yes. Q. Can you tell me what your  
23 relationship is to that and what that is. A. I’m  
24 the manager of that office, and that’s in the  
25 project organization.”); **Conner 20:9-21:1** (“Q.  
26 Under MSSO, there was a division or  
27 department called Systems Administration; is  
28 that correct? . . . Do you have a similar group  
under IUS? A. Yes. Q. . . . And those are  
various system administrators? A. Yes. . . . Q.  
Do they perform the same functions that the  
Systems Administrators under MSSO

1	performed, to your knowledge? A. To my	
2	knowledge, yes.”).	
3	66. Due to the cuts, Cassini needed two	
4	fewer SAs. <b>Conner 21:24-24:9</b> (“Q. Do you	
5	recall what Mitchell told you at that time	
6	regarding any reorganization . . . Did he	
7	describe to you any reduction in force that	
8	would need to be part of your proposal? . . . A.	
9	He told me the number of FTE’s that I would	
10	have available. Full time equivalent. . . 3.0	
11	FTE. . . You can have five people working part	
12	time to add up to a level of 3.0. . . Did you	
13	understand that to be a reduction in personnel?	
14	A. Yes. Q. By how many people did you	
15	understand that to be? A. I estimated by	
16	two.”); <b>Conner 28:20-22</b> (“Do you know why	
17	there was a reduction in personnel within the	
18	project? We had reduced funding.”).	
19	67. Caltech has an established procedure	
20	for reductions in force. <b>Clennan-Price Decl. ¶</b>	
21	<b>8.</b>	
22	68. Section Managers rank all the	
23	employees in the same job classification within	
24	their section according to established factors.	
25	The factors are: need, skills, ability,	
26	performance, conduct, reliability,	
27	education/training and experience. <b>Clennan-</b>	
28	<b>Price Decl. ¶ 8.</b>	
	69. The purpose of the ranking is to	
	determine the employees’ relative	
	qualifications, skills and ability to perform the	
	work needed to be done after the reductions.	
	<b>Clennan-Price Decl. ¶ 8.</b>	
	70. Richard Van Why became Section	
	Manager for Section 1731 in Summer 2009,	
	and Acting Group Supervisor for Group 173(a)	

1 following Burgess's retirement at the end of  
2 September 2010. **Van Why Decl. ¶¶ 4-5; Tr.**  
3 **807:16-808:7** ("Q. Other changes that took  
4 place around the time of the second extended  
5 mission was that Cab Burgess retired; correct?  
6 A. Correct. Q. He retired at the end of  
7 September of 2010? A. Yes. Q. . . . When did  
8 Richard Van Why become the section manager,  
9 if you recall? A. It was in September. Cab  
10 told us it was his last meeting with us, and he  
11 introduced Richard. Q. And Richard then  
served as sort of an acting group supervisor or  
group manager as well at that point; correct?  
A. Yes.").

12 71. Conner provided input to Van Why  
13 during the reduction in force of the Cassini  
14 SAs. Conner had personal knowledge of the  
15 system administrators' relative qualifications,  
16 skills and ability to perform the needed work  
17 based on her supervision of them since the end  
18 of September 2010 and her having worked with  
19 them directly for some years prior to that time.  
20 **Conner Tr. 34:22-36:8** ("Q. When did you  
21 first speak to Richard Van Why concerning  
22 David? A. Perhaps September. Q. Of 2010?  
23 A. Yes. Or August. It could have been  
24 September. Q. What did he tell you when he  
25 first mentioned Dave to you? A. I don't recall  
26 specifically. Q. Do you generally recall? A. I  
27 generally recall talking about process that he  
28 needed my help with, that he needed my input  
on. Q. Do you recall in what context David's  
name came up? A. Just that he was one of the  
four SA's that were part of the process. Q.  
Did Richard say something about David's  
performance during that discussion? A. Not

specifically. Q. Did he say anything about David's qualifications in that discussion? A. There were discussions about qualifications. Q. What was said? A. There was discussion about relative qualifications. Q. I understand under that rubric, qualifications, something was discussed. what was said? . . . A. It was discussing the different tasks that we had as SA's and who was the best – the point person for those tasks or the best qualified for those different areas of expertise.”); **Conner 42:4-13** (“Q. I think you said you had more than one discussion with Richard relating to the qualifications of SAs for purposes of executing a reduction of personnel; right? . . . A. . . . Yes, I did for the purpose of providing him input on how the qualifications related between the SA's.”); **Van Why Decl. ¶ 11.**

72. Based upon the input Van Why received, he completed a Layoff Ranking Criteria Worksheet for the system administrators within his section: Nick Patel, Harvey Chien, Oscar Castillo, David Coppedge, and Gary Wang. **Van Why Decl. ¶ 14; Ex B.**

73. From the Layoff Ranking Criteria Worksheet, Van Why concluded that Wang, Castillo, and Patel were more qualified than Coppedge and Chien. **Van Why Decl. ¶ 14; Ex B.**

74. As a result of the ranking process, Van Why determined that Coppedge and Chien should be laid off. **Van Why Decl. ¶ 15.**

75. On January 24, 2011, Van Why notified Coppedge and Chien of their layoffs. **Tr. 797:1-12** (“Q. You were notified of your

1 layoff on January 24, 2011; correct? A. Yes.  
2 Q. Harvey Chien was notified of his layoff on  
3 January 24, 2011; correct? . . . A. At the time,  
4 I didn't know. Q. Do you know now? A.  
5 Yes. Q. And was he laid off at the same time  
6 as you? A. That's what I learned."); **Tr. Ex.**  
7 **1053** (January 24, 2011 memorandum from  
Van Why to Coppedge regarding layoff); **Van**  
**Why Decl. ¶ 16.**

8 76. Coppedge never had a disagreement  
9 with Van Why regarding religion, politics or  
10 ID, and does not recall if they even discussed  
11 these topics. **Tr. 900:18-901:3** ("Q. Did you  
12 ever have any disagreement with Richard Van  
13 Why about religion, politics or intelligent  
14 design? A. No. Q. Did you ever have any  
15 disagreement with Bob Mitchell over  
16 intelligent design, religion or politics? A. No.  
Q. Did you ever discuss intelligent design,  
religion or politics with Richard Van Why? A.  
I don't recall. Probably not.").

17 77. While Coppedge had discussed religion,  
18 politics, and ID with Conner, she was not  
19 offended by it, and actually bought an  
20 intelligent design DVD from Coppedge. **Tr.**  
21 **901:13-23** ("Q. Did you ever discuss  
22 intelligent design, religion or politics with  
23 Diane Conner? A. Yes. Q. When did you  
24 have discussions with her? A. When she  
25 borrowed one of my DVDs and then bought  
one. Q. Did you ever have any sense that she  
was offended in any way by that? . . . A.  
No.").

26 78. Besides the layoff, Coppedge never felt  
27 Van Why treated him unfairly. **Tr. 813:1-6**  
28 ("Q. Okay. Putting aside the fact that Mr. Van

1 Why was involved in the decision to lay you  
2 off, was there ever any other occasion that  
3 you're aware of where he treated you unfairly?  
A. Not overtly.").

4 79. Coppedge had always had a good  
5 working relationship with Conner. **Tr. 657:10-**  
6 **18** ("Q. So is it fair to say that up to the point  
7 in time that you saw this review in August of  
8 2010, that you felt Ms. Conner and you had  
9 always had a good working relationship? A.  
10 Yes, and it continues to this day. She is the  
11 new leader of the SA team. And from all  
12 indications, she has a pleasant and happy  
working relationship with me and no hesitation  
to tell me anything.").

13 80. Coppedge never heard Van Why or  
14 Conner make any statement suggesting they  
15 wanted to discriminate or retaliate against him.  
16 **Tr. 895:21-896:10** ("Q. Did you ever hear  
17 Richard Van Why make any statement that  
18 would suggest that he wanted to retaliate  
19 against you for any reason? MR. BECKER:  
20 Asked and answered. MR. ZAPP: No, it  
21 wasn't. Q. Go ahead. A. Well, no, of course  
22 not. No one's going to come out and say that.  
23 Q. Did you ever hear Diane Conner make any  
24 statement that would suggest she wanted to  
25 retaliate against you for any reason? MR.  
26 BECKER: Calls for a legal conclusion. A.  
27 No. I judge by actions, not statements. That's  
28 not a kind of statement that would be made by  
someone retaliating.").

81. Coppedge had a good working  
relationship with Chin prior to March 2, 2009.  
**Tr. 141:25-142:4** ("Greg has been a great boss,  
and I've worked with him for eight years. He's

1 a great guy. He's competent. He's  
2 knowledgeable. He does a lot of good for us.  
3 And I was frankly shocked at this outburst.");  
4 **Tr. 328:20-24** ("Greg has been a very generous  
5 manager. He has many strong points as a  
6 manager. He's thoughtful. He's considerate.  
7 He has a sense of humor. He looks out for his  
8 employees. ").

9 82. Coppedge had a good working  
10 relationship with Burgess and Klenk before the  
11 events of March and April 2009. **Tr. 151:7-11**  
12 ("And I couldn't believe that Cab Burgess  
13 would be a part of this, or Kevin Klenk,  
14 because all of my working relationship  
15 with them before had been terrific and cordial  
16 and cooperative."); **Tr. 150:9-12** ("I consider  
17 [Burgess] a great friend. I mean, I have  
18 worked with him all this time. He's a terrific  
19 guy. He's a terrific group supervisor. He's  
20 easygoing, easy to work with."); **Tr. 154:19-22**  
21 ("Yes. I like Cab a lot. He's a great friend.  
22 And I think that it appears to me that he was  
23 being forced into an uncomfortable situation  
24 against his will . . ."); **Tr. 164:6-15** ("A. . . . If I  
25 could just, you know, interject a point in  
26 C[lark]'s case – Q. Sure. A. -- I think that it  
27 was highly irregular for him, having worked so  
28 closely with him for so many years, to have  
29 been a part of something like that. So... Q.  
30 Fair to say that you think pretty highly of Mr.  
31 Burgess? A. Yes."); **Tr. 151:12-22** ("Q. So  
32 fair to say that up to March 2, 2009, you also  
33 thought Kevin Klenk had always treated you  
34 fairly? A. Yes. I remember when he first  
35 came on. He brought me into his office, and  
36 we had a very pleasant conversation, just kind



of getting to know each other. And it just stunned me that a man of his, you know, qualifications and character would stick to what appeared to me to be talking points that he was being given from somebody saying, 'Here is what you need to say to Dave.'").

**ISSUE NO. 2: Plaintiff's First Cause of Action for discrimination in violation of FEHA fails as a matter of law because Caltech had legitimate, non-discriminatory reasons for the actions taken, and Plaintiff cannot show pretext.**

<b>Defendant's Undisputed Material Facts And Supporting Evidence:</b>	<b>Plaintiff's Response and Supporting Evidence:</b>
83. Defendant incorporates by reference Undisputed Material Fact Nos. 7, 15-58, 60, 62-82. Defendant incorporates by reference Supporting Evidence for Undisputed Material Fact Nos. 7, 15-58, 60, 62-82.	
84. Chin believes in Christian principles, and has never subscribed to another doctrine. <b>Chin 170:20-22</b> ("Q. So you're not practicing in a church. You believe in Christian principles, you said? A. I believe in the Christian principles."); <b>Chin 171:16-20</b> ("Q. Other than Christianity, have you ever subscribed to any other religious doctrine? . . . A. No, sir.").	
85. Klenk is Christian, and attends American Martyrs church. <b>Klenk 133:4-5</b> ("Are you a Christian? A. Yes, I am."); <b>Klenk 263:18-19</b> ("Q. First of all, where do you go to church? A. I go to American Martyrs.").	
86. Burgess is Christian. <b>Burgess 66:18-19</b> ("Q. You're a Christian? A. Yes.").	
87. Van Why considers himself to be Christian. He was raised in the	

1 Congregationalist church. **Van Why Decl. ¶**  
2 **18.**

3 88. Burgess bought four intelligent design  
4 DVDs from Coppedge. **Burgess 33:4-34:25**  
5 ("Q. And did you have a sense of what Greg  
6 was referring to when he referred to DVD's?  
7 A. I did. Q. And is that because David had  
8 shared DVD's with you in the past? A. Yes.  
9 Q. Were you aware of what the content or  
10 nature of the DVD's was that Greg was  
11 referring to? A. Yes. Q. Did he refer to them  
12 in that meeting as intelligent design DVD's or  
13 related to intelligent design? A. He may have.  
14 ... Q. Did you purchase any of those DVD's  
15 from David? A. Those four you mentioned, I  
16 did.").

17 **ISSUE NO. 3: Plaintiff's First Cause of Action for discrimination in violation of**  
18 **FEHA fails as a matter of law to the extent Plaintiff purports to base it upon his alleged**  
19 **right to free expression.**

20 **Defendant's Undisputed Material Facts And**  
21 **Supporting Evidence:**

22 89. Defendant incorporates by reference  
23 Undisputed Material Fact Nos. 1, 2, 47.  
24 Defendant incorporates by reference  
25 Supporting Evidence for Undisputed Material  
26 Fact Nos. 1, 2, 47.

27 **Plaintiff's Response and Supporting**  
28 **Evidence:**

29 **ISSUE NO. 4: Plaintiff's Second Cause of Action for discrimination pursuant to**  
30 **Labor Code §§ 1101 and 98.6 fails as a matter of law because Plaintiff cannot establish**  
31 **conduct in violation of either section.**

32 **Defendant's Undisputed Material Facts And**

33 **Plaintiff's Response and Supporting**

Supporting Evidence:	Evidence:
Plaintiff does not allege, and there is no evidence of, any Caltech policy that impedes political expression of employees, as required under Labor Code Section 1101.	
90. Defendant incorporates by reference Undisputed Material Fact No. 47. Defendant incorporates by reference Supporting Evidence for Undisputed Material Fact No. 47	
91. Coppedge does not allege the existence of any Caltech policy regarding political expression. SAC ¶¶ 72-80.	
Plaintiff cannot establish that he engaged in conduct protected under the Labor Code, as required under Labor Code Section 98.6.	
92. Defendant incorporates by reference Undisputed Material Fact Nos. 47, 91. Defendant incorporates by reference Supporting Evidence for Undisputed Material Fact Nos. 47, 91.	

**ISSUE NO. 5:** Plaintiff's Third Cause of Action for retaliation in violation of FEHA fails as a matter of law because Plaintiff cannot establish a causal nexus between any protected conduct and any alleged adverse employment action.

Defendant's Undisputed Material Facts And Supporting Evidence:	Plaintiff's Response and Supporting Evidence:
Plaintiff cannot establish a causal nexus between any protected conduct and the only adverse employment action he identifies, his layoff.	
93. Defendant incorporates by reference Undisputed Material Fact Nos. 7, 62-80, 87. Defendant incorporates by reference Supporting Evidence for Undisputed Material Fact Nos. 7, 62-80, 87.	
Plaintiff cannot establish a causal nexus	

1 between any protected conduct and the  
2 other alleged retaliatory actions.

3 94. Defendant incorporates by reference  
4 Undisputed Material Fact Nos. 15-60, 81-82,  
5 84-86, 88. Defendant incorporates by reference  
6 Supporting Evidence for Undisputed Material  
7 Fact Nos. 15-60, 81-82, 84-86, 88.

7 **ISSUE NO. 6:** Plaintiff's Fourth Cause of Action for retaliation in violation of public  
8 policy fails as a matter of law because Plaintiff cannot establish a causal nexus between any  
9 protected conduct and any alleged adverse employment action, and, to the extent he  
10 attempts to rely on free speech, also because he cannot tether it to a fundamental public  
11 policy, as required.

13 **Defendant's Undisputed Material Facts And**  
14 **Supporting Evidence:**

**Plaintiff's Response and Supporting**  
**Evidence:**

15 95. Defendant incorporates by reference  
16 Undisputed Material Fact Nos. 1-2, 7, 15-60,  
17 62-82, 84-88. Defendant incorporates by  
18 reference Supporting Evidence for Undisputed  
19 Material Fact Nos. 1-2, 7, 15-60, 62-82, 84-88.

19 **ISSUE NO. 7:** Plaintiff's Fifth Cause of Action for harassment in violation of FEHA  
20 fails as a matter of law because the conduct alleged was not sufficiently severe or pervasive  
21 to alter the terms and conditions of his employment, some conduct constitutes non-  
22 actionable personnel management decisions, and the totality of circumstances establish no  
23 harassment took place.

24 **Defendant's Undisputed Material Facts And**  
25 **Supporting Evidence:**

**Plaintiff's Response and Supporting**  
**Evidence:**

26 **None of the conduct Plaintiff alleges is severe**  
27 **or pervasive.**

28 96. Defendant incorporates by reference

1	Undisputed Material Fact Nos. 7, 15-60, 62-75.	
2	Defendant incorporates by reference	
3	Supporting Evidence for Undisputed Material	
4	Fact Nos. 7, 15-60, 62-75.	
5	<b>Some of the actions in question (Chin's</b>	
6	<b>admonition to Coppedge regarding avoiding</b>	
7	<b>disruptive speech, the written warning,</b>	
8	<b>removal of lead duties, appeal denial, and</b>	
9	<b>layoff) were personnel management</b>	
10	<b>decisions, which are not actionable as a</b>	
11	<b>matter of law.</b>	
12	97. Defendant incorporates by reference	
13	Undisputed Material Fact Nos. 28, 44, 48, 55,	
14	75. Defendant incorporates by reference	
15	Supporting Evidence for Undisputed Material	
16	Fact Nos. 28, 44, 48, 55, 75.	
17	<b>The totality of circumstances establish no</b>	
18	<b>harassment took place.</b>	
19	98. Defendant incorporates by reference	
20	Undisputed Material Fact Nos. 15-60, 62-82,	
21	84-88. Defendant incorporates by reference	
22	Supporting Evidence for Undisputed Material	
23	Fact Nos. 15-60, 62-82, 84-88.	

**ISSUE NO. 8:** Plaintiff's Sixth Cause of Action for failure to prevent discrimination and harassment in violation of FEHA fails as a matter of law because no discrimination or harassment occurred, and because Caltech met its obligation to take reasonable steps to prevent discrimination and harassment by implementing policies and taking action to investigate and remedy charges under them.

23	Defendant's Undisputed Material Facts And Supporting Evidence:	Plaintiff's Response and Supporting Evidence:
24	<b>No discrimination or harassment occurred.</b>	
25	99. Defendant incorporates by reference	
26	Undisputed Material Fact Nos. 15-60, 62-82,	
27	84-88. Defendant incorporates by reference	
28	Supporting Evidence for Undisputed Material	

1	Fact Nos. 15-60, 62-82, 84-88.	
2	<b>Caltech met its obligation to take reasonable</b>	
3	<b>steps to prevent discrimination and</b>	
4	<b>harassment by implementing policies and</b>	
5	<b>taking action to investigate and remedy</b>	
6	<b>charges under them.</b>	
7	100. Defendant incorporates by reference	
8	Undisputed Material Fact Nos. 29, 32-42.	
9	Defendant incorporates by reference	
10	Supporting Evidence for Undisputed Material	
11	Fact Nos. 29, 32-42.	
12	101. Caltech has implemented an Unlawful	
13	Harassment Policy. <b>Huntley Decl. ¶ 12, Ex.</b>	
14	<b>A; SAC ¶ 108.</b>	
15	102. Caltech has implemented a	
16	Nondiscrimination And Equal Employment	
17	Opportunity Policy. <b>Zapp Decl. ¶ 12, Ex. J.</b>	
18	103. JPL employees can access policies	
19	online. <b>Huntley Decl. ¶ 13.</b>	

**ISSUE NO. 9:** Plaintiff's Seventh Cause of Action for wrongful demotion in violation of FEHA fails as a matter of law for the same reasons as Coppedge's religious discrimination and retaliation claims.

20	Defendant's Undisputed Material Facts And Supporting Evidence:	Plaintiff's Response and Supporting Evidence:
21	104. Defendant incorporates by reference	
22	Undisputed Material Fact Nos. 15-56, 82, 85-	
23	86, 88. Defendant incorporates by reference	
24	Supporting Evidence for Undisputed Material	
25	Fact Nos. 15-56, 82, 85-86, 88.	

**ISSUE NO. 10:** Plaintiff's Eighth Cause of Action for wrongful demotion in violation of public policy fails as a matter of law for the same reasons as Coppedge's religious discrimination and retaliation claims, and, to the extent he attempts to rely on free speech, also because Plaintiff cannot tether it to a fundamental public policy, as required.

Defendant's Undisputed Material Facts And Supporting Evidence:	Plaintiff's Response and Supporting Evidence:
105. Defendant incorporates by reference Undisputed Material Fact Nos. 1, 2, 15-56, 82, 85-86, 88. Defendant incorporates by reference Supporting Evidence for Undisputed Material Fact Nos. 1, 2, 15-56, 82, 85-86, 88.	

**ISSUE NO. 11:** Plaintiff's Ninth Cause of Action for wrongful termination in violation of FEHA fails as a matter of law for the same reasons as Coppedge's religious discrimination and retaliation claims.

Defendant's Undisputed Material Facts And Supporting Evidence:	Plaintiff's Response and Supporting Evidence:
106. Defendant incorporates by reference Undisputed Material Fact Nos. 7, 62-80, 87. Defendant incorporates by reference Supporting Evidence for Undisputed Material Fact Nos. 7, 62-80, 87.	

**ISSUE NO. 12:** Plaintiff's Tenth Cause of Action for wrongful termination in violation of public policy (Tameny) fails as a matter of law for the same reasons as Coppedge's religious discrimination and retaliation claims, and, to the extent he attempts to rely on free speech, also because Plaintiff cannot tether it to a fundamental public policy, as required.

Defendant's Undisputed Material Facts And Supporting Evidence:	Plaintiff's Response and Supporting Evidence:
107. Defendant incorporates by reference Undisputed Material Fact Nos. 1, 2, 7, 49, 62-80, 87. Defendant incorporates by reference Supporting Evidence for Undisputed Material Fact Nos. 1, 2, 7, 49, 62-80, 87.	

1 **ISSUE NO. 13:** Plaintiff's Eleventh Cause of Action for wrongful termination in  
2 violation of public policy (based on the California Constitution) fails as a matter of law for  
3 the same reasons as Coppedge's religious discrimination and retaliation claims, and, to the  
4 extent he attempts to rely on free speech, also because Plaintiff cannot tether it to a  
5 fundamental public policy, as required.

6 Defendant's Undisputed Material Facts And 7 Supporting Evidence:	Plaintiff's Response and Supporting Evidence:
8 108. Defendant incorporates by reference 9 Undisputed Material Fact Nos. 1, 2, 7, 49, 62- 10 80, 87. Defendant incorporates by reference 11 Supporting Evidence for Undisputed Material Fact Nos. 1, 2, 7, 49, 62-80, 87.	

12  
13  
14 DATED: July 1, 2011

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