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FILED
 LOS ANGELES SUPERIOR COURT

OCT 18 2011

JOHN A. CLARKE, CLERK
 BY RAUL SANCHEZ, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
 COUNTY OF LOS ANGELES

DAVID COPPEDGE, an Individual,
 Plaintiff,

vs.

JET PROPULSION LABORATORY,
 form unknown; CALIFORNIA
 INSTITUTE OF TECHNOLOGY, form
 unknown; GREGORY CHIN, an
 Individual; CLARK A. BURGESS, an
 Individual; KEVIN KLENK, an Individual;
 and DOES 1 through 25, inclusive,

Defendants.

Case No. BC435600

**DEFENDANT CALIFORNIA INSTITUTE
 OF TECHNOLOGY'S RESPONSE TO
 PLAINTIFF'S SUPPLEMENTAL
 SEPARATE STATEMENT OF
 ADDITIONAL DISPUTED FACTS IN
 OPPOSITION TO CALTECH'S MOTION
 FOR SUMMARY JUDGMENT OR, IN THE
 ALTERNATIVE, SUMMARY
 ADJUDICATION OF ISSUES**

Date: October 26, 2011
 Time: 8:30 a.m.
 Dept: 54

Trial Date: December 14, 2011

Defendant California Institute of Technology ("Caltech") hereby submits this Response to Plaintiff David Coppedge's ("Coppedge") Supplemental Separate Statement of Additional Disputed Facts, which Plaintiff filed in Support of Plaintiff's Opposition to Caltech's Motion for Summary Judgment or, in the Alternative, Motion for Summary Adjudication.

As a preliminary matter, Coppedge's Supplemental Separate Statement of Additional Undisputed Facts is in a format non-compliant with the California Rules of Court, and should therefore be stricken and disregarded by this Court. *See* California Rule of Court 3.1350 (indicating that both "[s]upporting and opposing separate statements in a motion for summary judgment must follow [the] format" set forth in Rule 3.1350(h), with the purported undisputed material facts and alleged supporting evidence set forth in the left column, leaving the right column blank for response).

For the convenience of the Court, Caltech has reorganized the content of Coppedge's Supplemental Separate Statement of Additional Undisputed Facts, and will proceed with responding accordingly.

Plaintiff's Supplemental Additional Material Facts and Supporting Evidence:	Defendant's Response and Supporting Evidence:
152. After Chin's eruption had prompted an HR investigation into Coppedge's behavior in March 2009, Chin briefed Cassini's program manager, Bob Mitchell, on the matter and turned to him for direction. Mitchell told Chin it was his problem and that he should fix it. Mitchell told Chin it was his problem and that he should fix it. <i>Id.</i> Chin's solution was to remove Coppedge from the Cassini program, and Chin advised Clark Burgess, Coppedge's	Disputed, but irrelevant. No. 152 consists of Coppedge's self-serving and argumentative mischaracterization of the record to suggest that Cassini program management sought Coppedge's removal from Cassini because of the March 2 incident and HR investigation, and that the decision was Chin's. This portrayal of events lacks foundation, and contradicts Coppedge's own

Plaintiff's Supplemental Additional Material Facts and Supporting Evidence:	Defendant's Response and Supporting Evidence:
group supervisor, of <u>Chin's decision</u> Becker Decl., Exh. 49, Chin Dep.Tr., 378:12-24 ("I had briefed Bob."); <i>id.</i>, 375:18-376:20 ("Bob Mitchell directed me or said that I needed to take care of this matter, and I relayed that [to Burgess])."; <i>id.</i>, Exh. 50, Mitchell Dep.Tr., 55:4-7 ("What I said to Greg was, 'Greg, this is a problem. It's your problem. You've got to fix it.'"); <i>id.</i>, 55:17-19 ("I didn't give him any direct orders about what to do. And no, he didn't get into a lot of discussions about what to do with me."); <i>id.</i>, Exh. 49, Chin Dep.Tr., 376:21-25 (Q. "So you told Burgess that 'Bob Mitchell directed me or said that I needed to take care of this matter,' and that's what you told him? A. Yes. I talked to Cab, and I [said], "You know, we need to move out on this.'")	testimony and facts he does not or cannot dispute. Coppedge was aware Mitchell wanted him off the project before the March 2, 2009 incident. Tr. 204:12-205:6 ("Q. Did Mr. Chin ever tell you that Program Management asked him several times to replace you? A. He said that. . . . Q. How many times did Mr. Chin tell you that Program Management had come to him and asked that you be replaced? A. I don't know. At least two."). Chin and Mitchell testified to that effect as well. Chin 188:11-189:12; 190:17-191:2; 373:2-374:1; Mitchell 48:24-49:12; 55:4-19. Mitchell wanted Coppedge off the project because of performance and communication issues, not the harassment investigation. <i>See, e.g.</i>, Chin 375:8-376:2. Coppedge has also acknowledged that it was Mitchell who requested his removal from Cassini, not Chin, and that Chin had actually tried to protect him. Tr. 205:6-12 ("And [Mr. Chin] would say, 'And Dave, I stood up for you, and I defended you.' Q. And is that true? You believe that he did stand up and defend

Plaintiff's Supplemental Additional Material Facts and Supporting Evidence:	Defendant's Response and Supporting Evidence:
	you? A. Tammy says that's what he did. I have no reason to doubt it."). When Mitchell determined it was time to move forward on removing Coppedge, Chin "concurred" with this input; it was "not something [he] wanted to do." Chin 375:18-376:2; 377:1-25.
153. On Friday, April 3, Clark Burgess, Coppedge's group supervisor, told HR generalist Jhertaune Huntley that Cassini Project Manager wanted Coppedge removed from the project "as soon as possible." Becker Decl. Exh. 51, Burgess Dep.Tr., Exh. 70 attached thereto, 4/3/2009 e-mail from Huntley to Curtis and Aguilera ("Clark also informed me that the <i>Cassini Project Manager wants David off of the project as soon as possible</i>. Apparently, there have been many issues brewing that have recently been brought to Clark's attention. I instructed him to set up a meeting with you and Nancy to discuss further."). (Emphasis added.)	Disputed, but irrelevant. No. 153 consists of Coppedge's characterization of the April 3, 2009 email from Huntley to Curtis and Aguilera. This is irrelevant; the document speaks for itself. This portrayal of events also fails to acknowledge that Mitchell wanted Coppedge off the project well before this time. Coppedge was aware Mitchell wanted him off the project before the March 2, 2009 incident. Tr. 204:12-205:6 ("Q. Did Mr. Chin ever tell you that Program Management asked him several times to replace you? A. He said that. . . . Q. How many times did Mr. Chin tell you that Program Management had come to him and asked that you be replaced? A. I don't know. At least two."). Chin and Mitchell testified to that effect as well. Chin

Plaintiff's Supplemental Additional Material Facts and Supporting Evidence:	Defendant's Response and Supporting Evidence:
	188:11-189:12; 190:17-191:2; 373:2-374:1; Mitchell 48:24-49:12; 55:4-19.
154. The following Tuesday, April 7, Burgess met with Huntley and HR generalist Nancy Aguilera. He repeated that Cassini wanted Coppedge "off the project," adding that Cassini was pulling Coppedge's funding "<u>due to his conduct/interpersonal communications issues.</u>" Becker Decl. Exh. 52, Burgess Dep.Tr., Exh. 72 attached thereto, 4/7/2009 e-mail from J.Clennan-Price to N.Aguilera, S.Curtis and K.Saidiner, ("Jhertaune and I met with Cab Burgess this morning regarding David Coppedge. Cab said he was notified by Greg Chin D31 (Cassini Lead) that Cassini wants David off the project and they are pulling his funding <u>due to his conduct/interpersonal communications issues.</u>") (Emphasis added.)	Disputed, but irrelevant. No. 154 consists of Coppedge's characterization of the April 7, 2009 email from J.Clennan-Price to N.Aguilera, S.Curtis and K.Saidiner. This is irrelevant; the document speaks for itself. This portrayal of events also fails to acknowledge that Mitchell wanted Coppedge off the project well before this time, because of performance and communication issues. Coppedge was aware Mitchell wanted him off the project before the March 2, 2009 incident. Tr. 204:12-205:6 ("Q. Did Mr. Chin ever tell you that Program Management asked him several times to replace you? A. He said that. . . . Q. How many times did Mr. Chin tell you that Program Management had come to him and asked that you be replaced? A. I don't know. At least two."). Chin and Mitchell testified to that effect as well. Chin 188:11-189:12; 190:17-191:2;

Plaintiff's Supplemental Additional Material Facts and Supporting Evidence:	Defendant's Response and Supporting Evidence:
	373:2-374:1; Mitchell 48:24-49:12; 55:4-19. Mitchell wanted Coppedge off the project because of performance and communication issues, not the harassment investigation. <i>See</i> , <i>e.g.</i> , Chin 375:8-376:2.
155. Burgess advised the HR generalists, Huntley and Aguilera, that he was unable to find work for Coppedge and wanted him laid off. Becker Decl. Exh. 53, Burgess Dep. Tr., 218:21-219:19 ("Q. Next line says 'Cab indicated that he has no other work for David.' Did you tell them that? A. Yes."); <i>id.</i>, Exhibit 54, Huntley Dep. Tr., 507:8-10 ("Q... Did Burgess say at that time that he wanted to lay off David? A. Yes, I do recall him stating that.")	Disputed, but irrelevant. No. 155 consists of Coppedge's characterization of Burgess's and Huntley's deposition testimony. This is irrelevant; the testimony speaks for itself.
156. HR explained to Burgess that because work remained available on the Cassini project, "layoff [was] not an option." However, to appease Burgess and Cassini management, HR devised a "strategy" calculated to marginalize and diminish Coppedge's role within Cassini and ultimately to his layoff or termination.	Disputed, but irrelevant. No. 156 consists of Coppedge's mischaracterization of the April 7, 2009 email from J.Clelland-Price to N.Aguilera, S.Curtis and K.Saidiner. This is irrelevant and lacks foundation; the document speaks for itself.

Plaintiff's Supplemental Additional Material Facts and Supporting Evidence:	Defendant's Response and Supporting Evidence:
HR's "strategy" included: (1) issuing a written warning "for inappropriate conduct/harassment"; (2) removing Coppedge as the team lead; (3) monitoring Coppedge "to ensure no further incidents"; and (4) recording "conduct/communication issues" as part of Coppedge's annual performance evaluations ("ECAPS"). Becker Decl. Exh. 52, Burgess Dep.Tr., Exh. 72 attached thereto ("Basically we told Cab to discuss this matter with Kevin, and <i>come up with a strategy to approach Cassini management</i>. We suggested the following: • Contact Cassini to let them know that there is no other work. • Assure them that <i>line management will deal with employee conduct/communication issues through performance management</i>. • Advise them that Coppedge is to receive a FWW [Final Written Warning] <i>for inappropriate conduct/harassment</i>, and he will be monitored by his line manager (not Chen) [sic] going forward. • Remove Coppedge as the Lead SA to the project.	Coppedge's portrayal of events is pure argument without any basis in the record. Nothing in the April 7 email suggests there was a plan to "marginalize and diminish Coppedge's role within Cassini." Far from it. The email makes clear that HR told Burgess that Coppedge <i>could not</i> be laid off, because work was available at the time. Burgess Ex. 72. None of the numbered suggestions set forth in the April 7 email supports the existence of a plan to "marginalize" Coppedge either. To the contrary, the suggestions were ideas for ensuring that Coppedge would not make the same mistakes in the future that led to coworkers feeling harassed, and for addressing the complaints lodged by customers. (1) The written warning was a <i>disciplinary</i> action that resulted from Huntley's investigation, and was later rescinded anyway. Huntley Decl. ¶¶ 12, 14; Tr. 167:4-14; 572:2-12; 573:18-575:4; Klenk 441:7-11; 456:16-19. (2) The lead removal was an action taken by Burgess to manage Coppedge's performance issues (namely, customer complaints about him). Tr. 432:16-433:19;

Plaintiff's Supplemental Additional Material Facts and Supporting Evidence:	Defendant's Response and Supporting Evidence:
• Line management will monitor employee's compliance with the FWW to ensure no further incidents. <i>We also advised Cab that layoff is not an option since there is work on Cassini.</i>) (Emphasis added.)	Burgess 96:18-97:4; 231:10-232:1; Klenk Ex. 44, at page 20. (3) "[E]nsure no further incidents" refers to the written warning; HR was properly suggesting that line management monitor Coppedge to prevent more situations in which employees felt harassed by Coppedge; (4) The April 7 email does not say anything about ECAPs. Regardless, it would be entirely appropriate for management to address conduct and communication issues in Coppedge's ECAP. In short, there is nothing nefarious about addressing performance issues, or investigating complaints of harassment; that these issues were addressed concurrently does not mean they were one and the same.
157. On April 13, Burgess and Klenk executed the first two strategic steps by issuing him a written warning and removing him from team lead. See Plf.'s Opp., Sep. Stat. of Add'l Facts, ¶¶ 124, 127.	Disputed, but irrelevant. No. 157 consists of Coppedge's self-serving mischaracterization of the record to suggest that the written warning and removal of lead duties were not only connected, but part of a strategy against him. This portrayal of events lacks foundation and constitutes improper argument.

Plaintiff's Supplemental Additional Material Facts and Supporting Evidence:	Defendant's Response and Supporting Evidence:
	There was no plan to oust Coppedge. Coppedge is mischaracterizing the April 7, 2009 email, which memorializes a meeting in which HR met with Burgess to discuss Cassini's desire to move Coppedge off Cassini due to "conduct/interpersonal communications issues" with customers. Burgess Ex. 72. Far from presenting a plan to remove Coppedge, it makes clear that HR told Burgess that Coppedge <i>could not</i> be laid off, because work was available at the time. <i>Id.</i> The record also establishes that the written warning and lead removal were not connected. The written warning was a disciplinary action that resulted from Huntley's investigation, and was later rescinded. Huntley Decl. ¶¶ 12, 14; Tr. 167:4-14; 572:2-12; 573:18-575:4; Klenk 441:7-11; 456:16-19. The lead removal was an action taken by Burgess to manage Coppedge's performance issues (namely, customer complaints about him). Tr. 432:16-433:19; Burgess 96:18-97:4; 231:10-232:1; Klenk Ex. 44, at page 20.
158. Two days after the 4/13/2009 discipli-	Disputed, but irrelevant.

Plaintiff's Supplemental Additional Material Facts and Supporting Evidence:	Defendant's Response and Supporting Evidence:
nary meeting, on April 15, Coppedge asked Burgess to clarify whether he had been investigated and reprimanded due to his sharing of intelligent design DVDs or "for some other activity, personal flaw or deficiency in job performance." Burgess responded the next day, conceding the trigger was Coppedge's discussing intelligent design. Becker Decl., Exh. 55, Coppedge Dep.Tr., Exh. 1022 attached thereto, 4/15/2009 e-mail from D.Coppedge to C.Burgess ("Hi Cab, Per our meeting this afternoon, I just wanted to be sure I didn't misconstrue what you told me. Is it correct to say that the allegation of harassment was limited to the activity of my handing out DVDs on intelligent design to coworkers, and that if I had not done that to anyone here in the building, I would still be in good standing? (i.e., I would not have been investigated or gotten the written warning)? Or would you word it some other way? <u><i>I just want to be crystal clear I was not being investigated/reprimanded for some other activity, personal flaw or deficiency in job performance.</i></u> Thanks for the clarification.")	No. 158 consists of Coppedge's mischaracterization of the April 15, 2009 email from Coppedge to Burgess, and Burgess's April 16, 2009 reply. Coppedge's misrepresentation is irrelevant, argumentative, and as to Burgess's email, lacks foundation; the documents speak for themselves. Coppedge brazenly mischaracterizes Burgess's email. First, Burgess indicated that the issue was Coppedge's actions in "passing out DVDs and discussing them," not their content. Tr. Ex. 1022. Indeed, Burgess never even refers to "intelligent design;" the bracketed modifier "intelligent design" in No. 158 was inserted by Coppedge. Second, the email makes clear that Burgess was talking solely about the written warning, not the lead removal (which had nothing to do with the harassment investigation). Further, Burgess did not "concede" anything. Burgess's reply simply acknowledges the uncontested fact that HR's investigation was triggered by the March 2 incident, and confirms that it was the

Plaintiff's Supplemental Additional Material Facts and Supporting Evidence:	Defendant's Response and Supporting Evidence:
(Emphasis added.); <i>id.</i>, 4/16/2009 e-mail from C.Burgess to D.Coppedge ("David, I believe the investigation was triggered by the discussion you had with Greg on April 13th [sic: March 2] when he demanded that you stop passing out [intelligent design] DVDs and discussing them in the workplace. When I first conversed with HR, they mentioned they were going to conduct an investigation based on that encounter. <u>Whatever else they may have found, I do not believe entered into their decision to generate the written warning.</u> It's my belief, if that incidence [sic] had not happened HR would not have been contacted and the writ-ten warning would not have been generated.") (Emphasis added.)	investigation that led to the warning (based on HR's conclusion that Coppedge violated Caltech's Unlawful Harassment and Ethics and Business Conduct policies). Huntley Decl. ¶¶ 12, 14.
159. Summaries of the April 13 disciplinary meeting prepared by Burgess and Klenk confirm the written warning and removal from the team lead role stemmed solely from the HR harassment investigation into Coppedge's perceived religious and political speech activity. Becker Decl., Exh. 56, Klenk Dep.Tr., Exh. 12 attached thereto, 4/14/2009 e-mail from K.	Disputed, but irrelevant. No. 159 consists of Coppedge's mischaracterization of the 4/14/2009 e-mail from K. Klenk to S.Curtis and W.Haggins, the 4/15/2009 e-mail from C.Burgess to S.Curtis et al., and deposition testimony regarding same. This is irrelevant and lacks foundation; the documents and testimony speak for themselves.

Plaintiff's Supplemental Additional Material Facts and Supporting Evidence:	Defendant's Response and Supporting Evidence:
Klenk to S.Curtis and W.Haggins, "Coppedge Written Warning Meeting Summary" ("The primary focus of the meeting was the findings summarized in the written warning by Mr. Burgess. We went through them point by point.... Mr. Burgess and I repeatedly informed him of the results of Ms. Huntley's investigation of the situation."); <i>id.</i>, Exh. 57, Klenk Dep. Tr., 236:7-237:9: "(Q. What was your purpose, do you know, for sending this e-mail? A. I wanted to have a written summary of the meeting from my point of view for the record. Q. And after reviewing it here, is it an accurate statement of what you recall happening at that meeting? A. Yes, it is. Q. Is it a complete statement of what you recall happening? ... THE WITNESS: This is a written summary I wrote after the meeting, detailing what I thought occurred in the meeting. By MR. BECKER: Q. Do you believe you hit all the high points in this e-mail? ... THE WITNESS: This was a summary of the meeting as I saw it, to the best of my recollection. By MR. BECKER: Q. Is there anything you feel that you omitted from	This portrayal of events is also argumentative and contrary to the facts. First, the record establishes that the written warning and lead removal were not connected. The written warning was a disciplinary action that resulted from Huntley's investigation, and was later rescinded. Huntley Decl. ¶¶ 12, 14; Tr. 167:4-14; 572:2-8; 573:18-575:4; Klenk 441:7-11; 456:16-19. The lead removal was an action taken by Burgess to manage Coppedge's performance issues (namely, customer complaints about him). Tr. 432:16-433:19; Burgess 96:18-97:4; 231:10-232:1; Klenk Ex. 44, at page 20. Second, that Burgess and Klenk's email summaries regarding the April 13 meeting focus on the written warning and investigation in no way suggests that the lead removal likewise stemmed from the investigation. Burgess addresses the lead removal, and makes clear that it took place "in order to remove the strife that seemed to exist" on the project – not because of the investigation. Burgess Ex. 50. Klenk does not discuss the lead removal at all. Zapp Supp.

Plaintiff's Supplemental Additional Material Facts and Supporting Evidence:	Defendant's Response and Supporting Evidence:
this that you might have included or should have included? A. At the time I wrote this, this was the best recollection I had.)"; <i>id.</i>, Exh 58, Burgess Dep.Tr., Exh. 50 attached thereto, 4/15/2009 e-mail from C.Burgess to S.Curtis et al., "FW: Meeting with Dave Coppedge on 4/13/09" (... "We started the discussion with each of us in possession of a copy of the written warning letter ... Kevin and I told David what the letter contained and again David denied that he harassed anyone. ... Kevin and I both suggested ... we were sure HR was very professional about what they were doing and we could rely on them to dig up the truth."); <i>id.</i>, Exh. 53, Burgess Dep. Tr., 85:12- 22 ("Q. It says, 'As I understand it' – we read this before – 'there were a number of individuals interviewed,' and a common theme was that they felt like they were being harassed about the DVD's. One individual mentioned that he had a heated discussion with David about a ballot issue not related to the DVD matter, and that he too thought he was being harassed." Does that pretty much summarize the facts as you understood them on	Reply Decl. ¶ 10, Ex. G, filed concurrently herewith.

Plaintiff's Supplemental Additional Material Facts and Supporting Evidence:	Defendant's Response and Supporting Evidence:
April 15th? A. Yes.")	
160. HR's investigator Huntley conducted the investigation based upon Chin's claim that "a number of people" had complained that they had been harassed by Coppedge "as relates to his religious beliefs." Becker Decl., Exh. 54, Huntley Dep. Tr., 132:6-13 ("I was investigating the claim that was made to me by Greg Chin, which was an employee came to him and complained about being harassed by David Coppedge as relates to her personal choices, i.e., religion and politics, as well as a number of people coming to Greg in the past, stating they, as well, had been harassed by David as relates to his religious beliefs.")	Disputed, but irrelevant. No. 160 consists of Coppedge's characterization of Huntley's deposition testimony. This is irrelevant and lacks foundation; the testimony speaks for itself. This portrayal of events also contradicts facts that Coppedge does not or cannot dispute. It is undisputed that Huntley's investigation followed Chin's report about the March 2 meeting. During it, she learned that multiple employees felt harassed by Coppedge's <i>manner</i> in expressing his views, not the views themselves. <i>See, e.g.</i>, Weisenfelder 22:5-7; 109:24-110:25; 127:2-21; 145:22-147:12; Ex. 31; Huntley Decl. ¶ 9; Vetter 115:24-116:5; 116:17-19; 126:19-127:3; 130:14-20; 145:16-22; Ex. 26; Huntley Decl. ¶ 10; Edgington 27:18-28:2; 28:4-6; 28:22-24; Ex. 27; Huntley Decl. ¶ 11. Coppedge also omits mention of Edgington, whose incident with Coppedge had nothing to do with religion at all. Edgington 28:4-6; 28:22-24; Ex. 27.
161. The record shows Chin's religious	Disputed, but irrelevant.

Plaintiff's Supplemental Additional Material Facts and Supporting Evidence:	Defendant's Response and Supporting Evidence:
animus. Chin complained that Coppedge was trying to "convert" him to Coppedge's religious beliefs when Coppedge left a DVD about Jesus Christ as a Christmas gift in his mail slot. Chin scolded Coppedge for discussing intelligent design, contending it is "religion." Chin was "tired" of fielding complaints that Coppedge was "harassing people with his religious viewpoints during business hours," and advised Huntley that people had specifically complained to him that Coppedge was harassing them during business hours with his religious beliefs. See Plf.'s Opp. Sep. Stat. of Add'l Facts ¶ 66; Becker Decl., Exh 54, Huntley Dep. Tr., 122:10-19 ("Q. By the way, did Greg tell you, during those initial discussions with him on or about March 2 and 3 that people had complained about David talking about religion, specifically? A. Yes. Q. What did he say in those initial conversations about that? In other words, what were they complaining specifically that David had been doing? A. Harassing them with his religious beliefs during work hours."); <i>id.</i>, 228:6-19 ("Q. Then the next line, it says,	No. 161 consists of Coppedge's characterization of Huntley's deposition testimony. This is irrelevant and lacks foundation; the testimony speaks for itself. Coppedge's suggestion that Chin complained is belied by his acknowledgment that Edgington was the other complaining employee. <i>See, e.g.</i>, Opp'n at 9; Plaintiff's Separate Statement of Additional Undisputed Facts, Nos. 93-102. Coppedge's contention of religious animus is unsupported by any facts, either as set forth here or in the record as a whole. The record establishes an absence of animus: Chin believes in Christian principles. Chin 170:20-22. There is no dispute that Coppedge and Chin had a good relationship for years, throughout which Chin was fully aware of Coppedge's religious beliefs. Tr. 141:25-142:4; 328:20-24; Chin 200:6-9. It was only following Weisenfelder's complaint of harassment that Chin spoke to Coppedge regarding his religious and political speech. Tr. 271:10-16; Chin 128:11-129:8; 140:2-9.

Plaintiff's Supplemental Additional Material Facts and Supporting Evidence:	Defendant's Response and Supporting Evidence:
'Greg states that he is tired of all of the complaints regarding David harassing people with his religious viewpoints during business hours.' At that point in time, did you ask him, other than Margaret Weisenfelder, what other complaints he had received? A. Yes. Q. Did he tell you? A. Yes. Q. What did he tell you? A. Religious viewpoints. People had complained to him about David expressing his religious viewpoints during business hours.")	
162. The only other individuals who complained about Coppedge's religious views were Vetter and Weisenfelder. The evidence reveals Vetter's religious animus. Vetter claimed that Coppedge had a religious "agenda" when he sought to change the name of a potluck lunch held in December from "Holiday Party" to "Christmas Party." Vetter told Huntley that she felt harassed by Coppedge's persistence, yet was unable to produce the slightest evidence that Coppedge behaved in-appropriately See Plf.'s Opp. Sep. Stat. ¶¶ 69-79.	Disputed, but irrelevant. No. 162 consists of Coppedge's characterization of documents and deposition testimony. This is irrelevant and lacks foundation; the documents and testimony speak for themselves. Coppedge's contention of religious animus is unsupported by any facts, either as set forth here or in the record as a whole. The record establishes an absence of animus: • Weisenfelder is Episcopalian. Weisenfelder 103:23-24. She made clear that it was Coppedge's "persisten[ce]" that made her feel uncomfortable, not what he was saying. Weisenfelder 109:24-110:25; 127:2-21;

Plaintiff's Supplemental Additional Material Facts and Supporting Evidence:	Defendant's Response and Supporting Evidence:
	145:22-147:12; Ex. 31; Huntley Decl. ¶ 9. With respect to the DVD, she testified explicitly that "it was not the content of the DVD that made [her] feel targeted; it was the sticky note on the back of the cover." <i>Id.</i> 22:5-7. • Vetter, a Christian Lutheran, felt harassed by Coppedge's insistence on changing the name of the holiday party, not by beliefs regarding Christmas – a holiday that she herself celebrates. Vetter 73:6-8; 115:24-116:5; 116:17-19; 126:19-127:3; 130:14-20; 145:16-22; Ex. 26; Huntley Decl. ¶ 10.
163. Weisenfelder felt that the Proposition 8 measure and the DVD she borrowed from Coppedge were religious in nature and that Coppedge was "stepping over the line discussing religion and politics in the workplace." Yet Coppedge had not even discussed his religious views with her. See Plf.'s Opp. Sep. Stat. ¶¶ 88, 109-110, 114; Opp. Becker Decl., Exh. 21, Huntley Dep. Tr. Exh. 31 attached thereto (Huntley notes of interview with Weisenfelder); Supplemental. Opp. Becker Decl., Exh. 59, Weisenfelder	Disputed, but irrelevant. No. 163 consists of Coppedge's characterization of documents and deposition testimony. This is irrelevant and lacks foundation; the documents and testimony speak for themselves.

1	Plaintiff's Supplemental Additional Material	Defendant's Response and Supporting
2	Facts and Supporting Evidence:	Evidence:
3	Dep.Tr., 20:21-23 ("Q. Did David ever discuss	
4	intelligent design with you at any time? A.	
5	No.")	

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8 DATED: October 18, 2011

PAUL HASTINGS LLP
JAMES A. ZAPP
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12 By: _____


JAMES A. ZAPP

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14 Attorneys for Defendant
CALIFORNIA INSTITUTE OF TECHNOLOGY
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