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LOS ANGELES SUPERIOR COURT

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1 William J. Becker, Jr., Esq. (SBN 134545)
2 **THE BECKER LAW FIRM**
3 11500 Olympic Blvd., Suite 400
4 Los Angeles, California 90064
5 Phone: (310) 636-1018
6 Fax: (310) 765-6328
7 Attorneys for Plaintiff, David Coppedge

8 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

10 **DAVID COPPEDGE**, an individual;

11 Plaintiff,

12 vs.

13 **JET PROPULSION LABORATORY**, form
14 unknown; **CALIFORNIA INSTITUTE OF**
15 **TECHNOLOGY**, form unknown; **GREGO-**
16 **RY CHIN**, an Individual; **CLARK A.**
17 **BURGESS**, an Individual; **KEVIN KLENK**,
an Individual; and **Does 1** through **25**, inclu-
sive,

18 Defendants.

Case No. BC435600

The Honorable Ernest M. Hiroshige, Dept. 54

**PLAINTIFF DAVID COPPEDGE'S
PROPOSED SPECIALLY-PREPARED
JURY INSTRUCTION NO. 3: FACTORS
CONSTITUTING ADVERSE
EMPLOYMENT ACTION**

FSC: December 2, 2011
HEARING TIME: 8:30 a.m.
DEPT: 54

Trial Date: December 14, 2011

BY FAX

20 In these jury instructions, you have heard the term “adverse employment action.” As part
21 of Plaintiff’s case, he must establish that Defendant imposed one or more adverse employment
22 actions against him.

23 An adverse employment action is one that materially affects the terms, conditions, or
24 privileges of employment. An adverse employment action could be adverse treatment that is
25 reasonably likely to impair a reasonable employee’s job performance or prospects for advance-
26 ment or promotion.
27
28

1 Source: *Yanowitz v. L'Oreal USA, Inc.* (2005) 36 Cal.4th 1028, 1054-1055, quoted and followed
2 in *Malais v. Los Angeles City Fire Dept.* (2007) 150 Cal.App.4th 350, 357

3 An adverse employment action is a job change that is "materially adverse." For example,
4 an adverse employment action could be a demotion evidenced by a less distinguished title, sig-
5 nificantly diminished material responsibilities, or other indicators unique to a particular situation.
6 Plaintiff need not have suffered a decrease in wage or salary or a material loss of benefits, for
7 example, to have been affected by an adverse employment action.
8

9 Source: *Kassner v. 2nd Avenue Delicatessen Inc.* (2d Cir. 2007) 496 F.3d 229, 238.

10
11 Or, if Plaintiff establishes that he experienced a transfer of job duties and undeserved per-
12 formance ratings, then he has established the fact of "adverse employment action."

13
14 Source: *Yartzoff v. Thomas* (9th Cir. 1987) 809 F.2d 1371, 1376.

15 Concerning Plaintiff's being terminated from his employment, there is no question that
16 his termination was an adverse employment action.
17

18 Source: *Yanowitz v. L'Oreal USA, Inc.* (2005) 36 Cal.4th 1028, 1054-1055.

19 DATED: November 30, 2011

THE BECKER LAW FIRM

William J

Becker Jr, Esq

Digitally signed by William J Becker
Jr, Esq
DN: cn=William J Becker Jr, Esq,
o=THE BECKER LAW FIRM, ou,
email=bbeckerlaw@gmail.com, c=US
Date: 2011.11.30 15:21:57 -08'00'

By:

WILLIAM J. BECKER, JR., ESQ.

Attorneys for Plaintiff, DAVID COPPEDGE