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**FILED**  
Superior Court of California  
County of Los Angeles

DEC 14 2011

John A. Clarke, Executive Officer/ Clerk  
By M. Soto, Deputy  
MOSES SOTO

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

11 **DAVID COPPEDGE**, an individual;

12 Plaintiff,

13 vs.

14 **JET PROPULSION LABORATORY**,  
15 form unknown; **CALIFORNIA**  
16 **INSTITUTE OF TECHNOLOGY**, form  
17 unknown; **GREGORY CHIN**, an Individu-  
18 al; **CLARK A. BURGESS**, an Individual;  
19 **KEVIN KLENK**, an Individual; and **Does 1**  
20 through **25**, inclusive,

21 Defendants.

Case No. BC435600

*The Honorable Ernest M. Hiroshige, Dept. 54*

**PLAINTIFF DAVID COPPEDGE'S  
OPPOSITION TO DEFENDANT'S  
MOTION IN LIMINE NO. 8 FOR AN  
ORDER EXCLUDING TESTIMONY,  
EVIDENCE, ARGUMENT AND  
COMMENT REGARDING  
PLAINTIFF'S SUBJECTIVE OPINIONS  
AS TO ULTIMATE LEGAL ISSUES;  
MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT THERE;  
MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT  
THEREOF**

FSC: February 24, 2012  
HEARING TIME: 9:00 a.m.  
DEPT: 54

Trial Date: March 7, 2011

1 COMES NOW PLAINTIFF DAVID COPPEDGE ("Coppedge") and hereby opposes De-  
2 fendant California Institute of Technology's/Jet Propulsion Laboratory's ("JPL's) Motion in  
3 Limine No. 8 for an order excluding testimony, evidence, argument and comment regarding  
4 Plaintiff's subjective opinions as to ultimate legal issues.

5  
6 This Opposition is based on the ground that JPL's motion lacks merit, is improperly pre-  
7 sented for the purpose of suppressing admissible evidence and would create confusion if granted.

8 DATED: December 13, 2011

**THE BECKER LAW FIRM**

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By:

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12 Attorneys for Plaintiff, DAVID COPPEDGE  
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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 **I. INTRODUCTION**

3 Would the victim of racism be barred from testifying that he felt he had been so victim-  
4 ized? Is it speculation to testify "I felt I was discriminated against"? Is Coppedge's opinion that  
5 he was singled out for discussing religion a "legal conclusion"?  
6

7 The answer in each case is that Coppedge's opinions going to ultimate issues are relevant  
8 and admissible. His views and bases for them form part of his credibility, and frankly can sup-  
9 port his case while also being subject to cross-examination. Nevertheless, his perceptions and  
10 opinions about suffering discrimination are directly relevant to both his discrimination and retali-  
11 ation claims.

12 **II. COPPEDGE'S STATEMENTS GOING TO THE ULTIMATE ISSUES ARE**  
13 **PERMISSIBLE OPINION.**

14  
15 Testimony in the form of an opinion that is otherwise admissible is not objectionable be-  
16 cause it embraces the ultimate issue to be decided by the trier of fact. Evid. Code, § 805.

17 "Rarely, if ever, does an expression of opinion ... not amount to that which either the court or  
18 jury might adopt as a basis for the ultimate decision in the case. However, that does not mean  
19 that the witness is deciding the case or ... usurping the functions of the jury. He is merely giving  
20 an opinion ... which the court may or may not accept." *Wells Truckways v. Cebrian* (1954) 122  
21 Cal.App.2d 666, 674.  
22

23 A witness may state on direct examination the reasons for his or her opinion and the mat-  
24 ter upon which it is based. Evid. Code § 802. Just as easily, a witness may be cross-examined on  
25 the basis for those opinions.  
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1 Lay opinion testimony is sometimes the only way of communicating a witness' percep-  
2 tions to the jury. Some matters are simply impossible or too difficult to convey without resort to  
3 conclusory description. *Osborn v. Mission Ready Mix* (1990) 224 Cal.App.3d 104, 112.

4 A plaintiff's perceptions of discrimination are relevant to both discrimination and retali-  
5 ation causes of action, and are admissible at trial. See *Belian v. Texas A & M University Corpus*  
6 *Christi* (S.D.Tex. 1997) 987 F.Supp. 517, 522 (trial court received testimony from plaintiffs  
7 about their subjective beliefs they suffered discrimination); *Anderson v. HCA Deer Park Hosp.*  
8 (S.D.Tex. 1993) 834 F.Supp. 183, 186 (same). Whether the plaintiff's perceptions about dis-  
9 crimination are valid or not, the plaintiff's perceptions directly bear on whether the plaintiff's  
10 retaliation cause of action is well-founded. *Kelley v. Conco Companies* (2011) 196 Cal.App.4th  
11 191, 209 ("It is well established that a retaliation claim may be brought by an employee who has  
12 complained of or opposed conduct that *the employee reasonably believes to be discriminatory,*  
13 even when a court later determines the conduct was not actually prohibited by the FEHA" (em-  
14 phasis added)).

15 Coppedge has sued JPL for, *inter alia*, wrongful demotion based upon discriminatory re-  
16 ligious animus and retaliation based on various factors, including the filing of his initial com-  
17 plaint and wrongful termination. He originally challenged JPL's treatment of him by reporting it  
18 to JPL's chief ethics officer the same day he told Greg Chin that Chin was creating a "hostile  
19 work environment." Time and time again Coppedge told his supervisors that he felt he was be-  
20 ing singled out and discriminated against. He told the HR investigator that *he* was the one that  
21 was being harassed and that his civil rights were being violated. He brought a challenge to the  
22 discriminatory actions taken against him by filing a lawsuit, and when he was retaliated against  
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1 for filing it, he once again alleged that it was based upon discriminatory animus. These are facts  
2 in the case. To suppress the evidence of these facts would eviscerate Coppedge's case.

3 Coppedge is able to support his opinions based upon his own perceptions to assist the ju-  
4 ry's understanding of the issues. Evid. Code § 800. No one will mistake Coppedge for being a  
5 lawyer. It would be unfair and highly prejudicial to Coppedge prevent him from describing the  
6 facts in words he chooses to use, regardless of whether they have a legal meaning.  
7

8 **III. CONCLUSION**

9 In its eighth and last attempt by JPL to choke off the truth from getting told, JPL really  
10 has nothing left to say. Coppedge is entitled to testify concerning ultimate facts. The court  
11 should deny the motion.

12 DATED: December 13, 2011

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