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FILED
 SUPERIOR COURT OF CALIFORNIA
 COUNTY OF LOS ANGELES

DEC 27 2011

John A. Cline, Clerk

By Glorietta Robinson Deputy
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Attorneys for Defendant
 CALIFORNIA INSTITUTE OF TECHNOLOGY

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. BC 435600

REPLY ON MOTION *IN LIMINE* #2

**DEFENDANT CALIFORNIA INSTITUTE
 OF TECHNOLOGY'S REPLY IN
 SUPPORT OF MOTION *IN LIMINE* #2
 ("DML 2") FOR AN ORDER EXCLUDING
 TESTIMONY, EVIDENCE, ARGUMENT
 AND COMMENT REGARDING THE
 CONTENT OF DVDS COPPEDGE
 DISTRIBUTED TO CO-WORKERS AND
 FILMS REGARDING ALLEGED
 HOSTILITY PROPONENTS OF
 INTELLIGENT DESIGN HAVE
 EXPERIENCED; DECLARATION OF
 CAMERON W. FOX IN SUPPORT
 THEREOF**

FSC Date: February 24, 2012
 Time: 9:00 a.m.
 Place: Department 54
 Judge: Hon. Ernest M. Hiroshige

Trial Date: March 7, 2012

1 view the DVDs as part of her investigation. Because the employees did not complain about the
2 DVDs' contents and the DVDs' contents were not considered in the investigation, they are not
3 probative of any issue in the case. The DVDs are also inadmissible hearsay, and properly
4 excluded on multiple grounds under Evidence Code section 352.

5 All of this briefing on the DVDs simply confirms one thing: Coppedge is intent on using
6 this trial to promote intelligent design. The Court should prohibit him from doing so, and instead
7 keep the trial focused on the legal issues at hand.

8 **II. CLARIFICATION OF PLAINTIFF'S FACTUAL MISSTATEMENTS**

9 Underlying Coppedge's arguments is the false presumption that he had an unfettered right
10 to pass out these DVDs at his pleasure, at any time he wanted, in the workplace. He did not.
11 Coppedge was a System Administrator on the Cassini project. The job duties that Caltech paid
12 him handsomely to perform were to maintain the computer systems used to operate, and obtain
13 scientific data from, the Cassini spacecraft. The DVDs and his discussions about them had
14 nothing whatsoever to do with his job duties.

15 As such, Caltech was well within its rights to tell him that communications about these
16 non-work related matters should be limited to non-working time and done in a manner that was
17 neither disruptive nor unwelcome to others. As shown below, that is just what Caltech told him –
18 and to the extent Coppedge's co-workers complained about the DVDs at all (in fact, only *one* did,
19 Weisenfelder), the complaints concerned the *manner* in which Coppedge presented the DVDs,
20 not their contents.

21 Unfortunately, Coppedge repeats many of the same or similar misstatements here that he
22 included in his motion *in limine* regarding the DVDs, forcing Caltech yet again to clarify the
23 actual facts.

<u>Coppedge's Assertion</u>	<u>Actual Facts</u>
"Plaintiff loaned a DVD copy of UTMOL to [Weisenfelder]. . . . After viewing portions of the DVD, Weisenfelder went	Coppedge has no basis to suggest that it was the DVD's content that concerned Weisenfelder. As noted above, she testified that "it was the sticky note on the back of the [DVD] cover" that troubled her, not the DVD's content. Weisenfelder 22:5-7. The

24
25
26
27
28 Coppedge testified that they had an excellent relationship before March 2, 2009.

1 2 3 4	to Chin complaining that Plaintiff had 'harassed' her with his belief in intelligent design." Opp'n at 3.	note contained a list of JPL co-workers whom Coppedge appeared to be targeting (the list had a notation "Try Again" beside one of the names). <i>Id.</i> 152:9-11. Further, Weisenfelder made clear in general that it was Coppedge's "persisten[ce]" that made her feel uncomfortable, not what he was saying. <i>Id.</i> 109:24-110:25; 127:2-21; 145:22-147:12; Ex. 31.
5 6 7 8 9 10 11 12 13	"Chin ... singled out [Coppedge's] intelligent design DVDs as representing an unacceptable 'personal belief' that should best be reserved for Bible group discussion (Ex. No. 2 ...)" Opp'n at 3.	This allegation is entirely erroneous. There is simply no evidence that Chin was hostile to Coppedge's distribution of intelligent design DVDs, if done appropriately. Chin was aware that Coppedge had been distributing DVDs since at least the early 2000's (Chin 178:13-17) ⁴ – but never spoke to him about it until an employee (Weisenfelder) complained of harassment in 2009. In fact, Coppedge testified that he and Chin had a great relationship for years. <i>See, e.g.</i> , Coppedge 141:25-142:4 ("Greg has been a great boss, and I've worked with him for eight years. He's a great guy. He's competent. He's knowledgeable. He does a lot of good for us. And I was frankly shocked at this outburst.") ⁵ Chin likewise "got along great" with an uncle whom he described as having a "strong belief in intelligent design." Chin 134:19-21. Furthermore, Coppedge is misrepresenting the document that he cites here, Chin's email to Employee Relations; Chin never even mentions the DVDs, much less "single[s]" them out. <i>Id.</i> Declaration of W. Becker, Jr. In Support of Motion in <i>Limine</i> No. 1, Ex. 2.
14 15 16 17 18	"Chin ordered Plaintiff to stop handing out DVDs about intelligent design ... (Ex. No. 3, Coppedge Dep. Tr. 290:10-15)." Opp'n at 3.	This allegation is likewise false. Chin did not tell Coppedge that he was prohibited from distributing the DVDs. Chin 154:13-23. Rather, Chin asked him to refrain from doing so during work hours, because Chin "did not want him to be disrupting other individuals." Chin 154:22-23. Distribution "after hours, during breaks, lunch, and non--work time periods, that's fine." Chin 154:19-21. Coppedge admitted this. Coppedge 303:14-15 ("[Chin] did say what I did at lunch ... was my business.")
19 20 21 22 23 24 25 26	Coppedge contends that "[t]wo other co-workers to whom Coppedge had loaned DVDs (Carmen Vetter and Scott Edgington) complained about Coppedge's religious dogmatism," citing their borrowing of intelligent design DVDs from Coppedge to suggest that they complained about the DVDs. Opp'n at 1.	<p>There is no evidence that Edgington or Vetter complained about Coppedge's views on intelligent design, much less the DVDs.</p> <ul style="list-style-type: none"> • Edgington complained about Coppedge's confrontation over a political issue (Proposition 8, the gay marriage initiative), and, specifically, Coppedge's insulting statement to Edgington that he "must be against children," because he disagreed with Coppedge's view on Prop. 8. Edgington 53:8-10, 76:21-77:6.⁶ • Vetter felt harassed by Coppedge's insistence on changing the name of the holiday party to a Christmas party. Vetter 115:24-116:5; 116:17-19; 126:19-127:3; 130:14-20; 145:16-22; Ex. 26; Huntley Decl. ¶ 10. <p>Further, while Vetter and Edgington did receive one or more DVDs from Coppedge, the DVDs did not bother them. They</p>

⁴ Fox Declaration, Exhibit C.

⁵ Fox Declaration, Exhibit D.

⁶ Fox Declaration, Exhibit E.

1		received the DVDs from Coppedge years ago, in 2005, and never
2		complained about them. Vetter 108:4-18. ⁷ Edgington 15:9-18,
3		16:15-21. Indeed, Vetter purchased one of the DVDs that
4		Coppedge now seeks to introduce, "The Privileged Planet," and
5	Caltech "conducted an	Coppedge twists the facts here to suggest that the investigation
6	investigation into the	only concerned the DVDs. It did not. As discussed directly
7	allegations of harassment and	above, Edgington's complaint involved a confrontation over
8	concluded that its employees	Prop. 8, and the situation with Vetter concerned the name of the
9	found Coppedge's DVDs to	holiday party. In turn, when Klenk told Coppedge during the
10	be 'unwelcome.'" Opp'n at 1	April 13, 2009 meeting that they had "no issue with people
11		discussing religion and politics in the office so long as it's not
12		unwelcome or disruptive," this spoke to all of Coppedge's
13		unwelcome behavior, not simply his persistence in distributing
14		the DVDs. Deposition of Kevin Klenk at 313:25-314:14;
15		468:25-469:11; Ex. 44, at 7. ⁸

11 **III. NEITHER "EXPELLED", NOR THE MANNER IN WHICH CALTECH'S**

12 **ATTORNEYS DESCRIBED IT, HAS ANY RELEVANCE TO THIS CASE**

13 Coppedge devotes nearly two pages of his Opposition to criticizing Caltech's description

14 of Ben Stein's documentary "Expelled" as "comedic." Coppedge's reasoning appears to be as

15 follows:

- 16 • Even though the cover of the DVD describes the film as comedic ("Comedian Ben
- 17 Stein hit the nail right on the funny bone"), Coppedge did not find the film
- 18 comedic.
- 19 • Because he did not find it comedic, he assumes that "anyone who has actually
- 20 watched" the film likewise would not find it comedic.
- 21 • Caltech's counsel described the film as "comedic," so by Coppedge's logic, they
- 22 never watched it.
- 23 • Therefore, Caltech's counsel's description of "comedic" is wrong and they have
- 24 "misinformed the court."

25 Opp'n at 2-3. This argument is completely specious. Humor is subjective, and reasonable people

26 can disagree about whether something is humorous. It is also completely unprofessional for

27 ⁷ Fox Declaration, Exhibit F.

28 ⁸ Fox Declaration, Exhibit G.

1 Coppedge to suggest that Caltech's counsel misinformed the Court, or that they are
2 untrustworthy, particularly when they referred to the film in the same manner as the cover of the
3 DVD and the accusation is based on something so trivial as a disagreement over whether
4 something is funny.

5 Coppedge then attempts to draw an analogy, suggesting that just as Caltech's attorneys
6 purportedly did not watch "Expelled" and formed (what he deems is) an erroneous opinion of it,
7 Coppedge's co-workers failed to watch his intelligent design DVDs and thus erroneously
8 perceived them as religion. Coppedge concludes from this that the jury must watch the DVDs so
9 they will not "be forced to accept the biased testimony" of JPL's witnesses. Opp'n at 3. But the
10 analogy fails: regardless of whether Caltech's use of the word "comedic" is right or wrong, it is
11 still a description. JPL's witnesses have never even *attempted* to describe the intelligent design
12 DVDs (if they even watched them), so there is nothing for the jury to "accept" – and, in turn,
13 nothing to be rebutted by showing the DVDs.

14 Finally, as for "Expelled" itself, it too must be excluded from trial. Coppedge was not
15 distributing "Expelled" at JPL, so the film itself has no possible bearing on the issues in this case.
16 To the extent Coppedge seeks to use it to indoctrinate the jury as to the alleged hostile treatment
17 of scientists and academics (of which Coppedge was neither) by academic institutions other than
18 Caltech, it must be excluded as irrelevant and prejudicial, as stated in Caltech's moving papers,
19 its Opposition to Coppedge's motion *in limine*, and Caltech's motion *in limine* to exclude David
20 DeWolf's testimony about such matters.⁹

21 **IV. COPPEDGE FAILS TO ESTABLISH THAT THE DVDS' CONTENTS ARE**
22 **ADMISSIBLE**

23 **A. The DVDs Are Not Relevant To This Action And Should Be Excluded Under**
24 **California Evidence Code Sections 210 and 350.**

25 Coppedge makes several overlapping arguments for relevance; some are largely
26 duplicative of those in his motion *in limine* regarding the DVDs. None is persuasive.

27 ⁹ Even the initial disclaimer at the beginning of *Expelled* makes clear that the movie is mere
28 entertainment, is based on individual opinions, and therefore it cannot be an authoritative source
for the topics it covers. It states: "Interviews and commentary are for entertainment only. The
views and opinions expressed therein are those of the individual speakers [...]."

1 **1. The DVDs Are Irrelevant To The Decisionmakers' Actions.**

2 Coppedge contends that a central issue in the case is whether the decisionmakers acted
3 based on a belief that Coppedge was "imposing his religious dogma" on co-workers through the
4 DVDs. Opp'n at 5. He argues that the decisionmakers should have watched the DVDs to
5 determine if they were offensive, but did not do so, and that whether the DVDs are offensive is
6 now a factual question for the jury. This is nonsense; as the facts above make clear, only one
7 employee's complaint event related to the DVDs, and she was not complaining about their
8 contents. Moreover, this argument is self-defeating. By admitting that decisionmakers did not
9 watch the DVDs, he necessarily concedes that the DVDs' contents could not have impacted how
10 they viewed Coppedge's conduct or the actions they took toward him – rendering the DVDs'
11 contents irrelevant. Assuming *arguendo* there were some obligation for the decisionmakers to
12 watch the DVDs – and there is not, under FEHA, Title VII, or any other law – it still would not
13 follow that "whether the DVDs are offensive" would become a jury question or that the DVDs
14 would have to be shown at trial. At most, the jury would have reason to consider whether the
15 decisionmakers watched the DVDs or why they chose not to, but these topics necessarily would
16 be explored through testimony – not by screening the DVDs.

17 **2. The DVDs Are Irrelevant To Witness State Of Mind And Credibility.**

18 Coppedge incorporates his primary argument from his motion *in limine* – that the DVDs
19 go to the witnesses' state of mind. Opp'n at 6-9. The argument remains unconvincing, in light of
20 his admission that the witnesses had little or no knowledge of the DVDs. PML 1 at 1. Something
21 a witness has never seen plainly cannot influence the witness's actions, meaning the DVDs'
22 contents are immaterial. Yet, according to Coppedge, the witnesses perceived intelligent design
23 as religion, and accused him of harassment because of this purported misconception. He then
24 contends that the jury must determine whether intelligent design actually is religion to decide this
25 case.

26 As Caltech explained in its Opposition to Coppedge's motion *in limine*, he is wrong in
27 every respect. Caltech reiterates its arguments from the Opposition, below, for the Court's
28 convenience.

1 First, his logic is flawed. Coppedge assumes that the witnesses would have had to
2 perceive his speech as religious to view it as harassment. Not so. Conduct can be harassing,
3 regardless of its content, hence the many recognized types of harassment (e.g. racial, sexual, etc.).
4 Here, Caltech's witnesses felt harassed by the *manner* of Coppedge's speech; its content was
5 irrelevant.

6 Second, even assuming *arguendo* that the witnesses felt harassed based upon the content
7 of Coppedge's speech, whether intelligent design actually is religion is still irrelevant. Coppedge
8 claims that the witnesses perceived intelligent design as religion, as well he must, because
9 otherwise he has no case; intelligent design is not protected under either the Fair Employment and
10 Housing Act or public policy. How the witnesses perceived intelligent design can be explored
11 through testimony, just as Coppedge did during the witness depositions. In contrast, it is of no
12 use to the jury to screen DVDs that some witnesses *never even saw*, and about which none
13 complained.¹⁰

14 Third, it does not matter whether the witnesses were "wrong" in perceiving intelligent
15 design as religion (even assuming they did so). This is a religious discrimination case, not a trial
16 on the merits of intelligent design. Whether the *witnesses* perceived intelligent design as religion
17 in no way suggests that the *jury* must decide for itself whether intelligent design is religion – by
18 viewing the DVDs or otherwise. Indeed, allowing the jury to engage in such an irrelevant,
19 prejudicial inquiry would introduce error, not eliminate it.

20 Finally, Coppedge's reliance on stereotyping case law is misplaced. Coppedge suggests
21 that the witnesses viewed the DVDs as religious due to stereotyping of intelligent design as akin
22 to creationism. Even if they had this view, this is not stereotyping, but rather consistent with a
23 legitimate – and widely held – view that intelligent design is no different from creationism.¹¹

24
25 ¹⁰ There is at least some question as to how the witnesses perceive intelligent design. For
26 example, Vetter testified that she did not recall whether The Privileged Planet discussed religion,
27 suggesting that she does not equate intelligent design with religion. Vetter 110:14-16; 111:2-4.

28 ¹¹ This is the position taken by all leading scientific organizations (including the National
Academy of Sciences and the American Association for the Advancement of Science), and at
least one court. See *Kitzmiller v. Dover Area School Dist.*, 400 F. Supp. 2d 707, 726 (M.D. Pa.
2005) ("The overwhelming evidence at trial established that ID is a religious view, a mere re-
labeling of creationism, and not a scientific theory.").

1 Coppedge disagrees with this view, but not every disagreement constitutes a stereotype.
2 Stereotyping occurs when an individual assumes characteristics or conduct of an individual on the
3 basis of group membership.¹² Further, even if the witnesses viewed the DVDs as religious
4 because of preconceptions about intelligent design, this does not warrant screening of the DVDs,
5 for the reasons discussed above.

6 Coppedge again offers little articulation of his other relevance argument – that the DVDs
7 reflect witness credibility – but it fails as well. Assuming *arguendo* that whether the witnesses
8 and/or decisionmakers watched the DVDs is relevant to credibility, these are facts that can be
9 established through testimony. Showing the DVDs adds nothing, and therefore is unnecessary
10 and irrelevant.

11 **3. Coppedge's Objection To Caltech's Contention That The DVDs Are**
12 **Irrelevant Is Duplicative And Unpersuasive.**

13 Coppedge sets forth as a separate argument his objection to Caltech's claim that the
14 DVDs' contents are irrelevant. Opp'n at 6. For the most part, he simply repeats the same
15 arguments he offers elsewhere: that the DVDs go to complaining witnesses' states of mind, and
16 that the decisionmakers should have watched the DVDs. As Caltech discusses above, these
17 arguments fail; the DVDs' contents are irrelevant with respect to both the decisionmakers and the
18 complaining co-workers. Coppedge also insists that "[t]his case involves false assumptions about
19 what intelligent design is." Opp'n at 6. In reality, he is objecting to the view that intelligent
20 design is religion – an opinion that is not "false," but simply one with which he disagrees. Even
21 if there were false assumptions about intelligent design, it would not matter unless the merits of
22 intelligent design were at issue here, and they are not. As discussed above, the only relevant

23 ¹² See, e.g., *Lindahl v. Air France*, 930 F.2d 1434, 1439 (9th Cir. 1991) (district manager saw
24 "[male candidate] as aggressive and cool . . . , while he saw the female candidates as nervous and
25 emotional. His comments could suggest that [he] made his decision on the basis of stereotypical
26 images of men and women . . ."). Coppedge's reliance on *Raad v. Fairbanks North Star Borough*
27 *School District*, 323 F.3d 1185 (9th Cir. 2003), another stereotyping case, is misplaced. In *Raad*,
28 the employer contended that it terminated the plaintiff, a Muslim, because she made a bomb
threat. *Raad* at 1196. *Raad* disputed that she made a bomb threat. *Id.* at 1188, 1196. Unlike in
Raad, where the employer's perception differed due to stereotyping, Caltech and Coppedge agree
as to what happened here: Coppedge discussed his views on intelligent design, the holiday party,
and Proposition 8 with co-workers. Coppedge is merely trying to conjure some excuse to show
the DVDs to the jury, hence his desire to characterize views of intelligent design as
"stereotyping."

1 question is whether the witnesses perceived intelligent design as religion, and the DVDs can offer
2 no insight on this question.

3 **B. These Matters Should Be Excluded Under California Evidence Code Section**
4 **352.**

5 The DVDs are inadmissible under California Evidence Code section 352. Coppedge
6 advances the same arguments regarding prejudice and waste of time that he did in his motion *in*
7 *limine*; they failed there, and fail again here.

8 First, Coppedge's argument that Caltech will not be unduly prejudiced by the DVDs is
9 belied by his own words: "By the time they have seen [the DVDs], jurors will wonder what all
10 the fuss was about . . ." Opp'n at 9. Coppedge's statement makes clear that he actively seeks to
11 use the DVDs to unduly prejudice the jury's position on the issues in the case, in the hope that
12 they will improperly decide the case based on their opinion of intelligent design, rather than
13 properly focusing on whether Coppedge experienced religious discrimination or harassment.
14 And as to films regarding the experiences of certain other intelligent design proponents, such as
15 Expelled, the only possible use of those films is to speculate to the jury that events at other
16 institutions are suggestive of the underlying reasons for the events in this case – to purely
17 prejudicial effect.¹³

18 Second, Coppedge's argument that confusion will not result is even less persuasive. He
19 states that "[r]ather than being confused or misled, jurors will be enlighten[ed] in a way the
20 Defendant's employees were not." Opp'n at 9. Not only is Coppedge confirming, again, that the
21 DVDs are irrelevant (because the witnesses never watched them), he fails to explain why
22 "enlightening" the jury about intelligent design will prevent, rather than introduce, confusion. In
23 fact, the jury *will* be confused about the claims at issue here, and be misled into thinking this case

24 ¹³ Indeed, the film is riddled with polarizing imagery that pokes fun at anyone who does not agree
25 with intelligent design, jokey digs about scientists who believe in evolution (laughingly calling
26 one "a bit of a reptile"), and baseless generalizations about the entire science community (such as
27 stating it is 'against free speech' and comparing all scientists to mid-20th Century Russian
28 communists who must "get in line"). Expelled is also replete with utterly one-sided conclusory
opinions of certain intelligent design proponents about why they believe they were removed from
positions with academic and other institutions. Their self-serving explanations may or may not be
true, but – importantly – none of the academic institutions was interviewed in the film to give its
side of the story, and Caltech will have no opportunity to cross-examine these intelligent design
proponents at trial on their speculative opinions, leading to yet more prejudice against Caltech.

1 is a forum for deciding whether intelligent design and/or religious doctrines are "right" or
2 "wrong," rather than a lawsuit to determine whether religious discrimination or retaliation took
3 place.

4 Finally, Coppedge's claim that the DVDs will not waste time because they are only an
5 hour each (and will take less time to review than a transcript) misses the point: they are
6 completely irrelevant, so any use of trial time for this purpose is wasteful. Moreover, the time
7 expenditure is not minimal, as Coppedge suggests, but rather approaches *half* a trial day.

8 C. **Coppedge Does Not Contest Caltech's Position That The DVDs Should Be**
9 **Excluded As Inadmissible Hearsay, Not Subject To Any Exception.**

10 As Caltech explained in its moving papers and in its Opposition to Coppedge's motion *in*
11 *limine*, the DVDs also must be excluded because they are offered for the truth of the propositions
12 they assert about intelligent design, hence Coppedge's claim that the "jurors will be
13 enlighten[ed]" by the DVDs. The DVDs are therefore inadmissible hearsay, and no hearsay
14 exception applies. Coppedge does not offer any argument to the contrary.

15 V. **CONCLUSION**

16 For the foregoing reasons, and those set forth in its moving papers, Caltech respectfully
17 requests that the Court grant its Motion and preclude Coppedge, his counsel and witnesses from
18 offering, making reference to, commenting upon, introducing testimony or documents regarding,
19 or presenting any argument pertaining to the content of the films Coppedge distributed to his co-
20 workers or films regarding intelligent design proponents, including "Expelled."

21 DATED: December 27, 2011

PAUL HASTINGS LLP
JAMES A. ZAPP
CAMERON W. FOX
MELINDA A. GORDON

22 By:

23 
24 CAMERON W. FOX

25 Attorneys for Defendant
26 CALIFORNIA INSTITUTE OF TECHNOLOGY
27
28

DECLARATION OF CAMERON W. FOX

I, Cameron W. Fox, declare:

1. I am an attorney at law duly admitted to practice before this Court and all of the courts of the State of California. I am an associate with the law firm of Paul Hastings LLP ("Paul Hastings"), counsel of record for the California Institute of Technology ("Caltech") in this action. I have personal knowledge of the facts contained in this Declaration, or know of such facts by my review of the files maintained by Paul Hastings in the normal course of its business, and if called as a witness, could and would testify as to their accuracy.

2. This Declaration is submitted in support of Defendant's Reply In Support Of Motion *In Limine* For An Order Excluding Testimony, Evidence, Argument And Comment Regarding The Content Of DVDs Coppedge Distributed To Co-Workers And Films Regarding Other Proponents Of Intelligent Design ("Motion").

3. Attached hereto as **Exhibit A** is a true and correct copy of the DVD jacket for "Expelled".

4. Attached hereto as **Exhibit B** are true and correct copies of excerpts and an exhibit from the deposition of Margaret Weisenfelder, taken on February 28, 2011.

5. Attached hereto as **Exhibit C** are true and correct copies of excerpts from Day One of the deposition of Greg Chin, taken on February 3, 2011.

6. Attached hereto as **Exhibit D** are true and correct copies of excerpts from Days One and Two of the deposition of David Coppedge, taken on September 30, 2010 and October 1, 2010.

7. Attached hereto as **Exhibit E** are true and correct copies of excerpts from the deposition of Scott Edgington, taken on February 22, 2011.

8. Attached hereto as **Exhibit F** are true and correct copies of excerpts and an exhibit from the deposition of Carmen Vetter, taken on February 22, 2011.

9. Attached hereto as **Exhibit G** are true and correct copies of excerpts and an exhibit from Day Two of the deposition of Kevin Klenk, taken on April 6, 2011.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 27th day of December, 2011, at Los Angeles, California.

CAMERON W. FOX

[REDACTED]

Ben Stein

~~EXPELLED~~

No
Intelligence
Allowed



"I Love This Film!"

- Ben Stein



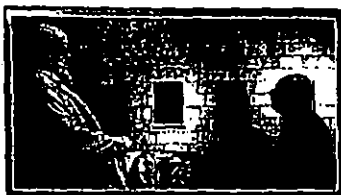
EX.A

"YOU WILL CHEER!"

- GLENN BECK



- MOVIE GUIDE



B001BYLFFS (259241)

Expelled: No Intelligence Allowed

RIE!
RIVETING, EYE OPENING, AND
EVEN ASTONISHING!

Big science has expelled smart ideas from the classroom... What they forgot is that every generation has its Rebel! That rebel, Ben Stein (Fertis Bueller's Day Off) travels the world on his quest, and learns an awe-inspiring truth... That educators and scientists are being ridiculed, denied tenure, and even fired - for merely believing that there might be evidence of "design" in nature. Perhaps life is not just the result of accidental, random chance. In the film Ben says "Enough" - And NOBODY messes with Ben!

"COMEDIAN BEN STEIN HIT
THE NAIL RIGHT ON THE
FUNNY BONE"

- DICK ROLFE, DOVE FOUNDATION

ALSO INCLUDES A
POCKET SIZE BOOK OF QUOTES

BONUS FEATURES

- INSIDE EXPULSED - INTERVIEW WITH BEN & LEE SINDLER
- A SPECIAL MESSAGE FROM BEN STEIN
- USING INTELLIGENT DESIGN FOR MEDICAL RESEARCH
- BONUS MUSIC TRACKS BY ANDY HUNTER • EXPULSED SUPER TRAILER

PREMISE MEDIA CORPORATION PRESENTS A FILM BY PATRICK MATTIOLI "EXPULSED: NO INTELLIGENCE ALLOWED" FEATURING BEN STEIN
PRODUCED BY LOGAN CRAFT, IVALT PERLOFF & JUDY SULLIVAN ASSOCIATE PRODUCER PATRICK MATTIOLI MUSIC BY ROBERTO ROSENTHAL & ANDY HUNTER EDITOR STEVEN TONDELL
POST PRODUCTION SUPERVISOR PATRICK MATTIOLI COUNTRY OF ORIGIN USA WRITTEN BY KEVIN MULLER AND BEN STEIN

PG

TEENAGE MATERIAL
SOME DISTURBING IMAGES AND LINGUAGES

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MEDIA CORPORATION

www.vivendi.com

www.expelledthemovie.com



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DIGITAL
DOLBY DIGITAL

SUBTITLES
CLOSED CAPTIONED
CC

DUAL
LAYER

ASPECT RATIO:
WIDESCREEN

RUNNING TIME:
90 MINUTES

FORMAT: DVD
RTG

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1
2 SUPERIOR COURT OF THE STATE OF CALIFORNIA
3 FOR THE COUNTY OF LOS ANGELES
4

5 DAVID COPPEDGE, AN INDIVIDUAL,)
6 PLAINTIFF,)

7 VS.

) CASE NO.
) BC 435600

8 JET PROPULSION LABORATORY, FORM)
9 UNKNOWN; CALIFORNIA INSTITUTE)
10 OF TECHNOLOGY, FORM UNKNOWN;)
11 GREGORY CHIN, AN INDIVIDUAL;)
12 CLARK A. BURGESS, AN INDIVIDUAL;)
13 KEVIN KLENK, AN INDIVIDUAL; AND)
14 DOES 1 THROUGH 25, INCLUSIVE,)
15 DEFENDANTS.)
16

**CERTIFIED
COPY**

17 DEPOSITION OF MARGARET WEISENFELDER,
18 TAKEN ON MONDAY, FEBRUARY 28, 2011
19
20
21

22
23 REPORTED BY:
24 HEIDI SULLIVAN
25 CSR NO. 6600
FILE NO.: 11-120

24 || A. SULLIVAN REPORTERS
25 || COURT REPORTERS

2420 W. CARSON STREET, SUITE 210
TORRANCE, CALIFORNIA 90501
PHONE 310 • 787 • 4497
FAX 310 • 787 • 1024

EXB

12/27/2011
12/27/2011

1 CHURCH?

2 A. NO.

3 MS. FOX: OBJECTION. VAGUE.

4 BY MR. BECKER:

5 Q. YOU DON'T CLAIM ANY SERVICES YOU PROVIDE
6 AS A MEMBER OF THAT -- AS AN ORDAINED MINISTER OF
7 THAT CHURCH ON YOUR INCOME TAX?

8 MS. FOX: VAGUE.

9 THE WITNESS: NO.

10 BY MR. BECKER:

11 Q. HAS DAVID EVER BEEN RUDE OR INSENSITIVE
12 TO YOU?

13 MS. FOX: OBJECTION. COMPOUND. VAGUE AS TO
14 "RUDE." VAGUE AS TO "INSENSITIVE." AND OVERBROAD AS
15 TO TIME.

16 THE WITNESS: I DON'T REMEMBER HIM EVER BEING
17 RUDE TO ME.

18 WHAT DO YOU MEAN BY "INSENSITIVE"?

19 BY MR. BECKER:

20 Q. WELL, YOU KNOW WHEN SOMEBODY IS BEING
21 INSENSITIVE, DON'T YOU?

22 MS. FOX: OBJECTION. VAGUE AS TO
23 "INSENSITIVE."

24 THE WITNESS: WHEN I WAS UNCOMFORTABLE
25 TALKING TO HIM DURING THE PROPOSITION 8 DISCUSSION,

1 HE WAS NOT SENSITIVE TO MY DISCOMFORT.

2 BY MR. BECKER:

3 Q. WHAT SHOULD HE HAVE DONE?

4 MS. FOX: OBJECTION. CALLS FOR SPECULATION.
5 INCOMPLETE HYPOTHETICAL.

6 BY MR. BECKER:

7 Q. OR WHAT DID HE DO THAT YOU FEEL WAS
8 INSENSITIVE?

9 A. HE WAS PERSISTENT.

10 Q. WHAT DID HE SPECIFICALLY DO?

11 WHEN YOU SAY HE WAS PERSISTENT, YOU'RE
12 REFERRING TO HIM DOING SOMETHING PERSISTENTLY.

13 WHAT DID HE DO THAT YOU FEEL WAS
14 INSENSITIVE?

15 A. WHEN HE ASKED ME IF THERE WAS ANYTHING
16 HE COULD SAY TO CHANGE MY MIND.

17 Q. YOU FELT THAT WAS INSENSITIVE?

18 A. I FELT THAT HIS PERSISTENCE WAS NOT
19 SENSITIVE.

20 Q. BUT THAT WAS HIS PERSISTENCE, WHEN HE
21 ASKED YOU WHETHER THERE WAS ANYTHING HE COULD SAY TO
22 CHANGE YOUR MIND; RIGHT?

23 A. YES.

24 Q. ANYTHING ELSE?

25 A. NO.

1 A. NO.

2 MR. BECKER: ALL RIGHT. LET'S MARK AS THE
3 NEXT EXHIBIT --

4 I BELIEVE WE'RE AT 31?

5 MR. COPPEDGE: YEAH.

6 MS. FOX: YES.

7 MR. BECKER: -- A TWO-PAGE DOCUMENT WITH
8 BATES STAMPS DEFENDANT 94 AND 95.

9 TAKE A LOOK AT THAT AND LET ME KNOW WHEN
10 YOU'RE DONE.

11 (THE ABOVE-MENTIONED DOCUMENT WAS MARKED
12 FOR IDENTIFICATION BY THE CERTIFIED SHORTHAND
13 REPORTER AND ATTACHED HERETO.)

14 THE WITNESS: OKAY. I FINISHED READING.
15 BY MR. BECKER:

16 Q. DO YOU REMEMBER MEETING WITH JHERTAUNE
17 HUNTLEY?

18 A. YES, I DO.

19 Q. WAS MARCH 19, 2009, ABOUT THE TIME THAT
20 YOU REMEMBER MEETING WITH HER?

21 A. IT WAS IN MARCH.

22 Q. DO YOU REMEMBER MEETING WITH HER ON MORE
23 THAN ONE OCCASION?

24 A. NO.

25 Q. HAVE YOU TALKED TO HER SINCE THE ONE

1 THE WITNESS: I DON'T KNOW.

2 BY MR. BECKER:

3 Q. YOU WOULD SEE HIM PASS BY FROM TIME TO
4 TIME, WOULDN'T YOU?

5 A. NOT NECESSARILY. MY CUBICLE IS -- AT
6 THAT TIME HAD A WALL HERE AND A WALL HERE, AND THE
7 HALLWAY WAS HERE. SO I WAS IN THAT SPACE.

8 Q. WHAT YOU'RE SAYING IS THAT THE CUBICLE
9 WALLS OBSTRUCTED YOUR VIEW OF PEOPLE WALKING BY; IS
10 THAT RIGHT?

11 A. THAT'S CORRECT.

12 MS. FOX: WE'RE AT ABOUT AN HOUR. I'D LOVE A
13 RESTROOM BREAK WHEN IT'S CONVENIENT.

14 MR. BECKER: JUST A MINUTE.

15 MS. FOX: DID YOU HEAR ME?

16 MR. BECKER: WHAT DO YOU NEED?

17 MS. FOX: WE'RE AT ABOUT AN HOUR. I'D LOVE A
18 RESTROOM BREAK WHEN IT'S CONVENIENT.

19 MR. BECKER: LET'S DO IT.

20 (RECESS.)

21 BY MR. BECKER:

22 Q. LOOKING AT EXHIBIT 31, ABOUT HALFWAY
23 DOWN ON THE FIRST PAGE, IT SAYS, "MARGARET STATED TO
24 DAVE" -- DO YOU SEE WHERE IT SAYS THAT? LOOK TOWARD
25 THE END OF THE LINE THERE -- "MARGARET STATED TO DAVE

1 THAT SHE DID NOT AGREE WITH HIS VIEWPOINT ON PROP 8
2 AND DID NOT WANT TO DISCUSS THE ISSUE WITH HIM
3 BECAUSE HE WAS SO PERSISTENT."

4 NOW, YOUR TESTIMONY EARLIER WAS THAT YOU
5 DIDN'T TELL HIM THAT YOU DID NOT WANT TO DISCUSS THE
6 ISSUE. YOU JUST TOLD HIM YOU DIDN'T AGREE WITH HIM.

7 DID YOU TELL JHERTAUNE HUNTLEY THAT YOU
8 TOLD DAVID THAT YOU DID NOT WANT TO DISCUSS THE ISSUE
9 WITH HIM BECAUSE HE WAS SO PERSISTENT?

10 A. I DON'T REMEMBER MY EXACT WORDS, BUT I
11 DO REMEMBER THAT I TOLD HIM THAT I DIDN'T HAVE ANY
12 RESPECT FOR THE PROPOSITION BUT I HAD RESPECT FOR
13 HIM.

14 I DON'T REMEMBER THE LEAD UP TO IT.
15 IT'S BEEN TWO YEARS. I'M --

16 Q. DID YOU EVER --

17 MS. FOX: LET HER FINISH HER ANSWER.

18 THE WITNESS: I'M NOT SURE. I DON'T HAVE ANY
19 REASON TO DOUBT JHERTAUNE'S NOTES, BUT I DON'T HAVE A
20 SPECIFIC RECOLLECTION.

21 BY MR. BECKER:

22 Q. WELL, SHE UNDERSCORES "HE WAS SO
23 PERSISTENT."

24 DO YOU HAVE ANY REASON TO DOUBT THAT YOU
25 TOLD -- WELL, LET ME ASK YOU THIS: IS IT CORRECT TO

1 SAY THAT YOU TOLD JHERTAUNE HUNTLEY THAT DAVID WAS
2 VERY PERSISTENT, IN YOUR VIEW?

3 A. I FELT THAT HE WAS BEING PERSISTENT.

4 Q. OKAY. BUT DID YOU ALSO TELL HER THAT
5 YOU TOLD DAVID, "DAVID, YOU'RE BEING TOO PERSISTENT"?

6 A. I MIGHT HAVE, BUT I DON'T REMEMBER
7 SPECIFICALLY.

8 Q. AND YOU FELT THAT DAVID WAS BEING
9 PERSISTENT WHEN HE ASKED YOU WHETHER THERE WAS
10 ANYTHING HE COULD SAY TO CHANGE YOUR MIND; RIGHT?

11 MS. FOX: ASKED AND ANSWERED.

12 THE WITNESS: YES.

13 BY MR. BECKER:

14 Q. AND THAT'S THE ONLY BASIS UPON WHICH YOU
15 STATE THAT HE WAS PERSISTENT; IS THAT RIGHT?

16 MS. FOX: ASKED AND ANSWERED.

17 THE WITNESS: YES.

18 BY MR. BECKER:

19 Q. IT SOUNDS LIKE HE WAS BEING POLITE.

20 MS. FOX: OBJECTION. CHARACTERIZATION BY
21 COUNSEL.

22 BY MR. BECKER:

23 Q. HAVING A CONVERSATION WITH YOU. "ANY
24 WAY I CAN CHANGE YOUR MIND?"

25 MS. FOX: IS THAT A QUESTION?

1 MY QUESTION IS DIFFERENT, THOUGH. OKAY.

2 WHEN WE TALKED ABOUT RELIGION AND
3 POLITICS HERE, THE DVD HAD NOTHING TO DO WITH
4 RELIGION AND POLITICS, DID IT?

5 MS. FOX: OBJECTION. VAGUE.

6 THE WITNESS: THE PROPOSITION 8 DISCUSSION
7 HAD TO DO WITH POLITICS, WHICH ALSO INVOLVED SOME
8 RELIGION.

9 THE FACT THAT THE DVD HAD A LIST OF
10 NAMES THAT WERE BEING TRACKED AND A NOTATION THAT
11 SAID "TRY AGAIN" MADE ME FEEL UNCOMFORTABLE.

12 AS FAR AS THE CONTENT OF THE DVD BEING
13 RELIGIOUS OR NOT RELIGIOUS, THAT WASN'T WHAT WAS
14 BOTHERING ME.

15 BY MR. BECKER:

16 Q. OKAY. SO THE ONLY TIME DAVID EVER
17 TALKED TO YOU ABOUT RELIGION AND POLITICS WAS IN THE
18 VERY BRIEF CONVERSATION YOU HAD ON PROP 8; RIGHT?

19 MS. FOX: OBJECTION. VAGUE AS TO "VERY
20 BRIEF." MISCHARACTERIZES THE RECORD.

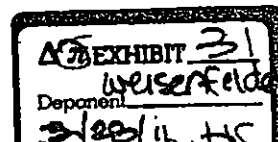
21 THE WITNESS: DURING THAT CONVERSATION WAS
22 THE ONLY TIME THAT WE SPECIFICALLY DISCUSSED SUBJECTS
23 THAT COULD BE CHARACTERIZED AS RELIGIOUS OR
24 POLITICAL.

25 ///

**WEISENFELDER
DEPOSITION EXHIBIT 31**

3.19.2009 Mtg w/ Margaret Weisenfelder re: David Coppedge issue.

- Margaret stated that she is an ordained minister (Christian) but would never let David Coppedge know. She has worked w/ David about 5 yrs but has known him for 7 to 8 yrs.
- Margaret stated that she has experienced 2 uncomfortable incidents w/ David. The first occurred the day before the Presidential election/ Prop 8 vote. David approached Margaret and asked if he could talk to her about Prop 8. Margaret stated that she was thinking while being asked this question by David, that she ^{probably should} ~~should~~ not talk about political issues during work hrs. David proceeded to tell Margaret his viewpoint on the Prop 8 and then asked for her opinion. Margaret stated to David that she did not agree w/ his viewpoint & did not want to discuss the issue w/ him because he was so persistent. Margaret said that David's approach was, "Can I talk to you about Prop 8?" then had a Prop 8 paper in his hand. The second incident occurred about 2 wks ago (before the 4 day holiday weekend) after lunch. David approached Margaret and asked her if she wanted to borrow a DVD called "Unlocking the Mysteries of Life". She took it home and watched it and noticed a sticky on the back of the DVD w/ JPLC's names on it. The sticky note had the words "Try Again" by some of the names. The only name she recognized was Patel. Margaret did not want to get into a discussion w/ David about the DVD so she waited until he was not



0000000094

31
201

in his wrk space to place it on his chair. David did not approach her to discuss the DVD after she returned it. Margaret went to Greg Chin to discuss the DVD issue and told him that she was feeling uncomfortable about David approaching her re: watching the Intelligent Design DVD and talking about her stance on Prop 8. She further expressed to Greg that she does not want to deal w/ him re: these type of issues. Greg responded to Margaret, stating that he would look into it and to let him know if ^(David's) his behavior continues to be a problem for her. Since that time Margaret has had no other encounters w/ David.

Margaret further states that David is nice but she feels that he is stepping over the line by discussing religion & politics in the wrk place. Margaret then reminds me that she is an ordained minister (Christian) and feels his behavior is inappropriate.

Atlanta
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San Francisco
Shanghai
Tokyo
Washington, DC

(213) 683-6301
cameronfox@paulhastings.com

April 22, 2011

13365.00018

VIA ELECTRONIC MAIL

William J. Becker, Jr., Esq.
The Becker Law Firm
11500 Olympic Blvd., Suite 400
Los Angeles, CA 90064

Re: *Coppedge v. Jet Propulsion Laboratory, et al.*
Los Angeles Superior Court Case No. BC435600

Dear Bill:

Please be advised that Margaret Weisenfelder signed the original of her deposition transcript on April 7, 2011. The following corrections have been made:

<u>Page:Line</u>	<u>Reads</u>	<u>Should Read</u>
22:15	"design of creation"	"design of creation."
22:16	"effectively"	"Effectively..."
121:1	"I didn't"	"I didn't feel comfortable."
126:5	"That's it."	"That's all I can recall."
141:16	"on my work. It was the best"	"on my work. My response to Dave was the best"

12/27/2011

1 STATE OF CALIFORNIA)

2 COUNTY OF LOS ANGELES)

3

4

5 I, HEIDI SULLIVAN, A CERTIFIED SHORTHAND REPORTER

6 LICENSED BY THE STATE OF CALIFORNIA, CERTIFY:

7

8 THAT THE FOREGOING DEPOSITION OF Margaret Weisenfelder

9 WAS TAKEN BEFORE ME PURSUANT TO NOTICE

10 AT THE TIME AND PLACE THEREIN SET FORTH, AT WHICH TIME

11 THE WITNESS WAS PUT UNDER OATH BY ME;

12

13 THAT THE TESTIMONY OF THE WITNESS AND ALL OBJECTIONS

14 MADE AT THE TIME OF THE EXAMINATION WERE RECORDED

15 STENOGRAPHICALLY BY ME AND WERE THEREAFTER

16 TRANSCRIBED;

17

18 THAT THE FOREGOING IS A TRUE RECORD OF THE TESTIMONY

19 AND OF ALL OBJECTIONS AT THE TIME OF THE EXAMINATION.

20

21 IN WITNESS WHEREOF, I HAVE SUBSCRIBED MY NAME THIS

22 22 DAY OF March, 2011.

23

24

25

Heidi Sullivan

LICENSE NUMBER 6600

12/27/2011

12/27/2011

EX.C

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DAVID COPPEDGE, AN INDIVIDUAL,)
)
 PLAINTIFF,)
)
 VS.) CASE NO.
) BC 435600
 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.)
)

ORIGINAL

DEPOSITION OF GREGORY EUGENE CHIN,
VOLUME I, PAGES 1 - 249
TAKEN ON THURSDAY, FEBRUARY 3, 2011

REPORTED BY:
HEIDI SULLIVAN
CSR NO. 6600
FILE NO.: 10-112

24 || A. SULLIVAN REPORTERS
25 || COURT REPORTERS

2420 W. CARSON STREET, SUITE 210
TORRANCE, CALIFORNIA 90501
PHONE 310 • 787 • 4497
FAX 310 • 787 • 1024

EX.C

1 A. NO.

2 MR. BECKER: ALL RIGHT. LET'S MARK AS THE
3 NEXT EXHIBIT --

4 I BELIEVE WE'RE AT 31?

5 MR. COPPEDGE: YEAH.

6 MS. FOX: YES.

7 MR. BECKER: -- A TWO-PAGE DOCUMENT WITH
8 BATES STAMPS DEFENDANT 94 AND 95.

9 TAKE A LOOK AT THAT AND LET ME KNOW WHEN
10 YOU'RE DONE.

11 (THE ABOVE-MENTIONED DOCUMENT WAS MARKED
12 FOR IDENTIFICATION BY THE CERTIFIED SHORTHAND
13 REPORTER AND ATTACHED HERETO.)

14 THE WITNESS: OKAY. I FINISHED READING.

15 BY MR. BECKER:

16 Q. DO YOU REMEMBER MEETING WITH JHERTAUNE
17 HUNTLEY?

18 A. YES, I DO.

19 Q. WAS MARCH 19, 2009, ABOUT THE TIME THAT
20 YOU REMEMBER MEETING WITH HER?

21 A. IT WAS IN MARCH.

22 Q. DO YOU REMEMBER MEETING WITH HER ON MORE
23 THAN ONE OCCASION?

24 A. NO.

25 Q. HAVE YOU TALKED TO HER SINCE THE ONE

1 OBJECTION.

2 IF YOU FEEL COMFORTABLE, YOU CAN ANSWER
3 IT.

4 THE WITNESS: I SUPPORTED GAY MARRIAGE.

02:25:41PM

5 BY MR. BECKER:

6 Q. DID YOU TELL DAVID THAT?

7 A. NO, SIR.

8 Q. AND DID MARGARET SAY SHE SUPPORTED GAY
9 MARRIAGE?

02:25:50PM

10 A. YES, SIR.

11 Q. DID MARGARET TELL YOU HOW SHE FELT ABOUT
12 INTELLIGENT DESIGN AS A CONCEPT?

13 A. NO, SIR.

02:26:11PM

14 Q. AT THE TIME THAT SHE CAME TO YOU, WERE
15 YOU FAMILIAR WITH THE CONCEPT OF INTELLIGENT DESIGN?

16 A. YES, SIR.

17 Q. WHAT WAS YOUR FAMILIARITY BASED ON?

18 A. MY UNCLE AND DAVE COPPEDGE WERE FRIENDS.

02:26:31PM

19 THEY WENT TO THE SAME CHURCH. MY UNCLE HAD A STRONG
20 BELIEF IN INTELLIGENT DESIGN. MY UNCLE AND I GOT
21 ALONG GREAT, AND WE WERE FINE FRIENDS. HE HAS
22 SUBSEQUENTLY PASSED AWAY.

23 HE EXPLAINED INTELLIGENT DESIGN TO ME
24 THEN, BASICALLY IT DISCOUNTED POSSIBILITY OF RANDOM
02:27:02PM 25 CHANCE THAT HUMANS COULD EVOLVE AND THAT SOME HIGHER

1 A. I'M THE ONE THAT CREATED A HOSTILE WORK
2 ENVIRONMENT FOR DAVID. I NEEDED TO TELL THEM THAT
3 "IF DAVID FEELS THIS, I MUST HAVE SCREWED UP."

03:01:25PM 4 Q. DID DAVID TELL YOU DURING THAT MEETING
5 THAT HE FELT THAT YOU WERE INTERFERING WITH HIS
6 CONSTITUTIONAL RIGHT OF FREE SPEECH?

7 A. YES, SIR.

8 Q. WHAT DID YOU UNDERSTAND THAT TO MEAN?

03:01:42PM 9 A. I UNDERSTOOD THAT DAVID FELT THAT I WAS
10 ISSUING A TOTAL GAG ORDER ON HIM.

11 AND I SAID NO. THERE WAS AN APPROPRIATE
12 TIME AND PLACE FOR THESE TYPE OF DISCUSSIONS.

13 Q. DID YOU TELL HIM HE COULD NOT HAND OUT
14 HIS DVD'S ANY LONGER?

03:01:57PM 15 A. I TOLD HIM HE SHOULD NOT BE HANDING OUT
16 DVD'S DURING WORK HOURS.

17 Q. DID HE TELL YOU WHETHER HE WAS DOING IT
18 DURING WORK HOURS OR NOT?

03:02:13PM 19 A. I DID NOT ASK THAT. AFTER HOURS, DURING
20 BREAKS, LUNCH, NONWORK TIME PERIODS, THAT'S FINE.
21 JUST NOT DURING WORK HOURS.

22 I DID NOT WANT HIM TO BE DISRUPTING
23 OTHER INDIVIDUALS.

03:02:24PM 24 Q. WHAT TIME DID MARGARET TELL YOU SHE AND
25 DAVID TALKED? WHAT TIME OF DAY?

1 A. NO, I WAS NOT.

2 Q. YOU WEREN'T AWARE OF THAT BACK IN MARCH
3 OF 2009; IS THAT CORRECT?

03:50:27PM 4 A. I WAS NOT AWARE THAT DAVID WAS HANDING
5 OUT AND SELLING DVD'S TO EMPLOYEES.

6 Q. WHEN WAS THE FIRST TIME YOU BECAME AWARE
7 OF THAT FACT?

8 A. DURING DAVID'S DEPOSITION.

9 Q. YOU DID NOT LEARN THAT FACT FROM ANY
03:50:40PM 10 OTHER SOURCE PRIOR TO THAT TIME?

11 A. THAT HE WAS SELLING DVD'S? NO.

12 Q. HOW ABOUT THAT HE WAS LOANING DVD'S?

13 A. I WAS AWARE THAT DAVID HAD GIVEN OUT
14 DVD'S TO PEOPLE BEFORE.

03:50:54PM 15 Q. AND WHEN DID YOU FIRST COME INTO THAT
16 KNOWLEDGE?

17 A. PROBABLY THE EARLY 2000'S. MANY YEARS.

18 Q. DID DAVID EVER ATTEMPT TO GIVE YOU A
19 COPY OF *THE PRIVILEGED PLANET*?

03:51:17PM 20 A. I DON'T RECALL.

21 Q. ARE YOU FAMILIAR WITH *THE PRIVILEGED*
22 *PLANET*?

23 A. NO, SIR.

24 Q. HAVE YOU READ THE BOOK BY GUILLERMO
03:51:24PM 25 GONZALEZ AND JAY RICHARDS, *THE PRIVILEGED PLANET*, ON

1 STATE OF CALIFORNIA)

2 COUNTY OF LOS ANGELES)

3

4

5 I, HEIDI SULLIVAN, A CERTIFIED SHORTHAND REPORTER

6 LICENSED BY THE STATE OF CALIFORNIA, CERTIFY:

7

8 THAT THE FOREGOING DEPOSITION OF GREGORY CHIN

9 WAS TAKEN BEFORE ME PURSUANT TO NOTICE

10 AT THE TIME AND PLACE THEREIN SET FORTH, AT WHICH

11 TIME THE WITNESS WAS PUT UNDER OATH BY ME;

12

13 THAT THE TESTIMONY OF THE WITNESS AND ALL OBJECTIONS

14 MADE AT THE TIME OF THE EXAMINATION WERE RECORDED

15 STENOGRAPHICALLY BY ME AND WERE THEREAFTER

16 TRANSCRIBED;

17

18 THAT THE FOREGOING IS A TRUE RECORD OF THE TESTIMONY

19 AND OF ALL OBJECTIONS AT THE TIME OF THE EXAMINATION.

20

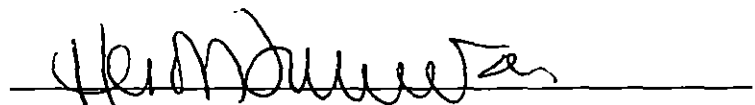
21 IN WITNESS WHEREOF, I HAVE SUBSCRIBED MY NAME THIS

22 1ST DAY OF MARCH, 2011.

23

24

25

A handwritten signature in cursive script, appearing to read "Heidi Sullivan", is written over a horizontal line.

LICENSE NUMBER 6600

12/27/2019

Ex.D

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

DAVID COPPEDGE, an Individual,)	CASE NO. BC 435600
)	
Plaintiff,)	
)	
vs.)	
)	
JET PROPULSION LABORATORY,)	
form unknown; CALIFORNIA)	
INSTITUTE OF TECHNOLOGY, form)	
unknown; GREGORY CHIN, an)	
Individual; CLARK A. BURGESS,)	
an Individual; KEVEIN KLENK,)	
an Individual; and DOES 1)	
through 25, inclusive,)	
)	
Defendants.)	

DEPOSITION OF DAVID COPPEDGE

SEPTEMBER 30, 2010

VOLUME 1

(Pages 1 through 256)

REPORTED BY:

**Deborah R. Meyers
CSR No. 8569**

**HOMAN ASSOCIATES
CERTIFIED SHORTHAND REPORTERS
4287 JACKSON AVENUE
CULVER CITY, CALIFORNIA 90232
(310) 838-7734**

12/27/2011

EX.D

14:12:52 1 me and refusing to hear any response I gave. And he
14:13:01 2 at the end stormed out of the room, saying, "Well,
14:13:05 3 then go ahead and file a complaint."

14:13:10 4 And when I -- subsequent to that, when I
14:13:12 5 tried to reason with him by saying, you know, this
14:13:16 6 was kind of a tense meeting here, here's my
14:13:19 7 recollection of what was said, you know, just trying
14:13:21 8 to be impartial -- "Is this correct, or do you have
14:13:23 9 a different version?" -- he refused to answer.

14:13:26 10 Q BY MR. ZAPP: Okay. Is there any --

14:13:27 11 A And the next thing I know, I'm being
14:13:29 12 investigated as if I had done something wrong.

14:13:30 13 Q Is there -- so number one is you're talking
14:13:35 14 about what occurred during the meeting on March 2;
14:13:37 15 correct?

14:13:37 16 A Yes.

14:13:37 17 Q The second thing you're talking about is
14:13:38 18 the email that you sent him after the meeting, and I
14:13:42 19 believe that email is dated March 3; correct?

14:13:44 20 A Yes.

14:13:44 21 Q Is there anything else that Mr. Chin did
14:13:46 22 that you believed was wrongful -- strike that.

14:13:49 23 Any other wrongful conduct in which he
14:13:51 24 engaged, from your perception?

14:13:54 25 A Greg has been a great boss, and I've worked

14:13:56 1 with him for eight years. He's a great guy. He's
14:14:01 2 competent. He's knowledgeable. He does a lot of
14:14:04 3 good for us. And I was frankly shocked at this
14:14:06 4 outburst. We had had, you know, some heated
14:14:12 5 discussions a little bit over the years. But he was
14:14:15 6 aware way back, I think years ago, about these DVDs.
14:14:19 7 In fact, I shared one with him. And he disagreed
14:14:24 8 with it, but he didn't, you know, discipline me or
14:14:27 9 anything about it.

14:14:28 10 And then all of a sudden, you know, why did
14:14:31 11 this all erupt on March 2 in the way it did?

14:14:35 12 Q Did you believe that up until -- let's go
14:14:37 13 up until March 1, through March 1, 2009 -- strike
14:14:39 14 that.

14:14:40 15 So up until March 2, 2009, had Mr. Chin
14:14:43 16 always treated you fairly?

14:14:46 17 A He's a fair-minded person, but I always
14:14:49 18 felt a little bit of tension between us. And I
14:14:52 19 ~~think the only thing that explains that tension is my~~
~~think the only thing that makes sense is about my~~
14:14:54 20 beliefs about intelligent design and my religious
14:14:59 21 beliefs.

14:15:00 22 Q Did he ever tell you that there was any
14:15:01 23 tension between you because of that?

14:15:03 24 A ~~No, but you certainly get the impression~~
~~acquaintance, I felt he was less friendly with me than~~
14:15:07 25 ~~when many suggestions you give are kind of given the~~
~~with others and tended to find fault with my ideas~~

1 REPORTER'S CERTIFICATION

2
3 I, Deborah R. Meyers, a Certified
4 Shorthand Reporter, do hereby certify:

5 That prior to being examined, the witness
6 named in the foregoing proceedings was by me duly
7 sworn to testify to the truth, the whole truth, and
8 nothing but the truth;

9 That said proceedings were taken before me
10 at the time and place therein set forth and were
11 taken down by me in shorthand and thereafter reduced
12 to computerized transcription under my direction and
13 supervision;

14 That the dismantling of the transcript
15 will void the reporter's certificate.

16 I further certify that I am neither
17 counsel for, nor related to, any party to said
18 proceedings, nor in any way interested in the
19 outcome thereof.

20
21 IN WITNESS WHEREOF, I have hereunto
22 subscribed my name this 12th day of October, 2010.

23 
24 DEBORAH R. MEYERS, CSR NO. 8569
25

PAGE/LINE	ORIGINAL	CHANGE TO:
23:20	Yeah.	Yes.
29:18	center	synod
51:5	Infotech	Infotec
67:7-8	I think it's the belief that there is a creator rather than things happening on their own.	Creation simply means that the universe was created by a Creator; usually assumed to be God.
67:22-25	I think that there -- that creationism, as you would call it, is a subset. It's one answer to the question of the designing intelligence, whereas intelligent design itself is	No. Intelligent design does not depend on a belief in a creator to arrive at its scientific conclusions.
68:13-15	It means that there is a designing intelligence, a creator, as opposed to things happening without a designing intelligence.	Creation per se just means a Creator created the universe.
68:17-19	Intelligent design does not answer that question, but Biblical creationism would identify the designing intelligence as God.	Yes, creationism usually posits God as the Creator. In most uses of the term these days, creationism refers to the belief that the God of the Bible created the world according to the account in the book of Genesis. Intelligent design is restricted to inferring design, not the designer, using the methods of science. Creationism is concerned with proving that the designer is God.
69:23-24	There are certainly non-Christians and nonreligious people who consider it a valid, scientific question.	I misunderstood the question, which upon re-reading, makes no sense. Creation implies a Creator. I am unaware of anyone teaching that creation occurred without a creator; that would be illogical.
70:5-7	It's not focused on the identity of the intelligence but just the effects of design, whether they are discernible or not.	Upon re-reading, this question makes no sense, either. An intelligent source is a creator by definition. If you are asking whether ID teaches the intelligent source is God, then the answer is no; intelligent design doesn't teach any such thing; because that's outside its domain. That question is left to philosophers and theologians.

70:7 cont.		Intelligent design is a scientific theory, focused not on the identity of the designer but on the evidence for design, whether it is detectable or not using well-tested methods of science and mathematics and logical inference. Those same methods are routinely used in other scientific fields, like archaeology, information theory, and genetics. Even lawyers rely on it! They use the same methods to decide if a body died of natural causes or was murdered. See? Some designers can be evil, but intelligent design theory doesn't get into the nature of the intelligent source, interesting as that question might be, because it's focused on the evidence, not the person. In the same way, investigators gather clues from a crime scene, and the coroner makes a determination between chance, natural law, or murder. It's up to others to figure out the motives and purposes of the murderer—an evil designer in this case. This shows it's possible to use intelligent design theory without getting into questions about God.
71:15 .	Production	Productions
71:21 .	honorary	honoraria
73:23 .	I don't want to speculate.	For 2009, gross revenue reported was \$2302.
82:15 .	the. This	this
92:6 .	Ken	Cab
97:23 .	I	I've
98:18 .	There's	There are
98:24 .	persons. And	persons, and
117:8 .	what I was being accused of.	that I had been accused of anything.
118:8 .	Yeah	Yes
119:10 .	Yeah	Yes
132:21	Yeah.	Yes.
133:9 .	Yeah	Yes
134:18-25 .	I didn't believe it was -- that what I was saying was religious. But apparently they did. And if they did, then they had a right to accommodate and protect that. But they were -- you know, they were saying I was pushing religion. Well, if that's what their argument is, then I should be able to, you known, defend my right to be able to discuss that.	Yes. I did not believe what I was doing in handing out DVDs on intelligent design constituted religious activity, but apparently Greg Chin did. But rather than respecting my free speech and accommodating what he deemed to be religion, he gave me a blanket order to shut up or be fired.
138:23 .	of that	from that

139:3 .	Yeah	Yes
142:19	think the only thing that makes sense is about my	think the only thing that explains that tension is my
142:24-143:1 .	No, but you certainly get the impression when many suggestions you give are kind of given the "yeah, but" response.	No, but ever since I had shared a DVD with him early on in our acquaintance, I felt he was less friendly with me than with others, and tended to find fault with my ideas and suggestions.
144:4 \	But I--and I	But I
150:15 \	how they both, you know, contrary to their -- to the	how, contrary to the
150:16 .	contrary to their -- our	contrary to our
150:22 .	You know, I	I
151:1 \	back to a good -- on	back on
151:20 \	sick to these -- what	stick to what
152:13-14 .	And I would ask, well, who are we -- you know, are we	I asked them: are we
154:1 \	would be, you know, unlikely	would be unlikely
154:6-7 .	Subsequent to that, you know, Cab almost, I think, forgot about it.	Subsequent to that, Cab almost forgot about it.
154:9-10 .	passed over or was a	had blown over
157:9 .	(Nods head up and down.)	Yes. After reading all the deposition transcripts, I feel that the May 4, 2010 meeting with Cab Burgess and Nick Patel and the negative comments in my 2010 performance review also constitute retaliatory acts by Cab Burgess.
161:6 .	suspect would	
162:2 .	yeah	yes
162:10 .	Yeah	Yes
166:11 .	Uh-huh	Yes
168:7-8 .	what to do when, you know, for reasons not related to my own performance, I had been removed.	what to do from a position I had lost for reasons unrelated to my performance.
169:6 .	and a wide variety	and knowledge about a wide variety
169:7 .	so they	so he
173:16 .	is important.	are both important.
176:24 .	was	were
177:19 .	admin	admins
179:8-11 .	They may have said that about me. I don't know. But I don't recall telling people I had... I had difficulty -- not myself prioritizing but	No. I had no difficulty prioritizing my own work. My difficulty was working
180:1 .	I mean, there -- I could	I could
180:4-5 .	to, you know, understand both points of view and try to -- and	to understand the problems of squeaky wheel mode we were in, and provide leadership in prioritization, so that my priorities were not in conflict with theirs.
181:14	Late '90s or early 2000s, yeah.	Either late 1999 or early in 2000.

(Does not match w/ transcript pg.)

184:1	yeah	yes
186:8	Yeah.	Yes.
188:15	Yeah.	[delete line; irrelevant]
188:23	3 and -- I don't think she had direct	I don't believe she had
190:3-4	when I heard that, you know -- I think her name came up in one of the meetings with Greg.	when her name came up in one of the meetings with Greg...
190:11-12	In terms of when I was probing for like who is unhappy,	I would ask him who specifically was complaining, and
191:18	saying, you know, how can we do better? How	asking, how
191:21	up, gave	up to our offices and
(3:5-6 ?	And I believe -- it	And it
194:25	doubt any--expect any problem	expect any problem
196:20	And you know, these	These
197:24	There was not, you know, the	There were no
200:3	I had -- could	I could
200:8	no	"no"
200:13	by all--everybody	by everybody
200:18-19	And it -- and some people read into that that I'm just, you know, saying	Some people read into that that I was saying
200:23	I'm not doing -- I'm	I'm
203:3	customer, do	customer, to do
204:17	For seven--	For several-- [Seven does not make sense here; strike?]
205:16	far after	long after
206:16	Uh-huh	Yes
211:5-6	Can't say until I find out what the acronym is.	This was a New Tribes Mission film about a remarkable true story of a missionary bringing hope and joy to a New Guinea tribe. I shared it one time with a fellow Christian.
211:11-12	just a little tiny thing.	a reduced-size package of the same film.
212:24	Yeah.	Yes.
214:6	Uh-hun.	Yes.
217:22	Sometimes. Not always.	Sometimes, but not often.
219:19	blasting	blatantly promoting
220:21	this, that	this -- that
220:23	an artificial	something artificial
221:4	You know, that was kind of an acronym	"LGM" was actually an acronym
221:5	life and they	life. Later, they
222:11	and saying	and saying,
222:20	the whole process a whole list	the others a short list
223:17	film, he talks	film, talks
224:17	No, I think -- I'm	No, I'm
224:19	theistic Darwinists	theistic evolutionists
229:2	would	could
230:19	Yeah, for like	Yes, for

236:7	in my discuss -- no,	in sharing it that year. No,
236:12-13	accused, yeah, of Christian	accused of pushing
237:5	Yeah,	Yes,
246:22-23	And it's kind of like in	It's in
248:4	Yeah -- well, not	Yes. Not
251:25	program. Now	program -- now
252:1	Planet Quest	Planet Quest --

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

DAVID COPPEDGE, an Individual,)	CASE NO. BC 435600
)	
Plaintiff,)	
)	
vs.)	
)	
JET PROPULSION LABORATORY,)	
form unknown; CALIFORNIA)	
INSTITUTE OF TECHNOLOGY, form)	
unknown; GREGORY CHIN, an)	
Individual; CLARK A. BURGESS,)	
an Individual; KEVEIN KLENK,)	
an Individual; and DOES 1)	
through 25, inclusive,)	
)	
Defendants.)	

DEPOSITION OF DAVID COPPEDGE

OCTOBER 1, 2010

VOLUME 2

(Pages 257 through 462)

REPORTED BY:

**Deborah R. Meyers
CSR No. 8569**

**HOMAN ASSOCIATES
CERTIFIED SHORTHAND REPORTERS
4287 JACKSON AVENUE
CULVER CITY, CALIFORNIA 90232
(310) 838-7734**

12/27/2011

10:51:30 1 Do you see where I am?

10:51:31 2 A Yes.

10:51:31 3 Q Is that what you meant?

10:51:33 4 MR. BECKER: The question is leading.

10:51:37 5 What did you mean?

10:51:40 6 THE WITNESS: Okay. He didn't state that

10:51:43 7 it would be okay to discuss religion or politics if

10:51:47 8 the person brought it up.

10:51:48 9 Q BY MR. ZAPP: In fact, didn't he tell you

10:51:50 10 that it's appropriate to have discussions in other

10:51:53 11 settings such as a bible study group or if someone

10:52:04 12 raises a question?

10:52:05 13 MR. BECKER: Vague, ambiguous, compound.

10:52:05 14 THE WITNESS: What I recalled, he did say

10:52:07 15 what I did at lunch or at home was my business. I

10:52:08 16 don't believe --

10:52:08 17 Q BY MR. ZAPP: My question is different. My

10:52:10 18 question is did Mr. Chin tell you that it was okay

10:52:12 19 or appropriate to have such discussions in certain

10:52:14 20 settings such as a bible study group or -- a JPL

10:52:18 21 bible study group or if someone were to ask you a

10:52:20 22 question about it?

10:52:22 23 MR. BECKER: Vague, ambiguous as to

10:52:23 24 "certain discussions" or however you generalized it.

10:52:27 25 THE WITNESS: I don't recall him saying

1 REPORTER'S CERTIFICATION

2
3 I, Deborah R. Meyers, a Certified
4 Shorthand Reporter, do hereby certify:

5 That prior to being examined, the witness
6 named in the foregoing proceedings was by me duly
7 sworn to testify to the truth, the whole truth, and
8 nothing but the truth;

9 That said proceedings were taken before me
10 at the time and place therein set forth and were
11 taken down by me in shorthand and thereafter reduced
12 to computerized transcription under my direction and
13 supervision;

14 That the dismantling of the transcript
15 will void the reporter's certificate.

16 I further certify that I am neither
17 counsel for, nor related to, any party to said
18 proceedings, nor in any way interested in the
19 outcome thereof.
20

21 IN WITNESS WHEREOF, I have hereunto
22 subscribed my name this 12th day of October, 2010.

23
24 
25 DEBORAH R. MEYERS, CSR NO. 8569

EX E

1
2 SUPERIOR COURT OF THE STATE OF CALIFORNIA
3 FOR THE COUNTY OF LOS ANGELES
4

5 DAVID COPPEDGE, AN INDIVIDUAL,)
6 PLAINTIFF,)
7 VS.) CASE NO.
8 JET PROPULSION LABORATORY, FORM) BC 435600
9 UNKNOWN; CALIFORNIA INSTITUTE)
10 OF TECHNOLOGY, FORM UNKNOWN;)
11 GREGORY CHIN, AN INDIVIDUAL;)
12 CLARK A. BURGESS, AN INDIVIDUAL;)
13 KEVIN KLENK, AN INDIVIDUAL; AND)
14 DOES 1 THROUGH 25, INCLUSIVE,)
15 DEFENDANTS.)
16)
17)
18)
19)
20)
21)
22)
23)
24)
25)

**CERTIFIED
COPY**

17 DEPOSITION OF SCOTT EDGINGTON,
18

19 TAKEN ON TUESDAY, FEBRUARY 22, 2011
20
21
22

23 REPORTED BY:
24 HEIDI SULLIVAN
25 CSR NO. 6600
FILE NO.: 10-117

24 || A. SULLIVAN REPORTERS
25 || COURT REPORTERS ||

2420 W. CARSON STREET, SUITE 210
TORRANCE, CALIFORNIA 90501
PHONE 310 • 787 • 4497
FAX 310 • 787 • 1024

EXE

12/27/2011

1 Q. PRIOR TO THAT DISCUSSION, HOW WOULD YOU
2 HAVE CHARACTERIZED DAVID AND YOUR RELATIONSHIP?

3 A. PRIOR TO THAT DISCUSSION, I WOULD --
4 THOUGHT DAVE WAS A NICE GUY, YOU KNOW, CORDIAL, YOU
5 KNOW, CURIOUS ABOUT THE ONGOINGS OF THE PROJECT.

6 Q. PRIOR TO THAT DISCUSSION, DID YOU AND HE
7 EVER DISCUSS THE TOPIC OF INTELLIGENT DESIGN?

8 A. NO.

9 Q. DID YOU BORROW A DVD FROM HIM IN 2005?

10 MS. FOX: OBJECTION. VAGUE AS TO THE WORD
11 "BORROW."

12 BY MR. BECKER:

13 Q. DID HE LOAN YOU A DVD?

14 A. HE CAME TO MY OFFICE, AND HE GAVE ME A
15 DVD AND THOUGHT I WOULD BE INTERESTED IN WATCHING IT.
16 HE THEN LEFT.

17 Q. DID YOU WATCH IT?

18 A. NO, I DID NOT.

19 Q. DO YOU KNOW WHAT THE DVD WAS?

20 A. I READ THE BACK OF IT, AND I DETERMINED
21 THAT THE MATERIAL WAS SOMETHING I WAS NOT INTERESTED
22 IN.

23 Q. WHAT WAS THE MATERIAL THAT YOU WEREN'T
24 INTERESTED IN?

25 A. THE INTERPRETATION OF CERTAIN DATA.

12/21/2011

1 Q. DO YOU KNOW THE NAME OF THAT DVD?
2 A. NO, I DO NOT ACTUALLY.
3 Q. DOES THE PRIVILEGED PLANET SOUND
4 FAMILIAR?
5 A. YES. THAT DOES SOUND FAMILIAR, YES.
6 Q. DID HE TELL YOU ANYTHING ABOUT THAT
7 MOVIE?
8 A. NO, HE DID NOT.
9 Q. DID HE TELL YOU THAT JPL SCIENTISTS WERE
10 FEATURED IN THE MOVIE?
11 A. NO, HE DID NOT.
12 Q. WERE YOU AWARE THAT JPL SCIENTISTS WERE
13 FEATURED IN THE MOVIE?
14 A. NO.
15 Q. WHEN YOU DETERMINED THAT THE SUBJECT
16 MATTER WAS SOMETHING THAT YOU WERE NOT INTERESTED IN,
17 DID YOU GIVE THE DVD BACK TO HIM?
18 A. I DON'T BELIEVE SO. I DON'T RECALL.
19 Q. WHY NOT?
20 A. IT JUST GOT BURIED ON MY DESK. I FORGOT
21 ABOUT IT, YOU KNOW.
22 Q. GENERALLY SPEAKING, WHEN SOMEBODY GIVES
23 YOU A GIFT, DO YOU ACCEPT IT OR RETURN IT?
24 MS. FOX: OBJECTION.
25 THE WITNESS: I WAS --

1 CONVERSATION YOU HAD WITH DAVID CONCERNING PROP 8?

2 A. HE WAS MAKING A PITCH FOR PROP 8, YES.

3 Q. NOW, I DON'T UNDERSTAND.

4 YOU SAID YOU WERE LEANING TOWARDS VOTING
5 AGAINST PROP 8, BUT YOU HADN'T MADE YOUR MIND UP.

6 WERE YOU OFFENDED BY THE FACT THAT DAVID
7 WAS EVEN ENGAGING YOU IN A DISCUSSION ABOUT PROP 8?

8 A. I WAS NOT OFFENDED BY THAT. I WAS
9 OFFENDED BY HIM PUSHING HIS VIEW OF PROP 8 AND HIS
10 STATEMENT THAT I MUST BE AGAINST KIDS.

11 Q. ON THAT PARTICULAR DAY, WERE YOU KEEPING
12 AN OPEN MIND ABOUT YOUR DECISION ON HOW TO VOTE?

13 MS. FOX: OBJECTION. VAGUE.

14 THE WITNESS: YES, I WAS. I DID NOT KNOW HOW
15 I WAS GOING TO VOTE UNTIL THE DAY OF.

16 BY MR. BECKER:

17 Q. SO WHAT YOU CALL PROPAGANDA, WEREN'T YOU
18 INTERESTED IN HEARING FROM DAVID WHAT VIEWS HE HAD
19 REGARDING PROPOSITION 8 SO THAT IT MIGHT ASSIST YOUR
20 DECISION?

21 A. I HAD HEARD ENOUGH OF THE PROPAGANDA
22 THROUGH VARIOUS OUTLETS AND HAD ALREADY DECIDED THAT
23 THAT IS NOT THE -- WHAT THE PROPAGANDA WAS ESPOUSING
24 WAS NOT THE ISSUE AT HAND, THAT IT DID NOT HAVE
25 ANYTHING TO DO WITH THE PROPOSITION.

1 BY MR. BECKER:

2 Q. DURING THE CONVERSATION, DOCTOR, DID YOU
3 TELL DAVID THAT YOUR FATHER WAS ABUSIVE TO YOU?

4 A. I DID NOT.

5 Q. DID YOU TELL HIM THAT YOU HAD AN UNHAPPY
6 CHILDHOOD?

7 A. I DID NOT.

8 Q. DID YOU TELL HIM THAT YOUR FATHER WAS AN
9 ALCOHOLIC?

10 A. I DID NOT.

11 Q. IN THE EXHIBIT IN FRONT OF YOU, IT STATES
12 SOMEWHERE TOWARDS THE BOTTOM OF THE -- WELL, I'M GOING
13 TO SAY PROBABLY ABOUT 15 LINES UP FROM THE BOTTOM -- I
14 LOST IT. OH.

15 IT SAYS, "PER SCOTT, DAVID AT ONE POINT
16 STATED 'HE MUST BE AGAINST HAVING CHILDREN.'"

17 DO YOU SEE THAT?

18 A. YES, I SEE IT.

19 Q. I'M CONCERNED WITH THE EXACTITUDE OF THE
20 LANGUAGE HERE AND YOUR TESTIMONY.

21 DID YOU TELL JHERTAUNE THOSE SPECIFIC
22 WORDS, "AGAINST HAVING CHILDREN"?

23 A. NO, I DID NOT.

24 Q. DID YOU TELL HER THAT DAVID SAID, "YOU
25 MUST NOT LIKE KIDS"?

1 A. I THINK I WOULD HAVE USED -- I THINK WHAT
2 I HEARD WAS "YOU MUST BE AGAINST CHILDREN," NOT THE
3 "HAVING."

4 Q. OH, OKAY. "YOU MUST BE AGAINST
5 CHILDREN"?

6 A. YES.

7 Q. DID YOU HAVE TO TELL DAVID TO LEAVE MORE
8 THAN THOSE TWO TIMES?

9 A. NO.

10 Q. ABOUT HOW LONG DID THE CONVERSATION
11 TAKE -- THE CONVERSATION STRICTLY ON PROP 8?

12 A. THE WHOLE THING PROBABLY LASTED, I'D SAY,
13 LIKE FIVE MINUTES. I MEAN, IT WASN'T THAT LONG. YOU
14 KNOW, TEN AT MOST. FIVE TO TEN MINUTES, I'D SAY.

15 Q. AND THEN DO YOU RECALL HOW SOON AFTER
16 THAT CARMEN APPROACHED YOU?

17 A. AFTER DAVE HAD LEFT AND WAS DEFINITELY
18 FLUSTERED THAT I WASN'T AGREEING WITH HIM, I SAT THERE
19 FOR A BRIEF PERIOD. I DON'T KNOW HOW MUCH TIME WENT
20 BY.

21 BUT I WAS WONDERING SHOULD I REPORT IT?
22 TO WHOM?

23 CARMEN CAME FAIRLY SOON AFTER, MAYBE
24 30 SECONDS TO A MINUTE MAYBE, AND ASKED IF I WAS OKAY.

25 Q. DID CARMEN MENTION TO YOU IN THAT

1 STATE OF CALIFORNIA)

2 COUNTY OF LOS ANGELES)

3

4

5 I, HEIDI SULLIVAN, A CERTIFIED SHORTHAND REPORTER

6 LICENSED BY THE STATE OF CALIFORNIA, CERTIFY:

7

8 THAT THE FOREGOING DEPOSITION OF Scott Edgington
9 WAS TAKEN BEFORE ME PURSUANT TO Notice
10 AT THE TIME AND PLACE THEREIN SET FORTH, AT WHICH TIME
11 THE WITNESS WAS PUT UNDER OATH BY ME;

12

13 THAT THE TESTIMONY OF THE WITNESS AND ALL OBJECTIONS
14 MADE AT THE TIME OF THE EXAMINATION WERE RECORDED
15 STENOGRAPHICALLY BY ME AND WERE THEREAFTER
16 TRANSCRIBED;

17

18 THAT THE FOREGOING IS A TRUE RECORD OF THE TESTIMONY
19 AND OF ALL OBJECTIONS AT THE TIME OF THE EXAMINATION.

20

21 IN WITNESS WHEREOF, I HAVE SUBSCRIBED MY NAME THIS

22 10th DAY OF MARCH, 2011.

23

24

Heidi Sullivan

25

LICENSE NUMBER 6600

EX.F

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DAVID COPPEDGE, AN INDIVIDUAL,)
)
 PLAINTIFF,)

VS.

) CASE NO.
) BC 435600

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.)

**CERTIFIED
COPY**

DEPOSITION OF CARMEN VETTER,

TAKEN ON TUESDAY, FEBRUARY 22, 2011

REPORTED BY:
HEIDI SULLIVAN
CSR NO. 6600
FILE NO.: 10-117

24 || A. SULLIVAN REPORTERS
25 || COURT REPORTERS

2420 W. CARSON STREET, SUITE 210
TORRANCE, CALIFORNIA 90501
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EXF

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A. I PICKED --

Q. -- THAT'S THE ONE; RIGHT?

A. TO THE BEST OF MY KNOWLEDGE, YES.

Q. NOW, DAVID GAVE YOU A DVD ABOUT WHEN?
THREE YEARS AGO? FOUR YEARS AGO? TWO YEARS AGO?

A. I THINK IT WAS '05 POSSIBLY.

(WHEREUPON A PHONE RINGS.)

MS. FOX: CAN WE GO OFF THE RECORD FOR ONE
SECOND?

MR. BECKER: YES.

(DISCUSSION HELD OFF THE RECORD.)

BY MR. BECKER:

Q. IN 2005?

A. I BELIEVE SO.

Q. ALL RIGHT. WAS THAT THE PRIVILEGED
PLANET?

A. I DON'T RECALL. THERE WERE TWO DVD'S.
I DON'T RECALL WHICH WAS WHICH.

Q. DID HE GIVE THEM BOTH TO YOU AT THE SAME
TIME?

A. NO.

Q. DO YOU RECALL WHICH ONE HE GAVE YOU
FIRST?

A. I DO NOT RECALL.

Q. BUT YOU DO RECALL THAT ONE OF THEM WAS

1 THE PRIVILEGED PLANET; RIGHT?

2 A. I DO RECALL THAT.

3 Q. DID HE LOAN IT TO YOU?

4 A. NO.

5 Q. DID YOU VIEW EITHER OF THE DVD'S ON
6 LOAN?

7 MS. FOX: OBJECTION. MISSTATES THE
8 TESTIMONY.

9 BY MR. BECKER:

10 Q. IN OTHER WORDS, DID HE ORIGINALLY LOAN
11 THEM AND THEN MAYBE SELL THEM TO YOU?

12 A. I DON'T RECALL.

13 MS. FOX: AND IT CALLS FOR SPECULATION.

14 BY MR. BECKER:

15 Q. YOU DON'T RECALL?

16 A. (NO AUDIBLE RESPONSE.)

17 Q. DO YOU RECALL PURCHASING THEM?

18 A. I RECALL PURCHASING ONE OF THEM.

19 Q. AND THAT WAS PRIVILEGED PLANET?

20 A. I BELIEVE THAT WAS IT.

21 Q. DID YOU VIEW -- WELL, WHY DID YOU
22 PURCHASE IT?

23 A. CURIOSITY.

24 Q. DO YOU RECALL WHAT HE TOLD YOU ABOUT IT?

25 A. I DON'T RECALL.

1 Q. DID YOU KNOW ANYTHING ABOUT THE CONCEPT
2 OF INTELLIGENT DESIGN AT THE TIME YOU --

3 A. NO.

4 Q. -- PURCHASED IT?

5 A. NO.

6 MS. FOX: I'LL REMIND THE WITNESS TO LET THE
7 QUESTION BE FINISHED BEFORE SHE BEGINS HER ANSWER.

8 THE WITNESS: I APOLOGIZE.

9 BY MR. BECKER:

10 Q. I'M PACING QUICKLY SO WE CAN GET DONE IN
11 TIME FOR THE OTHER DEPOSITION.

12 MS. FOX: I'M TRYING TO HELP OUR REPORTER.

13 MR. BECKER: I UNDERSTAND.

14 Q. THE PRIVILEGED PLANET DVD, DID YOU WATCH
15 IT?

16 A. YES.

17 Q. DID YOU HAVE AN IMPRESSION OF IT AFTER
18 WATCHING IT?

19 A. I DON'T RECALL.

20 Q. DO YOU RECALL WHAT IT WAS ABOUT?

21 A. I DON'T RECALL.

22 Q. DO YOU RECALL LIKING IT OR NOT LIKING
23 IT?

24 A. I DON'T RECALL.

25 Q. DO YOU RECALL BEING OFFENDED BY IT?

1 A. I DO NOT -- NO, I WAS NOT OFFENDED.

2 Q. DO YOU RECALL ANYTHING IN IT THAT
3 DISCUSSED RELIGION?

4 A. I DON'T RECALL.

5 Q. HOW ABOUT THE OTHER ONE, WHICH YOU SAID
6 MIGHT HAVE BEEN UNLOCKING THE MYSTERY OF LIFE -- DO
7 YOU RECALL WATCHING THAT MOVIE?

8 A. YES.

9 Q. DO YOU RECALL WHAT THAT WAS ABOUT?

10 A. I DON'T -- I CAN'T REMEMBER WHICH ONE
11 WAS WHICH. ONE TALKED ABOUT DESIGN. I DON'T RECALL
12 WHICH WAS WHICH.

13 Q. WELL, LET ME HELP YOU OUT. PRIVILEGED
14 PLANET WAS A COSMOLOGICAL OVERVIEW OF THE CREATION OF
15 THE UNIVERSE AND THE FINE-TUNING ASPECTS OF THE
16 UNIVERSE THAT RESULT IN LIFE ON THIS ONE SINGLE
17 PLANET IN THE VAST UNIVERSE --

18 A. OKAY.

19 Q. -- THE PRIVILEGED PLANET.
20 DO YOU REMEMBER THAT?

21 A. I DO NOW.

22 MS. FOX: I'M GOING TO OBJECT TO THE
23 CHARACTERIZATION OF THE DVD'S.

24 TO THE EXTENT THE WITNESS REMEMBERS
25 THEIR CONTENT, SHE CAN TESTIFY TO IT, BUT SHE MAY NOT

1 NOT BE A LONG CONVERSATION.

2 BY MR. BECKER:

3 Q. RIGHT.

4 AND THE QUESTION IS: DID IT DISRUPT
5 YOUR WORK ACTIVITY SUBSTANTIALY?

6 MS. FOX: SAME OBJECTIONS.

7 THE WITNESS: WELL, I DIDN'T ALLOW IT TO.

8 BY MR. BECKER:

9 Q. RIGHT. SO IT DIDN'T; RIGHT?

10 A. I LEFT.

11 MS. FOX: OBJECTION. MISSTATES TESTIMONY.

12 BY MR. BECKER:

13 Q. IF YOU DIDN'T ALLOW IT TO, IT DIDN'T;
14 RIGHT?

15 MS. FOX: ARGUMENTATIVE.

16 THE WITNESS: I DON'T KNOW HOW TO ANSWER THAT
17 QUESTION BASED ON WHAT I JUST ANSWERED.

18 BY MR. BECKER:

19 Q. I'LL REFER YOU TO WHAT WAS PREVIOUSLY
20 MARKED AS EXHIBIT 26.

21 MS. FOX: HAS THIS NOW BEEN MARKED?

22 MR. BECKER: DID I MARK IT EARLIER? LET'S
23 MARK IT AS EXHIBIT 26.

24 (THE ABOVE-MENTIONED DOCUMENT WAS MARKED
25 FOR IDENTIFICATION BY THE CERTIFIED SHORTHAND

1 REPORTER AND ATTACHED HERETO.)

2 BY MR. BECKER:

3 Q. THIS PURPORTS TO BE HANDWRITTEN NOTES OF
4 JHERTAUNE HUNTLEY WRITTEN ON MARCH 20TH, 2009, BATES
5 STAMPED NO. DEFENDANTS 92.

6 TAKE A MOMENT TO READ IT.

7 OFF THE RECORD.

8 (DISCUSSION HELD OFF THE RECORD.)

9 BY MR. BECKER:

10 Q. WHEN YOU'RE DONE WITH IT, I'LL ASK YOU
11 TO GIVE IT TO THE COURT REPORTER.

12 YOU'RE NOT DONE WITH IT?

13 MS. FOX: HE'S GOING TO ASK YOU SOME
14 QUESTIONS ABOUT IT.

15 THE WITNESS: OH, I GOT YOU.

16 BY MR. BECKER:

17 Q. DO YOU RECALL MEETING WITH JHERTAUNE
18 HUNTLEY ON MARCH 20TH, 2009?

19 A. YES.

20 Q. DO YOU RECALL THE CIRCUMSTANCES WITHIN
21 WHICH SHE WAS MEETING WITH YOU?

22 MS. FOX: OBJECTION. VAGUE AS TO
23 "CIRCUMSTANCES WITHIN WHICH" AND CALLS FOR
24 SPECULATION.

25 THE WITNESS: COULD YOU BE MORE SPECIFIC.

1 A. WITH HIS BELIEF SYSTEM.

2 Q. OKAY. AND WHAT IS HIS BELIEF SYSTEM?

3 MS. FOX: OBJECTION. CALLS FOR SPECULATION.
4 LACKS FOUNDATION.

5 THE WITNESS: I -- I DIDN'T GET TO KNOW IT
6 WELL ENOUGH TO KNOW WHAT HIS BELIEF SYSTEM IS. I
7 DON'T KNOW.

8 BY MR. BECKER:

9 Q. WEREN'T YOU CURIOUS?

10 MS. FOX: OBJECTION. ARGUMENTATIVE.

11 THE WITNESS: NO.

12 BY MR. BECKER:

13 Q. NO?

14 A. NO.

15 Q. WHY NOT?

16 A. NOT AFTER A FEW CONVERSATIONS.

17 Q. IT STATES, "ONCE HE DISCOVERED SHE WAS A
18 CHRISTIAN, SHE WAS HARASSED BY HIM."

19 DID YOU USE THE WORD "HARASSED" IN YOUR
20 CONVERSATION WITH JHERTAUNE HUNTLEY?

21 A. YES.

22 Q. WHAT DID YOU MEAN BY IT?

23 A. I MEAN THE HOLIDAY POTLUCK FLIER. I
24 MEAN HIM WANTING TO TALK TO ME ABOUT IT WHENEVER WE
25 RAN INTO EACH OTHER. THAT IS WHAT I MEANT.

1 Q. SO YOU FELT HE WAS HARASSING YOU; IS
2 THAT RIGHT?

3 A. THAT IS CORRECT.

4 Q. DID YOU BELIEVE THAT HE WAS HARASSING
5 YOU UNDER THE DEFINITION OF "HARASSMENT" PROVIDED BY
6 JPL'S UNLAWFUL HARASSMENT POLICY?

7 MS. FOX: OBJECTION. CALLS FOR SPECULATION.
8 LACKS FOUNDATION. AND VAGUE.

9 THE WITNESS CAN ANSWER IN HER OWN WORDS.

10 THE WITNESS: I BELIEVED THAT BY REMOVING
11 MYSELF FROM HIS PRESENCE, I DIDN'T HAVE TO THINK
12 ABOUT IT. I HAD NO BUSINESS DEALINGS WITH HIM.
13 BY MR. BECKER:

14 Q. BUT YOU ACCUSED HIM OF HARASSMENT TO A
15 HUMAN RESOURCES INVESTIGATOR.

16 A. YES.

17 MS. FOX: OBJECTION. MISCHARACTERIZES THE
18 RECORD.

19 MR. BECKER: SHE JUST SAID YES.

20 Q. AND SO --

21 CAN YOU BACK UP.

22 SO MY QUESTION WAS: DID YOU BELIEVE HE
23 WAS HARASSING YOU UNDER THE DEFINITION OF
24 "HARASSMENT" PROVIDED BY JPL'S POLICY?

25 MS. FOX: SAME OBJECTIONS.

1 OR PHYSICAL CONDUCT, BECAUSE OF ITS SEVERITY AND/OR
2 PERSISTENCE, WAS LIKELY TO INTERFERE SIGNIFICANTLY
3 WITH YOUR WORK?

4 MS. FOX: I'LL OBJECT TO THE QUESTION AS
5 COMPOUND, VAGUE, IMPROPER OPINION, LACKS FOUNDATION.

6 THE WITNESS IS NOT A HUMAN RESOURCES
7 PROFESSIONAL, NOR IS SHE A LEGAL EXPERT. THE WITNESS
8 CAN ANSWER IN HER OWN WORDS REGARDING HER EXPERIENCE
9 AND HOW SHE FELT.

10 MR. BECKER: I WANT AN ANSWER TO THAT
11 QUESTION UNLESS YOU'RE INSTRUCTING HER NOT TO ANSWER.

12 MS. FOX: MY OBJECTION STANDS.

13 THE WITNESS CAN ANSWER IN HER OWN WORDS.

14 THE WITNESS: I STATED EARLIER THAT DURING
15 THIS TIME WHEN WE WERE TALKING IN THE FIRST PARAGRAPH
16 ABOUT THE POTLUCK, HE WAS HARASSING ME. AND I DID
17 THE APPROPRIATE THING BY CONTACTED GREG CHIN, AND IT
18 STOPPED.

19 AND THAT IS WHAT THAT FIRST PARAGRAPH
20 WITH JHERTAUNE IS REGARDING.

21 BY MR. BECKER:

22 Q. DID IT INTERFERE WITH YOUR WORK, IS THE
23 QUESTION?

24 MS. FOX: ASKED AND ANSWERED.

25 COUNSEL, WE'RE GOING BACK OVER THE SAME

1 A. IT'S ACCURATE THAT FOUR TO FIVE YEARS
2 AGO HE DEMANDED I DO THAT.

3 Q. DID HE DEMAND THE WORD "CHRIST" OR
4 "CHRISTMAS"?

5 MS. FOX: TO THE BEST OF YOUR RECOLLECTION.

6 THE WITNESS: TO THE BEST OF MY RECOLLECTION,
7 IT WAS "CHRISTMAS PARTY."

8 BY MR. BECKER:

9 Q. A CHRISTMAS PARTY; CORRECT?

10 A. CORRECT.

11 Q. HE DIDN'T SAY TO USE THE WORD "CHRIST,"
12 DID HE?

13 MS. FOX: IF YOU RECALL.

14 THE WITNESS: I DON'T RECALL.

15 BY MR. BECKER:

16 Q. BUT DID YOU TELL JHERTAUNE HUNTLEY THAT
17 HE DEMANDED THAT YOU PUT THE WORD "CHRIST" AS OPPOSED
18 TO THE WORD "CHRISTMAS" IN THE HOLIDAY PARTY FLIER?

19 MS. FOX: IF YOU RECALL.

20 THE WITNESS: I DON'T RECALL EVERYTHING WE
21 SAID OR HOW SHE MAY HAVE SHORTHANDED IT. I DON'T
22 RECALL.

23 BY MR. BECKER:

24 Q. BUT YOU WOULDN'T HAVE SAID THAT HE
25 DEMANDED THAT YOU PUT THE WORD "CHRIST" ON THE

**VETTER DEPOSITION
EXHIBIT 26**

3.20.09 - Participants in Mtg w/ M. Cardenas & J. Huntley w/ Carmen Vetter
Mtg w/ Carmen Vetter re: David Coppedge complaint.

Carmen stated that she believes that David has an agenda.
^{Once he discovered she was a Christian and was harassed by him.}
about Christianity. A couple of years ago (4 to 5 yrs) he
demanded that she put the word "Christ"

on the Holiday Potluck Invitation flyer. She spoke to
Greg Chin about the incident to make it stop

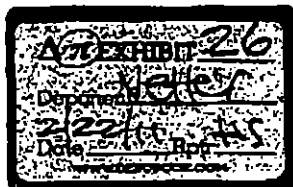
Carmen believes that David is inappropriate and has
a passion about getting his point across as it relates to
religion. David can't see the line he is crossing when
he brings religion in the workplace.

Carmen stated that people have complained to her
about David in the past but she directed them to Greg
Chin for handling.

A couple of years ago, David approached her about
the "Intelligent Design" DVD. She watched it as a
curiosity and told him it was interesting but
nothing more. David did not pursue engaging
her in a further discussion about the DVD. He has
left her alone recently. Greg assisted w/ the DVD.

Carmen stated that she had noticed David <sup>*Carmen has referred other
employees to Greg when David has bothered,
approached them about
his religious views.</sup>

frequently talking to Scott Edington during work hours.
Thought it was odd because, Scott is a Scientist
and David is a system Admin. They really don't have
a working relationship. Carmen asked Scott what was
going on & Scott replied David had been talking to
him about Proposition 8 and wouldn't leave him
alone. Scott was noticeably upset.



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1 STATE OF CALIFORNIA)
2 COUNTY OF LOS ANGELES)
3
4

5 I, HEIDI SULLIVAN, A CERTIFIED SHORTHAND REPORTER
6 LICENSED BY THE STATE OF CALIFORNIA, CERTIFY:

7
8 THAT THE FOREGOING DEPOSITION OF CARMEN VETTER
9 WAS TAKEN BEFORE ME PURSUANT TO Notice
10 AT THE TIME AND PLACE THEREIN SET FORTH, AT WHICH TIME
11 THE WITNESS WAS PUT UNDER OATH BY ME;

12
13 THAT THE TESTIMONY OF THE WITNESS AND ALL OBJECTIONS
14 MADE AT THE TIME OF THE EXAMINATION WERE RECORDED
15 STENOGRAPHICALLY BY ME AND WERE THEREAFTER
16 TRANSCRIBED;

17
18 THAT THE FOREGOING IS A TRUE RECORD OF THE TESTIMONY
19 AND OF ALL OBJECTIONS AT THE TIME OF THE EXAMINATION.

20
21 IN WITNESS WHEREOF, I HAVE SUBSCRIBED MY NAME THIS

22 10th DAY OF MARCH, 2011

23

24

Heidi Sullivan

25

LICENSE NUMBER 6600

12/27/2011

EX.G

EXHIBIT G

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DAVID COPPEDGE, AN INDIVIDUAL,)
)
 PLAINTIFF,)
)
 VS.) CASE NO.
) BC 435600
 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.)

**CERTIFIED
COPY**

DEPOSITION OF KEVIN STANLEY KLENK,
VOLUME II, PAGES 270 - 481
TAKEN ON WEDNESDAY, APRIL 6, 2011

24 || A. SULLIVAN REPORTERS
25 || COURT REPORTERS

REPORTED BY:
HEIDI SULLIVAN
CSR NO. 6600
FILE NO.: 11-129

2420 W. CARSON STREET, SUITE 210
TORRANCE, CALIFORNIA 90501
PHONE 310 • 787 • 4497
FAX 310 • 787 • 1024

EX.G

1 BEING SAID DURING THAT CONVERSATION?

2 A. I DON'T RECALL THE SPECIFICS.

3 Q. IS THERE A REASON WHY THE MEETING WAS
4 NOT DELAYED?

11:31:10AM

5 A. WHAT I RECALL IS THAT I SAW THIS, AND I
6 DIDN'T SEE ANY REASON NOT TO HAVE THE MEETING TO TELL
7 DAVID WHERE WE WERE AT IN THE PROCESS.

8 Q. WAS THERE A REASON WHY YOU DID NOT
9 PROVIDE DAVID PRIOR TO THE MEETING A WRITTEN COPY OF
10 THE FINDINGS BY HR, INCLUDING ACCUSATIONS MADE
11 AGAINST HIM AND THE EVIDENCE SUPPORTING IT?

11:32:12AM

12 A. WE PRESENTED HIM AT THE MEETING A COPY
13 OF THE FINDINGS AS PART OF THE WRITTEN WARNING.

14 Q. DID YOU NOT FEEL THAT HE SHOULD HAVE
15 THAT INFORMATION PRIOR TO THE MEETING IN ORDER TO
16 BETTER DEFEND HIMSELF DURING THAT MEETING?

11:32:37AM

17 MS. FOX: OBJECTION. VAGUE.

18 THE WITNESS: THE MEETING WAS TO PRESENT THE
19 RESULTS TO DAVID. IT WASN'T TO HAVE A DEBATE WITH
20 DAVID.

11:32:59AM

21 BY MR. BECKER:

22 Q. DID YOU SEE DAVID'S 8:03 A.M. E-MAIL
23 PRIOR TO THE MEETING?

24 A. I DON'T RECALL SEEING IT.

11:33:35AM

25 MR. BECKER: EXHIBIT 44 WILL BE THE 22-PAGE

12/27/2011

1 TRANSCRIPT OF THE AUDIO RECORDING MADE BY DAVID ON
2 APRIL 13.

3 (THE ABOVE-MENTIONED DOCUMENT WAS MARKED
4 FOR IDENTIFICATION BY THE CERTIFIED SHORTHAND
5 REPORTER AND ATTACHED HERETO.)

6 BY MR. BECKER:

7 Q. AND, MR. KLENK, WE DID PRESENT YOUR
8 ATTORNEYS WITH A COPY OF THIS DOCUMENT AT ONE OF
9 DAVID'S DEPOSITION SESSIONS.

10 HAVE YOU SEEN IT AT ANY TIME -- THIS
11 SPECIFIC COPY PREPARED BY HIM AT ANY TIME PRIOR TO
12 TODAY?

13 A. I WAS AT DAVID'S DEPOSITION AND SAW YOU
14 HOLDING A COPY OF THE DOCUMENT.

15 Q. HAVE YOU LOOKED THROUGH A COPY OF
16 DOCUMENT AT ANY TIME SINCE THAT TIME?

17 A. NO.

18 Q. HAVE YOU SEEN ANY OTHER TRANSCRIPTIONS
19 OF THE AUDIO RECORDING?

20 A. NO.

21 Q. DID DAVID ASK TO RECORD THE MEETING?

22 A. YES.

23 Q. WAS HE GRANTED YOUR CONSENT?

24 A. YES.

25 Q. WAS HE GRANTED CAB BURGESS'S CONSENT?

11:33:58AM

11:34:19AM

11:34:36AM

11:34:50AM

11:35:18AM

12/27/2011

1 A. WHAT IS THE QUESTION?

2 Q. BELOW THE "FYI" AND THE LINE THERE, IS
3 THAT AN E-MAIL YOU SENT TO HR?

4 A. YES, I BELIEVE SO.

05:15:55PM

5 Q. AND WHAT WAS THE PURPOSE OF THAT E-MAIL?

6 A. JUST TO SUMMARIZE TO HR WHAT THE WRITTEN
7 WARNING MEETING WENT LIKE.

8 Q. IS THERE ANYTHING IN THERE THAT STATES
9 THAT YOU INFORMED MR. COPPEDGE THAT HE WAS FREE TO
10 DISCUSS HIS PERSONAL VIEWS, INCLUDING, BUT NOT
11 LIMITED TO, RELIGION, POLITICS, AND INTELLIGENT
12 DESIGN, SUBJECT TO CERTAIN CONDITIONS?

05:16:10PM

13 A. NO, I DON'T SEE ANYTHING IN THERE
14 EXPLICITLY.

05:17:43PM

15 (DISCUSSION HELD OFF THE RECORD.)

16 MS. FOX: COUNSEL, MAY I SUGGEST IF IT'S IN
17 THE TRANSCRIPT, WE CAN SHORT-CIRCUIT THIS.

18 MR. BECKER: I'M NOT GOING TO ATTACH THIS.

19 ALL RIGHT. LET'S LOOK AT THE TRANSCRIPT
20 REAL QUICK, AND IT WILL MAKE EVERYBODY HAPPY.

05:18:03PM

21 MS. FOX: MR. KLENK WILL BE ABLE TO HELP YOU.

22 (DISCUSSION HELD OFF THE RECORD.)

23 MR. BECKER: OFF THE RECORD WE WERE SEARCHING
24 THE TRANSCRIPT THAT WAS PREVIOUSLY MARKED AS 44.

05:20:19PM

25 Q. MR. KLENK, YOU REFERRED ME TO THE LINE

1 IN THAT TRANSCRIPT THAT SAYS, "WE HAVE NO ISSUE WITH
2 PEOPLE DISCUSSING RELIGION AND POLITICS IN THE OFFICE
3 SO LONG AS IT'S NOT UNWELCOME OR DISRUPTIVE"; IS THAT
4 RIGHT?

05:20:33PM

5 A. CORRECT.

6 Q. IS IT YOUR TESTIMONY THAT THAT WAS YOUR
7 ATTEMPT TO INFORM MR. COPPEDGE THAT HE WAS FREE TO
8 DISCUSS RELIGION AND POLITICS SO LONG AS IT WAS NOT
9 UNWELCOME OR DISRUPTIVE?

05:20:55PM

10 A. THAT WAS AN EXPLICIT STATEMENT TO THAT
11 EFFECT.

12 Q. NOW, LET ME ASK YOU THIS.

13 THE EVIDENCE IN THIS CASE, I'LL
14 REPRESENT TO YOU, SHOWS THAT DAVID WOULD APPROACH AN
15 INDIVIDUAL ONE TIME, OFFER TO DISCUSS A TOPIC, AND IF
16 TOLD THAT IT WAS NOT SOMETHING THAT PERSON WANTED TO
17 DISCUSS, HE WOULD LEAVE. AND YET THAT WAS THAT
18 CHARACTERIZED BY AT LEAST ONE INDIVIDUAL AS BEING
19 UNWELCOME AND DISRUPTIVE.

05:21:27PM

20 WERE YOU AWARE THAT ONE INDIVIDUAL HAD
21 ENCOUNTERED DAVID ON ONLY ONE OCCASION AND THAT THAT
22 PERSON HAD COMPLAINED THAT DAVID'S APPROACHING HER
23 WAS UNWELCOME AND DISRUPTIVE?

05:21:47PM

24 MS. FOX: OBJECTION TO THE PREAMBLE AS
25 MISCHARACTERIZES THE RECORD. THE SECOND PART ALSO

**KLENK DEPOSITION
EXHIBIT 44**

Transcript of recorded conversation concerning David Coppedge and allegations that he violated JPL's Ethics Policy and Policy on Unlawful Harassment by handing out DVDs to coworkers on intelligent design.

Date: April 13, 2009

Location: Office of Kevin Klenk, Bldg 601, JPL Woodbury facility

Present:

- David Coppedge, Cassini System Administrator Team Lead
- Kevin Klenk, Section 173 Manager under Office of Chief Information Officer
- Clark A. (Cab) Burgess, Sec 173 Group Supervisor, responsible for allocating system administration resources to flight projects at JPL.

Other people referred to in the discussion:

- Jhertaune Huntley: HR investigator
- Greg Chin: Cassini Mission Support and Services Office Manager (MSSO), responsible for Cassini-related task assignments for David Coppedge.

[Meeting opens. David asks if it can be recorded; Kevin says yes. David is handed the Written Warning accusing him of violating JPL Ethics and JPL Policy on Unlawful Harassment by handing out DVDs on intelligent design.]

Burgess: Jhertaune wanted to make sure you got copies of those... [inaudible]

Coppedge: Am I supposed to read this? Now, or ...

Burgess: Let's go over it together.

Klenk: [inaudible conversation with someone who stopped in with a question.]

Burgess: So as Jhertaune interviewed a number of people on considered your customers with the flight-- with the Cassini project specifically, and this is kind of the result of what she found, and I think it looks to me like two different areas here she's trying to address at least. [pause, Dave reading]

That first bullet she talks about that you approached coworkers during work hours. And she's found that a lot of people had been overly nice to you when they-- just to move on, and to, when you presented the ideas of whatever it was, politics, [mumbled] and they were just in agreement without being rude or anything else, but she's found a lot of people who were concerned about the discussions you were trying to get into with them.

And then there's this other instance where you met someone in his office and he asked you to leave. That was considered inappropriate. So she's found that as she understands it, you've violated several business rules and ethics here at JPL.

It's not the nature of, it's not the subject matter so much as it is interruption of quote-unquote 'JPL work' that she's trying to focus on. Whether pro or con on any particular issue it really doesn't matter. To her was, whatever the discussions that were going on that you were attempting were not JPL work. And that was a big concern on her part.

Klenk: And the other people were finding it unwelcome and disruptive; that's the major portion of it. They were feeling uncomfortable with the situation.

Coppedge: Nobody has communicated this to me, and did you get a copy of the,



Burgess: They were trying to be nice to you. [Pause, paper shuffling.]

[Coppedge hands Klenk some of the documents he had given Jhertaune, explaining the nature of the material being shared and the way it was being shared.] Did Jhertaune show you this?

Klenk: No, I didn't receive that, [unclear], the summary.

Coppedge: Alright, for the record let me give you what I gave her. [pause, 2-3 words inaudible as papers are being handed over.]

Burgess: So she and Nancy Aguilar, who's our IX rep, Human Relations, both offered to be here, but I thought we could discuss this without HR being in attendance, but if you'd care to discuss it more with them later, you can. These are the two main points that they had concern over.

Klenk: They do this regularly. ER, they go out, we actually heard that you said someone was creating a hostile work environment. So we immediately called ER, that you were being, you felt you were in a hostile work environment, so we had them immediately go over and say please check into it. It was an impartial point of view.

Coppedge: No.

Klenk: The response to us was, well, there was a hostile work environment and we feel that David is the one creating it.

Coppedge: Did you receive the transcript of the meeting that Greg Chin had with me on March 2?

Klenk: Transcript? No.

Burgess: Did you send that to, that was HR? [brief talking over]

Coppedge: I gave Jhertaune a copy; immediately after Greg had a conversation with me. I said this is kind of a sensitive subject, and it might be good for both of us to document what was said.

Klenk: Uh-hm.

Coppedge: So I gave him my recollections of his conversation with me, and I had that here with me; here it is, if you'd like to look at it. [Hands copy of email to Klenk; he reads it.]

Klenk: Partly on this, I see that the last line where Greg decided to report it, that you said he [Greg] was creating a hostile work environment.

Coppedge: I didn't initiate anything...

Klenk: So his, that was the first time that he had been accused of that, so he reported it to us, I believe it was; in which case we said, OK, we'll bring it to ER and investigate the situation. The...

Coppedge: OK, but I did not instigate a thing. Basically, I was trying to work it out with Greg, and I documented it in an email to him and him alone, OK. He took the step of starting an investigation.

Klenk: no we did.

Coppedge: Well, he had to hear...

Klenk: We did.

Coppedge: You had to hear it from him, because I didn't contact...

Klenk: That's correct; he let us know that he was being accused of it, and since we are, actually are your line managers, not Greg, he, Greg shouldn't have been involved in this sort of discussion necessarily, so as your line managers, we immediately called Employee Relations, which is the procedure we're supposed to go through. OK; we go through that, 'please investigate the situation, let us know what the situation is, and provide us with a set of your recommendations for this sort of situation.'

Coppedge: Uh-hm, but...

Klenk: That's what the memo here is a result of. This is the feedback we received from them. After talking with the people in your area, and these things are, if you look into the Ethics Policy, and the Harassment Policy, and things, they are considered anonymous and confidential. We don't want people to have retaliation against them for having reported it. But the people did say they felt it was an uncomfortable work environment.

Burgess: even though they didn't tell you about it.

Klenk: They were, Jhertaune came back and it was, she absolutely said, it was very uncomfortable for the people there.

Coppedge: OK, [Klenk talks over him]

Klenk: So, as your management, we have to follow through. This is a written warning of the situation, so we have it documented and put in your file.

Coppedge: OK, you said at this meeting that I'd be supplied with all the information that I was requesting.

Klenk: And this is the summary we have; that's part of it; you received the thing on the JPL Policy,

Burgess: Actually there's two copies.

Klenk: There were two copies of it, that's the Ethics Policy, and the...

Coppedge: Right, but those are policy documents. I was asking for a procedure for investigating employees.

Klenk: That would be ER. They regularly do this and our procedure is to call them and have them go through their routine investigation.

Coppedge: OK, so there must be a routine investigation documented.

Klenk: That is something that we aren't a part of.

12/27/2011

Burgess: Jhertaune called me this morning and said there is nothing written down as far as procedure for them to follow other than investigating the [circumstances?]

Klenk: But, that's what it is. But in the past they've behaved with professionalism and I don't expect them to do anything less than that.

Coppedge: Well, undoubtedly. But I find it hard to believe that an institution as large as JPL does not have written procedures for investigating employees. And that's what I've been requesting for a month now, and no one will give it to me.

Burgess: Well Jhertaune reminded me that she told you that they don't have anything.

Coppedge: She said that on Thursday. [April 9]

Burgess: She reminded me today that they had nothing written on that as far as what they go through as an organization.

Coppedge: OK, a couple of points here. I've never been accused of this in my entire professional career. Let the record state that.

Klenk: We understand that. We, Cab and I, we're not aware of the situation,

Coppedge: And let the record state as I put in my document that this has been infrequent, on the average once a month I might approach people. These are people who are not total strangers but coworkers and friends that I know and they know me. And the approach is "This is interesting, would you be interested in viewing it?" It's usually at the end of a Friday when people are going home anyway--never when they're actively busy with things. And so those 12 points I documented, I have records to show that's the way it's been. I don't recall anybody telling me that asking them this was unwelcome, and if they did, I backed off, and that was the end of it.

Now the fact that this came all of the sudden on March 2 the first time after working with Greg Chin for some 10 years -- out of the blue this accusation comes. And I tried to work directly with Greg, [after?] our conversation, "What are you talking about?" "What have I done?" and he says, "You're handing out DVDs to coworkers and some people have complained that you're harassing them." Harassing is a strong word, as you know.

Klenk: Uh-hm.

Coppedge, So I said, OK, here's what you're saying. Is this your recollection? This is a sensitive conversation here. and he refused to respond to my e-mail. Instead, from what I knew, he kicked off an investigation of me.

Now I supplied Jhertaune with ample documentation and records of what I actually had done, as you can see and I also requested, and never received whether JPL agrees with the Federal Guidelines on Religious Expression in the workplace. Are you familiar with that document?

Klenk: No. I...

Coppedge: OK, let me show it to you, just so you know. This is posted on the [NASA] Glenn website and I would like an answer from somebody whether these

federal guidelines which basically interpret existing law about what is permissible in terms of religious expression in the workplace, whether these guidelines are enforced here at JPL. So I'm still waiting.

Burgess: Jhertaune takes the attitude that no matter what the discussions were -- religious, political, whatever -- that is impertinent to what is going on. What's pertinent is the interruption of the JPL workforce.

Klenk: And do people, are they feeling any intimidation or harassment or hostile intent or anything along those lines. And at the minimum people felt it was unwelcome. If you look into our Diversity Training that we have, it all, they go over to a painful extent that it's really about, if it's not specifically work-related, if people think it's unwelcome, then it's not permitted.

Coppedge: I understand that.

Klenk: That, that's basically the bottom line.

Coppedge: Right, [trying to get back to the Federal Guidelines document]

Klenk: And so in this situation, the people on the 3rd floor felt it was unwelcome. That's the real bottom line there. It's not the topic that's the problem.

Coppedge: OK, let me just read some samples of this. "Employees are permitted to engage in religious expression directed at fellow employees and may even attempt to persuade fellow employees of the correctness of their religious views to the same extent as those employees may engage in comparable speech not involving religion. Some religions encourage adherents to spread the faith at every opportunity, a duty that can encompass the adherent's workplace. As a general matter, proselytizing is as entitled to constitutional protection as any other form of speech as long as a reasonable observer would not interpret the expression as government endorsement of religion." OK, they give an example. "During a coffee break one employee engages another in a polite discussion of why his faith should be embraced. The other employee disagrees with the first employee's religious exhortations but does not ask the conversation to stop. Under these circumstances, agencies should not restrict or interfere with such speech." Now I don't recall anybody asking me to stop. Somebody may claim that, but that's hearsay.

Klenk: Now in your case, what the feedback we received was that multiple people indicated that the behavior was unwelcome. That was what Jhertaune got from her investigation. You know there was, this we documented one, I think there might have been two people who said you were asked to leave their offices over this. This is over an extended period of time, but they said, it was unwelcome, and,

Coppedge: I cannot recall any, look--let me tell you the one, the only one we can think of. We got into a discussion about a particular proposition that was on the ballot. And it was, he disagreed with me, and I was trying to defend my view; he was defending his. It went on for some time. I don't recall him asking me to leave. It was clear he was uncomfortable with my view, and I think we got a little defensive. But I came back to him the next day and said, so-and-so, I think I was a little bit, perhaps aggressive and not showing the kind of friendliness I should have toward you, will you forgive me? And he reached up and shook my hand and thanked me. OK? That is my pattern. If somebody

appears to be hostile to me, I don't want to have that kind of relationship with anybody.

Burgess: But it sounds like what Jhertaune talked to this individual he gave further slant on this, that he was uncomfortable with the whole situation, even though he made appeasement.

Coppedge: Did he initiated a complaint against me.

Klenk: No, this is all based on a very short note that Greg sent saying that there was allegations of a hostile work environment and Greg said, someone said this to me, I think it should be investigated. I don't know if he said investigated, but he said, basically here's the situation, you should follow up with this. And so, based on that, that was just a very short note. We tried to be completely above board in the section.

Coppedge: I try to be, too.

Klenk: We get the note, and say OK, we call up our ER representative, they go out, they do their investigation, and they report back. It took about 2 weeks, 2-3 weeks, something like that?

Burgess: It drug on for a while.

Klenk: It drug on for awhile, and they came back and she said, here is my findings. And I believe she met with Cab and she met with me. And it's laid out, and it was completely focused on basically the coworker's feeling was 'unwelcome and disruptive in the workplace'. One right after another, that was where the findings were focused.

Coppedge: OK, I have documents to show that this, number one, was very occasional, on the average once a month I would approach somebody. I also have documentation that the vast majority were pleasant and cordial and even once* thanked me and said, "That was great. How can I get that?" That has been the typical response. OK.

*[comment: the point being that most responses were positive.]

How do you feel also about the fact that Greg brought me in on March 2 and accused me to my face of pushing religion in the workplace? And as you can see from my transcript of that conversation, when I tried to say, "What do you mean by that?", he was argumentative -- even angry.

Klenk: Well, what we have done is we have talked to Greg and the idea is that he should be working with us for those same kind of things. He should have been working with us, and that would have should have been the more appropriate way that been you handled.

Coppedge: I mean, he was nearly shouting at me. And I said, "You know, Greg, this gets into issues of freedom of speech," and he blew me off. And I said, "Greg, this could be construed as creating a hostile work environment." He stood up and said, "Go ahead and file a complaint!" and stormed out the door. That is what happened. I ask you: whose rights are being violated here? I mean, who is creating [a hostile work environment]; who is harassing?

Klenk: We are trying our best to remain impartial. We got a very thorough feedback from Jhertaune about the situation, and we've written up, the milder document than we could have written up over the whole thing. We don't do it

often. But we felt it's important write it down, document, here is what the findings were.

Coppedge: OK, in my opinion, there is no way that this can be construed as harassment that I have committed. And that's why I think this document [i.e., the Federal Guidelines on religious expression] needs to be studied. And I would like a statement somewhere from JPL whether this applies to this lab. Because what I have done fits in with this. The only time a boss can tell an employee not to discuss this is with an individual who either tells the person doing it to stop, or tells the boss, 'I don't want to hear about that anymore.' Then the boss can go to the employee and say don't talk to so-and-so. But Greg told me you are not to discuss religion or politics with anyone in this office. That's what he told me. How do you feel about that?

Klenk: We have no issue with people discussing religion and politics in the office so long as it's not unwelcome or disruptive.

Coppedge: I understand. My claim is that it wasn't. Now I went to the Chief Ethics Officer right after Greg talked to me and I said, "Can a boss do this? Can a boss give a blanket order that you're not to discuss this?" And he said, "Well, no, that's overboard," and he gave me some suggestions on how to handle these things. But in other words I was immediately seeking, have I done something wrong here, or is that proper?

Klenk: I think partly you should think through that, both of you seeking out external sources on this, you must have felt that at some point that there was some things done that caused tension in the workplace, on both sides. One suggestion I would have is perhaps you weren't reading the body language of these people well enough. You were looking for a 'Dave, I understand you refused, I don't believe in this; please don't talk to me again about it' whereas they were trying to be more polite, being that they felt uncomfortable, and were trying to say, 'Please don't talk about it, I'd rather do talk about something else,' and you weren't reading the more subtle [clues?].

Coppedge: Are these not mature adults that can say the words that I'd rather not talk about that? Am I supposed to interpret 'I'm harassing somebody' by their body language, is that what you're telling me?

Klenk: I think in some cases yes.

Coppedge: OK, is JPL offering a course in reading body language or something? Because that's extremely subjective. And it seems to me that

Klenk: Most of the harassment things are subjective.

Burgess: Jhertaune said that when she interviewed these people, it was the majority of the people had the same kind of understanding that they were trying to be nice to you, to get by, so to speak, without causing any further

Klenk: disruption in the workplace.

Burgess: They just wanted it to go away. They either didn't tell you specifically so it was clear. But a lot of people, she said, had this common position.

Coppedge: Again, nobody will give me any specifics or, or names, or-- I mean, I understand the reason why you don't--why you want to protect the

confidentiality. But my recollection is, is totally different than that. And, you know,-- let me continue reading another paragraph here:

Burgess: Uh-hm.

Coppedge: "Federal law requires an agency to accommodate employee's exercise of their religion unless such an accommodation would impose an undue hardship on the conduct of the agency's operation. That cost or hardship, nevertheless, must be real, rather than speculative or hypothetical. The accommodation should be made unless it would cause an actual cost to the agency or to the other employees, or an actual disrupting of work, or unless it is otherwise required by law." So,

Burgess: Again, she's saying that you're trying to focus on religion and politics, and that's not HR's discovery. Their discovery is that you've done something that has interrupted the JPL workforce, from doing JPL work, no matter what the subject discussed was.

Coppedge: Again, no one has accused me of this until Greg had his outburst against me on March 2nd. I have been working Cassini for 12 years.

Burgess: You must understand that he got challenged by several people that day that were very upset over whatever happened between you and them prior to Greg getting involved.

Coppedge: Let me tell you, maybe the most recent case before Greg's conversation is instructive. There is a lady in the office, a coworker, a friend, somebody I've worked with for years, who I approached on a Friday, on the end of the day, "Would you like to watch this on the weekend?" She probably disagrees with the content of it. But she took it, and sounded interested. On the Monday morning I found it on my desk and never brought it up again. Never mentioned it. We passed in the hallway, we would say, 'Hi; how are you.' Never was brought up again. It's interesting that it was that very day, that it was that afternoon that Greg ...

Klenk: I would warn you against trying to speculate who it was or anything. JPL does have a policy against any sort of retaliation, or anything like that. So it wouldn't be good, if the person was one of the people who was saying, 'I find this uncomfortable,' to then confront the individual about, 'I hear you're uncomfortable with this; let me talk to you.' It would be better just to try to work towards the inclusive, welcoming work environment.

Coppedge: This particular DVD [Unlocking the Mystery of Life] was about science, it was not about religion. You are welcome to watch it if you would like. I'd be glad to give you a copy and you can see exactly what it was about. There's no way it can be construed as pushing religion. And in fact it's a subject that is of great interest to everyone. Alright? In fact one of the most popular films I like to give out [The Privileged Planet] has 4 JPL scientists in it who were interviewed on lab with the full NASA cooperation with the producer. This is the kind of material we're talking about. And there was not a hint of body language or speech or anything by this person that what I was doing was unwelcome. She thanked me. She said that looks very interesting. She took it, and left it on my desk, and there was no follow-up at all. That was the day where in the afternoon Greg accused me of this. So what I ask you Kevin is, what protections are you giving me to hear that my side of the story is the correct one, rather than the testimony of these people that Jhertane is saying. Now if you go up to somebody and say, 'We're investigating Dave for

possibl[y] harassing people; has he ever...' I don't know how she posed the question. But you can ask leading questions that may draw out a response you're looking for.

Klenk: We can speculate on all sorts of things. But in my experience ER has always handled these sorts of things with discretion. They've done it, being above board, trying to be professional about it. At some point I trust that they've done the right thing. They try to give the employee leeway. They try to understand how the other people are feeling, and they try to write up a report that's accurate, that's appropriate, and give us recommendations on what to do. So after listening to their recommendation, I don't think Cab and I had any disagreement what the next step was.

Coppedge: OK, so are there protections that an employee has against an office manager who angrily accuses him of things and gives him a blanket order that goes well beyond what any perceived accusation was? Do I have any protection?

Klenk: If you feel that there's a hostile work environment we can investigate that as well. If it doesn't rise to that immediately, we can talk with Greg, Dave, and say, 'here's how we'd like you to handle this.'

Coppedge: Is it, let's say that I had DVDs on sports that I wanted to share. And somebody was not interested in sports, and yet I said, 'oh, this is really good; you would enjoy that.' Am I harassing them?

Klenk: It certainly could become unwelcome or disruptive in the workplace. Absolutely.

Coppedge: OK, so you're not singling out content here, right?

Klenk: No.

Burgess: HR certainly isn't. They said, 'Forget all that. It's interruption of the JPL workforce from doing JPL work.'

Coppedge: I would still like you to read the 12 points in the documentation that I'm leaving you and I'm still requesting a procedure that has been followed in this and a statement whether JPL abides by these Federal Guidelines. I have asked for that for a month now and nobody will give it to me.

Klenk: Well, we will pass it along to ER requesting that, and if we do not get a response we can certainly have you forward it up the chain.

Coppedge: Well, these Federal Guidelines allow for vigorous discussion on matters of disagreement and it says that is not harassment. Now I cannot be expected to read the body language of somebody who we're having a vigorous discussion with that is supposed to be telling me nonverbally, 'get out of here,' see. And if they can go to the office manager and say 'I don't want Dave talking to me about that anymore,' then the office manager certainly has the responsibility and the right to tell me, 'Don't talk to that person.'

Burgess: Actually they should come talk to me.

Klenk: They should talk to Cab.

Burgess: They shouldn't be doing that at all.

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Coppedge: OK.

Burgess: That's supposed to be me.

Coppedge: OK.

Klenk: Greg should come and talk to Cab if people report it to him.

Coppedge: Has anybody come to you, complaining of that to you?

Burgess: Everybody including HR trying to set the record straight that whenever these kind of problems happen from this point forward they're going to be with me rather than Greg.

Coppedge: Right. Well, I'm asking...

Burgess: The intent of that letter, its interpretation, if another problem arises, is my decision to go further with it or not, not Greg's.

Coppedge: OK. But I'm asking, has anybody ever come to you complaining.

Burgess: They have not.

Coppedge: They have not. Can you also state for the record how my reviews have been?

Burgess: Oh they've been great. Technically you're qualified. But now we're hearing through this interview process that there's a lot of latent hostility out there with a large number of people including the Project Manager.

Coppedge: There is a lot of hostility in our culture against intelligent design. Perhaps you're aware of that.

Klenk: Not particularly, but...

Coppedge: Believe me; there is. What I espouse is certainly a minority view among the scientific community. I'm also aware that some of the scientific community are aware of my beliefs, because on my own time I write things that some of them have come across. And some of them at one point got upset about that. How do I know that there is not some kind of pressure being brought on the Program Manager, that this employee is undesirable and are there ways we can find... I mean, how do I know that's not going on? And that this is not some kind of retaliatory action by these individuals? I went to the Project Scientist when this came to my knowledge a couple years ago, and he was aware of it, but he said, 'Look, if anybody gives you any trouble over this, just talk to me and I'll take care of it.' I had written permission from the Chief Ethics Officer prior to my writing anything that was published that it was OK, what I was doing, to say 'Dave Coppedge works at Jet Propulsion Laboratory.' And I let this group of scientists who were complaining know about that. But they're aware of that, and it's a very unpopular view among the consensus. Now I'm letting you know some of these--some of this background information that may be brought to bear on why I am being singled out as the harasser here when Cab has not had any personal knowledge of this heretofore, and the only one, the first one and only one who had ever accused me of that was Greg Chin.

Klenk: Well, also look at who Cab has generally interviewed traditionally for your ECAP [i.e., annual performance review]; It was coworkers, coworkers meaning

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people within 173 on the SA team, the customers you're working for, Greg Chin, and the like. But he would not have interviewed people nearby you on the 3rd floor. Now, so if you're working with the chief scientists or any of the other science people or mission people they wouldn't have been part of the interview process. They wouldn't be considered necessarily a coworker. It would be more of a person who was on the floor nearby you, working the same,

Coppedge: I understand. But I'm just saying that as another consideration that it is certainly a possibility when you mention the Program Manager, you know. I have had nothing but cordial and businesslike and pleasant relationships with the Program Manager, but he may hear things from this group, about me that make me persona non grata, and how do I know that pressure is not being brought to bear on Greg?

Klenk: I'm not sure how but we have not heard of that pressure.

Coppedge: Well I wouldn't expect you

Klenk: Cab says we're trying to clarify that the people who are going to look at this is Cab, is your line manager and he's going to look at this situation, not the people on Cassini, if that clarifies things.

Burgess: Well I've found that the ECAP process, for example, people respond to requests for information tend not to be negative. They either give you something that's positive or they don't say much at all.

Klenk: They don't say much at all, primarily focused on the work that you do. So even if they are extraordinarily uncomfortable with you, it won't necessarily come out; and that is true.

Burgess: It's fine because you have that option when you respond, to either share it with the individual or not, and even that doesn't bring out much negative on anybody.

Coppedge: So Cab has no personal evidence of anybody complaining about. I mean if this were a pattern of behavior that characterized me, don't you think over a matter of 11 years or so, that this would have come forward? Why did it come out all of the sudden on March 2nd?

Klenk: I'd say in this case it's because we investigated it and we looked you up. I'm not sure about, why Greg said, had the conversation with you on March 2nd versus another day, but when we had ER look into it, they came back and said, 'Yes, this is a extended period of time this has been going on and this is unwelcome in the environment.'

Coppedge: How do you feel about what Greg said to me on March 2nd? Is that justified?

Klenk: I think you should work through Cab on this sort of thing.

Coppedge: I think I have been.

Burgess: As far as that blowup, one on one it shouldn't have happened at all. It should have with me in my office. But Greg has been, they've told him that, essentially he, Greg, in his position does not deal with HR unless it's an issue with himself. Any manager on a project that is not line management has to take

that view as far as dealing with HR. It's up to the line people to deal with them, not the customer project.

Coppedge: Alright; well, that's not what happened. What happened was an angry outburst with me on March 2nd out of the blue. I have told Greg on a couple of occasions over the years, "Greg, if I am ever doing anything that offends somebody or is wrong, please come to me, give me a chance to fix it." He did not do that. Without any warning he came at me for this matter of what he accused me of on that day: pushing my religion in the workplace. He is the only one who has ever made that accusation in my entire professional career. I want you to understand that.

Klenk: I understand that completely, Dave.

Coppedge: What rights do I have to defend myself against those kinds of charges when the evidence and the documentation I have shows otherwise? And that I am standing on Federal Guidelines that say approaching people on matters of controversial subjects is protected speech even in the workplace.

Klenk: I think the key is it being to recognize when people feel it's unwelcome and disruptive in the workplace. I know you're saying it's a hard thing to do, but

Coppedge: Kevin, I think I do that. I think I do that.

Klenk: And what the investigation found is that you have not been doing that adequately, obviously. People have felt it's unwelcome and disruptive.

Coppedge: OK, so...

Klenk: That's the bottom line on that, that the people they talked to came back, one right after another, saying the same sorts of things. I know that's hard to hear.

Coppedge: Alright; well, it may be unwelcome, but it's only harassment if it's persistent, isn't it? I mean you may not know if someone disagrees with something unless you first have an opportunity to talk with them. They could go and say 'that was unwelcome'...

Klenk: And if the people start trying to avoid you or to change their work habits because of it,

Coppedge: Has anybody done that? I have no way, I've never noticed people changing their work habits because of me or trying to avoid me. Where is the evidence for these things that are being charged, other than subjective opinions?

Klenk: This is a subjective topic. When they talk about the whole idea of a workplace being hostile, or the inclusion and all that, it's all subjective.

Coppedge: The record shows that loaning these DVDs was very infrequent. On average one per month. Offering someone a DVDs took a minute or less. This means that 99.99 percent of the workday the lender was on the job, not engaging in this activity. OK? Do you agree with Greg's statement that I am not to talk about religion or politics with anybody in the office from now on? Do you agree with that?

Klenk: I agree that you have created an unwelcome disruptive situation in the workplace. There is no policy against you talking about religion and politics in the office so long as it's not unwelcome or disruptive.

Coppedge: But again, what you're saying [is that] I'm just supposed to feel vibes or see body language, even on a first time. And my practice has been, if the person is not interested, I back off. What may cause a conversation is if they start arguing with me and put me on the defensive and I offer a point, counterpoint. There's been a couple of occasions of that. But they're not telling me this is unwelcome. They're saying let's talk about this topic. I may have a point of view and we're both [involved]. That's protected speech. Now, if they later on tell an HR person, 'That was an unwelcome conversation' because they disagreed with me, I was not harassing them if they were vigorously stating a different point of view but not telling me to stop. There have been a few occasions of that but they have been rare and they have been the exception.

Klenk: Well, at least some of them have been remembered by the participants in a negative way.

Coppedge: I'm sure they have.

Klenk: So that's what we're trying to preserve is the workplace that's welcoming, that has no hostility. That's what we're trying to do.

Coppedge: I certainly understand the right of an employer to not give a false impression of what the company is about, to not go to total strangers--like that. But again these are people that I know and know me. We are friends. We are coworkers. We have been on this program for over 10 years in many cases. For me to approach them on a subject that I think is interesting and worthwhile is protected speech. And if they want to engage me with a vigorous discussion on that, that is also protected speech. It only becomes what Greg called harassment if it is persistent, if it is unwelcome, if they are telling me, 'Stop, stop' or if they go to the manager saying, 'I don't want to hear about that any more from Dave Coppedge.' But they don't do that.

Klenk: I think in many cases in a hostile work environment people do not do that. They sit there, and they are uncomfortable and they do not verbalize it.

Coppedge: Even though these are adults, who certainly

Klenk: Even though they are adults.

Coppedge: OK, then how...

Klenk: For example, the more classic one is sexual harassment. People don't say anything typically even when they are being harassed.

Coppedge: I understand. But I think what I'm doing is certainly not in the category of sexual harassment--not even close!

Klenk: [talking over Dave] It's not, but: the example is people haven't said that this is verbalized to you. I was trying to give you an example. People don't always verbalize the [sentiment?]. You say that's not the adult thing to do.

Coppedge: And yet I'm supposed to know somehow just through vibes, even though nobody tells me that they're uncomfortable, and even though Greg Chin or Cab Burgess doesn't tell me that. I'm just supposed to know.

Klenk: Now that we've heard we will try to hear and try to listen to people [??], but the fact is that you have to focus on that. If you want to carry on these kinds of conversations, at the same time you have to make sure it's welcome and not disruptive.

Coppedge: I believe that to be the case. I think I have, on that occasion of that one guy that got into kind of an argument, and then I went and apologized to him the next day. I think we were both getting a little bit heated because we both had strong feelings.

Klenk: But separately to, before it got to the point of a significant argument, to have recognized it.

Coppedge: OK, well does, does this cut both ways? In other words, if people come at me with unwelcome topics. I mean, for instance, in meetings there are points of views expressed about the way we ought to do things and stuff that get quite heated.

Klenk: Is it work related?

Coppedge: Well,

Klenk: If it's work related--how are we going to maintain the system--JPL is well known for having spirited discussions on that.

Coppedge: Sure.

Klenk: If it's not work related,

Coppedge: It's not always.

Klenk: If it's not work related, then certainly you can bring it up to your management chain or to their management chain.

Coppedge: Right; but there have been times when people have posed points of view quite stridently about what they believe, politically, culturally, whatever. I don't feel that I have some kind of constitutional right against being offended by that, you know? I'm a man, I can take it. I've got my point of view, I'm willing to defend it and have a discussion. Not always--but these were instigated by others sometimes. Now I suppose if I had a gripe against such a person because I disagreed with their political point of view or something, and if an HR person said 'Did this person offend you?' or something, I suppose I could put in a jab against them by saying 'Yeah, I think that was an unwelcome comment.' Would that be fair for me to do that? And yet that's certainly a conceivable type of...

Klenk: If it's unwelcome and disruptive you're certainly allowed to do that.

Coppedge: OK; but again, where is there any...? My records show that these were not unwelcome. First of all, they're very infrequent. Most of the time they're on the weekend. People are getting up to go home, they're not, it's not disrupting their work. I never go up to somebody who is busy on the job and approach them like with an interesting thing to watch. And I don't have any

records of anybody telling me that this was unwelcome and 'No, I'm not interested.' And if they didn't look interested, I usually read that body language pretty quick. [I] say 'OK, this person's not interested.' But the vast majority of the time they say 'Yeah, that looks interesting, OK sure.' And then they come back and say 'Wow, that was real interesting, I've never thought about that before.' Or 'Yeah I didn't agree with that, but here it is, I watched it.' Or they'll just leave it on my desk and that's the end of it. That's my pattern, I'm telling you. So; and that's protected speech in the workplace. I would like you to affirm that. I would like you read this document and say 'Yes, JPL affirms these rights of employees in the workplace.' And I would certainly agree with you that anything that constitutes harassment is wrong, and can be forbidden. But harassment is a strong word.

Burgess: Did you ask the same questions of the HR people?

Coppedge: Yes.

Burgess: And what did they say?

Coppedge: They didn't give me, .. She said she'd get back to me and she never did. I asked her twice. And I have asked her on the day of the interview and I asked her again last week, and she told me she doesn't want to put things in writing very often, she'll just call me and leave a voice mail, and 'What was that 3rd question again?', and that was the basic thing.

And--to me, I feel like I'm getting the runaround here. I'm asking for specific information

Klenk: Uh-huh.

Coppedge: ... and I'm getting these vague 'You[ve] got to watch people's body language and it's your fault if you don't interpret their body language.' I have documentation to show what I've done. I'm being up front with you about exactly what I've done, I'm giving you examples, and I'm telling you that on March 2nd, Greg launched into me in an accusation that nobody has ever made against me before. And of course, once that accusation is made, you can maybe find supporting evidence to back it up because you've created this suspicion.

Klenk: I don't think that Jhertaune was reaching to support by the sounds of what she reported to us.

Coppedge: Can we get a second opinion? This goes into my record as something quite serious--a charge of harassing people. I've never had something like that in my record before.

How do you feel about this other document? I listed together a couple of pages of sample stories that are reported on JPL News. We have had people like Michael Shermer here. We have had others who are ardent skeptics and atheists and proud of it stand up in the Von Karman Auditorium and present their point of view. Now, do I have the right to say I'm being harassed because I'm hearing something that offends me? No. I would never do that. I would say, 'Hey, I'll take you on; let's have a discussion about that.' Why don't we have a fairness of points of view? So that if one side gets the pulpit to be able to say this is supported by science, somebody else can counter that? Now I have an example of a page and a half of... these are published news stories with religious or philosophical overtones, and you're welcome to look through these things. These make claims that go way beyond the scientific evidence that talk about ultimate

meanings, ultimate destiny, ultimate origins, I mean... these are what could be construed as religious content. I showed this to Jhertaune and at the end I read 3 observations about this: "Discussion of ultimate questions is acceptable at JPL," number 1. That's proved by these. Number 2, "The philosophical or theological implications of scientific findings are fair game for discussion." OK? And number 3, "Exposing employees to philosophical and theological positions, some of which may differ markedly from their own strong, strongly held beliefs, does not constitute harassment." Otherwise, they're harassing me almost every day.

Klenk: Again, what the memo, the written warning here is about is your on one-on-one working relationships with your coworkers.

Coppedge: Am I allowed to get some character witnesses that would counter that impression? Because I think I could find quite a few that would say, 'No, I don't think what Dave's doing is unwelcome or harassing, or'

Klenk: What does matter that there are some people who said the behavior was unwelcome and disruptive.

Coppedge: What should have happened then was that they should have told Cab and he should have told me, 'Don't talk to that person.'

Klenk: We should have done it; we should have done it earlier.

Coppedge: Because that has never happened. Up until, and even when I invited Greg Chin, 'Look, if I'm ever doing anything offensive or wrong, please tell me and give me a chance to fix it,' he never did. And then all the sudden I'm investigated here as being this harassing person. I don't think that's fair.

Klenk: Well, it was a situation where it was both ways they investigated. Is Greg creating a hostile work environment? And they looked into the whole situation. And this is the result of the investigation. It wasn't, was Dave being investigated, it was the situation as we were reported to them. Will you agree with that, Cab?

Burgess: Yeah,

Coppedge: Yeah, but again, I was not filing a grievance or making a claim.

Klenk: Once we were made aware of it, we're required to pursue ER and have them check into it.

Coppedge: Cab's I think very familiar with my manner about loaning these things out. Have you ever had a problem with me?

Burgess: Me personally? No, never ever.

Coppedge: No. OK, so I'd say where's the evidence other than maybe a few people that Jhertaune was able to dig up.

Burgess: Don't say a few; HR said there's a lot out there, though.

Coppedge: OK, can I get a count? How many are we talking about?

Klenk: They said they don't want to do that in order to not have retaliation or anything that would compromise the anonymity of the people who talked to them.

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Coppedge: A number of people? I mean a digit number? I don't think that compromises anybody's anonymity. I mean, a lot--is that 3, is that 12, is that 20?

Klenk: We could pursue having HR talk to you more about the situation.

Coppedge: Alright. Anyway, Kevin, I've laid out for you what I think is the documentation. I'm up front and open about what I have been doing and what I have done. I don't feel I have harassed anybody, and I'm sorry that some are giving that impression. I think I go overboard to be accommodating to people and to hear them and recognize [their responses]. But you know, having a spirited discussion on something, like, let's say, on a Friday at 5:00, you know... People don't have a constitutional right to have everybody agree with them on everything, obviously. And if anybody says, 'This is unwelcome,' they can certainly let me know that.

Klenk: We would hope they would. But in this case it sounds like they are not able to articulate that to you or unwilling to do that even though they are uncomfortable.

Coppedge: OK, Kevin will you do me a favor of at least reading my material,

Klenk: I will read your material,

Coppedge: And hearing me out? You are hearing me out as far as, I mean, you are obviously today, but...

Klenk: I'm hearing you out now. And I will read through the documents that you've left here.

Coppedge: Because, to the point that my constitutional rights are protected, I think I always have strived to be very accommodating to what management or the boss wants.

Klenk: We have; this is not an infringement on your constitutional rights.

Coppedge: A blanket statement saying never to do this is.

Klenk: I don't believe there's anything in this that says that.

Coppedge: That's what Greg told me verbally. And I gave him this,\

Klenk: And that's where we said, you are to work with Cab, we've written up our understanding of the findings and in no place does it say that.

Coppedge: Alright. I want to just affirm [to] you that I agree with the JPL policies and the ethics and I strive to be an upright employee in every way that I can. That is my commitment and my affirmation; it always has been. It's a great shock to me to be accused of this. And I think the evidence is lacking, and I think there could be elements of retaliation against people, certain people that disagree with a point of view by claiming it's harassment, when they could have simply...

Klenk: I don't believe the harassment word was in the paper; I think they said they that people feel uncomfortable.

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Coppedge: Greg said it was.

Klenk: Look, I'm not debating what Greg said. I'm just talking about what our ER rep Jhertaune told us.

Coppedge: Did she use the harassment word?

Klenk: No, she did not.

Coppedge: OK; well, is that in the statement then?

Klenk: She said, that's her summary of it. You violated the un[garbled], Unlawful Harassment Policy.

Coppedge: OK, so she is claiming it's harassment.

Klenk: Um hm. Based on her understanding of what people reported. What I was hearing when you said harassment, I didn't have anyone say, 'I am being harassed by Dave Coppedge.'

Coppedge: That's right.

Klenk: That word. But she found that the elements of people's responses on top that did fall into that category.

Coppedge: This is highly subjective and I deny it. I deny I've harassed anybody. I certainly will take great pains to read people's body language, but people need to step up and say, 'This is unwelcome; I don't want to hear about it.' Or I need to be told specific[s], or they need to tell Cab and he needs tell me and it can be against that one person. But something is going into my record against my perception of what has really happened. And I want your affirmation that you are protecting an employee's rights against unfair accusations.

Klenk: We are doing our best to have this done impartially by ER, to the best of our understanding. OK, all points of view, this was the findings. These findings are accurate.

Coppedge: [Pause; reading the Written Warning] I disagree with that statement: 'You failed to stop these activities when you were told they were unwelcome and disruptive.' I think that's false. 'When you were told.' Nobody ever told me this was unwelcome or disruptive. That is false. If they gave me some kind of body language I'm supposed to read, oh well, I'm going to try to take better pains to read body language. But this says that I was told they were unwelcome or disruptive. That's not true.

As far as that point 2, I know who the individual was, and that's the one that I went to and apologized and he shook my hand. And I think I consider him a friend and I we never discussed that since, now that I know what is feelings are. And I've interacted with this person multiple times over the life of the mission. I consider him a friend. He's a scientist. I love talking about his work on his instrument. This was a very rare thing on a very controversial ballot initiative in the last election. And I was just offering him some information to read. He chose to get angry about it and start arguing about it. I would have just left it right there except that he wanted to talk about it and kind of put me on the defensive. He didn't say this is unwelcome and disruptive. Yes, it got a little bit animated to the point where I thought, I

want to affirm to him that he's a friend even if he doesn't agree with me, and I went to him the next day and told him that. He spontaneously stood up and shook my hand. OK? That's the facts. And yet this says I created a disruption by... This colors it totally different. Now, I don't know what he said to the ER person but that was not what he expressed to me.

So what's next?

Klenk: This is a signature from both you and Cab. This is Cab presenting it to you.

Coppedge: Well I'm not going to sign anything without legal counsel. Because I think this is...

Klenk: By the way, what this is, your signature is just to warrant that this has been discussed with you and you received a copy. That's what you're signing.

Coppedge: I'm afraid it will give assent to the fact that this is truthful when I think it's not. I'd like, before signing anything, I'm going to have to consult legal counsel.

Klenk: OK, we will be putting this in your file signed with in lieu of signature that we did have the discussion with you and you have been informed of the policy.

Coppedge: I know the policy and I don't think I violated it.

Klenk: But we will be putting it in the file with the note in lieu of.

Coppedge: I would like there to be some kind of a statement in the record that the employee disagrees with the facts that were

Klenk: You are welcome to provide that to us and we will include that.

Coppedge: OK. So I'm going to be expecting from you some kind of a written procedure on what was conducted.

Klenk: No, I said I would talk to ER about that. I wouldn't expect it from me to do an investigation of the procedures and policies of ER.

Coppedge: Well, this should be a JPL-wide policy.

Klenk: I will pass the note along about that.

Coppedge: If I get no response can I come back to you and say that I have got no response?

Klenk: And I will certainly note that.

Coppedge: OK, can I also expect a statement whether JPL abides by the Federal Guidelines on Religious Expression in the Workplace, as I've stated?

Klenk: You are welcome to pursue that.

Coppedge: No, I want you to...

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Klenk: I don't know if you are going to receive that policy. I am not authorized, nor is Cab.

Coppedge: These should be open statements on JPL Rules. It's a matter of not just a policy that JPL can choose, these are federal guidelines for all government employees, that are, the guidelines are an interpretation of current law.

Klenk: It's my interpretation we don't discriminate on the basis of religion. We certainly don't allow harassment based on it.

Coppedge: Certainly. But, whether this is even called religion is I think a debatable question because the films I was loaning out are about scientific subjects--no less scientific than the things I listed that JPL News routinely publishes. OK? Alright, thank you for this discussion.

Klenk: Thank you.

Burgess: We have some more to deal with now.

Coppedge: OK.

Burgess: I wanted to know myself what I could do to lessen the strife in your area, so I'm going to remove you from the lead of the system admin team. I'm going to give the lead to someone else. And you will remain on the team, and there's no need to be discussing this or the letter with anybody in public. This is all private information. I had a discussion with Greg on how to deal with that rearrangement and he and even HR suggested that when it comes to any announcement that you are taking on some other role other than that I should divorce myself from that so it's not obvious to the people who are hearing this that it's part of anything else. So I've asked Greg to bring this up at his next team meeting, and as of next Monday, someone else will be leading the team and he's going to address your role as specifically focused on getting the servers that you're trying to bring up as your focal point from now on and not running the team with minutes and task assignments and all that. That's going to pass to someone else. And the idea there is that you won't have that interface to these people out there on the project that are complaining that they're uncomfortable with your actions.

Coppedge: You're certainly within your rights to do that Cab, but again I deny that anybody has, that I have harassed anybody. And nobody has told me that anything I have done has been unwelcome or disruptive.

Burgess: Now I'm going on what HR says, they say this has gone on too long, they can't believe this is prevalent, this point of view out there, as much as it is. We're talking about a lot of your customers.

Coppedge: I have no way of knowing what the questions were to these individuals. I think that could have a profound impact on the kind of answer they gave.

Burgess: Well that's why we're relying on HR. They're supposed to be the trained individuals that know how to deal with these kind of problems.

Coppedge: OK, you're claiming this is no kind of retaliation action that this is suddenly happening after Greg Chin's outburst, then, against me.

12/27/2011

Burgess: It's not that specifically; no, it's not.

Coppedge: You were going to do this anyway?

Burgess: No, this is directly a result of all the interviews that HR conducted. To them, you see, it looks to them like you've got a customer base out there that's very uncomfortable, and removing you from that to be focused on something else is going to lessen the strife in the workplace.

Coppedge: Greg has, on occasion, accused me of being difficult to get along with certain individuals. And yet he has never offered specifics. It's always been vague allegations, OK? And I have pleaded with him and begged with him, 'Greg, if he can show me something that I have done that is wrong, I will crawl on my knees to that person and apologize to them. That is my commitment to you.' He never does that. This is the latest outburst and he found a new lightning rod to use. What guarantee do I have that he doesn't have some kind of personal vendetta that is using tools to get back at me here?

Burgess: I don't think he has a personal vendetta. He has discussed with me in the past about whether there is other work for you on the lab, on other projects.

Coppedge: Well that would certainly be convenient for him, but I...

Burgess: And, we just don't have any big projects going. In the old days when we had a lot of different customers, you could move the SA's around, and eliminate those kinds of problems.

Coppedge: Kevin, you can look at my previous 2 office managers: Dave Childs, Pamela Ray. Never had a problem with them. I was working on Cassini before Greg Chin came in. I was there first. He came in as the office manager. Immediately I tried to establish a good relationship with him, and I think that for the most part we have one. It's cordial, it's professional, but from time to time, he has initiated conversations with me, saying, 'Dave, you are the problem.' That type of thing. Vague allegations, never anything specific. And then one time the person who was apparently having trouble with me gave the same trouble to him, and he became the target. And then I think he began to empathize with what I was feeling.

Klenk: Well, I think we need to work closely with Cab on coaching on how to handle situations better, improve the workplace, those sorts of things.

Coppedge: OK, I mean, you certainly have my commitment as far as being a gracious, personable person, OK? But we also have freedom of speech in this country, and we have freedom of speech in the workplace, and to the extent that my rights of freedom of speech and religious expression are protected, I will do (and I think I have been doing) all I can to maintain a professional, cordial relationship, with all of my coworkers. This has been my commitment and it remains so now. I cannot control what other people think and what they say, when I have documents that show otherwise. Please read my materials.

Klenk: I said I will.

Coppedge: And give me the benefit of the doubt, because I think there may be more going on here than just what one particular HR person found, and what... I have no idea what kind of questions she asked and how this was conducted. On

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something this sensitive, we'd better be following established policy for your protection and for mine. OK?

Klenk: OK. Thank you for stopping by.

=== End of Recording ===

1 STATE OF CALIFORNIA)

2 COUNTY OF LOS ANGELES)

3

4

5 I, HEIDI SULLIVAN, A CERTIFIED SHORTHAND REPORTER

6 LICENSED BY THE STATE OF CALIFORNIA, CERTIFY:

7

8 THAT THE FOREGOING DEPOSITION OF KEVIN KLENK

9 WAS TAKEN BEFORE ME PURSUANT TO NOTICE

10 AT THE TIME AND PLACE THEREIN SET FORTH, AT WHICH

11 TIME THE WITNESS WAS PUT UNDER OATH BY ME;

12

13 THAT THE TESTIMONY OF THE WITNESS AND ALL OBJECTIONS

14 MADE AT THE TIME OF THE EXAMINATION WERE RECORDED

15 STENOGRAPHICALLY BY ME AND WERE THEREAFTER

16 TRANSCRIBED;

17

18 THAT THE FOREGOING IS A TRUE RECORD OF THE TESTIMONY

19 AND OF ALL OBJECTIONS AT THE TIME OF THE EXAMINATION.

20


21 IN WITNESS WHEREOF, I HAVE SUBSCRIBED MY NAME THIS

22 9TH DAY OF MAY, 2011.

23

24

25

_____

LICENSE NUMBER 6600

12/27/2011

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA)
3 CITY OF LOS ANGELES AND COUNTY OF LOS) ss:
4 ANGELES)

5 I am employed in the City of Los Angeles and County of Los Angeles, State of
6 California. I am over the age of 18, and not a party to the within action. My business address is
as follows: 515 So. Flower Street, 25th Floor, Los Angeles, CA 90071.

7 On December 27, 2011, I served the foregoing document(s) described as:

8 **REPLY ON MOTION *IN LIMINE* #2**

9 **DEFENDANT CALIFORNIA INSTITUTE OF TECHNOLOGY'S REPLY IN**
10 **SUPPORT OF MOTION *IN LIMINE* #2 ("DML 2") FOR AN ORDER EXCLUDING**
11 **TESTIMONY, EVIDENCE, ARGUMENT AND COMMENT REGARDING THE**
12 **CONTENT OF DVDS COPPEDGE DISTRIBUTED TO CO-WORKERS AND FILMS**
REGARDING ALLEGED HOSTILITY PROPONENTS OF INTELLIGENT DESIGN
THEREOF

13 on the interested parties as follows:

14 William J. Becker, Jr., Esq.
15 THE BECKER LAW FIRM
16 11500 Olympic Blvd, Suite 400
Los Angeles, CA 90064

Attorney for Plaintiff
DAVID COPPEDGE

17 Email: bbeckerlaw@gmail.com

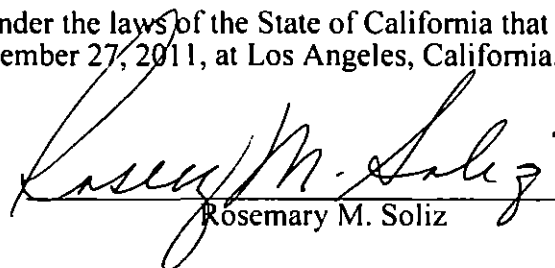
18 ☒ **VIA ELECTRONIC MAIL:**

19 By personally emailing the aforementioned document in PDF format to the email
address designated for the above listed counsel.

20 ☒ **VIA U.S. MAIL:**

21 By placing a true and correct copy thereof in a sealed envelope(s) as addressed
22 above. I am readily familiar with the firm's practice of collection and processing of
correspondence for mailing. Under that practice such sealed envelope(s) would be
23 deposited with the U.S. postal service on December 27, 2011, with postage thereon
fully prepaid, at Los Angeles, California.

24 I declare under penalty of perjury under the laws of the State of California that the
25 above is true and correct and was executed on December 27, 2011, at Los Angeles, California.

26 
27 Rosemary M. Soliz
28

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FILED
 SUPERIOR COURT OF CALIFORNIA
 COUNTY OF LOS ANGELES

DEC 27 2011

John A. Cline, Clerk

By Glorietta Robinson, Deputy
 GLORIETTA ROBINSON

Attorneys for Defendant
 CALIFORNIA INSTITUTE OF TECHNOLOGY

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. BC 435600

REPLY ON MOTION *IN LIMINE* #2

**DEFENDANT CALIFORNIA INSTITUTE
 OF TECHNOLOGY'S REPLY IN
 SUPPORT OF MOTION *IN LIMINE* #2
 ("DML 2") FOR AN ORDER EXCLUDING
 TESTIMONY, EVIDENCE, ARGUMENT
 AND COMMENT REGARDING THE
 CONTENT OF DVDS COPPEDGE
 DISTRIBUTED TO CO-WORKERS AND
 FILMS REGARDING ALLEGED
 HOSTILITY PROPONENTS OF
 INTELLIGENT DESIGN HAVE
 EXPERIENCED; DECLARATION OF
 CAMERON W. FOX IN SUPPORT
 THEREOF**

FSC Date: February 24, 2012
 Time: 9:00 a.m.
 Place: Department 54
 Judge: Hon. Ernest M. Hiroshige

Trial Date: March 7, 2012

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1 view the DVDs as part of her investigation. Because the employees did not complain about the
2 DVDs' contents and the DVDs' contents were not considered in the investigation, they are not
3 probative of any issue in the case. The DVDs are also inadmissible hearsay, and properly
4 excluded on multiple grounds under Evidence Code section 352.

5 All of this briefing on the DVDs simply confirms one thing: Coppedge is intent on using
6 this trial to promote intelligent design. The Court should prohibit him from doing so, and instead
7 keep the trial focused on the legal issues at hand.

8 **II. CLARIFICATION OF PLAINTIFF'S FACTUAL MISSTATEMENTS**

9 Underlying Coppedge's arguments is the false presumption that he had an unfettered right
10 to pass out these DVDs at his pleasure, at any time he wanted, in the workplace. He did not.
11 Coppedge was a System Administrator on the Cassini project. The job duties that Caltech paid
12 him handsomely to perform were to maintain the computer systems used to operate, and obtain
13 scientific data from, the Cassini spacecraft. The DVDs and his discussions about them had
14 nothing whatsoever to do with his job duties.

15 As such, Caltech was well within its rights to tell him that communications about these
16 non-work related matters should be limited to non-working time and done in a manner that was
17 neither disruptive nor unwelcome to others. As shown below, that is just what Caltech told him –
18 and to the extent Coppedge's co-workers complained about the DVDs at all (in fact, only *one* did,
19 Weisenfelder), the complaints concerned the *manner* in which Coppedge presented the DVDs,
20 not their contents.

21 Unfortunately, Coppedge repeats many of the same or similar misstatements here that he
22 included in his motion *in limine* regarding the DVDs, forcing Caltech yet again to clarify the
23 actual facts.

<u>Coppedge's Assertion</u>	<u>Actual Facts</u>
"Plaintiff loaned a DVD copy of UTMOL to [Weisenfelder]. . . . After viewing portions of the DVD, Weisenfelder went	Coppedge has no basis to suggest that it was the DVD's content that concerned Weisenfelder. As noted above, she testified that "it was the sticky note on the back of the [DVD] cover" that troubled her, not the DVD's content. Weisenfelder 22:5-7. The

28 Coppedge testified that they had an excellent relationship before March 2, 2009.

1 2 3 4	to Chin complaining that Plaintiff had 'harassed' her with his belief in intelligent design." Opp'n at 3.	note contained a list of JPL co-workers whom Coppedge appeared to be targeting (the list had a notation "Try Again" beside one of the names). <i>Id.</i> 152:9-11. Further, Weisenfelder made clear in general that it was Coppedge's "persisten[ce]" that made her feel uncomfortable, not what he was saying. <i>Id.</i> 109:24-110:25; 127:2-21; 145:22-147:12; Ex. 31.
5 6 7 8 9 10 11 12 13	"Chin ... singled out [Coppedge's] intelligent design DVDs as representing an unacceptable 'personal belief' that should best be reserved for Bible group discussion (Ex. No. 2 ...)" Opp'n at 3.	This allegation is entirely erroneous. There is simply no evidence that Chin was hostile to Coppedge's distribution of intelligent design DVDs, if done appropriately. Chin was aware that Coppedge had been distributing DVDs since at least the early 2000's (Chin 178:13-17) ⁴ – but never spoke to him about it until an employee (Weisenfelder) complained of harassment in 2009. In fact, Coppedge testified that he and Chin had a great relationship for years. <i>See, e.g.</i> , Coppedge 141:25-142:4 ("Greg has been a great boss, and I've worked with him for eight years. He's a great guy. He's competent. He's knowledgeable. He does a lot of good for us. And I was frankly shocked at this outburst.") ⁵ Chin likewise "got along great" with an uncle whom he described as having a "strong belief in intelligent design." Chin 134:19-21. Furthermore, Coppedge is misrepresenting the document that he cites here, Chin's email to Employee Relations; Chin never even mentions the DVDs, much less "single[s]" them out. <i>Id.</i> Declaration of W. Becker, Jr. In Support of Motion in <i>Limine</i> No. 1, Ex. 2.
14 15 16 17 18	"Chin ordered Plaintiff to stop handing out DVDs about intelligent design ... (Ex. No. 3, Coppedge Dep. Tr. 290:10-15)." Opp'n at 3.	This allegation is likewise false. Chin did not tell Coppedge that he was prohibited from distributing the DVDs. Chin 154:13-23. Rather, Chin asked him to refrain from doing so during work hours, because Chin "did not want him to be disrupting other individuals." Chin 154:22-23. Distribution "after hours, during breaks, lunch, and non--work time periods, that's fine." Chin 154:19-21. Coppedge admitted this. Coppedge 303:14-15 ("[Chin] did say what I did at lunch ... was my business.")
19 20 21 22 23 24 25 26	Coppedge contends that "[t]wo other co-workers to whom Coppedge had loaned DVDs (Carmen Vetter and Scott Edgington) complained about Coppedge's religious dogmatism," citing their borrowing of intelligent design DVDs from Coppedge to suggest that they complained about the DVDs. Opp'n at 1.	<p>There is no evidence that Edgington or Vetter complained about Coppedge's views on intelligent design, much less the DVDs.</p> <ul style="list-style-type: none"> • Edgington complained about Coppedge's confrontation over a political issue (Proposition 8, the gay marriage initiative), and, specifically, Coppedge's insulting statement to Edgington that he "must be against children," because he disagreed with Coppedge's view on Prop. 8. Edgington 53:8-10, 76:21-77:6.⁶ • Vetter felt harassed by Coppedge's insistence on changing the name of the holiday party to a Christmas party. Vetter 115:24-116:5; 116:17-19; 126:19-127:3; 130:14-20; 145:16-22; Ex. 26; Huntley Decl. ¶ 10. <p>Further, while Vetter and Edgington did receive one or more DVDs from Coppedge, the DVDs did not bother them. They</p>

⁴ Fox Declaration, Exhibit C.

⁵ Fox Declaration, Exhibit D.

⁶ Fox Declaration, Exhibit E.

1		received the DVDs from Coppedge years ago, in 2005, and never
2		complained about them. Vetter 108:4-18. ⁷ Edgington 15:9-18,
3		16:15-21. Indeed, Vetter purchased one of the DVDs that
4		Coppedge now seeks to introduce, "The Privileged Planet," and
5	Caltech "conducted an	Coppedge twists the facts here to suggest that the investigation
6	investigation into the	only concerned the DVDs. It did not. As discussed directly
7	allegations of harassment and	above, Edgington's complaint involved a confrontation over
8	concluded that its employees	Prop. 8, and the situation with Vetter concerned the name of the
9	found Coppedge's DVDs to	holiday party. In turn, when Klenk told Coppedge during the
10	be 'unwelcome.'" Opp'n at 1	April 13, 2009 meeting that they had "no issue with people
11		discussing religion and politics in the office so long as it's not
12		unwelcome or disruptive," this spoke to all of Coppedge's
13		unwelcome behavior, not simply his persistence in distributing
14		the DVDs. Deposition of Kevin Klenk at 313:25-314:14;
15		468:25-469:11; Ex. 44, at 7. ⁸

11 **III. NEITHER "EXPELLED", NOR THE MANNER IN WHICH CALTECH'S**

12 **ATTORNEYS DESCRIBED IT, HAS ANY RELEVANCE TO THIS CASE**

13 Coppedge devotes nearly two pages of his Opposition to criticizing Caltech's description

14 of Ben Stein's documentary "Expelled" as "comedic." Coppedge's reasoning appears to be as

15 follows:

- 16 • Even though the cover of the DVD describes the film as comedic ("Comedian Ben
- 17 Stein hit the nail right on the funny bone"), Coppedge did not find the film
- 18 comedic.
- 19 • Because he did not find it comedic, he assumes that "anyone who has actually
- 20 watched" the film likewise would not find it comedic.
- 21 • Caltech's counsel described the film as "comedic," so by Coppedge's logic, they
- 22 never watched it.
- 23 • Therefore, Caltech's counsel's description of "comedic" is wrong and they have
- 24 "misinformed the court."

25 Opp'n at 2-3. This argument is completely specious. Humor is subjective, and reasonable people

26 can disagree about whether something is humorous. It is also completely unprofessional for

27 ⁷ Fox Declaration, Exhibit F.

28 ⁸ Fox Declaration, Exhibit G.

1 Coppedge to suggest that Caltech's counsel misinformed the Court, or that they are
2 untrustworthy, particularly when they referred to the film in the same manner as the cover of the
3 DVD and the accusation is based on something so trivial as a disagreement over whether
4 something is funny.

5 Coppedge then attempts to draw an analogy, suggesting that just as Caltech's attorneys
6 purportedly did not watch "Expelled" and formed (what he deems is) an erroneous opinion of it,
7 Coppedge's co-workers failed to watch his intelligent design DVDs and thus erroneously
8 perceived them as religion. Coppedge concludes from this that the jury must watch the DVDs so
9 they will not "be forced to accept the biased testimony" of JPL's witnesses. Opp'n at 3. But the
10 analogy fails: regardless of whether Caltech's use of the word "comedic" is right or wrong, it is
11 still a description. JPL's witnesses have never even *attempted* to describe the intelligent design
12 DVDs (if they even watched them), so there is nothing for the jury to "accept" – and, in turn,
13 nothing to be rebutted by showing the DVDs.

14 Finally, as for "Expelled" itself, it too must be excluded from trial. Coppedge was not
15 distributing "Expelled" at JPL, so the film itself has no possible bearing on the issues in this case.
16 To the extent Coppedge seeks to use it to indoctrinate the jury as to the alleged hostile treatment
17 of scientists and academics (of which Coppedge was neither) by academic institutions other than
18 Caltech, it must be excluded as irrelevant and prejudicial, as stated in Caltech's moving papers,
19 its Opposition to Coppedge's motion *in limine*, and Caltech's motion *in limine* to exclude David
20 DeWolf's testimony about such matters.⁹

21 **IV. COPPEDGE FAILS TO ESTABLISH THAT THE DVDS' CONTENTS ARE**
22 **ADMISSIBLE**

23 **A. The DVDs Are Not Relevant To This Action And Should Be Excluded Under**
24 **California Evidence Code Sections 210 and 350.**

25 Coppedge makes several overlapping arguments for relevance; some are largely
26 duplicative of those in his motion *in limine* regarding the DVDs. None is persuasive.

27 ⁹ Even the initial disclaimer at the beginning of *Expelled* makes clear that the movie is mere
28 entertainment, is based on individual opinions, and therefore it cannot be an authoritative source
for the topics it covers. It states: "Interviews and commentary are for entertainment only. The
views and opinions expressed therein are those of the individual speakers [...]."

1 **1. The DVDs Are Irrelevant To The Decisionmakers' Actions.**

2 Coppedge contends that a central issue in the case is whether the decisionmakers acted
3 based on a belief that Coppedge was "imposing his religious dogma" on co-workers through the
4 DVDs. Opp'n at 5. He argues that the decisionmakers should have watched the DVDs to
5 determine if they were offensive, but did not do so, and that whether the DVDs are offensive is
6 now a factual question for the jury. This is nonsense; as the facts above make clear, only one
7 employee's complaint event related to the DVDs, and she was not complaining about their
8 contents. Moreover, this argument is self-defeating. By admitting that decisionmakers did not
9 watch the DVDs, he necessarily concedes that the DVDs' contents could not have impacted how
10 they viewed Coppedge's conduct or the actions they took toward him – rendering the DVDs'
11 contents irrelevant. Assuming *arguendo* there were some obligation for the decisionmakers to
12 watch the DVDs – and there is not, under FEHA, Title VII, or any other law – it still would not
13 follow that "whether the DVDs are offensive" would become a jury question or that the DVDs
14 would have to be shown at trial. At most, the jury would have reason to consider whether the
15 decisionmakers watched the DVDs or why they chose not to, but these topics necessarily would
16 be explored through testimony – not by screening the DVDs.

17 **2. The DVDs Are Irrelevant To Witness State Of Mind And Credibility.**

18 Coppedge incorporates his primary argument from his motion *in limine* – that the DVDs
19 go to the witnesses' state of mind. Opp'n at 6-9. The argument remains unconvincing, in light of
20 his admission that the witnesses had little or no knowledge of the DVDs. PML 1 at 1. Something
21 a witness has never seen plainly cannot influence the witness's actions, meaning the DVDs'
22 contents are immaterial. Yet, according to Coppedge, the witnesses perceived intelligent design
23 as religion, and accused him of harassment because of this purported misconception. He then
24 contends that the jury must determine whether intelligent design actually is religion to decide this
25 case.

26 As Caltech explained in its Opposition to Coppedge's motion *in limine*, he is wrong in
27 every respect. Caltech reiterates its arguments from the Opposition, below, for the Court's
28 convenience.

1 First, his logic is flawed. Coppedge assumes that the witnesses would have had to
2 perceive his speech as religious to view it as harassment. Not so. Conduct can be harassing,
3 regardless of its content, hence the many recognized types of harassment (e.g. racial, sexual, etc.).
4 Here, Caltech's witnesses felt harassed by the *manner* of Coppedge's speech; its content was
5 irrelevant.

6 Second, even assuming *arguendo* that the witnesses felt harassed based upon the content
7 of Coppedge's speech, whether intelligent design actually is religion is still irrelevant. Coppedge
8 claims that the witnesses perceived intelligent design as religion, as well he must, because
9 otherwise he has no case; intelligent design is not protected under either the Fair Employment and
10 Housing Act or public policy. How the witnesses perceived intelligent design can be explored
11 through testimony, just as Coppedge did during the witness depositions. In contrast, it is of no
12 use to the jury to screen DVDs that some witnesses *never even saw*, and about which none
13 complained.¹⁰

14 Third, it does not matter whether the witnesses were "wrong" in perceiving intelligent
15 design as religion (even assuming they did so). This is a religious discrimination case, not a trial
16 on the merits of intelligent design. Whether the *witnesses* perceived intelligent design as religion
17 in no way suggests that the *jury* must decide for itself whether intelligent design is religion – by
18 viewing the DVDs or otherwise. Indeed, allowing the jury to engage in such an irrelevant,
19 prejudicial inquiry would introduce error, not eliminate it.

20 Finally, Coppedge's reliance on stereotyping case law is misplaced. Coppedge suggests
21 that the witnesses viewed the DVDs as religious due to stereotyping of intelligent design as akin
22 to creationism. Even if they had this view, this is not stereotyping, but rather consistent with a
23 legitimate – and widely held – view that intelligent design is no different from creationism.¹¹

24
25 ¹⁰ There is at least some question as to how the witnesses perceive intelligent design. For
26 example, Vetter testified that she did not recall whether The Privileged Planet discussed religion,
27 suggesting that she does not equate intelligent design with religion. Vetter 110:14-16; 111:2-4.

28 ¹¹ This is the position taken by all leading scientific organizations (including the National
Academy of Sciences and the American Association for the Advancement of Science), and at
least one court. See *Kitzmiller v. Dover Area School Dist.*, 400 F. Supp. 2d 707, 726 (M.D. Pa.
2005) ("The overwhelming evidence at trial established that ID is a religious view, a mere re-
labeling of creationism, and not a scientific theory.").

1 Coppedge disagrees with this view, but not every disagreement constitutes a stereotype.
2 Stereotyping occurs when an individual assumes characteristics or conduct of an individual on the
3 basis of group membership.¹² Further, even if the witnesses viewed the DVDs as religious
4 because of preconceptions about intelligent design, this does not warrant screening of the DVDs,
5 for the reasons discussed above.

6 Coppedge again offers little articulation of his other relevance argument – that the DVDs
7 reflect witness credibility – but it fails as well. Assuming *arguendo* that whether the witnesses
8 and/or decisionmakers watched the DVDs is relevant to credibility, these are facts that can be
9 established through testimony. Showing the DVDs adds nothing, and therefore is unnecessary
10 and irrelevant.

11 **3. Coppedge's Objection To Caltech's Contention That The DVDs Are**
12 **Irrelevant Is Duplicative And Unpersuasive.**

13 Coppedge sets forth as a separate argument his objection to Caltech's claim that the
14 DVDs' contents are irrelevant. Opp'n at 6. For the most part, he simply repeats the same
15 arguments he offers elsewhere: that the DVDs go to complaining witnesses' states of mind, and
16 that the decisionmakers should have watched the DVDs. As Caltech discusses above, these
17 arguments fail; the DVDs' contents are irrelevant with respect to both the decisionmakers and the
18 complaining co-workers. Coppedge also insists that "[t]his case involves false assumptions about
19 what intelligent design is." Opp'n at 6. In reality, he is objecting to the view that intelligent
20 design is religion – an opinion that is not "false," but simply one with which he disagrees. Even
21 if there were false assumptions about intelligent design, it would not matter unless the merits of
22 intelligent design were at issue here, and they are not. As discussed above, the only relevant

23 ¹² See, e.g., *Lindahl v. Air France*, 930 F.2d 1434, 1439 (9th Cir. 1991) (district manager saw
24 "[male candidate] as aggressive and cool . . . , while he saw the female candidates as nervous and
25 emotional. His comments could suggest that [he] made his decision on the basis of stereotypical
26 images of men and women . . ."). Coppedge's reliance on *Raad v. Fairbanks North Star Borough*
27 *School District*, 323 F.3d 1185 (9th Cir. 2003), another stereotyping case, is misplaced. In *Raad*,
28 the employer contended that it terminated the plaintiff, a Muslim, because she made a bomb
threat. *Raad* at 1196. *Raad* disputed that she made a bomb threat. *Id.* at 1188, 1196. Unlike in
Raad, where the employer's perception differed due to stereotyping, Caltech and Coppedge agree
as to what happened here: Coppedge discussed his views on intelligent design, the holiday party,
and Proposition 8 with co-workers. Coppedge is merely trying to conjure some excuse to show
the DVDs to the jury, hence his desire to characterize views of intelligent design as
"stereotyping."

1 question is whether the witnesses perceived intelligent design as religion, and the DVDs can offer
2 no insight on this question.

3 **B. These Matters Should Be Excluded Under California Evidence Code Section**
4 **352.**

5 The DVDs are inadmissible under California Evidence Code section 352. Coppedge
6 advances the same arguments regarding prejudice and waste of time that he did in his motion *in*
7 *limine*; they failed there, and fail again here.

8 First, Coppedge's argument that Caltech will not be unduly prejudiced by the DVDs is
9 belied by his own words: "By the time they have seen [the DVDs], jurors will wonder what all
10 the fuss was about . . ." Opp'n at 9. Coppedge's statement makes clear that he actively seeks to
11 use the DVDs to unduly prejudice the jury's position on the issues in the case, in the hope that
12 they will improperly decide the case based on their opinion of intelligent design, rather than
13 properly focusing on whether Coppedge experienced religious discrimination or harassment.
14 And as to films regarding the experiences of certain other intelligent design proponents, such as
15 Expelled, the only possible use of those films is to speculate to the jury that events at other
16 institutions are suggestive of the underlying reasons for the events in this case – to purely
17 prejudicial effect.¹³

18 Second, Coppedge's argument that confusion will not result is even less persuasive. He
19 states that "[r]ather than being confused or misled, jurors will be enlighten[ed] in a way the
20 Defendant's employees were not." Opp'n at 9. Not only is Coppedge confirming, again, that the
21 DVDs are irrelevant (because the witnesses never watched them), he fails to explain why
22 "enlightening" the jury about intelligent design will prevent, rather than introduce, confusion. In
23 fact, the jury *will* be confused about the claims at issue here, and be misled into thinking this case

24 ¹³ Indeed, the film is riddled with polarizing imagery that pokes fun at anyone who does not agree
25 with intelligent design, jokey digs about scientists who believe in evolution (laughingly calling
26 one "a bit of a reptile"), and baseless generalizations about the entire science community (such as
27 stating it is 'against free speech' and comparing all scientists to mid-20th Century Russian
28 communists who must "get in line"). Expelled is also replete with utterly one-sided conclusory
opinions of certain intelligent design proponents about why they believe they were removed from
positions with academic and other institutions. Their self-serving explanations may or may not be
true, but – importantly – none of the academic institutions was interviewed in the film to give its
side of the story, and Caltech will have no opportunity to cross-examine these intelligent design
proponents at trial on their speculative opinions, leading to yet more prejudice against Caltech.

1 is a forum for deciding whether intelligent design and/or religious doctrines are "right" or
2 "wrong," rather than a lawsuit to determine whether religious discrimination or retaliation took
3 place.

4 Finally, Coppedge's claim that the DVDs will not waste time because they are only an
5 hour each (and will take less time to review than a transcript) misses the point: they are
6 completely irrelevant, so any use of trial time for this purpose is wasteful. Moreover, the time
7 expenditure is not minimal, as Coppedge suggests, but rather approaches *half* a trial day.

8 C. **Coppedge Does Not Contest Caltech's Position That The DVDs Should Be**
9 **Excluded As Inadmissible Hearsay, Not Subject To Any Exception.**

10 As Caltech explained in its moving papers and in its Opposition to Coppedge's motion *in*
11 *limine*, the DVDs also must be excluded because they are offered for the truth of the propositions
12 they assert about intelligent design, hence Coppedge's claim that the "jurors will be
13 enlighten[ed]" by the DVDs. The DVDs are therefore inadmissible hearsay, and no hearsay
14 exception applies. Coppedge does not offer any argument to the contrary.

15 V. **CONCLUSION**

16 For the foregoing reasons, and those set forth in its moving papers, Caltech respectfully
17 requests that the Court grant its Motion and preclude Coppedge, his counsel and witnesses from
18 offering, making reference to, commenting upon, introducing testimony or documents regarding,
19 or presenting any argument pertaining to the content of the films Coppedge distributed to his co-
20 workers or films regarding intelligent design proponents, including "Expelled."

21 DATED: December 27, 2011

PAUL HASTINGS LLP
JAMES A. ZAPP
CAMERON W. FOX
MELINDA A. GORDON

22 By:

23 
24 CAMERON W. FOX

25 Attorneys for Defendant
26 CALIFORNIA INSTITUTE OF TECHNOLOGY
27
28

DECLARATION OF CAMERON W. FOX

I, Cameron W. Fox, declare:

1. I am an attorney at law duly admitted to practice before this Court and all of the courts of the State of California. I am an associate with the law firm of Paul Hastings LLP ("Paul Hastings"), counsel of record for the California Institute of Technology ("Caltech") in this action. I have personal knowledge of the facts contained in this Declaration, or know of such facts by my review of the files maintained by Paul Hastings in the normal course of its business, and if called as a witness, could and would testify as to their accuracy.

2. This Declaration is submitted in support of Defendant's Reply In Support Of Motion *In Limine* For An Order Excluding Testimony, Evidence, Argument And Comment Regarding The Content Of DVDs Coppedge Distributed To Co-Workers And Films Regarding Other Proponents Of Intelligent Design ("Motion").

3. Attached hereto as **Exhibit A** is a true and correct copy of the DVD jacket for "Expelled".

4. Attached hereto as **Exhibit B** are true and correct copies of excerpts and an exhibit from the deposition of Margaret Weisenfelder, taken on February 28, 2011.

5. Attached hereto as **Exhibit C** are true and correct copies of excerpts from Day One of the deposition of Greg Chin, taken on February 3, 2011.

6. Attached hereto as **Exhibit D** are true and correct copies of excerpts from Days One and Two of the deposition of David Coppedge, taken on September 30, 2010 and October 1, 2010.

7. Attached hereto as **Exhibit E** are true and correct copies of excerpts from the deposition of Scott Edgington, taken on February 22, 2011.

8. Attached hereto as **Exhibit F** are true and correct copies of excerpts and an exhibit from the deposition of Carmen Vetter, taken on February 22, 2011.

9. Attached hereto as **Exhibit G** are true and correct copies of excerpts and an exhibit from Day Two of the deposition of Kevin Klenk, taken on April 6, 2011.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 27th day of December, 2011, at Los Angeles, California.

CAMERON W. FOX

[REDACTED]

Ben Stein

~~EXPELLED~~

No
Intelligence
Allowed



"I Love This Film!"

- Ben Stein



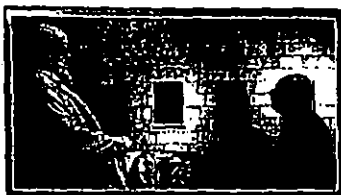
EX.A

"YOU WILL CHEER!"

- GLENN BECK



- MOVIE GUIDE



B001BYLFFS (259241)

Expelled: No Intelligence Allowed

RIE!
RIVETING, EYE OPENING, AND
EVEN ASTONISHING!

Big science has expelled smart ideas from the classroom... What they forgot is that every generation has its Rebel! That rebel, Ben Stein (Fertis Bueller's Day Off) travels the world on his quest, and learns an awe-inspiring truth... That educators and scientists are being ridiculed, denied tenure, and even fired - for merely believing that there might be evidence of "design" in nature. Perhaps life is not just the result of accidental, random chance. In the film Ben says "Enough" - And NOBODY messes with Ben!

"COMEDIAN BEN STEIN HIT
THE NAIL RIGHT ON THE
FUNNY BONE"

- DICK ROLFE, DOVE FOUNDATION

ALSO INCLUDES A
POCKET SIZE BOOK OF QUOTES

BONUS FEATURES

- INSIDE EXPULSED - INTERVIEW WITH BEN & LEE SINDLER
- A SPECIAL MESSAGE FROM BEN STEIN
- USING INTELLIGENT DESIGN FOR MEDICAL RESEARCH
- BONUS MUSIC TRACKS BY ANDY HUNTER
- EXPULSED SUPER TRAILER

PREMISE MEDIA CORPORATION PRESENTS A FILM BY PATRICK MATTIOLI "EXPULSED: NO INTELLIGENCE ALLOWED" FEATURING BEN STEIN
PRODUCED BY LOGAN CRAFT, VALT PERLOFF & JUDY SULLIVAN ASSOCIATE PRODUCER PATRICK MATTIOLI MUSIC BY ROBERTO ROSENTHAL & ANDY HUNTER EDITOR STEVEN TONDELL
POST PRODUCTION SUPERVISOR PATRICK MATTIOLI CREDITS BY NATHAN FRANKOVSKI WRITTEN BY KEVIN MULLER AND BEN STEIN

PG

TEENAGE MATERIAL
SOME DISTURBING IMAGES AND LINGUAGES

BONUS
FEATURES
ARE NOT RATED

PREMISE
MEDIA CORPORATION

www.vivendi.com

www.expelledthemovie.com



vivendi
ENTERTAINMENT

LANGUAGE: ENGLISH 5.1 DIGITAL	SUBTITLES: CLOSED CAPTIONED CC	DUAL LAYER	ASPECT RATIO: WIDESCREEN	RUNNING TIME: 90 MINUTES	FORMAT: DVD
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SUITE 800 UNIVERSAL CITY, CA 91608



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1
2 SUPERIOR COURT OF THE STATE OF CALIFORNIA
3 FOR THE COUNTY OF LOS ANGELES
4

5 DAVID COPPEDGE, AN INDIVIDUAL,)
6 PLAINTIFF,)

7 VS.

) CASE NO.
) BC 435600

8 JET PROPULSION LABORATORY, FORM)
9 UNKNOWN; CALIFORNIA INSTITUTE)
10 OF TECHNOLOGY, FORM UNKNOWN;)
11 GREGORY CHIN, AN INDIVIDUAL;)
12 CLARK A. BURGESS, AN INDIVIDUAL;)
13 KEVIN KLENK, AN INDIVIDUAL; AND)
14 DOES 1 THROUGH 25, INCLUSIVE,)
15 DEFENDANTS.)
16

**CERTIFIED
COPY**

17 DEPOSITION OF MARGARET WEISENFELDER,
18 TAKEN ON MONDAY, FEBRUARY 28, 2011
19
20
21

22
23 REPORTED BY:
24 HEIDI SULLIVAN
25 CSR NO. 6600
FILE NO.: 11-120

24 || A. SULLIVAN REPORTERS
25 || COURT REPORTERS

2420 W. CARSON STREET, SUITE 210
TORRANCE, CALIFORNIA 90501
PHONE 310 • 787 • 4497
FAX 310 • 787 • 1024

EXB

12/27/2011
12/27/2011

1 CHURCH?

2 A. NO.

3 MS. FOX: OBJECTION. VAGUE.

4 BY MR. BECKER:

5 Q. YOU DON'T CLAIM ANY SERVICES YOU PROVIDE
6 AS A MEMBER OF THAT -- AS AN ORDAINED MINISTER OF
7 THAT CHURCH ON YOUR INCOME TAX?

8 MS. FOX: VAGUE.

9 THE WITNESS: NO.

10 BY MR. BECKER:

11 Q. HAS DAVID EVER BEEN RUDE OR INSENSITIVE
12 TO YOU?

13 MS. FOX: OBJECTION. COMPOUND. VAGUE AS TO
14 "RUDE." VAGUE AS TO "INSENSITIVE." AND OVERBROAD AS
15 TO TIME.

16 THE WITNESS: I DON'T REMEMBER HIM EVER BEING
17 RUDE TO ME.

18 WHAT DO YOU MEAN BY "INSENSITIVE"?

19 BY MR. BECKER:

20 Q. WELL, YOU KNOW WHEN SOMEBODY IS BEING
21 INSENSITIVE, DON'T YOU?

22 MS. FOX: OBJECTION. VAGUE AS TO
23 "INSENSITIVE."

24 THE WITNESS: WHEN I WAS UNCOMFORTABLE
25 TALKING TO HIM DURING THE PROPOSITION 8 DISCUSSION,

1 HE WAS NOT SENSITIVE TO MY DISCOMFORT.

2 BY MR. BECKER:

3 Q. WHAT SHOULD HE HAVE DONE?

4 MS. FOX: OBJECTION. CALLS FOR SPECULATION.
5 INCOMPLETE HYPOTHETICAL.

6 BY MR. BECKER:

7 Q. OR WHAT DID HE DO THAT YOU FEEL WAS
8 INSENSITIVE?

9 A. HE WAS PERSISTENT.

10 Q. WHAT DID HE SPECIFICALLY DO?

11 WHEN YOU SAY HE WAS PERSISTENT, YOU'RE
12 REFERRING TO HIM DOING SOMETHING PERSISTENTLY.

13 WHAT DID HE DO THAT YOU FEEL WAS
14 INSENSITIVE?

15 A. WHEN HE ASKED ME IF THERE WAS ANYTHING
16 HE COULD SAY TO CHANGE MY MIND.

17 Q. YOU FELT THAT WAS INSENSITIVE?

18 A. I FELT THAT HIS PERSISTENCE WAS NOT
19 SENSITIVE.

20 Q. BUT THAT WAS HIS PERSISTENCE, WHEN HE
21 ASKED YOU WHETHER THERE WAS ANYTHING HE COULD SAY TO
22 CHANGE YOUR MIND; RIGHT?

23 A. YES.

24 Q. ANYTHING ELSE?

25 A. NO.

1 A. NO.

2 MR. BECKER: ALL RIGHT. LET'S MARK AS THE
3 NEXT EXHIBIT --

4 I BELIEVE WE'RE AT 31?

5 MR. COPPEDGE: YEAH.

6 MS. FOX: YES.

7 MR. BECKER: -- A TWO-PAGE DOCUMENT WITH
8 BATES STAMPS DEFENDANT 94 AND 95.

9 TAKE A LOOK AT THAT AND LET ME KNOW WHEN
10 YOU'RE DONE.

11 (THE ABOVE-MENTIONED DOCUMENT WAS MARKED
12 FOR IDENTIFICATION BY THE CERTIFIED SHORTHAND
13 REPORTER AND ATTACHED HERETO.)

14 THE WITNESS: OKAY. I FINISHED READING.
15 BY MR. BECKER:

16 Q. DO YOU REMEMBER MEETING WITH JHERTAUNE
17 HUNTLEY?

18 A. YES, I DO.

19 Q. WAS MARCH 19, 2009, ABOUT THE TIME THAT
20 YOU REMEMBER MEETING WITH HER?

21 A. IT WAS IN MARCH.

22 Q. DO YOU REMEMBER MEETING WITH HER ON MORE
23 THAN ONE OCCASION?

24 A. NO.

25 Q. HAVE YOU TALKED TO HER SINCE THE ONE

1 THE WITNESS: I DON'T KNOW.

2 BY MR. BECKER:

3 Q. YOU WOULD SEE HIM PASS BY FROM TIME TO
4 TIME, WOULDN'T YOU?

5 A. NOT NECESSARILY. MY CUBICLE IS -- AT
6 THAT TIME HAD A WALL HERE AND A WALL HERE, AND THE
7 HALLWAY WAS HERE. SO I WAS IN THAT SPACE.

8 Q. WHAT YOU'RE SAYING IS THAT THE CUBICLE
9 WALLS OBSTRUCTED YOUR VIEW OF PEOPLE WALKING BY; IS
10 THAT RIGHT?

11 A. THAT'S CORRECT.

12 MS. FOX: WE'RE AT ABOUT AN HOUR. I'D LOVE A
13 RESTROOM BREAK WHEN IT'S CONVENIENT.

14 MR. BECKER: JUST A MINUTE.

15 MS. FOX: DID YOU HEAR ME?

16 MR. BECKER: WHAT DO YOU NEED?

17 MS. FOX: WE'RE AT ABOUT AN HOUR. I'D LOVE A
18 RESTROOM BREAK WHEN IT'S CONVENIENT.

19 MR. BECKER: LET'S DO IT.

20 (RECESS.)

21 BY MR. BECKER:

22 Q. LOOKING AT EXHIBIT 31, ABOUT HALFWAY
23 DOWN ON THE FIRST PAGE, IT SAYS, "MARGARET STATED TO
24 DAVE" -- DO YOU SEE WHERE IT SAYS THAT? LOOK TOWARD
25 THE END OF THE LINE THERE -- "MARGARET STATED TO DAVE

1 THAT SHE DID NOT AGREE WITH HIS VIEWPOINT ON PROP 8
2 AND DID NOT WANT TO DISCUSS THE ISSUE WITH HIM
3 BECAUSE HE WAS SO PERSISTENT."

4 NOW, YOUR TESTIMONY EARLIER WAS THAT YOU
5 DIDN'T TELL HIM THAT YOU DID NOT WANT TO DISCUSS THE
6 ISSUE. YOU JUST TOLD HIM YOU DIDN'T AGREE WITH HIM.

7 DID YOU TELL JHERTAUNE HUNTLEY THAT YOU
8 TOLD DAVID THAT YOU DID NOT WANT TO DISCUSS THE ISSUE
9 WITH HIM BECAUSE HE WAS SO PERSISTENT?

10 A. I DON'T REMEMBER MY EXACT WORDS, BUT I
11 DO REMEMBER THAT I TOLD HIM THAT I DIDN'T HAVE ANY
12 RESPECT FOR THE PROPOSITION BUT I HAD RESPECT FOR
13 HIM.

14 I DON'T REMEMBER THE LEAD UP TO IT.
15 IT'S BEEN TWO YEARS. I'M --

16 Q. DID YOU EVER --

17 MS. FOX: LET HER FINISH HER ANSWER.

18 THE WITNESS: I'M NOT SURE. I DON'T HAVE ANY
19 REASON TO DOUBT JHERTAUNE'S NOTES, BUT I DON'T HAVE A
20 SPECIFIC RECOLLECTION.

21 BY MR. BECKER:

22 Q. WELL, SHE UNDERSCORES "HE WAS SO
23 PERSISTENT."

24 DO YOU HAVE ANY REASON TO DOUBT THAT YOU
25 TOLD -- WELL, LET ME ASK YOU THIS: IS IT CORRECT TO

1 SAY THAT YOU TOLD JHERTAUNE HUNTLEY THAT DAVID WAS
2 VERY PERSISTENT, IN YOUR VIEW?

3 A. I FELT THAT HE WAS BEING PERSISTENT.

4 Q. OKAY. BUT DID YOU ALSO TELL HER THAT
5 YOU TOLD DAVID, "DAVID, YOU'RE BEING TOO PERSISTENT"?

6 A. I MIGHT HAVE, BUT I DON'T REMEMBER
7 SPECIFICALLY.

8 Q. AND YOU FELT THAT DAVID WAS BEING
9 PERSISTENT WHEN HE ASKED YOU WHETHER THERE WAS
10 ANYTHING HE COULD SAY TO CHANGE YOUR MIND; RIGHT?

11 MS. FOX: ASKED AND ANSWERED.

12 THE WITNESS: YES.

13 BY MR. BECKER:

14 Q. AND THAT'S THE ONLY BASIS UPON WHICH YOU
15 STATE THAT HE WAS PERSISTENT; IS THAT RIGHT?

16 MS. FOX: ASKED AND ANSWERED.

17 THE WITNESS: YES.

18 BY MR. BECKER:

19 Q. IT SOUNDS LIKE HE WAS BEING POLITE.

20 MS. FOX: OBJECTION. CHARACTERIZATION BY
21 COUNSEL.

22 BY MR. BECKER:

23 Q. HAVING A CONVERSATION WITH YOU. "ANY
24 WAY I CAN CHANGE YOUR MIND?"

25 MS. FOX: IS THAT A QUESTION?

1 MY QUESTION IS DIFFERENT, THOUGH. OKAY.

2 WHEN WE TALKED ABOUT RELIGION AND
3 POLITICS HERE, THE DVD HAD NOTHING TO DO WITH
4 RELIGION AND POLITICS, DID IT?

5 MS. FOX: OBJECTION. VAGUE.

6 THE WITNESS: THE PROPOSITION 8 DISCUSSION
7 HAD TO DO WITH POLITICS, WHICH ALSO INVOLVED SOME
8 RELIGION.

9 THE FACT THAT THE DVD HAD A LIST OF
10 NAMES THAT WERE BEING TRACKED AND A NOTATION THAT
11 SAID "TRY AGAIN" MADE ME FEEL UNCOMFORTABLE.

12 AS FAR AS THE CONTENT OF THE DVD BEING
13 RELIGIOUS OR NOT RELIGIOUS, THAT WASN'T WHAT WAS
14 BOTHERING ME.

15 BY MR. BECKER:

16 Q. OKAY. SO THE ONLY TIME DAVID EVER
17 TALKED TO YOU ABOUT RELIGION AND POLITICS WAS IN THE
18 VERY BRIEF CONVERSATION YOU HAD ON PROP 8; RIGHT?

19 MS. FOX: OBJECTION. VAGUE AS TO "VERY
20 BRIEF." MISCHARACTERIZES THE RECORD.

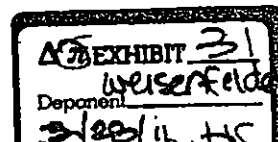
21 THE WITNESS: DURING THAT CONVERSATION WAS
22 THE ONLY TIME THAT WE SPECIFICALLY DISCUSSED SUBJECTS
23 THAT COULD BE CHARACTERIZED AS RELIGIOUS OR
24 POLITICAL.

25 ///

**WEISENFELDER
DEPOSITION EXHIBIT 31**

3.19.2009 Mtg w/ Margaret Weisenfelder re: David Coppedge issue.

- Margaret stated that she is an ordained minister (Christian) but would never let David Coppedge know. She has worked w/ David about 5 yrs but has known him for 7 to 8 yrs.
- Margaret stated that she has experienced 2 uncomfortable incidents w/ David. The first occurred the day before the Presidential election/ Prop 8 vote. David approached Margaret and asked if he could talk to her about Prop 8. Margaret stated that she was thinking while being asked this question by David, that she ^{probably should} ~~should~~ not talk about political issues during work hrs. David proceeded to tell Margaret his viewpoint on the Prop 8 and then asked for her opinion. Margaret stated to David that she did not agree w/ his viewpoint & did not want to discuss the issue w/ him because he was so persistent. Margaret said that David's approach was, "Can I talk to you about Prop 8?" then had a Prop 8 paper in his hand. The second incident occurred about 2 wks ago (before the 4 day holiday weekend) after lunch. David approached Margaret and asked her if she wanted to borrow a DVD called "Unlocking the Mysteries of Life". She took it home and watched it and noticed a sticky on the back of the DVD w/ JPLC's names on it. The sticky note had the words "Try Again" by some of the names. The only name she recognized was Patel. Margaret did not want to get into a discussion w/ David about the DVD so she waited until he was not



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31
20

12/27/2011

in his wrk space to place it on his chair. David did not approach her to discuss the DVD after she returned it. Margaret went to Greg Chin to discuss the DVD issue and told him that she was feeling uncomfortable about David approaching her re: watching the Intelligent Design DVD and talking about her stance on Prop 8. She further expressed to Greg that she does not want to deal w/ him re: these type of issues. Greg responded to Margaret, stating that he would look into it and to let him know if ^(David's) his behavior continues to be a problem for her. Since that time Margaret has had no other encounters w/ David.

Margaret further states that David is nice but she feels that he is stepping over the line by discussing religion & politics in the wrk place. Margaret then reminds me that she is an ordained minister (Christian) and feels his behavior is inappropriate.

Atlanta
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Tokyo
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(213) 683-6301
cameronfox@paulhastings.com

April 22, 2011

13365.00018

VIA ELECTRONIC MAIL

William J. Becker, Jr., Esq.
The Becker Law Firm
11500 Olympic Blvd., Suite 400
Los Angeles, CA 90064

Re: *Coppedge v. Jet Propulsion Laboratory, et al.*
Los Angeles Superior Court Case No. BC435600

Dear Bill:

Please be advised that Margaret Weisenfelder signed the original of her deposition transcript on April 7, 2011. The following corrections have been made:

<u>Page:Line</u>	<u>Reads</u>	<u>Should Read</u>
22:15	"design of creation"	"design of creation."
22:16	"effectively"	"Effectively..."
121:1	"I didn't"	"I didn't feel comfortable."
126:5	"That's it."	"That's all I can recall."
141:16	"on my work. It was the best"	"on my work. My response to Dave was the best"

12/27/2011

1 STATE OF CALIFORNIA)

2 COUNTY OF LOS ANGELES)

3

4

5 I, HEIDI SULLIVAN, A CERTIFIED SHORTHAND REPORTER

6 LICENSED BY THE STATE OF CALIFORNIA, CERTIFY:

7

8 THAT THE FOREGOING DEPOSITION OF Margaret Weisenfelder

9 WAS TAKEN BEFORE ME PURSUANT TO NOTICE

10 AT THE TIME AND PLACE THEREIN SET FORTH, AT WHICH TIME

11 THE WITNESS WAS PUT UNDER OATH BY ME;

12

13 THAT THE TESTIMONY OF THE WITNESS AND ALL OBJECTIONS

14 MADE AT THE TIME OF THE EXAMINATION WERE RECORDED

15 STENOGRAPHICALLY BY ME AND WERE THEREAFTER

16 TRANSCRIBED;

17

18 THAT THE FOREGOING IS A TRUE RECORD OF THE TESTIMONY

19 AND OF ALL OBJECTIONS AT THE TIME OF THE EXAMINATION.

20

21 IN WITNESS WHEREOF, I HAVE SUBSCRIBED MY NAME THIS

22 22 DAY OF March, 2011.

23

24

25

Heidi Sullivan

LICENSE NUMBER 6600

12/27/2011

12/27/2011

EX.C

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DAVID COPPEDGE, AN INDIVIDUAL,)
)
 PLAINTIFF,)
)
 VS.) CASE NO.
) BC 435600
 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.)
)

ORIGINAL

DEPOSITION OF GREGORY EUGENE CHIN,
VOLUME I, PAGES 1 - 249
TAKEN ON THURSDAY, FEBRUARY 3, 2011

REPORTED BY:
HEIDI SULLIVAN
CSR NO. 6600
FILE NO.: 10-112

24 || A. SULLIVAN REPORTERS
25 || COURT REPORTERS

2420 W. CARSON STREET, SUITE 210
TORRANCE, CALIFORNIA 90501
PHONE 310 • 787 • 4497
FAX 310 • 787 • 1024

EX.C

1 A. NO.

2 MR. BECKER: ALL RIGHT. LET'S MARK AS THE
3 NEXT EXHIBIT --

4 I BELIEVE WE'RE AT 31?

5 MR. COPPEDGE: YEAH.

6 MS. FOX: YES.

7 MR. BECKER: -- A TWO-PAGE DOCUMENT WITH
8 BATES STAMPS DEFENDANT 94 AND 95.

9 TAKE A LOOK AT THAT AND LET ME KNOW WHEN
10 YOU'RE DONE.

11 (THE ABOVE-MENTIONED DOCUMENT WAS MARKED
12 FOR IDENTIFICATION BY THE CERTIFIED SHORTHAND
13 REPORTER AND ATTACHED HERETO.)

14 THE WITNESS: OKAY. I FINISHED READING.

15 BY MR. BECKER:

16 Q. DO YOU REMEMBER MEETING WITH JHERTAUNE
17 HUNTLEY?

18 A. YES, I DO.

19 Q. WAS MARCH 19, 2009, ABOUT THE TIME THAT
20 YOU REMEMBER MEETING WITH HER?

21 A. IT WAS IN MARCH.

22 Q. DO YOU REMEMBER MEETING WITH HER ON MORE
23 THAN ONE OCCASION?

24 A. NO.

25 Q. HAVE YOU TALKED TO HER SINCE THE ONE

1 OBJECTION.

2 IF YOU FEEL COMFORTABLE, YOU CAN ANSWER
3 IT.

4 THE WITNESS: I SUPPORTED GAY MARRIAGE.

02:25:41PM

5 BY MR. BECKER:

6 Q. DID YOU TELL DAVID THAT?

7 A. NO, SIR.

8 Q. AND DID MARGARET SAY SHE SUPPORTED GAY
9 MARRIAGE?

02:25:50PM

10 A. YES, SIR.

11 Q. DID MARGARET TELL YOU HOW SHE FELT ABOUT
12 INTELLIGENT DESIGN AS A CONCEPT?

13 A. NO, SIR.

14 Q. AT THE TIME THAT SHE CAME TO YOU, WERE
15 YOU FAMILIAR WITH THE CONCEPT OF INTELLIGENT DESIGN?

02:26:11PM

16 A. YES, SIR.

17 Q. WHAT WAS YOUR FAMILIARITY BASED ON?

18 A. MY UNCLE AND DAVE COPPEDGE WERE FRIENDS.

19 THEY WENT TO THE SAME CHURCH. MY UNCLE HAD A STRONG
20 BELIEF IN INTELLIGENT DESIGN. MY UNCLE AND I GOT
21 ALONG GREAT, AND WE WERE FINE FRIENDS. HE HAS
22 SUBSEQUENTLY PASSED AWAY.

02:26:31PM

23 HE EXPLAINED INTELLIGENT DESIGN TO ME

24 THEN, BASICALLY IT DISCOUNTED POSSIBILITY OF RANDOM

02:27:02PM

25 CHANCE THAT HUMANS COULD EVOLVE AND THAT SOME HIGHER

1 A. I'M THE ONE THAT CREATED A HOSTILE WORK
2 ENVIRONMENT FOR DAVID. I NEEDED TO TELL THEM THAT
3 "IF DAVID FEELS THIS, I MUST HAVE SCREWED UP."

03:01:25PM 4 Q. DID DAVID TELL YOU DURING THAT MEETING
5 THAT HE FELT THAT YOU WERE INTERFERING WITH HIS
6 CONSTITUTIONAL RIGHT OF FREE SPEECH?

7 A. YES, SIR.

8 Q. WHAT DID YOU UNDERSTAND THAT TO MEAN?

03:01:42PM 9 A. I UNDERSTOOD THAT DAVID FELT THAT I WAS
10 ISSUING A TOTAL GAG ORDER ON HIM.

11 AND I SAID NO. THERE WAS AN APPROPRIATE
12 TIME AND PLACE FOR THESE TYPE OF DISCUSSIONS.

13 Q. DID YOU TELL HIM HE COULD NOT HAND OUT
14 HIS DVD'S ANY LONGER?

03:01:57PM 15 A. I TOLD HIM HE SHOULD NOT BE HANDING OUT
16 DVD'S DURING WORK HOURS.

17 Q. DID HE TELL YOU WHETHER HE WAS DOING IT
18 DURING WORK HOURS OR NOT?

03:02:13PM 19 A. I DID NOT ASK THAT. AFTER HOURS, DURING
20 BREAKS, LUNCH, NONWORK TIME PERIODS, THAT'S FINE.
21 JUST NOT DURING WORK HOURS.

22 I DID NOT WANT HIM TO BE DISRUPTING
23 OTHER INDIVIDUALS.

03:02:24PM 24 Q. WHAT TIME DID MARGARET TELL YOU SHE AND
25 DAVID TALKED? WHAT TIME OF DAY?

1 A. NO, I WAS NOT.

2 Q. YOU WEREN'T AWARE OF THAT BACK IN MARCH
3 OF 2009; IS THAT CORRECT?

03:50:27PM 4 A. I WAS NOT AWARE THAT DAVID WAS HANDING
5 OUT AND SELLING DVD'S TO EMPLOYEES.

6 Q. WHEN WAS THE FIRST TIME YOU BECAME AWARE
7 OF THAT FACT?

8 A. DURING DAVID'S DEPOSITION.

9 Q. YOU DID NOT LEARN THAT FACT FROM ANY
03:50:40PM 10 OTHER SOURCE PRIOR TO THAT TIME?

11 A. THAT HE WAS SELLING DVD'S? NO.

12 Q. HOW ABOUT THAT HE WAS LOANING DVD'S?

13 A. I WAS AWARE THAT DAVID HAD GIVEN OUT
14 DVD'S TO PEOPLE BEFORE.

03:50:54PM 15 Q. AND WHEN DID YOU FIRST COME INTO THAT
16 KNOWLEDGE?

17 A. PROBABLY THE EARLY 2000'S. MANY YEARS.

18 Q. DID DAVID EVER ATTEMPT TO GIVE YOU A
19 COPY OF *THE PRIVILEGED PLANET*?

03:51:17PM 20 A. I DON'T RECALL.

21 Q. ARE YOU FAMILIAR WITH *THE PRIVILEGED*
22 *PLANET*?

23 A. NO, SIR.

24 Q. HAVE YOU READ THE BOOK BY GUILLERMO
03:51:24PM 25 GONZALEZ AND JAY RICHARDS, *THE PRIVILEGED PLANET*, ON

1 STATE OF CALIFORNIA)

2 COUNTY OF LOS ANGELES)

3

4

5 I, HEIDI SULLIVAN, A CERTIFIED SHORTHAND REPORTER

6 LICENSED BY THE STATE OF CALIFORNIA, CERTIFY:

7

8 THAT THE FOREGOING DEPOSITION OF GREGORY CHIN

9 WAS TAKEN BEFORE ME PURSUANT TO NOTICE

10 AT THE TIME AND PLACE THEREIN SET FORTH, AT WHICH

11 TIME THE WITNESS WAS PUT UNDER OATH BY ME;

12

13 THAT THE TESTIMONY OF THE WITNESS AND ALL OBJECTIONS

14 MADE AT THE TIME OF THE EXAMINATION WERE RECORDED

15 STENOGRAPHICALLY BY ME AND WERE THEREAFTER

16 TRANSCRIBED;

17

18 THAT THE FOREGOING IS A TRUE RECORD OF THE TESTIMONY

19 AND OF ALL OBJECTIONS AT THE TIME OF THE EXAMINATION.

20

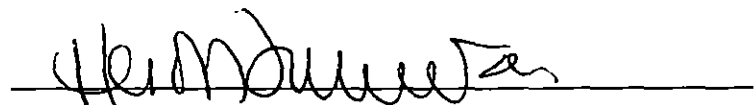
21 IN WITNESS WHEREOF, I HAVE SUBSCRIBED MY NAME THIS

22 1ST DAY OF MARCH, 2011.

23

24

25

A handwritten signature in cursive script, appearing to read "Heidi Sullivan", is written over a horizontal line.

LICENSE NUMBER 6600

12/27/2019

Ex.D

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

DAVID COPPEDGE, an Individual,)	CASE NO. BC 435600
)	
Plaintiff,)	
)	
vs.)	
)	
JET PROPULSION LABORATORY,)	
form unknown; CALIFORNIA)	
INSTITUTE OF TECHNOLOGY, form)	
unknown; GREGORY CHIN, an)	
Individual; CLARK A. BURGESS,)	
an Individual; KEVEIN KLENK,)	
an Individual; and DOES 1)	
through 25, inclusive,)	
)	
Defendants.)	

DEPOSITION OF DAVID COPPEDGE

SEPTEMBER 30, 2010

VOLUME 1

(Pages 1 through 256)

REPORTED BY:

**Deborah R. Meyers
CSR No. 8569**

**HOMAN ASSOCIATES
CERTIFIED SHORTHAND REPORTERS
4287 JACKSON AVENUE
CULVER CITY, CALIFORNIA 90232
(310) 838-7734**

12/27/2011

EX.D

14:12:52 1 me and refusing to hear any response I gave. And he
14:13:01 2 at the end stormed out of the room, saying, "Well,
14:13:05 3 then go ahead and file a complaint."

14:13:10 4 And when I -- subsequent to that, when I
14:13:12 5 tried to reason with him by saying, you know, this
14:13:16 6 was kind of a tense meeting here, here's my
14:13:19 7 recollection of what was said, you know, just trying
14:13:21 8 to be impartial -- "Is this correct, or do you have
14:13:23 9 a different version?" -- he refused to answer.

14:13:26 10 Q BY MR. ZAPP: Okay. Is there any --

14:13:27 11 A And the next thing I know, I'm being
14:13:29 12 investigated as if I had done something wrong.

14:13:30 13 Q Is there -- so number one is you're talking
14:13:35 14 about what occurred during the meeting on March 2;
14:13:37 15 correct?

14:13:37 16 A Yes.

14:13:37 17 Q The second thing you're talking about is
14:13:38 18 the email that you sent him after the meeting, and I
14:13:42 19 believe that email is dated March 3; correct?

14:13:44 20 A Yes.

14:13:44 21 Q Is there anything else that Mr. Chin did
14:13:46 22 that you believed was wrongful -- strike that.

14:13:49 23 Any other wrongful conduct in which he
14:13:51 24 engaged, from your perception?

14:13:54 25 A Greg has been a great boss, and I've worked

12/27/2011

14:13:56 1 with him for eight years. He's a great guy. He's
14:14:01 2 competent. He's knowledgeable. He does a lot of
14:14:04 3 good for us. And I was frankly shocked at this
14:14:06 4 outburst. We had had, you know, some heated
14:14:12 5 discussions a little bit over the years. But he was
14:14:15 6 aware way back, I think years ago, about these DVDs.
14:14:19 7 In fact, I shared one with him. And he disagreed
14:14:24 8 with it, but he didn't, you know, discipline me or
14:14:27 9 anything about it.

14:14:28 10 And then all of a sudden, you know, why did
14:14:31 11 this all erupt on March 2 in the way it did?

14:14:35 12 Q Did you believe that up until -- let's go
14:14:37 13 up until March 1, through March 1, 2009 -- strike
14:14:39 14 that.

14:14:40 15 So up until March 2, 2009, had Mr. Chin
14:14:43 16 always treated you fairly?

14:14:46 17 A He's a fair-minded person, but I always
14:14:49 18 felt a little bit of tension between us. And I
14:14:52 19 ~~think the only thing that explains that tension is my~~
~~think the only thing that makes sense is about my~~
14:14:54 20 beliefs about intelligent design and my religious
14:14:59 21 beliefs.

14:15:00 22 Q Did he ever tell you that there was any
14:15:01 23 tension between you because of that?

14:15:03 24 A ~~No, but you certainly get the impression~~
~~acquaintance, I felt he was less friendly with me than~~
14:15:07 25 ~~when many suggestions you give are kind of given the~~
~~with others and tended to find fault with my ideas~~

1 REPORTER'S CERTIFICATION

2
3 I, Deborah R. Meyers, a Certified
4 Shorthand Reporter, do hereby certify:

5 That prior to being examined, the witness
6 named in the foregoing proceedings was by me duly
7 sworn to testify to the truth, the whole truth, and
8 nothing but the truth;

9 That said proceedings were taken before me
10 at the time and place therein set forth and were
11 taken down by me in shorthand and thereafter reduced
12 to computerized transcription under my direction and
13 supervision;

14 That the dismantling of the transcript
15 will void the reporter's certificate.

16 I further certify that I am neither
17 counsel for, nor related to, any party to said
18 proceedings, nor in any way interested in the
19 outcome thereof.

20
21 IN WITNESS WHEREOF, I have hereunto
22 subscribed my name this 12th day of October, 2010.

23 
24 DEBORAH R. MEYERS, CSR NO. 8569
25

PAGE/LINE	ORIGINAL	CHANGE TO:
23:20	Yeah.	Yes.
29:18	center	synod
51:5	Infotech	Infotec
67:7-8	I think it's the belief that there is a creator rather than things happening on their own.	Creation simply means that the universe was created by a Creator; usually assumed to be God.
67:22-25	I think that there -- that creationism, as you would call it, is a subset. It's one answer to the question of the designing intelligence, whereas intelligent design itself is	No. Intelligent design does not depend on a belief in a creator to arrive at its scientific conclusions.
68:13-15	It means that there is a designing intelligence, a creator, as opposed to things happening without a designing intelligence.	Creation per se just means a Creator created the universe.
68:17-19	Intelligent design does not answer that question, but Biblical creationism would identify the designing intelligence as God.	Yes, creationism usually posits God as the Creator. In most uses of the term these days, creationism refers to the belief that the God of the Bible created the world according to the account in the book of Genesis. Intelligent design is restricted to inferring design, not the designer, using the methods of science. Creationism is concerned with proving that the designer is God.
69:23-24	There are certainly non-Christians and nonreligious people who consider it a valid, scientific question.	I misunderstood the question, which upon re-reading, makes no sense. Creation implies a Creator. I am unaware of anyone teaching that creation occurred without a creator; that would be illogical.
70:5-7	It's not focused on the identity of the intelligence but just the effects of design, whether they are discernible or not.	Upon re-reading, this question makes no sense, either. An intelligent source is a creator by definition. If you are asking whether ID teaches the intelligent source is God, then the answer is no; intelligent design doesn't teach any such thing; because that's outside its domain. That question is left to philosophers and theologians.

70:7 cont.		Intelligent design is a scientific theory, focused not on the identity of the designer but on the evidence for design, whether it is detectable or not using well-tested methods of science and mathematics and logical inference. Those same methods are routinely used in other scientific fields, like archaeology, information theory, and genetics. Even lawyers rely on it! They use the same methods to decide if a body died of natural causes or was murdered. See? Some designers can be evil, but intelligent design theory doesn't get into the nature of the intelligent source, interesting as that question might be, because it's focused on the evidence, not the person. In the same way, investigators gather clues from a crime scene, and the coroner makes a determination between chance, natural law, or murder. It's up to others to figure out the motives and purposes of the murderer—an evil designer in this case. This shows it's possible to use intelligent design theory without getting into questions about God.
71:15 .	Production	Productions
71:21 .	honorary	honoraria
73:23 .	I don't want to speculate.	For 2009, gross revenue reported was \$2302.
82:15 .	the. This	this
92:6 .	Ken	Cab
97:23 .	I	I've
98:18 .	There's	There are
98:24 .	persons. And	persons, and
117:8 .	what I was being accused of.	that I had been accused of anything.
118:8 .	Yeah	Yes
119:10 .	Yeah	Yes
132:21	Yeah.	Yes.
133:9 .	Yeah	Yes
134:18-25 .	I didn't believe it was -- that what I was saying was religious. But apparently they did. And if they did, then they had a right to accommodate and protect that. But they were -- you know, they were saying I was pushing religion. Well, if that's what their argument is, then I should be able to, you known, defend my right to be able to discuss that.	Yes. I did not believe what I was doing in handing out DVDs on intelligent design constituted religious activity, but apparently Greg Chin did. But rather than respecting my free speech and accommodating what he deemed to be religion, he gave me a blanket order to shut up or be fired.
138:23 .	of that	from that

139:3 .	Yeah	Yes
142:19	think the only thing that makes sense is about my	think the only thing that explains that tension is my
142:24-143:1 .	No, but you certainly get the impression when many suggestions you give are kind of given the "yeah, but" response.	No, but ever since I had shared a DVD with him early on in our acquaintance, I felt he was less friendly with me than with others, and tended to find fault with my ideas and suggestions.
144:4 \	But I--and I	But I
150:15 \	how they both, you know, contrary to their -- to the	how, contrary to the
150:16 .	contrary to their -- our	contrary to our
150:22 .	You know, I	I
151:1 \	back to a good -- on	back on
151:20 \	sick to these -- what	stick to what
152:13-14 .	And I would ask, well, who are we -- you know, are we	I asked them: are we
154:1 \	would be, you know, unlikely	would be unlikely
154:6-7 .	Subsequent to that, you know, Cab almost, I think, forgot about it.	Subsequent to that, Cab almost forgot about it.
154:9-10 .	passed over or was a	had blown over
157:9 .	(Nods head up and down.)	Yes. After reading all the deposition transcripts, I feel that the May 4, 2010 meeting with Cab Burgess and Nick Patel and the negative comments in my 2010 performance review also constitute retaliatory acts by Cab Burgess.
161:6 .	suspect would	
162:2 .	yeah	yes
162:10 .	Yeah	Yes
166:11 .	Uh-huh	Yes
168:7-8 .	what to do when, you know, for reasons not related to my own performance, I had been removed.	what to do from a position I had lost for reasons unrelated to my performance.
169:6 .	and a wide variety	and knowledge about a wide variety
169:7 .	so they	so he
173:16 .	is important.	are both important.
176:24 .	was	were
177:19 .	admin	admins
179:8-11 .	They may have said that about me. I don't know. But I don't recall telling people I had... I had difficulty -- not myself prioritizing but	No. I had no difficulty prioritizing my own work. My difficulty was working
180:1 .	I mean, there -- I could	I could
180:4-5 .	to, you know, understand both points of view and try to -- and	to understand the problems of squeaky wheel mode we were in, and provide leadership in prioritization, so that my priorities were not in conflict with theirs.
181:14	Late '90s or early 2000s, yeah.	Either late 1999 or early in 2000.

(Does not match w/ transcript pg.)

184:1	yeah	yes
186:8	Yeah.	Yes.
188:15	Yeah.	[delete line; irrelevant]
188:23	3 and -- I don't think she had direct	I don't believe she had
190:3-4	when I heard that, you know -- I think her name came up in one of the meetings with Greg.	when her name came up in one of the meetings with Greg...
190:11-12	In terms of when I was probing for like who is unhappy,	I would ask him who specifically was complaining, and
191:18	saying, you know, how can we do better? How	asking, how
191:21	up, gave	up to our offices and
(3:5-6 ?	And I believe -- it	And it
194:25	doubt any--expect any problem	expect any problem
196:20	And you know, these	These
197:24	There was not, you know, the	There were no
200:3	I had -- could	I could
200:8	no	"no"
200:13	by all--everybody	by everybody
200:18-19	And it -- and some people read into that that I'm just, you know, saying	Some people read into that that I was saying
200:23	I'm not doing -- I'm	I'm
203:3	customer, do	customer, to do
204:17	For seven--	For several-- [Seven does not make sense here; strike?]
205:16	far after	long after
206:16	Uh-huh	Yes
211:5-6	Can't say until I find out what the acronym is.	This was a New Tribes Mission film about a remarkable true story of a missionary bringing hope and joy to a New Guinea tribe. I shared it one time with a fellow Christian.
211:11-12	just a little tiny thing.	a reduced-size package of the same film.
212:24	Yeah.	Yes.
214:6	Uh-hun.	Yes.
217:22	Sometimes. Not always.	Sometimes, but not often.
219:19	blasting	blatantly promoting
220:21	this, that	this -- that
220:23	an artificial	something artificial
221:4	You know, that was kind of an acronym	"LGM" was actually an acronym
221:5	life and they	life. Later, they
222:11	and saying	and saying,
222:20	the whole process a whole list	the others a short list
223:17	film, he talks	film, talks
224:17	No, I think -- I'm	No, I'm
224:19	theistic Darwinists	theistic evolutionists
229:2	would	could
230:19	Yeah, for like	Yes, for

236:7	in my discuss -- no,	in sharing it that year. No,
236:12-13	accused, yeah, of Christian	accused of pushing
237:5	Yeah,	Yes,
246:22-23	And it's kind of like in	It's in
248:4	Yeah -- well, not	Yes. Not
251:25	program. Now	program -- now
252:1	Planet Quest	Planet Quest --

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

DAVID COPPEDGE, an Individual,)	CASE NO. BC 435600
)	
Plaintiff,)	
)	
vs.)	
)	
JET PROPULSION LABORATORY,)	
form unknown; CALIFORNIA)	
INSTITUTE OF TECHNOLOGY, form)	
unknown; GREGORY CHIN, an)	
Individual; CLARK A. BURGESS,)	
an Individual; KEVEIN KLENK,)	
an Individual; and DOES 1)	
through 25, inclusive,)	
)	
Defendants.)	

DEPOSITION OF DAVID COPPEDGE

OCTOBER 1, 2010

VOLUME 2

(Pages 257 through 462)

REPORTED BY:

**Deborah R. Meyers
CSR No. 8569**

**HOMAN ASSOCIATES
CERTIFIED SHORTHAND REPORTERS
4287 JACKSON AVENUE
CULVER CITY, CALIFORNIA 90232
(310) 838-7734**

12/27/2011

10:51:30 1 Do you see where I am?

10:51:31 2 A Yes.

10:51:31 3 Q Is that what you meant?

10:51:33 4 MR. BECKER: The question is leading.

10:51:37 5 What did you mean?

10:51:40 6 THE WITNESS: Okay. He didn't state that

10:51:43 7 it would be okay to discuss religion or politics if

10:51:47 8 the person brought it up.

10:51:48 9 Q BY MR. ZAPP: In fact, didn't he tell you

10:51:50 10 that it's appropriate to have discussions in other

10:51:53 11 settings such as a bible study group or if someone

10:52:04 12 raises a question?

10:52:05 13 MR. BECKER: Vague, ambiguous, compound.

10:52:05 14 THE WITNESS: What I recalled, he did say

10:52:07 15 what I did at lunch or at home was my business. I

10:52:08 16 don't believe --

10:52:08 17 Q BY MR. ZAPP: My question is different. My

10:52:10 18 question is did Mr. Chin tell you that it was okay

10:52:12 19 or appropriate to have such discussions in certain

10:52:14 20 settings such as a bible study group or -- a JPL

10:52:18 21 bible study group or if someone were to ask you a

10:52:20 22 question about it?

10:52:22 23 MR. BECKER: Vague, ambiguous as to

10:52:23 24 "certain discussions" or however you generalized it.

10:52:27 25 THE WITNESS: I don't recall him saying

1 REPORTER'S CERTIFICATION

2
3 I, Deborah R. Meyers, a Certified
4 Shorthand Reporter, do hereby certify:

5 That prior to being examined, the witness
6 named in the foregoing proceedings was by me duly
7 sworn to testify to the truth, the whole truth, and
8 nothing but the truth;

9 That said proceedings were taken before me
10 at the time and place therein set forth and were
11 taken down by me in shorthand and thereafter reduced
12 to computerized transcription under my direction and
13 supervision;

14 That the dismantling of the transcript
15 will void the reporter's certificate.

16 I further certify that I am neither
17 counsel for, nor related to, any party to said
18 proceedings, nor in any way interested in the
19 outcome thereof.
20

21 IN WITNESS WHEREOF, I have hereunto
22 subscribed my name this 12th day of October, 2010.

23 
24 DEBORAH R. MEYERS, CSR NO. 8569
25

EX E

1
2 SUPERIOR COURT OF THE STATE OF CALIFORNIA
3 FOR THE COUNTY OF LOS ANGELES
4

5 DAVID COPPEDGE, AN INDIVIDUAL,)
6 PLAINTIFF,)
7 VS.) CASE NO.
8 JET PROPULSION LABORATORY, FORM) BC 435600
9 UNKNOWN; CALIFORNIA INSTITUTE)
10 OF TECHNOLOGY, FORM UNKNOWN;)
11 GREGORY CHIN, AN INDIVIDUAL;)
12 CLARK A. BURGESS, AN INDIVIDUAL;)
13 KEVIN KLENK, AN INDIVIDUAL; AND)
14 DOES 1 THROUGH 25, INCLUSIVE,)
15 DEFENDANTS.)
16)
17)
18)
19)
20)
21)
22)
23)
24)
25)

**CERTIFIED
COPY**

17 DEPOSITION OF SCOTT EDGINGTON,
18

19 TAKEN ON TUESDAY, FEBRUARY 22, 2011
20
21
22

23 REPORTED BY:
24 HEIDI SULLIVAN
25 CSR NO. 6600
FILE NO.: 10-117

24 || A. SULLIVAN REPORTERS
25 || COURT REPORTERS ||

2420 W. CARSON STREET, SUITE 210
TORRANCE, CALIFORNIA 90501
PHONE 310 • 787 • 4497
FAX 310 • 787 • 1024

EXE

12/27/2011

1 Q. PRIOR TO THAT DISCUSSION, HOW WOULD YOU
2 HAVE CHARACTERIZED DAVID AND YOUR RELATIONSHIP?

3 A. PRIOR TO THAT DISCUSSION, I WOULD --
4 THOUGHT DAVE WAS A NICE GUY, YOU KNOW, CORDIAL, YOU
5 KNOW, CURIOUS ABOUT THE ONGOINGS OF THE PROJECT.

6 Q. PRIOR TO THAT DISCUSSION, DID YOU AND HE
7 EVER DISCUSS THE TOPIC OF INTELLIGENT DESIGN?

8 A. NO.

9 Q. DID YOU BORROW A DVD FROM HIM IN 2005?

10 MS. FOX: OBJECTION. VAGUE AS TO THE WORD
11 "BORROW."

12 BY MR. BECKER:

13 Q. DID HE LOAN YOU A DVD?

14 A. HE CAME TO MY OFFICE, AND HE GAVE ME A
15 DVD AND THOUGHT I WOULD BE INTERESTED IN WATCHING IT.
16 HE THEN LEFT.

17 Q. DID YOU WATCH IT?

18 A. NO, I DID NOT.

19 Q. DO YOU KNOW WHAT THE DVD WAS?

20 A. I READ THE BACK OF IT, AND I DETERMINED
21 THAT THE MATERIAL WAS SOMETHING I WAS NOT INTERESTED
22 IN.

23 Q. WHAT WAS THE MATERIAL THAT YOU WEREN'T
24 INTERESTED IN?

25 A. THE INTERPRETATION OF CERTAIN DATA.

12/21/2011

1 Q. DO YOU KNOW THE NAME OF THAT DVD?
2 A. NO, I DO NOT ACTUALLY.
3 Q. DOES THE PRIVILEGED PLANET SOUND
4 FAMILIAR?
5 A. YES. THAT DOES SOUND FAMILIAR, YES.
6 Q. DID HE TELL YOU ANYTHING ABOUT THAT
7 MOVIE?
8 A. NO, HE DID NOT.
9 Q. DID HE TELL YOU THAT JPL SCIENTISTS WERE
10 FEATURED IN THE MOVIE?
11 A. NO, HE DID NOT.
12 Q. WERE YOU AWARE THAT JPL SCIENTISTS WERE
13 FEATURED IN THE MOVIE?
14 A. NO.
15 Q. WHEN YOU DETERMINED THAT THE SUBJECT
16 MATTER WAS SOMETHING THAT YOU WERE NOT INTERESTED IN,
17 DID YOU GIVE THE DVD BACK TO HIM?
18 A. I DON'T BELIEVE SO. I DON'T RECALL.
19 Q. WHY NOT?
20 A. IT JUST GOT BURIED ON MY DESK. I FORGOT
21 ABOUT IT, YOU KNOW.
22 Q. GENERALLY SPEAKING, WHEN SOMEBODY GIVES
23 YOU A GIFT, DO YOU ACCEPT IT OR RETURN IT?
24 MS. FOX: OBJECTION.
25 THE WITNESS: I WAS --

1 CONVERSATION YOU HAD WITH DAVID CONCERNING PROP 8?

2 A. HE WAS MAKING A PITCH FOR PROP 8, YES.

3 Q. NOW, I DON'T UNDERSTAND.

4 YOU SAID YOU WERE LEANING TOWARDS VOTING
5 AGAINST PROP 8, BUT YOU HADN'T MADE YOUR MIND UP.

6 WERE YOU OFFENDED BY THE FACT THAT DAVID
7 WAS EVEN ENGAGING YOU IN A DISCUSSION ABOUT PROP 8?

8 A. I WAS NOT OFFENDED BY THAT. I WAS
9 OFFENDED BY HIM PUSHING HIS VIEW OF PROP 8 AND HIS
10 STATEMENT THAT I MUST BE AGAINST KIDS.

11 Q. ON THAT PARTICULAR DAY, WERE YOU KEEPING
12 AN OPEN MIND ABOUT YOUR DECISION ON HOW TO VOTE?

13 MS. FOX: OBJECTION. VAGUE.

14 THE WITNESS: YES, I WAS. I DID NOT KNOW HOW
15 I WAS GOING TO VOTE UNTIL THE DAY OF.

16 BY MR. BECKER:

17 Q. SO WHAT YOU CALL PROPAGANDA, WEREN'T YOU
18 INTERESTED IN HEARING FROM DAVID WHAT VIEWS HE HAD
19 REGARDING PROPOSITION 8 SO THAT IT MIGHT ASSIST YOUR
20 DECISION?

21 A. I HAD HEARD ENOUGH OF THE PROPAGANDA
22 THROUGH VARIOUS OUTLETS AND HAD ALREADY DECIDED THAT
23 THAT IS NOT THE -- WHAT THE PROPAGANDA WAS ESPOUSING
24 WAS NOT THE ISSUE AT HAND, THAT IT DID NOT HAVE
25 ANYTHING TO DO WITH THE PROPOSITION.

1 BY MR. BECKER:

2 Q. DURING THE CONVERSATION, DOCTOR, DID YOU
3 TELL DAVID THAT YOUR FATHER WAS ABUSIVE TO YOU?

4 A. I DID NOT.

5 Q. DID YOU TELL HIM THAT YOU HAD AN UNHAPPY
6 CHILDHOOD?

7 A. I DID NOT.

8 Q. DID YOU TELL HIM THAT YOUR FATHER WAS AN
9 ALCOHOLIC?

10 A. I DID NOT.

11 Q. IN THE EXHIBIT IN FRONT OF YOU, IT STATES
12 SOMEWHERE TOWARDS THE BOTTOM OF THE -- WELL, I'M GOING
13 TO SAY PROBABLY ABOUT 15 LINES UP FROM THE BOTTOM -- I
14 LOST IT. OH.

15 IT SAYS, "PER SCOTT, DAVID AT ONE POINT
16 STATED 'HE MUST BE AGAINST HAVING CHILDREN.'"

17 DO YOU SEE THAT?

18 A. YES, I SEE IT.

19 Q. I'M CONCERNED WITH THE EXACTITUDE OF THE
20 LANGUAGE HERE AND YOUR TESTIMONY.

21 DID YOU TELL JHERTAUNE THOSE SPECIFIC
22 WORDS, "AGAINST HAVING CHILDREN"?

23 A. NO, I DID NOT.

24 Q. DID YOU TELL HER THAT DAVID SAID, "YOU
25 MUST NOT LIKE KIDS"?

1 A. I THINK I WOULD HAVE USED -- I THINK WHAT
2 I HEARD WAS "YOU MUST BE AGAINST CHILDREN," NOT THE
3 "HAVING."

4 Q. OH, OKAY. "YOU MUST BE AGAINST
5 CHILDREN"?

6 A. YES.

7 Q. DID YOU HAVE TO TELL DAVID TO LEAVE MORE
8 THAN THOSE TWO TIMES?

9 A. NO.

10 Q. ABOUT HOW LONG DID THE CONVERSATION
11 TAKE -- THE CONVERSATION STRICTLY ON PROP 8?

12 A. THE WHOLE THING PROBABLY LASTED, I'D SAY,
13 LIKE FIVE MINUTES. I MEAN, IT WASN'T THAT LONG. YOU
14 KNOW, TEN AT MOST. FIVE TO TEN MINUTES, I'D SAY.

15 Q. AND THEN DO YOU RECALL HOW SOON AFTER
16 THAT CARMEN APPROACHED YOU?

17 A. AFTER DAVE HAD LEFT AND WAS DEFINITELY
18 FLUSTERED THAT I WASN'T AGREEING WITH HIM, I SAT THERE
19 FOR A BRIEF PERIOD. I DON'T KNOW HOW MUCH TIME WENT
20 BY.

21 BUT I WAS WONDERING SHOULD I REPORT IT?
22 TO WHOM?

23 CARMEN CAME FAIRLY SOON AFTER, MAYBE
24 30 SECONDS TO A MINUTE MAYBE, AND ASKED IF I WAS OKAY.

25 Q. DID CARMEN MENTION TO YOU IN THAT

1 STATE OF CALIFORNIA)

2 COUNTY OF LOS ANGELES)

3

4

5 I, HEIDI SULLIVAN, A CERTIFIED SHORTHAND REPORTER

6 LICENSED BY THE STATE OF CALIFORNIA, CERTIFY:

7

8 THAT THE FOREGOING DEPOSITION OF Scott Edgington
9 WAS TAKEN BEFORE ME PURSUANT TO Notice
10 AT THE TIME AND PLACE THEREIN SET FORTH, AT WHICH TIME
11 THE WITNESS WAS PUT UNDER OATH BY ME;

12

13 THAT THE TESTIMONY OF THE WITNESS AND ALL OBJECTIONS
14 MADE AT THE TIME OF THE EXAMINATION WERE RECORDED
15 STENOGRAPHICALLY BY ME AND WERE THEREAFTER
16 TRANSCRIBED;

17

18 THAT THE FOREGOING IS A TRUE RECORD OF THE TESTIMONY
19 AND OF ALL OBJECTIONS AT THE TIME OF THE EXAMINATION.

20

21 IN WITNESS WHEREOF, I HAVE SUBSCRIBED MY NAME THIS

22 10th DAY OF MARCH, 2011.

23

24

Heidi Sullivan

25

LICENSE NUMBER 6600

EX.F

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DAVID COPPEDGE, AN INDIVIDUAL,)
PLAINTIFF,)

VS.

) CASE NO.
) BC 435600

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.)

**CERTIFIED
COPY**

DEPOSITION OF CARMEN VETTER,

TAKEN ON TUESDAY, FEBRUARY 22, 2011

REPORTED BY:
HEIDI SULLIVAN
CSR NO. 6600
FILE NO.: 10-117

24 || A. SULLIVAN REPORTERS
25 || COURT REPORTERS

2420 W. CARSON STREET, SUITE 210
TORRANCE, CALIFORNIA 90501
PHONE 310 • 787 • 4497
FAX 310 • 787 • 1024

EXF

1 A. I PICKED --

2 Q. -- THAT'S THE ONE; RIGHT?

3 A. TO THE BEST OF MY KNOWLEDGE, YES.

4 Q. NOW, DAVID GAVE YOU A DVD ABOUT WHEN?

5 THREE YEARS AGO? FOUR YEARS AGO? TWO YEARS AGO?

6 A. I THINK IT WAS '05 POSSIBLY.

7 (WHEREUPON A PHONE RINGS.)

8 MS. FOX: CAN WE GO OFF THE RECORD FOR ONE

9 SECOND?

10 MR. BECKER: YES.

11 (DISCUSSION HELD OFF THE RECORD.)

12 BY MR. BECKER:

13 Q. IN 2005?

14 A. I BELIEVE SO.

15 Q. ALL RIGHT. WAS THAT THE PRIVILEGED

16 PLANET?

17 A. I DON'T RECALL. THERE WERE TWO DVD'S.

18 I DON'T RECALL WHICH WAS WHICH.

19 Q. DID HE GIVE THEM BOTH TO YOU AT THE SAME

20 TIME?

21 A. NO.

22 Q. DO YOU RECALL WHICH ONE HE GAVE YOU

23 FIRST?

24 A. I DO NOT RECALL.

25 Q. BUT YOU DO RECALL THAT ONE OF THEM WAS

1 THE PRIVILEGED PLANET; RIGHT?

2 A. I DO RECALL THAT.

3 Q. DID HE LOAN IT TO YOU?

4 A. NO.

5 Q. DID YOU VIEW EITHER OF THE DVD'S ON
6 LOAN?

7 MS. FOX: OBJECTION. MISSTATES THE
8 TESTIMONY.

9 BY MR. BECKER:

10 Q. IN OTHER WORDS, DID HE ORIGINALLY LOAN
11 THEM AND THEN MAYBE SELL THEM TO YOU?

12 A. I DON'T RECALL.

13 MS. FOX: AND IT CALLS FOR SPECULATION.

14 BY MR. BECKER:

15 Q. YOU DON'T RECALL?

16 A. (NO AUDIBLE RESPONSE.)

17 Q. DO YOU RECALL PURCHASING THEM?

18 A. I RECALL PURCHASING ONE OF THEM.

19 Q. AND THAT WAS PRIVILEGED PLANET?

20 A. I BELIEVE THAT WAS IT.

21 Q. DID YOU VIEW -- WELL, WHY DID YOU
22 PURCHASE IT?

23 A. CURIOSITY.

24 Q. DO YOU RECALL WHAT HE TOLD YOU ABOUT IT?

25 A. I DON'T RECALL.

1 Q. DID YOU KNOW ANYTHING ABOUT THE CONCEPT
2 OF INTELLIGENT DESIGN AT THE TIME YOU --

3 A. NO.

4 Q. -- PURCHASED IT?

5 A. NO.

6 MS. FOX: I'LL REMIND THE WITNESS TO LET THE
7 QUESTION BE FINISHED BEFORE SHE BEGINS HER ANSWER.

8 THE WITNESS: I APOLOGIZE.

9 BY MR. BECKER:

10 Q. I'M PACING QUICKLY SO WE CAN GET DONE IN
11 TIME FOR THE OTHER DEPOSITION.

12 MS. FOX: I'M TRYING TO HELP OUR REPORTER.

13 MR. BECKER: I UNDERSTAND.

14 Q. THE PRIVILEGED PLANET DVD, DID YOU WATCH
15 IT?

16 A. YES.

17 Q. DID YOU HAVE AN IMPRESSION OF IT AFTER
18 WATCHING IT?

19 A. I DON'T RECALL.

20 Q. DO YOU RECALL WHAT IT WAS ABOUT?

21 A. I DON'T RECALL.

22 Q. DO YOU RECALL LIKING IT OR NOT LIKING
23 IT?

24 A. I DON'T RECALL.

25 Q. DO YOU RECALL BEING OFFENDED BY IT?

1 A. I DO NOT -- NO, I WAS NOT OFFENDED.

2 Q. DO YOU RECALL ANYTHING IN IT THAT
3 DISCUSSED RELIGION?

4 A. I DON'T RECALL.

5 Q. HOW ABOUT THE OTHER ONE, WHICH YOU SAID
6 MIGHT HAVE BEEN UNLOCKING THE MYSTERY OF LIFE -- DO
7 YOU RECALL WATCHING THAT MOVIE?

8 A. YES.

9 Q. DO YOU RECALL WHAT THAT WAS ABOUT?

10 A. I DON'T -- I CAN'T REMEMBER WHICH ONE
11 WAS WHICH. ONE TALKED ABOUT DESIGN. I DON'T RECALL
12 WHICH WAS WHICH.

13 Q. WELL, LET ME HELP YOU OUT. PRIVILEGED
14 PLANET WAS A COSMOLOGICAL OVERVIEW OF THE CREATION OF
15 THE UNIVERSE AND THE FINE-TUNING ASPECTS OF THE
16 UNIVERSE THAT RESULT IN LIFE ON THIS ONE SINGLE
17 PLANET IN THE VAST UNIVERSE --

18 A. OKAY.

19 Q. -- THE PRIVILEGED PLANET.
20 DO YOU REMEMBER THAT?

21 A. I DO NOW.

22 MS. FOX: I'M GOING TO OBJECT TO THE
23 CHARACTERIZATION OF THE DVD'S.

24 TO THE EXTENT THE WITNESS REMEMBERS
25 THEIR CONTENT, SHE CAN TESTIFY TO IT, BUT SHE MAY NOT

1 NOT BE A LONG CONVERSATION.

2 BY MR. BECKER:

3 Q. RIGHT.

4 AND THE QUESTION IS: DID IT DISRUPT
5 YOUR WORK ACTIVITY SUBSTANTIALY?

6 MS. FOX: SAME OBJECTIONS.

7 THE WITNESS: WELL, I DIDN'T ALLOW IT TO.

8 BY MR. BECKER:

9 Q. RIGHT. SO IT DIDN'T; RIGHT?

10 A. I LEFT.

11 MS. FOX: OBJECTION. MISSTATES TESTIMONY.

12 BY MR. BECKER:

13 Q. IF YOU DIDN'T ALLOW IT TO, IT DIDN'T;
14 RIGHT?

15 MS. FOX: ARGUMENTATIVE.

16 THE WITNESS: I DON'T KNOW HOW TO ANSWER THAT
17 QUESTION BASED ON WHAT I JUST ANSWERED.

18 BY MR. BECKER:

19 Q. I'LL REFER YOU TO WHAT WAS PREVIOUSLY
20 MARKED AS EXHIBIT 26.

21 MS. FOX: HAS THIS NOW BEEN MARKED?

22 MR. BECKER: DID I MARK IT EARLIER? LET'S
23 MARK IT AS EXHIBIT 26.

24 (THE ABOVE-MENTIONED DOCUMENT WAS MARKED
25 FOR IDENTIFICATION BY THE CERTIFIED SHORTHAND

1 REPORTER AND ATTACHED HERETO.)

2 BY MR. BECKER:

3 Q. THIS PURPORTS TO BE HANDWRITTEN NOTES OF
4 JHERTAUNE HUNTLEY WRITTEN ON MARCH 20TH, 2009, BATES
5 STAMPED NO. DEFENDANTS 92.

6 TAKE A MOMENT TO READ IT.

7 OFF THE RECORD.

8 (DISCUSSION HELD OFF THE RECORD.)

9 BY MR. BECKER:

10 Q. WHEN YOU'RE DONE WITH IT, I'LL ASK YOU
11 TO GIVE IT TO THE COURT REPORTER.

12 YOU'RE NOT DONE WITH IT?

13 MS. FOX: HE'S GOING TO ASK YOU SOME
14 QUESTIONS ABOUT IT.

15 THE WITNESS: OH, I GOT YOU.

16 BY MR. BECKER:

17 Q. DO YOU RECALL MEETING WITH JHERTAUNE
18 HUNTLEY ON MARCH 20TH, 2009?

19 A. YES.

20 Q. DO YOU RECALL THE CIRCUMSTANCES WITHIN
21 WHICH SHE WAS MEETING WITH YOU?

22 MS. FOX: OBJECTION. VAGUE AS TO
23 "CIRCUMSTANCES WITHIN WHICH" AND CALLS FOR
24 SPECULATION.

25 THE WITNESS: COULD YOU BE MORE SPECIFIC.

1 A. WITH HIS BELIEF SYSTEM.

2 Q. OKAY. AND WHAT IS HIS BELIEF SYSTEM?

3 MS. FOX: OBJECTION. CALLS FOR SPECULATION.
4 LACKS FOUNDATION.

5 THE WITNESS: I -- I DIDN'T GET TO KNOW IT
6 WELL ENOUGH TO KNOW WHAT HIS BELIEF SYSTEM IS. I
7 DON'T KNOW.

8 BY MR. BECKER:

9 Q. WEREN'T YOU CURIOUS?

10 MS. FOX: OBJECTION. ARGUMENTATIVE.

11 THE WITNESS: NO.

12 BY MR. BECKER:

13 Q. NO?

14 A. NO.

15 Q. WHY NOT?

16 A. NOT AFTER A FEW CONVERSATIONS.

17 Q. IT STATES, "ONCE HE DISCOVERED SHE WAS A
18 CHRISTIAN, SHE WAS HARASSED BY HIM."

19 DID YOU USE THE WORD "HARASSED" IN YOUR
20 CONVERSATION WITH JHERTAUNE HUNTLEY?

21 A. YES.

22 Q. WHAT DID YOU MEAN BY IT?

23 A. I MEAN THE HOLIDAY POTLUCK FLIER. I
24 MEAN HIM WANTING TO TALK TO ME ABOUT IT WHENEVER WE
25 RAN INTO EACH OTHER. THAT IS WHAT I MEANT.

1 Q. SO YOU FELT HE WAS HARASSING YOU; IS
2 THAT RIGHT?

3 A. THAT IS CORRECT.

4 Q. DID YOU BELIEVE THAT HE WAS HARASSING
5 YOU UNDER THE DEFINITION OF "HARASSMENT" PROVIDED BY
6 JPL'S UNLAWFUL HARASSMENT POLICY?

7 MS. FOX: OBJECTION. CALLS FOR SPECULATION.
8 LACKS FOUNDATION. AND VAGUE.

9 THE WITNESS CAN ANSWER IN HER OWN WORDS.

10 THE WITNESS: I BELIEVED THAT BY REMOVING
11 MYSELF FROM HIS PRESENCE, I DIDN'T HAVE TO THINK
12 ABOUT IT. I HAD NO BUSINESS DEALINGS WITH HIM.
13 BY MR. BECKER:

14 Q. BUT YOU ACCUSED HIM OF HARASSMENT TO A
15 HUMAN RESOURCES INVESTIGATOR.

16 A. YES.

17 MS. FOX: OBJECTION. MISCHARACTERIZES THE
18 RECORD.

19 MR. BECKER: SHE JUST SAID YES.

20 Q. AND SO --

21 CAN YOU BACK UP.

22 SO MY QUESTION WAS: DID YOU BELIEVE HE
23 WAS HARASSING YOU UNDER THE DEFINITION OF
24 "HARASSMENT" PROVIDED BY JPL'S POLICY?

25 MS. FOX: SAME OBJECTIONS.

1 OR PHYSICAL CONDUCT, BECAUSE OF ITS SEVERITY AND/OR
2 PERSISTENCE, WAS LIKELY TO INTERFERE SIGNIFICANTLY
3 WITH YOUR WORK?

4 MS. FOX: I'LL OBJECT TO THE QUESTION AS
5 COMPOUND, VAGUE, IMPROPER OPINION, LACKS FOUNDATION.

6 THE WITNESS IS NOT A HUMAN RESOURCES
7 PROFESSIONAL, NOR IS SHE A LEGAL EXPERT. THE WITNESS
8 CAN ANSWER IN HER OWN WORDS REGARDING HER EXPERIENCE
9 AND HOW SHE FELT.

10 MR. BECKER: I WANT AN ANSWER TO THAT
11 QUESTION UNLESS YOU'RE INSTRUCTING HER NOT TO ANSWER.

12 MS. FOX: MY OBJECTION STANDS.

13 THE WITNESS CAN ANSWER IN HER OWN WORDS.

14 THE WITNESS: I STATED EARLIER THAT DURING
15 THIS TIME WHEN WE WERE TALKING IN THE FIRST PARAGRAPH
16 ABOUT THE POTLUCK, HE WAS HARASSING ME. AND I DID
17 THE APPROPRIATE THING BY CONTACTED GREG CHIN, AND IT
18 STOPPED.

19 AND THAT IS WHAT THAT FIRST PARAGRAPH
20 WITH JHERTAUNE IS REGARDING.

21 BY MR. BECKER:

22 Q. DID IT INTERFERE WITH YOUR WORK, IS THE
23 QUESTION?

24 MS. FOX: ASKED AND ANSWERED.

25 COUNSEL, WE'RE GOING BACK OVER THE SAME

1 A. IT'S ACCURATE THAT FOUR TO FIVE YEARS
2 AGO HE DEMANDED I DO THAT.

3 Q. DID HE DEMAND THE WORD "CHRIST" OR
4 "CHRISTMAS"?

5 MS. FOX: TO THE BEST OF YOUR RECOLLECTION.

6 THE WITNESS: TO THE BEST OF MY RECOLLECTION,
7 IT WAS "CHRISTMAS PARTY."

8 BY MR. BECKER:

9 Q. A CHRISTMAS PARTY; CORRECT?

10 A. CORRECT.

11 Q. HE DIDN'T SAY TO USE THE WORD "CHRIST,"
12 DID HE?

13 MS. FOX: IF YOU RECALL.

14 THE WITNESS: I DON'T RECALL.

15 BY MR. BECKER:

16 Q. BUT DID YOU TELL JHERTAUNE HUNTLEY THAT
17 HE DEMANDED THAT YOU PUT THE WORD "CHRIST" AS OPPOSED
18 TO THE WORD "CHRISTMAS" IN THE HOLIDAY PARTY FLIER?

19 MS. FOX: IF YOU RECALL.

20 THE WITNESS: I DON'T RECALL EVERYTHING WE
21 SAID OR HOW SHE MAY HAVE SHORTHANDED IT. I DON'T
22 RECALL.

23 BY MR. BECKER:

24 Q. BUT YOU WOULDN'T HAVE SAID THAT HE
25 DEMANDED THAT YOU PUT THE WORD "CHRIST" ON THE

**VETTER DEPOSITION
EXHIBIT 26**

3.20.09 - Participants in Mtg w/ M. Cardenas & J. Huntley w/ Carmen Vetter
Mtg w/ Carmen Vetter re: David Coppedge complaint.

Carmen stated that she believes that David has an agenda.
^{Once he discovered she was a Christian and was nervous}
about Christianity. A couple of years ago (4/05 yrs) he
demanded that she put the word "Christ"

on the Holiday Potluck Invitation flyer. She spoke to
Greg Chin about the incident to make it stop

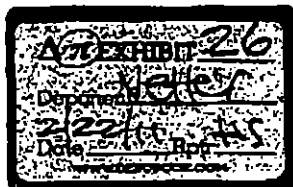
Carmen believes that David is inappropriate and has
a passion about getting his point across as it relates to
religion. David can't see the line he is crossing when
he brings religion in the workplace.

Carmen stated that people have complained to her
about David in the past but she directed them to Greg
Chin for handling.

A couple of years ago, David approached her about
the "Intelligent Design" DVD. She watched it as a
curiosity and told him it was interesting but
nothing more. David did not pursue engaging
her in a further discussion about the DVD. He has
left her alone recently. Greg assisted w/ the DVD.

Carmen stated that she had noticed David <sup>*Carmen has referred other
employees to Greg when David has bothered,
approached them about
his religious views.</sup>

frequently talking to Scott Edington during work hours.
Thought it was odd because Scott is a Scientist
and David is a system Admin. They really don't have
a working relationship. Carmen asked Scott what was
going on & Scott replied David had been talking to
him about Proposition 8 and wouldn't leave him
alone. Scott was noticeably upset.



0000000082

1 STATE OF CALIFORNIA)
2 COUNTY OF LOS ANGELES)
3
4

5 I, HEIDI SULLIVAN, A CERTIFIED SHORTHAND REPORTER
6 LICENSED BY THE STATE OF CALIFORNIA, CERTIFY:

7
8 THAT THE FOREGOING DEPOSITION OF CARMEN VETTER
9 WAS TAKEN BEFORE ME PURSUANT TO Notice
10 AT THE TIME AND PLACE THEREIN SET FORTH, AT WHICH TIME
11 THE WITNESS WAS PUT UNDER OATH BY ME;

12
13 THAT THE TESTIMONY OF THE WITNESS AND ALL OBJECTIONS
14 MADE AT THE TIME OF THE EXAMINATION WERE RECORDED
15 STENOGRAPHICALLY BY ME AND WERE THEREAFTER
16 TRANSCRIBED;

17
18 THAT THE FOREGOING IS A TRUE RECORD OF THE TESTIMONY
19 AND OF ALL OBJECTIONS AT THE TIME OF THE EXAMINATION.

20
21 IN WITNESS WHEREOF, I HAVE SUBSCRIBED MY NAME THIS

22 10th DAY OF MARCH, 2011

23

24

Heidi Sullivan

25

LICENSE NUMBER 6600

12/27/2011

EX.G

EXHIBIT G

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DAVID COPPEDGE, AN INDIVIDUAL,)
)
 PLAINTIFF,)
)
 VS.) CASE NO.
) BC 435600
 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.)

**CERTIFIED
COPY**

DEPOSITION OF KEVIN STANLEY KLENK,
VOLUME II, PAGES 270 - 481
TAKEN ON WEDNESDAY, APRIL 6, 2011

24 || A. SULLIVAN REPORTERS
25 || COURT REPORTERS

REPORTED BY:
HEIDI SULLIVAN
CSR NO. 6600
FILE NO.: 11-129

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PHONE 310 • 787 • 4497
FAX 310 • 787 • 1024

EX.G

12/27/2011

1 BEING SAID DURING THAT CONVERSATION?

2 A. I DON'T RECALL THE SPECIFICS.

3 Q. IS THERE A REASON WHY THE MEETING WAS
4 NOT DELAYED?

11:31:10AM

5 A. WHAT I RECALL IS THAT I SAW THIS, AND I
6 DIDN'T SEE ANY REASON NOT TO HAVE THE MEETING TO TELL
7 DAVID WHERE WE WERE AT IN THE PROCESS.

8 Q. WAS THERE A REASON WHY YOU DID NOT
9 PROVIDE DAVID PRIOR TO THE MEETING A WRITTEN COPY OF
10 THE FINDINGS BY HR, INCLUDING ACCUSATIONS MADE
11 AGAINST HIM AND THE EVIDENCE SUPPORTING IT?

11:32:12AM

12 A. WE PRESENTED HIM AT THE MEETING A COPY
13 OF THE FINDINGS AS PART OF THE WRITTEN WARNING.

14 Q. DID YOU NOT FEEL THAT HE SHOULD HAVE
15 THAT INFORMATION PRIOR TO THE MEETING IN ORDER TO
16 BETTER DEFEND HIMSELF DURING THAT MEETING?

11:32:37AM

17 MS. FOX: OBJECTION. VAGUE.

18 THE WITNESS: THE MEETING WAS TO PRESENT THE
19 RESULTS TO DAVID. IT WASN'T TO HAVE A DEBATE WITH
20 DAVID.

11:32:59AM

21 BY MR. BECKER:

22 Q. DID YOU SEE DAVID'S 8:03 A.M. E-MAIL
23 PRIOR TO THE MEETING?

24 A. I DON'T RECALL SEEING IT.

11:33:35AM

25 MR. BECKER: EXHIBIT 44 WILL BE THE 22-PAGE

12/27/2011

1 TRANSCRIPT OF THE AUDIO RECORDING MADE BY DAVID ON
2 APRIL 13.

3 (THE ABOVE-MENTIONED DOCUMENT WAS MARKED
4 FOR IDENTIFICATION BY THE CERTIFIED SHORTHAND
5 REPORTER AND ATTACHED HERETO.)

6 BY MR. BECKER:

7 Q. AND, MR. KLENK, WE DID PRESENT YOUR
8 ATTORNEYS WITH A COPY OF THIS DOCUMENT AT ONE OF
9 DAVID'S DEPOSITION SESSIONS.

10 HAVE YOU SEEN IT AT ANY TIME -- THIS
11 SPECIFIC COPY PREPARED BY HIM AT ANY TIME PRIOR TO
12 TODAY?

13 A. I WAS AT DAVID'S DEPOSITION AND SAW YOU
14 HOLDING A COPY OF THE DOCUMENT.

15 Q. HAVE YOU LOOKED THROUGH A COPY OF
16 DOCUMENT AT ANY TIME SINCE THAT TIME?

17 A. NO.

18 Q. HAVE YOU SEEN ANY OTHER TRANSCRIPTIONS
19 OF THE AUDIO RECORDING?

20 A. NO.

21 Q. DID DAVID ASK TO RECORD THE MEETING?

22 A. YES.

23 Q. WAS HE GRANTED YOUR CONSENT?

24 A. YES.

25 Q. WAS HE GRANTED CAB BURGESS'S CONSENT?

11:33:58AM

11:34:19AM

11:34:36AM

11:34:50AM

11:35:18AM

12/27/2011

1 A. WHAT IS THE QUESTION?

2 Q. BELOW THE "FYI" AND THE LINE THERE, IS
3 THAT AN E-MAIL YOU SENT TO HR?

4 A. YES, I BELIEVE SO.

05:15:55PM

5 Q. AND WHAT WAS THE PURPOSE OF THAT E-MAIL?

6 A. JUST TO SUMMARIZE TO HR WHAT THE WRITTEN
7 WARNING MEETING WENT LIKE.

8 Q. IS THERE ANYTHING IN THERE THAT STATES
9 THAT YOU INFORMED MR. COPPEDGE THAT HE WAS FREE TO
10 DISCUSS HIS PERSONAL VIEWS, INCLUDING, BUT NOT
11 LIMITED TO, RELIGION, POLITICS, AND INTELLIGENT
12 DESIGN, SUBJECT TO CERTAIN CONDITIONS?

05:16:10PM

13 A. NO, I DON'T SEE ANYTHING IN THERE
14 EXPLICITLY.

05:17:43PM

15 (DISCUSSION HELD OFF THE RECORD.)

16 MS. FOX: COUNSEL, MAY I SUGGEST IF IT'S IN
17 THE TRANSCRIPT, WE CAN SHORT-CIRCUIT THIS.

18 MR. BECKER: I'M NOT GOING TO ATTACH THIS.

19 ALL RIGHT. LET'S LOOK AT THE TRANSCRIPT
20 REAL QUICK, AND IT WILL MAKE EVERYBODY HAPPY.

05:18:03PM

21 MS. FOX: MR. KLENK WILL BE ABLE TO HELP YOU.

22 (DISCUSSION HELD OFF THE RECORD.)

23 MR. BECKER: OFF THE RECORD WE WERE SEARCHING
24 THE TRANSCRIPT THAT WAS PREVIOUSLY MARKED AS 44.

05:20:19PM

25 Q. MR. KLENK, YOU REFERRED ME TO THE LINE

1 IN THAT TRANSCRIPT THAT SAYS, "WE HAVE NO ISSUE WITH
2 PEOPLE DISCUSSING RELIGION AND POLITICS IN THE OFFICE
3 SO LONG AS IT'S NOT UNWELCOME OR DISRUPTIVE"; IS THAT
4 RIGHT?

05:20:33PM

5 A. CORRECT.

6 Q. IS IT YOUR TESTIMONY THAT THAT WAS YOUR
7 ATTEMPT TO INFORM MR. COPPEDGE THAT HE WAS FREE TO
8 DISCUSS RELIGION AND POLITICS SO LONG AS IT WAS NOT
9 UNWELCOME OR DISRUPTIVE?

05:20:55PM

10 A. THAT WAS AN EXPLICIT STATEMENT TO THAT
11 EFFECT.

12 Q. NOW, LET ME ASK YOU THIS.

13 THE EVIDENCE IN THIS CASE, I'LL
14 REPRESENT TO YOU, SHOWS THAT DAVID WOULD APPROACH AN
15 INDIVIDUAL ONE TIME, OFFER TO DISCUSS A TOPIC, AND IF
16 TOLD THAT IT WAS NOT SOMETHING THAT PERSON WANTED TO
17 DISCUSS, HE WOULD LEAVE. AND YET THAT WAS THAT
18 CHARACTERIZED BY AT LEAST ONE INDIVIDUAL AS BEING
19 UNWELCOME AND DISRUPTIVE.

05:21:27PM

20 WERE YOU AWARE THAT ONE INDIVIDUAL HAD
21 ENCOUNTERED DAVID ON ONLY ONE OCCASION AND THAT THAT
22 PERSON HAD COMPLAINED THAT DAVID'S APPROACHING HER
23 WAS UNWELCOME AND DISRUPTIVE?

05:21:47PM

24 MS. FOX: OBJECTION TO THE PREAMBLE AS
25 MISCHARACTERIZES THE RECORD. THE SECOND PART ALSO

**KLENK DEPOSITION
EXHIBIT 44**

Transcript of recorded conversation concerning David Coppedge and allegations that he violated JPL's Ethics Policy and Policy on Unlawful Harassment by handing out DVDs to coworkers on intelligent design.

Date: April 13, 2009

Location: Office of Kevin Klenk, Bldg 601, JPL Woodbury facility

Present:

- David Coppedge, Cassini System Administrator Team Lead
- Kevin Klenk, Section 173 Manager under Office of Chief Information Officer
- Clark A. (Cab) Burgess, Sec 173 Group Supervisor, responsible for allocating system administration resources to flight projects at JPL.

Other people referred to in the discussion:

- Jhertaune Huntley: HR investigator
- Greg Chin: Cassini Mission Support and Services Office Manager (MSSO), responsible for Cassini-related task assignments for David Coppedge.

[Meeting opens. David asks if it can be recorded; Kevin says yes. David is handed the Written Warning accusing him of violating JPL Ethics and JPL Policy on Unlawful Harassment by handing out DVDs on intelligent design.]

Burgess: Jhertaune wanted to make sure you got copies of those... [inaudible]

Coppedge: Am I supposed to read this? Now, or ...

Burgess: Let's go over it together.

Klenk: [inaudible conversation with someone who stopped in with a question.]

Burgess: So as Jhertaune interviewed a number of people on considered your customers with the flight-- with the Cassini project specifically, and this is kind of the result of what she found, and I think it looks to me like two different areas here she's trying to address at least. [pause, Dave reading]

That first bullet she talks about that you approached coworkers during work hours. And she's found that a lot of people had been overly nice to you when they-- just to move on, and to, when you presented the ideas of whatever it was, politics, [mumbled] and they were just in agreement without being rude or anything else, but she's found a lot of people who were concerned about the discussions you were trying to get into with them.

And then there's this other instance where you met someone in his office and he asked you to leave. That was considered inappropriate. So she's found that as she understands it, you've violated several business rules and ethics here at JPL.

It's not the nature of, it's not the subject matter so much as it is interruption of quote-unquote 'JPL work' that she's trying to focus on. Whether pro or con on any particular issue it really doesn't matter. To her was, whatever the discussions that were going on that you were attempting were not JPL work. And that was a big concern on her part.

Klenk: And the other people were finding it unwelcome and disruptive; that's the major portion of it. They were feeling uncomfortable with the situation.

Coppedge: Nobody has communicated this to me, and did you get a copy of the,



Burgess: They were trying to be nice to you. [Pause, paper shuffling.]

[Coppedge hands Klenk some of the documents he had given Jhertaune, explaining the nature of the material being shared and the way it was being shared.] Did Jhertaune show you this?

Klenk: No, I didn't receive that, [unclear], the summary.

Coppedge: Alright, for the record let me give you what I gave her. [pause, 2-3 words inaudible as papers are being handed over.]

Burgess: So she and Nancy Aguilar, who's our IX rep, Human Relations, both offered to be here, but I thought we could discuss this without HR being in attendance, but if you'd care to discuss it more with them later, you can. These are the two main points that they had concern over.

Klenk: They do this regularly. ER, they go out, we actually heard that you said someone was creating a hostile work environment. So we immediately called ER, that you were being, you felt you were in a hostile work environment, so we had them immediately go over and say please check into it. It was an impartial point of view.

Coppedge: No.

Klenk: The response to us was, well, there was a hostile work environment and we feel that David is the one creating it.

Coppedge: Did you receive the transcript of the meeting that Greg Chin had with me on March 2?

Klenk: Transcript? No.

Burgess: Did you send that to, that was HR? [brief talking over]

Coppedge: I gave Jhertaune a copy; immediately after Greg had a conversation with me. I said this is kind of a sensitive subject, and it might be good for both of us to document what was said.

Klenk: Uh-hm.

Coppedge: So I gave him my recollections of his conversation with me, and I had that here with me; here it is, if you'd like to look at it. [Hands copy of email to Klenk; he reads it.]

Klenk: Partly on this, I see that the last line where Greg decided to report it, that you said he [Greg] was creating a hostile work environment.

Coppedge: I didn't initiate anything...

Klenk: So his, that was the first time that he had been accused of that, so he reported it to us, I believe it was; in which case we said, OK, we'll bring it to ER and investigate the situation. The...

Coppedge: OK, but I did not instigate a thing. Basically, I was trying to work it out with Greg, and I documented it in an email to him and him alone, OK. He took the step of starting an investigation.

Klenk: no we did.

Coppedge: Well, he had to hear...

Klenk: We did.

Coppedge: You had to hear it from him, because I didn't contact...

Klenk: That's correct; he let us know that he was being accused of it, and since we are, actually are your line managers, not Greg, he, Greg shouldn't have been involved in this sort of discussion necessarily, so as your line managers, we immediately called Employee Relations, which is the procedure we're supposed to go through. OK; we go through that, 'please investigate the situation, let us know what the situation is, and provide us with a set of your recommendations for this sort of situation.'

Coppedge: Uh-hm, but...

Klenk: That's what the memo here is a result of. This is the feedback we received from them. After talking with the people in your area, and these things are, if you look into the Ethics Policy, and the Harassment Policy, and things, they are considered anonymous and confidential. We don't want people to have retaliation against them for having reported it. But the people did say they felt it was an uncomfortable work environment.

Burgess: even though they didn't tell you about it.

Klenk: They were, Jhertaune came back and it was, she absolutely said, it was very uncomfortable for the people there.

Coppedge: OK, [Klenk talks over him]

Klenk: So, as your management, we have to follow through. This is a written warning of the situation, so we have it documented and put in your file.

Coppedge: OK, you said at this meeting that I'd be supplied with all the information that I was requesting.

Klenk: And this is the summary we have; that's part of it; you received the thing on the JPL Policy,

Burgess: Actually there's two copies.

Klenk: There were two copies of it, that's the Ethics Policy, and the...

Coppedge: Right, but those are policy documents. I was asking for a procedure for investigating employees.

Klenk: That would be ER. They regularly do this and our procedure is to call them and have them go through their routine investigation.

Coppedge: OK, so there must be a routine investigation documented.

Klenk: That is something that we aren't a part of.

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Burgess: Jhertaune called me this morning and said there is nothing written down as far as procedure for them to follow other than investigating the [circumstances?]

Klenk: But, that's what it is. But in the past they've behaved with professionalism and I don't expect them to do anything less than that.

Coppedge: Well, undoubtedly. But I find it hard to believe that an institution as large as JPL does not have written procedures for investigating employees. And that's what I've been requesting for a month now, and no one will give it to me.

Burgess: Well Jhertaune reminded me that she told you that they don't have anything.

Coppedge: She said that on Thursday. [April 9]

Burgess: She reminded me today that they had nothing written on that as far as what they go through as an organization.

Coppedge: OK, a couple of points here. I've never been accused of this in my entire professional career. Let the record state that.

Klenk: We understand that. We, Cab and I, we're not aware of the situation,

Coppedge: And let the record state as I put in my document that this has been infrequent, on the average once a month I might approach people. These are people who are not total strangers but coworkers and friends that I know and they know me. And the approach is "This is interesting, would you be interested in viewing it?" It's usually at the end of a Friday when people are going home anyway--never when they're actively busy with things. And so those 12 points I documented, I have records to show that's the way it's been. I don't recall anybody telling me that asking them this was unwelcome, and if they did, I backed off, and that was the end of it.

Now the fact that this came all of the sudden on March 2 the first time after working with Greg Chin for some 10 years -- out of the blue this accusation comes. And I tried to work directly with Greg, [after?] our conversation, "What are you talking about?" "What have I done?" and he says, "You're handing out DVDs to coworkers and some people have complained that you're harassing them." Harassing is a strong word, as you know.

Klenk: Uh-hm.

Coppedge, So I said, OK, here's what you're saying. Is this your recollection? This is a sensitive conversation here. and he refused to respond to my e-mail. Instead, from what I knew, he kicked off an investigation of me.

Now I supplied Jhertaune with ample documentation and records of what I actually had done, as you can see and I also requested, and never received whether JPL agrees with the Federal Guidelines on Religious Expression in the workplace. Are you familiar with that document?

Klenk: No. I...

Coppedge: OK, let me show it to you, just so you know. This is posted on the [NASA] Glenn website and I would like an answer from somebody whether these

federal guidelines which basically interpret existing law about what is permissible in terms of religious expression in the workplace, whether these guidelines are enforced here at JPL. So I'm still waiting.

Burgess: Jhertaune takes the attitude that no matter what the discussions were -- religious, political, whatever -- that is impertinent to what is going on. What's pertinent is the interruption of the JPL workforce.

Klenk: And do people, are they feeling any intimidation or harassment or hostile intent or anything along those lines. And at the minimum people felt it was unwelcome. If you look into our Diversity Training that we have, it all, they go over to a painful extent that it's really about, if it's not specifically work-related, if people think it's unwelcome, then it's not permitted.

Coppedge: I understand that.

Klenk: That, that's basically the bottom line.

Coppedge: Right, [trying to get back to the Federal Guidelines document]

Klenk: And so in this situation, the people on the 3rd floor felt it was unwelcome. That's the real bottom line there. It's not the topic that's the problem.

Coppedge: OK, let me just read some samples of this. "Employees are permitted to engage in religious expression directed at fellow employees and may even attempt to persuade fellow employees of the correctness of their religious views to the same extent as those employees may engage in comparable speech not involving religion. Some religions encourage adherents to spread the faith at every opportunity, a duty that can encompass the adherent's workplace. As a general matter, proselytizing is as entitled to constitutional protection as any other form of speech as long as a reasonable observer would not interpret the expression as government endorsement of religion." OK, they give an example. "During a coffee break one employee engages another in a polite discussion of why his faith should be embraced. The other employee disagrees with the first employee's religious exhortations but does not ask the conversation to stop. Under these circumstances, agencies should not restrict or interfere with such speech." Now I don't recall anybody asking me to stop. Somebody may claim that, but that's hearsay.

Klenk: Now in your case, what the feedback we received was that multiple people indicated that the behavior was unwelcome. That was what Jhertaune got from her investigation. You know there was, this we documented one, I think there might have been two people who said you were asked to leave their offices over this. This is over an extended period of time, but they said, it was unwelcome, and,

Coppedge: I cannot recall any, look--let me tell you the one, the only one we can think of. We got into a discussion about a particular proposition that was on the ballot. And it was, he disagreed with me, and I was trying to defend my view; he was defending his. It went on for some time. I don't recall him asking me to leave. It was clear he was uncomfortable with my view, and I think we got a little defensive. But I came back to him the next day and said, so-and-so, I think I was a little bit, perhaps aggressive and not showing the kind of friendliness I should have toward you, will you forgive me? And he reached up and shook my hand and thanked me. OK? That is my pattern. If somebody

appears to be hostile to me, I don't want to have that kind of relationship with anybody.

Burgess: But it sounds like what Jhertaune talked to this individual he gave further slant on this, that he was uncomfortable with the whole situation, even though he made appeasement.

Coppedge: Did he initiated a complaint against me.

Klenk: No, this is all based on a very short note that Greg sent saying that there was allegations of a hostile work environment and Greg said, someone said this to me, I think it should be investigated. I don't know if he said investigated, but he said, basically here's the situation, you should follow up with this. And so, based on that, that was just a very short note. We tried to be completely above board in the section.

Coppedge: I try to be, too.

Klenk: We get the note, and say OK, we call up our ER representative, they go out, they do their investigation, and they report back. It took about 2 weeks, 2-3 weeks, something like that?

Burgess: It drug on for a while.

Klenk: It drug on for awhile, and they came back and she said, here is my findings. And I believe she met with Cab and she met with me. And it's laid out, and it was completely focused on basically the coworker's feeling was 'unwelcome and disruptive in the workplace'. One right after another, that was where the findings were focused.

Coppedge: OK, I have documents to show that this, number one, was very occasional, on the average once a month I would approach somebody. I also have documentation that the vast majority were pleasant and cordial and even once* thanked me and said, "That was great. How can I get that?" That has been the typical response. OK.

*[comment: the point being that most responses were positive.]

How do you feel also about the fact that Greg brought me in on March 2 and accused me to my face of pushing religion in the workplace? And as you can see from my transcript of that conversation, when I tried to say, "What do you mean by that?", he was argumentative -- even angry.

Klenk: Well, what we have done is we have talked to Greg and the idea is that he should be working with us for those same kind of things. He should have been working with us, and that would have should have been the more appropriate way that been you handled.

Coppedge: I mean, he was nearly shouting at me. And I said, "You know, Greg, this gets into issues of freedom of speech," and he blew me off. And I said, "Greg, this could be construed as creating a hostile work environment." He stood up and said, "Go ahead and file a complaint!" and stormed out the door. That is what happened. I ask you: whose rights are being violated here? I mean, who is creating [a hostile work environment]; who is harassing?

Klenk: We are trying our best to remain impartial. We got a very thorough feedback from Jhertaune about the situation, and we've written up, the milder document than we could have written up over the whole thing. We don't do it

often. But we felt it's important write it down, document, here is what the findings were.

Coppedge: OK, in my opinion, there is no way that this can be construed as harassment that I have committed. And that's why I think this document [i.e., the Federal Guidelines on religious expression] needs to be studied. And I would like a statement somewhere from JPL whether this applies to this lab. Because what I have done fits in with this. The only time a boss can tell an employee not to discuss this is with an individual who either tells the person doing it to stop, or tells the boss, 'I don't want to hear about that anymore.' Then the boss can go to the employee and say don't talk to so-and-so. But Greg told me you are not to discuss religion or politics with anyone in this office. That's what he told me. How do you feel about that?

Klenk: We have no issue with people discussing religion and politics in the office so long as it's not unwelcome or disruptive.

Coppedge: I understand. My claim is that it wasn't. Now I went to the Chief Ethics Officer right after Greg talked to me and I said, "Can a boss do this? Can a boss give a blanket order that you're not to discuss this?" And he said, "Well, no, that's overboard," and he gave me some suggestions on how to handle these things. But in other words I was immediately seeking, have I done something wrong here, or is that proper?

Klenk: I think partly you should think through that, both of you seeking out external sources on this, you must have felt that at some point that there was some things done that caused tension in the workplace, on both sides. One suggestion I would have is perhaps you weren't reading the body language of these people well enough. You were looking for a 'Dave, I understand you refused, I don't believe in this; please don't talk to me again about it' whereas they were trying to be more polite, being that they felt uncomfortable, and were trying to say, 'Please don't talk about it, I'd rather do talk about something else,' and you weren't reading the more subtle [clues?].

Coppedge: Are these not mature adults that can say the words that I'd rather not talk about that? Am I supposed to interpret 'I'm harassing somebody' by their body language, is that what you're telling me?

Klenk: I think in some cases yes.

Coppedge: OK, is JPL offering a course in reading body language or something? Because that's extremely subjective. And it seems to me that

Klenk: Most of the harassment things are subjective.

Burgess: Jhertaune said that when she interviewed these people, it was the majority of the people had the same kind of understanding that they were trying to be nice to you, to get by, so to speak, without causing any further

Klenk: disruption in the workplace.

Burgess: They just wanted it to go away. They either didn't tell you specifically so it was clear. But a lot of people, she said, had this common position.

Coppedge: Again, nobody will give me any specifics or, or names, or-- I mean, I understand the reason why you don't--why you want to protect the

confidentiality. But my recollection is, is totally different than that. And, you know,-- let me continue reading another paragraph here:

Burgess: Uh-hm.

Coppedge: "Federal law requires an agency to accommodate employee's exercise of their religion unless such an accommodation would impose an undue hardship on the conduct of the agency's operation. That cost or hardship, nevertheless, must be real, rather than speculative or hypothetical. The accommodation should be made unless it would cause an actual cost to the agency or to the other employees, or an actual disrupting of work, or unless it is otherwise required by law." So,

Burgess: Again, she's saying that you're trying to focus on religion and politics, and that's not HR's discovery. Their discovery is that you've done something that has interrupted the JPL workforce, from doing JPL work, no matter what the subject discussed was.

Coppedge: Again, no one has accused me of this until Greg had his outburst against me on March 2nd. I have been working Cassini for 12 years.

Burgess: You must understand that he got challenged by several people that day that were very upset over whatever happened between you and them prior to Greg getting involved.

Coppedge: Let me tell you, maybe the most recent case before Greg's conversation is instructive. There is a lady in the office, a coworker, a friend, somebody I've worked with for years, who I approached on a Friday, on the end of the day, "Would you like to watch this on the weekend?" She probably disagrees with the content of it. But she took it, and sounded interested. On the Monday morning I found it on my desk and never brought it up again. Never mentioned it. We passed in the hallway, we would say, 'Hi; how are you.' Never was brought up again. It's interesting that it was that very day, that it was that afternoon that Greg ...

Klenk: I would warn you against trying to speculate who it was or anything. JPL does have a policy against any sort of retaliation, or anything like that. So it wouldn't be good, if the person was one of the people who was saying, 'I find this uncomfortable,' to then confront the individual about, 'I hear you're uncomfortable with this; let me talk to you.' It would be better just to try to work towards the inclusive, welcoming work environment.

Coppedge: This particular DVD [Unlocking the Mystery of Life] was about science, it was not about religion. You are welcome to watch it if you would like. I'd be glad to give you a copy and you can see exactly what it was about. There's no way it can be construed as pushing religion. And in fact it's a subject that is of great interest to everyone. Alright? In fact one of the most popular films I like to give out [The Privileged Planet] has 4 JPL scientists in it who were interviewed on lab with the full NASA cooperation with the producer. This is the kind of material we're talking about. And there was not a hint of body language or speech or anything by this person that what I was doing was unwelcome. She thanked me. She said that looks very interesting. She took it, and left it on my desk, and there was no follow-up at all. That was the day where in the afternoon Greg accused me of this. So what I ask you Kevin is, what protections are you giving me to hear that my side of the story is the correct one, rather than the testimony of these people that Jhertane is saying. Now if you go up to somebody and say, 'We're investigating Dave for

possibl[y] harassing people; has he ever...' I don't know how she posed the question. But you can ask leading questions that may draw out a response you're looking for.

Klenk: We can speculate on all sorts of things. But in my experience ER has always handled these sorts of things with discretion. They've done it, being above board, trying to be professional about it. At some point I trust that they've done the right thing. They try to give the employee leeway. They try to understand how the other people are feeling, and they try to write up a report that's accurate, that's appropriate, and give us recommendations on what to do. So after listening to their recommendation, I don't think Cab and I had any disagreement what the next step was.

Coppedge: OK, so are there protections that an employee has against an office manager who angrily accuses him of things and gives him a blanket order that goes well beyond what any perceived accusation was? Do I have any protection?

Klenk: If you feel that there's a hostile work environment we can investigate that as well. If it doesn't rise to that immediately, we can talk with Greg, Dave, and say, 'here's how we'd like you to handle this.'

Coppedge: Is it, let's say that I had DVDs on sports that I wanted to share. And somebody was not interested in sports, and yet I said, 'oh, this is really good; you would enjoy that.' Am I harassing them?

Klenk: It certainly could become unwelcome or disruptive in the workplace. Absolutely.

Coppedge: OK, so you're not singling out content here, right?

Klenk: No.

Burgess: HR certainly isn't. They said, 'Forget all that. It's interruption of the JPL workforce from doing JPL work.'

Coppedge: I would still like you to read the 12 points in the documentation that I'm leaving you and I'm still requesting a procedure that has been followed in this and a statement whether JPL abides by these Federal Guidelines. I have asked for that for a month now and nobody will give it to me.

Klenk: Well, we will pass it along to ER requesting that, and if we do not get a response we can certainly have you forward it up the chain.

Coppedge: Well, these Federal Guidelines allow for vigorous discussion on matters of disagreement and it says that is not harassment. Now I cannot be expected to read the body language of somebody who we're having a vigorous discussion with that is supposed to be telling me nonverbally, 'get out of here,' see. And if they can go to the office manager and say 'I don't want Dave talking to me about that anymore,' then the office manager certainly has the responsibility and the right to tell me, 'Don't talk to that person.'

Burgess: Actually they should come talk to me.

Klenk: They should talk to Cab.

Burgess: They shouldn't be doing that at all.

Coppedge: OK.

Burgess: That's supposed to be me.

Coppedge: OK.

Klenk: Greg should come and talk to Cab if people report it to him.

Coppedge: Has anybody come to you, complaining of that to you?

Burgess: Everybody including HR trying to set the record straight that whenever these kind of problems happen from this point forward they're going to be with me rather than Greg.

Coppedge: Right. Well, I'm asking...

Burgess: The intent of that letter, its interpretation, if another problem arises, is my decision to go further with it or not, not Greg's.

Coppedge: OK. But I'm asking, has anybody ever come to you complaining.

Burgess: They have not.

Coppedge: They have not. Can you also state for the record how my reviews have been?

Burgess: Oh they've been great. Technically you're qualified. But now we're hearing through this interview process that there's a lot of latent hostility out there with a large number of people including the Project Manager.

Coppedge: There is a lot of hostility in our culture against intelligent design. Perhaps you're aware of that.

Klenk: Not particularly, but...

Coppedge: Believe me; there is. What I espouse is certainly a minority view among the scientific community. I'm also aware that some of the scientific community are aware of my beliefs, because on my own time I write things that some of them have come across. And some of them at one point got upset about that. How do I know that there is not some kind of pressure being brought on the Program Manager, that this employee is undesirable and are there ways we can find... I mean, how do I know that's not going on? And that this is not some kind of retaliatory action by these individuals? I went to the Project Scientist when this came to my knowledge a couple years ago, and he was aware of it, but he said, 'Look, if anybody gives you any trouble over this, just talk to me and I'll take care of it.' I had written permission from the Chief Ethics Officer prior to my writing anything that was published that it was OK, what I was doing, to say 'Dave Coppedge works at Jet Propulsion Laboratory.' And I let this group of scientists who were complaining know about that. But they're aware of that, and it's a very unpopular view among the consensus. Now I'm letting you know some of these--some of this background information that may be brought to bear on why I am being singled out as the harasser here when Cab has not had any personal knowledge of this heretofore, and the only one, the first one and only one who had ever accused me of that was Greg Chin.

Klenk: Well, also look at who Cab has generally interviewed traditionally for your ECAP [i.e., annual performance review]; It was coworkers, coworkers meaning

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people within 173 on the SA team, the customers you're working for, Greg Chin, and the like. But he would not have interviewed people nearby you on the 3rd floor. Now, so if you're working with the chief scientists or any of the other science people or mission people they wouldn't have been part of the interview process. They wouldn't be considered necessarily a coworker. It would be more of a person who was on the floor nearby you, working the same,

Coppedge: I understand. But I'm just saying that as another consideration that it is certainly a possibility when you mention the Program Manager, you know. I have had nothing but cordial and businesslike and pleasant relationships with the Program Manager, but he may hear things from this group, about me that make me persona non grata, and how do I know that pressure is not being brought to bear on Greg?

Klenk: I'm not sure how but we have not heard of that pressure.

Coppedge: Well I wouldn't expect you

Klenk: Cab says we're trying to clarify that the people who are going to look at this is Cab, is your line manager and he's going to look at this situation, not the people on Cassini, if that clarifies things.

Burgess: Well I've found that the ECAP process, for example, people respond to requests for information tend not to be negative. They either give you something that's positive or they don't say much at all.

Klenk: They don't say much at all, primarily focused on the work that you do. So even if they are extraordinarily uncomfortable with you, it won't necessarily come out; and that is true.

Burgess: It's fine because you have that option when you respond, to either share it with the individual or not, and even that doesn't bring out much negative on anybody.

Coppedge: So Cab has no personal evidence of anybody complaining about. I mean if this were a pattern of behavior that characterized me, don't you think over a matter of 11 years or so, that this would have come forward? Why did it come out all of the sudden on March 2nd?

Klenk: I'd say in this case it's because we investigated it and we looked you up. I'm not sure about, why Greg said, had the conversation with you on March 2nd versus another day, but when we had ER look into it, they came back and said, 'Yes, this is a extended period of time this has been going on and this is unwelcome in the environment.'

Coppedge: How do you feel about what Greg said to me on March 2nd? Is that justified?

Klenk: I think you should work through Cab on this sort of thing.

Coppedge: I think I have been.

Burgess: As far as that blowup, one on one it shouldn't have happened at all. It should have with me in my office. But Greg has been, they've told him that, essentially he, Greg, in his position does not deal with HR unless it's an issue with himself. Any manager on a project that is not line management has to take

that view as far as dealing with HR. It's up to the line people to deal with them, not the customer project.

Coppedge: Alright; well, that's not what happened. What happened was an angry outburst with me on March 2nd out of the blue. I have told Greg on a couple of occasions over the years, "Greg, if I am ever doing anything that offends somebody or is wrong, please come to me, give me a chance to fix it." He did not do that. Without any warning he came at me for this matter of what he accused me of on that day: pushing my religion in the workplace. He is the only one who has ever made that accusation in my entire professional career. I want you to understand that.

Klenk: I understand that completely, Dave.

Coppedge: What rights do I have to defend myself against those kinds of charges when the evidence and the documentation I have shows otherwise? And that I am standing on Federal Guidelines that say approaching people on matters of controversial subjects is protected speech even in the workplace.

Klenk: I think the key is it being to recognize when people feel it's unwelcome and disruptive in the workplace. I know you're saying it's a hard thing to do, but

Coppedge: Kevin, I think I do that. I think I do that.

Klenk: And what the investigation found is that you have not been doing that adequately, obviously. People have felt it's unwelcome and disruptive.

Coppedge: OK, so...

Klenk: That's the bottom line on that, that the people they talked to came back, one right after another, saying the same sorts of things. I know that's hard to hear.

Coppedge: Alright; well, it may be unwelcome, but it's only harassment if it's persistent, isn't it? I mean you may not know if someone disagrees with something unless you first have an opportunity to talk with them. They could go and say 'that was unwelcome'...

Klenk: And if the people start trying to avoid you or to change their work habits because of it,

Coppedge: Has anybody done that? I have no way, I've never noticed people changing their work habits because of me or trying to avoid me. Where is the evidence for these things that are being charged, other than subjective opinions?

Klenk: This is a subjective topic. When they talk about the whole idea of a workplace being hostile, or the inclusion and all that, it's all subjective.

Coppedge: The record shows that loaning these DVDs was very infrequent. On average one per month. Offering someone a DVDs took a minute or less. This means that 99.99 percent of the workday the lender was on the job, not engaging in this activity. OK? Do you agree with Greg's statement that I am not to talk about religion or politics with anybody in the office from now on? Do you agree with that?

Klenk: I agree that you have created an unwelcome disruptive situation in the workplace. There is no policy against you talking about religion and politics in the office so long as it's not unwelcome or disruptive.

Coppedge: But again, what you're saying [is that] I'm just supposed to feel vibes or see body language, even on a first time. And my practice has been, if the person is not interested, I back off. What may cause a conversation is if they start arguing with me and put me on the defensive and I offer a point, counterpoint. There's been a couple of occasions of that. But they're not telling me this is unwelcome. They're saying let's talk about this topic. I may have a point of view and we're both [involved]. That's protected speech. Now, if they later on tell an HR person, 'That was an unwelcome conversation' because they disagreed with me, I was not harassing them if they were vigorously stating a different point of view but not telling me to stop. There have been a few occasions of that but they have been rare and they have been the exception.

Klenk: Well, at least some of them have been remembered by the participants in a negative way.

Coppedge: I'm sure they have.

Klenk: So that's what we're trying to preserve is the workplace that's welcoming, that has no hostility. That's what we're trying to do.

Coppedge: I certainly understand the right of an employer to not give a false impression of what the company is about, to not go to total strangers--like that. But again these are people that I know and know me. We are friends. We are coworkers. We have been on this program for over 10 years in many cases. For me to approach them on a subject that I think is interesting and worthwhile is protected speech. And if they want to engage me with a vigorous discussion on that, that is also protected speech. It only becomes what Greg called harassment if it is persistent, if it is unwelcome, if they are telling me, 'Stop, stop' or if they go to the manager saying, 'I don't want to hear about that any more from Dave Coppedge.' But they don't do that.

Klenk: I think in many cases in a hostile work environment people do not do that. They sit there, and they are uncomfortable and they do not verbalize it.

Coppedge: Even though these are adults, who certainly

Klenk: Even though they are adults.

Coppedge: OK, then how...

Klenk: For example, the more classic one is sexual harassment. People don't say anything typically even when they are being harassed.

Coppedge: I understand. But I think what I'm doing is certainly not in the category of sexual harassment--not even close!

Klenk: [talking over Dave] It's not, but: the example is people haven't said that this is verbalized to you. I was trying to give you an example. People don't always verbalize the [sentiment?]. You say that's not the adult thing to do.

Coppedge: And yet I'm supposed to know somehow just through vibes, even though nobody tells me that they're uncomfortable, and even though Greg Chin or Cab Burgess doesn't tell me that. I'm just supposed to know.

Klenk: Now that we've heard we will try to hear and try to listen to people [??], but the fact is that you have to focus on that. If you want to carry on these kinds of conversations, at the same time you have to make sure it's welcome and not disruptive.

Coppedge: I believe that to be the case. I think I have, on that occasion of that one guy that got into kind of an argument, and then I went and apologized to him the next day. I think we were both getting a little bit heated because we both had strong feelings.

Klenk: But separately to, before it got to the point of a significant argument, to have recognized it.

Coppedge: OK, well does, does this cut both ways? In other words, if people come at me with unwelcome topics. I mean, for instance, in meetings there are points of views expressed about the way we ought to do things and stuff that get quite heated.

Klenk: Is it work related?

Coppedge: Well,

Klenk: If it's work related--how are we going to maintain the system--JPL is well known for having spirited discussions on that.

Coppedge: Sure.

Klenk: If it's not work related,

Coppedge: It's not always.

Klenk: If it's not work related, then certainly you can bring it up to your management chain or to their management chain.

Coppedge: Right; but there have been times when people have posed points of view quite stridently about what they believe, politically, culturally, whatever. I don't feel that I have some kind of constitutional right against being offended by that, you know? I'm a man, I can take it. I've got my point of view, I'm willing to defend it and have a discussion. Not always--but these were instigated by others sometimes. Now I suppose if I had a gripe against such a person because I disagreed with their political point of view or something, and if an HR person said 'Did this person offend you?' or something, I suppose I could put in a jab against them by saying 'Yeah, I think that was an unwelcome comment.' Would that be fair for me to do that? And yet that's certainly a conceivable type of...

Klenk: If it's unwelcome and disruptive you're certainly allowed to do that.

Coppedge: OK; but again, where is there any...? My records show that these were not unwelcome. First of all, they're very infrequent. Most of the time they're on the weekend. People are getting up to go home, they're not, it's not disrupting their work. I never go up to somebody who is busy on the job and approach them like with an interesting thing to watch. And I don't have any

records of anybody telling me that this was unwelcome and 'No, I'm not interested.' And if they didn't look interested, I usually read that body language pretty quick. [I] say 'OK, this person's not interested.' But the vast majority of the time they say 'Yeah, that looks interesting, OK sure.' And then they come back and say 'Wow, that was real interesting, I've never thought about that before.' Or 'Yeah I didn't agree with that, but here it is, I watched it.' Or they'll just leave it on my desk and that's the end of it. That's my pattern, I'm telling you. So; and that's protected speech in the workplace. I would like you to affirm that. I would like you read this document and say 'Yes, JPL affirms these rights of employees in the workplace.' And I would certainly agree with you that anything that constitutes harassment is wrong, and can be forbidden. But harassment is a strong word.

Burgess: Did you ask the same questions of the HR people?

Coppedge: Yes.

Burgess: And what did they say?

Coppedge: They didn't give me, .. She said she'd get back to me and she never did. I asked her twice. And I have asked her on the day of the interview and I asked her again last week, and she told me she doesn't want to put things in writing very often, she'll just call me and leave a voice mail, and 'What was that 3rd question again?', and that was the basic thing.

And--to me, I feel like I'm getting the runaround here. I'm asking for specific information

Klenk: Uh-huh.

Coppedge: ... and I'm getting these vague 'You[ve] got to watch people's body language and it's your fault if you don't interpret their body language.' I have documentation to show what I've done. I'm being up front with you about exactly what I've done, I'm giving you examples, and I'm telling you that on March 2nd, Greg launched into me in an accusation that nobody has ever made against me before. And of course, once that accusation is made, you can maybe find supporting evidence to back it up because you've created this suspicion.

Klenk: I don't think that Jhertaune was reaching to support by the sounds of what she reported to us.

Coppedge: Can we get a second opinion? This goes into my record as something quite serious--a charge of harassing people. I've never had something like that in my record before.

How do you feel about this other document? I listed together a couple of pages of sample stories that are reported on JPL News. We have had people like Michael Shermer here. We have had others who are ardent skeptics and atheists and proud of it stand up in the Von Karman Auditorium and present their point of view. Now, do I have the right to say I'm being harassed because I'm hearing something that offends me? No. I would never do that. I would say, 'Hey, I'll take you on; let's have a discussion about that.' Why don't we have a fairness of points of view? So that if one side gets the pulpit to be able to say this is supported by science, somebody else can counter that? Now I have an example of a page and a half of... these are published news stories with religious or philosophical overtones, and you're welcome to look through these things. These make claims that go way beyond the scientific evidence that talk about ultimate

meanings, ultimate destiny, ultimate origins, I mean... these are what could be construed as religious content. I showed this to Jhertaune and at the end I read 3 observations about this: "Discussion of ultimate questions is acceptable at JPL," number 1. That's proved by these. Number 2, "The philosophical or theological implications of scientific findings are fair game for discussion." OK? And number 3, "Exposing employees to philosophical and theological positions, some of which may differ markedly from their own strong, strongly held beliefs, does not constitute harassment." Otherwise, they're harassing me almost every day.

Klenk: Again, what the memo, the written warning here is about is your on one-on-one working relationships with your coworkers.

Coppedge: Am I allowed to get some character witnesses that would counter that impression? Because I think I could find quite a few that would say, 'No, I don't think what Dave's doing is unwelcome or harassing, or'

Klenk: What does matter that there are some people who said the behavior was unwelcome and disruptive.

Coppedge: What should have happened then was that they should have told Cab and he should have told me, 'Don't talk to that person.'

Klenk: We should have done it; we should have done it earlier.

Coppedge: Because that has never happened. Up until, and even when I invited Greg Chin, 'Look, if I'm ever doing anything offensive or wrong, please tell me and give me a chance to fix it,' he never did. And then all the sudden I'm investigated here as being this harassing person. I don't think that's fair.

Klenk: Well, it was a situation where it was both ways they investigated. Is Greg creating a hostile work environment? And they looked into the whole situation. And this is the result of the investigation. It wasn't, was Dave being investigated, it was the situation as we were reported to them. Will you agree with that, Cab?

Burgess: Yeah,

Coppedge: Yeah, but again, I was not filing a grievance or making a claim.

Klenk: Once we were made aware of it, we're required to pursue ER and have them check into it.

Coppedge: Cab's I think very familiar with my manner about loaning these things out. Have you ever had a problem with me?

Burgess: Me personally? No, never ever.

Coppedge: No. OK, so I'd say where's the evidence other than maybe a few people that Jhertaune was able to dig up.

Burgess: Don't say a few; HR said there's a lot out there, though.

Coppedge: OK, can I get a count? How many are we talking about?

Klenk: They said they don't want to do that in order to not have retaliation or anything that would compromise the anonymity of the people who talked to them.

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Coppedge: A number of people? I mean a digit number? I don't think that compromises anybody's anonymity. I mean, a lot--is that 3, is that 12, is that 20?

Klenk: We could pursue having HR talk to you more about the situation.

Coppedge: Alright. Anyway, Kevin, I've laid out for you what I think is the documentation. I'm up front and open about what I have been doing and what I have done. I don't feel I have harassed anybody, and I'm sorry that some are giving that impression. I think I go overboard to be accommodating to people and to hear them and recognize [their responses]. But you know, having a spirited discussion on something, like, let's say, on a Friday at 5:00, you know... People don't have a constitutional right to have everybody agree with them on everything, obviously. And if anybody says, 'This is unwelcome,' they can certainly let me know that.

Klenk: We would hope they would. But in this case it sounds like they are not able to articulate that to you or unwilling to do that even though they are uncomfortable.

Coppedge: OK, Kevin will you do me a favor of at least reading my material,

Klenk: I will read your material,

Coppedge: And hearing me out? You are hearing me out as far as, I mean, you are obviously today, but...

Klenk: I'm hearing you out now. And I will read through the documents that you've left here.

Coppedge: Because, to the point that my constitutional rights are protected, I think I always have strived to be very accommodating to what management or the boss wants.

Klenk: We have; this is not an infringement on your constitutional rights.

Coppedge: A blanket statement saying never to do this is.

Klenk: I don't believe there's anything in this that says that.

Coppedge: That's what Greg told me verbally. And I gave him this,\

Klenk: And that's where we said, you are to work with Cab, we've written up our understanding of the findings and in no place does it say that.

Coppedge: Alright. I want to just affirm [to] you that I agree with the JPL policies and the ethics and I strive to be an upright employee in every way that I can. That is my commitment and my affirmation; it always has been. It's a great shock to me to be accused of this. And I think the evidence is lacking, and I think there could be elements of retaliation against people, certain people that disagree with a point of view by claiming it's harassment, when they could have simply...

Klenk: I don't believe the harassment word was in the paper; I think they said they that people feel uncomfortable.

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Coppedge: Greg said it was.

Klenk: Look, I'm not debating what Greg said. I'm just talking about what our ER rep Jhertaune told us.

Coppedge: Did she use the harassment word?

Klenk: No, she did not.

Coppedge: OK; well, is that in the statement then?

Klenk: She said, that's her summary of it. You violated the un[garbled], Unlawful Harassment Policy.

Coppedge: OK, so she is claiming it's harassment.

Klenk: Um hm. Based on her understanding of what people reported. What I was hearing when you said harassment, I didn't have anyone say, 'I am being harassed by Dave Coppedge.'

Coppedge: That's right.

Klenk: That word. But she found that the elements of people's responses on top that did fall into that category.

Coppedge: This is highly subjective and I deny it. I deny I've harassed anybody. I certainly will take great pains to read people's body language, but people need to step up and say, 'This is unwelcome; I don't want to hear about it.' Or I need to be told specific[s], or they need to tell Cab and he needs tell me and it can be against that one person. But something is going into my record against my perception of what has really happened. And I want your affirmation that you are protecting an employee's rights against unfair accusations.

Klenk: We are doing our best to have this done impartially by ER, to the best of our understanding. OK, all points of view, this was the findings. These findings are accurate.

Coppedge: [Pause; reading the Written Warning] I disagree with that statement: 'You failed to stop these activities when you were told they were unwelcome and disruptive.' I think that's false. 'When you were told.' Nobody ever told me this was unwelcome or disruptive. That is false. If they gave me some kind of body language I'm supposed to read, oh well, I'm going to try to take better pains to read body language. But this says that I was told they were unwelcome or disruptive. That's not true.

As far as that point 2, I know who the individual was, and that's the one that I went to and apologized and he shook my hand. And I think I consider him a friend and I we never discussed that since, now that I know what is feelings are. And I've interacted with this person multiple times over the life of the mission. I consider him a friend. He's a scientist. I love talking about his work on his instrument. This was a very rare thing on a very controversial ballot initiative in the last election. And I was just offering him some information to read. He chose to get angry about it and start arguing about it. I would have just left it right there except that he wanted to talk about it and kind of put me on the defensive. He didn't say this is unwelcome and disruptive. Yes, it got a little bit animated to the point where I thought, I

want to affirm to him that he's a friend even if he doesn't agree with me, and I went to him the next day and told him that. He spontaneously stood up and shook my hand. OK? That's the facts. And yet this says I created a disruption by... This colors it totally different. Now, I don't know what he said to the ER person but that was not what he expressed to me.

So what's next?

Klenk: This is a signature from both you and Cab. This is Cab presenting it to you.

Coppedge: Well I'm not going to sign anything without legal counsel. Because I think this is...

Klenk: By the way, what this is, your signature is just to warrant that this has been discussed with you and you received a copy. That's what you're signing.

Coppedge: I'm afraid it will give assent to the fact that this is truthful when I think it's not. I'd like, before signing anything, I'm going to have to consult legal counsel.

Klenk: OK, we will be putting this in your file signed with in lieu of signature that we did have the discussion with you and you have been informed of the policy.

Coppedge: I know the policy and I don't think I violated it.

Klenk: But we will be putting it in the file with the note in lieu of.

Coppedge: I would like there to be some kind of a statement in the record that the employee disagrees with the facts that were

Klenk: You are welcome to provide that to us and we will include that.

Coppedge: OK. So I'm going to be expecting from you some kind of a written procedure on what was conducted.

Klenk: No, I said I would talk to ER about that. I wouldn't expect it from me to do an investigation of the procedures and policies of ER.

Coppedge: Well, this should be a JPL-wide policy.

Klenk: I will pass the note along about that.

Coppedge: If I get no response can I come back to you and say that I have got no response?

Klenk: And I will certainly note that.

Coppedge: OK, can I also expect a statement whether JPL abides by the Federal Guidelines on Religious Expression in the Workplace, as I've stated?

Klenk: You are welcome to pursue that.

Coppedge: No, I want you to...

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Klenk: I don't know if you are going to receive that policy. I am not authorized, nor is Cab.

Coppedge: These should be open statements on JPL Rules. It's a matter of not just a policy that JPL can choose, these are federal guidelines for all government employees, that are, the guidelines are an interpretation of current law.

Klenk: It's my interpretation we don't discriminate on the basis of religion. We certainly don't allow harassment based on it.

Coppedge: Certainly. But, whether this is even called religion is I think a debatable question because the films I was loaning out are about scientific subjects--no less scientific than the things I listed that JPL News routinely publishes. OK? Alright, thank you for this discussion.

Klenk: Thank you.

Burgess: We have some more to deal with now.

Coppedge: OK.

Burgess: I wanted to know myself what I could do to lessen the strife in your area, so I'm going to remove you from the lead of the system admin team. I'm going to give the lead to someone else. And you will remain on the team, and there's no need to be discussing this or the letter with anybody in public. This is all private information. I had a discussion with Greg on how to deal with that rearrangement and he and even HR suggested that when it comes to any announcement that you are taking on some other role other than that I should divorce myself from that so it's not obvious to the people who are hearing this that it's part of anything else. So I've asked Greg to bring this up at his next team meeting, and as of next Monday, someone else will be leading the team and he's going to address your role as specifically focused on getting the servers that you're trying to bring up as your focal point from now on and not running the team with minutes and task assignments and all that. That's going to pass to someone else. And the idea there is that you won't have that interface to these people out there on the project that are complaining that they're uncomfortable with your actions.

Coppedge: You're certainly within your rights to do that Cab, but again I deny that anybody has, that I have harassed anybody. And nobody has told me that anything I have done has been unwelcome or disruptive.

Burgess: Now I'm going on what HR says, they say this has gone on too long, they can't believe this is prevalent, this point of view out there, as much as it is. We're talking about a lot of your customers.

Coppedge: I have no way of knowing what the questions were to these individuals. I think that could have a profound impact on the kind of answer they gave.

Burgess: Well that's why we're relying on HR. They're supposed to be the trained individuals that know how to deal with these kind of problems.

Coppedge: OK, you're claiming this is no kind of retaliation action that this is suddenly happening after Greg Chin's outburst, then, against me.

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Burgess: It's not that specifically; no, it's not.

Coppedge: You were going to do this anyway?

Burgess: No, this is directly a result of all the interviews that HR conducted. To them, you see, it looks to them like you've got a customer base out there that's very uncomfortable, and removing you from that to be focused on something else is going to lessen the strife in the workplace.

Coppedge: Greg has, on occasion, accused me of being difficult to get along with certain individuals. And yet he has never offered specifics. It's always been vague allegations, OK? And I have pleaded with him and begged with him, 'Greg, if he can show me something that I have done that is wrong, I will crawl on my knees to that person and apologize to them. That is my commitment to you.' He never does that. This is the latest outburst and he found a new lightning rod to use. What guarantee do I have that he doesn't some kind of personal vendetta that is using tools to get back at me here?

Burgess: I don't think he has a personal vendetta. He has discussed with me in the past about whether there is other work for you on the lab, on other projects.

Coppedge: Well that would certainly be convenient for him, but I...

Burgess: And, we just don't have any big projects going. In the old days when we had a lot of different customers, you could move the SA's around, and eliminate those kinds of problems.

Coppedge: Kevin, you can look at my previous 2 office managers: Dave Childs, Pamela Ray. Never had a problem with them. I was working on Cassini before Greg Chin came in. I was there first. He came in as the office manager. Immediately I tried to establish a good relationship with him, and I think that for the most part we have one. It's cordial, it's professional, but from time to time, he has initiated conversations with me, saying, 'Dave, you are the problem.' That type of thing. Vague allegations, never anything specific. And then one time the person who was apparently having trouble with me gave the same trouble to him, and he became the target. And then I think he began to empathize with what I was feeling.

Klenk: Well, I think we need to work closely with Cab on coaching on how to handle situations better, improve the workplace, those sorts of things.

Coppedge: OK, I mean, you certainly have my commitment as far as being a gracious, personable person, OK? But we also have freedom of speech in this country, and we have freedom of speech in the workplace, and to the extent that my rights of freedom of speech and religious expression are protected, I will do (and I think I have been doing) all I can to maintain a professional, cordial relationship, with all of my coworkers. This has been my commitment and it remains so now. I cannot control what other people think and what they say, when I have documents that show otherwise. Please read my materials.

Klenk: I said I will.

Coppedge: And give me the benefit of the doubt, because I think there may be more going on here than just what one particular HR person found, and what... I have no idea what kind of questions she asked and how this was conducted. On

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something this sensitive, we'd better be following established policy for your protection and for mine. OK?

Klenk: OK. Thank you for stopping by.

=== End of Recording ===

1 STATE OF CALIFORNIA)

2 COUNTY OF LOS ANGELES)

3

4

5 I, HEIDI SULLIVAN, A CERTIFIED SHORTHAND REPORTER

6 LICENSED BY THE STATE OF CALIFORNIA, CERTIFY:

7

8 THAT THE FOREGOING DEPOSITION OF KEVIN KLENK

9 WAS TAKEN BEFORE ME PURSUANT TO NOTICE

10 AT THE TIME AND PLACE THEREIN SET FORTH, AT WHICH

11 TIME THE WITNESS WAS PUT UNDER OATH BY ME;

12

13 THAT THE TESTIMONY OF THE WITNESS AND ALL OBJECTIONS

14 MADE AT THE TIME OF THE EXAMINATION WERE RECORDED

15 STENOGRAPHICALLY BY ME AND WERE THEREAFTER

16 TRANSCRIBED;

17

18 THAT THE FOREGOING IS A TRUE RECORD OF THE TESTIMONY

19 AND OF ALL OBJECTIONS AT THE TIME OF THE EXAMINATION.

20


21 IN WITNESS WHEREOF, I HAVE SUBSCRIBED MY NAME THIS

22 9TH DAY OF MAY, 2011.

23

24

25

_____

LICENSE NUMBER 6600

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA)
3 CITY OF LOS ANGELES AND COUNTY OF LOS) ss:
4 ANGELES)

5 I am employed in the City of Los Angeles and County of Los Angeles, State of
6 California. I am over the age of 18, and not a party to the within action. My business address is
as follows: 515 So. Flower Street, 25th Floor, Los Angeles, CA 90071.

7 On December 27, 2011, I served the foregoing document(s) described as:

8 **REPLY ON MOTION *IN LIMINE* #2**

9 **DEFENDANT CALIFORNIA INSTITUTE OF TECHNOLOGY'S REPLY IN**
10 **SUPPORT OF MOTION *IN LIMINE* #2 ("DML 2") FOR AN ORDER EXCLUDING**
11 **TESTIMONY, EVIDENCE, ARGUMENT AND COMMENT REGARDING THE**
12 **CONTENT OF DVDS COPPEDGE DISTRIBUTED TO CO-WORKERS AND FILMS**
REGARDING ALLEGED HOSTILITY PROPONENTS OF INTELLIGENT DESIGN
THEREOF

13 on the interested parties as follows:

14 William J. Becker, Jr., Esq.
15 THE BECKER LAW FIRM
16 11500 Olympic Blvd, Suite 400
Los Angeles, CA 90064

Attorney for Plaintiff
DAVID COPPEDGE

17 Email: bbeckerlaw@gmail.com

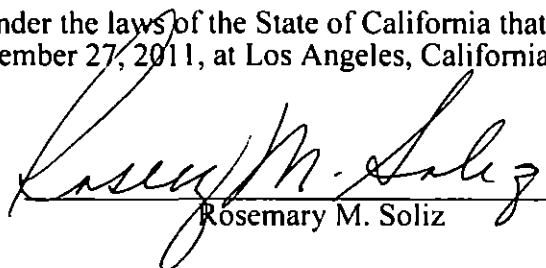
18 ☒ **VIA ELECTRONIC MAIL:**

19 By personally emailing the aforementioned document in PDF format to the email
address designated for the above listed counsel.

20 ☒ **VIA U.S. MAIL:**

21 By placing a true and correct copy thereof in a sealed envelope(s) as addressed
22 above. I am readily familiar with the firm's practice of collection and processing of
correspondence for mailing. Under that practice such sealed envelope(s) would be
23 deposited with the U.S. postal service on December 27, 2011, with postage thereon
fully prepaid, at Los Angeles, California.

24 I declare under penalty of perjury under the laws of the State of California that the
25 above is true and correct and was executed on December 27, 2011, at Los Angeles, California.

26 
27 Rosemary M. Soliz
28