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8 CALIFORNIA INSTITUTE OF TECHNOLOGY

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF LOS ANGELES

12 DAVID COPPEDGE, an Individual,

13 Plaintiff,

14 vs.

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

19 Defendants.

CASE NO. BC 435600

**MOTION IN LIMINE #3**

**DEFENDANT CALIFORNIA INSTITUTE  
OF TECHNOLOGY'S NOTICE OF  
MOTION AND MOTION IN LIMINE #3  
("DML 3") FOR AN ORDER EXCLUDING  
ANY CONTENTION THAT PLAINTIFF'S  
CONDUCT WAS JUSTIFIED BECAUSE  
OF NASA'S AND/OR JPL'S PROGRAMS  
AND RESEARCH REGARDING THE  
ORIGINS OF LIFE; MEMORANDUM OF  
SUPPORT THEREOF; DECLARATION  
OF CAMERON W. FOX IN SUPPORT  
THEREOF; [PROPOSED] ORDER**

FSC Date: December 2, 2011  
Time: 9:00 a.m.  
Place: Department 54  
Judge: Hon. Ernest M. Hiroshige

Trial Date: December 14, 2011

27 ORIGINAL

28 LEGAL\_US\_W # 68962834.6

DEFT'S MIL #3 ("DML 3") FOR AN ORDER EXCLUDING ANY CONTENTION THAT PLAINTIFF'S CONDUCT WAS JUSTIFIED  
BECAUSE OF NASA'S AND/OR JPL'S PROGRAMS AND RESEARCH REGARDING THE ORIGINS OF LIFE

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LOS ANGELES  
NOV 30 2011  
John A. Clary Officer/Clerk  
By Glorietta Robinson Deputy  
GLORIETTA ROBINSON

1 TO PLAINTIFF DAVID COPPEDGE AND TO HIS ATTORNEY OF RECORD, WILLIAM J.  
2 BECKER, JR., ESQ., AND THE BECKER LAW FIRM:

3 Defendant California Institute of Technology ("Caltech") will and hereby does move the  
4 Court *in limine* for an order precluding Plaintiff David Coppedge ("Coppedge"), his counsel and  
5 witnesses from suggesting or contending that Coppedge was justified in passing out DVDs or  
6 discussing intelligent design during work hours because of JPL's and/or NASA's programs and  
7 research on the origins of life.

8 This Motion is made on the grounds that such evidence is inadmissible because it is  
9 misleading to the jury and unduly prejudicial to Caltech. *See* Cal. Evid. Code § 352.

10 On November 23, 2011, counsel for Caltech satisfied the meet and confer requirements of  
11 Local Rule 3.57 by speaking with counsel for Coppedge regarding the substance of this Motion.  
12 *See* Declaration of Cameron W. Fox ¶ 4. Plaintiff's counsel stated that Coppedge would not  
13 agree to limit the evidence at trial in a manner consistent with the limitations requested in this  
14 Motion. *Id.*

15 This Motion is based on this Notice of Motion and Motion, the accompanying  
16 Memorandum of Points and Authorities, the Declaration of Cameron W. Fox, the complete files  
17 and records in this action, and on such oral and documentary evidence as may be presented at or  
18 before the hearing of this Motion.

19 DATED: November 30, 2011

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

20  
21  
22 By: 

CAMERON W. FOX

23 Attorneys for Defendant  
24 CALIFORNIA INSTITUTE OF TECHNOLOGY  
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 Defendant California Institute of Technology ("Caltech") anticipates that Plaintiff David  
3 Coppedge ("Coppedge") will attempt to suggest or contend at trial that he was justified in  
4 engaging in the conduct his co-workers found harassing because it was "work-related" (based on  
5 the existence of JPL and/or NASA programs regarding exploring life's origins). But Coppedge  
6 conveniently forgets that he was a System Administrator ("SA") whose job was to service  
7 computers and computer networks for the Cassini mission – not to debate scientific issues  
8 (including life's origins).

9 Coppedge's choice to approach his co-workers during work hours about his  
10 extracurricular belief in intelligent design was his alone, and Coppedge's actions had absolutely  
11 nothing to do with his work duties. Given this, Coppedge cannot legitimately contend that JPL  
12 and/or NASA programs on life's origins justified his actions. Nevertheless, Caltech understands  
13 that Coppedge's counsel intends to present that contention anyway. Coppedge's patently baseless  
14 attempt to connect his harassing conduct with wholly unrelated scientific programs runs a  
15 significant risk of confusing the jury and unduly prejudicing Caltech because it is plain false. The  
16 jury may be led to believe that Coppedge's actions were somehow work-related – they were not –  
17 and find in his favor on that incorrect basis. Moreover, it is important that the Court preclude  
18 Coppedge and his counsel from making this contention up-front. After all, if Coppedge or his  
19 counsel is permitted to make this contention to the jury, it is the proverbial bell that cannot be  
20 unrung. For these reasons, any contention that Coppedge was justified in passing out DVDs or  
21 discussing intelligent design during work hours because of JPL's and/or NASA's programs and  
22 research on the origins of life should be precluded pursuant to California Evidence Code Section  
23 352.

24 DATED: November 30, 2011

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

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27 By: 

CAMERON W. FOX  
Attorneys for Defendant

CALIFORNIA INSTITUTE OF TECHNOLOGY



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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

**MOTION *IN LIMINE* #3**

**[PROPOSED] ORDER GRANTING  
DEFENDANT'S MOTION *IN LIMINE* #3  
("DML 3") FOR AN ORDER  
EXCLUDING ANY CONTENTION THAT  
PLAINTIFF'S CONDUCT WAS  
JUSTIFIED BECAUSE OF NASA'S  
AND/OR JPL'S PROGRAMS AND  
RESEARCH REGARDING THE  
ORIGINS OF LIFE**

FSC Date: December 2, 2011  
Time: 9:00 a.m.  
Place: Department 54  
Judge: Hon. Ernest M. Hiroshige

Trial Date: December 14, 2011

LEGAL\_US\_W # 68962834.6

1 Defendant California Institute of Technology's Motion *in Limine* For An Order Excluding  
2 Any Contention That Plaintiff's Conduct Was Justified Because Of NASA's And/Or JPL's  
3 Programs And Research Regarding The Origins Of Life, came on for hearing before this Court on  
4 December \_\_, 2011.

5 The Court, having reviewed and considered the Motion and all papers and pleadings on  
6 file herein, and the oral argument of counsel, HEREBY ORDERS, ADJUDGES AND  
7 DECREES:

8 That Plaintiff David Coppedge, his counsel and witnesses are precluded from suggesting  
9 or contending that Coppedge was justified in passing out DVDs or discussing intelligent design  
10 during work hours because of JPL's and/or NASA's programs and research on the origins of life.  
11

12 DATED: \_\_\_\_\_

Ernest M. Hiroshige  
Judge of the Superior Court

14  
15 Presented by:

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

19  
20 By: \_\_\_\_\_

  
CAMERON W. FOX

21  
22 Attorneys for Defendant  
23 CALIFORNIA INSTITUTE OF TECHNOLOGY  
24  
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28 LEGAL\_US\_W # 68962834.6

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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  
6 of 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 November 30, 2011, I served the foregoing document(s) described as:

8 **DEFENDANT CALIFORNIA INSTITUTE OF TECHNOLOGY'S NOTICE OF**  
9 **MOTION AND MOTION *IN LIMINE* #3 ("DML 3") FOR AN ORDER EXCLUDING**  
10 **TESTIMONY, EVIDENCE, ARGUMENT AND COMMENT THAT PLAINTIFF'S**  
11 **CONDUCT WAS JUSTIFIED BECAUSE OF NASA'S AND/OR JPL'S PROGRAMS**  
**AND RESEARCH REGARDING THE ORIGINS OF LIFE; MEMORANDUM OF**  
**POINTS AND AUTHORITIES IN SUPPORT THEREOF; DECLARATION OF**  
**CAMERON W. FOX IN SUPPORT THEREOF; [PROPOSED] ORDER**

12 on the interested parties as follows:

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

Attorney for Plaintiff  
DAVID COPPEDGE

17 Email: [bbeckerlaw@gmail.com](mailto:bbeckerlaw@gmail.com)



**VIA ELECTRONIC MAIL:**

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



**VIA U.S. MAIL:**

21 By placing a true and correct copy thereof in a sealed envelope(s) as addressed above. I  
22 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 deposited with the U.S.  
23 postal service on November 30, 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 above is true and correct and was executed on November 30, 2011, at Los  
25 Angeles, California.

26 Irma Gamino  
27 Type or Print Name

Signature 