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FILED
Superior Court of California
County of Los Angeles

DEC 14 2011

John A. Clarke, Executive Officer/Clerk
By MUSE SOTO, Deputy

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

11 **DAVID COPPEDGE**, an individual;
12
13 Plaintiff,

14 vs.

15 **JET PROPULSION LABORATORY**, form
16 unknown; **CALIFORNIA INSTITUTE OF**
17 **TECHNOLOGY**, form unknown;
18 **GREGORY CHIN**, an Individual; **CLARK**
19 **A. BURGESS**, an Individual; **KEVIN**
20 **KLENK**, an Individual; and **Does 1 through**
21 **25**, inclusive,
22 Defendants.

Case No. BC435600

The Honorable Ernest M. Hiroshige, Dept. 54

DECLARATION OF WILLIAM J. BECKER, JR. RE: PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION IN LIMINE #1; EXHIBITS

HEARING DATE: September 16, 2011
HEARING TIME: 8:45 a.m.
DEPT: 54

Trial Date: October 19, 2011

23 I, William J. Becker, Jr., declare as follows:

24 1. I am an attorney admitted to practice before all the courts in the State of California
25 and counsel of record for David Coppedge, Plaintiff herein ("Plaintiff"). The following facts and
26 circumstances are personally known to me, and if called upon to do so, I could and would com-
27 petently testify as to them.
28

1 2. This declaration is made in support of Plaintiff David Coppedge's ("Coppedge") Op-
2 position to Defendant California Institute of Technology/Jet Propulsion Laboratory ("JPL") Mo-
3 tion in Limine #1 for an order excluding testimony, evidence, argument and comment regarding
4 viewpoint discrimination.

5 3. Attached hereto and incorporated herein as Exhibit 1 is a true and correct copy of an
6 e-mail from D.Coppedge to G.Chin, 3/3/2009, memorializing what transpired on 3/2/2009 pro-
7 duced by Plaintiff (COPP0000323).

8 4. Attached hereto and incorporated herein as Exhibit 2 is a true and correct copy of the
9 interview notes with D.Coppedge of J.Huntley, 3/5/2009, attached as Exh. 23 to the deposition of
10 J.Huntley, and produced by Defendant in this case.

11 5. Attached hereto and incorporated herein as Exhibit 3 is a true and correct copy of the
12 Written Warning issued to Plaintiff on 4/13/2009.

13 6. Attached hereto and incorporated herein as Exhibit 4 is a true and correct copy of an
14 e-mail chain between C.Burgess and D.Coppedge, 4/15-16/2009.

15 7. Attached hereto and incorporated herein as Exhibit 5 is a true and correct copy of an
16 e-mail from W.Haggins to S.Curtis, 3/4/2009.

17 8. Attached hereto and incorporated herein as Exhibit 6 is a true and correct copy of ex-
18 cerpts from the deposition of D.Coppedge taken on October 22, 2010.

19 I declare under penalty of perjury, under the laws of the State of California, that the fore-
20 going is true and correct.

21 Executed this 13th day of December, 2011, at Los Angeles, California.

22
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28

William J. Becker, Jr., Declarant

1 **TABLE OF CONTENTS**
2 **EXHIBITS ATTACHED TO THE DECLARATION OF WILLIAM J. BECKER, JR.**

Deposition Exh. No.	Description
1	E-mail from D.Coppedge to G.Chin, 3/3/2009, memorializing what transpired on 3/2/2009 produced by Plaintiff.
2	Interview notes with D.Coppedge of J.Huntley, 3/5/2009.
3	Written Warning issued to Plaintiff on 4/13/2009.
4	E-mail chain between C.Burgess and D.Coppedge, 4/15-16/2009.
5	E-mail from W.Haggins to S.Curtis, 3/4/2009.
6	Excerpts from the deposition of D.Coppedge taken on 10/22/2010.

100-100000-1000000
B-1000000

Coppedge, David F

From: Coppedge, David F
Sent: Tuesday, March 03, 2009 8:47 AM
To: 'Greg.Chin@jpl.nasa.gov'
Subject: Request for documentation

Greg,

I want to repeat my commitment to you, that I respect your authority, and will abide by your directives in this office, as I always have, to the extent that they do not violate the laws of the United States or my conscience.

Given the sensitive nature of yesterday's interchange, I feel a mutually-agreed on record of the conversation is important for our mutual protection. Here are my recollections. The purpose is to record what was actually said, not what might have been the intent, nor to comment on the merit of any points made. You can correct any errors or omissions, or simply reply to this email to acknowledge whether this summary is basically accurate.

You told me that it had been reported to you that I was pushing my religious views at work and that some found this offensive. You told me this must stop. You ordered me not to discuss politics or religion with anyone in this office.

When I asked for specifics about who complained, you said you did not have to provide me names. When I offered to provide examples of conversations I knew of, you did not wish to hear them.

When I asked what constituted the religious views, you said I was giving out DVDs about intelligent design.

When I asked why that constituted pushing religious views, you said emphatically, "intelligent design is religion" at least twice.

When I asked if SETI is religion, since it also uses scientific methods to infer intelligence, you said that was different, and SETI has been decided by NASA to be a scientific activity.

When I asked if evolution is religious, you said that that evolution by scientific consensus was science.

When I asked if science is determined by consensus or by evidence, you did not wish to discuss that subject.

Throughout this interchange, you repeated the order several times to cease all discussion of religion with anyone in this office, to the point where I remarked I heard you and did not need the repetition.

You said that if what I was doing continued, it would be difficult for me to maintain employment in this organization.

When I said this order gets into issues of freedom of speech and religion, you did not wish to discuss that subject, and got up to leave.

When I said this could be construed as creating a hostile work environment, you said "Go ahead a file a complaint," and walked out.

No complaints about my job performance were stated.

Nothing was said whether my alleged religious activities were interfering with work.

The conversation lasted about 5-10 minutes on Monday, March 2, 2009, about 3:30 p.m.

Toward a mutual understanding and constructive work relationship,
David F. Coppedge

3/5/2009

EX 1

COPP0000323

Dimensions 1970
1536 775

Mtg w/ David Coppedge 3/5/09 re: Greg Chin Complaint

- David stated that Greg Chin asked to see him in his office on 3/4/09 and accused him of pushing his religious views on people. Greg forbade him to discuss his religious or political views w/ anyone at the job in the future. Greg was very angry and refused to tell David who made the complaint. Greg further stated during their mtg that David was harassing people and that is ~~why~~ was going on for sometime and a number of people have complained.
- David stated he would initiate giving his co-workers the DVD's (i.e., The Privileged Planet, Intelligent Design) He would ask if they would like to watch the DVD at the end of the day on Fridays or Thursdays (PDD week). Some of his co-workers would say yes and others would let him know they were not interested in viewing the DVD's. * keeps a list of who he gives DVDs to & who refuses to take them
- David gave Greg a DVD (The Case for Christ) as a Christmas gift. (Case for Christ is a historical documentary, where scholars discuss their viewpoint if Christ lived or not)
- David stated that he lent the DVD's out. They were not given as gifts (only Greg Chin). He never coerced or pressured anyone to take the DVDs. David stated that he takes less than 1 minute of his time his co-workers to discuss pending out the DVDs.
- David states that the DVD Intelligent Design is not religious and Greg Chin argued w/ him that it is.
- David stated that he was very surprised by Greg's behavior during the 3/4 mtg. Did not know where it came from. He feels he deserves better treatment. He feels Greg has violated his civil rights, his freedom of speech and went over the line in making a blanket accusation about harassment. Greg also shouted at him and stated, "go ahead and file a complaint."

cont. of mtg w/ David Coppedge 3/5/09 re: Greg Chin Complaint
- David stated that in terms of politics he would go on the internet and learn about judges for the local election, i.e., qualifications & stances on various issues. He would put together a half sheet of info for all judges and distribute it to his coworkers who were interested in that info. He only did it twice over the last 2 yrs.

- During the 2008 presidential election ^{David} he would ask various co-workers if they ~~would~~ wanted Prop 8 info sheet, which targeted one side. Some of his co-workers said, "yes" and some said, "no".

- David stated he had a friendly conversation about Prop 8 w/ Bruce Elgin even though they did not share the same views. David further stated that he had a heated conversation w/ Scott Egington about Prop 8. They as well had opposing views as to what was right vs wrong re: David stated the conversation did not sit well w/ him so he apologized to Scott the next day.

Dimensions 13.1
#0535-7753

DATE: April 13, 2009
TO: David Coppedge
FROM: Clark Burgess
SUBJECT: Written Warning

The Employee Relations Office has completed an investigation concerning allegations that you approached various co-workers during JPL business hours to discuss your religious and political beliefs. Your actions were reported as harassing in nature. As part of this investigation, you met with Jhertaune Huntley from Employee Relations and were given the opportunity to discuss the allegations and explain your perspective and answer questions.

I have received the results of this investigation and after careful review of all the issues and information obtained, I am in agreement with the following findings:

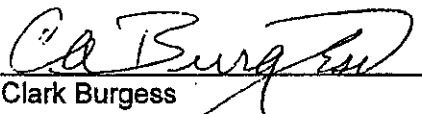
- You acknowledged that you approached various coworkers during work hours to inquire if they were interested in watching your DVDs which clearly express your personal views and you engaged various co-workers in conversations about your personal views. You failed to stop these activities when you were told they were unwelcome and disruptive.
- You violated the Unlawful Harassment policy which states:
 - Harassment is the creation of a hostile or intimidating environment in which verbal or physical conduct, because of its severity and/or persistence, is likely to interfere significantly with an individual's work. Harassment in any form, based on sex, race, color, age, national origin, disability, religion, gender identity, sexual orientation, or any other characteristic protected by state or federal laws, is prohibited, as are all forms of sexual intimidation and exploitation.
- You created disruption in the workplace by approaching a co-worker during work hours to engage in a political debate about a recent controversial issue. When you discovered your co-worker did not share your political views, you became upset and argumentative. Your co-worker had to request that you leave his office in order to cease the conversation.
- You violated JPL's Ethics and Business Conduct Policy which states:
 - JPL employee behaviors shall be consistent with the JPL and NASA Values and the Caltech's JPL honor codes. Specifically, "I will treat my fellow employees fairly, with dignity and respect."

Based on the results of the investigation, it has become apparent that your behavior in the workplace is perceived as unwelcome and unprofessional. This type of behavior is inconsistent with a professional business environment and will not be tolerated in the future.

Due to the seriousness of violating the Unlawful Harassment policy, you are being given a Written Warning. Should another incident of this nature occur, you will be subject to further disciplinary action up to and including termination.

Effective immediately, you must refrain from discussions which are argumentative, disruptive and/or harassing to your co-workers. Today we have talked about what type of conduct is unwelcome or offensive. If you have questions about such conduct, please talk with me immediately. For example, co-workers found your requests to watch your DVDs that express your personal views to be unwelcome.

It is important that you understand that JPL policy prohibits retaliation against any employee who may have participated in this investigation. JPL is committed to a harassment and retaliation free workplace, to investigating complaints promptly, and to taking appropriate corrective action. All participants in this investigation have a right to expect appropriate treatment as a result of bringing this complaint forward. Should you take any actions which JPL believes are retaliatory against any of these individuals, you will be subject to further disciplinary action up to and including termination.


Clark Burgess

4/13/09
Date

This warning has been discussed with me, and I have received a copy. I have read it and understand the consequences of future violations of policy.

David Coppedge

Date

Attachments: Ethics and Business Conduct Policy (DocID# 58572), Unlawful Harassment Policy (DocID# 72112)

D000000221

SECRET
1957

[Burgess Re: Wording of what we talked about]

Subject: [Burgess Re: Wording of what we talked about]
From: David Coppedge <dcop@dcs04.jpl.nasa.gov>
Date: Mon, 20 Apr 2009 08:38:42 -0700
To: cdave csf <cdave@creationsafaris.com>

Subject: RE: Wording of what we talked about
From: "Burgess, Clark A" <clark.a.burgess@jpl.nasa.gov>
Date: Thu, 16 Apr 2009 09:39:57 -0700
To: "Coppedge, David F" <david.f.coppedge@jpl.nasa.gov>
CC: "Burgess, Clark A" <clark.a.burgess@jpl.nasa.gov>

David,

I believe the investigation was triggered by the discussion you had with Greg on April 13th, when he demanded you stop passing out DVDs and discussing them in the workplace. When I first conversed with HR, they mentioned they were going to conduct an investigation based on that encounter. Whatever else they may have found, I do not believe entered into their decision to generate the written warning. It's my belief, if that incidence had not happened HR would not have been contacted and the written warning would not have been generated.

cab.

From: Coppedge, David F
Sent: Wednesday, April 15, 2009 7:25 PM
To: Burgess, Clark A
Subject: Wording of what we talked about

Hi Cab,

Per our meeting this afternoon, I just wanted to be sure I didn't misconstrue what you told me. Is it correct to say that the allegation of harassment was limited to the activity of my handing out DVDs on intelligent design to coworkers, and that if I had not done that to anyone here in the building, I would still be in good standing? (i.e., I would not have been investigated or gotten the written warning)? Or would you word it some other way? I just want to be crystal clear I was not being investigated/reprimanded for some other activity, personal flaw or deficiency in job performance.

Thanks for the clarification,
Dave Coppedge

Re: Wording of what we talked about.eml

Content-Type: message/rfc822

Content-Encoding: 7bit

1979
157 77 1

From: Clennan Price, Jackie A (1180) [jackie.a.clennanprice@jpl.nasa.gov]
Sent: Wednesday, March 04, 2009 11:46 AM
To: Curtis, Sheri L (1160); Huntley, Jhertaune C (1163)
Subject: RE: Follow-up on Coppedge incident
Follow Up Flag: Follow up
Flag Status: Flagged

Jhertaune,

I don't know if Ethics has contacted you about this - can you let them know you are working it so they know we've got it?

Thanks,
Jackie

From: Curtis, Sheri L
Sent: Wednesday, March 04, 2009 10:46 AM
To: Huntley, Jhertaune C; Clennan Price, Jackie A
Subject: FW: Follow-up on Coppedge incident

fyi

From: Curtis, Sheri L
Sent: Wednesday, March 04, 2009 10:46 AM
To: Haggins, Whitney L
Cc: Koliwad, Sonny K
Subject: RE: Follow-up on Coppedge incident

Whitney,

Thank you for the Personnel File and the additional information. Do you know when Cab spoke with David?

Since we are in the midst of conducting interviews (Nancy is on Jury Duty so Jhertaune Huntley (the Generalist for 31) is working on this case), it would be best to let us handle things at this point. If Cab has any questions or something comes up that he needs to address with David, please have him call Jhertaune or me first.

Thank you.
Sheri

From: Haggins, Whitney L
Sent: Wednesday, March 04, 2009 10:37 AM
To: Curtis, Sheri L
Cc: Koliwad, Sonny K
Subject: Follow-up on Coppedge incident

Sheri,

D000000580

EX5

The personnel file was delivered yesterday afternoon to T1720.

Also, David's Group Manager (Cab Burgess) shared with me this morning that he had spoken with David recommending that he discuss his views at a more appropriate time and place, not during work time. Cab also learned that David went to Ethics regarding the matter as well.

Just wanted to pass along the information as I become aware.

Regards,
Whitney

Whitney L Haggins
Business Manager
Enterprise Computing & Networking (173)
M/S 602-149
(V) 818.354.9851
(F) 818.393.0479

D000000581

Members 1977
192 77.1

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

DAVID COPPEDGE, an Individual,)	
)	
Plaintiff,)	
)	
vs.)	No. BC435600
)	
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.)	

VIDEOTAPED DEPOSITION OF DAVID COPPEDGE
Los Angeles, California
Friday, October 1, 2010
Volume II

Reported by:
Deborah R. Meyers,
CSR No. 8569

1 scientific evidence into matters of the big
2 questions of ultimate origins and ultimate destiny.
3 And I drew some conclusions at the end of this list,
4 saying that it appeared -- that discussions of these
5 matters are appropriate and acceptable at JPL.

6 Q Let me show you a document which is Bates
7 stamped 158 and 159. And before I mark it, tell me
8 pif this is one of the lists you gave her.

9 A Yes.

10 MR. ZAPP: Okay. We'll have this marked as
11 Exhibit 1015.

12 (Defendants' Exhibit 1015 was marked for
13 identification by the reporter and is
14 included herewith.)

15 Q BY MR. ZAPP: So Exhibit 1015 is one of the
16 three documents that you gave to Ms. Huntley?

17 A Yes.

18 Q What was your purpose in giving it to her?

19 A To show that discussion of questions about
20 origins which intelligent design addresses is a
21 frequent topic at JPL and that allowing only one
22 side -- the naturalistic, Darwinian side -- amounts
23 to viewpoint discrimination because most of these
24 press releases go far beyond any scientific evidence
25 and delve into questions that could be construed as

1 religious or philosophical.

2 Q What was your purpose in giving her this?
3 In other words, how did this relate to the subject
4 matter you were discussing with her?

5 A It relates to Greg Chin's claim that
6 intelligent design is religion and I had to stop
7 discussing it. And yet I could turn around and say,
8 "Look at this. JPL discusses the very same
9 questions with a different viewpoint. Is this
10 viewpoint discrimination?"

11 Q So if you look at page Bates No. 159, which
12 is the second page, and you then have five points
13 numbered which are either -- where you talk about
14 JPL giving tacit legitimacy to the following
15 principles.

16 So 1 is "Speculation is acceptable at JPL."
17 Do you believe that?

18 A Well, I think the evidence shows that, yes.

19 Q And "Discussion of ultimate questions is
20 acceptable at JPL."

21 That was the second point you wanted to
22 make?

23 A Yes.

24 Q But that "Evidence need not apply before
25 making far-reaching conclusions."

1 on politics or religion in this office, or you're in
2 danger of losing your job.

3 Q BY MR. ZAPP: Isn't what Greg Chin was
4 trying to tell you is not to talk about these
5 subjects with people who may not be interested?

6 MR. BECKER: Calls for speculation,
7 argumentative.

8 THE WITNESS: He said what he said, and he
9 said it more than once. "You are not to discuss
10 religion or politics with anyone in this office, or
11 you may find it difficult to maintain your
12 employment in this organization."

13 Q BY MR. ZAPP: So you're criticizing JPL of
14 being -- strike that.

15 So you're saying JPL is guilty of viewpoint
16 discrimination? Is that what you're saying?

17 MR. BECKER: Calls for a legal conclusion
18 and --

19 MR. ZAPP: I've not heard of viewpoint
20 discrimination as a legal matter, but go ahead.

21 MR. BECKER: You haven't?

22 MR. ZAPP: No.

23 MR. BECKER: My practice is built around
24 it. It's part of Title 42, U.S. Code Section 1983,
25 jurisprudence.

1 So anyway, it calls for a legal conclusion.

2 Q BY MR. ZAPP: So you're accusing JPL of
3 having -- of supporting viewpoint discrimination?

4 A Yes, because all of the follow-up
5 discipline and actions subsequent to this reinforced
6 Greg's statement to me.

7 Q And even though you were told that the
8 issue related not to the substance as much as it is
9 to the manner or the way in which you were
10 interacting with people, you still believe it was
11 all about the substance; is that right?

12 A Yes.

13 MR. BECKER: I need to hear the question.

14 THE WITNESS: Okay.

15 MR. BECKER: And you need to wait until I
16 get my objections.

17 THE WITNESS: Right.

18 MR. BECKER: So I'm going to move to strike
19 the answer. And let me hear the question again.

20 MR. ZAPP: You don't have a right to strike
21 the answer. But go ahead, and you can make the
22 objection.

23 MR. BECKER: I'm not actually going to do
24 it. I'm just saying that.

25 (The record was read by the reporter as

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

DAVID COPPEDGE, an Individual,)	
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TECHNOLOGY, form unknown; GREGORY)	
CHIN, an Individual; CLARK A.)	
BURGESS, an Individual; KEVIN)	
KLENK, an Individual; and DOES 1)	
through 25, inclusive,)	
)	
Defendants.)	
)	

VIDEOTAPED DEPOSITION OF DAVID COPPEDGE
Los Angeles, California
Friday, October 22, 2010
Volume III

Reported by:
Deborah R. Meyers,
CSR No. 8569

1 Q What are all the ways in which Kevin Klenk
2 has retaliated against you?

3 A In the same way, he has failed to defend my
4 rights of free speech, which should have been
5 clearly obvious that what I was doing was within my
6 rights, and yet allowed this sham of an appeal
7 and -- to go through except for a slight
8 backpedaling the follow year after the lawsuit was
9 filed.

10 And, you know, it's really a shame. I --
11 the only way it makes sense to me is that there's an
12 organized effort that we've got to get rid of Dave
13 Coppedge somehow. We've got to make him look bad.
14 So here are your talking points, and watch him like
15 a hawk and see if we can find -- dig up any dirt on
16 him so that he won't embarrass the lab with his
17 views on intelligent design. That's the only thing
18 that makes sense to me.

19 Q So you believe that whatever actions are
20 being taken against you with which you disagree are
21 being motivated to keep you quiet about intelligent
22 design?

23 A I cannot read people's minds. But --

24 Q Is that your belief?

25 A That is my belief, that I have been singled

1 out for viewpoint discrimination here.

2 Q Okay. Going to where you say the slight
3 backpedaling, you're referring to the withdrawal of
4 the written warning letter?

5 A Yes.

6 Q So have you completed your answer then with
7 respect to Mr. Klenk?

8 A As far as I can recall at this moment.

9 Q Are you aware of any document or anything
10 that would help refresh your recollection?

11 A We've gone through the documents that I
12 recall at this time.

13 Q Tell me all the ways in which Greg Chin has
14 retaliated against you.

15 A Greg Chin even more strongly by --

16 MR. BECKER: Same objection.

17 THE WITNESS: Same -- yeah, same objection
18 as with him.

19 MR. BECKER: No, no. You don't get --

20 THE WITNESS: Okay.

21 MR. BECKER: I'm the lawyer.

22 Q BY MR. ZAPP: This is day three. We expect
23 you to have learned the process by this point in
24 time.

25 A I've never done this before. I'm doing the