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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

MAR 13 2012

John A. Clarke, Executive Officer/Clerk
BY Regina Juliano, Deputy

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

13 DAVID COPPEDGE, an Individual

14 Plaintiff,

15 vs.

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

23 Defendants.

CASE NO. BC 435600

**DEFENDANT'S OPPOSITION TO
PLAINTIFF'S OBJECTION TO
DEFENDANT'S CHOSEN
REPRESENTATIVE**

Date: March 13, 2012
Time: 10:00 a.m.
Dept.: 54
Judge: Hon. Ernest M. Hiroshige

Complaint Filed: April 14, 2010
Trial Date: March 7, 2012

26 ORIGINAL

1 Plaintiff David Coppedge has objected to Defendant California Institute of Technology's
2 selection of Gregory Chin as its representative in the trial in this action. This objection is
3 completely meritless; an entity defendant is free to select any officer or employee to act as its
4 representative at trial. Caltech's selection of Chin is entirely proper, and Chin should remain as
5 Caltech's representative. California Evidence Code Section 777 provides:

6 (a) **Subject to subdivisions (b) and (c),** the Court
7 may exclude from the courtroom any witness not
8 at the time under examination so that such
witnesses cannot hear the testimony of other
witnesses.

9 (b) A party to the action cannot be excluded under
10 this section.

11 (c) **If a person other than a natural person is a**
12 **party to the action, an officer or employee**
designated by its attorney is entitled to be
present.

13 *Id.* (emphasis added). Plaintiff appears to be most concerned about Chin's ability to hear the
14 testimony of other witnesses. However, as Section 777 makes clear, an entity defendant's
15 designee is "entitled to be present" at trial, regardless of that designee's role as a witness. Thus,
16 Chin's role as a witness is no impediment to his service as Caltech's representative. Nor is the
17 fact that he is not a high-level manager; Section 777 expressly permits any "employee" to serve
18 as the representative. In turn, depriving Caltech of its chosen representative would not only
19 impede Caltech's statutory rights, but also limit its ability to obtain a fair trial.¹

20 For these reasons, the Court should overrule Plaintiff's objection to Caltech's selection of
21 Chin as its representative.

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25 ¹ See, e.g., *Hoso Foods, Inc. v. Columbus Club, Inc.*, 190 Cal. App. 4th 881, 891-93 (2010)
26 (relying on Section 777 to vacate arbitration award, on grounds that exclusion from arbitration of
27 the defendant's chosen representative, who had knowledge of the case, violated defendant's right
28 to fair hearing); *People ex rel. Curtis v. Peters*, 143 Cal. App. 3d 597, 602-03 (1983) (trial court's
exclusion of state's designated representative during civil trial constituted error requiring
reversal).

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DATED: March 13, 2012

PAUL HASTINGS LLP
JAMES A. ZAPP
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By: 

MELINDA A. GORDON

Attorneys for Defendant
CALIFORNIA INSTITUTE OF TECHNOLOGY

03/13/2012

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PROOF OF SERVICE

STATE OF CALIFORNIA)
CITY OF LOS ANGELES AND COUNTY OF LOS ANGELES) ss:
ANGELES)

I am employed in the City of Los Angeles and County of Los Angeles, State of California. I am over the age of 18, and not a party to the within action. My business address is as follows: Nationwide Legal, Inc., 1609 W. James M. Wood Blvd., Los Angeles, CA 90015.

On March 13, 2012, I served the foregoing document(s) described as:

DEFENDANT'S OPPOSITION TO PLAINTIFF'S OBJECTION TO DEFENDANT'S CHOSEN REPRESENTATIVE

on the interested parties by transmitting a true and correct copy thereof via facsimile number referenced below to:

William J. Becker, Jr., Esq. Attorney for Plaintiff
c/o Los Angeles Superior Court DAVID COPPEDGE
111 North Hill Street, Dept. 54
Los Angeles, CA 90012

VIA PERSONAL DELIVERY:

I personally delivered such sealed envelope(s) by hand to the offices of the addressee(s) pursuant to CCP § 1011.

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 March 13, 2012, at Los Angeles, California.

Melinda Custan

Print Name

[Handwritten Signature]

Signature