

1 William J. Becker, Jr., Esq. (SBN 134545)
2 **THE BECKER LAW FIRM**
3 11500 Olympic Blvd., Suite 400
4 Los Angeles, California 90064
5 Phone: (310) 636-1018
6 Fax: (310) 765-6328

7 Attorneys for Plaintiff, David Coppedge

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

10 **DAVID COPPEDGE**, an Individual,

11 Plaintiff,

12 vs.

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

20 Defendants.

CASE NO.: BC435600

FIRST AMENDED COMPLAINT

1. **RELIGIOUS DISCRIMINATION AND RETALIATION**
2. **HARASSMENT**
3. **WRONGFUL DEMOTION IN VIOLATION OF FEHA**
4. **WRONGFUL DEMOTION IN VIOLATION OF PUBLIC POLICY**

21 Plaintiff, David Coppedge, by and through his attorneys of record herein, brings this
22 Complaint against the above-named Defendants, and in support thereof alleges the following:

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1 PARTIES

2 1. Plaintiff, David Coppedge, (hereinafter “Plaintiff”) is and at all relevant times was
3 a resident of Los Angeles County and an employee of Defendant, Jet Propulsion Laboratory.

4 2. Defendant, Jet Propulsion Laboratory (hereinafter “JPL”), is managed for the
5 National Aeronautics and Space Administration (“NASA”) by the non-profit California Institute
6 of Technology (“Caltech”), and is the lead U.S. center for exploration of the solar system. Upon
7 information and belief, JPL is an operating division of Caltech. As used in this pleading, the term
8 “JPL” shall collectively refer to all of the non-individual defendants, and alternatively referred to
9 as plaintiff’s “employer.” The exact name and business form of plaintiff’s employer will be the
10 subject of discovery.

11 3. Defendant Caltech operates JPL pursuant to a written contract as a NASA
12 Federally Funded Research and Development Center (FFRDC). All JPL personnel are employed
13 by Caltech, not the government. The exact name and business form of Caltech will be the
14 subject of discovery.

15 4. Defendant, Gregory Chin, (hereinafter “Chin”) is and at all relevant times was an
16 employee of JPL, and was at all relevant times manager of the Cassini Mission Support and
17 Services Office. At all relevant times, Chin was Plaintiff’s direct supervisor with the power to
18 direct Plaintiff’s work activities, and the authority to hire, transfer, and discharge employees, or
19 the responsibility to direct them, and at all relevant times alleged herein had broad discretionary
20 authority over decisions that ultimately determine JPL’s policy regarding the actions alleged.

21 5. Defendant, Clark A. Burgess, (hereinafter “Burgess”) is and at all relevant times
22 was an employee of JPL and Plaintiff’s Group Supervisor. At all relevant times, Burgess had the
23 power to direct Plaintiff’s work activities and the authority to hire, transfer, and discharge
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1 employees or the responsibility to direct them, and at all relevant times alleged herein had broad
2 discretionary authority over decisions that ultimately determine JPL's policy regarding the
3 actions alleged.

4 6. Defendant, Kevin Klenk (hereinafter "Klenk") is and at all relevant times was an
5 employee of JPL, Manager of IT Resources for the Chief Information Officer, § 173, and
6 Plaintiff's Section Manager. At all relevant times, Klenk had the power to direct Plaintiff's
7 activities and the authority to hire, transfer, and discharge employees, or the responsibility to
8 direct them, and at all relevant times alleged herein had broad discretionary authority over
9 decisions that ultimately determine JPL's policy regarding the actions alleged.
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11 7. The true names and capacities of Defendants sued herein as Does 1 through 25,
12 inclusive, are unknown to Plaintiff, who therefore sues such Defendants by such fictitious names
13 pursuant to *Code of Civil Procedure* § 474. Plaintiff alleges that each fictitiously named
14 Defendant acted or failed to act in such a manner that each has contributed in proximately
15 causing the damages to Plaintiff as herein alleged. Plaintiff will seek leave of Court to amend
16 this Complaint to set forth their true names and capacities when ascertained.
17

18 8. Plaintiff is informed and believes, and thereon alleges, that each of the Defendants
19 sued herein, including those named herein as Does, are the agents, servants, employees,
20 licensees, guaranties, invitees, or assignees of each other, and in doing the things herein alleged
21 acted within the course and scope of such agency, employment guaranty, assignment, license,
22 invitation and/or relationship and with the full knowledge and consent of the remaining
23 Defendants.
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1 NATURE OF THE CASE

2 9. Plaintiff, an information technology (“IT”) specialist, was charged with violating
3 his employer’s anti-harassment and ethics policies by promoting his religious views while
4 discussing with co-workers a scientific theory of life’s origins known as Intelligent Design
5 (“ID”). Plaintiff was told that his discussions with co-workers concerning ID and his distribution
6 of the documentary films on DVD entitled “Unlocking the Mystery of Life” and “The Privileged
7 Planet” amounted to “pushing religion” and were “unwelcome” and “disruptive.” Although no
8 one had previously said these things to him, his supervisors informed him that “a lot of people
9 had been overly nice to you just to move on when you presented the ideas.”
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11 10. Plaintiff was ordered not to discuss ID, religion or politics under threat of
12 termination, and though he complied with the unfair order he was nevertheless stripped of his
13 team leadership position and reassigned to a job position with less responsibility and fewer
14 privileges, embarrassing, degrading and humiliating him. To date, he remains constrained in his
15 ability to express his views on ID, religion and politics and has been kept a prisoner of JPL’s
16 systemic ideological culture. He has been stigmatized in such a way that career advancement
17 opportunities have been foreclosed to him, and he endures each working day under a cloud of
18 suspicion and a threat of termination lest he say anything by which someone might take offense.
19

20 11. This action is brought for the purpose of vindicating Plaintiff’s employment rights
21 arising from the adverse employment action taken against him and to reverse the injustice he is
22 forced to endure as a result of the deprivation of his constitutional right to freely speak, write and
23 publish his sentiments.
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1 **FACTS COMMON TO ALL ALLEGATIONS**

2 **A. Plaintiff’s Employment Environment at JPL.**

3 12. JPL, Plaintiff’s employer, is a Federally-Funded Research and Development
4 Center under contract with NASA for the purpose of exploring the solar system with unmanned
5 spacecraft. Its missions are designed to discover the origin of the universe, whether life exists
6 elsewhere in the universe or is improbably confined to Earth, and whether conditions necessary
7 for life to exist reside elsewhere in the universe.
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9 13. Plaintiff is, and at all relevant times was, employed as a System Administrator,
10 Department 173A, Computer Systems Administration & Engineering, with the Cassini mission
11 to Saturn (hereinafter “Cassini”), described by NASA/JPL as “the most ambitious effort in
12 planetary space exploration ever mounted.” Launched in October 1997, a sophisticated robotic
13 spacecraft is orbiting the ringed planet and studying it, its rings and magnetosphere, its large
14 moon Titan and the icy satellites. Cassini is the largest interplanetary mission ever launched,
15 with the largest technical staff and the participation of 18 countries. The Cassini orbiter was
16 designed, developed and assembled at JPL, which manages the mission for NASA’s Science
17 Mission Directorate, Washington, D.C.
18

19 **B. Plaintiff’s Role in System Administration at JPL.**

20 14. In September 1996, Plaintiff was hired as a System Administrator (“SA”) through
21 a contract with an outside agency. From March 1997 to the present, Plaintiff has been employed
22 as an SA for the Cassini Program. In January 2003 at the request of Chin, Plaintiff terminated his
23 services on a contract basis, and was hired as a JPL employee. Plaintiff’s duties, title and
24 responsibilities, however, remained unchanged in the transition. Plaintiff has served on the
25 Cassini mission longer than any other SA on the program. His participation in the program
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1 began prior to launch in October 1997, and continued through the seven-year interplanetary
2 cruise, the four-year Prime Mission, and into the Extended Mission. In the role of SA, he
3 worked with a team of five to 10 SAs, supporting the computer and network infrastructure
4 (“ground systems”) for the Cassini mission within the Space Flight Operations Facility at JPL
5 and at a dozen remote sites.

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7 15. The SA team is responsible for almost all the computers and networks in the
8 Program. System administration involves complex and varied processes and functions, including
9 configuration of the operating systems, data storage and networking of computers; controlling
10 authentication, authorization, and access to systems; ensuring robust protection against security
11 threats; provisioning, servicing, and monitoring computer equipment; capacity planning;
12 inventorying; troubleshooting; consulting; assisting users; evaluating and testing new products;
13 working with vendors; providing system backups; building application platforms such as web
14 servers; database administration; virtualization of resources; firewalls; encryption; cooperating
15 with JPL IT and security directives; and many other technical tasks.
16

17 16. The Cassini ground systems include over 200 Unix workstations, 15 routers,
18 several high-capacity data storage units, and other peripheral equipment, including equipment at
19 ten remote sites across America and three in Europe. SAs have “superuser access” to all these
20 systems and physical access to server rooms, and are expected to be knowledgeable and
21 trustworthy.
22

23 **C. Plaintiff’s Duties in His Prior Position as “Team Lead.”**

24 17. In September 2000, Plaintiff was given the title of “Cassini’s Team Lead SA”
25 (“Team Lead”), a role he served until his demotion in April 2009, a period of more than eight
26 years. A Team Lead is recognized as someone who possesses exceptional judgment and proven
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1 aptitude, and therefore represents a job classification at JPL that promotes an employee's
2 reputation and stature. In exchange for the prestige associated with the title and position, a Team
3 Lead is trusted with additional responsibilities.

4 18. As Cassini's Team Lead, Plaintiff was responsible for coordinating the work of
5 the other SAs, representing their interests and concerns to the Office Manager and other Team
6 Leads at weekly and monthly meetings, providing weekly and monthly reports to management,
7 representing SAs at meetings, communicating management decisions to the team, interviewing
8 prospective SAs, making recommendations to management, interacting with JPL's IT and
9 security offices, acting as the SA representative to other offices in the program, and developing
10 and delivering presentations about technical capabilities of new systems and upgrades. Plaintiff
11 led weekly meetings for the SAs and was responsible for motivating them and keeping them
12 united in spirit. In addition, Plaintiff tutored the SAs on various technical subjects to enhance
13 their skills.

14 **D. Plaintiff's Interest In ID.**

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16 19. Consistent with the goal of JPL's space exploration missions, Plaintiff has a
17 sincere interest in the scientific evidence behind life's origin, an interest that led to an
18 appreciation for ID, a theory supported by empirical scientific evidence that life and the
19 existence of the universe derive not from undirected material processes but from an intelligent
20 cause. The DVD "Unlocking the Mystery of Life," for instance, provides a biological
21 explanation for ID by exploring the way in which DNA delivers codified instructions to proteins
22 to create cellular function, operating much the way computer software works to instruct
23 mechanical functions. Using animation, the film illustrates the nanotechnology in cells, such as
24 the bacterial flagellar motor with its thirty-part rotary engine. The DVD "The Privileged Planet"
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1 presents a cosmological explanation for ID, demonstrating how the universe is “fine-tuned” such
2 that Earth’s capacity to sustain life is not the result of blind chance but rather the product of
3 statistically improbable factors. The film illustrates how Earth is not only exquisitely fit to
4 support life, but also to give humans the best view of the universe for further exploration.

5 20. Plaintiff would engage co-workers in conversation during which he would explain
6 his well-developed views about ID. If the co-worker was interested in learning more about it,
7 Plaintiff would offer the co-worker a DVD to view. Co-workers often accepted the offer
8 graciously. Plaintiff never forced anyone to take a DVD and he did not coerce or compel anyone
9 to discuss the subject of ID.
10

11 **E. Plaintiff’s Demotion from Team Lead.**

12 a. Chin Accuses Plaintiff Of Pushing His Religious Views On Co-Workers By
13 Handing Out DVDS Regarding ID.
14

15 21. On March 2, 2009, Defendant Chin advised Plaintiff that co-workers had
16 complained to him that Plaintiff was pushing his religious views on them by discussing ID and
17 offering them the DVDs to view. Chin threatened Plaintiff that if he persisted in “pushing [his]
18 religion,” he would lose his job. Chin additionally ordered Plaintiff not to discuss politics or
19 religion with anyone in the office. During the meeting, Chin became angry and belligerent,
20 repeatedly asserting in a rude, hostile and demeaning manner over Plaintiff’s dissent that
21 “Intelligent Design is religion.” Chin’s tone and conduct were abusive and harassing in nature.
22

23 22. Plaintiff advised Chin that he would comply with the order not to discuss ID,
24 religion or politics but felt that it interfered with his right of conscience and constitutional rights.
25 Plaintiff has consistently complied with the order.
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1 23. The experience caused Plaintiff to feel great anxiety and stress, leading him to
2 wonder whether his views on any subject could be expressed in polite conversation without it
3 leading to further unattributed false claims of harassment, harassment by Chin or adverse
4 employment action. Such overt discrimination and harassment had a powerful impact on
5 Plaintiff, since it clearly communicated to him the message that his views were misunderstood,
6 misperceived and challenged an entrenched ideological orthodoxy, creating an atmosphere in
7 which he was prohibited from freely speaking, writing or publishing his sentiments on ID.
8 Because JPL's very existence depends on exploring the origin of life and of the universe, Chin's
9 threatening order immediately created a work environment hostile to expressions of viewpoints
10 that Chin and possibly others unreasonably found to be offensive. In effect, Chin's conduct
11 created an atmosphere that made Plaintiff feel like an outsider and unwelcome on account of
12 views he and others perceived to be religious in nature.
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15 b. Plaintiff Contacts The Company's Chief Ethics Officer Regarding The
16 Incident with Chin.

17 24. Immediately following the meeting with Chin, Plaintiff met with JPL's Chief
18 Ethics Officer, Doug Sanders (hereinafter "Sanders"), to complain about Chin's conduct and to
19 inquire into whether Chin's scornful, abusive, disrespectful and hostile behavior was at all
20 justified under JPL policies. Sanders advised that JPL had no policy regarding religious
21 expression in the workplace and that Chin's admonitions appeared to him to be out of line and
22 excessive.
23

24 c. Plaintiff Is Contacted By An Employee Relations Investigator.

25 25. The following day, March 3, 2009, Plaintiff was contacted by Jhertaune Huntley
26 ("Huntley") of JPL's Employee Relations Office to meet for an undisclosed purpose.
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1 26. On March 5, 2009, Huntley interviewed Plaintiff for more than an hour
2 concerning the incident with Chin. Huntley led Plaintiff to believe that she was engaged in a
3 “conflict resolution” process designed to reconcile differences between Chin and Plaintiff arising
4 from their meeting, and did not inform him that her real purpose in conducting the interview was
5 to follow-up on complaints involving Plaintiff’s interaction with co-workers concerning ID. In
6 fact, at no time did Huntley reveal the true purpose of her investigation of facts leading up to
7 Plaintiff’s discipline and demotion, and Plaintiff was unaware that he was under investigation for
8 harassing co-workers by expressing his views concerning ID and sharing DVDs with them.

9
10 d. Plaintiff Is Disciplined And Demoted For Violating JPL’s Harassment Policy
11 And Ethic And Business Conduct Policy.

12 27. At all relevant times, Plaintiff complied with Chin’s directive and did not discuss
13 ID, politics or religion in the workplace. On various occasions in March and April 2009,
14 Plaintiff sought information concerning Huntley’s investigation and what it was accomplishing,
15 but was unsuccessful in learning anything. On April 9, 2009, Plaintiff was contacted by
16 Defendant Klenk ostensibly to meet in response to Plaintiff’s inquiries. Plaintiff had no reason to
17 expect that the real purpose of the meeting would be for the purpose of disciplining and
18 demoting him.

19
20 28. On or about April 13, 2009, Plaintiff met with Defendants Burgess and Klenk and
21 was handed a document entitled “Written Warning.” The document stated that the Employee
22 Relations Office had completed an investigation concerning allegations that Plaintiff had
23 approached various co-workers during JPL business hours to discuss his religious and political
24 beliefs, and that they found his requests to watch DVDs expressing his personal views to be
25 unwelcome.
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1 29. The document further stated that Plaintiff's actions were reported as harassing in
2 nature, that Plaintiff had acknowledged that he had approached various coworkers during work
3 hours to inquire if they were interested in watching his DVDs, which expressed his personal
4 views, that he had engaged various co-workers in conversations about his personal views, and
5 that he failed to stop these activities when he was told they were unwelcome and disruptive.
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7 30. On the basis of the facts described, the document concluded that Plaintiff had
8 violated JPL's Unlawful Harassment policy by creating a disruption in the workplace and that he
9 had violated JPL's Ethics and Business Conduct Policy by engaging in behavior "inconsistent
10 with a professional business environment." The document commanded Plaintiff to "refrain from
11 discussions which are argumentative, disruptive and/or harassing to your co-workers." The
12 document threatened Plaintiff that he was being given a Written Warning, but "[s]hould another
13 incident of this nature occur, you will be subject to further disciplinary action up to and including
14 termination."
15

16 31. Plaintiff discussed the document with Burgess and Klenk for more than an hour.
17 Although he sought specific information concerning the nature of the complaints made against
18 him, he was offered no specific details of the charges allegedly made by other co-workers, how
19 many of them registered any objection, what the nature of the complaints were, who the alleged
20 co-workers who complained were or anything else to which Plaintiff could offer rebuttal.
21

22 32. Plaintiff advised that he had never been told by a co-worker that his discussion of
23 ID was unwelcome or was disruptive to their work and learned of the allegations for the first
24 time when he met with Chin. Burgess and Chin remarked that it was Plaintiff's duty to interpret
25 a co-worker's "body language" and that in some cases there would be no objective way of
26 knowing whether a co-worker was feeling "extraordinarily uncomfortable." In short, Plaintiff
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1 was left with no understanding as to the nature of the alleged complaints against him or how he
2 could avoid a violation of the policies in the future.

3 33. The lengthy meeting ended after more than an hour when Plaintiff was advised
4 for the first time that, effective immediately, he was being removed from the Team Lead position
5 in order to “lessen the strife in your area” because “HR” had advised that “this has gone on too
6 long, they can’t believe this is prevalent, this point of view out there, as much as it is.”
7

8 e. Plaintiff’s Demotion Is Announced.

9 34. On April 20, 2009, Chin caused to be distributed a memo announcing that
10 “Effective April 20, 2009, Dave Coppedge will be passing the MSSO Lead SA coordinator
11 responsibilities to Nick Patel. Dave has been responsible for leading the SA team for the past
12 decade and has guided the group through numerous GDS challenges. Dave will continue to
13 provide support to the MSSO SA group. Nick has been with the team for a similar amount of
14 time...and has been a solid contributor to many of the GDS development and operational efforts.
15 Please welcome and support Nick on his new assignment.”
16

17 35. The memo humiliated and embarrassed Plaintiff, leaving unaddressed the reason
18 for the demotion, and implying that Plaintiff voluntarily assented to the change. It additionally
19 placed him in fear of becoming among the first to be let go in a downsizing or incapable of
20 finding other work at JPL. While characterizing his replacement as a “solid contributor,” the
21 memo unceremoniously observed that Plaintiff had “guided the group through numerous ...
22 challenges” but failed to convey any sense of gratitude for or recognition of any particular
23 achievements. The memo further placed Plaintiff in a position of vulnerability, as though
24 marked with a Scarlet Letter or the mark of Cain, suggesting to his co-workers that he had done
25 something improper to deserve the demotion.
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1 f. Plaintiff Attempts To Appeal The Discipline/Demotion.

2 36. Between April 13, 2009, and August 24, 2009, Plaintiff continuously attempted to
3 learn whether he could make use of an internal appeal process to challenge the adverse action
4 taken against him, but was given misinformation and led to believe that such a process existed.
5 On May 18, 2009, he met with JPL's Human Resources Director, Karen Saidiner, and on August
6 24, 2009, he met with Klenk a second time. Both meetings were ostensibly arranged in order to
7 provide Plaintiff with a forum to appeal, but did nothing to advance an appellate process and
8 were set up simply to placate Plaintiff. Neither meeting resulted in reversing the adverse
9 employment action against him, nor provided Plaintiff with any process for mounting an internal
10 appeal.
11

12 g. The Written Warning Is Expunged Almost One Year Later.

13 37. On April 6, 2010, almost one year from the April 18, 2009, issuance of the
14 Written Warning, Plaintiff was invited again to meet with Defendants Burgess and Klenk. The
15 purpose of the meeting was not made known to Plaintiff in advance. During the meeting, Klenk
16 told Plaintiff that Defendants had revisited the matter, and concluded that the issuance of a
17 written warning had been inappropriate and that it would be expunged from Plaintiff's personnel
18 file.
19

20 38. Notwithstanding the expungement, Plaintiff was advised that he would not be
21 restored to his Team Lead position, that the company continued to believe that Plaintiff's
22 conduct in distributing the DVDs and advancing his views on ID was inappropriate, and that
23 Plaintiff would remain restricted in his ability to discuss ID with others in the workplace due to a
24 fear that other co-workers would not welcome a discussion of it. Thus, Defendants' harassment
25 of Plaintiff has been continuing and is ongoing.
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1 43. Defendants conduct constituted adverse employment action and represented a
2 materially adverse change in the terms of Plaintiff's employment, which has impaired his
3 prospects for advancement or employment with the Company in any other program. The claim
4 that he violated Defendants' policies or significantly interfered with work is false and pretextual
5 in part because the subject matter of Plaintiff's communications with co-workers is consistent
6 with Defendant JPL's interest in exploring the origin of life and an inherent part of the business
7 it famously conducts. Plaintiff's communications with co-workers at all relevant times involved
8 matters of public concern, and were relevant to Defendant JPL's scientific interest in life's origin
9 and the origin of the universe.
10

11 44. Defendants discriminated against Plaintiff on the basis of religion because they
12 asserted that Plaintiff was engaged in religious speech and ordered him to discontinue it.
13

14 45. Plaintiff complained that he had been harassed by his supervisor, Defendant Chin,
15 and was ordered to stop discussing ID, religion and politics in the workplace. He also advised
16 Chin that he would not violate his conscience or refrain from engaging in his constitutionally
17 protected right of free speech. Instead of investigating Chin's conduct and determining it to have
18 been improper, in violation of Defendant JPL's harassment policies and in violation of Plaintiff's
19 constitutional right of free speech under the California Constitution, Defendants retaliated
20 against Plaintiff by launching an investigation into the allegations first presented to Chin and
21 claiming that he was engaged in harassment by expressing his views concerning ID, politics and
22 religion. Defendants further retaliated against Plaintiff by subjecting him to a series of
23 threatening, intimidating, humiliating, embarrassing and irritating interviews in which he was
24 told that his views were unwelcome and harassing, culminating in the issuance of a "Written
25 Warning" made contemporaneously with his demotion and disciplinary action, including the
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1 requirement that he refrain from discussing his views on ID, politics and religion at the risk of
2 further disciplinary action and possible termination. Plaintiff was further retaliated against by
3 being demoted, reassigned and humiliated. Such conduct violates Government Code § 12940(h),
4 which makes it unlawful to discriminate against an employee because he has opposed
5 discriminatory and harassing practices.

6
7 46. *General Damages.* As a direct, legal and proximate result of Defendants'
8 discriminatory and retaliatory practices, Plaintiff has suffered and continues to suffer
9 embarrassment, emotional distress, humiliation, indignity, apprehension, fear, ordeal and mental
10 anguish, all to his damage in an amount according to proof.

11 47. *Nominal Damages.* As a further direct, legal and proximate result of Defendants'
12 discriminatory and retaliatory practices, Plaintiff lost work experience. Accordingly, Plaintiff is
13 entitled to an award of nominal damages.

14
15 48. *Reinstatement.* As a further direct, legal and proximate result of Defendants'
16 discriminatory and retaliatory practices, Plaintiff is entitled to reinstatement to the position of
17 Team Lead previously held by him with full seniority rights, including restoration of Plaintiff's
18 former salary, title, duties and responsibilities. In the event the Court determines that
19 reinstatement is not feasible, Plaintiff is entitled to an award of damages for future lost pay and
20 benefits and/or promotion.

21
22 49. *Personnel Records.* As a direct, legal and proximate result of Defendants'
23 discriminatory and retaliatory practices, Plaintiff is entitled to an Order requiring Defendants to
24 modify or expunge his personnel record of all adverse evaluations and other adverse material.

25 50. *Declaratory Relief.* An actual controversy has arisen between Plaintiff and
26 Defendants in that Plaintiff contends that, as a direct and proximate result of Defendants'
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1 conduct and actions, he has been prejudiced and harmed as a result of Defendants' actions
2 suppressing and restricting protected speech in the workplace on account of viewpoint, content
3 and religion. Plaintiff therefore seeks a judicial determination of the rights and duties of the
4 respective parties under the California Constitution and under FEHA, and a judicial declaration
5 that Defendants' policies, practices, customs, conduct and actions constitute an impermissible
6 infringement on Plaintiff's free speech rights and the rights of others that are protected by Article
7 1, §§ 2 and 4 of the California Constitution, and that Defendants' policies, practices, customs,
8 conduct and actions are therefore unconstitutional on their face, invalid, and unenforceable.
9 Plaintiff is informed and believes and thereon alleges that Defendants dispute Plaintiff's
10 contention that Defendants' policies, practices, customs, conduct and actions constitute an
11 impermissible infringement on the rights of Plaintiff and others and is constitutional, valid and
12 enforceable.
13

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15 51. Plaintiff additionally desires a judicial determination and declaration of the
16 unconstitutionality, invalidity, and unenforceability of Defendants' policies, practices, customs,
17 conduct and actions and of the respective rights and duties of Plaintiff with respect to said
18 policies, practices, actions and conduct, as prayed for in the prayer of this Complaint.

19 52. As a further direct, legal and proximate result of Defendants' discriminatory and
20 retaliatory practices, Plaintiff is entitled to a declaration from this Court that Defendants' conduct
21 amounted to harassment.
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23 53. As a further direct, legal and proximate result of Defendants' discriminatory and
24 retaliatory practices, Plaintiff is entitled to a declaration from this Court that Defendants' conduct
25 was retaliatory.
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1 54. *Injunctive Relief.* Defendants have adopted policies and have engaged in
2 practices, customs, acts and omissions that discriminate against Plaintiff's state constitutional
3 rights as described herein and on the basis of religion. Plaintiff is informed and believes that
4 Defendants will continue to enforce its policies and to engage in practices, customs, acts and
5 omissions hostile to the rights of Plaintiff and others to engage in protected speech with respect
6 to matters of public concern and, in particular, with respect to protected speech pertaining to the
7 theory of ID.
8

9 55. Plaintiff has no adequate remedy at law because the fundamental constitutional
10 rights as well as his rights under FEHA will have been and will continue to be infringed such that
11 neither Plaintiff nor others can be adequately compensated in damages, and such that the exact
12 amount of damage that Plaintiff has sustained and that Plaintiff and others will sustain are and
13 will be difficult or impossible to ascertain.
14

15 56. Unless *permanently* enjoined and restrained by this Court from enforcing policies
16 or engaging in practices, customs, acts or omissions that infringe upon the right of Plaintiff and
17 others to engage in protected speech activity, including and specifically regarding the theory of
18 ID, Defendants will continue to deny Plaintiff and others their right to engage in such protected
19 speech activity in general and specifically regarding the theory of ID.
20

21 57. As a direct, legal and proximate result of Defendants' discriminatory and
22 retaliatory practices, Plaintiff is therefore entitled to *permanent* injunctive relief prohibiting
23 Defendants from further discriminatory conduct or retaliation over Plaintiff's right to discuss ID.
24

25 58. *Attorneys Fees/Costs.* As a direct, legal and proximate result of Defendants'
26 discriminatory and retaliatory practices, Plaintiff was required to and did retain attorneys and is
27 therefore entitled to an award of attorneys' fees according to proof in addition to costs incurred.
28

1 **THIRD CAUSE OF ACTION**

2 **WRONGFUL DEMOTION**

3 (*Government Code § 12940 et seq.*)

4 (*Against Defendants JPL and Caltech Only*)

5 64. Plaintiff hereby incorporates by reference all stated paragraphs.

6 65. Pursuant to Government Code §§ 12940, et seq., employers shall not treat their
7 employees differently in terms, compensation, conditions and privileges of employment because
8 of religion.

9 66. Defendants violated Plaintiff's civil rights and violated Government Code §§
10 12940, et seq., when they demoted him on the declared and perceived belief and pretext that he
11 was engaged in religious activity by discussing ID and handing out DVDs concerning ID. Said
12 demotion consisted on the reclassification of Plaintiff's title and job duties to remove him of the
13 privileges associated with being a Team Lead SA.

14 *Relief sought:* Plaintiff prays for the relief specified in ¶¶ 50 through 60 and incorporates them
15 herein as though fully set forth.

16 **FOURTH CAUSE OF ACTION**

17 **WRONGFUL DEMOTION**

18 **IN VIOLATION OF PUBLIC POLICY**

19 (*Against Defendants JPL and Caltech Only*)

20 67. Plaintiff hereby incorporates by reference all stated paragraphs.

21 68. As alleged herein, Plaintiff's wrongful demotion was in violation of California
22 public policy as expressed in, among other things, the California Constitution's right to free
23 speech. The California Constitution, Art. I, §2 (a) provides that "Every person may freely speak,
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1 write and publish his or her sentiments on all subjects, being responsible for the abuse of this
2 right.” Art 1, §4 provides that “Free exercise and enjoyment of religion without discrimination or
3 preference are guaranteed.”

4 69. *Relief sought:* Plaintiff prays for the relief specified in ¶¶ 50 through 60 and
5 incorporates them herein as though fully set forth.

6
7 **PRAYER**

8 WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as
9 follows:

- 10 1. Nominal and general damages;
- 11 2. Special damages according to proof;
- 12 3. Punitive damages;
- 13 4. Attorney’s fees pursuant to California *Government Code* § 12965(b);
- 14 5. A permanent injunction against Defendants, their officers, agents, servants,
15 employees, attorneys, and successors in office, and those persons in active concert or
16 participation with them, from violating Plaintiff’s state constitutional rights and
17 FEHA by enjoining them from engaging in, committing or performing, directly or
18 indirectly, any harassment, discrimination, or retaliation of any kind against Plaintiff ;
- 19 6. A permanent injunction against Defendants, their officers, agents, servants,
20 employees, attorneys, and successors in office, and those persons in active concert or
21 participation with them, requiring Defendants to eliminate the hostile work
22 environment, shunning and harassment of Plaintiff;
- 23 7. A permanent injunction against Defendants, their officers, agents, servants,
24 employees, attorneys, and successors in office, and those persons in active concert or
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1 participation with them, from enforcing policies or engaging in practices, customs,
2 acts or omissions that infringe upon the right of Plaintiff and others to engage in
3 protected speech activity, including and specifically as it relates to discussing and
4 distributing literature and DVDs concerning the theory of ID;

5 8. A declaration that Defendants' harassment policy is unconstitutional on its face and
6 unconstitutional as applied to Plaintiff as set forth in this Complaint;

7 9. A declaration that Defendants' ethics policy is unconstitutional on its face and
8 unconstitutional as applied to Plaintiff as set forth in this Complaint;

9 10. A declaration that Defendants' policies, practices, customs, conduct and actions
10 constitute an impermissible infringement on Plaintiff's free speech rights and the
11 rights of others that are protected by Art. I, § 2 of the California Constitution and by
12 FEHA, and that Defendants' policies, practices, customs, conduct and actions are
13 therefore unconstitutional on their face, invalid, and unenforceable.

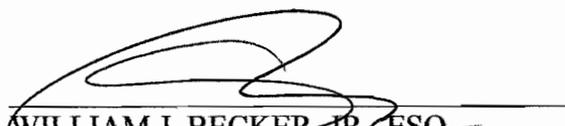
14 11. A declaration that Defendants' policies, practices, customs, conduct and actions
15 constitute an impermissible infringement on Plaintiff's religious rights and the rights
16 of others that are protected by Art. I, § 4 of the California Constitution and by FEHA,
17 and that Defendants' policies, practices, customs, conduct and actions are therefore
18 unconstitutional on their face, invalid, and unenforceable.

19 12. Such other and further relief as the Court may deem just and proper.
20
21

22
23 DATED: June 7, 2010

THE BECKER LAW FIRM

24
25 By:


26 WILLIAM J. BECKER, JR., ESQ.
27 Attorneys for Plaintiff,
28 DAVID COPPEDGE

AMENDED

***** EMPLOYMENT *****

**COMPLAINT OF DISCRIMINATION UNDER
THE PROVISIONS OF THE CALIFORNIA
FAIR EMPLOYMENT AND HOUSING ACT**

DFEH #

E200910R5251-03

DFEH USE ONLY

CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

YOUR NAME (indicate Mr. or Ms.)

TELEPHONE NUMBER (INCLUDE AREA CODE)

COPPEDGE, DAVID

ADDRESS

CITY/STATE/ZIP

COUNTY

COUNTY CODE

LOS ANGELES

037

NAMED IS THE EMPLOYER, PERSON, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, OR STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME:

NAME

TELEPHONE NUMBER (Include Area Code)

BURGESS, CLARK

ADDRESS

DFEH USE ONLY

CITY/STATE/ZIP

COUNTY

COUNTY CODE

NO. OF EMPLOYEES/MEMBERS (if known)

DATE MOST RECENT OR CONTINUING DISCRIMINATION
TOOK PLACE (month, day, and year)

RESPONDENT CODE

08/25/2009

03

THE PARTICULARS ARE:

I allege that on about or before
08/25/2009, the following
conduct occurred:

termination

denial of employment

denial of family or medical leave

laid off

denial of promotion

denial of pregnancy leave

demotion

denial of transfer

denial of equal pay

harassment

denial of accommodation

denial of right to wear pants

genetic characteristics testing

failure to prevent discrimination or retaliation

denial of pregnancy accommodation

constructive discharge (forced to quit)

retaliation

impermissible non-job-related inquiry

other (specify) Failure to engage in an interactive process

by **BURGESS, CLARK**

LINE MANAGER

because of :

Name of Person

Job Title (supervisor/manager/personnel director/etc.)

sex

national origin/ancestry

disability (physical or mental)

retaliation for engaging in protected activity or requesting a protected leave or accommodation

age

marital status

medical condition (cancer or generic characteristic)

religion

sexual orientation

other (specify)

race/color

association

State of what you believe to be the reason(s) for discrimination

AN HR INVESTIGATION INVOLVING FREEDOM OF RELIGIOUS EXPRESSION IN THE WORKPLACE RESULTED IN A DEMOTION AND WRITTEN WARNING IN MY EMPLOYEE RECORD.

I HAVE WORKED AT JPL FOR 13 YEARS. THROUGHOUT THESE YEARS I HAVE ENJOYED A STRONG WORKING RELATIONSHIP WITH MY COLLEAGUES, WITHOUT ANY EMPLOYEE ISSUES. ON MARCH 2, 2009, MY OFFICE MANAGER SURPRISED ME BY ANGRILY ACCUSING ME OF PUSHING MY RELIGIOUS

I wish to pursue this matter in court. I hereby request that the Department of Fair Employment and Housing provide a right-to-sue. I understand that if I want a federal notice of right-to-sue, I must visit the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of the DFEH "Notice of Case Closure," or within 300 days of the alleged discriminatory act, whichever is earlier.

I have not been coerced into making this request, nor do I make it based on fear of retaliation if I do not do so. I understand it is the Department of Fair Employment and Housing's policy to not process or reopen a complaint once the complaint has been closed on the basis of "Complainant Elected Court Action."

By submitting this complaint I am declaring under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to matters stated on my information and belief, and as to those matters I believe it to be true.

Dated **09/17/2009**

At **Newhall, California**

Amended 9/22/09

DATE FILED: **09/17/2009**

RECEIVED

SEP 22 2009

DEPT OF FAIR EMPLOYMENT
AND HOUSING LOS ANGELES

STATE OF CALIFORNIA

DFEH-300-03o (02/08)
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

COPPEDGE000018

*** EMPLOYMENT ***

COMPLAINT OF DISCRIMINATION UNDER
THE PROVISIONS OF THE CALIFORNIA
FAIR EMPLOYMENT AND HOUSING ACT

DFEH #

E200910R5251-03

DFEH USE ONLY

State of what you
believe to be the
reason(s) for
discrimination

AN HR INVESTIGATION INVOLVING FREEDOM OF RELIGIOUS EXPRESSION IN THE WORKPLACE
RESULTED IN A DEMOTION AND WRITTEN WARNING IN MY EMPLOYEE RECORD.

I HAVE WORKED AT JPL FOR 13 YEARS. THROUGHOUT THESE YEARS I HAVE ENJOYED A STRONG
WORKING RELATIONSHIP WITH MY COLLEAGUES, WITHOUT ANY EMPLOYEE ISSUES. ON MARCH 2, 2009,
MY OFFICE MANAGER SURPRISED ME BY ANGRILY ACCUSING ME OF PUSHING MY RELIGIOUS VIEWS IN
THE OFFICE. WHEN I ASKED WHAT SPECIFICALLY THAT INVOLVED, HE SAID I WAS HANHDING OUT DVDS
ON "INTELLIGENT DESIGN." (THESE DISCUSS SCIENTIFIC EVIDENCES AND ARE STRICTLY NON-
SECTARIAN.) THE NEXT DAY, I WAS THE SUBJECT OF AN INVESTIGATION BY THE HR OFFICE. I WAS
INTERVIEWED ON MARCH 5 BY AN HR INVESTIGATOR, BUT I WAS NOT TOLD SPECIFICALLY WHAT THE
INVESTIGATION WAS ABOUT, OR WHETHER I WAS BEING ACCUSED OF SOMETHING, OR WHETHER
OTHER PEOPLE WERE INVOLVED.

THROUGHOUT MARCH AND EARLY APRIL, I REPEATEDLY ASKED FOR INFORMATION, BUT WAS TOLD
NOTHING EXCEPT THAT THE HR PERSON WOULD REPORT THE FINDINGS WHEN THE INVESTIGATION
WAS COMPLETE. THEN ON APRIL 13, I WAS CALLED TO APPEAR BEFORE MY GROUP SUPERVISOR AND
SECTION MANAGER. I WAS HANDED A WRITTEN WARNING, AND THEN DEMOTED FROM THE TEAM LEAD
POSITION I HAD HELD FOR EIGHT YEARS.

THE ALLEGATIONS IN THE WARNING, HOWEVER, WERE VAGUE AND SUBJECTIVE, AND NOT SUPPORTED
BY EVIDENCE. THE MANAGER AND GROUP SUPERVISOR DID NOT IDENTIFY THE ACCUSERS, NOR WERE
THEY ABLE TO ANSWER MY QUESTIONS OR DISPUTE MY RESPONSES. MY GROUP SUPERVISOR, WHO
WROTE THE WARNING, SAID THAT HE HAD NO PERSONAL KNOWLEDGE OF ANY COMPLAINTS BY
ANYONE IN THE 10 YEARS I HAVE WORKED FOR HIM. HE ALSO ADMITTED THAT THE BEHAVIOR HE
OBSERVED HIMSELF, INCLUDING THE LENDING OF DVDS (OF WHICH HE WAS AWARE) WAS ALWAYS
ACCEPTABLE. HE SAID LATER THAT THE INVESTIGATION WAS INSTIGATED BY THE MARCH 2 MEETING,
AND THE DISCIPLINARY ACTIONS TAKEN WERE BASED SOLELY ON THE SUBSEQUENT HR
INVESTIGATION'S FINDINGS. IF THAT MEETING HAD NOT OCCURRED, HE SAID, I WOULD STILL BE IN
GOOD STANDING.

I NOTICED THAT THE WRITTEN POLICY THEY SAID I HAD VIOLATED INCLUDES A RIGHT OF APPEAL. I
REQUESTED AN APPEAL IN WRITING, ONLY TO FIND THAT IT WAS AN AD HOC PROCESS, WITH LONG
DELAYS AND EMPTY PROMISES, WITHOUT ANY DUE PROCESS FOR THE ACCUSED. I MET WITH THE
EMPLOYEE RELATIONS MANAGER ON JULY 21 AND FOUND THAT EVEN THOUGH SHE HAD SOME OF HER
FACTS WRONG NO PROCESS EXISTED FOR AN IMPARTIAL REVIEW OF THE EVIDENCE. A MONTH LATER
SHE HAD THE SECTION MANAGER WHO HAD DISCIPLINED ME SUMMON ME ON AUGUST 25 FOR A
PRIVATE MEETING. THIS TURNED OUT TO BE ANOTHER FRUITLESS CONVERSATION THAT THE
MANAGER ADMITTED HE WAS ONLY PROVIDING BECAUSE HE HAD BEEN ASKED TO BY HR. IN MY
ATTEMPT TO EXHAUST INTERNAL REMEDIES, THEREFORE, I FOUND THE "APPEAL" WAS A SHAM. IT LEFT
ME WITH NO RECOURSE BUT TO SEEK JUSTICE OUTSIDE THE COMPANY.

RECEIVED

SEP 22 2009

Department of Fair Employment
and Housing