

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
Washington, D.C.

CALIFORNIA INSTITUTE OF TECHNOLOGY
JET PROPULSION LABORATORY

and

Case 31-CA-030208

DENNIS BYRNES, an Individual

and

Case 31-CA-030249

SCOTT MAXWELL, an Individual

and

Case 31-CA-030293

LARRY D'ADDARIO, an Individual

and

Case 31-CA-030326

ROBERT NELSON, an Individual

and

Case 31-CA-088775

WILLIAM BRUCE BANERDT, an Individual.

**EXCEPTIONS OF COUNSEL FOR THE ACTING GENERAL COUNSEL
TO THE DECISION AND RECOMMENDED ORDER OF THE
ADMINISTRATIVE LAW JUDGE AND BRIEF IN SUPPORT THEREOF**

Submitted by:

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Pursuant to Section 102.46 of the Board’s Rules and Regulations, Counsel for the Acting General Counsel respectfully files the following exceptions and brief in support of its exceptions to the decision and order of Administrative Law Judge William G. Kocol.

EXCEPTIONS OF COUNSEL FOR THE ACTING GENERAL COUNSEL TO THE DECISION OF THE ADMINISTRATIVE LAW JUDGE

| Exception | Page | Section | Text |
|------------------|-------------|----------------|---|
| 1 | 27-28 | “The Rule” | To the ALJ’s failure to find that Respondent violated Section 8(a)(1) of the Act as alleged in Complaint Paragraph 5 by maintaining Ethics and Business Conduct Section 2.3 and by disciplining employees in part because the Charging Parties violated the rule set forth in Complaint Paragraph 5(a). This exception is to the ALJ’s finding that the relevant rule was neither (1) unlawfully overbroad on its face; nor (2) unlawfully enforced to restrict Section 7 activity. |
| 2 | N/A | The Notice | To correct the phone number for Region 31 to read (310) 235-7351. |

BRIEF OF COUNSEL FOR THE ACTING GENERAL COUNSEL IN SUPPORT OF EXCEPTIONS TO THE DECISION OF THE ADMINISTRATIVE LAW JUDGE

I. PROCEDURAL HISTORY

This case was tried before the Honorable William G. Kocol on January 22-25, 2013, in Los Angeles, California, based on a Consolidated Complaint issued by the Regional Director for Region 31 on October 23, 2012 (“the Complaint”). (GC

Ex 1(dd).)¹ The Complaint was based on unfair labor practice charges filed by Individuals Dennis Byrnes, Scott Maxwell, Larry D’Addario, Robert Nelson, and William Bruce Banerdt (“Charging Parties”).

The Complaint alleges that California Institute of Technology Jet Propulsion Laboratory (“Respondent”) violated Section 8(a)(1) of the National Labor Relations Act (“the Act”) by disciplining the Charging Parties because they engaged in protected, concerted activity. The Complaint also alleges that the Employer violated Section 8(a)(1) by maintaining an unlawful rule and disciplining the Charging Parties pursuant to that rule.

On May 6, 2013, ALJ Kocol issued his Decision and Recommended Order (“ALJD”) finding that Respondent violated Section 8(a)(1) of the Act by disciplining the Charging Parties because they engaged in protected, concerted activity. The ALJ dismissed the allegations alleging that Respondent violated Section 8(a)(1) by maintaining an unlawful rule and disciplining the Charging Parties pursuant to that rule.²

¹ References to exhibits are abbreviated as “GC Ex,” for GC Exhibits and “REx” for Respondent Exhibits, followed by the page number of the exhibit where applicable. References to the transcript are abbreviated as “Tr.” followed by the name of the witness whose testimony is being cited. When more than one page of a witness’s testimony is cited, the witness’s name follows the last of the citations to the transcript.

² On March 11, 2013, after the hearing in this matter was closed, Respondent moved to amend its Answer by changing its Answer to Complaint paragraph 5(c) to “Deny.” On March 15, 2013, General Counsel filed an Opposition to Respondent’s Motion to Amend. On April 1, 2013, the ALJ issued an Order granting Respondent’s Motion to Amend. On April 4, 2013, General Counsel filed a Request for Special Permission to Appeal with the Board (“the Request”). On May 14, 2013, the Board denied the Request without prejudice to the Acting General Counsel raising the same matter in exceptions to the Judge’s decision. As set forth below, even in spite of Respondent’s amended Answer, the evidence establishes that Respondent relied on Section 2.3 of its Ethics and Business Conduct Policy in disciplining the Charging Parties in this matter.

II. FACTS AND ARGUMENT IN SUPPORT OF EXCEPTIONS

Exception 1. To the ALJ's failure to find that Respondent violated Section 8(a)(1) of the Act as alleged in Complaint Paragraph 5. This exception is to the ALJ's finding that the relevant rule was neither (1) unlawfully overbroad on its face nor (2) unlawfully enforced to restrict Section 7 activity.

1. Section 2.3 of Respondent's Ethics and Business Conduct Policy Is Overbroad in Violation of Section 8(a)(1).

The ALJ erroneously dismissed the allegation that Respondent violated Section 8(a)(1) by maintaining its Ethics and Business Conduct Policy, Section 2.3. The relevant – and unlawfully overbroad - portion of the rule reads:

As representatives of JPL, employees shall avoid any actions which could reasonably be expected to adversely affect, or give the appearance of adversely affecting, the independence and objectivity of their judgment, interfere with the timely and effective performance of their duties and responsibilities, or discredit the Laboratory. (emphasis added.)

As stated by the ALJ, a rule or policy violates Section 8(a)(1) if it can reasonably be read by employees to chill their Section 7 rights. *Lafayette Park Hotel*, 326 NLRB 824 (1998); *Lutheran Heritage Village-Livonia*, 343 NLRB 646 (2004). A rule will also violate Section 8(a)(1) if it has been applied to restrict Section 7 activity. *Lutheran Village*, 343 NLRB at 647.

Here, Section 2.3 is unlawfully overbroad on its face because it contains an ambiguous statement: that employees must avoid creating even the appearance of discrediting their employer. Employees very naturally would read this rule to

prohibit them from engaging in conduct protected by the Act: filing an unfair labor practice charge, making protected statements that criticize Respondent's employment practices, protesting its pay and treatment of its employees, or challenging the reputation or credit of Respondent. Board law is clear that employer rules are unlawful where it is unclear and ambiguous from the standpoint of a reasonable employee whether the rule restricts Section 7 rights. *Flex Frac Logistics, LLC*, 358 NLRB No. 127, slip op. at 2 (2012). This is true regardless of "whether or not" it is the "intent of the employer" to chill Section 7 rights. *Flex Frac Logistics LLC*, 358 NLRB at 2. Moreover, ambiguous employer rules are construed against the employer. *Id.*

As acknowledged by the ALJ, the rule in this case is conceptually identical to rules recently found unlawful in *Karl Knauz Motors*, 358 NLRB No. 164 (2012), and *Costco Wholesale Corp.*, 358 NLRB No. 106 (2012) – two recent cases where the Board found unlawfully overbroad and ambiguous employer rules that contained prohibitions on employees portraying the employer in a negative light. In *Karl Knauz Motors*, the Board struck down a rule that contained an unqualified prohibition on using "profanity or any other language which injured the image or reputation of the Dealer." *Karl Knauz Motors*, 358 NLRB at 18. In finding the rule unlawful, the Board reasoned that the rule would reasonably be construed by employees to prohibit protected statements about working conditions

because there was nothing in the rule to suggest that “employee communications protected by Section 7 of the Act are excluded from the rule’s broad reach.” *Id.* at 1. Moreover, the Board reasoned that “an employee reading this rule would reasonably assume that the Respondent would regard statements of protest or criticism as ‘disrespectful’ or ‘injur[ious] [to] the image or reputation of the Dealership’.” *Id.*, citing *NLRB v. Gissel Packing Co.*, 395 U.S. 575 (1969).

In the instant case, Section 2.3 is unlawful for the same reasons as the rule in *Karl Knauz Motors*. Just like in *Karl Knauz Motors*, Section 2.3’s prohibition of employees creating even the appearance of discrediting their employer would reasonably be understood by employees to prohibit protected statements about working conditions. There is nothing in Section 2.3 to suggest that “employee communications protected by Section 7 of the Act are excluded from the rule’s broad reach.” *See Karl Knauz Motors*, 358 NLRB No. 164, slip op. at 1 (Sept. 28, 2012). Also, here, just like in *Karl Knauz Motors*, Section 2.3 uses language (“discredit”) that employees would reasonably interpret to include statements of criticism or protest. As such, under *Karl Knauz Motors*, Section 2.3 is unlawful because it would reasonably be read to chill Section 7 activity.

Similarly, in *Costco Wholesale Corp.*, the Board reversed the ALJ and found that employees would reasonably construe a rule as one that prohibited Section 7 activity where the rule prohibited statements “that damage the Company, defame

any individual or damage any person's reputation." *Costco Wholesale Corp.*, 358 NLRB at 2. Just like in *Karl Knauz Motors*, this rule contained an unqualified prohibition on portraying the company negatively. The Board reasoned that there was nothing in the rule to even suggest that protected statements were excluded from the rule. *Id.* As such, employees would reasonably conclude that the rule requires them to refrain from engaging in certain protected communications. *Id.*

Despite the clear dictates of *Costco Wholesale Corp.* and *Karl Knauz Motors* and the numerous precedents cited in those cases, the ALJ failed to follow them in the instant case. The ALJ did this because the rule at issue here uses the word "discredit," whereas neither *Costco Wholesale Corp.* nor *Karl Knauz Motors* used the word "discredit." Instead, the unlawful rules in those cases stated "language which injures the image or reputation of," and "damage the Company, defame any individual or damage any person's reputation." The ALJ made this distinction even though he himself acknowledged that, according to his dictionary, "discredit" is synonymous with the words used in *Costco Wholesale Corp.* and *Karl Knauz Motors*.³ (ALJD 28:4-8.) In refusing to find that the rule in this case was unlawful, the ALJ relied on several Board cases where the Board has upheld rules using the term "discredit," apparently reasoning that where an employer rule uses a particular term, the rule is immune to attack.

³ To quote the ALJ, the American Heritage Dictionary (New College Edition) (1976) defines "discredit" as "1. To damage in reputation; to disgrace; dishonor. 2. To cast doubt on; cause to be distrusted. 3. To give no credence to; disbelieve."

The ALJ's distinction here is mistaken. It ignores the reason why overbroad and ambiguous rules, such as those found in *Costco Wholesale Corp.* and *Karl Knauz Motors*, are unlawful in the first place. These rules are unlawful because reasonable employees would understand them to mean that their employer forbids them from engaging in conduct protected by the National Labor Relations Act. *Flex Frac Logistics, LLC*, 358 NLRB. No. 127, slip op. at 2 (2012). They will be said to be "chilled" in their exercise of these rights. With this logic in mind, it makes no difference which precise word is actually used in the employer rule, so long as a reasonable employee would understand the word to encompass Section 7 activity. Cases such as *Costco Wholesale Corp.* and *Karl Knauz Motors*, and the numerous precedents cited in them, illustrate the common-sense proposition that reasonable employees will understand rules that forbid generally and without qualification conduct and statements that portray the employer in a negative light to be rules that encompass any of the various forms of Section 7 activity, which often, by the nature of things, are unflattering to the reputation and image of an employer. It is perfectly natural that employees would understand from the language of Section 2.3 that they could not engage in various forms of statements and conduct that are protected by the Act, lest this conduct come to damage the reputation of Respondent, disgrace it, or dishonor it – which is exactly what "discredit" means. At the very least, a reasonable employee would understand

words such as “discredit,” “defame,” “injure the reputation of,” “damage the reputation of,” to essentially mean the same thing; specifically, to “portray in a negative light,” or “to portray badly.” Section 2.3 is unlawful not because of any magic words, but because it contains ambiguity and no kind of disclaimer or definitional language that would allow employees to understand that the rule was in fact not prohibiting Section 7 activity. Because of this unmitigated ambiguity, the rule is unlawful on its face.⁴

Based on the above, it becomes clear why the ALJ erred in relying on the various cases cited by him that have upheld employer rules using the word “discredit.” These are cases where the Board concluded that reasonable employees would not, in fact, understand the various rules to prohibit Section 7 activity, *not because of the use of the word “discredit,” but because the language of the rules themselves cleared up the ambiguity.* For example, in *Ark Las Vegas Restaurant*, 335 NLRB 1284, 1291 (2001), the Board affirmed the ALJ who upheld a rule that used the term “discredit” where a reasonable employee would understand that the rule would not actually prohibit Section 7 activity. *Id.* Instead, a reasonable employee would read it to only prohibit product disparagement, for which the employer would have a right to discharge the employee for just cause. *Id.*, *citing*

⁴ To follow the ALJ’s logic would result in absurdities. English is rich in terms of dishonor. Would an employer be privileged to substitute the objectionable terms for any of the following: “malign,” or “impugn,” or “inveigh against” or “animadvert,” “censure,” “reproach”; or, less formally, “smear,” “slam,” “dis,” “hate on,” etc.

Electrical Workers (Jefferson Standard Broadcasting Co.) v. NLRB, 346 U.S. 464 (1953). Specifically, the rule in *Ark Las Vegas* provided guidance to the employee, emphasizing that the rule was aimed only at “unprofessional” and “unethical” conduct that could discredit the employer. *Id.* In the instant case, Respondent’s rule contains no such limitations. Rather, the rule prohibits employees from engaging in conduct that could even create the appearance of bringing discredit to Respondent.

Similarly, the rule upheld by the Board in *Flamingo Hilton-Laughlin*, 330 NLRB 287 (1999), gave guidance as to what specifically it was prohibiting. *Id.* 288. The rule in that case spoke in terms of “off-duty misconduct” of the employees, and “unlawful” misconduct. *Id.* Employees would understand that the rule prohibited only conduct that was well outside the protections of Section 7 – not because the rule contained the word “discredit,” but because the rule used language (“off-duty misconduct,” “unlawful”) that would cause a reasonable employee to understand that the rule was unequivocally and unambiguously *not* prohibiting Section 7 activity. *Id.*⁵

⁵ Likewise, Respondent’s Section 2.3 policy is distinguishable from the policy HR-302 in *Central Peninsula Hospital, Inc.*, Case 19-CA-032835, JD(SF)-37-12 (2012), which prohibits “[c]onduct that interferes with operations, brings discredit to CPH, or is harmful to patients, visitors, or fellow employees cannot be tolerated.” JD(SF)-37-12 at 21. Although the *Central Peninsula Hospital, Inc.* policy prohibits conduct that discredits the employer, the word “discredit” is immediately preceded and followed by examples of employee conduct that is clearly unprotected by the Act. The Judge states that it is “difficult to see how such a rule [prohibiting conduct that interferes with operations of an employer], on its face, would reasonably cause employees to hesitate to exercise their Section 7 rights.” *Id.* at 22. The Judge noted that the General Counsel gave no legal authority or argument to support the allegation that H-IR-302 is facially unlawful, which is not the case here. *Id.* at 22-23.

Similarly, the instant policy is distinguishable from the policy in *Pleasant Travel Services, Inc.*, Cases 37-CA-7806, et al., JD(SF)-38-10 (2010), prohibiting, “Immoral or indecent behavior, or behavior that publicly embarrasses or discredits the Company.” JD(SF)-38-10 at 3. The Judge noted, “Even though the phrase ‘behavior that publicly embarrasses or discredits the Company’ is stated in the disjunctive, the introductory words of HR 5, ‘immoral or indecent behavior,’ unmistakably defines the core nature of this rule.” *Id.* at 5. While “immoral or indecent behavior” shaped the context of the *Pleasant Travel Services, Inc.* policy and removed ambiguity concerning Section 7 activity, language having such an effect is missing from Respondent's Section 2.3 policy.

A. Respondent Violated Section 8(a)(1) of the Act by Issuing Written Warnings to the Charging Parties that Were Based on the Respondent’s Unlawful “Ethics and Business Conduct” Policy.

In addition to finding that Section 2.3 was not unlawfully overbroad, the ALJ also erred in finding that the Respondent did not apply this rule to restrict Section 7 conduct by issuing the warnings to the Charging Parties. Until *a month and a half* after the hearing in this case closed, Respondent’s Answers and conduct at the hearing were consistent with its admission that it disciplined the discriminatees, in part, because they purportedly violated Section 2.3 of the Ethics and Business policy. Respondent represented to all parties involved throughout the

entire life of this matter that it issued the discipline at issue in this case pursuant, in part, to that rule.

Up until four-days before the post-hearing brief was due, Respondent's defense was that it disciplined its employees, in part, pursuant to Section 2.3. After the Region found merit, Paragraph 5(c) of the initial consolidated Complaint alleged that Respondent issued written warnings to Charging Parties because they violated Section 2.3 of Respondent's Ethics and Business policy (GC Ex 1(v)). On July 12, 2012, Respondent answered this allegation as follows: "Admit and allege that Ethics and Business Conduct Section 2.3 was among several rules that Charging Parties violated, and was among those cited in the warnings." On October 26, 2012, an Amended Consolidated Complaint issued. (GC Ex 1(dd)). Again, Paragraph 5(c) alleged that Respondent issued written warnings to Charging Parties because they violated Section 2.3 of Respondent's Ethics and Business policy. Again, on November 8, 2012, Respondent answered this allegation as follows: "Admit and allege that Ethics and Business Conduct Section 2.3 was among several rules that Charging Parties violated, and was among those cited in the warnings." (GC Ex 1(ff)).

When the hearing opened, General Counsel emphasized in its opening statement that Respondent violated the Act not only by maintaining Section 2.3 of the Ethics and Business policy, but by issuing written warnings pursuant to Section

2.3. (Tr. 17-19). Not once, despite an extensive opportunity to do so, did Respondent object during the hearing that it did not in fact issue the written warnings pursuant to Section 2.3. In fact, during Respondent's opening statement, which was made after the General Counsel made the above assertions in its own opening statement, Respondent argued at length to establish that Section 2.3 was a lawful rule, but not once did Respondent question that it in fact used this very rule to discipline Charging Parties. (Tr. 34-25).

The ALJ makes much of the fact that the written warnings do not specifically identify that they were issued pursuant to Section 2.3 of the Business and Ethics policy. However, this is a misplaced concern. The April 6 written warnings cite specifically to the Ethics and Business conduct policy as a reason for the disciplines. (GC Exs 18, 65, 75, 81, 82, 97.) During the hearing, Respondent stipulated that the Ethics and Business Conduct policy was one of the four policies it relied upon in issuing the disciplines. (Tr. 543-544). At the time that Respondent issued the warnings to the Charging Parties, Respondent provided them with copies of this same policy.

Thus, it is clear that Respondent disciplined these employees pursuant to its Ethics and Business Conduct policy as a whole, which includes Section 2.3. One may easily infer that Respondent considered this policy to be an organic whole and felt no need to spell out the precise section upon which it was relying. If

Respondent does not make these distinctions, there is no reason why the Board ought to. If one were to conclude otherwise, one would be left with the patently unrealistic scenario where Respondent disciplined the Charging Parties pursuant to every single provision of the Ethics and Business Conduct except Section 2.3, which conveniently happens to be the section referenced in the Complaint.

Even if it did matter that Respondent did not explicitly cite to Section 2.3 in the written warnings, there is ample evidence to infer that Respondent did in fact rely on this very Section of the policy. Respondent repeatedly has argued that it relied on Federal Acquisition Rule (“FAR”) 35.07 to issue these warnings. (RBr 2-3). FAR 35.07 states: “The FFRDC is required to ... operate in the public interest *with objectivity and independence*, to be free from organizational conflicts of interest...” Director of Human Resources Cozette Hart testified at hearing that the warnings were issued, specifically, in part, because of FAR 35.07’s requirement that FFRDC operate with “*objectivity with independence* and free of organizational conflicts of interest.” (Tr. 599-600/Hart). This is instructive because Section 2.3 contains this very phrase:

1.3 As representatives of JPL, employees shall avoid any actions which could reasonably be expected to adversely affect, or give the appearance of adversely affecting, *the independence and objectivity* of their judgment, interfere with the timely and effective performance of their duties and responsibilities, or discredit the Laboratory. (emphasis added.)

At hearing, Director Leslie Livesay (“Livesay”) was asked which part of the Ethics and Business policy she had concluded was violated. She replied that she thought that only Section 2.2 was violated. (Tr. 640). However, Section 2.2 does not contain the phrase “independence and objectivity,” or any other similar type of phrase. It states:

2.2 JPL employees shall not use their JPL positions in a manner which is motivated by desire for personal gain for them or persons with whom they have personal, business, profession, or financial ties.

Moreover, Livesay is not a reliable witness, and her testimony was not credited by the ALJ. (ALJD 8:45-9:5).

While the Judge properly found that Respondent violated Section 8(a)(1) by disciplining the Charging Parties, the evidence establishes that the discipline was unlawful on the additional basis that Respondent issued the warnings to the Charging Parties pursuant to an overly broad rule, Section 2.3 of the Ethics and Business Conduct Policy. Board has long held that discipline imposed pursuant to an unlawfully overbroad policy violates the Act. *See, e.g., Double Eagle Hotel & Casino*, 341 NLRB 112, 112 fn. 3 (2004), *enfd.* 414 F.3d 1249 (10th Cir. 2005), *cert. denied* 546 U.S. 1170 (2006); *Saia Motor Freight Line*, 333 NLRB 784, 785 (2001); *A.T. & S.F. Memorial Hospitals*, 234 NLRB 436, 436 (1978); *Miller’s Discount Department Stores*, 198 NLRB 281, 281 (1972), *enfd.* on other grounds *sub nom. NLRB v. Daylin, Inc.*, 496 F.2d 484 (6th Cir. 1974).

More recently, in *Continental Group, Inc.*, 357 NLRB No. 39 (2011), the Board clarified its analysis regarding when discipline pursuant to an unlawful rule or policy violates Section 8(a)(1). The Board held that discipline imposed pursuant to an unlawfully overbroad rule only violates the Act where “an employee violated the rule by: (1) engaging in protected conduct (e.g., concerted solicitation, distribution, or discussion of terms and conditions of employment); or (2) engaging in conduct that implicates the concerns underlying Section 7 of the Act” (e.g., conduct that seeks higher wages) but is not protected by the Act because it is not concerted. *Id.*, slip op. at 3-4. There is no violation of the Act where “the conduct for which the employee is disciplined is wholly distinct from activity that falls within the ambit of Section 7 (e.g., sleeping on the Employer’s premises when off duty).” *Id.*, slip op. at 4. In addition, “an employer will avoid liability for discipline imposed pursuant to an overbroad rule if it can establish that the employee’s conduct actually interfered with the employee’s own work or that of other employees or otherwise actually interfered with the employer’s operations, and that the interference, rather than the violation of the rule, was the reason for the discipline.” *Id.*, citing *Miller’s Discount Dept. Stores*, 198 NLRB at 281 (other citations omitted).

In the instant case, the warnings issued to Banerdt, Byrnes, Maxwell, and D’Addario on April 6, 2011 expressly state that each of the employees had violated

the “Ethics and Business Conduct” policy because their January 27 e-mails were “inappropriate in . . . content.” Similarly, the written warning given to Nelson on April 20, 2011 in response to his January 21 e-mail reiterated that he was “on a Final Written Warning for conduct issues,” an explicit reference to the 2007 warning he received, at least in part, for violating the Employer’s Ethics and Business Conduct policy. (GC Exs 81, 82.) Nelson’s 2007 warning alleges that he engaged in “inappropriate business conduct” by using e-mail “to advocate [his] personal and political views.” (GC Ex 82.)

Thus, the evidence clearly establishes that Respondent enforced Section 2.3 when it issued the written warnings in question in this case. The fact that on March 11, 2013, a month and a half after the hearing closed, Respondent moved to amend its Answer to deny that it enforced this rule is, if anything, evidence of Respondent’s unlawful conduct. Respondent characterized its actions as an “inadvertent mistake.” However, the record in this case suggests that was not so. Throughout these proceedings, Respondent has been represented by one the most experienced and prestigious labor law practitioners in this country, with over thirty years of experience in the field.⁶ It is difficult to comprehend how such an experienced labor law practitioner could avoid detecting such a “mistake” until

⁶ See <http://www.paulhastings.com/professionals/details/allatham>.

four days before briefs were due – after all the pleadings were submitted, after hearing all of the evidence of the case.

As explained above, there is ample evidence to find that Respondent disciplined employees pursuant to Section 2.3.

III. CONCLUSION

In conclusion, Counsel for the Acting General Counsel submits that the ALJ's well-reasoned and legally-sound Decision and Order should be adopted in its entirety, except as set forth in these limited exceptions.

Dated at Los Angeles, California, this 10th day of July, 2013.

Respectfully submitted,

A handwritten signature in cursive script that reads "John A. Rubin (ga)". The signature is written in black ink and is positioned above a horizontal line.

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Re: CALIFORNIA INSTITUTE OF TECHNOLOGY
JET PROPULSION LABORATORY
Cases: 31-CA-030208, 31-CA-030249, 31-CA-030293,
31-CA-030326, 31-CA-088775

CERTIFICATE OF SERVICE

I hereby certify that I served the attached copy of the **COUNSEL FOR THE ACTING GENERAL COUNSEL'S REQUEST FOR SPECIAL PERMISSION TO APPEAL FROM AN ORDER GRANTING RESPONDENT'S MOTION TO AMEND ANSWER** on the parties listed below on the 10th day of July, 2013.

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