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14 PACIFIC GAS AND ELECTRIC COMPANY;
And PG&E CORPORATION
15

16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
17 **IN AND FOR THE COUNTY OF SAN MATEO**
18

19 Coordination Proceeding Special Title
(Rule 3.550)

20 PG&E "SAN BRUNO FIRE" CASES

21 TORT ACTIONS
22
23
24
25

JCCP No. 4648 A

TORT ACTIONS

**DEFENDANTS PACIFIC GAS AND
ELECTRIC COMPANY AND PG&E
CORPORATION'S MASTER ANSWER
TO PLAINTIFFS' UNVERIFIED
MASTER COMPLAINT**

Before the Honorable Steven L. Dylina
Department 7

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27 In accord with Case Management Order No. 1, defendants Pacific Gas and Electric
28 Company and PG&E Corporation (hereinafter referred to as "answering defendants") answer

1 plaintiffs' unverified Master Complaint and the adoption forms filed and to be filed by plaintiffs
2 (hereinafter collectively referred to as the "Complaint"). Further, pursuant to the stipulation of
3 the parties set forth in paragraph 7 of the Initial Case Management Conference, answering
4 defendants reserve all rights and may also challenge the adoption of the Master Complaint as to
5 any particular plaintiff on grounds that are not generally applicable to the Master Complaint.

6 1. Pursuant to California Code of Civil Procedure section 431.30, in answering the
7 Complaint, answering defendants generally deny each allegation of the unverified Complaint.
8 As separate and affirmative defenses and in answer to the Complaint, answering defendants
9 allege:

10 2. The claims alleged in the Complaint fail to state facts sufficient to constitute a
11 cause of action against answering defendants.

12 3. The claims alleged in the Complaint are barred, in whole or in part, by the
13 applicable statute of limitations, including but not limited to California Code of Civil Procedure
14 section 338.

15 4. The claims alleged in the Complaint are barred, in whole or in part, by law for
16 lack of jurisdiction, including but not limited to California Public Utilities Code section 1759.

17 5. The claims alleged in the Complaint are barred, in whole or in part, by accord
18 and satisfaction, payment and release, or estoppel.

19 6. The injuries or losses alleged in the Complaint were directly and proximately
20 caused, in whole or in part, by unforeseeable, intervening and/or superseding acts of persons or
21 entities other than answering defendants for whom answering defendants are not accountable.

22 7. To the extent the allegations in the Complaint are based on compliance with
23 applicable federal laws, regulations and rules, such claims are preempted by federal law.

24 8. The injuries or losses alleged in the Complaint are subject to the requirements of
25 the principles of mitigation.

26 9. The injuries or losses alleged in the Complaint may have been caused, in whole
27 or in part, by persons or entities, other than answering defendants, who may have been legally
28 responsible under the doctrine of comparative negligence, contributory negligence, or otherwise

1 at fault, for which the law provides apportionment of fault, reduction, off-set, indemnification or
2 contribution.

3 10. The provisions of California Civil Code section 1431.2 are applicable to the
4 Complaint.

5 11. The claims alleged in the Complaint are barred, in whole or in part, by lack of
6 capacity or standing.

7 12. The claims in the Complaint are barred, in whole or in part, because they do not
8 meet the requirements of California Code of Civil Procedure sections 377.30 or 377.60, *et seq.*

9 13. The claims in the Complaint are barred, in whole or in part, because the
10 Complaint fails to join one or more necessary and/or indispensable parties.

11 14. The claims in the Complaint are barred, in whole or in part, because they have
12 been improperly joined in this action or proceeding.

13 15. Answering defendants allege that they complied with the applicable laws,
14 regulations, and rules and such compliance demonstrates that due care and reasonable prudence
15 were exercised.

16 16. The claims in the Complaint are barred, in whole or in part, because there is no
17 private right of action concerning matters regulated under applicable federal laws, regulations,
18 and/or other rules and requirements.

19 17. Alleged causes of action that are not pleaded in the Master Complaint are not at
20 issue or the subject of the proceeding.

21 18. Any allegations in the Complaint of deceit or misrepresentation fail to allege the
22 circumstances with particularity.

23 19. The claims in the Complaint, to the extent they arose from events occurring out-
24 of-state, are barred, in whole or in part, under principles of due process.

25 20. The claims in the Complaint are barred, in whole or in part, because materials
26 and matters alleged and complained about in the Complaint were consistent with available
27 technological, scientific and industrial state-of-the art and in compliance with applicable
28 regulations, and alternative product or facility design was not feasible or practical.

1 21. To the extent the claims are premised, in whole or in part, on alleged statements
2 or conduct in judicial, legislative, or administrative proceedings, such claims are barred under
3 the *Noerr-Pennington* doctrine and analogous provisions under the laws of California.

4 22. Under the circumstances alleged in the Complaint, restitution and/or
5 disgorgement are not an appropriate remedy.

6 23. Any claim by plaintiffs for disgorgement is barred because any money or
7 property was not acquired by means of unfair competition or by means of any act in violation of
8 Business & Professions Code sections 17200 *et seq.*

9 24. The allegations in the Complaint do not permit the issuance or entry of injunctive
10 relief.

11 25. Alleged acts or omissions in the Complaint causing a nuisance on land were
12 unintentional and non-negligent and, therefore, not actionable.

13 26. The alleged acts in the Complaint were performed pursuant to statutory
14 authority, and thus cannot constitute a nuisance.

15 27. The allegations in the Complaint fail to state facts sufficient to support an award
16 of exemplary or punitive damages against answering defendants.

17 28. The Complaint fails to state a cause of action for which pre-judgment interest,
18 expert fees, or attorneys' fees may be awarded.

19 29. The damages alleged in the Complaint are not permitted by law or equity.

20 30. No alleged act or omission of answering defendants was oppressive, fraudulent,
21 or malicious under California Civil Code section 3294, and therefore, any award of punitive
22 damages is barred. Any claim for punitive damages also is barred under California Civil Code
23 section 3294(b).

24 31. No alleged act or omission of answering defendants was willful under California
25 Public Utilities Code section 2106, and therefore, any award of punitive damages is barred.

26 32. The claims in the Complaint for punitive damages are barred, in whole or in part,
27 because they violate state and federal constitutional rights, including but not limited to due
28 process, equal protection, and ex post facto provisions; the Fourth, Fifth, Sixth, Eighth and

1 Fourteenth Amendments; and the right not to be subjected to excessive awards and multiple
2 punishments; and any claim for punitive damages is limited by state and federal law, including
3 but not limited to the United States Supreme Court's decision in *State Farm Ins. Co. v.*
4 *Campbell* (2003) 123 S. Ct. 1513.

5 Inasmuch as the Complaint and/or Adoption Forms do not describe the claims alleged by
6 each plaintiff with sufficient particularity to enable answering defendants to determine all of the
7 affirmative defenses, answering defendants reserve the right to amend and/or supplement the
8 answer to assert any and all pertinent defenses ascertained through further investigation and
9 discovery. Answering defendants will rely on all defenses that may become available during
10 discovery or trial.

11 WHEREFORE, answering defendants pray for costs of suit, that plaintiffs take nothing,
12 and for such other and further relief that the Court may deem just and proper.

13 **DEMAND FOR JURY**

14 Answering defendants respectfully request a trial by jury as to all issues so triable in
15 each action subject to the Complaint.

16 DATED: July 5, 2011

Respectfully submitted,

19 By: _____

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