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**FILED**  
SAN MATEO COUNTY

**AUG 28 2015**

Clerk of the Superior Court  
By   
DEPUTY CLERK

SUPERIOR COURT OF CALIFORNIA,  
IN AND FOR THE COUNTY OF SAN MATEO COUNTY

HIND BOU-SALMAN, GARY SENDER, MARTHA )  
POTRIADES, AND LOUIS MARINI derivatively on )  
behalf of PG&E Corporation and Pacific Gas & Electric )  
Company, )

CASE No. JCCP 4648-C

Plaintiffs, )

v. )

**FINAL ORDER**

PETER A. DARBEE; CHRISTOPHER P. JOHNS; )  
KENT M. HARVEY; BARBARA L. RAMBO; BARRY )  
LAWSON WILLIAMS; C. LEE COX; DAVID R. )  
ANDREWS; DAVID A. COULTER; FORREST E. )  
MILLER; LESLIE S. BILLER; LEWIS CHEW; MARY )  
S. METZ, MARYELLEN C. HERRINGER; RICHARD )  
A. MESERVE; ROGER H. KIMMEL; ROSENDO G. )  
PARRA; THOMAS KING; WILLIAM T. MORROW; )  
DINYAR B. MISTRY; and DOES 1 through 50, )  
inclusive, )

Defendants, )

-and- )

PACIFIC GAS & ELECTRIC COMPANY; PG&E )  
CORPORATION; )

Nominal Defendants. )  
\_\_\_\_\_)

1 On August 7, 2015, the court held a hearing to address Nominal Defendants PG&E  
2 Corporation (PG&E) and Pacific Gas & Electric Company's (the Utility) demurr to Plaintiffs'  
3 Second Amended Consolidated Derivative Complaint (Complaint.) Individual Defendants  
4 Directors and Officers (Individual Defendants) also filed a demurrer to the Complaint.  
5 Derivative Plaintiffs (Plaintiffs) filed an opposition to the demurrers.

6 Prior to the hearing, the court issued a Tentative Ruling, which contained two exhibits.  
7 Pursuant to the court's request the parties stipulated that the Tentative Ruling and exhibits be  
8 made part of the record of the hearing as if they had been read into the transcript. The court  
9 now adopts and incorporates into this final order the reasoning and discussion set forth in its  
10 Tentative Ruling, and Exhibits "A" and "B".

11 Therefore, the final ruling is as follows:

12 A. REQUESTS FOR JUDICIAL NOTICE & MOTION TO STRIKE

13 PG&E's Request for Judicial Notice: Granted.

14 Directors' and Officers' Request for Judicial Notice: Granted.

15 Plaintiffs' Request for Judicial Notice: Granted.

16 Defendants' Supplemental Request for Judicial Notice: Granted.

17 PG&E's Motion to Strike Portions of Second Amended Complaint: Denied.

18 B. APPLICABLE LAW: The court finds that California law, specifically  
19 Corporations Code section 204, provides an entirely different and arguably more liberal  
20 standard for determining director exculpation, and thus cases which analyze demand futility  
21 based on Delaware's exculpation statute do not control this case.

22 C. ALLEGATIONS REGARDING DEMAND FUTILITY

23 1. Directors Earley, Fowler and Kelly: The court finds that Plaintiffs have failed to  
24 allege sufficient facts to establish that these three directors would have been unable to  
25 entertain a demand.

26 2. Directors Andrews, Cox, Williams, Herringer, Rambo and Meserve: As to these  
27 six directors, who served from 2006 to the time of the explosion, the court finds that plaintiffs  
28 have pleaded demand futility. The exhibits attached to the Tentative Order, and incorporated

1 into this Final Order, list the specific allegations the court found persuasive in making this  
2 determination, including safety, operational, maintenance, and cultural problems at PG&E.  
3 The Tentative Order, also incorporated into this Final Order, highlighted some of the most  
4 significant allegations.

5 3. Kimmel, Chew, Miller and Parra: In the Tentative Ruling the court set forth a  
6 number of questions it needed answered in order to determine whether the allegations in the  
7 Complaint were sufficient to find that any one of these directors was incapable of entertaining  
8 a demand from Plaintiffs. Specifically, the court asked the Plaintiffs to address the following  
9 questions: What does the Complaint specifically allege that they knew, when and how did  
10 they know of any safety problems, and how did they respond? Were the only “red flags” that  
11 came to the Audit Committee’s attention those in 2007 and 2008 before Chew and Miller  
12 joined the Committee? Who was responsible for the reduction in the 2010 budget, who knew  
13 about it and why was it done? Did the Finance Committee receive any “red flags” during the  
14 brief time Kimmel and Parra were members?

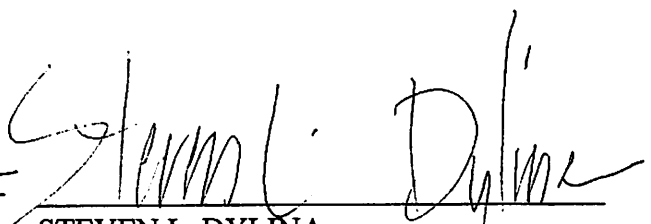
15 This issue was initially addressed at the hearing on August 7, 2015, but the parties did  
16 not have sufficient time to complete their arguments, and thus the hearing on this issue was  
17 continued to August 28, 2015. The court, having heard the argument of counsel, including  
18 argument regarding the court’s specific questions, finds that the allegations as to these  
19 directors, particularly Kimmel and Miller who joined the Board in early 2009, are sufficient to  
20 establish demand would have been futile as to these directors.

21 Therefore, Plaintiffs have established that the particularized allegations in the  
22 Complaint demonstrate that it would have been futile to make a demand on the 2013 Board  
23 because there exists a reasonable doubt that a majority of the relevant Directors was capable of  
24 exercising their independent and disinterested business judgment in responding to a demand at  
25 the time the Complaint was filed, given they faced a substantial likelihood of non-exculpated  
26 personal liability.

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28 DEFENDANTS’ DEMURRER IS OVERRULED.

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Dated:

August 28, 2015   
STEVEN L. DYLIINA  
JUDGE OF THE SUPERIOR COURT