

UNITED STATES BANKRUPTCY COURT  
Northern District of California

In re: )  
 )  
Pacific Gas and Electric Company, )  
 )  
Debtor(s) )  
\_\_\_\_\_ )

Bankruptcy No.: 01-30923 DM  
R.S. No.:  
Hearing Date: September 16, 2002  
Time: 1:30 p.m.

50-275  
323

Relief From Stay Cover Sheet

Instructions: Complete caption and Section A for all motions. Complete Section B for mobile homes, motor vehicles, and personal property. Complete Section C for real property. Utilize Section C as necessary. If moving party is not a secured creditor, briefly summarize the nature of the motion in Section D.

(A) Date Petition Filed: April 6, 2001 Chapter: 11  
Prior hearings on this obligation: None Last Day to File §523/§727 Complaints:

(B) Description of personal property collateral (e.g. 1983 Ford Taurus): N/A

Secured Creditor [ ] or lessor [ ]  
Fair market value: \$ \_\_\_\_\_ Source of value: \_\_\_\_\_  
Contract Balance: \$ \_\_\_\_\_ Pre-Petition Default: \$ \_\_\_\_\_  
Monthly Payment: \$ \_\_\_\_\_ No. of months: \_\_\_\_\_  
Insurance Advance: \$ \_\_\_\_\_ Post-Petition Default: \$ \_\_\_\_\_  
No. of months: \_\_\_\_\_

(C) Description of real property collateral (e.g. Single family residence, Oakland, CA): N/A

Fair market value: \$ \_\_\_\_\_ Source of value: \_\_\_\_\_ If appraisal, date: \_\_\_\_\_

Moving Party's position (first trust deed, second, abstract, etc.):

Approx. Bal. \$ \_\_\_\_\_ Pre-Petition Default: \$ \_\_\_\_\_  
As of (date): \_\_\_\_\_ No. of months: \_\_\_\_\_  
Mo. payment: \$ \_\_\_\_\_ Post-Petition Default: \$ \_\_\_\_\_  
Notice of Default (date): \_\_\_\_\_ No. of months: \_\_\_\_\_  
Notice of Trustee's Sale: \_\_\_\_\_ Advances Senior Liens: \$ \_\_\_\_\_

Specify name and status of other liens and encumbrances, if known (e.g. trust deeds, tax liens, etc.):

Position	Amount	Mo. Payment	Defaults
1 <sup>st</sup> Trust Deed: _____	\$ _____	\$ _____	\$ _____
2 <sup>nd</sup> Trust Deed: _____	\$ _____	\$ _____	\$ _____
_____			
_____			
(Total)	\$ _____	\$ _____	\$ _____

(D) Other pertinent information: Movants seek relief from stay for cause to pursue state court litigation.

Dated: 8/27/02 Paula V. Tanner  
Signature  
Paula V. Tanner  
Print or Type Name

Attorney for Movants Rodney and Karen Bughao

Add OGC Mail Center  
A001

1 Paula V. Tanner, Bar No. 088790  
2 Law Offices of Paula V. Tanner,  
3 1006 4<sup>th</sup> Street, Suite 302  
4 Sacramento, CA 95814-4503

5 Telephone: (916) 446-8877  
6 Facsimile: (916) 446-8871

7 Attorney for Movants  
8 Rodney and Karen Bughao

9 UNITED STATES BANKRUPTCY COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 SAN FRANCISCO DIVISION

12 In re:  
13 PACIFIC GAS AND ELECTRIC  
14 COMPANY, a California corporation,  
15 Debtor.

Case No.: 01-30923 DM

Chapter 11 Case

16 NOTICE OF MOTION AND  
17 MOTION FOR RELIEF FROM  
18 AUTOMATIC STAY;  
19 MEMORANDUM OF POINTS  
20 AND AUTHORITIES

21 DATE: September 16, 2002  
22 TIME: 1:30 p.m.  
23 CTRM: 22

24 NOTICE AND MOTION

25 NOTICE IS HEREBY GIVEN that on September 16, 2002, at 1:30 p.m., or as soon  
26 thereafter as the matter may be heard, a hearing will be held on the motion of Rodney Bughao and  
27 Karen Bughao ("Movants") for relief from the automatic stay of 11 U.S.C. § 362(a) to permit  
28 Movants to liquidate the amount of their claim in their pending state court action against Pacific  
Gas and Electric Company ("Debtor"). The motion will be heard in the United States Bankruptcy  
Court, Courtroom 22, 235 Pine Street, 22nd Floor, San Francisco, California.

Respondent Pacific Gas and Electric Company is advised to appear at the preliminary  
hearing at the time and place set forth above.

Notice and Motion for Relief from Stay 1

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 On November 8, 2000, prior to the commencement of this case, Movants filed in the  
3 Sacramento County Superior Court a complaint for damages for property damage and trespass. A  
4 copy of the complaint appears as pages 4-10 to the declaration of Michael L. Johnson, filed  
5 herewith.

6 Relief from stay for cause is governed by 11 U.S.C. §362(d), which provides in pertinent  
7 part that "... the court shall grant relief from the stay . . . (1) for cause . . . ."

8 "A bankruptcy court has great discretion in its ability to lift the automatic stay." *Garber v.*  
9 *National Union Fire Ins. Co. (In re Garber)*, 2000 U.S. App. LEXIS 11778 at \*4 (9th Cir. 2000).

10 Various factors have been cited for consideration in stay proceedings to allow non-  
11 bankruptcy litigation to go forward. Twelve such factors were listed by the court in *In re Curtis*,  
12 40 B.R. 795 (Bkrty. D.Utah 1984). Factors pertinent to the instant case are:

- 13 (1) Whether the relief will result in a partial or complete resolution of the  
14 issues.
- 15 (2) The lack of any connection with or interference with the bankruptcy case.
- 16 (4) Whether a specialized tribunal has been established to hear the  
17 particular cause of action and that tribunal has the expertise to hear  
18 such cases.
- 19 (7) Whether litigation in another forum would prejudice the interests of  
20 other creditors, the creditors committee and other interested parties.
- 21 (10) The interest of judicial economy and the expeditious and economical  
22 determination of litigation for the parties.
- 23 (12) The impact of the stay on the parties and the balance of hurt.

24 *In re Curtis*, 40 B.R. at 799-800.

25 Movants seek relief from the stay to permit them to proceed with their state court action for  
26 the sole purpose of liquidating the amount of their claim. This aspect of Movants' claim may be  
27 completely resolved in the state court, leaving collection on such claim to Movants' remedies as  
28 general unsecured creditors in Debtor's bankruptcy case. Movants specifically do not seek relief  
to proceed with any collection efforts on any judgment they may obtain in state court other than by  
way of their claim in the bankruptcy case. Thus, the state court action will not interfere with the

Notice and Motion for Relief from Stay 2

1 orderly administration of the bankruptcy case or with the assets of the bankruptcy estate.  
2 "Where neither prejudice to the bankruptcy estate nor interference with the bankruptcy  
3 proceeding is demonstrated, the desire of a stayed party to proceed in another forum is sufficient  
4 cause to warrant lifting the automatic stay." *Carter v. Larkham (In re Larkham)*, 31 B.R. 273,  
5 276 (Bankr. D.Vt. 1983).

6 The legislative history of the stay provision under the [Bankruptcy Act of 1978]  
7 indicates that actions which pose "no great prejudice to the bankruptcy estate"  
8 should be permitted "to continue in their place of origin, . . . in order to leave the  
9 parties to their chosen forum and to relieve the bankruptcy court from many duties  
10 that may be handled elsewhere." S. Rep. No. 989, 95th Cong. 2d Sess. at 50  
11 (1978).

12 *Ibid.*

13 Further, the state court is the forum typically utilized for the liquidation of property  
14 damage and trespass claims such as those asserted by Movants, and there is no reason to deplete  
15 this court's time in resolving this matter. Thus, the interests of judicial economy and the  
16 expeditious and economical determination of litigation for the parties weighs in favor of relief  
17 from stay. Nor is there any reason to suppose that litigation in the state court would prejudice the  
18 interests of other creditors, the creditors committee or other interested parties in the bankruptcy  
19 case, especially in light of the fact that Movants will seek payment on account of their claim only  
20 through the bankruptcy process.

21 Finally, in considering the impact of the stay, the court must balance the hardship to  
22 Movants of maintaining the stay versus the hardship to the Debtor of lifting the stay. *Matter of*  
23 *Robertson*, 244 B.R. 880, 883 (Bankr. N.D.Ga. 2000). In this case, Movants have a claim against  
24 the Debtor that remained unliquidated as of the date of Debtor's bankruptcy filing; they have a  
25 right to liquidate that claim so as to be able to participate as general unsecured creditors in  
26 Debtor's reorganization. There is no reason to believe that the burden on Debtor would be any  
27 more onerous to liquidate this claim in state court than in this court. *See In re Fowler*, 259 B.R.  
28 856, 861 (Bankr. E.D.Tex. 2001)

///

///

Notice and Motion for Relief from Stay 3

1 For these reasons, Movants request an order lifting the automatic stay to permit them to  
2 proceed with and complete prosecution of the state court action, any collection activity to be  
3 limited to Movants' rights as creditors in this bankruptcy case.

4 A proposed order is attached hereto as Exhibit A.

5  
6 Dated: August 27, 2002

LAW OFFICES OF PAULA V. TANNER

7  
8 By: Paula V. Tanner  
9 Paula V. Tanner  
10 Attorney for Movants  
11 Rodney and Karen Bughao  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Notice and Motion for Relief from Stay 4

1 Paula V. Tanner, Bar No. 088790  
2 Law Offices of Paula V. Tanner  
3 1006 4<sup>th</sup> Street, Suite 302  
4 Sacramento, CA 95814-4503

5 Telephone: (916) 446-8877  
6 Facsimile: (916) 446-8871

7 Attorney for Movants  
8 Rodney and Karen Bughao

9 UNITED STATES BANKRUPTCY COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 SAN FRANCISCO DIVISION

12 In re:  
13 PACIFIC GAS AND ELECTRIC  
14 COMPANY, a California corporation,  
15 Debtor.

16 Case No : 01-30923 DM

17 Chapter 11 Case

18 ORDER FOR RELIEF FROM  
19 AUTOMATIC STAY

20 DATE: September 16, 2002  
21 TIME: 1:30 p.m.  
22 CTRM: 22

23 The court having considered the motion of Rodney Bughao and Karen Bughao ("Movants")  
24 for relief from the automatic stay of 11 U.S.C. § 362(a) to permit Movants to liquidate the amount  
25 of their claim in their pending state court action against Pacific Gas and Electric Company  
26 ("PG&E"), and good cause appearing,

27 IT IS HEREBY ORDERED that the automatic stay of 11 U.S.C. § 362(a) is hereby  
28 modified for the limited purpose of allowing Movants to proceed with and complete prosecution of  
their state court action entitled *Bughao v. Pacific Gas and Electric Company*, Case No.  
00AS06155, Superior Court of California, County of Sacramento, to a final judgment; provided,  
however, that nothing herein shall be deemed to allow Movants, or either of them, to enforce,

///

///

Order for Relief from Stay

1

EXHIBIT A

1 collect, assess or recover any judgment or settlement for the payment of money that may be  
2 entered in such case against PG&E, other than pursuant to a properly filed proof of claim in the  
3 within Chapter 11 case.

4  
5 Dated: \_\_\_\_\_

6 Dennis Montali  
7 United States Bankruptcy Judge

8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
Order for Relief from Stay

2

1 Paula V. Tanner, Bar No. 088790  
2 Law Offices of Paula V. Tanner  
3 1006 4<sup>th</sup> Street, Suite 302  
4 Sacramento, CA 95814-4503  
5 Telephone: (916) 446-8877  
6 Facsimile: (916) 446-8871  
7 Attorney for Movants  
8 Rodney and Karen Bughao

9 UNITED STATES BANKRUPTCY COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 SAN FRANCISCO DIVISION

12 In re:  
13 PACIFIC GAS AND ELECTRIC  
14 COMPANY, a California corporation,  
15 Debtor.

12 Case No.: 01-30923 DM  
13 Chapter 11 Case

14 **DECLARATION OF MICHAEL  
15 L. JOHNSON IN SUPPORT OF  
16 MOTION FOR RELIEF FROM  
17 AUTOMATIC STAY**

16 DATE: September 16, 2002  
17 TIME: 1:30 p.m.  
18 CTRM: 22

19 I, Michael L. Johnson, declare:

20 1. I am counsel of record for Claimants Rodney Bughao and Karen Bughao ("Movants")  
21 in *Bughao v. Pacific Gas and Electric Company*, Sacramento County Superior Court Case No.  
22 00AS06155 ("the state court action"). A copy of the complaint I filed on their behalf in that action  
23 is attached to the proof of claim I filed in this bankruptcy case, which in turn is attached hereto  
24 and marked as pages 4-10 for ease of reference.

25 2. By way of their complaint, Movants assert that their home was damaged on or about  
26 September 1, 1998, when PG&E's high voltage wires fell from their poles and draped across the  
27 property. A more detailed description of the damages alleged is set forth in my letter of June 28,  
28 2000, to Harry Robinson, of PG&E, a copy of which is attached hereto and marked pages 11-13.

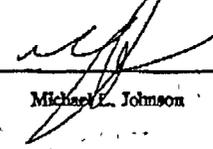
Declaration of Michael L. Johnson 1

3. I have caused to be filed in this bankruptcy case a formal proof of claim on behalf of  
2 Movants for the damages asserted by them in the state court action. A copy is attached hereto and  
3 marked pages 4-10, under cover of a letter from Robert Berger and Associates, LLC,  
4 acknowledging receipt of the claim (page 3).

5 4. By way of the present motion, Movants seek relief from the stay to permit them to  
6 proceed with their state court action for the sole purpose of liquidating the amount of their claim.  
7 This aspect of Movants' claim may be completely resolved in the state court, leaving collection on  
8 such claim to Movants' remedies as general unsecured creditors in this bankruptcy case.

9 5. Movants specifically do not seek relief to proceed with any collection efforts on any  
10 judgment they may obtain in the state court action other than by way of their claim in the  
11 bankruptcy case. Thus, I do not believe the state court action will interfere with the orderly  
12 administration of the bankruptcy case or with the assets of the bankruptcy estate.

13 I declare under the penalty of perjury that the foregoing is true and correct, and that this  
14 declaration is executed at Roseville, California, on the date set forth below.

15  
16 Dated: September 28, 2002   
17 Michael L. Johnson

18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28 Declaration of Michael L. Johnson 2

RODNEY BUGHAO  
MICHAEL L. JOHNSON  
10031 FOOTHILLS BLVD SUITE 200  
ROSEVILLE, CA 95747

Your Proof of Claim has been received by this office on Monday, June 25, 2001 and it has been assigned Proof of Claim number 298.

Signed,

Robert Berger and Associates, LLC  
Claims Agent for Pacific Gas and Electric

United States Bankruptcy Court Northern District of California	
Name of Debtor <b>Pacific Gas &amp; Electric</b>	Case Number <b>01-30923</b>
Name of Creditor (The person or other entity whom debtor owes money or property): <b>RODNEY BUGHAO</b>	<input type="checkbox"/> Check box if you are sure that anyone else has filed a proof of claim against you/claim. Attach copy of notice to any Debtor. <input type="checkbox"/> Check box if you have never received any notices from the Creditor about this case. <input type="checkbox"/> Check box if the address differs from the address on the envelope sent to you by the court.
Name and address where notices should be sent: <b>Michael L. Johnson 10031 Foothills Blvd., Suite 200 Roseville, CA 95747</b>	
Telephone number: <b>(916) 789-6221</b>	
Account or other number by which used for identifying debtor: <b>S&amp;C Superior Court 00AS06155</b>	Check here if <input type="checkbox"/> replaces a previously filed claim, delete. <input type="checkbox"/> amends
<b>1. Basis For Claim:</b> <input type="checkbox"/> Goods sold <input type="checkbox"/> Services performed <input type="checkbox"/> Money loaned <input type="checkbox"/> Personal injury/negligent death <input type="checkbox"/> Taxes <input checked="" type="checkbox"/> Other: <b>Property Damage</b> <input type="checkbox"/> Retiree benefits as defined in 11 U.S.C. § 1114(c) <input type="checkbox"/> Wages, salaries and compensation (fill out below) Your \$ per: _____ Unpaid compensation for services performed: _____	
<b>2. Date debt was incurred:</b> <u>September 1, 1998</u> <b>3. If court judgment, date obtained:</b> _____	
<b>4. Total Amount Of Claim As Filed Case # filed:</b> \$ <u>148,550.00</u> If all or part of your claim is secured or entitled to priority, also complete item 5 or 6 below. <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.	
<b>5. Secured Claims.</b> <input type="checkbox"/> Check this box if your claim is secured by collateral (preventing a right of setoff). Brief Description of Collateral: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other (describe) _____ Value of Collateral: \$ _____ Amount of arrearage and other charges at time case filed included in secured claim, if any: \$ _____	<b>6. Unsecured Priority Claims.</b> <input type="checkbox"/> Check this box if you have an unsecured priority claim. Amount entitled to priority: \$ _____ Specify the priority of the claim: <input type="checkbox"/> Wages, salaries, or commissions (up to \$4300*), earned within 90 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(3). <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(4). <input type="checkbox"/> Up to \$1150* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(6). <input type="checkbox"/> Alimony, maintenance, or support owed to a spouse, former spouse, or child - 11 U.S.C. § 507(a)(7). <input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8). <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(____) _____
<b>7. Creditor:</b> The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.	
<b>8. Supporting Documents:</b> ATTACH COPIES OF SUPPORTING DOCUMENTS, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.	
<b>9. Date Stamped Copy:</b> To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.	
Date <b>June 15, 2001.</b>	Sign and print name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any): _____ _____
*Amounts are subject to adjustment on April 9, 1998, and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.	

FILED  
JUN 25 2001

By Robert L. Berger & Assoc., Claims Agent  
For U.S. Bankruptcy Court  
Northern District of CA  
Roseville, CA 95747 Use Only

0000298

Penalty for presenting fraudulent claims: Fine up to \$300,000 or imprisonment for up to 3 years, or both. 18 U.S.C. §§ 152 and 1571

ATTORNEY OR PARTY WITHOUT ATTORNEY (NAME AND ADDRESS) <b>Michael L. Johnson, Esq. #88884 (916) 789-6226</b> Attorney at Law 10031 Foothills Boulevard, Suite 200 Roseville, CA 95747		TELEPHONE <b>(916) 789-6226</b>	FOR COURT USE ONLY <b>FORSEI</b> <b>00NOV-8 AM11:5</b> <b>LEGAL PROCESS #4</b>
ATTORNEY FOR OPPOSING PARTY (NAME AND ADDRESS) <b>SACRAMENTO COUNTY SUPERIOR COURT</b> <b>720 - 9th Street</b> <b>Sacramento, CA 95814</b>			
PLAINTIFF: <b>RODNEY BUGHAO, KAREN BUGHAO</b>			
DEFENDANT: <b>PACIFIC GAS and ELECTRIC COMPANY</b>			
<input checked="" type="checkbox"/> DOES 1 TO <u>10</u>		CASE NUMBER <b>00AS06155</b>	
COMPLAINT—Personal Injury, Property Damage, Wrongful Death <input type="checkbox"/> MOTOR VEHICLE <input checked="" type="checkbox"/> OTHER (specify): <b>TRESPASS</b> <input checked="" type="checkbox"/> Property Damage <input type="checkbox"/> Wrongful Death <input type="checkbox"/> Personal Injury <input type="checkbox"/> Other Damages (specify):			

1. This pleading, including attachments and exhibits, consists of the following number of pages: 6

2. a. Each plaintiff named above is a competent adult

- Except plaintiff (name):
- a corporation qualified to do business in California
- an unincorporated entity (describe):
- a public entity (describe):
- a minor     an adult
- for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
- other (specify):

- Except plaintiff (name):
- a corporation qualified to do business in California
- an unincorporated entity (describe):
- a public entity (describe):
- a minor     an adult
- for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
- other (specify):

b.  Plaintiff (name):  
is doing business under the fictitious name of (specify):

and has complied with the fictitious business name laws.

c.  Information about additional plaintiffs who are not competent adults is shown in  
Complaint—Attachment 2a. (Continued)

SHORT TITLE: <b>BUGHAO v. PG &amp; E</b>	CASE NUMBER:
--	--------------

COMPLAINT—Personal Injury, Property Damage, Wrongful Death

Page two

3. a. Each defendant named above is a natural person

- Except defendant (name): **Pacific Gas & Electric Co.**
- Except defendant (name):
- a business organization, form unknown
- a corporation
- an unincorporated entity (describe):
- a public entity (describe):
- other (specify):

Except defendant (name):

- a business organization, form unknown
- a corporation
- an unincorporated entity (describe):
- a public entity (describe):
- other (specify):

b. The true names and capacities of defendants sued as Does are unknown to plaintiff.

c.  Information about additional defendants who are not natural persons is contained in Complaint—Attachment 3c.

d.  Defendants who are joined pursuant to Code of Civil Procedure section 382 are (name):

4.  Plaintiff is required to comply with a claims statute, and  
a.  plaintiff has complied with applicable claims statutes, or  
b.  plaintiff is excused from complying because (specify):

5. This court is the proper court because

- at least one defendant now resides in its jurisdictional area.
- the principal place of business of a corporation or unincorporated association is in its jurisdictional area.
- injury to person or damage to personal property occurred in its jurisdictional area.
- Other (specify): **The trespass occurred on property in its jurisdictional area.**

6.  The following paragraphs of this complaint are alleged on information and belief (specify paragraph numbers):

WEST GROUP  
Official Publisher

(Continued)

Page two

Form Approved by the  
Judicial Council of California  
Effective January 1, 1993  
Rule 902.107

COMPLAINT—Personal Injury, Property Damage,  
Wrongful Death

WEST GROUP  
Official Publisher

CDP 425.12

SHORT TITLE: <b>BUGHAO v. PG&amp;E</b>	CASE NUMBER
---	-------------

COMPLAINT—Personal Injury, Property Damage, Wrongful Death (Continued)

Page three

7.  The damages claimed for wrongful death and the relationships of plaintiff to the deceased are  listed in Complaint—Attachment 7  as follows:

8. Plaintiff has suffered

- wage loss
- hospital and medical expenses
- property damage
- other damage (specify)
- loss of use of property
- general damage
- loss of earning capacity

9. Relief sought in this complaint is within the jurisdiction of this court.

10. PLAINTIFF PRAYS:

For judgment for costs of suit for such relief as is fair, just, and equitable; and for

- compensatory damages
- (Superior Court) according to proof

(Municipal and Justice Court) in the amount of \$ \_\_\_\_\_

other (specify): Punitive damages according to proof.

11. The following causes of action are attached and the statements above apply to each: (Each complaint must have one or more causes of action attached.)

- Motor Vehicle
- General Negligence
- Intentional Tort
- Products Liability
- Premises Liability
- Other (specify): Trespass

Dated: November 1, 2000.

MICHAEL L. JOHNSON  
(Type or print name)

*[Signature]*  
(Type or print name)

COMPLAINT—Personal Injury, Property Damage, Wrongful Death (Continued)

WEST GROUP  
Official Publisher

Page three  
CCP 426.12

Rule 002.117 approved

7

SHORT TITLE: <b>BUGHAO v. PG&amp;E</b>	CASE NUMBER
---	-------------

FIRST CAUSE OF ACTION—Premises Liability Page Four

ATTACHMENT TO  Complaint  Cross-Complaint

(Use a separate cause of action form for each cause of action.)

Prem.L-1 Plaintiff (name): Rodney and Karen Bughao alleges the acts of defendants were the legal (proximate) cause of damages to plaintiff. On (date): 9/1/98 plaintiff was injured on the following premises in the following

fashion (description of premises and circumstances of injury). At 420 Archas Ave, El Dorado 1 plaintiffs' home, was electrocuted by defendant's high voltage wires when they fell from their poles and draped across the property of plaintiffs contacting many electrical devices and causing an electric surge throughout the home.

Prem.L-2  Count One—Negligence The defendants who negligently owned, maintained, managed and operated the described premises were (names): Pacific Gas and Electric Company

Does 1 to 3

Prem.L-3  Count Two—Willful Failure to Warn (CIV Code section 846) The defendant owners who willfully or recklessly failed to guard or warn against a dangerous condition, use, structure, or activity were (names): Pacific Gas and Electric Company

Does 4 to 7

Plaintiff, a recreational user, was  an invited guest  a paying guest.

Prem.L-4  Count Three—Dangerous Condition of Public Property The defendants who owned public property on which a dangerous condition existed were (names):

Does \_\_\_\_\_ to \_\_\_\_\_

- a.  The defendant public entity had  actual  constructive notice of the existence of the dangerous condition in sufficient time prior to the injury to have corrected it.
- b.  The condition was created by employees of the defendant public entity

Prem.L-5 a.  Allegations about Other Defendants The defendants who were the agents and employees of the other defendants and acted within the scope of the agency were (names):

Does 8 to 10

- b.  The defendants who are liable to plaintiffs for other reasons and the reasons for their liability are  described in attachment Prem.L-5 b  as follows (names)

Form Approved by the  
Judicial Council of California  
Effective January 1, 1992  
Rule 102.13

CAUSE OF ACTION—Premises Liability

WEST GROUP  
Official Publisher

CCP 426.12

8

SHORT TITLE: BUGHAO v. PACIFIC GAS AND ELECTRIC COMPANY	CASE NUMBER:
---	--------------

SECOND CAUSE OF ACTION—General Negligence Page Five

ATTACHMENT TO  Complaint  Cross-Complaint

(Use a separate cause of action form for each cause of action.)

GN-1. Plaintiff (name): RODNEY BUGHAO, KAREN BUGHAO, et al.

alleges that defendant (name): PACIFIC GAS and ELECTRIC COMPANY

Does ONE to THREE

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant negligently caused the damage to plaintiff.

on (date): September 1, 1998

at (place): 420 Arches Avenue, El Dorado Hills, CA

(description of reasons for liability):

1. Failing to properly inspect, monitor or maintain the high voltage lines running adjacent to plaintiffs' property.
2. Knowingly deferring maintenance or inspection of such lines due to the anticipated replacement of such lines with higher voltage lines and new poles.
3. Allowing high voltage lines to drop from their position on the power poles onto the residence of plaintiffs.

9

SHORT TITLE: BUGHAO v. PG&E	CASE NUMBER:
-----------------------------	--------------

THIRD CAUSE OF ACTION—TRESPASS Page Six

ATTACHMENT TO  Complaint  Cross-Complaint

(Use a separate cause of action form for each cause of action.)

GN-1. Plaintiff (name): RODNEY BUGHAO, et al.

alleges that defendant (name): PACIFIC GAS and ELECTRIC COMPANY

Does 4 to 7

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant negligently caused the damage to plaintiff.

on (date): September 1, 1998

at (place): 420 Arches Avenue, El Dorado Hills, CA.

(description of reasons for liability): Trespass § 3333

1. On or about September 1, 1998, plaintiffs were in possession of certain real property situated at 420 Arches Avenue, El Dorado Hills, El Dorado County, California.
2. On September 1, 1998, and for a period of seven (7) years, plaintiffs were using the property described in paragraph 1 as their home.
3. On or about September 1, 1998, defendants, without the consent or authority and against the will of the plaintiffs, entered onto the property described in paragraph 1 as follows: By allowing or causing high voltage lines to fall onto plaintiffs' property.
4. From September 1, 1998 until February 19, 1999, defendants entered the property described in paragraph 1 and remained there for most of the day to effectuate repairs, make the property habitable, contract for necessary repairs and otherwise deprive plaintiffs' of their residence while attempting to effectuate repairs.
5. By reason of defendants' conduct, the value of the property described in paragraph 1 for the use specified in paragraph 2 has been impaired to plaintiffs' damage in excess of the jurisdictional minimum, the amount to be proven at trial.
6. By reason of defendants' conduct, plaintiff has been deprived of the use and possession of the property for a period of 5 ½ months, i.e., September 1, 1998 to February 19, 1999 to plaintiffs' damage in an amount to be proven at trial.
7. Defendants' intentional delay in maintenance and lack of inspection due to a scheduled replacement of the subject poles and wires caused plaintiffs' damages hereinabove mentioned.
8. That intentional delay in reckless disregard of plaintiffs' rights subjects defendant to an assessment of punitive damages.

10

MICHAEL L. JOHNSON  
 Attorney At Law  
 10031 Foothills Boulevard, Suite 200  
 Roseville, California 95747-7101  
 (916) 789-6221

June 28, 2000

Harry Robinson  
 P G. & E. Claims Investigator  
 Sierra Division  
 Safety, Health & Claims  
 1050 High Street, Third Floor  
 Auburn, CA 95603

Dear Mr. Robinson:

I have been retained by Rodney and Karen Bughao to represent them in their claim against PG & E for incidental damages that they suffered as a result of the September 1, 1998 fall onto their home and property of your high voltage line. It is my intention by this letter to provide you with the details of the claim in the hopes of resolving the matter short of litigation. Obviously, the valuations stated herein are conveyed in the spirit of settlement negotiation and will not be admissible in any litigation per the California Evidence Code. If you are insured for this type of loss you should forward this demand to your insurance carrier forthwith.

I understand that the basic facts of this occurrence are well known to your company. Briefly, on September 1, 1998 the high voltage line that passes via easement to the south of the Bughao residence at 420 Arches in El Dorado Hills snapped from its securement and fell making contact with the Bughao pool equipment. The charge to that equipment then caused a high voltage surge throughout the Bughao home causing extensive property damage from the electrocution and resulting fires of and within the home. Liability for the occurrence is accepted and PG & E has mitigated its exposure by payment for restoration projects in the home and relocation expenses incurred. The remaining exposure is for the inconvenience, anxiety and annoyance the Bughao family suffered by having to move from their family home, relocate to three different residences, provide

11

Harry Robinson  
 P G & E. Claims Investigator  
 June 28, 2000  
 Page 2

transportation for their children to attend their community school, invest innumerable hours in overseeing the restoration work and numerous other effects on their time and psyche.

It is reasonable to assess these damages in a structured framework. I have determined that the best structure for the analysis is to look at the days and months that the Bughao's were disenfranchised and place a monetary value on those days and months. Clearly, distinctions can be drawn between the severity of the initial anxiety of wondering where their children would sleep in the days immediately following the damage and the inconvenience in the later months of having to meet with contractors for the purpose of assuring themselves the restoration was progressing satisfactorily. Those types of distinctions will be evident in the breakdown of what I consider to be fair compensation for this damage on a daily basis.

The first week following the destruction of so much of the Bughao home should be compensated at the highest level. The day of and those days immediately following having your home damaged to the point of being uninhabitable are very traumatic. One does not need to employ any imagination to be able to relate to having to take up residence in a hotel, not being able to have your personal effects, explaining to the three young children your uncertainty of shelter and clothing, etc. I value those 7 days at \$5,000 per day. Frankly, whether it is calculated daily or simply at the time of the initial insult to the home a \$35,000 payment in compensation for that anxiety and annoyance is quite reasonable.

After the first week the Bughao's continued to reside in a hotel in Folsom for another week until a being relocated to a larger hotel (on September 15, 1998) further away in Rancho Cordova where they lived until October 10, 1998. Neither hotel was in the community the Bughao's lived thus depriving the children (and Rodney and Karen to a somewhat lesser extent) of being able to carry on their lives as they had done. Suddenly, to visit the neighbor children a commute was involved. Attending school was also complicated by that commute in that when at home the children live within a very short walk of the school. It goes without describing in detail the tremendous inconvenience and annoyance a family of five suffers when cramped into a hotel as compared to a 4 bedroom/3 bathroom home. I value those 32 days at \$1,000 each for a total of \$32,000.

12

Harry Robinson  
P.G. & E. Claims Investigator  
June 28, 2000  
Page 3

---

Next, the Bughao family is provided a rental home in El Dorado Hills that although better than a hotel room is still not adequate and is a distance away that contributes daily to the hassles the family must endure to carry on with their daily lives. The days in that house also include new uncertainties of wondering how long it will be before life is back to normal, will the Arches home in fact be habitable given the damage that has been done and the genuine fear of moving back into the house that could have caused any member of the family to have been severely injured if not killed. The days and anxieties accompanying them in this house I value at \$500.00 per day. The Bughao family resided there from October 10, 1998 to February 19, 1999 for a total of 132 days. That equals \$66,000.

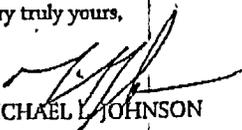
On February 19, 1999 the Bughao's are able to return home. Even then the annoyance continues with unfinished work, work that had been done incorrectly, and the travails (primarily of Karen Bughao) now in having to juggle her duties as a mother with those of the necessities of working with the contractors on materials selections, scheduling meetings, rescheduling meetings, etc. For each of the remaining months of 1999 (and, in fact, continuing even at this time intermittently) items would crop up that required a diversion of time and effort making it more than reasonable to value this remaining portion of the claim at \$50.00 a day for the balance of the year (311 days) which equals \$15,550.

The analysis above leads to a total sum of \$148,550. The Bughao's are prepared to accept that sum at this time in full compromise of their claim for the incidental damages arising out of the trespass of your high voltage lines on their property. This demand does not include any outstanding obligations, if any, for work done in restoring the property damage done or bills incurred for expenses due to the families displacement.

I would be happy to discuss this matter with you at your convenience. If there is no response by August 3, 2000 I will be required to proceed to litigation.

Thank you for your time and consideration.

Very truly yours,

  
MICHAEL L. JOHNSON

MLJ:pjl