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7 **Attorney for Plaintiffs**
8 Sandra Maurer dba EMF Safety Network, Joshua Hart,
9 Joshua Hart dba Stop Smart Meters!, Garril Page,
10 Garril Page dba Obility, Valeri Hood,
11 Mary Beth Brangan

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO**

14 SANDRA MAURER, SANDRA) Case No. :
15 MAURER dba EMF Safety Network,)
16 JOSHUA HART, JOSHUA HART dba) COMPLAINT FOR DAMAGES
17 STOP SMART METERS!, GARRIL)
18 PAGE, GARRIL PAGE dba OBILITY,)
19 VALERI HOOD, MARY BETH)
20 BRANGAN,)
21 Plaintiff,)
22 vs.)
23 PACIFIC GAS AND ELECTRIC)
24 COMPANY, WILLIAM)
25 DEVEREAUX, and DOES 1 through)
26 100, inclusive,)
27 Defendants.)
28

25 SANDRA MAURER, SANDRA MAURER dba EMF Safety Network, JOSHUA HART,
26 JOSHUA HART dba STOP SMART METERS!, GARRIL PAGE, GARRIL PAGE dba
27 OBILITY, VALERI HOOD and MARY BETH BRANGAN allege as follows:
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1 1. At all times mentioned herein, defendant PACIFIC GAS AND ELECTRIC
2 COMPANY was incorporated in California and is a privately owned public utility company
3 providing natural gas and electrical generation and distribution service in Northern and Central
4 California.

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6 2. At all times mentioned herein, defendant PACIFIC GAS AND ELECTRIC
7 COMPANY had its headquarters in the City and County of San Francisco. Hence, venue is
8 proper in the City and County of San Francisco.

9 3. At all times mentioned herein, defendant PACIFIC GAS AND ELECTRIC
10 COMPANY was legally vested with authority to exercise in the name of the aforesaid entity the
11 power to acquire property by eminent domain pursuant to the provisions of the Public Utility
12 Code section 613 and Code of Civil Procedure sections 1230.010, 1240.010, and 1240.120, et.
13 seq..

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15 4. At all times mentioned herein, defendant WILLIAM DEVEREAUX, was an individual
16 employed by defendant PACIFIC GAS AND ELECTRIC COMPANY as a Senior Director in
17 charge of the "Smart Meter" program. At all times mentioned herein, defendant DEVEREAUX
18 was acting within the course and scope of his employment, and with the knowledge, approval
19 and ratification of management peers, subordinates and senior management of defendant
20 PACIFIC GAS AND ELECTRIC COMPANY.

21
22 5. Plaintiffs are ignorant of the true names and capacities of defendants sued herein as
23 DOES 1 through 100, inclusive, and therefore sues said defendants by such fictitious names.
24 Each fictitiously-named defendant is in some manner responsible for the injuries and damages
25 complained of herein. Plaintiffs will amend this complaint to allege the true names and
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1 capacities of such defendants when they are ascertained.

2 6. Plaintiffs are informed and believe and thereon allege that at all times relevant herein,
3 defendants and each of them, were the agent, employee, servant and joint venturer of each of the
4 remaining defendants and that in doing the things hereafter alleged, was acting within the course,
5 scope and authority of such agency, employment and joint venture, and with the consent and
6 permission of each of the other defendants.
7

8 7. Plaintiff SANDRA MAURER, SANDRA MAURER dba EMF Safety Network, is an
9 individual who resides in the County of Sonoma. At all times mentioned herein, EMF SAFETY
10 NETWORK was a public advocacy group which provided information for county leaders and
11 community groups about the health and safety effects of wireless electro-magnetic frequency
12 radiation ("EMF") and radio frequency radiation ("RF"). EMF SAFETY NETWORK initiated a
13 moderated online discussion group known as the EMF Safety Coalition google group. At all
14 times herein alleged, plaintiff SANDRA MAURER was also a party opposing defendant
15 PACIFIC GAS AND ELECTRIC COMPANY in an ongoing and open proceeding pending
16 before the California Public Utilities Commission, Application 10-04-018.
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19 8. Plaintiff JOSHUA HART and JOSHUA HART dba STOP SMART METERS!, is an
20 individual who resides in the County of Santa Cruz. At all times mentioned herein, STOP
21 SMART METERS! was an advocacy, media outreach, and direct-action organization founded in
22 June 2010 that provided consultation and advice to dozens of local groups which oppose wireless
23 smart meters. 9. Plaintiffs GARRIL PAGE and GARRIL PAGE dba OBILITY, VALERI HOOD
24 and MARY BETH BRANGAN are individuals who reside in the County of Marin. At all times
25 mentioned herein, plaintiffs PAGE, PAGE dba OBILITY, HOOD and BRANGAN were
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1 members and participants in SMARTWARRIORMARIN online discussion group. At all times
2 herein mentioned, SMARTWARRIORMARIN was a moderated online discussion group hosted
3 by Google.

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5 8a. There are other and further members of SMARTWARRIORMARIN online
6 discussion groups whose identities have not yet been ascertained and plaintiff prays leave to add
7 their names and identities as plaintiffs as further information is adduced.

8 10. Beginning, on or about 2009 defendant PACIFIC GAS AND ELECTRIC
9 COMPANY began replacing its existing system of manually read analog and digital electrical
10 and natural gas usage meters with a network of wireless broadband radio equipped digital meters
11 linked in a mesh network architecture known as Smart Meters.

12
13 11. Plaintiffs are citizen activists and customers of defendant PACIFIC GAS AND
14 ELECTRIC COMPANY who opposed the deployment of Smart Meters because of the
15 deleterious health, safety, security and privacy impact of the system. At all times herein
16 mentioned, plaintiffs, and each of them, were engaged in protected activities under the First
17 Amendment of the United States Constitution and under the California Constitution, Article 1,
18 sections 1, 2a, and 3a. Plaintiffs pray leave to amend this complaint to allege other violations as
19 further information and evidence is adduced.

20
21 12. Beginning on or about September 10, 2010, defendant DEVEREAUX began using the
22 alias "Ralph Florea" and an e-mail address manasota99@gmail.com to conceal his identity in
23 order to collect intelligence about the individuals who opposed smart meters. In so doing,
24 DEVEREAUX also used this false name and email address to conceal his identity when posting
25 derogatory comments on STOPSMARTMETERS.ORG, ONTHELEVEL.BLOG.COM, and
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1 SMART WARRIORMARIN google group. Defendant DEVEREAUX similarly attempted to
2 join the California EMF Safety Coalition google group under a false name, false identity and
3 false pretenses. In doing so, defendant DEVEREAUX intended to discredit and undermine the
4 efforts of plaintiffs to petition the government for redress of their grievances and to assemble
5 freely to petition and lobby for the public good. At all times herein mentioned, the comments
6 posted on SMARTWARRIORMARIN and California EMF Safety Coalition google groups were
7 provided with the expectation that such communications were private and only intended for
8 members of the group organizing against deployment of the Smart Meter system.
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10
11 13. The intelligence that defendant DEVEREAUX collected was published to, and shared
12 with, numerous subordinate, peer and senior management employees of defendant PACIFIC
13 GAS AND ELECTRIC COMPANY. Senior management knew about and condoned defendant's
14 deceit. The data that defendant DEVEREAUX provided to PACIFIC GAS AND ELECTRIC
15 COMPANY through his false identity was analyzed and shared with other unknown entities as
16 well. Plaintiff prays leave to insert their actual names as further information is adduced. Plaintiff
17 is informed and believes that defendant PACIFIC GAS AND ELECTRIC COMPANY gathered
18 other data and information through other intelligence assets and channels and prays leave to
19 insert these acts as further information is adduced.
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21 14. On or about November 4, 2010, defendant DEVEREAUX attempted to join the EMF
22 SAFETY Coalition google group. At all times herein relevant, the California EMF Safety
23 Coalition google group was accessible only to members. Non-members who try to view this site
24 saw the following message: "You must be signed in and a member of this group to view its
25 content. Contact the owner to join".
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1 15. Defendant DEVEREAUX used his alias to send an email to the moderator requesting
2 to join the California EMF Safety Coalition google group. Unbeknownst to him, the header of his
3 email revealed his real name "From: William Devereaux manasota99@gmail.com". The
4 moderator of the group, plaintiff SANDRA MAURER responded to defendant's request to join
5 with an email note requesting further information. Defendant DEVEREAUX replied that he had
6 been traveling, lived in Oakland, wanted to learn more about smart meters and that he wanted to
7 join the conversation to "help out". Plaintiff MAURER queried defendant whether he was the
8 head of the Smart Meter program at defendant PACIFIC GAS AND ELECTRIC COMPANY
9 and requested his help in arranging a moratorium and an opportunity to be heard at the California
10 Public Utilities Commission. Defendant DEVEREAUX did not respond to plaintiff.
11

12 16. On or about November 9, 2010, the San Jose Mercury News and other print and
13 media outlets reported that defendant DEVEREAUX had joined several internet sites, had used a
14 false identity to monitor citizens opposed to the Smart Meter program.
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16 17. Defendant PACIFIC GAS AND ELECTRIC COMPANY thereafter published
17 numerous private email exchanges from SMARTWARRIORMARIN group, California EMF
18 Safety Coalition google group to the San Jose Mercury News and other print and media outlets.
19 In disclosing these documents, defendant PACIFIC GAS AND ELECTRIC COMPANY
20 included private email addresses and other private information without the authority or consent
21 of the involved individuals. Defendant PACIFIC GAS AND ELECTRIC COMPANY also
22 published comments which described plaintiffs as "insurgents" and other terms that were
23 defamatory to the character and reputation of plaintiffs and exposed them to public ridicule and
24 rebuke.
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1 **FIRST CAUSE OF ACTION**

2 (Fraud and Deceit)

3 18. Plaintiffs reallege each and every allegation set forth in paragraphs 1 through 17
4 above and incorporate the same by reference as though set forth herein.

5 19. In presenting himself under a false identity in order to obtain information and
6 opinions from plaintiffs, defendant DEVEREAUX falsely stated and intentionally misrepresented
7 that he was interested in assisting and supporting plaintiffs' protected political activity and
8 associations. Defendant made these statements in order to deceive plaintiffs into providing
9 information, strategies and opinions in order to gather data to undermine their efforts to alert
10 their communities to the health, safety, security and privacy defects in the Smart Meter system
11 and to discredit their reputations and opinions.

12 20. Defendants and each of them, in making such mis-representations and
13 concealments of fact, intended that plaintiffs should rely on said representations and
14 concealments of fact to obtain information regarding their opinions, criticisms and strategies to
15 oppose the Smart Meter program and to undermine their efforts to organize and inform their
16 communities through demonstrations and gatherings; and further thwart their efforts to petition
17 governmental authorities and agencies to assist them in stopping or curtailing the Smart Meter
18 program.

19 21. Plaintiffs justifiably relied on and believed the misrepresentations of defendants,
20 and each of them, and was unaware of the concealments by defendants until it was disclosed in
21 the San Jose Mercury News and other media and print outlets.

22 22. As a direct and foreseeable result of the fraud of defendants and the deceit upon
23 plaintiff, and their concealment of other facts, plaintiffs were damaged as set forth hereinbelow.
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1 **FOURTH CAUSE OF ACTION**

2 (Penal Code Section 631)

3 36. Plaintiff refers to Paragraphs 1 through 35, and incorporates the same herein by
4 reference as if set forth at length.

5 37. Defendants and each of them intentionally and willfully and without the consent or
6 authorization of plaintiff read and learned the contents of the SMARTWARRIOR MARIN and
7 California EMF Safety Coalition online discussions with the intent to use said data to discredit
8 plaintiffs and to undermine their efforts to petition the government and to engage in protected
9 free speech and association activities. In so doing, defendants and each of them violated
10 California Penal Code section 631.
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12 38. The conduct of defendants, and each of them, was malicious, wanton, oppressive and
13 fraudulent, and reflected a callous disregard of plaintiffs' rights and justifies an award of punitive
14 damages against each of the defendants.
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16 39. The defendants' conduct was done with the full knowledge, approval and
17 ratification of the other defendants, and each of them. As a proximate result of the above,
18 plaintiff suffered damages as otherwise alleged in this Complaint.
19

20 Wherefore, plaintiffs pray for damages and relief as hereinafter set forth.

21 **FIFTH CAUSE OF ACTION**

22 (Unfair Business Practices- Business and Professions Code section 17200)

23 40. Plaintiff refers to Paragraphs 1 through 39, and incorporates the same herein by
24 reference as if set forth at length.

25 41. The conduct of defendants, and each of them, constitutes unfair business acts or
26 practices under Business and Professions Code §17200 et seq. Said conduct was unlawful, unfair
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1 and fraudulent. Said conducted violated, without limitation, the following statutes: Civil Code §
2 43, Penal Code section 631, Public Utilities Code section 451, and other statutes which have not
3 yet been identified. Plaintiffs pray leave to insert further statutory violations further evidence is
4 adduced.
5

6 Wherefore, Plaintiff prays for damages and relief as set forth hereinafter.

7 **SIXTH CAUSE OF ACTION**
8 (Public Utility Code section 451)

9 42. Plaintiff refers to Paragraphs 1 through 41, and incorporates the same herein by
10 reference as if set forth at length herein.

11 43. Defendant PACIFIC GAS AND ELECTRIC COMPANY is a public utility within the
12 meaning of Public Utility Code section 451.

13 44. In doing the acts set forth hereinabove, defendant PACIFIC GAS AND ELECTRIC
14 COMPANY failed to provide efficient, just and reasonable service as required under Public
15 Utility Code section 451.
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17 45. The conduct of defendants, and each of them, was malicious, wanton, oppressive and
18 fraudulent, and reflected a callous disregard of plaintiffs' rights and justifies an award of punitive
19 damages against each of the defendants.
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21 46. The defendants' conduct was done with the full knowledge, approval and
22 ratification of the other defendants, and each of them. As a proximate result of the above,
23 plaintiff suffered damages as otherwise alleged in this Complaint.

24 Wherefore, plaintiffs pray for damages and relief as hereinafter set forth.

25 **SEVENTH CAUSE OF ACTION**
26 (Civil Conspiracy)

27 47. Plaintiffs refer to Paragraphs 1 through 46, and incorporates the same herein by
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1 reference as if set forth herein.

2 48. Plaintiffs are informed and believes that in or about and after September 10, 2010,
3 defendants and each of them knowingly and willingly agreed and conspired among themselves to
4 fraudulently, deceitfully and without the permission, authority or consent of plaintiffs to infiltrate
5 their online discussion groups under false pretenses in order to undermine their efforts to oppose
6 the Smart Meter program; to discredit their standing in the community; interfere with their lawful
7 efforts to organize and inform their communities; and, to petition the government with their
8 grievances. .At the time, each of the defendants were aware of the ongoing duty of fair and
9 reasonable service under which they were legally required to comply with under Public Utility
10 code section 451.
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13 49. In furtherance of said conspiracy, and to accomplish the objects of the conspiracy,
14 defendants and their co-conspirators committed, and caused to be committed, various overt acts,
15 including, but not limited to, making material misrepresentations and concealments to plaintiffs
16 as to defendant DEVEREAUX's identity, employment affiliation and intentions in order to
17 gather intelligence, undermine their efforts and discredit their reputation in the community.
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19 50. At all times, defendants, and each of them, knew of the conspiracy, and as
20 experienced public utility employees, knew of the wrongfulness and unlawful purpose of their
21 conspiracy.
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23 51. Plaintiffs are informed and believe that at all times, defendants, and each of them,
24 furthered the conspiracy by cooperating with each of the defendants in the foregoing acts, and by
25 lending aid and encouragement to each of the foregoing acts by each of the Defendants, and by
26 ratifying and adopting each of the foregoing acts of each of the Defendants.
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1 52. As a direct and legal result of the wrongful acts herein alleged, plaintiffs have been
2 generally damaged in an amount according to proof at trial.

3 53. Defendant DEVEREAUX's conduct was done with the full knowledge, approval and
4 ratification of PACIFIC GAS AND ELECTRIC COMPANY and each of them, so as to increase
5 their profits and to deter, discourage, undermine and undo plaintiffs' exercise of their
6 Constitutional rights.
7

8 54. The conduct of Defendants, and each of them, was malicious, wanton, oppressive and
9 fraudulent, and reflected a callous disregard of Plaintiff's rights and justifies an award of punitive
10 damages against each of the Defendants.
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12 55. At all times mentioned in this complaint, plaintiff was unaware that it had been
13 damaged and/or the existence of these facts; plaintiff did not discover these facts and/or its
14 damages until after the date that its damages were caused by defendants, and within two years of
15 the filing of this complaint.
16

17 Wherefore, Plaintiff prays for damages and relief as set forth hereinafter.

18 **EIGHTH CAUSE OF ACTION**

19 (42 U.S.C. section 1983)

20 56. Plaintiffs refer to Paragraphs 1 through 55, and incorporates the same herein by
21 reference as if set forth herein.

22 57. Defendant PACIFIC GAS AND ELECTRIC COMPANY was legally vested with
23 authority to exercise in the name of the aforesaid entity the power to acquire property by eminent
24 domain pursuant to the provisions of the Public Utility Code section 613 and Code of Civil
25 Procedure sections 1230.010, 1240.010, and 1240.120, et. seq.. Hence, in doing the foregoing
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1 acts, defendant PACIFIC GAS AND ELECTRIC COMPANY acted under color of official
2 government authority in violation of 42 United States Code section 1983.

3 WHEREFORE, plaintiffs pray for damages and relief as follows:

4 1. For compensatory damages, the exact amount of which will be proven at trial;

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6 2. For exemplary damages pursuant to Public Utility Code section 2106 according to
7 proof;

8 2a. For exemplary damages according to proof;


9 3. For statutory attorney's fees, expert fees, consultant fees and litigation costs and
10 expenses.

11 4. For general damages according to proof;

12 5. All costs of suit herein, including but not limited to, attorney's fees,

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14 5. For such other and further relief as the court shall deem just and proper, according to
15 proof.

16 Dated: November 5, 2012

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19 _____
20 Lawrence Bragman
21 Attorney for Plaintiffs
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