

1 Steven S. Kane, Esq., SBN: 061670  
Bonnie E. Kane, Esq., SBN: 167700  
2 **THE KANE LAW FIRM**  
402 W. Broadway, Suite 2500  
3 San Diego, CA 92101  
Telephone: (619) 236-8700  
4 Facsimile: (619) 236-1370  
E-mail: [skane@thekanelawfirm.com](mailto:skane@thekanelawfirm.com)  
5 E-mail: [bonnie@thekanelawfirm.com](mailto:bonnie@thekanelawfirm.com)

6 Attorneys for KAREN GOWINS Creditor

7  
8 **UNITED STATES BANKRUPTCY COURT**  
9 **NORTHERN DISTRICT OF CALIFORNIA**  
10 **SAN FRANCISCO DIVISION**

11 *In re:* )  
12 PG&E CORPORATION ) **Case No. 19-30088 (DM)**  
13 -and- ) Chapter 11  
) (Lead Case)  
) (Jointly Administered)  
14 PACIFIC GAS AND ELECTRIC ) **SUPPLEMENT TO JOINDER ON**  
COMPANY ) **BEHALF OF KAREN GOWINS**  
15 Debtors. ) **IN WILLIAM B. ABRAMS’**  
) **MOTION TO DESIGNATE**  
16  Affects PG&E Corporation ) **IMPROPERLY SOLICITED VOTES**  
17  Affects Pacific Gas & Electric ) **PURSUANT TO 11 U.S.C. §§ 1125(b) AND**  
) **1126 (e) AND BANKRUPTCY RULE**  
18  Affects Both Debtors ) **2019**  
)  
19 *All papers shall be filed in the Lead Case,* ) **Date: May 12, 2020**  
*No.19-30088 (DM)* ) **Time: 10:00 A.M.**  
) **Place: United States Bankruptcy Court**  
20 \_\_\_\_\_ ) **Courtroom 17, 16<sup>th</sup> Floor**  
21 ) **San Francisco, CA 94102**

22 **I. INTRODUCTION**

23  
24 The relevant issue in this Motion is whether or not Watts Guerra LLP, Mikal Watts and  
25 their affiliated counsel have failed to perform their obligations under California Rules of  
26 Professional Conduct Rule 1.7 to disclose an obvious conflict which they have in representing  
27 16,000 tort claimants in this case and obtained written waivers of the conflict from each client  
28 \_\_\_\_\_

SUPPLEMENT TO JOINDER ON BEHALF OF KAREN GOWINS IN WILLIAM B. ABRAMS’ MOTION TO  
DESIGNATE IMPROPERLY SOLICITED VOTES PURSUANT TO 11 U.S.C. §§ 1125(b) AND 11226 (e) AND

1 Since Mr. Watts and his affiliates have not made compliant disclosures and obtained written  
2 waivers from each client prior to soliciting “yes” votes for the proposed Plan from their clients,  
3 any “yes” voters obtained without compliance should be designated as procured in bad faith and  
4 should be excluded from the vote count.

## 5 6 **II. ARGUMENT**

### 7 **A. The Undisclosed and Unwaived Conflict Presents a Significant Risk Regarding** 8 **The Attorneys’ Continued Uncompromised Representation of Their Clients.**

9 Citing Rule 1.7(c) dealing with conflict situations in which a “significant risk” arising  
10 from the conflict does not exist (as it clearly does in this case), Mr. Watts contends that the only  
11 requirement to cure the conflict is to make disclosure to his 16,000 clients. (Reply to Abrams’  
12 Motion to Designate Improperly Solicited Votes; Docket No. 6973 p. 3, lns. 19-28, Pg. 4, lns. 1-  
13 8). However, it is obvious from all of his statements and declarations both in the pleading for  
14 this Motion, and, made outside the litigation, that *Mr. Watts and his associates have failed to*  
15 *make full disclosure of the conflict to more than a small percentage of their clients.* In her expert  
16 opinion, qualified ethics expert Heather Rosing considers the significance of the failure to  
17 disclose and obtain waivers of the conflict and states:  
18  
19

20 “Here, Watts Guerra has an outstanding debt of up to \$100 million. Significant portions  
21 of that debt are held by Apollo and Centerbridge. Regardless of their legal ability to direct  
22 Watts to act in any particular way regarding the settlement of this litigation, Watts has  
23 admitted that they “tried to play him,” that they introduced him to principles involved in  
24 negotiations , and that they have requested that he recommend a particular resolution.  
25 Accordingly, this relationship *represents a significant risk* that Watts’ loyalty to his clients  
26 could be limited.

27 (Declaration of Heather L. Rosing; P. 7, lns. 8-13.)

28 (Emphasis added.)

1 **B. Mr. Watts, Watts Guerra and their Affiliates Were Required to Make a Compliant**  
2 **Disclosure of the Conflict As Soon as they Learned of It in November, 2019 at the Latest.**

3 On the subject of the Respondents' duty to disclose the known conflict, Ms. Rosen states:

4 "Watts was on notice of this risk at least as early as November 2019 when Apollo  
5 introduced him to Lahoud so that Lahoud could attempt to influence Watts. By that time,  
6 Watts knew of Apollo's and Centerbridge's financing of both his firm and PG&E since  
7 the latter reported this action. At that time, he should have obtained informed written  
8 consent from his clients to continue as their counsel. There is no dispute that he failed to  
9 do so.

10 (Declaration of Heather L. Rosing; P. 7, Ins. 14-18.)

11 Watts' November, 2019 conversation with Lahoud, in which Lahoud attempted to  
12 influence Mr. Watts' actions and advice to his clients created an unavoidable duty to disclose the  
13 conflict to his clients and seek waivers from each of his 16,000 clients of that conflict. Absent the  
14 waiver, Watts and his affiliate lawyers should have withdrawn from representation.

15 Importantly, Ms. Rosen describes what a compliant conflict disclosure must contain:

16 "Although Watts claims he has made disclosures to comply with his ethical  
17 obligations, Watts states that he did so at a town hall meeting and by sending a link of that  
18 town hall meeting to his clients not in attendance. I also find it highly unusual that a  
19 lawyer would make 'disclosures' in an instance where the lawyer has no conflict. That is,  
20 the conclusion that there is no conflict and the act of making disclosures are inconsistent  
21 with one-another.

22 As a preliminary matter, such 'disclosures' are insufficient to comply with the  
23 mandates of Rule 1.7. The rule expressly provides that disclosures must be made in  
24 writing. A writing requirement exists to ensure that lawyers fulfill their obligation to  
25 explain matters to the extent reasonably necessary to permit their clients to make informed  
26 decisions regarding the representation. *See* Rule Prof. Conduct, rule 1.4(b). For example,  
27 in a case like this where a lawyer has more than 16,000 clients, it is a virtual certainty that  
28 they have varying levels of sophistication and will need different levels of detail and  
29 explanation for the disclosure to be effective. Moreover, it is not clear whether all 16,000  
30 of Watts' clients speak English as their primary language. To the extent that they do not,  
31 there is no indication that they were provided this information in their primary language.

32 (Declaration of Heather L. Rosing; P. 8, Ins. 2-16.)

1 Not only did Mr. Watts and his affiliates fail to make a full, compliant disclosure in  
2 November, 2020 as required by Rule 1.7, there is no evidence that they have *ever made such a*  
3 *complete disclosure as required by Rule 1.7.*

4  
5 The Court should correct this failure by granting the Motion.

6 **C. Since Nearly All of Mr. Watts’ Clients Have Already Voted For the Plan, It Is Too Late**  
7 **to Remedy the Conflict Simply By Providing Compliant Disclosure. A Written Waiver of**  
8 **the Conflict From Each Client is Required.**

9  
10 The great majority of Watts Guerra’s clients have already voted, so, the vote result would  
11 be unaffected by disclosure now of the conflict addressed by this Motion without requiring a  
12 waiver in order for a particular “yes” vote to be counted. *See* Joint Report Regarding the Status of  
13 the Vote filed by Mr. Watts before Judge Donato, Case No. 19-cv-05257, Docket No. 345, p 3,  
14 stating that as of April 30, 2020, 98.9% of Mr. Watts’ clients had voted. Since Mr. Watts failed  
15 to disclose the conflict to his clients nearly six months ago immediately after November 5, 2019  
16 when, as he admitted, he first became aware of that conflict, (See Exhibit D, p. 1, to William B.  
17 Abrams Motion to Designate Improperly Solicited Vote, Docket 6799) the only remaining  
18 effective remedy without a complete re-vote is designation and disqualification of “yes” votes of  
19 clients affected by the acknowledged and unremedied conflict of interest.  
20

21 “Moreover, it is axiomatic that a lawyer who violates obligations to a client, such  
22 as Watts Guerra did here by failing to provide a written disclosure or obtaining informed  
23 written consent when aware of a conflict must then obtain informed written consent to  
24 proceed in the matter. Otherwise, there is the peril that the lawyer may conduct the  
25 representation in a manner that is beneficial to the lawyer’s interests, but antagonistic to  
26 the client’s interests. *See, e.g* San Diego County Bar Assoc. 2017-1 (addressing conflicts  
27 when lawyers defend their own work). As Watts Guerra has claimed that it has met its  
28 obligations, it seems apparent that it has failed to meet this obligation as well.”

(Declaration of Heather L. Rosing; P.9, lns. 16-23.)

1 Respondent makes a series of conclusory statements, not supported by any citation,  
2 authority or other evidence that the situation created by his litigation financing is harmless and  
3 should be of no concern to the Court, including:  
4

- 5 1. The Credit facility is not contingent on this litigation:
- 6 2. Lenders have been given no right of control concerning the litigation; and
- 7 3. Watts Guerra has disclosed its communications regarding the credit facility to its  
8 clients.

9 (Reply to Abrams' Motion to Designate Improperly Solicited Votes; p. 10, lns. 3 – 20.)

10 In fact, Respondents' pleadings reveal almost nothing concerning the terms and conditions  
11 of the litigation financing agreement, including what influence those terms might give the  
12 Assignees, Centerbridge and Apollo, over Watts Guerra's advice to its clients and its actions on  
13 their behalf in the case. Watts Guerra's fails to support its claims that the litigation funding  
14 assignment creates no conflict although the evidence which might prove its point certainly is in  
15 their possession. Respondent's decision to withhold this information gives the Court very little  
16 opportunity to assess the conflict issue.  
17

18 In her expert opinion, Ms. Rosing refers to this deficiency of information stating:  
19

20 "Neither Watts nor anybody else from Watts Guerra has produced any documentation  
21 pertaining to the loan by Stifel. As a result, the terms cannot be confirmed. Watts Guerra  
22 has not produced a lending agreement, the covenants imposed by the lender, a note,  
23 security agreements, or documents reflecting the terms under which it can reassign the  
24 payment of the obligations, and the consideration for the same. Because the repayment  
25 terms and security terms have not been disclosed, it is not possible to determine whether  
26 the loan is truly nonrecourse, as described by Watts Guerra."

27 (Declaration of Heather L. Rosing; P. 5, lns. 22-25.)

28 Mr. Watts repeatedly claims that he has disclosed the conflict created by assignment of his

1 credit facility obligation to Centerbridge and Apollo, (Reply to Abrams’ Motion to Designate  
2 Improperly Solicited Votes; p. 11, Ins. 25-27.) Pg. 4, Ins. 3-9), but that contention is directly  
3 contradicted by the declarations *of his own former clients*, Declaration of Geoffrey B. Reed, p. 3,  
4 Ins. 4-10. Although Mr. Reed terminated Watts Guerra LLC and associated counsel only on April  
5 22, 2020, he states:

6  
7 “None of my prior lawyers or their affiliates in this case, including Watts Guerra and  
8 Mikal Watts, have ever disclosed to me orally or in writing their existing or potential  
9 obligation to Apollo and Centerbridge which are major financing participants in the  
10 proposed plan.” (Declaration of Geoffrey B. Reed, p. 3, Ins 4-7)

11 He also points out he would have liked to have known how Mr. Watts’ litigation was  
12 financed, because of the barrage of media and direct mail solicitation he was subjected to by  
13 Watts and associates. (Declaration of Geoffrey B. Reed, p. 2, Ins 25-26, p. 3, Ins. 1-3)

14 Mr. Reed further states he had never received a ballot or plan disclosure materials from his  
15 former Attorneys, even though he received weekly emails (Declaration of Geoffrey B. Reed, p. 2,  
16 Ins. 12-17.)

17 The contention of Mr. Watts that the use of credit by Mr. Watts has not impacted the fair  
18 result achieved by the plan is flatly wrong. It is absurd to contend that acquisition of litigation  
19 debt of plaintiffs’ lawyers by major Plan financial participants (here, Centerbridge and Apollo.)  
20 does not put those participants in a position to unduly influence the advice given by the lawyers to  
21 their clients regarding the Plan vote. Indeed, the integrity of the Plan vote, particularly by  
22 thousands of fire victims, many still suffering from the impact of terrible wildfires, is at the heart  
23 of confirming a “fair and just” plan. Indeed, Mr. Watts admits that at least one representative of  
24 the Plan financing entities, Mr. Lahoud, approached him to suggest positions that he should take  
25 in the case on behalf of his clients. It is certainly not required that Moving party prove actual  
26

1 misconduct in order to invoke the provisions of Rule 1.7 requiring both disclosure to all of the  
2 clients, and, written waiver of the conflict.

3 **D. The Evidence Shows That The Conflict Has Prevailed During the Voting Period**

4 There is massive evidence that Mr. Watt’s clients were constantly contacted to obtain a  
5 “yes” vote, and, further, *that all claimants* were solicited to vote yes by public newspaper ads,  
6 direct mail, radio, social media ads and open town hall meetings before they received their  
7 ballots. This is simply impermissible solicitation. See Exhibits “A”, “B” and “C” to William B.  
8 Abrams Motion to Designate Improperly Solicited Votes Pursuant to 11 U.S.C. §§ 1125(b) and  
9 1126(e) and Bankruptcy Rule 2019, Docket No. 6799. See also Notice of Plan Procedure  
10 Irregularities, Docket No. 7069, Exhibits 1-5, and Exhibit 6, KQED “As PG&E Fire Survivors  
11 Near Deadline to Vote on Settlement, Some Still Don’t Have Ballots” dated May 4, 2020;  
12 Affidavit of Joseph R. Lucia Evidencing Service of Solicitation Packages and Ballots to Fire  
13 Victims, Docket No. 7014 (showing that counsel did not receive ballots and disclosure material  
14 until April 24, 2020)

15  
16  
17 **III. CONCLUSION**

18 This case presents many unusual challenges not confronted in most Chapter 11  
19 proceedings, not the least of which is the June 30, 2020 deadline for Plan confirmation imposed  
20 by the California Legislature in enacting AB 1054. When proceedings must be accelerated due to  
21 outside conditions such as the deadline for plan confirmation imposed by AB 1054, it becomes  
22 even more important that the integrity of the process be protected and preserved by requiring full  
23 and effective compliance with ethical rules. Here, the case includes a class of tens of thousands  
24 of mass tort victims who have suffered tremendous, lasting damages. Freedom of the fire  
25 victims’ lawyers to exercise full and unfettered judgment on behalf of their clients by strict  
26

1  
2 application of the Rules of Professional Conduct is one way to guard that integrity. Without  
3 enforcement of compliance with ethical rules, that integrity is subject to doubt.  
4

5 **ORDER REQUESTED**

6 Moving party, Karen Gowins, requests that the Court issue the following order with respect to  
7 the established conflict of interest with regard to Mr. Watts, the Watts Guerra law firm, his  
8 affiliates and their 16,000 clients who are tort claimants in this case:  
9

- 10 1. Within five days of the date of the order, Respondents shall present a factual and concise  
11 but complete disclosure of any and all conflicts of interest or potential conflict regarding  
12 litigation financing which Respondents have obtained with regard to representing clients  
13 in this case for approval by the Court;  
14  
15 2. After approval, Respondents shall mail, send by U.S. mail or deliver each of their clients  
16 in this case by some other reliable method the approved disclosure along with a form by  
17 which clients may, at their discretion, waive the conflict in writing.  
18  
19 3. Votes of Watts' and affiliated counsel's clients in favor of the proposed plan who have not  
20 executed the written waiver required by the Order shall be designated as not being in good  
21 faith and shall not be counted in the Plan vote tally.

22 Respectfully submitted.

23 Dated: May 5, 2020.

**THE KANE LAW FIRM**

24 By: /s/ Steven S. Kane

25 STEVEN S. KANE  
26 Attorneys for Creditor KAREN GOWINS

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

In re  
PG&E CORPORATION and PACIFIC GAS  
AND ELECTRIC COMPANY,  
  
Debtors.

Case No. 19-30088 (DM)

Chapter 11

**DECLARATION OF HEATHER L.  
ROISING IN SUPPORT OF SUPPLEMENT  
TO JOINDER ON BEHALF OF KAREN  
GOWINS IN WILLIAM B. ABRAMS'  
MOTION TO DESIGNATE  
IMPROPERLY SOLICITED VOTES  
PURSUANT TO 11 U.S.C. §§ 1125 (b) AND  
1126 (e) AND BANKRUPTCY RULE 2019**

Date: May 12, 2020

Time: 10:00 a.m.

Place: United States Bankruptcy Court  
Courtroom 17, 16<sup>th</sup> Floor  
San Francisco, CA 94102

I, Heather L. Rosing, have been requested to provide an expert opinion regarding the above-referenced matter, and I have agreed to do so. The following is my report, in the form of the declaration:

**I.**

**BACKGROUND AND QUALIFICATIONS OF EXPERT**

1. I am an attorney licensed to practice law in California since 1996. I currently serve as the Chairperson of the Professional Liability Department and the Ethics and Risk Management

1 Department at Klinedinst PC, a law firm with five offices in California and Washington, and more  
2 than sixty attorneys. I have also served as Klinedinst's Chief Financial Officer (a managing  
3 shareholder role) since 2006, and previously served as the firm's General Counsel.

4         2.         In 2009, I was appointed to the American Bar Association's Standing Committee  
5 on Lawyers' Professional Liability and served a three-year term. In addition to chairing three  
6 National Legal Malpractice Conferences hosted by the Standing Committee, I have been a  
7 presenter at many of these conferences over the last 20 years. As a regular matter, I also speak,  
8 teach, and write on fee disputes, malpractice, risk management, and legal ethics on a pro bono  
9 basis across the country.

10         3.         I am certified as a specialist in Legal Malpractice Law by the State Bar of  
11 California Board of Legal Specialization. I have represented lawyers, law firms, and other  
12 professionals in hundreds of cases and matters in State Court, Federal Court, State Bar Court, and  
13 arbitration proceedings, including conflicts of interest matters. I have also represented judges and  
14 commissioners in matters before the Commission on Judicial Performance and advised judicial  
15 officers on matters pertaining to judicial ethics.

16         4.         I served as an appointed advisor to the Rules Revision Commission of the State Bar  
17 of California, which recommended wholesale revisions to the Rules of Professional Conduct  
18 (which were adopted in large part by the California Supreme Court and went into effect in  
19 November 1, 2018). In the course of that work, as well as my other ethics related work, I studied  
20 and was exposed to the intricacies of the ABA Model Rules of Professional Conduct, which serve  
21 as the basis for the ethics rules in many states. The ABA Model Rules oftentimes come into play  
22 in the Federal Court setting as well. I was also an appointed member of the Mandatory Insurance  
23 Working Group of the State Bar, which studied the issue of whether California should adopt  
24 mandatory malpractice insurance.

25         5.         I served as the Inaugural President of the California Lawyers Association (CLA),  
26 which was formed January 1, 2018 as a result of the de-unification of the State Bar of California.  
27 CLA strives to promote professional advancement of attorneys practicing in California. I initiated  
28 the first Ethics Committee of CLA, which is designed to provide ethics-related resources to

1 attorneys throughout California.

2 6. After my approximate two-year tenure as CLA President concluded in 2019, I  
3 accepted the role as President of the California Lawyers Foundation, an entity within CLA that is  
4 dedicated to promoting civics education, diversity, and access to justice across California.

5 7. In terms of earlier service, I was the President of the Board of Directors of the  
6 California Bar Foundation (now ChangeLawyers), which works to improve access to justice for  
7 the underserved and under-represented in California. I served on the Board of Trustees of the State  
8 Bar of California for four years (including as treasurer and vice-president), and on the Board of  
9 Directors of the San Diego County Bar Association for six years, including one year as President.  
10 I was also heavily involved in the SDCBA's Legal Ethics Committee for a number of years,  
11 including service as the co-chair of the Committee.

12 8. I have been rated AV®-Preeminent™ by Martindale since 2000, and have been  
13 honored with numerous accolades for my work in ethics and professional liability defense. I was  
14 awarded the Daily Journal Top 100 Attorneys (2018 and 2019). Recently, I was named one of the  
15 Daily Transcript's Most Influential Women in San Diego. Among other honors, I have been  
16 awarded Top 25 Women San Diego Super Lawyers and Top 50 San Diego Super Lawyers by San  
17 Diego Super Lawyers®, Best Lawyers in America, the Witkin Award for Excellence in Public  
18 Service (2019), the Earl B. Gilliam Bar Foundation's Corporate Commitment to Diversity Award  
19 (2016), CFO of the Year by the San Diego Business Journal (2016), Lawyer of the Year by the  
20 San Diego Defense Lawyers (2015), the Exemplary Service Award by the San Diego Volunteer  
21 Lawyer Program (2014), and # 1 Attorney in San Diego County by Southern California Super  
22 Lawyers® (2014). I received my undergraduate degree from the University of Illinois and my law  
23 degree from Northwestern University School of Law.

24 **II.**

25 **FACTUAL BACKGROUND**

26 9. My opinions are based on the following facts, which have been presented to me  
27 through documents filed in this matter and news reports.

28 10. In December 2019, Pacific Gas & Electric and roughly 70,000 claimants who lost

1 homes or loved ones in fires caused by the utility company's equipment reached a \$13.5 billion  
2 settlement in principle. Half of the settlement is to be paid in cash. The other half is proposed to be  
3 paid in PG&E stock. To date, the parties have not determined when a fire victims trust will be  
4 funded or when the trust can sell the stock that will be transferred to it. The hearing on  
5 confirmation of the plan is scheduled for May 27, 2020.

6 11. Mikal Watts of Watts Guerra LLP represents more than 22 percent of all claimants,  
7 more than 16,000 of the 70,000 fire victims.<sup>1</sup> This is a larger number of claimants than any other  
8 lawyer in the litigation represents.<sup>2</sup>

9 12. In September 2019, Watts Guerra borrowed money from Stifel, a loan facility.

10 13. Stifel then sold some of that debt to private equity firms Centerbridge Partners and  
11 Apollo Global Management. Centerbridge is a PG&E shareholder and has committed to buying  
12 new PG&E stock as part of the company's restructuring plan.<sup>3</sup> It owns more than 7.7 million  
13 shares of PG&E common stock valued at more than \$84 million.<sup>4</sup> Apollo invested \$336,425,000 in  
14 PG&E senior notes. It also has a combined \$168 million in outstanding debt due from PG&E for  
15 outstanding utility revolver loans and DIP term loans. ECF no. 6747, Third Am. V.S. of the Ad  
16 Hoc Comm. of Senior Unsecured Noteholders Pursuant to Bankr. Rule 2019, Ex. A (April 13,  
17 2020).

18 14. Both companies purchased insurance claims for wildfires caused by PG&E  
19 equipment. As of April 13, 2020, Apollo held \$100 million of such claims; as of December 2019,  
20

---

21 <sup>1</sup>Chediak and Blumberg, *Apollo, Centerbridge Backed PG&E, Funded a Loan to*  
22 *Firm Suing It*, BLOOMBERG (Apr. 29, 2020 [rev. Apr 30, 2020]); see also ECF 6801-1,  
23 Decl. of Watts, ¶ 9.

24 <sup>2</sup>Morris, PG&E victims' lawyer scrutinized over Wall Street connections, SAN  
25 FRAN. CHRON. (May 2, 2020).

26 <sup>3</sup>Chediak and Blumberg, *supra* (stating "Centerbridge Partners LP is the among the  
27 20 biggest shareholders in PG&E and has committed to buying as much as \$325  
28 million in the utility's shares when it emerges from Chapter 11.")

<sup>4</sup>Centerbridge Partners, L.P., SEC, Form 13F-HR for Calendar Year or Quarter  
Ending 12/31/19 (Feb. 14, 2020).

1 Centerbridge held \$209 million of claims. ECF no. 6747, Third Am.V.S. of the Ad Hoc Comm. of  
2 Senior Unsecured Noteholders Pursuant to Bankr. Rule 2019, Ex. A (April 13, 2020). Watts has  
3 also had social interactions with Gavin Baiera, a Centerbridge senior managing director, regarding  
4 the PG&E lawsuit.

5 15. In February 2019, months before Watts Guerra took out the loan, Apollo and  
6 Centerbridge reported through Counsel for the Ad Hoc Committee of Senior Unsecured  
7 Noteholders their interests in PG&E funding and stock. ECF no. 744, V.S. of the Ad Hoc Comm.  
8 of Senior Unsecured Noteholders Pursuant to Bankr. Rule 2019, March 5, 2019.

9 16. In November 2019, Watts was asked by William Jones of Apollo to speak with  
10 Chris Lahoud. During that conversation, Lahoud requested that Watts side with the bondholders,  
11 rather than the equity holders. Representatives from Centerbridge and Apollo introduced Watts to  
12 the principal negotiators for the bondholders and shareholders, but did not participate in the  
13 negotiations.

14 17. In December 2019, Watts claims that he told some of his clients at a town hall  
15 meeting at the Flamingo Resort in Santa Rosa that he had been offered a line of credit by Stifel, an  
16 investment bank. In an interview, Watts stated the credit line was \$100 million with an 18 percent  
17 interest rate over four years, and that Stifel could assign repayment obligations without his  
18 consent.<sup>5</sup> Watts states the interest rate is substantially lower than his firm had on previous loans  
19 with commercial banks.

20 18. Although Watts has opined that he does not have a conflict of interest, he states that  
21 he disclosed his financing from Centerbridge and Apollo to his clients at the December 2019 town  
22 hall meeting, and by sending links of that meeting to clients who did not attend. During that  
23 recording, Watts acknowledged, “these guys are trying to play me.”

24 19. Neither Watts nor anybody else from Watts Guerra has produced any  
25 documentation pertaining to the loan by Stifel.As a result, the terms cannot be confirmed. Watts  
26

---

27 <sup>5</sup>Penn and Evis, *PG&E’s Settlement With Wildfire Victims Faces Crucial Vote*, NEW  
28 YORK TIMES(April 30, 2020).

1 Guerra has not produced a lending agreement, the covenants imposed by the lender, a note,  
2 security agreements, or documents reflecting the terms under which it can reassign the payment  
3 obligations, and the consideration for the same. Because the repayment terms and security terms  
4 have not been disclosed, is not possible to determine whether the loan is truly nonrecourse, as  
5 described by Watts Guerra. Whether a loan that finances litigation is recourse or nonrecourse is  
6 notable, since in nonrecourse situations the lender, and thus its assignees, have a direct interest in  
7 the outcome of the litigation.

8         20. It is also unknown what information this lender required from Watts Guerra about  
9 its pending cases, including the cases on behalf of its 16,000 clients against PG&E, before  
10 agreeing to extend the loan. It is likely that information was potentially required in order to extend  
11 a loan of \$100 million. Because of the lack of information provided by Watts Guerra, it is  
12 unknown whether it provided confidential information to Stifel. There is no indication in the  
13 record that any client of Watts Guerra consented to Watts Guerra sharing confidential information  
14 with Stifel.

15         21. It is also unknown what information about the cases maintained by Watts Guerra's  
16 16,000 clients was required by Centerbridge Partners and Apollo Global Management before the  
17 transfer of the debt. Because of the lack of information provided by Watts Guerra, it is unknown  
18 whether it or Stifel provided confidential information to Centerbridge Partners and Apollo Global  
19 Management. There is no indication in the record that any client of Watts Guerra consented to  
20 Watts Guerra sharing confidential information with Centerbridge Partners and Apollo Global  
21 Management.

22         22. In Watts Guerra's Reply to Doc. #6944 (Kane/Gowans) Regarding William B.  
23 Abrams Motion to Designate Improperly Solicited Votes Pursuant to 11 USC section 1125(B) and  
24 1126(E) and Bankruptcy Rule 2019, it writes as follows: "So, WATTS GUERRA repeatedly has  
25 disclosed both orally and in writing to its entire client base detailed information concerning its  
26 credit facility in detail, the assignees thereof whom it met, and those with whom it negotiated  
27 whom were introduced to WATTS GUERRA by such assignees, and repeatedly has passed those  
28 disclosures along to all its clients in writing, and also made such disclosures publicly." (ECF No.

1 6973-1, Decl. of Watts, pp. 2-3, ¶ 5.) At least one former client, Geoffrey B. Reed, has attested  
2 that he was never provided with this information.

3 **III.**

4 **ANALYSIS**

5 23. Rules of Professional Conduct, rule 1.7, subparagraph (b), provides that a “lawyer  
6 shall not, without informed written consent from each affected client and compliance with  
7 paragraph (d), represent a client if there is a significant risk the lawyer’s representation of the  
8 client will be materially limited by the lawyer’s responsibilities to or relationships with another  
9 client, a former client or a third person, or by the lawyer’s own interests.”

10 24. Here, Watts Guerra has an outstanding debt of up to \$100 million. Significant  
11 portions of that debt are held by Apollo and Centerbridge. Regardless of their legal ability to direct  
12 Watts to act in any particular way regarding the settlement of this litigation, Watts has admitted  
13 that they have “tried to play him,” that they introduced him to principals involved in negotiations,  
14 and that they have requested that he recommend a particular resolution. Accordingly, this  
15 relationship represents a significant risk that Watts’s loyalty to his clients could be limited.

16 25. Watts was on notice of this risk at least as early as November 2019 when Apollo  
17 introduced him to Lahoud so that Lahoud could attempt to influence Watts. By that time, Watts  
18 knew of Apollo’s and Centerbridge’s financing of both his firm and PG&E since the latter was  
19 reported in this action. At that time, he should have obtained informed written consent from his  
20 clients to continue as their counsel. There is no dispute that he failed to do so.

21 26. Rules of Professional Conduct, rule 1.7, subparagraph (c)(1), provides, “Even when  
22 a significant risk requiring a lawyer to comply with paragraph (b) is not present, a lawyer shall not  
23 represent a client without written disclosure of the relationship to the client and compliance with  
24 paragraph (d) where . . . the lawyer has, or knows that another lawyer in the lawyer’s firm has, a  
25 legal, business, financial, professional, or personal relationship with or responsibility to a party or  
26 witness in the same matter.”

27 27. Here, Watts has financial relationships with parties to the matter, in that  
28 Centerbridge and Apollo own interests in claims against PG&E, as well as interests involving

1 PG&E as shareholders and bondholders. Accordingly, the obligations to make disclosures  
2 pursuant to Rule 1.7(c) have been triggered.

3 28. Although Watts claims he has made disclosures to comply with his ethical  
4 obligations, Watts states that he did so at a town hall meeting and by sending a link of that town  
5 hall meeting to his clients not in attendance. I also find it highly unusual that a lawyer would make  
6 “disclosures” in an instance where the lawyer claims he has no conflict. That is, the conclusion  
7 that there is no conflict and the act of making disclosures are inconsistent with one another.

8 29. As a preliminary matter, such “disclosures” are insufficient to comply with the  
9 mandates of Rule 1.7. The rule expressly provides that disclosures must be made in writing. A  
10 writing requirement exists to ensure that lawyers fulfill their obligation to explain matters to the  
11 extent reasonably necessary to permit their clients to make informed decisions regarding the  
12 representation. *See* Rule Prof. Conduct, rule 1.4(b). For example, in a case like this where a lawyer  
13 has more than 16,000 clients, it is a virtual certainty that they have varied levels of sophistication  
14 and will need different levels of detail and explanation for the disclosure to be effective.  
15 Moreover, it is not clear whether all 16,000 of Watts’s clients speak English as their primary  
16 language. To the extent they do not, there is no indication that they were provided this information  
17 in their primary language.

18 30. It is important to note that the number of clients does not excuse the duties that a  
19 lawyer owes to each and every client. In discussing competency, Rule of Professional Conduct  
20 1.1, subparagraph (b), provides that competence includes not only having sufficient learning and  
21 skill, but also having the mental, emotional, and physical ability reasonably necessary for the  
22 performance of services. In other words, among other things, lawyers must consider their  
23 “bandwidth” when undertaking the representation of clients to ensure that they have the ability to  
24 represent them fully and completely, as the Rules of Professional Conduct and the State Bar Act  
25 mandate. Watts Guerra elected to accept 16,000 individual clients, all of which suffered very  
26 emotional personal losses. In taking on this number of clients, the firm was obligated to ensure  
27 that it could meet its ethical obligations to each and every one of them.

28 31. It is also important to note that the disclosures contemplated by the Rules of

1 Professional Conduct would have required an in depth discussion of the relevant circumstances  
2 and the material risks, including any actual and reasonably foreseeable adverse consequences of  
3 the proposed course of conduct. *See* Rule Prof. Conduct, rule 1.0.1(e) (which defines disclosure  
4 requirements for client decision-making). In other words, a proper disclosure, as contemplated by  
5 Watts’s ethical responsibilities would have required him, upon learning of the facts and  
6 circumstances, to set them forth in writing, and provide his clients with an analysis of the potential  
7 risks for the interference with his independent judgment, regardless of whether he was impacted  
8 by pressure that his creditors placed on him to act in a particular way.

9         32. Of course, should the particular circumstances present a significant risk that a  
10 relationship falling under subparagraph (c) will materially limit the lawyer’s representation of  
11 clients, informed written consent is required. Here, Centerbridge and Apollo interjected  
12 themselves into the negotiating process and tried to influence Watts. Regardless of whether he was  
13 actually influenced, this represents a significant risk given the entanglements created among the  
14 various financial relationships. Accordingly, this is a matter where informed written consent of  
15 each of the clients was necessary.

16         33. Moreover, it is axiomatic that a lawyer who violates obligations to a client, such as  
17 Watts Guerra did here by failing to provide a written disclosure or obtaining informed written  
18 consent when aware of a conflict must then obtain informed written consent to proceed in the  
19 matter. Otherwise, there is the peril that the lawyer may conduct the representation in a manner  
20 that is beneficial to the lawyer’s interests, but antagonistic to the clients’ interests. *See, e.g.*, San  
21 Diego County Bar Assn. 2017-1 (addressing conflicts when lawyers defend their own work). As  
22 Watts Guerra has claimed that it has met its obligations, it seems apparent that it has failed to meet  
23 this obligation as well.

24         34. The rationale for this is well-exhibited by the present situation. Rule of Professional  
25 Conduct 1.2 provides that a lawyer shall abide by a client’s decisions concerning the objectives of  
26 the representation, including a decision whether to settle the matter pursuant to particular terms. A  
27 lawyer who fails to disclose a conflict such as the one described herein, and then who fails to  
28 obtain informed written consent, is in a position where the clients’ decisions regarding resolution

1 are not properly informed. By depriving them of such information, Watts deprives his clients of  
2 the allocation of authority provided by Rule 1.2. Moreover, a lawyer in such a position, especially  
3 one who represents so many claimants in the matter, may use that position to influence the  
4 decisions of others, again without fully disclosing his conflicts or the risks involved with  
5 proceeding as he has directed.

6 35. On a final note, there is the possibility that other Rules of Professional Conduct are  
7 implicated, but Watts Guerra did not provide sufficient information about the nature of the  
8 financing to ascertain the same. For example Rule 1.6, Confidential Information of a Client, could  
9 require Watts Guerra to get the informed written consent of the clients before disclosing their  
10 confidential information related to the pending litigation to Stifel or the companies that purchased  
11 the debt, Apollo and Centerbridge. Given the involvement of Apollo and Centerbridge with a  
12 party adverse to the Watts Guerra clientele (PG&E), obtaining informed written consent before  
13 any confidential information was transmitted would be particularly important. While the common  
14 interest privilege could apply under certain circumstances, it is unclear whether any of those  
15 circumstances exist here, and, even with that in place, a nondisclosure agreement would be best  
16 practice. Also, while the terms of the loan with the primary credit facility, Stifel, are unknown, the  
17 terms of litigation funding – and nonrecourse litigation funding in particular – in general can raise  
18 a number of ethics related issues, including impermissible fee splitting with a nonlawyer,  
19 unacceptable levels of interest, and the funder’s level of control over the litigation, among other  
20 issues. Some of these items may be addressed through written disclosures or the informed written  
21 consent of the clients (something we do not have here). Some courts even have required disclosure  
22 of litigation funding in order to ensure a transparent process.

23 36. As stated in a recent February 28, 2020 Report to the President by the New York  
24 City Bar Association Working Group on Litigation Funding, there are best practices guidelines for  
25 lawyers utilizing litigation funding that ensure that the lawyers acting within the parameters of the  
26 ethical rules:

27 Depending on the lawyer’s role, these guidelines require that the lawyer should (1) possess  
28 the required competence—understanding the varying structures of the agreement and other  
areas of law affecting the litigation funding agreements; (2) act with diligence and perform

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

the required inquiries to represent the client effectively—i.e., understanding the terms of the agreements; (3) communicate relevant information and alternatives to the client before and during the litigation and protect the client’s confidence; and (4) as the fiduciary, act to protect the client’s best interest and property. Following these steps will help ensure compliance with the lawyer’s ethical and legal professional obligations and is the best way for participants to avoid or minimize undesirable surprises in litigation financing.<sup>6</sup>

37. There is no indication in the record provided to me that these steps were taken.

38. I declare under penalty of perjury under the laws of California and the United State of America that the foregoing is true and correct. Executed this 5th day of May 2020.

/s/ Heather L. Rosing  
Heather L. Rosing

18406600.1

Pursuant to Local Civil Rule 5-1(i)(3) of the U.S. District Court for the Northern District of California as incorporated into the Local Bankruptcy Rules, I attest that concurrence in filing this document has been obtained from the signatory, Heather L. Rosing.

/s/ Bonnie E. Kane  
Bonnie E. Kane

<sup>6</sup>[http://documents.nycbar.org/files/Report\\_to\\_the\\_President\\_by\\_Litigation\\_Funding\\_Working\\_Group.pdf](http://documents.nycbar.org/files/Report_to_the_President_by_Litigation_Funding_Working_Group.pdf)

1 Steven S. Kane, Esq., SBN: 061670  
Bonnie E. Kane, Esq., SBN: 167700  
2 **THE KANE LAW FIRM**  
402 W. Broadway, Suite 2500  
3 San Diego, CA 92101  
Telephone: (619) 236-8700  
4 Facsimile: (619) 236-1370  
E-mail: [skane@thekanelawfirm.com](mailto:skane@thekanelawfirm.com)  
5 E-mail: [bonnie@thekanelawfirm.com](mailto:bonnie@thekanelawfirm.com)

6 Attorneys for KAREN GOWINS Creditor

7  
8 **UNITED STATES BANKRUPTCY COURT**  
9 **NORTHERN DISTRICT OF CALIFORNIA**  
10 **SAN FRANCISCO DIVISION**

11 *In re:*

12 PG&E CORPORATION

13 -and-

14 PACIFIC GAS AND ELECTRIC  
COMPANY

15 Debtors.

16  Affects PG&E Corporation

17  Affects Pacific Gas & Electric

18  Affects Both Debtors

19 *All papers shall be filed in the Lead Case,*  
20 *No.19-30088 (DM)*

)  
) **Case No. 19-30088 (DM)**  
) Chapter 11  
) (Lead Case)  
) (Jointly Administered)  
)  
) **DECLARATION OF GEOFFREY B.**  
) **REED IN SUPPORT OF SUPPLEMENT**  
) **TO JOINDER ON BEHALF OF KAREN**  
) **GOWINS IN WILLIAM B. ABRAMS'**  
) **MOTION TO DESIGNATE**  
) **IMPROPERLY SOLICITED VOTES**  
) **PURSUANT TO 11 U.S.C. §§ 1125 (b)**  
) **AND BANKRUPTCY RULE 2019**  
)  
) Docket Nos. 6799, 6798, 6801  
)  
) Date: May 12, 2020  
) Time: 10:00 A.M.  
) Place: United States Bankruptcy Court  
Courtroom 17, 16<sup>th</sup> Floor  
San Francisco, CA 94102

21 I, GEOFFREY B. REED, declare as follows.

22 I have personal knowledge of all of the matters to which I am testifying in this

23 Declaration.

24 1. On December 21, 2018, I retained the Watts Guerra law firm and Mikal Watts to

25  
26  
27  
28 **DECLARATION OF GEOFFREY B. REED IN SUPPORT OF SUPPLEMENT TO JOINDER ON BEHALF OF**  
**KAREN GOWINS IN WILLIAM B. ABRAMS' MOTION TO DESIGNATE IMPROPERLY SOLICITED VOTES**  
**PURSUANT TO 11 U.S.C. §§ 1125 (b) AND BANKRUPTCY RULE 2019**

1 represent me regarding my claim against PG&E to recover my damages a resulting from the  
2 Camp Fire. On April 22, 2020, I terminated Mr. Watts and associated counsel's representation.

3 2. I have read the "Declaration of Mikal Watts in Support of his Reply to Doc #6944  
4 (Kane/Gowins) Regarding William B. Abrams Motion to Designate Improperly Solicited Votes  
5 Pursuant to 11 U.S.C. § 1125(b) and 1126 (e) and Bankruptcy Rule 2019" (Doc #6973-1). I have  
6 attached this declaration hereto as Exhibit "A." Paragraph 5 of Mr. Watts' Declaration states:  
7

8 "So, WATTS GUERRA repeatedly has disclosed both orally and in writing to its entire  
9 client base detailed information concerning its credit facility in detail, the assignees  
10 thereof whom it met, and those with whom it negotiated whom were introduced to  
11 WATTS GUERRA by such assignees, and repeatedly has passed those disclosures along  
12 to all its clients in writing, and also made such disclosures publicly.

13 Declaration of Mikal Watts, attached as Exhibit "A" hereto, pp.2-3, ¶5.

14 3. Although I received weekly reports and updates via email from my former attorneys,  
15 signed on behalf of Joe Early, Mauro Archer O'Neill LLC, Watts Guerra LLP and Law Office of  
16 Douglas Boxer, I never received any information from them regarding the financing of Watts  
17 Guerra by Centerbridge, Apollo or Stifel. Also, I have received no ballot or plan disclosure  
18 materials from my former counsel.

19 4. The first information I received on this issue, was a video from another fire survivor on  
20 April 7, 2020, purporting to be from one of Mr. Watts' 'town hall meetings' but I could not hear  
21 what Mr. Watts was saying due to the poor audio quality of that video.

22 5. The method by which I learned about the financing Mr. Watts had obtained was from  
23 Mr. Abrams' "Motion to Designate Improperly Solicited Votes Pursuant to 11 U.S.C. §§ 1125  
24 (b) and Bankruptcy Rules 2019" where Mr. Abrams had attached a transcript of the town hall  
25 meeting where Mr. Watts discussed Apollo, Centerbridge and Stifel. That motion was provided  
26



1 Steven S. Kane, Esq., SBN: 061670  
Bonnie E. Kane, Esq., SBN: 167700  
2 **THE KANE LAW FIRM**  
402 W. Broadway, Suite 2500  
3 San Diego, CA 92101  
Telephone: (619) 236-8700  
4 Facsimile: (619) 236-1370  
E-mail: [skane@thekanelawfirm.com](mailto:skane@thekanelawfirm.com)  
5 E-mail: [bonnie@thekanelawfirm.com](mailto:bonnie@thekanelawfirm.com)

6 Attorneys for KAREN GOWINS, Creditor

7 UNITED STATES BANKRUPTCY COURT  
8 NORTHERN DISTRICT OF CALIFORNIA  
9 SAN FRANCISCO DIVISION

10 *In re:* ) Bankr. Case No: 19-30088(DM)  
11 PG&E CORPORATION )  
12 ) **CERTIFICATE OF SERVICE**  
-and- )  
13 )  
14 PACIFIC GAS AND ELECTRIC )  
COMPANY )  
Debtors. )  
15 )  
16  Affects PG&E Corporation )  
17  Affects Pacific Gas & Electric )  
18  Affects Both Debtors )  
\_\_\_\_\_ )

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

I, Bonnie E. Kane, declare

I am a citizen of the United States and employed in San Diego County, California and Butte County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 402 W. Broadway, Suite 2500, San Diego, California 92101. On May 5, 2020, I served a copy of the within documents:

SUPPLEMENT TO JOINDER ON BEHALF OF KAREN GOWINS IN WILLIAM B. ABRAMS MOTION TO DESIGNATE IMPROPERLY SOLICITED VOTES PURSUANT TO 11 U.S.C. §§ 1125(b) AND 1126(e) AND BANKRUPTCY RULE 2019

DECLARATION OF HEATHER L. ROSING IN SUPPORT OF SUPPLEMENT TO JOINDER ON BEHALF OF KAREN GOWINS IN WILLIAM B. ABRAMS MOTION TO DESIGNATE IMPROPERLY SOLICITED VOTES PURSUANT TO 11 U.S.C. §§ 1125(b) AND 1126(e) AND BANKRUPTCY RULE 2019

DECLARATION OF GEOFFREY B. REED IN SUPPORT OF SUPPLEMENT TO JOINDER ON BEHALF OF KAREN GOWINS IN WILLIAM B. ABRAMS MOTION TO DESIGNATE IMPROPERLY SOLICITED VOTES PURSUANT TO 11 U.S.C. §§ 1125(b) AND 1126(e) AND BANKRUPTCY RULE 2019

by transmitting electronically through the Court’s CM/ECF system.

In addition, on May 5, 2020, I placed a copy of the above documents, in a sealed envelope with postage fully prepaid and addressed to the non-CM/ECF participants indicated on the Manual Notice List in the U.S. Mail, in accordance with the firm’s ordinary business practices.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on May 5, at San Diego, California.

\_\_\_\_\_  
/s/ Bonnie E. Kane  
Bonnie E. Kane