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Koponen v. Pacific Gas & Electric Company

Court of Appeal, First District, Division 1, California - July 30, 2013 - Not Reported in Cal.Rptr.3d - 2013 WL 3946341

Plaintiffs sued on behalf of themselves and a putative class of others similarly situated, defendant Pacific Gas & Electric Company (PG&E), a public utility. Plaintiffs own properties on which PG&E has utility easements creating rights of way. Plaintiffs allege PG&E, without their consent, trespassed on their properties by installing fiber-optic lines along its utility easements and leasing or licensing rights in the fiber-optic lines to telecommunications and Internet companies. Plaintiffs sought certification of their suit as a class action.

The trial court denied the motion to certify. The court based its denial on three separate grounds: (1) the easements must be interpreted on an individual basis to determine their scope and other issues regarding liability; (2) trespass damages must be determined on an individual, property-specific basis; and (3) plaintiffs had failed to show the superiority of class adjudication.

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