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Attorneys for Defendants
PACIFICA FOUNDATION, MARY FRANCES BERRY,
JUNE MAKELA, FRANK MILLSPAUGH,
ANDREA CISCO, KEN FORD, DAVID ACOSTA,
MICHEAL PALMER, ROBERT FARRELL,
KAROLYN VAN PUTTEN, WENDELL JOHNS,
VALRIE CHAMBERS, BERTRAM LEE,
JOHN MURDOCK, LYNN CHADWICK

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA

THE PEOPLE OF THE STATE OF
CALIFORNIA, ex rel. CAROL SPOONER,
JOHN D. BIELLO, CAROLYN M.
BIRDEN, KURT GUERDRUM, ARTURO
GRIFFITHS, AMBURN R. HAGUE,
LEIGH HAUTER, PATRICIA HEFFLEY,
BARBARA MacQUIDDY, RICK
POTHOFF, CHARLES P. H. SCURICH,
RONALD SWART, individually and on
behalf of PACIFICA FOUNDATION,

Plaintiffs,

vs.

PACIFICA FOUNDATION, a California
non-profit public benefit corporation and
charitable trust, MARY FRANCES BERRY,
JUNE MAKELA, FRANK MILLSPAUGH,
ANDREA CISCO, KEN FORD, ROB
ROBINSON, DAVID ACOSTA, MICHAEL
PALMER, ROBERT FARRELL, AARON
KRIEGEL, PETER BRAMSON,
KAROLYN VAN PUTTEN, TOMAS
MORAN, WENDELL JOHNS, LESLIE
CAGAN, VALRIE CHAMBERS,
BERTRAM LEE, BETH LYONS, JOHN
MURDOCK, LYNN CHADWICK, and
DOES 1-100, inclusive,

Defendants.

Case No. 831252-3

**PACIFICA FOUNDATION'S
RESPONSE TO REQUEST FOR
ADMISSIONS OF THE TRUTH
OF FACTS AND GENUINENESS
OF DOCUMENTS
SET NO. ONE**

1 REQUESTING PARTY: Plaintiffs People of the State of California *ex rel.* Carol
2 Spooner, *et al.*

3 RESPONDING PARTY: Defendant Pacifica Foundation

4 SET NO.: ONE
5

6 Defendant Pacifica Foundation ("Pacifica") hereby responds, pursuant to
7 California Code of Civil Procedure Section 2033 to the Request For Admissions Of the
8 Truth of Facts and the Genuineness of Documents, Set No. One propounded by plaintiffs
9 People of the State of California *ex rel.* Carol Spooner, *et al.* as follows:
10

11 **PREFATORY STATEMENT**

12 It should be noted that this responding party has not fully completed its
13 investigation of the facts relating to this case, has not completed discovery and has not
14 completed its preparation for trial.

15 All of the responses contained herein are based only upon such information and
16 documents as are presently available and specifically known to this responding party and
17 disclose only those contentions which presently occur to this responding party and these
18 defendants as a common defense.

19 It is anticipated that further discovery, independent investigation and legal research
20 and analysis will supply additional facts and add meaning to known facts, as well as
21 establish entirely new conclusions and legal contentions, all of which may lead to
22 substantial additions to, changes in and variations from the contentions set forth herein.

23 The following responses are given without prejudice to responding party's right to
24 produce evidence of any subsequently discovered fact or facts which this responding
25 party may later recall. Responding party accordingly reserves the right to change any and
26 all answers herein as additional facts are ascertained, analyses are made, legal research is
27 completed, and contentions are made. The responses contained herein are made in a good
28 faith effort to supply as much actual information and as much specification of legal

1 contentions as are presently known, but should in no way be to the prejudice of this
2 responding party in relation to further discovery, research or analysis.

3 4 **GENERAL OBJECTIONS**

5 Responding party objects to each and every request to the extent that it seeks
6 information protected by the attorney-client privilege, the work product doctrine, or Code
7 of Civil Procedure Section 2018.

8 Each and every response set forth below is answered subject to the specific
9 limitations and objections set forth in the respective response and to the general
10 objections set forth herein. These general objections form a part of the response to each
11 and every request and are set forth herein to avoid the unnecessary duplication and
12 repetition of restating them in each individual response.

13 14 **REQUEST FOR ADMISSIONS, SET NO. ONE (1)**

15 **TRUTH OF FACTS** 16 **("Attachment A")**

17 **RESPONSE TO ADMISSION REQUEST NO. 1:**

18 Pacifica objects to this Request for Admission on the grounds that it contains
19 impermissible subparts and is compound and conjunctive, and it is not full and complete
20 in and of itself. Pacifica further objects to this Request on the grounds that it is vague,
21 ambiguous and overbroad in that it incorporates document numbers 1a, 2 and 3a, and the
22 purported "representations" are in no way specifically identified. Pacifica objects to this
23 Request on the grounds that it is argumentative and unintelligible in that it assumes that
24 the documents marked as 1a, 2, and 3a contain representations as to whether Pacifica
25 Directors were appointed or elected by Pacifica station boards. The documents contain
26 no such representations, making the Request lacking in foundation, vague, ambiguous,
27 unintelligible, misleading and improper. Pacifica further objects to this Request to the
28

1 extent that it seeks to invade attorney-client privilege, work product, trade secret, and
2 other privileges of confidentiality. Without waiving said objections, and without waiving
3 any attorney-client privilege, work product, trade secret, and other privileges of
4 confidentiality, Pacifica admits that at all relevant times and currently, all Pacifica
5 Directors were elected by the Pacifica National Governing Board and were not entitled to
6 be seated without the Board's approval. Except as expressly admitted herein, Pacifica
7 denies this Request.

8 **RESPONSE TO ADMISSION REQUEST NO. 2:**

9 Pacifica objects to this Request for Admission on the grounds that it contains
10 impermissible subparts and is compound and conjunctive, and it is not full and complete
11 in and of itself. Pacifica further objects to this Request on the grounds that it is vague,
12 ambiguous and overbroad in that it incorporates document numbers 4a, 5a, 5b, 6a, 8c,
13 10c, 11c, 12a and 14d, and the purported "representations" are in no way specifically
14 identified. Further, Pacifica objects to this Request on the grounds that it is
15 argumentative and unintelligible in that it assumes that the documents marked as 4a, 5a,
16 5b, 6a, 8c, 10c, 11c, 12a and 14d, contain representations as to whether Pacifica Directors
17 were appointed or elected by Pacifica station boards. The documents contain no such
18 representations, making the Request lacking in foundation, vague, ambiguous,
19 unintelligible, misleading and improper. Pacifica further objects to this Request to the
20 extent that it seeks to invade attorney-client privilege, work product, trade secret, and
21 other privileges of confidentiality. Without waiving said objections, and without waiving
22 any attorney-client privilege, work product, trade secret, and other privileges of
23 confidentiality, Pacifica admits that at all relevant times and currently, all Pacifica
24 Directors were elected by the Pacifica National Governing Board and were not entitled to
25 be seated without the Board's approval. Except as expressly admitted herein, Pacifica
26 denies this Request.

27 **RESPONSE TO ADMISSION REQUEST NO. 3:**

28 Pacifica objects to this Request for Admission on the grounds that it is vague,

1 ambiguous and unintelligible. The Request is vague and ambiguous as to what “voting
2 rights” are alleged to have been possessed by Pacifica stations boards. Assuming
3 plaintiffs are referring to a purported right to elect directors to the National Board of
4 Directors of Pacifica, the Request is also vague and ambiguous, and it assumes facts that
5 are inaccurate, and Pacifica further objects on that ground. Pacifica further objects to this
6 Request to the extent that it seeks to invade attorney-client privilege, work product, trade
7 secret, and other privileges of confidentiality. Without waiving said objections, and
8 without waiving any attorney-client privilege, work product, trade secret, and other
9 privileges of confidentiality, Pacifica admits Pacifica stations boards or LABs at some
10 times had been requested to identify nominees who were proposed to be members of the
11 National Board and vote to forward those nominations to the National Board for its
12 determination. Amendments to Pacifica’s Bylaws on February 9, 1991 provide some
13 evidence of this practice. Except as expressly admitted herein, Pacifica denies this
14 Request.

15 **RESPONSE TO ADMISSION REQUEST NO. 4:**

16 Pacifica objects to this Request for Admission on the grounds that it is vague,
17 ambiguous, and implies that station boards had rights that did not exist. Pacifica also
18 objects to this Request on the ground that the terminology “purportedly adopted” is
19 argumentative. Pacifica further objects to this Request to the extent that it seeks to invade
20 attorney-client privilege, work product, trade secret, and other privileges of
21 confidentiality. Further, Pacifica does not know whether any Pacifica station board
22 supported the amendments to the Bylaws adopted by Pacifica. Without waiving said
23 objections, and without waiving any attorney-client privilege, work product, trade secret,
24 and other privileges of confidentiality, Pacifica admits that amendments to Pacifica’s
25 Bylaws were not and never have been submitted by Pacifica to station boards for their
26 approval, which has never been and currently is not required. Except as expressly
27 admitted herein, Pacifica denies this Request.

28

RESPONSE TO ADMISSION REQUEST NO. 5:

Pacifica objects to this Request for Admission on the grounds that it is vague, ambiguous, and implies that station boards had rights that did not exist. Pacifica also objects to this Request on the ground that the terminology “purportedly adopted” is argumentative. Pacifica further objects to this Request to the extent that it seeks to invade attorney-client privilege, work product, trade secret, and other privileges of confidentiality. Further, Pacifica does not know whether any Pacifica station board supported the amendments to the Bylaws adopted by Pacifica. Without waiving said objections, and without waiving any attorney-client privilege, work product, trade secret, and other privileges of confidentiality, Pacifica admits that amendments to Pacifica’s Bylaws were not and never have been submitted by Pacifica to station boards for their approval, which has never been and currently is not required. Except as expressly admitted herein, Pacifica denies this Request.

RESPONSE TO ADMISSION REQUEST NO. 6:

Pacifica objects to this Request for Admission on the grounds that it is vague, ambiguous, and implies that station boards had rights that did not exist. Pacifica also objects to this Request on the ground that the terminology “purportedly adopted” is argumentative. Pacifica further objects to this Request to the extent that it seeks to invade attorney-client privilege, work product, trade secret, and other privileges of confidentiality. Further, Pacifica does not know whether any Pacifica station board supported the amendments to the Bylaws adopted by Pacifica. Without waiving said objections, and without waiving any attorney-client privilege, work product, trade secret, and other privileges of confidentiality, Pacifica admits that amendments to Pacifica’s Bylaws were not and never have been submitted by Pacifica to station boards for their approval, which has never been and currently is not required. Except as expressly admitted herein, Pacifica denies this Request.

Wendel, Rosen, Black & Dean, LLP
1111 Broadway, 24th Floor
Oakland, California 94607-4036

REQUEST FOR ADMISSIONS, SET NO. ONE (1)

**GENUINENESS OF DOCUMENTS
("Attachment B")**

RESPONSE TO ADMISSION REQUEST NO. 1:

Pacifica objects to this Request for Admission on the grounds that it contains impermissible subparts and is compound and conjunctive. Pacifica further objects to this Request to the extent that it attempts to characterize the nature, meaning or effect of the attached documents on the ground that the documents themselves are the best evidence of their contents. Without waiving said objections and without admitting or conceding the nature, meaning or effect of such documents, Pacifica admits that the documents attached as Exhibit 1 are true and correct copies.

RESPONSE TO ADMISSION REQUEST NO. 2:

Pacifica objects to this Request for Admission on the grounds that it contains impermissible subparts and is compound and conjunctive. Pacifica further objects to this Request to the extent that it attempts to characterize the nature, meaning or effect of the attached documents on the ground that the documents themselves are the best evidence of their contents. Without waiving said objections and without admitting or conceding the nature, meaning or effect of such documents, Pacifica admits that the documents attached as Exhibit 2 are true and correct copies.

RESPONSE TO ADMISSION REQUEST NO. 3:

Pacifica objects to this Request for Admission on the grounds that it contains impermissible subparts and is compound and conjunctive. Pacifica further objects to this Request to the extent that it attempts to characterize the nature, meaning or effect of the attached documents on the ground that the documents themselves are the best evidence of their contents. Without waiving said objections and without admitting or conceding the nature, meaning or effect of such documents, Pacifica admits that the documents attached as Exhibit 3 are true and correct copies.

RESPONSE TO ADMISSION REQUEST NO. 4:

Pacifica objects to this Request for Admission on the grounds that it contains impermissible subparts and is compound and conjunctive. Pacifica further objects to this Request to the extent that it attempts to characterize the nature, meaning or effect of the attached documents on the ground that the documents themselves are the best evidence of their contents. Without waiving said objections and without admitting or conceding the nature, meaning or effect of such documents, Pacifica admits that the documents attached as Exhibit 4 are true and correct copies.

RESPONSE TO ADMISSION REQUEST NO. 5:

Pacifica objects to this Request for Admission on the grounds that it contains impermissible subparts and is compound and conjunctive. Pacifica further objects to this Request to the extent that it attempts to characterize the nature, meaning or effect of the attached documents on the ground that the documents themselves are the best evidence of their contents. Without waiving said objections and without admitting or conceding the nature, meaning or effect of such documents, Pacifica admits that the documents attached as Exhibit 5 are true and correct copies.

RESPONSE TO ADMISSION REQUEST NO. 6:

Pacifica objects to this Request for Admission on the grounds that it contains impermissible subparts and is compound and conjunctive. Pacifica further objects to this Request to the extent that it attempts to characterize the nature, meaning or effect of the attached documents on the ground that the documents themselves are the best evidence of their contents. Without waiving said objections and without admitting or conceding the nature, meaning or effect of such documents, Pacifica admits that the documents attached as Exhibit 6 are true and correct copies.

RESPONSE TO ADMISSION REQUEST NO. 7:

Pacifica objects to this Request for Admission on the grounds that it contains impermissible subparts and is compound and conjunctive. Pacifica further objects to this

1 Request to the extent that it attempts to characterize the nature, meaning or effect of the
2 attached documents on the ground that the documents themselves are the best evidence of
3 their contents. Without waiving said objections and without admitting or conceding the
4 nature, meaning or effect of such documents, Pacifica admits that the documents attached
5 as Exhibit 7 are true and correct copies.

6 **RESPONSE TO ADMISSION REQUEST NO. 8:**

7 Pacifica objects to this Request for Admission on the grounds that it contains
8 impermissible subparts and is compound and conjunctive. Pacifica further objects to this
9 Request to the extent that it attempts to characterize the nature, meaning or effect of the
10 attached documents on the ground that the documents themselves are the best evidence of
11 their contents. Without waiving said objections and without admitting or conceding the
12 nature, meaning or effect of such documents, Pacifica admits that the documents attached
13 as Exhibit 8 are true and correct copies.

14 **RESPONSE TO ADMISSION REQUEST NO. 9:**

15 Pacifica objects to this Request for Admission on the grounds that it contains
16 impermissible subparts and is compound and conjunctive. Pacifica further objects to this
17 Request to the extent that it attempts to characterize the nature, meaning or effect of the
18 attached documents on the ground that the documents themselves are the best evidence of
19 their contents. Without waiving said objections and without admitting or conceding the
20 nature, meaning or effect of such documents, Pacifica admits that the documents attached
21 as Exhibit 9 are true and correct copies.

22 **RESPONSE TO ADMISSION REQUEST NO. 10:**

23 Pacifica objects to this Request for Admission on the grounds that it contains
24 impermissible subparts and is compound and conjunctive. Pacifica further objects to this
25 Request to the extent that it attempts to characterize the nature, meaning or effect of the
26 attached documents on the ground that the documents themselves are the best evidence of
27 their contents. Without waiving said objections and without admitting or conceding the
28 nature, meaning or effect of such documents, Pacifica admits that the documents attached

as Exhibit 10 are true and correct copies.

RESPONSE TO ADMISSION REQUEST NO. 11:

Pacifica objects to this Request for Admission on the grounds that it contains impermissible subparts and is compound and conjunctive. Pacifica further objects to this Request to the extent that it attempts to characterize the nature, meaning or effect of the attached documents on the ground that the documents themselves are the best evidence of their contents. Without waiving said objections and without admitting or conceding the nature, meaning or effect of such documents, Pacifica admits that the documents attached as Exhibit 11 are true and correct copies.

RESPONSE TO ADMISSION REQUEST NO. 12:

Pacifica objects to this Request for Admission on the grounds that it contains impermissible subparts and is compound and conjunctive. Pacifica further objects to this Request to the extent that it attempts to characterize the nature, meaning or effect of the attached documents on the ground that the documents themselves are the best evidence of their contents. Without waiving said objections and without admitting or conceding the nature, meaning or effect of such documents, Pacifica admits that the documents attached as Exhibit 12 are true and correct copies.

RESPONSE TO ADMISSION REQUEST NO. 13:

Pacifica objects to this Request for Admission on the grounds that it contains impermissible subparts and is compound and conjunctive. Pacifica further objects to this Request to the extent that it attempts to characterize the nature, meaning or effect of the attached documents on the ground that the documents themselves are the best evidence of their contents. Without waiving said objections and without admitting or conceding the nature, meaning or effect of such documents, Pacifica admits that the documents attached as Exhibit 13 are true and correct copies.

RESPONSE TO ADMISSION REQUEST NO. 14:

Pacifica objects to this Request for Admission on the grounds that it contains impermissible subparts and is compound and conjunctive. Pacifica further objects to this

Request to the extent that it attempts to characterize the nature, meaning or effect of the attached documents on the ground that the documents themselves are the best evidence of their contents. Without waiving said objections and without admitting or conceding the nature, meaning or effect of such documents, Pacifica admits that the documents attached as Exhibit 14 are true and correct copies.

RESPONSE TO ADMISSION REQUEST NO. 15:

Denied, as this is not an accurate and genuine copy of Pacifica's current Bylaws.

RESPONSE TO ADMISSION REQUEST NO. 16:

Denied, as this is not an accurate and genuine copy of Pacifica's current Bylaws.

RESPONSE TO ADMISSION REQUEST NO. 17:

Denied, as this is not an accurate and genuine copy of Pacifica's current Bylaws.

RESPONSE TO ADMISSION REQUEST NO. 18:

Pacifica admits Exhibit 18 is a true and correct copy of its Bylaws as amended September 28, 1997.

RESPONSE TO ADMISSION REQUEST NO. 19:

Denied, as this is not an accurate and genuine copy of Pacifica's Bylaws as amended February 28, 1997. Pacifica admits that the language contained in Exhibit 19 is accurate, but the format of Exhibit 19 is not.

RESPONSE TO ADMISSION REQUEST NO. 20:

Admitted.

RESPONSE TO ADMISSION REQUEST NO. 21:

Admitted.

RESPONSE TO ADMISSION REQUEST NO. 22:

Admitted.

RESPONSE TO ADMISSION REQUEST NO. 23:

Admitted.

RESPONSE TO ADMISSION REQUEST NO. 24:

Admitted.

RESPONSE TO ADMISSION REQUEST NO. 25:

Admitted.

RESPONSE TO ADMISSION REQUEST NO. 26:

Admitted.

RESPONSE TO ADMISSION REQUEST NO. 27:

Pacifica has no information or belief as to the genuineness of the document attached as Exhibit 27 and based thereon, denies same.

RESPONSE TO ADMISSION REQUEST NO. 28:

Admitted.

RESPONSE TO ADMISSION REQUEST NO. 29:

Admitted.

RESPONSE TO ADMISSION REQUEST NO. 30:

Pacifica has no information or belief as to the genuineness of the document attached as Exhibit 30 and based thereon, denies same.

RESPONSE TO ADMISSION REQUEST NO. 31:

Pacifica has no information or belief as to the genuineness of the document attached as Exhibit 31 and based thereon, denies same.

RESPONSE TO ADMISSION REQUEST NO. 32:

Denied. Pacifica denies that the document attached as Exhibit 32 is the final compliance audit of Pacifica Foundation issued by the Corporation for Public Broadcasting.

RESPONSE TO ADMISSION REQUEST NO. 33:

Admitted.

RESPONSE TO ADMISSION REQUEST NO. 34:

Admitted.

RESPONSE TO ADMISSION REQUEST NO. 35:

Admitted.

RESPONSE TO ADMISSION REQUEST NO. 36:

Pacifica has no information or belief as to the genuineness of the document attached as Exhibit 36 and based thereon, denies same.

RESPONSE TO ADMISSION REQUEST NO. 37:

Admitted.

RESPONSE TO ADMISSION REQUEST NO. 38:

Pacifica has no information or belief as to the genuineness of the document attached as Exhibit 38 and based thereon, denies same.

RESPONSE TO ADMISSION REQUEST NO. 39:

Pacifica admits that it appears that Exhibit 39 may have been printed from Pacifica's web page. Except as expressly admitted herein, Pacifica is unable to admit, deny or otherwise respond to this Request.

Dated: March 19, 2001

WENDEL, ROSEN, BLACK & DEAN, LLP

By



Daniel Rapaport
Attorneys for Defendant
PACIFICA FOUNDATION

VERIFICATION

I, Bessie Wash, declare:

I am the Executive Director of Pacifica Foundation, one of the defendants in the above-entitled action, and I am authorized to make this verification for and on its behalf. I have read the foregoing Pacifica Foundation's Response To Request For Admissions Of The Truth Of Facts And Genuineness Of Documents, Set No. One and know the contents thereof. The matters stated in the document described above are true of my own knowledge and belief except as to those matters stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this verification was executed on this _____ day of March, 2001 at _____.



Bessie Wash