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Lawyers in California 2016

LITIGATION

STEVEN M. BAUER

LATHAM & WATKINS LLP | SAN FRANCISCO

SPECIALTY: ENERGY DEFENSE, WHITE COLLAR
CRIMINAL DEFENSE

Bauer led the defense team that knocked out most of the damages in a federal lawsuit against Pacific Gas & Electric Co., which was responsible for a deadly pipeline blast in San Bruno that claimed eight lives in 2010.

Filed in 2014, the lawsuit led by the Northern District U.S. attorney's office invoked the Alternative Fines Act, a federal sentencing statute that doubles damages equal to twice the calculated financial loss of victims of a crime, or alternatively, twice the gain wrought by convicted criminals.

In December 2015, U.S. District Judge Thelton E. Henderson dismissed the "twice the loss" claim, reasoning that computing the damages would be too complicated. *U.S. v. Pacific Gas and Electric Company*, 14-CR175 (N.D. Cal., filed April 1, 2014).

That decision knocked out roughly half a billion dollars in damages.

Then, in August, prosecutors voluntarily withdrew their "twice the gain" claim without saying why, and doing that knocked down the potential damages exposure to

PG&E to \$5.5 million.

At trial, Bauer focused one point on the fact that the company as a whole — not people working for it — was accused of wrongdoing.

"The evidence is going to show good, qualified people coming to work every day and doing the best they can under the circumstances," Bauer said during his opening statements. He felt that argument was helpful to winning the case.

"The case is a rare instance where a corporation was charged and tried, as opposed to specific individuals, which sets important precedent," Bauer said.

Last month, PG&E was convicted of five felony counts of knowingly not inspecting its gas lines for possible outcomes like the one six years ago. Jurors also convicted the company of a felony count of obstructing justice.

The company was found not guilty on six remaining counts.

The maximum penalty has not been determined but will be no more than \$3 million.

Margaret A. Tough, a San Francisco-based



partner with Latham, was Bauer's co-lead counsel in the case.

— Saul Sugarman