

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR MULTNOMAH COUNTY

JEANYNE JAMES, ROBIN COLBERT,)	Case No. 20CV33885
JANE DREVO, SAM DREVO, BROOKE)	
EDGE AND BILL EDGE, SR., LORI)	
FOWLER, IRIS HAMPTON, JAMES)	
HOLLAND, RACHELLE MCMASTER,)	CASE MANAGEMENT ORDER NO. 8
KRISTINA MONTOYA, NORTHWEST)	
RIVER GUIDES, LLC, SHARIENE)	
STOCKTON AND KEVIN STOCKTON,)	
VICTOR PALFREYMAN,)	
PALFREYMAN FAMILY TRUST, and)	
DUANCE BRUNN, individual and on)	
behalf of all others similarly situated,)	
)	
)	
Plaintiffs,)	
)	
v.)	
)	
PACIFICORP, an Oregon Corporation;)	
and PACIFIC POWER, an Oregon)	
registered electric utility and assumed)	
business name of PACIFICORP,)	
)	
)	
Defendants.)	

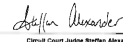
The matters before the court are defendants’ Motion to Stay and plaintiffs’ and defendants’ competing Motions for Entry of Case Management Order No. 8. Hearings were held on September 8, 2023 and September 15, 2023. Attorney Nicholas Rosinia appeared on behalf of plaintiffs. Attorney Alison Plessman appeared on behalf of defendants. The court considered the pleadings, briefs, declarations, and arguments submitted to the court. For the reasons stated on the record, defendants’ Motion to Stay is DENIED, and plaintiffs’ and defendants’ competing Motions for Entry of Case Management Order No. 8 are GRANTED in part, and DENIED in part.

The Court adopts the following Case Management Order in this matter pursuant to the Court's rulings on September 15, 2023. If any deadlines or due dates are on days in which the court is closed in observance of legal holidays, then the deadline or due date will be the preceding business day. The following dates are ordered in this case:

- Consolidated Trial No. 1 – the pretrial conference hearing date is scheduled for: January 5, 2024 at 9:00 a.m. – noon.
- Consolidated Trial No. 1 – the trial dates are scheduled as follows: January 8, 2024 to January 17, 2024.
- Consolidated Trial No. 2 – the pretrial conference hearing date is scheduled for: February 23, 2024 at 9:00 a.m. – noon.
- Consolidated Trial No. 2 – the trial dates are scheduled as follows: February 26, 2024 to March 1, 2024.

For Consolidate Trials Nos. 1 and 2, the court adopts the Revised Phase II Jury Trial Proposal, Short Form Complaint, and Short Form Answer, attached as Attachment 1.1, Attachment 1.2, Exhibit A, and Exhibit B. The redlines in Attachment 1.2 may be revisited after completion of Consolidated Trials Nos. 1 and 2, and the consolidated trial for cases 22CV41640 & 22CV29694 (scheduled for April 22, 2024 to April 30, 2024).

9/20/2023 4:18:00 PM


Circuit Court Judge Jeffrey Alexander

Preliminary James/PacifiCorp: Phase II Jury Trial Protocol

1. **Scope:** The following Protocol applies to all *James* Class Members who seek to have their damages determined during the second phase of this action (referred to herein as the “absent Class Members”). It shall be implemented through entry of a revised Case Management Order. This Protocol shall exclude, however, absent Class Members who seek to determine damages for complex business loss claims and who specifically request and receive the Court’s permission to be excluded from this Protocol on the basis that such claims should not be addressed through the consolidated process proposed herein. For example, the business claims in the following consolidated cases are complex and are likely to be excluded from this Protocol: *Freres Timber Inc. v. PacifiCorp*, Case No. 22CV29694 and *C.W. Specialty Lumber et al. v. PacifiCorp*, Case No. 22CV41640. Damages proceedings involving such cases shall be addressed on a one-off basis with the Court.
2. **Jurisdiction of the Court:** The Court shall retain jurisdiction over the Class and each absent Class Member.
3. **Amendment of Complaint:** For Consolidate Trial No. 3, absent Class Members shall file an amended complaint, if any, by October 18, 2023.
4. **Selection of Absent Class Members for Consolidated Trials:** The absent Class Members to be included in each trial shall be selected by Lead Counsel. Consolidated Trials Nos. 1 and 2 shall include approximately fifteen absent Class Members apiece. For both Consolidated Trial No. 1 and Consolidate Trial No. 2, Lead Counsel shall include an absent Class Members with the following category of injuries: (i) renter total loss or (ii) renter partial loss. In both Consolidated Trials nos. 1 and 2, Lead Counsel shall also include an absent Class Member with the following category of injuries: smoke and ash damages.
5. **Omnibus Pretrial Process:** The Honorable Steffan Alexander, Multnomah County Circuit Court Judge, shall preside over an omnibus pretrial process consisting of the following.
 - a. **Initial Complaint:** On a date to be established by the Court, Lead Counsel shall provide Defendants with a completed short form complaint for each absent Class Member to be included in a given consolidated trial setting. The Short Form Complaint template is appended as Exhibit A. Short Form Complaint Deadlines are as follows: Consolidated Trial No. 1 – September 25, 2023. Consolidate Trial No. 2 – October 5, 2023.
 - b. **Response or Answer:** Defendants must file a response or Short Form Answer, appended as Exhibit B. For Consolidated Trials Nos. 1, 2, and 3, the deadlines for the response or Short Form Answer are as follows: October 9, 2023, October 19, 2023, and November 1, 2023, respectively.

- c. **Written Discovery Exchange:** Within 21 days after Defendants are provided short form complaints (or an amended complaint), each absent Class Member at issue shall produce documents pertaining to their damages, with a continuing duty to provide or supplement production as provided under ORCP 43. For Consolidated Trials Nos. 1, 2, and 3 the deadlines for informal production are as follows: October 16, 2023, October 26, 2023, and November 8, 2023, respectively. The production will be in response to a uniform set of requests for production, along with a uniform set of responses and objections to those requests. The parties shall promptly meet and confer to determine the uniform set of requests for production and responses. For Consolidated Trials Nos. 1, 2, and 3, the deadlines for completion of all formal document discovery are as follows: November 13, 2023, November 23, 2023, and January 3, 2023, respectively.
- d. **Depositions:** Defendants may take a single deposition of each adult absent Class Member relating only to that absent Class Member's Phase II issues. Depositions shall be limited to four hours, excluding breaks and technical delays, and shall be completed remotely unless the absent Class Member requests otherwise. The parties shall cooperate to select a mutually convenient day and time for the deposition.
- e. **Additional Discovery:** All discovery including, but not limited to depositions, shall be completed at least 28 days before the First Day of Trial (hereinafter, the "First Day of Trial" includes the first day of jury selection). For Consolidated Trials Nos. 1, 2, and 3 the deadlines for completion of all discovery are as follows: December 11, 2023, January 29, 2023, and March 25, 2023, respectively.
- f. **Pretrial Submissions:** Prior to the pretrial conference, the parties shall exchange or file a neutral statement of the case, motions in limine, exhibit lists, any proposed factual stipulations, deposition testimony and counter-designations, proposed jury instructions, proposed verdict forms—as well as identify any objections to the other side's materials. The exhibit lists, proposed factual stipulations, and jury instructions (both agreed-upon and objected-to) shall be submitted as an omnibus joint filing. In the absence of agreement to an earlier date, the parties shall exchange excerpts of deposition testimony proposed to be used as substantive evidence no later than 14 days before the First Day of Trial and exchange counter-designations no later than 10 days before the First Day of Trial. In the absence of agreement to an earlier date, 14 days before the First Day of Trial, the parties shall exchange a proposed neutral statement of the case, exhibit lists and copies of proposed trial exhibits, proposed stipulations of fact, proposed jury instructions, and a proposed verdict form. The parties shall confer regarding any objections within 48 hours of the exchange of the foregoing materials. If no objection is specified to a proffered exhibit, the exhibit shall be preadmitted. Exhibit lists may be amended after the pretrial conference only for good cause shown.

Motions in limine, trial memoranda, stipulations, one set of joint, agreed-upon jury instructions, a joint, agreed-upon verdict form, and separate disputed jury instructions must be filed no later than 1:00 p.m. 7 days before the First Day of Trial. Responses to motions in limine and jury instructions must be filed no later than 1:00 p.m. 5 days before the First Day of Trial, after conferral on the responses. Replies to any motions in limine must be filed no later than 1:00 p.m. 4 days before the First Day of Trial. Courtesy copies of any motions in limine, responses, replies, trial memoranda, stipulations (including in Word format), jury instructions (including in Word format), and verdict form (including in Word format) must be provided to the court's judicial assistant upon filing. Any disputed neutral statement of the case (including in Word format), disputed deposition designations, and exhibit lists (including in Word format, excluding expert witness materials and exhibits for impeachment purposes only) must be provided to the court's judicial assistant no later than 1:00 p.m. 5 days before the First Day of Trial.

- g. **Pretrial Conference:** The Court shall hold a consolidated pretrial conference, during which motions *in limine* shall be decided, objections to exhibits, disputed deposition designations, disputed jury instructions and disputed verdict forms shall be addressed, and—during or after the first consolidated trial setting—the Court shall establish a uniform set of motions in limine, factual stipulations, jury instructions, and verdict forms for all damages trials, except for damages trials seeking complex business loss claims. The court may establish a uniform set of the foregoing documents applicable to damages involving complex business loss claims during or after Consolidated Trial No. 3. For Consolidated Trials Nos. 1, 2, and 3, the pretrial conference dates are as follows: January 5, 2023 at 9:00 a.m., February 23, 2023 at 9:00 a.m., and April 19, 2023 at 1:30 p.m., respectively.
- h. **Uniform Trial Materials:** Once the Court establishes a uniform set of these materials, they shall only be revised for subsequent damages trials for clerical reasons—such as substituting the names of the absent Class Members whose claims are before each jury.
- i. **Mediation:** The Court orders any or all parties within a series to participate with good faith in mediation or other forms of ADR prior to the commencement date of trials. For Consolidated Trials Nos. 1, 2, and 3 the deadlines for filing a Certificate of Participation in Alternative Dispute Resolution pursuant to SLR 7.016 are as follows: December 18, 2023, February 5, 2023, and April 1, 2023, respectively. After completion of Consolidated Trials Nos. 1, 2, and 3, the court may order ADR for any or all remaining absent Class Members. Absent agreement to an earlier date, within 30 days following the completion of Consolidated Trials Nos. 1, 2, and 3, the parties shall confer and submit a joint proposed mediation protocol for the remaining absent Class Members or, in the alternative, each submit a separate proposed mediation protocol with their respective proposals.

6. Trial Process:

- a. **12-Person Jury:** Each consolidated trial shall be presented before a 12-person jury, and shall be limited to no more than seven trial days for Consolidated Trials Nos. 1 and 3, and no more than five trial days for Consolidate Trial No. 2. Trial days include jury selection. The parties shall confer and agree upon a trial schedule for each consolidated trial, and submit their trial schedule and list of all trial witnesses (fact and expert witnesses) by 9 a.m. PT five days before a trial is to commence.
- b. **Jurisdiction and Dispute Resolution Procedure:** Judge Alexander shall retain jurisdiction and preside over all pretrial disputes. Any disputes that arise during discovery or pre-trial process shall be resolved in summary fashion. The parties shall first meet and confer to resolve their disagreement. If they are unable to resolve their disagreement, they shall jointly approach the court for relief within three days of the completion of their conferral. When doing so, the parties shall jointly submit a statement of their respective positions, not to exceed three double-spaced pages per side. There shall be no responses or replies unless ordered by the Court.
- c. **Substitution of Plaintiffs:** Should any individual Class Member settle their claims with Defendants prior to the commencement date of their damages trial, Lead Counsel may substitute another absent Class Member in their place to ensure efficient resolution of all absent Class Members' damages, subject to Court approval if after completion of the discovery deadline.

7. Consolidated Trial Process:

- a. **Assignment to Other Judges:** To be determined.
- b. **Process:** The process set forth in Paragraphs 5 and 6, above, shall govern each series of consolidated jury trials.
- c. **Judgment:** Following the verdict in each consolidated jury trial, a limited judgment and money award shall be rendered as to each absent Class Member whose damages were decided by that verdict.
- d. **Repeated Until Complete:** To be determined.

8. **Class Member Contact:** In accordance with the Court's November 7, 2022, Stipulated Order Regarding Plaintiffs' Motion to Limit Defendant's Contact with Class Members, Defendants shall not directly or indirectly contact any Class Member or individual or entity who may fit the definition of a Class Member as set forth in the Court's May 23, 2022 Order Granting Plaintiffs' Motion for Class Certification.

Preliminary James/PacifiCorp: Phase II Jury Trial Protocol

1. **Scope:** The following Protocol applies to all *James* Class Members who seek to have their damages determined during the second phase of this action (referred to herein as the “absent Class Members”). It shall be implemented through entry of a revised Case Management Order. This Protocol shall exclude, however, absent Class Members who seek to determine damages for complex business loss claims and who specifically request and receive the Court’s permission to be excluded from this Protocol on the basis that such claims should not be addressed through the consolidated process proposed herein. For example, the business claims in the following consolidated cases are complex and are likely to be excluded from this Protocol: *Freres Timber Inc. v. PacifiCorp*, Case No. 22CV29694 and *C.W. Specialty Lumber et al. v. PacifiCorp*, Case No. 22CV41640. Damages proceedings involving such cases shall be addressed on a one-off basis with the Court.
2. **Jurisdiction of the Court:** The Court shall retain jurisdiction over the Class and each absent Class Member. ~~All time-based defenses for each absent Class Member, including any statute of limitations, shall continue to be tolled.~~
3. ~~**Amendment of Complaint:** As soon as practicable after entry of a revised Case Management Order, Lead Counsel shall provide an appendix to the Fifth Amended Complaint that lists the absent Class Members who will have their damages determined as part of this Protocol and identifies the total dollar amount of damages alleged and prayed for across those absent Class Members. For Consolidate Trial No. 3, absent Class Members shall file an amended complaint, if any, by October 18, 2023.~~
 - a. ~~3. Lead Counsel may supplement this list of absent Class Members every 90 days to identify additional absent Class Members who have indicated an intent to have their damages determined as part of this Protocol, and shall in each instance update the total dollar amount of damages alleged and prayed for on behalf of those absent Class Members as necessary.~~
4. **Selection of Absent Class Members for Consolidated Trials:** ~~Phase II shall proceed through consolidated jury trials to determine the amount of damages owed to each absent Class Member. Up to five consolidated jury trials—depending upon judicial resources and availability—may be held at the same time, with each individual consolidated trial to include approximately fifteen absent Class Members apiece. The absent Class Members to be included in each trial shall be selected by Lead Counsel. Consolidated Trials Nos. 1 and 2 shall include approximately fifteen absent Class Members apiece. For both Consolidated Trial No. 1 and Consolidate Trial No. 2, Lead Counsel shall include an absent Class Members with the following category of injuries: (i) reuter total loss or (ii) reuter partial loss. In both Consolidated Trials nos. 1 and 2, Lead Counsel shall also include an absent Class Member with the following category of injuries: smoke and ash damages.~~

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5. **Omnibus Pretrial Process:** The Honorable Steffan Alexander, Multnomah County Circuit Court Judge, shall preside over an omnibus pretrial process consisting of the following.

~~a.~~ **Initial Complaint:** On a date to be established by the Court, Lead Counsel shall provide Defendants with a completed short form complaint for each absent Class Member to be included in a given consolidated trial setting. The Short Form Complaint template is appended as Exhibit A. Short Form Complaint Deadlines are as follows: Consolidated Trial No. 1 – September 25, 2023. Consolidate Trial No. 2 – October 5, 2023. For Consolidate Trial No. 3 – October 18th, 2023 file an Amended Answer, if any.

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~~b.~~ **Response or Answer:** Defendants must file a response or Short Form Answer, appended as Exhibit B. For Consolidated Trials Nos. 1, 2, and 3, the deadlines for the response or Short Form Answer are as follows: October 9, 2023, October 19, 2023, and November 1, 2023, respectively.

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~~b.c.~~ **Written Discovery Exchange:** Within ~~44~~ 21 days after Defendants are provided short form complaints (or an amended complaint), each absent Class Member at issue shall produce documents pertaining to their damages, with a continuing duty to provide or supplement production as provided under ORCP 43. For Consolidated Trials Nos. 1, 2, and 3 the deadlines for informal production are as follows: October 16, 2023, October 26, 2023, and November 8, 2023, respectively. The production will be in response to a uniform set of requests for production, along with a uniform set of responses and objections to those requests. The parties shall promptly meet and confer to determine the uniform set of requests for production and responses. For Consolidated Trials Nos. 1, 2, and 3, the deadlines for completion of all formal document discovery are as follows: November 13, 2023, November 23, 2023, and January 3, 2023, respectively. No other written discovery of absent Class Members will be allowed.

~~e.~~ **Depositions:** Defendants may take a single deposition of each adult absent Class Member relating only to that absent Class Member's Phase II issues/damages. ~~The deadline to complete any deposition is two weeks after the absent Class Member's document production.~~ Depositions shall be limited to ~~two~~ four hours, excluding breaks and technical delays, and shall be completed remotely unless the absent Class Member requests otherwise. The parties shall cooperate to select a mutually convenient day and time for the deposition.

~~d.~~

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~~d.c.~~ **No Additional Discovery:** ~~There shall be no other pretrial discovery.~~ All discovery including, but not limited to depositions, shall be completed at least 28 days before the First Day of Trial (hereinafter, the "First Day of Trial" includes the first day of jury selection). For Consolidated Trials Nos. 1, 2, and 3 the deadlines for

completion of all discovery are as follows: December 11, 2023, January 29, 2023, and March 25, 2023, respectively.

f. **Pretrial Submissions:** Prior to the pretrial conference, the parties shall exchange or file a neutral statement of the case, motions in limine, exhibit lists, any proposed factual stipulations, deposition testimony and counter-designations, proposed verdict forms, and juror questionnaires—as well as identify any objections to the other side’s materials. The exhibit lists, proposed factual stipulations, and jury instructions (both agreed-upon and objected-to) shall be submitted as an omnibus joint filing. ~~The parties shall further agree, or in the absence of agreement the Court shall order, interim deadlines to facilitate the exchange of and conferral regarding these materials. In the absence of agreement to an earlier date, the parties shall exchange excerpts of deposition testimony proposed to be used as substantive evidence no later than 14 days before the First Day of Trial and exchange counter-designations no later than 10 days before the First Day of Trial. In the absence of agreement to an earlier date, 14 days before the First Day of Trial, the parties shall exchange a proposed neutral statement of the case, exhibit lists and copies of proposed trial exhibits, proposed stipulations of fact, proposed jury instructions, and a proposed verdict form. The parties shall confer regarding any objections within 48 hours of the exchange of the foregoing materials. If no objection is specified to a proffered exhibit, the exhibit shall be preadmitted. Exhibit lists may be amended after the pretrial conference only for good cause shown.~~

e. Motions in limine, trial memoranda, stipulations, one set of joint, agreed-upon jury instructions, a joint, agreed-upon verdict form, and separate disputed jury instructions must be filed no later than 1:00 p.m. 7 days before the First Day of Trial. Responses to motions in limine and jury instructions must be filed no later than 1:00 p.m. 5 days before the First Day of Trial, after conferral on the responses. Replies to any motions in limine must be filed no later than 1:00 p.m. 4 days before the First Day of Trial. Courtesy copies of any motions in limine, responses, replies, trial memoranda, stipulations (including in Word format), jury instructions (including in Word format), and verdict form (including in Word format) must be provided to the court’s judicial assistant upon filing. Any disputed neutral statement of the case (including in Word format), disputed deposition designations, and exhibit lists (including in Word format, excluding expert witness materials and exhibits for impeachment purposes only) must be provided to the court’s judicial assistant no later than 1:00 p.m. 5 days before the First Day of Trial.

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f.g. **Pretrial Conference:** ~~Within 55 days from the filing of the initial complaints for a given consolidated trial setting, the~~ Court shall hold a consolidated pretrial conference, during which motions *in limine* shall be decided, objections to exhibits, disputed deposition designations, disputed jury instructions and disputed verdict forms shall be addressed, and—~~for~~during or after the first consolidated trial setting—the Court shall establish a uniform set of motions in limine, ~~juror~~

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questionnaires, factual stipulations, jury instructions, and verdict forms for all damages trials, except for damages trials seeking complex business loss claims. The court may establish a uniform set of the foregoing documents applicable to damages involving complex business loss claims during or after Consolidated Trial No. 3. For Consolidated Trials Nos. 1, 2, and 3, the pretrial conference dates are as follows: January 5, 2023 at 9:00 a.m., February 23, 2023 at 9:00 a.m., and April 19, 2023 at 1:30 p.m., respectively.

g-h. Uniform Trial Materials: Once the Court establishes a uniform set of these materials during the first consolidated pretrial conference, they shall only be revised for subsequent damages trials for clerical reasons—such as substituting the names of the absent Class Members whose claims are before each jury.

h-i. Mediation: The Court may order any or all parties within a series to participate with good faith in mediation or other forms of ADR prior to the commencement date of trials. For Consolidated Trials Nos. 1, 2, and 3 the deadlines for filing a Certificate of Participation in Alternative Dispute Resolution pursuant to SLR 7.016 are as follows: December 18, 2023, February 5, 2023, and April 1, 2023, respectively. After completion of Consolidated Trials Nos. 1, 2, and 3, the court may order ADR for any or all remaining absent Class Members. Absent agreement to an earlier date, within 30 days following the completion of Consolidated Trials Nos. 1, 2, and 3, the parties shall confer and submit a joint proposed mediation protocol for the remaining absent Class Members or, in the alternative, each submit a separate proposed mediation protocol with their respective proposals.

6. Trial Process: The consolidated trial setting shall commence within 60 days of the filing of the initial complaints, or as soon thereafter as the Court's schedule allows.

a. **12-Person Jury:** Each consolidated trial shall be presented before a 12-person jury, and shall be limited to no more than seven trial days for Consolidated Trials Nos. 1 and 3, and no more than five trial days for Consolidate Trial No. 2. Trial days include jury selection. The parties shall confer and agree upon a trial schedule for each consolidated trial, and submit their trial schedule and list of all trial witnesses (fact and expert witnesses) by 9 a.m. PT five days before a trial is to commence.

b. **Jurisdiction and Dispute Resolution Procedure:** Judge Alexander shall retain jurisdiction and preside over all pretrial disputes. Any disputes that arise during discovery or pre-trial process shall be resolved in summary fashion. The parties shall first meet and confer to resolve their disagreement. If they are unable to resolve their disagreement, they shall jointly approach the court for relief within three days of the completion of their conferral. When doing so, the parties shall jointly submit a statement of their respective positions, not to exceed three

double-spaced pages per side. There shall be no responses or replies unless ordered by the Court.

- c. **Substitution of Plaintiffs:** Should any individual Class Member settle their claims with Defendants prior to the commencement date of their damages trial, Lead Counsel ~~shall~~may substitute another absent Class Member in their place to ensure efficient resolution of all absent Class Members' damages, subject to Court approval if after completion of the discovery deadline.

7. **Consolidated Trial Process (Remaining Series):** ~~No later than seven days after the last trial day of a given series of consolidated jury trials, Lead Counsel shall provide to Defendants' counsel the Short Form Complaints for the next series of up to five consolidated jury trials.~~

- a. **Assignment to Other Judges:** ~~To be determined Depending on judicial resources and availability, this Court or the presiding judge of the Multnomah County Circuit Court may assign a consolidated damages trial or a series of consolidated damages trials to other sitting Multnomah County Circuit Court Judges to permit up to five consolidated trials to occur contemporaneously in a given series.~~
- b. **Process:** The process set forth in Paragraphs 5 and 6, above, shall govern each series of consolidated jury trials.
- c. **Judgment:** Following the verdict in each consolidated jury trial, a limited judgment and money award shall be rendered as to each absent Class Member whose damages were decided by that verdict.
- d. **Repeated Until Complete:** ~~To be determined This process shall be repeated until all absent Class Members have their damages determined.~~

8. **Class Member Contact:** In accordance with the Court's November 7, 2022, Stipulated Order Regarding Plaintiffs' Motion to Limit Defendant's Contact with Class Members, Defendants shall not directly or indirectly contact any Class Member or individual or entity who may fit the definition of a Class Member as set forth in the Court's May 23, 2022 Order Granting Plaintiffs' Motion for Class Certification.

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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

[Plaintiff Name],

Plaintiffs,

v.

PACIFICORP, an Oregon corporation; and
PACIFIC POWER, an Oregon registered
electric utility and assumed business name of
PACIFICORP,

Defendants.

SHORT FORM COMPLAINT AND JURY
DEMAND (INDIVIDUAL AND ENTITY
PLAINTIFFS)

Case Assigned to: Hon. Steffan Alexander

The Plaintiff(s) named below file(s) this Short Form Complaint and Jury Demand to
determine Plaintiff(s) damages against Defendants by and through the undersigned counsel.

Plaintiff(s), by and through their undersigned counsel, allege(s) as follows:

**I. INCORPORATION BY REFERENCE OF EXISTING COMPLAINT AND
PHASE 1 TRIAL**

1. Plaintiff(s) expressly incorporate(s) by reference the Fifth Amended Complaint in
James, et al. v. PacifiCorp, et al (No. 20CV33885, filed April 17, 2023) (the “Master
Complaint”) into this Short Form Complaint as if fully set forth herein except any causes of
action from the *James* Fifth Amended Complaint not adopted in Section IV below. Plaintiff(s)
reserve their right to amend and increase the total amount of damages alleged and prayed for on
behalf of the class. *See, e.g.*, Fifth Amended Complaint ¶¶ 236-37, 240, 242, 250, 252, 261, 263,
269, 271, 281; Prayer for Relief ¶¶ B., D.

SHORT FORM COMPLAINT - 1
(20cv33885)

STOLL STOLL BERNE LOKTING & SHLACHTER P.C.
209 S.W. OAK STREET
PORTLAND, OREGON 97204
TEL. (503) 227-1600 FAX (503) 227-6840

KELLER ROHRBACK L.L.P.
1201 THIRD AVENUE, SUITE 3200
SEATTLE, WA 98101
TEL. (206) 623-1900 FAX (206) 623-3384

EDELSON PC
350 N. LASALLE ST., SUITE 1400
CHICAGO, IL 60654
TEL. (415) 212-9300 FAX: (415) 373-9435

1 2. Plaintiff(s) expressly incorporate(s) by reference the jury verdicts from Phase 1,
2 as if fully set forth herein.

3 **II. PLAINTIFF(S)**

4 3. Plaintiff(s) Names:

5 _____
6 _____
7 _____
8 _____

9 Priority Plaintiff¹

10 4. All Affected Property Addresses:

11 _____
12 _____
13 _____

14 5. Current Mailing Address:

15 _____

16 6. Fire Name:

- 17 Echo Mountain Complex
18 Santiam Canyon
19 South Obenchain
20 242

21 **III. CATEGORIES OF INJURIES**

22 7. Plaintiff(s) allege(s) Defendants caused them the following categories of injury:

23 Bodily injuries
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25 _____
26 ¹ For purposes of this short-form complaint, a priority plaintiff is a party who is over 70 years of age and/or for whom the health of the party is such that a preference is necessary to prevent prejudicing the party's interest in the litigation.

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- Emotional distress, including mental suffering, inconvenience, interference with normal and usual activities.
- Loss of consortium
- Primary residence total loss
- Primary residence partial loss
- Smoke and ash damage
- Secondary residence
- Other structures total loss
- Other structures partial loss
- Real property improvements (fences, roads, well, septic system, etc.) destroyed
- Real property improvements (fences, roads, well, septic system, etc.) damaged
- Personal property damaged or destroyed
- Renter total loss
- Renter partial loss
- Damage to timber, trees, crops, livestock, animals, or vegetation

IV. DAMAGES

8. Plaintiff(s) allege(s) the following damages from the Master Complaint caused by Defendants:

A. Categories of Damages Sought

- Damage to real property
- Loss of personal property
- Lost wages or impairment of earning capacity, and/or business profits or proceeds and/or any related displacement expenses

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- Loss of timber, trees, crops, livestock, animals, or vegetation
- Lost business profits or proceeds
- Alternative living or displacement expenses
- Past and future medical expenses and incidental expenses
- Emotional distress including mental suffering, inconvenience, interference with normal and usual activities
- Loss of consortium
- Any other loss, expenses, costs, or damages
- Costs
- Pre- and post-judgment interest
- Double the amount of economic and property damages
- Further relief as the Court deems equitable and just

B. Amount of Damages Sought

9. Plaintiff(s) suffered economic damages in an amount not to exceed \$_____.

10. Plaintiff(s) suffered non-economic damages in an amount not to exceed \$_____.

C. Punitive Damages Sought

11. 0.25 times the amount of economic and noneconomic damages.

V. CAUSES OF ACTION ASSERTED

12. The following Causes of Action asserted in the Master Complaint and the allegations and Phase I verdict with regard thereto are adopted into this Short Form Complaint:

Check if Applicable	Cause of Action Number	Cause of Action
<input type="checkbox"/>	1	Negligence
<input type="checkbox"/>	2	Gross Negligence
<input type="checkbox"/>	3	Private Nuisance
<input type="checkbox"/>	4	Public Nuisance
<input type="checkbox"/>	5	Trespass
<input type="checkbox"/>	6	Injunction

WHEREFORE, Plaintiff(s) pray(s) for relief and judgment against Defendants for \$ _____ together with pre and post-judgment interest, costs, attorneys' fees, doubling of economic and property damages under ORS 477.089, punitive damages, injunctive relief, and all other relief as the Court deems proper, equitable, and just, and as set forth in the Master Complaint.

VI. JURY DEMAND

Plaintiff(s) hereby demands a trial by jury.

[SIGNATURE BLOCK]

STOEL RIVES LLP
760 SW Ninth Avenue, Suite 3000, Portland, OR 97205
Main 503.224.3380 Fax 503.220.2480

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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

[Plaintiff Name],

Plaintiffs,

v.

PACIFICORP, an Oregon corporation; and
PACIFIC POWER, an Oregon registered
electric utility and assumed business name
of PACIFICORP,

Defendants.

Nos. 20CV33885 (*Lead*)
20CV37430 (*Consolidated*)
21CV33595 (*Consolidated*)
22CV26326 (*Consolidated*)
22CV29694 (*Consolidated*)
22CV29976 (*Consolidated*)
22CV30450 (*Consolidated*)

DEFENDANTS' ANSWER AND
AFFIRMATIVE DEFENSES TO SHORT-
FORM

Fee Authority: ORS 21.160(1)(e)

JURY TRIAL DEMANDED

Defendants PacifiCorp and Pacific Power ("Defendants" or "PacifiCorp") answer
Plaintiffs' Short-Form Complaint filed on [DATE] as follows:

ANSWER

GENERAL RESPONSES

Except as expressly admitted herein, PacifiCorp denies any and all material allegations
in the Complaint. PacifiCorp generally and specifically denies each and every, all and
singular, conjunctively and disjunctively, allegation contained in said Complaint, and each
and every part thereof, and each and every cause of action thereof, and further specifically

1 denies that Plaintiffs have been injured or damaged in the sum alleged, or in any other sum, or
2 at all, by reason of any carelessness, negligence, act, or omission of PacifiCorp.

3 **DENIALS**

4 1.

5 In response to Plaintiffs' incorporation of the Fifth Amended Complaint in *James, et*
6 *al. v. PacifiCorp, et al* (No. 20CV33885, filed April 17, 2023) and the verdict forms from the
7 *James* Phase I trial in Paragraphs 1 and 2, PacifiCorp incorporates its denials to the Fifth
8 Amended Complaint as if fully set forth herein. PacifiCorp denies the remaining allegations
9 of Paragraphs 1 and 2.

10 2.

11 Paragraphs 3 through 12 state Plaintiffs' biographical information, address(es),
12 claimed damages, and which causes of action Plaintiffs assert. PacifiCorp lacks knowledge
13 of Plaintiffs' biographical information, address(es), and claimed damages, and on that basis
14 denies the same. PacifiCorp denies the remaining allegations of Paragraphs 3 through 12.

15 **GENERAL DENIAL**

16 PacifiCorp expressly denies each and every allegation in the Complaint that is not
17 expressly admitted herein.

18 **AFFIRMATIVE DEFENSES**

19 PacifiCorp expressly incorporates all allegations of its Answer as if fully set forth in
20 each of the following Affirmative Defenses.

21 Without admitting any wrongful conduct on the part of PacifiCorp, and without
22 admitting that Plaintiffs have suffered any loss, damage, or injury, PacifiCorp alleges the
23 following Affirmative Defenses to the Complaint. By designating the following as
24 Affirmative Defenses, PacifiCorp does not in any way waive or limit any defenses which are
25 or may be raised by the denial, allegations, and averments set forth herein. Certain
26 Affirmative Defenses are asserted for completeness and refer to facts and proof which also

1 negate required elements of Plaintiffs' claims, and by raising such Affirmative Defenses
2 PacifiCorp does not admit that Plaintiffs lack the burden of proof and/or the burden of
3 persuasion for any or all facts underlying any of those Affirmative Defenses or suggest that
4 Plaintiffs are not required to carry the burden as to such elements.

5 The Affirmative Defenses are pleaded in the alternative, are raised to preserve the
6 rights of PacifiCorp to assert such Affirmative Defenses, and are without prejudice to
7 PacifiCorp's ability to raise other and further Affirmative Defenses.

8 Investigations into the events alleged in the Complaint are currently being undertaken
9 by the parties as well as by third parties. In addition to the Affirmative Defenses set forth
10 below, PacifiCorp reserves the right to allege additional Affirmative Defenses as they
11 become known, or as they evolve during the litigation, and to amend this Answer
12 accordingly.

13 [List Affirmative Defenses applicable to short-form complaint.]

14 **PRAYER FOR RELIEF**

15 WHEREFORE, having fully answered the Complaint, PacifiCorp requests that the
16 Court enter judgment in their favor on all claims asserted by Plaintiffs in their complaint,
17 award PacifiCorp its costs in this action, and grant such other relief as the Court deems just
18 and equitable.

19 DATED: [Date].

STOEL RIVES LLP

21 /s/ DRAFT
22 PER A. RAMFJORD, OSB No. 934024
23 per.ramfjord@stoel.com
24 BRAD S. DANIELS, OSB No. 025178
25 brad.daniels@stoel.com
26 Telephone: (503) 224-3380

and

HUESTON HENNIGAN LLP

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ALISON L. PLESSMAN, *pro hac vice*
aplessman@hueston.com
WILLIAM M. LARSEN, *pro hac vice*
wlarsen@hueston.com
STEPHANIE W. XIAO, *pro hac vice*
sxiao@hueston.com
523 West 6th Street, Suite 400
Los Angeles, CA 90014
Telephone: (213) 788-4340

THOMAS B. KING, *pro hac vice*
tking@hueston.com
DOUGLAS J. DIXON, *pro hac vice*
ddixon@hueston.com
CRAIG A. FLIGOR, *pro hac vice*
cfligor@hueston.com
620 Newport Center Drive, Suite 1300
Newport Beach, CA 92660
Telephone: (949) 229-6840

*Attorneys for Defendants PacifiCorp and
Pacific Power*

STOEL RIVES LLP
760 SW Ninth Avenue, Suite 3000, Portland, OR 97205
Main 503.224.3380 Fax 503.220.2480

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I served a true and correct copy of the foregoing document titled
3 **DEFENDANTS' ANSWER AND AFFIRMATIVE DEFENSES TO THIRD**
4 **AMENDED COMPLAINT** on the following named person(s) on the date indicated below
5 by

- 6 " mailing with postage prepaid. " email. (courtesy copy only)
7 " hand delivery. X email pursuant to agreement among
8 parties/counsel dated October 29,
9 2020, consenting to service via email.
10 (Plaintiffs James, et al. only)
" overnight delivery. X eService via OJD eFile. (if registered)

11 If by mail or overnight delivery, a true copy of the above referenced document was served
12 upon said persons, contained in a sealed envelope or package, addressed to said persons or at
13 their last-known addresses indicated below.

14 **Service List Attached**

15
16 DATED: [Date].

17 /s/ DRAFT
18 PER A. RAMFJORD, OSB No. 934024
19 per.ramfjord@stoel.com
20 Of Attorneys for Defendants PacifiCorp and
21 Pacific Power
22
23
24
25
26

1 **Service List**

2 Attorneys for Fire Victim Plaintiffs James (Lead), Allen (20CV37430) and Salter (21CV33595):

3 Keith A. Ketterling
4 Timothy S. DeJong
5 Cody Berne
6 Emily Johnson
7 STOLL STOLL BERNE LOKTING &
8 SHLACHTER PC
9 209 SW Oak Street, Suite 500
Portland, OR 97204
Email: kketterling@stollberne.com
tdejong@stollberne.com
cberne@stollberne.com
ejohnson@stollberne.com
ahowell@stollberne.com

Derek C Johnson
Marilyn A Heiken
JOHNSON JOHNSON LUCAS &
MIDDLETON
975 Oak Street, Suite 1050
Eugene OR 97401
Email: djohnson@justicelawyers.com
mheiken@justicelawyers.com
anibblett@justicelawyers.com

10 Daniel Mensher
11 Natida Sribhibhadh
12 KELLER ROHRBACK LLP
13 1201 Third Avenue, Suite 3200
14 Seattle, WA 98101
15 Email: dmensher@kellerrohrback.com
16 natidas@kellerrohrback.com
17 orfiresleadcounsel@kellerrohrback.com

Rafey Balabanian
Todd Logan
Brandt Silver-Korn
Patrick Ntchobo
EDELSON PC (*Lead Trial Damages Counsel*)
150 California Street, 18th Floor
San Francisco, CA 94111
Email: rbalabanian@edelson.com
bsilverkorn@edelson.com
tlogan@edelson.com
pntchobo@edelson.com
aprather@edelson.com

16 Matthew J. Preusch
17 KELLER ROHRBACK LLP
18 801 Garden Street, Suite 301
19 Santa Barbara, CA 93101
20 Email: mpreusch@kellerrohrback.com
21 hguthrie@kellerrohrback.com

Amy B. Hausmann
Nicholas H. Rosinia
Zoe Seaman-Grant
Landon Webster
EDELSON PC
350 N. LaSalle Street, 14th Floor
Chicago, IL 60654
Email: abhausmann@edelson.com
nrosinia@edelson.com
zseaman-grant@edelson.com
lwebster@edelson.com

22 Nicholas A. Kahl
23 NICK KAHL, LLC
24 209 SW Oak Street, Suite 400
25 Portland, OR 97204
26 Email: nick@nickkahl.com

Yoona Park
KELLER ROHRBACK LLP
805 SW Broadway, Suite 2750
Portland, OR 97205
Email: ypark@kellerrohrback.com

1 Attorneys for Subrogation Plaintiffs 21st Century (22CV26326) and Allstate (22CV29976):

2 Kevin A. Schummer
Kaitlyn M. Dent
3 Mark S. Grotefeld
GROTEFELD HOFFMANN
4 324 S. Abernethy Street
Portland, OR 97239
5 Email: kschummer@ghlaw-llp.com
kdent@ghlaw-llp.com
6 mgrotefeld@ghlaw-llp.com

Christopher J. Brennan
BAUMAN LOEWE WITT &
MAXWELL, PLLC
650 NE Holladay Street,
Suite 1600
Portland, OR 97232
Email: cbrennan@blwmlawfirm.com

7 Craig S. Simon
Adam M. Romney
8 Christine Forsline
BERGER KAHN, A Law Corporation
9 1 Park Plaza, Suite 340
Irvine, CA 92614
10 Email: csimon@bergerkahn.com
aromney@bergerkahn.com
11 cforsline@bergerkahn.com

Bryan R. Campbell
Kyle Farnam
COZEN O'CONNOR
999 Third Avenue, Suite 1900
Seattle, WA 98104
Email: bcampbell@cozen.com
kfarnam@cozen.com

12 Attorneys for Fire Victim Plaintiffs 21st Century (22CV26326):

13 Eric P. Hanson
14 CARNEY BADLEY SPELLMAN, P.S.
701 Fifth Avenue, Suite 3600
15 Seattle, WA 98104
Email: hanson@carneylaw.com

Shawn E. Caine
Jessica Kirshner
LAW OFFICES OF SHAWN E. CAINE APC
1221 Camino Del Mar
Del Mar, CA 92014
Email: scaine@cainelaw.com
jkirshner@cainelaw.com

17 Timothy Cary
18 W. Diane Wayland
LAW OFFICES OF ROBERT A.
19 STUTMAN, PC
1260 Corona Pointe Ct., Suite 306
20 Corona, CA 92879
Email: caryt@stutmanlaw.com
21 waylandd@stutmanlaw.com

Paul A. Casetta
DENENBERG TUFFLEY
2841 I Northwestern Highway, Suite 600
Southfield, MI 48034
Email: pcasetta@dt-law.com

22 Marnie Silver
CLEMENT & DROTZ, PLLC
23 4205 148th Avenue NE, Suite 201
Bellevue, WA 98007
24 Email: msilver@clementdrotz.com

25

26

1 Attorneys for Plaintiff *Freres Timber* (22CV29694):

2 Michael E. Haglund
3 Christopher Lundberg
4 Christopher T. Griffith
5 HAGLUND KELLEY LLP
6 ATTORNEYS AT LAW
7 2177 SW Broadway
8 Portland, OR 97201
9 Email: haglund@hk-law.com
10 clundberg@hk-law.com
11 cgriffith@hk-law.com

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
8 Attorneys for Plaintiffs *Bell* (22CV30450) Plaintiffs:

9 Brady Mertz
10 BRADY MERTZ, PC
11 685 Church St NE
12 Salem, OR 97301
13 Email: brady@bradymertz.com