IN THE COURT OF APPEALS OF THE STATE OF OREGON

Jeanyne James; Robin Colbert; Jane Drevo; Sam Drevo; Brooke Edge and Bill Edge, Sr.; Lori Fowler; Iris Hampton; James Holland; Rachelle McMcaster; Kristina Montoya; Northwest River Guides, LLC; Shariene Stockton and Kevin Stockton, Victor Palfreyman; Palfreyman Family Trust; Duane Brunn, individually and on behalf of all others similarly situated; Alfred Cuozzo; Deborah Jo Fawcett; David Giller, Sr.; Richard Jensen; Scott Johnson; Frank King, individually and in his capacity as trustee of the King Revocable Trust; Stephen David Nielsen; Cory Staniforth; and Deborah Tank,
Plaintiffs-Respondents
Cross-Appellants,

and

Mary Kathleen Becherer et al.,
Plaintiffs,

and

Oregon Department of Justice,
Creditor-Respondent,

v.

Pacificorp, an Oregon Corporation, and Pacific Power an Oregon registered electric utility and assumed business name of Pacificorp,
Defendants-Appellants
Cross-Respondents.

Multnomah County Circuit Court No. 20CV33885

Court of Appeals No. A183140

ORDER DENYING MOTION TO STAY TRIAL COURT PROCEEDINGS

As has been noted in earlier orders, this class action case arising out of wildfires that occurred in 2020; appellants, PacifiCorp and Pacific Power, appeal a limited judgment entered following the first part of a bifurcated trial in which liability (and damages for the named plaintiffs) was determined.[1] Appellants moved this court to

[1] Since the appeal was initially filed, appellants have filed several amended notices appeal to add to this case appeals from two supplemental judgments and limited judgments entered in two Phase II damages trials.

"vacate" Phase II trial dates that were set before the trial court to determine damages for class members and, on January 10, 2024, the court denied that motion. Appellants then sought reconsideration. In February 2024, the court granted reconsideration and, on reconsideration, explained, first, that "this court has jurisdiction over the appeal to address the merits of the claims properly resolved by way of the limited judgment," and "the trial court retains jurisdiction to resolve the class members' claims." On reconsideration the court, again, denied a stay of the trial court proceedings. It first noted that the "express statutory limitation" on this court's jurisdiction, contained in ORS 19.270(7), "would appear to preclude the court from granting a stay of those proceedings over which the trial court retains jurisdiction, and over which this court lacks jurisdiction," that is, the Phase II damages trials. Furthermore, even assuming that the court "would have the inherent authority to stay further proceedings in the trial court pending resolution of the appeal of the limited judgment," the court concluded that a stay should not be granted.

Appellants now renew their request for a stay of trial court proceedings pending resolution of this appeal: They "move this Court for an order immediately staying the Phase II damages trials currently scheduled or contemplated through March 2028 in the Multnomah County Circuit Court, as outlined in Case Management Order No. 11," pending completion of this appeal. In appellants' view, the case management order, which they assert "would require the Oregon judicial system to adjudicate claims for billions of dollars in damages against a public utility, PacifiCorp, in 160 jury trials involving over 1,900 plaintiffs in the next two-and-a-half years," constitutes a circumstance that justifies renewal of the request already denied by the court. They argue that the "legal foundation of the Phase II trials is fundamentally wrong; the trial process is legally flawed and unfairly prejudicial; and the Phase II process is serving no larger purpose in bringing this case reasonably closer to a resolution, certainly not at the enormous cost involved." Respondents oppose the motion and argue, in part, that, under ORS 19.270(7), this court does not have jurisdiction to stay the Phase II damages trials, which are "wholly within the jurisdiction of the circuit court." Furthermore, even if the court could stay the trial court proceedings, respondents assert that a stay should not be granted. For the reasons set forth below, appellants' motion is denied.

As noted, and as the parties are well aware, this appeal is from taken from limited (and supplemental) judgments entered by the trial court. The first of those determines appellants' liability and awards damages to the named plaintiffs. Thus, that judgment determines the claims of the named plaintiffs, but does not resolve the claims of the class members. *See* ORS 18.005(13) (defining "limited judgment"). Likewise, the other limited judgments, entered following Phase II damages trials, resolve the claims of certain class members, while the claims of remaining class members are not resolved by those judgments. In light of those circumstances, as the court explained in its earlier order, under ORS 19.270(7), this "court's jurisdiction is 'limited to the matters' properly decided by the limited judgment, and the trial court retains jurisdiction to decide the remaining issues with respect to the class members' claims."

ORS 19.270(7) specifically provides:

> "If a limited or supplemental judgment is appealed, the jurisdiction of the appellate court is limited to the matters decided by the limited or supplemental judgment, and the trial court retains jurisdiction over all other matters in the proceeding."

Since, under ORCP 67 B, a limited judgment may be entered to resolve "one or more but fewer than all of the claims or parties," the matters decided by a limited judgment may sometimes be particular claims, and they may sometimes be claims regarding particular parties. In this case, the "matters decided" by the limited judgments are the claims of the named plaintiffs or class members in whose favor the judgments are entered. Thus, this court has jurisdiction with respect to those parties' claims--they are resolved by the limited judgments and the trial court no longer has jurisdiction to adjudicate them since the notices of appeal have been timely filed and served. *See* ORS 19.270(1); *see also State ex rel Gattman v. Abraham*, 302 Or 301, 729 P3d 560 (1986). However, under ORS 19.270(7), given that the appeal is from limited and supplemental judgments, this court's jurisdiction is limited as well. This court's jurisdiction is expressly limited by statute to addressing the matters--that is, the claims--that have been conclusively decided by those judgments and the trial court retains jurisdiction over the remaining class members' claims, which have not been conclusively decided by the limited judgments on appeal. Whether or not, as appellants argue, the limited judgments on appeal include "rulings on issues that the trial court continues to apply in the current and future damages trials" is beside the point. The claims at issue in the "current and future damages trials" are not matters that have been decided by the limited judgments on appeal, even if the trial court applies its prior rulings to the resolution of those matters. The proceedings to resolve the remaining class members claims are matters over which the trial court retains jurisdiction, and over which, under the statute, this court does not have jurisdiction.

Furthermore, contrary to appellants' suggestion, the court is not persuaded that it has inherent authority to stay proceedings over which it does not have jurisdiction. Appellants appear to recognize that the ORS 19.350 and other statutes that provide for stays, do not apply here. Nonetheless, they point to *State ex rel Walraven v. Dept. of Corrections*, 358 Or 71, 86, 362 P3d 1163 (2015), in which the court acknowledged that generally, a trial court or appellate court, according to the circumstances, may have inherent authority "to grant a stay of proceedings pending an appeal even where there is no statute entitling a party to such stay." (Quoting *Helms Groover & Dubber Co. v. Copenhagen*, 93 Or 410, 416, 177 P 935 (1919).) Despite that language quoted in *Walraven*, in the court's view, its inherent authority to grant a stay is limited to matters over which it has acquired jurisdiction. Thus, while the court might, for example, order the trial court to refrain from proceeding with a matter where jurisdiction of the cause in question is in the Court of Appeals, or stay a judgment and, in doing so, prevent the trial court from proceeding with contempt or other proceedings related to enforcement of that judgment, it may not exercise authority in the absence of jurisdiction. And, in particular,

in the case of an appeal of a limited judgment, where the legislative has specifically *limited* this court's jurisdiction, it would be inappropriate for the court to claim inherent authority to purport to grant a stay of matters over which the trial court clearly has jurisdiction. Thus, in the court's view, its lack of jurisdiction over the class members' claims that are not conclusively resolved by the limited judgments on appeal also limit its authority to grant a stay as to those claims. To the extent that appellants argue otherwise, the court rejects that argument.

For those reasons, appellants' renewed motion to stay trial court proceedings is denied.

Theresa Kidd
Appellate Commissioner
9/23/2025

c: Brad Daniels Yoona Park
Per A Ramfjord Reilley Keating
Daniel Mensher Keith A Ketterling
Denise Fjordbeck Timothy S DeJong
Cody Berne Emily Johnson
Erin Roycroft Nicholas A Kahl
Matthew Preusch Sarah R Osborn
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Alexander Glenn Tievsky Blaine Evanson
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