IN THE SUPREME COURT OF THE STATE OF OREGON

JEANYNE JAMES, *et al.*, individually and on behalf of all others similarly situated,

Respondents on Review,

and

MARY KATHLEEN BECHERER, et al.,

Respondents on Review,

and

OREGON DEPARTMENT OF JUSTICE,

Creditor,

v.

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

Petitioners on Review.

SC No.

CA No. A183140

Multnomah County Circuit Court Case No. 20CV33885

PETITION FOR REVIEW OF PACIFICORP AND PACIFIC POWER

Review of the decision of the Court of Appeals on reconsideration of Appellate Commissioner's Order

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November 2025

Date of Court of Appeals Decision: October 13, 2025
Author of Decision: Lagesen, Chief Judge

PETITIONER ON REVIEW INTENDS TO FILE A BRIEF ON THE MERITS

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I. INTRODUCTION

This petition concerns two issues of statewide importance involving management of one of the most significant civil cases in this state's history.

On July 28, 2025, the trial court entered a case management order ("CMO No. 11") that would require the judicial system to adjudicate claims for billions of dollars in wildfire-related damages against a public utility, PacifiCorp, in 160 damages-only jury trials involving over 1,900 plaintiffs. Trials will last up to nine days each; they will begin every week starting in February 2026 and will increase to two per week in 2027; and they will each be preceded by an 180-day expedited case schedule with significant limitations on discovery, pretrial processes, and motions. Given class members' limitless claims for economic damages, ***each*** individual trial would subject PacifiCorp to at least ***$250 million*** in potential liability.

The foundation for this unprecedented order is the trial court's decision to allow this case to proceed as a class action for noneconomic damages arising from wildfire property loss, notwithstanding the fact PacifiCorp was not responsible for any class wide damage in the largest wildfire area, the Santiam Canyon, and the lack of any precedent for allowing unrestricted noneconomic damages arising out of property damage. The damages-only trials ordered under CMO No. 11 are uniformly dependent on the legal rulings and liability determination made in an initial Phase I trial that addressed not only class

certification issues but the availability of noneconomic damages being claimed by each and every one of the class members. Those rulings are currently under appeal, and the results of each and every CMO No. 11 trial would be rendered moot if PacifiCorp prevails on any one of the several issues on appeal, including rulings on class certification and noneconomic damages that have no basis in Oregon law.

It does not have to be this way. Staying CMO No. 11 pending prompt appellate review would prevent irreparable harm to PacifiCorp; allow appellate courts to address the parties' disagreements impacting a fair and reasonable assessment of PacifiCorp's liability; and would advance, not impede, the ultimate resolution of this litigation.

Nonetheless, when PacifiCorp filed a motion to stay in the Court of Appeals, the court declined to even address the merits. Instead, in a first-of-its-kind decision interpreting ORS 19.270(7), the Appellate Commissioner concluded that the court did not even have jurisdiction to consider it. The court then denied PacifiCorp's request for reconsideration without explanation.

The court's jurisdictional decision was wrong and is itself a basis for review and reversal. If left unreviewed, it will unduly hamper appellate courts' jurisdiction in every case involving appeals from limited judgments—dozens of which are filed every year.

But this Court should go further and grant PacifiCorp's request for a stay of CMO No. 11. All factors support that relief, which will put this case on a reasonable path to resolution without imperiling one of the state's public utilities and causing a potential massive waste of resources in the interim.

II. FACTS RELEVANT TO REVIEW

A. Plaintiffs' Complaint

On September 30, 2020, Plaintiffs filed a putative class action alleging that PacifiCorp caused or contributed to four of the 17 wildfires that occurred on Labor Day 2020. Plaintiffs defined the class to include real and personal property owners whose property "experienced fire activity" within the boundaries of four geographic "fire areas" selected by Plaintiffs. Thus, this class action has always centered on whether PacifiCorp caused a wildfire to ignite and, if so, which property in what area may have been affected by that fire (or the smoke from it).

The biggest wildfire area (and most hotly disputed throughout this case) was the Santiam Canyon area in Marion and Linn Counties. A lightning-caused fire—the Beachie Creek Fire—had been burning in the Opal Creek Wilderness northeast of the canyon in the weeks leading up to Labor Day. The Beachie Creek Fire had nothing to do with PacifiCorp or its powerlines. Fueled by high winds on Labor Day, the Beachie Creek Fire swept through the Santiam Canyon. As the Oregon Department of Forestry ("ODF") would later

conclude, it was the Beachie Creek Fire, not PacifiCorp, that was responsible for damage throughout the Santiam Canyon.

Plaintiffs sought at least $1.6 billion in damages for their property-damage class—an amount that has approximately quadrupled over time. Notwithstanding ORS 477.089 and Oregon common law, the vast majority of the claimed damages (many times the economic damages) were for negligent infliction of emotional distress resulting from the damage to class members' real and personal property.

B. Trial Court Proceedings

1. Class Certification and Bifurcation

The trial court granted Plaintiffs' motion for an "issues class" certification and certified a single class of property owners—thousands of claimants in four distinct areas located hundreds of miles apart from one another. The court also bifurcated the proceedings. The court decided to first hold a "Phase I" trial, which would adjudicate classwide liability and individual damages for the class representatives. That trial would be followed by "Phase II" trials that would adjudicate individual damages for the remaining class members.

2. Phase I Liability Trial and Phase II Damages Trials

After an eight-week Phase I trial, the jury returned a liability verdict in favor of both the individual class representatives *and* the entire class on five

claims for relief. The Phase I limited judgment incorporated the jury's verdict on classwide liability and became the foundation for Phase II—"damages only" jury trials involving groups of approximately 10 class members at a time. Based on subsequent rulings by the trial court, no evidence of liability or causation related to the wildfires is permitted in the Phase II trials; its prior rulings on matters such as jury instructions and the scope of allowable damages are binding; and the only issue for the juries to decide is the amount of economic and noneconomic damages that class members sustained as a result of the jury's liability determinations in Phase I.

3. PacifiCorp's Appeals and Motions to Stay

Ten Phase II trials have occurred so far, with the CMO No. 11 trials set to begin in February 2026. PacifiCorp has appealed from each limited judgment entered to date—a total of eight appeals and counting. In the principal appeal (from the limited judgments entered after the Phase I trial and first two Phase II trials respectively), PacifiCorp assigned error to legal rulings that pervade the entire litigation—on class certification, the absence of evidence of classwide causation, legal errors arising out of the Phase I liability trial, and the trial court's decision to allow each class member to seek noneconomic damages without limitation (including for emotional distress arising from damage to real and personal property). If PacifiCorp prevails on any one of those issues, the Phase II process will be rendered moot. If, for

example, appellate courts disagree with the trial court's decision to allow class members to seek noneconomic damages for negligent infliction of emotional distress without any limitation—emotional distress for harm to personal property and pets, trees and landscaping, and inconvenience related to real property repair and replacement—then all of the Phase I and Phase II damages trials will be reversed, because every class member to date has recovered unlimited noneconomic damages over PacifiCorp's objections.

4. CMO No. 11

In April 2025, Plaintiffs submitted a proposal to the trial court that would require the trial court to schedule five trials a month with up to ten plaintiffs per trial starting in 2026. PacifiCorp opposed Plaintiffs' proposal and explained its flaws, including how it would impose impossible burdens on PacifiCorp's ability to defend itself and would potentially waste significant judicial resources by adjudicating so many claims based on rulings that could be reversed in the pending Phase I appeal.

The trial court ordered that the parties have four trials per month (one per week) beginning in February 2026 and two trials per week beginning in January 2027. Each trial will consist of up to six households and aim for a total of at least 10 plaintiffs per trial. Trials will occur over the course of up to nine trial days (meaning that in 2026, at least two trials will be going at any given time, and in 2027, at least *four* will be going at any time). Each class

member is seeking up to $25 million in noneconomic damages, meaning that each trial will involve a minimum of $250 million in liability per trial.

CMO No. 11 expressly limits discovery and pretrial processes. It sets a timeline of 180 days counting backwards from the first day of trial to conduct discovery regarding the named plaintiffs and their claims, along with document gathering and review, third-party discovery, expert consultation, and any motions practice. A new 180-day-clock starts every week, triggering a new set of claims that PacifiCorp must defend against on the accelerated schedule. After the first few weeks of 2026 and continuing through the end of the year, PacifiCorp will be preparing for and taking upwards of 40 depositions at any given time, at the same time as all other trial preparation is occurring and all other work necessary to investigate, conduct discovery, manage pretrial filings and procedures, and ultimately conduct the trials.

C. Appellate Order on Motion to Stay

PacifiCorp sought stays from the trial court several times—including after filing its initial notice of appeal and after the ODF issued its report exonerating PacifiCorp from liability for the damage in the Santiam Canyon. The trial court denied each request and entered CMO No. 11 over PacifiCorp's objection. PacifiCorp then moved to stay CMO No. 11 pending the outcome of its principal appeal. The Appellate Commissioner denied the motion to stay on

jurisdictional grounds. PacifiCorp sought reconsideration, which the Chief Judge denied in a brief order without explanation.

III. QUESTIONS PRESENTED ON REVIEW

Question Presented No. 1: When appeals are taken from limited judgments involving bifurcated class proceedings and liability determinations applicable to both named class representatives and absent class members, does an appellate court retain the inherent authority to stay trial court proceedings that rely on those classwide determinations to adjudicate the damages of the absent class members?

Question Presented No. 2: When a trial court has scheduled over 160 jury trials to occur over a two-year period involving over 1,900 class members, all notwithstanding a pending appeal, should an appellate court stay those proceedings to allow the court to determine critical issues of law that may render all those proceedings moot and allow for the efficient resolution of the pending case?

IV. PROPOSED RULES OF LAW

Proposed Rule of Law No. 1: Yes. An appellate court retains authority to issue a stay of single-issue, second-phase trials that adjudicate the damages of individual class members, when rulings regarding certification, liability, and entitlement to damages affecting the entire class are on appeal from the first phase.

Proposed Rule of Law No. 2: Yes. Given the circumstances outlined in PacifiCorp's Motion to Stay, all of the relevant stay factors support issuing a stay and expediting appellate review of this case.

V. REASONS FOR GRANTING REVIEW

The Court should grant review. The significance of this case and the unprecedented circumstances that it presents are unquestionable. In denying PacifiCorp's Motion to Stay, the court both wrongly decided an important question of appellate jurisdiction and declined to take the most reasonable step to manage this litigation—stay further trial court proceedings pending the outcome of an appeal. This Court is uniquely positioned to ensure that this case is properly resolved without imposing enormous costs on the parties and the judicial system that may ultimately be for naught, and to avoid the irreparable harm to PacifiCorp—a public utility providing power to millions of customers.

A. ORAP 9.07(1) and (4): This Case Presents a Significant Issue of State Law.

ORAP 9.07(1) and (4) provide that the Court may consider "[w]hether the case presents a significant issue of law," such as "[t]he interpretation of a statute," the "jurisdiction of the Court of the Appeals or the trial court," and the "application or proposed modification of a principle of common law"; and

"[w]hether the legal issue is an issue of state law." All those factors are present here.

This case marks the first time that an appellate court has interpreted the scope of an appellate court's jurisdiction under ORS 19.270(7) in a context where a limited judgment is on appeal, but trial proceedings involving intertwined issues or parties are ongoing. The court's reasoning creates a critical gap in appellate jurisdiction, limits appellate courts' inherent authority to issue stays, and deprives appellate courts of the ability to act in situations, such as this one, where the circumstances merit intervention. The Court has accepted review of cases involving the authority to issue stays pending appeal. *See Weldon v. Bd. of Licensed Prof'l Counselors & Therapists*, 353 Or 85, 86, 293 P3d 1023 (2012). Given the court's interpretation, there is now uncertainty about the scope of appellate jurisdiction and courts' stay authority in broader circumstances that requires definitive resolution for parties, trial courts, and appellate courts.

In addition, the statewide importance of this case is clear. As PacifiCorp outlined in the Motion to Stay, this case and the ongoing proceedings contemplated by CMO No. 11 would commit the parties and the judicial system to a two-year effort of weekly jury trials on a schedule, and with restrictions, that are unprecedented in Oregon law.

B. ORAP 9.07(2), (3): The Issue Affects Appellate Courts' Jurisdiction in This and Every Limited Judgment Case and Is Likely to Arise in Repeated Lawsuits.

ORAP 9.07(2) and (3) ask whether the issue is likely to arise often and whether many people in the state will be affected. The answer to both questions is "yes." Limited judgments are frequently appealed. Indeed, a search reveals at least 80 appeals from limited judgments in the past four years alone. Some involved stays of the remainder of the case. *E.g., Gazitt v. City of Portland*, 341 Or App 407, 409, 574 P3d 484 (2025) (appeal from limited judgment involving one defendant; stay as to other defendant); *Rodriguez v. Union Pac. R.R. Co*., 322 Or App 1, 3, 519 P3d 148 (2022), *rev den*, 370 Or 714 (2023) (same). Because the court's order in this case directly defines—and limits—the scope of appellate jurisdiction in appeals from limited judgments it will potentially affect every case in which a limited judgment is appealed. Moreover, the practical consequences of this issue affect not only the parties, but all of PacifiCorp's several hundred thousand Oregon customers. As discussed below, credit ratings agencies have twice downgraded PacifiCorp's rating as a result of CMO 11 and the ongoing trials' impact on PacifiCorp's ability to fund operations. The court's decision therefore affects both the operational health of a public utility and the prudent expenditure of judicial resources, both of which are "important to the public" under ORAP 9.07(3).

C. ORAP 9.07(7), (8), (15): The Record and Briefs Present Pure Legal Issues with No Factual Disputes or Procedural Obstacles.

ORAP 9.07(7), (8), and (15) all address whether the issue is ripe for resolution by this Court. All three factors support a grant of review. The issues here are preserved and fully briefed; the jurisdictional question is a pure question of law; and the scope and impact of CMO No. 11 is evident on its face.

D. ORAP 9.07 (11) and (14): The Court of Appeals' Opinion Is Wrong, Uncorrectable, and Unduly Limits Appellate Courts' Power to Act.

ORAP 9.07(11) and (14) address whether the Court of Appeals reached the wrong result in a written opinion and, if so, whether it will distort applicable legal principles or result in serious injustice. For the reasons outlined below, the court erred in holding that it has no jurisdiction to issue a stay of CMO No. 11 in these circumstances. And failure to remedy this error will result in serious injustice for PacifiCorp and, potentially, any other party facing irreparable harm when a trial court refuses to issue a stay and that party seeks appellate intervention.

VI. ARGUMENT

The Court of Appeals' ruling that it lacked jurisdiction to issue a stay in this case, or that a stay was unwarranted, should be reversed. ORS 19.270(7) does not deprive an appellate court of authority to issue a stay of ongoing class proceedings that are the subject of limited judgments resolving matters

affecting the entire class. And the unprecedented circumstances of this case—including the impact to the parties, the community, and the Multnomah County Circuit Court—compel a stay pending the outcome of PacifiCorp's appeal.

A. The Court of Appeals Erred in Ruling That It Lacked Jurisdiction to Stay the CMO No. 11 Trials.

"'It is the general rule that either the lower or appellate court, according to the circumstances, has inherent power to grant a stay of proceedings pending an appeal even where there is no statute entitling a party to such stay.'" *State ex rel. Walraven v. Dep't of Corr.*, 358 Or 71, 86, 362 P3d 1163 (2015) (quoting *Helms Groover & Dubber Co. v. Copenhagen*, 93 Or 410, 416, 177 P 935 (1919)). Notwithstanding that clear rule, the court determined that it lacked the authority to grant a stay here. The court's analysis and conclusion were wrong in multiple respects.

First, the court misapprehended the scope of review under ORS 19.270(7):

> 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.

The court wrongly concluded that ORS 19.270(7) limits its jurisdiction "to addressing the matters—***that is, the claims***—that have been ***conclusively*** decided by those [limited] 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." (App-5 (emphasis added).) In other words, the court concluded that its jurisdiction was limited to the claims of the named class representatives whose damages had been decided in the Phase I verdict and that it had no jurisdiction to consider the ongoing impact of any of the classwide rulings (including rulings on class certification and allowable damages) on which such damages awards were based. In so doing, the court defied both basic principles of statutory interpretation and common sense. Nothing in ORS 19.270(7) states that the appellate court's jurisdiction is limited to "claims" that are "conclusively" decided by the limited judgment. The statutory text uses the broader term "matters" rather than a more limited or specific term such as "claims," and in legal parlance "matter" has a broad scope. *See, e.g. Black's Law Dictionary* 999 (8th ed 2004) (defining "matter" as a "subject under consideration"); *see also Voth v. Snake River Corr. Inst.*, 171 Or App 392, 399, 15 P3d 629 (2000) ("under any reasonable understanding, a motion to waive fees is, at the least, a legal 'matter'").

Indeed, the "matters decided" in the limited judgments appealed to date encompass the entire liability phase and the first seven damages trials, including rulings on issues that the trial court continues to apply in the current and future damages trials and that form the basis for the contemplated Phase II process. By equating "matters" with "claims" and determining that only the

"claims" fully resolved by the limited judgments (i.e., the claims of the individual plaintiffs named in those judgments) are the proper subject of the court's jurisdiction, the court misinterpreted the statutory text.

The court's conclusion is also inconsistent with the legislative history. ORS 19.270(7) was not intended to unduly limit the appellate court's jurisdiction and authority to act, but to avoid jurisdictional arguments at the trial court level in the event a limited or supplemental judgment was appealed, similar to other circumstances when the trial court retains jurisdiction for specific purposes.

That understanding makes logical sense as well. The fact that the trial court is continuing to exercise its own jurisdiction to conduct further proceedings does not inherently or necessarily limit an appellate court's jurisdiction. Indeed, that is the whole premise of an appellate court's authority to issue a stay (an authority that an appellate court unquestionably has). Appellate courts issue stays precisely because the trial court is continuing to act, and the fact that they have done so repeatedly supports the court's exercise of that authority here. By contrast, if an appellate court's authority to issue a stay was exactly coextensive with the claims and issues to be decided on appeal and no more, then appellate courts would be deprived of an important discretionary tool in every case.

Even on its own terms, the court misapplied the statute to the circumstances of this case, which involve a bifurcated class action, limited judgments that proceed from the liability phase of that action, and further proceedings that adjudicate damages arising from that liability determination. An appellate court acquires jurisdiction of "the cause" when a party files its notice of appeal. ORS 19.270. Here, PacifiCorp's appeal includes all of the classwide rulings and findings leading up to and after the liability verdict: the class certification order; post-certification legal rulings (including rulings regarding allowable damages) applicable to the entire class; the adjudication of class-wide liability questions; and the instructional, evidentiary, and other rulings before, during, and after to the jury's verdict in Phase I. *See* ORS 19.425 ("Upon an appeal, the appellate court may review any intermediate order involving the merits or necessarily affecting the judgment appealed from"); *Gillespie v. Kononen*, 310 Or 272, 797 P2d 361 (1990) (discussing review of prejudgment orders). It also includes all the rulings leading up to and including Phase II, Trial Nos. 1 and 2, which continue to dictate the scope of those trials and will dictate how trials will be conducted under CMO No. 11. Indeed, under CMO No. 11, parties are barred from filing "any motion, brief, or other document solely or primarily to preserve their prior arguments and objections." (App-12.) Thus, in this case, given the bifurcated proceedings and class issues resolved in Phase I and the Phase II, the appellate

court necessarily faces and must resolved the whole sweep of legal issues on which the Phase II damages trials depend and that are inseparable from those trials, including how those juries are being instructed, what evidence and argument is being heard, and type of damages recoverable. The Appellate Commissioner's order wrongly characterized that verdict as only "determin[ing] [PacifiCorp's] liability * * * to the named plaintiffs." (App-4.) In fact, the Phase I verdict determined PacifiCorp's liability to all class members, and accordingly, that liability is part of "the cause" on appeal.

Finally, the court's interpretation has a significant (and adverse) practical effect. The court's cramped interpretation of appellate jurisdiction deprives it (and this Court) of the inherent power to stay proceedings, even in circumstances when there is an undisputed need for appellate intervention. The Court should accept review of the court's erroneous legal determination and reverse.

B. The Court of Appeals Erred in Denying PacifiCorp's Request for a Stay.

PacifiCorp's Motion to Stay outlined why all of the relevant factors support granting a stay of CMO No. 11. First, CMO No. 11 threatens irreparable harm to PacifiCorp. Under the trial court's approach, PacifiCorp will be in court every available court day throughout 2026 and 2027, week after week, for up to nine trial days per jury trial, and in as many as four

separate trials at once. At the same time, the CMO No. 11 deadlines require PacifiCorp simultaneously to investigate, take discovery, and defend against an increasing group of trial plaintiffs on a rolling 180-day clock—at least 10 complaints per week and counting. Three months from now, PacifiCorp will be in court every day in weekly jury trials, while scheduling and taking depositions of hundreds of plaintiffs and third parties, attempting to obtain adequate document discovery, locating and working with experts, filing pretrial and trial motions, and taking all other steps necessary to defend itself against unique claims totaling billions in economic and noneconomic damages from hundreds of individual class members across the state. The legal and practical limitations inherent in that schedule deprive PacifiCorp of its fundamental right to defend itself with minimally adequate procedures.

The irreparable harm to PacifiCorp goes beyond the deprivation of its due process rights. The judgments to date and the ongoing trial process have resulted in two downgrades of PacifiCorp's credit by rating agencies and threatened PacifiCorp's ability to continue meeting its obligation to provide safe and reliable power to its customers. In its November 3, 2025, SEC filing PacifiCorp explained that it has already been required to post bonds totaling $479 million, and the case schedule contemplated by CMO No. 11 and ensuring bond requirements will result in increasing hydraulic pressure, all

simply to preserve PacifiCorp's right to appeal. PacifiCorp described the impact of those events on its business:

> PacifiCorp may be unable to obtain the required funding to meet its liquidity needs due to cash requirements for judgments if the trial schedule and case load progresses as proposed in CMO No. 11. Should PacifiCorp be downgraded below investment grade and unable to secure sufficient debt financings or alternative funding sources, it may have insufficient liquidity to support ongoing operations including the ability to absorb wholesale power volatility, pay suppliers and meet debt obligations, and such liquidity issues may impact transmission and generation development, purchasing power in the market, building and upgrading substations, connecting new customers, addressing outages and maintaining system resilience.

The irreparable harm to PacifiCorp and its customers as a result of this process is clear, as is the risk with barreling ahead on CMO No. 11—imperiling a utility's ability to provide safe and reliable electric service and to meet its basic legal obligation to serve hundreds of thousands of Oregonians and two million customers across six western states.

The remaining factors also support granting a stay. As PacifiCorp's Opening Brief demonstrates, this appeal and the continuing damages trials involve controlling legal issues on which PacifiCorp is likely to prevail or, at a minimum, demonstrate a substantial case for relief. Even a partial victory on any key issue would fundamentally alter the entire case, the parties' assessment

of the risks, the scope of PacifiCorp's potential liability, and, most critically, the utility of engaging in 160 jury trials over the coming years.

For example, every damages trial on appeal—and most of the trials scheduled under CMO No. 11—involve class members who owned property in the Santiam Canyon. As the ODF Report underscores, however, in the Santiam Canyon the case for class certification and classwide liability evaporated. There was no evidence, and no permissible inference from the evidence, that PacifiCorp caused damage to every single property in the Santiam Canyon. On the contrary, PacifiCorp showed—and Plaintiffs could not dispute—that the lightning-caused Beachie Creek Fire burned class property *before* any fire allegedly caused by PacifiCorp even started. Structuring the trial as a single class, allowing the jury to ignore the enormous evidentiary gaps in Plaintiffs' classwide case, and instructing the jury to "assume" that evidence about individual Plaintiffs and individual fires somehow proved the claims of every one of the thousands of class-members, was inconsistent with ORCP 32 and governing law and deprived PacifiCorp of its due process right to present every available defense to liability.

The trial court's rulings on noneconomic damages—a pure legal issue under both statutory and common law—are an even starker demonstration of error. No Oregon court has ever permitted a plaintiff to recover noneconomic damages for negligent (or even reckless) damage to personal property or the

range of damages that class members have claimed and recovered in this case. And, as a separate and independent basis for barring noneconomic damages in this case, ORS 477.089(4) expressly states that economic damages are the "exclusive remedies for damages or injury to property caused by a wildfire."

The balance of interests also supports a stay. On the one hand, a stay is warranted given the burdens on the parties and the judicial system, because the outcome of the appeal will directly impact whether and how the damages trials should proceed and will have to be unwound. If an appellate court reverses or otherwise modifies Plaintiffs' entitlement to noneconomic damages, then all of the time spent on the damages trials on that issue—which comprises the vast majority of pretrial and trial time—will be wasted.

On the other hand, continuing to proceed with damages trials in the face of those considerations does not benefit the parties or the judicial system. Damages trials require Plaintiffs to spend the time in pretrial discovery and trial, and expend fees and costs, despite the likelihood of a retrial. Those costs must be measured against any benefit provided to Plaintiffs by having their claims adjudicated. Even at an accelerated pace, further trials will not result in anything other than more judgments that will need to await resolution on appeal.

It is clear that additional damages trials are not materially advancing this case toward a final resolution. Due to the parties' disagreements about the

relevance of the existing verdicts and governing law, the outcomes in the damages trials to date and in the future have not brought the parties closer to a negotiated resolution. And, as a simple mathematical matter, trying 40-50 damages claims a month until this appeal is decided is not materially moving the case forward to final resolution, either. The minimal benefit of continuing to tax the parties' and judicial resources with further damages trials does not outweigh the burdens to the parties, particularly when the other benefits of a stay are manifest.

VII. CONCLUSION

For the reasons above, PacifiCorp respectfully requests that the Court grant its Petition for Review.

DATED: November 13, 2025

STOEL RIVES LLP

s/ Brad S. Daniels

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CERTIFICATE OF COMPLIANCE WITH
BRIEF LENGTH AND TYPE SIZE REQUIREMENTS

I certify that this Brief complies with the 5,000 word count limitation for petitions for review in ORAP 9.05(3)(a) and that the word count of this brief as described in ORAP 5.05(1)(a) is 4,975 words.

I certify that font size in this brief is Times New Roman 14-point for both the text of the brief and the footnotes, as required by ORAP 5.05.

DATED: November 13, 2025 STOEL RIVES LLP

s/ Brad S. Daniels
Brad S. Daniels, OSB No. 025178

Attorneys for Petitioners

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 RECONSIDERATION

Appellants move for reconsideration of the court's September 23, 2025, order denying motion to stay trial court proceedings. The court, having considered the arguments contained in the motion for reconsideration and in respondents' response thereto, denies reconsideration.

The motion for reconsideration is denied.

Erin C. Lagesen
Chief Judge
10/13/2025

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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

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Denise Fjordbeck Timothy S DeJong
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Jeremy Marwell Lydia Anderson Dana
Carsen Nies Elizabeth Savage
Matthew S Kirkpatrick

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

JEANYNE JAMES, ROBIN COLBERT, JANE DREVO, SAM DREVO, BROOKE EDGE AND BILL EDGE, SR., LORI FOWLER, IRIS HAMPTON, JAMES HOLLAND, RACHELLE MCMASTER, KRISTINA MONTOYA, NORTHWEST RIVER GUIDES, LLC, SHARIENE STOCKTON AND KEVIN STOCKTON, VICTOR PALFREYMAN, PALFREYMAN FAMILY TRUST, and DUANE BRUNN, individually and on behalf of all others similarly situated,

Plaintiff,

v.

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

Defendants.

Case No. 20CV33885 (Lead Case) ✓

Case Assigned to: Hon. Steffan Alexander

CASE MANAGEMENT ORDER NO. 11

Related Cases:

Allen	20CV37430
Salter	21CV33595
AIG (21st Century)	22CV26326
Allstate	22CV29976
Freres Timber	22CV29694
Bell	22CV30450
Dietrich	22CV29187
Cady	22CV13946
Logan	22CV29859
C.W. Specialty Lumber	22CV41640

The Court adopts the Case Management Order 11 attached to this Order. 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 status conference dates are ordered in this case for ongoing administration of Phase II damages trials, case management and tracking, and resolution of disputes: January 8, 2026 at 8:30 a.m. for the initial status conference under CMO 11; one status conference thereafter on the first Friday of every quarter-year period at 8:30 a.m. The court further orders that the damages trial for the business claims alleged in *Freres Timber, Inc. v. PacifiCorp,* case no.: 22CV29694 is scheduled for 4 business days. It will commence on Monday, January 5, 2026, and continue through Thursday, January 8, 2026 and be governed under this case management order no. 11, absent consent of the parties or leave of court.

Steffan Alexander

Circuit Court Judge Steffan Alexander

7/28/2025 9:48:26 AM

Case Management Order No. 11

The Court adopts the following Case Management Order No. 11 to govern the process for completing the Phase II Damages Trials, pursuant to ORS 1.010(3) and (5), ORS 1.171(2)-(4), ORS 1.175(2), ORCP 1 B, ORCP 32 E, ORCP 36 B and C, ORCP 46 B, UTCR 7.020(5), UTCR 7.030(4), the Court's inherent authority, and the Oregon and United States Constitutions. The Court finds that the Phase II damages trials shall follow the procedures in CMO 11 to protect the rights of the parties and ensure the efficient and just administration of this case.

1. **Purpose and Scope**: The purpose of this Case Management Order ("Order") is to create a process for administering and adjudicating the individual claims of Class Members in *James, et al. v. PacifiCorp, et al.* (20cv33885) who seek to have their damages determined during the bifurcated second phase of this action (referred to herein as "absent Class Members") arising from the Labor Day 2020 fires. This Order supersedes and replaces all prior case management orders to the extent its provisions are inconsistent with or overlap in whole or in part with a prior case management order, except that any trial scheduled for, or already conducted in 2025, shall continue to be controlled by CMO 10. Any deadline in this Order may be extended upon good cause shown and with the Court's consent.[i]

2. **Trials Selection Process for Absent Class Members**:

   a. **Consolidated Damages Trials: Beginning in February 2026**, the Court shall set four consolidated jury trials—depending upon judicial resources and availability—to take place per month, commencing one per week, every month. **Beginning in January 2027**, the Court shall set eight consolidated jury trials—depending upon judicial resources and availability—to take place per month, commencing two per week, every month, until all Phase II trials are complete in March 2028. Pursuant to SLR 7.055, six weeks in advance of the first day of each trial, Plaintiff's counsel must send or deliver a letter to the Calendaring Secretary, c/o the Presiding Judge, requesting early assignment of a trial judge, containing the other information provided in the local rule and identifying the list of trial attorneys that will litigate that particular trial slate.

   b. **Number of Absent Class Members Selected Per Trial**: The remaining Phase II Damages Trials shall each include three to eight Households per trial, so as to approximate at least ten absent Class Members per trial. To facilitate the foregoing, the Court may make adjustments to the final trial slates after all households have been randomly selected in the order of their selection. "Household," as used in this order, means all members of the same nuclear family, living in the same dwelling as of September 7, 2020, and who have filed Short-Form Complaints in this case. An absent Class Member who did not live in the same dwelling as of September 7, 2020 with any person who has filed a Short-Form Complaint in this case is counted as a single Household.

c. **Identification of Remaining Absent Class Members:** The Court shall randomly select at least five Households for each trial from the list of all remaining Households provided by Plaintiffs. The randomly selected trial slates for all remaining Households and absent Class Members are listed by trial date in Exhibit B ("Trial Slates").

d. **Priority Plaintiffs' Households**: For trials assigned to their respective clients, Lead Counsel and other Plaintiffs' counsel may file a motion to select a priority Household of absent Class Members to participate in an earlier trial slate. The priority absent Class Members shall be selected by counsel on the basis of need using the following criteria: (i) an absent Class Member in the household is of advanced age, specifically 70 years of age or older; or (ii) an absent Class Member in the Household is suffering from sickness or illness that may impede their ability to participate in a later trial.

e. **Trials Selection Process for Absent Class Members Not Represented by Lead Counsel**: Each consolidated trial slate shall include only households represented by the same counsel. Households not represented by Lead Counsel, but represented by other Plaintiffs' counsel, shall receive two trial slates per quarter (*i.e.*, substantially equivalent to their pro rata share of represented households) in 2026 and four trial slates per quarter in 2027. Lead Counsel will not assist or participate in these Damages Trials absent their consent.

3. **Pleadings and Amendments:**

a. **Plaintiff Short-Form Complaints**: Plaintiffs in a Household selected for trial shall file an amended Short-Form Complaint consistent with the Court's rulings on PacifiCorp's Motion to Make More Definite and Certain, within **180 days** before the first day of trial in a new case file with a new case number. Plaintiff's counsel may seek waiver of the filing fee for initiation of new cases for all Class Members in an Omnibus hearing.

b. **Short-Form Answers**: Defendants will submit answers to each Plaintiff's amended damages complaint **170 days** before the first day of trial.

c. **Amended Pleadings**: Parties may amend a pleading without leave of court within **20 days** after it is served. Any response to an amended pleading is due within **10 days** of service of the amended pleading. Other than the deadlines expressly set forth in the foregoing, nothing in this paragraph modifies the application of ORCP 23 and Oregon rules governing pleadings.

4. **Discovery Process**: Each discovery cycle shall last **180 days**, counting backwards from the first day of trial. The below discovery schedule shall apply to each trial.

a. **Disclosure of Witnesses**: Within **150 days** before the first day of trial, parties will disclose the names and, if known, addresses and telephone numbers of all

persons, other than expert witnesses, likely to have knowledge, that the party may use to support their claims or defenses, unless the use would be solely for impeachment. *See, e.g.*, UTCR 5.150 (3)(a)(i).

b. **Document Discovery**: Defendant's First Set of Requests for Production to All Individual Plaintiffs (September 13, 2024), and Plaintiffs' responses and objections shall be applicable to each absent Class Member who participates in a Damages Trial. The Court's orders relating to discovery in Phase II, Trials 1-11, shall apply to all individual plaintiffs, including any identified in future complaints. Absent Class Members selected for a trial shall make complete document productions in response to Defendants' First Set of Requests for Production to All Individual Plaintiffs (September 13, 2024) by **150 days** prior to their trial. Similarly, Plaintiffs' First Set of Requests for Production to PacifiCorp, and PacifiCorp's responses and objections thereto, shall be applicable to PacifiCorp for each Damages Trial. PacifiCorp shall make a complete document production in response to Plaintiffs' Requests by **150 days** prior to a given set of Plaintiffs' trial. The parties may submit new document requests, without leave of court, up until **100 days** prior to the first day of trial, and between **100 days to 60 days** prior to the first day of trial only by written consent or by leave of court.

c. **Deficiencies in Document Productions**: Defendants shall identify in writing any deficiencies or gaps in Plaintiffs' document production. Plaintiffs must supplement the document productions, if warranted, within **30 days**, subject to the Oregon rules governing production of documents.

d. **Requests for Admission**: There shall be no Requests for Admissions served without leave of Court. No parties objected to this provision.

e. **Plaintiff Depositions**: Depositions of trial Plaintiffs shall occur no later than **60 days** prior to the first day of trial. Depositions are limited to **seven hours** on the record. Extensions of time may be requested for good cause on a case-by-case basis. Any perpetuation deposition of an absent Class Member must be completed **40 days** before the first day of the absent Class Member's trial, unless good cause is shown. All depositions shall be completed at least **30 days** before the first day of trial.

f. **Third Party Depositions and Document Requests**: Defendants may take no more than **two** depositions of a third-party witness associated with a particular Plaintiff in connection with each trial absent leave of court, unless plaintiffs identify an intent to call more than two third-party witnesses to support a given Plaintiff's claims—in which case PacifiCorp shall be entitled to depose each such witness. Third-party depositions will be limited as set forth in the parties' relevant stipulation for Phase II, Trial 3. There shall be no depositions of anyone younger than 18 absent leave of court. The party taking a deposition will provide the other party with the transcript and any deposition exhibits (and video or other recording, if obtained by the party taking the deposition) within

24 hours of when the transcript is provided to the party taking the deposition. Depositions will continue to be conducted by remote means, unless the parties agree otherwise. The Court's April 3, 2025 Order Regarding the Scope and Duration of Third-Party Depositions shall apply. Requests for document production should not be served on third parties before their deposition unless Plaintiffs have (1) identified the third party as a trial witness; and (2) there are deficiencies identified in a trial Plaintiff's document production. Absent leave of Court, any third-party document requests are limited to the scope of production in the Court's February 12, 2025 Order Granting, In Part, Defendants' Motion for Subpoena Duces Tecum on Third-Party Witnesses.

g. **ORCP 44 Medical Examinations**: Defendants must request any medical examinations for absent class members under ORCP 44 A no later than **90 days** prior to the first day of trial. Examinations must occur no later than **45 days** prior to the first day of trial. Each party will produce medical examination reports within **30 days** of the completion of the medical examination or no later than **14 days** prior to the first day of trial, whichever is earlier. Other than the timing provisions in this paragraph, the same parameters laid out in the Court's March 7, 2023 Order shall apply. There will be no ORCP 44A examinations of anyone younger than 18 absent leave of court.

h. **Property Inspections**: Defendants must request real property inspections no later than **90 days** prior to the first day of trial. Property inspections shall be governed by ORCP 43 and the Court's November 11, 2024 Order. Property inspections shall occur no later than **45 days** prior to the first day of trial.

i. **Discovery Disputes**: Any disputes that arise during the discovery 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 **3 days** after the completion of the conferral. 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.

j. **Discovery Deadline**: All discovery shall be completed at least **30 days** before the first day of trial. All discovery deadlines may be extended for good cause. *See* fn 1. An absent Class Member's failure to timely comply with a discovery obligation may result in removal from their assigned trial slate rather than postponement of an entire trial slate.

k. **Motions for Summary Judgment**: There will be no new motions for summary judgment without leave of Court. If granted leave to file a new motion for summary judgment, the motion must be filed no later than **43 days** prior to the first day of trial. The Court's summary judgment rulings from Phase II, Trials 1-11 shall apply to every other trial. Response briefs will be due **33 days** before the first day of trial. There will be no reply briefs.

l. **No Preservation Motions**: The parties shall not file any motion, brief, or other document solely or primarily to preserve their prior arguments and objections.

m. **Offset Information and Motions**: Plaintiffs shall request full insurance claims files from their insurers and produce those insurance documents to PacifiCorp no later than **120 days** prior to the first day of trial. PacifiCorp shall file a motion to offset economic damages **14 days** prior to the first day of trial. The response to the motion is due **7 days** after the verdict is received. The reply is due **5 days** later. This timeline is dependent on PacifiCorp receiving timely and complete insurance documentation from Plaintiffs. The motion and response shall not exceed five pages. The reply shall not exceed three pages. The parties' prior arguments and objections in connection with offset in Phase I and Phase II, Trials 1-11, are restated in each remaining Phase II trial.

n. **Economic Damages Stipulations**: To facilitate stipulations regarding economic damages, the Court orders the following, with the Plaintiffs' consent. Plaintiffs shall disclose the economic damages determined by each economic damages expert who will testify regarding such damages at least **45 days** before the start of each trial, along with a proposed stipulation on economic damages for that trial and supporting appraisals and personal property inventories. Defendants shall send Plaintiffs their response or alternative proposed stipulation on economic damages and supporting appraisals at least **30 days** before the start of each trial. Stipulations regarding economic damages, if any, should be filed **20 days** before the start of each trial. All other stipulations must be filed **10 days** prior to the first day of trial.

5. **Trial Process**:

a. **Neutral Statement of the Case, Jury Instructions, and Verdict Form**: The parties will use the same neutral statement, jury instructions and verdict form that were used in Phase II, Trial 8, (if the parties have stipulated to economic damages) or Phase II, Trial 6, (if the parties have not stipulated to economic damages) subject to modifications to account for the specific plaintiffs, fires, and damages at issue. The neutral statement, jury instructions and verdict form will be due no later than **14 days** prior to the first day of trial.

b. **Motions *In Limine***: Motions *in limine* are due **30 days** prior to the first day of trial. Oppositions to motions *in limine* are due **15 days** prior to the first day of trial. Motions *in limine* must be limited to specific evidentiary issues not previously raised and resolved by the Court's prior rulings on Omnibus Motions *in Limine* for Phase I and Phase II, Trials 1 through 11. The parties shall confer on their respective motions and submit a list to the assigned trial judge identifying the Motions *in limine* that are (i) resolved by stipulation, (ii) moot, or (iii) still at issue, due **7 days** prior to the first day of trial.

c. **Deposition Designations**: There shall be no depositions played during trial as

substantive evidence absent good cause shown and leave of Court by motion filed **30 days** prior to the first day of trial and *identifying the basis for admissibility of the deposition designations as substantive evidence*. The foregoing order does not apply to depositions played during trial for impeachment. The parties must exchange any deposition designations no later than **30 days** prior to the first day of trial. Parties must exchange objections and counter-designations to deposition designations no later than **21 days** prior to the first day of trial. Parties must exchange responses or rebuttal designations no later than **14 days** before the first day of trial. Parties must file deposition designations **10 days** before the first day of trial.

d. **Trial Exhibits**: The parties must exchange trial exhibit lists and stamped copies of all trial exhibits no later than **21 days** prior to the first day of trial. Objections to exhibits must be exchanged **14 days** prior to the first day of trial. Exhibit lists must be filed **10 days** prior to the first day of trial. If no objection is specified to a proffered exhibit, the exhibit shall be preadmitted if offered into evidence and received by the Court. Exhibit lists may be amended after the pre-trial conference only for good cause shown. The foregoing does not include expert witness materials and exhibits that may be offered for impeachment purposes only.

e. **Witness List**: The parties will file their respective witness lists (other than expert witnesses) **10 days** before the first day of trial.

f. **Testifying Expert Materials**: Subject to the conditions set forth regarding Economic Damages Stipulations above, the parties shall disclose any such testifying experts by 5:00 p.m. on the Friday before each trial. The file of a testifying expert must be turned over to the opposing party by **5:00 p.m. 2 days** before the expert is expected to testify. The file should include (1) the expert's current curriculum vitae; (2) materials the expert considered or relied upon in forming the expert's opinion; and (3) any demonstrative the expert intends to use during their testimony, with the expert's opinions or conclusions redacted. Parties must also provide an unredacted version of any demonstrative or exhibit that includes the expert's opinions or conclusions by **8:30 a.m.** on the morning of the day the expert is expected to testify.

g. **Pretrial Conference**: The assigned trial judge may hold a pretrial conference the Friday before the start of trial or subject to the court's availability based on other trial assignments. Consistent with SLR 5.015 (4), Plaintiffs' counsel must coordinate scheduling of a pretrial conference hearing, if any, with the dates of availability for the parties and the assigned trial judge.

h. **12-Person Jury**: Each trial shall be presented before a 12-person jury, unless the parties stipulate to a bench trial with a written waiver of jury trial.

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i. **Trial Time Allocation**: The schedule for each trial shall be:

- Day 1: Jury Selection and Opening Statements
- Day 2: Opening Statements (if not completed) and Plaintiffs' Case
- Day 3: Plaintiffs' Case
- Day 4: Plaintiffs' Case
- Day 5: Defense Case
- Day 6: Plaintiff's Rebuttal Case (.5 days) and Closing Arguments
- Day 7: Jury Deliberations
- Day 8: Jury Deliberations
- ***(Day 9) – Add up to one additional day if there is no stipulation to economic damages and additional expert testimony is required.

6. **Jurisdiction and Dispute Resolution Procedure:** Judge Alexander shall retain jurisdiction and preside over all pre-trial motions and discovery disputes. Subject to judicial resources and availability, certain pre-trial motions and disputes may be re-assigned by the Presiding Judge or Chief Civil Judge.

7. **Conferral**: The parties shall confer on all motions, oppositions, and objections. Failure to confer may result in denial of a motion, opposition, or objection or forestall consideration of the same. "Conferring" means to talk in person or on the phone. *See* UTCR 5.010; *see* Multnomah County Motion Panel Statement, Sec IV (explaining that "[g]enerally, sending a text message or email is not considered conferring.").

8. **Sealing:** The parties shall not designate entire deposition transcripts "Confidential" or "Attorneys' Eyes Only." Rather, the parties shall treat documents and/or testimony containing records of insurance payments, social security numbers, financial information, billing information, driver's license numbers, IME reports, medical records, criminal charges, convictions, and proceedings, physical abuse, emotional abuse, and medical diagnoses (including mental health diagnoses) as Confidential material required to be sealed from the public record pursuant to the parties' Stipulated Protective Order. The parties may designate other information—including specific portions of deposition transcripts—as "Confidential" only in a good faith, individualized basis consistent with Oregon law. The parties shall not be required to confer about motions to file under seal unless one party intends to contest a "Confidential" or "Attorneys' Eyes Only" designation applied by the other party.

9. **Mandatory Post-Trial Global Mediation**: The parties are required to engage in a global mediation once every other month with the objective of resolving the claims of the remaining absent Class Members, until the completion of the Phase II damages process, beginning in **October 2025**. Within **7 days** after each global mediation, the parties must file a Certificate of Participation in Alternative Dispute Resolution, consistent with SLR 7.016. Lead Counsel and each Plaintiff Group do not need to participate in the same global mediation. Lead Counsel, each Plaintiff Group and each defendant trial attorney and party or representative of a corporation or insurance

company who has full authority to settle and compromise the litigation shall appear in-person at the mediation. However, the court may permit telephone or video appearances for good cause. *See* SLR 6.012(3).

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[i] *See ORCP 36 C* (*stating that "[o]*n motion by a party or by the person from whom discovery is sought, and for good cause shown, the court in which the action is pending may make any order that justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following: that the discovery not be had; that the discovery may be had only on specified terms and conditions")*; see also Bala v. Oregon Health & Sci. Univ.*, 2023 WL 3561449, at *1–2 (D. Or. May 14, 2023) (explaining that once the district court issues a scheduling order under Rule 16, the case "schedule may be modified only for good cause and with the judge's consent." * * * [d]istrict courts consider the following six factors when ruling on a motion to amend a Rule 16 scheduling order to reopen discovery: (1) whether trial is imminent, (2) whether the request is opposed, (3) whether the non-moving party would be prejudiced, (4) whether the moving party was diligent in obtaining discovery within the guidelines established by the court, (5) the foreseeability of the need for additional discovery in light of the time allowed for discovery by the district court, and (6) the likelihood that the discovery will lead to relevant evidence."); *see also District of Oregon, Local Rules of Civil Practice* ("LR") 16.3(a) (providing that a party seeking to amend any court-imposed deadline must: (1) show good cause why the deadlines should be modified, (2) show effective prior use of time, (3) recommend a new date for the deadline in question, and (4) show the impact of the proposed extension on other existing deadlines, settings, or schedules.

CERTIFICATE OF FILING AND SERVICE

I hereby certify that on November 13, 2025, I filed the original of **PETITION FOR REVIEW OF PACIFICORP AND PACIFIC POWER** with the Oregon Appellate Electronic Filing Systems' eFiling system.

I further certify that on November 13, 2025, I caused true copies of this **PETITION FOR REVIEW OF PACIFICORP AND PACIFIC POWER** to be served on the following persons at the following addresses via U.S. First Class Mail.

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DATED: November 13, 2025

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