IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MULTNOMAH

SOKOL BLOSSER, Plaintiff, v. PACIFICORP, Defendant.	Case No. 24CV03044 ORDER GRANTING PLAINTIFFS' MOTION TO BIFURCATE TRIAL

This matter came before the court on Plaintiffs' motion to bifurcate the November 3 trial in this matter. Plaintiffs were represented by Dustin Dow and Greg Lusby and Defendants were represented by Rajan Trehan and Sara Cotton. The court reviewed extensive briefing by the parties on the matter, heard oral arguments on June 24 and 26, and July 31, and ruled from the bench, stating the reasoning for the ruling on the record during the July 31 hearing.

Plaintiffs' motion to bifurcate the trial in this matter is granted. Pursuant to ORCP 53B and this court's case management authority as the specially assigned judge on this complex case, the trial will be separated into two phases, liability and damages, as discussed in more detail on at the hearing on this matter.

Oregon Rule of Civil Procedure 53B permits a judge to order a separate trial of any claim or any separate issue in furtherance of convenience, to avoid prejudice, or when separate trials will be conducive to expedition and economy.

Trial in this matter was scheduled over a year ago to begin November 3, 2025, and continue for 6 weeks. Following discovery and the ruling on Plaintiffs' partial motion for summary judgment, the parties now agree they cannot complete the trial within that timeframe. The parties now estimate that trial will require 8-12 weeks, and the presentation of damages evidence for the 31 winery plaintiffs will likely take 30 - 60 trial days. Given the number of plaintiffs and complexity of the evidence for both the liability and damage portions of the trial, it makes sense to obtain a verdict on liability prior to presenting evidence of the extent of damages for 31 separate plaintiffs. Bifurcation will allow the court to adhere to the original trial date. The court finds that under the circumstances presented in this complex case a bifurcated trial will be conducive to expedition and economy.

Defendant requested the court sever the trial by plaintiffs and consolidate smaller groups of plaintiffs for full trials. However, severing the trial into multiple full trials would require multiple repeat presentations of evidence on fire causation, spread, and smoke travel, which would be inefficient and costly. Additionally, multiple trials on causation and liability issues could result in inconsistent verdicts and potential prejudice to a party should witnesses become unavailable for future trials.

Under this bifurcation ruling, Phase I will encompass causation of the fires and fire spread, (including comparative fault), resulting smoke and its travel, foreseeability of harm, whether Defendant should be liable for punitive damages, and a finding as to whether each plaintiff suffered *any* harm. Phase II will determine the extent of damages caused by Defendant's negligence if determined by the Phase I jury, and will involve extensive evidence about wine industry practices and economics in general and specific to each plaintiff. Separating the issue of liability will allow the parties to proceed with the current trial date and focus their

efforts on causation of the fires and travel of resulting smoke. Should a jury determine that any of the 31 plaintiffs were not harmed by the smoke, the workload for Phase II may be reduced. While this bifurcation may result in some witnesses testifying in both phases – specifically, Defendant asserts that they will call winery witnesses for both phases - the efficiencies gained in a bifurcated trial outweigh the inconvenience of any overlap of the witness lists. Further, Plaintiff wineries support this bifurcation despite the possibility that winery witnesses may be required to testify in both phases. The benefits of starting this trial as scheduled, combined with the economy of presenting evidence of damages only for those wineries impacted, makes bifurcation appropriate. Further, the parties have not yet completed damages discovery, and bifurcation will allow that process to continue.

Defendant objects to bifurcation and argues that the issues of liability and damages are interwoven such that bifurcation will prejudice them and violate their Constitutional right to trial by jury because different juries will decide liability and damages. The Phase II jury will be required to find that all damages for which compensation is awarded were caused by the smoke from the fires, thus avoiding the possibility of an inconsistent verdict. Defendant presents no authority for the proposition that they are entitled to have the same jury decide both liability and damages.

Defendant argues that their defense of comparative fault and the determination of punitive damages are integrated in both the determination of liability and damages and cannot be separated. Comparative fault in this case, as argued thus far, breaks down to allegations of other causes of the fires and fire spread, and allegations that business actions taken by the wineries in response to the presence of smoke from the fires caused or contributed to their economic losses. Bifurcation will not interfere with Defendant's ability to present evidence of both types of

comparative fault, each in the appropriate phase of the trial. The jury verdict forms for each phase of the trial can address these specific questions. Evidence regarding punitive damages presents a more complicated question but does not override the expedition and economy of proceeding with a bifurcated trial.

Dated this 13th day of August, 2025.

Hon. Kelly Skye
Circuit Court Judge