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8 Of Attorneys for Plaintiffs

9 **IN THE CIRCUIT COURT OF THE STATE OF OREGON**

10 **FOR THE COUNTY OF MARION**

11 SHYLO SALTER, NATASHA BODDA,
12 JOYCE RYAN METZ, DEBORAH RUYLE,
13 STEVEN RUYLE, CALEB RUSK, BETH
14 ROY, KARLEE ROY, ANDREW RICE,
15 DARYLE RAINES, ROBERT PYLANT,
16 PAULINE PYLANT, EDDIE POTEET,
17 CORRINA POTEET, MASON LEE
18 POTEET, SHAINA PLUMLEY, MAX
19 PLUMLEY, TAMI PETERS, MICHAEL
20 CROMWELL, MARTY GAUB, RITA
21 PERKINS, ERLAN PEDERSEN, GARY
22 PARKER, PAMELA PARKER, ROMAN
23 PANTOJA, GLENDA DEANN PANTOJA,
24 JEFF OWNBY, DARRELL BUSH, STEVEN
25 OLSEN, DESIREE OLSEN, MARY
26 ODELL, ALYSSA STADLER, LEVI RILEY
27 O'CONNOR, ASHLEY NUNLEY,
28 NICHOLAS MARTIN, VIOLET NEGRON,
ALBERTO NEGRON JR., JOSEPH
NEGRON, PARKER NEGRON, DENISE
MOYLE, MARK MOYLE, ELWIN
MOYLE, JUDY MORTON, KATHLEEN K
DANIELS, PETE DANIELS, FRANK
MCCLURE, KAYDANCE CAPUZZI-
MCCLURE, KRYSTINA CAPUZZI-
MCCLURE, RUTH MARTINI, and DEVLIN
MONROE HENSON,

Plaintiffs,

v.

PACIFICORP, an Oregon Corporation,

Defendant.

Case No.: _____

COMPLAINT
(Negligence; Nuisance; Trespass)

Prayer: \$750,000,000

Fee Authority: ORS 21.160(e)

JURY TRIAL REQUESTED

CLAIM NOT SUBJECT TO MANDATORY
ARBITRATION

1 1.

2 Plaintiffs Shylo Salter, Natasha Bodda, Joyce Ryan Metz, Deborah Ruyle, Steven Ruyle,
3 Caleb Rusk, Beth Roy, Karlee Roy, Andrew Rice, Daryle Raines, Robert Pylant, Pauline Pylant,
4 Eddie Poteet, Corrina Poteet, Mason Lee Poteet, Shaina Plumley, Max Plumley, Tami Peters,
5 Michael Cromwell, Marty Gaub, Rita Perkins, Erlan Pedersen, Gary Parker, Pamela Parker,
6 Roman Pantoja, Glenda DeAnn Pantoja, Jeff Ownby, Darrell Bush, Steven Olsen, Desiree Olsen,
7 Mary Odell, Alyssa Stadler, Levi Riley O'Connor, Ashley Nunley, Nicholas Martin, Violet
8 Negron, Alberto Negron Jr., Joseph Negron, Parker Negron, Denise Moyle, Mark Moyle, Elwin
9 Moyle, Judy Morton, Kathleen K Daniels, Pete Daniels, Frank McClure, Kaydance Capuzzi-
10 McClure, Krystina Capuzzi-McClure, Ruth Martini, and Devlin Monroe Henson bring this
11 Complaint and Demand for Jury Trial against defendant PacifiCorp for the harm it caused to
12 plaintiffs resulting from the Beachie Creek fire. Plaintiffs allege as follows:

13 **NATURE OF THE ACTION**

14 2.

15 On September 4, 2020, the U.S. National Weather Service issued a Fire Weather Watch,
16 among other severe weather warnings, throughout northwest Oregon due to impending historically
17 high winds and extremely dry conditions in the region. The weather service forecast conditions
18 ripe for disastrous wildfires: high winds with gusts up to 75 mph and temperatures in the 90s with
19 low humidity during a time of prolonged drought.

20 3.

21 On Labor Day, wildfires predictably erupted in the region after high winds knocked down
22 power lines owned, operated, and improperly maintained by defendant. Defendant's downed
23 power lines subsequently sparked—igniting nearby trees and brush—and razed more than 193,000
24 acres—destroying homes, businesses, and lives. This mega fire, which came to be known as the
25 Beachie Creek fire or the Santiam fire, completely destroyed over 1,300 structures, including 470
26 homes and claimed the lives of at least 8 individuals.

1 4.

2 The Beachie Creek fire could have been prevented had PacifiCorp properly maintained its
3 equipment or instituted a public safety power outage (i.e., de-energizing). Instead, PacifiCorp kept
4 its improperly maintained power lines energized even after receiving a multitude of warnings days
5 before high winds toppled its improperly maintained electric infrastructure.

6 5.

7 Now, hundreds of families, including plaintiffs, are displaced from their homes with no
8 assurances of whether they will be compensated for the damage wrought to their lives. They are
9 left not knowing where they will sleep, whether they will be able to afford temporary shelter, or
10 whether they will even be able to rebuild their lives, all amid a dangerous pandemic.

11 6.

12 As a result, plaintiffs have suffered devastating property damage, economic losses, and
13 disruption to their homes, businesses, lives, and livelihoods.

14 **PARTIES**

15 7.

16 All plaintiffs are natural persons and residents of the State of Oregon.

17 8.

18 Defendant PacifiCorp is a corporation organized and existing under the laws of the State
19 of Oregon with its principal place of business located at 825 NE Multnomah Street, Suite 2000,
20 Portland, Oregon 97232.

21 **JURISDICTION AND VENUE**

22 9.

23 This Court has jurisdiction over this action because defendant is headquartered and
24 domiciled in Oregon, and plaintiffs are Oregon citizens.

25 10.

26 Venue is proper pursuant to ORS 14.030, ORS 14.040, and ORS 14.080 because a
27 substantial part of the events giving rise to the claims alleged herein occurred within this county,
28

1 plaintiffs' damaged property that is the subject of this action are situated in this county, and
2 because defendant regularly conducts sustained business activities in this county.

3 COMMON FACTUAL ALLEGATIONS

4 I. PacifiCorp Had a Duty to Safely Design, Operate, and Maintain Its Infrastructure.

5 11.

6 PacifiCorp is an electric power company in the Western United States that supplies power
7 throughout Oregon. In order to supply electricity to the community, PacifiCorp installed,
8 constructed, built, maintained, and operated overhead power lines, supporting poles, and
9 transformers located at and around the origin points of the Beachie Creek fire.

10 12.

11 Electrical infrastructure is inherently dangerous and hazardous. PacifiCorp knows this. The
12 transmission and distribution of electricity requires PacifiCorp to exercise an increased level of
13 care to protect the public and the communities through which their power lines run.

14 13.

15 At all relevant times, PacifiCorp had and continues to have a duty to properly construct,
16 inspect, repair, maintain, manage, and/or operate its power lines and/or other electrical equipment.
17 This duty extends to implementing policies and safeguards—such as implementing public safety
18 power outages during adverse weather conditions—as to prevent risk of wildfires.

19 14.

20 Indeed, Oregon recognizes these dangers and statutorily mandates that public utilities, like
21 PacifiCorp, furnish adequate and safe service, equipment and facilities.

22 15.

23 Furthermore, the Oregon Public Utility Commission mandates that utilities adhere to safety
24 standards such as maintaining a minimum vegetation clearance from its electrical lines to provide,
25 *inter alia*, reasonable service continuity, and fire prevention.

26 16.

27 PacifiCorp is aware of the risks posed by its electrical delivery system and what precautions
28 it needs to take to avoid catastrophic wildfires like the Beachie Creek fire.

1 17.

2 The Beachie Creek fire is not PacifiCorp’s first wildfire. In 2018, PacifiCorp’s failure to
3 maintain its infrastructure—and in that instance, failure to properly install, inspect, and maintain
4 its power line connectors—caused the Ramsey Canyon fire in Jackson County, Oregon. The
5 Ramsey Canyon fire destroyed nearly 2,000 acres of federal, state, and private land. PacifiCorp
6 agreed to pay a \$3.4 million civil settlement to the State of Oregon.

7 18.

8 Events like the Ramsey Canyon fire and various other devastating wildfires have caused
9 PacifiCorp’s President and CEO, Stefan Bird, to recognize that electrical companies play a role in
10 significantly increasing risks of wildfires in the Western United States:

11 As the frequency, intensity and duration of wildfires has increased in the west,
12 electrical companies need to take measures to reduce the risk of catastrophic
13 wildfires during extreme weather conditions, recognizing the importance of a
statewide approach; a collaborative stakeholder process is necessary to reduce
the overall risk.¹

14 **II. PacifiCorp Knew of Elevated Fire Risks in Oregon During the Labor Day Weekend.**

15 19.

16 Over the Labor Day weekend, the Beachie Creek fire erupted and devastated communities
17 along Santiam Highway Route 22 including Detroit, Gates, Mill City, and Lyons. The fire—which
18 was classified as a mega fire—burned 193,573 acres, destroyed 1,323 structures, including 470
19 homes, and claimed the lives of at least 8 individuals.

20 20.

21 In the days leading up to the Beachie Creek fire, weather conditions existed in Oregon that
22 were ripe for disastrous wildfires. The U.S. Drought Monitor indicated that on the week of
23 September 1, 2020 nearly 81% of Marion County fell into drought category D2, indicating severe
24 drought, and nearly 12% of the county fell into category D1, indicating moderate drought
25 conditions. A week later, on September 8, Marion County was facing even greater dry conditions

26
27 ¹ Stefan Bird, Utility Preparedness for Wildfire, PacifiCorp (Sept. 26, 2019),
28 <https://www.oregon.gov/gov/policy/Documents/9.26.2019%20Wildfire%20Mitigation%20Plans.pdf>

1 with 17% of the county in the D1, moderate drought category, and nearly 83% in the D2 severe
2 drought category.

3 21.

4 The U.S. National Weather Service (“NWS”) has been issuing severe weather warnings
5 in Marion County since at least August 2020. These warnings include several “Red Flag,”
6 “Excessive Heat,” and “Heat Advisory” warnings.

7 22.

8 A Red Flag Warning alerts resident, emergency responders, and utilities (like PacifiCorp)
9 of the onset, or potential onset, of critical weather and dry conditions that could lead to rapid or
10 dramatic increases in wildfires. Red Flag Warnings are one of the highest alerts. Fire agencies
11 take Red Flag Warnings seriously and “respond by positioning additional firefighting resources,
12 increasing detection flights and prevention patrols, or extending staffing hours. The forecasts are
13 critical information for planning prescribed burns.”²

14 23.

15 In the days leading up to Labor Day weekend, the NWS issued several more severe weather
16 warnings:

17 a. On September 2, 2020 the NWS issued a Red Flag Warning for Marion
18 County stating that “critical fire weather conditions are either occurring now, or will
19 shortly.” The NWS issued this warning due to high winds between 10 and 15 mph, with
20 gusts up to 25 mph, and low relative humidity. The NWS further cautioned that “conditions
21 may be favorable for rapid fire spread which may threaten life and property.”

22 b. On September 4, 2020 the NWS issued a Fire Weather Watch for Marion
23 County lasting until September 9. The NWS warned that “critical fire weather conditions
24 are forecast to occur” due to high winds and low relative humidity.

27
28 ² *What is a red flag warning?* / OSU Extension Service, <https://extension.oregonstate.edu/forests/fire/what-red-flag-warning> (last visited March 9, 2021).

1 c. On September 5, 2020 the NWS issued yet another Fire Weather Watch for
2 Marion County lasting until September 9.

3 d. On September 5, 2020 the NWS issued a Red Flag Warning for Marion
4 County lasting until September 8. The NWS stated that “hot, dry, and windy conditions are
5 expected” in the region. It further cautioned that “these winds have the potential to reach
6 historic speeds for early to mid September.” Like the previous Fire Weather Watches and
7 Red Flag Warnings, the NWS stated that “critical fire weather conditions are either
8 occurring now, or will shortly” and that “[c]onditions may be favorable for rapid fire spread
9 which may threaten life and property.”

10 e. On September 6, 2020 the NWS issued a High Wind Watch for Marion
11 County lasting until September 8. The NWS forecast high winds between 25 and 40 mph
12 with gusts up to 75 mph. Most importantly, the NWS warned that “damaging winds could
13 blow down trees and power lines. Widespread power outages are possible.”

14 f. On September 6, 2020 the NWS once again issued a Red Flag Warning in
15 Marion County lasting until September 9. The NWS again reiterated that forecast “winds
16 have the potential to reach historic speeds” and that humidity level “are expected to reach
17 critical levels.”

18 g. On September 7, 2020 the NWS issued a High Wind Warning in Marion
19 County lasting until September 8. The NWS cautioned that wind gusts can reach up to 75
20 mph and that “[p]eople should avoid being outside in forested areas and around trees and
21 branches. If possible, remain in the lower levels of your home during the windstorm, and
22 avoid windows.” The NWS specifically warned that such high winds could cause trees to
23 be blown down thus leading to power outages: “Tree limbs and even whole trees will be
24 susceptible to being blown down. Be prepared for power outages.” And finally, the NWS
25 highlighted that such “[c]onditions will be favorable for rapid fire spread.”

26 24.

27 The NWS widely publicized the adverse weather conditions forecast for the Labor Day
28 weekend. Indeed, the NWS Portland, Oregon office warned the public by making several posts on

1 its Facebook page featuring the Fire Weather Watch in the region where “hazardous fire weather
2 conditions are possible.” It also made a post about the “High Fire Danger” in the region and warned
3 of “favorable conditions for rapid fire spread.” See Figures 1-2.



12 (Figure 1)



12 (Figure 2)

13 25.

14 In the time leading up to the Beachie Creek fire, PacifiCorp was closely monitoring the
15 adverse weather conditions in Oregon, including information disseminated by the NWS. On
16 September 7, PacifiCorp issued the following statement on its Twitter page: “High winds are
17 forecast for later today in many parts of our area. For storm ready tips, visit us at
18 <http://pacificpower.net/prepare>.” The Twitter post also incorporated and quoted the NWS
19 Portland’s Twitter post warning that the projected high winds are “on track” for the next 24-48
20 hours. See Figure 3.



28 (Figure 3)

26.

PacifiCorp posted the same message on its verified Facebook page also incorporating a statement made by the NWS Portland office. The post included graphics featuring the Red Flag and High Wind warnings issued for that weekend along with details on the adverse weather conditions highlighting the low relative humidity in the region and forecast wind gusts up to 75 mph. See Figure 4.



(Figure 4)

27.

In summary, PacifiCorp was keenly aware of adverse weather conditions during the Labor Day weekend resulting from severe droughts in the region together with historic high winds having the potential to knock down power lines. PacifiCorp understood the severity of these weather conditions and chose to warn its customers but failed to take preemptive measures (or any measures at all) designed to prevent fire risks.

1 **III. PacifiCorp’s Negligent Practices Caused the Beachie Creek Fire.**

2 28.

3 PacifiCorp knows how to respond to severe weather conditions that pose a foreseeably high
4 wildfire risk and what factors contribute to those risks. Yet, PacifiCorp failed to act to prevent the
5 Beachie Creek fire.

6 29.

7 In light of the increasing number of wildfires in the West—including PacifiCorp’s own
8 Ramsey Canyon fire—PacifiCorp implemented new policies in June 2019 aimed at “keeping
9 communities safe during those high-wind and dry condition.” These new policies “include clearing
10 vegetation around power lines and poles, increasing inspections at facilities, training their field
11 crews in wildfire suppression, [...] installing local weather stations to help identify high fire risk
12 days [and implementing] ‘Public Safety Power Shutoffs’ if dangerous weather is expected in high
13 fire risk areas.”³

14 30.

15 PacifiCorp’s own records show that vegetation contact with its electrical lines plays a
16 significant role in causing power line faults. In a testimony before the Public Utility Commission
17 of Oregon, David M. Lucas, PacifiCorp’s Vice President, stated: “PacifiCorp’s records indicate
18 that 34 percent of outages are related to some form of contact. Of that, approximately 57 percent
19 are associated with vegetation.”⁴

20 31.

21 PacifiCorp acknowledges that wildfires have grown more common and have become more
22 intense in the past years. In its “2020 Fire Season Outlook,” PacifiCorp stated that “fire season
23

24
25 ³ Erin Ross, *Oregon Utility Announces Wildfire Prevention Policies In Wake Of California*
26 *Tragedies*, OPB (June 13, 2019), <https://www.opb.org/news/article/pacific-power-wildfire-risk-prevention/>

27 ⁴ *Reply Testimony of David M. Lucas Before The Public Utility Commission Of Oregon*, The
28 Public Utility Commission of Oregon (June 2020)

1 across the Western United States increased by nearly six weeks over a 20 year span (1992 – 2012)”
2 and “Mega Fires (more than 100,000 acres) increased threefold in the last 10 years.”

3 32.

4 To mitigate wildfire risks, various utility companies in the West utilize so-called public
5 safety power shutoffs (“PSPS”) during high wildfire risk conditions. This strategy involves
6 preemptively shutting off power or de-energizing power lines in an at-risk region for a period of
7 time. Because no electricity flows through the de-energized equipment, that equipment cannot
8 spark and ignite a fire—even if high winds or trees knock down power lines.

9 33.

10 In May 2020, PacifiCorp revealed its “Wildfire Mitigation and Public Safety Power Shutoff
11 (PSPS) Preparation” plan. According to the plan, PacifiCorp will consider various metrics—
12 predominately precipitation and winds—when determining to implement a PSPS. PacifiCorp also
13 considers the following factors when determining to implement a PSPS:⁵

- 14 a) Dry trees and brush and other potential wildfire fuel
- 15 b) High, sustained winds
- 16 c) Extremely low humidity
- 17 d) Current and forecasted weather conditions from multiple third parties and our own
18 weather stations
- 19 e) Population density
- 20 f) Real-time observation from on-the-ground experts
- 21 g) Input from local public safety and health agencies

22 34.

23 PacifiCorp knows that shutting down power during adverse weather conditions reduces fire
24 risks.

27
28 ⁵ Public Safety Power Shutoff, Pacific Power, <https://www.pacificpower.net/outages-safety/wildfire-safety/public-safety-power-shutoff.html> (last visited March 8, 2021).

1 35.

2 Nonetheless, PacifiCorp did not implement a PSPS in Marion County during the Labor
3 Day weekend when historically high winds capable of knocking down power lines and prolonged
4 periods of drought created adverse weather conditions.

5 36.

6 Other utility companies, however, heeded the warnings. Consumer Power, a small electric
7 cooperative that operates in the region, shut off its grid at 7 pm on Labor Day amid high fire
8 danger. James Ramseyer, a member service director and spokesman for Consumer Power stated
9 “[a]ll indications to us, in our service territory, was that those areas were at very high risk. We
10 were at the highest level of danger we could be.”⁶

11 37.

12 Other electricity providers in the region chose to de-energize their power lines to prevent
13 catastrophic wildfires. For example, Portland General Electric shut off power to approximately
14 5,000 residents in the Mount Hood area. The Eugene Water & Electric Board also de-energized its
15 power lines as a preemptive decision to mitigate the risk of wildfires. When defending its decision
16 to implement a PSPS, the Eugene Water & Electric Board spokesperson told the press, “I know
17 people weren’t happy, but the idea was not to be the cause of a fire.”

18 38.

19 Predictably, the historically high winds toppled energized power lines causing them to
20 spark and ignite nearby fuel. In a September 10 press release, fire officials confirmed that downed
21 powerlines were to blame for the Beachie Creek fire: “at least 13 new fires were started between
22 Detroit and Mehama from downed powerlines during the peak of Monday’s wind event.”⁷

24
25 ⁶ Zach Urness, *In wake of wildfires, Pacific Power says Santiam Canyon wasn’t in ‘power*
26 *shutoff area,’ Salem Statesman Journal* (Sept. 24, 2020), [https://www.statesmanjournal.com/story/
27 news/2020/09/24/oregon-wildfires-beachie-creek-fire-santiam-canyon-pacific-
28 power/3503357001/](https://www.statesmanjournal.com/story/news/2020/09/24/oregon-wildfires-beachie-creek-fire-santiam-canyon-pacific-power/3503357001/)

⁷ *Beachie Creek Fire (*Incident Name Update) Update Sept. 10 2020 - InciWeb the Incident*
Information System (Sept. 10, 2020), <https://inciweb.nwcg.gov/incident/article/7001/55449/>

1 39.

2 Indeed, PacifiCorp acknowledged the historically high winds in the region and admitted
3 that it did not shut off power during the Labor Day weekend. A PacifiCorp representative stated:

4 The winds that blew through the Santiam Canyon were atypical and very
5 different and much faster-moving from what we would normally see.
6 Pacific Power did not perform a Public Safety Power Shutoff prior to the
7 historic windstorm. However, we did de-energize lines at the request of
8 local emergency agencies to allow firefighters to do their jobs safely.

9 40.

10 Firefighters assigned to the Beachie Creek fire saw firsthand when energized power lines
11 tumbled down at the Old Gates Elementary School. According to the Wall Street Journal, “[a]s
12 winds picked up on Sept. 7, a tree hit an electric line, causing power to arc into a metal fence and
13 igniting vegetation around a wildfire command center in the town of Gates.” Sgt. Jeremy Landers
14 of the Marion County Sheriff’s Office stated that his agency had “numerous accounts of power
15 lines down and arcing from those lines” along State Highway 22.⁸

16 41.

17 Several area residents also saw the devastation that the live power lines have caused in the
18 region. A Gates resident, for example, saw five transformers blow up from his porch. Several other
19 eyewitnesses described an explosion of power line transformers that threw sparks around the Old
20 Gates Elementary School.⁹

21
22
23 ⁸ Rebecca Smith and Katherine Blunt, *Oregon Fires Show Power Lines Pose Threat Beyond*
24 *California*, The Wall Street Journal (Sept. 17, 2020), <https://www.wsj.com/articles/oregon-fires-show-power-lines-pose-threat-beyond-california-11600353002>

25 ⁹ Zach Urness, *In wake of wildfires, Pacific Power says Santiam Canyon wasn’t in ‘power*
26 *shutoff area,’* Salem Statesman Journal (Sept. 24, 2020), <https://www.statesmanjournal.com/story/news/2020/09/24/oregon-wildfires-beachie-creek-fire-santiam-canyon-pacific-power/3503357001/>
27

1 42.

2 Had PacifiCorp de-energized its power lines and implemented a PSPS before historic
3 winds whipped through the region, the devastation caused by the Beachie Creek fire would have
4 been prevented. Rick Stratton, a wildfire expert and analyst, told a local publication that “[i]f the
5 power lines hadn’t gone down, this [wildfire] would be a different story. We’d be talking about a
6 much different level of impact. Those original fires did move in a way we’ve never seen in this
7 area, but when you add multiple new ignitions, right next to homes, during extreme weather, that’s
8 a terrible mix.”¹⁰

9 **PLAINTIFFS’ EXPERIENCES**

10 43.

11 Plaintiffs are all victims of the Beachie Creek fire who suffered substantial losses.

12 44.

13 The following are typical examples and narratives from plaintiffs who suffered losses
14 during the Beachie Creek fire:

- 15 a. Plaintiff Rita Perkins lost her home of 60 years in Lyons, Oregon, to the Beachie
16 Creek fire. Her losses are estimated at over a million dollars and include her home,
17 a boat, a vehicle, and a woodworking shop. Rita also lost numerous generational
18 heirlooms, including a great-great-grandmother’s jewelry and crystal collections,
19 items of a deceased daughter, and a china hutch. The night of the fire, 79-year-old
20 Rita grabbed important documents and drove down to her daughter’s home. It was
21 dark and there were clumps of ash falling from the sky. Since the fire, Rita has been
22 extremely depressed and has not seen the current state of her property. She is
23 especially heartbroken about losing pictures of her deceased husband and daughter.

26 ¹⁰ Zach Urness, *As frustration mounts, here's what we know about the cause of the Santiam*
27 *Canyon wildfires*, Salem Statesman Journal (Oct. 28, 2002), [https://www.statesmanjournal.com/
28 story/news/2020/10/25/beachie-creek-santiam-wildfires-oregon-department-forestry/5999851002/](https://www.statesmanjournal.com/story/news/2020/10/25/beachie-creek-santiam-wildfires-oregon-department-forestry/5999851002/)

1 b. Plaintiffs Darrel Bush, Desiree Olsen and Steven Olsen lost their home of 13 years
2 in Gates, Oregon, to the Beachie Creek fire. They lost 3 cars, 4 large sheds, and a
3 collection of working tools. They also lost a large number of irreplaceable items,
4 including Mrs. Bush's ashes, Mr. Bush's 300 game bowling trophy, and hundreds
5 of family pictures. The night of the fire, the family collected their pets and drove
6 through a flurry of panicked drivers. The family has been living in two travel trailers
7 since the fire.

8 c. Plaintiffs Robert and Pauline Pylant lost their home in Gates, Oregon to the Beachie
9 Creek fire. They had moved into the property 6 or 7 months prior to the fire and
10 lost all of their brand-new furnishings and lawn maintenance equipment. Because
11 of their financial situation at the time, Pauline and Robert did not have renter's
12 insurance. The loss of their property has been financially devastating: Pauline is
13 disabled and requires extensive medical assistance, and Robert is her full-time
14 caretaker. The pair stayed with a daughter for 2-3 months until a local fund helped
15 them relocate to a senior living facility.

16 **FIRST CLAIM FOR RELIEF**
17 **Negligence**

18 45.

19 Plaintiffs reallege paragraphs 11 through 43 above.

20 46.

21 Defendant has a duty to apply a level of care corresponding with and proportionate to the
22 danger of designing, engineering, constructing, operating, and maintaining electrical transmission
23 and distribution systems.

24 47.

25 Defendant has a duty of vigilant oversight in the maintenance, use, operation, repair, and
26 inspection appropriate to the changing conditions and circumstances of its electrical transmission
27 and distribution systems.

1 48.

2 Defendant has special knowledge and expertise far above that of a layperson that it was
3 required to apply to the design, engineering, construction, use, operation, inspection, repair, and
4 maintenance of electrical lines, infrastructures, equipment, and vegetation in order to assure safety
5 under all the local conditions in its service area, including but not limited to, those conditions
6 identified herein.

7 49.

8 In addition, defendant had notice from prior experience that red flag warnings due to the
9 combination of high winds, heat, and dry conditions posed a likely threat of damage to defendant's
10 electrical infrastructure and could spark wildfires.

11 50.

12 Defendant negligently breached its duties of care in one or more of the following ways:

- 13 a. Failing to conduct reasonably prompt, proper, and frequent inspections of the
14 electrical transmission lines, wires, and associated equipment;
- 15 b. Failing to design, construct, monitor, and maintain high voltage transmission
16 and distribution lines in a manner that would avoid igniting and/or spreading
17 fire during foreseeable and expected long, dry seasons;
- 18 c. Failing to design, construct, operate, and maintain high voltage transmission
19 and distribution lines and equipment to withstand foreseeable conditions and
20 avoid igniting and/or spreading fires;
- 21 d. Failing to maintain and monitor high voltage transmission and distribution
22 lines in known fire-prone areas to avoid igniting and/or spreading fires;
- 23 e. Failing to keep equipment in a safe condition at all times to prevent fires;
- 24 f. Failing to inspect vegetation within proximity to energized transmission and
25 distribution lines and maintain at a safe distance to avoid igniting and/or
26 spreading fires;
- 27 g. Failing to de-energize power lines during foreseeable and expected fire-prone
28 conditions;

- 1 h. Failing to de-energize power lines after the fire's ignition;
- 2 i. Failing to properly investigate, vet, hire, train, and supervise employees and
- 3 agents responsible for maintenance and inspection of the distribution lines and
- 4 proximate vegetation;
- 5 j. Failing to implement and follow regulations and reasonably prudent practices
- 6 to avoid igniting and/or spreading fire; and
- 7 k. Failing to properly investigate, monitor, and maintain vegetation sufficient to
- 8 mitigate the risk of fire.

9 51.

10 Defendant knew, or in the exercise of reasonable care should have known, that such
11 negligence in one or more of the above ways would create a foreseeable risk of harm to others,
12 including to plaintiffs.

13 52.

14 Defendant's actions did in fact result in damages to plaintiffs, including property damage,
15 loss of cherished possessions, economic losses, business losses, emotional distress, annoyance,
16 disturbance, inconvenience, mental anguish, loss of quiet enjoyment of their property, and costs
17 related to evacuation and/or relocation.

18 53.

19 The full extent of plaintiffs' injuries and damages continue and are still under investigation,
20 subject to further amendment. Upon information and belief, plaintiffs have suffered losses in a
21 reasonable amount to be determined by the jury, but not to exceed: \$75,000,000 for the costs of
22 repair, depreciation, and/or replacement of destroyed, and/or lost personal and/or real; \$75,000,000
23 in loss of wages, earning capacity, and/or business profits or proceeds and/or any related
24 displacement expenses; and \$500,000,000 in noneconomic damages.

25 54.

26 Defendant's negligence was a substantial factor in causing plaintiffs' damages.

27

28

1 55.

2 Defendant operated its electrical infrastructure in close geographic proximity to plaintiffs,
3 and with knowledge of the homes and businesses in close proximity to those wires. As a result,
4 defendant's operation of its wires was plainly intended to affect plaintiffs.

5 **SECOND CLAIM FOR RELIEF**
6 **Private Nuisance**

7 56.

8 Plaintiffs incorporate paragraphs 11 through 43 above.

9 57.

10 Plaintiffs own and/or occupy property harmed by the Beachie Creek fire. At all relevant
11 times, plaintiffs had a right to occupy, enjoy, and/or use their property without interference by
12 defendant.

13 58.

14 Plaintiffs owned and occupied their land in an ordinary and lawful manner prior to
15 defendant's interference with their use of it.

16 59.

17 Defendant's interference with plaintiffs' use of their property was unreasonable in one or
18 more of the following ways:

19 a. The destruction of plaintiffs' land and improvements due to fire was extensive,
20 resulting in substantial losses;

21 b. As a provider of high voltage electric services, defendant was engaged in an ultra-
22 hazardous activity and was under a heightened duty of care to avoid foreseeable risks attendant to
23 this activity, including the risk of fire in areas of dense vegetation;

24 c. Defendant could have reasonably prevented or avoided the harm to plaintiffs'
25 property by properly inspecting and maintaining its infrastructure and equipment, shutting down
26 or reducing power when it became aware of high wind warnings and advisories in effect, and other
27 measures as alleged above.

1 d. Defendant's negligent acts and omissions, as alleged in paragraphs 47-58 above
2 constituted culpable conduct; and

3 e. Defendant's culpable conduct was a substantial factor in causing plaintiffs'
4 damages in an amount to be proven at trial, but estimated to be approximately \$75,000,000.

5 60.

6 Plaintiffs also seek the reasonable cost of repair or restoration of the property to its original
7 condition and/or loss-of-use damages in an amount to be determined at trial but estimated to be
8 \$75,000,000.

9 61.

10 Defendant's conduct was willful and wanton, and with a conscious contempt and disdain
11 for the disastrous consequences which defendant knew could occur as a result of its dangerous
12 conduct. Plaintiffs will move to amend their Complaint to add a claim for punitive damages before
13 trial.

14 **THIRD CLAIM FOR RELIEF**
15 **Trespass To Land**

16 62.

17 Plaintiffs incorporate paragraphs 11 through 43 above.

18 63.

19 During the relevant time, plaintiffs were the owners and lawful occupiers of real property
20 damaged by the Beachie Creek fire.

21 64.

22 Defendant had a duty to use reasonable care not to enter, intrude on, or invade plaintiffs'
23 real properties.

24 65.

25 As operator and supplier of high voltage electrical utilities, defendant engaged in an ultra-
26 hazardous activity. Defendant's negligent conduct and omissions in carrying out this ultra-
27 hazardous activity allowed the Beachie Creek fire to ignite and/or spread out of control, which
28 entered plaintiffs' land, causing destruction to both the land and improvements.

1 66.

2 Plaintiffs did not grant permission for defendant to cause the Beachie Creek fire to enter
3 their properties.

4 67.

5 As a result of defendant's trespass, plaintiffs have suffered and will continue to suffer
6 damages, including but not limited to damage to property, discomfort, annoyance, and emotional
7 distress in an amount to be proved at the time of trial.

8 70.

9 Plaintiffs seek the reasonable cost of repair or restoration of the property to its original
10 condition and/or loss-of-use damages in an amount to be determined at trial but estimated to be
11 \$75,000,000.

12 **PRAYER FOR RELIEF**

13 **WHEREFORE**, plaintiffs respectfully request that this Court enter an Order:

14 A. Awarding costs of repair, depreciation, and/or replacement of destroyed, and/or lost
15 personal and/or real property in the approximate sum of \$75,000,000;

16 B. Awarding loss of wages, earning capacity, and/or business profits or proceeds
17 and/or any related displacement expenses in an amount determined by the jury to be fair and
18 reasonable, but not to exceed \$75,000,000;

19 C. Noneconomic damages in an amount determined by the jury to be fair and
20 reasonable, but not to exceed \$500,000,000; and

21 D. For costs and disbursements herein.

22 Dated: March 10, 2021.

Respectfully submitted,

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*Application for *pro hac vice* admission to be filed.