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**IN THE CIRCUIT COURT FOR THE STATE OF OREGON**  
**FOR THE COUNTY OF DOUGLAS**

TRAVELERS PERSONAL INSURANCE COMPANY, a foreign corporation; THE STANDARD FIRE INSURANCE COMPANY, a foreign corporation; THE TRAVELERS HOME AND MARINE INSURANCE COMPANY, a foreign corporation; and THE AUTOMOBILE INSURANCE COMPANY OF HARTFORD, CONNECTICUT, a foreign corporation;

Plaintiffs,

vs.

PACIFIC POWER, a registered electric utility; PACIFICORP, a public utility and Oregon corporation; and DOES 1 through 50, inclusive,

Defendants.

CASE NO. 21CV45420

**COMPLAINT**

**1. Negligence**

**Prayer Amount: Not Less Than \$3,000,000**

**Fee Authority: ORS 21.160(1)(d)**

**Not Subject to Mandatory Arbitration**

**JURY TRIAL DEMANDED**

Plaintiffs Travelers Personal Insurance Company, The Standard Fire Insurance Company, The Travelers Home and Marine Insurance Company, and The Automobile Insurance Company of Hartford, Connecticut (collectively "Plaintiffs"), hereby bring the following Complaint for damages against Pacific Power, PacifiCorp, and Does 1 through 50 (collectively, "Defendants"), as a result of the damages that Plaintiffs sustained in the Susan Creek Fire, Smith Springs Fire, and Archie Creek Fire that began on September 8, 2020. Plaintiffs allege that at all relevant times herein on information and belief as follows:

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**INTRODUCTION**

1. The Susan Creek Fire, Smith Springs Fire, and Archie Creek Fire all began on September 8, 2020, in the Umpqua National Forest in Douglas County, Oregon, east of Glide, Oregon, along Oregon Highway 138. The three fire origins ultimately merged on or about September 9, 2020. The Susan Creek Fire, Smith Springs Fire, and Archie Creek, are known collectively as the Archie Creek Complex (the “Fire”). The Fire destroyed approximately 131,542 acres, 109 homes, and damaged many other structures. This suit is a subrogation action seeking redress for property damage, loss of use, and other related losses resulting from the Fire.

**THE PARTIES**

2. At all relevant times, Plaintiff Travelers Personal Insurance Company was and is a Connecticut corporation duly licensed to conduct business in the State of Oregon as an insurance company.

3. At all relevant times, Plaintiff The Standard Fire Insurance Company was and is a Connecticut corporation duly licensed to conduct business in the State of Oregon as an insurance company.

4. At all relevant times, Plaintiff The Travelers Home and Marine Insurance Company was and is a Connecticut corporation duly licensed to conduct business in the State of Oregon as an insurance company.

5. At all relevant times, Plaintiff The Automobile Insurance Company of Hartford, Connecticut was and is a Connecticut corporation duly licensed to conduct business in the State of Oregon as an insurance company.

6. At all relevant times, Defendant Pacific Power was and is an Oregon regulated electric utility, and conducting business under the assumed business name of PacifiCorp, with its primary place of business located at 825 NE Multnomah Street, Suite 2200, Portland, Oregon 97232.

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1 7. At all relevant times, Defendant PacifiCorp, a public utility and Oregon  
2 corporation, was and is a wholly-owned subsidiary of Berkshire Hathaway Energy, and the parent  
3 of company of Defendant Pacific Power, with its primary place of business located at 825 NE  
4 Multnomah Street, Suite 2200, Portland, Oregon 97232.

5 8. Defendants Does 1 through 50, inclusive, and each of them, are unknown to  
6 Plaintiffs, who therefore sues said Defendants by such fictitious names. Plaintiffs are informed  
7 and believe, and thereon allege that each of the Defendants designated herein as Doe is legally  
8 responsible in some manner for the events and happenings referred to herein. Plaintiffs will ask  
9 leave to amend this Complaint when the true names and capacities of Defendants sued as Does 1  
10 through 50 are ascertained.

11 **COMMON ALLEGATIONS**

12 9. At all relevant times, Defendants Pacific Power and PacifiCorp (collectively  
13 “Pacific Power”) were and are in the business of providing electricity to Oregon residents,  
14 businesses, and properties therein, including Plaintiffs’ insureds, through its electrical distribution  
15 system network, including electrical transmission and distribution power lines.

16 10. Pacific Power owned, operated, and/or maintained distribution and transmission  
17 powerlines (collectively the “Powerlines”) throughout Douglas County, including in the areas of  
18 origin for the Susan Creek Fire, Smith Springs Fire, and Archie Creek Fire.

19 11. The National Weather Service warned on September 6, 2020, that critical fire  
20 weather would blow in the following day, with easterly winds gusting in excess of 50 mph and  
21 relative humidity dropping below 20%. These are extremely dangerous and foreseeable wildfire  
22 conditions.

23 12. Throughout the day and evening of September 7, 2020, the National Weather  
24 Service warned that Oregon would experience a severe wind event. Strong easterly winds could  
25 develop and likely peak on the evening of September 7, 2020. Oregon was already in the midst of

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1 severe drought conditions, and numerous other wildfires had erupted throughout Oregon since the  
2 beginning of the fire season.

3 13. The Douglas County Sheriff's Department issued a red flag warning from  
4 September 7, 2020, at 11:00 pm through September 9, 2020, at 5:00 pm. The statement included  
5 references to forecasted strong, gusty winds along with relative low humidity. The area was  
6 already in extreme fire danger.

7 14. The forecasted weather arrived on September 7, 2020. The Douglas County Office  
8 of Emergency Management issued a red flag warning due to critical fire weather, dry wildland  
9 fuels, and potential for dangers wildfire from any spark.

10 15. Pacific Power's electrical transmission and distribution system, including but not  
11 limited to electrical facilities, Powerlines, conductors, power poles, reclosers, and all other  
12 electrical equipment, are inherently dangerous and hazardous instrumentalities, and Pacific Power  
13 knows this. The transmission and distribution of electricity requires Pacific Power to exercise an  
14 increased level of care commensurate with and proportionate to the increased risk of danger  
15 associated with their electrical transmission and distribution system.

16 16. Despite the National Weather Service forecasts, and the warnings by Douglas  
17 County officials, Pacific Power did not de-energize its Powerlines prior to the severe wind event.  
18 Trees and limbs fell onto Pacific Power's Powerlines, which resulted in power outages.

19 17. Pacific Power thereafter negligently and improperly re-energized its Powerlines  
20 without ensuring the Powerlines were clear of and/or had not come into contact with trees or other  
21 surrounding vegetation.

22 18. Plaintiffs allege that the Fire was caused by negligent and improper maintenance,  
23 inspection, ownership, and operation of the Powerlines and surrounding vegetation, owned,  
24 operated and maintained by Pacific Power.

25 19. Pacific Power had a duty to properly maintain its Powerlines and distribution  
26 system to ensure their safe operation, including but not limited to, adequately designing,

1 constructing, monitoring, maintaining, operating, repairing, replacing, and/or improving its  
2 electrical distribution system, including its electrical transmission and distribution system,  
3 Powerlines, poles transformers, conductors, insulators, reclosers (collectively the “Electrical  
4 System”).

5 20. Pacific Power has a non-transferable, non-delegable duty to perform vegetation  
6 management in compliance with industry standards, which includes keeping vegetation properly  
7 trimmed at a safe distance so as to prevent foreseeable contact with its Electrical System. This  
8 duty also included inspecting and managing vegetation around its Electrical System during and  
9 after a severe wind event given the foreseeable risk of vegetation coming into contact with Pacific  
10 Power’s Electrical System and starting fires.

11 21. Even though Pacific Power knew that its Electrical System was old and aging,  
12 unsafe, and/or vulnerable to weather and environmental conditions, it failed to fulfill these duties,  
13 and failed to take preventative measures in the face of known high-risk weather conditions.

14 22. Pursuant to their policies of insurance, Plaintiffs’ insureds made claims to Plaintiffs  
15 seeking indemnification and reimbursement for damages resulting from the Fire.

16 23. Plaintiffs have incurred damages as a result of the Fire.

17 24. In consideration of Plaintiffs’ payments to their insureds as a result of the Fire, they  
18 are subrogated to all rights, claims, and interests that the policyholders may have against any  
19 person or entity that may be liable for causing the reimbursed damages that resulted from the Fire.

## 20 **FIRE ORIGINS**

21 25. In the early morning hours of September 8, 2020, Pacific Power’s Powerlines  
22 failed, causing surrounding vegetation to ignite approximately 2.7 miles downriver from the  
23 unincorporated community of Steamboat. This ignition is the Archie Creek Fire origin.

24 26. The Archie Creek Fire ignited due to Pacific Power’s failure to properly identify  
25 and mitigate hazard tress and maintain vegetation near its transmission lines.

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1 27. At approximately 3:30 am on September 8, 2020, approximately seven miles  
2 downriver from the Archie Creek Fire origin, the power went out. This was not the result of  
3 Pacific Power's decision to de-energize Powerlines following the ignition of the Archie Creek  
4 Fire, but rather the wind event warned by the National Weather Service.

5 28. Later that morning and while the power was still out, several residents noted that a  
6 tree had fallen and was leaning against a Pacific Power distribution line off Susan Creek Road.

7 29. At approximately 8:30 am, on September 8, 2020, residents reported their power  
8 flickering on and off as Pacific Power attempted to re-energize its Powerlines.

9 30. Prior to this attempt to re-energize, Pacific Power failed to ensure its Powerlines  
10 had not fallen to the ground as a result of the severe high winds, and/or had come in contact with  
11 vegetation near the Powerlines.

12 31. Shortly after the reported power flickering, residents reported a fire burning near  
13 the location on Susan Creek Road where the tree was observed touching the Powerlines. This  
14 ignition was the Susan Creek Fire origin.

15 32. Around this same time near Smith Springs Road, approximately one and a half  
16 miles downriver from Susan Creek Road, nearby residents reported the same flickering of their  
17 power. As the power flickered, residents observed smoke where Pacific Power failed to ensure its  
18 Powerlines had not come into contact with vegetation and/or fallen as a result of the severe high  
19 winds.

20 33. A resident successfully put out two fires, however, a third spread beyond his  
21 control. This was the Smith Springs Fire.

22 34. At some point on September 9, 2020, the Archie Creek Fire, Susan Creek Fire, and  
23 Smith Springs Fire merged into the Fire.

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1 **FIRST CAUSE OF ACTION**

2 **(Negligence against All Defendants)**

3 35. Plaintiffs incorporate and re-allege each of the foregoing paragraphs as though fully  
4 set forth herein.

5 36. At all times relevant, it was the duty of Defendants, and each of them, to use  
6 reasonable care to avoid exposing Plaintiffs' insureds' property to a foreseeable risk of harm.

7 37. Defendants had a non-delegable duty of vigilant oversight in the maintenance, use,  
8 operation, repair, and inspection that is appropriate to the changing conditions and circumstances  
9 of its Electrical System.

10 38. Prior to the ignition of the Fire, Defendants knew, or should have known, that its  
11 Electrical System, including its Powerlines, were subject to a foreseeable risk for fire that was  
12 particular to the operation of its business and arose either from the nature and/or location of its  
13 Electrical System.

14 39. Notwithstanding the above, Defendants failed to take reasonable precautions to  
15 protect Plaintiffs' insureds from the foreseeable risk of harm created by trees and vegetation near  
16 its Electrical System. A reasonable person in the position of Defendants would have recognized  
17 the necessity of taking special precautions to protect Plaintiffs' insureds against the risk of harm  
18 created by its Electrical System.

19 40. Defendants had the special knowledge and expertise required to design, engineer,  
20 construct, use, operate, inspect, repair, and maintain its Electrical System to assure safety under all  
21 the local conditions in its service areas, including but not limited to those conditions identified  
22 above.

23 41. Defendants breached these duties by, among other things:

24 (a) Failing to conduct reasonable prompt, proper and frequent inspections of its  
25 Electrical System;

1 (b) Failing to design, construct, monitor, and maintain its high voltage  
2 transmission and distribution Powerlines in a safe manner;

3 (c) Failing to inspect, repair and/or maintain equipment to prevent its  
4 Powerlines from igniting fires;

5 (d) Failing to ensure trees in the area of its Powerlines were healthy, safe and  
6 would not fall onto, break, uproot or make contact with Defendants' Electrical System  
7 during a high wind event;

8 (e) Failing to remove, prune or trim trees and vegetation in the area of its  
9 Powerlines that were at risk of falling into, breaking on, uprooting or making contact with  
10 Defendants' Electrical System during a high wind event;

11 (f) Failing to keep its Electrical System in a safe condition at all times to  
12 prevent fire;

13 (g) Failing to adequately inspect, trim, prune or remove vegetation and  
14 undergrowth in proximity to its energized Electrical System;

15 (h) Failing to de-energize Powerlines during fire-prone conditions;

16 (i) Failing to de-energize Powerlines after a fire's ignition;

17 (j) Failing to properly inspect downed or unintentionally de-energized  
18 Powerlines prior to re-energizing those Powerlines to ensure that lines were not  
19 compromised or in contact with combustible vegetation;

20 (k) Failing to properly investigate, vet, hire, train, and supervise employees  
21 and/or agents responsible for maintenance and inspection of its Electrical System;

22 (l) Failing to properly investigate, monitor, and maintain vegetation and  
23 undergrowth sufficient to mitigate the risk of fire; and

24 (m) Failing to implement a Public Safety Power Shutoff Plan.

25 42. As a direct and proximate result of Defendants' negligence, Plaintiffs' insureds  
26 sustained damage to their real and personal property.



