

PacifiCorp Ruling Shows Limits Of Aggregate Wildfire Loss Models

By **Paige Van Oosten, Jason Kim and Kevin Cahill** (July 9, 2026)

The Oregon Court of Appeals' April 8 decision in *James v. PacifiCorp* illustrates the complexity of assessing economic damages in wildfire cases.[1]

The case involves a class action arising from the 2020 Oregon Labor Day wildfires, in which plaintiffs alleged that PacifiCorp's acts or omissions caused four separate fires: the 242 fire, the Echo Mountain Complex fire, the South Obenchain fire and the Santiam Canyon fire.

The operative complaint asserted negligence, gross negligence, public nuisance, private nuisance and trespass claims, and the trial court certified a single-issues class that included owners of more than 2,000 parcels within the maximum burn boundaries of those fires.

On appeal, the Oregon Court of Appeals reversed and remanded after concluding that the jury had been improperly instructed that it could "assume that the evidence at the trial applies to all class members," even though the case involved multiple fires, different geographies and different theories of causation.[2]

James provides a useful illustration of how standard economic frameworks might not work in certain wildfire settings.

In this article, we provide a practical overview of the difference-in-differences methodology, and discuss how the *James* case highlights potential vulnerabilities that arise under an aggregate approach to quantifying economic losses.

The Difference-in-Differences Methodology

A difference-in-differences, or D-in-D, analysis is a statistical technique used to estimate the causal effect of an event or intervention on an outcome of interest. The method requires a treatment group exposed to the event or intervention — in this case, a wildfire — and a control group, not exposed to the event or intervention.

The method also requires a pretreatment period (before the wildfire) and a post-treatment period (after the wildfire). The D-in-D terminology refers to how the pre-post difference in outcomes differs between the treatment and control groups.

This "difference in differences" in the value of property, for example, can serve as an estimate of economic losses due to a wildfire.

A D-in-D approach seeks to isolate the effect of the event or treatment. For the approach to be valid, however, a well-defined event or intervention is necessary to identify the pre- and post-periods.



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In the case of a wildfire, the prefire period oftentimes ends just before the wildfire, and the postfire period often starts after the fire is controlled or fully extinguished. Another factor is the existence of a valid control group. In the case of a wildfire, a control group can be a nearby area that is not affected by the wildfire.

The existence of a valid data source is also important. In the case of wildfires, two sources of data relied upon are Geographic Information System data on the fire footprint boundary and county-level tax lot data.

Properties that overlap — i.e., that are inside the fire boundary — can be considered affected by the fire. The control group can then be properties in the county or bordering counties that do not touch the fire boundary.

In addition to property boundaries, county tax lot datasets typically include information about property attributes — e.g., sale price, sale year, square footage, number of bedrooms, property type. These attributes can serve as control variables in a regression model.

Burned area emergency response soil burn severity GIS data from the U.S. Forest Service provides additional information for controls, such as the degree of fire impact on a property.

Using prefire and postfire sales data for both the treatment and control groups, a D-in-D regression model seeks to yield the percentage reduction in value for properties affected by the fire. This percentage is then applied to the total prefire value of property in the treatment group to estimate aggregate economic losses.

Challenges in Quantifying Aggregate Economics Losses: James v. PacifiCorp

The Court of Appeals' description of the James case illustrates why a D-in-D analysis will not work in all wildfire settings. Although the litigation proceeded as a single class action, it involved multiple wildfires in different parts of Oregon, and the plaintiffs' causation theories were not uniform across the case.

In particular, the court explained that the 242 fire, the South Obenchain fire and the Echo Mountain Complex fire were tried on a more conventional but-for causation theory.

Meanwhile, the Santiam Canyon fire involved a different and more complex theory — including the argument that PacifiCorp-caused fires contributed to harm by forcing firefighters to evacuate before the Beachie Creek fire swept through the canyon.[3]

The trial court certified a single-issues class covering owners or residents of privately owned real property within the maximum burn boundaries of those fires, along with certain owners of personal property located there. The court then bifurcated the case so that phase 1 addressed classwide liability issues, while phase 2 would address individual damages for absent class members.[4]

The certified class covered owners of more than 2,000 parcels affected by at least four wildfires, some separated by well over 100 miles. In a case of that size, the appeal of aggregate economic proof is obvious: If at least some losses reflect common market effects, a disciplined model may offer a practical alternative to proving the same economic issues parcel by parcel.

At the same time, James illustrates why the discussion above of difference-in-differences

analysis matters. Difference-in-differences analysis depends on a clearly defined event, a coherent treatment group, a defensible control group and the ability to compare like with like over time.

Those requirements become harder to satisfy when the litigation bundles together multiple fires, multiple geographies and materially different theories of causation. That is exactly what the Court of Appeals emphasized.

For the 242 fire, the South Obenchain fire and the Echo Mountain Complex fire, the plaintiffs' trial theory was relatively straightforward: A particular identifiable ignition caused a particular wildfire, and plaintiffs proceeded on a but-for causation theory.

The Santiam Canyon fire was materially different. There, plaintiffs did not rely on one unified causation theory, but instead argued that some class members were harmed directly by one of several PacifiCorp-caused fires, and that others were harmed when the lightning-caused Beachie Creek fire swept through the canyon after PacifiCorp-caused fires allegedly forced firefighters to evacuate, leaving the canyon defenseless.

For that reason, the trial court instructed the jury on a substantial-factor causation standard for Santiam Canyon, rather than simple but-for causation.

That variation goes directly to the feasibility of aggregate damages modeling. Where different fires ignited under different circumstances, affected different markets and implicated different causal pathways, one undifferentiated model may obscure rather than isolate the loss attributable to the event.

The same concern, as noted, applies if smoke, ash or broader market effects extend beyond the burn footprint and begin to affect the proposed control group.

The Court of Appeals' holding reflects that concern. It reversed because the jury had been instructed that, since the case was a class action, it could "assume that the evidence at the trial applies to all class members." The court held that the instruction was erroneous and prejudicial in light of the certified class, the evidence presented and the plaintiffs' causation theories.

Much of the evidence, the court explained, concerned particular issues about particular fires and, for the Santiam Canyon fire, particular ignitions at particular locations such as Potato Hill and Kelly Lumber, so it could not simply be assumed that evidence tied to one ignition, one area or one claimant applied to the entire class.

The opinion reaffirmed the central predominance inquiry under Oregon class-action law: whether proof relevant to one class member will effectively be proof relevant to all, or whether differences among class members will require individualized inquiry.

The problem in James was not aggregate proof in the abstract, but overgeneralization across multiple fires, multiple causal mechanisms and materially different factual settings.

Tailoring Damages Methodologies to the Case

The viability of an aggregate damages model depends on how well the approach fits the actual contours of the loss. Under James, economic models that are not tailored to each fire footprint, narrow treatment groups or subclasses by geography might be vulnerable to attack.

The same is true where the analyses are not limited to particular categories of property or market effects. A model that is too broad may face the same criticism voiced by the James court: It improperly assumes a level of commonality that the record does not support.

Further, the James court emphasized that the error was not in the challenged instruction in the abstract, but in using it in this case. And it specifically noted that on remand the trial court has authority to reconsider whether a single class remains appropriate in light of how the evidence developed at trial.

Under Oregon procedure, class certification orders may be altered or amended before a decision on the merits. This aspect of the decision highlights how an aggregate approach would likely need to account for narrower classes, subclasses by fire or other case-management structures aligned with both causation proof and aggregate damages analysis.

For attorneys evaluating wildfire matters, the case is a useful reminder that aggregate economic analysis might be subject to attack if the model does not closely track the underlying event, geography and evidence. That is particularly true in cases involving different fires, different burn areas or different causal pathways.

Conclusion

James illustrates that the validity of aggregate economic proof in valuing wildfire losses, including difference-in-differences analysis, depends on the treatment group, control group and theory of loss being defined with sufficient coherence.

The decision also shows that a single undifferentiated model might be subject to attack in a case involving multiple wildfires, materially different causation theories, and evidence tied to particular fires or particular locations.

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[1] James v. PacifiCorp, 348 Or. App. 347 (2026).

[2] Id. at 350, 354.

[3] Id. at 355, 361-63.

[4] Id. at 357.