

# PG&E's legal troubles likely to expand after Kincade fire

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A group representing Kincade fire victims in Sonoma County might soon emerge in the Pacific Gas & Electric Corp.'s bankruptcy.

If it is determined the utility's equipment caused the star of last week's blaze, PG&E will face new claims for damages that will be assigned top priority, endangering recoveries for past wildfire victims, shareholders and bondholders, according to court filings.

In response to the recent developments that "make a successful reorganization even more challenging," U.S. Bankruptcy Judge [Dennis Montali](#) on Monday night ordered rival groups jockeying for control of the utility into mediation.

Former U.S. Bankruptcy Judge Randall Newsome was appointed the mediator in Montali's order, which noted "the clock is ticking" on AB 1054, a new law requiring PG&E to emerge from Chapter 11 reorganization by June to access a multi-billion-dollar wildfire fund. Newsome played the same mediator role in the utility's 2001 bankruptcy.

A San Francisco Superior Court trial on the Tubbs fire and proceedings to estimate whether there is a remainder of PG&E's multi-billion-dollar liability will also have to be completed by the June wildfire fund deadline, imposed by the state legislation.

In a process unique to bankruptcy court, U.S. District Judge [James Donato](#) will estimate the value of allegations for property, personal injury, wrongful death and punitive damages caused by PG&E.

"The obvious goal [of mediation] is to confirm a Chapter 11 plan in order to set in place the next stage of the complex process of compensating victims for their losses," Montali wrote in his order Monday.

But past wildfire victims may now have to compete with new wildfire victims, given PG&E reported to state regulators last Wednesday its equipment may have caused the Kincade fire, according to UC Hastings School of Law professor Jared Ellias. He continued that Montali will likely designate different counsel for the new claimants because "their interests may not align" with those alleging damages from wildfires the last two years.

Plaintiffs' attorney Amanda Riddle noted PG&E similarly represented that a broken jumper cable on a transmission line malfunctioned near the blaze's point of origin in the 2018 Camp Fire, which state investigators found the utility's infrastructure caused.

Responding to questions about how the Kincade fire may impact estimation proceedings at a hearing Monday, Kimberly Morris, representing wildfire claimants in bankruptcy court, said she has already received claims over damages caused by the blaze.

New claims will also have to be estimated, which may happen in separate proceedings, according to Elias.

Although AB 1054 requires PG&E to fully pay all wildfire claims, which will be determined through a settlement or estimation, the two groups will be fighting for their share of a limited pool of money.

The utility previously offered to fund a trust of \$7.5 billion to resolve individual claims while the committee representing the victims estimated total damages at roughly \$54 billion.

While the Kincade fire has not approached the damage caused by the historically devastating 2017 and 2018 wildfires, it has scorched over 75,000 acres, destroyed 124 structures -- including 57 homes -- and threatens 90,000 buildings, according to state officials.

USC Gould School of Law professor Robert Rasmussen said liability in forthcoming fires "really complicates" proceedings if lenders financing PG&E's proposal to emerge from bankruptcy decide not to.

"The financing is predicated on a certain state of affairs," he said. "That state of affairs may have changed."

But unless the damages arising out of the Kincade fire increase significantly, Rasmussen noted the banks that loaned PG&E \$5.5 billion in debtor-in-possession financing are unlikely to opt out of the deal because it is "about as safe a loan as you can make." They will get paid first when the utility emerges from bankruptcy, Rasmussen said.

Elias said PG&E may get to tap into AB 1054's \$10.5 billion wildfire insurance fund to mitigate the cost of the new claims. While it cannot access the money for liability from the 2017 and 2018 wildfires, the state legislation allows the utility to recover 40% of costs for wildfire damages while it is in bankruptcy.

The possibility that Montali or U.S. District Judge William Alsup, who is handling the utility's criminal probation, appoints a trustee to run PG&E looms over every negative development and the increasingly louder calls for public ownership of the company, Rasmussen added. "Certainly, you hear statements from them that they're running out of patience for these guys," he said. "Whether they're at that extreme point to find it's worth disrupting the whole process, who knows?"