

American Climate Litigation - an Update

July 2025

It is as if an asteroid were barreling toward Earth and the government decided to shut down our only defenses. Seeking to quash this suit, the government bluntly insists that it has the absolute and unreviewable power to destroy the Nation.¹

Climate litigation abounds in the United States. This is a brief overview of a small selection of recent American cases involving harm from global warming suffered by vulnerable groups, namely young and old people.²

1) *Juliana v. United States*

First some bad news. The epic civil case of *Juliana v. United States* brought by a group of young people in the U.S. Federal Court for the District of Oregon was terminated completely by a decision of the U.S. Supreme Court (USSC) on March 24, 2025 after ten years of relentless litigation.

The first and second Trump administrations, as well as the Obama and Biden administrations, aggressively and successfully fought to stop the case from ever going to trial, even though the District Court had ordered the trial to proceed and scheduled it to commence on more than one occasion. The first date set for trial was in 2018. Last year we posted a summary of progress with this case.³

The group of 21 young plaintiffs claimed that the U.S. federal government has known for

¹ This excerpt is from the dissenting opinion of Judge Josephine Staton, Ninth Circuit Court of Appeals, on January 17, 2020, in *Juliana v. United States* on, was posted at <https://www.ourchildrenstrust.org/juliana-v-us>.

² In the Canadian context, the *Canadian Environmental Protection Act* (CEPA) defines a vulnerable population in section 3(1) as a group of individuals “who, due to greater susceptibility or greater exposure, may be at increased risk of experiencing adverse health effects from exposure to substances.” In section 2.1(a.3), the government upholds the principle of avoidance of adverse effects that disproportionately affect vulnerable populations. Furthermore, section 2.1(a.2) of CEPA recognizes the right to every individual in Canada to a healthy environment.

³ It is titled “Juliana v. United States - a New Court Order in a War of Attrition” and is found on the website of Seniors for Climate Action Now at <https://seniorsforclimateactionnow.org/juliana-v-united-states-a-new-court-order-in-a-war-of-attrition-by-alan-levy/>.

decades about the severe harm to the climate caused by fossil fuels. Yet for more than fifty years they maintain that the government has been contributing to the climate crisis by inaction as well as by promoting and subsidizing fossil fuel extraction and consumption. They sought a judicial declaration of their implicit right to a climate that can sustain life, and an injunction to order the government to develop an enforceable remedial plan to reduce carbon emissions and carbon already accumulated in the atmosphere at a rate based on the best available science.

In 2020 a split decision of the U.S. Court of Appeals for the Ninth Circuit dismissed the proceeding without trial on the basis that courts lack the power to order the government to develop a plan to decarbonize the atmosphere. Among other things, it ruled that these types of complex policy decisions are within the exclusive purview of the political arm of government. Similar arguments were made by the Ontario government in the youth case of *Mathur v. Ontario* which invoked the *Canadian Charter of Rights and Freedoms*.⁴

The plaintiffs in *Juliana* then amended their claim to seek only a judicial declaration that the government's fossil fuel policies violated their fundamental rights to life, liberty and property.⁵ The amended claim was again challenged by the government. On April 19, 2024, Judge Ann Aiken at the District Court ruled that "courts across the country address complex cases involving similar jurisdictional, evidentiary and legal questions as those presented here without resorting to interlocutory appeal or petitioning for a writ of mandamus."⁶ In total the government filed seven separate mandamus challenges over the course of the litigation process.

The Ninth Circuit Court of Appeals once again dismissed the claim before it could proceed to trial. This decision on May 1, 2024, was challenged by the plaintiffs on various grounds by way of an application for certiorari (discretionary review of a lower court decision) to the USSC. Forty-three members of the U.S. Congress filed a brief as *amicus curiae* (friend of the court) in support of the plaintiffs in the proceeding before the USSC. Sadly, the top court declined to hear the plaintiffs' application for *certiorari* thereby terminating the litigation.

⁴ Three different articles describing progress in the *Mathur* case have been posted on the SCAN! website. They are available at <https://seniorsforclimateactionnow.org/judicial-watch/>.

⁵ They asserted that the U.S. national energy system and federal legislation allowing natural gas imports and exports were in violation of the U.S. Constitution due to their contribution to climate change and the harm it is causing.

⁶ In this case, a writ of mandamus sought by the government would be issued by a higher court and direct the trial level of the District Court of Oregon to stop all proceedings in the matter.

After the case ended in March 2025, the legal team at Our Children's Trust (OCT) which represents the plaintiffs, posted that they are exploring the potential for taking the case to international tribunals "where issues of climate rights and governmental responsibility to protect young people's futures can be examined under the framework of international law." Hopefully, we will hear more about *Juliana* in the near future.

In contrast to the outcome in *Juliana*, the Supreme Court of Canada issued a decision in the *Mathur* case on May 1, 2025, denying the Ontario government's application for leave to appeal the decision of the Ontario Court of Appeal (October 17, 2024). The OCA had overturned a 2023 lower court decision, issued after a full hearing of evidence and which had denied the applicants' claims. The OCA remitted the entire matter back for a new hearing at the trial level.⁷ As is the custom with leave-to-appeal applications, the SCC did not provide any reasons for its decision.

2) *Lighthiser v. Trump*

After *Juliana* was terminated by the USSC, OCT in collaboration with other counsel commenced a new federal proceeding against the Trump administration, including as defendants the U.S. President as well as various government departments and agencies.⁸ The claim in *Lighthiser v. Trump* was filed on May 29, 2025 in the U.S. District Court for the District of Montana.⁹ Twenty-two young plaintiffs ranging in age from 7 to 25 years and residing in Montana, Hawaii, Oregon, California and Florida, challenged three executive orders issued by the President. The orders are titled Unleashing American Energy (no.14154), Declaring a National Energy Emergency (no.14156), and Reinvigorating America's Beautiful Clean Coal Industry (no.14261).

The lead claimant, Eva Lighthiser, was one of the plaintiffs in the successful constitutional case

⁷ The third article about *Mathur* is a detailed review of the decision of the Ontario Court of Appeal. It was posted in December 2024 and is available at <https://seniorsforclimateactionnow.org/the-appellate-decision-in-mathur-et-al-v-ontario-part-3-nice-talk-but-no-action/>. The *Mathur* proceeding was commenced in 2019.

⁸ Press coverage of the case includes "Trump violating right to life with anti-government orders, youth lawsuit says," by Dharna Noor, *The Guardian* (May 29, 2025): <https://www.theguardian.com/us-news/2025/may/29/trump-administration-sued-anti-environment-orders>.

⁹ The 126 page Complaint (statement of claim) is at https://climatecasechart.com/wp-content/uploads/case-documents/2025/20250529_docket-225-cv-00054-_complaint.pdf.

of *Held v. Montana*.¹⁰ Some of the other plaintiffs were parties in the *Juliana* case as well. But unlike that case, *Lighthiser* is based on explicit rights included in the U.S. Constitution.

The gravity of the claim is reflected in the following excerpts from the plaintiffs' Complaint and dramatized by the extreme flooding and loss of life that began in Texas just five weeks after this litigation was commenced.

2. From day one of the current administration, President Trump has issued directives to increase fossil fuel use and production and block an energy transition to wind, solar, battery storage, energy efficiency, and electric vehicles ("EVs"). President Trump's EOs falsely claim an energy emergency, while the true emergency is that fossil fuel pollution is destroying the foundation of Plaintiffs' lives. These unconstitutional directives have the immediate effect of (a) slowing the buildout of U.S. energy infrastructure that eliminates planet-heating fossil fuel greenhouse gas pollution ("GHGs" or "climate pollution"); and (b) increasing the use of fossil fuels that pollute the air, water, lands, and climate on which Plaintiffs' lives depend.

3. The science that Defendants seek to suppress confirms that every additional ton of GHG pollution that the EOs and Defendants' directives cause, and every ton of GHG pollution deliberately not avoided, is a constitutional injury to Plaintiffs' Fifth Amendment rights to life and liberty, their pursuit of happiness, and their fundamental liberties protected by Plaintiffs' state constitutions. Plaintiffs' lives are presently harmed by the "unleashing" of fossil fuel pollution, and their injuries will get worse as the directives continue to be implemented.

””””

5. Defendants are "unleashing" dangers upon Plaintiffs while simultaneously dismantling the congressionally mandated "warning system" of climate science and pollution control systems that are essential to protect Plaintiffs' fundamental rights. Defendants are unconstitutionally altering the statutory mandates of Defendant Environmental Protection Agency ("EPA") and shutting down the U.S. Global Change Research Program and the congressionally required National Climate Assessment. Defendants are erasing information and scientific data about climate change across federal government websites and databases. Defendants are eliminating critical scientific research and data on climate change across governmental and private institutions by ending programs, staffing, leases, grants, and funds, hamstringing efforts to disseminate information, warn about, and

¹⁰ That case is discussed in two articles on SCAN! website posted in 2023: "Anatomy of a Climate Trial" (<https://seniorsforclimateactionnow.org/anatomy-of-a-climate-trial-by-alan-levy/>) and "A Landmark Case" (<https://seniorsforclimateactionnow.org/a-landmark-case-held-v-montana/>).

address climate change. Defendants are penalizing public and private scientific speech containing the word “climate,” creating a culture of fear and intimidation for those working, researching, studying, and advocating in the field of climate change. These Executive directives impede Plaintiffs from accessing the very resources and taking the actions needed to protect their lives and other fundamental rights secured by their federal and state constitutions. By accelerating the danger to Plaintiffs caused by fossil fuel pollution and simultaneously sabotaging the best available means for notifying Plaintiffs of and protecting Plaintiffs from the danger, the EOs and Defendants’ directives are deliberately indifferent and conscience-shocking.

6. Absent intervention from this Court, the EOs, which are already being implemented, will increase the development of and reliance on fossil fuels and slow the scaling of wind, solar, storage, energy efficiency, and EVs, thereby worsening the air pollution and climate conditions that immediately harm and endanger Plaintiffs’ lives and personal security. The EOs will also permanently damage the scientific and environmental protection institutions whose congressionally-mandated activities are vital to notifying Plaintiffs of and protecting Plaintiffs from fossil fuel pollution. Plaintiffs bring this action to prevent the unconstitutional use of Executive powers that deprive them of their fundamental rights under the U.S. Constitution and their freedom to vindicate fundamental rights recognized and protected by their respective state constitutions, including as beneficiaries to their state public trust resources.

The plaintiffs allege, among other things, that these orders

- are unlawful, and violate their constitutional rights to life and liberty;
- violate legislation which attempts to protect public health and the environment (referred to as executive overreach and ultra vires action);
- exceed the legal authority of the President;
- contravene the state-created danger doctrine wherein government has a duty to protect people from harm when it creates or exacerbates a known danger;
- impinge on the right to a clean environment which is included in the constitutions of U.S. states like Montana and Hawaii; and
- threaten to lock in irreversible damage for future generations.

With respect to the suppression of scientific information about climate change, Our Children’s Trust has posted the following allegation:

The Trump administration has systematically removed critical climate science

information from federal websites, including those of the EPA [Environmental Protection Agency], NOAA [National Oceanic and Atmospheric Administration], and FEMA [Federal Emergency Management Agency], erasing or obscuring data on climate risks, environmental justice, and public health impacts. This censorship has denied young people access to life-saving information, hampering informed decision-making and undermining efforts to address climate change effectively.¹¹

Among other things, the claim asks the court to declare the executive orders unconstitutional, and block their implementation and enforcement. To that end a preliminary injunction is sought. A two-day hearing is scheduled for September 16-17, 2025, to address the claim for injunction, and a likely motion by the government to dismiss the entire proceeding without trial. It is expected that the government will repeat the same barrage of tactics that it used in *Juliana* so as to derail the case without it ever reaching trial.

3) *Leon v. Exxon Mobil et al.*

Studies have indicated that heat is the biggest threat to life from the climate emergency¹² and that leads us to the third case, *Leon v. Exxon Mobil*. It involves a different flavour of climate litigation with potential resonance for seniors. This case was commenced in the Superior Court of Washington State on the same day as the *Lighthiser* action (May 29, 2025).¹³ The other oil industry defendants include Chevron, Shell and Phillips. It is a civil tort¹⁴ claim, and has been

¹¹ See <https://www.ourchildrenstrust.org/lighthiser-v-trump>.

¹² From interview with Theresa McClenaghan, Executive Director of the Canadian Environmental Law Association, as reported by CBC on July 24, 2025 in its What On Earth weekly newsletter: <https://www.cbc.ca/news/science/what-on-earth-air-conditioning-1.7592774>. During the heat dome which struck B.C. in 2021, 98% of the people who died were indoors, according to Jacqueline Wilson, a staff lawyer at CELA.

¹³ The 81-page Complaint filed by the plaintiffs is at https://climatecasechart.com/wp-content/uploads/case-documents/2025/20250529_docket-25-2-15986-8-SEA_complaint.pdf.

¹⁴ A tort is a class of civil claim involving behaviour by a defendant (tortfeasor) which is considered to be a wrong-doing, neglect or default, but not including contract breach, and which causes reasonably foreseeable loss. Compensation is awarded as damages. These claims can involve a failure to comply with a recognized standard of reasonable behaviour, sometimes referred to as the good neighbour principle.

billed as the first-ever wrongful death civil lawsuit brought against the oil industry.¹⁵ The claim alleges that the defendants' wrongful conduct was the "proximate cause" of the plaintiff's death. The legal basis of the claim includes, among other things, breach of the *Washington Product Liability Act* (e.g., failure to warn of a product's danger and/or risk) and public nuisance.

A senior, poet and storyteller named Juliana Leon (aged 65) died of hyperthermia in Seattle during a withering heat dome weather event in 2021 which was attributed to human-caused global warming. It was the hottest day on record for the state of Washington with temperatures peaking at 108° F (42° C). Approximately 200 people died during this heat wave. Ms. Leon was driving that day and had her windows open because her vehicle's air conditioning was not working. She was found sitting in the vehicle and unconscious. Medical efforts to revive her failed. The following is an excerpt from the Complaint:

4.10. ... In a temperate climate like Seattle, the breeze from the open windows is all that is usually needed to beat the heat on a hot day. But on the hottest day of the Heat Dome, even with the windows rolled down, Julie became overwhelmed by the stifling heat.

4.11. The onset of Julie's heat-related symptoms occurred so rapidly that she decided it was unsafe to continue driving. While succumbing to heat exhaustion and early stages of heat stroke, Julie used her final moments to ensure that she would not cause harm to anyone else. She safely pulled off the highway and parked her car on a nearby residential street.

4.12. Julie was so incapacitated by the effects of the heat that she was unable to call for help. She made no outbound calls after parking her car. Nor did she answer any incoming calls, despite having received at least six calls from the time that her appointment ended to when she was found in her vehicle. Her phone was in the seat next to her when she was found.

4.13. Roughly two hours after Julie parked her car, a passerby found her slumped over and unconscious in the driver's seat. The car was turned off and the windows were rolled down. The inside of the car was hot to the touch. ...

4.14. ... In the minutes leading up to her death, Julie's internal temperature rose

¹⁵ "US woman brings first-ever wrongful death lawsuit against big oil" by Dharna Noor, *The Guardian* (May 29, 2025): <https://www.theguardian.com/us-news/2025/may/29/oil-industry-wrongful-death-lawsuit#:~:text=US%20woman%20brings%20first%20Dever%20wrongful%20death%20lawsuit%20against%20big%20oil,-This%20article%20is&text=A%20woman%20has%20brought%20the,death%20during%20a%20major%20heatwave>.

from 107 to 110°F. The temperature outside exceeded 105°F.

The Complaint alleges that the defendants:

- knew for most of the plaintiff's life that unabated use of fossil fuels was intensifying the greenhouse effect and global warming, altering the climate, and would result in catastrophic harm to the planet and humanity;
- failed to warn the public;
- launched a campaign of deception to downplay and discredit the risks of climate change and ensure growing demand for fossil fuels;
- formed and funded "front groups to conceal and misrepresent the dangers"¹⁶ of fossil fuels;
- sowed "uncertainty about climate science and interfered with efforts to reduce fossil fuel consumption;"
- funded "seemingly independent scientists to create the false appearance of a scientific divide about the evidence of climate change;"
- downplayed the "severity of climate change to mislead consumers into believing the problem is not urgent;"
- deceptively promoted their token efforts to mitigate climate change;
- delayed climate mitigation and adaptation measures; and
- interfered with development of alternative energy technologies.

The following excerpt is from an article published in *The Guardian* and cited above:

Because they failed to warn the public about the dangers of planet-heating

¹⁶ From Table of Contents of Complaint (p.i).

emissions, major fossil fuel companies should be held accountable for that death, the case argues. “When a tragedy like Julie’s death results from the prolific use of fossil fuels, it is easy to dismiss the misfortune as an accident rather than a foreseeable consequence of Defendants’ deception,” the lawsuit says. ...

The new lawsuit represents a new frontier for climate accountability litigation, following dozens of lawsuits brought by cities and states against big oil in recent years. Previous suits accused companies of breaching product liability and consumer protection laws and engaging in fraud and racketeering. But Wednesday’s case is the first attempt to hold oil companies responsible for an individual climate-related death.

“Lethal climate disasters are the foreseeable, and foreseen, consequences of specific actions by fossil fuel corporations, CEOs and boards of directors,” Aaron Regunberg, a director at the consumer advocacy group Public Citizen. “They caused the climate crisis and deceived the public about the dangerousness of their products in order to block and delay solutions that could prevent heat deaths like Juliana’s.”

The new lawsuit is a civil case, but Regunberg has spent years asserting that prosecutors could also bring criminal charges against big oil, including homicide. A 2023 report published in Harvard’s *Environmental Law Review* argued that oil companies could be charged with every kind of homicide charge, other than first-degree murder.¹⁷

¹⁷ This 72-page paper titled “Climate Homicide: Prosecuting Big Oil for Climate Deaths,” by David Arkush and Donald Braman, is published in vol.48, p.45 of the *Harvard Environmental Law Review* (2024): https://journals.law.harvard.edu/elr/wp-content/uploads/sites/79/2024/04/02_HLE_48_1_Arkush-Braman.pdf. The following is an excerpt from the abstract at the beginning of the paper (pp. 45-46):

Fossil fuel companies learned decades ago that what they produced, marketed, and sold would generate “globally catastrophic” climate change. Rather than alert the public and curtail their operations, they worked to deceive the public about these harms and to prevent regulation of their lethal conduct. They funded efforts to call sound science into doubt and to confuse their shareholders, consumers, and regulators. And they poured money into political campaigns to elect or install judges, legislators, and executive officials hostile to any litigation, regulation, or competition that might limit their profits. Today, the climate change they forecast has already killed thousands of people in the United States, and it is expected to become increasingly lethal for the foreseeable future. Given the extreme lethality of the conduct and the awareness of the catastrophic risk on the part of fossil fuel companies, should they be charged with homicide? Could they be convicted? In answering these questions, this Article makes several contributions to our understanding of criminal law and the role it could play in combating crimes committed at a massive scale. It describes the doctrinal and social predicates of homicide

“Big oil’s victims deserve accountability,” said Richard Wiles, president of the Center for Climate Integrity, which tracks and supports climate accountability litigation, in a statement. “This is an industry that is causing and accelerating climate conditions that kill people. They’ve known it for 50 years, and at some point they must be held accountable.”

After the law suit was commenced, Chevron filed a notice to move the case to the federal court, and all of the other fossil fuel industry defendants consented to this.

It is important to recognize that this claim might never reach trial. The vast majority of civil tort claims are settled privately without trial and without any admission by defendants of liability (fault). Typically, defendants with deep pockets prefer to settle and pay substantial sums in order to avoid a negative outcome. Going to trial risks critical publicity, findings of liability and adverse judicial decisions which can encourage others to commence similar claims.

In conclusion, American climate litigation involving vulnerable groups appears to be continuing unabated despite many setbacks and roadblocks. *Lighthiser* will hopefully receive a better reception in the appeal courts than *Juliana* did, and *Leon* may help to establish the gross culpability of the fossil fuel industry in the same way that tort litigation publicly exposed the truth about the tobacco industry.¹⁸



Alan D. Levy is a member of the Legal Group of Seniors for Climate Action Now! (SCAN!)

prosecutions where corporate conduct endangers much or all of the public. It also identifies important advantages of homicide prosecutions relative to civil and regulatory remedies, and it details how and why prosecution for homicide may be the most effective legal remedy available in cases like this. Finally, it argues that, if our criminal legal system cannot focus more intently on climate crimes - and soon - we may leave future generations with significantly less for the law to protect.

¹⁸ On that note, the campaign to get Canadian municipalities to sue Big Oil for harm caused by climate warming is discussed in “Next-gen Sue Big Oil activists deserve more than political deflection,” by Adrienne Tanner, *National Observer*, July 17, 2025: <https://www.nationalobserver.com/2025/07/16/opinion/next-student-activists-politics-sue-oil-climate>.