

# CPM Achieves Victory in Landmark Climate Change Case

2016

On **April 8, 2016**, U.S. Magistrate Judge Thomas Coffin of the Federal District Court in Eugene, OR, found in favor of 21 youth Plaintiffs and Dr. James Hansen in their landmark constitutional climate change case brought against the federal government and the fossil fuel industry. The Court's ruling is a major victory for the young Plaintiffs, ages 8-19, from across the U.S. in what nationally-recognized environmentalists Bill McKibben and Naomi Klein call the "most important lawsuit on the planet right now."

Plaintiffs sued the federal government for violating their constitutional rights to life, liberty and property by permitting, encouraging, and enabling exploitation, production, and combustion of fossil fuels. The decision denied Motions seeking to dismiss the youth's climate change lawsuit. The Motions were brought by the federal government and the fossil fuel industry, who claimed no duty under the constitution or the public trust doctrine to protect essential natural resources, such as air, for the benefit of present and future generations.

Lead Plaintiffs' attorney **Philip Gregory** with **Cotchett, Pitre, & McCarthy** of Burlingame, CA, said:

**"This decision is one of the most significant in our nation's history. The Court upheld our claims that the federal government intensified the danger to our plaintiffs' lives, liberty and property. Judge Coffin decided our Complaint will move forward and put climate science squarely in front of the federal courts. The next step is for the Court to order our government to cease jeopardizing the climate system for present and future generations. The Court gave America's youth a fair opportunity to be heard."**

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## Practice Areas

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Strongly opposing the lawsuit was not only the Department of Justice, but the entire fossil fuel industry. Both groups of Defendants moved to dismiss the Complaint. In January 2016, the Court granted Defendant status to three trade associations who represent the world's largest fossil fuel companies. The associations had called the case "extraordinary" and "a direct, substantial threat to [their] businesses."

As part of Friday's historic decision, Judge Coffin characterized the case as an "unprecedented lawsuit" addressing "government action and inaction" resulting "in carbon pollution of the atmosphere, climate destabilization, and ocean acidification." In allowing the case to proceed, Judge Coffin wrote: "The debate about climate change and its impact has been before various political bodies for some time now. Plaintiffs give this debate justiciability by asserting harms that befall or will befall them personally and to a greater extent than older segments of society. It may be that eventually the alleged harms, assuming the correctness of plaintiffs' analysis of the impacts of global climate change, will befall all of us. But the intractability of the debates before Congress and state legislatures and the alleged valuing of short term economic interest despite the cost to human life, necessitates a need for the courts to evaluate the constitutional parameters of the action or inaction taken by the government. This is especially true when such harms have an alleged disparate impact on a discrete class of society."

The hearing on the Motions was March 9, 2016, lasting for two hours. In an unprecedented move, oral argument from the Eugene courtroom was streamed via video feed into three additional courtrooms in Eugene and one in Portland.

In denying the Motions, the Court's Findings and Recommendations framed the issue as follows: "Plaintiffs are suing the United States ... because the government has known for decades that carbon dioxide (CO<sub>2</sub>) pollution has been causing catastrophic climate change and has failed to take necessary action to curtail fossil fuel emissions. Moreover, plaintiffs allege that the government and its agencies have taken action or failed to take action that has resulted in increased carbon pollution through fossil fuel extraction, production, consumption, transportation, and exportation. Plaintiffs allege the current actions and omissions of defendants make it extremely difficult for plaintiffs to protect their vital natural systems and a livable world. Plaintiffs assert the actions and omissions of defendants that increased CO<sub>2</sub> emissions 'shock the conscience,' and are infringing the plaintiffs' right to life and liberty in violation of their substantive due process rights." The Court's decision also upheld the youth Plaintiffs' claims in the Fifth and Ninth Amendments "by denying them protections afforded to previous generations and by favoring short term economic interests of certain citizens." Finally, Judge Coffin upheld Plaintiffs' assertion of violations under the public trust doctrine.

According to **Julia Olson**, co-counsel for Plaintiffs and Executive Director of **Our Children's Trust**:

**"Judge Coffin accepted the Complaint's undisputed scientific evidence that the federal government has, and continues to, damage these young Plaintiffs' personal security and other**

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**fundamental rights. Unlike almost every other case deciding constitutional rights throughout history, the climate rights that will now be decided in this case, cannot be vindicated by future generations. The science is clear that if we do not obtain the relief we seek in this case, our climate system will be irreversibly and catastrophically damaged. Now these young plaintiffs have the right to prove that the government's role in harming them has been knowing and deliberate for more than 50 years."**

This case alleges the Federal Government is violating Plaintiffs' constitutional and public trust rights by promoting the development and use of fossil fuels. The Complaint explains that, for over fifty years, the U.S. Government has known that carbon dioxide pollution from fossil fuels causes global warming and dangerous climate change, and that continuing to burn fossil fuels destabilizes the climate system. The next step is a review of Judge Coffin's decision by another judge in the same court, Judge Ann Aiken.

"The future of our generation is at stake," said 16-year-old plaintiff **Victoria Barrett**. "People label our generation as dreamers, but hope is not the only tool we have. I am a teenager. I want to do what I love and live a life full of opportunities. I want the generation that follows to have the same chance. I absolutely refuse to let our government's harmful action, corporate greed, and the pure denial of climate science get in the way of that. If anything, I'm going to use my positive energy to show my government that I won't let my world stop for them. WE won't let our world stop for them. Our generation will continue to be a force for the world."

"This is as important a court case as the planet has yet seen," said **Bill McKibben**, author and founder of **350.org**. "To watch the next generation stand up for every generation that will follow is as moving as it is significant."

The case is *Juliana, et al v United States of America, et al*. The U.S. District Court, District of Oregon Case Number is 6:15-cv-01517-TC. Cotchett, Pitre & McCarthy, LLP, along with Julia Olson of Our Children's Trust and Daniel Galpern, represent the 21 Youth Plaintiffs.