

Ninth Circuit to Hear CPM Client's Oral Argument Regarding Climate Change in Juliana v. United States

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San Francisco - There has been a significant development in the constitutional climate change lawsuit so far successfully prosecuted by 21 youth plaintiffs: the Ninth Circuit Court of Appeals has decided to hear oral argument over whether the Trump Administration can evade trial currently set for February 5, 2018. Oral arguments will be heard before the Ninth Circuit Court of Appeals in San Francisco on December 11, 2017.

Arguments will begin at 10 am PST at the Ninth Circuit Court of Appeals located at 95 7th St, San Francisco, CA. A press conference will follow oral argument.

The Court offers a live stream of all oral arguments:
http://www.ca9.uscourts.gov/media/live_oral_arguments.php

The subject of oral arguments will be the Trump Administration's extraordinary mandamus petition filed in June, which seeks the Ninth Circuit's review of U.S. District Court Judge Ann Aiken's 2016 denial of motions to dismiss in Juliana v. United States. In their petition, Trump, et al., claim irreparable harm for having to participate in the ordinary pre-trial discovery process and go to trial. The next step in the case would ordinarily be for the Trump Administration to face the youth and their scientific evidence at trial, and then later appeal an adverse ruling after a final judgement in the case.

Julia Olson, co-counsel for plaintiffs and executive director of Our Children's Trust, said:

"We look forward to the opportunity to argue this case before the Ninth

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Circuit so that we can move quickly to trial. The Trump Administration should not be able to dodge judicial review of such egregious constitutional infringements of these young people's liberties.

They are knowingly destroying our climate system and the healthy futures for our young plaintiffs. This Administration can respond to the limited discovery we seek, and put on its junk climate science at trial in a court of law. What it can't do is shut the courthouse doors to real constitutional injuries brought by these young people. We believe the Ninth Circuit will be the bulwark against their dodge and evade tactics."

Kelsey Juliana, 21-year-old named plaintiff from Eugene, OR, said:

"Every week, or even every day, that our trial is delayed is time I spend further worrying about the stability of our climate system and the security of my future. I'm excited for the Ninth Circuit judges to hear from my lawyers, and to have our case in front of them. Another step forward, onwards to climate and constitutional Justice!"

Levi Draheim, 10-year-old plaintiff from Satellite Beach, FL, said:

"We can't delay anymore because climate change is an ongoing problem. We need to deal with it right now and start reducing the things that are causing it. When we win the oral arguments, we can move on and start talking about how to fix the problem not just talk about it."

Phil Gregory, co-counsel for plaintiffs and partner with Cotchett, Pitre & McCarthy, LLP, in Burlingame, CA, said:

"It is an extremely positive step that the Ninth Circuit has elected to hear oral argument. While there is no set timeline for the Ninth Circuit panel to issue a decision, we hope the urgency of the climate crisis is dictating this fast track briefing and argument schedule. Oral argument on these issues will make climate history. Our briefing in support of Judge Aiken's order, as well as the amicus briefs, were powerful and persuasive. We remain hopeful that Judge Aiken's order will be upheld."

In July, a three judge panel of the Ninth Circuit, consisting of judges Alfred Goodwin, Alex Kozinski, and Marsha Berzon, placed a temporary stay on the district court proceedings and ordered briefings on the mandamus petition.

In September, legal scholars, religious, women's, libertarian, and environmental groups, and legal nonprofits filed eight separate amicus curiae (friend of the court) briefs with the Ninth Circuit, displaying resounding legal support for denying the mandamus petition, and allowing the case to proceed to trial.

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Judge Aiken and Magistrate Judge Thomas Coffin, of the District Court in Oregon, filed a letter with the Ninth Circuit in August, referring to the issues presented by the youth's case as "vitally important," and stating that they "do not believe that the government will be irreversibly damaged by proceeding to trial."

Through Judge Aiken's order last year, the young plaintiffs secured the following critical legal rulings:

1. There is a fundamental constitutional liberty right to a climate system capable of sustaining human life.
2. The federal government has fiduciary public trust responsibilities to preserve natural resources upon which life depends.
3. The youths' requested remedy (ordering the development and implementation of a national climate recovery plan based on a scientific prescription) is an appropriate remedy if the court finds a violation of the youths' constitutional rights.

Among the facts to be determined at trial are whether the federal government's systemic actions over the past decades enabling climate change have violated the young plaintiffs' constitutional rights.

Jacob Lebel, 20 year-old-plaintiff from Roseburg, OR, said:

"What is urgently needed right now is a clear, scientific and constitutional discussion of the irreparable harm that climate change is doing to this nation's youth and the ways we can hold our leaders accountable to begin serious climate recovery efforts.

I am glad that we will have the opportunity to hold this discussion before the Ninth Circuit and I look forward to moving towards a full trial."

Aji Piper, 17-year-old plaintiff from Seattle, WA, said:

"I hope the Ninth Circuit will understand Judge Aiken's reasoned judgment and understand that this case needs to go to trial for the good of the youth and the good of the country."

Juliana v. United States was brought by 21 young plaintiffs, and Earth Guardians, who argue that their constitutional and public trust rights are being violated by the government's creation of climate danger. The case is one of many related legal actions brought by youth in several states and countries, all supported by Our Children's Trust, seeking science-based action by governments to stabilize the climate system. #youthvgov

Counsel for Plaintiffs include Philip L. Gregory, Esq. of Cotchett, Pitre & McCarthy of Burlingame, CA and Julia Olson, Esq. of Eugene, OR.

Our Children's Trust is a nonprofit organization, elevating the voice of youth, those with most to lose, to

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secure the legal right to a healthy atmosphere and stable climate on behalf of present and future generations. We lead a coordinated global human rights and environmental justice campaign to implement enforceable science-based Climate Recovery Plans that will return atmospheric carbon dioxide concentration to below 350 ppm by the year 2100.

www.ourchildrenstrust.org/

Earth Guardians is a Colorado-based nonprofit organization with youth chapters on five continents, and multiple groups in the United States with thousands of members working together to protect the Earth, the water, the air, and the atmosphere, creating healthy sustainable communities globally. We inspire and empower young leaders, families, schools, organizations, cities, and government officials to make positive change locally, nationally, and globally to address the critical state of the Earth.

www.earthguardians.org