



For Immediate Release:
May 1, 2017

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**JUDGE COFFIN TO TRUMP ADMINISTRATION:
APPEAL NOW “*WOULD PUT CART BEFORE THE HORSE*”**

After [marching in D.C.](#), plaintiffs in youth climate case continue their march to trial

Today, U.S. Magistrate Judge Thomas Coffin emphatically recommended denial of Trump administration and fossil fuel industry defendants’ motions seeking to derail the “youthgov” climate case from trial with a rare early appeal. Such early appeals are “hen’s-teeth rare,” noted Judge Coffin.

Further, Judge Coffin denied the Trump administration’s motion, supported by the fossil fuel industry, to put the trial on hold pending the outcome of the early appeal attempt. Youths’ attorneys argued that any delay in getting to trial would irreversibly prejudice the youth in securing and protecting their fundamental constitutional rights.

From Judge Coffin’s [findings and recommendation](#):

“The court may make findings that define the contours of plaintiffs’ constitutional rights to life and a habitable atmosphere and climate, declare the levels of atmospheric CO₂ which will violate their rights, determine whether certain government actions in the past and now have and are contributing to or causing the constitutional harm to plaintiffs, and

direct the federal defendants to prepare and implement a national plan which would stabilize the climate system and remedy the violation of plaintiffs rights.”

“...[US government] defendants and Intervenors...underestimate the nature of the danger allegedly created by their actions. The taking of evidence will flesh out those critical issues. The current posture of the case is such that any appeal would be premature.”

In his conclusion, Judge Coffin wrote that the hypothetical questions the Trump administration and fossil fuel industry defendants wish to present to the appellate court “**would put the cart before the horse, and thus fail to satisfy the standards for interlocutory appeal.**”

Julia Olson, plaintiffs’ counsel and Our Children’s Trust’s executive director said:

“It’s time for the defendants to accept they are going to trial and not try to continue bending the rule of law to delay a judgment in this case. President Trump must accept that the courts do not do his bidding, and in a court of law, ‘alternative facts’ are considered perjury.”

In March, the Trump administration and fossil fuel defendants requested that the federal district court in Oregon allow the Ninth Circuit Court of Appeals the opportunity to review Judge Ann Aiken’s [November 10, 2016 order](#) before the trial even takes place. The defendants had also requested that appeal be expedited, and that the trial be put on hold if the appeal was granted. Judge Coffin recommended that all of those requests be denied.

Procedurally, the Trump administration and fossil fuel industry defendants’ have until May 15, 2017 to file specific written objections with the court to Judge Coffin’s recommendations. Thereafter, youth’s attorneys will have fourteen (14) days from when those objections are filed to respond to them. Per federal rules of procedure, Judge Aiken, informed by Magistrate Judge Coffin’s recommendation, holds the power to decide whether the Ninth Circuit has an opportunity to grant the defendants’ requests for an interlocutory appeal of her November decision.

Scholars agree that defendants have little chance to obtain their rare appeal especially in light of the Magistrate Judge’s opinion.

Professor Mary Wood, from the University of Oregon School of Law said:

“This is a well-reasoned opinion and it will now go to Judge Aiken for approval. There’s really nothing more for the Trump administration and fossil fuel defendants to argue at this point. They should just get ready for trial.”

In spite of defendants’ desperate attempts to delay a historic climate trial, youth plaintiffs and their lawyers continue to prepare for it.

Juliana v. United States was brought by 21 young plaintiffs 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.

Counsel for Plaintiffs include Philip L. Gregory, Esq. of Cotchett, Pitre & McCarthy of Burlingame, CA, Daniel M. Galpern Esq. 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 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

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