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Contacts:

Julia Olson, 415-786-4825, [julia@ourchildrenstrust.org](mailto:julia@ourchildrenstrust.org)

Philip Gregory, 650-697-6000, [pgregory@cpmlegal.com](mailto:pgregory@cpmlegal.com)

To set up interviews with youth plaintiffs, contact:

Meg Ward, 503-341-8590, [meg@ourchildrenstrust.org](mailto:meg@ourchildrenstrust.org)

## **TRUMP ADMINISTRATION SEEKS EXPEDITED APPEAL OF HISTORIC CLIMATE DECISION TO NINTH CIRCUIT**

On Tuesday, March 7, the Trump administration filed a [motion](#) seeking an appeal to the Ninth Circuit Court of Appeals on a federal judge's November 10, 2016 order in *Juliana v. United States*. The Trump administration also filed a motion to delay trial preparation until after its appeal is considered.

Further, the Trump administration asked for expedited review of both motions, arguing the plaintiffs' [January 24, 2017 letter](#) requesting the government to retain records relating to climate change and communications between the government and the fossil fuel industry was overly burdensome. Excerpt from the government's [stay motion](#):

“Plaintiffs...intend to seek discovery relating to virtually all of the federal government’s activities relating to control of CO2 emissions...Compounding the United States’ burdens, Plaintiffs have indicated that their intended discovery has a temporal scope of more than sixty years...Absent relief, there will most certainly be depositions of federal government fact witnesses...that will explore the extraordinarily broad topic of climate change and the federal government’s putative knowledge over the past seven decades.”

Yet, in another complex case regarding the Deepwater Horizon oil spill and BP, the United States produced over 17 million pages of documents from April to September of 2011. Plaintiffs maintain that their requests are limited, reasonable, and aimed at getting to trial this fall.

Appeals typically do not occur until a trial court has issued final rulings following the presentation of evidence, but the Trump administration is asking federal Magistrate Judge Coffin to exercise his discretion to allow the case to proceed to the Court of Appeals before final judgment.

Attorneys representing fossil fuel industry defendants are expected to file papers supporting the government's motions on Friday.

**Alex Loznak**, 20-year-old plaintiff and Columbia University student said:

“This request for appeal is an attempt to cover up the federal government’s long-running collusion with the fossil fuel industry. My generation cannot wait for the truth to be revealed. These documents must be uncovered with all deliberate speed, so that our trial can force federal action on climate change.

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

“The Trump Administration argues that this is a big case and so the burdens of preserving government documents warrant an expedited review. They’re right. It is a big case. We have a classic example of the government’s misplaced priorities: they prefer to minimize their procedural obligations of not destroying government documents over the urgency of not destroying our climate system for our youth plaintiffs and all future generations?”

In the government’s answer to the youth plaintiffs’ complaint, they admitted that “the use of fossil fuels is a major source of [carbon dioxide] emissions, placing our nation on an increasingly costly, insecure, and environmentally dangerous path.”

The case 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. Judge Ann Aiken’s [November order](#) denied motions to dismiss brought by both the Obama administration and fossil fuel industry defendants.

### ***Other pre-trial developments***

- During today’s telephonic case management conference between attorneys for the parties and Magistrate Judge Thomas Coffin, the DOJ took the view that the Trump administration, will have the opportunity to use **executive privilege** to prevent the release

of evidence in the possession of the National Archives and Records Administration (NARA).

DOJ attorneys say they recently informed the White House that NARA was in the process of gathering documents requested by the plaintiffs. It is the DOJ's view that former Presidents George H. W. Bush, Bill Clinton, and George W. Bush, will have the opportunity to bar release of the records of their respective administrations, but President Trump will ultimately have the authority to bar release of any and all NARA records.

- The next *Juliana v. United States* case management conference with Judge Coffin is scheduled for April 7, 2017, and will be telephonic.
- Attorneys for youth plaintiffs are in the process of compiling a list of prospective witnesses to be deposed, including Secretary of State Rex Tillerson, and expect to provide that list to defendants next week.

*Juliana v. United States* 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/](http://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](http://www.earthguardians.org)

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