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Trump Administration Attempts to Delay *Juliana v. United States* Trial by Pleading with the Ninth Circuit for the *Third* Time

Eugene, Oregon - Today, the Trump administration filed a third writ of mandamus petition with the Ninth Circuit Court of Appeals in the constitutional climate lawsuit *Juliana v. United States*. The administration is seeking an unprecedented and extraordinarily rare third request that the Court issue a writ of mandamus to stay district court proceedings pending the resolution of the administration's forthcoming petition to the United States Supreme Court. The Department of Justice plans to file a second writ of mandamus petition with the Supreme Court on Wednesday, October 17.

On July 20, in a per curiam opinion, Chief Judge Sidney R. Thomas, and Circuit Judges Marsha Berzon and Michelle Friedland of the Ninth Circuit Court of Appeals rejected the Trump administration's second petition for writ of mandamus in the lawsuit brought by 21 youth supported by Our Children's Trust.

In that decision, the Court concluded:

“We denied the government’s first mandamus petition, concluding that it had not met the high bar for relief at that stage of the litigation. No new circumstances justify this second petition, and we again decline to grant mandamus relief.”

Last Friday, the Trump administration filed a motion for stay with the U.S. District Court for the District of Oregon to request that that court stay discovery and trial in the case. During a [telephonic status conference](#) last week between the parties and U.S. Magistrate Judge Thomas Coffin to discuss the government's motion for stay, Judge Coffin said:

“...it doesn't seem to me, looking at the landscape here, that very much has changed since the last motion to stay was filed...and the only 'change' is that the Court hasn't ruled on the dispositive motions that have been filed...I would just urge everybody to keep on track for trial.”

The youth plaintiffs and the District Court noted that the only other change in circumstance is that the parties have expended significant time and resources in conducting discovery in preparation for trial, and are nearing the end of conducting 50 depositions of experts and plaintiffs in about 60 days.

In [their petition](#), the DOJ claims that “trial would force the government to address climate-change policy not in APA rulemakings and other agency actions authorized by statutes such as the Clean Air Act, but in a single trial court in Oregon. These injuries would be caused by the trial itself, and so they could not be remedied on appeal.”

Julia Olson, executive director and chief legal counsel of **Our Children’s Trust** and co-counsel for youth plaintiffs said:

“The federal defendants’ claim of harm is the same claim of harm that has already been rejected by all three levels of the federal judiciary. To suggest that our government suffers harm greater than its citizens by having to participate in a trial when its youngest citizens bring legitimate claims of constitutional harm before our Article III courts flies in the face of democratic principles. We are going to trial on October 29th.”

Vic Barrett, 19-year-old plaintiff from White Plains, NY said:

“The most powerful government in the world sure is scared of a group of young people armed with the truth.”

Jacob Lebel, 21-year-old plaintiff from Roseburg, OR said:

“The Trump administration is not getting the point. It will have to face us and climate science in court on October 29. The Ninth Circuit Court of Appeals has already denied the government’s previous two petitions for writ of mandamus, both times concluding that the petition ‘had not met the high bar for relief.’ The Trump administration’s own recent report indicates that we can expect 7°F of warming before the end of this century. It is truly frightening that their priority in the face of this is to waste our time and the public’s resources by desperately trying to avoid trial.”

This lawsuit was filed by 21 young people in August 2015. The United States government has fought the youth plaintiffs for more than three years to get this case dismissed, all while knowingly perpetuating the nation’s fossil fuel energy system and the climate crisis. Judges at the U.S. District Court, the Ninth Circuit Court of Appeals, and most recently, the United States Supreme Court have repeatedly ruled in favor of the youth plaintiffs and their right to go to trial. Their trial is set to begin on Monday, October 29.

Juliana v. United States is *not* about the government’s failure to act on climate. Instead, these 21 young plaintiffs between the ages of 11 and 22, assert that the U.S. government, through its *affirmative actions* in creating a national energy system that causes climate change, is depriving them of their constitutional rights to life, liberty, and property, and has failed to protect essential public trust resources. The case is one of many related legal actions brought by youth in several states and countries, all supported by Our Children’s Trust, and all seeking science-based action by governments to stabilize the climate system.

Counsel for Plaintiffs are Julia Olson, Esq. of Eugene, OR, Philip L. Gregory, Esq. of Gregory Law Group of Redwood City, CA, and Andrea Rodgers, Esq. of Seattle, WA.

***Our Children's Trust** is a nonprofit organization, leading a coordinated global human rights and environmental justice campaign to implement enforceable science-based Climate Recovery Plans that will return atmospheric carbon dioxide concentrations to below 350 ppm by the year 2100. We elevate the voice of youth, those with most to lose in the climate crisis, to secure the legal right to a healthy atmosphere and stable climate on behalf of all present and future generations. 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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