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## **District Court Makes Sweeping Ruling in *Juliana v. United States***

***President dismissed from lawsuit, but plaintiffs' core constitutional and public trust claims move forward to trial on October 29***

Eugene, Oregon -- Today, U.S. District Court Judge Ann Aiken ruled on the Trump administration's motion for judgment on the pleadings ("MJP") and motion for summary judgment ("MSJ") in the landmark constitutional climate lawsuit *Juliana v. United States*, filed by 21 young Americans and supported by Our Children's Trust. Judge Aiken's decision, in large part, denied the motions brought by the Trump administration, but granted the motions in part by limiting the scope of the plaintiffs' claims and dismissing the President from the case. As a result, the case will proceed to trial in exactly two weeks on October 29, 2018.

In [her decision](#), Judge Aiken held as follows:

- **President Trump is dismissed as a defendant in the case *without* prejudice.** During a July 18 hearing before Judge Aiken, the youth plaintiffs offered to stipulate to dismiss the President without prejudice to later bringing claims against him if necessary to vindicate their rights. At that hearing, the Department of Justice told the Court that they had been instructed by the White House that President Trump could only be dismissed with prejudice, meaning that the youth plaintiffs would be barred from ever bringing claims against him in the future. Judge Aiken's decision adopted the position of the youth plaintiffs, dismissing President Trump without prejudice. Because all of the federal agency defendants remain in the case, the Court found a full remedy could still be awarded without the President as a named defendant.
- **Plaintiffs have viable legal claims under the Fifth Amendment and Public Trust Doctrine.** Judge Aiken reiterated her order of November 10, 2016: "where a complaint alleges knowing

governmental action is affirmatively and substantially damaging the climate system in a way that will cause human deaths, shorten human lifespans, result in widespread damage to property, threaten human food sources, and dramatically alter the planet's ecosystem, it states a claim for a due process violation. To hold otherwise would be to say that the Constitution affords no protection against a government's knowing decision to poison the air its citizens breathe or the water its citizens drink."

- **"It is clearly within a district court's authority to declare a violation of plaintiffs' constitutional rights."**
- **Plaintiffs have "proffered uncontradicted evidence showing that the government has historically known about the dangers of greenhouse gases but has continued to take steps promoting a fossil fuel based energy system, thus increasing greenhouse gas emissions."** The Court also cited "the pattern of federally authorized emissions challenged by plaintiffs in this case do make up a significant portion of global emissions." The youth plaintiffs' detailed evidence on government knowledge will be presented at trial.
- **Plaintiffs' evidence makes clear that their alleged injuries can be redressed through actions by federal defendants.** Judge Aiken highlighted plaintiff expert declarations provided by Drs. James Hansen, G. Philip Robertson, Mark Jacobson, James Williams and Joseph Stiglitz making clear that a rapid shift away from fossil fuels is technologically and economically feasible with resources existing today.
- **Interlocutory review is not certified.** Noting that Congress did not intend district courts to certify interlocutory appeals "merely to provide review of difficult rulings in hard cases," Judge Aiken denied defendants' requests to certify for interlocutory appeal made in both the MJP and MSJ. Certifying "a narrow piecemeal appeal on some of these legal issues" would do nothing more than "reshuffle the procedural deck" and fly in the face of the Supreme Court's stated "deeply-held distaste for piecemeal litigation in every instance of temptation."
- **Plaintiffs' Ninth Amendment claims are dismissed.** The Court ruled that youth plaintiffs' stand-alone claim under the Ninth Amendment was not viable as a matter of law and that defendants were entitled to summary judgment on plaintiffs' Ninth Amendment claim.
- **Children are not a suspect class; nevertheless, strict scrutiny applies to youth plaintiffs' equal protection claim.** The Court held that youth plaintiffs are not a "suspect class" under the law. However, because youth plaintiffs' equal protection claim involves a fundamental right, Judge Aiken stated that it "must be evaluated through the lens of strict scrutiny, which would be aided by further development of the factual record." This is the most stringent level of judicial review a court can apply.
- **Trial in this case will begin as scheduled on October 29, 2018 in Eugene, Oregon.**

On Friday, the Trump administration filed a third [writ of mandamus petition](#) with the Ninth Circuit Court of Appeals seeking an unprecedented and extraordinarily rare request that the Ninth Circuit issue a writ of mandamus to stay district court proceedings pending the resolution of the Trump administration's forthcoming petition to the United States Supreme Court. The Department of Justice had planned to file a second writ of mandamus petition with the Supreme Court on Wednesday, October 17, but the petition with the Ninth Circuit and the planned petition with the Supreme Court were based on the fact that Judge Aiken had not yet decided the MJP and MSJ pending before her. It is unclear whether the defendants will still move forward with a petition to the Supreme Court this week.

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

"The District Court continues to provide well-reasoned decisions that narrow and appropriately frame the heart of this case for trial. Today the parties are filing with the court their witness lists and their pretrial memoranda. We are finalizing exhibits for trial and our experts and plaintiffs have booked their tickets to Oregon. We are ready to bring all of the facts forward and prove these youths' case once and for all."

**Alex Loznak**, 21-year-old plaintiff from Roseburg, Oregon said:

"Judge Aiken's blockbuster decision lays out in extremely precise detail the factual and legal issues in our case which remain to be resolved at trial. These extensive issues include injury in fact and causation. Judge Aiken rightly rejected the government's motion for Summary Judgment because the factual record in this case still requires extensive development at trial before she or any higher court can reach a final decision. Having contributed extensive personal testimony and research to help develop our case's factual record over the past several years, I am confident that our arguments on the remaining disputed issues will ultimately prevail in court. We still need a full and fair trial to prove our case. October 29, here we come!"

**Tia Hatton**, 21-year-old plaintiff from Bend, Oregon said:

"With Judge Ann Aiken's most recent decision, my fellow plaintiffs and I have our eyes set on one thing: our trial date. Although President Trump is no longer a defendant, we are confident we can get proper relief with the named agencies that remain as defendants. The key components of our case remain, and have withstood the plethora of attempts to dismiss, appeal, and stay our case over the past three years. We - my lawyers, our experts, and my co-plaintiffs and I - are ready to make our case against the U.S. federal government and their deliberate energy policy that cause catastrophic climate change."

**Nathan Baring**, 18-year-old plaintiff from Fairbanks, Alaska said:

“This ruling from Judge Aiken is an affirmation of the necessity that we stay on track with the timeline that we are working with. She realizes the urgency of the pressing timeline and we are excited to finally get into the courtroom for trial on October 29.”

**Philip Gregory**, of Gregory Law Group and co-counsel for the Youth Plaintiffs, commented:

“In her reasoned order, Judge Aiken dismissed both the President without prejudice and our claim under the Ninth Amendment. The Court also dismissed one part of our equal protection claim ruling that young people and future generations are not a suspect class. In all other respects, Judge Aiken denied the motions brought by the federal government. The case is now fully positioned to commence trial on October 29 and our Youth Plaintiffs look forward to presenting the science to the Court.”

*Juliana v. United States* is not about the government’s failure to act on climate. Instead, these 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/](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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