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National and Global Experts File Briefs in Support of *Juliana v. United States* Youth-Led Climate Change Litigation

***Amicus* Briefs from Scholars and Experts, including 24 Members of U.S. Congress, Assert Ninth Circuit Court of Appeals Should Grant Youth Plaintiffs a Trial**

Eugene, Oregon - On Thursday, March 12, 2020, 24 members of Congress, prominent experts in the fields of constitutional law, climate change, and public health, and several leading women's, children's, environmental, and human rights organizations filed *amicus curiae* (friend of the court) briefs with the Ninth Circuit Court of Appeals in support of the youth-led climate change lawsuit, *Juliana v. United States*. Attorneys for the 21 young plaintiffs [filed a petition](#) on March 2, 2020, for the Court to rehear the case *en banc* following a sharply divided Ninth Circuit Court of Appeals decision in January.

The 10 *amicus curiae* briefs urge the Ninth Circuit Court of Appeals to grant the young plaintiffs' *en banc* petition and convene a new panel of 11 circuit court judges to review January's ruling. The briefs argue the judicial branch has a responsibility to protect the youth's constitutional rights, the children have legal standing to be heard at trial, and urgent action by the court is critical for the health and safety of the 21 young plaintiffs.

Julia Olson, executive director and chief legal counsel of **Our Children's Trust** and co-counsel for the youth plaintiffs, commented: "We are pleased to see such tremendous support from such a multidisciplinary group of *amici*. It will be helpful for the court to see a broad range of perspectives from constitutional and children's law experts, civil rights advocates, and children's health practitioners, all of whom believe that *en banc* review in this case is necessary. All of the *amici* recognize a role for the courts in protecting children who are being endangered by their own government."

An [amicus brief](#) filed by the nation's leading individual and organizational experts on children's rights, including the Center on Children and Families at the University of Florida College of Law, the Child Rights Project of Emory Law School, and The Juvenile Center reasoned: "Children's ability to participate in politics that affect their own destinies is severely limited because they cannot vote, lack the economic resources to participate in our society's politics, and cannot initiate judicial action on their own." The brief continued, "The Court's role in protecting these children is even more vital because neither children

nor our planet can withstand the irreversible damage that will arise,” noting that “Children are climate change’s foremost victims, and their own government is perpetuating it.”

The [amicus brief](#) filed by Wendy B. Jacobs and Shaun A. Goho with Harvard University’s Emmett Environmental Law & Policy Clinic, on behalf of the Nation’s leading experts in public health and medicine and organizations representing thousands of health professionals, described the urgency facing the 21 youth plaintiffs: “The generation of today’s youth (the ‘Juliana Generation’), represented by the Plaintiffs, was born into a world made hazardous to their health and well-being by greenhouse gases (GHGs) emitted by human activities... Adverse public health impacts can be significantly mitigated if the federal government acts to reduce GHG emissions. The window of opportunity for such action, however, is rapidly closing.”

The League of Women Voters of the United States, the League of Women Voters of Oregon, and the National Children’s Campaign, [responded](#) to the majority opinion that told the youth harmed by climate change to look to the executive and legislative branches for relief: “Given the evidence before the court of the urgency of the climate crisis, telling these children who cannot vote that their only recourse is with the very political branches responsible for their endangerment is itself a violation of the separation of powers.”

An [amicus brief](#) filed by the Fred T. Korematsu Center for Law and Equality at Seattle University School of Law, the Aoki Center for Critical Race and Nation Studies at UC Davis School of Law, the Charles Hamilton Houston Institute for Race & Justice at Harvard University School of Law, the Center on Race, Inequality, and the Law at New York University School of Law, and Howard University Environmental Justice Center noted the critical role of the courts in addressing violations of constitutional rights, even when the situations are complex, citing the Supreme Court ruling on *Brown v. the Board of Education* as precedent, writing: “Like in *Brown*, broad remedial authority is called for where the political process is unavailable to those aggrieved, like the plaintiff children here, who are suffering and will suffer most profoundly from climate change, and who cannot yet vote.” The brief continued, “As was true of Black children in 1954, the *Juliana* plaintiffs need the courts to vindicate their rights when other branches of government refuse to do so.”

Other legal experts in constitutional law, including Erwin Chemerinsky, David Faigman, Douglas Kysar, and James May, [argued](#): “Youth plaintiffs seek relief within the court’s authority to grant, whether declaratory or remedial in nature. Either is sufficient for Article III standing.” They continued, “Precluding jurisdiction in this case, and similar cases, would effectively eliminate judicial oversight of government actions, knowingly violating individual constitutional rights. For 229 years, federal courts have decided constitutional claims.”

International climate law experts and organizations, including Amnesty International, the Center for International Environmental Law, Environmental Law Alliance Worldwide—US, and the Global Justice Clinic at New York University School of Law, [cited](#) persuasive legal precedent around the world where courts have found climate cases against governments justiciable: “The extent to which a certain concentration of greenhouse gases causes climate change is no more a political question than the extent to which a certain concentration of a hazardous chemical substance causes cancer. Foreign courts have affirmed that this is a question for experts, not politicians, and thus provides an objective basis for the courts to evaluate the legal compliance of government action.”

An [amicus brief](#) was filed by two former Surgeons General of the United States, Dr. Richard Carmona, the 17th Surgeon General from 2002 to 2006, under President George W. Bush, and Dr. David Satcher, the 16th Surgeon General of the United States from 1998 to 2002 under Presidents Bill Clinton and George W. Bush. After noting they “served administrations from both the Republican and Democratic

Parties” and were writing “without regard for partisan politics,” these Surgeons General declared that they “do not generally involve themselves in judicial matters, but feel compelled to make an exception in this case: first, because of the unprecedented threats to public health and safety posed by the growing climate crisis; and second, because they are concerned that the fundamental rights of our nation’s youth may indeed be at risk. From their perspective as public health experts, *Amici* find the *Juliana 21*’s science-based claims credible and convincing, and urge this Court to allow this case to go to trial.”

An [amicus curiae brief](#) was filed on behalf of 24 members of the United States Congress: Senator Cory Booker, Senator Tom Carper, Senator Ed Markey, Senator Jeff Merkley, Senator Brian Schatz, Senator Chris Van Hollen, Senator Sheldon Whitehouse, Senator Ron Wyden, Representative Nanette Diaz Barragán, Representative Earl Blumenauer, Representative Judy Chu, Representative Yvette Clark, Representative Danny Davis, Representative Peter DeFazio, Representative Adriano Espaillat, Representative Raoul Grijalva, Representative Deb Haaland, Representative Jared Huffman, Representative Sheila Jackson Lee, Representative Barbara Lee, Representative Jan Schakowsky, Representative Jackie Speier, Representative Rashida Tlaib, and Representative Debbie Wasserman Schultz. The Congress members acknowledged “the Youth Plaintiffs’ fundamental rights” and asked the “Court to grant these children a trial to present their case and secure their constitutional rights to life, liberty, property, and public trust resources.” The brief concluded: “We respectfully ask the Court to uphold its duty under the United States Constitution and grant these Youth Plaintiffs an opportunity to present their evidence, to secure their constitutional rights, and to save their Nation.”

Philip Gregory, co-counsel for the youth plaintiffs, commented: “The petition filed by these youth plaintiffs argues that the opinion issued in January misperceives the role of federal courts in protecting individual constitutional rights. Importantly, each of these *amicus* briefs, in its own way, affirms that *Juliana* presents clear constitutional questions that must be addressed through a trial. As the children’s rights *amicus* brief states, courts have ‘a special judicial obligation to step in to protect children against harmful government action.’ Because these youth assert violations of their constitutional rights, all of the *amicus* briefs strongly support our petition that it is the courts’ duty to conduct a trial to evaluate the evidence in light of these constitutional claims.”

Juliana v. United States is not about the government’s failure to act on climate. Instead, these young plaintiffs between the ages of 12 and 23, 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 non-profit public interest law firm that provides strategic, campaign-based legal services to youth from diverse backgrounds to secure their legal rights to a safe climate. We work to protect the Earth’s climate system for present and future generations by representing young people in global legal efforts to secure their binding and enforceable legal rights to a healthy atmosphere and stable climate, based on the best available science. We support our youth clients and amplify their voices before the third branch of government in a highly strategic legal campaign that includes targeted media, education, and public engagement work to support the youths’ legal actions. Our legal work – guided by constitutional, public trust, human rights laws and the laws of nature – aims to ensure systemic and science-based climate recovery planning and remedies at federal, state, and global levels.

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.

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