



Hi friends,

We're writing today to share an important development in our landmark constitutional climate case, [Juliana v. United States](#).

Today we filed a request with the U.S. District Court in Eugene, Oregon to amend our 2015 complaint in the case. The request was made to Judge Ann Aiken, the U.S. District Court judge who declared, in a historic ruling in 2016, that the U.S. Constitution protects the fundamental right to a climate system capable of sustaining human life. If Judge Aiken grants the youths' request filed today, the 21 youth plaintiffs would move forward toward trial in the U.S. District Court, focusing on the merits of their case and the question whether the federal government's energy system, and resulting climate destabilization, is unconstitutional.



Why amend the complaint?

Our complaint - filed in 2015 - requested that the court grant two different kinds of relief to the young plaintiffs who are being harmed by their government's conduct in causing the climate crisis: declaratory relief and injunctive relief. Declaratory relief would result in the court declaring that government conduct unconstitutional. Part of the injunctive relief we sought asked the court to order the government to create a climate recovery plan to correct their unconstitutional policies and actions.

In January 2020, the Ninth Circuit Court of Appeals erroneously ruled in a split 2-1 decision that, even though the youth were harmed by their government, they lacked standing to bring their case to trial, with the majority of judges incorrectly finding that our specific request for injunctive relief was too complex for the courts to oversee. As a result, the Ninth Circuit dismissed the youths' case. To correct this legal error, we asked the Ninth Circuit to review this decision with an eleven judge panel, which, just last month, the court refused. As you might recall, we then announced that the youth would file a petition to seek review by the U.S. Supreme Court.

We will still pursue review of the Ninth Circuit's incorrect decision by the Supreme Court if Judge Aiken does not allow the youth to amend their complaint. However, the law supports a decision by Judge Aiken to permit the youth plaintiffs to amend their case to address concerns raised by the Ninth Circuit, in particular removing the specific request for injunctive relief to which the Ninth Circuit objected.



What impact will this have on the case?

Amending our complaint will still result in a meaningful and powerful remedy for our youth plaintiffs. If the Motion to Amend is granted, the U.S. District Court would advance *Juliana* to long-awaited trial, and hear evidence in open court about how the nation's fossil fuel-based energy system, which has caused significant climate destabilization, is unconstitutional. This is similar to the young plaintiffs in [Brown v. Board of Education](#) who presented evidence that segregated schools - a "separate but equal" public education - was unconstitutional. The first and most important step in any constitutional case is the declaration of rights and wrongs. That's the driver of everything that follows.

An ultimate win at trial would mean that our executive and legislative branches would need to abide by the court's declaratory judgment and correct their unconstitutional policies and practices. A victory at trial would also provide protection for our children against future administrations and political majorities who might seek to revert to energy systems that exacerbate the climate crisis, since the court would have already declared these energy systems to be unconstitutional.

"A declaratory judgment in favor of *Juliana* would provide protection for the constitutional rights of our children from the shifting winds of the political majority. A *Juliana* win would declare that the fossil fuel energy system is unconstitutional and hold current and future lawmakers accountable for protecting the rights of youth"

- Julia Olson, Executive Director &
Chief Legal Counsel of Our Children's Trust

Is a Motion to Amend a complaint unusual?

No. In fact, it is a fairly common motion in litigation. A motion to amend a complaint provides an opportunity for plaintiffs to correct identified issues or concerns the courts may have with a complaint, so that it can then be heard and considered by the court in the manner the court deems adequate. The federal rules on amendments say they should be freely granted as justice requires.

What about the Supreme Court?

While we wait for the U.S. District Court to rule on our Motion to Amend the

complaint, we will continue working on the petition for writ of *certiorari* to the U.S. Supreme Court. If our Motion to Amend the complaint is granted by Judge Aiken, we would no longer need to submit the petition for writ of *certiorari* as the *Juliana* case would advance to trial without the need for further Supreme Court review at this time. However, we won't waive our chance to challenge that wrong decision of the Ninth Circuit if need be at the end of the case in the trial court. Instead we would proceed to trial in the District Court, presenting evidence and examining and cross-examining witnesses in open court, awaiting a final judgment from the District Court before seeking any further review in higher courts if necessary.

What about the Biden Administration?

We are also continuing to appeal to the Biden Administration, who are now defendants in the case, to reverse course from their predecessors and allow this case to go to trial. The Biden administration must either assent to or oppose the youths' Motion to Amend their complaint: either to let the youth be heard at trial or to employ the same draconian tactics the Trump Administration used to deny them their day in court. We hope that President Biden will honor his campaign promises to aggressively address the climate crisis and reinstate trust in our government institutions, choosing a path of transparent justice that allows the merits of these young people's case to be heard in their judicial system.



What can you do?

This is a critical moment in *Juliana v. U.S.* and [we need your support now more than ever.](#) The *Juliana* case was first set for trial to begin on February 5, 2018 (more than three years ago!) and then again on October 29, 2018. The Trump administration's scorched earth tactics in the case put off those trial start dates for years. But we are persevering to bring this critical climate case to trial, and we need your help to keep our efforts powerful and relentless. [Please make a donation today.](#) to give the *Juliana* 21 the trial they deserve and to hold the U.S. government accountable for its knowing exacerbation of the climate crisis. [We need your help to ensure a safe climate for all children.](#) Thank you for your consideration and support.

In pursuit of justice for our children,
The team at Our Children's Trust

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