



September 30, 2024

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Attorneys for California Children in Equal Protection Climate Case Present Oral Arguments

Los Angeles, CA – Attorneys representing the eighteen children in the equal protection climate case, *Genesis v. Environmental Protection Agency (EPA)* today presented oral arguments in front of Judge Michael Fitzgerald of the U.S. District Court for the Central District of California. *Genesis v. EPA* challenges the EPA's policies that discriminate against children by undervaluing their lives and futures in decisions about climate pollution.

Filed in December 2023, the lawsuit asserts the EPA's economic "Discounting Policies and Practices" devalue children and lead to dangerously high levels of climate pollution, violating their constitutional right to equal protection of the law. The oral arguments followed the plaintiffs' amended complaint filed in May and the defendants' motion to dismiss filed in July.

During today's proceedings, Judge Fitzgerald heard arguments from the youth plaintiffs' attorneys, who emphasized that the ongoing and escalating injuries faced by the children stem directly from the EPA's discriminatory practices, which prioritize the interests of adults over the present health and futures of young people. They argued that the unequal treatment of children, who are a protected group of people under the Constitution, is an equal protection violation. Children, they argue, cannot be subject to a lifetime of harm and hardship under law.

"The EPA is the sole authority over our shared national airspace—an airspace from which children cannot escape," said Julia Olson, lead attorney to the plaintiffs. "By first discriminating against children and then allowing harmful levels of climate pollution that directly threaten children's health and well-being, the EPA not only violates their fundamental rights to life and the pursuit of happiness but also violates their rights of equal protection of the law."

Attorneys for the plaintiffs highlighted several critical harms arising from the EPA's policies, including plaintiffs' special physical and psychological harms owing to children's vulnerable phase of development. They argued that the plaintiffs, as children, have constitutional rights and the discrimination they are experiencing represents a severe and ongoing violation of those rights as members of a protected class.

"This is a children's rights case and EPA's discounting policies and practices, by design, deny each of these Plaintiffs equal protection of the law," said attorney for the plaintiffs Brianna Rosier Kabwika.

The attorneys further underscored the importance of recognizing the plaintiffs' unique legal status and the substantial hardships they endure as a result of the EPA's actions. Citing precedents from the Supreme Court and the Ninth Circuit, they argued that the constitutional standard for standing is met, urging the court to allow the case to proceed to trial to be heard on the merits.

"The constitution's equal protection clause says that the government can't treat some groups differently than others and lead to either suppressing a group or causing harm to a group that other groups don't experience," said Catherine Smith, attorney to the plaintiffs and Professor of Law at Washington and Lee University of Law, in a press conference following the hearing. "Every young person in this country is entitled to a path towards adulthood unencumbered by physical, psychological, social, economic, and other types of harms from climate change."

"Scientists and leaders of the Environmental Protection Agency know that the high levels of carbon dioxide are changing our climate for the worse, and they've known this since the agency's creation 50 years ago," said plaintiff Ariela during the press conference. "We know that the EPA's long-standing policies and practices of allowing climate pollution are unconstitutional and we deserve far more as young people living out our lives."

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Our Children's Trust was founded in 2010 on the idea that courts are vital to democracy and empowered to protect our children and the planet. Without a stable climate system, every natural resource we rely upon to exercise our basic human rights—life, liberty, home, happiness—is under threat. Our work will be achieved when there is universal recognition of children's climate rights by courts around the world and children's fundamental rights to life on this planet are protected. www.ourchildrenstrust.org

