



# Climate Lawfare: Advancing The Green New Deal By Lawsuit



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## Climate Lawfare – The Green New Deal by Lawsuit

### **The far left implemented part of the Green New Deal in the Inflation Reduction Act.**

Now they are trying to finish the job through the courts, hoping to radically reengineer our country by judicial fiat.

Approximately 30 states, territories, municipalities and tribes have filed lawsuits against American energy providers over climate change. This coordinated lawfare campaign has two possible outcomes: bankrupt the entire energy industry or leverage the threat of bankruptcy to conscript companies into foisting electric appliances, garish lightbulbs, and other progressive amenities into every home.

This lawfare campaign is a carefully coordinated, centrally controlled effort. Most of the plaintiffs share the same lawyers, sources of funding, and legal theories. They have also lobbied thousands of judges across the country in secret meetings organized by an allied group. This level of sophistication, investment and coordination reflects their radical and far-reaching goals.

Worse yet, climate cases are only the beginning. If the plaintiffs prevail, they will execute the same playbook to target other popular and reliable products such as firearms, trucks, and beef.

## Public Nuisance, The Leftwing Trojan Horse

Most of the plaintiffs have filed public or private nuisance claims against the defendants. As groups like Alliance For Consumers have explained, nuisance is a longstanding concept in law that protects public rights against unreasonable interference. Blocking a public road is an example of a legitimate nuisance claim.

**Now the left is exploiting nuisance, stretching it beyond recognition to implement their policy goals.** Using a daisy chain theory of liability, the climate plaintiffs are accusing energy companies of creating the nuisance of climate change through

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their lawful energy production activities. The law has never contemplated that nuisance could be a means for control, a vehicle for reshaping public policy. But that is exactly what the climate plaintiffs are attempting to do.

Critically, nuisance is a state law rather than federal law claim. This is a key strategic choice on the part of the plaintiffs. Many climate plaintiffs are litigating in extremely friendly venues, in some cases before elected judges.

**Targeting state courts (to the plaintiffs' line of thinking) allows them to bypass hostile federal court precedents and statutes that disfavor their claims.**

It is easy to anticipate how the left could apply its revolutionary theory of nuisance to ban other popular consumer goods. In fact, they are already doing so. New York passed a law creating a nuisance cause of action against firearms manufacturers in 2021. Other states are targeting plastics and cars. Given the stakes involved, much more public advocacy is needed.

These suits also include fraud and misrepresentation claims that allege energy companies misled the public about climate change, a topic which has been the subject of political discussion for decades.

## Key Players in Climate Lawfare

**Sher Edling LLP**, is a boutique, for-profit law firm in San Francisco. **The firm is the command center for a network of liberal dark money groups, Hollywood celebrities, and far-left plaintiffs working in tandem to hijack national energy policy.**

Sher Edling has filed 26 nuisance cases against energy companies, accounting for a significant majority of all climate nuisance lawsuits. Sher Edling's goal is to fundamentally change society through litigation. Their lawyers and consultants are working for revolutionary outcomes. For example, Vermont Law School professor Patrick Parenteau, an outside Sher Edling consultant, told a reporter that energy companies deserve to go bankrupt.<sup>1</sup>

News outlets and oversight groups have established that Sher Edling takes on many

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of its public climate plaintiffs on a contingency fee basis, meaning they will be paid a portion of any settlement or judgment they secure.<sup>2</sup> To date, the firm has not secured a single climate nuisance judgment or settlement, indicating the firm is dependent on leftwing donors to support its operations.

Reporting further establishes that Sher Edling has shopped climate lawsuits around to numerous jurisdictions.<sup>3</sup> That is consistent with Sher Edling's "flood the zone" litigation strategy. Recruiting as many plaintiffs as possible generates hydraulic pressure on the defendants to settle. Most important of all, the plaintiffs need only prevail in a handful of cases to achieve their societal-altering goals. The energy companies must successfully defend every case.

Unsurprisingly, many of the climate complaints are near facsimiles. U.S. District Judge Aida M. Delgado-Colon issued a stinging order in April indicating that she is considering sanctions against lawyers for the city of San Juan, who plagiarized much of the city's climate lawsuit from Sher Edling filings with Sher Edling's apparent blessing.<sup>4</sup>

**New Venture Fund** is a giving vehicle managed by **Arabella Advisors, the dark money ATM of the left**. NVF has been the key backer for Sher Edling, contributing \$8.3 million to support the firm's operations between 2021 and 2023.<sup>5</sup> The New Venture Fund has truly unsavory ties. The fund supports the Alliance for Global Justice, which acts as a fiscal sponsor to groups with ties to the Popular Front for the Liberation of Palestine.<sup>6</sup>

**Resources Legacy Fund (RLF)** is a 501(c)(3) charity that manages and sponsors projects addressing climate change and "environmental justice." RLF is shot through with wokeness. Its website condemns the West, claiming modern civilization is built "on a foundation of elitism, racism, sexism, ageism, and other forms of oppression." In addition to its giving activity, RLF acts as fiscal sponsor for climate funds established by Hollywood liberals such as Leonardo DiCaprio. RLF contributed \$5.3 million to Sher Edling between 2017 and 2022.

**Tides Foundation** is a 501(c)(3) charity dedicated to advancing "social justice." The Tides Foundation is seeded by progressive mega donor George Soros. Tides shares resources and personnel with Sher Edling. Tides made one known donation of \$235,000 to Sher Edling in 2022. The firm's former director of strategic client relationships, Chuck Savitt, also sits on the Tide Foundation's board.

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Ann Carlson is a key player in climate lawfare. A law professor and former Biden administration political appointee, congressional investigators discovered that Carlson helped Sher Edling raise money and recruit plaintiffs. Carlson served in senior capacities at the National Highway Transportation Safety Administration (NHTSA), though her 2023 nomination to lead the agency as administrator was ultimately withdrawn.

Documents congressional investigators obtained from the University of California, Los Angeles (UCLA) indicate that Carlson worked for Sher Edling as a “consultant/board member” supporting municipal litigation against oil companies. Emails investigators recovered reflect that Carlson approached donors about supporting climate lawfare, such as real estate millionaire Dan Emmett. Another email chain revealed that Carlson had traveled to Hawaii to encourage officials to file a climate nuisance suit. Sher Edling ultimately filed a climate lawsuit against energy companies on behalf of the city and county of Honolulu. Finally, Carlson was at least aware that a UCLA Law clinic was directly supporting Sher Edling, though it is unclear if she arranged that support.<sup>7</sup>

Carlson joined NHTSA as chief counsel on Jan. 21, 2021. She served as acting administrator from September 2022 until December 2023. During her tenure, Carlson quarterbacked a controversial fuel economy regulation that functionally acted as an electric vehicle mandate. A coalition of 26 states sued the agency over Carlson’s EV mandate,<sup>8</sup> which is slated for a rollback under the Trump administration.

## CJP: Founding and Misson

**The Climate Judiciary Project (CJP) exists to preview the climate change-plaintiffs' arguments** to judges and provide them with a roadmap to ruling in their favor. ELI vice president and director of “judicial education” Sandra Nichols Thiam said as much in 2022, explaining CJP’s real intent is the “development of a body of law that supports climate action,” [emphasis added].

CJP hides its partnership with the plaintiffs because they know these ties create judicial ethics problems. Thiam acknowledged as much in a 2023 press statement: “If we even appeared biased or if there was a whiff of bias, we wouldn’t be able to do what we’re doing.”

Guidance from the U.S. Judicial Conference has warned judges of seminars where they may be “influenced inappropriately.” The Conference anticipated the exact problems CJP presents: “That influence, it is argued, may be exerted through program content, contact between judges and those who litigate before them, and prerequisites provided to program attendees.”

**CJP attempts to head-off the obvious ethics problems it created by sharing its “educational materials” online** and identifying expert presenters or academics who had a hand in their preparation. This disclosure raises more problems than it addresses. First, it captures the extent of plaintiff-control over the CJP, underlining that it is inappropriate for judges to participate in their events. Second, they do not disclose which experts are connected to ongoing climate litigation, the role they played in crafting CJP curriculum, and whether they have presented at CJP conferences before judges. Moreover, a judge unfamiliar with climate cases cannot perceive the extent of potential bias or conflicts based on these “disclosures.”

Taken together, it appears CJP made the thinnest possible disclosures to create the appearance of rectitude. But their admissions confirm that CJP exists to facilitate informal, ex parte contacts between judges and climate activists under the guise of judicial education. And secrecy remains essential to their operation, whose goal, as Thiam has said, is to develop “a body of law that supports climate action.”

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## Scope of activities

The Climate Judiciary Project does not disclose the identities of the judges who have attended its events, the public cannot determine which, if any, judges presiding over climate cases may have participated in CJP events. CJP has hosted over 2,000 judges over 44 events since 2018, according to its website.

Most alarmingly, public sources confirm a partnership between CJP and the Federal Judicial Center (FJC). The FJC is the research and education agency of the U.S. courts and is chaired by Chief Justice John Roberts. This partnership indicated CJP has privileged access to federal judges and bears the imprimatur of the FJC, prestige it does not deserve in light of its obvious conflicts.

According to its website, CJP has hosted events in jurisdiction where climate lawsuits are pending, including California, Chicago, Maryland, Massachusetts, Puerto Rico, Vermont, and Washington, D.C. Press accounts indicate CJP has also “reached judges across the 1st, 2nd, 3rd, 4th, and 5th federal circuits” and hosted a plenary session for judges at the 9th Circuit’s annual meeting.

Prestigious venues have hosted CJP events, such as a 2023 symposium at Georgetown, and a federal-judges only workshop at George Washington University Law School. The National Judicial College hosted a CJP event on rising sea levels in 2023.

State-specific conferences include events for judges in California, Indiana, and Maryland.

## CJP’s Paymasters are Funding the Climate Change Cases

**CJP has received millions in funding** from the same activist groups who are providing grants to the Collective Action Fund through which money is flowing to Sher Edling LLP, a plaintiffs’ law firm, to help cover the legal fees required to bring the climate cases. Sher Edling is counsel for two dozen climate plaintiffs, according to its website.

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**Despite the obvious conflict created by these dual-funding streams,** CJP does not disclose on its website or its materials that it is funded by entities who are also financially backing climate litigation. Given CJP's billing as a trustworthy entity, it should be transparent about the sources of its funding with the public and the judges they target.

- The JPB Foundation has committed at least \$2 million to fund CJP and \$4.45 million to the Collective Action Fund (via the New Venture Fund), the entity that pays Sher Edling's legal fees.
- William + Flora Hewlett Foundation similarly gave \$500,000 to support CJP as well as \$150,000 to the Collective Action Fund.
- Put succinctly, the JPB Foundation and the Hewlett Foundation are paying for climate lawsuits and a pro-plaintiff influence operation targeting judges.
- ClimateWorks, an organization financed by climate activist organizations such as Bloomberg Philanthropies, Children's Investment Fund Foundation, and the MacArthur Foundation gave \$1 million to CJP.

## **CJP's Experts are Activist Academics Advising the Plaintiffs or Supporting Them in Legal Briefs and Public Statements**

**Climate Judiciary Project leaders and advisors are actively engaged in the climate change cases,** even as CJP holds itself out as a perfectly neutral forum.

Activist academics prepared 13 judicial education curriculums appearing on CJP's website. The topics range from an introduction to climate science to controversial, pro-plaintiff "source attribution" studies, an emerging field whose accuracy is vigorously contested by the energy provider defendants.

Many of the academic experts who shaped or presented these materials are involved in climate litigation, making them inappropriate sources for judges. Their activities range from amicus filings backing climate plaintiffs to plaintiff-advisory roles. One figure, Ann Carlson, has played an essential role in securing funding for climate litigation, and worked for a law firm litigating over 20 climate cases.

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- Ann Carlson: A former UCLA Law School professor who served on CJP's advisory curriculum committee. Carlson consulted with Sher Edling LLP, the boutique firm behind many climate-nuisance suits, worked to recruit plaintiffs, and secured funding for the plaintiffs, according to press reports. It is no exaggeration to say that Carlson is the hub of the climate-lawfare wheel.
- Patrick Parenteau: Professor at Vermont Law School and author of the "Judicial Remedies for Climate Disruption" module with John Dernback. News reports refer to him as an advisor to climate plaintiffs. Parenteau told Stateline that oil companies should go bankrupt.
- Michael Oppenheimer: Professor at Princeton University who served on CJP's advisory curriculum committee. Oppenheimer has joined numerous amicus briefs backing climate nuisance plaintiffs including Baltimore, Delaware, Hoboken, Rhode Island, and San Mateo among others.
- Gary Yohe: Professor at Wesleyan University and author of a CJP module called "Risks and Costs of Climate Change." Yohe signed a 2021 letter to Connecticut governor Ned Lamont and attorney general William Tong backing the state's lawsuit against ExxonMobil.
- Robin Kundis Craig, John Dernback, Kristi Ebi, and Jonathan Levy: Professors of law or health who signed amicus briefs supporting the plaintiffs in Juliana, an outlandish case asserting a constitutional right to protection from climate change. Craig, Dernback, and Levy coauthored modules. Ebi served on the advisory curriculum committee.

**Other experts CJP enlisted actively agitate against the energy industry**, further demonstrating CJP's complete bias.

- Jessica Wentz: Senior fellow at the Sabin Center for Climate Change Law at Columbia Law School. Wentz authored a module called "Government Action and Climate Science." Wentz submitted a petition to the Commission on Human Rights of the Philippines requesting an investigation into major energy companies for human rights violations relative to climate change.
- Geoffrey Heal: Professor at Columbia Business School who served on the curriculum advisory committee. Heal is a board member of the Union of Concerned Scientists, an organization highly involved in all aspects of climate change litigation and public pressure campaigns against industry.
- Michael Gerrard: Founder of the Sabin Center at Columbia University. Gerrard strongly supports the climate change cases.

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CJP's founder, Paul Hanle, Ph.D., has his own problematic associations. Hanle came to ELI from the organization Climate Central, where he served as CEO. Climate Central's 2014 report "Maryland and the Surging Seas" is cited by the plaintiffs in their complaints in the Annapolis, Anne Arundel, and Baltimore climate change lawsuits.

Hanle also coauthored an article with Thiam, the "judicial education" director, in which they parrot plaintiff allegations. The pair baldly assert that there has been "enormous investment by fossil fuel interests" to conceal the truth about climate change, "greatly impeded society's response to climate change despite the scientific understanding coalescing year by year." The energy provider defendants are contesting this claim in many climate cases.

## CJP's materials are bursting with pro-plaintiff messaging

**CJP modules endorse plaintiff-aligned positions as facts even though they are currently subject to dispute.**

For example, three CJP curriculum modules endorse Richard Heede's pro-plaintiff studies, including his "Carbon Majors," study, which is invariably described as "emblematic" and "groundbreaking." Heede's study was paid for by the Rockefeller Brothers Fund, which is also bankrolling the climate-  
nuisance/fraud/misrepresentation litigation.

The "Applying Attribution" module describes the climate cases and source attribution exactly as a plaintiff would, inappropriately framing these cases before they reach the courtroom: "[J]ust as scientific understanding and precision of harm attribution developed over time for areas of litigation such as asbestos and tobacco, the fields of climate source and impact attribution have developed such that plaintiffs can now portray fossil fuel defendants as being responsible for human-caused warming, slow-onset impacts, and even specific climate-related events with a precision previously unavailable."

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**Heede has coordinated his work with Vic Sher**, the top lawyer for the climate plaintiffs. Sher described their collaboration in detail during a [2017 talk](#) at UCLA:

- Sher: “When Rick and I started talking, his original article went back to I think 1850 maybe it was 1874 and I asked him how many companies that are either U.S. companies or do sufficient business in the United States that we can sue them here would it take to get to 25 percent of all of the global emissions globally in the world between 1965 and 2015. We were having this conversation in 2016 and Rick identified 28 such companies that are by themselves (using his methodology) responsible for 25 percent of global CO<sub>2</sub> and methane emissions from 1965 to 2015. Now the top five of them are big oil companies – Chevron, Exxon, BP, Royal Dutch Shell, and Pemex. Those five are responsible for 13 percent of the global emissions during that period.”

**The modules mentioning Heede’s work nowhere disclose that his study was paid for by pro-climate plaintiffs groups and coordinated with lead plaintiffs’ counsel.**

Apart from Heede’s study, other modules make bold, pro-plaintiff claims. For example, the “Applying Attribution” module asserts that “it is clear that any contribution to a pollution nuisance above a de minimis threshold can give rise to damages liability or injunctive relief, notwithstanding the presence of numerous other contributors.” That is not clear to the energy provider defendants.

The same module further claims that “a series of academic and journalistic investigations [has] uncovered substantial evidence regarding the extent of the fossil fuel industry’s longstanding internal knowledge of climate change and the human impact of greenhouse gas emissions.” This claim has no bearing on climate science, is front and center in the climate cases, and is vigorously contested by the defendants.

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## CONCLUSION:

- 1 Engage in oversight or requests for information to expose climate lawfare networks in your state.** As explained in this report, far-left political actors are working behind the climate plaintiffs to achieve their goals. Exposing these ties is important to showing that climate cases are not local responses to local problems – they are part of a society-altering ideological project. Please contact us if you are interested in sharing or pursuing information about climate lawfare networks in your state.
- 2 Help spread the word about climate lawfare, which is an urgent threat to our quality of life.** The American Energy Institute can support you if you are interested in communicating the damage climate lawfare will cause through op-eds, interviews, newsletters, floor speeches, and the like. Please contact us for additional materials such as messaging guidance to help shape your advocacy.
- 3 Request or join a briefing on these issues with experts.** Please contact us if you would like to learn more about the mechanics and dangers of climate lawfare from lawyers and policy experts. A briefing could equip you for sharper advocacy and more-targeted oversight.

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## ENDNOTES:

- 1 Alex Brown, Some Cities, States Say Big Oil Should Pay For Climate Change, STATELINE (April 13, 2022).
- 2 Nick Pope, Law Firms Stand To Make Killing From Blue Cities' Climate Lawsuits Against Energy Giants, Daily Caller (May 22, 2024).
- 3 Anne Mulkern, Oil Company Allies Say Climate Lawsuits Were Shopped Around, CLIMATEWIRE (April 10, 2018).
- 4 Thomas Catenacci Plagiarism Allegations Threaten To Upend Democrats' Climate Lawsuit Against Oil Companies, Washington Free Beacon (April 16, 2025).
- 5 All figures derive from a joint congressional committee investigation into Ann Carlson's nomination to serve as administrator of the National Highway Transportation Safety Administration (NHTSA). Investigation into the Funding of Sher Edling LLP's Lawfare Against American Energy Companies and the Role of Former Nominee to Be NHTSA Administration Ann Carlson in Those Efforts p. 9 (October 7, 2024).
- 6 Gabe Kaminsky Left-wing charity faces legal complaint over fundraiser for Palestinian linked terror group, Washington Examiner (January 17, 2023).
- 7 Investigation into the Funding of Sher Edling LLP's Lawfare Against American Energy Companies and the Role of Former Nominee to Be NHTSA Administration Ann Carlson in Those Efforts ps. 10-12 (October 7, 2024).
- 8 David Shepardson, Republican state AGs challenge new US fuel economy rules, Reuters (June 26, 2024).
- 9 Press release Attorney General Bonta Files Amended Complaint in Lawsuit Against Five of the Largest Fossil Fuel Companies (June 10, 2024).

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