



The Environmental Law Institute's Climate Judiciary Project (CJP) **is corruptly influencing the courts and destroying the rule of law** to promote questionable climate science.



INSIDE OUR LATEST REPORT



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Falsely portraying itself as a neutral entity teaching judges about debatable climate science, CJP is a partner to over two dozen public plaintiffs suing energy providers over climate change. To date, CJP has reached over 2,000 state and federal judges – working over the referees before the game begins.

These climate change lawsuits, if successful, will destroy America's economic prosperity. As watchdog groups like Alliance for Consumers have explained in detailed reports, the climate change cases enlist far left jurisdictions to pursue damages in tort that will destroy energy providers or fundamentally change their business practices and product offerings. If the plaintiffs prevail, they will conscript industry into foisting electric appliances, garish lightbulbs, and other progressive amenities into every home. Having passed the Green New Deal in Congress through the Inflation Reduction Act, the far left is trying to further implement it by lawsuit.

The Climate Judiciary Project is a partner in this anti-democratic social engineering. As this report captures for the first time in detail, CJP is financed by the same leftwing moneymen bankrolling the climate change cases. The “educational materials” are prepared by activist academics who are advising the plaintiffs or supporting their claims with legal briefs. And the materials are full of pro-plaintiff messaging, including rigged made-for-litigation “studies.”

This is an attack on the rule of law. In America, the powerful aren't allowed to coax and manipulate judges before their cases are heard.

This underhanded propaganda effort is understandable in one limited respect – the climate plaintiffs won't win unless they doctor the process in advance. Their arguments are completely novel and completely frivolous. They will likely lose this fight on the merits, and they know it.

With over 2,000 judges around the country irreparably tainted, judicial ethics authorities must issue guidance explaining that attendance or affiliation with ELI's Climate Judiciary Project is inappropriate. CJP conceals its ties to the plaintiffs, such that judges seeking information in good faith may not know that CJP is an untrustworthy source. Relevant state authorities should also ensure that public resources are not being used toward a campaign that is corrosive to the rule of law and trust in the courts.

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The Climate Judiciary Project 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.”

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. 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.

PART II: 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.

PART III: 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.

PART IV: 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 CO2 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:

The Climate Judiciary Project has given the climate-plaintiffs secret and privileged access to over 2,000 judges. Their underhanded influence campaign must stop. Since CJP will not stop of its own accord, interested parties must step up and consider the following steps.

- 1 Interested parties should write members of Congress with two asks.** First, Congress should encourage the Federal Judicial Center to stop any collaboration with the Climate Judiciary Project. Their past partnership has put the imprimatur of the federal courts on a biased organization engaged in unethical activities. FJC should further be encouraged to clarify criteria it uses to assess partnerships with outside groups.
- 2 Second, opponents of President Biden's newly unveiled Supreme Court overhaul should be encouraged to call attention to the bona fide ethics crisis CJP has created.** Federal judges are strongly inoculated against influence because they have lifetime tenure. The state judges CJP reaches, in general, have no such protection. They serve as elected officials or in time-limited capacities. With their professional futures inevitably on their minds, they are highly susceptible to outside influence, particularly from the plaintiffs' side. While Democrats fan a phony ethics crisis at the Supreme Court, their dark money allies are executing an influence operation that is genuinely corrosive.
- 3 Interested parties should encourage governors, state lawmakers, attorneys general, and other relevant officials to ensure that state facilities, such as law schools, are not available for ELI's use.** The Climate Judiciary Project is a threat to impartial judicial decision-making and public confidence in the courts. State facilities should not be available to such a campaign.

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ENDNOTES:

1 <https://youtu.be/Mo5YvRNGI7A?t=1310>

2 <https://www.eenews.net/articles/big-oil-targets-state-judges-in-climate-cases/#:%7E:text=%E2%80%9CThe%20framework%20that%20we%20are,what%20we%E2%80%99re%20doing,%E2%80%9D>

3 <https://www.law.com/thelegalintelligencer/almID/1202594871791/>

4 <https://projects.propublica.org/nonprofits/organizations/900747216/202223159349101982/full>

5 <https://projects.propublica.org/nonprofits/organizations/900747216/202343149349101849/IRS990PF>; [https://www.charitiesnys.com/RegistrySearch/show_details.jsp?id=%7b265B7717-3DC4-4F07-A69B-DBD732C75EDD%7d](https://www.charitiesnys.com/RegistrySearch/show_details.jsp?id=%7b265B7717-3DC4-4F07-A69B-DBD732C75EDD%7d;);

https://www.charitiesnys.com/RegistrySearch/show_details.jsp?id=%7bFEC481B5-C156-4D04-9D44-958E5AE87EF8%7d

6 <https://hewlett.org/grants/environmental-law-institute-for-the-climate-judiciary-project/>

7 <https://hewlett.org/grants/new-venture-fund-for-the-collective-action-fund-for-accountability-resilience-and-adaptation/>

8 <https://www.climateworks.org/about-us/funding-partners/>

9 “Maryland and the Surging Sea – A Vulnerability Assessment with Projections for Sea Level Rise and Coastal Flood Risk,” Climate Central (Sept. 2014), <https://sealevel.climatecentral.org/uploads/ssrf/MD-Report.pdf>

10 “Judging in a Changed Climate” Environmental Forum (July/August 2022) <https://www.eli.org/sites/default/files/files-pdf/Judging%20in%20a%20Changed%20Climate.pdf>

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