

CLIMATE

17 states seek to block *Juliana* settlement

Maxine Joselow, E&E News reporter • Published: Wednesday, June 9, 2021



Kelsey Juliana, the lead plaintiff in the kids' climate lawsuit, speaks in front of the Supreme Court in 2018 as co-plaintiffs watch. Francis Chung/E&E News

Seventeen Republican-led states have asked to get involved in the landmark kids' climate case as the youths enter settlement talks with the Biden administration.

In a [motion](#) docketed late yesterday in the U.S. District Court for the District of Oregon, the red states sought to take part in *Juliana v. United States*, in which a group of young people are suing the federal government over its promotion of fossil fuels.

Led by Alabama Attorney General Steve Marshall (R), the states expressed alarm that President Biden's Justice Department could reach a settlement with the youths that would harm the fossil fuel industry and raise energy prices nationwide.

"[U]sing collusive litigation tactics to overhaul our national energy system via federal-court fiat would deprive the States and their people of their rightful place in our constitutional order," the motion says. "Without a seat at the table, the States cannot ensure adequate protection of their interests."

The red states added that they deserve "to participate in settlement negotiations; and, if necessary, to object to any proposed settlement."

The 21 *Juliana* challengers, who are between the ages of 13 and 24, originally filed their novel lawsuit in 2015 during the Obama administration. The youths argued that the government's promotion of fossil fuels had violated their right to a stable climate system, which they said is inherently enshrined in the Constitution.

The Obama administration sought to dismiss *Juliana*, as did the Trump team. The 9th U.S. Circuit Court of Appeals last year reluctantly scrapped the suit, finding that it raised questions for the political branches of government — not the courts — to resolve.

Under the Biden administration, which has largely taken the same approach as Trump and Obama in *Juliana*, Judge Ann Aiken of the U.S. District Court for the District of Oregon last month instructed the parties to enter settlement negotiations ([Climatewire](#), May 14).

In their motion yesterday, the Republican-led states argued that "the Ninth Circuit's decision shows that there is no case to settle, for no case or controversy even exists."

The states added that the settlement talks provide the Biden administration "a tantalizing opportunity to try to alter nationwide energy policy under the guise of settling a case they already won."

In addition to Alabama, the states signing the motion were Alaska, Arkansas, Georgia, Indiana, Louisiana, Mississippi, Missouri, Montana, Nebraska, North Dakota, Ohio, Oklahoma, South Carolina, Texas, Utah and West Virginia.

The *Juliana* challengers are represented by Our Children's Trust, an Oregon-based public interest law firm that has brought a number of similar climate suits against state governments.

Julia Olson, executive director of Our Children's Trust, slammed the states' motion as a thinly veiled attempt to protect the profits of the oil and gas industry.

"The fossil fuel interests in our country, be it industry or states that back the fossil industry, have long seen the *Juliana* case as a threat to their outdated business model that is destroying children's health, lives, and futures," Olson said in a statement.

"These state attorney general intervenors are acting as surrogates for those moneyed interests, not in the interests of their states' children or public health and safety," she continued. "The question now is which side will the Biden administration stand on — the side of our nation's children, or the side of concentrated right-wing power that seeks to protect an antiquated and dangerous form of energy production."

After the 9th Circuit tossed out their case, the *Juliana* challengers asked Aiken for permission to narrow the scope of their suit ([Climatewire](#), March 10).

Aiken, a Clinton appointee, has scheduled a June 23 settlement conference in the case ahead of June 25 oral argument on the young challengers' [motion](#) to amend their complaint. The red states also oppose the youths' move to narrow their claims.

DOJ doesn't comment on pending litigation.

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