



ALLIANCE *for* CONSUMERS

**CONSUMER  
PROTECTION REPORT**

# **Public Nuisance Revealed: The Leftwing Plan To Reshape Our Society**

A study into the public nuisance lawsuit, and the shadowy left-wing backers behind these public nuisance claims.

# INTRODUCTION

**In recent years, there has been a growing attempt from trial lawyers and politicians to exploit a long-standing tenet of common law known as “public nuisance.”**

Public nuisance is a longstanding aspect of our legal system intended to protect against the unreasonable violation of a public right. Historically, public nuisance claims were used to address land issues or remedy a harm committed against the general public, such as the blocking of a public road.

Over time, left-leaning officials at the state and local level have worked with trial lawyers and liberal advocacy groups to push the boundaries of public nuisance claims. State and local governments have turned to public nuisance claims to address an ever-expanding range of issues, including climate change, opioids, vaping, and more. Their goal has been to use public nuisance claims to implement public policy through the courts.

As the use of public nuisance litigation has expanded over time, so have the financial settlements and judgements associated with these cases. Targeting major companies with public nuisance lawsuits has generated massive settlements – reaching into the tens of billions of dollars in some instances.

Because trial lawyers often work off contingency fee arrangements, in which they receive a percentage of any financial award in the case, public nuisance suits have become a substantial financial windfall for the law firms pressing these cases, beyond the benefit they get from pushing their preferred public policy positions through the courts.

And trial lawyers have been generous with their winnings, pouring money back into left-wing political committees and campaigns at prodigious rates, boosting progressive politicians and helping line up future clients.

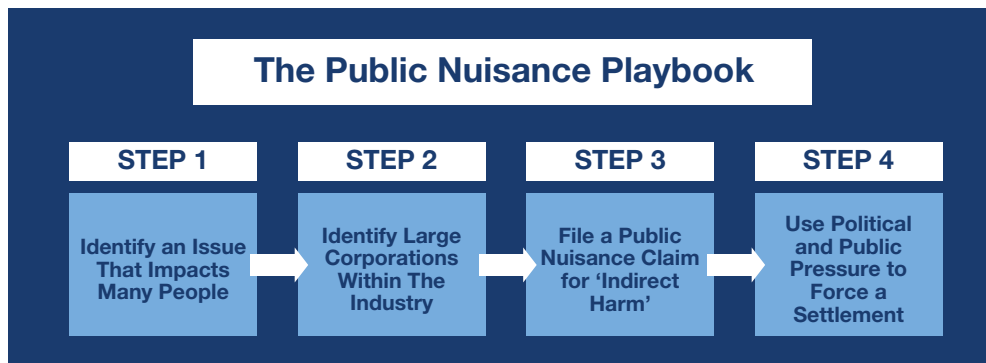
Public nuisance lawsuits have rightly attracted attention for being an avenue to shake down deep-pocketed companies. But that valid criticism falls short in terms of grappling with the bigger peril. Public nuisance claims are about liberal control, not just money, and the list of targets is sweeping. The left-wing trial lawyers driving these cases were always going to turn their sights to other, more ideological nuisance targets as their earlier corporate campaigns wound down. And we are seeing that happen throughout the country, as the partnership between left-wing trial lawyers and left-leaning state and local governments continues to expand and grow.

Given the stakes involved, there are few more pressing public policy topics than public nuisance litigation. Much more needs to be said about the lawyers, the non-profits, the public officials, and the political money involved in these cases.

To that end, **Alliance For Consumers has been focusing on public nuisance, and now adds this report on key advocacy groups and shadowy left-wing backers behind these public nuisance claims.**

# PUBLIC NUISANCE: AN OVERVIEW

As [noted in our recent analysis](#), there is a clear public nuisance playbook for trial lawyers and their allies:



And as [detailed in our report](#), while there is almost no limit to the range of issues to which trial lawyers are seeking to aim public nuisance claims, there are key areas that are representative of the modern nuisance landscape: **Chemicals, Climate Change, Firearms, COVID-19, Vaping, Automakers, and Plastics**. And other [industries](#) are entering the crosshairs, like social media platforms, fast food restaurants, meat producers, sugar manufacturers, and more.

## KEY PLAYERS IN PUBLIC NUISANCE LITIGATION

Key groups that are helping fuel misuse of public nuisance claims: Trial Lawyers, Left-Leaning Officials, and Liberal Advocacy Groups.

Over the years, trial law firms have formed a mutually beneficial [partnership](#) with state and local government officials to launch public nuisance lawsuits and push their policy priorities through the courts.

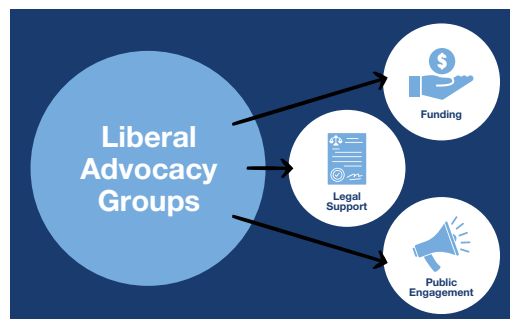
But liberal advocacy groups and shadowy left-wing funding networks have also been instrumental in the rise in public nuisance lawsuits.

In some instances, liberal groups act as the main plaintiff. For example, the nonprofit [Earth Island Institute](#) has been a major figure in bringing public nuisance [claims](#) against companies that use plastic packaging (Coca-Cola, Pepsi, Nestlé, etc.).

Advocacy groups may also litigate cases themselves, either alone or alongside a trial law firm, as was the case when [EarthRights International](#) and the [Niskanen Center](#) filed public nuisance litigation against Exxon on behalf of Boulder, Colorado.

And there is growing evidence that shadowy progressive nonprofits—including the Arabella Advisors network—are spending millions of dollars to boost public nuisance cases in order to advance progressive policy objectives and political goals. The most salient example of this is [the millions sent directly to progressive law firm Sher Edling](#).

The role of these shadowy nonprofit funding networks and advocacy groups is the focus of this report.



# LIBERAL DONORS AND ADVOCACY GROUPS BEHIND PUBLIC NUISANCE

## Liberal Advocacy Groups

Everytown for Gun Safety  
EarthRights International  
Earth Island Institute  
Niskanen Center  
Sher Edling

Liberal advocacy groups are on the front lines of many public nuisance cases, appearing on court papers and making sustained pushes in the media and other avenues to support the cases. Understanding who these groups are goes a long way to understanding the goals of the modern public nuisance movement.

### **Everytown For Gun Safety**

Everytown for Gun Safety [was founded by Michael Bloomberg](#) as part of a campaign to promote limits on firearms. The mission is comprehensive, with Everytown [promoting how it has](#) “combined the best minds in research, policy, litigation, advocacy, and grassroots organizing to grow Everytown for Gun Safety into a movement of nearly 10 million supporters,” and [touting official actions](#) like New York passing “bills to require microstamping on handguns,” and Nevada divesting from “businesses involved in manufacturing or selling assault weapons.”

Everytown [has received substantial funding](#) and spun off different strategic initiatives. For example, in 2021, Everytown for Gun Safety Victory Fund launched “Demand a Seat,” a [program designed to](#) “train grassroots volunteers and gun violence survivors to take the next step in their advocacy efforts by running for office and working on campaigns to elect gun sense candidates.” The same year, Everytown spun off Everytown Law with a multi-million-dollar grant and the [mission](#) of serving as “the largest and most experienced team of litigators in the country dedicated to advancing gun safety in the courts and through the civil and criminal justice systems.”

Everytown Law has been active representing cities in public nuisance lawsuits over firearms. In 2020, Everytown Law [represented Kansas City, Missouri](#), when it filed a public nuisance lawsuit against multiple firearm manufacturers for “contributing to the violent crime epidemic.” And in 2021, Everytown Law [represented the City of Chicago](#) when it filed a public nuisance lawsuit against a gun store in Indiana. This is in addition to [other public nuisance lawsuits](#) that Everytown Law has brought against firearm manufacturers and sellers.

Everytown Law is emblematic of the full spectrum of roles that liberal advocacy groups play in the public nuisance realm. In addition to its [representation of cities](#), Everytown Law touts its role [advising government lawyers](#) who are defending state and local gun limits against Second Amendment challenges, and its [direct challenges to gun laws it deems dangerous](#). Everytown Law has also established a litigation funding operation, the Everytown Law Fund, which was launched with [millions from Everytown For Gun Safety](#) and [solicits for law firms to apply for funding](#).

### **EarthRights International**

EarthRights International was founded in the 1990s as part of an effort to pursue fossil fuel companies using litigation across the globe. EarthRights International now serves as a [self-described](#) “team of community leaders, campaigners, and legal strategists,” who “take legal action against perpetrators of earth rights abuses, train activists, and work with communities to demand meaningful and lasting change.”

EarthRights International is focused on deploying “[strategic litigation](#).” This has included [representing the Colorado communities](#) of Boulder County and the City of Boulder in a public nuisance lawsuit against Exxon Mobil and Suncor Energy that was filed in 2018 and this year featured [briefing in the Supreme Court of the United States](#). It has also included [pushing Florida cities and local governments](#) to bring the same types of lawsuits as Boulder.

## **Earth Island Institute**

The nonprofit [Earth Island Institute](#) has been a major figure in bringing public nuisance [claims](#) against companies that use plastic packaging. Founded in 1982, Earth Island Institute launched a legal arm in 2017, Earth Island Advocates, which was [meant to establish](#) “a unique and highly-effective relationship between the lawyers who advocate in the courts, and the environmental activists” who push specific issues.

Perhaps the most high-profile project of Earth Island Institute, and its Earth Island Advocates project, is the 2020 [lawsuit it filed against](#) companies like Crystal Geyser, Clorox, Coca-Cola Company, Pepsi, and Nestlé, seeking to blame the companies for bottles and other plastics that end up in the ocean and the costs associated with environmental cleanup efforts. The lawsuit was the first of its kind and is [often cited](#) as a sign of things to come.

## **Niskanen Center**

The Niskanen Center is a non-profit that was founded in 2015 under the leadership of climate advocate Jerry Taylor and now [bills itself](#) as focused on “transpartisanship.” Amongst its more recent endeavors was [filing](#) briefing supporting the various emoluments lawsuits against President Trump over his Washington, D.C. hotel, as well as [serving as counsel](#) for El Paso County, Texas, in their lawsuit seeking to stop President Trump from building his proposed border wall on United States-Mexico border. Climate-related efforts also continue to be a focus of the group, which holds the belief that “the risks of climate change demand rapid decarbonization.”

Consistent with its focus on decarbonization, the Niskanen Center has stepped in alongside EarthRights International to [represent](#) the Colorado communities of Boulder County and the City of Boulder in their 2018 public nuisance lawsuit against Exxon Mobil and Suncor Energy, which this year featured [briefing in the Supreme Court of the United States](#).

## **Sher Edling**

Sher Edling is a San Francisco-based law firm that effectively operates as an advocacy group with a singular focus: climate change.

Sher Edling’s [four partners and fifteen or so other lawyers](#) are at the center of the wave of climate-change related public nuisance lawsuits brought against energy companies by progressive state and local officials since 2016. Sher Edling lawyers serve as counsel [in a dozen or more of these public nuisance lawsuits](#). The firm uses explicitly progressive language to explain that these lawsuits on behalf of cities, counties, and states are designed “to hold fossil fuel industry defendants accountable for their decades-long campaigns of deception about the science of climate change and the role their products play in causing it.” And the firm’s roster of public clients reads like a who’s who of progressive enclaves:

- State of Rhode Island (RI; 2018)
- State of Delaware (DE; 2020)
- State of Minnesota (MN; 2020)
- District of Columbia (DC; 2020)
- City of Baltimore (MD; 2018)
- City of Charleston (SC; 2020)
- City of Richmond (CA; 2018)
- City of Santa Cruz (CA; 2017)
- City of Imperial Beach (CA; 2017)
- City & County of San Francisco (CA; 2018)
- City of Oakland (CA; 2018)
- City of Annapolis (MD; 2021)
- City & County of Honolulu (HI; 2020)
- County of Maui (HI; 2020)
- City of New York (NY; 2021)
- Santa Cruz County (CA; 2018)
- Marin County (CA; 2017)
- San Mateo County (CA; 2017)

Sher Edling is also deeply enmeshed in the broader progressive non-profit landscape. Until recently, the firm employed a Director of Strategic Client Relationships, [Chuck Savitt](#), who had a history of serving as an officer or board member in a litany of large progressive entities and pools of donor money, including not only the Tides

Foundation, but also the Arabella Advisors-linked [Windward Fund](#). And Savvitt was a [key player](#) in obtaining money for Sher Edling’s public nuisance climate lawsuits from Leonardo DiCaprio’s Foundation.

Indeed, Sher Edling has been wildly successful in obtaining substantial funding from various shadowy dark money entities. Not only was Sher Edling a beneficiary of the \$20 million [that the Leonardo DiCaprio Foundation committed](#) “to support precedent-setting legal actions to hold major corporations in the fossil fuel industry liable,” but the firm also [obtained millions in 2022 alone](#) from entities in the notorious Arabella Advisors network.

Sher Edling is emblematic of how the law firms pushing public nuisance lawsuits blend the lines between activism and traditional private law practice, and the importance that shadowy left-wing funders have in driving forward the overall public nuisance litigation campaign we are now seeing.

## SHADOWY LEFT-WING FUNDERS

### Shadowy Left-Wing Funders

The Arabella Advisors Network  
Resource Legacy Fund  
Institute For Governance & Sustainable Development

Arabella Advisors manages a [network of nonprofits](#)—the Sixteen Thirty Fund, New Venture Fund, Hopewell Fund, Windward Fund and North Fund. New Venture Fund, the [largest fund](#) managed by Arabella Advisors, [wired \\$2.5 million in grants](#) to Sher Edling in 2022. And in 2021 the Collective Action Fund for Accountability, Resilience, and Adaptation (CAF), a [fiscally sponsored project](#) of the New Venture Fund, [funneled \\$3 million](#) to Sher Edling.

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Arabella Advisors has become known as “[a top dark money network in the United States](#).” In 2022, the network [raised a staggering \\$1.3 billion in anonymous donations](#), on top of another [\\$1.5 billion in 2021](#). The network’s [web of groups](#) sits under the five Arabella-managed nonprofits, with the five nonprofits acting as fiscal sponsors, providing their tax status to the nonprofits housed beneath them such that the fiscally sponsored groups can avoid filing tax forms to the IRS or revealing details of their operations. The network contains dozens of [groups](#), ranging from Campaign for Our Shared Future, which formed to push back against opponents of Critical Race Theory in K-12 schools, to Governing for Impact, which works closely with President Biden’s administration to shape policy.

In addition to this series of directly-managed groups, the Arabella Advisors Network disburses hundreds of millions of dollars to other, independent entities. This has included millions of dollars to [groups with close ties to officials in the Biden White House](#), and [millions to anti-Israel activists like Linda Sarsour](#). The largest flows through the main Arabella-managed funds, which have focuses that include [the environmental movement](#), [the conservation movement](#), promoting [racial equity](#), and “[empowering progressive changemakers](#).” The money has flowed directly to [political committees](#) associated with former House Speaker Nancy Pelosi and Senate Majority Leader Chuck Schumer. And it has flowed to some of the most hardened progressive outfits currently in operation, [with tens of millions going to America Votes](#), which bills itself as “the coordination hub for the

progressive community,” and [millions going to the League of Conservation Voters](#), a close ally of the Biden Administration.

While the funding behind the Arabella Advisors Network has stayed mostly shrouded, the Arabella Advisors Network has drawn significant attention for the [over \\$100 million](#) it has received from foreign nationals and [allegations](#) that Arabella and its foreign backers are violating limits on foreign contributions to political committees.

### **Resource Legacy Fund**

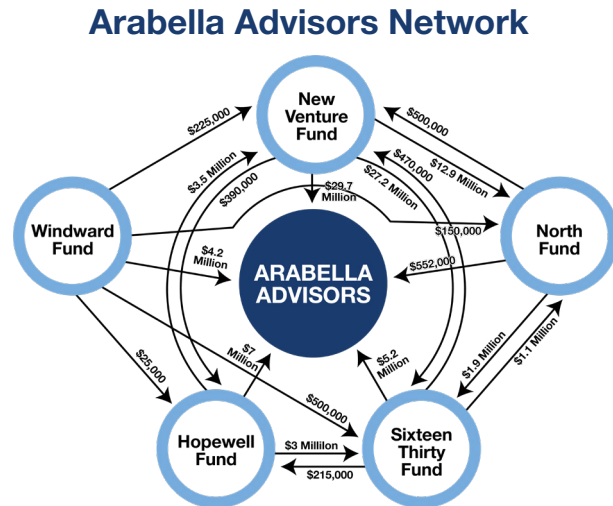
Resource Legacy Fund is a California-based progressive organization [that was founded in 2000](#) and seeks to “[advance bold solutions to secure a just and resilient world for people and nature](#).” RLF contributed more than [\\$5.2 million](#) to Sher Edling between 2017 and 2020. An RLF spokesperson has since [confirmed](#) that “Sher Edling received grants from RLF” to support the firm’s efforts “to hold fossil fuel companies accountable for the accuracy of information they had disseminated to consumers and the public about the role their products played in causing climate change.” RLF [previously worked with](#) the Collective Action Fund for Accountability, Resilience, and Adaptation (CAF) and was the vehicle through which the Leonardo DiCaprio Foundation sent money “to support precedent-setting legal actions to hold major corporations in the fossil fuel industry liable.”

Resource Legacy Fund carries out a multitude of projects focused on the American west, with an emphasis on progressive environmental priorities. RLF [supports a California Environmental Equity Initiative](#) that seeks “to strengthen California climate and environmental policies and increase public funding to address intersecting environmental, climate, social, and health issues that disproportionately impact low-income communities and communities of color.” RLF also [supports tribal efforts in the Bears Ears National Monument in Utah](#) that President Biden substantially expanded against the wishes of the Utah state government, and a project called “Climate Mayors” that activates hundreds of members in support of the Paris Climate Agreement and “[calling on Congress to invest in a green and equitable economic recovery](#).”

### **Institute For Governance & Sustainable Development**

The Institute For Governance & Sustainable Development (IGSD) is a climate-focused nonprofit. IGSD has committed to pay outside counsel in municipal public nuisance suits, [most notably in Hoboken, New Jersey](#), where IGSD committed to fund the city’s lawyers when the city voted to file its climate-related public nuisance lawsuit.

A substantial portion of the budget of IGSD goes to funding the Center of Climate Integrity (CCI), a project of the IGSD that seeks “to hold oil and gas corporations accountable for decades of lying about climate change.” A key tenet of CCI’s work is providing “legal support” to those pursuing legal action against the fossil fuel industry, which builds on the financial backing that IGSD provides for climate-related public nuisance municipal lawsuits by providing communication assistance on the pertinent legal strategies, as well as “campaign infrastructure” and “strategic direction.” CCI has also invested in a “CCI Leaders Network,” which is “a national coalition of public officials who support holding oil and gas corporations accountable for the massive costs of climate change,” which has worked well in placed like Multnomah County, Oregon, where County Chair Jessica Vega Pederson is a member of the CCI Leaders Network and initiated a multi-billion-dollar public nuisance lawsuit against energy companies.



## CONCLUSION

With victories through the legislative processes becoming harder to achieve, the progressive left is increasingly looking to an alliance of activists, public officials, and trial lawyers to impose key policy priorities by way of public nuisance lawsuits. Under the guise of compensation for injuries to the overall public interest, public nuisance suits open the door to courts imposing sweeping policy solutions or reshaping the economy with massive money transfers. This is the new progressive playbook; a way to use courts to force compliance with a progressive agenda.

Public nuisance lawsuits have rightly attracted attention for being an avenue to improperly shake down deep-pocketed companies. But it is crucial to look beyond the simple cash grab and see that public nuisance claims are about liberal control, not just money.

One of the clearest illustrations of this is looking at the ideological groups that are pushing these lawsuits, from the liberal advocacy groups on the front lines, appearing on court papers and supporting the cases in the media and through other avenues, to the shadowy progressive funding networks, like the one run by Arabella Advisors, that are pumping millions of dollars into advancing these cases alongside their other campaigns to reshape America.

Understanding clearly who these progressive groups goes a long way to understanding the goals of the modern public nuisance movement, and what it will take to stop it before it helps them fundamentally change our society.





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# APPENDIX

## Misuse Of Public Nuisance Lawsuits

### The Misuse Of Public Nuisance Lawsuits Has Followed A Common Playbook:

1. **“Identify An Issue That Affects Many Americans.”** (Stacey Deere, Edd Gaus, & E.J. Odigwe, “Public Nuisance, COVID-19, And The Re-Emergence Of The ‘Super Tort,’” [Mealy’s Emerging Toxic Torts](#), 3/15/22)
2. **“Identify Large Corporations And Businesses Within The Industry.”** (Stacey Deere, Edd Gaus, & E.J. Odigwe, “Public Nuisance, COVID-19, And The Re-Emergence Of The ‘Super Tort,’” [Mealy’s Emerging Toxic Torts](#), 3/15/22)
3. **“File A Public Nuisance Claim For The ‘Indirect Harm’ Caused By The Corporation.”** (Stacey Deere, Edd Gaus, & E.J. Odigwe, “Public Nuisance, COVID-19, And The Re-Emergence Of The ‘Super Tort,’” [Mealy’s Emerging Toxic Torts](#), 3/15/22)
4. **“Muster Sufficient Political And Public Pressure To Force A Settlement Or Encourage Judicial Activism.”** (Deere, Gaus, & Odigwe, “Public Nuisance, COVID-19, And The Re-Emergence Of The ‘Super Tort,’” [Mealy’s Emerging Toxic Torts](#), 3/15/22)

**Trial Lawyers Have Attempted To Expand The Definition Of “Public Nuisance” To Include Both Conduct That Is Collective In Nature (I.e. ‘Rights Of The Community’) And Conduct That Is Private In Nature (I.e. Conduct That Harms A Large Number Of Private Individuals.)** “The ambiguity surrounding the contours of what constitutes a public nuisance led esteemed scholars William Prosser and W. Page Keaton to refer to public nuisance law as an ‘impenetrable jungle’ that has grown over time. This is due in no small measure to the creativity of trial lawyers who have urged judges to expand the definition from conduct that interferes with a right common to all members of the public to conduct that ends up harming a large number of private individuals: in other words, from a tort that is collective in nature to one that is individual in nature.” (John Malcom, “Using Public Nuisance Law To ‘Solve’ The Opioid Crisis Sets A Dangerous Precedent,” [Heritage Foundation](#), 12/20/21)

**According To The Heritage Foundation’s John MalcolM, This Change Is Significant, Because It Aims To Eliminate The Distinction Between A “Public Nuisance” And A “Private Nuisance.”** “This is significant because a product such as a prescription drug may be used by a lot of people, some (or even many) of whom may suffer harm, but any harm suffered through the use of that product does not interfere with a collective public right. In this manner, trial lawyers have managed to persuade a number of judges to effectively eliminate the distinction between a private nuisance and a public nuisance.” (John Malcom, “Using Public Nuisance Law To ‘Solve’ The Opioid Crisis Sets A Dangerous Precedent,” [Heritage Foundation](#), 12/20/21)

**Trial Lawyers Have Used Vague Expansions Of Public Nuisance To Sue Companies For Complex Or Even Societal Issues, Where The Companies Have Little Influence** “That is today’s public nuisance litigation in a nutshell. It is completely unprincipled and a far departure from any long-standing liability law. Under tort law, including under public nuisance theory, a person or company is supposed to be subject to liability only for wrongfully causing harm. In today’s public nuisance lawsuits, though, plaintiffs’ lawyers are attempting to convince judges to discard this basic principle. These lawsuits are attempts to subject businesses to liability over societal problems— regardless of fault, how the harm developed or was caused, whether the elements of the tort are met, or even if the liability will actually address the issue. Their mantra is, ‘Let’s make ‘Big Business’ pay.’” (“The Plaintiffs’ Lawyer Quest For The Holy Grail: The Public Nuisance ‘Super Tort,’” [American Tort Reform Association](#), 3/1/20)

**This Practice Includes “Targeting Legitimate Companies That Have Not Violated The Law And Are Manufacturing A Non-Defective, Legal Product Merely Because That Product Has Some Association With The Crisis.”** “For elected, resource-constrained officials, giving trial lawyers free rein to file and conduct lawsuits in the name of the public can prove tempting, giving them the chance to mulct out-of-state companies for their community while earning the ability to tell their constituents that they are doing something to address a real or perceived crisis—which is far easier and less costly than having to enact legislation to deal with a societal problem. But trying to squeeze money out of legitimate companies that have not violated the law and are manufacturing a non-defective, legal product merely because that product has some association with the crisis is a Devil’s bargain, as recent opioid case decisions have made clear.” (John Malcom, “Using Public Nuisance Law To ‘Solve’ The Opioid Crisis Sets A Dangerous Precedent,” [Heritage Foundation](#), 12/20/21)

## Key Areas Of Litigation

- There are a number of major recurring areas for public nuisance litigation: climate change, opioids, vaping, chemicals, plastics pollution, firearms manufacturing, and COVID-19.
  - Climate change lawsuits allege energy companies created a public nuisance by producing the energy used by Americans that has contributed to climate change.
  - Opioid lawsuits have targeted manufacturers, distributors, and others in an attempt to make them pay for the costs of treating and fighting opioid abuse, a public nuisance.
  - On vaping, trial lawyers, school districts, and local officials have alleged that companies have created a health epidemic – a public nuisance – by targeting youth with their products and advertisements.
  - Chemicals cases contend that companies who have manufactured or created products containing substances that have later been found to be hazardous (such as PCBs and PFAS) should be liable for the cost of abating them, despite no knowledge that they could be harmful at the time of their production and use.
  - Similarly, cases involving plastics – plastic bottles – contend that companies who manufacture the products, should be financially responsible for cleaning up pollution caused by them.
  - Firearms litigation attempts to tie manufacturers to the costs of gun violence.
  - In COVID-19 – a relatively new area of litigation – retailers and other businesses who remained open during lockdowns are being sued for their supposed responsibility in spreading the virus.
- Cases involving firearms manufacturing, vaping, and climate change show the extent that politically motivated government officials, with the help of trial lawyers, are willing to use public nuisance lawsuits to further policy objectives.
  - These cases also show the impact that filing these claims can have in pressuring politicians to enact policy change (i.e. the FDA's ban on JUUL products and New York's legislative efforts to make firearms manufacturers subject to public nuisance claims.)
- Cases involving chemicals, plastics pollution, and opioids show the willingness of jurisdictions to use these claims to go after companies for legal economic activity.
  - Jurisdictions engaged in these lawsuits are often encouraged by outside actors with partisan agendas.

### **Climate Change**

**Public Nuisance Lawsuits Are Often Filed In Matters Involving Climate Change. They Are Utilized As Both A Political And Regulatory Shortcut For Those Looking To Achieve Climate Goals.** “In climate change litigation, public nuisance lawsuits are used as a political or regulatory shortcut. More than a dozen local and state governments are suing energy producers for the costs they say they will have to spend to deal with the impacts of climate change, such as building sea walls to protect shorelines.” (“The Plaintiffs’ Lawyer Quest For The Holy Grail: The Public Nuisance ‘Super Tort,’” [American Tort Reform Association](#), 3/1/20)

**These Climate Change Lawsuits Allege That Energy Companies Created A Public Nuisance By Producing The Energy Needed And Used By Americans.** “The lawsuits allege energy companies created a public nuisance by producing energy needed and used by Americans in our everyday lives and in business. More than one dozen governmental entities are suing energy producers on this basis, seeking compensation to address the impacts of climate change. Various courts have found climate change is not a matter for courts to resolve, but instead is a complex global problem requiring a global, public-policy-based solution.” (“The Alarming Evolution Of Public Nuisance Law,” [American Tort Reform Association](#))

**One Of The Most Significant Climate Change Public Nuisance Claims Was In *AEP v. Connecticut* (2011).**

“Eight states, New York City and three land conservation groups filed suit against four electric power companies and the Tennessee Valley Authority, five entities that they claimed were the largest sources of greenhouse gases. The lawsuit alleged that the utility companies, which operate facilities in 21 states, are a public nuisance because their carbon-dioxide emissions contribute to global warming. American Electric Power Co. and the other utilities argued that the courts should not get involved in the issue. The companies contended that only the Environmental Protection Agency can set emissions standards. A federal judge on the U.S. District Court for the Southern District of New York initially threw out the case, but the U.S. Court of Appeals for the Second Circuit said it could continue.” (*American Electric Power Company Incorporation v. Connecticut*, 564 U.S. 410 (2011), [Qyez](#))

- **Plaintiffs Asked “For A Decree Setting Carbon-Dioxide Emissions For Each Defendant At An Initial Cap, To Be Further Reduced Annually.”** “According to the complaint, defendants are the largest emitters of carbon dioxide in the Nation. By contributing to global warming, plaintiffs asserted, the defendants’ emissions substantially and unreasonably interfered with public rights, in violation of the federal common law of interstate nuisance, or, in the alternative, of state tort law. All plaintiffs ask for a decree setting carbon-dioxide emissions for each defendant at an initial cap, to be further reduced annually.” (*American Electric Power Company Incorporation v. Connecticut*, 564 U.S. 410 (2011), [JUSTIA Law](#))
- **The U.S. Supreme Court Rejected The Case In A Unanimous Opinion Authored By Justice Ruth Bader Ginsburg, Which Found That The Public Nuisance Claims Had Been “Displaced” By The Clean Air Act And Regulatory Action By The EPA.** “The Supreme Court reversed and remanded the lower court order in a unanimous opinion by Justice Ruth Bader Ginsburg. ‘The Clean Air Act and the EPA action the Act authorizes displace any federal common-law right to seek abatement of carbon-dioxide emissions from fossil-fuel fired power plants.’ Justice Samuel Alito concurred in part and in the judgment, writing: ‘I agree with the Court’s displacement analysis on the assumption (which I make for the sake of argument because no party contends otherwise) that the interpretation of the Clean Air Act adopted by the majority in *Massachusetts v. EPA* is correct.’ Meanwhile, Justice Sonia Sotomayor did not take part in consideration of the case.” (*American Electric Power Company Incorporation v. Connecticut*, 564 U.S. 410 (2011), [Qyez](#))

**Following The Supreme Court’s Dismissal Of *American Electric Power v. Connecticut* (2011), The Ninth Circuit Dismissed *Native Village Of Kivalina v. ExxonMobil Corporation* (2012), A Similar Public Nuisance Case Against ExxonMobil Alleging Their Emissions Caused Climate Injuries To An Alaskan Village.** “Native Village of Kivalina and the City of Kivalina (collectively, ‘appellants’) filed an action against multiple oil, energy, and utility companies (collectively ‘Energy Producers’), alleging that the massive greenhouse gas emissions emitted by the Energy Producers have resulted in global warming, which, in turn, has severely eroded the land where the City of Kivalina sat and threatened it with imminent destruction. Kivalina sought damages under a federal common law claim of public nuisance. The district court dismissed appellants’ action for damages. Appellants challenged the decision.” (*Native Village Of Kivalina v. ExxonMobil Corp.* - 696 F.3d 849 (9th Cir. 2012), [LexisNexis](#))

- **The Court Noted That “The Right To Assert A Federal Common Law Public Nuisance Claim Has Limits.”** “The court noted that the right to assert a federal common law public nuisance claim has limits. Claims can be brought under federal common law for public nuisance only when the courts were compelled to consider federal questions which cannot be answered from federal statutes alone. On the other hand, when federal statutes directly answer the federal question, federal common law did not provide a remedy because legislative action has displaced the common law.” (*Native Village Of Kivalina v. ExxonMobil Corp.* - 696 F.3d 849 (9th Cir. 2012), [LexisNexis](#))

**In 2018, In *City Of Oakland v. B.P. P.L.C* (2018), A District Court Judge In California Dismissed Claims Filed Against B.P., Explaining That Oil, Gas, And Energy Products Are Not Public Nuisances.** “While the present actions were brought against the five largest investor-owned producers of fossil fuels in the world, anyone who supplied fossil fuels with knowledge of the problem would be liable. The court further held that in order to be held liable for a public nuisance, a defendant’s interference with a public right can either be intentional, or unintentional and otherwise actionable under principles controlling liability for negligence,

recklessness, or abnormally dangerous activities. Where, as alleged here, the interference was intentional, it must also be unreasonable. The court noted that the challenged conduct was, as far as the complaints allege, lawful in every nation.” (*City Of Oakland v. BP P.L.C.* - 325 F. Supp. 3d 1017 (N.D. Cal. 2018), [LexisNexis](#)).

**In 2018, In *City Of New York v. B.P. P.L.C.* (2018), A U.S. District Court Judge In New York Echoed The Previous Ruling Made In California, Asserting It Is “Inappropriate” To Use State Public Nuisance Laws And Courts To Address Costs Associated With Global Emissions.** “Where ‘the interstate or international nature of the controversy makes it inappropriate for state law to control ... our federal system does not permit the controversy to be resolved under state law.’ ... The Supreme Court has held that ‘the control of interstate pollution is primarily a matter of federal law.’” (*City Of New York v. BP P. L.C.*, 325 F. Supp. 3d 466 (S.D.N.Y. 2018), [CaseText](#))

**In 2019, In *Rhode Island v. Chevron Corporation* (2019), The State Of Rhode Island Brought A Public Nuisance Lawsuit Against Energy Companies Like ExxonMobil, Chevron, Marathon, Citgo, And Others, Alleging That They Were Responsible For The Current And Future Climate Crisis.** “The State of Rhode Island brought this suit against energy companies it says are partly responsible for the once and future climate crisis. The State alleged that Defendants have together extracted, advertised, and sold a substantial percentage of the fossil fuels burned globally since the 1960s. This activity has released an immense amount of greenhouse gas into the Earth’s atmosphere, changing its climate and leading to all kinds of displacement, death (extinctions, even), and destruction.” (*Rhode Island v. Chevron Corp.* - 393 F. Supp. 3d 142 (D.R.I. 2019), [LexisNexis](#))

- **This Case Is Still Moving Through The Judicial Process.** (*Rhode Island v. Chevron Corp.* - 393 F. Supp. 3d 142 (D.R.I. 2019), [Climate Case Chart](#))

## **Firearms**

**In *Ganim v. Smith Wesson Corporation* (1999), A Connecticut Municipality Brought A Public Nuisance Claim Against Several Major Gun Manufacturers Alleging Responsibility For The Criminal Misuse Of Firearms And The Increased Costs Associated With Police Intervention.** “The plaintiffs’ allegations of harm as outlined above from the preface of the first amended complaint characterize their damages as including expenditures of large amounts of money on police, prisons, medical care, fire department services, emergency services, public health services, social services, pension benefits, court resources and other services and facilities. The complaint also alleges substantial losses of tax revenue, investment, economic development and productivity as a result of the defendants’ actions. ... The complaint alleges that the defendants have the ability to make guns safer by incorporating locks and other safety features that would prevent children from shooting guns and killing themselves or others, but they have chosen not to do so. (First Amended Complaint, Preface, ¶¶ 1, 2 and 57-64.) According to the amended complaint, the defendants are aware that a substantial portion of their products flow into a large illegal market supplying weapons to criminals, but they have chosen not to take reasonable steps to control distribution of their products so as to keep them out of criminals’ hands.” (*Mayor Ganim v. Smith Wesson Corporation* 1999 Ct. Sup. 15908 (Conn. Super. Ct. 1999), [CaseText](#)).

- **In 2001, The Supreme Court Of Connecticut Dismissed The Case, Finding That “A Chain Of Causation As Lengthy And Multifaceted” As The One Alleged By The Municipality Could Not Sustain A Public Nuisance Claim.** “Moreover, we have found no case, and the plaintiffs have suggested none, in which a plaintiff situated as remotely from the defendants’ conduct as these plaintiffs are, or who presented a chain of causation as lengthy and multifaceted as these plaintiffs have, nonetheless has been held to have standing to assert a public nuisance claim.” (*Joseph P. Ganim Et. Al., v. Smith And Wesson Corporation Et. Al.*, 258 Conn. 313 (Conn. 2001) 780 A.2d 98, [CaseText](#).)

**In *Camden County Board Of Chosen Freeholders v. Beretta U.S.A. Corporation* (2000), Camden County, New Jersey Alleged That A Gun Manufacturer’s Distribution Plan Imposed “Substantial Financial Costs” On The County.** “The County’s Second Amended Complaint states three causes of action. The first is public nuisance. Under this theory, the County asserts that defendants have knowingly, recklessly or negligently interfered with public safety, health, and peace, and that defendants are liable to the County for the substantial financial costs necessary to abate the nuisance.” (*Camden County Board Of Chosen Freeholders v. Beretta U.S.A. Corporation*, 123 F. Supp. 2d 245 (D.N.J. 2000), [JUSTIA Law](#))

- **The Third Circuit Federal Court Dismissed The Case, Holding That Even If The Public Nuisance Claim Could Be Substantiated, The Manufacturer Lacked “Sufficient Control” To Abate The Nuisance.** “The Camden County Board of Chosen Freeholders (hereinafter “Camden County”) contends that handgun manufacturers, because of their marketing and distribution policies and practices, are liable under a public nuisance theory for the governmental costs associated with the criminal use of handguns in Camden County. The District Court, in a 53-page opinion, dismissed the complaint. See *Camden County Board of Chosen Freeholders v. Beretta U.S.A., Corp.*, 123 F.Supp.2d. 245 (D.N.J.2000). We affirm the order of the District Court. ... Even if public nuisance law could be stretched far enough to encompass the lawful distribution of lawful products, the County has failed to allege that the manufacturers exercise sufficient control over the source of the interference with the public right. ... A public-nuisance defendant can bring its own conduct or activities at a particular physical site under control. But the limited ability of a defendant to exercise control beyond its sphere of immediate activity may explain why public nuisance law has traditionally been confined to real property and violations of human rights.” (*Camden County Board Of Chosen Freeholders v. Beretta, U.S.A. Corporation*, 273 F.3d 536 (2001), [Caselaw Access Project](#)).

**In *City Of Chicago v. Beretta U.S.A. Corporation* (2004), The City Of Chicago Sued A Host Of Gun Manufacturers And Distributors Under The Guise Of Public Nuisance Liability, Stating That “The Burdens Imposed Upon Society As A Whole In The Costs Of Law Enforcement And Medical Services Are Immense.”** “The tragic personal consequences of gun violence are inestimable. The burdens imposed upon society as a whole in the costs of law enforcement and medical services are immense. In the present case, the City of Chicago and Cook County, in an effort to stem the rising tide of gun violence and to recoup some of the expenses that flow from gun crimes, have sued 18 manufacturers, 4 distributors, and 11 dealers of handguns that have been illegally possessed and used in the city.” (*City Of Chicago Et. Al. v. Beretta U.S.A. Corporation Et. Al.*, 821 N.E.2d 1088, 1116 (Ill. 2004), [FindLaw](#))

- **The Illinois Supreme Court Ultimately Held That Such Claims Do Not Implicate “A Public Right.”** “We have found no Illinois case recognizing a public right to be free from the threat that members of the public may commit crimes against individuals. Plaintiffs cite *Cecola* in support of their assertion that ‘a violation of laws that protect public health, welfare, or safety infringes a public right and hence may be remedied through a nuisance action.’” (*City Of Chicago Et. Al. v. Beretta U.S.A. Corporation Et. Al.*, 821 N.E.2d 1088, 1116 (Ill. 2004), [FindLaw](#))

**In 2005, Congress Passed The *Protection Of Lawful Commerce In Arms Act (PLCAA)* To “Prohibit Civil Liability Actions” Against Firearms Manufacturer, Dealers, And Ammo Importers.** “To prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.” (S.397 – *Protection Of Lawful Commerce In Arms Act*, [Congress.gov](#))

- **This Act, However, Did Not Deter All Lawsuits. Appellate Courts In Connecticut, Indiana, And New York All Allowed Specific Public Nuisance Cases Against Gun Manufacturers To Be Brought Forward.** “As described below, the only two federal appellate courts to consider the issue—the Second and Ninth Circuits—have both found in split decisions that the PLCAA barred claims brought under generally applicable public nuisance statutes. The same result has been reached by state courts in Alaska and Illinois and a federal district court in Washington, DC. State appellate courts in Connecticut, Indiana, and New York, however, have allowed such suits to proceed. Unlike the other cases, these two cases involved allegations that gun manufacturers and distributors knowingly sold firearms to straw purchasers who, in turn, were selling the firearms to criminals.” (“Gun Industry Immunity,” [Giffords Law Center To Prevent Gun Violence](#))
- **In *Soto v. Bushmaster Firearms*, The Connecticut Supreme Court Found Defendants Open To Public Nuisance Lawsuits, Citing Their Advertising As Outside Of PLCAA Protections.** “The plaintiffs in this case, parents of victims killed at Sandy Hook, sued Remington Arms, the manufacturer of the weapon used in the mass shooting. The plaintiffs alleged that Remington’s marketing of the Bushmaster rifle used at Sandy Hook contributed to their loved one’s deaths and violated the Connecticut Unfair Trade Practices Act (CUTPA) by promoting unlawful military use of the rifle by civilians...The plaintiffs further alleged that their CUTPA claim fell within the ‘predicate’ exception set forth in PLCAA. This exception denies PLCAA

immunity to those gun manufacturers who knowingly violate a state or federal statute involving the sale or marketing of a firearm, and ‘the violation was a proximate cause of the harm for which relief was sought.’”  
 (“Gun Industry Immunity,” [Giffords Law Center To Prevent Gun Violence](#))

**In A First-Of-Its-Kind Measure, Former New York Governor Andrew Cuomo Signed Legislation In 2021 That Would Allow Sellers, Manufacturers, Importers, Or Marketers Of Guns To Be Held Liable For A “Public Nuisance.”** “New York Gov. Andrew Cuomo (D) on Tuesday signed legislation that makes it easier to bring civil lawsuits against gun manufacturers and dealers by bypassing the blanket immunity provided to the industry under federal law. The measure (A.6762B/S.7196) is the first-of-its-kind in the nation and would allow sellers, manufacturers, importers, or marketers of guns to be held liable for a ‘public nuisance,’ defined as actions that harm the public, according to the new state law’s language. The use of public nuisance law is thought to be a sort of legal loophole to work around federal protections, bill sponsor Assemblywoman Patricia Fahy (D) has said.” (Keshia Clukey, “New York Enacts First-In-U.S. Law To Limit Gun-Liability Shield,” [Bloomberg Law](#), 7/6/21)

**In August 2021, The Mexican Government Filed An Ongoing Lawsuit Against Smith & Wesson, Barrett Firearms, Beretta U.S.A., And Other Firearms Manufacturers In A Massachusetts District Court.** (*Estados Unidos Mexicanos V. Smith & Wesson Brands, Incorporated Et. Al.*, 1:2021cv11269, [JUSTIA Law](#))

## **Chemicals**

**Monsanto, Which Is Now Owned By The Bayer Corporation, Has Been The Subject Of Public Nuisance Lawsuits Regarding Polychlorinated Biphenyl (PCBs) Dating Back To 2017.** “A private law firm in line to earn millions representing the state of Washington has been active in recent years donating to candidates for state attorney general. Texas-based Baron & Budd has been hired by Washington Attorney General Bob Ferguson on a contingency fee basis to sue Monsanto over alleged polychlorinated biphenyl (PCB) contamination.” (John Breslin, “West Coast ‘Super Tort’ Against Monsanto Could Spread To Other States,” [Forbes](#), 1/11/17)

- **Monsanto Stopped Producing PCBs Back In The Late 1970s, Two Years Before They Were Banned Due To Their Potential Environmental Impact.** “More than 15 companies around the world, including Monsanto, manufactured polychlorinated biphenyls (PCBs) during the 20th century, and thousands of companies used PCBs in their products. PCBs were a safety material that were used in a wide array of products to reduce fire risk. PCBs were also required by many electrical and building codes, as well as by insurance companies, to protect against serious fire risk. Monsanto voluntarily ceased manufacturing PCBs in 1977, two years before the EPA banned their production.” (“Resolving The U.S. PCB Litigation,” [Bayer](#))
- **Trial Lawyers Teamed Up With Local And State Governments In California And Washington To Bring Public Nuisance Lawsuits Against Monsanto Regarding PCBs That Ended Up In Bodies Of Water After Being Disposed Of In Landfills And Other Places.** “Baron & Budd, and Gomez Trial Attorneys of San Diego are involved in similar actions on behalf of several cities in Washington, California and Oregon. ... Washington’s suit, filed in King County, alleges that that Monsanto ‘knew PCBs were toxic to humans and wildlife and had spread throughout the ecosystem’ 10 years before they were banned in 1979. PCBs, manufactured solely by Monsanto, present a public nuisance ‘that is harmful to health and obstructs the free use of public resources and state waters,’ the lawsuit alleges. The suit further claims this was due to Monsanto’s negligence and its efforts to conceal the dangers of its product.” (John Breslin, “West Coast ‘Super Tort’ Against Monsanto Could Spread To Other States,” [Forbes](#), 1/11/17)
- **In *Town Of Westport v. Monsanto Company* (2015), A Federal Judge Dismissed The Public Nuisance Claims, Indicating That Monsanto Did Not Control PCBs After They Were Sold, And Could Not Be Held Responsible For Downstream Use Or Disposal.** “Westport was in control of the instrumentality, the PCB-containing products, following purchase and the Court thus agrees with Defendants that because they ‘did not have the power or authority to maintain or abate these PCB-containing building materials, they cannot be liable for a public nuisance.’” (*Town Of Westport v. Monsanto Company, Civil Action No. 14-12041-DJC* (D. Mass. Mar. 24, 2015), [CaseText](#))



- **In *San Jose v. Monsanto Company Et. Al.*, A Trial Court Dismissed Claims Filed Against Monsanto By Several California Cities For Lack Of Standing After The Cities Attempted To Make Public Nuisance Claims Regarding Bodies Of Water They Did Not Control.** “A public entity can bring a non-representative nuisance action for damages only if ‘it has a property interest injuriously affected by the nuisance.’ *City of Santa Clara v. Atl. Richfield Co.*, 137 Cal. App. 4th 292, 314 (quoting *Selma Pressure Treating Co. v. Osmose Wood Preserving Co.*, 221 Cal. App. 3d 1601, 1616 (1990)). This Court granted Monsanto’s earlier motion to dismiss because the Cities failed to show that they have a property interest in stormwater that flows through municipal pipes to the Bay. Dkt. No. 85 at 6–8. Under the California Water Code, public water belongs to the State of California, not to the Cities. *Id.*; see also Cal. Water Code §§ 1201 (‘All water flowing in any natural channel,’ unless used or appropriated, ‘is hereby declared to be public water of the State and subject to appropriation in accordance with the provisions of this code.’), 10574 (exempting rainwater from the permitting requirements, which implies that rainwater falls within § 1201 and thus belongs to the State); *California v. United States*, 438 U.S. 645, 652 n.7 (1978) (‘Under California law, any person who wishes to appropriate water must apply for a permit from the State Water Resources Control Board.’)” (*City Of San Jose v. Monsanto Company Et. Al.*, No. 5:2015cv03178 - Document 121 (N.D. Cal. 2017), [JUSTIA Law](#))

**Trial Lawyers Are Collaborating With Local Governments To Bring Public Nuisance Lawsuits Against Companies That Work With Chemicals Like Polyfluoroalkyl Substances (PFAS).** “Contingency-fee lawyers are also teaming with local governments to bring public nuisance cases against companies in the per- and polyfluoroalkyl (PFAS) business.” (“The Plaintiffs’ Lawyer Quest For The Holy Grail: The Public Nuisance ‘Super Tort,’” [American Tort Reform Association](#), 3/1/20)

- **PFAS Have Been Around Since The 1950s And Are Used To Resist Heat, Repel Water, Protect Surfaces, And Reduce Friction In Household Items Like Non-Stick Cookware, Stain-Resistant Carpet, And Electronics.** “The per-and polyfluoroalkyl substances (PFAS) are a group of chemicals used to make fluoropolymer coatings and products that resist heat, oil, stains, grease, and water. Fluoropolymer coatings can be in a variety of products. These include clothing, furniture, adhesives, food packaging, heat-resistant non-stick cooking surfaces, and the insulation of electrical wire.” (“Per-And Polyfluorinated Substances (PFAS) Factsheet,” [Centers For Disease Control And Prevention](#))

**In February 2018, Multinational Conglomerate 3M Settled An 8-Year Case With The State Of Minnesota For \$850 Million Regarding Health Conditions Linked To Chemicals Used In Scotchgard.** “3M Co. has settled a lawsuit with Minnesota’s Attorney General Lori Swanson for \$850 million, putting an end to eight years of litigation over a former Scotchgard ingredient that got into the state’s drinking water. The agreement materialized just as jury selection got underway Tuesday, and after Judge Kevin S. Burke urged the parties to compromise, saying that it wasn’t in the best interests of the state’s citizens or 3M’s shareholders for the case to drag on. ... In 2012, the results of a massive study of 80,000 people who sought to sue DuPont over PFOA were released, establishing links to cancers, ulcerative colitis and other health issues. New reports on the health of Minnesota-area residents were expected to be a centerpiece of the trial. Minnesota said its exper report shows higher rates of cancers, leukemia, premature births and lower fertility in the suburbs east of St. Paul prior to 2006, when there were particularly high amounts of the chemicals in municipal water.” (Tiffany Kary, “3M Settles Minnesota Lawsuit For \$850 Million,” [Bloomberg](#), 2/20/18)

- **Among A Number Of Charges, Minnesota Accused 3M Of Creating A Public Nuisance.** (“Amended Complaint,” [Minnesota v. 3M](#), C# 27-CV-10-28862, Filed 1/18/11)
- **The Funds Collected From This Settlement Were To Be Used To Finance Projects Involving Water Sustainability.** “The funds will be used to finance projects that involve drinking water and water sustainability, according to

#### Count Four - Damages For Common Law Nuisance

87. The State re-alleges all prior paragraphs of this Complaint.
88. The use, enjoyment and existence of the State’s groundwater, surface water and sediments, free from interference, is a right common to the citizens of the State.
89. The contamination of groundwater, surface water and sediments with PFCs materially and substantially interferes with State citizens’ free enjoyment of these natural resources, and constitutes a public nuisance.

statements from 3M and the state, after Minnesota alleged that chemicals known as PFCs could cause harm to citizens.” (Tiffany Kary, “3M Settles Minnesota Lawsuit For \$850 Million,” [Bloomberg](#), 2/20/18).

- **A Report From Bloomberg Later Revealed That \$125 Million Of The Settlement Was Slated To Be Paid To Private Contingency Fee Lawyers.** “Covington & Burling LLP came under fire March 5 for a \$125 million fee it received to represent the state of Minnesota in its \$5 billion environmental lawsuit against 3M Co., which settled Feb. 20 for \$850 million.” (Stephen Joyce, “Covington’s \$125M Fee For 3M Case ‘A Little Step’: Lawmaker,” [Bloomberg Law](#), 3/5/18)

### **Over 2,950 Lawsuits Related To PFAS Used In Firefighting Foam Have Been Filed In Federal Courts (The MDL Is Titled: *In Re: Aqueous Film-Forming Foams Products Liability Litigation.*)** (“MDL Statistics Report –

Distribution Of Pending MDL Dockets By Actions Pending,” [U.S. Judicial Panel On Multidistrict Litigation](#), 8/15/22; Note: These Statistics Are Frequently Updated. New Pending MDL Reports Can Be Found [HERE](#))

- **Some Claims In This MDL Include Private Nuisance Allegations.** “A South Carolina federal judge ruled that a Florida city can pursue its lawsuit against DuPont and Corteva, which the city claimed were created as spinoffs to help its predecessor dodge liability for poisoning its groundwater with chemicals in a fire suppressant foam. In a 15-page order Thursday, U.S. District Judge Richard M. Gergel, who is overseeing the multidistrict litigation, denied Corteva Inc. and DuPont de Nemours Inc.’s motion to dismiss the suit for lack of personal jurisdiction. ... The city of Stuart was one of several thousand plaintiff entities suing the companies over PFAS water contamination. The city alleged strict liability for failure to warn, negligent failure to warn, defective design, negligence, private nuisance and a violation of the Florida Uniform Fraudulent Transfer Act.” (Gina Kim, “DuPont Can’t Shake Fla. Town’s Foam Contamination Suit,” [Law360](#), 3/11/22)
- **Some Of The Claims In The MDL Allege Public Nuisance Violations.** “Attorney General Josh Stein filed four lawsuits against 14 manufacturers of Aqueous Film Forming Foam (AFFF), a fire suppressant used widely by firefighters, members of the military, and other first responders. AFFF contains PFAS, or forever chemical compounds that are manmade, are toxic, persist in the environment, accumulate in people, and have serious health risks. Attorney General Stein is alleging that the manufacturers of AFFF and the PFAS used in its production – including 3M, Corteva, and DuPont – caused a public nuisance, created a design defect, failed to warn their customers, and fraudulently transferred corporate assets to shield their profits.” (Press Release, “Attorney General Josh Stein Files Four Lawsuits Against 14 Companies Over Toxic Firefighting Foam,” [Office Of North Carolina Attorney General](#), 11/4/21)

## **Plastics**

**In Recent Years, Public Nuisance Cases Have Been Aimed At Plastics Retailers, Manufacturers, And Distributors.** “A decade ago, it began with a dispute over plastic bags at grocery store check-out lines. That contest tailed off with the growth of re-useable bags and plastic bag bans in many local communities. Then it was a debate over microbeads in cosmetics, which subsided after passage of the Microbead-Free Waters Act of 2015 and similar state bans. Now, litigation against plastics appears to be ramping up again. But is plastics the fuel for the next mass tort?” (Douglas A. Henderson, “Insight: Is Plastics Litigation The Next Public Nuisance,” [Bloomberg Law](#), 4/23/20)

**In 2020, Environmental Advocacy Group Earth Island Institute Filed A Lawsuit Against Ten Major Companies, Including Coca-Cola, Pepsi, And Nestlé, That Sought Monetary Damages To Be Used To Clean Up Plastic Pollution.** “By suing major corporations that made money from the sale of single use plastics, Earth Island hopes to recoup some of the costs of cleaning this plastic out of oceans and waterways, and mitigating harm to humans and wildlife alike in California.” (Zoe Loftus-Farren, “Earth Island Sues 10 Companies, Including Coke, Pepsi, And Nestlé, Over Plastic Use,” [Earth Island Institute](#), 2/26/20).

- **In May 2022, A California Superior Court Judge Granted An Order Allowing The Lawsuit To Proceed And Stated That California Courts Had Jurisdiction Over The Case.** “Late last week, after over two years of litigation, Earth Island Institute, represented by Cotchett, Pitre & McCarthy, received

an order from the San Mateo County Superior Court allowing its landmark lawsuit to proceed against 10 major plastic consumer goods companies for the nuisance allegedly created by their plastic packaging, including polluting California waterways with plastic trash and touting products as recyclable when they're not." ("Major Plastic Consumer Goods Companies Must Face Pollution Lawsuit Impacting California Waterways," [Business Wire](#), 6/6/22; See Also: "Taking On Big Plastic," Earth Island Institute.

## **Vaping**

**Public Nuisance Lawsuits Related To Vaping Are A New Trend Which Capitalizes On The Increased Use Of Vaping Products, Including Among Minors.** "One of the newest public nuisance litigations that is trying to follow the opioid model is over vaping. Over the past year, the news has been flooded with stories about vaping, the increased use of e-cigarettes by minors, and the harm caused by illicit vaping products. Trial lawyers have been quick to try to capitalize on this emerging public health crisis. They trying to recruit school districts, local governments and states to file public nuisance lawsuits against Juul Labs and other e-Cigarette companies." ("The Plaintiffs' Lawyer Quest For The Holy Grail: The Public Nuisance 'Super Tort,'" [American Tort Reform Association](#), 3/1/20)

**Vaping Has Been Identified As The "Next Wave Of Lawsuits."** "Vaping – The Next Wave of Lawsuits ... Vaping has become quite popular, particularly among young people who may be unaware of the dangers of nicotine addiction associated with this unsafe product. ... Evidence is being established that e-cigarette manufacturers deliberately marketed their products to children and teens, a vulnerable population in an effort to get them addicted at an early age." (Clifford Law, "Vaping – The Next Wave Of Lawsuits," [The National Law Review](#), 9/22/20)

**Similar To The Public Nuisance Cases Filed Against Opioid Manufacturers, School Districts Have Filed Mass Tort Litigation Against Companies Like JUUL.** "The nationwide lawsuit includes a dozen Indiana school districts, along with Chicago Public Schools and other Illinois suburban districts, filed against e-cigarette maker JUUL, based on the same public nuisance law used to combat opioid manufacturers. 'We're talking about found money here involving the same bad player in every community – JUUL,' said a local attorney who receives referral fees for every school district he signs up for this lawsuit. 'This litigation is a contingency case, meaning if we win, the schools win. If we lose, the schools don't owe a dime.'" Jerry Davich, "School Districts File Mass Tort Litigation Against E-Cigarette Maker JUUL, But Many Local School Want Nothing To Do With It," [Chicago Tribune](#), 11/16/21)

- **These Lawsuits Rely On The Argument That Companies Like JUUL Have Created A Public Nuisance By Creating "A Condition Dangerous To The Public's Health," And That School Districts And Governments Are Spending "Significant Resources Combating This Public Nuisance Of [JUUL's] Creation."** "Juul's conduct 'has given rise to an epidemic of vaping across America and within plaintiff's school district,' administrators of the Three Village Central School District in Long Island, New York, said in their complaint. The district said it's been forced to pay out 'significant resources combating this public nuisance of defendant's creation' and will continue to do so. ... Lawyers for the school districts claim Juul and other e-cigarette makers created a public nuisance by flavoring their products and aggressively marketing them to teens. Juul created 'a condition dangerous to the public's health' through its actions, the district in Johnson County, Kansas, said in its suit." (Tiffany Kary, "Juul Accused By School District Of Creating Vaping Nuisance," [Bloomberg](#), 10/8/19)

**In October 2019, King County (WA) Schools Filed A Class Action Suit Against JUUL And Altria Group That Attempted To Tie Their Marketing, Advertising, And Government Relations Related To E-Cigarettes To Proof Of Wrongdoing.** "In Washington State, officials with King County, Skagit County and the La Conner School District – which serves 576 students – each filed separate class action lawsuits against Juul Labs and Altria Group, a major Juul shareholder. Altria Group spokesman Steve Callahan told CNN his company is declining comment on the Washington State lawsuits. The company was not named in the suit filed by the state of California. ... The King county lawsuit accuses Juul of using 'marketing tactics specifically designed to mislead children ... to ensnare minors into nicotine addiction, including by explicitly adopting tactics prohibited from Big Tobacco.'" Hollie Silverman, "At Least Five Lawsuits Have Been Filed Against E-Cigarette Company Juul This Week For Allegedly Targeting Minors," [CNN](#), 11/19/19)

- **This Case Relied On A Washington Statute Which States That Public Nuisance Applies To “Whatever Is Injurious To Health,” And Consists Of “Unlawfully Doing An Act, Or Omitting To Perform A Duty, Which Act Or Omission Either Annoys, Injures, Or Endangers The Comfort, Repose, Health, Or Safety Of Others.”** “It states that Washington’s statutory public nuisance law applies to ‘whatever is injurious to health’ and consists of ‘unlawfully doing an act, or omitting to perform a duty, which act or omission either annoys, injures, or endangers the comfort repose, health or safety of others.’ It then argues that because the social harms of vaping were “reasonably foreseeable,” Juul and others should be liable for all of the costs associated with illegal vaping use.” (‘The Plaintiffs’ Lawyer Quest For The Holy Grail: The Public Nuisance ‘Super Tort,’ [American Tort Reform Association](#), 3/1/20)

**In 2019, The New York State Attorney General Filed A Lawsuit Against JUUL, Accusing The Company Of “Engaging In Deceptive And Misleading Marketing That Has Contributed To An Epidemic Of Youth Vaping And Teen Nicotine Addiction In The State.”** “New York’s attorney general on Tuesday sued Juul Labs Inc and accused the e-cigarette manufacturer of engaging in deceptive and misleading marketing that has contributed to an epidemic of youth vaping and teen nicotine addiction in the state. The lawsuit that New York Attorney General Letitia James filed in Manhattan Supreme Court marked the third to date by a state against the San Francisco-based company and came just a day after California launched a similar case.” (Nate Raymond, “Juul Turned Teens Into Nicotine Addicts, New York Claims In Lawsuit,” [Reuters](#), 11/19/19)

- **In Doing So, New York Also Alleged That JUUL Created A Public Nuisance.**

(“Complaint,” [New York v. JUUL Labs Inc.](#), Filed 11/19/19)

- **In July 2022, The Manhattan Supreme Court Of New York Denied A Motion By JUUL To Dismiss The Case, Which Is Ongoing.** “Beleaguered e-cigarette maker Juul Labs Inc must face a lawsuit by New York’s attorney general accusing it of fueling teen nicotine addiction in the state through deceptive and misleading marketing.

Manhattan Supreme Court Justice Margaret

Chan on Wednesday denied the company’s motion to dismiss most of New York’s 2019 lawsuit. The order comes as the U.S. Food and Drug Administration reconsiders a proposed ban on Juul’s products, and the company reportedly considers bankruptcy as it faces thousands of lawsuits.” (Brendan Pierson, “Juul Must Face New York AG’s Lawsuit Over Teen Addiction,” [Reuters](#), 7/7/22)

#### Fourth Cause of Action: Public Nuisance

98. The OAG realleges and incorporates by reference each and every allegation in the paragraphs above as if the same were fully set forth herein.
99. Defendant, individually and acting through its employees and agents, has engaged in conduct or omissions which offend, interfere with or cause damage to the public in the exercise of rights common to all, in a manner such as to endanger or injure the property, health, safety or comfort of a considerable number of persons in the State of New York by the sale and marketing of JUUL products for use by residents of the State of New York, and Defendant’s conduct in connection with that activity.

**In 2019, California A.G. Xavier Becerra Announced A Suit Against JUUL For Allegedly Promoting Its Products To Young Smokers By Marketing Flavors Like Mango, Cool Mint, Crème Brûlée, And Cucumber.** “California and Los Angeles County officials announced a lawsuit against Juul Labs Inc. on Monday, alleging the vaping brand targeted young people through advertising and failed to give warnings about health risks posed by using e-cigarettes with nicotine. Although the state bars sales of the devices to people younger than 21, the lawsuit alleges electronic cigarette firms made products with nicotine that appealed to young smokers by marketing flavors such as mango, cool mint, crème brûlée and cucumber.” (Patrick McGreevy, “California Is Taking Vaping Giant Juul To Court,” [Los Angeles Times](#), 11/18/19)

**In 2019, Minnesota Filed A Nuisance Case Against JUUL On Similar Grounds To Other Vaping-Focused Cases.** (Steve Karnowski, “Minnesota Sues E-Cigarette Maker Juul Over Youth Vaping Rise,” [The Associated Press](#), 12/4/19)

- **The State Sought For The Company To Cease Marketing To Young People And “Fund A Corrective Public Education Campaign ... On The Dangers Of Vaping.”** “Minnesota Attorney General Keith Ellison sued Juul Labs on Wednesday, accusing the e-cigarette maker of unlawfully targeting young people with its products to get a new generation addicted to nicotine. The lawsuit

filed in Hennepin County District Court in Minneapolis seeks to force Juul to stop marketing to young people; fund a corrective public education campaign in Minnesota on the dangers of youth vaping; fund vaping cessation programs; disclose all its research on vaping and health; and surrender all profits from its allegedly unlawful conduct.” (Steve Karnowski, “Minnesota Sues E-Cigarette Maker Juul Over Youth Vaping Rise,” [The Associated Press](#), 12/4/19)

## **COVID-19 Protocols**

**Since The Beginning Of The COVID-19 Pandemic, Employees And Employee-Rights Groups Have Filed Lawsuits Alleging That Major Corporations Are Liable For Public Nuisances Surrounding Health And Safety.** “I do think that ... we’re going to see public nuisance be added to any complaints that are filed either on behalf of employees or customers of businesses open to the public,” Ward-Reichard said. ‘But also, I think it essentially opens the floodgates to really any complaint about a business or its premises.’ ‘We’re really sort of at an interesting precipice here in that as these cases are litigated in the COVID-19 context,’ she added. ‘It’s going to be a very important defense by the defendants in these cases that if you open the doors to saying ‘something having to do with COVID-19 or our COVID-19 preparations are inadequate and thus a public nuisance,’ you really open the door for all kinds of litigation.’” (Vin Guerrieri, “COVID Suits Test ‘Public Nuisance’ Claim In Workplace Cases,” [Law360](#), 6/9/20)

**In 2020, Employees Filed A Lawsuit Against The McDonald’s Corporation In Illinois State Court, Arguing That The Fast Food Chain’s Inadequate COVID-19 Safeguards Constitute A Public Nuisance That Will Further Spread The Disease.** “Workers at McDonald’s locations in Chicago are arguing that the fast food chain’s inadequate Covid-19 safeguards constitute a public nuisance that will further spread the disease. The workers, joined in the lawsuit by their family members, seek a court order requiring McDonald’s to comply with an Illinois executive order and federal guidance on safety protocols, such as supplying hand sanitizer and requiring face coverings inside restaurants.” (Robert Iafolla, “McDonald’s Case Tests Nuisance Theory For Job Virus Safety,” [Bloomberg Law](#), 6/4/20)

- **In March 2022, McDonald’s And The Plaintiffs Told An Illinois Federal Court That They Had Reached A Settlement Outside Of Court, Although The Amount Of The Settlement Has Not Been Disclosed.** “McDonald’s Corp., two Illinois franchisees and their insurer told an Illinois federal court Thursday that they have resolved their coverage dispute over an underlying putative class action in which employees alleged unsafe working conditions during the COVID-19 pandemic. Though the terms of the settlement agreement are not yet known, the parties anticipate dismissal of the action, McDonald’s, franchise owners Lexi Management LLC and DAK4 LLC and Austin Mutual Insurance Co. said in a joint notice of settlement.” (Hope Patti, “McDonald’s And Insurer End Illinois Virus Suit Coverage Fight,” [Law360](#), 3/10/22)

**Amazon Was Sued In A New York Federal Court For “Fostering The Spread Of COVID-19 By Mandating Unsafe Working Conditions.”** “Amazon.com Inc has been sued for allegedly fostering the spread of the coronavirus by mandating unsafe working conditions, causing at least one employee to contract COVID-19, bring it home, and see her cousin die. The complaint was filed on Wednesday in the federal court in Brooklyn, New York, by three employees of the JFK8 fulfillment center in Staten Island, and by family members.” (Jonathan Stempel, “Amazon Sued Over Warehouses After New York Worker Brings Coronavirus Home,” [Insurance Journal](#), 6/4/20)

- **The Lawsuit Alleges Amazon Created A Public Nuisance By Failing To Adequately Protect Workers As The Virus Spread.** “Amazon workers told a federal appeals court Wednesday that the online retailer should be forced to impose warehouse safety standards to prevent the spread of Covid-19, pursuing a novel ruling prompted by the pandemic. Seven warehouse workers in New York asked the U.S. Court of Appeals for the Second Circuit panel to overturn the dismissal of their lawsuit accusing Amazon.com Inc. of creating a ‘public nuisance’ by failing to adequately protect them as the coronavirus spread.” (*Palmer v. Amazon.com*, 2d Cir., No. 20-03989), [Bloomberg Law](#))

**In 2020, The Rural Community Workers Alliance Filed A Lawsuit Against Smithfield Foods Incorporated, Alleging That They Were Failing To Adequately Protect Employees From COVID-19 At A Missouri Plant.**

“A U.S. federal judge has dismissed a worker advocacy group’s lawsuit accusing Smithfield Foods Inc, the world’s largest pork processor, of failing to adequately protect employees from the novel coronavirus at a plant in Missouri. ... In the lawsuit filed last month, the RCWA accused Smithfield of creating a ‘public nuisance’ by failing to protect workers at the Milan, Missouri plant and endangering the surrounding community.” (Daniel Wiessner, “U.S. Judge Dismisses Lawsuit Over Worker Safety At Smithfield Pork Plant,” [Reuters](#), 5/6/20)

## Liberal Advocacy Groups

**Nonprofit Advocacy Groups Are Commonly Involved In Bringing Forth Public Nuisance Litigation, Especially In The Climate Sector.** “Over the past two decades, plaintiffs’ lawyers and environmental groups have sought to join forces with public officials to sue America’s energy manufacturers over global climate change. Climate tort litigation has attracted an array of plaintiffs from small and big municipalities to crab fishermen to the State of Rhode Island. The lawsuits all ask courts to make energy manufacturers pay for impacts of global climate change by blaming them for selling products that contribute to climate change.” (“Beyond The Courtroom: Climate Tort Litigation In The United States,” [National Association Of Manufacturers Legal Center](#), 12/28/21)

### Everytown For Gun Safety

**Everytown Law Is The Legal Action Arm Of The Nonprofit Everytown For Gun Safety.** (“About Us – Everytown Law,” [Everytown For Gun Safety](#), Accessed 11/9/23)

- **Everytown Law Was Initially Funded Through A \$3 Million Commitment From Its Parent Organization, Everytown For Gun Safety Support Fund.** “The Everytown Law Fund will begin with an initial \$3 million commitment from Everytown’s parent organization, Everytown for Gun Safety Support Fund, and will prioritize funding legal actions that seek to address the impact of gun violence on Black, Latino and other marginalized communities, the group said.” (Brendan Pierson, “Everytown Law Aims To Curb Gun Violence With New Litigation Fund,” [Reuters](#), 7/28/21)
- **Everytown For Gun Safety Was Founded By Michael Bloomberg.** “Lucas said city officials contacted the legal team at Everytown For Gun Safety, an organization founded by billionaire businessman and former New York City Mayor Michael Bloomberg, to ask for help with the lawsuit.” (Chris Haxel, “Kansas City Gets ‘Creative’ With Lawsuit Against Gun Manufacturer,” [NPR](#), 1/7/20)

**In 2021, Everytown Law Helped Chicago (IL) File A Public Nuisance Lawsuit Against An Indiana Gun Store For What They Argued Was A “Pattern Of Unlawful And Negligent” Gun Sales.** “Everytown Law represents the City of Chicago in lawsuit against Indiana gun store tied to over 850 crime guns recovered by City. On April 26, 2021, the City of Chicago, represented by Everytown Law and Mayer Brown LLP, filed a lawsuit against Westforth Sports, Inc, alleging that Westforth’s sales practices contributed to a public nuisance in the City. The City alleges that Westforth is engaged in a pattern of negligently and unlawfully selling firearms to persons that it knows are engaged in straw purchasing and unlicensed dealing in firearms. This pattern of unlawful and negligent sales has created, exacerbated, and sustained a public nuisance that causes harm to the health, safety, and well-being of Chicago residents.” (“Chicago Sues Westforth Sports For Illegal Gun Sales,” [Everytown For Gun Safety](#), 4/26/21)

**In 2020, Everytown Law Helped Kansas City (MO) File A Public Nuisance Lawsuit Against Multiple Gun Manufacturers For “Contributing To The Violent Crime Epidemic.”** “During a press conference today with Everytown Law, the litigation arm of Everytown for Gun Safety Support Fund, Kansas City Mayor Quinton Lucas announced that the City has filed a public nuisance lawsuit against Jimenez Arms, Inc., a Nevada gun manufacturer, multiple current or former Kansas City-area licensed firearms dealers, an alleged gun trafficker, and an alleged straw purchaser over the trafficking of handguns into the Kansas City area. The City is represented by attorneys from Everytown Law, the litigation arm of Everytown for Gun Safety Support Fund, Williams Dirks Dameron LLC of Kansas City, Missouri, and the City Attorney’s office. The first city to file a lawsuit against the gun industry in more than 10 years, the City alleges in the suit that gun trafficking has

created a public nuisance by contributing to the violent crime epidemic in Kansas City. The City seeks reimbursement for the costs of dealing with violent crime traceable to the trafficking ring, and seeks an order requiring the defendants to recover firearms that are still in circulation.” (“Everytown Law Represents Kansas City, Missouri In Suit Against Gun Manufacturer, Dealers And Alleged Traffickers For Contributing To Local Gun Violence,” [Everytown For Gun Safety](#), 1/7/20)

**In 2020, Everytown Law Filed A Public Nuisance Lawsuit Against An Online Seller Of Homemade Gun Kits And Parts That Were Used In A High School Shooting.** “Everytown Law and Walkup Melodia filed suit in December 2020 on behalf of Mia Tretta, who was wounded with a home-assembled firearm in the 2019 shooting at Saugus High School in Santa Clarita, California high school. Two children were killed in the shooting, and three others were injured, including Mia, who was 15 at the time. The lawsuit names as a defendant the owner and operator of 1911builders, a website selling kits, frames, parts, and the tools to create a finished firearm over the internet with no background checks. The firearm used by the shooter was a 1911-style .45 caliber ‘Officer Frame’ ghost gun. The seller named in the lawsuit sells this ghost gun kit on 1911builders.com, including the tools, and videos necessary for its full home manufacture. ... The lawsuit alleges that 1911builders was negligent and created a public nuisance.” (“California Court Rules Saugus High School Shooting Survivor’s Suit Against Ghost Gun Kit Seller Can Move to Trial,” [Everytown Law](#), 7/12/22)

### **EarthRights International**

**EarthRights International Is A Nonprofit That Has Encouraged Florida Cities To File Climate Lawsuits Against Fossil Fuel Companies.** “Last October, the Fort Lauderdale City Commission heard from Earthrights International (ERI), a Washington D.C.-based environmental advocacy group involved in a number of similar suits in various parts of the country. ERI appears to have worked with other groups in pushing cities in Florida to file suits, according to emails obtained by the Florida Record. One of those groups, the Institute for Governance & Sustainable Development (IGSD), was represented by Miami Beach lobbyist, Seth Platt, of LSN Partners. Representatives attempted to persuade the commission to file suit, arguing that fossil fuel companies should be liable for the cost to the municipality to combat the effects of climate change, including rising sea levels. It has not worked, yet.” (John Breslin, “Fort Lauderdale Says It Has Not Intention Of Filing Suit Against Fossil Fuel Companies Over Climate Change,” [Florida Record](#), 5/6/19)

**Since 2018, EarthRights International Has Represented The City Of Boulder In Its Climate Lawsuit Against Suncor And ExxonMobil.** “We represent the Colorado communities of Boulder County, San Miguel County, and the City of Boulder in a lawsuit against Exxon Mobil and Suncor Energy, two oil companies with significant responsibility for climate change that have been particularly active in Colorado. Similar lawsuits are currently proceeding in coastal communities, but this is the first such lawsuit in mountain communities—or anywhere in the U.S. interior, to recover the costs associated with climate change impacts.” (“Climate Change Litigation In Colorado,” [EarthRights International](#), Accessed 11/9/23)

**EarthRights International Is Funded Largely By Nonprofit Foundations, Including: The Ford Foundation, MacArthur Foundation, George Soros’ Open Society Foundations, And The Rockefeller Family Fund.** (“2020 Annual Report,” [EarthRights International](#), 9/1/20)

### **DONORS**

**EarthRights is grateful to the following donors for their generous and sustaining support of our mission and vision. We also thank all donors who give anonymously. We could not do this work without you.**

11th Hour Project of the Schmidt Family Foundation  
American Jewish World Service  
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Bloomberg Philanthropies and the Global Health Advocacy Incubator  
Conservation Food & Health Foundation  
D.N. Batten Foundation  
Embassy of the Netherlands in Bangkok  
Equation Campaign

European Climate Foundation  
European Union and Oxfam in Myanmar  
Flora Family Foundation  
Ford Foundation  
World Resources Institute  
Foundation for International Law and the Environment and Blue Ocean Law  
Heinrich Böll Stiftung  
Hewlett Foundation  
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MacArthur Foundation  
McKnight Foundation  
Oak Foundation  
Open Society Foundations  
Oxfam America  
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Rockefeller Family Fund  
Ronald W. Naito MD Foundation  
Sall Family Foundation  
Swedish International Development Cooperation Agency  
Swift Foundation  
Tikva Grassroots Empowerment Fund  
Trocaire

## **Earth Island Institute**

**The Nonprofit Earth Island Institute Has Been A Major Player In Bringing Public Nuisance Lawsuits Against Producers Of Plastic Packaging, Including Coca-Cola, Pepsi, Nestlé, And Others.** “Today, Earth Island Institute, represented by Cotchett, Pitre, & McCarthy, filed the first major lawsuit against Crystal Geyser Water Company, The Clorox Company, The Coca-Cola Company, Pepsico, Inc., Nestlé USA, Inc., Mars, Incorporated, Danone North America, Mondelez International, Inc., Colgate-Palmolive Company, and The Procter & Gamble Company for polluting our waterways, coasts, and oceans with millions of tons of plastic packaging. The lawsuit was filed in California State Superior Court in the County of San Mateo alleging violations of the California Consumers Legal Remedies Act, public nuisance, breach of express warranty, defective product liability, negligence, and failure to warn of the harms caused by their plastic packaging.” (Press Release, “CPM Helps Earth Island Institute Take On Big Plastic,” [Cotchett Pitre & McCarthy LLP](#), 2/26/20)

## **Niskanen Center**

**The Washington, D.C.-Based Niskanen Center Joined With EarthRights International In 2018 To Serve As Counsel On Behalf Of The City Of Boulder (CO) And San Miguel County (CO) In Their Public Nuisance Lawsuit Against Exxon And Suncor Energy.** “In April 2018, the Niskanen Center joined with EarthRights International and the Denver-based Hannon Law Firm as counsel for the City and County of Boulder and San Miguel County in Colorado in filing a public nuisance lawsuit against ExxonMobil and Suncor Energy, a Canadian oil producer.” (“Beyond The Courtroom: Climate Tort Litigation In The United States,” [National Association Of Manufacturers Legal Center](#), 12/28/21)

## **Sher Edling**

**Sher Edling Has Extensive Experience Working With State And Local Municipalities To Bring Environmental Public Nuisance Lawsuits Against Large Businesses.** “Sher Edling LLP represents states, cities, counties and other public agencies as plaintiffs in high-impact, high-value environmental cases. We combine decades of top-level litigation and trial experience with an unwavering dedication to holding corporations accountable for the damage they cause. The firm has assembled a unique team with legal and technical expertise that, coupled with its detailed and extensive experience in climate and high impact litigation, helps assure clients of the strongest case and highest possible recovery.” (Sher Edling LLP, “Response To Minnesota Attorney General’s Request For Qualifications For Potential Litigation Related To Fossil Fuel Companies’ Misrepresentations,” [The Office Of Minnesota Attorney General Keith Ellison](#), 4/27/20; Note: See Section 5 For Specific Actions Sher Edling Has Brought Against Large Corporations)

- **In 2020, Sher Edling Noted It Had 10 Cases Related To Climate Damages And Approximately 40 Cases Pertaining To Water Contamination And Natural Resource Damage Actions.** “Sher Edling represents States, counties, cities, and other public entities in complex climate damages and statutory litigation, water contamination, and natural resources litigation. Currently, the firm has filed 10 cases related to climate damages, and approximately 40 water contamination and natural resource damage actions.” (Sher Edling LLP, “Response To Minnesota Attorney General’s Request For Qualifications For Potential Litigation Related To Fossil Fuel Companies’ Misrepresentations,” [The Office Of Minnesota Attorney General Keith Ellison](#), 4/27/20.)

**Sher Edling Has Led Climate Change-Based Public Nuisance Litigation With Funding From Nonprofits.** “Sher Edling represents cities, counties, and states in lawsuits to hold fossil fuel industry defendants accountable for their decades-long campaigns of deception about the science of climate change and the role their products play in causing it, as well as their failure to take steps to avoid the harm they knew would arise from the use their products or even to warn anyone about it. Sher Edling’s team has a successful track record of holding fossil fuel companies accountable for actions that harm people and the planet.” (“Climate Damage And Deception,” [Sher Edling LLP](#), Accessed 11/9/23)

- **Between 2017 And 2020, Resources Legacy Fund Gave Sher Edling \$5.3 Million Edling.** “Since 2017, Sher Edling, the law firm acting for plaintiffs in more than two dozen climate lawsuits, has also received close to \$5.3 million just from the Rockefeller-backed Resources Legacy Fund, a tax exempt



501(c)(3) organization. This money appears to be defraying Sher Edling's costs in litigating these cases, thus raising questions about the propriety of these contingent fee arrangements." (Lauren Sheets Jarrell, "Attorneys General For Hire: A Disturbing Usurpation Of Traditional State Policies By Private Political Activists," [American Tort Reform Association](#), 6/15/22)

- **Sher Edling's Former Director Of Strategic Relationships Has Served As Treasurer Of The Windward Fund.** "Chuck is the Director of Strategic Client Relationships for the law firm, Sher Edling LLP which represents states, cities, public agencies, and businesses in high-impact, high-value environmental cases. ... He has previously served on the Boards of the Tides Foundation, The Windward Fund, the Agua Fund, the Center for Good Food Purchasing, and Hubbard Brook Research Foundation." ("Chuck Savitt," [ReFED](#), Accessed 11/9/23; "Meet Our Team," [Sher Edling](#), Accessed 11/9/23; "Chuck Savitt," [Windward Fund](#), Accessed 11/9/23)
- **In August 2022, Public Reporting Revealed Leonardo DiCaprio Funneled Grants Through Dark Money Groups To Fund Sher Edling's Climate Lawsuits.** "Leonardo DiCaprio's non-profit foundation awarded grants to a dark money group which, in turn, funneled money to a law firm spearheading climate nuisance lawsuits nationwide, according to emails reviewed by Fox News Digital. Correspondence between Dan Emmett, a major philanthropist, and Ann Carlson — a University of California, Los Angeles (UCLA) climate professor — in 2017 revealed that the two worked with law firm Sher Edling to raise money for its efforts to sue oil companies over alleged climate change deception on behalf of state and local governments, according to the emails obtained by watchdog group Government Accountability & Oversight (GAO) and shared with Fox News Digital." (Thomas Catenacci, "Leonardo DiCaprio Funneled Grants Through Dark Money Group To Fund Climate Nuisance Lawsuits, Emails Show" [Fox News](#), 8/15/22)
- **Chuck Savitt Was A Key Touchpoint In The Relationship Between The Firm And DiCaprio's Foundation.** "Chuck Savitt who is heading this new organization behind the lawsuits has been seeking our support," Emmett wrote to Carlson on July 22, 2017. 'Terry Tamminen in his new role with the DiCaprio Foundation has been a key supporter.' Emmett also forwarded a message Savitt sent him three days earlier on July 19, 2022 asking for his support, according to the records. Savitt mentioned in that email that Sher Edling's first lawsuits were filed with the support of the Collective Action Fund for Accountability, Resilience and Adaptation, a fund managed at the time by dark money group Resources Legacy Fund (RLF). ... The email correspondence took place two months before the Leonardo DiCaprio Foundation publicly announced it would contribute \$20 million in grants to various climate and conservation causes. The group's announcement, which has since been deleted but remains archived, included a grant to the RLF 'to support precedent-setting legal actions to hold major corporations in the fossil fuel industry liable,' closely mirroring Savitt's language." (Thomas Catenacci, "Leonardo DiCaprio Funneled Grants Through Dark Money Group To Fund Climate Nuisance Lawsuits, Emails Show" [Fox News](#), 8/15/22)

**Republicans On Capitol Hill Are Currently Investigating Sher Edling's Spate Of Lawsuits, As Well As The Participation Of NHTSA Acting Administrator, Ann Carlson.** "U.S. Senate Commerce Committee Ranking Member Ted Cruz (R-Texas) and House Committee on Oversight and Accountability Chairman James Comer (R-Ky.) today sent a letter to the law firm Sher Edling LLP demanding information related to the firm's barrage of lawsuits targeting energy companies, and the role the acting administrator of the National Highway Traffic Safety Administration, Ann Carlson, played in these lawsuits while serving as a professor at UCLA Law School. Sen. Cruz and Rep. Comer wrote: 'Over the past five years, your law firm, Sher Edling LLP ('Sher Edling'', has launched a barrage of lawsuits aimed at bankrupting oil and gas companies. While people may use their resources to bring whatever cases they want—even those that may be so frivolous as to be sanctionable—it appears that left-wing funds are footing the bill for Sher Edling's climate crusade. Radical activists are backing these lawsuits, too. Ann Carlson, the acting administrator of the National Highway and Traffic Administration ("NHTSA"), gave legal services to Sher Edling while she was a professor at University of California, Los Angeles ("UCLA") School of Law. Ms. Carlson's prior work for your firm raises concerns about her current efforts to extralegally create new climate policy through vehicle fuel economy standards. As the Republican leaders of

the Senate and House committees with oversight over energy policy and NHTSA, we seek information concerning the third-party donations funding your firm's climate cases as well as Ms. Carlson's role in those lawsuits." (Press Release, "Sen. Cruz, Chairman Comer Demand Answers From Law Firm Regarding Acting NHTSA Administrator's Role In Frivolous Lawsuits Aimed At Bankrupting Oil Companies," [U.S. Senate On Commerce, Science, & Transportation](#), 9/25/23)

- **The Investigation Recently Revealed The Existence Of An "Informal Advisory Committee" Ran By The Firm That Includes Law Professors Who Have Worked With Sher Edling To Pitch Environmental Litigation To State Attorney Generals.** "As senior lawmakers on Capitol Hill continue to probe Sher Edling's financing and consulting relationships, new evidence suggests yet another "advisor" has closer ties to the firm than previously revealed. New information reveals that University of Vermont Law professor emeritus Pat Parenteau, a longtime commenter on climate litigation in the media, has worked directly with Sher Edling to pitch 'highly confidential' environmental litigation to a state attorney general." (Mandi Risko, "As Lawmakers Probe Sher Edling, New Questions Arise Around The Firm's 'Informal Advisory Committee,'" [EnergyInDepth](#), 10/12/23)

### **The Arabella Advisors Network**

**The New Venture Fund Wired \$2.5 Million In Grants To Sher Edling in 2022.** "New Venture Fund — which is managed by Arabella Advisors, a firm that oversees a liberal billion-dollar dark money network — wired grants worth a total of \$2.5 million to the California-based Sher Edling in 2022 alone, per the tax filings reviewed by Fox News Digital. (Thomas Catenacci, "Dark Money Group Wired Millions To Law Firm Suing Big Oil With Dem States," [FoxNews.com](#), 11/16/23).

**The Collective Action Fund For Accountability, Resilience, And Adaptation, A Fiscally Sponsored Project Of The New Venture Fund Funneled \$3 Million To Sher Edling in 2021.** "In 2021 alone, CAF funneled another \$3 million to the firm. CAF switched its fiscal sponsorship to New Venture Fund from a smaller dark money group in 2021." (Thomas Catenacci, "Dark Money Group Wired Millions To Law Firm Suing Big Oil With Dem States," [FoxNews.com](#), 11/16/23).

**Sher Edling's Former Director Of Strategic Relationships Has Served As Treasurer Of The Windward Fund.** "Chuck is the Director of Strategic Client Relationships for the law firm, Sher Edling LLP which represents states, cities, public agencies, and businesses in high-impact, high-value environmental cases. ... He has previously served on the Boards of the Tides Foundation, The Windward Fund, the Agua Fund, the Center for Good Food Purchasing, and Hubbard Brook Research Foundation." ("Chuck Savitt," [ReFED](#), Accessed 11/9/23; "Meet Our Team," [Sher Edling](#), Accessed 11/9/23; "Chuck Savitt," [Windward Fund](#), Accessed 11/9/23)

**The Windward Fund And New Venture Fund Are Part Of Arabella Advisors' Dark Money Network.** "The groups in the network, which also included Hopewell Fund, New Venture Fund, North Fund and Windward Fund, were administered by a for-profit consulting firm called Arabella Advisors. Taken together, the Arabella network spent a total of nearly \$1.2 billion in 2020, including paying Arabella a combined \$46.6 million in 2020 in management fees, according to the funds' tax filings. While the Arabella-managed groups do not disclose their donors, foundations backed by some of the biggest donors on the left have disclosed major donations to the network. Pierre Omidyar, the billionaire eBay founder, disclosed personal and foundation gifts of \$45 million to Sixteen Thirty and \$1.6 million to Hopewell. A foundation backed by George Soros disclosed gifts of \$17 million to Sixteen Thirty and \$5 million to Hopewell." (Kenneth P. Vogel & Shane Goldmacher, "Democrats Decried Dark Money. Then They Won With It In 2020," [The New York Times](#), 1/29/22)

**The Arabella Advisors Network Raised More Than \$1.3 billion To Fuel Liberal Causes In 2022.** "The nation's largest left-wing dark money network raised a staggering \$1.3 billion in anonymous donations and poured more than \$900 million into a wide range of progressive causes last year, according to new tax filings reviewed by Fox News Digital. The billion-dollar network managed by Washington, D.C.-based Arabella Advisors ... collectively sent \$937 million in grants to other organizations and causes. The groups reported a total of \$1.43 billion in expenses which encompasses operational costs such as salaries, but additionally includes hundreds of millions of dollars in funding for internally-managed initiatives, meaning the network spent well over \$1 billion to support various liberal causes." (Thomas Catenacci & Joe Schoffstall, "Left-Wing Dark Money Behemoth Raised More Than \$1.3 billion To Fuel Liberal Causes In 2022," [FoxNews.com](#), 11/15/23).

**The New Venture Fund And Windward Fund Have Also Made Donations To The Resources Legacy Fund.**

("2018 Form 990," [New Venture Fund](#), Filed 11/5/19; "2016 Form 990," [New Venture Fund](#), Filed 11/13/17; "2014 Form 990," [New Venture Fund](#), Filed 11/16/15; "2017 Form 990," [Windward Fund](#), Filed 11/12/18)

<b>Resources Legacy Fund</b> 555 Capitol Mall Sacramento, CA 95814	95-4703838	501(C)(3)	40,000	Civil Rights, Social Action, Advocacy
("2018 Form 990," <a href="#">New Venture Fund</a> , Filed 11/5/19)				
<b>Resources Legacy Fund</b> 555 Capitol Mall Ste 1095 Sacramento, CA 95814	95-4703838	501(C)(3)	1,791,585	Environmental Programs
("2016 Form 990," <a href="#">New Venture Fund</a> , Filed 11/13/17)				
<b>Resources Legacy Fund</b> Suite 1095 Sacramento, CA 95814	30-0043771	501C3	105,000	Environmental (Climate, Conservation & Energy) Programs
("2014 Form 990," <a href="#">New Venture Fund</a> , Filed 11/16/15)				
<b>Resources Legacy Fund</b> 555 Capitol Mall Ste 1095 Sacramento, CA 95814	95-4703838	501(C)(3)	25,000	Environmental Programs
("2017 Form 990," <a href="#">Windward Fund</a> , Filed 11/12/18)				

**The Resources Legacy Fund**

**Between 2017 And 2020, The Resources Legacy Fund Gave \$5.3 Million To Sher Edling.** "But potentially even more problematic, since 2017, Sher Edling, the law firm acting for plaintiffs in more than two dozen climate lawsuits, has also received close to \$5.3 million just from the Rockefeller-backed Resources Legacy Fund, a tax exempt 501(c)(3) organization. This money appears to be defraying Sher Edling's costs in litigating these cases, thus raising questions about the propriety of these contingent fee arrangements." (Lauren Sheets Jarrell, "Attorneys General For Hire: A Disturbing Usurpation Of Traditional State Policies By Private Political Activists," [American Tort Reform Association](#), 6/15/22)

**Chuck Savitt – An Attorney With Sher Edling – Has Stated That His Firm Has Relied On Support From The "Collection Action Fund For Accountability, Resilience, And Adaptation" (CAF) – Which Is Managed By The RLF – To Support The Firm's Climate Change Lawsuits.** "Savitt mentioned in that email that Sher Edling's first lawsuits were filed with the support of the Collective Action Fund for Accountability, Resilience and Adaptation, a fund managed at the time by dark money group Resources Legacy Fund (RLF)." (Thomas Catenacci, "Leonardo DiCaprio Funneled Grants Through Dark Money Group To Fund Climate Nuisance Lawsuits, Emails Show," [Fox News](#), 8/15/22)

**An RLF Spokesperson Has Admitted The Organization Provided Grants To Sher Edling To "Hold Fossil Fuel Companies Accountable For The Accuracy Of Information they Had Disseminated To Consumers And The Public About The Role Their Products Played In Causing Climate Change."** "From 2017 to 2020, Sher Edling received grants from RLF to pursue charitable activities to hold fossil fuel companies accountable for the accuracy of information they had disseminated to consumers and the public about the role their products played in causing climate change," an RLF spokesperson Mark Kleinman told Fox News Digital in an email." (Thomas Catenacci, "Leonardo DiCaprio Funneled Grants Through Dark Money Group To Fund Climate Nuisance Lawsuits, Emails Show," [Fox News](#), 8/15/22)

**Headquartered In Sacramento, The Resources Legacy Fund (RLF) Is A Nonprofit That Purports To "Build Alliances That Advance Bold Solutions To Secure A Just And Resilient World For People And Nature."** ("2020 Form 990," [Resources Legacy Fund](#), Filed 2/2/22)

Form <b>990</b>	<b>Return of Organization Exempt From Income Tax</b>	OMB No. 1545-0047
Under section 501(c)(3), 527, or 4947(a)(1) of the Internal Revenue Code (except private foundations)		<b>2020</b>
Do not enter social security numbers on this form as it may be made public.		<b>Open to Public Inspection</b>
Go to <a href="http://www.irs.gov/Form990">www.irs.gov/Form990</a> for instructions and the latest information.		
<b>A</b> For the 2020 calendar year, or tax year beginning 01-01-2020 and ending 12-31-2020		
<b>B</b> Check if applicable: <input type="checkbox"/> address change <input type="checkbox"/> name change <input type="checkbox"/> initial return <input type="checkbox"/> final return/terminated <input checked="" type="checkbox"/> amended return <input type="checkbox"/> application pending	<b>C</b> Name of organization RESOURCES LEGACY FUND	<b>D</b> Employer identification number 95-4703838
<b>E</b> Doing business as	<b>F</b> Number and street (or P.O. box if mail is not delivered to street address) / Room/suite 555 CAPITOL MALL NO 1095 SACRAMENTO, CA 95814	<b>G</b> Telephone number (916) 442-5057
<b>H</b> Name and address of principal officer: MICHAEL A. HANTELL 555 CAPITOL MALL NO 1095 SACRAMENTO, CA 95814	<b>I</b> Tax-exempt status: <input checked="" type="checkbox"/> 501(c)(3) <input type="checkbox"/> 501(c) ( ) (insert no.) <input type="checkbox"/> 4947(a)(1) or <input type="checkbox"/> 527	<b>J</b> Gross receipts \$ 113,444,660
<b>K</b> Form of organization: <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Trust <input type="checkbox"/> Association <input type="checkbox"/> Other	<b>L</b> Year of formation: 1998	<b>M</b> State of legal domicile: CA
<b>Part I Summary</b>		
<b>1</b> Briefly describe the organization's mission or most significant activities: RESOURCES LEGACY FUND BUILDS ALLIANCES THAT ADVANCE BOLD SOLUTIONS TO SECURE A JUST AND RESILIENT WORLD FOR PEOPLE AND NATURE.		

- **The Resources Legacy Fund Is A Dark Money Nonprofit That Does Not Publicly Reveal Its Donors.** (“2020 Form 990,” [Resources Legacy Fund](#), Filed 2/2/22)

Part I Contributors			
Contributors (see instructions). Use duplicate copies of Part I if additional space is needed.			
(a) No.	(b) Name, address, and ZIP + 4	(c) Total contributions	(d) Type of contribution
RESTRICTED		\$ RESTRICTED	<input type="checkbox"/> Person <input type="checkbox"/> Payroll <input type="checkbox"/> Noncash <small>(Complete Part II for noncash contributions.)</small>

**Though RLF Does Not Reveal It’s Donors, Some Organizations Have Touted Their Support For RLF:**

- **RLF Received \$3 Million From The MacArthur Foundation In 2017 To Support Climate Change Legal Efforts.** “Resources Legacy Fund was awarded \$3,000,000 in 2017, including 1 grant in Climate Solutions. ... The Collaborative Action Fund for Accountability, Resilience, and Adaptation (CAF) at RLF supports precedent-setting lawsuits to hold major corporations accountable for costs associated with the effects on climate of their pollutants. The award enables support for the legal process associated with a variety of lawsuits filed in support of counties and cities affected by sea-level rise.” (“Resources Legacy Fund,” [MacArthur Foundation](#))
- **In 2018, The RLF Received \$175,000 From The Rockefeller Brothers Fund And \$301,000 From Rockefeller Philanthropy Advisors.** (“Grants Search,” [Rockefeller Brothers Fund](#)); “Rockefeller Philanthropy Advisors Inc.,” IRS Form 990, [ProPublica](#), 2018)

**In August 2022, Leonardo DiCaprio Was Found To Be A Major Donor To The RLF’s Climate Change Litigation.** “Leonardo DiCaprio’s non-profit foundation awarded grants to a dark money group which, in turn, funneled money to a law firm spearheading climate nuisance lawsuits nationwide... Correspondence between Dan Emmett, a major philanthropist, and Ann Carlson — a University of California, Los Angeles (UCLA) climate professor — in 2017 revealed that the two worked with law firm Sher Edling to raise money for its efforts to sue oil companies over alleged climate change deception on behalf of state and local governments. ... Emmett also forwarded a message Savitt sent him three days earlier on July 19, 2022 asking for his support, according to the records. Savitt mentioned in that email that Sher Edling’s first lawsuits were filed with the support of the Collective Action Fund for Accountability, Resilience and Adaptation, a fund managed at the time by dark money group Resources Legacy Fund (RLF).” (Thomas Catenacci, “Leonardo DiCaprio Funneled Grants Through Dark Money Group To Fund Climate Nuisance Lawsuits, Emails Show,” [Fox News](#), 8/15/22)

- **In 2017, The DiCaprio Foundation Revealed It Had Donated An Unspecified Amount To The “Collective Action Fund (Resources Legacy Fund)” To Support “Legal Actions To Hold Major Corporations In The Fossil Fuel Industry Liable For The Effects Of Climate Change.”** (Press Release, “Leonardo DiCaprio Foundation Awards \$20 Million In Environmental Grants,” [Leonardo DiCaprio Foundation](#), 9/19/17, Archived)

**Institute For Governance & Sustainable Development**

**IGSD Works To Support “Legal Action And Policy Change” On Climate Change Issues.** “Illustrative of the groups facilitating this approach is an organization called the Center for Climate Integrity (CCI). It’s one of a number of activist groups working nationwide to support litigation targeting energy producers... Launched in 2017, CCI is actually a project of the Institute for Governance and Sustainable Development (IGSD), a 501(c)(3) nonprofit whose most recent tax filings reveal revenues of approximately \$11.2 million. CCI, in turn, operates several projects of its own. One supports ‘legal action and policy change’ forcing ‘climate polluters’ to pay for costs related to ‘climate impacts.’” (Robert Stilson, “Activist Groups Pushing Government Climate Change Lawsuits,” [Capital Research Center](#), 4/30/21)

**The City Of Hoboken, NJ’s Lawsuit Against Oil Companies Was Allegedly Paid For By IGSD.** “The plaintiff firm representing the City of Hoboken in its climate change lawsuit against oil companies has similarly entered into an agreement under which the non-profit Institute on Governance and Sustainable Development

(‘IGSD’) has agreed to pay its attorney fees and legal expenses through the discovery phase of the case up to \$483,500.” (Lauren Sheets Jarrell, “Attorneys General For Hire: A Disturbing Usurpation Of Traditional State Police Powers By Private Political Activists,” [American Tort Reform Association](#), Summer ‘22)

### **In 2020, The City Of Hoboken (NJ) Was Approached By A Law Firm Funded By The Institute For Governance And Sustainable Development (IGSD) To Initiate A Lawsuit Against Fossil Fuel Companies For “Global Warming Injuries.”**

(“Resolution Authorizing The City To Enter Into Retainer Agreement With Emery, Celli, Brinckerhoff & Abady LLP To Pursue Climate Litigation On Behalf Of The City Of Hoboken,” [City of Hoboken](#), Adopted 1/15/20)

**WHEREAS**, the City of Hoboken was approached by the law firm Emery Celli Brinckerhoff & Abady LLP (“ECB&A LLP”) proposing to provide legal services to the City to assist in evaluating, and if appropriate prosecuting, a civil action against fossil fuel companies based upon global warming injuries and adaptation or infrastructure costs to the City; and,

**WHEREAS**, the ECB&A LLP has agreed to represent the City in the proposed litigation at no cost to the City, and therefore the City will not be responsible for paying any attorneys’ fees, costs, or case expenses; and,

**WHEREAS**, it is proposed that the fees will be paid by a third-party, the Institute on Governance and Sustainable Development (“IGSD”), but that the City will not be responsible in the event that IGSD fails to pay said fees for any reason; and,

**NOW, THEREFORE, BE IT RESOLVED**, the City Council of the City of Hoboken hereby authorizes the Mayor and/or the Mayor’s designee to sign and execute the attached retainer agreement with ECB&A LLP, a law firm that will be investigating and potentially litigating a climate change matter on behalf of the City, in the same format as attached or substantially similar format subject to final approval by Corporation Counsel; and,

### **Through Its Center For Climate Integrity (CCI), IGSD Assists In Recruiting Politicians – Such As State Attorneys General, Municipalities, And Other Governmental Entities To Sue Oil Companies And Others For Purported Climate-Related Offenses.**

“CCI assists in recruiting governmental subdivisions to sue oil companies and others for alleged climate-related offenses[.]” (“Private Funders, Public Institutions: ‘Climate’ Litigation And A Crisis Of Integrity,” [Government Accountability & Oversight, P.C.](#), 5/18/21)

- **“IGSD’s Center For Climate Integrity (CCI) Is The Nexus For Lobbying Efforts, Studies, Amicus Briefs, Events, And Social Media Campaigns Aimed At Pressuring States And Municipalities To Sue Energy Companies For The Costs Of Climate Change.”** (Spencer Walrath, “Bombshell: Rockefeller Family Fund Behind The ‘Pay Up Climate Polluters’ Campaign,” [Energy InDepth](#), 1/15/20)

### **CCI Is Known As “Arguably The Most Active Organization Fueling The Climate Litigation Campaign Today.”**

“CCI is arguably the most active organization fueling the climate litigation campaign today.” (Spencer Walrath, “Revealed: Foreign Billionaire Behind The Group Pushing American Cities to Sue Energy Producers,” [Energy InDepth](#), 1/8/20)

### **CCI Were Consultants For A Lawsuit Brought By The City Of Baltimore Against Fossil Fuel Companies In 2018.**

“Energy Policy Advocates has filed its opening appellate brief in a Maryland Public Information Act case against the City of Baltimore, for the latter’s withholding of correspondence with two groups which lobbied the City to file its climate nuisance lawsuit against nearly two dozen companies. Baltimore remarkably claimed that the activists behind the climate litigation industry, Union of Concerned Scientists and Center for Climate Integrity, were in fact “outside energy firms”, with which the City corresponded in considering whether to call them as experts in its litigation. Baltimore soon dropped that stance, without elaboration.” (“Hot L(obbyist) Baltimore,” [Climate Litigation Watch](#), 4/1/21)

### **CCI Signed Onto An Amicus Brief In Support Of Lawsuits Filed By Sher Edling On Behalf Of California Municipalities.**

“CCI also signed onto an amicus brief in support of the lawsuits filed by Sher Edling on behalf of California municipalities. Co-signers of the brief include academics highlighted in Chapter Two such as Naomi Oreskes, Geoffrey Supran and Justin Farrell, as well as the organization’s beneficiary, Ben Franta.” (“Beyond The Courtroom: Climate Tort Litigation In The United States,” [National Association Of Manufacturers](#), 12/28/21, P. 18)

### **As Recently As September 2022, CCI Was Actively Pressuring The Town Of Bar Harbor, ME To File Climate Litigation.**

(“Minutes,” [Bar Harbor, ME Town Council](#), 9/8/22, P. 8, Note: A Member Of The Bar Harbor Town Council – [Gary Friedmann](#) – Is A Part Of CCI’s Leadership Network)

**CCI Played A Role In Multnomah County’s (OR) Public Nuisance Lawsuit Against Energy Companies.**

“Today Multnomah County filed suit against several of the largest fossil fuel and coal-producing corporations, seeking to hold them accountable for the damages arising from the 2021 Pacific Northwest Heat Dome, one of the most deadly and destructive human-made weather disasters in American history. The County alleges that the combined historical carbon pollution from the use of Defendants’ fossil fuel products was a substantial factor in causing and exacerbating the heat dome, which smothered the County’s residents for several days. ... The lawsuit alleges that the Defendants committed negligence and fraud, and created a public nuisance, all of which are well-established causes of action under Oregon state tort law.” (Press Release, “Multnomah County Sues Oil Companies Over 2021 Heat Dome Disaster,” [Multnomah County](#), 6/22/23; See Also: “Complaint,” *County Of Multnomah v. Exxon Mobil Corp. et al.*, Circuit Court For The State Of Oregon, 6/22/23)


- **Two Of Five Multnomah County Commissioners Initiating The Lawsuit, Including Chair Jessica Vega Pederson, Were Members Of CCI’s Leadership Network.** (“Leaders Network,” [Center For Climate Integrity](#), Accessed 11/9/23; “Jessica Vega Pederson,” [Center For Climate Integrity](#), Accessed 11/9/23; “Susheela Jayapal,” [Center For Climate Integrity](#), Accessed 11/9/23; See Also: “Board Of County Commissioners,” [Multnomah County](#), Accessed 11/9/23)



**JESSICA VEGA PEDERSON**  
**County Chair**  
 Multnomah County, Oregon

As Chair of Multnomah County, Jessica Vega Pederson is a proud representative of the state’s largest and most populous county, and among its most diverse. She serves as Chief Executive Officer of Multnomah County, a position overseeing a \$3.3 billion budget that provides the largest safety net government in Oregon. Under Chair Vega Pederson’s leadership, the County supports residents across a range of services

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**SUSHEELA JAYAPAL**  
**County Commissioner**  
 Multnomah County, Oregon

Susheel Jayapal (she/her/hers) has proudly served as your District 2 Multnomah County Commissioner since January, 2019. She was born in India, and came to the United States when she was 16 to go to college. Susheela is a lawyer, whose last legal job was a General Counsel for Adidas America; and has also spent two decades as a volunteer community leader/advocate for a number of community-based organizations. Her priorities include housing and homelessness; economic justice; clean air and climate resilience; and public safety

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- **CCI Also Paid For Facebook & Instagram Ads To Promote Multnomah County’s Lawsuit.** ([Meta Ad Library](#), Accessed 7/26/23)

The image shows three screenshots of Facebook advertisements. Each ad is sponsored by the Center for Climate Integrity and is paid for by the Center for Climate Integrity. The ads feature a red circular logo with the text 'CCI' and a photograph of a group of people. The text in the ads includes: 'This lawsuit is about accountability and fairness, and I believe the people of Multnomah County deserve both.' and 'Big oil companies are fueling the climate crisis. Now Multnomah County is taking them to court.' The ads also include a 'Learn More' button.



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