



December 13, 2023

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**Judge Rules in Favor of Plaintiffs in Canada's First Federal Youth Climate Lawsuit;
Allows Case to Proceed to Trial**

Ottawa—One day following the conclusion of COP28, a unanimous decision by three justices on the Federal Court of Appeal has re-opened the door to 15 youth suing the Canadian government for its actions that cause climate change. The justices ruled the youth represented in [*La Rose v. His Majesty the King*](#) deserve a trial to determine if Canada is fulfilling its constitutional obligations to protect children's rights to life, liberty and security of the person under the Charter of Rights and Freedoms. This ruling reverses a lower court decision, which saw the Government of Canada argue that the case should be tossed.

The justices [noted in their decision](#), "Climate change is having a dramatic, rapidly unfolding effect on all Canadians and on northern and Indigenous communities in particular." The justices quoted the Supreme Court of Canada, which recognized that climate change has had a "particularly serious effect" on Indigenous peoples and Indigenous territories, "threatening the ability of Indigenous communities in Canada to sustain themselves and maintain their traditional ways of life."

The justices also noted that global change is not a distant problem, but current and consequential, and that "it is also beyond doubt that the burden of addressing the consequences will disproportionately affect Canadian youth."

The justices acknowledged that the devastating climate change impacts the plaintiffs are experiencing could qualify as "special circumstances" that impose a positive duty on the government to affirmatively protect the youth plaintiffs, but that a trial is needed to make that final determination.

"Where novel Charter claims test the boundaries of a right, such claims may require a trial in order to understand the nature of the legislation, executive action or regulation and the harm experienced by claimants. This is one of those cases," wrote the justices.

The court of appeals considered whether plaintiffs' claims fit under sections 7 or 15 of the Charter, or pursuant to the public trust doctrine, and ultimately directed the lower court to move the case forward to trial under section 7 of the Canadian Charter, which protects against government harms to life, liberty, and personal security.

"Today's decision plants a seed of hope for these young plaintiffs who are seeking climate justice," said Andrea Rodgers, Senior Litigation Attorney for Our Children's Trust. "Now these young plaintiffs will finally have their day in court to tell their stories and hold their government accountable for violating their Charter rights. This ruling clears the path for young people to protect their lives, liberties and security."

"This decision contains very clear language that a trial is needed to hold Canada to account for its failure to limit GHG emissions. While the Court found that the claim must be amended to more specifically identify the provisions that lead to excess GHG emissions, the Court confirmed the right of these children to challenge Canada's actions and inactions as causing significant harm to their security of the person," said Catherine Boies Parker, a lawyer for the youth plaintiffs.

"I see this going beyond the federal government. This should put every province blocking climate action on notice that there can be legal consequences for inaction—and this empowers youth to demand comprehensive climate action plans from their provincial governments as well," says Tom Green, Senior Climate Policy Adviser, David Suzuki Foundation.

The *La Rose* case was filed by 15 young people from seven provinces and one territory on October 25, 2019. The youth claim Canada's federal government is contributing to dangerous climate change. The case argues that the youth are already being harmed by climate change and the federal government is violating their rights to life, liberty and security of the person under section 7 of *Canadian Charter of Rights and Freedoms* for failing to protect essential public trust resources. The youth plaintiffs also allege that Canada's conduct violates their *Charter* rights, since youth are disproportionately affected by the effects of climate change.

Albert L., one of the youth plaintiffs, remarked: "It's discouraging that our government wasted four years of our time to argue against our right to just go to trial. But I'm grateful the justices had the courage to decide to hear us out, and most importantly recognized that flexibility is necessary when addressing an existential issue with such a broad scope. This is a crucial first step to protecting the rights of youth in the face of the power that fossil fuel interests have in shaping policy in Canada."

Another youth plaintiff, Lauren W., said: "After four years, we have finally had a court affirm the validity of our experiences and the Government's responsibility to youth. The chance to have our day in court on our section 7 claim is a massive step forward that brings me hope. As we move forward, we will continue fighting for a just future."

Another youth plaintiff Zoe G.-W., said: "It's great news that the Canadian government has to hear our lawsuit. Children shouldn't need to sue the government to protect ourselves from climate change. It's time for Canada to stop fighting us in court and start fighting climate change."

[Read the justices' decision here.](#)

The youth plaintiffs are represented by Catherine Boies Parker, K.C. and David Wu of Arvey Finlay LLP; and by Chris Tollefson and Anthony Ho of Tollefson Law Corporation; the brilliant trailblazer Joseph J. Arvey, QC was also an architect and co-counsel for this case before his passing in 2020. The appeal was argued by Reidar Mogerman, K.C., a partner at Camp, Fiorante, Matthews, and Mogerman, LLP; and by Chris Tollefson. The plaintiffs are supported by Our Children's Trust and The David Suzuki Foundation; as well as the Pacific Centre for Environmental Law and Litigation (CELL), an educational partner using this lawsuit to train the next generation of public interest lawyers.

In addition to [La Rose v. His Majesty the King](#), Our Children's Trust represents and supports young people in active climate litigation both globally and across the United States. On December 10, 2023, Our Children's Trust filed a new federal constitutional climate lawsuit, [Genesis B. v. United States Environmental Protection Agency](#). In June 2023, Our Children's Trust brought the first constitutional climate trial in U.S. history in [Held v. State of Montana](#); in August, the young Montana plaintiffs received a [landmark ruling](#) declaring the state's fossil fuel-favoring laws to be unconstitutional. Our Children's Trust also represents the 21 youth plaintiffs in the landmark federal constitutional climate lawsuit, [Juliana v. United States](#), currently moving forward toward trial on the question of whether the federal government's fossil fuel-based energy system, and resulting climate destabilization, is unconstitutional. In June 2024, [Navahine F. v. Hawai'i Department of Transportation](#) is set to go to trial. Other active cases include [Natalie R. v. State of Utah](#), and [Layla H. v. Commonwealth of Virginia](#).

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

The David Suzuki Foundation (DavidSuzuki.org | [@DavidSuzukiFdn](#)) is a leading Canadian environmental non-profit organization, founded in 1990. We operate in English and French, with offices in Vancouver, Toronto and Montreal. We collaborate with all people in Canada, including First Nations leadership and communities, governments, businesses and individuals to find solutions to create a sustainable Canada through scientific research, traditional ecological knowledge, communications and public engagement, and innovative policy and legal solutions. Our mission is to protect nature's diversity and the well-being of all life, now and for the future.

The Pacific Centre for Environmental Law and Litigation (CELL) is an educational partner in the LaRose case. Through innovative experiential learning opportunities gained by working on the case, CELL students are trained to become effective defenders of the environment and the rule of law. For more information about CELL and this case, please visit <https://www.pacificcell.ca/youth-climate-lawsuit/>.