

Congress of the United States
Washington, DC 20515

November 18, 2021

President Joseph R. Biden
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Dear President Biden,

We write to express our concern with the positions taken by the United States in *Juliana v. United States*, the constitutional climate change lawsuit filed by 21 young Americans (“*Juliana 21*”), including 11 Black, Brown, and Indigenous youth—in which the United States thus far has failed to recognize a fundamental right to a safe climate system. We believe those positions contradict the Biden Administration’s expressed commitment to address climate change on behalf of our youngest citizens and future generations. Given the Biden Administration’s stated goals and executive orders addressing the climate crisis and issues of environmental injustice, we believe that the U.S.’ position in the *Juliana* litigation should be brought in line with those goals and policy commitments.

In 2015, a diverse group of youth filed the *Juliana* constitutional climate change lawsuit against the executive branch of the U.S. government for its affirmative actions that have caused the climate crisis and violate the youngest generation’s constitutional rights to life, liberty, property, and equal protection of the law.¹ In 2016, the district court issued a landmark decision recognizing the fundamental “right to a climate system capable of sustaining human life.”² Just before the youth plaintiffs were able to present their case of infringement of their individual rights at trial in October 2018, the case went onto the U.S. Supreme Court’s shadow docket³ and ended up in the Ninth Circuit Court of Appeals on interlocutory appeal.⁴

In 2020, a fiercely divided 2-1 interlocutory appeal decision held that the government’s affirmative acts were causing the youth’s injuries, but that the youth did not satisfy the redressability requirement for Article III standing.⁵ Two of the three judges held that the court had no power to order the government to prepare a remedial plan (one of the remedies initially sought) and, thus, the panel dismissed the case without prejudice.⁶ A Ninth Circuit judge requested a vote to rehear the youth’s case en banc, but on February 10, 2021, the majority of judges did not agree to rehear the case.⁷ As such, on March 9, 2021, the *Juliana 21* requested to

¹ First Amended Complaint for Declaratory and Injunctive Relief, *Juliana v. United States* (No. 6:15-cv-01517), ECF No. 7.

² *Juliana v. United States*, 217 F. Supp. 3d 1224, 1250 (D. Or. 2016).

³ *In re United States*, 139 S. Ct. 16 (2018) (staying District Court proceedings); *In re United States*, 139 S. Ct. 452 (2018) (denying application for stay); *In re United States*, 140 S. Ct. 16 (2019) (dismissing petition for writ of mandamus).

⁴ *Juliana v. United States*, 949 F.3d 1125 (9th Cir. 2018) (granting interlocutory appeal).

⁵ *Juliana v. United States*, 947 F.3d 1159 (9th Cir. 2020).

⁶ *Id.*

⁷ *Juliana v. United States*, 986 F.3d 1295 (9th Cir. 2021).

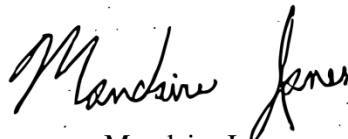
amend their complaint in the U.S. District Court to revise their requested relief to address the concern raised in the Ninth Circuit’s opinion.⁸ The youth plaintiffs currently seek a declaration of their constitutional rights and a declaration that the U.S. national energy system is unconstitutional. On May 13, 2021, District Judge Ann Aiken recognized that all three branches of government need to work together to address the climate crisis and ordered the parties to engage in settlement discussions with Judge Thomas Coffin.⁹ Oral argument on the motion to amend was held on June 25, 2021.¹⁰

At the Leaders Summit on Climate, you committed to “confront the climate crisis, to build a better world for all of our children and grandchildren.” We believe that upholding that commitment is of the utmost importance.

Young people across our nation are seeking environmental and climate justice, especially youth within environmental justice communities, like the Black, Brown, and Indigenous plaintiffs in this case. These communities have contributed the least to emissions and have long suffered from systemic environmental racism and social and economic injustices.¹¹ As such, we express our grave concern with the positions taken by the United States in the *Juliana* case that are misaligned with the Biden Administration’s policies and recent executive orders addressing climate injustice.¹² It is our hope that all of the defendant agencies within the Biden Administration, and the Department of Justice, will work with the youth to fulfill your commitment to “listen to science – and act” by using a “Government-wide approach” to tackling the climate crisis.¹³

Thank you for your attention to this important matter. We look forward to working with you to ensure the constitutional rights to life, liberty, property, and equal protection of the law are protected for all young people, and for generations to come.

Sincerely,



Mondaire Jones
Member of Congress

⁸ Plaintiffs’ Motion for Leave to Amend and File Second Amended Complaint for Declaratory and Injunctive Relief, *Juliana v. United States* (No. 6:15-cv-01517), ECF No. 462.

⁹ Minutes of Proceedings: Telephonic Status Conference Held Before Judge Ann L. Aiken, *Juliana v. United States* (No. 6:15-cv-01517), ECF No. 471.

¹⁰ Minutes of Proceedings: Telephonic Motion Hearing Held Before Judge Ann L. Aiken, *Juliana v. United States* (No. 6:15-cv-01517), ECF No. 502.

¹¹ H. Con. Res. 31, 117th Cong. (2021) (Recognizing that the climate crisis is disproportionately affecting the health, economic opportunity, and fundamental rights of children).

¹² Exec. Order No. 13990, 86 Fed. Reg. 7037, 7041 (Jan. 20, 2021), Exec. Order No. 14008, 86 Fed. Reg. 7619 (Jan. 27, 2021).

¹³ Exec. Order No. 14008, 86 Fed. Reg. 7619, 7622 (Jan. 27, 2021).

Nanette Diaz Barragán
Member of Congress

Danny K. Davis
Member of Congress

Earl Blumenauer
Member of Congress

Peter A. DeFazio
Member of Congress

Jamaal Bowman, Ed.D.
Member of Congress

Mark DeSaulnier
Member of Congress

Julia Brownley
Member of Congress

Veronica Escobar
Member of Congress

Kathy Castor
Member of Congress

Adriano Espaillat
Member of Congress

Judy Chu
Member of Congress

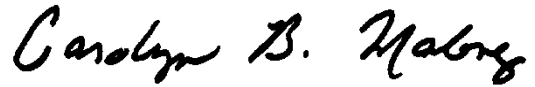
Jesús G. "Chuy" García
Member of Congress

Yvette D. Clarke
Member of Congress


Raul M. Grijalva
Member of Congress



Jared Huffman
Member of Congress



Carolyn B. Maloney
Member of Congress



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Member of Congress



Donald McEachin
Member of Congress



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Member of Congress



Grace Meng
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Member of Congress



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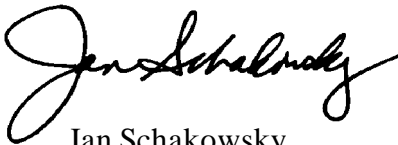
Ritchie Torres
Member of Congress



Mary Gay Scanlon
Member of Congress



Lori Trahan
Member of Congress



Jan Schakowsky
Member of Congress



Bonnie Watson Coleman
Member of Congress

CC: Mr. Ron Klain, Chief of Staff to the President
Ms. Gina McCarthy, National Climate Advisor
Ms. Brenda Mallory, Chair of the Council on Environmental Quality
Dr. Ike Irby, Policy Advisor to the Vice President