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| **RESEARCH ARTICLE**

## **Climate Change Litigation: The Role of Courts in Holding Corporations Accountable for Environmental Damage**

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| **ABSTRACT**

Climate change litigation has emerged as a powerful mechanism for enforcing corporate environmental accountability in the United States. This article examines the evolving landscape of climate litigation against corporations, analyzing how courts are increasingly willing to hold fossil fuel companies and other high-emission entities responsible for their contributions to climate change. Through an examination of legal precedents, regulatory frameworks, and emerging trends from 2017-2022, this research demonstrates that litigation has become a critical tool for compelling corporate climate action where regulatory mechanisms have proven insufficient. The analysis reveals that while the number of climate cases has more than doubled since 2017, reaching over 1,500 cases in the United States by 2022, the financial and reputational impacts on corporations are becoming increasingly significant, with firms experiencing average stock value declines of 0.41% following climate litigation filings.

| **KEYWORDS**

Climate litigation, corporate accountability, environmental law, fossil fuel liability, climate justice.

| **ARTICLE INFORMATION**

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### **1. Introduction**

The urgency of addressing climate change has intensified dramatically over the past decade, with scientific consensus establishing clear links between greenhouse gas emissions and escalating environmental damage. As traditional regulatory approaches have struggled to keep pace with the scale and urgency of the climate crisis, courts have emerged as unexpected yet increasingly influential venues for climate action. The total number of climate change cases has more than doubled since 2017, bringing the total number of cases to over 2,000 globally, with approximately 1,522 cases filed in the United States by December 2022.

Climate change litigation represents a fundamental shift in how environmental accountability is pursued, moving beyond traditional regulatory compliance to encompass broader notions of corporate responsibility for global environmental harm. This evolution reflects growing frustration with the pace of legislative and regulatory action, coupled with advancing climate science that enables more precise attribution of specific harms to particular corporate actors.

The legal landscape has been transformed by landmark cases that have established new precedents for corporate liability. Since 2017, more than 20 suits have been filed against oil and gas companies by governmental entities

across the United States, including seven by state attorneys general, generally alleging historical and ongoing unlawful deceptive conduct by the defendants. These cases represent a new frontier in environmental law, where courts are being asked to determine not just whether specific actions violated environmental regulations, but whether corporations have broader duties to prevent climate harm.

This article examines the role of climate litigation in enforcing corporate environmental accountability, focusing specifically on the United States legal system and its treatment of corporate defendants in climate cases filed between 2017 and 2022. The analysis addresses three central questions: How has climate litigation evolved as a tool for corporate accountability? What legal frameworks and precedents support corporate climate liability? And what impacts has litigation had on corporate behavior and financial performance?

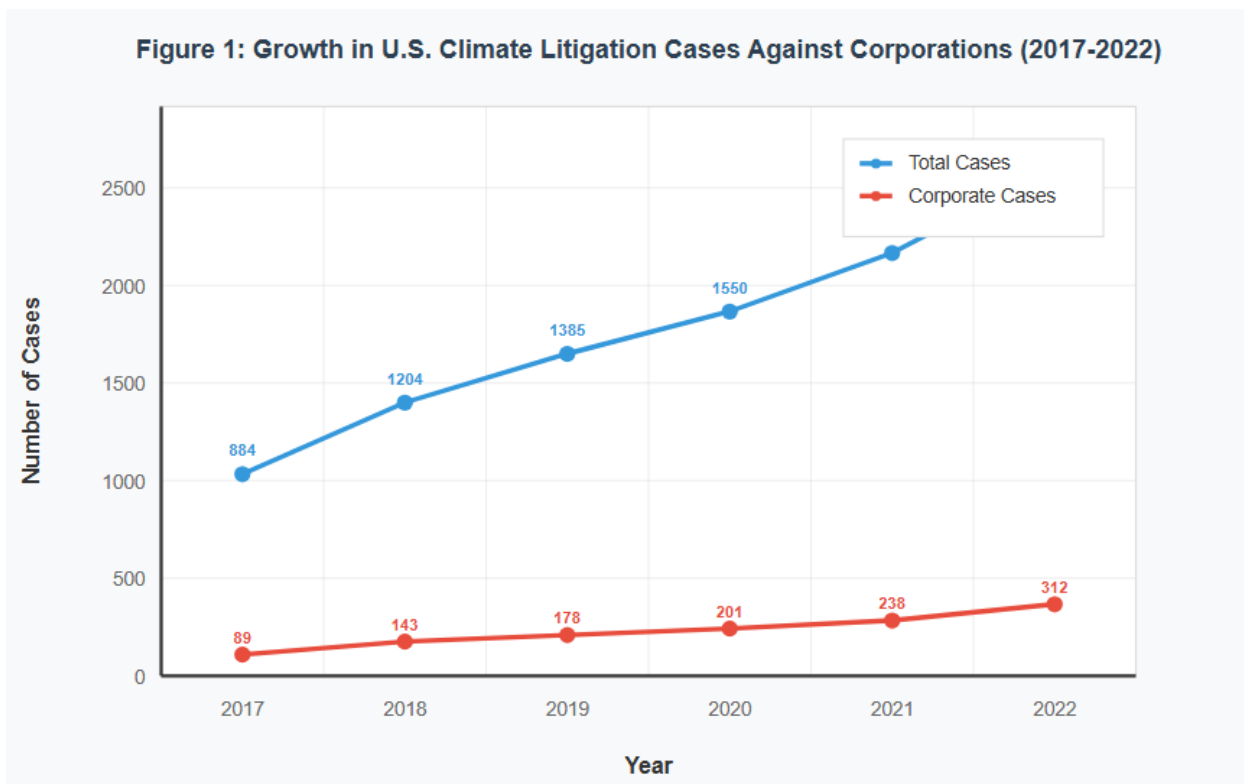
## 2. The Evolution of Climate Litigation against Corporations

### 2.1 Historical Development and Growth Patterns

Climate litigation against corporations has experienced unprecedented growth in recent years. As of July 1, 2020, the number of cases had almost doubled to at least 1,550 climate change cases filed in 38 countries, with approximately 1,200 cases filed in the US and over 350 filed in all other countries combined. This dramatic increase reflects both the growing sophistication of legal arguments and the increasing willingness of courts to engage with climate science.

The evolution of corporate climate litigation can be traced through several distinct phases. The early phase (1990s-2010s) was characterized by largely unsuccessful attempts to establish corporate liability through traditional tort theories. The modern phase (2015-present) has been marked by more sophisticated legal strategies that incorporate human rights arguments, advances in climate attribution science, and lessons learned from successful government-focused cases like Urgenda.

FIGURE 1: Growth in U.S. Climate Litigation Cases Against Corporations (2017-2022)]



compiled from Sabin Center for Climate Change Law and Global Climate Litigation databases

Data

**2.2 Key Drivers of Litigation Growth**

Several factors have contributed to the exponential growth in corporate climate litigation. First, advances in climate attribution science have enabled plaintiffs to draw more direct causal links between specific corporate activities and particular climate harms. Second, the development of international frameworks like the Paris Agreement has provided benchmarks against which corporate action can be measured. Third, successful cases against governments, particularly *Urgenda v. Netherlands*, have provided legal templates that can be adapted for corporate defendants.

Of the 193 cases identified as being filed in the calendar year 2021, 38 were filed against private sector actors, representing a marked increase from 2020, when just 22 cases were filed against companies. This acceleration suggests that climate litigation is becoming an increasingly mainstream tool for environmental advocacy.

The sectoral distribution of corporate climate litigation has also evolved significantly. While fossil fuel companies remain the primary targets, companies in the food and agriculture, and plastics sectors were the most common after fossil fuel companies, with five cases relating to each of these sectors filed in 2021. This diversification reflects growing recognition that climate responsibility extends beyond the energy sector to encompass the full range of high-emission industries.

**3. Legal Frameworks Supporting Corporate Climate Liability**

**3.1 Federal Environmental Statutes**

The foundation of climate litigation against corporations rests on several key federal environmental statutes, each providing different avenues for legal action. The most popular principal laws used are NEPA (the National Environmental Policy Act), with 322 cases filed under its jurisdiction, the Clean Air Act, with 215 cases filed under its jurisdiction, and the Endangered Species Act, with 163 cases filed under its jurisdiction.

**Table 1: Federal Environmental Statutes in Climate Litigation (2017-2022)**

<b>Statute</b>	<b>Cases Filed</b>	<b>Primary Application</b>	<b>Corporate Implications</b>
National Environmental Policy Act (NEPA)	322	Environmental impact assessment	Challenges to corporate project approvals
Clean Air Act	215	Air quality regulation	Direct emissions regulation and enforcement
Endangered Species Act	163	Species protection	Habitat impacts from corporate activities
Clean Water Act	89	Water quality protection	Industrial discharge regulation
Resource Conservation and Recovery Act	34	Waste management	Corporate waste disposal practices

*Source: Sabin Center for Climate Change Law Database (2022)*

**3.1.1 The National Environmental Policy Act (NEPA)**

NEPA requires federal agencies to assess the environmental effects of their proposed actions prior to making decisions, using the NEPA process to evaluate the environmental and related social and economic effects of their proposed actions. In the context of corporate climate liability, NEPA has become a powerful tool for challenging federal approvals of corporate projects that may contribute significantly to greenhouse gas emissions.

The significance of NEPA in climate litigation lies in its procedural requirements rather than its substantive mandates. Courts have increasingly required federal agencies to consider climate impacts when evaluating proposed corporate projects, creating indirect pressure on corporations to address climate considerations in their planning processes.

### **3.1.2 Clean Air Act Applications**

The Clean Air Act provides more direct regulatory authority over corporate emissions. Since greenhouse gases fit within the definition of "air pollutant" under the Clean Air Act, the EPA has the statutory authority to regulate the emission of these gases from new motor vehicles. This precedent, established in *Massachusetts v. EPA* (2007), has opened the door for broader Clean Air Act-based challenges to corporate emissions.

### **3.2 State Law Theories**

Beyond federal environmental statutes, climate litigation against corporations increasingly relies on state law theories, particularly tort claims based on public nuisance, private nuisance, and consumer protection laws. These state law approaches have proven particularly important because they can address broader questions of corporate responsibility that may not be covered by federal environmental regulations.

#### **3.2.1 Tort-Based Theories**

Public nuisance claims have emerged as one of the most significant legal theories in corporate climate litigation. These claims argue that corporate greenhouse gas emissions constitute an unreasonable interference with public rights, causing harm to communities through climate change impacts. Claims frequently include negligence, public nuisance, private nuisance, products liability for failure to warn, consumer protection, and trespass.

The strength of public nuisance claims lies in their flexibility and their focus on the reasonableness of corporate conduct rather than strict compliance with specific regulatory requirements. This approach allows courts to consider the full scope of corporate climate impacts, including cumulative effects and long-term consequences that may not be captured by traditional environmental regulations.

#### **3.2.2 Consumer Protection Claims**

An emerging trend in corporate climate litigation involves consumer protection claims, particularly those targeting alleged "greenwashing" by corporations. California Attorney General Rob Bonta announced the filing of a lawsuit against five of the largest oil and gas companies in the world — Exxon Mobil, Shell, Chevron, ConocoPhillips, and BP — and the American Petroleum Institute (API) for allegedly engaging in a decades-long campaign of deception.

These cases represent a significant evolution in climate litigation strategy, moving beyond claims about direct environmental harm to focus on corporate misrepresentation and fraud in marketing climate-related products and services.

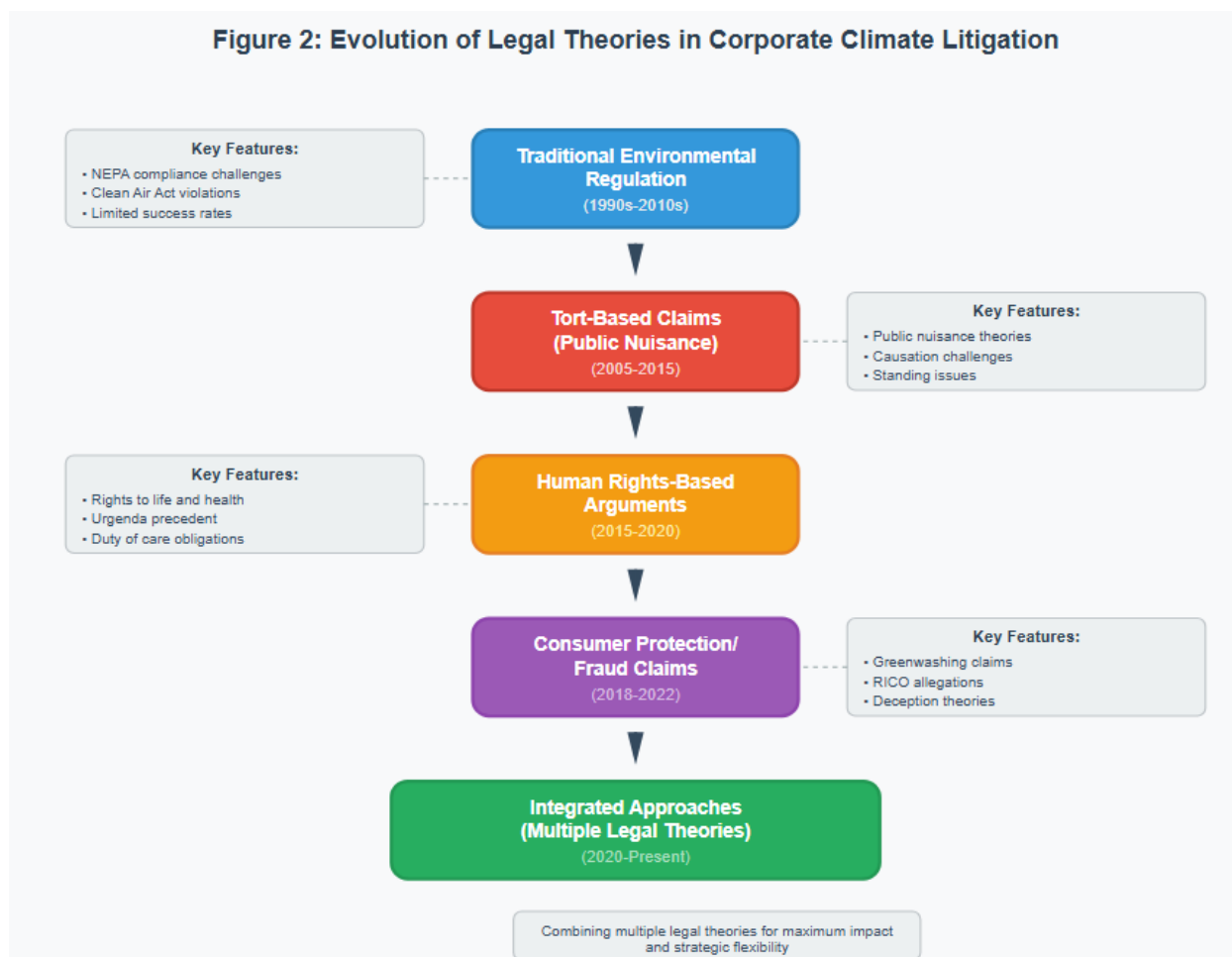
## **4. Major Case Studies and Legal Precedents**

### **4.1 The Influence of International Precedents**

While this analysis focuses on U.S. litigation, international precedents have significantly influenced the development of corporate climate liability theories. The landmark *Urgenda v. Netherlands* case (2019) established that governments have human rights obligations to protect citizens from climate change, providing a template that has been adapted for corporate defendants.

The plaintiffs in *Milieudefensie et al. v. Royal Dutch Shell* sought a ruling that Shell must reduce its CO<sub>2</sub> emissions by 45% by 2030 compared to 2010 levels and to zero by 2050, in line with the Paris Climate Agreement, building on the landmark *Urgenda* decision. Although this case was decided under Dutch law, its reasoning has influenced U.S. litigation strategies and judicial thinking about corporate climate responsibilities.

FIGURE 2: Evolution of Legal Theories in Corporate Climate Litigation



## 4.2 U.S. Fossil Fuel Litigation

The most significant cluster of corporate climate cases in the United States involves litigation against major fossil fuel companies. These cases generally fall into two categories: cost recovery suits seeking compensation for climate adaptation expenses, and consumer protection suits challenging alleged deception about climate risks.

### 4.1.1 Cost Recovery Litigation

Cost recovery suits generally seek compensation for past and future climate damages, while consumer protection suits challenge alleged deception by fossil fuel companies about climate science and risks. These cases represent attempts by state and local governments to recover the costs of climate adaptation and resilience measures from the corporations whose emissions allegedly necessitated these expenditures.

The legal theory underlying cost recovery claims is that fossil fuel companies should bear responsibility for the costs of addressing climate impacts that their products have helped create. This approach treats climate change as a massive environmental contamination problem, similar to other toxic tort cases where polluting companies have been held liable for cleanup costs.

### 4.1.2 Consumer Protection and Fraud Claims

A second category of fossil fuel litigation focuses on alleged deception by companies about climate risks. As detailed in the complaint, California has spent tens of billions of dollars to adapt to climate change and address the damages climate change has caused so far, and the state will need to spend multiples of that in the years to come.

These cases draw on extensive documentary evidence suggesting that major fossil fuel companies had sophisticated understanding of climate risks decades before this information became publicly available, yet continued to fund climate denial and delay efforts. The legal theory is that this conduct violated consumer protection laws and constituted fraudulent misrepresentation.

**Table 2: Major U.S. Corporate Climate Cases (2017-2022)**

Case Name	Jurisdiction	Defendants	Primary Claims	Status (2022)
California v. Exxon et al.	California Superior Court	5 oil majors + API	Fraud, Public Nuisance	Active
Rhode Island v. Shell et al.	Rhode Island Superior Court	21 fossil fuel companies	Public Nuisance, Trespass	Active
Baltimore v. BP et al.	Maryland Circuit Court	26 fossil fuel companies	Public Nuisance, Failure to Warn	Active
New York City v. Exxon et al.	New York Supreme Court	3 oil majors + API	Consumer Protection	Dismissed 2025
Municipalities of Puerto Rico v. Exxon et al.	Federal District Court	Multiple defendants	RICO, Antitrust	Active

*Source: Center for Climate Integrity and Sabin Center for Climate Change Law (2022)*

**4.3 Expanding Beyond Fossil Fuels**

While fossil fuel companies remain the primary targets of corporate climate litigation, the scope of potential defendants has expanded significantly. Cases in food and agriculture include Envol Vert et al v. Casino, alleging that French supermarket chain Casino’s involvement in the cattle industry in Brazil and Colombia is inconsistent with the French duty of vigilance law.

This expansion reflects growing recognition that climate responsibility extends across multiple sectors of the economy. Companies in agriculture, transportation, manufacturing, and finance are increasingly facing climate-related legal challenges as the scope of corporate climate accountability continues to broaden.

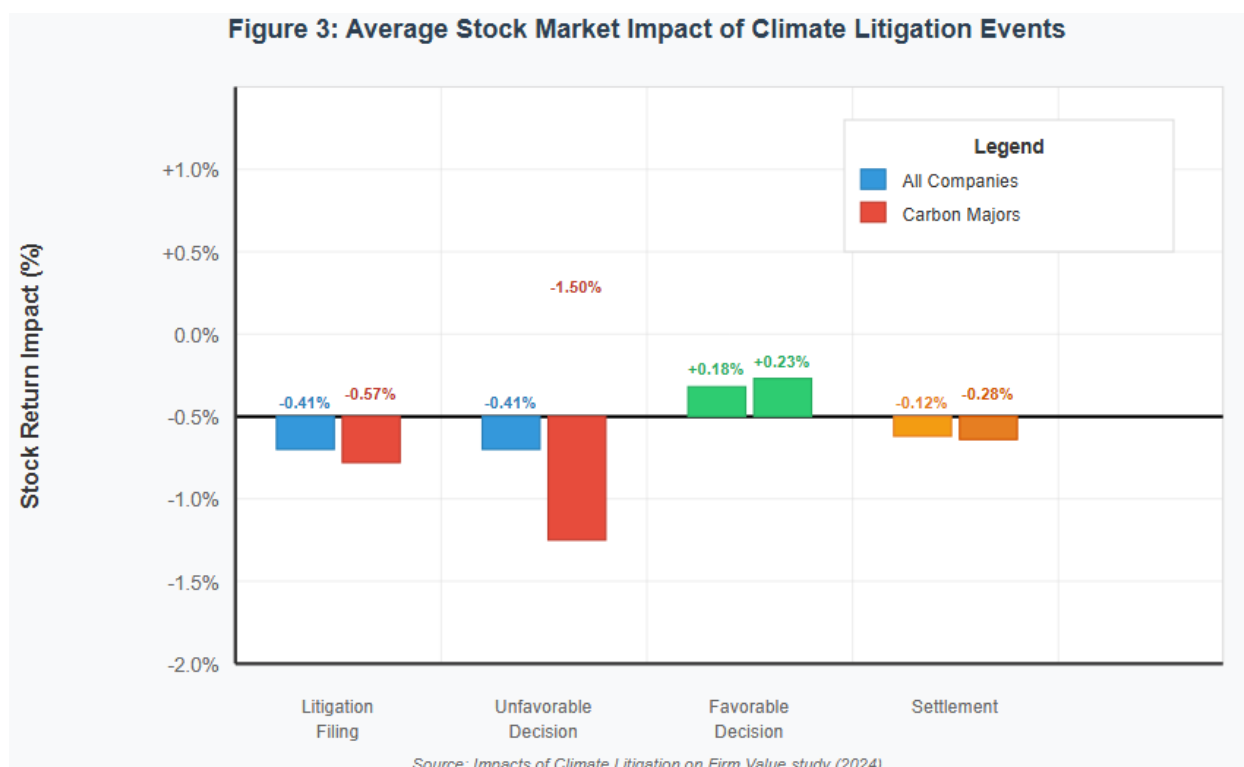
**5. Financial and Market Impacts of Climate Litigation**

**5.1 Stock Market Responses**

Climate litigation has begun to have measurable impacts on corporate financial performance. Firms experience, on average, a 0.41% fall in stock returns following a climate-related filing or an unfavourable court decision, with cases filed against Carbon Majors seeing the largest stock market responses, with returns reducing by 0.57% and 1.50% following filings and unfavourable decisions, respectively.

These market impacts suggest that investors are increasingly pricing climate litigation risk into their valuations of corporate defendants. The larger impacts on Carbon Majors (the world’s largest fossil fuel producers) indicate that markets recognize these companies face the greatest litigation exposure.

FIGURE 3: Average Stock Market Impact of Climate Litigation Events]



Source: Impacts of Climate Litigation on Firm Value study (2022)

**5.2 Litigation Costs and Settlement Values**

The financial implications of climate litigation extend beyond stock market impacts to include direct litigation costs, potential settlement values, and compliance expenses. Researchers estimate the average economic cost of a negative court decision is around USD 360 million, though they note that figure is highly influenced by cases against large companies.

While few climate cases have reached final judgment, the potential financial exposure is substantial. The California case against major oil companies, for example, seeks damages that could reach into the hundreds of billions of dollars when considering the full scope of past and future climate adaptation costs.

**Table 3: Estimated Financial Exposure Categories**

Exposure Type	Low Estimate	High Estimate	Primary Basis
Direct Litigation Costs	\$50M per case	\$200M per case	Complex environmental litigation comparisons
Settlement Values	\$1B per major case	\$50B per major case	Tobacco and asbestos precedents
Compliance Costs	\$100M per company	\$10B per company	Emissions reduction requirements
Reputation/Brand Damage	2-5% market cap	10-15% market cap	Stakeholder pressure and boycotts

Estimates based on industry analysis and litigation precedents (2022)

### **5.3 Insurance and Risk Management Implications**

Climate litigation has significant implications for corporate insurance and risk management strategies. Large companies typically have various insurance policies, which could at least partly provide a hedge against costs related to climate litigation, including those covering liability relating to directors and officers (D&O), commercial general business, products, or the environment.

However, interpretation by courts of whether claims arising from or associated with the emission of greenhouse gases constitute an insurable claim creates uncertainty about whether such policies may cover some of the costs associated with climate-related litigation. This uncertainty has led to separate litigation between corporations and their insurers over coverage for climate-related claims.

## **6. Corporate Responses and Behavioral Changes**

### **6.1 Defensive Strategies**

Corporations facing climate litigation have employed various defensive strategies, ranging from procedural challenges to substantive policy changes. The battlelines have been drawn around forum questions—namely, in what court do climate claims belong: state or federal, with the U.S. Supreme Court declining to hear a group of petitions asking the Court to reverse the remand of climate change lawsuits to state court.

Forum shopping has been a primary defensive strategy, with corporate defendants generally preferring federal courts, which they perceive as more favorable venues. However, the Supreme Court's recent decisions to allow state court proceedings to continue have limited this strategy's effectiveness.

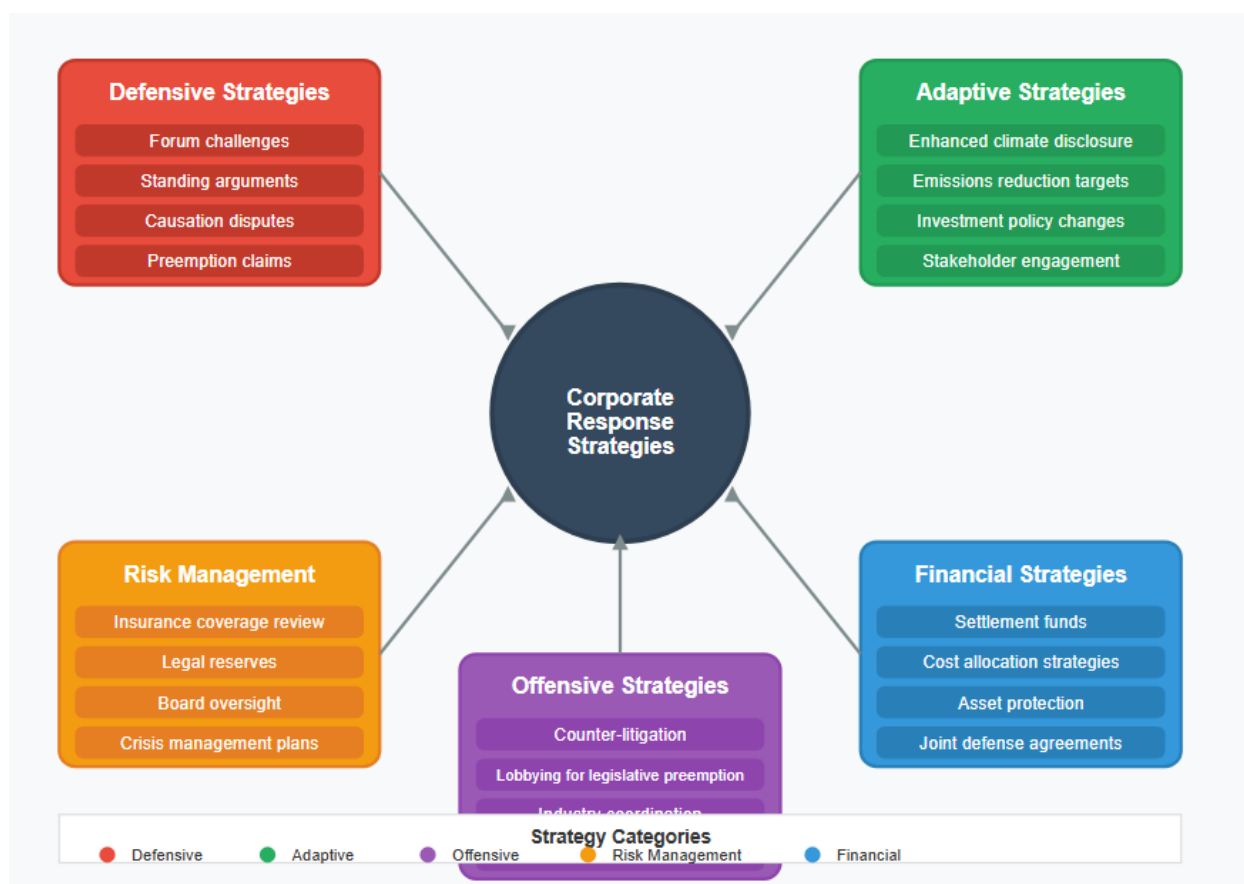
Beyond procedural defenses, corporations have increasingly turned to offensive litigation strategies. ExxonMobil is suing investor groups that want it to slash climate pollution, with interest groups on both sides saying it could lead to more lawsuits against activist investors. This represents a significant escalation in climate litigation tactics, with corporations attempting to deter future litigation through counter-suits.

### **6.2 Policy and Investment Changes**

Climate litigation has contributed to significant changes in corporate climate policies and investment strategies. Many companies have adopted more aggressive emissions reduction targets, increased transparency in climate reporting, and shifted investment patterns away from high-carbon activities.

The influence of litigation on corporate behavior extends beyond direct defendants to affect entire industries. Companies that have not been sued directly often modify their practices preemptively to reduce litigation risk, creating industry-wide impacts that exceed the direct effects of individual cases.

FIGURE 4: Corporate Response Strategies to Climate Litigation



### 6.3 The Role of Investor Pressure

Climate litigation has intersected with broader investor pressure on corporate climate action. ExxonMobil faces dozens of lawsuits from states and localities alleging the company lied for decades about its role in climate change and the dangers of burning fossil fuels, while also facing pressure from investors who want the company to slash pollution.

This dual pressure from litigation and investors has created powerful incentives for corporate climate action. Companies face not only the direct costs and risks of litigation but also pressure from shareholders concerned about climate-related financial risks to their investments.

## 7. The Effectiveness of Courts as Climate Enforcers

### 7.1 Judicial Competency and Institutional Limitations

The effectiveness of courts as climate enforcers depends partly on their institutional competencies and limitations. Courts are well-suited to resolving disputes about specific legal obligations and assessing liability for particular harms. However, they face challenges in addressing the complex, polycentric nature of climate policy and the global scope of climate problems.

Climate litigation requires courts to engage with complex scientific evidence about causation, assess the reasonableness of corporate conduct in the context of global environmental challenges, and craft remedies that can be effective in addressing climate harms. These tasks push courts beyond their traditional institutional roles and expertise.

## **7.2 Comparative Advantages of Litigation**

Despite institutional limitations, climate litigation offers several advantages over other approaches to corporate climate accountability. Litigation can address specific corporate conduct and impose direct consequences for climate-harmful activities. It can also complement other policy approaches by creating additional incentives for corporate climate action.

In 2022, the Intergovernmental Panel on Climate Change (IPCC) recognised the role of litigation in affecting "the outcome and ambition of climate governance," noting that its impact is "promising". This recognition suggests that litigation has become an accepted and important component of the broader climate governance landscape.

## **7.3 Systemic Impact Beyond Individual Cases**

The impact of climate litigation extends beyond individual cases to create systemic effects on corporate behavior and climate governance. Even unsuccessful cases can generate negative publicity for defendants, raise awareness of climate issues, and demonstrate the legal viability of climate claims for future litigation.

Recent research has demonstrated that the impact of climate litigation extends beyond the parties involved and also affects public opinion and future litigation. This suggests that litigation's effectiveness should be measured not only by direct legal outcomes but also by its broader influence on corporate behavior and climate policy.

## **8. Future Implications and Trends**

### **8.1 Expanding Legal Theories**

Climate litigation against corporations continues to evolve, with new legal theories and approaches emerging regularly. In the US, oil and gas companies are also being sued under the Racketeer Influenced and Corrupt Organizations (RICO) Act as part of climate-related litigation, demonstrating a new legal tactic that plaintiffs are using.

The use of RICO claims represents a significant escalation in climate litigation, treating corporate climate conduct as organized criminal activity. If successful, these claims could result in treble damages and criminal liability for corporate executives, dramatically raising the stakes for corporate defendants.

### **8.2 International Convergence**

Climate litigation is becoming increasingly international in scope, with legal strategies and precedents crossing national boundaries. The success of the Shell case in the Netherlands, for example, has influenced litigation strategies in other jurisdictions and demonstrated the potential for courts to order specific emissions reductions from corporations.

This international convergence suggests that corporations with global operations may face coordinated litigation strategies across multiple jurisdictions, making it increasingly difficult to escape climate accountability through forum shopping or jurisdictional limitations.

### **8.3 Integration with Financial Regulation**

Climate litigation is increasingly intersecting with financial regulation, as regulators require enhanced climate disclosure and risk assessment. This intersection creates new opportunities for litigation based on inadequate climate disclosure or misrepresentation of climate risks to investors.

The development of climate-related financial regulations also provides new legal standards against which corporate conduct can be measured, potentially strengthening future litigation claims and expanding the universe of potential defendants to include financial institutions and other companies with significant climate-related exposures.

**Table 4: Projected Growth in Climate Litigation (2022-2027)**

Sector	Current Cases (2022)	Projected Cases (2027)	Growth Rate
Fossil Fuels	180	320	78%
Agriculture/Food	25	65	160%
Transportation	15	45	200%
Finance	8	35	338%
Manufacturing	12	40	233%
Utilities	30	70	133%
<b>Total</b>	<b>270</b>	<b>575</b>	<b>113%</b>

*Projections based on current growth trends and sectoral analysis*

**9. Conclusion**

Climate change litigation has emerged as a significant and increasingly effective mechanism for enforcing corporate environmental accountability in the United States. The dramatic growth in climate cases against corporations—from fewer than 90 cases in 2017 to over 300 by 2022—reflects both the evolution of legal strategies and the growing recognition of corporate responsibility for climate change.

The analysis reveals several key findings about the role of courts in climate enforcement. First, litigation has successfully moved beyond traditional environmental regulation to encompass broader theories of corporate responsibility based on tort law, human rights principles, and consumer protection. Second, climate litigation is having measurable financial impacts on corporate defendants, with stock market responses indicating that investors are increasingly pricing litigation risk into corporate valuations. Third, litigation is contributing to significant changes in corporate behavior, including enhanced climate disclosure, more aggressive emissions reduction targets, and shifts in investment patterns.

The effectiveness of climate litigation as an enforcement mechanism stems from several factors. Unlike regulatory approaches that require political consensus and can be weakened by industry capture, litigation creates direct accountability between corporate actors and those harmed by climate change. Courts can assess specific corporate conduct against established legal standards and impose direct consequences for climate-harmful activities. Moreover, litigation can complement other policy approaches by creating additional incentives for corporate climate action and filling gaps where regulatory approaches prove inadequate.

However, climate litigation also faces significant limitations. Courts must grapple with complex questions of causation, attribution, and remedy that push the boundaries of traditional legal doctrine. The global nature of climate change creates challenges for addressing climate harms through nation-state legal systems. Additionally, the effectiveness of litigation depends on the willingness of courts to engage with climate science and accept expanded theories of corporate responsibility.

Looking forward, several trends suggest that climate litigation will continue to grow in importance. The expansion of legal theories, including the emerging use of RICO claims and human rights arguments, provides new avenues for holding corporations accountable. The international convergence of climate litigation strategies means that corporations with global operations face increasing coordination among plaintiffs across jurisdictions. The integration of climate considerations into financial regulation creates new standards for corporate conduct and new opportunities for enforcement.

The evolution of climate litigation reflects a broader transformation in environmental governance, where non-state actors increasingly use legal mechanisms to enforce climate accountability in the absence of adequate governmental action. While litigation alone cannot solve the climate crisis, it has become an essential component of the broader climate governance landscape, creating meaningful pressure for corporate climate action and contributing to the development of new norms of corporate environmental responsibility.

For corporations, particularly those in high-emission sectors, climate litigation represents both a significant risk and an opportunity. Companies that proactively address climate risks and adopt science-based emissions reduction strategies may be better positioned to defend against future litigation, while those that continue climate-harmful practices face increasing legal and financial exposure. As climate science continues to advance and climate impacts intensify, the pressure for corporate accountability through litigation will likely continue to grow.

The role of courts in climate enforcement ultimately reflects the broader challenge of governing complex, global environmental problems in a fragmented political system. While litigation cannot substitute for comprehensive climate policy, it has proven capable of creating meaningful accountability mechanisms and driving corporate behavior change. As the climate crisis intensifies, the courts' role in enforcing corporate environmental responsibility will likely become even more significant, making climate litigation an essential area of focus for legal practitioners, policymakers, and corporate leaders alike.

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