

Private Funders, Public Institutions: 'Climate' Litigation and a Crisis of Integrity

Government Accountability & Oversight, P.C., for its client Energy
Policy Advocates

MAY 18, 2021

"I'm super excited about this project. I think the politics of the day will give him cover. We only accepted a modest amount of money because I don't want to launch any big effort unless he wants to do it. I'll call the folks in NY and we'll get the whole team on a call."

— "Fresh Energy" Director Michael Noble to University of Minnesota Law School Professor Alexandra Klass, forwarding an email from Rockefeller Family Fund Director Lee Wasserman about arranging for Minnesota Attorney General Keith Ellison to file suit against energy companies

"We have 3 parts to present to Ellison: your memo, an organizing and grassroots support plan; a summary of damages and impacts to MN industry, infrastructure, agriculture, natural resources.

His transition team people say give him a couple weeks after swearing in, so I would be happy to have the memo by mid to late Jan. Do you want to do a phone call with the lawyers advising Rockefeller family fund?"

— Fresh Energy's Noble to Prof. Klass, referring to Center for Climate Integrity in continued thread of email from RFF's Wasserman, December 29, 2018

"[O]ur Emmett Institute on Climate Change and the Environment at UCLA...was founded as the first U.S. law school center dedicated to fighting climate change through law and policy."

—Cara Horowitz, Co-Executive Director of UCLA's Emmett Institute on Climate Change and the Environment, April 22, 2019

"Hi Dan, Thought you would like to hear that Harvard's enviro clinic, UCLA Emmett Institute, and the Union of Concerned Scientists are talking together today about going after climate denialism—along with a bunch of state and local prosecutors nationwide. Good discussion."

— April 25, 2016 email from Cara Horowitz to Dan Emmett, namesake and principal funder of the UCLA Law's Emmett Institute on Climate Change and the Environment and Harvard's Emmett Environmental Law and Policy Clinic

"What we had funded was an investigative journalism project. With help from other public charities and foundations, including the Rockefeller Brothers Fund (RBF), we paid for a team of independent reporters from Columbia University's Graduate School of Journalism to try to determine what Exxon and other US oil companies had really known about climate science, and when."

— "The Rockefeller Family Fund Takes on ExxonMobil", RFF's David Kaiser and Lee Wasserman, New York Review of Books, December 8, 2016

Privilege logs show nineteen Lee Wasserman emails with senior attorneys in New York Attorney General Eric Schneiderman's Office in 2015, Subjects: "Meeting re: activities of specific companies regarding climate change", "News article", "Comments on news article", "Scheduling" and "Meeting"

"New York Attorney General Eric Schneiderman is one of several officials who have been investigating whether the company's failures to disclose the business risks of climate change to its shareholders constituted consumer or securities fraud."

— "The Rockefeller Family Fund Takes on ExxonMobil," David Kaiser and Lee Wasserman, New York Review of Books, December 22, 2016

"A number of state attorneys general, beginning with Eric T. Schneiderman of New York, began investigating the company over whether it misled shareholders and consumers about the risks of climate change and the effects on its business. ... Whether the new paper will have any impact on these cases is unclear...The new research was partly financed by the Rockefeller Family Fund, which has been active in environmental causes and education. Exxon Mobil has accused the Rockefellers of being part of a conspiracy against the company. Lee Wasserman, director of the organization, dismissed those claims. 'In America, civil society organizations coming together to solve major problems is considered a virtue, not a conspiracy,' he said." "Exxon Misled the Public on Climate Change, Study Says,"

— New York Times, August 23, 2017

"Lawfare is an ugly tool by which to seek the environmental policy changes the California Parties desire, enlisting the judiciary to do the work that the other two branches of government cannot or will not do to persuade their constituents that anthropogenic climate change (a) has been conclusively proved and (b) must be remedied by crippling the energy industry."

— Texas Court of Appeals, County of Santa Cruz, et al. v. Exxon Mobil Corp., June 18, 2020

"Given increasing pressure on local and state budgets in the face of a global public health pandemic, it is increasingly important to identify new streams of revenue to address climate change", and "climate litigation [i]s a potential means to fill budgetary gaps" — "EVENT PROPOSAL", "Accountability for Climate Change Harms in the Pacific Northwest: Scientific, Policy and Legal Perspectives Pitch by the Center for Climate Integrity," Center for Climate Integrity Pitch Document sent to Oregon Attorney General Ellen Rosenblum's GMail (successfully) seeking her participation in a Spring 2021 panel touting climate litigation

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Executive Summary

New documents obtained under state open records laws reveal important details about the expanding, and arguably improper, deployment of law schools by or on behalf of donors in the climate litigation industry. That latter, national effort, which we now know is being coordinated by donors out of New York, enlists local activist groups, faculty, and attorneys general to bring lawsuits in state courts against traditional “fossil fuel” energy companies, as well as others involved in energy production and transport. As described by the plaintiffs’ lawyers and advisors, these suits have been brought to impact public policy and to find new sources of revenue for activists and state budgets.

Numerous schools including public universities now have donor-funded faculty advising the tort firms and AGs. They enlist students to assist, and they serve in the media to support the litigation campaign, often without disclosing relationships with the litigants or their funders. Law schools are described as a “secret weapon”¹ in the litigation campaign targeting companies. The roster of schools assisting the donor-driven campaign has expanded beyond elite universities, to public institutions in jurisdictions where the national coordinator has arranged for an allied state attorney general to target industry. Newly obtained documents show a much broader group of faculty quietly assisting this litigation industry.² They also show faculty being quietly advised and guided by activist attorneys engaged by financiers of this campaign. This extends even to allowing the activist attorneys — described as “the lawyers advising the Rockefeller family fund [sic]” — to ghost co-author supposedly academic pieces published on university letterhead, apparently in violation of rules governing these public institutions.

Those outside activist attorneys who behind the scenes have arranged for the litigation to be filed then file “friend of the court” briefs in support thereof. Some of the other faculty now revealed to be privately consulting with the plaintiffs’ tort team have also been filing “friend of the court” briefs in support of them.

These records put to rest the assertion made by a federal judge in the Spring of 2018 that there is a “missing link between the activists and the AGs.”

These revelations raise serious questions about the AGs’ and other plaintiffs’ claims that state as opposed to federal jurisdiction is proper for these lawsuits. They also demonstrate the need for further inquiry into the propriety of this predatory coordination, and whether it violates various implicated policies, rules of professional conduct, or laws.

PRÉCIS: UNIVERSITY OF MINNESOTA INVOLVEMENT

Newly released emails and other records lay out in candid detail how University of Minnesota letterhead came to be used for a memo, arranged for and ghost co-written by outside parties, on which state Attorney General Keith Ellison based his June 2020 “climate” lawsuit against fossil fuel companies. Emails show that a New York donor enlisted a local, Minnesota activist group for this task. The donor provided the group’s director with pleadings to help prepare him prior to “making initial calls” to enlist local law faculty in “this project”. The activist “only accepted a modest amount of money” at the outset, because he did not “want to launch any big effort unless [Ellison] wants to do it.” He in turn engaged Ellison transition team members, including a Minnesota Law faculty member, and arranged for another University of Minnesota Law professor to work with “lawyers advising the Rockefeller family fund [sic]” so as to learn “what is needed”. The professor then produced a memo with these outside lawyers but placed on Minnesota letterhead, as the product of the professor and four students. This raises numerous legal and ethical questions for taxpayers and courts in the Land of 10,000 Lakes.

These legal and ethical questions that this arrangement raises for public officials and universities are of significant public interest. This also raises questions about just how widespread is this enlistment of traditional, taxpayer-financed and historically more objective institutions in these coordinated external campaigns, which records show are being knowingly pursued on behalf of outside parties, whose involvement is disguised through the use of go-between organizations. Consider:

- Faculty members serving as advocates for private interests, without disclosing this role, as they provide ostensibly academic insight to state attorneys general who then file the desired lawsuit, and to the courts, and also are presented giving regular commentary to the media simply as interested scholars;
- Use of law school faculty to create a patina of local origin for litigation that is actually imported to the state by a wealthy, out of state family foundation that works, with the faculty’s assistance, to disguise its involvement in what truly is a national campaign;
- Faculty working for the foundation and other elements of the tort team to raise money for an activist group that is recruiting and even providing attorneys for these “climate” plaintiffs, which plaintiffs then hire the tort firm for which

the faculty consults, on behalf of whose clients the same activist group then files a “friend of the court” brief in support.

Newly obtained records confirm each of these elements, and a private family foundation’s driving role behind the operation and the lawsuits. Records also show the foundation and its agents intentionally obscuring its own involvement, and that of the “lawyers advising [it].”

PRÉCIS: EMERGENCE OF CCI

These new documents also uncover new facts about the non-profit players in the broader effort, principally the Center for Climate Integrity (CCI), which in 2020 emerged as a key facilitator of this litigation effort. CCI assists in recruiting governmental subdivisions to sue oil companies and others for alleged climate-related offenses, then provides outside counsel to openly represent the governmental plaintiffs they recruited to sue on behalf of their patron, the Rockefeller Family Foundation (RFF).

In total, it appears that the RFF gave CCI’s parent organization the Institute for Governance and Sustainable Development (IGSD) (CCI doesn’t seem to exist in a corporate sense) \$3.15 million in the most recent 2 years for which information is available via the NY State equivalent of the IRS Form 990: \$1,020,000 in 2017, the year CCI was set up, then \$2,130,000 in 2018. Capital Research Center’s Robert Stilson wrote, in April 2021: “Because CCI is an “initiative” of the Institute for Governance and Sustainable Development (IGSD), rather than a standalone nonprofit, its finances can be difficult to pin down.” This is discussed in more detail, *infra*.

A June 2018 email obtained under Florida’s public records law, sent by a lobbyist engaged to help recruit Fort Lauderdale to the litigation campaign, describes the group as follows:

The Center for Climate Integrity, formed last year to help support the nonprofits and communities looking to take the next step and to broaden that effort beyond Exxon - starting to track existing and future climate costs and consider filing litigation to make climate polluters help pay for the costs of adapting to climate change. Pay Up Climate Polluters is CCI’s umbrella campaign for that broader effort. But clearly we can adopt language and assets to fit each context, including an entirely grassroots, behind-the-scenes effort as needed.³

Public records show that several tort firms have also partnered with CCI in recruiting pitches for municipal plaintiffs as part of a national campaign, and that CCI also refers its targets to the firms. CCI is known to have successfully recruited at least four cities and one state attorney general to file such suits, and

has approached numerous other municipalities and attorneys general. CCI’s pitch to governmental entities includes that “it is increasingly important to identify new streams of revenue,” and that officials could use “climate litigation as a potential means to fill budgetary gaps.”⁴

In several of these cases CCI has then filed amicus curiae or “friend of the court” briefs in support of these parties it convinced to sue (including in the City of Baltimore case just ruled upon by the United States Supreme Court). Open records litigation in Maryland has shown that CCI was instrumental in bringing about Baltimore’s lawsuit.

CLIMATE LITIGATION INDUSTRY BACKGROUND

As prior public record or, colloquially, “FOIA” requests have shown, this climate litigation industry spans a breadth of non-profit groups as well as political officials, state attorneys general offices, and private tort law firms.

Documents obtained through state-level FOIA processes pull back the curtain on this “lawfare,”⁵ which is the chosen path to “bring down the fossil fuel companies,”⁶ and coerce⁷ defendants⁸ “to the table”⁹ (a popular phrase¹⁰). That is, the campaign seeks to substitute verdicts¹¹, or settlements, for the failure to convince the public and their elected lawmakers to enact certain policies.

Most remarkable is the role of the Rockefeller Family Fund and its Director, Lee Wasserman for whom, these emails state, CCI serves as agents and advisors.

This revelation is most notable because in 2016 RFF and Wasserman were revealed to have been behind this campaign, by instigating what were at first “racketeering” investigations by state attorneys general, and a tort campaign. They initially denied, e.g., targeting any particular company (Exxon Mobil), only to later defend their campaign against the company as protected First Amendment speech that made targeting that company in particular perfectly sensible, given the source of Rockefeller family wealth — Standard Oil, the forerunner of Exxon.

Several embarrassing records surfaced, then privilege logs from the New York Attorney General’s Office appeared containing entries of correspondence with Wasserman with descriptions such as “Meeting re: activities of specific companies regarding climate change”, “News article”, “Comments on news article”, “Scheduling” and “Meeting”. This led to his and RFF’s role as instigator becoming a focus in litigation, and prompted Exxon Mobil to seek pre-suit discovery to explore how this campaign began. RFF and Wasserman then receded into the background.

Both have now re-emerged in these record productions and are currently a media campaign justifying their actions. The emails revealed in this paper indicate Rockefeller Family Fund is in fact the campaign's ultimate guiding force, working through local activist groups and in very aggressive part through Center for Climate Integrity.

These records put to rest the assertion made by a federal judge in the Spring of 2018 that there is a "missing link between the activists and the AGs." The relationship between the AGs, the activists, and their funders is now illustrated in the parties' own correspondence.

Minnesota Case Study: Academics and Public Universities Deeply Entangled in the Climate Litigation Industry

WHAT IS NEEDED: LOCAL COLOR, "MODEST MONEY" AND "POLITICAL COVER"

On June 25, 2020, Minnesota Attorney General Keith Ellison filed suit against the American Petroleum Institute, Exxon Mobil Corporation, Koch Industries, Inc., and Koch subsidiaries Flint Hills Resources LP and Flint Hills Resources Pine Bend.¹² [Ellison's](#) climate lawsuit was actually filed by two lawyers provided and paid for by Michael Bloomberg's private foundation for the purpose of advancing the "climate" agenda.¹³

Ellison's was one of two dozen similar suits that have been filed all over the country. Though the precise nature of claims made in these suits has evolved over time in response to judicial and other necessities of reality, all such suits share as a basis the claim that defendant companies created a climate crisis. After initial transparency about the effort being not only geared toward extracting billions of dollars but also about setting national policy, which purpose then contributed to several defeats in court, more recently the plaintiffs have gone to great lengths to insist that each suit is a purely local matter, of state law, best left to state courts.

Several commonalities run through these actions, tracing back to the first wave of litigation instigated in late 2015. Principal

among these factors is the Rockefeller Family Fund. The group, chastened by exposure over its role in the campaign's early days, appears to largely work through a project RFF has taken under its wing, the Center for Climate Integrity.

Recently obtained public records set forth in the below timeline reveal that Ellison's suit originated with the Rockefeller Family Fund, which first recruited, and apparently funded, a local activist pressure group calling itself Fresh Energy.

Emails show RFF recruited Fresh Energy Director Michael Noble about the idea almost immediately after Ellison was elected in November 2018. Noble later excitedly boasted on a Zoom call, which was soon posted on YouTube, that his group had been approached by CCI.¹⁴

Public record productions, from both the University of Minnesota Law School¹⁵ and Ellison's Office¹⁶, affirm that in fact RFF's Director Lee Wasserman approached Noble and provided him with sample pleadings Wasserman apparently hoped would be replicated in a suit brought by Ellison. Then, Fresh Energy recruited Ellison's transition team, as well as Minnesota Law School faculty to help produce, pitch and, more importantly, sign a memo making the case to Ellison.

Noble orchestrated this by email and text message, including forwarding Wasserman's email in which he gave Noble

“materials” for him to “check[] out before you make initial calls.”

In that same thread involving the forwarded Wasserman email Noble opined, about Ellison, that “the politics of the day will give him cover” for filing the requested lawsuit. Despite that optimism, Noble also confided to Law School Professor Alexandra Klass¹⁷, that Fresh Energy “only accepted a modest amount of money because I don’t want to launch any big effort unless he wants to do it.”

Emails show that the four law students listed as co-authors on the memo to Ellison were paid by Fresh Energy, with the payment very intentionally run through the University, on the grounds that “there shouldn’t be Fresh Energy funding [of] law students direct.” Whether that funding came from Rockefeller Family Fund is unclear (see below).¹⁸

Documents show CCI lawyers co-authored this memo. According to Noble in an email to Klass, CCI are “the lawyers advising Rockefeller family fund.” According to emails, CCI also informed him and Klass “what is needed” in the memo.

PERSPECTIVE

The facts outlined above expose the façade of the lawsuit being an organic, local effort, which sprung from the advice of local experts. This is important for the same reasons these plaintiffs strive to insist that each suit is in reality a matter of local law – despite that most and possibly all of them were orchestrated by New York funders, prepared at some level and without disclosure by New York lawyers (who then file “friend of the court” briefs in support), and are part of an effort that began quite openly as part of a national campaign to substitute courts for Congress’s refusal to impose the desired policies nationally.

The plaintiffs have been bedeviled in the federal courts. Also, of course, they relate to the “political cover” Noble wrote Klass about.

This newfound Rockefeller involvement appeared as a single mention in an initial document production from the University,¹⁹ which prompted further requests (most of which remain outstanding as of this writing). A second production, still in response to that first request, then yielded important details about the specific actors, the timeline of contributions to the effort, and that it was RFF which instigated Ellison’s suit.

MINNESOTA TIMELINE

Rockefellers, Fresh Energy, Law School faculty and “our legal friends in NY” (CCI)

The following is a relevant Minnesota timeline of the Rockefeller Family Fund’s Lee Wasserman instigating, then CCI and the Law School persuading Ellison to file, the climate lawsuit. It is

derived from records obtained by Energy Policy Advocates and Government Accountability & Oversight, P.C.:

- November 19, 2018, using his personal email account for a particular reason he says he will explain when the parties speak, Rockefeller Family Fund Director Lee Wasserman sends climate litigation pleadings to Fresh Energy Director Noble, Subject: materials:

From: Lee Wasserman <lwasserman@me.com>
Sent: Monday, November 19, 2018 4:25:19 PM
To: Michael Noble
Subject: materials

M, attached is a complaint and a couple of briefs.

I think this will give you some good background. The Boulder complaint is a page-turner.

Probably worth checking out before you make initial calls.

thanks!

PS using this email for a specific reason we can discuss when we next talk. Happy Turkey Day.

- November 30, 2018, Noble emails Klass, “Subject: Big idea! Need your reaction (and hopefully enthusiasm)”.²⁰
- Klass responds, “[REDACTED (NB: appx. 10 words)] or Monday?”
- Noble agrees and the “Big Idea!” thread picks up on Monday, December 3, 2018 at 8:37 pm, with Klass saying “I could talk in 20-30 minutes [REDACTED]”.
- One hour later, at 9:37 pm, Noble forwards Wasserman’s email to Klass with the attached climate pleadings, “NYC 2d Cir opening brief.pdf, NYC v BP (dem AGs amicus brief).pdf, Boulder complaint.pdf”. Noble writes, in toto, “Here’s the 3 docs I got. I only read through the Boulder one.”²¹
- Several minutes later Klass provides Noble the “Fisherman Nuisance Complaint 11 2018.pdf” and, a few minutes after that, “City of New York v BP PLC.pdf”.
- The next, chronological-order email the University of Minnesota produces is dated December 29, 2018, although emails produced do reference that Klass and Noble also would send texts.

- December 29, 2018, (4:43 pm), Noble writes to Klass:

From: Michael Noble <Noble@fresh-energy.org>

To: Alexandra Klass <aklass@umn.edu>

Sent: December 29, 2018 4:43 PM CST

You can have more time. We have 3 parts to present to Ellison: your memo, an organizing and grassroots support plan; a summary of damages and impacts to MN industry, infrastructure, agriculture, natural resources.

His transition team people say give him a couple weeks after swearing in, so I would be happy to have the memo by mid to late Jan.

Do you want to do a phone call with the lawyers advising Rockefeller family fund?"

(emphasis added; this appears to reference CCI, see below)

- Klass responds at 5:14 pm:

From: Alexandra Klass <aklass@umn.edu>

Sent: Saturday, December 29, 2018 5:14 PM

To: Michael Noble

Subject: Re: materials

What did you discuss with Prentiss about his role? Since I hadn't heard from you I thought he was perhaps handling it. I'm happy to write something up on the substance of the lawsuits although Prentiss is the expert on the issue of AG authority.

Should the three of us speak with the folks at Rockefeller?

(emphasis added)

- "Prentiss" apparently refers to University of Minnesota Law School Professor Prentiss Cox, who later formally rejoined the AG's office, and provided Noble with his OAG email address on April 19, 2019.²²
- At 6:10 pm, Noble replied, referring to Cox, Ellison and Ellison's transition operation:

Prentiss says he absolutely has total authority as "father of the people". Doesn't need anyone's approval.

Prentiss has some advisor role on strategy there, perhaps clout it seems over how Keith will respond.

He was one of 4-5 transition team members I talked to who didn't want me to talk to him before he gets settled in.

I asked him to assist you on the legal authority question. He said he would but it was a simple "yes".

- Klass responds to Noble, "Then, yes, I (or both of us) should do **a phone call to see what is needed. I don't have a good sense of that right now.**" (emphasis added)
- December 30, 2018, Klass writes to Noble, referencing funding and payment discussions not reflected in emails produced by the University that are dated prior to this:

From: Alexandra Klass <aklass@umn.edu>

To: Michael Noble <Noble@fresh-energy.org>

Sent: December 30, 2018 8:45:16 AM CST

Also, you had talked about some funding. As I said, I am happy to work pro bono but it would be helpful to have funding to pay a couple of law student research assistants to help with some of the work, both an initial memo and any follow up. Let me know if that is an option.

- Noble responds the same day, "Yes we have funding and we can write a simple contract."
- Klass responds that this "Sounds good."
- Klass later (March 29, 2019) refers to the possibility of taking additional money for the students' work "out of my own funding," so it is unclear if she did work for Fresh Energy pro bono, or also received funding (this could also be referring to her funding, through the University, from the McKnight Foundation; see, infra)
- Continuing the thread begun when Noble forwarded Wasserman's email, Subject: materials, Noble informs Klass:

From: Michael Noble <Noble@fresh-energy.org>
To: Alexandra Klass <aklass@umn.edu>
Sent: December 30, 2018 2:49:33 PM CST

*I'm super excited about this project. I think **the politics of the day will give him cover. We only accepted a modest amount of money because** I don't want to launch any big effort unless he wants to do it.*

I'll call the folks in NY and we'll get the whole team on a call.

(emphases added)

- January 2, 2019, Noble appears to indicate the people in New York, who could inform him and Klass of "what is needed" in the brief to Ellison, are CCI. This comes in an email, Subject: Talk with our NY attorney friend?, that becomes a thread arranging a January 3, 2019 call:

From: Michael Noble Noble@fresh-energy.org
To: aklass@umn.edu
Cc: Sarah Clark clark@fresh-energy.org
Subject: Talk with our NY attorney friend?

Hi Alex

Her name is Judith Enck at Climate Integrity, formerly at NY AG.

We'll try to reach her today for a call tomorrow or next day. What are all your open time slots those 2 days?

- That call apparently occurred as on that date CCI's counsel Allyssa Johl writes to Klass, attaching a document "Case Docket - US Climate Liability.xlsx", listing suits, dates, parties, judges and procedural posture as well as upcoming milestones:

Hi Alex,

It was a pleasure speaking with you this afternoon. Attached is the resource I mentioned, I will take a look through my files to see what else might be useful to you (I won't inundate you, I promise!). All of the info provided here is publicly available, but I would ask that you not share this

document beyond your core research team.

Please do not hesitate to contact me or Judith with any questions as you pursue this research.

Many thanks,

Alyssa

- On January 8 and 11, 2019, Fresh Energy Science Policy Director J. Drake Hamilton corresponds with Klass, respectively seeking to arrange a phone call, and providing Klass with the state of Rhode Island's and Colorado counties and cities' climate lawsuit complaints.

Funding for the Professor and Students

Throughout January, Klass, other University of Minnesota officials and Fresh Energy arrange and then contract for \$3,000 funding to pay Klass's students, with Klass, according to Noble, "verifying with the law school financial people to make sure this can all go to its intended purpose, but she also strongly agrees that there shouldn't be Fresh Energy funding law students direct." (January 8, 2019 email from Noble to Fresh Energy's Chief Operations and Finance Officer Ellen Palmer, copying Klass²³).

The contract, signed by the University on January 10 and Fresh Energy on January 14, 2019, states, in pertinent part, "1. SERVICES TO BE PROVIDED: The Contractor will provide Climate change legal research."²⁴ The money was then routed through the University ("The check should be made payable to The University of Minnesota Foundation").

The contracted amount of \$3,000 for the students' contributions undershot their fees by half and was later supplemented by Fresh Energy, after Klass asked if the group could "provide the addition [sic] funds of \$1,579.12? If that's a problem, let me know and I'll take it out of some of my own funding."²⁵ Noble replied, *inter alia*, "Let's just act like it's a new activity and then I don't have to explain the difference."²⁶

An outstanding Minnesota Government Data Practices Act request seeks to discern whether Klass also received specific, outside funding for this work that was presented to the Attorney General as University product, created by her and four students. It seems possible that here she instead simply refers to a University-provided budget not specifically funded or supplemented by any outside party. (Other, related requests seek to discern whether Klass obtained approval for this as an "Outside Commitment"²⁷ of hers, or if it was undertaken as a

“University responsibility” as those terms are defined in various University of Minnesota policies; another seeks to learn whether Klass listed this on an Annual Report of External Professional Activities (REPA) for 2019 or 2020.²⁸⁾

Klass may have been referring here to a “discretionary fund” (such funds being known in academia as “slush funds”²⁹⁾. The public record does show that, as a 2015 McKnight Distinguished Professor, Klass was given \$120,000 to spend over five years,³⁰ provided to the University by the McKnight Foundation³¹, an activist foundation very busy in the anti-fossil fuel movement³² (whose wealth is derived from William L. McKnight, former President and Chairman of the Board of Minnesota Mining and Manufacturing, later, 3M³³).

Consider another relevant example, revealed in a recent public-record production obtained from UCLA Law School by Government Accountability & Oversight, P.C. That production of documents revealed certain details of how donors named Dan Emmett and Ralph and Shirley Shapiro gave a combined \$1.5 million to a “Carlson discretionary fund” which, according to the Shapiros’ instruction, is “to be used at the discretion of Professor Ann Carlson... in her sole discretion as she deems appropriate.”³⁴

Initial research suggests that although such amounts may not be typical the existence of such funds is accepted as a general practice, if typically with more clear limits on the funds’ use.³⁵

University Recruited to Project by Fresh Energy, Works With CCI

The Minnesota timeline continues:

- January 8, 2019 emails between Klass and Noble indicate Klass and J. Drake Hamilton met, at the Law School, on January 22 and January 29, 2019. A follow-up email indicates discussion was about Hamilton’s damage analysis and the legal arguments.
- January 27, 2019, Hamilton sends Klass an email with the attachment “Damages List 1.27.2019.docx”:

From: J. Drake Hamilton <Hamilton@fresh-energy.org>
To: Alexandra Klass <aklass@umn.edu>
Sent: January 27, 2019 5:10:14 PM CST

Hi Alex,

Attached is the current damages list. I’ll be doing citations and format over the next couple of days.

You may want to refer to the nine “Costs of...” headers to construct a 1-page list for your purposes. In each case, these are boldface/underlined/italized [sic].

- Throughout January 2019 Klass shares draft versions of and incorporates Enck’s and Johl’s edits to an evolving draft memo to Ellison.
- January 29, 2019, in an email Subject: “Memo is complete”, Noble wrote:

From: Michael Noble <Noble@fresh-energy.org>
To: Judith Eck <judith@climateintegrity.org>
Cc: Alexandra Klass <aklass@umn.edu>
Sent: January 29, 2019 4:24:08 PM CST

Should we put it in an envelope or email it?

Alex is completely [REDACTED].

I want our face to face meeting between March 5-25.

- Enck responds, “Email to me. Thanks”.
- In addition to conference calls, throughout early February and through March 22, 2019, Klass shares draft versions of and incorporates Enck’s and Johl’s edits to “Memo to AG Ellison on Climate Change Litigation,” “Memo (without model claims) to AG Ellison on Climate Change Litigation,” “‘Longer’ memorandum in both Word and PDF,” “‘Shorter’ memorandum in both Word and PDF,” and “Appendix A (model claims) to shorter memorandum in both Word and PDF.”
- February 25, 2019, Noble writes Klass and several redacted parties (these seem likely to be the students who assisted with the memo):

Hi Alex and Alex students, How are we doing on including/incorporating suggestions from our legal friends in NY?

One of the redacted parties responds to Noble from a @umn.edu address, “The other students and I have not yet received the revisions to the memo. But, we are ready to address the comments as soon as we receive them. We will follow up with Alyssa, unless you have information on the revisions that we don’t have.”³⁶

- A partially redacted February 26, 2019 email between the principals suggests that, after Klass became occupied with departing for Sweden as part of the University’s overseas program, the students were then guided by CCI:

Hi Alyssa,

I am emailing to follow up on the climate change memo. Professor Klass will be [REDACTED] and we look forward to addressing your comments. Thank you for agreeing to help us.³⁷

- March 4, 2019, Johl writes to Klass, Noble and (apparently, due to redactions) the students being paid by Fresh Energy through the University Foundation:

Dear Alex and all,

I hope this message finds you well. Attached is the shorter of the memos you sent through with comments. I made some proposed editorial changes to the first few paragraphs (using track changes), but otherwise used comments to flag where further analysis/clarification might be useful. I would be happy to jump on a call to discuss and/or review the next draft once you and your team have had a chance to work through it.

Also, I suggested that you spend a bit more time analyzing the Alsup and Keenan decisions in the SF/Oakland and NYC cases respectively. Attached is a briefing note that describes the key arguments and lines of reasoning in those decisions.

Please do not hesitate to reach out with any questions.

Many thanks,

Alyssa³⁸

With the exchange of edits seemingly concluding, also on March 4, 2019 CCI’s Enck writes to Klass, et al., “Professor Klass. Please send us the final when you have it and then we can talk about next steps. Thank you.” Klass replies, “Dear Judith: Yes, we will review the comments/edits received today from Alyssa and revise accordingly.”

On March 11, 2019, Klass writes, “Dear Alyssa and Judith: I attach the revised climate change memorandum. Please let me know if we have addressed all your proposed changes. Also, do you want to do a call about next steps later this week?”

Noble responds to the requests to now confer on the product:

I will be out and not grid-connected through next Tuesday.

If you do meet, I could put another key person on the call, but if you are just going to be talking legal, maybe you have everyone you need.

If you want me personally on the call, it has to be next week.

Also on March 11, Noble writes to Enck and Klass, “The two other documents in the process—an impacts document and an organizing document—are in good shape, near final, and are being polished by a trusted colleague/vendor Kate Knuth, who I am cc’ing here.”

Knuth, a 2021 DFL candidate for Minneapolis mayor and former member of the Minnesota House of Representatives, lists herself as a “Sustainability Scholar, Idea Entrepreneur, Climate Citizen; Founder, Strategist, and Writer, Democracy and Climate LLC” on her LinkedIn page (viewed April 24, 2021).

Despite the relatively minor role Knuth played compared to CCI, or Rockefeller Family Fund, Noble’s cover letter to Ellison did disclose Knuth’s involvement but not CCI’s or RFF’s.

Knuth replies to all:

Hello All,

The organizing memo is basically a proofread away from being done. I have a call with one of the scientific reviewers at noon Wednesday to go through any lingering questions I have on the impacts memo, and it will be finished soon after that.

Please let me know if there is any polling data you’d like me to include in a cover letter.

Thanks,

Kate Knuth

CCI and Klass have a call on March 15, 2019, using the University's conference call system. The next day, Klass circulates an amended memo with a new footnote 2 on personal jurisdiction.

Klass's team's portion of the work on the memo to Ellison appeared to be done on March 29, 2019, when Klass wrote to Noble seeking the 50% increase over contracted expenses for the student time (see FN 25-26). However, on April 1, 2019, Klass writes Noble:

From: Alexandra Klass <aklass@umn.edu>
Sent: Monday, April 1, 2019 2:53 PM
To: Michael Noble
Subject: climate change memo

Hi Michael — Alyssa just send [sic] me a redline version of the legal memo with many more edits I am incorporating now. I will send the revised version to you, Alyssa, and Judith later this week.

Best,

Alex

Klass later describes the "many more edits" as "Mostly minor edits on the legal side".

Noble informs Klass, "They told me that they were. They are editing our other docs too."

Later that day, CCI's Johl writes the principals:

Hi Alex and all,

I wanted to share a final round of edits for your consideration. All should be straightforward (mostly editorial but some factual). Except for FN23, they won't require any additional work on your end.

FYI, I made these edits to the version that Mike circulated to our team on March 26, as a package of docs to be submitted to Ellison. I noticed that you had made significant formatting changes to that doc, so didn't want you to have to go through that process again.

On April 2, Klass circulates "the revised memo with Alyssa [Johl's] edits," to which Enck responds, "Tx Alex. Mike, one down. 2 more coming."

Minnesota AG Keith Ellison's Office Involvement

The University of Minnesota has produced no further emails to date reflecting any work on the memo after April 2, 2019. After those edits described on that day, further discussions appear to have moved back to Ellison's Office.

On April 19, 2019, Fresh Energy sent Ellison a legal memo on University of Minnesota letterhead dated April 2, 2019 and titled "Potential Lawsuit against Fossil Fuel Companies for Minnesota Climate Change Damages." Nearly fifty pages in length, the memo encourages lawsuits against energy companies (and specifically suggests inclusion of "a subsidiary of Koch Industries (Flint Hills Resources) [which] owns the Pine Bend Refinery in Rosemount, Minnesota.")³⁹

The memo lists its authors as local law professor Alexandra B. Klass of the University of Minnesota Law School, with the help of "Sam Duggan, Minnesota Law Class of 2020, Allie Jo Mitchell, Minnesota Law Class of 2020, Hannah Payne, Minnesota Law Class of 2020, Nicholas Redmond, Minnesota Law Class of 2019".

Although the memo had two other authors, not named, both from the Center for Climate Integrity (Alyssa Johl, Judith Enck)⁴⁰, Noble wrote to Ellison in a cover letter, *inter alia*:

My colleagues and I have prepared two documents to help you understand the issues around suing for climate change damages as you consider this decision. The following documents are included with this letter:

Legal memo discussing a potential lawsuit against fossil fuel companies for Minnesota Climate Change Damages. This memo was prepared by University of Minnesota Law School Professor Alexandra B. Klass and 4 law students....

List of climate damages in Minnesota prepared by J. Drake Hamilton, Science Policy Director, Fresh Energy and Kate Knuth, Ph.D. In addition, this document was reviewed by six scientists from the University of Minnesota."

The latter items appear to be what Noble referred to when he informed Klass, about CCI, "They are editing our other docs too."

The April 19, 2019 cover letter does not mention CCI⁴¹, or Rockefeller Family Fund. It does conclude, however, "Along

with several key colleagues, I would like to meet with you and your staff to discuss a potential lawsuit against fossil fuel companies in Minnesota for climate damages. We can go through the attached documents with you and answer any questions you may have about the potential lawsuit and associated activities.”

An email dated two days later sheds some further light on this. In response to Klass’s inquiry for an update on the additional requested payment (see, supra), on April 21, 2019, Noble writes to Klass:

From: Michael Noble <Noble@fresh-energy.org>
To: Alexandra Klass <aklass@umn.edu>
Sent: April 21, 2019 1:16:08 PM CDT

It’s all final and in front of Keith.

Went on Friday afternoon. Here’s the text I sent you after I hit the send button:

“Letter with your attachment and impacts attachment sent to Keith Ellison today. Spoke to Prentiss and he urged me to cc him and John Keller and Donna Cassutt. First internal discussion next Wed. When we get a meeting, our delegation will be me, you, CEO of Climate Integrity, CEO Rockefeller Family Fund and Jeff Blodgett.”⁴²

It would be a drag to have the meeting without you there. But it seems they will offer to set it up before you’re home. Any thoughts on that?

Bloomberg Philanthropies-Financed Private Attorneys Join the AG Office

Ellison’s effort then takes a twist when, on May 24, 2019, his Office signs a Secondment Agreement for the first of two Bloomberg-financed “Special Assistant Attorney Generals,” Peter Surdo. Those SAAGs are provided to “advanc[e] progressive clean energy, climate change, and environmental legal positions”⁴³ (see, infra). In his application for these private lawyers Ellison specifically cited his past efforts in pursuing Exxon Mobil, claiming that activities such as “supporting state-led efforts to investigate Exxon Mobil” were and would remain curtailed, barring provision of additional resources to his Office such as those on offer from the Bloomberg group.⁴⁴

On September 18, 2019, the second Bloomberg-financed “Special Assistant Attorney General” Leigh Currie joins Ellison’s Office.⁴⁵

Currie is the individual whose party Michael Noble asked Prof. Klass about attending, in the body of his December 2018 email introducing RFF’s “Big Idea!” on which he sought Klass’s enthusiasm.

Currie at the time worked for an environmentalist pressure group and sat, then as now, with Noble on an advisory board of another climate activist group.⁴⁶

After Currie filed Ellison’s “climate” suit, Noble boasted on a Zoom call posted to YouTube of personal knowledge that these two attorneys, by name, have “basically been working on this full time over the last few months.”⁴⁷

Noble also helpfully affirmed both this timeline, and that these acts were “the genesis of” Ellison’s suit.

On September 30, 2019, Ellison, his Chief of Staff Donna Cassutt and 3 OAG attorneys including the two Bloomberg-provided SAAGs arrange “AG Meet w/ Michael Noble RE Climate Change/Fossil/Fuels [sic] (Donna)”.

On October 15, 2019, Noble’s group, Ellison, and an attorney from California plaintiff’s tort firm Sher Edling, LLP appear with UMN Professor Klass on a panel “The Legal and Scientific Case for Recovering Climate Change Damages in Minnesota from Fossil Fuel Companies.”⁴⁸

Soon, the tort firm Sher Edling began providing Ellison’s Office with media PR services, pitching internal OAG information to, e.g., MSNBC by at the latest June 19, 2020. This shows that Sher Edling was “on the team” at least several days before it enters a privileged relationship with OAG (six months before OAG moves to admit the firm to the case)⁴⁹. The firm ultimately obtained a contingency fee contract with Ellison’s Office in late September 2020⁵⁰ that, per Ellison’s assertions that the state could reap \$7 billion here as it did in the tobacco settlement, could yield the firm a half billion dollars.⁵¹

In June 2020 the two Bloomberg SAAGs filed the “climate” suit sought by the Rockefeller Family Foundation, against Koch, et al.

In December 2020, SAAG Leigh Currie filed a motion to admit California-licensed Sher Edling attorneys pro hac vice to represent OAG in this litigation.⁵²

PERSPECTIVE: WHAT’S THE “BIG IDEA”?

Rockefeller, Wasserman Re-emerge, Role Proved: Funder, Director, Provider of Ghost-writers

From these public records we see that the Rockefeller Family Fund not only instigated this litigation campaign in 2015, but has quietly continued its leadership role behind the scenes, directing and underwriting the filing of these suits.

The emails implicate the plaintiffs’ need to try and evade federal jurisdiction, which is behind their denial that these lawsuits

are about seeking national policy changes and instead styling each suit as one of alleged consumer protection violations. This in turn raises the question why Fresh Energy was behind the Minnesota litigation effort — after all, the group boasts in its fundraising appeal that its mission is “to shape and drive policies that have moved Minnesota toward clean energy and away from coal and other fossil fuels that cause climate change pollution.”⁵³ Fresh Energy has no apparent consumer protection mission or expertise.⁵⁴

These emails seem to illustrate why Fresh Energy got involved: the Rockefeller Family Fund asked Fresh Energy to get involved, and Fresh Energy received funding to do so. The records suggest that all parties were involved in obscuring RFF’s role, though it is possible that in Fresh Energy’s briefing or their correspondence with Ellison or his proxies Fresh Energy were more forthcoming about this effort than what was represented in, e.g., the legal memo: Did they inform him of the foreign origins of the suit he agreed to file based on a purportedly home-grown memo, imported by the same parties who organized the original campaign (born as a racketeering investigation)⁵⁵?

Interestingly, Ellison’s suit was replicated the next day by Washington, DC Attorney General Karl Racine, in an oddly similar filing. As Energy in Depth wrote at the time of DC’s suit:

2. Despite claims to the contrary, it seems that D.C. and Minnesota’s lawsuits were a coordinated move.

Even though Racine told reporters that he **only learned of Minnesota’s lawsuit after it was filed**, sections of D.C.’s complaint are eerily similar to the midwestern state’s — which, as a reminder, was announced less than 24 hours prior.

One could argue that this type of climate litigation was trending towards the consumer-focused angle, as evidenced by **Massachusetts’s lawsuit** filed in October 2019. But that doesn’t explain how entire paragraphs, either word for word or with slight variations, of D.C.’s complaint can also be found in Minnesota’s lawsuit.⁵⁶

Racine’s suit included “several instances where the complaints are near – or complete – copy/pastes,”⁵⁷ suggesting RFF’s and CCI’s ongoing coordinating influence does indeed go beyond what has now been demonstrated about Ellison’s Office and Minnesota.⁵⁸

In fact, Ellison’s climate lawsuit was RFF’s “Big Idea!,” as described by Fresh Energy’s Noble. Fresh Energy was engaged to execute RFF’s idea using local actors.

Except for two recently obtained email threads involving

UCLA’s Carlson and her funder Dan Emmett, to be discussed in more detail in a forthcoming paper, this is the first time the Rockefellers have come back into the picture since 2016. Then, the family, group and Wasserman aggressively hit favored media outlets to spin their having been outed (and for a while, having denied, see, *infra*) being behind the media push and recruitment of state attorneys generals to make RICO claims with an initial focus on Exxon Mobil. By that time, their effort had already helped launch investigations and suits by the attorneys general of New York and Massachusetts.

In another interesting parallel, the Massachusetts suit seems to have been brought thanks to Carlson colleague, UCLA Law School professor Cara Horowitz, who infamously wrote to Emmett from a meeting at which she briefed, among others, “prospective funders”⁵⁹ and five attorneys from Massachusetts AG Maura Healey’s Office, “Hi Dan, Thought you would like to hear that Harvard’s enviro clinic, UCLA Emmett Institute, and the Union of Concerned Scientists⁶⁰ are talking together today about going after climate denialism—along with a bunch of state and local prosecutors nationwide. Good discussion.”⁶¹

Wasserman’s email to Noble from his private account which Noble helpfully forwarded to a public institution shows that his and RFF’s role in this campaign has simply been well-masked. Given the history and context, the reasonable conclusion is that Wasserman’s reason, reserved for a phone call or in-person discussion, for moving the conversation from his @rff.org email to a personal account, involves litigation discovery and public records requests: at that time, RFF had already become a focus of two trials then underway in state courtrooms in Manhattan and Tarrant County, Texas.

Put aside the seeming importance of this information to that Tarrant County, Texas case, which is now before that state’s Supreme Court (discussed in further detail, *infra*).⁶² Three years ago a federal judge in the Southern District of New York declared there was a “missing link between the activists and the AGs”⁶³, and that claiming otherwise amounted to “extremely thin allegations and speculative inferences”⁶⁴.

Such assertions, and the notion of a series of unrelated coincidences that happen to involve people with a shared worldview, are simply no longer credible. As such, we should expect federal courts to more carefully consider this in evaluating the proper jurisdiction for supposedly local disputes which clearly constitute a coordinated national campaign to extract billions from targets, and to coerce companies into aggressively supporting costly, national policies rejected by Congress time and again.

These new documents present what appears to be a playbook, using the same basic lineup — law faculty, Center for Climate Integrity, Rockefeller Family Fund instigation, wealthy donors

and the tort bar – who get together on the same job. The parties then combine to recruit law enforcement. The outside parties, e.g., Rockefellers and Bloomberg, are investing in the same agenda, with one providing the ammunition and the other the weapon, with compliant elected attorneys general providing the organization to formally execute the job.

The involvement of RFF, et al., are now certain to become the subject of more inquisitive judicial scrutiny. Which other cases were RFF instrumental in?

At this writing the United States Supreme Court just issued its opinion in the City of Baltimore case which will help set the jurisdictional course for RFF's campaign; did RFF have a hand in bringing that case? In open records litigation brought by Energy Policy Advocates, Baltimore argued to a court that CCI was indeed its "consultant" prior to filing suit, claiming privilege over their communications. Knowing now that that CCI are "the lawyers advising Rockefeller family fund," that claim appears even more tenuous. It is the subject of an upcoming argument in the Maryland Court of Special Appeals.

This expands the previous understanding of RFF as financier of the lawyers provided to plaintiffs, and otherwise working for numerous of them (including by being in the pitch meetings through surrogates). Now we see the group as hands-on orchestrator. If the Rockefeller Family Fund is not in fact behind this wave of targeted litigation and even directing the show, it is quite unclear why, e.g., Fresh Energy is taking direction from the group's chief, and "making initial calls" after receiving RFF's "materials", to enlist local faculty to co-write a memo with "lawyers advising [RFF]" enlisting the state attorney general in "this project," which lawyers first set forth "what is needed". Both of which parties — RFF and the lawyers advising it, CCI — were omitted from the record in an apparent effort to obscure and indeed misrepresent their involvement.

One Minnesota email lists RFF as an expected (by Fresh Energy) participant in the pitch meeting to Ellison; a later email scheduling the meeting suggests the parties thought better of that, in the end, as neither RFF nor CCI were included in it. However, records indicate the two Bloomberg-provided attorneys were there.

With so many similar claims against similar and generally the same defendants alleging similar causes of action which allegedly arise under state law, it seems likely that one or more courts will be asked to consider the meaning of this new commonality among state court litigation involving the same legal theories, the same defendants, and usually the same plaintiff's counsel. As at least one court has previously noted, multi-front litigation raises important concerns about the motivations of litigants.

That came in the notorious matter of *Chevron Corp. v. Donziger*, 974 F. Supp. 2d 362, 475 (S.D.N.Y. 2014).⁶⁵ That case also involved environmentalist/tort bar pursuit of a major oil company, and concluded with the lead tort lawyer's disbarment.⁶⁶ The sordid scheme at the center of that scandalous litigation now rings familiar in some respects: outside consultants ghostwriting documents attributed to the plaintiff's experts (only to see the ghostwriters later appear in the litigation to comment on what was in fact their work), and a political pressure campaign designed to influence the court.⁶⁷

Problems for the University of Minnesota

As noted, *supra*, this paper leaves it to the private parties targeted by this RFF-inspired, RFF-financed and, apparently, RFF-led litigation campaign to explore which if any of these elements are actionable. It is not inconceivable that the group has violated the conditions of its tax-exempt status, engaged in tortious interference and/or, depending upon the totality and circumstances of the misrepresentations by it or its agents, possibly other and more serious offenses.

That further investigation may be necessary does not mean some behaviors are not already apparently violative of one standard or another. Consider University of Minnesota policy.

Policy on Academic Freedom and Responsibility

The University of Minnesota Policy on Academic Freedom and Responsibility reads, in pertinent part:

SECTION III. ACADEMIC RESPONSIBILITY.

Academic responsibility implies the faithful performance of professional duties and obligations, the recognition of the demands of the scholarly enterprise, and the candor to make it clear that when one is speaking on matters of public interest, one is not speaking for the institution.⁶⁸

The *Klass, et al.* memorandum to Ellison on University stationery urging him to file suit against certain private parties, including Minnesota entities, is inherently presented as "speaking for the institution," i.e., a scholarly pursuit of the Law School via its faculty. Yet it appears to have omitted two principal authors, who were, the professor had been informed, "lawyers advising the Rockefeller family fund." The inclusion of these co-authors of course would have precluded the use of Minnesota's official letterhead for the memo.

Professor Klass indicated in an email to Fresh Energy's Noble that she would perform her work for the group on the requested memo pro bono, in pursuit of advocacy and lobbying work Fresh Energy had taken money to engage in; in pursuit of this work and in an effort to advance the group's paid-for campaign, Prof. Klass placed an advocacy document for that private interest on University of Minnesota stationery,

which bore no disclosure either of Fresh Energy’s role or the co-authorship of the memo by those outside “lawyers advising the Rockefeller family fund,” who Klass understood would advise her “what is needed” in the memo.⁶⁹

This raises several questions, the answers to which depend in part on what public records exist, and what those contain, requests for which are the subject of as-yet unfulfilled records requests to the University (the School has indicated about several of what appear likely to be among the most highly informative records, if they exist, “we may maintain [they] would be private personnel data pursuant to MN Stat. 13.43.”).

Regardless, it is clear from the face of the memo to Ellison that Klass failed to disclose (thereby implicitly misrepresenting) the memo’s actual authorship. Rather than disclose the CCI/RFF authors — which surely meant it could not be on University letterhead — the Professor simply represented the work, on University letterhead, as the work product of her and four students.

There are variables surrounding what other implications might flow from the three key known omissions — RFF having engaged Fresh Energy to generate the memo, Fresh Energy having been paid and paid for the memo, and RFF-agent CCI attorneys co-authoring the memo. These include whether the University’s service as a pass-through for Fresh Energy money to pay the students, or anything else, turned the apparent “Outside Commitment” by Klass into a “University responsibility” as defined in various University policies.

University of Minnesota Conflicts Policy

The University’s “Individual Conflicts of Interest and Standards Governing Relationships with Business Entities” page notes (emphasis added):

Reason for Policy:

To implement Board of Regents Policy: *Individual Conflicts of Interest*, to comply with federal and state law. This policy is intended to ensure that covered individuals report and fully disclose financial and business interests that relate to their University expertise and responsibilities so that potential conflicts of interest can be reviewed and, where conflicts of interest are found to exist, eliminated, reduced, or effectively managed. **To gain and maintain the public’s trust, the University must demonstrate that the work that is conducted here is free from improper influence and bias that might otherwise result from external interests and relationships.**⁷⁰

Prof. Klass was informed by Noble that RFF had arranged for Fresh Energy’s campaign. The Klass, et al. memo also omitted that it was produced for Fresh Energy, while this should have been disclosed.

In short, someone appears to have sold, rented, given away, or otherwise improperly used University letterhead for and to advance a paid-for campaign by a third party. The question is whether that was Prof. Klass or the University. The answer to that question lies at least in part in whether University policies are read in a way such that the University’s service as a pass-through for Fresh Energy, or something else, represented the University adopting the memo as a “University responsibility” rather than a Klass “Outside Commitment.”

Policy on Outside Consulting and Other Commitments

On its face and barring other information, Prof. Klass’s work for Fresh Energy appears to represent an Outside Commitment for purposes of University policy. The University of Minnesota Policy on Outside Consulting and Other Commitments reads, in pertinent part (emphases in headers in original; italics in text in original, bold in text added):

SECTION II. DEFINITIONS.

Outside commitment shall mean outside consulting or other activity, paid or unpaid, that is beyond the scope of the individual’s University employment responsibilities....

SECTION IV. RULES FOR OUTSIDE COMMITMENTS.

Subd. 1 Conflict of interest

A potential conflict of interest resulting from an outside commitment shall be governed by Board of Regents Policy: *Individual Business or Financial Conflict of Interest* and Board of Regents Policy: *Institutional Conflict of Interest*.

...

Subd. 2. Restrictions.

Except under limited circumstances specified in administrative policies and procedures, the following restrictions shall apply to University employee participation in outside commitments: ...

(b) University employees, when rendering service to or cooperating with an organization outside the University, may identify their employee status, but they shall not speak, act, or make representations on behalf of the University, nor may they express institutional endorsement in relation to the outside activity. ...

(d) University employees shall not use the official stationery of the University or give as a consulting business address any building or department name **when participating in outside commitments.**

(e) University employees shall not use University personnel, equipment, or services for outside

commitments in a way that depletes University resources.⁷¹

According to this policy, University faculty may not represent their participation in service of Outside Commitments as being performed in their capacity as faculty, and shall not use University stationery in these pursuits. Outside Commitments also must be approved through a formal process involving University administration.

The web page explaining these restrictions reads, in pertinent part:

Restrictions

The following restrictions apply to employee participation, regardless of classification, in outside commitments. Employees:

- may not use University personnel or students, equipment or supplies, or services for outside commitments in a way that materially depletes University resources without prior approval and payment of a reasonable fee to the University. Prior approval and agreement for payment terms must be obtained from the employee's unit head and dean, or for administrative units, the senior administrative officer or designee;...
- may not use the official stationery of the University, or use any University building name or department name as a consulting business address when participating in outside commitments;
- may identify their University employee status when rendering service to an organization outside the University, but may not speak, act, or make representations on behalf of the University...⁷²

This confirms that this policy contemplates Outside Commitments also including use of students, whether in a paid or unpaid way, if approved by and a reasonable fee is paid to the University. That is, using the University to obscure the Fresh Energy payment does not inherently turn an Outside Commitment into a "University responsibility".⁷³

The FAQs web page for this policy states, in pertinent part:

Authorship Disclosure

Individuals are expected to disclose the nature of a consulting relationship if the individual qualified for authorship of a resulting research publication during the course of the outside professional commitment. Such disclosure will typically appear in an authorship note or the acknowledgment section of a publication, e.g.: "During initial phases of this work, Professor NAME received compensation as a consultant to COMPANY."⁷⁴

The memo sent to Ellison failed to disclose the actual authors, by omitting two material co-authors, who Prof. Klass had

been informed were "lawyers advising Rockefeller family fund [sic]". Further, the memo does not disclose that the work was performed for (or with editing provided by) Fresh Energy, that Fresh Energy was compensated to arrange for the University memo, or that Fresh Energy compensated the students by paying the University first. In fact, the move to route payment for the students' time through the University was, according to emails, quite consciously to avoid disclosing the group's involvement in producing the memo.

Presumably the administration will defend Prof. Klass's actions, and likely arguing that, because it took Fresh Energy's money to pay the students, the memo to Ellison encouraging him to file suit against API, Exxon Mobil, Koch, et al., was official University product. Although that may be true, the University has yet to release any records reflecting such a conclusion, and it does appear that requests to date sufficiently cover such records if they exist.⁷⁵

Regardless, such a reply, if presented, would seem to prove too much: it would raise questions about this instance of the University renting out its letterhead to pressure groups, whether this instance was indeed specifically approved by the administration (at some level, that appears to be the case), and whether there is a practice of doing so that predates this. The same questions then arise about using ghostwriters for official product, even parties who faculty had been informed were in fact not working for the University but for an outside third-party interest.

Minnesota Rules of Professional Conduct, Prohibition on Misconduct

The Minnesota Rules of Professional Conduct track the ABA's Model Rules of Professional Conduct. Rule 8.4, prohibition on Misconduct, reads, in pertinent part:

Rule 8.4 Misconduct

It is professional misconduct for a lawyer to:

- (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another; [or]...
- (c) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;⁷⁶

The comments (1991) state, in pertinent part:

[3] Lawyers holding public office assume legal responsibilities going beyond those of other citizens. A lawyer's abuse of public office can suggest an inability to fulfill the professional role of attorney. The same is true of abuse of positions of private trust such as trustee, executor, administrator, guardian, agent and officer, director or manager of a corporation or other organization.

There can be little doubt that the Klass, et al. memo on University stationery and presented to the Minnesota Attorney General Keith Ellison, advocating the filing of particular litigation against private parties, misrepresented its authorship. This is true regardless whether this was because acknowledging the outside authors would have meant it could not be on University letterhead as faculty scholarship.

However the public institution treats its involvement, the question whether this or any apparent misrepresentation by an attorney rises to the level of professional misconduct is a matter for each state's Bar Association.

New Roles for Traditional Institutions

Law Enforcement, Donors Would Like to Thank the Academy

One highly concerning aspect of the above-detailed campaign which has gained some, if very limited, media attention is the placement of privately hired activist attorneys in the offices of progressive state attorneys general by ideologically committed donors. The relevant facts⁷⁷ suggest a renting of these offices to a particular major political and activist donor, Michael Bloomberg, weaponizing law enforcement to pursue issues of concern to that donor.⁷⁸ Something similar appears to be transpiring with law schools.

An April 2016, "secret meeting at Harvard"⁷⁹ found many of the key actors in the climate litigation campaign gathered together, including lawyers representing state attorneys general offices, activists, and "prospective funders"⁸⁰ of the coordinated climate litigation campaign.

The meeting, titled "Potential State Causes of Action Against Major Carbon Producers,"⁸¹ also included numerous academics among the presenters including from Oregon State University and UCLA. Public universities are subject to open records laws just as are the participating AG offices; donors turning to these institutions to support their campaign is their choice and one which carries responsibilities. One of the benefits is that these institutions have been the (often reluctant) source of some of the key facts discussed herein. Outstanding requests and extant litigation suggest they will continue to play a key role in educating the public about this campaign in which they are significant participants.

Among those law schools playing leading roles are programs at Columbia University ([Sabin](#) Center for Climate Change Law), New York University ([Bloomberg's](#) State Energy & Environmental Impact Center, underwriting the state AGs' participation), University of Chicago ([Abrams](#) Environmental Law Clinic), Yale University, Harvard (Harvard Law School's [Emmett](#) Environmental Law and Policy Clinic), and UCLA (Emmett Institute on Climate Change and the Environment).

These centers often are named after high-net-worth individuals who, personally and/or through their foundations, fund them. The centers assert both policy interests and policy agendas. Sometimes the donors' political and business agendas track those reflected in the centers' work.⁸²

These schools also partner with activist-donor vehicles at undergraduate institutions, for example George Mason University and its Center for Climate Change Communication, which similarly made a name for itself by organizing a call among academics for prosecution of "climate change denialism" under the Racketeer Influenced and Corrupt Organizations Act ("RICO").⁸³

OTHER NEW TWISTS ON FINANCING LITIGATION

Examination of this climate litigation industry has revealed some curious funding twists. For example, one charitable foundation, Resource Legacy Fund, has made "grants" of nearly three million dollars in just three years (2017-2018⁸⁴) directly to the private tort law firm leading the climate litigation campaign, Sher Edling, LLP. That is the same tort firm with which, we now know, well over a dozen law schools' faculty have quietly advised.⁸⁵

Sher Edling also is the same firm with which, public records requests show, state attorneys general coordinate with and sometimes hire for the job of pressing these RFF-inspired claims in court. It is also one of the firms that these AGs make a remarkable claim of privilege with in an April 2018 “Confidentiality Agreement Regarding Participation In Climate Change Public Nuisance Litigation,”⁸⁶ and December 2019 “Amendment To Confidentiality Agreement Regarding Participation In Climate Change Public Nuisance Litigation”⁸⁷ — regardless of whether the AGs hired the firm, and indeed before any of the AGs had hired the firm for these purposes.⁸⁸

“

Just so you know, we’re also in the process of exploring other state-based approaches to holding fossil fuel companies legally accountable - we think there’ll likely be a strong basis for encouraging state (e.g. AG) action forward...

— July 31, 2016, email from Union of Concerned Scientists’ Peter Frumhoff to George Mason University Prof. Edward Maibach, Subject: FW: Senator Whitehouse’s call for a RICO investigation of the fossil fuel industry

Family Tree: Rockefeller Family Fund, Bloomberg Philanthropies, Center for Climate Integrity

OLD (MONEY) INSTITUTION: ROCKEFELLER FAMILY FUND

The Rockefeller Family Fund was founded in 1967 and describes itself as “a U.S.-based, family-led public charity that initiates, cultivates, and funds strategic efforts to promote a sustainable, just, free, and participatory society.”⁸⁹ The group asserts that it represents “a hybrid of two very distinct models: **The traditional foundation** that gives grants to nonprofit organizations. RFF was founded with this intent, and this is the institutional form that is most recognizable to the nonprofit community [and] **The nimble advocacy organization** that develops and runs initiatives and projects to help address key societal issues.”⁹⁰ (emphases in original)

That model includes channeling its funding through various organizations prior to it reaching its end-recipient.⁹¹

The group was created with Rockefeller family wealth, including funding derived from Standard Oil. “ExxonMobil is Standard Oil’s largest direct descendant.”⁹² In 2016, an Exxon Mobil spokesman asserted in an interview that RFF and aligned groups such as Rockefeller Brothers Fund [RBF], were “funding a conspiracy” against the company.⁹³

According to the *New York Times*, “In 2015, after mining corporate archives, *The Los Angeles Times* published an investigation into [Exxon Mobil’s] history of climate research, working with students from the Columbia University journalism school, whose program received more than \$500,000 from the Rockefeller Family Fund and a lesser amount⁹⁴ from the Rockefeller Brothers Fund. *Inside Climate News*, an environmental journalism organization that also received money from Rockefeller philanthropies, produced its own in-depth

report the same year. Activist groups, many of which received Rockefeller funding as well, then kicked off an initiative known as #ExxonKnew. [This] has prompted protests, government investigations and lawsuits.”⁹⁵

As the *Times* also reported, “Next came the lawsuits. With the family’s encouragement, a number of state attorneys general, drawing on the journalists’ reporting, began their own investigations of Exxon Mobil, starting with one in 2015 by New York’s attorney general at the time, Eric T. Schneiderman.”⁹⁶

RFF’s role and that of its Director, Lee Wasserman, in instigating this litigation campaign became a focal point in Exxon Mobil’s defense of the New York Attorney General’s failed prosecution of the company for alleged climate-related securities fraud.⁹⁷ It also was a material point in Exxon Mobil’s effort to engage in pre-suit discovery in Texas against certain California municipal plaintiffs and others,⁹⁸ such as tort lawyer Matt Pawa who organized these pursuits as part of a privately funded (including by RBF) non-profit called the Global Warming Legal Action Project.⁹⁹ That pursuit is now before the Texas State Supreme Court, such that this remains a live inquiry.

Public records also showed Wasserman’s seminal, personal involvement in lobbying attorneys general to initiate “climate change” investigations of oil companies,¹⁰⁰ and his employer’s role in organizing and supporting activists to also sue and to

“

What we had funded was an investigative journalism project. With help from other public charities and foundations, including the Rockefeller Brothers Fund (RBF), we paid for a team of independent reporters from Columbia University’s Graduate School of Journalism to try to determine what Exxon and other US oil companies had really known about climate science, and when.

— “*The Rockefeller Family Fund Takes on ExxonMobil*”, David Kaiser and Lee Wasserman, *New York Review of Books*, December 8, 2016

urge investigations¹⁰¹ and also in orchestrating the media stories that served as the pretext for attorney general investigations, specifically first targeting Exxon Mobil. Wasserman at first denied but subsequently seems to have admitted the latter.¹⁰² After claiming RFF’s support was simply for “public interest journalism to better understand how the fossil fuel industry was dealing with the reality of climate science internally and publicly,” but that “[n]o specific company was targeted,” the story evolved to include specific references singling out Exxon Mobil.¹⁰³ Privilege logs also showed correspondence between the New York AG’s Office and Wasserman discussing specific companies (see FN 100).

Wasserman’s RFF bio euphemizes this work with, “Lee’s work has led creation and implementation of initiatives to address climate change; advance women’s economic interests; and expand citizens’ ability to influence their democratic institutions.”¹⁰⁴

Then-RFF president David Kaiser defended the group’s campaign after it was exposed, “We have exercised our freedom of association by talking with like-minded people about how best to educate the public about the realities of climate change. And we have exercised our right to petition the government for redress of grievances by informing elected officials about our concerns that in the course of its climate science campaign, Exxon may have violated the law.”¹⁰⁵

Energy in Depth wrote also of the subsequent escalation:

In 2017, the Rockefeller Family Fund (RFF) gave the Institute for Governance & Sustainable Development (IGSD) over \$1 million to launch an aggressive climate litigation campaign against America’s top energy producers, according to a new *Energy In Depth* analysis of New York state tax disclosures. 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.

Over the years, RFF has made numerous attempts to conceal their grantees; they have no public grantee database and have failed to post a complete federal tax return, including all donations, since 2013. However, our analysis of New York state tax disclosures reveals RFF’s highly coordinated effort to fund an aggressive climate litigation campaign against energy producers.¹⁰⁶

MEET THE NEW MONEY, SAME AS THE OLD MONEY: CENTER FOR CLIMATE INTEGRITY

The Center for Climate Integrity assists in recruiting governmental subdivisions to sue oil companies and others for alleged climate-related offenses.¹⁰⁷ Keeping in mind the Wasserman admission that RFF sought to target Exxon Mobil with his initial projects seeking to instigate investigations and litigation, recall the aforementioned June 2018 email from a lobbyist engaged to help recruit Fort Lauderdale to the litigation campaign, which stated that CCI was “formed last year to help support the nonprofits and communities looking to take the next step and to broaden that effort beyond Exxon - starting to track existing and future climate costs and consider filing litigation to make climate polluters help pay for the costs of adapting to climate change,” and that the group could “adopt language and assets to fit each context, including an entirely grassroots, behind-the-scenes effort as needed.”¹⁰⁸

In total, it appears that the Rockefeller Family Fund gave Center for Climate Integrity’s parent organization¹⁰⁹ the Institute for Governance and Sustainable Development (IGSD) \$3.15 million in the most recent 2 years for which information is available via the NY State equivalent of the IRS Form 990: \$1,020,000 in 2017, the year CCI was set up,¹¹⁰ then \$2,130,000 in 2018.¹¹¹

As Capital Research Center’s Stilson recently wrote:

Because CCI is an “[initiative](#)” of IGSD, rather than a standalone nonprofit, its finances can be difficult to pin down. Major funding appears to have come from the [Children’s Investment Fund Foundation](#), an international foundation established by British billionaire [Christopher Hohn](#). It paid out [\\$7 million in grants](#) to CCI between January 2018 and September 2020 in order to support “litigation that promotes climate mitigation, adaptation and resilience.”

In [2019](#), the [MacArthur Foundation](#) gave \$500,000 to CCI in order to “develop a multi-state campaign that provides strategic communications support for climate litigation.” [The Rockefeller Family Fund](#)—one of the charities [established](#) by the famous oil money family—gave IGSD over \$1 million in [2017](#) (\$120,000 of which was earmarked for CCI and \$900,000 for “climate education & litigation” more broadly) and over \$2.1 million in [2018](#) (all of which was specifically designated for CCI).¹¹²

Coincident with this newfound largesse, CCI rapidly emerged from obscurity in early 2020 to become a major climate litigation coordinator and piggy-bank, now popping up in



A number of state attorneys general, beginning with Eric T. Schneiderman of New York, began investigating the company over whether it misled shareholders and consumers about the risks of climate change and the effects on its business. ... Whether the new paper will have any impact on these cases is unclear...The new research was partly financed by the Rockefeller Family Fund, which has been active in environmental causes and education. Exxon Mobil has accused the Rockefellers of being part of a conspiracy against the company. Lee Wasserman, director of the organization, dismissed those claims. ‘In America, civil society organizations coming together to solve major problems is considered a virtue, not a conspiracy,’ he said.” “Exxon Misled the Public on Climate Change, Study Says,

— *New York Times*, August 23, 2017

public record productions as being the hub of this activity. Its work is also the subject of some rather aggressive efforts by public institutions to keep certain records from the public.

CCI parent IGSD is not the only RFF-financed organization paying for outside attorneys to file climate litigation. The RFF also underwrites EarthRights International (ERI);¹¹³ which recruited Boulder, Colorado to sue,¹¹⁴ and has turned up in emails in recruiting pitches with the tort firm Sher Edling, LLP for municipal plaintiffs.¹¹⁵ Tort firms Emery, Celli, Brinckerhoff & Abady LLP and Sher Edling, LLP have also partnered with CCI

on this campaign. Emails show CCI also referring one municipal “climate nuisance” plaintiff, Annapolis, Maryland, to Richard Lewis of Hausfeld law firm in Washington, D.C., as well as Sher Edling.¹¹⁶

CCI is known to have recruited, among other plaintiffs, the City of Baltimore,¹¹⁷ Hoboken (the outside counsel for which CCI is also providing)¹¹⁸, Anne Arundel County (Maryland)¹¹⁹, Annapolis¹²⁰, and Minnesota Attorney General Keith Ellison to file such suits, and failed (so far) to persuade Fort Lauderdale, Florida, and the attorneys general for Oregon¹²¹, and Washington State to also file suit. CCI’s pitch to governmental entities includes that “it is increasingly important to identify new streams of revenue,” and that officials could use “climate

litigation as a potential means to fill budgetary gaps.”¹²²

At least Minnesota and UCLA law school faculty have also partnered with CCI on this campaign. A recent email obtained from the University of Minnesota shows faculty at well over a dozen other schools advising the Sher Edling, LLP, discussions (see FN 2, supra).

These state attorneys general recruited to the case by CCI include those who have hired Sher Edling, LLP to represent them in “climate” cases against energy companies.¹²³ Then there is the recent revelation detailed, above, of CCI ghost-writing much or most of the legal memo setting forth what ultimately became Keith Ellison’s June 2020 lawsuit.

Conclusion

New documents reveal the Potemkin façade of numerous state-court “climate” lawsuits filed across the country on behalf of municipal and other governmental plaintiffs by state attorneys general, and by the tort bar, both of which are being supplemented by charitable foundations and donor-funded law school faculty. These documents reveal plans to obtain “new streams of revenue,” to use “climate litigation as a potential means to fill budgetary gaps.” These records show for the first time that the expanding deployment of law schools by donors and the plaintiffs’ tort bar in this campaign is wider than previously known, intentionally obscured and even improperly misrepresented. The documents show that these state-court, purportedly local actions cases originate with a donor in New York, who arranges for local pressure groups to orchestrate such memos, and to lobby their attorney general to file the donor’s desired suit.

These records show that academics have turned to “the lawyers advising the Rockefeller family fund [sic]” to learn “what is needed” in memos encouraging state attorneys general to file suits against private parties that the RFF’s Director wants to see filed. The records show that public institutions, both attorneys general and law schools and/or their faculty, independently, have failed to accurately attribute authorship of work submitted

in their names and their institution’s names, and to disclose their relationships to the funders or their agents. In at least one instance, this appears to be in violation of the university’s own policies.

Importantly, these records put to rest a claim made by a federal judge, in an opinion delivered in the Spring of 2018, that there is a “missing link between the activists and the AGs.” The relationship between the AGs, the activists, and their funders is now undeniable and illustrated in the parties’ own correspondence.

Further inquiry is needed into the propriety of this use of public institutions, into what disclosure and/or tax-status violations have occurred, and into the propriety of the “friend of the court” briefs filed by parties who, we now know, were instrumental in arranging for the litigation in the first place.

These records also make clear that the private parties targeted by this coordination between donors, the tort bar, activists and attorneys general deserve latitude to explore the origins of the predatory campaign, and further support claims that these coordinating parties share possible exposure to liabilities arising from the campaign they have organized and influenced.

ENDNOTES

- ¹ https://www.abajournal.com/magazine/article/san_francisco_yale_civil_litigation_clinic.
- ² The University of Minnesota Law School's role is discussed in detail, *infra*. Other schools' involvement will be discussed in a future paper. One email obtained from Minnesota provides login credentials for an apparently closed May 18, 2018 webinar with Sher Edling, LLP attorneys, "Climate Consequences: Using Tort Law to Recover Costs of Climate Change", and hosted by UCLA Law School's Ann Carlson (also discussed in detail, *infra*) and Vermont Law School's Pat Parenteau (later an amicus curiae filer on behalf of parties in support of Sher Edling's client the State of Rhode Island, in the July 2018 laws suit *State of Rhode Island v. Chevron, et al.*). Participants included parties from UCLA, Georgetown, Oregon, Houston, UC Davis, Tulane, Colorado, Denver, Minnesota, Harvard, Virginia, Connecticut, Yale, Vanderbilt, Florida State, Texas, Cornell, Vermont, and Loyola (New Orleans) law schools, as well as a law instructor at UC Santa Barbara School of Environmental Science and Management (who also teaches at UCLA Law School). An email invitation released by the University of Minnesota several hours after this paper was first publicly released shows the "invitation-only webinar [was] to discuss the status of nuisance lawsuits filed against oil companies for climate change-related damages. There is significant media, public, and student interest in the lawsuits and we thought you might find the opportunity to learn more about them helpful." It is conceivable that these academics were simply being prepped as surrogates but asked to keep any input to themselves. Outstanding public records requests to these institutions should provide some further details about their participation.
- ³ <https://climatelitigationwatch.org/wp-content/uploads/2019/09/IGSD-Gold.pdf>.
- ⁴ <https://climatelitigationwatch.org/climate-litigation-confessional-yes-it-really-is-about-finding-new-streams-of-revenue/>.
- ⁵ <https://en.wikipedia.org/wiki/Lawfare>; see also Memorandum Opinion by Justice Kerr, San Francisco, et al., *V. Exxon Mobil Corp*, Court of Appeals for the Second Appellate District (TX), No.02-18-00106-CV, at p. 48, <https://eidclimate.org/wp-content/uploads/2020/06/1284000-1284588-02-18-00106-cv-majority-opinion-kerr.pdf>.
- ⁶ https://www.vice.com/en_us/article/43qw3j/meet-the-lawyer-trying-to-make-big-oil-pay-for-climate-change.
- ⁷ <https://www.wsj.com/articles/SB10001424052748703478704574612150621257422>.
- ⁸ <https://climatelitigationwatch.org/boulder-official-climate-litigation-is-tool-to-make-industry-bend-a-knee/>.
- ⁹ <https://www.sfchronicle.com/environment/article/Biden-could-help-San-Francisco-win-billions-from-15768123.php>.
- ¹⁰ <https://www.wsj.com/articles/SB10001424052748703478704574612150621257422>.
- ¹¹ See, e.g., <https://www.thenation.com/article/the-government-may-already-have-the-law-it-needs-to-beat-big-oil/>.
- ¹² *State of Minnesota vs. American Petroleum Institute, et al.*, Ramsey County Dist. Ct., Second Jud. Cir., https://climatelitigationwatch.org/wp-content/uploads/2020/09/ExxonKochAPI_Complaint.pdf. See, e.g., "Bloomberg-Provided Attorneys File Next AG 'Climate' Suit in Minnesota," *ClimateLitigationWatch.org*, June 24, 2020, <https://climatelitigationwatch.org/bloomberg-provided-attorneys-file-next-ag-climate-suit-in-minnesota/>.
- ¹³ See, e.g., Editorial, "State AGs' Climate Cover-up", *Wall Street Journal*, June 7, 2019, <https://www.wsj.com/articles/state-ags-climate-cover-up-11559945410>; Editorial, "State AGs for Rent", *Wall Street Journal*, Nov 6, 2018, <https://www.wsj.com/articles/state-ags-for-rent-1541549567>; see also, Chris Horner and Victoria Toensing, "How Bloomberg Pays to Prosecute the Trump EPA," *Wall Street Journal*, July 5, 2019, <https://www.wsj.com/articles/how-bloomberg-pays-to-prosecute-the-trump-epa-11562360993>.
- ¹⁴ See, e.g., <https://climatelitigationwatch.org/outside-interests-strike-gold-in-minnesota-ag-ellisons-office/>.
- ¹⁵ See <https://climatelitigationwatch.org/wp-content/uploads/2021/03/U-Minn-Klass-Binder1.pdf>, <https://climatelitigationwatch.org/wp-content/uploads/2021/05/Binder2.pdf>, https://climatelitigationwatch.org/wp-content/uploads/2021/05/aklass_4366_export0003-SD-LBK_Redacted.pdf, https://climatelitigationwatch.org/wp-content/uploads/2021/05/aklass_4366_20200325_export0001-SD-red_Redacted.pdf, https://climatelitigationwatch.org/wp-content/uploads/2021/05/aklass_4366_20200325_export0002-SD-LBK-Rev_Redacted.pdf.
- ¹⁶ https://climatelitigationwatch.org/wp-content/uploads/2021/05/aklass_4366_20200325_export0002-SD-LBK-Rev_Redacted.pdf
- ¹⁷ Like UCLA's Carlson, Klass not only serves as conduit for CCI but also as a go-to media source for academic insights on the topic. See, e.g., <https://www.mprnews.org/episode/2019/10/17/damage-related-to-climate-change-will-only-grow-whos-liable>, <https://insideclimatenews.org/news/25062020/minnesota-climate-change-lawsuit-exxon-mobil-api-koch-industries/>. Records show Carlson's and CCI's coordination on obtaining media placement; a Minnesota records request into how the media knew to contact Klass produced a "no records" response, indicating the reporters either texted, called, or knew to email Klass through a different address.
- ¹⁸ RFF's 2018 IRS Form 990 lists \$6,861,000 given to donor advised funds that year and \$7,784,138 given out through "Funds and other accounts." The form states at Part III.4(a), "Donor advised funds ("DAF") facilitate collaboration among its foundation colleagues and initiatives among nonprofit organizations and provide flexible mechanisms to meet the financial needs of advocacy campaigns or other dynamic projects. Fresh Energy does not have to list its donors, so it seems quite possible that RFF is underwriting this work by running the money first through a donor advised fund(s).
- ¹⁹ <https://climatelitigationwatch.org/rocky-xxv/>.
- ²⁰ The email asks if Klass is "goong [sic] to Leigh Currie's Perry [sic] at 4?". Currie is one of two Michael Bloomberg-provided "Special Assistant Attorneys General" or "SAAGs" provided to Ellison and who filed the Office's climate lawsuit against API, Exxon, Koch and Koch subsidiaries.
- ²¹ Klass responds, "Larry Shapiro is the person I've met at RFF who has worked on pipeline issues. <https://www.rffund.org/about/staff>." She also responds a few minutes later, "And here's a nice summary of all the state/city climate lawsuits against the oil companies. <http://climatecasechart.com/case-category/common-law-claims/>."
- ²² See, e.g., <https://climatelitigationwatch.org/wp-content/uploads/2021/05/Prentiss-Cox-sends-Noble-his-OAG-email-4.19.19-so-thats-where-the-scheming-went-on.jpg>, <https://climatelitigationwatch.org/wp-content/uploads/2021/05/Cox-tells-Noble-lets-talk-week-of-March-4-2019-scaled.jpg> and <https://www.law.umn.edu/news/2019-05-15-prentiss-cox-90-promoted-professor-law>
- ²³ https://climatelitigationwatch.org/wp-content/uploads/2021/05/aklass_4366_20200325_export0001-SD-red_Redacted.pdf.
- ²⁴ https://climatelitigationwatch.org/wp-content/uploads/2021/05/aklass_4366_20200325_export0001-SD-red_Redacted.pdf.
- ²⁵ "Dear Michael: As you know, we allocated \$3,000 for the climate change research back in January. The final hours for the project have now come in (for January and February with part February being the follow up work requested during our conference call after the initial memo) and the total amount for the project (not included my time which I provided pro bono) was \$4,579.12 (see attached). Would it be possible for Fresh Energy to provide the addition funds of \$1,579.12? If that's a problem, let me know and I'll take it out of some of my own funding." March 29, 2019 email from Klass to Noble.
Questions prompted by this exchange include: Are those taxpayer funds that she volunteered could go toward this memo for the activist group that was engaged for "this project" by the Rockefeller Family Fund?

- ²⁶ Klass followed up with Noble regarding additional payment seeking any update, on April 15 and April 21, 2019. Noble responded to the latter: “Oh I think I dropped the ball on that. Let’s just act like it’s a new activity and then I don’t have to explain the difference. Send an invoice that says “environmental legal research project” xxx hours x \$xx per hour= \$1580 I don’t want to sign an amended contract and \$1580 is low enough that I can approve it without a contract.” Klass replies same day: “Ok, Thanks. Will do.” Questions prompted by this exchange include: Is the Klass accounting move re paying students for the paper appropriate?
- ²⁷ “Employees must complete a [Request for Outside Commitment](https://policy.umn.edu/operations/outsideconsulting#faqlink) form to obtain the required approval.” <https://policy.umn.edu/operations/outsideconsulting#faqlink>.
- ²⁸ <https://policy.umn.edu/operations/conflictinterest>.
- ²⁹ <https://www.sciencemag.org/careers/2003/01/taking-slush-out-funding-how-get-discretionary-money-your-lab>.
- ³⁰ <https://scholarswalk.umn.edu/faculty-awards/mcknight-awards/distinguished> “The Distinguished McKnight University Professorship program recognizes outstanding faculty members who have recently achieved full professor status. Recipients hold the title “Distinguished McKnight University Professor” for as long as they remain employed at the University of Minnesota.” The money is “to be used, in accordance with University policy, for research, scholarly, or artistic activities, and expended with the approval of the academic dean of the appointment unit. Appropriate uses include research equipment and supplies, support for research assistants, professional travel, publication costs, or creative production costs.” https://docs.google.com/document/d/1zr8SRg_en1TBGOaEQFml9sKZEv5PX2oDOBv_PMHYsBQ/edit?ts=5f204375.
- ³¹ <https://mndaily.com/200027/uncategorized/mcknight-foundation-grant-honors-u-faculty/>.
- ³² See, e.g., <https://eelegal.org/ee-legal-letters-issue-xiv-state-city-investment-officers-the-next-stop-for-climate-change-industry-divestment-through-value-destruction-campaign/> and related source document, <https://climatelitigationwatch.org/wp-content/uploads/2021/05/Damning-confession-re-ESG-campaign-origins.pdf>; see also, https://ssir.org/articles/entry/looking_beyond_impact_investing_to_support_climate_solutions.
- ³³ <https://www.mcknight.org/about/history/>.
- ³⁴ May 19, 2015 letter from the Shapiros to Rachel F. Moran, Dean and Michael J. Connell Professor of Law, stated in pertinent part, “[t]his is a current use fund to be used at the discretion of Professor Ann Carlson, currently Faculty Co-Director of the Emmett Institute on Climate Change & the Environment, for a wide variety of needs and opportunities. These include, among other things, graduate and undergraduate scholarships, fellowships, faculty projects, travel, research and any other purposes in her sole discretion as she deems appropriate. These examples are not meant to preclude uses of this Fund for any other purposes, at her sole discretion. We also want to make clear that we leave the timing of the spending of the Ann Carlson Discretionary Fund to Ann’s discretion so that if it is helpful to spend the funds quickly she may do so or if it is helpful to use the funds over the course of a number of years she may do that as well. At such time as Professor Carlson is no longer an active member of the faculty, Funds may be used at the discretion or the dean to support the Emmett Institute on Climate Change & the Environment.” <https://climatelitigationwatch.org/wp-content/uploads/2021/03/Carlson-Discretionary-Fund-Requested-Records-20-8371.pdf>. Until joining the Biden administration in January 2021 to implement the “climate” agenda, Prof. Carlson was on the Sher Edling, LLP plaintiffs’ legal team as well as a media darling for commentary on all things climate-litigation related (if typically without any mention of her role in these cases; see FN 85, *infra*).
- ³⁵ See, e.g., https://controller.nd.edu/assets/91672/discretionary_funds.pdf, <https://www.bu.edu/sph/faculty-staff/faculty-handbook/policies-and-guidance/guidance-on-use-of-discretionary-funds/>, https://carey.jhu.edu/uploads/files/FT_Faculty_Discretionary_Accounts_Policy.pdf.
- ³⁶ March 4 and March 11, 2019 emails from CCI’s Enck also indicate that several conference calls also occurred on the memo between at least Klass and CCI.
- ³⁷ On March 18, 2019, Klass sends Noble and (apparently) her student-assistants a story from Climatewire, “COURTS: D.C. girds for Exxon climate battle”, noting the District of Columbia government had requested proposals for outside counsel to sue energy companies over climate change. One student (name redacted) replies:
Dominoes are falling.
I look forward to learning who these bold attorneys will be - “The plan calls for a senior climate lawyer, a junior lawyer and a paralegal on a five-year contract with options to extend. They won’t get paid unless Exxon coughs up cash in a legal judgment, settlement or arbitration.”
- ³⁸ Judge William Alsup (N.D. CA) removed the plaintiffs’ “climate” nuisance case to federal court; both Judge Alsup and Judge John Keenan (S.D. NY) ruled that there is no federal cause of action, dismissing the plaintiffs’ suit. Since those rulings, the climate litigation industry came to reinvent its claims in the monomaniacal pursuit of obtaining state court jurisdiction. The campaign that was quite openly over claims of global impact and importance seeking to influence national policy became instead about, e.g., local consumer protection statutes. Such whiplash has led to implausible rhetoric, e.g., “This is really not a case about carbon emissions, it’s not a case about any kind of pollution abatement, it is not a case about national treaties, and it doesn’t implicate any federal scheme, Your Honor. It’s a case about making sure we have accurate statements about the products and securities that ExxonMobil sells in the Commonwealth to its consumers and to its investors.” <https://eidclimate.org/in-hearing-on-massachusetts-exxon-lawsuit-echoes-of-failed-new-york-case/>, which Massachusetts Attorney General Office argued (successfully) in seeking to return its suit against Exxon Mobil to state court.
- ³⁹ <https://climatelitigationwatch.org/wp-content/uploads/2021/02/Fresh-Energy-sends-UMN-memo-to-Ellison.pdf>.
- ⁴⁰ <https://climatelitigationwatch.org/ghost-writers-in-the-sky/>.
- ⁴¹ The memo, co-authored by two CCI attorneys, does refer Ellison to a CCI *amicus* brief in *San Mateo v. Chevron*.
- ⁴² Blodgett is with Conservation MN, like Conservation CO, is part of LCV. MI LCV was the party urging the Michigan Department of the Attorney General to file an “Exxon suit”, <https://climatelitigationwatch.org/wp-content/uploads/2020/02/MI-taxpayer-paying-for-LCV-wooing-to-sue-Exxon-scaled.jpg>.
- ⁴³ <http://climatelitigationwatch.org/edit-fn-3-nyu-hayes-email-to-oags/>.
- ⁴⁴ <https://climatelitigationwatch.org/wp-content/uploads/2019/09/MN-OAG-NYU-Application.pdf>.
- ⁴⁵ See <https://climatelitigationwatch.org/wp-content/uploads/2020/12/Currie-NYU-appointment-letter.pdf>, <https://climatelitigationwatch.org/wp-content/uploads/2021/02/Currie-welcome-look-forward-letter.pdf>.
- ⁴⁶ See, <https://climatelitigationwatch.org/new-twist-in-tangled-web-of-minnesota-special-assistant-ag-relationships/>.
- ⁴⁷ <https://climatelitigationwatch.org/outside-interests-strike-gold-in-minnesota-ag-ellisons-office/>.
- ⁴⁸ <https://fresh-energy.org/october-15-the-legal-and-scientific-case>.
- ⁴⁹ <https://climatelitigationwatch.org/public-records-tort-firm-worked-as-pr-touts-for-mn-ag-months-before-ag-sought-approval-of-contract/>.
- ⁵⁰ <https://climatelitigationwatch.org/climate-nuisance-tort-firms-contingency-fee-agreement-surfaces-in-minnesota/>.
- ⁵¹ <https://www.startribune.com/minn-files-climate-change-lawsuit-against-oil-companies-including-koch-exxon-mobil/571466182/>.
- ⁵² <https://climatelitigationwatch.org/wp-content/uploads/2020/12/Edling-Pro-Hac.pdf>.

- ⁵³ November 8, 2018 Fresh Energy fundraising email released by University of Minnesota.
- ⁵⁴ <https://fresh-energy.org/#>, last viewed May 11, 2021
- ⁵⁵ See, e.g., Katie Brown, "New FOIA'D Emails Tell A Very Different Story About How NY AG's RICO Campaign Started Off," May 17, 2016, Energy in Depth, <https://eidclimate.org/new-foiad-emails-tell-a-very-different-story-about-how-ny-ags-rico-campaign-started-off/>.
- ⁵⁶ William Allison, "Four Things To Know About Washington, D.C.'s New Climate Lawsuit," Energy in Depth, June 25, 2020, <https://eidclimate.org/four-things-to-know-about-washington-d-c-s-new-climate-lawsuit/>.
- ⁵⁷ Id.
- ⁵⁸ Ellison's suit is but one of dozens of similar suits that have been filed all over the country. A broad and growing collection of U.S. cities, states and counties including the State of Rhode Island, City and County of Boulder County(CO), City and County of Honolulu (HI), City of New York (NY), Marin, San Mateo and Santa Cruz Counties (CA), the cities of Imperial Beach, Oakland, Richmond, San Francisco, San Mateo, and Santa Cruz (CA), and King County (WA), have filed similar claims against similar and generally the same defendants alleging similar causes of action which allegedly arise under state law.
- ⁵⁹ See, <https://climatelitigationwatch.org/ucla-litigation-docs-affirm-origin-of-ucs-harvard-scramble-to-pre-but-revelation-of-secret-meeting-for-ags-prospective-funders/>.
- ⁶⁰ UCS also is an RFF-supported organization, specifically "[t]o support its climate attribution project" according to its CHAR500 forms filed with New York State.
- ⁶¹ <https://climatelitigationwatch.org/on-the-subject-of-recruiting-law-enforcement-email-affirms-origin-of-prosecutorial-abuses/>.
- ⁶² No. 20-0558, *Exxon Mobil Corp. v. City of San Francisco*.
- ⁶³ <https://www.mass.gov/doc/march-29-2018-opinion-and-order-granting-motions-to-dismiss/download>, at p. 40.
- ⁶⁴ Id., at 2. But see, e.g., <https://climatelitigationwatch.org/missing-link-claim-dealt-another-blow-new-emails-show-ag-kamala-harris-office-helped-plan-la-los-angeles-climate-litigation-conference/>.
- ⁶⁵ "The point of the multi-front strategy thus was to leverage the expense, risks, and burden to [defendant] of defending itself in multiple jurisdictions to achieve a swift recovery, most likely by precipitating a settlement", later upheld at *Chevron Corp. v. Donziger*, 833 F.3d 74 (2nd Cir. 2016).
- ⁶⁶ The court found that David Donziger violated the Racketeer Influenced and Corrupt Organizations Act (RICO) and the Foreign Corrupt Practices Act, committed extortion, money laundering, wire fraud, witness tampering, and obstruction of justice. These offenses arose from Donziger's efforts to obtain an Ecuadorian judgment and in trying to cover up his and his associates' crimes (a decision as unanimously affirmed by the United States Court of Appeals for the Second Circuit on August 8, 2016, <https://www.chevron.com/stories/appeals-court-affirms-rico-judgment-against-lawyer-behind-fraudulent-ecuador-lawsuit>).
- ⁶⁷ According to the court's opinion, available at <https://www.theamazonpost.com/wp-content/uploads/Chevron-Ecuador-Opinion-3.4.14.pdf>, Donziger "paid a Colorado consulting firm secretly to write all or most of the global expert's report, falsely presented the report as the work of the court-appointed and supposedly impartial expert, and told half-truths or worse to U.S. courts in attempts to prevent exposure of that and other wrongdoing. . . . (page 2)
- It was Donziger's purpose to magnify the pressure on Chevron by increasing both the perceived magnitude of its potential exposure and the perceived likelihood that the exposure in the end would culminate in huge liability. He repeatedly did so by manifestly wrongful means, which included corruption of the litigation process and a pressure campaign premised on misrepresentations. (pages 362-63)
- As amply detailed above, Donziger's actions in increasing the pressure on Chevron by dishonest and corrupt steps in the litigation – coercion, bribery, ghostwriting, and so on – were intended to communicate threats to Chevron. Their purpose was to instill fear of a catastrophic outcome in order to increase the amount Chevron would pay to avoid the worst. (page 366)
- Donziger's overriding goal was to extract a large payment from Chevron in exchange for peace. In pursuit of that objective, however, he engaged, as we have seen, in a number of deceitful schemes, each of which was intended to play its part in achieving that end and each of which was furthered by use of the wires. (page 381)
- Among the . . . acts that Chevron has proved are (1) . . . (b) the ghostwriting of the Cabrera Report upon which the author(s) of the Judgment relied for the pit count that underlies more than \$5 billion of the damages award, as well as the false portrayal of Cabrera as a neutral, impartial and independent expert, . . . (3) money laundering to promote racketeering acts, including with respect to the ghostwriting of the Cabrera Report by Stratus and payments to Cabrera, . . ." (pages 402-03).
- ⁶⁸ https://regents.umn.edu/sites/regents.umn.edu/files/2019-09/policy_academic_freedom_and_responsibility.pdf (viewed May 3, 2021).
- ⁶⁹ It seems notable that University of Minnesota faculty are prohibited from ghostwriting. See, "Individual Conflicts of Interest and Standards Governing Relationships with Business Entities," "**Section II. Standards Governing Relationships With Business Entities**. Employees are prohibited from engaging in the following activities with business entities (see Appendix: *Prohibited Activities with Business Entities* for more details). . . . Ghostwriting" <https://policy.umn.edu/operations/conflictinterest> (viewed May 3, 2021).
- ⁷⁰ <https://policy.umn.edu/operations/conflictinterest> (viewed May 3, 2021).
- ⁷¹ https://regents.umn.edu/sites/regents.umn.edu/files/2019-09/policy_outside_consulting_and_other_commitments.pdf (viewed May 3, 2021).
- ⁷² <https://policy.umn.edu/operations/outsideconsulting> (viewed May 3, 2021). Also, A FAQs web page explaining this policy reads, in pertinent part: "**Reporting and Approvals for Outside Professional Commitments**
- The privilege to engage in outside professional commitments requires prior approval. Faculty and P&A employees with appointments of 75% or greater must obtain prior approval to engage in outside commitments that are not related to the normal course of University work (see section above: Professional commitments related to the normal course of University work). Employees must complete a [Request for Outside Commitment](#) form to obtain the required approval." <https://policy.umn.edu/operations/outsideconsulting#faqlink> (viewed May 3, 2021).
- Clearly, Prof. Klass would have obtained prior approval and agreement for payment terms from Fresh Energy from her unit head and dean. That is the subject of a May 3, 2021 request to the University."
- ⁷³ We do not know if the University took any Fresh Energy money for its troubles, but emails cited, *supra*, do suggest the University confirmed the money could "all go to its intended purpose" (i.e., approval was given and money was exchanged).
- ⁷⁴ Outside Consulting and Other Commitments, <https://policy.umn.edu/operations/outsideconsulting#faqlink>. (viewed May 3, 2021).
- ⁷⁵ On February 26, 2021, Energy Policy Advocates ("EPA") requested correspondence between Klass's public U of M email address and i) @sheredling.com, ii) @niskanencenter.org, iii) @earthrights.org, iv) @climateintegrity.org, and/or v) @fresh-energy.org, and d) is dated from November 6, 2018 through June

1, 2019, inclusive (request # 21-4). On March 29, 2021, EPA requested correspondence between Klass's public U of M email address and Fresh Energy going further back than the original request (request # 3363). On April 5, 2021 EPA requested Klein correspondence with email domains relevant to her serving as a source in two specific media stories (request # 4475)("no records"). On April 27, 2021 EPA requested correspondence over the relevant period between Prentiss Cox's public U of M email address and Fresh Energy (request #21-102)(paid for, but no records yet provided). On April 30, 2021, EPA requested correspondence to or from Prof. Klass's public U of M email account that was also sent to or from or includes anywhere in the email "thread" or in any attachment(s), the UCLA Prof.'s email address used for at least some of her Sher Edling, LLP consultation, or @sheredling.com, during a key four-month period in 2018, and any common interest, representation, fee, consulting, nondisclosure, and/or confidentiality agreement the University of Minnesota has entered into with i) Sher Edling, LLP, ii) Center for Climate Integrity, iii) Institute for Governance & Sustainable Development, iv) Fresh Energy, and/or v) Rockefeller Family Fund, during 2018, 2019, 2020 and/or 2021. (request # 21-117).

Most relevant to this discussion, on May 6, 2021 EPA requested Klass Forms and Approvals, Energy Policy Advocates requested Klass Forms and Approvals, specifically: All records reflecting any expenditures from the funds provided to Alexandra Klass as part of her McKnight Distinguished Professorship position, including but not limited to, documentation of all expenditures, all requests for approval of the academic dean of the appointment units, and all such approvals, any of which that are dated at any time from January 1, 2019 through May 6, 2021; 2. Any Annual Report of External Professional Activities ("REPA"), including any change in circumstances reporting, submitted by Alexandra Klass that covers any period of or which includes calendar 2019, 2020, or 2021; 3. Any Requests for Outside Consulting ("ROC") forms submitted by Alexandra Klass in 2019, 2020, or 2021; and 4. Any Request for Outside Consulting ("ROC") responses to Alexandra Klass issued in 2019, 2020, or 2021. (request # 21-133). Regarding this request, the University replied, "In response to Parts 2-4 of your request, any data we may maintain would be private personnel data pursuant to MN Stat. 13.43."

⁷⁶ https://www.revisor.mn.gov/court_rules/pr/subtype/cond/id/8.4/ (viewed May 2, 2021).

⁷⁷ See, e.g., <https://cei.org/sites/default/files/AGpdfFinal.pdf>.

⁷⁸ See, generally, Christopher Horner, "Law Enforcement for Rent", Competitive Enterprise Institute, August 2018.

⁷⁹ "I will be showing this Monday at a secret meeting at Harvard that I'll tell you about next time we chat. very [sic] exciting!" April 22, 2016, email from Oregon State University Professor Philip Mote to unknown party, Subject: [REDACTED], and "I'm actually also planning to show this in a secret meeting next Monday—will tell you sometime." April 20, 2016, Philip Mote email to unknown party, Subject: [REDACTED]. Both obtained from Oregon State University on March 29, 2018, in response to a January 9, 2018 Public Records Act (PRA) request.

⁸⁰ "We will have as small number of climate science colleagues, as well as prospective funders, at the meeting." March 14, 2016, email from Frumhoff to Mote; Subject: invitation to Harvard University—UCS convening.

⁸¹ "Confidential Review Draft—March 20, 2016, Potential State Causes of Action Against Major Carbon Producers: Scientific, Legal, and Historical Perspectives." Obtained in Energy & Environment Legal Institute v. Attorney General, Superior Court of the State of Vermont, 349-16-9 Wnc, December 6, 2017.

⁸² See, e.g., <https://govoversight.org/?s=sabin>. Also, it seems relevant that Dan Emmett's son Daniel is Chief Executive Officer of a closely held company that makes solar energy windows, Next Energy Technologies, Inc., for a market that obviously would benefit from broader and/or stronger imposition of the "climate" agenda.

⁸³ See, e.g., <https://wattsupwiththat.com/2015/09/29/the-rico-20-letter-to-obama-asking-for-prosecution-of-climate-skeptics-disappears-from-shuklas-iges-website-amid-financial-concerns/>. Notably, the GMU Center's director acknowledged that should such prosecutions succeed he expected a windfall from the settlement for institutions such as his own. See Christopher Horner, "Law Enforcement for Rent", Competitive Enterprise Institute, August 2018, <https://cei.org/sites/default/files/AGpdfFinal.pdf>, pp. 19-20.

⁸⁴ IRS filings show grants totaling about one and three-quarter million dollars in just two years to that tort firm leading this industry, the one that has Profs. Carlson and Burger on its team, Sher Edling, LLP. Styled each year as "land or marine conservation" (\$432,129 (2017)

<https://climatlitigationwatch.org/wp-content/uploads/2019/11/RLF-2017-990.pdf>), "advancing healthy communities (\$1,319,625 (2018)

<https://climatlitigationwatch.org/wp-content/uploads/2020/12/RLF-IRS-Final-990-12.31.18-Public-Copy-4829-6612-8044.pdf>, "Land or Marine Conservation, Promotion of Education and/or Healthy Communities (\$1,110,000 (2019)

<https://tinyurl.com/28y8pjzj>), the most reasonable explanation for this is that the foundation is underwriting the firm's aggressive pursuit of climate litigation, for which it also has lucrative contingency fee agreements under which the plaintiffs' tort law firms receive a sliding scale of tens of millions of dollars on each tranche of hundreds of millions expected in any verdict or settlement. For example, the San Francisco agreement with the law firm Sher Edling LLP (<https://climatlitigationwatch.org/contract-reveals-climate-industry-attorneys-face-massive-windfall/>) sets forth that a settlement or verdict of \$100 million just for that city would yield the lawyers \$25 million, which goes to \$32.5 million for a settlement or verdict of \$150 million, \$36.25 million out of \$200 million, and so on. Boulder, Colorado has agreed to pay 20% of its haul to the lawyers. Minnesota agreed to pay Sher Edling "16.67% of the first \$150 million recovered, and 7.5% for any portion greater than \$150 million."

<https://govoversight.org/wp-content/uploads/2021/01/AGO-LAC.pdf>.

⁸⁵ See FN 1, *supra*. This does not stop such faculty from serving as go-to media sources for presumably neutral, academic insights on climate litigation. UCLA Law School's Ann Carlson, for example, is cited for commentary on the matters solely as UCLA/Emmett Center faculty by, e.g., NBC News (<https://www.nbcnews.com/science/environment/congress-trump-sidelines-climate-change-battle-moves-courts-n924651>), Los Angeles Times (<https://grandchallenges.ucla.edu/happenings/2019/06/03/ann-carlson-provides-expert-legal-opinion-on-juliana-v-united-states-in-los-angeles-times-article/>), New York Times, (<https://tinyurl.com/yb6mtpdj>), <https://www.nytimes.com/live/2020/10/14/us/amy-coney-barrett-live>), and "60 Minutes" (<https://www.cbsnews.com/news/juliana-versus-united-states-the-climate-change-lawsuit-that-could-stop-the-u-s-government-from-supporting-fossil-fuels-60-minutes/>), <https://grandchallenges.ucla.edu/happenings/2019/03/03/ann-carlson-consults-with-60-minutes-on-climate-change-case-filed-by-children/>).

⁸⁶ <https://climatlitigationwatch.org/wp-content/uploads/2021/04/Climate-Change-Public-Nuisance-Litigation-CIA.pdf>.

⁸⁷ <https://climatlitigationwatch.org/wp-content/uploads/2021/04/Climate-Change-Public-Nuisance-Litigation-CIA-Amendment.pdf>.

⁸⁸ The Rhode Island AG signed a representation agreement with Sher Edling on June 7, 2018, <https://climatlitigationwatch.org/wp-content/uploads/2019/07/Cornett-Privilege-Log-5.28.19.pdf>.

⁸⁹ "ROCKEFELLER FAMILY FUND: About," <https://www.rffund.org/about>, viewed April 29, 2021.

⁹⁰ Id.

⁹¹ <https://www.rffund.org/programs/environment>. See also, e.g., FN, ## 103, 106, 111-114 and related discussion, *supra*. It is well-documented in pleadings that RFF funded the media stories that were used as pretexts for AG investigations. They first denied targeting ExxonMobil with those, then later admitted it. Wasserman's daughter Rebecca sent an intriguing tweet the day after then-NY AG Schneiderman filed suit against Exxon, giving credit to her Dad.

<https://climatlitigationwatch.org/wp-content/uploads/2021/04/Rebecca-Wasserman-boasts-her-dad-was-behind-NY-OAG-subpoena.png>.

- ⁹² David Kaiser and Lee Wasserman, New York Review of Books, December 8, 2016 <https://www.nybooks.com/articles/2016/12/08/the-rockefeller-family-fund-vs-exxon/>.
- ⁹³ John Schwartz, "Exxon Mobil Accuses the Rockefellers of a Climate Conspiracy," New York Times, November 21, 2016, Exxon Mobil Accuses the Rockefellers of a Climate Conspiracy, New York Times, November 21, 2016, <https://www.nytimes.com/2016/11/21/science/exxon-mobil-rockefellers-climate-change.html>.
- ⁹⁴ RBF provided \$100,000 to Trustees of Columbia University in the City of New York "For the Columbia Graduate School of Journalism's postgraduate fellowship program" (see RBF's 2014 and 2015 New York State filings at pp. 81 and 83, respectively, via https://www.charitiesnys.com/RegistrySearch/show_details.jsp?id={05AC0E79-70CE-4F11-8D91-3A3F53D18FCC}).
- ⁹⁵ "David Kaiser, Rockefeller heir who fought Exxon Mobil, dies at 50," New York Times obituary, July 17, 2020, <https://www.nytimes.com/2020/07/16/business/energy-environment/david-kaiser-dead.html>.
- ⁹⁶ Id.
- ⁹⁷ *People of the State of New York v. ExxonMobil Corporation*, Index No. 452044/2018 (Sup. Ct. N.Y. Cnty.)
- ⁹⁸ Findings of Fact and Conclusions of Law, Exxon Mobil Corporation, Petitioner, Case No. 096-297222-18, District Court of Tarrant County, TX. <https://climatelitigationwatch.org/wp-content/uploads/2018/07/finding-of-fact-tarrant-county.pdf>.
- ⁹⁹ See, e.g., <https://climatelitigationwatch.org/wp-content/uploads/2021/04/GWLAP.pdf>.
- ¹⁰⁰ This campaign by attorneys general began with Wasserman recruiting New York Attorney General Eric Schneiderman's office to initiate a "climate change" investigation and prosecution of Exxon Mobil. See, Respondent's Exemption Log for FOIL Request # 160286, *Free Market Environmental Law Clinic et al. v. The Attorney General of New York* Index No.101759_2016 (Mendez, J.) <https://climatelitigationwatch.org/wp-content/uploads/2021/04/Index-of-withholdings-in-101759.pdf>; Respondent's Exemption Log for FOIL Request # 160197, *Energy & Environment Legal Institute v. The Attorney General of New York* Index No.101678_2016 (Bannon, J.), <https://climatelitigationwatch.org/wp-content/uploads/2021/04/NY-OAG-case-101678-privilege-log.pdf>. RFF's 2018 IRS Form 990 lists his compensation at \$1,131,040.
- ¹⁰¹ See, e.g., <https://eidclimate.org/how-the-rockefellers-manufactured-the-climate-liability-campaign/>. RFF lists "Representative Grants" for 2018 at <https://www.rffund.org/programs/environment>.
- ¹⁰² See, e.g., "An Orchestrated Campaign," *Energy in Depth*, <https://eidclimate.org/an-orchestrated-campaign/>. See also, Jess Delaney, "Lee Wasserman Fights Climate Change with Rockefeller Funds," *Institutional Investor* (Apr. 18, 2016), <https://www.institutionalinvestor.com/article/b14z9ppfj9nlv4/lee-wasserman-fights-climate-change-with-rockefeller-funds>. After first denying RFF had singled Exxon out when it granted about \$25,000 to *InsideClimate News*, he later appeared, with Valerie Rockefeller Wayne of the Rockefeller Brothers Fund, on CBS This Morning with Charlie Rose and confirmed they funded those groups with the explicit purpose of writing the original #ExxonKnew pieces. <https://www.cbsnews.com/news/rockefeller-family-feud-with-exxon-mobil-fossil-fuels-global-warming-climate-change/>. He then wrote in the New York Review of Books, with David Kaiser, that the groups did fund those groups with the explicit purpose of writing the original #ExxonKnew pieces. <https://www.nybooks.com/articles/2016/12/08/the-rockefeller-family-fund-vs-exxon/>. Both Wasserman and Kaiser then wrote in the New York Review of Books that they met with New York Attorney General Eric Schneiderman and pressured him to launch an investigation. <https://www.nybooks.com/articles/2016/12/22/rockefeller-family-fund-takes-on-exxon-mobil/>. See also, Findings of Fact and Conclusions of Law, Exxon Mobil Corporation, Petitioner, Case No. 096-297222-18 (District Court of Tarrant County, TX), Opinion dated April 25, 2018, ¶¶ 10, 13, 49, <https://climatelitigationwatch.org/wp-content/uploads/2019/10/Tarrant-County-Facts-and-Conclusions.pdf>.
- ¹⁰³ "An Orchestrated Campaign," *Energy in Depth*, <https://eidclimate.org/an-orchestrated-campaign/>.
- ¹⁰⁴ <https://www.rffund.org/about/staff>, last viewed May 11, 2021.
- ¹⁰⁵ John Schwartz, "Exxon Misled the Public on Climate Change, Study Says," New York Times, August 23, 2017, <https://www.nytimes.com/2017/08/23/climate/exxon-global-warming-science-study.html>.
- ¹⁰⁶ Spencer Walrath, "Bombshell: Rockefeller Family Fund Behind The 'Pay Up Climate Polluters' Campaign," *Energy in Depth*, January 15, 2020, <https://eidclimate.org/bombshell-rockefeller-family-fund-behind-the-pay-up-climate-polluters-campaign/>.
- ¹⁰⁷ See, e.g., <https://climatelitigationwatch.org/emails-reveal-coordination-by-network-of-lawyers-ngos-publications-to-find-climate-litigation-clients/>; see generally <https://climatelitigationwatch.org/?s=center+for+climate+integrity>.
- ¹⁰⁸ <https://climatelitigationwatch.org/wp-content/uploads/2019/09/IGSD-Gold.pdf>.
- ¹⁰⁹ A recent trade press article, which has the appearance of being an arranged "pre-buttal" to the information revealed below coming out, challenges a few of these points, low-balling RFF support totals by excluding, e.g., disclosures set forth in filings with the New York Attorney General's office at https://www.charitiesnys.com/RegistrySearch/show_details.jsp?id=%7b2CF290CC-80D0-4A8F-B3A4-7C221D144CC9%7d: "From 2015 to 2019, the Rockefeller Brothers Fund donated \$700,000 to the Institute for Governance & Sustainable Development, according to the data compiled by the Center for Responsive Politics. The Rockefeller Family Fund gave an additional \$75,000." Maxine Joselow, "Why Exxon hates the Rockefellers, its founding family," *E&E News*, May 4, 2021, <https://www.eenews.net/stories/1063731625>. It also claims without sourcing or support that "Until [April 2021], the Institute for Governance & Sustainable Development housed the Center for Climate Integrity (CCI), a Washington-based group that seeks to raise public awareness of the climate liability lawsuits through a "Pay Up Climate Polluters" [campaign](#)."
- ¹¹⁰ <https://climatelitigationwatch.org/wp-content/uploads/2019/05/IGSD-Gold.png>.
- ¹¹¹ https://charitiesnys.com/RegistrySearch/show_details.jsp?id=%7b2CF290CC-80D0-4A8F-B3A4-7C221D144CC9%7d. See, respectively, <https://climatelitigationwatch.org/wp-content/uploads/2021/04/RFF-2017-NY-990-like-form.pdf>, <https://climatelitigationwatch.org/wp-content/uploads/2021/04/RFF-2018-NY-990-like-form.pdf>. A recent trade press article, which has the appearance of being an arranged "pre-buttal" to the information revealed below coming out, challenges a few of these points, low-balling RFF support totals by excluding, e.g., disclosures set forth in filings with the New York Attorney General's office at https://www.charitiesnys.com/RegistrySearch/show_details.jsp?id=%7b2CF290CC-80D0-4A8F-B3A4-7C221D144CC9%7d: "From 2015 to 2019, the Rockefeller Brothers Fund donated \$700,000 to the Institute for Governance & Sustainable Development, according to the data compiled by the Center for Responsive Politics. The Rockefeller Family Fund gave an additional \$75,000." Maxine Joselow, "Why Exxon hates the Rockefellers, its founding family," *E&E News*, May 4, 2021, <https://www.eenews.net/stories/1063731625>. It also claims without sourcing or support that "Until [April 2021], the Institute for Governance & Sustainable Development housed the Center for Climate Integrity (CCI), a Washington-based group that seeks to raise public awareness of the climate liability lawsuits through a "Pay Up Climate Polluters" [campaign](#)."
- ¹¹² Robert Stilson, "Activist Groups Pushing Government Climate Change Lawsuits," *Capital Research Center*, April 30, 2021, <https://capitalresearch.org/article/activist-groups-pushing-government-climate-change-lawsuits/>.
- ¹¹³ https://earthrights.org/wp-content/uploads/Annual-Report_FINAL-V1_Sept-30-2020.pdf.

- ¹¹⁴ <https://www.dailycamera.com/2018/04/16/boulder-county-expected-to-join-city-in-climate-change-lawsuit-against-fossil-fuel-producers/>.
- ¹¹⁵ <https://climatelitigationwatch.org/wp-content/uploads/2019/05/Emails-for-CLW-FTL-Post.pdf>. Also, Rockefeller Brothers Fund finances the [Niskanen Center](#), including with a six-figure grant less than two months prior to Niskanen filing suit. Both groups represent Boulder et al. in the Colorado suit.
- ¹¹⁶ See, e.g., <https://climatelitigationwatch.org/wp-content/uploads/2021/04/Screen-Shot-2021-04-12-at-11.19.01-AM-scaled.jpg> and <https://climatelitigationwatch.org/wp-content/uploads/2021/04/Screen-Shot-2021-04-12-at-11.23.38-AM-scaled.jpg>.
- ¹¹⁷ In response to a Maryland Public Information Act request, in order to shield correspondence with them as the groups lobbied the City of Baltimore to file suit the City implausibly [claimed](#) that both the [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. The specifics of this relationship have been withheld by the city—a withholding that is the subject of ongoing [litigation](#). See also, e.g., <https://climatelitigationwatch.org/hot-lobbyist-baltimore/>. Then, curiously, both CCI and UCS signed an [amicus brief](#) supporting the city in the Fourth Circuit.
- ¹¹⁸ <https://eidclimate.org/key-documents-raise-troubling-questions-about-money-behind-hoboken-climate-lawsuit/>.
- ¹¹⁹ <https://climatelitigationwatch.org/?s=Anne+Arundel>.
- ¹²⁰ Id., see also, e.g., <https://www.youtube.com/watch?v=jAEe-KzDBXs>, <https://eidclimate.org/annapolis-leaders-admit-activist-group-convinced-city-file-climate-lawsuit/>.
- ¹²¹ See, e.g., <https://legalnewsline.com/stories/580144774-oregon-ag-awaiting-outcome-of-monsanto-pcb-case-before-deciding-on-legal-action-against-energy-companies-over-climate-change>, <https://climatelitigationwatch.org/climate-litigation-confessional-yes-it-really-is-about-finding-new-streams-of-revenue/>, <https://climatelitigationwatch.org/westward-ho/>, <https://climatelitigationwatch.org/playing-hide-the-docs/> and <https://climatelitigationwatch.org/ag-mail-another-ag-using-unofficial-account-with-climate-activists/>.
- ¹²² See <https://climatelitigationwatch.org/climate-litigation-confessional-yes-it-really-is-about-finding-new-streams-of-revenue/>.
- ¹²³ Also, CCI recruited Oregon Attorney General Ellen Rosenblum to the campaign by using Rosenblum’s Gmail. See <https://climatelitigationwatch.org/climate-litigation-confessional-yes-it-really-is-about-finding-new-streams-of-revenue/>, <https://climatelitigationwatch.org/westward-ho/>, <https://climatelitigationwatch.org/playing-hide-the-docs/> and <https://climatelitigationwatch.org/ag-mail-another-ag-using-unofficial-account-with-climateactivists/>.