

**From:** [Carlson, Ann](#)  
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Hi Daniel,

I drafted this with some folks from the Center for Climate Integrity and would love to see if we can get it published in the LA Times or another California paper. Would you give it a try?

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## *Oil Companies Closer to Their Day of Reckoning*

Ann Carlson

The tides may finally be turning in a series of lawsuits brought by a group of California cities and counties against major oil companies for damages caused by climate change.

In two closely-watched decisions, a federal appeals court last week handed California communities a big victory, and oil company defendants a major defeat, by giving the green light for their cases to proceed in state court. The lawsuits -- one brought by Oakland and San Francisco, the other by the cities of Richmond, Santa Cruz, and Imperial Beach, and the counties of San Mateo, Santa Cruz, and Marin -- argue that fossil fuel companies should pay for the billions of dollars it will cost to protect their communities against devastating flooding, sea-level rise, wildfires, and other climate disasters the companies knew their products would cause.

The Ninth Circuit Court of Appeals rulings represent a serious blow to the oil company defendants, Chevron, Exxon, BP, ConocoPhillips, and Shell, who believed that they had a better chance of getting the cases against them quickly nixed in federal court. It also comes on the heels of a nearly identical decision from the Fourth Circuit Court of Appeals that will allow a similar climate cost recovery lawsuit the City of Baltimore filed against oil majors to proceed in state court.

Now, some of the world's largest fossil fuel companies face the prospect of the lawyers for the cities and counties being able to interview their executives under oath or get documents from their archives through a process called discovery. Those interviews and documents are likely to reveal even more about what the companies knew about climate change, when they knew it, what they did to cover it up, and the efforts they undertook to protect their own assets from rising seas and more powerful storms. Discovery could unveil the extent to which the industry emitted carbon pollution that they have known for decades would warm the planet, causing billions of dollars in harm.

State court is where many similar cases filed against the tobacco, opioid, and lead paint industries were heard. The central argument the California cities and counties make -- that the companies should pay not simply because they make fossil fuels, but because they knew of the harm and then covered it up through a campaign of disinformation -- relies on the same doctrines used to hold other industries responsible for the harms they caused. The discovery process in earlier cases led to the revelation of damaging information, sometimes through the testimony of employees and executives under oath

and sometimes through damning emails, research studies, and warnings to high level executives about how harmful their products could be, The cases also showed how these industries funded campaigns to mislead the public about the safety of their products. In the end, this evidence led to massive judgments and settlements that forced the companies to pay billions of dollars in damages.

One argument oil companies will continue to make in court is that climate change is too big an issue to be resolved in state court. But the climate costs communities are seeking to recover are local and specific, just as they were in the opioid, tobacco and lead paint cases. In California, climate damages have already been particularly severe. And as the effects of climate change worsen, the costs will grow.

According to the [Center for Climate Integrity](#), California is facing a \$22 billion price tag over the next 20 years to pay for seawalls necessary to protect homes, businesses, and infrastructure against rising seas. Marin County alone, one of the communities suing the oil companies, will have to spend more than \$1 billion, the sixth highest cost in the state, according to the study. Those numbers do not include the costs of mitigation for other climate disasters, like more frequent and intense droughts and wildfires.

California cities and counties are not alone. From New York City to the state of Rhode Island, Honolulu to Boulder, municipalities across the country have taken the industry to court under similar doctrines, alleging that their behavior over the past five to six decades has and will continue to cause billions of dollars in harm and seeking compensation. The oil companies have tried to remove almost all of the cases from state to federal court. All of the courts that have heard these requests have rejected them except one. And the judge who found in favor of the oil companies was overturned this week in one of the Ninth Circuit rulings.

The legal process in the oil company suits will continue to take many twists and turns and will take several years to play out. The companies will make many arguments about why the cases don't belong in court, about why they shouldn't be held responsible, about why they aren't to blame. But the Ninth Circuit cases bring us one step closer to a court decision about whether oil companies will have to help pay for the climate damages they helped cause.

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