

The Children's Trust has filed another [lawsuit](#), one that gives me serious qualms. I know their hearts are in the right place, but I wish they had thought twice about filing this case.

I struggle to find any benefit from the litigation. It has no apparent chance of success. Worse, it disparages people in the federal government who have devoted their lives to fighting climate change. And it may also feed into the dangerous message that there is no real difference between political parties in terms of climate change.

Why is there no chance of success? It's probably enough to say that the case would certainly go to the Supreme Court, with its conservative supermajority. I'll unpack that a little. The lawsuit claims that EPA must do far more about climate change, but the six conservative Justices have the contrary view. Their decision in *West Virginia v. EPA* left no doubt that, in their view, EPA has already overstepped its authority. The lawsuit also asks for major expansions of constitutional doctrines that the Court's majority has been downsizing: implied fundamental rights (slashed in the abortion case) and judicial protection for vulnerable groups (slashed in voting rights and affirmative action cases).

The absence of any real prospect of success raises questions about whether it was wise to file the case, well intended though it was. The complaint does make an important moral statement — one that I agree with. As a society, we clearly have not lived up to our obligations to our children and future generations. And the publicity from such lawsuits might help mobilize people. But that is not really what the judicial process is meant for. In addition, there is the chance that the lawsuit might backfire legally, for instance with a ruling that individuals never have standing based on harm from climate change.

What bothers me most about this litigation is not its likely failure but its dismissive attitude toward people who have been on the front line of climate regulation. No one who reads the complaint would ever take a job as a federal regulator. The complaint brims with disdain for EPA, its leaders (like Michael Regan, a defendant), and its staff. According to the complaint, EPA — composed of all these people — “has actively discriminated against children.” Indeed, “EPA [again meaning its leaders and staff] knows its systemic management and control of climate pollution has discriminated against Children.”

Judging from the complaint, EPA lawyers, scientists, and policy analysts and engineers have never accomplished anything at all. Or rather, EPA has only made things worse, using what the complaint portrays as its “control and dominion over the air.” According to the complaint, “Defendants [meaning EPA] knowingly acted, and continue to act, to exacerbate the climate crisis.” So besides deliberately harming children, the folks at EPA were “knowingly” making climate change worse.

Need I say that this is a disservice to people who have given their whole careers to the same cause as Our Children's Trust?

I also worry that the complaint encourages the kind of purist attitude that sees no difference between a Trump and a Biden on climate change. That's an attitude that the world's children cannot afford. They are the ones who will have to live with every extra ton of carbon emissions for the rest of their lives.

And if what we get is a Trump, that will be a lot of extra tons.