The Rise of Climate Litigation

A manageable risk or a potential catastrophe?

GRAY RHINO SERIES

Gallagher Re

Executive summary

- Litigation related to climate change—and the perceived failure by organizations to address it—is increasing. In particular, activists are now targeting companies as well as governments; a successful legal action against Shell in 2021 alerted many in the corporate sector to the risk.

- Climate change litigation is no longer confined to the traditional "dirty" industries and greenwashing claims are a rising concern. The risk profiles of a much broader range of insurance clients could be fundamentally altered.

- Insurers should be aware of a small but growing number of cases that either have, or could, set important legal precedents—establishing that companies and their directors can be sued and held liable for climate-related harms or failures of disclosure. Insurers may be exposed where companies have policies that cover them against litigation costs and risks, in particular under Directors & Officers (D&O) or Errors & Omissions (E&O) policies.

- Few legal actions have been successful to date and climate activists as plaintiffs, while being well resourced and motivated, are often seeking to drive change rather than win multibillions in damages, mitigating the potential financial impact of a successful action.

- Future risks include third-party litigation funders backing climate actions and new legal fronts opening up—such as actions brought under anti-racketeering legislation.

- From the perspective of the (re)insurance industry, entire portfolios of insurance business may have to be reviewed and reappraised in light of climate campaigners' expansion of their legal ambitions. Regulators have signaled they are alert to the issue.

- Recent years have also seen the first few coverage disputes come to court, where insurers have argued that common exclusions for "pollution" mean they do not have to pick up companies' legal bills. Rulings in such cases will be closely watched by the industry.

As the world's temperature continues to warm, an increasing number of legal cases are being brought around the world alleging that governments—and now companies—are not doing enough to fight climate change.

A 2021 judgment against Shell made many in the business world sit up and take notice. Now, the risk for insurance companies is that these cases are proliferating—and increasingly targeting firms outside the oil and gas industry.

Osamu Asari, an executive director covering the Asia-Pacific region at Gallagher Re, said: "The scary part is that this risk can affect any company. It's not just a concern for the energy industry or the agricultural industry, because no-one is free of carbon emissions."

While few legal actions have been successful to date, a widespread increase in climate litigation awards against insured companies could be one mechanism that turns the threat of climate change into real losses.

That said, climate activists as plaintiffs are often seeking to drive change rather than win multibillions in damages, mitigating the potential financial impact of a successful action. Climate litigation strategies are still developing, and for big losses to mount in insurers' books, courts would need to turn a few test cases into established precedents that apply widely.

"A favorable court award in one of the ongoing high-profile cases around corporate contributions to climate change harms could open a floodgate of new cases, especially in litigious countries where trial attorneys and commercial funders are interested in bringing and supporting such cases," said Tiffanie Chan, a legal policy analyst at the Grantham Research Institute on Climate Change and the Environment.

She added: "There are, of course, opportunities to appeal decisions—and risk appetite varies across entities and countries. But we would expect increased litigation activity overall in this field."

Regulators are also pressing insurers to get a handle on this risk. In the UK, the Climate Financial Risk Forum (CFRF), an industry group convened by the Prudential Regulation Authority (PRA) and Financial Conduct Authority (FCA), produced a report on climate litigation in late 2022.[1]

It concluded: "It is vital for insurers and financial institutions to critically assess their potential exposure and proactively mitigate the risks posed by climate litigation and judicial precedents. Companies that do not prepare accordingly run the risk of severe reputational damage, incurring huge financial settlements, and disruptive threats to their business models".

Getting warmer

Over the past few years, climate records have begun to be broken with worrying frequency. 2020 was statistically tied with 2016 as the hottest year on record, according to NASA.[2] And in the summer of 2023, the world's average temperature topped 17°C for the first time since satellite monitoring began in 1972, according to the US National Centers for Environmental Prediction[3].

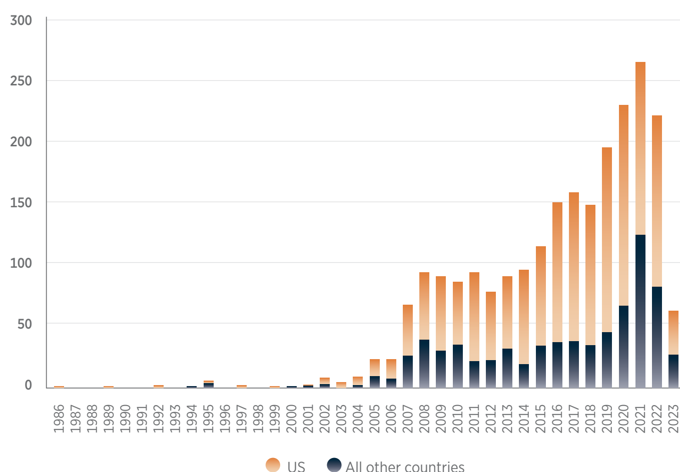
Against this backdrop, the number of climate change-related legal actions has increased sharply, reaching a peak in 2021. Despite a small reduction in 2022, the overall direction of travel seems clear.

> "As we move closer to the Paris Agreement targets on greenhouse gas reductions, there's a definite sense that the level of activism may increase as concerns rise about reaching the 1.5°C benchmark temperature threshold above pre-industrial levels."
>
> Steve Bowen
> Chief Science Officer, Gallagher Re

In June, the *Financial Times* noted the growing commercial interest in funding climate change litigation.[4] According to the paper: “Professional litigation funders, backed by investors ranging from pension funds to family offices, want to make money from climate-related claims.”

According to the Grantham Institute (which is part of the London School of Economics (LSE) and a partner of the Gallagher Research Centre), some 2,341 climate change-related cases have been filed around the world. Some 1,557 of these were filed since the 2015 Paris Agreement on climate change and 190 were filed between June 2022 and May 2023.[5]

Figure 1: Total climate change cases over time, US and non-US (1986 to 31 May 2023)



Note: Data collection is still underway, and there may be a small delay between cases being filed and being identified and processed for inclusion in the databases, therefore the 2023 data are incomplete.

Source: Grantham Research Institute, based on Sabin Center databases

Defendants pool expanding

The vast majority of legal actions so far have been brought against governments, but there is a growing trend among litigants to seek redress from corporations, too.

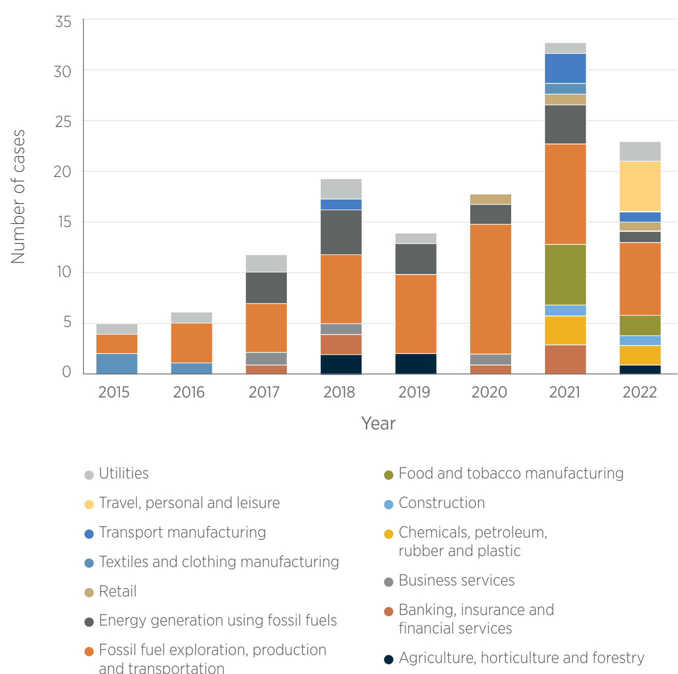
According to the Grantham Institute’s report, *Global trends in climate change litigation: 2023 snapshot*; the volume of cases brought against corporations has been ticking up steadily since 2015 and reached a peak of cases filed to date of more than 30 in 2021 (see Figure 2).

Notably, those cases are being brought not only against companies in the energy sector and other carbon-intensive industries, but across a broad range of sectors—from banking and insurance to retail.

Around 80% of corporate cases are classified by Grantham Institute as “strategic” in nature—that is, they are “filed with the aim of influencing the broader debate” on climate action. In addition to cases brought against heavy emitters, activists are increasingly targeting “actors who mislead the public about their climate action”, the report said.

In particular, the report flags what “appears to be a significant increase in ‘climate-washing cases’”—those that seek to hold firms accountable for publicly claiming to follow climate-friendly policies, such as emissions reduction targets, and then failing to deliver.

Figure 2: Number of cases against corporations by sector type, including US and global cases (2015-2022)



Note: For the most part, the classification of ‘sector type’ is based on data about defendant companies drawn from the Orbis database. However, we have classified cases concerning energy generation using fossil fuels and cases concerning fossil fuel exploration, production and transport according to the subject matter of the case rather than the sector listed on Orbis, given the high volume of such cases.

Source: Grantham Research Institute, based on Sabin Center databases

"There is a real level of desire to see movement with mitigation efforts around curbing CO_2 emissions and the push towards meaningful transition," said Steve Bowen, chief science officer at Gallagher Re. "Companies that have publicly released their net-zero strategic goals, or have lacked transparency about how they are thinking about climate, are running the very real risk of facing litigation concerns, reputational damage or being labeled a 'greenwasher'."

Matt Harrison, casualty head of technical sales at Gallagher Re, added that climate activists as plaintiffs are "very well resourced, bright and driven—much more so than a standard plaintiff. They are not going to stop until they win".

By the same token, however, they are seeking to drive change rather than to win multibillions in damages, he said—which may mitigate the financial hit to companies and insurers from a successful action.

Nevertheless, insurers should consider their exposure. Insured companies may have Directors & Officers (D&O) and Errors & Omissions (E&O) policies that cover them against litigation alleging wrongdoing by directors or other employees. Climate litigation could potentially trigger general liability policies too.

As the scope of climate litigation widens, there is also the potential for an insurance company to become the target of legal actions—in particular if there is dispute over whether climate risk is excluded from a policy.

Legal precedents sound warning bells

With only a comparatively small number of successful judgements against companies to date, the risk has remained largely theoretical. However, that changed in 2021, when the Hague District Court ruled against Shell, marking one of the world's first successful human rights-based climate-related actions against a corporation.[6]

Activists have been using human rights law to bring climate-change related actions against governments for some time. But the 2021 case stood out for targeting the oil major Royal Dutch Shell (now known as Shell plc).

In the case of *Milieudefensie et al. v Royal Dutch Shell PLC*, 17 non-governmental organizations (NGOs) and more than 17,000 individuals filed an action claiming that Shell's annual CO_2 emissions constituted an unlawful act against them. Specifically, they claimed Shell had a duty of care to citizens under the Dutch Civil Code—as informed by the European Convention on Human Rights—to take action to reduce its emissions. The court agreed, and ruled that Shell should be ordered to reduce its CO_2 emissions at a net rate of 45% at the end of 2023, relative to 2019 levels, through corporate policy.

Shell has appealed the decision.

The significance of the ruling, and its potential impacts on future (re)insurance exposures, should not be underestimated. The UK CFRF picked it out as the first of eleven "Tier One" cases of especial relevance to the industry, because of the court's ruling that the company owed a duty of care on climate, and because of its potential to inspire others.

In a 2022 report, it noted: "This case has already inspired similar litigation in other jurisdictions, including *Notre Affaire à Tous et al. v Total* and a number of claims filed against motor manufacturers in Germany seeking a ban on ICE vehicles after 2030 and a limit on sales of such vehicles in the interim. In addition, by recognizing a duty of care in this manner, this claim may inspire claims for damages for breach of a similar duty (in the Netherlands and in other jurisdictions)."

> "In some senses, activists are becoming more creative and legally savvy. They are becoming more familiar with the tactics they can use and are bringing cases to court based on human rights."
>
> Yingzhen Chuang
> Global Head of Sustainability Risk, Gallagher Re

Another important case picked out by the CFRF was *Trustee of PG&E Fire Victim Trust v Lewis Chew et al*., in which executive officers at the US electric utility firm PG&E were alleged to have breached fiduciary duties by failing to implement safety measures that could have averted damages to victims in the 2017-18 Northern California wildfires. A USD117 million settlement was reached in July 2022.

This case was notable for insurers because it "illustrates the use of state common law and business tort law to hold company officers liable for failure to prevent or limit the consequences of natural disasters", the CFRF said. "Utility companies should be on alert for similar claims under business tort law."

Meanwhile, cases currently in progress could establish new precedents. Last year, for example, Netherlands-based campaign group Fossielvrij NL brought a greenwashing case against the Dutch airline KLM, alleging that adverts promoting the company's sustainability initiative were misleading.[7] Lawyers suggest claims for misleading advertising can potentially come under D&O policies.[8]

The KLM case is still in its initial stages, and the activist plaintiffs are not seeking monetary damages—they want the court to order the airline to change its practices. Nevertheless, the CFRF also judged this case to be highly relevant to insurers. Not only could it establish that companies can be sued under European consumer protection laws for misleading climate claims; it could also encourage more plaintiffs to regard airlines as "carbon majors" alongside oil and gas.

Another case with the potential to inspire a costly wave of copy-cats—should it overcome the substantial legal hurdles in its way—is the suit brought by the City of Honolulu, Hawaii against several fossil fuel companies, including Chevron, Sunoco, BP and Aloha Petroleum. This case began in 2020 and is still ongoing.

The case is notable for focusing on the companies' alleged conduct, including climate denialism. The court has noted it is essentially "a state tort case based on failures to disclose, failures to warn and deceptive marketing", the CFRF said.

A number of other US state and local governments are attempting similar actions against oil companies, but the Honolulu case is the only one so far to have made it past a motion to dismiss in state court. In April, the US Supreme Court also declined the defendants' request to intervene.[9]

The CFRF concluded: "Should the suit filed by Honolulu… result in a merits judgment in favor of the claimants, it is highly likely to inspire a wave of copycat cases to be filed by other jurisdictions, or against other high-emitting industries or industries which support them (such as insurance, advertising and financial institutions)."

Naturally, not all litigation will be successful, however.

The activist group ClientEarth, for example, recently attempted to bring another case against Shell in the UK[10] —a derivative action from the 2021 Dutch case. It sought to establish personal liability on the part of the directors of Shell for failing to address the threat of climate change and failing to comply with the Dutch court's ruling. This could have set a precedent for a new type of climate litigation against company directors, with direct implications for insurers' D&O lines.

But last month, the English High Court refused to allow it to proceed.[11] *The Guardian* quoted Elaina Bailes, at law firm Stewarts, explaining that the judge "said in this situation, where ClientEarth is an activist organization with only a very small number of shares, there is a clear inference that its real interest in bringing the claim is not for all [shareholders]…it appears the court will have to assume an ulterior motive if the claimant is a climate activist group."

It is worth remembering, though, that even an unsuccessful legal action generates legal costs and insured companies may be able to claim for their defense.

Sizing the problem—uptick in losses, or catastrophe?

With comparatively few cases against companies to date, modeling the potential exposure across the insurance industry is not straightforward. However, Gallagher Re's Analytics team has developed a Climate Litigation Insurance Modeling Analysis Tool (CLIMAT) which can help carriers get a handle on this risk.

Estimating total industry-wide losses is a complex calculation. It depends on many factors, such as how far large corporates in the carbon intensive industries are held liable for their direct or indirect contributions to climate change, as well as upon some ripple effects, such as related shareholder actions against their directors and officers.

Nevertheless, the potentially long-running and open-ended nature of climate claims bears comparison to another widespread environmental liability that has led to billions in losses for insurers: asbestos. The cumulative sum of asbestos liability insurance claims paid by the end of 2021 amounts to USD77.1 billion, according to A.M. Best.

In its report the CFRF presented scenario modeling work looking at potential losses to corporates if they were held liable for losses arising from sea level rise. In the most severe litigation scenario, it estimated a potential insurable loss of more than USD100 billion.[12]

Analysis conducted by Gallagher Re in 2022 suggested the total loss for liability insurers from climate claims could be between those two estimates, but only in the most severe scenarios.

Osamu Asari noted: "I don't think there are many examples of policies paying out so far, because we have not had many examples of successful climate litigations against companies."

"There may have been some defense costs of course, if the policies included that, but this would be small. This helps explain why many people in the industry are not panicking about climate litigation yet—but the exposures could be very large."

The nuances of liability

Climate change risk is nothing new for the (re)insurance industry. The physical risks stemming from potential damage to property and the "transition risks" related to policy changes and adaptation are well-understood and priced in.

However, climate litigation represents a third category of climate risk—climate liability—one where exposures are potentially less well understood.

Gallagher Re's Harrison said: "I think of climate litigation as having two strands. Firstly, causation, where plaintiffs argue that companies' products are directly causing harm through climate change. For the most part, this really only applies to oil and gas or other significant carbon producers—and there would have to be a change in legal doctrine for courts to start accepting these arguments. But, if this happened, this could fall under product liability policies and the risk to insurance balance sheets could be huge."

"The second strand is adaptation and/or greenwashing claims, where plaintiffs try to argue that companies are failing to cut emissions or are making misleading statements about their efforts or are failing to adapt to the changing world. This is where activists are bringing actions right now, but these tend to be smaller and not systematic. The concern for insurance balance sheets here is death by a million cuts."

Figure 3: A framework for climate litigation

<table>
<tr><th colspan="3">Causation/pollution claims</th><th colspan="3">Claims for failure to adapt/greenwashing</th></tr>
<tr><th colspan="3">Oil and gas majors/energy firms/concrete manufacturers/ significant 'contributors' of carbon</th><th colspan="3">All companies (including carbon contributors)</th></tr>
<tr><th>Types of liability</th><th>Likelihood of successful legal claims</th><th>Potential exposure for insurers</th><th>Types of liability</th><th>Likelihood of successful legal claims</th><th>Potential exposure for insurers</th></tr>
<tr><td>Product liability</td><td rowspan="3">Low—legal doctrine not established in relation to insurable coverage—though significant developments are afoot.</td><td rowspan="3">Very large</td><td>D&O</td><td>Quite high. No issues with legal doctrine, and risk is covered by policies. But plaintiffs must show negative financial consequence.</td><td rowspan="4">Widespread, and insurers already paying claims. But predominately the number and size of claims are small—majority will likely be seen as an uptick in loss ratios.

However, greenwashing claims in particular could be larger in size and frequency in coming years.</td></tr>
<tr><td>General liability</td><td>E&O</td><td>Same as above, but insured must have offered advice or provided a service that contributes to greenwashing or a failure to adapt.</td></tr>
<tr><td>Energy and Environmental</td><td rowspan="2">General liability</td><td rowspan="2">Same as above, but insured has to have done something wrong/failed to do something that results in bodily injury.</td></tr>
<tr><td>D&O</td><td>Significant—easier to legally establish liability.</td><td>Widespread, but far less actual dollars at risk for insurance industry.</td></tr>
</table>

Financial lines in the firing line

Perhaps the most obvious line of liability that is likely to be affected by climate change litigation is D&O coverage.

Much of the legal action to date has focused on corporate governance frameworks and the disclosures made by companies. Activists may become shareholders in companies with the express intention of bringing action against them for breaches of fiduciary duty, for example, or to raise awareness of failures with regards to corporate governance and Environmental, Social and Governance (ESG) pledges.

If, for example, a lawsuit is brought against a company alleging that its directors have failed to meet emissions reductions targets, and this has caused a fall in the share price, that could activate a D&O policy.

Most D&O policies insure broadly against alleged wrongdoing by directors and officers, and climate-change related lawsuits may not be excluded. In 2021, the Bank of England conducted an exercise with several London insurers examining their exposure to climate litigation,[13] in particular through D&O and professional indemnity policies. It concluded that D&O policies were most likely to pay out—almost 100% of the policies examined would pay out in cases of greenwashing, for example.

Speaking to the *Financial Times* in August 2022, the Lloyd's Market Association's Head of Technical Underwriting David Powell said: "Environmental, social and governance [issues] are very much on the agenda of D&O underwriters," with environmental concerns "a new and major issue". He added that underwriters were increasingly asking potential clients questions such as whether their net-zero strategy had been independently reviewed.[14]

To date, climate change-related litigation has not been considered in policy wordings, nor explicitly priced. The Lloyd's Market Association published a Climate Change Exclusion clause in 2021 for liability policies.[15] It aims to protect carriers from "any loss, liability, cost or expense arising out of any allegation or claim that the (re)insured caused or contributed to climate change or its consequences".

A year later, Australian law firm Allens observed that take-up had yet to rise to the level of ubiquity as other Lloyd's exclusions for cyber and communicable diseases (the latter issued in the wake of the COVID-19 pandemic). But it could still be a "sign of things to come", it said.[16]

According to Yingzhen Chuang, global head of sustainability risk at Gallagher Re: "If climate litigation risk is not accurately priced or captured, it will leave cedants open to reserving issues, should there be a successful test case."

Cases against third-party advisors such as accountants and auditors are possible too; for example, if they are alleged to have certified the reports of a company that failed to meet its corporate governance commitments. This could lead to insurers paying out on an E&O policy. Such cases will likely be fewer in number, however, since there are far fewer companies with such coverage.

Fresh action by regulators and policymakers may also spur more actions that lead to D&O claims. In May this year, Insurance Day noted: "The US Securities and Exchange Commission is set to publish new climate-related disclosure rules, which could drive a surge in claims against directors' and officers' insurance policies relating to greenwashing and other failings".[17]

The new set of climate change disclosure rules will "make directors and officers responsible for cases of greenwashing resulting from the publication of wrongful information about a company's efforts to reduce its carbon footprint". Companies will also have to make public their climate-related governance practices, the expected risks they face and their energy transition plans.

General liability: Potential for exposure—and coverage disputes

There is likely to be some general liability exposure related to climate change litigation, but the links are at present somewhat less clear than for other liability lines. Currently, for example, it might be hard for claimants to show a bodily injury that is a direct result of climate change, explained Chirag Shah, global casualty lead at Gallagher Re.

However, it is not impossible that general liability exposures could begin to emerge.

For example, if there were to be a construction defect in a property built in an area that subsequently becomes prone to flooding because of climate change, a liability could arise. Or the volume of 'slip and trip'-type contingent general liability claims may increase as the climate changes. These claims might become more frequent if workplaces become more prone to frozen conditions and proper steps have not been taken to protect staff from falls, for example. If companies fail to adapt working conditions to allow for extreme heat, the volume of work-related accidents may also increase and bodily injury may occur, and so on.

Nevertheless, it remains arguable whether commercial general liability policies will cover such claims. Many have exclusions in place for "pollution", and moreover, insured parties may have to demonstrate that the climate lawsuit brought against them claims that either bodily injury or property damage has resulted from a specific "occurrence" during the policy period—not merely that a risk was created due to climate change.

These issues lie at the heart of two recent notable cases. In one, Hawaii's Aloha Petroleum is suing its insurer, AIG's National Union Fire Insurance Company of Pittsburgh. Aloha is claiming for defense costs incurred in fighting the Honolulu case referred to above—which it says had already amounted to USD880,000 by late 2022.[18]

Aloha Petroleum's claim is that the insurer "incorrectly asserted that the qualified pollution exclusion of a 1985 commercial general liability policy precluded defense and indemnity coverage".

In the other, insurer Everest asked a court in Massachusetts for a declaration that it has no duty to cover Gulf Oil against a climate lawsuit, because the suit "did not allege "bodily injury" or existing "property damage" caused by an "occurrence" that first manifested during the policy period of the primary policies". However, this case was withdrawn in late 2022 after the underlying lawsuit against Gulf Oil was dismissed for lack of standing.[19]

Hernán Cipriotti and José Umbert, lawyers at Zelle LLP, wrote in response to these cases:[20] "Coverage litigation arising out of climate change lawsuits is no longer theoretical. More cases are likely to follow… The insurance industry should pay close attention to these developments and assess their effects on their exposure to climate change liabilities."

Insurers can take comfort from a 2012 ruling on a similar question. That year, the Virginia Supreme Court was asked to reaffirm a previous ruling that Steadfast Insurance was not obliged to cover AES Corporation against a climate lawsuit brought in Alaska. The Supreme Court did so, judging that because the emission of greenhouse gases can be said to be intentional, it is neither an accident nor an "occurrence" within the meaning of AES' commercial general liability policy.[21]

Managing future risks

Climate change-related litigation shows no sign of easing off. Indeed, according to Steve Bowen, "we are still very much at the starting gate".

Yingzhen Chuang added: "The point at which the rubber really hits the road is when the sustainability report **is** the financial report."

Activist groups will continue in their efforts to set precedents, regulators will increase their focus on companies' climate change management efforts and disclosures, and—as we move towards emission-reduction target deadlines—pressure on companies to show they are managing climate risk will heat up still further.

Third-party funders may drive climate litigation in much the same way as we have seen in the casualty and liability spaces.

For example, various law firms[22] have advertised for claimants to bring cases against diesel motor manufacturers; actions founded on the "dieselgate" emissions scandal in 2015. It does not seem unimaginable that a third-party funded climate change-based action could operate in the same way in the future.

Activists and lawyers are opening up new legal fronts. In 2022, the British Institute of International and Comparative Law launched a research project[23] to collate the most effective legal strategies against corporations from 17 jurisdictions around the world, creating a legal "toolbox" for policymakers, legislators, judges and other adjudicators. It aims to "support and quicken global carbon reduction and the transition to net-zero".

The latest new legal strategy in the US is to use constitutional law. In August 2023, a judge in Montana ruled in favor of youth activists who sued the state government over its promotion of fossil fuels, backing their claim that their right to a "clean and healthful environment", guaranteed in the Montana constitution, includes a stable climate.[24]

Last year, residents of an Indonesian island affected by rising sea level reportedly began an action against cement producer Holcim.[25] One claimant lost a significant amount of revenue from his guesthouse after large-scale flooding on the island in 2021. He described the situation as unjust, given that Indonesia has contributed relatively little to global emissions.

Campaign groups have also begun to utilize anti-racketeering legislation, as seen in actions in Puerto Rico, where fossil fuel firms have been accused of "deception".[26]

Corporations, their insurers, reinsurers and brokers must retain a clear focus on assessing these potential liabilities and managing them against an evolving backdrop of legal activity.

As the CFRF concluded in its report: "It may be important for insurers to explore options for reinsuring their litigation risk, as well as to be clear on exclusions on policies that may have a climate-related component, such as D&O lines of business, and for that to be communicated clearly to customers."

Contributing authors

Osamu Asari
Executive Director, Gallagher Re

Steve Bowen
Chief Science Officer, Gallagher Re

Yingzhen Chuang
Global Head of Sustainability Risk, Gallagher Re

Matt Harrison
Casualty Head of Technical Sales, Gallagher Re

Chirag Shah
Global Casualty Lead, Gallagher Re

1 Scenario Analysis Working Group: Climate Litigation Risk Chapter, Climate Financial Risk Form, December 2022
2 Vital Signs: Global average temperatures, NASA, August 2023
3 Climate change: World's hottest day since records began, BBC, July 2023
4 The money behind the coming wave of climate litigation, *Financial Times*, June 2023
5 Global trends in climate change litigation: 2023 snapshot, Joana Setzer and Catherine Higham/ Grantham Research Institute on Climate Change and the Environment, June 2023 2023
6 Milieudefensie et al. v. Royal Dutch Shell plc, Climate Change Litigation Databases, Sabin Center for Climate Change Law at Columbia Law School
7 Environmentalists sue Dutch airline KLM for 'greenwashing', BBC, July 2022
8 Are Consumer Protection or False Advertising Claims Covered by Insurance?, D&O Diary, November 2022
9 City & County of Honolulu v. Sunoco LP, Climate Change Litigation Databases, Sabin Center for Climate Change Law at Columbia Law School
10 ClientEarth v. Shell's Board of Directors, Climate Change Litigation Databases, Sabin Center for Climate Change Law at Columbia Law School
11 ClientEarth loses high court fight with Shell over climate strategy, *The Guardian*, July 2023
12 Scenario Analysis Working Group: Climate Litigation Risk Chapter, Climate Financial Risk Form, December 2022
13 Results of the 2021 Climate Biennial Exploratory Scenario, (Box C: Climate litigation risk), Bank of England
14 Climate litigation threatens to push up companies' insurance costs, *Financial Times*, August 2022
15 LMA Model Climate Change Exclusion, (LMA5570), Lloyd's Market Association Bulletin
16 Insurance coverage for climate litigation: taking the temperature from US case law, Allens, December 2022
17 D&O insurers brace for new US ESG rules, *Insurance Day*, May 2023
18 Aloha Petroleum Ltd. v. National Union Fire Insurance Co. of Pittsburgh, Climate Change Litigation Databases, Sabin Center for Climate Change Law at Columbia Law School
19 Everest Premier Insurance Co. v. Gulf Oil LP, Climate Change Litigation Databases, Sabin Center for Climate Change Law at Columbia Law School
20 After Climate Rulings, Insurers May Go On Coverage Offense, Hernán Cipriotti and José Umbert, Zelle LLP via JDsupra.com
21 Steadfast Insurance Co. v. AES Corp., Climate Change Litigation Databases, Sabin Center for Climate Change Law at Columbia Law School
22 All manufacturers accused of cheating on diesel emissions tests, *FleetNews*, March 2021
23 Global Perspectives on Corporate Climate Legal Tactics, BIICL, November 2022
24 Montana's landmark climate ruling: three key takeaways, *The Guardian*, August 2023
25 Indonesian islanders sue cement producer for climate damages, *The Guardian*, July 2022
26 Big oil is behind conspiracy to deceive public, first climate racketeering lawsuit says, *The Guardian*, December 2022

Learn more about our client-focused, collaborative approach.
Connect with us today at **GallagherRe.com**.

It's the *way* we do it.

© Copyright 2023 Arthur J. Gallagher & Co. and subsidiaries. All rights reserved: No part of this document may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, whether electronic, mechanical, photocopying, recording, or otherwise, without the prior written permission of Arthur J. Gallagher & Co. Gallagher Re is a business unit that includes a number of subsidiaries and affiliates of Arthur J. Gallagher & Co. which are engaged in the reinsurance intermediary and advisory business. All references to Gallagher Re below, to the extent relevant, include the parent and applicable affiliate companies of Gallagher Re. Nothing herein constitutes or should be construed as constituting legal or any other form of professional advice. This document is for general information only, is not intended to be relied upon, and action based on or in connection with anything contained herein should not be taken without first obtaining specific advice from a suitably qualified professional. The provision of any services by Gallagher Re will be subject to the agreement of contractual terms and conditions acceptable to all parties. Gallagher Re is a trading name of Arthur J. Gallagher (UK) Limited, which is authorised and regulated by the Financial Conduct Authority. Registered Office: The Walbrook Building, 25 Walbrook, London EC4N 8AW. Registered in England and Wales. Company Number: 1193013. www.ajg.com/uk. GRE6249