

**IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT  
IN AND FOR LEON COUNTY, FLORIDA**

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DELANEY REYNOLDS; LEVI D., by and through his natural guardian and mother Leigh-Ann Draheim; ISAAC A., by and through his natural guardian and mother, Janet Ray Augspurg; JOSE (“Andres”) P., by and through his natural guardian and mother, Valerie Jean Phillips; LUSHIA (“Luxha”) P., by and through her guardian and mother, Valerie Jean Phillips, OLIVER C., by and through his natural guardian and mother, Emily Chamblin; VALHOLLY F., by and through her natural guardian and mother, Rhonda Roff; and OSCAR PSYCHAS,

Plaintiffs,

v.

CASE NO.: 18-CA-000819

*AMICI CURIAE* BRIEF

THE STATE OF FLORIDA; RON DESANTIS, in his official capacity as Governor of the State of Florida; the FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION; by and through NOAH VALENSTEIN, in his capacity as Secretary of the Florida Department of Environmental Protection; the FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES; by and through NICOLE FRIED, in her capacity as Commissioner of the Florida Department of Agriculture and Consumer Services; the FLORIDA BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND; and the PUBLIC SERVICE COMMISSION,

Defendants.

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1 **I. INTRODUCTION**

2 *Amici Curiae* believe this Court should find in favor of the plaintiffs.

3 Plaintiffs have brought this case out of concern for their continued quality of life  
4 and to uphold their constitutional right to a sustainable climate in accordance with  
5 the Public Trust Doctrine and the Florida Constitution. The foundational Public  
6 Trust Doctrine cases hold that government cannot substantially impair or alienate  
7 resources crucial to the public welfare. In conjunction with the constitutional  
8 reserved powers doctrine, the public trust prevents any one legislature from  
9 depriving a future legislature of the natural resources necessary for the well-being  
10 and survival of its citizens. Not only is the Public Trust Doctrine firmly grounded in  
11 legal precedent, it also reflects the shared reasoning underlying the moral values  
12 and religious teachings of many faiths. The Public Trust Doctrine imposes sovereign  
13 duties on the State of Florida and its officials to protect the climate system  
14 necessary for human survival. Allowing excessive carbon dioxide emissions to  
15 imperil the climate system jeopardizes the fundamental rights of the Youth  
16 Plaintiffs in this case and future generations. If fossil fuel emissions are not rapidly  
17 abated, then Youth Plaintiffs and future generations will confront an inhospitable  
18 future. Complaints contained in the Defendant’s Motion for Judgment on the  
19 Pleadings should not outweigh the ability of the Youth Plaintiffs to have their day  
20 in court. This brief does not reargue the Youth Plaintiffs’ bases for relief under the

1 Public Trust Doctrine or the Florida Constitution. Rather, it argues that in addition  
2 to the Court's application of those laws, consideration should be given to the moral  
3 values and religious teachings of people of many faiths.

## 4 **II. IDENTITY OF *AMICI CURIAE***

5 GreenFaith is one of the oldest international and interfaith environmental  
6 non-governmental organizations. Since 1992, GreenFaith has worked with and  
7 educated diverse religious and spiritual communities about the moral and sacred  
8 basis for protecting the environment, helping these communities green their  
9 operations, and mobilizing passionate people for environmental advocacy and  
10 campaigns.

11 The Rev. Fletcher Harper is an Episcopal priest and since 2002, GreenFaith's  
12 Executive Director. Under his leadership, GreenFaith has developed innovative  
13 programs linking religious belief and practice to the environment. An award-  
14 winning spiritual writer and nationally-recognized preacher on the environment, he  
15 has led multi-faith organizing for the 2014 and 2017 Peoples Climate Marches,  
16 played a lead role in the faith-based fossil fuel divestment movement, and  
17 coordinated the development of GreenFaith's international work.

18 The Rev. Dr. Neddy Astudillo, is an eco-theologian and Presbyterian pastor  
19 who coordinates GreenFaith's outreach to Latin American faith communities and to

1 the US Latino faith community. In 2017, she coordinated GreenFaith’s Convergence  
2 in Rio de Janeiro with Latin American multi-faith partners.

3 Sharon Joy Kleitsch is Principal of The Connection Partners, Inc. and is  
4 recognized internationally as a leader in organizing and facilitating small and large  
5 group processes. She has synergized her management and executive experience at  
6 Citigroup and a Masters in Spirituality with the application of systems thinking.

7 The Rev. Dr. Brant S. Copeland has served as pastor of First Presbyterian  
8 Church of Tallahassee for 33 years. Throughout his pastorate, the congregation has  
9 been deeply engaged in environmental stewardship. He has led the congregation in  
10 installing solar panels, doing energy retrofits on its aging buildings, and divesting  
11 its endowment of fossil fuel holdings. He has preached on climate change and  
12 advocated for renewable energy in his community. In 2006, his congregation  
13 responded to the General Assembly’s call to become a “carbon neutral”  
14 congregation. The session (governing body) of First Presbyterian Church, by official  
15 action, has authorized Rev. Copeland to join this amicus brief on its behalf.

16 The Reverend David F. Judd is the Pastor for St. Mark’s Presbyterian  
17 Church in Altamonte Springs, a position he has held for six years. He has been a  
18 member of the Presbyterian Church USA for 30 years and seeks to share in new  
19 directions in ministry, church experience and community building on a local and  
20 global level.

1           The Reverend Dr. Russell L. Meyer is the Pastor of the Lutheran Urban  
2 Parish of Tampa and has served since 2005 as the Executive Director for the  
3 Florida Council of Churches. The Florida Council of Churches was established in  
4 1947, and its member churches include some one million Floridians. Composed of  
5 Mainline denominations and Historic Black Churches, the Council's various  
6 churches have all in their respective religious statements expressed a basic  
7 commitment to the care of creation and the proper stewardship of Earth's resources  
8 as a faith mandate. In 1998 the Florida Council of Churches issued a care of  
9 creation statement addressing concerns about climate change and provided  
10 trainings across the state. The Rev. Dr. Meyer has taught world religions and ethics  
11 at the collegiate level. He is the convener of the Florida Interfaith Climate Actions  
12 Network, founded in 2014. He has engaged in statewide interfaith efforts on  
13 climate, healthcare, justice reform, refugees, and civic engagement and directs the  
14 ecumenical Public Policy Office, jointly sponsored by the Florida Council of  
15 Churches and the Florida-Bahamas Synod of the Evangelical Lutheran Church in  
16 America.

17           Pam McVety is the Stewardship of Creation Enabler at Presbytery of Florida.  
18 She is a biologist and retired senior manager from the Florida Department of  
19 Environmental Protection, Presbyterian Elder, former moderator of the  
20 denomination's Energy Policy Resolution Team and author of the General

1 Assembly's carbon neutral resolution. She also is a founding member of Fossil Free  
2 PCUSA asking her denomination to divest all its fossil fuel investments. She is a  
3 member of Sustainable Tallahassee's Community Carbon Fund, encouraging people  
4 to go carbon neutral and using carbon offset funding to help charitable  
5 organizations reduce their energy usage. She also participates as both a scientist  
6 and faith leader on Tally35, an organization that successfully lobbied the City of  
7 Tallahassee to switch to 100% renewable energy by 2050. She was recently awarded  
8 the Presbyterians for Earth Care William Gibson Ecojustice Award.

9 Rabbi Salkin has served as the senior rabbi of Temple Solel since August,  
10 2015. Prior to that, he had served congregations in New Jersey, Georgia, and New  
11 York. Rabbi Salkin is blessed with a national and international reputation as one of  
12 America's most quoted rabbis and thought leaders. He has spoken on the impacts  
13 that sea level rise would have on his local congregation and the Jewish faith's  
14 connections with the sea.

15 Shelley Tanenbaum is the General Secretary (Director) of Quaker Earthcare  
16 Witness, a network of the Religious Society of Friends (Quakers) in North America  
17 who are taking action to address ecological and social crises from a spiritual  
18 perspective. She also serves on the boards of Quaker Institute for the Future and  
19 Friends Committee on Legislation in California. She is an environmental scientist  
20 with a focus on air quality.





1 crucial societal interests. The landmark case is *Illinois Central R.R. Co. v. Illinois*,  
2 146 U.S. 387 (1892), where the Supreme Court applied the constitutional reserved  
3 powers doctrine to crucial natural resources, holding that submerged lands were in  
4 trust and could not be fully privatized. At issue was control of Chicago's Harbor,  
5 which the Illinois legislature had privatized. In an explanation that extends beyond  
6 submerged lands, the Court explained the rationale of the Public Trust Doctrine:

7       The state can no more abdicate its trust over property in which the whole  
8       people are interested, like navigable waters and soils under them, so as to leave  
9       them entirely under the use and control of private parties . . . than it can  
10      abdicate its police powers in the administration of government and the  
11      preservation of the peace . . . . Any grant of the kind is necessarily revocable,  
12      and the exercise of the trust by which the property was held by the state can  
13      be resumed at any time . . . . The trust with which they are held, therefore, is  
14      governmental, and cannot be alienated . . . [.] *Id.* at 453-55 (emphasis added).  
15      Illinois Central made clear that alienating or destroying essential resources  
16      would amount to relinquishing sovereign powers in violation of the  
17      Constitution's reserved powers doctrine. See Michael C. Blumm & Mary  
18      Christina Wood, *The Public Trust Doctrine in Environmental*

19       The Public Trust Doctrine is neither a novel nor insignificant ideology. Courts  
20      have found over the course of decades that many natural resources from wildlife to  
21      public lands to beaches to our country's breathtaking mountain ranges are to be held  
22      in a public trust to ensure their availability to generations to come. The climate is no  
23      exception. Just as much as America's youth has the right to continue to enjoy bathing  
24      and fishing on a public beach, they have greater, graver right to enjoy a sustainable  
25      climate. Climate protection is a trust that is inherently governmental and

1 constitutionally guaranteed under the Due Process clause of the 5<sup>th</sup> and 14<sup>th</sup>  
2 amendments.

### 3 **B. THE ROLE OF THE COURTS IN PRESERVING THE PUBLIC TRUST**

4 The essence of the trust responsibility is the sovereign fiduciary duty to  
5 protect the public's crucial assets from irrevocable damage.<sup>1</sup> Under well-established  
6 core principles of trust law, trustees have a basic duty not to sit idle and allow  
7 damage to the trust property.<sup>2</sup> These fiduciary duties impose a higher standard of  
8 care than the permissive nature of administrative discretion under statutory law.  
9 Judicial enforcement of fiduciary obligations becomes necessary when the political  
10 branches abdicate their responsibility to protect the *res* of the trust.<sup>3</sup> Youth  
11 Plaintiffs are calling on the federal courts to ensure that the political branches  
12 fulfill their trust obligation to avoid destruction or irreparable harm to an asset that  
13 must be sustained for generations of citizens to come.

### 14 **C. THE MORAL FOUNDATIONS OF THE PUBLIC TRUST DOCTRINE**

15 The Public Trust Doctrine is ultimately grounded in a moral requirement to  
16 maintain the lands and resources we have come to rely on so that not only the

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<sup>1</sup> See *Geer*, 161 U.S. at 534.

<sup>2</sup> See George G. Bogert, et al., *Bogert Trusts and Trustees*, § 582 (2011); see also *City of Milwaukee v. State*, 214 N.W. 820, 830 (Wis. 1927).

<sup>3</sup> See *Ariz. Ctr. for Law in Pub. Interest v. Hassell*, 837 P.2d 158, 169 (Az. Ct. App. 1991), petition dismissed 1992 Ariz. LEXIS 82 (Ariz. 1992).

1 current population may enjoy them, but others in the future as well. The courts of  
2 the United States have long since recognized the Public Trust Doctrine as a pillar of  
3 organized civilization. Its pervasiveness is due, in part, to 3 primary moral  
4 understandings: (1) a duty to future generations; (2) an acknowledgment of public  
5 rights to natural assets; and (3) a condemnation of waste. Not only are these values  
6 rooted in the principle of Public Trust, but in the religious teachings of many,  
7 including Christianity, Judaism, Islam, Hinduism, and Buddhism.

### 8 **1. Principle of Creation**

9 The *Amici Curiae* maintain that the Earth and its natural resources were a  
10 gift from God, and as such we are called on to protect them as people of faith. As  
11 such, we must protect them as stewards of faith. The Public Trust Doctrine reflects  
12 the religious teachings of many faiths which view the Earth as a sacred trust  
13 created for the benefit of all humanity, including future generations.

14 Even for those religious traditions that do not hold nature as being a creation  
15 of God, there is certainly a sense of connection to the Earth and an acknowledgment  
16 of its spiritual and physical importance. God's call to care for creation requires us to  
17 act in such a way that not only does not harm his creation, but protects it for future  
18 generations.

1 Caring for creation is an act of social justice. Because humanity is part of  
2 creation and because we are designed for interdependence with the whole of  
3 creation, caring for creation means caring for humanity. Caring for humanity, in  
4 turn, demands protecting and restoring creation.

## 5 **2. Principles of Stewardship**

6 Insomuch as the above points are concerned, many public trust cases have  
7 already declared that future generations are legal beneficiaries entitled to the  
8 public trust. As such, we, as current stewards of the planet, have a moral obligation  
9 to preserve that right for generations to come. A sense of intergenerational  
10 responsibility has been widely shared since practically the country's inception. But  
11 even aside from politics, faith-based ideologies of stewardship also reflect this  
12 ideology. Pope Francis, for example, refers to such in *Laudato Si'*, calling the  
13 natural world “a collective good, the patrimony of all humanity and the  
14 responsibility of everyone”.<sup>4</sup> This is not the only example where religious figures  
15 have cemented the idea that our planet is a “commons”, in a sense – something to be  
16 shared and protected by all, for all.

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<sup>4</sup> Francis, Encyclical Letter, *Laudato Si'*: On Care for Our Common Home, May 24, 2015, available at [http://w2.vatican.va/content/francesco/en/encyclicals/documents/papa-francesco\\_20150524\\_enciclica-laudato-si.html](http://w2.vatican.va/content/francesco/en/encyclicals/documents/papa-francesco_20150524_enciclica-laudato-si.html).

1 For example, The 202nd Presbyterian General Assembly (1990) passed a  
2 resolution, “Call to Restore The Creation” which states in part, that God calls the  
3 Presbyterian Church to engage in the tasks of restoring and protecting creation  
4 because human life and well-being depend upon the flourishing of other life and  
5 that the integrity of the life-supporting process that God has ordained as well as the  
6 future of our children and their children and all who come after is at stake.

7 The Florida Council of Churches similarly espouses the faith-based principle  
8 of stewardship over the earth in a way that cares for those who are most vulnerable:

9 We believe that global warming with associated climate changes  
10 is an inescapable spiritual challenge, dramatically reminding us of the  
11 call by God to faithful stewardship. ... Although the industrialized  
12 nations are the biggest contributors to global warming, the burden of  
13 these changes will fall disproportionately on the most vulnerable of the  
14 planet’s people: the poor, sick, elderly, and those who will face still  
15 greater threats in future generations.<sup>5</sup>

16 Stewardship on behalf of our Earth is an inter-faith value that is not unique  
17 to one denomination. Across the world and throughout various cultures, the natural  
18 world is regarded as paramount – as precious. Respect for the land we live on  
19 founds many of the compassionate humanistic ideals that define all of us and

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<sup>5</sup> Statement on Global Climate Change, <https://floridachurches.org/statement-on-global-climate-change/>.

1 transcend the boundaries of religious affiliations. It is the common ground between  
2 different faiths and a unifying factor amongst various religious groups.

### 3 **3. Principle of Justice**

4 Justice is not just for people living today, but for future generations and for  
5 all of creation. It commands fairness across all walks of life, one of the primary  
6 pillars of so many religious ideologies. Without present action, justice for everyone,  
7 today and tomorrow, is impossible. Our rapidly heating climate implicates public  
8 trust principles and demands action towards justice on a scale few of us have ever  
9 seen. Climate degradation poses a threat, not just to the natural world, but to  
10 humanity itself.

11 The Public Trust Doctrine provides tangible legal backing to the concept of  
12 intergenerational equity. Climate change is no longer an inconvenient truth, but  
13 rather a catastrophic one. However, all hope is not lost, and we urge the Court to  
14 find in such a way that allows our children to continue to breed that hope. If deeply  
15 rooted and diverse belief systems found in the faith-based communities can agree on  
16 equity principles regarding the climate, then the State government as trustee  
17 should be encouraged and empowered to fulfill their public trust obligations. We  
18 have so little time left before the world's population crosses irrevocable climate  
19 thresholds, and we owe it to future generations (as well as ourselves) to act as the  
20 stewards of the only planet that can sustain us.

1 **IV. CONCLUSION**

2 The Public Trust Doctrine plainly applies to the prevention of Climate  
3 Change Impacts, necessary for the welfare of present and future generations. The  
4 signatories to this brief, representing a broad cross-section of faiths united on the  
5 principles of creation, stewardship, and justice, respectfully request this court find  
6 in favor of the Youth Plaintiffs.

7  
8 Respectfully submitted,

9 */s Richard O. Jacobs*

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