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Komor v. United States and Juliana v. United States

Fri, Jun 28, 2019 at 7:20 PM

Christian Komor <dr.komor@gmail.com>

Draft To: juliaaadsen@gmail.com, pgregory@gregorylawgroup.com, andrearodgers42@gmail.com

Dear Ms. Olsen, Mr. Gregory, and Ms. Rodgers:

RE: CV-19-00293-TUC-RCC

I today received your letter of June 24, 2019. In your letter you asked me to "voluntarily dismiss the case you filed" "by no later than July 1, 2019". Although I am only a pro se litigant without the legal expertise of your team, I will attempt to respond and explain my position in a clear and complete way.

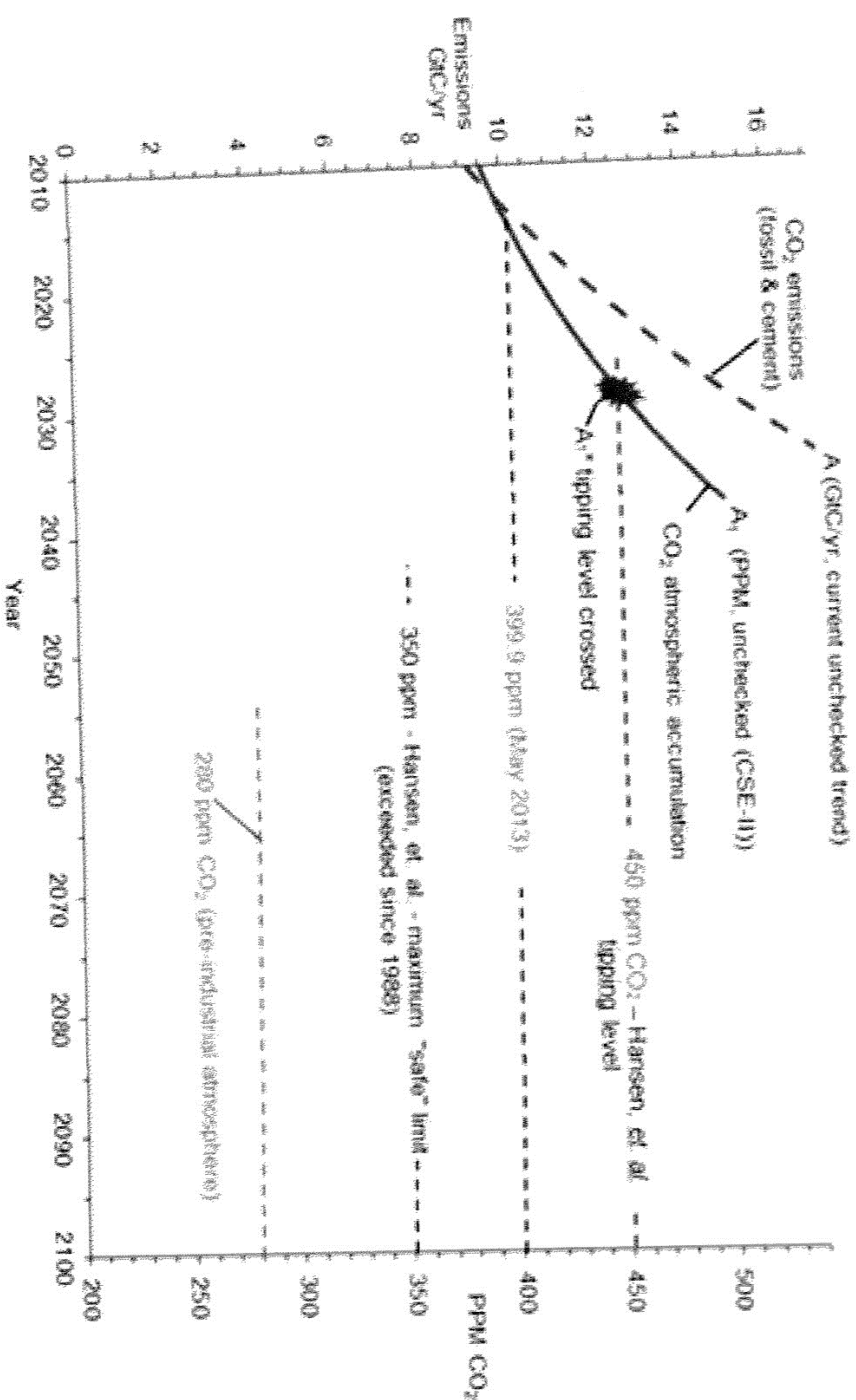
In your letter you indicated that I repeated many of the factual statements laid out in Juliana v. United States (Docket 18-3608). This is absolutely true as our cases are based are the same set of facts. My intention was to repeat those facts to illustrate for the Court the chain of reasoning on which both Juliana v. United States and Komor v. United States were built. (Frankly, my hope in showing the redundancies in our underlying research was that the Court might request that our cases might be merged or related to one another.) I then go on to point out additional emerging evidence and a novel request for relief based on that evidence.

Essentially Juliana v. United States ends with a pleading for renewed efforts to reduce greenhouse gas emissions. My case agrees that this is necessary, but will present evidence that these efforts will be "too little too late" because of the synergy between environmental forces that scientists now see emerging. Thus, in my view Komor v. United States is a natural "update" or continuation to Juliana v. United States.

We know from geologic records that a 2 °C increase in global temperatures will trigger irreversible feedback loops (called "tipping levels"). For example, 120,000 years ago the Earth drifted closer to the Sun and put us in the geological "Eemian Period". During this time the Earth warmed by 1.9 °C (35.4 °F). (Notice that is almost identical to the Paris agreement's target of 2 °C and the Intergovernmental Panel on Climate Change, or IPCC, target of 1.8 °C.) According to world-renowned paleoclimatic research teams, during the Eemian Period the polar ice caps at first underwent "linear" gradual melting, which produced a gradual sea rise, but then *suddenly several major discontinuities* arose that no longer followed the previous linear progression of change. Instead, three major ice sheets in Western Antarctica, minor sections of East Antarctica, and Greenland abruptly and spectacularly collapsed in several stages, causing very rapid sea level rises ranging from 16 to 30 feet. The resulting high seas lasted for more than 1,000 years, ending only with the appearance of the next ice age. Even the most optimistic scenarios show that around 2035, Earth will begin establishing "new normals" - a cascade reaction of geometrically escalating climate-related events.

Right now those same three ice sheets I mention above are behaving the same way they did during the Eemian Period. Not only is our current rate of ice melt historically unheard of, (already in May 2014, NASA presented "observational evidence that the West Antarctic ice sheet has gone into irreversible retreat," and ~~Greenland is losing a cubic meter of ice every day~~) but we are starting to see multiple collateral patterns beginning which are similar to those detected in geologic records. Melting ice is releasing vast stored methane deposits, shorter winters are increasing microbial activity in the soil in turn releasing escalating amounts of carbon, ocean currents vital for distributing heat around the Earth are shifting.

Referencing the chart below, Hansen et al. (2008, 2009) warn that crossing the 450 ppm tipping level (A1) could lead to irreversible seeding of catastrophic climate impacts. Modeling studies by Cao and Caldeira (2008) imply that a marine die-off would also accelerate when atmospheric CO2 exceeds 450 ppm. Approaching 500ppm (2038–2042) would further magnify and accelerate catastrophic climate and ocean impacts (Cao and Caldeira 2008; Fry et al. 2016; Hansen et al. 2008; Hansen 2009; and Lovelock 2006).



Note: Tipping level crossed in approx. 2030-2035.

I do not believe this data should be suppressed for the convenience of your legal strategy in Juliana v. United States.

As for your allegations that bad faith and harassment are motivations in filing Komor v. United States these are clearly false and baseless. As professional attorney's it would be reasonable to suppose that you have financial and other interests for your involvement in the work you are conduction for the Juliana v. United States plaintiffs. In contrast I have spent thousands of dollars of my own below-median income and hundreds of hours first authoring a book on this subject, then running for Arizona Governor to try and bring public attention to this matter, and now filing CV-19-00293-TUC-RCC. I cannot expect to be alive to experience the major brunt of the human suffering inevitable from global warming. I have *absolutely no purpose or motivation for engaging in these expensive and arduous endeavors other than to attempting to correct an injustice through legal means*. I am motivated by deep concern that there is evidence that we may soon be locking-in an irreversible cascade failure of our planetary ecosystem.

Out of my great respect for your work in Juliana v. United States I initially contacted you some months ago in order to explore a way of working together, combining the newer emerging data regarding the drastically shortened time-line for addressing climate change. You have given no consideration to my proposal, offered no opportunity to mediate discussion and have instead now made threats designed to force me to "voluntarily dismiss your complaint". It is just this sort of divisiveness and refusal to work together for the common good that has contributed to the the continued escalation of carbon and other types of global warming ~~pollution and that must be overcome if we are to succeed and survive as a society.~~

I am sorry that I cannot bend to your wishes and drop my complaint. I believe the evidence for the catastrophic effect of combined "tipping levels" beyond which no legislation or adjudication may provide relief deserves an opportunity to be presented in court so that expert testimony and judicial wisdom can determine a proper course of action. While you dismiss direct atmospheric carbon removal simply as "the specific carbon capture technology you prefer" this is, in fact, the entire reason I am not sitting back relaxing watching your case being handled by you paid attorneys. The primary argument on which Komor v. United States is based is that there is enough evidence to suggest that we must reduce carbon levels already tin the atmosphere to safe levels before the mid-2030's and that the only way of doing so is through direct atmospheric carbon capture. *This is a question of such great moment that I believe it deserves careful adjudication not suppression.*

I have a son who fought his way from a premature birth at 24 weeks gestational age, through cerebral palsy, and into the workplace as a productive member of society. I do not wish to see his hard-won future or the futures of his and coming generations lost to economic greed, shortsightedness, or even the best intentions of other plaintiffs. I am surprised that representatives of the judicial system such as yourselves would wish to suppress the presentation of evidence. My arguments may not be correct, *but if they are the matter is of such momentous importance that I do not feel qualified to make that determination alone*. I believe this is a matter for civil justice - cold and objective analysis and adjudication. I will certainly now desist in any attempts to work together with Juliana v. United States unless directed by the Court, *but will not request dismissal of my action* which I believe to be a valid grievance, driven by a very fast clock, which can only be remediation by direct atmospheric carbon capture.

Peace in your heart and fortune in your steps,
Dr. Christian R. Komor
Author "ClimateDeadline 2035"

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June 24, 2019

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Re: Your Case, Filed in the United States District Court for the District of Arizona,
Case No. CV-19-00293-TUC-RCC

Dear Mr. Komor,

We are co-lead counsel on behalf of the Youth Plaintiffs in *Juliana v. United States*. We are in receipt of your June 7, 2019 letter both requesting the Youth Plaintiffs in *Juliana* amend their pleadings to request direct atmospheric carbon capture in the form of Ocean Assisted Carbon Capture & Reflection as specific relief in their case, and indicating you will pursue the *Juliana* constitutional claims yourself, *pro se*, in a separate lawsuit if the Youth Plaintiffs we represent will not agree to your request.

As Julia Olson told you during your phone call the week of March 11, 2019, in response to your March 5, 2019 voicemail message to her, the Youth Plaintiffs in *Juliana* will **not** amend their complaint and will **not** seek specific technology or policy measures as components of their request for relief because seeking such specific relief is not a viable remedy in our case.

As Julia explained to you in your phone call, the Constitution and our Nation's jurisprudence support an initial remedy by the district court in the form of a decree setting a constitutional standard to protect the rights of these Youth Plaintiffs, and a decree requiring the Defendants to prepare a plan of their own devising to bring the unlawful government-controlled national fossil fuel energy system into constitutional compliance. The *Juliana* Plaintiffs do not seek to prescribe specific technologies or policy measures through their claims for relief. If the *Juliana* Plaintiffs prevail on the merits, the district court, with the parties' assistance, will fashion an appropriate and meaningful remedy that conforms to the court's proper role in the separation of powers between the branches of government.

Because the constitutional questions posed in the *Juliana* case are of the utmost importance, involve complex scientific evidentiary questions, and must be litigated by experienced attorneys, we do not believe your *pro se* action is an appropriate vehicle to protect young people, whom you cannot represent as a *pro se* litigant, but for whom you purport to speak. As Julia explained, our experienced legal team has been developing this case for close to a decade, has the support of the top experts on all of the factual questions in the case, and relies on the consultation of top constitutional scholars. The case is ready to be tried as soon as the Ninth Circuit Court of Appeals rules on the interlocutory appeal.

For these reasons and because we believe our clients, the 21 young people who have sustained injuries from the Defendants' affirmative systemic actions, are the proper parties to bring this Fifth Amendment substantive due process and equal protection case, we respectfully ask that you

Christian Robert Komor

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voluntarily dismiss your *pro se* action. The complaint you filed largely replicates verbatim the First Amended Complaint in *Juliana v. United States*, minus the appropriate plaintiffs to establish standing and with the specific addition of your preferred technology as a remedy.

If you do not agree to voluntarily dismiss the case you filed, we will move to intervene in your case, on behalf of *Juliana* Plaintiff representatives, and seek dismissal of your complaint, in part on the basis that it was filed in bad faith (based on the plagiarized allegations) and for purposes of harassment in an attempt to force the hand of these young *Juliana* Plaintiffs to amend their 4-year old complaint to include the specific carbon capture technology that you prefer as their requested relief.

Please advise as to whether you will agree to voluntarily dismiss your complaint, and if you will not, please indicate your position on our motion to intervene in your action on behalf of three of the *Juliana* Plaintiffs. We ask that you please respond to this letter **by no later than July 1, 2019** so we can inform the district court in Arizona of your position.

Please also be advised that all communication regarding your action and *Juliana v. United States* should be addressed to all co-counsel: Julia Olson, Philip Gregory, and Andrea Rodgers, whose contact information is noted below.

Sincerely,

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Counsel for Plaintiffs in *Juliana v. United States*