

Climate Change Litigation

Straight Talk about Climate Change Litigation

Andrews Kurth is equipped to defend the evolving carbon and other greenhouse gas emissions litigation. With a foundation of more than 100 hundred years of experience helping energy businesses succeed, we understand our clients' energy businesses and are prepared to lead them through the litigation challenges ahead.

We help clients stay at the forefront of litigation risks. The latest round of climate change litigation combines novel claims in traditional common law theories with the aim of obtaining extraordinary damages and costly injunctive relief from a limited number of defendants. In the absence of a controlling statutory scheme, Plaintiffs tend to invoke common law theories of nuisance, aiding and abetting, and civil conspiracy in their attempt to impose liability for conduct that is fully compliant with existing regulatory requirements.

With these enormous stakes, Plaintiffs have also alleged that parent companies control or direct their operating subsidiaries in an attempt to access additional resources in the event that they prevail on a claim.

Despite early failures, Plaintiffs continue to bring variations of these claims and to experiment with finding the optimal Plaintiff, whether it be a state represented by experienced outside counsel on a contingency basis, or a particular population segment chosen to overcome standing issues.

Climate Change Litigation Approach

Based on our experience defending our clients against similar claims in other contexts, we understand the challenges created by climate change litigation.

Andrews Kurth recognizes the importance of developing a comprehensive legal strategy aimed at early resolution of these actions. We use a multidisciplinary approach with strategic decision-making for our clients to minimize their exposure and optimize their defenses.

The latest round of claims may be successfully countered by an array of defenses. We have the experience to anticipate the Plaintiffs' evolving theories and defend these claims in a way that minimizes disruptions to our clients' businesses.

Experience in Multiparty Complex Litigation

We are currently litigating many of the common law tort claims now facing the energy industry in defense of clients singled out for allegedly causing widely dispersed pollution attributable to multiple sources over a long time horizon.

We have significant experience in leading clients through complex, multiparty litigation involving natural resource damage claims and novel economic damage theories that seek significant recoveries. We have defended clients against claims by states and the federal government, including states represented by outside counsel, and have helped our clients navigate the path between the sometimes competing or conflicting aims of the state and federal regulators.

Regulatory Compliance and Disclosure

In addition, our lawyers recognize that such litigation may impact our clients outside the courtroom and have counseled clients on related regulatory compliance and disclosure issues. Our energy and environmental knowledge and experience complement our litigation strength and enable us to address climate change issues as they unfold before federal and state agencies.