

February 23, 2026

Judge Robin L. Rosenberg
Director, Federal Judicial Center
Thurgood Marshall Federal Judiciary Bldg.
One Columbus Circle NE
Washington, DC 20002-8003

Dear Judge Rosenberg:

We are former Attorneys General of the United States who are deeply concerned about the recent activities of the Federal Judicial Center (FJC). The Fourth Edition of its Reference Manual on Scientific Evidence includes a chapter on “climate science” that was developed and drafted by a who’s who of climate-plaintiff lawyers, activists, and experts. Given the slate of authors chosen, it is no surprise that the Reference Manual contains shockingly biased information relating to ongoing climate litigation that seems clearly designed to favor plaintiffs in those suits. While we appreciate that the FJC removed this chapter from the version hosted on its website, to the best of our knowledge it is still being published as a joint venture with the FJC by the National Academies of Sciences, Engineering, and Medicine, with the FJC’s imprimatur still affixed on the National Academies’ website. Furthermore, other highly problematic references to contested issues in climate change litigation remain in the FJC document. It is unacceptable that a branch of the federal judiciary has taken what is essentially an advisory position on litigation adverse to a party and that appears designed to influence judges in their role as gatekeeper for scientific evidence. We urge you to write to the National Academies and demand that they either remove the offending chapter as you have done or, if they will not, that they remove the FJC’s name from the document.

On December 31, 2025, the FJC published its Fourth Edition of its Reference Manual on Scientific Evidence. Sent to every federal judge in America, the Reference Manual is intended to be an impartial and “dispassionate guide” to help judges facing “disputes over the admissibility of scientific evidence” better understand and evaluate the “relevance, reliability, and usefulness” of evidence proffered by parties and their experts.¹ Historically, the Reference Manual has purposely avoided being a vehicle for one-sided, biased advocacy.

¹ National Academies of Sciences, Engineering, and Medicine and Federal Judicial Center, Reference Manual on Scientific Evidence (4th ed. 2025), *available at* <https://www.nationalacademies.org/publications/26919>.

Not so the Fourth Edition. This newest version, for the first time, included a chapter on “climate science” authored by climate-litigation activists Jessica Wentz and Radley Horton. Wentz is Senior Fellow at the Sabin Center for Climate Change Law at Columbia Law School where her work focuses on “how existing U.S. laws and common law doctrines can be used in conjunction with climate science to hold governments and private actors accountable for contributions to climate change as well as failures to prepare for the impacts of climate change.”² Wentz frequently collaborates with climate plaintiff lawyers and their advisors.³

Horton also has close ties to plaintiff lawyers and their allies. He and Wentz, together with Ben Franta, Michael Burger, and numerous individuals associated with the Climate Judiciary Project, engaged in discussions with plaintiff consultant Justin Mankin on his research purporting to blame oil companies for trillions of dollars in heat-related climate damages.⁴ Pre-publication drafts of this study were shared with (at least) climate plaintiff lawyer Roger Worthington.⁵

Indeed, a large part of the chapter is based upon a single article for which the lead author is acting as contingency plaintiff’s counsel in a number of cases, and his role in the litigations is nowhere disclosed. This new chapter endorses custom-made-for-litigation studies on contested legal concepts like event and source attribution, presenting them as accepted science. In other words, it’s designed to tip the scale in litigation.

Specifically, the two authors co-authored an article with contingency plaintiff’s counsel, Michael Burger titled, “The Law and Science of Climate Change Attribution.” That article touted “attribution science” as being “central” to climate litigation because it “informs discussions of responsibility for climate change.” Wentz and Horton note that the chapter’s attribution section is “adapted and, in some cases, excerpted” from that law review article.⁶ Analysis using a plagiarism detection tool confirms that, far from “some cases,” a full 34% of this section of the chapter was lifted word-for-word from the Burger article, and about 21% of the entire chapter overlaps with it. Nowhere is it disclosed that Burger has appeared on behalf of plaintiffs in cases like *Honolulu v. Sunoco*, *City of New York v. Exxon Mobil*, *Delaware v. BP America*, and *Baltimore v. BP*, nor that he is of counsel at Sher Edling LLP, the main contingency-fee plaintiff firm behind over 30 climate suits.

² Jessica A Wentz, Our Team, Sabin Center for Climate Change Law, Columbia Law School, *available at* <https://climate.law.columbia.edu/directory/jessica-wentz>.

³ Michael Burger et al., *The Law and Science of Climate Change Attribution*, 45 Columbia J. of Env'tl. L. 57 (2020), <https://journals.library.columbia.edu/index.php/cjel/article/view/4730>.

⁴ See “Acknowledgments” in Christopher W. Callahan & Justin S. Mankin, *Carbon majors and the scientific case for climate liability*, Nature (Apr. 23, 2025), <https://www.nature.com/articles/s41586-025-08751-3#Ack1>.

⁵ <https://web.archive.org/web/20250923213615/https://www.worthingtoncaron.com/documents/Carbon-majors-and-the-scientific-case.pdf>; see also https://www.legalnewsline.com/attorneys-and-judges/judge-oregon-climate-lawyer-s-actions-not-acceptable/article_4fd9d681-1bdc-4b53-9881-3659d50e53a8.html

⁶ Reference Manual on Scientific Evidence (4th ed. 2025), Reference Guide on Climate Science (“Climate Chapter”), at 1586, n. 77.

The chapter also recommends Richard Heede’s so-called Carbon Majors study to judges claiming falsely that it is “foundational” and relies on “well-established attribution techniques and climate models”, while failing to disclose that (1) Heede has long collaborated with climate Plaintiffs’ counsel⁷ and shared their funders;⁸ (2) Heede’s supposedly “foundational” index was crafted with direct input from plaintiff lawyers to support their cases; and (3) that Heede has testified as a climate plaintiff expert.⁹¹⁰ Indeed, Heede has himself boasted that he prepared his index to “take [] on” oil and gas companies and “confront [them].”¹¹ Tellingly absent is any disclosure that Heede’s untested and plaintiff-influenced methodology is currently the subject of a Motion to Strike in pending climate litigation.¹² All of this remains in the version on National Academies’ website and still appears to be blessed by the FJC and its board.

None of this should come as a surprise because the Fourth Edition was underwritten by a key funder of climate litigation. The Gordon and Betty Moore Foundation committed \$150,000 to fund “the development of the fourth edition of *The Reference Manual on Scientific Evidence*, which provides advice to the judiciary on the use of scientific evidence.”¹³ Far from being a neutral funder, the Moore Foundation—prior to funding the Manual—provided \$100,000 to a fund that pays Sher Edling LLP *to act as Plaintiffs’ counsel in ongoing climate lawsuits*.¹⁴

Making things somehow worse, the Reference Manual, at the same time, urges judges to ignore or distrust arguments from energy companies. An opening chapter to the Fourth Edition warns judges to do this because, for example, “public relations campaigns have misled the public about the true state of scientific consensus regarding certain scientific issues,” citing, in part, climate change (p. 49), or “public perception of the certainty of a scientific concept or hypothesis may differ from the actual stage of consensus building within the scientific community,” which “sometimes occurs as a result of strategic manipulation from stakeholders who stand to be harmed if the public were to understand the true state of scientific consensus surrounding the hypothesis, as has occurred with ... climate change” (p. 98). These offending arguments have not been withdrawn by the FJC and implicate issues that are in active litigation. Indeed these arguments are disputed and material factual questions in litigation nationwide.

⁷ Defendants’ Joint Motion to Strike the Report of Richard Heede & Section 5 of the Report of Daniel Swain at 4, *County of Multnomah v. Exxon Mobil Corp., et al.*, No. 23CV25164 (Or. Cir. Ct.).

⁸ *Id.* at 6.

⁹ UCLA School of Law, Emmett Institute Program: Suing Over Climate Change Damages (YouTube, Oct. 11, 2017), <https://www.youtube.com/watch?v=eCsg9ACPex4>.

¹⁰ Report of Richard Heede, in *Cnty of Multnomah v. Exxon Mobil Corp.*, Case No. 23Cv25164 (Or. Cir. Ct.).

¹¹ Richard Heede, *It’s Time to Rein in the Fossil Fuel Giants Before Their Greed Chokes the Planet*, *The Guardian* (Oct. 9, 2019), <https://www.theguardian.com/commentisfree/2019/oct/09/fossil-fuel-giants-greed-carbon-emissions>

¹² See *supra* n. 7.

¹³ <https://www.moore.org/grant-detail?grantId=GBMF10224>

¹⁴ https://apps.irs.gov/pub/epostcard/cor/943397785_201712_990PF_2018121816016407.pdf

We could go on but this suffices to show that the Fourth Edition presents an irredeemably biased take on “climate science,” conceived of and executed by interested parties. No small matter, this is an affront to our adversarial system of justice. Federal and state judges routinely cite the Reference Manual as an authoritative source for evidentiary decisions. The Fourth Edition seeks to stack the deck in favor of plaintiffs in climate litigation. These ongoing cases involve sharp disagreement about causation and the responsibility of energy companies for climate change, including whether methods of attributing harms from specific weather events to the operations of individual energy companies are sufficiently reliable to be introduced as evidence. These claims need to be tested in court under the established rules of evidence and civil procedure, not in the pages of a Reference Manual cooked up by the plaintiffs and their allies.

The Federal Judicial Center serves an important purpose educating judges on non-controversial, non-contested legal questions. The Fourth Edition strays far afield from that mandate. The FJC seems to recognize as much with its partial withdrawal of the Reference Manual’s climate chapter, but absent further corrective action confusion will persist—particularly in light of what appears to be a competing version promulgated by the National Academies and still bearing the FJC’s brand. Many of us have in the past or do now represent the oil and gas industry, including in ongoing climate change litigation; unlike the authors of the chapter, we’re not ashamed to disclose our interest. We therefore urge in the strongest possible terms that you write to the National Academies and demand that they either remove the biased chapter as you have done or, if they will not, that they remove the FJC’s name from it. You should do this lest the continued confusion caused by the National Academies undermine continued faith in the fairness of the judicial system.

Sincerely,



William P. Barr



Michael Mukasey



Jeff Sessions



John Ashcroft

cc: Judge Robert Conrad
Chief Justice John G. Roberts