



New Report

Corrupt Motivation: **The Special Interests Driving** **the Lawsuits Attempting To** **Overturn the SEC's Climate** **Risk Disclosure Rule**



UNLOCKING
AMERICA'S FUTURE

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Corrupt Motivation

The Special Interests Driving the Lawsuits Attempting To Overturn the SEC's Climate Risk Disclosure Rule

Introduction

The U.S. Securities and Exchange Commission (SEC) issued its highly anticipated [climate risk disclosure rule](#), following a two-year long, divisive comment period.

When the draft rule was announced in March 2022, which included proposals that would require publicly traded companies to disclose information about direct and indirect greenhouse gas emissions, the oil, gas, and other polluting industries promptly mobilized their network of 200+ federal elected officials and at least 30 statewide elected officials – to whom these industries had given more than \$154 million in combined campaign donations over their political careers.

The federal and state-elected officials spearheaded a series of letters to the SEC raising dubious concerns, alongside other efforts to preemptively dismantle the rule and responsible investing broadly, including antagonistic [probes](#), new depths of [manipulation](#) of the law, and even statewide [bans](#).

Within days of the SEC's vote approving the final rule in March 2024, these same self-serving politicians doubled down, filing three separate lawsuits attempting to overturn the rule. Attorneys general from 10 states filed a petition for review in the U.S. Court of Appeals for the Eleventh Circuit, then attorneys general from Louisiana, Texas, and Mississippi filed a separate lawsuit in the U.S. Court of Appeals for the Fifth Circuit, and finally a third lawsuit was filed by nine more attorneys general in the U.S. Court of Appeals for the Eighth Circuit.

New research shows these lawsuits may have been filed thanks in part to backdoor, self-serving actions from greedy billionaires and special interest groups from the oil, gas, and other extractive industries.

Key Findings

Oil, gas, and other extractive industries have given over \$9.2 million in campaign contributions to the 22 attorneys general suing the SEC, while the oil industry's trade association has vocally opposed the rule. Top recipients include:

- Texas Attorney General Ken Paxton with over \$5 million
- Mississippi Attorney General Lynn Fitch with over \$809,000
- Virginia Attorney General Jason Miyares with over \$502,000
- Arkansas Attorney General Tim Griffin with over \$481,000
- West Virginia Attorney General Patrick Morrissey with over \$479,000

Well-funded special interest groups have fought against climate risk disclosures long before the SEC ever announced its original draft proposal. In June 2021, the American Petroleum Institute told the SEC they believed climate disclosure filings should meet a lower liability standard and should potentially only be “voluntary.”

The 22 attorneys general suing the SEC are all part of the Republican Attorneys General Association (RAGA), which has received \$20 million from [Leonard Leo's](#) Concord Fund (also known as the Judicial Crisis Network). RAGA's fundraising arm has an ESG working group that likely coordinates actions taken by Republican attorneys general. Leo is a leading voice against responsible investing with [close ties](#) to ESG attack dog Consumers Research.

The actions taken by the 22 attorneys general come amidst a deep bench of research showing that Americans support the SEC rule and oppose attacks against responsible investing.

[New polling from Workiva](#) shows 9 out of 10 investors believe the SEC's new sustainability reporting regulations will help them make more informed investment decisions. Research has also consistently shown that attacks on responsible investing [endanger](#) the financial well-being of everyday Americans, especially in the form of higher taxes and lower returns on retirement savings.

The 22 Attorneys General Suing To Stop The SEC Climate Disclosure Rule Have Multiple Conflicts Of Interest Regarding Their Work Against Responsible Investing

The 22 Attorneys General Suing To Block The SEC's Climate Disclosure Rule Have Taken At Least \$9.2 Million From Extractive And Related Industries, Which Have Opposed And Questioned The SEC's Climate Disclosure Rule

The 22 Attorneys General Who Have Sued To Block The SEC's Climate Disclosure Rule Have Taken At Least \$9.2 Million From The Oil & Gas Sector And Other Extractive And Related Industries During Their Political Careers

On March 6, 2024, The West Virginia Attorney General Led A Coalition Of Ten States To Attempt To Block The SEC's Climate Disclosure Rule In Court. “West Virginia Attorney General Patrick Morrisey on Wednesday announced that a coalition of Republican leaders in 10 states is suing to block the SEC’s just-released rules requiring companies to disclose their carbon emissions. Morrisey (R) said he and the Georgia attorney general filed a petition for review in the US Court of Appeals for the Eleventh Circuit with support from Alabama, Alaska, New Hampshire, Indiana, Oklahoma, South Carolina, Wyoming and Virginia. Morrisey called the SEC’s rules ‘a back door move to undermine the energy industry.’” [Bloomberg, [03/06/24](#)]

The Next Day The Attorneys General Of Texas, Louisiana And Mississippi Filed A Separate Lawsuit Also Challenging The Rule. “Republican attorneys general in Louisiana, Texas and Mississippi have brought their own legal challenge to the SEC’s new climate reporting rules after 10 other states filed a lawsuit contesting the regulations earlier this week. The case against the Securities and Exchange Commission from attorneys general Liz Murrill of Louisiana, Ken Paxton of Texas and Lynn Fitch of Mississippi was filed Thursday in the New Orleans-based US Court of Appeals for the Fifth Circuit, Murrill’s office announced.” [Bloomberg, [03/08/24](#)]

On March 12, 2024 A Third Lawsuit Challenging The SEC Climate Disclosure Rule Was Filed By Nine Additional Republican Attorneys General And The American Free

Enterprise Chamber Of Commerce. “Republicans brought a third legal challenge to the SEC’s climate disclosure regulations on Tuesday, with attorneys general in Iowa, Missouri and seven other states filing the latest lawsuit in the Eighth Circuit. The Iowa-led petition for the US Court of Appeals for the Eighth Circuit to review the Securities and Exchange Commission rules followed challenges last week from attorneys general in the US Court of Appeals for the Eleventh Circuit and the US Court of Appeals for the Fifth Circuit. Other states taking part in this latest petition are: Arkansas, Idaho, Montana, Nebraska, North Dakota, South Dakota and Utah, as well as the American Free Enterprise Chamber of Commerce.” [Bloomberg Law, [03/12/24](#)]

Official	State	Career Money From Energy & Natural Resources Sectors*
Attorney General Steve Marshall	AL	\$296,250
Attorney General Treg Taylor	AK	Appointed by Governor
Attorney General Tim Griffin	AR	\$481,277
Attorney General Chris Carr	GA	\$162,067
Attorney General Brenna Bird	IA	\$36,258
Attorney General Raúl Labrador	ID	\$207,565
Attorney General Todd Rokita	IN	\$385,176
Attorney General Liz Murrill	LA	\$221,300
Attorney General Andrew Bailey	MO	Appointed By Governor due to vacancy
Attorney General Lynn Fitch	MS	\$809,650
Attorney General Austin Knudsen	MT	\$17,441
Attorney General Drew Wrigley	ND	\$13,750
Attorney General Mike Hilgers	NE	\$55,247
Attorney General John M. Formella	NH	Appointed by Governor
Attorney General Gentner Drummond	OK	\$172,250
Attorney General Alan Wilson	SC	\$136,575
Attorney General Marty Jackley	SD	\$90,048
Attorney General Ken Paxton	TX	\$5,034,012
Attorney General Sean Reyes	UT	\$122,985
Attorney General Jason Miyares	VA	\$502,584
Attorney General Patrick Morrissey	WV	\$479,242
Attorney General Bridget Hill	WY	Appointed by Governor
Total		\$9,223,677

*The [Energy & Natural Resources category](#) includes sectors such as oil & gas, mining, electric utilities, steel, smelting & refining, railroads, and others. Data sourced from The National Institute on Money In Politics (FollowTheMoney.org)

The Oil Industry’s Trade Group Has Opposed The Current SEC’s Climate Disclosure Efforts Since Before They Were Even Officially Proposed

In June 2021, American Petroleum Institute Told The SEC They Believed Climate Disclosure Filings Should Meet A Lower Liability Standard And Should Potentially Only Be “Voluntary.” “...we support a furnished rather than filed approach. We also believe that any additional assurance effort should remain voluntary or be phased in as rules, while processes and the market itself continue to develop in this area.” [API Comment to SEC, [06/11/21](#)]

- **Furnishing, Rather Than Filing Information Reduces Company’s Liability Under The Securities Exchange Act.** “As you may know, the Exchange Act imposes liability for material misstatements or omissions contained in reports and other information ‘filed’ with the SEC. However, if such report or information is permitted to be, and is in fact, ‘furnished’ rather than ‘filed’ with the SEC, it is excluded from certain of these liability provisions under the Exchange Act.” [JD Supra, [09/19/17](#)]

March 2022: API Expresses “Concerns” About The SEC’s Initially Proposed Climate Disclosure Rule. “We are concerned that the Commission’s sweeping proposal could require non-material disclosures and create confusion for investors and capital markets.” [API Press Release, [03/21/22](#)]

- **The SEC’s Proposed Climate Disclosure Rule Was Issued On March 21, 2022.** [SEC, [03/21/22](#)]

March 2024: API Says The Final SEC Climate Disclosure Rule Is “Flawed” And Should Have Instead Been “Reproposed.” “Despite some changes by the Commission, this flawed rule will still subject investors to countless billions in additional costs without meaningfully advancing a dialogue on climate that has been occurring for many years between companies and their shareholders. The Commission should have reproposed the rule for further input in light of its statutory obligation to protect investors, maintain well-functioning markets and ensure capital formation.” [API Press Release, [03/06/24](#)]

The National Mining Association And The American Gas Association Both Expressed Significant Skepticism About The Benefits Of Disclosure, And Requested Delays In The Rule Or Called For Its Outright Cancellation

The National Mining Association Said They Didn't "Believe That The SEC Should Mandate Climate Or ESG-Related Disclosure." "The NMA does not believe that the SEC should mandate climate or ESG-related disclosure at this time. The SEC has a tremendous amount of work to undertake to adequately understand the current universe of voluntary disclosures. We strongly encourage the SEC not to jump immediately into a rulemaking and instead seriously analyze and consider, with adequate public consultation, whether additional guidance could fill reporting gaps, if any are found." [NMA Comment To SEC, [06/17/22](#)]

The American Gas Association Said The Proposed Rule's Benefits Would Not Outweigh The Costs And Would "Lead To Investor Confusion" As They Requested A Delay In Rule Implementation. "We believe, however, that some of the most burdensome aspects of the incremental disclosure would not produce benefits that outweigh the costs and, in some cases, would lead to investor confusion by requiring the disclosure of overwhelmingly voluminous, immaterial information.... Additionally, the Commission should delay the effective date as we have recommended to provide sufficient time to implement any of the final rule's provisions accurately and assure adequate liability protections commensurate with the nature of the new disclosures." [Edison Electric Institute And American Gas Association Comment To SEC, [06/17/22](#)]

The 22 Attorneys General Who Have Sued To Stop The SEC Rule Are All Members Of The Republican Attorneys General Association, Which Has Received Nearly \$20 Million From Anti-Responsible Investing Mega Donor Leonard Leo

The 22 AGs Who Are Suing To Block The SEC's Climate Disclosure Rule Are All Part Of The Republican Attorneys General Association (RAGA)

The 22 Attorneys General Who Are Trying To Block The SEC's Climate Disclosure Rule Are All Part Of The Republican Attorneys General Association (RAGA.) [RAGA, accessed [03/09/24](#)]

Leonard Leo's Concord Fund (aka Judicial Crisis Network) Has Given The Republican Attorneys General Association (RAGA) Nearly \$20 Million Since 2014

The Judicial Crisis Network Is The “Public Face” Of Leo’s Web Of Nonprofits. “At the crux of that network is Leonard Leo, Trump’s top outside judicial adviser and a longtime executive at the Federalist Society who helped shepherd Trump’s Supreme Court picks through the confirmation process. Leo holds leadership positions with multiple groups in the network. Judicial Crisis Network, a ‘dark money’ group that operates as the preeminent vehicle for deep-pocketed donors to funnel millions of dollars to support or oppose judicial nominees in Supreme Court confirmation fights, has served as the public face of the network while a web of secretive groups operate behind the scenes.” [Open Secrets, [1/2/20](#)]

In 2019 Judicial Crisis Network “Rebranded” As The Concord Fund While Maintaining A Sub-Entity With The Judicial Crisis Name. “The Judicial Crisis Network also rebranded in recent months, changing its name in December 2019 to The Concord Fund. The Fund then registered Judicial Crisis Network, its old name, as an alias.” [Open Secrets, [5/27/20](#)]

In 2021, The Concord Fund Received A \$16.5 Million Donation From Leonard Leo’s Marble Freedom Trust.

Name and address	The Concord Fund 3220 N Street NW Suite 136 Washington, DC 20007	20-2303252	16,500,000	0
IRC code section	501(c)(4)			
Method of valuation				
Desc. of Non-Cash Asst.				
Purpose of grant	General Operating			

[Marble Freedom Trust, Form 990, 2020, [page 15](#)]

The Donation From The Marble Freedom Trust Accounted For Roughly 34% Of The Concord Fund’s Total Revenue That Financial Year, Which Ran From July 2020 To June 2021.

		Prior Year	Current Year
Revenue	8 Contributions and grants (Part VIII, line 1h)	20,425,895	48,134,887
	9 Program service revenue (Part VIII, line 2g)	0	0
	10 Investment income (Part VIII, column (A), lines 3, 4, and 7d)	0	0
	11 Other revenue (Part VIII, column (A), lines 5, 6d, 8c, 9c, 10c, and 11e)	0	0
	12 Total revenue—add lines 8 through 11 (must equal Part VIII, column (A), line 12)	20,425,895	48,134,887

[The Concord Fund, Form 990, 2020, [page 1](#)]

Date	Donor	Recipient	Amount
<u>2014-01-17</u>	Judicial Crisis Network	RAGA	\$250,000
<u>2014-07-15</u>	Judicial Crisis Network	RAGA	\$200,000
<u>2014-08-25</u>	Judicial Crisis Network	RAGA	\$250,000
<u>2014-09-25</u>	Judicial Crisis Network	RAGA	\$250,000
<u>2014-11-20</u>	Judicial Crisis Network	RAGA	\$50,000
<u>2015-06-01</u>	Judicial Crisis Network	RAGA	\$100,000
<u>2015-06-30</u>	Judicial Crisis Network	RAGA	\$100,000
<u>2015-07-31</u>	Judicial Crisis Network	RAGA	\$100,000
<u>2015-08-26</u>	Judicial Crisis Network	RAGA	\$100,000
<u>2015-09-25</u>	Judicial Crisis Network	RAGA	\$200,000
<u>2015-10-30</u>	Judicial Crisis Network	RAGA	\$200,000
<u>2015-11-30</u>	Judicial Crisis Network	RAGA	\$200,000
<u>2015-12-18</u>	Judicial Crisis Network	RAGA	\$195,000
<u>2016-02-17</u>	Judicial Crisis Network	RAGA	\$150,000

2016-03-07	Judicial Crisis Network	RAGA	\$100,000
2016-09-26	Judicial Crisis Network	RAGA	\$500,000
2016-11-01	Judicial Crisis Network	RAGA	\$200,000
2017-03-28	Judicial Crisis Network	RAGA	\$100,000
2017-03-28	Judicial Crisis Network	RAGA	\$250,000
2017-05-01	Judicial Crisis Network	RAGA	\$250,000
2017-10-03	Judicial Crisis Network	RAGA	\$1,000,000
2017-10-26	Judicial Crisis Network	RAGA	\$750,000
2017-11-01	Judicial Crisis Network	RAGA	\$550,000
2018-01-30	Judicial Crisis Network	RAGA	\$250,000
2018-05-07	Judicial Crisis Network	RAGA	\$1,000,000
2018-10-01	Judicial Crisis Network	RAGA	\$750,000
2018-10-24	Judicial Crisis Network	RAGA	\$1,000,000
2019-01-21	Judicial Crisis Network	RAGA	\$300,000
2019-06-28	Judicial Crisis Network	RAGA	\$600,000

2019-10-18	Judicial Crisis Network	RAGA	\$100,000
2020-05-08	The Concord Fund	RAGA	\$333,000
2020-06-02	The Concord Fund	RAGA	\$333,000
2020-07-07	The Concord Fund	RAGA	\$333,000
2020-08-03	The Concord Fund	RAGA	\$333,000
2020-09-16	The Concord Fund	RAGA	\$1,416,000
2020-12-09	The Concord Fund	RAGA	\$252,000
2021-02-03	The Concord Fund	RAGA	\$350
2021-06-30	The Concord Fund	RAGA	\$2,500,000
2022-01-20	The Concord Fund	RAGA	\$1,000,000
2022-10-14	The Concord Fund	RAGA	\$1,500,000
2022-10-17	The Concord Fund	RAGA	\$1,500,000
		Total	\$19,545,350

Leonard Leo Is A Leading Voice Against Responsible Investing And Has Helped Bankroll The Fight Through His Various Dark Money Groups

Leonard Leo’s Marble Freedom Trust And His For-Profit Firm CRC Advisors Are “Leading The Anti-ESG Push” Spending “More Than \$10 Million” On The Effort As Of Early 2023. “A conservative nonprofit called Marble Freedom Trust and its consulting firm, CRC Advisors, are leading the anti-ESG push and have spent more than \$10 million on the effort so far, mostly through the group Consumers’ Research, people familiar with the spending said. The trust is overseen by Leonard Leo, a longtime leader at the Federalist Society, a network of lawyers that grooms conservative scholars, officials and judges. Mr. Leo helped former President Donald Trump choose conservative Supreme Court justices.” [Wall Street Journal, [02/26/23](#)]

- **Leonard Leo: “The ESG Movement Is Polluting Our Culture.”** ““The ESG movement is polluting our culture and assaulting the dignity and worth of people,’ Mr. Leo said. ‘Our enterprise stands with a growing group of Americans who are fighting to crush leftist dominance in this arena.’” [Wall Street Journal, [02/26/23](#)]
- **Leo’s Network Has Funded Several Leading Anti-ESG Voices Including Consumers’ Research, The Heritage Foundation, The State Financial Officers Foundation And The American Accountability Foundation.** “Some of the major voices in the debate, including Consumers’ Research, the Heritage Foundation, the State Financial Officers Foundation and the American Accountability Foundation, all received grants from entities related to Marble Freedom Trust, according to tax filings.” [Wall Street Journal, [02/26/23](#)]

RAGA Itself Has An Affiliated Working Group On ESG Issues And Has Coordinated ESG-Related Work With Attorneys General Across The Country

RAGA’s Dark Money Fundraising Arm Has An “ESG Working Group That Likely Coordinates Actions Taken By Republican AGs.” “RAGA has [Rule of Law Defense Fund] ESG Working Group that likely coordinates actions taken by Republican AGs. David Johnson organizes the ESG Working Group, which has held at least one meeting—on July 28, 2022 in Atlanta, Georgia. [Center for Media and Democracy, accessed [03/08/24](#)]

- **“The Rule Of Law Defense Fund Is The 501(C)(4) Political And Fundraising Arm Of The Republican Attorneys General Association.”** “The Rule of Law Defense Fund is the 501(c)(4) political and fundraising arm of the Republican Attorneys General Association. Together, the organizations help coordinate between GOP attorneys general and aid legal challenges to federal programs and protections... The Rule of Law Defense Fund was founded in 2014 to serve as the dark money operation behind the Republican Attorneys General Association, its affiliated 527 political organization.” [MonitoringInfluence.org, accessed [03/08/24](#)]

“On August 19, 2022, [Rule Of Law Defense Fund] Held A ‘Communications Call’ To Update State AGs On Actions ‘Across The Country Regarding ESG Investing Practices.’” [Center for Media and Democracy, accessed [03/08/24](#)]

RAGA Also Held An ESG And State Engagement Panel At Its Fall National Meeting In November 2022. [Center for Media and Democracy, accessed [03/08/24](#)]