

# *Mathur et. al. v. Her Majesty in Right of Ontario*



## Case summary

Seven young people, backed by Ecojustice, are suing the Government of Ontario for weakening its climate target because it will lead to widespread illness and death, violating Ontarians' Charter-protected rights to life, security, and equality. The applicants in *Mathur et. al.* say they and young people like them will bear the costs of climate change more than previous generations.

The Ontario government passed the Cap and Trade Cancellation Act in 2018. The Act repealed what were considered to be relatively strong greenhouse gas reduction targets

for 2020, 2030, and 2050. The government then replaced these targets with a single, significantly weaker 2030 target.

By weakening the province's target, the Government of Ontario will allow significantly more greenhouse gas pollution to be emitted, further fueling the climate emergency and contributing to dangerous climate change related impacts such as heatwaves, floods, fires, and infectious diseases that will harm the health of people throughout Ontario.

Ontario's backsliding on climate action comes at a time when there is a clear global and scientific

consensus and moral imperative for governments to act to limit warming to 1.5 degrees Celsius in order to avoid dangerous climate change. Meeting this temperature goal, set out in the Paris Agreement, will require global greenhouse gas emissions to halve by 2030 and reach net-zero emissions by no later than 2050.

The applicants, represented by lawyers from Ecojustice and Stockwoods LLP, launched this case in November 2019.

On April 15, 2020, the Ontario government filed a motion to strike the case, arguing that it should not proceed to a full hearing. The youth applicants in this case countered this motion in July 2020, arguing that they deserved their day in Court.

This led to a historic victory, when on November 12, 2020, the Ontario Superior Court dismissed the motion to strike and made a landmark ruling in Canada. For the first time, a Canadian court ruled that fundamental rights protected under the Charter can be threatened by climate change and citizens have the ability to challenge a Canadian government's contribution to the climate crisis under the highest law of the land.

The Ontario government then tried to overturn this ruling, but in March 2021 the Ontario Division Court dismissed the province's request to appeal.

This makes Mathur et. al. the first case

of its kind to clear preliminary hurdles and now proceed to a full hearing from September 12 – 14, 2022. Lawyers from Ecojustice and Stockwoods LLP will argue that when the Ontario government repealed its previous climate targets and replaced them with one inadequate target for 2030, they violated Ontario youth and future generations' constitutional rights to life, security, and equality.

A win in this case could set a precedent that people in Canada are protected from government caused climate harms under the highest law of the land, the Canadian Charter of Rights and Freedoms. A victory would mean real progress in the fight for a safe climate future and could set a historic precedent about how governments respond to the climate crisis.

The applicants and lawyers involved in this case will await the decision which may come anytime after the hearing finishes on September 14, mostly likely in the next few months to a year.



## Meet the clients

### **Sophia Mathur (she/her)**

**15 years old, Sudbury**

Sophia Mathur was the first student in Canada to start a school strike for climate as part of the Friday's For Future movement, inspired by the work of Swedish climate activist, Greta Thunberg. Sophia has become well known for her climate activism, both in her hometown of Sudbury and around the world. Last year she attended COP26 in Glasgow.

#### **Why is Sophia taking her government to court?**

"The climate crisis is going to impact everyone, both now and into the future. It is important for me to be part of this case because we need to stand up for the generations to come and make sure they have a safe and liveable planet."



### **Zoe Keary-Matzner (she/her)**

**15 years old, Toronto**

Zoe Keary-Matzner is a school student from Toronto who has been worried about the impact of climate change for as long as she can remember. She heard from friends and family in places like Australia and Texas about the devastating impacts that climate change had brought on their lives and was determined to make a change in her home province.

#### **Why is Zoe taking her government to court?**

"The lack of understanding about what climate change will mean for my generation reaches into the halls of Parliament and into the media and perpetuates the challenges we face. This case is a chance to change the narrative."



## Meet the clients

### Shaelyn Wabegijig (she/her)

25 years old, Peterborough

Shaelyn Wabegijig grew up in Rama First Nation, and her people are Algonquin from Timiskaming First Nation. She is Caribou Clan and resides in Nogojiwanong (Peterborough). Shaelyn has worked in Indigenous-led conservation and has now started a master's degree in Indigenous governance at the University of Victoria.

#### Why is Shaelyn taking her government to court?

"As an Indigenous person, not only do I have the right to address the impact of climate change in court, I have a responsibility to protect the sacred land and water that nourishes us and should nourish future generations."



### Shelby Gagnon (she/her/they/them)

26 years old, Thunder Bay

Shelby Gagnon is from Aroland First Nation and is an artist and community activist working on Indigenous food sovereignty in northern Ontarian communities. Shelby is concerned about the impact that climate change is having on traditional food sources in her community and its disruption of Indigenous ways of life.

#### Why is Shelby taking their government to court?

"I feel that it's my responsibility to provide as much energy and power in the fight against climate change. It's important that we come together as family, friends, and community to fight for change and the good in the world."



## Meet the clients

### Alex Neufeldt (she/her)

26 years old, Ottawa

Alex Neufeldt is a young entrepreneur with a growing dress rental business. She is concerned about the impact that climate change, and extreme weather events, like the storm that ripped through her hometown of Ottawa earlier this year, will have on young people who are trying to start businesses and build futures.

#### Why is Alex taking her government to court?

“Scientists have confirmed that extreme weather events, like the type of storm that struck Ottawa earlier this year, are caused and worsened by climate change and these types of disasters will become even more frequent if we do not take sufficient climate action now.”



### Madison Dyck (she/her)

26 years old, Thunder Bay

Madison Dyck is a climate activist from Thunder Bay who loves spending her time on the waters of Lake Superior. As an avid sailor, she has seen firsthand the impact of climate change on northern Ontario, both on the water and on the land. Rising temperatures are changing ice cover, impacting animals and disrupting food sources in her area.

#### Why is Madison taking her government to court?

“I’ve witnessed erratic weather in northern Ontario, from heat waves to torrential rain. I’ve seen firsthand the impact that this has had on local food – the dramatic lack of blueberries last summer was a result of the intense heat and the lack of rain.”



## Meet the clients

### **Beze Gray (they/them)**

**27 years old, Aamjiwnaang First Nation**

Beze Gray is a land and water defender from Aamjiwnaang First Nation near Sarnia. Their home is in the shadow of Chemical Valley, one of the most polluted areas in Canada with high concentrations of fossil fuels refineries and petrochemical facilities that have had severe health impacts on members of the Aamjiwnaang First Nation.

#### **Why is Beze taking their government to court?**

“When I was younger, I lived in fear of the impact of fossil fuels on our land and water. But I’ve learnt from traditional teachings and learnings not to live in fear but work to change the world.”



## Meet the legal team

The applicants in this public interest litigation are represented by lawyers from Ecojustice and Stockwoods LLP. Ecojustice goes to court and uses the power of the law to defend nature, combat climate change, and fight for a healthy environment.

Its strategic, innovative public interest lawsuits lead to legal precedents that deliver lasting solutions to Canada's most urgent environmental problems. As Canada's largest environmental law charity, Ecojustice operates offices in Vancouver, Calgary, Toronto, Ottawa, and Halifax.

Ecojustice lawyers Danielle Gallant and Fraser Thomson are representing the applicants in this case.

Nader Hasan and Justin Safayeni, of Stockwoods LLP, are veteran constitutional lawyers with a track record of holding government to account at every level court in Canada, including at the Supreme Court of Canada. In 2017, they led the successful legal challenge to seismic testing in the landmark Indigenous rights case, *Clyde River v. Petroleum Geo Services Inc.*, 2017 SCC 40.



Ecojustice lawyers Fraser and Danielle



Stockwoods LLP lawyer Nader Hasan



Stockwoods LLP lawyer Justin Safayeni