

Hon. Gary Gensler, Chair,
Securities and Exchange Commission
100 F Street, NE Washington, DC 20549

RE: The Enhancement and Standardization of Climate-Related Disclosures for Investors Release
No. 33-11042

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We are a group of accounting researchers who have conducted relevant research related to the SEC's climate change proposed regulations. We wish to provide initial findings of our research for the SEC to consider as it continues deliberations about climate change regulation.

Before discussing our research, we emphasize that our work is *not* motivated by any political agenda or preference for a public policy outcome. We have not even discussed our political views internally since such personal views, if any, are not relevant to the research. Thus, our findings are independent to the maximum extent possible.

Any climate-related laws or regulations will face litigation resulting from accusations of noncompliance. Specifically, the SEC's climate proposal is expected to increase shareholder litigation against registrants for omitted or misstated climate-related disclosures.¹ In our paper, we examine how jurors may respond to litigation arising from climate change regulation.

Jurors are expected to judge the merits of a case regardless of their political views. The phrase "justice is blind" implies that legal verdicts are rendered according to the law regardless of judges' and jurors' personal political views. In our paper, we conduct an experiment to determine whether jurors' political views affect their verdicts related to a climate change litigation case. We also examine how the 1% disclosure threshold requirement affects jurors' verdicts.

Our results show that jurors' political views about climate change affect their negligence verdicts. Specifically, pro-climate regulation individuals are more likely to render negligence verdicts in a climate-related case than individuals who do not support climate regulation; however, we do not find a such a difference in a case that is not climate related.

We also investigate how a bright-line disclosure threshold requirement (1%) affects jurors' judgments. On the one hand, an explicit threshold could cause verdicts to converge regardless of political ideology. Counterintuitively, our results show the opposite: a bright-line materiality disclosure threshold *exacerbates* the effect of political ideology.

¹ See, Vanderford, R. (2022). "SEC climate disclosure proposal looms as litigation risk." *Wall Street Journal*, March 26. Retrieved from <https://www.wsj.com/articles/sec-climate-disclosure-proposal-looms-as-litigation-risk-11648299600>

Polls from Pew and Gallup consistently show that Americans are politically divided on the issue of climate change. Though strong majorities of Americans agree on some points (e.g., the Earth is warming)², Americans are deeply divided on public policy responses.³ We find evidence that these differing views affect jurors' judgments. Given evidence that judges' ideologies affect their judgments⁴, political views from a deeply divided American population will likely affect the outcomes of climate change litigation.

We leave specific policy recommendations to other researchers and experts. However, since laws and regulations are only effective to the extent that they are enforceable, we encourage the SEC and other public policymakers to consider how any proposed climate change regulation would be enforced in a legal setting given strong ideological differences among Americans.

A full copy of our working paper can be found here:
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4180995.

Thank you for the opportunity to discuss our research findings related to climate change litigation.

Sincerely,



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² See, Yale Climate Opinion Maps 2021, <https://climatecommunication.yale.edu/visualizations-data/ycom-us/>

³ See, Pew 2021, https://www.pewresearch.org/science/2022/07/14/americans-divided-over-direction-of-bidens-climate-change-policies/ps_2022-07-14_climate-change-policies_00-07/

⁴ See, Harris, A. P., and Sen, M. (2019). Bias and Judging. *Annual Review of Political Science*, 22: 241-259.