

Climate litigation in New Zealand

KEY TRENDS AND DEVELOPMENTS: SEPTEMBER 2025

Climate-related litigation continues to grow in volume both in New Zealand and around the world, with the nature and complexity of claims evolving year on year. We distil key developments of relevance for New Zealand businesses, building on the insights from the Grantham Research Institute’s 2025 Global Trends in Climate Litigation [Snapshot through a local lens](#).



Chapman Tripp’s market leading Climate, Sustainability and ESG practice advises clients on climate related litigation, climate risk and ESG governance. [View our full practice here](#).

Global trends

“Climate litigation” seeks to advance or delay climate change related action, involving climate change science, policy and/or regulation. As of September 2025, 4256 cases had been filed globally, with the United States far in the lead on 3075 followed by Australia on 166, Brazil on 140 and the United Kingdom on 118.¹

While much of the initial litigation focus was on governments, now 20% of climate cases globally are directed against companies or their directors/employees.²

Two recent high-profile decisions – *Milieudefensie v. Shell* and *Lliuya v RWE* – have addressed the corporate sector’s role in relation to GHG emissions. We expect that the precedents set in these judgments will encourage further activist challenges.

Rate of growth

Most new filings of climate-related cases occurred in 2021 but indications are that this record will be broken in the next 12 months, with a focus on actions challenging executive decision-making. Already a number of challenges have been launched in the US, and state-led climate cases against large private emitters continue to progress despite the Federal Government’s efforts to block them.

Most recent cases in New Zealand have challenged Government failure to take action to progress response to climate change.

Volume and nature of climate cases in New Zealand³

38 cases have been filed in New Zealand courts and tribunals, including 21 since January 2020 and two this year.

22 cases were brought by organisations, advocacy groups, or not-for-profits.

7 cases have been decided since January 2024, with the Government a defendant in six. These were directed against various climate-related public decisions, most recently the Government’s first and second emissions reduction plans.⁴

7 climate cases against both government and corporate entities are currently active. Chapman Tripp is acting on five of these proceedings.

New Zealand cases filed by Court since 2020:⁵

1	4	18	6	4
Environment Court	District Court	High Court	Court of Appeal	Supreme Court



New Zealand in relation to global trends

- The types of cases reaching higher courts and the strategic use of litigation in New Zealand reflect international patterns, with a focus on integrating climate considerations and challenging government frameworks.
- Governments remain the principal defendants globally (in 2024, more than 80% of all cases were brought against government bodies, up from 70% in 2023) but there is a growing trend towards litigation against corporate actors, including sectors such as agriculture, food retail, and professional services.
- Climate-washing and transition risk are growth areas with 25 new climate-washing cases filed globally in 2024. *Consumer NZ v Z Energy* is the only climate-related greenwashing case filed in New Zealand to date.

New Zealand climate litigation: parties

- The Government has been the defendant in all but three of the civil climate cases to date, reflecting a strong focus on public sector accountability.
- 61% of cases have been brought by NGOs or advocacy groups, which aligns with the global statistic of 60%.⁶
- Entities that have taken action are:
 - Lawyers for Climate Change Movement
 - Consumer NZ
 - Environment Law Initiative
 - Students for Climate Solutions Incorporated
 - Major Gas Users' Group
 - Better New Zealand Trust
 - Coastal Ratepayers Union

Key takeaways

- Corporate litigation is becoming more common. While still comparatively rare in New Zealand, several cases against New Zealand companies filed to date align with global trends towards increasing action against corporates.
- Transition planning disclosures, now mandatory in New Zealand for climate reporting entities, require that an entity demonstrate the basis for its forward-looking statements including emissions reduction, targets, and establish a nexus between ambition and action. We expect this will promote a continued focus on “climate washing” cases, challenging the credibility and integrity of net zero targets and plans.
- Climate litigation is increasingly recognised by investors and financial institutions as a material financial risk, influencing capital allocation and corporate behaviour.

Types of climate litigation: Global and New Zealand breakdown

The Grantham Institute has identified eight categories of climate change cases, each involving distinct litigation strategies.



Government framework cases

Cases challenging the substance of a government's climate targets or policies that affect the whole nation. These cases often target the ambition of emissions reductions targets, or the implementation of climate-change framework laws.

- 14 cases filed globally in 2024.
- One case filed in New Zealand in 2024–2025.⁵
- Two cases decided by New Zealand Courts in 2024–2025.⁷

NZ example: On 10 June 2025, Lawyers for Climate Action and the Environmental Law Initiative applied for judicial review of the Government's first and second emissions reduction plans. The application, brought against the Minister for Climate Change, argues that neither plan meets the requirements of the Climate Change Response Act 2002 (CCRA).⁸

International example: On 1 May 2025, the Supreme Court of Canada upheld the Ontario Court of Appeal's decision that Ontario's climate plan targets must comply with Canada's Charter of Rights and Freedoms. The case, brought by seven youth climate activists, will now return to the Ontario Superior Court to determine remedies.⁹



Integrating climate considerations cases

Cases seeking greater recognition for climate considerations in a given public decision or policy. These are the most common form of common climate-change litigation, both globally and in New Zealand.

- 97 new cases filed globally in 2024.
- One new case filed in New Zealand in 2024 – 2025.¹⁰
- Four cases decided by New Zealand Courts in 2024 – 2025.¹¹

NZ example: On 8 October 2024, the Better NZ Trust applied for judicial review of the Government's decision to recommend weakening the 'Clean Vehicle Standard' (which sets emissions limits for imported vehicles).

International example: In June 2024, the United Kingdom Supreme Court released its long-awaited judgment (by a 3-to-2 majority) quashing a permission previously granted by the Surrey County Council to retain and expand an onshore oil site.¹²

The Court accepted that it was unlawful for the Council not to have required that the project's Environmental Impacts Assessment (EIA) include "downstream" or Scope 3 GHG emissions resulting from the extraction of oil through the project.





Corporate framework cases

Cases seeking to impose duties on corporates in relation to their contributions to climate change by challenging group-wide policies, governance structures and decision-making processes.

- Four new cases filed globally in 2024
- One case filed to date in New Zealand, and still ongoing (Smith v Fonterra).

NZ example: In August 2019, *Mr Smith* filed a statement of claim based in public nuisance and breach of a duty (being the establishment of a novel climate change action) against Fonterra and six other defendants for their emissions and emitting activities. An application for strike-out of the proceedings succeeded in the Court of Appeal but the Supreme Court reinstated the claim in February 2024. It is now headed for a full trial in Auckland's High Court. Chapman Tripp acts as legal counsel for three of the defendants.

International example: In December 2024, the Hague Court of Appeal declined to impose a reduction target on the basis that it was not possible to identify any specific targets that would effectively reduce the effects of climate change.¹³ Milieudefensie, the Dutch environmental organisation that took the case, has lodged an appeal with the Supreme Court of the Netherlands.



Climate-washing cases

Cases challenging inaccurate communications regarding contributions to the climate (i.e. greenwashing).

- 25 new cases filed globally in 2024
- One case filed in New Zealand.¹⁴

NZ example: In November 2024, Consumer NZ, Environmental Law Initiative and Lawyers for Climate Action NZ filed a complaint against Z Energy, seeking declarations that Z had breached the Fair-Trading Act 1986 in relation to its 'Moving with the Times' advertising campaign.

International example: In August 2024, the Federal Court of Australia ordered Mercer Superannuation to pay a civil penalty of AU\$11.3m for falsely claiming that its Sustainable Plus Fund excluded companies that were involved in carbon-intensive fossil fuels, despite heavily investing in 15 stocks in this sector.¹⁵ Mercer had marketed the 'sustainable option' as suitable for members who were "deeply committed to sustainability".



Failure-to-adapt cases

Cases challenging a government or company for failing properly to consider climate risks.

- 14 new cases filed globally in 2024
- No cases have been filed in this category in New Zealand.

International example: A number of legal actions have been filed against California's largest electricity utility, Southern California Edison, in the aftermath of the Eaton wildfire. These cases allege, amongst other things, that the company failed to take appropriate actions to mitigate the risk of wildfires.



Transition risk cases

Cases challenging the management of transition risk by directors, officers and others tasked with ensuring the success of a business. The focus is on how the company manages climate-related financial and operational risks affecting its bottom line, rather than on the company's impact on the environment or society.

- One new case identified globally in 2024
- No cases have been filed in this category in New Zealand.



Polluter pays cases

Cases seeking monetary damages from private polluters for alleged contribution to climate change harm. The majority of these have been brought in the US against major oil and gas companies.

- 11 new cases filed globally in 2024
- No cases have been filed in this category in New Zealand.

International example: On 28 May 2025, the Higher Regional Court of Hamm, Germany dismissed the claim brought by Peruvian farmer Saúl Luciano Lliuya against German utility provider RWE. The Court, however, left open the possibility that other major emitters could be held liable under German civil law for damage, on an attribution basis proportional to their contribution to global emissions.¹⁶



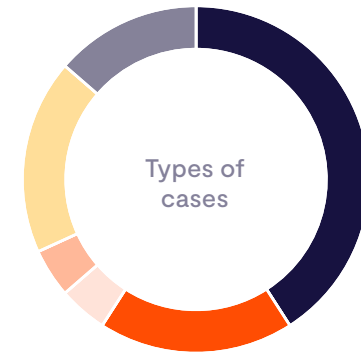
Turning-off-the-taps cases

Cases targeting funding to projects and activities that do not align with climate action objectives.

- Seven new cases filed globally in 2024
- No cases have been filed in this category in New Zealand.

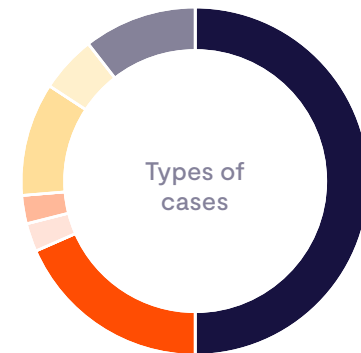
International example: In March 2025, Milieudefensie filed a lawsuit against ING alleging that the bank's failure to reduce its financed emissions breached its duty of care and seeking an order from the Amsterdam District Court for ING to halve its emissions by 2030 (from 2019 levels), align its portfolio with a 1.5°C climate target (including Scope 3 emissions), and implement stricter climate policies for high-pollution sectors.

Breakdown: NZ climate related cases since 2020



- Integrating climate considerations
- Government framework
- Climate washing
- Corporate framework
- Criminal
- Other

Breakdown: NZ climate related cases to date



- Integrating climate considerations
- Government framework
- Climate washing
- Corporate framework
- Criminal
- Immigration
- Other

International law developments: recent advisory opinions

Three significant international advisory opinions, all released within the last 18 months, have redefined states' obligations under international law in respect of climate change.

International Tribunal on the Law of the Sea (ITLOS)

The ITLOS delivered its [Advisory Opinion](#) on 21 May 2024 in response to a request from the Commission of Small Island States on Climate Change and International Law. The opinion unanimously confirmed that states have strict obligations to regulate and reduce greenhouse gas emissions in order to protect the oceans, and that those states with greater historic responsibility for climate harm must do more to address these emissions.

Inter-American Court of Human Rights (IACHR)

The IACHR was established under the American Convention which sets out human rights obligations for states in the Americas. The IACHR delivered its [Advisory Opinion](#) on 29 May 2025 affirming the existence of a human right to a healthy climate and the entitlement to remedy and reparation for climate-related harm.¹⁷ The Court held that state parties to the Convention must reduce emissions in alignment with 1.5°C, and that they have a duty to adequately regulate and supervise business activities for that purpose. Nicola Swan (Partner, Chapman Tripp) acted for the Commission of Small Island States on International Law and Climate Change in its intervention in these proceedings.

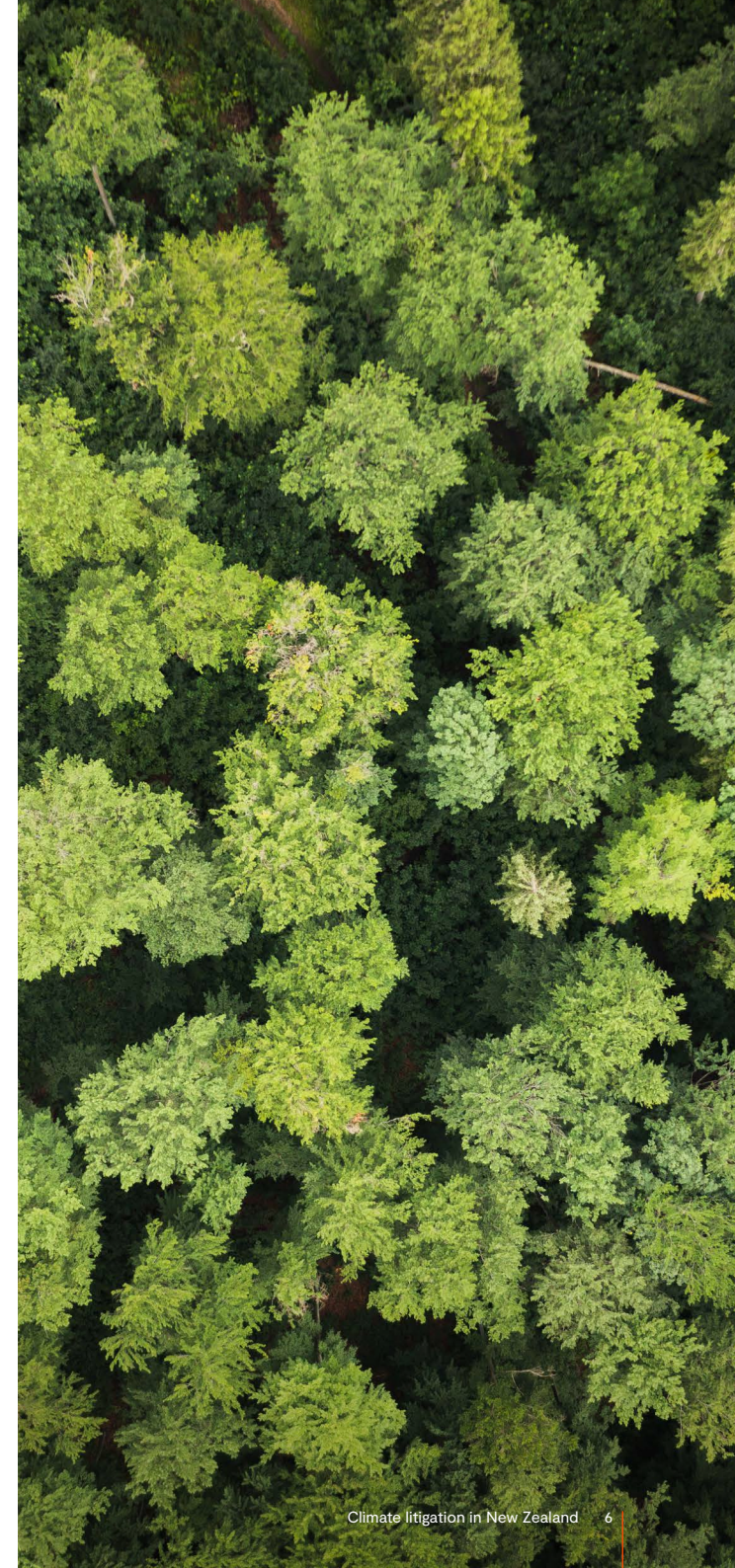
International Court of Justice (ICJ)

The ICJ delivered its [Advisory Opinion](#) on 23 July 2025 confirming that states have obligations under customary international law, international human rights law and the international climate change treaty regime to take appropriate and precautionary measures to prevent harm to the climate system. Significantly, the Court held that “failure of a State to take appropriate action to protect the climate system from GHG emissions — including through fossil fuel production, fossil fuel consumption, the granting of fossil fuel exploration licences or the provision of fossil fuel subsidies — may constitute an internationally wrongful act which is attributable to that State.

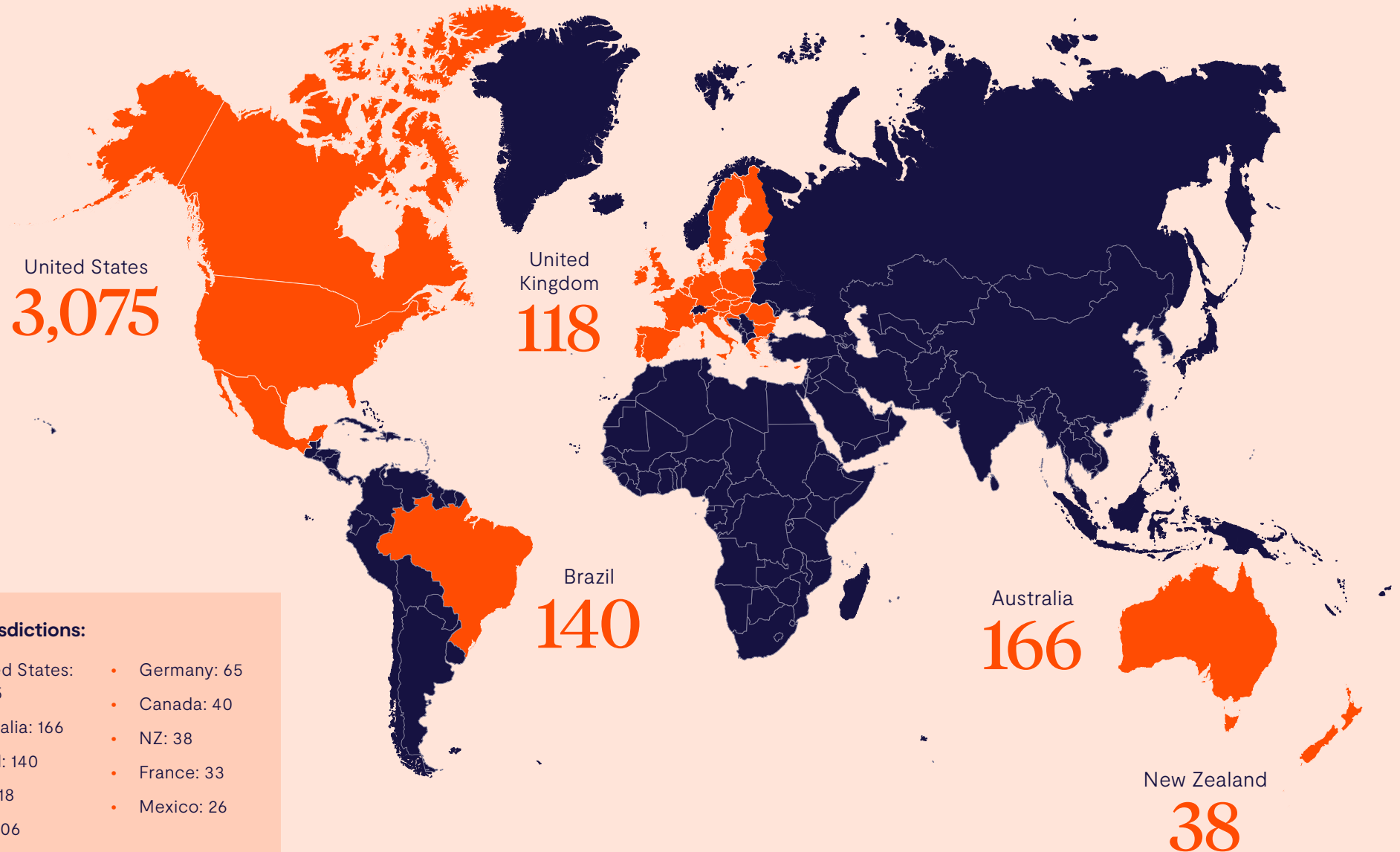
African Court on Human and Peoples' Rights (ACHPR)

In May 2025, a coalition of African lawyers and civil society groups submitted the first climate-related [petition](#) to the ACHPR, seeking clarification of African states' human rights obligations in the context of climate change.

The petition asks the Court to consider the responsibilities owed by international monopolies, multinational corporations and non-state actors operating on the continent to ensure that international and regional treaties and laws on climate change are protected and implemented.¹⁸



Global climate litigation to date:



Key jurisdictions:

- United States: 3,075
- Australia: 166
- Brazil: 140
- UK: 118
- EU: 206
- Germany: 65
- Canada: 40
- NZ: 38
- France: 33
- Mexico: 26

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1. These statistics are taken from the [Sabin Centre Climate Litigation Database](#) as at September 2025, which has been updated since the release of the Grantham Snapshot.
2. [Grantham Snapshot](#), p 5.
3. New Zealand climate case statistics are taken from the [Sabin Centre database](#).
4. *Lawyers for Climate Action and Environmental Law Initiative v Minister of Climate Change, Statement of Claim* (CIV-2025-485) available [here](#).
5. Double counts cases with proceedings across multiple court levels.
6. [Grantham Snapshot](#), p 17.
7. *Lawyers for Climate Change v The Climate Change Commission & Anor* [2025] NZCA 80; *Smith v Attorney General* [2024] NZCA 692.
8. *Lawyers for Climate Action and Environmental Law Initiative v Minister of Climate Change, statement of claim* (CIV-2025-485) available [here](#).
9. *Mathur et al. v. Ontario*.
10. *Better New Zealand Trust v Minister for Transport* (CIV-2024-485), statement of claim available [here](#).
11. *Movement v Waka Kotahi* [2025] NZCA 86; *Students for Climate Solutions Incorporated v Minister of Energy and Resources and others* [2024] NZCA 152; *Students for Climate Solutions Incorporated v Minister for Energy and Resources* [2025] NZSC 4; *Major Gas Users' Group v Commerce Commission* [2024] NZHC 959.
12. *R (Finch on behalf of the Weald Action Group & Others) v. Surrey County Council (& Others)* [2024] UKSC 20.
13. *Milieudefensie v Royal Dutch Shell* (2024) ECLI:NL:RBDHA:2021:5339.
14. *Consumer NZ Inc v Z Energy Ltd*, CIV-2023-485-771.
15. *Australian Securities and Investments Commission v Mercer Superannuation (Australia) Limited* 2024 [FCA] 850.
16. *Luciano Lliuya v. RWE* Case number 5 U 15/17 OLG Hamm.
17. Partner Nicola Swan acted for the Commission of Small Island States on Climate Change and International Law, including several Pacific States, before the Inter-American Court of Human Rights.
18. *ACHPR petition*, at [94.f].