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Jon Silver on the latest developments in climate change litigation in Canada

Canada's Federal Court of Appeal has agreed to proceed with two cases impacting climate change litigation—the *La Rose* and the *Misdzi Yikh* claims. These decisions reflect the court's willingness to review novel climate change claims.

As reported by [National Magazine](#), “both claims accused the federal government of violating the plaintiffs’ section 7 and 15 Charter rights by failing to address the threat of climate change.” In response, Canada brought motions to strike the claims.

When speaking with the magazine, senior associate [Jon Silver](#) explained that motions to strike give appeal courts an opportunity to examine claims closely and decide whether there's a cognizable issue in law there.

“I think the novelty of the claims played a large role in the court's decision to let them go forward. There's a striking section of the decision that talks about the threat of climate change, its effects on the livability of the environment. The court didn't see itself as going out on a limb here,” he said.

Read: [Newly Chartered waters: constitutional claims about climate change](#)

As the cases progress, the court has requested that arguments in each claim be refined.

“The Court of Appeal has indicated they have to start by focusing their claim on specific, individual government actions and their consequences,” Jon said.

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