

NINA MOINI: Well, it's turned into a lawsuit against a lawsuit. That's the situation Minnesota Attorney General Keith Ellison now finds after the federal government sued Minnesota for suing three major oil and gas companies.

It's the latest development in a case that was first filed by the Minnesota AG back in 2020. And the Department of Justice filed its complaint last week, arguing Minnesota's overstepping its authority in trying to take these corporations to court for their emissions.

University of Minnesota Law Professor James Coleman, who's been following the situation, says this new DOJ lawsuit is a big deal. He's back to help us wade through the news. Thanks very much for your time, Professor.

JAMES Thank you so much.

COLEMAN:

NINA MOINI: It doesn't seem so uncommon to have lawsuits back and forth. It wasn't even two weeks ago we had you on the program-- and thank you for returning-- to talk about these so-called climate deception lawsuits by the state of Minnesota, which accuses the companies of intentionally deceiving people about the risks of climate change in order to protect their own interests. And then this federal lawsuit happened in response. In short, why is it a big deal?

JAMES
COLEMAN: Well, it's important because the big fight in these cases so far has just been about which court gets to decide, because both the defendants and now the federal government have said we'd prefer that the federal courts decide this, because maybe they think the federal government is going to be more protective of the rights of the nation as a whole, as compared to more interested in Minnesota's interests in this consumer-protection lawsuit.

So that has been an ongoing fight here. And what's changed is before that was a fight just between the fossil fuel companies and the state of Minnesota. And the state of Minnesota was winning that in the sense that these decisions were going to be made in the state courts.

But now the federal government itself is stepping in and saying, no, it's not just that the companies want to be in federal court. The federal government also thinks that this should be decided in the federal courts. And so they've said they're going to file for some emergency relief to try and stop these state cases and have the federal courts decide these complex questions about preemption, et cetera, that haven't yet been resolved in this case.

NINA MOINI: And just to say who's the targets here-- ExxonMobil, the Koch Industries, and the American Petroleum Institute. And like you said, the issue is whether states have the authority to go after companies if their emissions are more global. And so what options does AG Ellison have here in response?

JAMES
COLEMAN: Well, I imagine that the state will be trying to avoid a couple of things. One is, ultimately, it wants this case to go forward in the state courts rather than in the federal courts. So it'll be trying to keep the federal courts from intervening.

But the most immediate question will be trying to keep the federal court from actually stepping in to stop that state lawsuit. So they're both trying to stave off any decision but also want to ensure that they can continue going ahead with the state lawsuit, because what the federal government is asking for here is for the federal court to come in and actually stop that state lawsuit.

Although there's a lot of litigation, it's a little bit unusual that we have this case where a federal court is asked to step in and stop an ongoing state lawsuit. And that presents very complex questions of law.

NINA MOINI: Yeah. And so when we're talking about this case originally being filed six or so years ago-- and it's sounding like what you're saying could really take a while. How long could it take before there's a resolution here? And what are the implications for this industry at large?

JAMES COLEMAN: Well, the federal government says that there are really large implications for the industry, because the federal government's claim is that the Minnesota lawsuit effectively seeks to regulate the carbon emissions of these fossil fuel companies across the United States and across the world.

And that's why they say it shouldn't just be resolved in the Minnesota state courts. Now, as for how quickly this gets resolved, I mean, that is a very open question because the federal government is asking for emergency relief.

So it wants quick relief, in part, likely because it doesn't want these companies to have to undergo discovery and all the burdens of a trial in the Minnesota state courts. So the federal government to try and stop that state lawsuit does have an incentive to try and get some relief on a quicker timescale.

NINA MOINI: All right, Professor Coleman. Thanks for breaking that down for us. Really appreciate your expertise.

JAMES Thank you so much.

COLEMAN:

NINA MOINI: James Coleman is a professor of law at the University of Minnesota.