

## Longaway, Alec (BOA)

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**From:** Rosenberg, Julie (BOA)  
**Sent:** Thursday, August 26, 2021 12:59 PM  
**To:** Longaway, Alec (BOA)  
**Subject:** General Public Comment

Hi Alec: Please include the email, below, as part of general public comment.

----- Forwarded message -----

**From:** Cheryl Hogan <[clhogan3@gmail.com](mailto:clhogan3@gmail.com)>  
**Date:** Fri, Aug 13, 2021 at 3:04 PM  
**Subject:** Fwd: EHT Victorious in Federal Court Case Against the FCC on Wireless Radiation Limits  
**To:** Gary Widman <[gwidman@sonic.net](mailto:gwidman@sonic.net)>, Harry Vere Lehmann <[hvlehmann@greenswan.org](mailto:hvlehmann@greenswan.org)>, Paul McGavin <[pmcgavin@wirecalifornia.org](mailto:pmcgavin@wirecalifornia.org)>

🎉🎉🎉🌸🌸🌸 Thank you for all you did to help this cause. Cheryl Lea Hogan

----- Forwarded message -----

**From:** Dr. Devra Davis, PhD <[info@ehtrust.org](mailto:info@ehtrust.org)>  
**Date:** Fri, Aug 13, 2021 at 2:39 PM  
**Subject:** EHT Victorious in Federal Court Case Against the FCC on Wireless Radiation Limits  
**To:** <[clhogan3@gmail.com](mailto:clhogan3@gmail.com)>



## In Historic Decision, Federal Court Orders FCC to Explain Why It Ignored Scientific Evidence Showing Harm From Wireless Radiation

***United States Court of Appeals for the District of Columbia Circuit judges in favor of environmental health groups and petitioners; finds FCC violated the Administrative Procedure Act and failed to respond to comments on environmental harm.***

Today, the United States Court of Appeals for the District of Columbia Circuit **ruled** in the historic case EHT et al. v. the FCC that the December 2019 decision by the Federal Communications Commission (FCC) to retain its 1996 safety limits for human exposure to wireless radiation was "arbitrary and capricious."

The court held that the FCC failed to respond to "record evidence that exposure to RF radiation at levels below the Commission's current limits may cause negative health effects unrelated to cancer." Further, the agency demonstrated "a complete failure to respond to comments concerning environmental harm caused by RF radiation."

"We are delighted that the court upheld the rule of law and found that the FCC must provide a reasoned record of review for the thousands of pages of scientific evidence submitted by Environmental Health Trust and many other expert authorities in this precedent setting case. No agency is above the law. The American people are well served," said Dr. Devra Davis, president of Environmental Health Trust.

Edward B. Myers, attorney for Environmental Health Trust, the lead petitioner in the case, EHT et al. v. the FCC stated, "The court granted the petitions for review because, contrary to the requirements of the Administrative Procedure Act (APA), the commission failed to provide a reasoned explanation for its assertion that its guidelines adequately protect against the harmful effects of exposure to radiofrequency radiation."

"I am very pleased to see that the U.S. Court of Appeals for the District of Columbia Circuit has ruled that the FCC ignored decades of studies about the potential health harms of cell phone radiation and must adequately review this material before making a decision about new regulations of cell phones," said Dr. Jerome Paulson, former American Academy of Pediatrics Environmental Health Council Chair and now Professor Emeritus of Pediatrics and Environmental and Occupational Health at George Washington University School of Medicine and Health Sciences and Milken Institute School of Public Health. "It is very important that the court ruled that the FCC must address the impacts of radiofrequency radiation on the health of children amassed since 1996." The American Academy of Pediatrics' **submission to the FCC** called for a review of safety limits to protect children and pregnant women.

In overturning the FCC determination for its lack of reasoned decision making, the court wrote that the commission cannot rely on agencies like the Food and Drug Administration (FDA) if the FDA's conclusions are provided without explanation.

"While imitation may be the highest form of flattery, it does not meet even the low threshold of reasoned analysis required by the APA under the deferential standard of review that governs here. One agency's unexplained adoption of an unreasoned analysis just compounds rather than vitiates the analytical void. Said another way, two wrongs do not make a right," the court wrote.

The court further noted that the FCC failed to respond to approximately 200 comments on the record by people who experienced illness or injury from electromagnetic radiation sickness.

The court ordered the commission to "(i) provide a reasoned explanation for its decision to retain its testing procedures for determining whether cell phones and other portable electronic devices comply with its guidelines, (ii) address the impacts of RF radiation on children, the health implications of long-term exposure to RF radiation, the ubiquity of wireless devices, and other technological developments that have occurred since the Commission last updated its guidelines, and (iii) address the impacts of RF radiation on the environment."

[Download August 13, 2021 United States Court of Appeals, District of Columbia Circuit ENVIRONMENTAL HEALTH TRUST, ET AL., PETITIONERS v. FEDERAL COMMUNICATIONS COMMISSION AND UNITED STATES OF AMERICA](#)

The landmark case centers around the FCC's decision not to update its 1996 exposure limits for wireless radiation from cell phones, cell towers, and wireless devices. Environmental Health Trust experts have long argued that the FCC's outdated limits place Americans everywhere at risk, especially in the era of 5G.

[Read More About the Case Against the FCC](#)

In response to the court's historic ruling, Environmental Health Trust and petitioners released the following statements:

**Devra Davis PhD, MPH, President Environmental Health Trust, author of *Disconnect: The Truth About Cell Phone Radiation, What the Industry Is Doing to Hide It and How to Protect Your Family*.**

"If cell phones were a drug they would have been banned years ago. 5G would never have been allowed to market. An ever mounting body of published studies — ignored by the FCC — clearly indicates that exposure to wireless radiation can lead to numerous health effects, especially for children. Research indicates wireless radiation increases cancer risk, damages memory, alters brain

development, impacts reproductive health, and much more. Furthermore, the way the FCC measures our daily exposure to cell phone and cell tower radiation is fatally flawed and provides a false sense of security.”

“Environmental Health Trust submitted **hundreds of pages** of scientific evidence to the FCC over the last several years documenting the scientific data showing harm, the need for health agencies to create safety limits that protect against biological effects, and the urgency for infrastructure policy that prioritizes wired rather wireless communications to reduce public exposure. While there is a lot of work left to do, today’s ruling is an important step in protecting people against the harms caused by wireless radiation exposure. Unfortunately, the telecom industry is now pushing millions of new 5G wireless antennas into neighborhoods and billions of new wireless devices, putting more in harm’s way everyday.

“While we celebrate today’s victory, we must look forward. Where do we go from here? We need a congressional hearing into how this agency operated above the law to ensure it never happens again. Committing to 5G merely ensures commercial success in selling new devices and cannot bridge the digital divide where many disadvantaged groups lack access to basic technologies. As we detail in EHT’s **letter to President Biden**, the priority for infrastructure should be for wired rather than wireless internet connections. The U.S. needs a federal action plan on the issue of wireless radiation that should be informed by the latest science showing that current levels of radiation can damage human health and the environment.”

**Theodora Scarato MSW, Executive Director of Environmental Health Trust and a petitioner in the case.**

“This is a win for our children, our future, and our environment. The court's decision should be a wake-up call worldwide. There was no premarket safety testing for cell phones or wireless networks before they came on the market decades ago. As the court points out in the ruling, silence from federal health and environmental agencies does ‘not constitute a reasoned explanation for the Commission’s decision.’ This ruling highlights how there has been no scientific review of the full body of scientific research to ensure people and the environment are protected. No federal agency has reviewed science indicating impacts to the brain, reproduction, trees, or wildlife — not the Food and Drug Administration, not the Centers for Disease Control, not the National Cancer Institute, not the Environmental Protection Agency. For decades, each of these agencies has downplayed the health effects of wireless radiation on their public websites. A telecom-financed scientist drafted webpages to be put online by our federal government. When people try to stop a cell tower from being built in front of their homes, they are told by their elected leaders that they cannot consider the issue of health effects due to the Telecommunications Act of 1996. This has to stop.

“We need an investigation of how our country ended up in this situation and a federal action plan to ensure it never happens again. It is imperative that our federal agencies immediately act to protect human health and the environment.”

**Statement by Cindy Franklin of Consumers for Safe Phones, an organization that was a petitioner in the case.**

"The FCC must now admit that its 25-year-old exposure guidelines are bogus. Our federal regulatory agencies are mandated to protect people and the environment from the known biological harm from exposure to microwave radiofrequency radiation. This ruling shows they have failed to do their jobs. The wireless industry can no longer hide behind the FCC's so-called 'safe' exposure guidelines."

**Statement of Liz Barris of The People's Initiative Foundation.**

"This day is a long time coming! So many people are suffering from the effects of wireless radiation and SO MANY are not even connecting their symptoms, illnesses, cancers, and even deaths to the radiation that is causing it because they trust and believe their government! The FCC failed to respond to ANY of the documentation submitted to them that people are being injured by ALL types of wireless radiation, from cell phones and Wi-Fi to smart meters and cell towers. We need limits, backed by science, that do not harm people or our environment and thus far, the science shows that the only safe wireless radiation is no wireless radiation. Hard wired ethernet connections with plugin portals everywhere for cell phones and internet may be our best bet."

**About the Case**

In EHT et al. v. the FCC, petitioners argued that the FCC ignored thousands of pages of research and expert testimony showing harmful effects from wireless radiofrequency radiation to humans, wildlife, and the environment when it decided that the 1996 wireless radiation limits did not need to be updated with a full health and safety review.

Environmental Health Trust filed its case in the Court of Appeals with Consumers for Safe Phones, Elizabeth Barris, and Theodora Scarato, MSW. They were represented by attorney Edward B. Myers. EHT's case was then consolidated with a separate case filed by Children's Health Defense, Michelle Hertz, Petra Brokken, Dr. David O. Carpenter, Dr. Toril Jelter, Dr. Paul Dart, Dr. Ann Lee, Virginia Farver, Jennifer Baran, and Paul Stanley M.Ed. Children's Health Defense was represented by attorney Scott McCullough and Robert Kennedy Jr. Evidentiary briefs were jointly filed. Scott McCullough represented Environmental Health Trust, Children's Health Defense, and petitioners in the oral arguments.

Oral arguments were held January 25, 2021, before a three-judge panel of the U.S. Court of Appeals for the District of Columbia Circuit including Hons. Karen Henderson, Patricia Millett, and Robert Wilkins.

Environmental Health Trust attorney Edward B. Myers previously intervened in the **successful case** of the Natural Resources Defense Council (NRDC) and several Native American tribes against the FCC. In this earlier case, the **court upheld** the relevance of the National Environmental Policy Act (NEPA). The NRDC filed an **amicus brief** in the EHT et al., v FCC case as well.

The FCC is represented in-house by William J. Scher, Ashley Stocks Boizelle, Jacob M. Lewis, and Richard Kiser Welch.

**Read More About the Lawsuit**

**Your Support Brought Us to Victory**

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Protect The  
Ones You Love*



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