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Providence Journal

Roger Williams University School of Law

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Newsroom

April 12, 2016

Goldstein on Fossil Fuel Fraud Liability

Sen. Whitehouse says fossil fuel companies should be sued for misleading Americans about environmental harm caused by carbon pollution. Could it really work?

From the Providence Journal: ["Climate-change battle heats up between Whitehouse, Wall Street Journal"](#) by Edward Fitzpatrick



"Oh, it is on! U.S. Sen. Sheldon Whitehouse, the Rhode Island Democrat who is the Senate's leading voice on climate change, is locked in a bitter brawl with the Wall Street Journal editorial page over his proposal to sue fossil fuel companies for fraud. [...]"

But **Roger Williams University law Prof. Jared A. Goldstein** — who teaches constitutional and environmental law and once worked in the Justice Department's environmental division — said the First Amendment does not protect companies from committing fraud. "And if it can be shown that these big energy companies made a conspiracy to lie to the American people about whether their products are poisoning the planet, then free speech should give them no protection from punishment," he said.

The First Amendment does protect those who simply hold contrary views on climate change or other matters, **Goldstein said**. "The Flat Earth Society cannot be punished, notwithstanding photos from NASA," he said.

But that's different from a company that knowingly lies to protect profits, **Goldstein said**. "The real question is a question of proof: Can anyone prove conspiracy to knowingly commit a fraud regarding climate change?" he said. "If you can prove it, then [Whitehouse] is on to something, and some clever lawyer should be allowed to try it."