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How Flood Wall Street Trial Changed The Game Of Policing

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NEW YORK — It was an unwinnable case. The motley pack of defendants making up the “Flood Wall Street Ten” [didn't even deny](#) the charges against them. Hoping to catalyze the momentum of the historic [People's Climate March](#) in New York City into a radical environmentalist movement decidedly targeting Wall Street for its role in bankrolling climate destruction, the trial was mainly intended to carry a political message to the courts and to make their case to the media.

Few press covered the drama in the courtroom during the four-day trial held early this month. But when the surprising verdict came down on March 5, attention started flooding in – the underdogs had made history.

For the first time, a New York judge gave [judicial notice](#) to the realities of climate change as he exonerated ten protesters on freedom of speech grounds. Judge Robert Mandelbaum found the Flood Wall Street Ten not guilty, commending the climate activists' protest as “honorable.” This landmark decision could not only have resounding implications for the growing environmental justice movement — it could also potentially thaw the iron-fisted policing that has come to be routine in the United States, especially in New York.

“The importance of judicial notice is that the judge accepted climate change and the need to do something about it as a fact without the necessity of any evidentiary support or proof at trial,” Martin Stolar, an attorney for the defense, told MintPress News. “To the best of my knowledge, this is unprecedented and has significance for future litigation involving climate change.”

The legal recognition of man-made climate change as an indisputable fact sent shockwaves through the environmentalist movement both on the streets and in the courts, allowing the Flood Wall Street case to be cited by protesters, academics and lawyers alike. Judicial notice is normally used by judges to accept commonly-known facts that don't need to be proven by material evidence because they are so widely accepted to be true, according to the [U.S. Federal Rules of Evidence](#).

Acknowledging the activists' political motivations proved a key factor in finding the defendants not guilty. Calling their acts of civil disobedience "admirable" as he read the verdict, Judge Mandelbaum ruled that the police's pattern of corralling protesters behind barricades, preventing from reaching Wall Street, and then ordering them to leave, constituted a breach of the First Amendment.

"By ordering protesters to leave the entire Wall Street area, police violated protesters' First Amendment right to carry their message directly to its intended recipients: the Wall Street bankers who bankroll climate change," Judge Mandelbaum said in his decision.

Calling barricades and "free speech zones" into question

The NYPD has often used "[free speech zones](#)" to confine demonstrations to a barricaded area. A study of Occupy Wall Street protests published in 2013 by the [Global Justice Clinic at New York University School of Law](#) documented dozens of instances of police misconduct, use of excessive force, arbitrary restrictions and street closures – as they had done on Sept. 22, 2014, when they prevented Flood Wall Street from getting to Wall Street. Numbering in the thousands, police blocked the intersection of Broadway and Wall Street, where 102 people were arrested after refusing to leave.

Telling protesters where to protest has caused consternation, but it hasn't been challenged in court. By taking their case to trial, the case of the Flood Wall Street Ten may have put a legal dent in the use of barricades. And it may force the NYPD think twice before making decisions in the street that won't hold up in court.

Defense Attorney Jonathan Wallace successfully argued that Flood Wall Street protesters were denied the right to decide where to demonstrate, for how long, and whom to talk to – all in violation of the protesters' constitutional rights.

"The entire flow of policing on the day of the demonstration was unlawful," Wallace argued in court. "Forcing people away from Wall Street, and then issuing an order that said people had to go even further away was a pattern of policing that simply was not reasonable under the First Amendment."

When pressed to explain why the NYPD had decided to prevent protesters from getting onto Wall Street on Sept. 22, Prosecuting Attorney Laura Higgins stumbled to come up with an answer. When she suggested a general concern for security in post-9/11 Lower Manhattan as a possible justification, Judge Mandelbaum shot the argument down, saying, "Are you suggesting that because the police have the right to do things, they can close down a public street whenever they want to?"

The defense cited a Supreme Court decision handed down last June in [McCullen v. Coakley](#), in which a Massachusetts court had ruled that enforcing 35-foot buffer zones to keep protesters away from abortion clinics violated the First Amendment. The same argument held up in New York – and [as much as the "1%" may dislike it](#), they can't use the police as their [private army](#) to

stop people from bringing their frustrations to their door. It was incumbent on the prosecution to bring evidence showing that the NYPD had good reason to prevent people from protesting on Wall Street. With the prosecution unable to do so, the arrests of the 102 protesters were deemed unlawful.

A global mecca of capital and political influence

On Sept. 22, [thousands of protesters flooded Lower Manhattan](#) to sharpen the message of the People's Climate March and point it directly to Wall Street. The previous day's march brought out as many as [400,000](#) people to sound the alarm about climate change's effects on the environment. But for those who came out to Flood Wall Street, it wasn't enough.

"The People's Climate March was a parade," said Alexander Stewart, one of the ten defendants, who argued in court that direct action was needed to bring the fight to Wall Street's door.

"We are now past the point where the average American citizen can afford not to be civilly disobedient. The government under which we live is too invested in protecting corporate interests that continue to run rampant, and we can no longer afford to be a society rooted in the profit motive," Stewart said.

Targeting Wall Street as the financial facilitator of companies which engage in [climate destruction](#), these radical environmentalists hope to inspire [what they call](#) "the anti-capitalist wing of the climate justice movement."

"Wall Street companies fund and profit off disaster for all us, and finance capitalism will not be able to deal with the social fallout of climate change. We urgently need to act to save our planet and futures," defendant Jason Woltjen said at a press conference during the trial.

The New York Stock Exchange – the physical location where planet-destroying infrastructure projects are funded – is a global mecca of not only capital, but also of political influence. Oil and gas companies spent [over \\$60 million](#) in political contributions to politicians during the 2014 election cycle. Because of political campaign financing rules upheld by the Supreme Court's 2012 [Citizens United](#) ruling, companies reaping huge profits from the planet's destruction can pour their money into opposing reform.

Some of that money goes to funding research that influences the public discourse around climate change. The Cato Institute – a [\\$25 billion-a-year](#) libertarian think tank funded by billionaire conservatives Charles and David Koch – produces [reports and policy analysis](#) that continually try to [deny](#) and [obfuscate](#) scientific research on climate change.

Acknowledging that global warming is "indeed real, and human activity has been a contributor since 1975," [the Cato Institute asserts](#) that it is a "very complicated and difficult issue that can provoke very unwise policy in response to political pressure." It claims to be working toward developing technologies to accomplish goals set forth by legislation to reduce carbon dioxide emissions.

“The Cato Institute is focused on disputing the science behind global warming and questioning the rationale for taking action,” environmental policy group [Greenpeace says](#) on its website.

On the northeast corner of Wall Street and Broadway – the intersection where Flood Wall Street protesters held their sit-in – just beyond the barricades erected to block off Wall Street lies TD Bank, [one of the largest funders](#) of the Keystone XL Pipeline. The Canadian bank, traded on Wall Street, has spent over [\\$7 million](#) on [lobbying](#) the U.S. government to [build the pipeline](#) that would transport [dirty oil sands](#) over 1,000 miles from Canada to Texas.

The fossil fuel industry [spends millions each year](#) to shore up its political influence through lobbying politicians to ensure that its interests are protected – which can often come at the expense of the planet.

According to data collected by the Center For Responsive Politics, senators who voted in favor of building the pipeline had received, on average, [ten times more money from oil companies](#) than senators who voted against it. The Koch brothers – [who stand to profit \\$100 billion](#) from Keystone XL – spent over [\\$13 million](#) on lobbying ahead of the January 2015 congressional vote to approve its construction.

A 2015 New York Times/Stanford University [poll on global warming](#) found that a majority of Americans want the government to take action to curb climate change. Yet public opinion has less of an influence over politics than money.

Still, a growing number of grassroots organizations have begun to throw their weight behind calls for the planet to come before profits. “Poor communities are suffering because their health and well-being is not considered to be as important as the profits that Wall Street is able to make by backing infrastructure projects, then selling and trading in fossil fuel futures,” said Patrick Robbins, a spokesperson for [Sane Energy Project](#), an advocacy group that works to replace hydraulic fracturing (“fracking”) infrastructure with renewable energy sources.

Seeing Wall Street as the source of the political stalemate stalling action on climate change, the environmentalists of Flood Wall Street took to the streets in civil disobedience to focus attention on the capitalists they see as putting their profit interests ahead of the health of the planet.

“Our government is dragging their feet on passing any kind of meaningful legislation, and it’s all because they’re beholden to special interests and not the people,” veteran environmental activist and defendant Susan Heitker told MintPress. Our legislators aren’t listening, and I feel that civil disobedience is integral to creating social change.”

Because of Wall Street’s influence over the political process, Flood Wall Street activists hope that their court victory will inspire more civil disobedience aimed directly at challenging capital’s power center. “Wall Street is the central culprit in the climate crisis, and our political and economic system completely fails to address it,” said John Tarleton, editor of [The Independent](#) and the first to testify to the court. “That’s why it is entirely legitimate and necessary for people to take direct action and commit civil disobedience at Wall Street.”

The victory on the grounds of free speech sets important precedent, especially because of whom the protest was directed toward. Wall Street has been heavily guarded by the NYPD, in no small part thanks to the [millions of dollars generously donated](#) to the New York City Police Foundation by financial firms on Wall Street.

“This is an important precedent, not only for climate change demonstrators, but everyone who engages in protest activity,” said Flood Wall Street defendant Jeneen Roybal, a disabled U.S. Army veteran.

The case of Roybal and the rest of the Flood Wall Street Ten could serve as a much-needed intervention to take the police distraction out of the protest equation, and unite the environmental movement with the long-simmering anger against the country’s “[1%](#).”