

Status Report from April 23 and November 18, 2009 Teleconferences

ABA Multistate Forum on Law Organization Sustainability Practices

January 15, 2010

By Bill Blackburn, forum coordinator and vice chair,
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1. Forum Participants/Interested Parties

ABA: Bill Blackburn (lead), Saul Mikalonis, John Dernbach, Larry Smith

General: Jasin Alvidas, Rachael Loper, Mindy Lubber

California Bar: Bruce Klafter and Beth Collins-Burgard (co-leads), Bruce Lymburn

Columbus, OH Bar: Donna Sweet, Robert Meyer, David Scott

Illinois Bar: Bill Seith, David Thompson

Massachusetts Bar: Nancy Reiner (lead), Carolyn Kaplan, John Tener, Leah Rochwarg,
Jennifer Rosinski

Michigan Bar: Cortney Goldberg (lead), Saul Mikalonis, George Curran, Diane Akers, Craig
Hupp

New York City Bar: Edna Sussman (lead), Kathy Robb, John Rousakis, Judith Wallace

Oregon Bar: (Contact needed.)

Pennsylvania Bar: Phil Hinerman (lead), Bob McKinstry, Jack Ubinger

Texas Bar: Michael Nasi

2. Status Report

Below is the latest status on law organization sustainability practices initiatives underway at the ABA and various state bars, based on information from the participants and websites:

ABA:

The ABA's Committee on Climate Change, Sustainable Development and Ecosystems will be renewing its efforts to promote its model sustainability policy and guidelines tool (<http://www.abanet.org/enviro/committees/climatechange/>) in 2009. The tool will continue to be framed around the Triple Bottom Line of economic, social (worker and community) and environmental responsibility, consistent with the scope of sustainability being reported publicly by thousands of corporate clients. Bill Blackburn is scheduling meetings with ABA headquarters personnel in Chicago to follow up on previous discussions about having the headquarters adopt a sustainability policy. The tool itself will be tweaked slightly based on suggestions from the Oregon Bar and Morrison & Foerster personnel, and those changes will be circulated to the endorsers and others for review before finalization. These changes will not affect the 13 firms already endorsing the policy. An article on the TBL approach by firms is being prepared for the ABA Journal and/or other national law publication. Several presentations on it were given at state bar and Law Marketing Association conferences in 2009. See for example http://www.nixonpeabody.com/linked_media/publications/LMA_midwest_sustainability_presentation_September_2009.pdf. Saul Mikalonis is planning a workshop/webinar on the topic to be hosted at Chicago-Kent Law School in 2010. John Dernbach is exploring how the tool might be

modified for use by law schools. A new appeal for subscribers to the ABA SEER Model Policy (perhaps relabeled as the "Model Sustainability Framework") will be made using the ABA's list servs. The committee voluntarily dropped its proposed 2009 House of Delegates resolution on the tool in order to evaluate the suggested changes and work with headquarters, given that the ABA now requires headquarters to adopt any new tools proposed for HOD resolution. The possibility of a three-part resolution covering the ABA TBL tool, the headquarters initiative and supporting state bar tools on law sustainability practices, will be revisited after all the above actions have been completed.

California Bar:

In 2008, the bar's board of governors established a special task force on sustainable practices to "increase the environmental sustainability of law practices in California." The task force includes eight to ten lawyers who have monthly calls on the topic. They have developed a voluntary Eco-Pledge program, and offer a logo for those who endorse the pledge. Under the Eco-Pledge commitment, subscribers agree to "take as many of the specific steps and actions set out in the (bar's environmental practices) guidelines as the member, firm, or department may determine in good faith taking into account its individual circumstances." The guidelines cover education; eliminating disposables; reuse of equipment and supplies; reduced paper, toxic chemicals, water and energy use; procuring environmentally sustainable products and service providers; recycling; commuter incentives, green meetings, and participating in other green practices programs. The program was rolled out at the state bar's annual meeting. Given the limited resources, the bar doesn't verify the commitments or otherwise offer certification but relies on self-certification. The state's Environmental Law Section continues to promote the tool and will do webinars and training on it. The initiative will be part of the January 2010 continuing legal education program. The task force is not tracking metrics yet but continues to look for ideas. See the California Bar *Lawyers Eco-Pledge and Law Office (Environmental) Sustainability Policy and Guidelines* (practices), adopted by the California State Bar Board of Governors, Oct.3, 2008, at <http://calbar.ca.gov/calbar/pdfs/bog/special/Eco-Pledge-Policy.pdf> and http://www.calbar.ca.gov/state/calbar/calbar_generic.jsp?cid=10144&n=93887.

Green Cities California (<http://www.greencitiescalifornia.org/>) provides environmental tools and best practices drawn from 10 California cities covering the following topics : energy (renewable energy, energy efficiency and climate change); water reduction (zero waste, manufacturer responsibility, consumer responsibility); urban design (green buildings, urban planning, slums); urban nature (parks habitat restoration, wildlife); transportation (public transportation, clean vehicles, reducing congestion); environmental health (toxics reduction, healthy food, clean air); and water (water access and efficiency, water conservation, wastewater reduction).

Columbus, OH Bar:

The Columbus Bar "Green Initiative" was created in May of 2008 to see what role the Bar might play in supporting member firms to be more sustainable, as well as what steps the Bar itself might be able to take to be "greener". Following a kick-off meeting in August, 2008, the Green Initiative group met roughly every two months and shared experiences, strategies and challenges for "greening" law office operations. It hosts a monthly luncheon speakers series. The group helped the Columbus Bar become a recognized GreenSpot organization (<http://www.columbusgreenspot.org/>), which includes commitments on recycling, water and energy conservation, reducing transportation impacts, and progress reporting. In 2010, the Green

Initiative became a part of the Columbus Bar's formal committee structure. See <http://www.cbalaw.org/committees/service/green-initiative/> .

Illinois/Chicago Bar:

Some Illinois law firms have adopted the *Chicago Green Office Challenge*, which also includes ratings and progress reporting. The Green Office Challenge invites office tenants and property managers in Chicago's central business district to increase their environmental performance. For tenants the program covers outreach, energy conservation, waste reduction, cleaner transportation choices and property management engagement. The property manager program focuses on energy, waste, water and tenant engagement. See www.chicagogreenofficechallenge.org/pages/take_the_challenge_/6.php .

Last December, a Chicago Bar Association task force chaired by CBA chair, Victor Henderson of Holland & Knight issued a report with recommendations on the Green Courts Initiative for Circuit Court of Cook County aimed at reducing paper use. The Illinois Green Governments Coordinating Council (<http://www.standingupforillinois.org/green/govdb.php>) provides information on green practices for offices, state and local governments and educational institutions.

Massachusetts Bar:

The Massachusetts Bar Association's Energy and Environment Task Force includes a dozen lawyers who have monthly meetings or telephone conference calls on the topic, co-chaired by Nancy Reiner and Susan Reid. In 2007, they rolled out the *Lawyers Eco-Challenge and Green Guidelines*, available at www.massbar.org/ecochallenge, <http://www.massbar.org/about-the-mba/initiatives/lawyers-eco-challenge> and <http://www.massbar.org/media/253263/01.08.08%20mba%20releases%20green%20guidelines%20and%20issues%20an%20environmental%20pledge.pdf> Under the challenge, law firms promise to implement the *Green Guidelines*, which cover energy conservation, paper reduction, recycling, greenhouse gas reduction, environmentally conscious purchasing, other environmental practices, and education and support for environmental organizations. About 100 firms have signed on so far. The task force is now working on an in-house counsel initiative and an affiliates program (for legally related companies that commit to the guidelines) as well as other new projects. They have also developed green guidelines for homes, particularly landscaping tips, as well as a cell phone recycling program. They publish monthly eco-tips in Massachusetts Lawyers Weekly and in the MBA newsletter. They have an annual recognition program that this year honored three firms for their environmental practices, based on an evaluation by a review committee of written submittals on the firms' energy, waste, transportation and green buildings' programs.

Michigan Bar:

The state environmental and business sections of the bar co-sponsored a conference in April which covered law firm sustainability (TBL) programs and a number of environmental topics. They are exploring how to move forward on law firm sustainability practices.

New York City Bar:

The bar was planning to start a working group on sustainability practices. In April, they held a well-attended conference on "Greening Your Office: Saving Money While Saving the Planet"

which covered law firm Triple Bottom Line sustainability initiatives and as well as detail on environmental practices. There was a lot of interest in the audience for energizing the NYC law firms to do more to reduce their footprint and adopt sustainable practices. Many signed up to be part of a continuing discussion on sharing best practices and ideas. Unfortunately, the initiative hasn't gotten much traction yet.

Oregon Bar:

The Oregon State Bar cites state law ORS 184.421, which defines “sustainability” as “using, developing and protecting resources in a manner that enables people to meet current needs and provides that future generations can also meet future needs, from the joint perspective of environmental, economic and community objectives.” At the urging of Dick Roy’s Oregon Lawyers for a Sustainable Future, the Board of Governors of the bar appointed a task force of 14 lawyers to define the bar’s relationship with sustainability, or at least the environmental aspects of it. The task force identified five areas to address

1. Identification of sustainability practices for the law office
2. Considering whether the bar should adopt the policy of promoting the interests of “future generations”
3. Developing a carbon footprint tool
4. Structuring the bar for integrating sustainability
5. Incorporating sustainability into the rules of professional conduct.

Oregon Lawyers for a Sustainable Future, an association outside the bar, has developed a number of tools related to environmental practices in law offices. See Oregon Lawyers for a Sustainable Future, *Law Office (Environmental) Sustainability Tools*, at www.earthleaders.org/olsf/office_practices (includes model policy, list of practices, and guidelines for lunch vendors, event planning, tenant improvements and office building managers).

A *Green Office Guide* is offered by the city of Portland, OR at http://www.oregon.gov/ENERGY/CONS/BUS/docs/Green_Office_Guide.pdf

Pennsylvania Bar:

A number of Pennsylvania law firms have signed on to the Greater Philadelphia Green Business Commitment, which provides various levels of recognition (basic, silver, gold, platinum) based upon the percentage of relevant practices implemented as shown in an annual self certification checklist report. One checklist is provided for owners and another for tenants. They cover leadership and education, energy, operations and procurement, transportation, waste reduction and recycling, water management and innovation. See the Greater Philadelphia Green Business Commitment—Tenant and Owner Checklists, available at <http://www.phillygreenbiz.com/the-checklist>.

Texas Bar:

Per Mike Nasi, the Texas Bar is trying to increase awareness and, in fact, made an announcement at their state Environmental and Natural Resources Law Section (ENRLS) Annual Meeting that, in 2009-2010, they will be stepping up the activity of the Sustainability Task Force which Mike chairs. The Task Force intends to reach out to other relevant Texas Bar sections to collaborate on the non-environmental aspects of law firm sustainability initiatives. They will report progress soon, hopefully. Mike has written the article “Greening the Bar Through Sustainability

Initiatives,” published in the April Texas Bar Journal and available at http://www.texasbar.com/Template.cfm?Section=Past_Issues&Template=/ContentManagement/ContentDisplay.cfm&ContentID=23748

ATTACHMENT A

Law Sustainability Practices Tools

Excerpt from

ABA SEER Model Sustainability Framework for Law Organizations

(<http://www.abanet.org/envIRON/committees/climatechange/>)

—Part D. References, as modified by Multistate Forum Recommendations

Feb. 1, 2010

0. General --Triple Bottom Line Approach to Law Firm Sustainability

- a. *The Sustainability Handbook—The Complete Management Guide to Achieving Social, Economic and Environmental Responsibility* (Environmental Law Institute, 2007), (covers sustainability programs at large and small companies, NGOs, universities, and local governments).
- b. Guidance on public sustainability reporting and ideas for performance measurements may be found at the Global Reporting Initiative website, at www.globalreporting.org/. A law organization may declare its report to be a GRI report if it reports performance on 10 GRI indicators, including at least one each under the economic, social and environmental categories, respectively.
- c. The International Organization for Standardization’s ISO 26000 Guideline Standard on Social Responsibility, applicable to organizations of all types and sizes, at <http://isotc.iso.org/livelink/livelink/fetch/2000/2122/830949/3934883/3935096/home.html?nodeid=4451259&vernum=0>
- d. Michael Nasi, “Greening the Bar Through Sustainability Initiatives,” Texas Bar Journal, April 2009, available at http://www.texasbar.com/Template.cfm?Section=Past_Issues&Template=/ContentManagement/ContentDisplay.cfm&ContentID=23748
- e. James Brusslan, Rachael Roper, and William Blackburn, “Green is Good But Sustainability is the Goal,” presentation at the Law Marketing Association Green Conference, Chicago, Sept 25, 2009 http://www.nixonpeabody.com/linked_media/publications/LMA_midwest_sustainability_presentation_September_2009.pdf .
- f. Barry Woods, “Advancing the New Economy—Oregon Lawyers Embrace Sustainability,” *Oregon State Bar Bulletin*, Oct. 2009, available at <http://www.osbar.org/publications/bulletin/09oct/newecon.html>

1. Economic success: the wise use of financial resources

- a. Organization’s Economic Prosperity
 - (1) Practice tips on starting and running a law firm from the ABA General Practice, Solo and Small Firm Division, at www.abanet.org/genpractice/resources/startafirm.html
 - (2) Law Practice Management Section, at <https://www.abanet.org/lpm/home.shtml>

- a. Community’s Economic Prosperity

2. Social responsibility: respect for people

a. Respect for Employees

- (1) Work-life balance guidance from the ABA General Practice, Solo and Small Firm Division, at www.abanet.org/genpractice/resources/life.html
- (2) ABA House of Delegates Resolution 111A (Feb. 3, 1997), promoting the use of alternative work schedules, at www.abanet.org/environ/about/resolutions/alternativeworkschedules.shtml

b. Diversity, Fair Hiring Practices

- (1) Molly McDonough, “Demanding Diversity—Corporate Pressure Is Changing the Racial Mix at Some Law Firms,” *ABA Journal*, vol. 91(March 2005).
- (2) *Diversity in the Workplace: A Statement of Principle*, at www.acc.com/vl/public/Article/loader.cfm?csModule=security/getfile&pageid=16074
- (3) ABA Section on Labor and Employment Law, at www.abanet.org/labor/
- (4) ABA Center for Ethnic and Racial Diversity, at www.abanet.org/diversity/
- (5) ABA Advisory Council on Diversity, at www.abanet.org/leadership/diversity.html
- (6) ABA Commission on Racial and Ethnic Diversity in the Profession, at www.abanet.org/minorities

c. Responsible Governance; Professional Courtesy.

- (1) ABA Center for Professional Responsibility, at www.abanet.org/cpr
- (2) ABA ETHICSearch Ethics Research Service, at www.abanet.org/cpr/ethicsearch/

d. Dealing With Clients

ABA Center for Professional Responsibility, at www.abanet.org/cpr

e. Awareness and Advice

Council of Bars and Law Societies of Europe, *CSR: Corporate Social Responsibility and the Role of the Legal Profession—A Guide for European Lawyers*, Update No. 2, June 2008, available at http://www.ccbe.org/fileadmin/user_upload/NTCdocument/EN_CSR_guidelinespd1_1221057092.pdf (defines CSR using the triple bottom line; especially useful for lawyers who have client’s with European operations)

f. Well-being of Stakeholders

- (1) ABA Standing Committee on Pro Bono and Public Service; the Center for Pro Bono, at www.abanet.org/legalservices/probono/; for pro bono volunteer opportunities, see www.abanet.org/legalservices/probono/volunteer.html
- (2) ABA Section of Individual Rights and Responsibilities, at www.abanet.org/irr
- (3) ABA Center for Human Rights, at www.abanet.org/humanrights/home.html

3. Environmental responsibility: respect for life; the wise management and use of natural resources

General

- (1) Oregon Lawyers for a Sustainable Future, *Law Office (Environmental) Sustainability Tools*, at www.earthleaders.org/olsf/office_practices
- (2) Janine Robben, “The Case for Sustainability,” *Oregon State Bar Bulletin*, Feb./Mar. 2007, pp.17-23, at <http://www.osbar.org/publications/bulletin/07febmar/sustainability.html>
- (3) Rachael Loper and Robert Loper, “How Green is My Law Firm,” White Paper for The Legal Marketing Association, Nov. 2008, available at <http://www.legalmarketing.org> and www.carltonfields.com/files/upload/Going%20Green%20-%20FINAL%5B1%5D.pdf .
- (4) ABA Section on Environment, Energy and Resources, at www.abanet.org/environ/
- (5) State Bar of California *Lawyers Eco-Pledge and Law Office Sustainability Policy and Guidelines* (practices), adopted by the California State Bar Board of Governors, Oct. 3, 2008, at

calbar.ca.gov/calbar/pdfs/bog/special/Eco-Pledge-Policy.pdf and www.calbar.ca.gov/state/calbar/calbar_generic.jsp?cid=10144&n=93887 .

(6) Massachusetts State Bar Association *Lawyers Eco-Challenge* and *Green Guidelines* (including pledge, green guidelines and other resources) , Jan. 8, 2008, at www.massbar.org/about-the-mba/initiatives/lawyers-eco-challenge

(7) The Greater Philadelphia Green Business Commitment—Tenant Checklist and Owner Checklist, at www.phillygreenbiz.com/the-checklist

(8) *Green Cities California* (environmental tools and best practices drawn from 10 California cities), at www.greencitiescalifornia.org/

(9) Chicago Green Office Challenge, at www.chicagogreenofficechallenge.org/pages/take_the_challenge_/6.php

(10) Illinois Green Governments Coordinating Council (information on green practices for offices, state and local governments and educational institutions), at www.standingupforillinois.org/green/govdb.php

(11) *Green Office Guide*, by the city of Portland, OR at www.oregon.gov/ENERGY/CONS/BUS/docs/Green_Office_Guide.pdf

(12) Columbus Bar Association *Green Initiative*, at <http://www.cbalaw.org/committees/service/green-initiative/>

(13) Columbus, OH *GreenSpot* Program, at <http://www.columbusgreenspot.org/>

a. Resource and Energy Conservation

(1) *ABA-EPA Law Office Guide to Energy Efficiency*, at www.abanet.org/environ/climatechallenge/lawofficeguide.pdf

(2) *Leadership in Energy and Environmental Design* (LEED) program of the US Green Building Council, at www.usgbc.org/DisplayPage.aspx?CategoryID=19

(3) ABA SEER, *One Million Trees Project - Right Tree for the Right Place at the Right Time*, a nationwide public service project, at http://www.abanet.org/environ/projects/million_trees/home.shtml

b. Waste and Pollution Prevention and Management

(1) *ABA-EPA Office Climate Challenge Program*, at www.abanet.org/environ/climatechallenge/home.shtml , and February 2009 ABA House of Delegates resolution supporting it.

(2) *The Carbon Trust Carbon Footprint Calculator for Small and Medium-sized Businesses*, at www.carbontrust.co.uk/solutions/CarbonFootprinting/FootprintCalculators.htm

(3) *A Consumer's Guide to Retail Carbon Offset Providers*, by Clear Air, Cool Planet, at www.cleanair-coolplanet.org/ConsumersGuidetoCarbonOffsets.pdf

(4) *Offsetting Emissions: A Business Brief on the Voluntary Carbon Market*, by BSR and Ecosystem Marketplace, at www.bsr.org/reports/BSR_Voluntary-Carbon-Offsets-2.pdf

(5) *Working 9 to 5 on Climate Change: An Office Guide*, by S. del Pino and P. Bhatia (WRI), at http://pdf.wri.org/wri_co2guide.pdf

c. Reduction of Supply Chain Impacts

(1) *Guidance on Green Office Supplies for Federal Agencies*, at www.epa.gov/oaintrnt/practices/supplies.htm

(2) *Enviro-Purchasing* website for Rutgers University, US EPA, et al. with green product database and other tools, at aesop.rutgers.edu/~envpurchase/index.htm

(3) CERES *Green Hotel Initiative* (best practice checklists and other tools), at www.ceres.org/Page.aspx?pid=761

- (4) Oregon Lawyers for a Sustainable Future, *Law Office (Environmental) Sustainability Tools*, at www.earthleaders.org/olsf/office_practices (includes checklists for tenant improvements and office building managers)
- (5) State Bar of California *Model Law Office Sustainability Guidelines* (includes guidance on green meetings and the use of sustainable service providers), at www.calbar.ca.gov/state/calbar/calbar_generic.jsp?cid=10145&n=93041
- (6) Massachusetts State Bar Association *Lawyers Eco-Challenge* (includes guidance on environmentally conscious purchases), at www.massbar.org/about-the-mba/initiatives/lawyers-eco-challenge
- (7) The Greater Philadelphia Green Business Commitment—Tenant Checklist and Owner Checklist (Section III on Operations and Procurement), at www.phillygreenbiz.com/the-checklist
- (8) Environmental Defense Paper Calculator (quantifies the environmental benefits of various paper choices), at www.environmentaldefense.org/papercalculator/
- (9) Carbon content/ energy use for paper products, at www.environmentaldefense.org/documents/1618_WP3.pdf
- (10) US Department of Energy's Energy Star™ certification program for energy-efficient equipment, at www.energystar.gov/
- (11) Electronic Product Environmental Assessment Tool (EPEAT), at www.epeat.net/Criteria.aspx