

Greening Your Law Firm

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Going green is critical to address climate change, improve efficiency, cut expenses, and be positioned for the changes and stresses sure to come. Given our state's precarious position with regard to sea level rise and risk of hurricanes, coupled with the fact that the state-owned insurance company has significant exposure in the event of a hurricane, it is more critical than ever that the private sector and local government take responsibility for environmental impact of all operations. While the greening measures for law firms I have provided below may seem like small steps, they all add up. In addition, the green message is gaining strength and urgency. Businesses have responded strongly and the use of "green" marketing claims has expanded rapidly in recent years.

By adopting just one new sustainable behavior a month, your law firm can have a significant, positive environmental impact. Employees at all levels of a firm can facilitate greening their law firm.¹ In light of this, the American Bar Association and the Environmental Protection Agency have teamed up to create a Law Office Climate Challenge.² This program encourages law offices to cut down on paper use, conserve energy, and support the development of renewable energy by joining at least one of three EPA partnership programs, or by implementing best practices for office paper management, the use of renewable energy, and better energy management. The three partnership programs are WasteWise (best practices for waste reduction), Green Power Partnership (renewable energy options/buy carbon offsets), and ENERGY STAR[®] (adopt an energy management plan designed for law offices). The greening strategies in this article aid in satisfying the requirements for each of these programs and provide sustainable best practices for greening your law firm.

First Steps The most important step to greening your law firm is the creation of a realistic greening plan. To help you start, a sample greening plan is posted on the [Environmental and Land Use Section's website at http://eluls.org/green-law-firm](http://eluls.org/green-law-firm). At a minimum, your greening plan should include communication about existing initiatives with all employees, the development of a timetable for rolling out new initiatives in a realistic time frame (think baby steps), progress reports, and openness for re-evaluation when necessary. Marketing is a powerful motivator for embarking on a greening

plan and it is important to remember that the key to combating greenwashing is integrity. “Greenwashing” (or the act of misleading consumers regarding a company’s environmental practices) is discussed in detail in the next section of this article. Hence, keep in mind you need to be able to back up any greening claims by knowing your program and being able to verify and substantiate any marketing related to your greening program.

- *Develop a Green Plan* — A good greening plan has a core communication element: Identify at least one attorney and one staff member in each office who can explain any existing sustainability initiatives and act as greening champions for new initiatives. These individuals will spearhead new initiatives as they are rolled out. Next, it is key to begin office-wide communication with a survey of each office to identify what good actions your company is already taking for the environment: What is recycled? Are your shredding vendors recycling the shredded paper? Are you recycling your printer cartridges? What is your technology group’s policy on electronics disposal? Do you distribute all firm-wide communications (management reports, billing sheets, calendars, newsletters, promotional samples, etc.) electronically rather than by hardcopy? Once you obtain this information, communicate with your employees about those positive actions your firm is already taking for the environment. A great way to do this is by creating a section about your greening initiatives on the firm’s intranet or shared server, which explains existing and new policies/programs.
- *Employ the Three R’s: Reduce, Reuse, Recycle* — Reducing energy use is first on this list. Visit EnergyStar.gov to find resources about how to reduce energy consumption and design a plan for implementation. Identify a benchmark that works for you, then set a goal and evaluate your progress at regular intervals, at least annually. Law offices that reduce their energy usage by at least 10 percent, if they own their building, or their electricity usage if they are tenants, will be recognized as a law office climate challenge leader under the ABA/EPA’s ENERGY STAR[®] program. To this effect, encourage all employees to turn off lights and appliances when not used. This can also include the installation of motion sensors in the office that turn off lights when rooms are not in use. In law firms, or any business for that matter, there is often the concern of “face time,” or the concept of leaving lights on to give the appearance of staying late. This is a cultural shift that must be addressed internally. By eliminating the pressure of “face time,” the chances of employees implementing energy saving techniques increases. According to the EPA, commercial buildings account for 18 percent of the nation’s greenhouse-gas emissions. A good portion of the problem is caused by leaving lights on in vacant rooms — a habit shared by about 50 percent of us, according to surveys. Switch off the lights whenever leaving your workspace empty for more than 15 minutes, and especially when leaving for the day.

Another law firm culture shift, which only takes a moment, encourages employees to turn computers off. One caveat: Your IT department might want computers left on for nightly maintenance procedures; however, you could try to convince them to perform their backups during the day. Either way, set your machine to go into sleep mode after 15 minutes of inactivity. Every PC left on

continuously over the course of a year results in more than 1,000 extra pounds of greenhouse gases per computer.³ Additionally, plug infrequently used electronics into power strips with an on/off switch and make sure printers, scanners, shredders, etc., are turned off over night and especially over weekends and holidays. In homes alone, the total energy lost from phantom power — the electricity drawn even when products are turned off and in standby mode — adds up to an estimated 65 billion kilowatt-hours of electricity each year, sending 87 billion pounds of carbon dioxide into the atmosphere.⁴

Switch to low-energy lightbulbs and replace high-energy lightbulbs, fixtures, and equipment (look for ENERGY STAR[®], LED, and compact fluorescents). Be sure to check with property managers about what bulbs are being used and see if there is a more efficient alternative. If you must upgrade the firm's lighting equipment, there may be money available to help. Check with your local utility company for rebates, loans, or grants to enable you to transition to energy-efficient equipment. The Green Power Program also encourages organizations to calculate their energy use and then offset consumption at a various percentage. Consider purchasing renewable energy credits (REC) to offset your company's energy consumption. To encourage the adoption of these tips, sponsor office challenges to encourage sustainable use of resources to make going green fun.

Recycled content products are those manufactured with waste material recovered or diverted from the waste stream. Whenever possible, all paper products should contain a minimum of 30 percent post-consumer recycled content. Review your leases to identify recycling services that are to be provided in your common area maintenance (CAM) charges and take advantage of building-wide activities. Check your waste management contract to find your local recycling vendor.

Find innovative uses for excess inventory, such as outdated electronics, by partnering with local trade schools or recyclers, and ask employees to come up with ways to turn that waste into something useful. Involving employees increases buy in and awareness to aid in the overall

effectiveness of your greening.

- *Create a Green Procurement Policy* — Next up is a review of your company’s purchasing policy. Revising your purchasing policy to include products that are environmentally friendly is essential. A sample green procurement policy is posted on the Environmental and Land Use Law Section’s website at <http://eluls.org/green-law-firm>. These revisions aid in making company-wide decisions to include products that are good for the environment.

First, join EPA’s WasteWise Program for technical assistance and measurable data to track progress and maximize waste prevention activities. The best practice procedures include looking for “post-consumer waste” products, including stationery, packaging materials, paper towels, and other kitchen and bathroom supplies. This practice keeps waste from ending up in landfills. The market for nontoxic supplies has exploded, giving more affordable choices in items such as cleaning supplies, inks, and other materials. Next, identify materials for throw away products, such as plates and cutlery, that are made of materials that will quickly breakdown in a landfill, such as those made from cornstarch rather than plastic. With regard to office supplies, purchase paper, letterhead, and promotional materials with post-consumer recycled material. Consider printing letterhead with nontoxic ink, and add a tagline advertising the environmental aspects of the letterhead. Ultimately, it is critical to incorporate green thinking into the entire procurement process,⁵ so be creative and aware as you integrate green behavior into your procurement activities. Be wary and independently evaluate vendor green claims for greenwashing.

- *Change Your Relationship with Paper* — Saving paper saves your business money. A typical office disposes of about 350 pounds of wastepaper per employee per year.⁶ In order to satisfy the ABA/EPA's WasteWise Program requirements, your law office must adopt best practices for office paper management. Developing a paper plan is easier than one might think.

The following paper tips are simple to save paper and create green efficiency. Conduct more business online by transmitting documents, such as PDFs via email rather than by delivery service (but make sure you can easily strip metadata away). Do not print email messages. Put the words "Do not print this email unless you really need to" at the bottom of all emails. Print less and keep mailing lists current. Do not print more copies than you need or order extra copies on outside print jobs. Reuse what you can. Stock your fax machine with paper already printed on one side; reuse oversize envelopes and boxes; reuse one-sided "draft" paper in printers. As replacement is needed, reduce the number of printers purchased to save money, energy, and office space. Purchase units that print on both sides of a sheet of paper. Then set all computers and copiers to default to double-sided printing. Save and collect 8.5 by 11 inch paper that has been printed on one side, restack it neatly, designate a paper drawer on each printer (or as many printers as practical) for this paper, and use to print drafts. Adjust the house style on word processing programs to use a slightly smaller font and slightly wider margins.

While it is tempting to print out documents and edit on the fly, work on drafts electronically, using "edit" and "comment" word processing features. Even if you do not have a computer with you, most smart phones have editing abilities for documents. Email it to yourself and edit on the go. Cut down on the number of periodical subscriptions. Conduct a survey to see who subscribes to what, and then trim duplicates and work out a sharing system by circulating the table of contents for each periodical. Reduce the amount of received unwanted mail. To promote green habits and get your employees started, institute paper, can, glass, and plastic recycling. While cutting back on paper might seem like the obvious choice, it is often overlooked and a difficult change for busy individuals. Include the above policies in your greening plan early and encourage employees to implement them on an ongoing basis.

- *Maximize Your Office Space* — There are often unused green services provided in property leases. Encourage other tenants in your building to participate in your greening initiatives. If you are renovating or expanding an existing space or constructing a new office, ask your architect about green building options and installation of energy- and water-saving devices.

- *Calculate Your Carbon Footprint Calibration* — As part of the ABA/EPA Firm Green Power Partnership Program, you can purchase renewable energy credits (REC), which offset office energy use. To satisfy the Green Power Partnership and become a “Green Power Partner,” your firm must agree to purchase a minimum amount of megawatt hours of green power products, which are electric power products generated by certain types of new sources of renewable energy. There are a large number of carbon calculator websites that measure the greenhouse gas emissions associated with your energy use. Entergy is among these, allowing individuals and companies to determine their carbon footprint, and the link to the calculator can be found in the resources chart on the next page. Further, if you want to purchase carbon offsets, you can do it right on the website through Entergy’s Double Your Difference Program.
- *Extend Investment Policies to Sustainable Plans* — Impacting change as a corporation does not stop at developing and implementing programs that encourage employees to make positive changes and reform procurement programs. Corporations should also consider including sustainable fund choices in investment plans, e.g., Calvert Funds (www.calvert.com) or Green Century Funds (www.greencentury.com). Socially responsible investing (SRI) balances financial investments with a wide range of social issues.
- *Encourage Employees to Make Lifestyle Changes* — In addition to transforming corporate culture, lifestyle changes can be difficult to embrace. That said, each individual has a green impact and can make a difference by tweaking daily activities. As a law firm, you should encourage your employees to make these changes. Individuals should consider carpooling and use of mass transit to reduce fuel consumption and pollution. Law firms should also consider alternate work schedules and incorporate environmental activities into any office fitness plans that may be in place. Encourage employees to reuse rather than waste (i.e. have employees bring their own coffee cup and water bottles rather than using multiple Styrofoam[®] cups per day). To make this work, you may need to install dishwashing accommodations in each break room.

Avoid Greenwashing A common motivation in greening your law firm is to incorporate your greening efforts into your marketing strategy. In crafting your marketing, it is critical to be accurate in communicating your green initiatives. If you are not accurate, you risk greenwashing. While the word “greenwash” is a relatively new term, the concept is not.⁷ “Greenwash” or “greenwashing” is the “act of misleading consumers regarding the environmental practices of a company or the environmental benefits of a product or service.”⁸ The main problem with greenwashing is that it misleads consumers into buying products based on the erroneous belief that the products have some environmental benefit. When greening your law firm, there are actions you can take to ensure that you do not greenwash and are, in turn, not greenwashed as you implement your green procurement

policy.

- *Provide Clear and Accurate Information on Your Green Initiatives* — Avoid greenwashing by empirically demonstrating whether an initiative, product, or service is truly green. This is vital to justify your use of “green” in connection with your initiative, as well as create realistic expectations for your clients as to what benefits they can anticipate from a green product or service. Recognizing the importance of ensuring accurate information in the marketplace on carbon trading and the environmental impact of various products and services, the Federal Trade Commission (FTC) has undertaken a “green” initiative, including a review of the FTC’s Guides for the Use of Environmental Marketing Claims (Green Guides). Due to the proliferation of green claims in the marketplace, the FTC has initiated a formal review of the Green Guides, last updated in 1998; the updated Green Guides were expected in 2011, but have not yet been issued.⁹ The FTC’s authority with respect to environmental marketing claims is derived from §5 of the Federal Trade Commission Act,¹⁰ which prohibits unfair or deceptive acts or practices in or affecting commerce. If the FTC finds that an advertiser violated §5, then it will typically invoke its congressionally mandated authority and issue a cease and desist order to the violator.¹¹ It is, therefore, critical to be accurate when reporting your green initiatives.

In thinking of transparent ways of going green and marketing those initiatives, one simple way to impact the environment as a firm is through the purchase of carbon offset. A carbon offset represents a property interest in the right to claim responsibility for a quantity of greenhouse gas either removed from the atmosphere or the emission of which has been avoided. When a buyer purchases verified emissions reductions (VERs) to gain carbon-neutrality, the transaction can be clear and simple. For example, if I have 20 tons of 2011 emissions, in order to make myself carbon-neutral, I will purchase 20 VERs equal to one ton each. This works properly because VERs represent removals that have already occurred and have been third-party verified.¹²

In reporting your carbon offset, disclose your carbon-offset action as direct or indirect. There is a significant market value difference between investing in carbon reduction programs (indirect offset) and in implementing carbon reduction programs (direct offset). Restrict certain market claims to direct carbon offset actions. Terms like “carbon negative” and “carbon zero” are strong claims to imply that the manufacturing of a particular product did not impact the environment in terms of carbon production. These terms should be reserved for companies that are taking direct action to reduce their carbon generation. Specific actions like investing in reforestation, RECs, and other actions should be fully disclosed because consumers may value these actions differently.¹³ Lastly, make sure your RECs are registered in a REC registry. Purchasing RECs as an action to offset carbon generation needs to be accountable. Problems with purchasing ambiguities, double counting, and other issues must be carefully controlled to maintain consumer confidence in RECs used as a credible carbon offset action.

Ultimately, prior to discussing green actions, ensure the use of correct terms. Words such as “green” and “sustainable,” while understood to refer to environmental impact, are used to

describe a diverse range of products and services. There is potential for consumer confusion regarding the manner in which these terms are used (for example, whether they are intended to refer to discrete attributes of a product or to a product in its entirety). This confusion has recently led to a rise in lawsuits in which companies are sued for making false eco-friendly statements about their products. With an already litigious society, allegations of greenwashing may become a litigation lightning rod. Recent cases include *Koh v. S.C. Johnson & Son, Inc.*, No. CV 09-00927 (N.D. Cal. Mar. 2, 2009), *Paduano v. American Honda Motor Co., Inc.*, 169 Cal. App. 4th 1453 (Cal. App. 4th Dist. 2009), and *Sanderson Farms, Inc v. Tyson Foods, Inc.*, 547 F. Supp. 2d 491 (Dist. Md. 2008).

- *Be Cautious of Green Packaging Claims* — Be leery of claims of “green” packaging in procurement. Consumer products have packaging and advertisements that evoke environmentally friendly imagery even though there has been no attempt to lower the environmental impact of its production. For example, a bottle of wine displays on its label a seal recognized to stand for the certification of renewable energy, without explanation. The paper on which the label is printed was milled in a facility using renewable energy; however, both the wine and the bottle were manufactured using nonrenewable energy. Display of the certification seal on the label of the wine bottle may mislead consumers who may interpret the seal as a claim that the product itself was manufactured with renewable energy.¹⁴ Many companies continue to use very vague language, such as “sustainable,” “recyclable,” or “safer.” In the absence of a specific explanation, these terms are likely to mislead consumers. Be aware of labels and ensure what you are purchasing as a firm is what you intend to buy.

Conclusion Greening your law firm is an ongoing process, and there is no magic wand to wave to make your organization green. Greening is an ongoing commitment that requires continuous support and several stages of implementation. With any change that requires behavioral cooperation, there must be consistent education and reminders about expected actions with even simple activities like recycling paper and turning off the lights when not in your office. This article contains multiple suggestions and best practices to incorporate into your firm greening plan, do not be overwhelmed with the volume of steps. You do not need to do everything at once. As my neighbor in her mid-90s constantly reminds me, “little by little” is the way to incorporate lasting and meaningful change in our operations.

A short checklist to get you started and a few useful resource links to find more information follows.

- 1) Develop a Greening Plan.
- 2) Create a Green Procurement Policy.
- 3) Employ the Three R's: Reduce, Reuse, Recycle.
- 4) Change Your Relationship with Paper.

- 5) Maximize Your Office Space.
- 6) Calculate Your Carbon Footprint and Purchase Carbon Offsets.
- 7) Extend Investment Policies to Sustainable Plans.
- 8) Encourage Employees to Make Lifestyle Changes.
- 9) Avoid Greenwashing. **Entergy's "Make an Impact" Carbon Emissions Calculato**

¹ Nicole Kibert, *Combating Green Fatigue*, Tampa Bay Bus. J., Oct. 10, 2008 (referenced throughout this article). ² American Bar Association, *The ABA-EPA Law Office Climate Challenge* ³ Ecobites, *How to Green the Office* ⁴ Union of Concerned Scientists, *Are Energy Vampires in Your Home?* ⁵ See [Sample Green Procurement Policy](#), ⁶ [Natural Resources Defense Council, Reducing Paper Use](#), ⁷ See Wendy Priesnitz, *Greenwash: When the Green Is Just Veneer*, Natural Life (May 1, 2008). ⁸ Terrachoice Env'tl. Mktg, [The Seven Sins of Greenwashing: Environmental Claims in North American Consumer Markets](#). ⁹ See [FTC, Proposed Revisions to Green Guides](#). ¹⁰ 15 U.S.C. §45. ¹¹ *Id.* ¹² In purchasing carbon offset, be aware that some brokers sell offsets which are only promises of future results. These broker promises are based upon a forecast of expected future reductions. A buyer of future-offsets is paying now for a promised delivery over some future period. ¹³ See *id.* ¹⁴ See, e.g., [FTC, Public Comments, Guides for the Use of Environmental Marketing Claims; The Green Guides and Packaging: Public Workshop](#).

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