

Current Bar Association Activities Relating to Climate Change as discussed at June 17, 2016 Summit

This document organizes by category and jurisdiction the activities reported by attendees at the June 17, 2016 Bar Association Leaders Climate Change Summit. It records activities reported at the Summit in presentations and in response to participants' questions and comments. The categories of activities it presents are: (1) Education; (2) Promoting Sustainable Practices, (3) Networks and Networking, (4) Advocacy, and (5) Challenges.

Participants in the Summit (and contributors who could not attend) included:

Midori Akamine, Hawaii State Bar Ass'n	John Beling, Boston Bar Ass'n
Lorrie B. Benson, Nebraska State Bar Ass'n	Maura E. Blau, New Jersey State Bar Ass'n
Darren Carnell, Washington State Bar Ass'n	Todd A. Coomes, Delaware Bar Ass'n
Douglas Dagan, NRDC	Kimberly E. Diamond, ABA RADER Committee
Liz Edmondson, Kentucky Bar Ass'n	Pamela Esterman, Sive, Paget & Riesel
Richard H. Friedman, Pennsylvania Bar Ass'n	Michael B. Gerrard, Columbia Law School
Justin Gundlach, Columbia Law School	Steve Harvey, A Call to the Bar
J. Kevin Healy, New York State & City Bar Ass'ns	Diane Henkels, Oregon State Bar Sustainable Future Section
Carl Howard, EPA	Stuart D. Kaplow, Maryland State Bar Ass'n
Michael Mahoney, New York City Bar Ass'n	Ann McQuesten, Oregon Bar Ass'n
Catherine V. Pagano, Women's Bar Ass'n of DC	R. Allan Payne, Montana Bar Ass'n
Virginia Robbins, New York State Bar Ass'n	Patricia F. Sharkey, Illinois State Bar Ass'n
Martin R. Siegel, Pennsylvania Bar Ass'n	Michelle Slater, Oregon State Bar Sustainable Future Section
Randy Strobo, Kentucky Bar Ass'n	Roya Vasseghi, DC Women's Bar Ass'n

1. Education: publications, programming

1.1 Publications: newsletters

American Bar Association (ABA) Section of Environment, Energy, and Resources (SEER) Renewable, Alternative, and Distributed Energy Resources (RADER) Committee

The RADER Committee has published a newsletter since 2012:

<http://apps.americanbar.org/dch/comadd.cfm?com=NR252300&pg=2>

D.C. Women's Bar Association (WBA)

The WBA's online publication is 'Raising the Bar.' It is not yet open to non-members but may be in the future: <http://www.wbadc.org/newsletter>

Maryland Bar Association

Members of the association attempted publication of a newsletter on energy and environmental law, but found that it was too controversial.

Oregon State Bar Sustainable Future Section ("SFS" or "OSB SFS")

The Oregon State Bar OBA's Sustainable Future Section's newsletter, "The Long View," has been published several times each year since 2012. Over that time, it has received contributions from 30-40 authors who are located across the country. Each issue, produced approximately quarterly, is distributed electronically to members of the Sustainable Future Section. and the Natural Resource Section. Though it is written primarily for lawyers, the editors try to draft it with law students and law firm staff, and other interested persons, in mind. It is freely available online:

<https://osbsustainablefuture.org/the-long-view-archives/home/section-newsletter/>.

Pennsylvania Bar Association

The Environmental and Energy Law Section publishes an (approximately) quarterly Newsletter with articles and case highlights, including items relating to Sustainability issues. The current edition of the Newsletter is available to everyone via a link on the PBA website and back issues are available to Section members. Here is a link:

<http://www.pabar.org/public/sections/ENV10/pubs/newsletters/nlettersample.asp>.

1.1 Publications: research

ABA Final Report of the American Bar Association's Task Force on Sustainable Development (2015).

ABA RADER Committee

Annual national writing competition for law students. Winning papers on energy topics are published and authors receive cash prizes.

New York State Bar Association

New York State Bar Association Task Force on Global Warming, Taking Action on Climate Change (2009).

Oregon State Bar Sustainable Future Section

Oregon State Bar Sustainable Future Section Climate Change Task Force Final Report (2016).

1.2 Programming

ABA RADER Committee

The Committee holds 9–10 webinars per year. It has collaborated with the American Council on Renewable Energy and Bloomberg New Energy Finance on a renewable energy finance series.

D.C. WBA

The WBA’s Energy and Environmental Law Forum hosts 5–6 events per year, charging \$20 per event. The events are open to public. Examples have included: panels on renewable energy and careers in energy law, educational happy hours, and program on climate-related insurance. The insurance program was especially popular. These events are generally not CLEs, but added that young lawyers are particularly interested in learning how to start a sustainability-oriented career.

Hawaii Bar Association Natural Resources Section

Recent CLE and other events include “Coping with Decreased Water Supplies,” “Legislative Measures that Will Affect Hawaii's Statewide Land Use and Planning System,” and “Climate Change Litigation and Policy in Hawaii.”

Kentucky Bar Association

The Environment, Energy, and Resources Section organizes 1 or 2 CLEs per year about issues relevant to lawyers in the state. This past year, the annual Earth Day CLE discussed the Clean Power Plan—it was the first time the Section had addressed climate change. Bipartisan opposition to the CPP was evident at the event.

Maryland Bar Association

Two types of program have been especially successful: PACE and green building. Property Assessed Clean Energy (PACE) financing programs exist in many states;

programs about Maryland's program draw both attorneys and lenders, making them useful to participants not only for educational but also for networking/business reasons. Green building programs, held for CLE and otherwise, are heavily attended even though registration fees are steep. This might owe to the stringency of Maryland and DC building/efficiency codes.

NYC Bar Association

The NCYBA co-sponsored a conference in March to begin figuring out how to support and provide legal content for NYC's "Raising Awareness on Climate Change" effort. Attendees included NGOs, religious institutions, businesses, lawyers, and others. Some conference participants were especially interested in marketing as a tool for climate education and empowerment. The NYC Bar is interested in "hitching wagons" to the city's efforts to align work being done in multiple sectors behind this common goal.

Oregon State Bar SFS

SFS does several CLEs on sustainability-related topics each year. SFS often presents issues pertaining to sustainability together with other substantive legal issues in order both to draw a broader audience as well as to ensure the programs will be approved for CLE credit. CLE events regularly cover sustainability related state legislation. The SFS also hosts film screenings, study groups, and other non-CLE events and community activities.

2. Promoting Sustainable Practices: operations, awards, certifications

2.1 Operations

New York State Bar Association

The NYSBA's Pollution Prevention (P2) Committee has in the past encouraged sustainable practices at meeting venues by requesting lengthy tours and interviews with facilities and events staff to discuss their operations. Topics covered on those tours include restaurant operation, grounds maintenance, laundry services, etc. Tours generally take about an hour. It is unclear what impact this has had on hotel practices, but at a minimum it makes staff aware of potential source of cost savings and PR.

The USGBC Green Buildings Venue Selection Guide may be useful in choosing green conference spaces in the future. That Guide is available for download here: www.usgbc.org/resources/green-venue-selection-guide.

Oregon State Bar SFS

Efforts are underway to reduce energy consumption and paper use by the Oregon State Bar's headquarters. This would build on the successful 40% reduction of paper use from 2009 to 2010. Interest and support of the Bar's CFO in the cost savings aspect of sustainability measures has been critical to moving proposals forward.

2.2 Awards*Oregon State Bar SFS*

The SFS gives an annual Sustainable Law Office award to the law firm or office that submits the winning application for a given year's sustainability theme demonstrating leadership in sustainability. Themes have included sustainability efforts generally, innovative efforts to reduce carbon footprints, efforts to go paperless, composting, and transportation. An average of 3 to 7 firms apply each year for the award. The winning firm receives a newsletter feature, an advertisement in the Oregon State Bar monthly publication, and a write-up of their practices. The awards help promote good practices and emissions reductions. The SFS has learned that buy-in from firm management is important (i.e., SFS now requires sign-off of law firm management on the award application) and that the award must be kept competitive and desirable, even if that means encouraging firms to apply or extending the deadline.

Pennsylvania Bar Association

The Pennsylvania Bar Association Environmental and Energy Law Section periodically offers a PLUS (Pennsylvania Lawyers United for Sustainability) Award to a law firm evidencing superior efforts in adopting sustainability measures in its practice. In addition, annually new PLUS participants are recognized with a plaque for their participation. These recognitions and awards are part of the Pennsylvania Bar Institute's annual 2-day Environmental Law Forum ("ELF") and the EELS annual meeting that takes place on the first evening of the ELF.

2.3 Certifications*Oregon State Bar SFS*

SFS created and maintains the Oregon State Bar Partners in Sustainability Program, which recognizes Oregon law offices that certify adherence to specifically identified criteria, updated biennially, to reduce the energy, resources, and toxic chemicals required to operate the office.

Pennsylvania Bar Association

Since 2010 the Pennsylvania Bar Association has offered a voluntary self-certification sustainability program for law firms, administered by PBA's Environmental and Energy Law Section. The Pennsylvania Lawyers United for Sustainability (PLUS) Program, provides Pennsylvania attorneys and law firms an opportunity to demonstrate publicly their commitment to environmental sustainability in their professional practices. The PLUS Program consists of guidelines offering suggestions and providing specific examples to program participants on how to make their law practices more sustainable. The guidelines cover five separate areas: (1) energy savings, (2) paper reduction, (3) recycling and waste reduction, (4) transportation and (5) sustainable purchasing. The PLUS Program is voluntary and self-monitored. Participating attorneys and law firms are asked to complete a pledge form indicating their commitment to implementing the PLUS Program guidelines into their practice. Initiatives such as the PLUS Program can strengthen the reputation of attorneys and law offices, and help them increase their efficiency, productivity and employee recruitment and retention. Here is a link to the program: <http://www.pabar.org/public/sections/ENV10/plusprogram.asp>.

3. Partnerships, Networks, and Networking*ABA RADER Committee*

The Committee recently collaborated with American Council on Renewable Energy and Bloomberg New Energy Finance on a renewable energy finance series.

D.C. WBA

The WBA has recently made particular efforts to reach out to women in government relations. The D.C. WBA's Environment Section has also cosponsored some events with the D.C. Bar's Environment Section.

NYCBA

In March 2016, the NYCBA sponsored Opportunities to Raise Public Awareness about Climate Change and the Need for Action, a conference intended to synthesize ideas from academia, business, legal profession, NGOs, etc. on climate change education and marketing.

4. Advocacy*ABA RADER Committee*

Committee members receive regular requests from members of Congress and others seeking neutral information from experts about issues relating to renewable energy,

e.g., integrating wind energy into electric grid operations despite its variability. Currently, there is no readily accessible and searchable database of publications produced by the Committee or its members. Suggestions for addressing this absence ranged from creating an improved search function in the existing ABA-based website to creating a freestanding database.

ABA SEER has indicated a willingness to create an email list-serve to facilitate cross-section communications.

Maryland Bar Association

Although the Maryland Environment and Energy Section does not take an official stance on climate change and related issues to avoid intra-section “philosophical wars,” the section acts informally to support and shepherd legislative measures through that are both good for sustainability and for clients’ businesses. The adoption of tighter building and energy efficiency code provisions are characteristic examples. Importantly, success in this regard builds on advocacy efforts *not* being public.

Oregon State Bar SFS

Coordinated efforts by interested Oregon State Bar members and others in 2008 persuaded the Board of Governors of the Oregon State Bar to appoint 14 lawyers to a Task Force on Sustainability. The Task Force’s report included several key recommendations, two of which the Board of Governors adopted in 2009: (1) adoption of a Sustainability Bylaw (now OSB Bylaw 26); and (2) authorization to form the OSB Sustainable Future Section, which now has about 275 members.

In 2015, the SFS commissioned a Climate Change Task Force made up of SFS members which has recommended that the legal profession should advocate for sustainable policies such as carbon pricing, as well as a state constitutional amendment to support standing for climate change-related lawsuits.

Pennsylvania Bar Association

The Pennsylvania Bar Association adopted a Resolution proposed by the Environmental and Energy Law Section for Government Action on Climate Change.

5. Challenges: disputes over climate science, regional differences

5.1 Disputes over climate science

In Delaware, Kentucky, Maryland, Montana, Pennsylvania, and even the ABA, climate change is a politically sensitive issue. Many members’ clients oppose climate change-related

regulation for business or ideological reasons (or both). This in turn prevents bar association members from taking a position, lest they be speaking contrary to the interests of some members' clients. Several participants noted that many bar association members would like their associations to take a position. In Pennsylvania, the association has taken a position on climate change. However, as of yet, there has been no further progress on the action.

In Kentucky, this sensitivity extends beyond climate issues to anything that might affect the coal industry—for instance, the state adopted a PACE program but called it a program for Energy Project Assessment Districts or “EPAD” because that titled did not include the term “clean energy.”

In New Jersey, many lawyers are uninterested in climate change and do not see how it could be relevant to their legal practice, chiefly because they think of climate action as relating only to global mitigation, and not to local adaptation efforts. Similarly, many lawyers in Pennsylvania do not understand the impact and opportunities related to climate change and their practice.

5.2 Regional differences

Oregon

Most Sustainable Future Section members are concentrated around Portland. Reaching out to more rural parts of the state has proved difficult and the SFS continues to look for ways to include members from outside Portland metro area in the SFS Executive Committee.