

Lawyers Have a Critical Role to Play in Growth of a Green Economy

By Sblend Sblendorio

I have been a green lawyer for 16 months. Skeptical of the "greening" trend at first, I soon realized the opportunities that lie before our country, our children and our practices. We lawyers will be instrumental in our country's efforts to limit our carbon footprint, to become energy independent, to preserve our natural resources and to nurture our economy.

Here's why every lawyer should be a green lawyer.

Most news outlets are giving plenty of column inches and airtime to scary environmental catastrophes that are certain to befall America. I did not believe them much at first because I figured that scary conclusions should be supported by scary facts, and the news outlets initially were short on facts. And while I didn't actively go looking for scary data about our environment, I was surprised to discover relevant information in the business books I read and in my community's weekly paper, of all places. I also was educated by my friends, clients

and business colleagues.

So, just what do the stats reveal about our environment? Global warming is a fact, and we're causing it. Both the scientific community and the business community now overwhelmingly accept this proposition. The steadfast doubters — and I used to be one of them — consist of about half of our politicians and most of us layfolk.

Scientists have measured the amount of carbon dioxide on earth going back 670,000 years by analyzing ice core samples. Over those 670,000 years, the average temperature has had a variation of six degrees centigrade.

More importantly, the concentration of carbon dioxide in our atmosphere has varied between 180 and 300 parts per million. For the last 10,000 years, our atmosphere has held steady at about 280 parts per million of carbon dioxide.

Beginning around 1750 A.D., however, the carbon dioxide concentration began rising. Today, the concentration stands at 384 parts per million — far exceeding the maximum variation over the last 670,000 years.

There is one simple explanation: our use of carbon fuel — coal, oil and natural gas — to produce energy. The world is changing more rapidly than at any time in history due to human activity.

Government will react with rules. Lawyers will write the rules, interpret the rules and change the rules. We lawyers must recognize, acknowledge and embrace our duty and responsibility.

About 40 percent of America's carbon emissions and greenhouse gases come from structures like houses, offices and manufacturing plants. Another 30 percent result from transportation. Almost 70 percent of energy in the U.S. comes from carbon fuel burning.

In other words, about half of America's greenhouse emissions result solely from our living our lives dependent upon an energy source that cannot be sustained. At some point, it simply will become

too expensive to rely upon carbon if we are to grow America's economy.

Perhaps because I work in a major center of innovation — the San Francisco Bay Area — or perhaps because I am an optimist, I have no doubt that Americans will continue to develop and refine sustainable energy sources.

This can only happen, however, if the development of sustainable energy sources is nurtured and allowed to become competitive. With innovation and support, sustainable energy technologies will relieve our over-dependence on oil and coal. Lawyers are already playing a critical role in this process by advising the innovators and structuring and documenting the deals, and our involvement will only grow.

We've all heard about the massive deforestation in the Amazon and in Southeast Asia. We regularly hear the cries to stop this exploitation of our natural resources because of the acceleration of species extinction and increased carbon dioxide emissions.

But my concerns about our misuse of our natural resources stem from the loss of biodiversity. I see examples of that loss of biodiversity almost every day around my house.

I was lucky enough to grow up on a fruit ranch. A few years ago, my wife and I planted a commercial vineyard, at great effort and expense. I thought I knew what I was in for, but nothing prepared me for the deer and the devastating damage they can cause. Up until about 15 years ago, I would see a deer only once in a while. Now, we need eight-foot steel fences to keep them out.

What happened to their natural predators? We now shoot and/or relocate mountain lions, their natural predators. Mother Nature provides a certain balance and it behooves us to respect that balance.

So, what does this have to do with lawyers and the practice of law? While some might be tempted to draw an analogy comparing lawyers to the mountain lions, my plea is that we respect the balance of nature in our practices to the extent

Reprinted with the permission of Daily Journal Corp. (2009)



possible.

For example, why do we continue to file paper pleadings when the technology for e-filing has long existed? Why do we continue to build large private offices, when smaller, greener, more ergonomically friendly spaces will better serve us? Why do we continue to jump in a car or plane and travel to court appearances when telephone appearance and videoconference technology is readily available in this, the center of innovation?

Lawyers have a critical role to play in the growth of the country's green economy. Like in the mercantile economy, the industrial economy and the information economy that have come before it, in the green economy new technologies will displace the old. There will be rapid advancements and innovations. Fortunes will be made and lost.

To be sure, it will be an American-led green economy. Our universities remain unparalleled. The best and the brightest still strive to cross our borders and take advantage of the rich resources available in the United States.

Notwithstanding the last year, our management of investment risk in new technologies remains our best bet for developing sustainable energy solutions.

Old rules will be broken and new rules made, and we lawyers will be dead center in the green economy. With new rules comes confusion. With innovation comes chaos. With revolution comes adaptation.

We do not have the option of not acting. I take a very pragmatic to approach with naysayers. If we act now to solve our carbon, energy, resource and economic problems, we'll have a far more sustainable environment and economy in which our children will flourish. Whether or not you are comfortable calling yourself a "green lawyer" today, I predict that very soon you'll discover that you actually are one. Take it from one who knows.

Sblend Sblendorio is a shareholder and co-chair of the green building and technology group at Hoge Fenton Jones & Appel in Pleasanton. His practice focuses on finance and real estate.

Daily Journal

Charles T. Munger
Chairman of the Board
J. P. Guerin
Vice Chairman of the Board

Gerald L. Salzman
Publisher / Editor-in-Chief
Robert E. Work
Publisher (1950-1986)

David Houston
Editor

Alexia Garamfalvi
San Francisco Editor

Sara Libby
Legal Editor

Liz Enochs
Associate Editor
San Francisco

Christian Berthelsen
Associate Editor
Los Angeles

Sarah Garvey
Associate Editor
Los Angeles

Evelyn Larrubia
Associate Editor
Los Angeles

Aris Davoudian, Designer

Los Angeles Staff Writers

Pat Alston, Amanda Becker, Rebecca U. Cho, Mindy Farabee, Gabe Friedman, Evan George, Sandra Hernandez, Catherine Ho, Greg Katz, Ciaran McEvoy, Susan McRae, Jean-Luc Renault

San Francisco Staff Writers

Rebecca Beyer, Laura Ernde, Dhyana Levy, Sara Randazzo, Jill Redhage, John Roemer, Fiona Smith, Amy Yarbrough

Bureau Staff Writers

Craig Anderson, San Jose, Jason W. Armstrong, Riverside, Matthew Pordum, Sacramento, Pat Broderick, San Diego, Don J. DeBenedictis, Santa Ana, Lawrence Hurley, Robert Iafolla, Washington D.C.

Robert Levins, S. Todd Rogers, Photographers
Lisa Kestenbaum, Editorial Assistant

Rulings Service

Sharon Liang, Rulings Editor
Kenneth Hsu, Verdicts and Settlements Editor
Linda Choi, Seena Nikravan, Legal Writers

Advertising

Audrey L. Miller, Corporate Display Advertising Director
Monica Smith, Los Angeles Account Manager

Joel Hale, Michelle Kenyon, San Francisco Account Managers
Usman Baporla, Jesse Rios, Display Advertising Coordinators
Nikki Delucchi, San Francisco Administrative Coordinator

Art Department

Kathy Cullen, Art Director

The Daily Journal is a member of the Newspaper Association of America, California Newspaper Publishers Association, National Newspaper Association and Associated Press