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Climate change in the air at many large law firms in Austin

Austin Business Journal - by Jean Kwon and Ford Gunter

The Texas law firm of Gardere Wynne Sewell LLP is feeling the winds of climate change.

The firm has officially dedicated 10 percent of its 300-lawyer staff to a newly formed Climate Change Task Force.

While Gardere lawyers have been dealing with climate change issues for the past couple of years, there is now an official body where attorneys can bounce ideas off each other in hopes of presenting clients the best possible advice.

Responding to climate change is normal duty -- the issue was [formal] integration," says Richard Faulk, chair of the firm's litigation department and unofficial head of the task force.

Heightened public awareness of climate change -- accentuated by election season -- has boosted the need for environmental legal advice in a variety of fields, such as litigation, securities, intellectual property and commodities trading of carbon credits -- a completely under-regulated and "completely misunderstood" industry, says Faulk.

That the firm's interest is green, but not necessarily environmental, is indicative of a brave new world in which climate change, environmentalism and alternative energy have become big businesses.

"We're not out to save the planet or change the world," Faulk says. "We're not out to do anything other than help the clients we have right now."

And Gardere Wynne is not alone. Vinson & Elkins LLP began a 41-person Climate Change Practice Group in June. Fulbright & Jaworski LLP has a 70-person climate change practice. Baker Botts' climate practice group has four or five key members, and about 15 across the firm's offices worldwide.

The climate law business is booming domestically, especially since the U.S. Supreme Court in April reversed the Environmental Protection Agency's decision not to regulate greenhouse gas emissions.

"After the Supreme Court decision, carbon is now an air pollutant," says Steve McMillen, an attorney in Baker Botts' climate protection group in Austin.

Carbon doesn't pay

Key among clients' interests is reducing carbon emissions, even as the country currently lacks the regulatory frame-work, say lawyers.

"Some businesses have begun to engage in emissions reductions from a [public relations] perspective ... to position themselves favorably in the consumer's mind, because of the increased perception that global warming and climate change is a problem," says Darrick Eugene, an Austin-based attorney in V&E's Climate Change Practice Group.

Dozens of federal and state legislative bills that control carbon emissions are pending, says Eugene, and companies are eager to be kept apprised of those proposals.

Moreover, domestic companies have to interface with international firms that must comply with their own country's regulations, or face carbon taxes. And increasingly, domestic companies engage in voluntary emissions reduction efforts to "position themselves as good corporate citizens," says Eugene.

Companies can certainly have a competitive advantage by preparing early for carbon emissions regulations, says Eugene.

Eugene is general counsel to the Texas Carbon Capture and Storage Association, one of the country's few authorities in the area. Carbon capture and storage is the practice of trapping carbon emissions and pumping them into subsurface formations in the ground, either to replenish oil reserves or to sequester them in perpetuity. Texas is the first state to have a statewide association devoted to carbon capture and storage.

Carbon capture and storage is a 30-year old practice in Texas, but it has been aimed at enhancing oil recovery: The carbon dioxide floods mostly depleted oil and gas reservoirs to expand production by 5 to 15 percent. Simply storing carbon dioxide -- in saline aquifers, coal seams or the bottom of the ocean -- is not yet economically viable, due to the unproven nature of the capture technology on a large scale, says Eugene

"How companies are going to choose to respond ... within the scope of what may or may not happen with regards to climate change is a business issue," says Eugene.

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