Advised Emissions

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Law firms provide indispensable services to the fossil fuel industry and other greenhouse gas (GHG)-emitting industries. No pipeline, no coal-fired power plant could be constructed or operate without law firms advising on project finance, permitting, litigation, and more. But law firms' integral role in advising GHG-emitting projects is overlooked in existing GHG emissions accounting and disclosures. The law firms that currently disclose their emissions include emissions from their offices and work travel but fail to account for their advised emissions: the GHG emissions associated with projects and matters on which they advise. This stands in contrast to other professional service provider industries that already have efforts to quantify the GHG emissions they facilitate. Financial institutions, for example, already have an industry-wide standard to quantify and disclose the GHG emissions associated with their financial activities.

But law firms are facing increasing pressure to address their role in climate change and consider their advised emissions. Some legal professional bodies outside the United States have already recognized advised emissions and some law firms have begun developing a methodology to quantify advised emissions. This Article applies theories of corporate GHG emissions disclosures to understand the motivations for the legal industry to quantify and disclose advised emissions. It then considers how an emerging advised emissions framework interacts with the lawyer's role as a public citizen and ethical principles in the legal profession. It explores how advised emissions disclosures could align with the lawyer's role as a public citizen, increasing

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transparency and helping the bar regulate itself in the public interest. It further identifies how an advised emissions framework does not wholly conflict with existing principles of neutrality and non-accountability but may prompt us to reflect on these principles in a time of climate crisis. This Article then provides initial considerations for a methodology for quantifying advised emissions. It further considers how bar association resolutions, updates to the Greenhouse Gas Protocol standards, and California's mandatory disclosure regime could shape advised emissions disclosures. Lawyers and law firms should be aware of this emerging landscape and prepared for the possibility of an advised emissions framework in the near future.

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INTRODUCTION

At first glance, lawyers and law firms may seem disconnected from the greenhouse gas (GHG) emissions causing climate change.[1] Their offices consume electricity and they travel for work, but they are not drilling for oil or constructing new coal-fired power plants. Examining a law firm's client roster, however, tells a different story. Law firms take on extensive litigation, transactional, and lobbying work for the fossil fuel industry and other GHG-emitting industries. The top 100 law firms in the United States, the Vault 100, advised over $2 trillion in fossil fuel transactions from 2020 to 2024 alone.[2] Without legal services, GHG-emitting projects would not be financed, constructed, permitted, or continue to operate. In addition to these essential services, elite law firms in particular may lend credibility to and mitigate risks for fossil fuel projects, which may help ensure they are planned and financed in the first place.[3]

Despite this crucial role, the legal industry lacks transparency about the GHG emissions law firms facilitate through work on client matters—their *advised emissions*.[4] To date, no law firm has

1. Beyond the fossil fuel industry, many other industries and sectors contribute to global GHG emissions: cement production, industrial processes, agriculture, land use change, and landfills, among others. *See generally* U.S. ENV'T PROT. AGENCY, INVENTORY OF U.S. GREENHOUSE GAS EMISSIONS AND SINKS: 1990-2022 (2024) (listing sources of GHG emissions).

2. L. STUDENTS FOR CLIMATE ACCOUNTABILITY, 2025 CLIMATE SCORECARD 17-18 (2025), https://www.ls4ca.org/s/LSCA_2025_CLIMATE_SCORECARD-3.pdf [https://perma.cc/4FRK-PP9D]. For a list of the Vault 100 firms as of 2026, *see Vault Law 100*, VAULT, https://vault.com/best-companies-to-work-for/law/top-100-law-firms-rankings [https://perma.cc/4KUV-PP54] (last visited Jan. 2, 2026).

3. *See* John Flood, *Lawyers as Sanctifiers: The Role of Elite Law Firms in International Business Transactions*, 14 IND. J. GLOB. LEGAL STUD. 35, 38-40 (2007) (describing "law firms' roles in international business transactions through the management of uncertainty and stabilization of expectations").

4. *Impact of Climate Change on Solicitors*, THE LAW SOC'Y (Apr. 19, 2023), https://www.lawsociety.org.uk/topics/climate-change/impact-of-climate-change-on-solicitors [https://perma.cc/5GQN-4YMR] [hereinafter *Law Society Guidance*] (defining advised emissions as "emissions associated with matters on which [lawyers] advise"); *see also* MATTHEW GINGELL, OXYGEN HOUSE, MEASURING 'ADVISED EMISSIONS,' 5 (2023), https://legalsustainabilityalliance.com/wp-content/uploads/2023/09/Measuring-Advised-Emissions-final-200923.pdf [https://perma.cc/4JMZ-E5YU] (similarly defining advised emissions as "indirect greenhouse gas emissions resulting from the advice and services provided by law firms to their clients"). This Article uses the term "advised emissions." Advised emissions have also been called "serviced emissions," "Scope X," or "Scope 4" emissions. *See* OXFORD NET ZERO & UN RACE TO ZERO, PROFESSIONAL SERVICE PROVIDERS: CONSULTATION ON DRAFT GUIDING PRINCIPLES FOR SERVICED EMISSIONS 4 (2023) (using term "serviced emissions" to apply to indirect GHG emissions resulting from

quantified and disclosed their advised emissions. The law firms that quantify their GHG emissions focus on their offices' energy use, business travel, and purchased goods, among other sources.[5] But these calculations fail to account for law firms' main contribution to GHG emissions and climate change: the legal services they provide to clients on GHG-emitting projects and matters. These services include advising on the financing, development, and continued operation of fossil fuel infrastructure.[6] Law firms "pollute very little themselves," but they "do much to aid and abet the emissions of others."[7] This climate

service provided across multiple sectors, including law); Eric Roston, *Lawyers and Publicists Need Their Own Emissions Category–Call It Scope X*, BLOOMBERG (Dec. 8, 2020, at 03:00 PT), https://www.bloomberg.com/news/articles/2020-12-08/lawyers-and-publicists-need-their-own-emissions-category-call-it-scope-x (using term "Scope X" emissions); Natalie Runyon, *Could "Scope 4" Emissions Reporting Be on the Horizon?*, REUTERS (June 10, 2024), https://www.thomsonreuters.com/en-us/posts/esg/scope-4-emissions-reporting/ [https://perma.cc/F3SQ-YSK9] (describing advised emissions as part of "Scope 4" emissions).

5. *See, e.g.*, FRESHFIELDS LLP, FRESHFIELDS SECR CARBON FOOTPRINT REPORT (2025), https://www.freshfields.com/globalassets/about-us/rb/reports/freshfields-secr-carbon-footprint-report-2024-2025.pdf [https://perma.cc/PD78-PVLE] (verification statement from a law firm reporting their Scope 1, 2, and 3 GHG emissions under the United Kingdom's Streamlined Energy & Carbon Reporting for May 2024 to April 2025); *Carbon Reporting for Law Firms: The View from the Top 50 Law Firms Survey*, S&W (May 23, 2023), https://www.swgroup.com/insights-events/insights/carbon-reporting-for-law-firms-the-view-from-the-top-50-law-firms-survey [https://perma.cc/J2ZT-EVUC]; *see also LSA Working Groups*, LEGAL SUSTAINABILITY ALL., https://legalsustainabilityalliance.com/lsa-working-groups/ [https://perma.cc/VW9B-U6FH] (last visited Feb. 7, 2026) (describing sustainability efforts around law firms' business travel and procurement); THE LAW., EMISSIONS TRACKER REPORT 2025 (2025), https://www.thelawyer.com/mda/report/emissions-tracker-report-2025/ (compiling GHG emissions data for the top 75 law firms in the United Kingdom by revenue); LEGAL SUSTAINABILITY ALL., ANNUAL REPORT 2018, at 13, 27 (2018) (reporting GHG emissions from over 50 firms, including emissions from air travel, electricity, onsite combustion, and vehicle travel, among other sources).

6. *See Law Society Guidance*, supra note 4 (describing how "[f]or lawyers, the most significant GHG emissions associated with your organisation are likely to be emissions associated with the matters upon which they advise [advised emissions], rather than scope one-to-three emissions"); *see also* UN RACE TO ZERO, CATALYSING CLIMATE ACTION: THE ROLE OF PROFESSIONAL SERVICE PROVIDERS IN REALIZING A NET-ZERO FUTURE 9 (2024) ("Serviced Emissions are likely to be the main type of GHG emissions associated with" professional service providers, including law firms); L. STUDENTS FOR CLIMATE ACCOUNTABILITY, *supra* note 2, at 7-11.

7. *See* Roston, *supra* note 4. This reflects that law firms have limited Scope 1 and Scope 2 emissions. Scope 1 emissions are produced directly by the organization operating what it owns or controls (machinery, etc.) while Scope 2 emissions are emissions from the energy the organization buys—purchased electricity, heating, steam, or cooling. *See* Simon Read & Ian Shine, *You've Probably Heard of Scope 1, 2 and 3 Emissions, but What Are Scope 4 Emissions?*, WORLD ECON. F. (Sept. 20, 2022), https://www.weforum.org/agenda/2022/09/scope-

transparency gap[8] has raised the question of whether existing disclosures accurately account for the legal industry's GHG emissions and climate impacts.[9]

Other professional service provider industries already have protocols or other efforts to quantify the GHG emissions they facilitate. Advised emissions are one type of "serviced emissions," or GHG emissions "arising from or impacted by client activities that are informed or enabled by the advice or services of a professional service provider."[10] Financial institutions, for

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emissions-climate-greenhouse-business/ [https://perma.cc/98K9-MKHD]; *see also Scope 1 and Scope 2 Inventory Guidance*, EPA CTR. FOR CORP. CLIMATE LEADERSHIP, https://www.epa.gov/climateleadership/scope-1-and-scope-2-inventory-guidance [https://perma.cc/Q7UU-HHFT] (last visited July 25, 2025) (describing Scope 1 and 2).

8. The author notes that lack of transparency in the legal industry extends well beyond the climate change and GHG emissions context. *See* Nora Freeman Engstrom, *Sunlight and Settlement Mills*, 86 N.Y.U. L. REV. 805, 843, 846-68 (2011) (describing lack of transparency in high-volume accident compensation practices and proposing measures for greater transparency); Nora Freeman Engstrom & Brianne Holland-Stergar, *Competition and Contingency Fees*, 114 GEO. L.J. (forthcoming 2026) (manuscript at 18-25) (describing that the "market for legal services is marked by a near total absence of objective information bearing on provider quality," including lack of transparency on contingency fees and settlement outcomes by a given attorney); Milan Markovic & Nuno Garoupa, *Legal Market Decartelization*, 58 U.C. DAVIS L. REV. 2233, 2256 n.94 (2025) (describing lack of transparency around the cost of legal services); Jabeen Adawi, *Changing Every Wrong Door into the Right One: Reforming Legal Services Intake to Empower Clients*, 29 GEO. J. POVERTY L. & POL'Y 361, 361, 384-88 (2022) (describing lack of transparency on whether a law firm will accept a case and how they screen cases); Robert Barrington, Guy Beringer & Georgia Garrod, *Competing Rights, Colliding Ethics: Reconciling Client Acceptance, State Capture and the Concept of a Public Profession*, 27 LEGAL ETHICS 1, 2, 10 (2025) (describing lack of transparency on law firms' processes for selection of potential clients suspected of laundering money in connection to authoritarian regimes).

9. *See* GREENHOUSE GAS PROTOCOL, CORPORATE VALUE CHAIN (SCOPE 3) ACCOUNTING AND REPORTING STANDARD 4 (2013) [hereinafter GHG PROTOCOL, SCOPE 3 STANDARD], https://ghgprotocol.org/sites/default/files/standards/Corporate-Value-Chain-Accounting-Reporing-Standard_041613_2.pdf [https://perma.cc/G43L-MZ5T] (describing the purpose of the Greenhouse Gas Protocol Scope 3 Emissions Reporting Standard as to "help companies prepare a true and fair scope 3 GHG inventory"); ALEXIS MCGIVERN ET AL., WHY AND HOW TO INCLUDE 'SERVICED EMISSIONS' IN THE UPDATED GREENHOUSE GAS PROTOCOL 3-4 (2026), https://netzeroclimate.org/wp-content/uploads/2026/03/Why-and-How-to-Include-Serviced-Emissions-in-the-updated-GG-Protocol-_0.pdf [https://perma.cc/SVB5-XQR7] (arguing for including advised emissions and other serviced emissions in the Greenhouse Gas Protocol Scope 3 standard to ensure "the production of 'true and fair' emissions inventories" (quoting GREENHOUSE GAS PROTOCOL, A CORPORATE ACCOUNTING AND REPORTING STANDARD 3 (2004) [hereinafter CORPORATE ACCOUNTING STANDARD])).

10. *What Are Serviced Emissions?*, OXFORD NET ZERO, https://netzeroclimate.org/research/serviced-emissions-in-depth/ [https://perma.cc/X6KP-X8SA] (last visited Feb. 5, 2026); UN RACE TO ZERO, *supra* note 6, at 7; *see Serviced Emissions: Placing Professional Services at the Heart of Net Zero*, UNIV. OF

example, have begun to quantify and disclose the emissions associated with their financial activities. Over 700 financial institutions have committed to such disclosures through the Partnership for Carbon Accounting Financials (PCAF).[11] PCAF signatories include prominent financial institutions like Bank of America and Morgan Stanley.[12] Law firms, like financial institutions, provide crucial services to GHG-emitting projects. Will the legal industry soon have a comparable effort?

There appears to be growing momentum for an advised emissions framework in the legal industry, as lawyers face increased pressure around their role in climate change. In 2023, the Law Society of England and Wales ("Law Society"), the professional body for solicitors, released guidance recognizing advised emissions.[13] The guidance references that law firms may consider identifying, measuring, and reducing their advised emissions.[14] It states that law firms may "consider[] whether it is consistent . . . to advise on certain matters that the firm decides are incompatible with its climate change commitments."[15] The guidance explicitly acknowledges that "[s]ome solicitors may also choose to decline to advise on matters that are incompatible with the 1.5°C goal, or for clients actively working against that goal if it conflicts with [their] values or . . . firm's stated objectives."[16] Many multinational law firms have offices in England, indicating the potential for global influence of this guidance.[17]

OXFORD SMITH SCHOOL OF ENTERPRISE & ENV'T (Oct. 29, 2024), https://www.smithschool.ox.ac.uk/news/serviced-emissions-placing-professional-services-heart-net-zero [https://perma.cc/5R4R-WAEK].

11. *Signatories Taking Action: Overview of Financial Institutions*, PCAF: PARTNERSHIP FOR CARBON ACCOUNTING FINANCIALS, https://carbonaccountingfinancials.com/en/signatories [https://perma.cc/5V9F-MFRD] (last visited Apr. 20, 2026) (listing over 700 PCAF signatories). Purpose Disruptors, an organization in the advertising sector, has been developing a methodology for measuring advertised emissions—serviced emissions from advertising companies. *See What Are Advertised Emissions?*, PURPOSE DISRUPTORS, https://www.purposedisruptors.org/what-are-advertised-emissions [https://perma.cc/8D8E-MJKR] (last visited Apr. 20, 2026).

12. PCAF, *supra* note 11.

13. *Law Society Guidance*, supra note 4.

14. *Id.*

15. *Id.*

16. *Id.*

17. *Compare* Staci Zaretsky, *The 2025 UK Top 50: The Richest Biglaw Firms Across the Pond*, ABOVE THE LAW (June 13, 2025, at 11:30 PT), https://abovethelaw.com/2025/06/the-2025-uk-top-50-the-richest-biglaw-firms-across-the-pond [https://perma.cc/4PBR-J9TL],

Some law firms have taken a proactive approach to advised emissions. Seventeen firms—including Dentons, Freshfields, and Hogan Lovells—have joined a group called Legal Charter 1.5, which has a working group on quantifying advised emissions.[18] DLA Piper indicated in their 2022/23 Sustainability Report that developing an advised emissions methodology and incorporating it into client and matter onboarding was a "next priorit[y]" for the firm's sustainability work.[19]

The Article begins from this premise: the concept of advised emissions is gaining traction and the legal industry—in the United States and internationally—should be prepared for the possibility of an advised emissions framework in the coming years.[20] Assuming an emerging advised emissions framework, what would it mean for the legal industry? How would an advised emissions framework interact with principles of the legal profession and the lawyer's role as a public citizen? How would we begin to approach advised emissions quantification and what are the possible pathways for disclosure? This Article is the first in the literature to tackle these questions in detail while providing a theoretical understanding of the legal industry's motivations to disclose advised emissions.[21]

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with VAULT, *supra* note 2 (indicating top United Kingdom law firms—such as Linklaters, Kirkland & Ellis, Clifford Chance, and Freshfields—are also top 100 U.S. law firms).

18. LEGAL CHARTER 1.5, https://legalcharter1point5.com/ [https://perma.cc/85AL-S9A9] (last visited July 25, 2025).

19. DLA PIPER INTERNATIONAL, SUSTAINABILITY REPORT 2022/2023: IMPACT SUMMARY REPORT 7-8, 12 (2023).

20. Operating from this framing, this Article does not claim to fully address every argument for and against implementing an advised emissions framework at all. The author anticipates future works and debates on this question and hopes this paper can provide grounding for those debates.

21. Authors Tracy Hester, Matthew Gingell, and Camila Bustos have provided the most thorough treatment of advised emissions to date. *See generally* Tracy Hester, *Can Counselors Be Complicit?*, 41 ENV'T F. 38 (2024) (providing an overview of advised emissions and explaining possible ethical issues); GINGELL, *supra* note 4 (describing considerations for measuring advised emissions); Camila Bustos, *The Role of Lawyers and Law Firms*, *in* THE OXFORD HANDBOOK OF CLIMATE CHANGE AND PRIVATE LAW (Douglas Kysar & Ernest Lim eds., forthcoming 2026) (manuscript at 3, 10-11) (on file with author) (describing how law firms can meaningfully advance climate action through advised emissions quantification). Other articles in the academic literature have described advised emissions as an emerging topic. *See, e.g.*, John C. Dernbach, Irma S. Russell & Matthew Bogoshian, *The Lawyer's Duty of Competence in a Climate-Imperiled World*, 92 UMKC L. REV. 859, 885 n.166 (2024) (mentioning that the Law Society adopted guidance on "advised emissions" in 2023); Haley Czarnek, *In Case of Emergency, Break Glass: Legal Ethics and the Climate Crisis*, 17 CHARLESTON L. REV. 603, 614 (2023). Much of the analysis and discussion of advised emissions so far has appeared in op-eds and short articles. *See, e.g.*, David Hunter & Phillippa Holland, *Advised Emissions: Towards a Climate-Aware Advisory Ecosystem*, BATES WELLS (Oct. 26, 2023),

This Article proceeds in five parts. Part I describes the role of law firms in advising and facilitating GHG emissions and charts the recent push for climate change transparency as a response to increasing awareness of this role. Part II considers the legal industry as a corporate industry facing similar GHG emissions disclosure pressures as other corporate industries. This Part applies legitimacy, stakeholder, economic, and institutional theories of corporate GHG emissions disclosures to explain why the legal industry may adopt advised emissions disclosures. It further examines how different actors in the legal industry may motivate advised emissions disclosures.

Part III explores how an advised emissions framework interacts with the lawyer's public citizen role and ethical principles of the legal profession,[22] contributing to the emerging literature on legal ethics in a time of climate crisis.[23] It first identifies how greater climate change transparency could animate the lawyer's often-neglected public citizen role. It then analyzes how an advised emissions framework does not require a complete overhaul of neutrality and non-accountability principles. But it may inspire further debate about how these principles should apply, especially in the context of civil representation of corporate, GHG-emitting clients in a time of climate crisis. As an initial matter, this Part assumes that—with careful tailoring—firm-level advised emissions disclosures and even reductions could be implemented without violating any binding state rules of professional conduct.[24]

Part IV outlines initial methodological considerations for

https://bateswells.co.uk/updates/advised-emissions-towards-a-climate-aware-advisory-ecosystem/ [https://perma.cc/84Q5-SPYD]; David Hunter, *COP28: Advised Emissions – Will Lawyers Be Heroes or Villains?*, THE LAW. (Nov. 30, 2023), https://www.thelawyer.com/cop28-advised-emissions-will-lawyers-be-heroes-or-villains/ [https://perma.cc/G59C-8X3D]; Amanda Carpenter & Sophia Adams Bhatti, *Advised Emissions: The Role of Law Firms, and Professional Services, in Reducing Emissions*, *in* EXPERT ESSENTIALS (Sam De Silva et al. eds., 2025).

22. This Article focuses on principles of neutrality and non-accountability in the legal profession. *See generally* TIM DARE, THE COUNSEL OF ROGUES (2009) (describing the development of the standard conception in the United States and other jurisdictions).

23. *See* Czarnek, *supra* note 21, at 604; Camila Bustos, *Representing Climate Wreckers*, 33 N.Y.U. ENV'T L.J. 157, 166, 179, 227 (2025); UCL LAWS, *UCL Laws Inaugural Lecture: Professor Steven Vaughan - The Unethical Environmental Lawyer* (YouTube, Oct. 13, 2022), https://www.youtube.com/watch?v=40sug_7uKN8.

24. Future articles or white papers could analyze in detail how to implement advised emissions disclosures in line with state bar rules of professional conduct. For example, advised emissions could be disclosed at a sufficient level of generality—e.g., one aggregate number for the firm—to avoid violating confidentiality rules.

quantifying advised emissions and identifies tiers of priority for matters to include in the methodology. A methodology could start by quantifying advised emissions for legal services on matters that are most clearly indispensable to the construction and operation of GHG-emitting projects—what this Article calls "Tier 1" matters. This would include, for example, project finance and permitting. This Article does not claim to fully map the landscape of all legal work that could produce advised emissions but serves as a starting point. Assuming an emerging advised emissions framework, this Part calls for an expert working group to develop a global, industry-wide, rigorous methodology for advised emissions quantification and an independent non-profit to oversee advised emissions disclosures and methodology updates.

Part V considers potential pathways for advised emissions disclosures in the near term. It anticipates that voluntary disclosures would likely occur first and considers how bar association resolutions and revisions to the global Greenhouse Gas (GHG) Protocol standards could support disclosure. It further considers whether advised emissions could be included in mandatory disclosures under California law. It then reflects on how an advised emissions framework interacts with anti-environmental, social, and governance (ESG) sentiments in the United States, pointing out continued international interest in quantifying advised emissions. More broadly, this Part reflects on how a possible advised emissions framework may reshape the legal industry in the future, including through advised emissions reductions and shifts in employment patterns and client retention.

As the call for an advised emissions framework grows louder, the legal industry will need to respond. If we ignore advised emissions, we leave the legal industry underprepared for the future. As the International Bar Association identified,

> [B]ars need to be aware of such developments so that they can contribute to the debate in preparation for the future. The alternative is that, when the moment arrives, bars will have to accept frameworks for their members for measuring indirect climate impact, to which they have not contributed and which may not be suitable for the legal profession.[25]

25. INT'L BAR ASS'N, BAR ISSUES COMM'N INT'L TRADE IN LEGAL SERVS. COMM., LEGAL SERVICES AND CLIMATE CHANGE 3 (2021), https://www.ibanet.org/Legal-services-and-climate-change-paper [https://perma.cc/Q7FT-SNBS].

I. THE EMERGENCE OF ADVISED EMISSIONS

This Part begins by outlining the integral role of law firms in facilitating GHG emissions, underscoring why it may be meaningful to measure and consider advised emissions. This Part then traces how the concept of advised emissions has emerged and gained traction and recognition in the past five years. It situates the emergence of this concept in the broader movement for climate accountability and transparency in the legal industry. Since 2020, law students, lawyers, legal professional bodies, and other groups in the legal industry have increased their scrutiny on the role of lawyers and law firms in climate change.

A. *Lawyers and GHG Emissions*

We are in the midst of a climate crisis. In 2022, the Intergovernmental Panel on Climate Change (IPCC) said, "[i]t's now or never, if we want to limit global warming to 1.5°C . . . [w]ithout immediate and deep emissions reductions across all sectors, it will be impossible."[26] Climate change is largely driven by the combustion of fossil fuels—for electricity and heat, industrial uses, and transportation.[27] Lawyers play a crucial role in supporting fossil fuel and other GHG-emitting projects, including project financing and other transactions, permitting, litigation to ensure the projects continue to operate, and lobbying for a favorable regulatory environment.[28] Law firms rarely discuss the toll on

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26. Press Release, Intergovernmental Panel on Climate Change, The Evidence Is Clear: The Time for Action Is Now. We Can Halve Emissions by 2030. (Apr. 4, 2022), https://www.ipcc.ch/2022/04/04/ipcc-ar6-wgiii-pressrelease/ [https://perma.cc/NLY4-XBG7].

27. *See Global Greenhouse Gas Overview*, U.S. ENV'T PROT. AGENCY (Dec. 30, 2025), https://www.epa.gov/ghgemissions/global-greenhouse-gas-overview [https://perma.cc/J8AJ-EVPW] (showing approximately 79 percent of global GHG emissions in 2019 came from electricity and heat, industry, transportation, and buildings' onsite energy generation, while the remaining emissions came from agriculture, forestry, and land use change).

28. *See, e.g.*, L. STUDENTS FOR CLIMATE ACCOUNTABILITY, THE 2020 LAW FIRM CLIMATE CHANGE SCORECARD 13-16 (2020) (detailing the role of at least eight Vault 100 law firms in lobbying, transactions, and litigation supporting the Dakota Access pipeline); Czarnek, *supra* note 21, at 604; Jasmine Elliott & Boudewijn de Bruin, *Corporate Lawyers and Climate Change: Perspectives from Professional Ethics and Business and Human Rights*, *in* BUSINESS AND HUMAN RIGHTS: EMERGING CHALLENGES, ISSUES, AND TRENDS 57-59 (Andreas R. Ziegler et al. eds., 2024) (describing the impact of corporate lawyers on climate change including through lobbying, legislation, and litigation); Eric R. Boot, *Climate Change and Complicit Lawyers*, 29 J. ETHICS 1, 2 (2025).

humans and the earth downstream from complex transactions and legal filings surrounding fossil fuel infrastructure development.[29] The purpose of this Subpart is to make the abstract more concrete by tracing the role of law firms in the expansion of a single GHG-emitting project: the Tanjung Jati-B coal-fired power plant.[30]

In Central Java, Indonesia, the Tanjung Jati-B coal-fired power plant has operated since 2006, despite community protests about the health and environmental impacts of the plant.[31] In 2015, a Greenpeace report estimated that this individual plant is responsible for 1,020 premature deaths per year from stroke, heart disease, lung cancer, chronic respiratory ailments, and acute respiratory infections.[32] In addition to pollution impacts from the plant, the people living around Tanjung Jati-B are vulnerable to climate change impacts driven by fossil fuel combustion, including heatwaves, rising sea levels, tidal and coastal flooding, and severe weather.[33]

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29. For more information on the human toll of climate change, *see, e.g.*, Ruma Bhargava & Megha Bhargava, *The Climate Crisis Disproportionately Hits the Poor. How Can We Protect Them?*, WORLD ECON. F. (Jan. 13, 2023), https://www.weforum.org/agenda/2023/01/climate-crisis-poor-davos2023/ [https://perma.cc/VDM5-TR68] (describing how by 2050 climate change may displace over 200 million people and drive up to 130 million people into poverty); Victor B. Flatt, *Disclosing the Danger: State Attorney Ethics Rules Meet Climate Change*, 2020 UTAH L. REV. 569, 594 (2020) (identifying sources estimating 400,000 climate change-related deaths every year); *Reports on Human Rights and Climate Change*, U.N. OFF. OF THE HIGH COMM'R ON HUM. RTS., https://www.ohchr.org/en/climate-change/reports-human-rights-and-climate-change (last visited Apr. 20, 2026).

30. This project is one of many: the Vault 100 law firms advised close to 2,500 fossil fuel transactions from 2020 to 2024. L. STUDENTS FOR CLIMATE ACCOUNTABILITY, *supra* note 2, at 11. This Subpart also aims to tie local environmental injustices to gaps in GHG emissions accounting, in this case, lack of advised emissions accounting. *See generally* Leehi Yona, *Climate Injustice, Off the Books*, UCLA L. REV. (forthcoming 2026) (describing the climate justice implications of emissions accounting).

31. *Tanjung Jati-B 2 (TJB2) Coal Power Plant*, BANKTRACK (Feb. 1, 2023), https://www.banktrack.org/project/tjb2 [https://perma.cc/4637-C2PQ]; Isabel Esterman, *Japanese, Singaporean Banks Finance Controversial Indonesian Coal Plant*, MONGABAY (Mar. 6, 2017), https://news.mongabay.com/2017/03/japanese-singaporean-banks-finance-controversial-indonesian-coal-plant/ [https://perma.cc/79DQ-B77L]; Zamzami, *Thousands of Anti-Coal Activists March in Jakarta, Deliver Complaints to Anti-Graft Agency*, MONGABAY (Mar. 29, 2017), https://news.mongabay.com/2017/03/thousands-of-anti-coal-activists-march-in-jakarta-deliver-complaints-to-anti-graft-agency/ [https://perma.cc/P8PD-GLGH].

32. GREENPEACE, HUMAN COST OF COAL POWER 21 (2015), https://www.greenpeace.org/static/planet4-indonesia-stateless/2019/02/676f10e5-676f10e5-full-report-human-cost-of-coal-power.pdf [https://perma.cc/L3XY-3769].

33. *See* Margaretha Quina & Mae Manupipatpong, *Indonesian Human Rights Commission's First Human Rights Complaint on the Impacts of Climate Change*, CLIMATE L. (Nov.

In 2017, Bhumi Jati Power and financial backers announced that Tanjung Jati-B would be nearly doubling its capacity through construction of two additional coal-fired units (Units 5 and 6).[34] Despite local community pushback to the coal plant since its inception, these additional units were constructed and achieved commercial operation in 2022.[35] These units are slated to operate for at least 25 years, even in light of the need for a near-term energy transition away from fossil fuels, and coal in particular.[36] According to a 2023 report by the Energy Transitions Commission, in order to meet the targets of the Paris Agreement to limit global warming to 1.5°C above pre-industrial levels, coal use must fall by at least 15 to 30 percent by 2030.[37] In 2021, the year before Units 5 and 6 began operation, the International Energy Agency published a report that there should be "no further final investment decisions for new unabated coal plants" if the world is to reach net-zero emissions by 2050.[38]

22, 2022), https://blogs.law.columbia.edu/climatechange/2022/11/22/guest-commentary-indonesian-human-rights-commissions-first-human-rights-complaint-on-the-impacts-of-climate-change/ [https://perma.cc/M3F4-LN9T] (describing how "[f]armers from Java and Lombok . . . struggle with climate-related impacts such as drought, extreme rainfall, and pest infestations that have destroyed their harvests and threatened their livelihoods"); Dita Alangkara & Victoria Milko, *Climate Migration: Floods Displace Villagers in Indonesia*, AP NEWS (Oct. 5, 2022, at 20:42 PT), https://apnews.com/article/floods-indonesia-jakarta-java-climate-and-environment-f969ed935e8c2ca18992682ed5a36674 [https://perma.cc/J8LE-8DWS] (describing persistent flooding and sea level rise across Java); Lisa-Michéle Bott et al., *Land Subsidence in Jakarta and Semarang Bay–The Relationship Between Physical Processes, Risk Perception, and Household Adaptation*, 211 OCEAN & COASTAL MGMT. 1 (2021).

34. *Project Finance for Re-expansion of Tanjung Jati B Coal-Fired Power Plant in Indonesia*, JAPAN BANK FOR INT'L COOP. (Feb. 27, 2017), https://www.jbic.go.jp/en/information/press/press-2016/0227-53953.html [https://perma.cc/FV6K-PUW2]; *Project Profile*, BHUMI JATI POWER, https://www.bhumi-jati.co.id/project-profile/project-description.html [https://perma.cc/GD6P-DCZH] (last visited Feb. 6, 2026).

35. *Tanjung Jati B 5&6 Thermal Power Project*, KANSAI ELECTRIC POWER, https://www.kepco.co.jp/english/corporate/info/international/generate/tanjung-jati-b.html [https://perma.cc/KVG9-EMYQ] (last visited July 25, 2025); *Announcement of New President Director*, BHUMI JATI POWER (Apr. 18, 2023), https://www.bhumi-jati.co.id/news/news-detail/announcement-of-new-president-director.html [https://perma.cc/MK25-52UK] (announcing achievement of commercial operation of Tanjung Jati B Units 5 and 6 in September 2022).

36. *See* KANSAI ELECTRIC POWER, *supra* note 35.

37. *New Report: The ETC Calls for a Rapid Phase-Down of Fossil Fuel Demand and Supply*, ENERGY TRANSITIONS COMM'N (Nov. 16, 2023), https://www.energy-transitions.org/new-report-fossil-fuels-in-transition [https://perma.cc/T2WX-NAXB].

38. Press Release, IEA, Pathway to Critical and Formidable Goal of Net-Zero Emissions by 2050 Is Narrow but Brings Huge Benefits, According to IEA Special Report

In their Singapore and Hong Kong offices, far from the Tanjung Jati-B coal-fired power plant and rising sea levels of Central Java, the law firm Latham & Watkins hosts their "Indonesia Practice."[39] Latham & Watkins, along with Allen & Overy and Milbank, advised on the project finance for the expansion of the Tanjung Jati-B coal-fired power plant.[40] The value of the project financing was approximately $4.19 billion USD, and these firms presumably earned substantial revenue by providing legal services for the project financing.[41] Project finance was essential to the expansion of the Tanjung Jati-B plant—the creation of Units 5 and 6 would not have happened without it—and these firms' legal advising was, in turn, integral to securing that project finance.

Law firms shepherd fossil fuel and GHG-emitting projects at every step in their journey from idea to commercial operation.[42] As in the Tanjung Jati-B example, it is not uncommon for multiple law firms to advise on a single step of the process, such as project finance alone.[43] Beyond individual projects, law firms also play a

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(May 18, 2021), https://www.iea.org/news/pathway-to-critical-and-formidable-goal-of-net-zero-emissions-by-2050-is-narrow-but-brings-huge-benefits [https://perma.cc/9BF6-HJBB].

39. *People*, LATHAM & WATKINS, https://www.lw.com/people#sort=%40peoplerankbytitle%20ascending%3B%40peoplelastname%20ascending&f:@peoplepractices=[Indonesia%20Practice] [https://perma.cc/U2F5-9ALR] (last visited Apr. 20, 2026) (filtering on "Indonesia Practice"); *see Richard B. Fleming*, LATHAM & WATKINS, https://www.lw.com/en/people/richard-fleming [https://perma.cc/8384-HG48] (last visited Apr. 20, 2026); *Stephen P. McWilliams*, LATHAM & WATKINS, https://www.lw.com/en/people/stephen-mcwilliams [https://perma.cc/QKQ5-242M] (last visited Apr. 20, 2026) (identifying Latham & Watkins attorneys participating in project finance of Tanjung Jati-B expansion for Units 5 and 6); *see also* Steven Vaughan & Emma Oakley, *'Gorilla Exceptions' and the Ethically Apathetic Corporate Lawyer*, 19 LEGAL ETHICS 50, 61 (2016) (describing corporate lawyers' "geographical distancing" from their work).

40. IJGLOBAL, https://www.ijglobal.com/data [https://perma.cc/Q97Z-H64U] (author using downloaded data to identify three law firms advising on the project finance); *see also Tanjung Jati B Units 5 & 6 – TJB2 (2,000MW)*, MARKET FORCES, https://www.marketforces.org.au/research/indonesia/tanjung-jati-b-unit-5-6-expansion-tjb2/ [https://perma.cc/5TEW-VYXA] (last visited Feb. 6, 2026) (identifying Latham & Watkins as legal adviser on the financing); *Allen & Overy Advises on USD4.2 Billion Project Financing for Indonesian Power Plant Expansion*, LEGALMONITOR (May 30, 2017), https://www.legal-monitor.com/news/allen-overy-advises-usd42-billion-project-financing-indonesian-power-plant-expansion [https://perma.cc/G9ZE-R8TS] (identifying Allen & Overy advising on project financing for project).

41. LEGALMONITOR, *supra* note 40. The author has found no information to indicate this project was pro bono work.

42. *See* L. STUDENTS FOR CLIMATE ACCOUNTABILITY, *supra* note 28.

43. *See* STEPHEN GILLERS, REGULATION OF LAWYERS 433 (11th ed. 2018) (describing

broader role, advocating for fossil fuel interests in legislative and regulatory settings and providing strategic advice.[44] Elite law firms in particular may also increase industry and investor confidence with their stamp of approval, leveraging their status and reputation to "verify the *bona fides*" of major fossil fuel projects.[45] These firms "aim to establish certainty and stabilize expectations," to shore up a fossil fuel project that may otherwise be seen as too risky to finance, insure, or build.[46] The Tanjung Jati-B expansion is one example among thousands of fossil fuel transactions that law firms have advised on and profited from in recent years.[47]

B. *The Emergence of Advised Emissions*

Despite the integral role of lawyers in facilitating GHG emissions, there has only recently been sustained research, discourse, and activism around this role.[48] The concept of advised emissions has emerged in the past five years in the wake of this increased scrutiny on the role of lawyers in the climate crisis.[49]

In recent years, law students have pushed for greater climate transparency and accountability from law firms. In 2020, law students at Harvard, Yale, NYU, Michigan, and Stanford protested Paul, Weiss recruiting events under the #DropExxon slogan, demanding that the firm drop ExxonMobil as a client.[50] Over 600

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that for major U.S. companies "it is nearly impossible to engage in any but the simplest transactions without expert legal advice, usually from a team of lawyers, each with her or his own specialty").

44. *See* David Nersessian, *Business Lawyers as Worldwide Moral Gatekeepers? Legal Ethics and Human Rights in Global Corporate Practice*, 28 GEO. J. LEGAL ETHICS 1135, 1145 (2015).

45. Flood, *supra* note 3, at 37, 57 (describing the law firm Freshfields' role in shoring up uncertainty in the Sakhalin Island oil and gas project).

46. *Id.* at 57.

47. According to Law Students for Climate Accountability, the Vault 100 law firms advised on almost 2,500 fossil fuel transactions from 2020 to 2024 alone. L. STUDENTS FOR CLIMATE ACCOUNTABILITY, *supra* note 2, at 11; *see* W. BRADLEY WENDEL, CANCELING LAWYERS: CASE STUDIES OF ACCOUNTABILITY, TOLERATION, AND REGRET 138 (2024) (describing how "companies that produce fossil fuels enjoy record profits and the lawyers who represent them are awash in revenue" even as climate change impacts intensify).

48. *See* Hester, *supra* note 21, at 38-39.

49. The author could not find mention of "advised emissions" prior to 2022. *See* DLA PIPER, SUSTAINABILITY REPORT 2021/2022, at 50, 75 (2022) (one of earliest mentions of advised emissions). However, an article from 2020 described the concept as Scope X emissions. Roston, *supra* note 4.

50. *See* WENDEL, *supra* note 47, at 135-37 (describing emergence of Law Students for Climate Accountability and student-led protests against Paul, Weiss for ExxonMobil representation); #DROPEXXON, https://dropexxon.weebly.com/

students signed a pledge to boycott Paul, Weiss until the firm ceased representation of ExxonMobil.[51] The protestors at Harvard Law School said:

> We . . . will not work for you as long as you work for ExxonMobil. Our future is on fire, and you are fanning the flames. If you want to recruit us, then drop Exxon and join us in fighting for a livable future.[52]

This demand and the wave of protests at elite law schools reflect increasing student awareness of the role of law firms in the climate crisis.[53]

After this initial wave of protests, students at Yale Law School formed Law Students for Climate Accountability ("LSCA") to "activate and mobilize the power of law students to transform the legal industry's role from exacerbating climate injustice to meaningfully supporting a just transition."[54] Students involved in the #DropExxon protests suspected that Paul, Weiss was not the only law firm profiting from representing the likes of Exxon and Chevron, but there was no study on the role of law firms in the climate crisis. In response, LSCA published the Law Firm Climate Change Scorecard ("LSCA Scorecard") in October 2020. The LSCA Scorecard, which LSCA has released every year since with updated methodology, was the first to evaluate Vault 100 law firms "according to how much fossil fuels work they have engaged in," including litigation, transactions, and lobbying.[55] This was the first

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[https://perma.cc/3NMK-BMMQ] (last visited July 27, 2025). For examples of Paul, Weiss' work for ExxonMobil, *see, e.g.*, *ExxonMobil Prevails in Landmark $1.6 Billion Trial over Climate Change Disclosures*, PAUL, WEISS (Dec. 10, 2019), https://www.paulweiss.com/practices/litigation/litigation/news/exxonmobil-prevails-in-landmark-16-billion-trial-over-climate-change-disclosures?id=30337 [https://perma.cc/A6FW-JBBA].

51. *See* Patrick Smith, *Law Students Protest Outside Paul Weiss's New York Office over Firm's Exxon Representation*, AM. LAW. (Oct. 9, 2020, at 17:48 PT), https://www.law.com/americanlawyer/2020/10/09/law-students-protest-outside-paul-weisss-new-york-office-over-firms-exxon-representation/ [https://perma.cc/2HHB-ASLB].

52. Michelle G. Kurilla, *Harvard Law School Students Campaign for Law Firm Paul Weiss to Drop Representation of ExxonMobil*, THE HARV. CRIMSON (Jan. 17, 2020), https://www.thecrimson.com/article/2020/1/17/paul-weiss-hls-protest/ [https://perma.cc/BU2H-PQJS].

53. WENDEL, *supra* note 47, at 135-37.

54. *See* L. STUDENTS FOR CLIMATE ACCOUNTABILITY, https://www.ls4ca.org/ [https://perma.cc/5PDT-2KM2] (last visited Apr. 20, 2026). The author is one of the co-founders of LSCA.

55. *The Law Firm Climate Change Scorecard*, L. STUDENTS FOR CLIMATE ACCOUNTABILITY, https://www.ls4ca.org/scorecard [https://perma.cc/3FUK-WRZV]

effort to quantify the role of law firms in the climate crisis. But the LSCA Scorecard does not quantify the GHG emissions that law firms enable or evaluate firms on this metric.[56]

Beyond law student mobilization, law firms, lawyers, and legal professional bodies have increasingly recognized the role of legal services in driving climate change. A 2021 International Bar Association ("IBA") report recognized the lack of transparency on the legal industry's role in driving climate change. It described that there is "currently no way to quantify lawyers' responsibility for the damage they . . . cause indirectly to climate change," but "there is activist interest in developing such a system" and "[d]evelopments along these lines are not far-fetched."[57]

With growing international interest, the Law Society of England and Wales ("Law Society") released guidance on advised emissions in 2023.[58] The guidance acknowledges how advised emissions "are coming under increased scrutiny from some clients and stakeholders across a variety of sectors in the context of organisations' climate commitments."[59] It further states that engaging with advised emissions may "involve identifying and measuring such emissions and seeking to work with clients to promote the just transition, so these advised emissions reduce over time in a manner that is consistent with scientifically supported targets."[60] The guidance recognized not only advised emissions disclosures but also the possibility of advised emissions reductions: "[s]ome solicitors may also choose to decline to advise on matters that are incompatible with the 1.5°C goal, or for clients actively working against that goal if it conflicts with [the solicitor's] values or [a] firm's stated objectives."[61]

Since 2022, some law firms and organizations have been exploring advised emissions quantification. In 2023, a group of law firms, primarily based in or with offices in England, launched

(last visited July 25, 2025); *see* L. STUDENTS FOR CLIMATE ACCOUNTABILITY, *supra* note 2 (noting LSCA's methodological choices reflect data availability, as all data used in the Scorecard is publicly available or gathered in proprietary databases). *See id.* at 15.

56. *See* L. STUDENTS FOR CLIMATE ACCOUNTABILITY, *supra* note 2, at 15 (describing how the Scorecard is "unable to capture downstream emissions resulting from firms' advice").

57. INT'L BAR ASS'N, *supra* note 25, at 3.

58. *Law Society Guidance*, supra note 4.

59. *Id.*

60. *Id.*

61. *Id.*

"Legal Charter 1.5."[62] According to an initial charter document, the group "commit[s] to reducing [firms'] Scope 1, 2 and 3 emissions in line with Science Based Targets in a manner and timescales consistent with" the Paris Agreement target to limit warming to 1.5°C above pre-industrial levels.[63] It also commits to "support[ing] the development of a robust methodology to measure the impact of [legal] advice" on GHG emissions.[64] Legal Charter 1.5 has operationalized this commitment through an advised emissions methodology working group.[65]

From 2022 to 2024, the United Nations Race to Zero working group led a consultation on "serviced emissions" from professional service providers, recognizing the need for industry-specific methodologies for quantifying serviced emissions.[66] Serviced emissions are broader than advised emissions because they encompass a range of service providers—legal, advertising, and consulting services, among others.[67] The UN working group "urge[d] [service providers] to more holistically consider, measure and set targets for their downstream emissions, taking responsibility for emissions arising from their clients' business activities."[68] In October 2025, Oxford Net Zero at the University of Oxford launched a Serviced Emissions Hub to coordinate research and engagement on serviced emissions across industries, including the legal industry.[69] The Hub website explains, "[j]ust as banks and

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62. LEGAL CHARTER 1.5, *supra* note 18.

63. LEGAL CHARTER 1.5, LEGAL 1.5 CHARTER 1, 3 (2023), https://legalcharter1point5.com/wp-content/uploads/2023/04/Legal-Charter-1.5.pdf [https://perma.cc/K47S-PDNA].

64. *Id.*; *see The Legal Charter 1.5*, LEGAL CHARTER 1.5, https://legalcharter1point5.com/legal-charter-principles/ [https://perma.cc/GJC2-EMLJ] (last visited May 25, 2025); Neil Rose, *Big Firms to Assess Impact of Their Advice on Climate Change*, LEGALFUTURES (June 23, 2023), https://www.legalfutures.co.uk/latest-news/big-firms-to-assess-impact-of-their-advice-on-climate-change [https://perma.cc/NF6M-WPQG] (describing Legal Charter 1.5 launch in June 2023).

65. *See Collaborative Change: Our Role in the Legal Charter 1.5*, WATSON FARLEY & WILLIAMS (Dec. 8, 2025), https://www.wfw.com/firm-culture/rb-news/collaborative-change-our-role-in-the-legal-charter-1-5/ [https://perma.cc/N4BR-5ZPQ] (describing Legal Charter 1.5's advised emissions methodology working group).

66. *See* OXFORD NET ZERO & UN RACE TO ZERO, *supra* note 4, at 3, 11; UN RACE TO ZERO, *supra* note 6, at 5-6.

67. OXFORD NET ZERO & UN RACE TO ZERO, *supra* note 4, at 5, 11.

68. UN RACE TO ZERO, INTERPRETATION GUIDE: RACE TO ZERO EXPERT PEER REVIEW GROUP 5 (2022).

69. *The Serviced Emissions Hub*, OXFORD NET ZERO, https://netzeroclimate.org/research/serviced-emissions-hub/ [https://perma.cc/9739-RG7F] (last visited Oct. 31, 2025).

investors were called to account for the activities they enable through their financed emissions, so too must [professional service providers] take responsibility for the emissions they enable through their counsel, strategies and client work."[70]

In 2025, the IBA further identified advised emissions as an "area[] for support and cooperation," with a participant observing "it would be helpful to have local, regional or global guidance to empower law firms to tell a client that, because of the firm's commitment to promoting climate friendly policies, the firm is unable to advise on a particular instruction (e.g., a new coal plant transaction)."[71] In the same year, an article published by the IBA described that "[a]ddressing advised emissions is increasingly being seen as a key means by which law firms can have a significant impact in their efforts to tackle the climate crisis."[72]

Advised emissions are a new concept in the legal industry, but there is increasing global awareness of the role of law firms in the climate crisis and growing impetus to quantify and disclose advised emissions. While the methodology is still in early stages, momentum for an advised emissions framework is growing.

II. THEORIES OF ADVISED EMISSIONS DISCLOSURES

This Part grapples with law firms' motivations to disclose their advised emissions.[73] Why would they undertake a possibly complicated, costly, and uncertain process, when the status quo involves no disclosure? To better understand law firms' potential motivations for disclosure, this Part draws on the social science literature, applying legitimacy, stakeholder, economic, and institutional theories of corporate GHG emissions disclosures to the advised emissions context.[74] Importantly, this Part considers

70. *Id.*

71. INT'L BAR ASS'N, ROUNDTABLE ON BAR ASSOCIATION AND LAW SOCIETY CLIMATE INITIATIVES: POST-EVENT REPORT 15 (2025), https://www.ibanet.org/Roundtable-on-bar-association-and-law-society-climate-initiatives [https://perma.cc/GKJ4-GMG9].

72. Rachael Johnson, *Climate Crisis: Advised Emissions Offer New Opportunities for Law Firms to Make an Impact*, INT'L BAR ASS'N (May 12, 2025), https://www.ibanet.org/Climate-crisis-advised-emissions-offer-new-opportunities-for-law-firms-to-make-an-impact [https://perma.cc/8TJN-XYK7].

73. *See supra* note 19 (DLA Piper's sustainability reporting in 2022/23 explicitly identified advised emissions as a "next priorit[y]"); *see also supra* note 18 (listing firms involved in Legal Charter 1.5 organization).

74. Rüdiger Hahn, Daniel Reimsbach & Frank Schiemann, *Organizations, Climate Change, and Transparency: Reviewing the Literature on Carbon Disclosure*, 28 ORG. & ENV'T 80,

law firms as business entities subject to similar climate disclosure pressures as in other industries, including other professional service providers. This Part thus contributes to the literature by exploring the theoretical grounding for advised emissions disclosures. Applying these theories also reveals levers for realizing advised emissions disclosures in practice—driven by law firm partners and associates, law students, clients, and the general public.[75]

A. *Law Firms as Business Entities*

We often think of lawyers as individual professionals, following codes of conduct. This is reflected in the ABA Model Rules of Professional Conduct, and "[w]ith few exceptions the Rules regulate lawyers at the individual level, making a lawyer the basic unit of regulation and the locus of the Rules."[76] But layering atop rules of professional conduct are business structures: most American lawyers practice in law firms.[77] BigLaw firms in particular dominate the legal market, capturing 48.2 percent of the market share of legal spending in 2023.[78] As BigLaw firms cater to

85-86 (2015). While the authors identify "three main theoretical anchors," this Article separates "sociopolitical theories" into its component theories—legitimacy theory and stakeholder theory—because of their differing dynamics in the legal industry. *Id.* at 85.

75. This Article often draws on examples from large, elite law firms—so-called "BigLaw"—because they do extensive work for the fossil fuel industry and other GHG-emitting projects globally. They are also most analogous to large companies facing GHG emissions disclosure pressure in other industries. At least some BigLaw firms' advised emissions are substantial, and, given their size and revenue, they may have the most resources to develop and implement advised emissions disclosures. *See* L. STUDENTS FOR CLIMATE ACCOUNTABILITY, *supra* note 2, at 10-20 (describing Vault 100 firms' extensive litigation, lobbying, and transactional work for the fossil fuel industry); Larry E. Ribstein, *The Death of Big Law*, 2010 WIS. L. REV. 749, 751 (2010) (referring to large law firms as "Big Law"); David B. Wilkins & G. Mitu Gulati, *Reconceiving the Tournament of Lawyers: Tracking, Seeding, and Information Control in the Internal Labor Markets of Elite Law Firms*, 84 VA. L. REV. 1581, 1581 n.1 (1998) (analyzing market dynamics in "large, elite law firm[s]").

76. Eli Wald, *Resizing the Rules of Professional Conduct*, 27 GEO. J. LEGAL ETHICS 227, 253 (2014).

77. *See id.* (describing how the "majority of American lawyers, however, do not practice alone, but rather in firms"); Thomas D. Morgan, *The Rise of Institutional Law Practice*, 40 HOFSTRA L. REV. 1005, 1005 (2012) (describing how the "complexity of modern law narrows the breadth of any individual lawyer's practice and makes law firms and other practice organizations inevitable").

78. *See* LEXISNEXIS COUNSELLINK, DYNAMICS SHAPING THE FUTURE OF LEGAL 4, 7 (2024) (describing firms with over 750 employees); Marc Galanter & William Henderson, *The Elastic Tournament: A Second Transformation of the Big Law Firm*, 60 STAN. L. REV. 1867, 1867 (2008) (describing how the 1980s through 2008 were characterized by "regular and relentless growth of large U.S. law firms"); Robert A. Kagan & Robert E. Rosen, *On the Social*

corporate clients, they "have come more closely to resemble [them]," including their multinational presence, thousands of lawyer-employees, and marketing their legal services.[79] As the "profession has become more like a business,"[80] this Article contemplates how law firms may be subject to similar climate disclosure pressures as other businesses.

Business entities across a range of industries have faced scrutiny for their GHG emissions, and some have voluntarily quantified and disclosed their emissions.[81] Others are, or will be, subject to mandatory GHG emissions disclosure requirements in their jurisdictions.[82] A 2025 study identified that over 88 percent of S&P

Significance of Large Law Firm Practice, 37 STAN. L. REV. 399 (1985); James Goodnow, *Is the Problem with Partnerships the Partnership?*, ABOVE THE LAW (July 15, 2022, at 10:48 PT), https://abovethelaw.com/2022/07/is-the-problem-with-partnerships-the-partnership/ [https://perma.cc/CS4Z-A7GU] (noting that the "vast majority of Biglaw firms are structured as limited liability partnerships").

79. GEORGETOWN LAW CENTER FOR THE STUDY OF THE LEGAL PROFESSION, LAW FIRMS, ETHICS, AND EQUITY CAPITAL: A CONVERSATION 2 (2007); Flood, *supra* note 3, at 44 (describing that the "modern large law firm has thus truly become a business, a law factory, in a highly competitive market" for legal services).

80. Deborah L. Rhode, *Lawyers as Citizens*, 50 WM. & MARY L. REV. 1323, 1324 (2009).

81. *See* Lynn M. LoPucki, *Corporate Greenhouse Gas Disclosures*, 56 U.C. DAVIS L. REV. 405 (2022) (analyzing voluntary corporate GHG reporting, including emissions reporting of 200 S&P 500 companies); Jill E. Fisch, *Making Sustainability Disclosure Sustainable*, 107 GEO. L.J. 923 (2019) (describing voluntary and mandatory sustainability reporting requirements); *see also Declaration of Support*, IFRS, https://www.ifrs.org/ifrs-sustainability-disclosure-standards-around-the-world/cop28-declaration-of-support/ [https://perma.cc/69SJ-PERT] (last visited July 24, 2025) (describing how almost 400 organizations and 64 jurisdictions have "committed to advancing the adoption or use of the International Sustainability Standards Board's climate-related reporting at a global level"); Kyla Aiuto et al., *What Are Greenhouse Gas Accounting and Corporate Climate Disclosures? 6 Questions, Answered*, WORLD RESOURCES INSTITUTE (Mar. 7, 2024), https://www.wri.org/insights/ghg-accounting-corporate-climate-disclosures-explained [https://perma.cc/RB3K-4C99] (providing overview of corporate GHG emissions disclosures).

82. *See* S.B. 253, 2023-2024 Leg., Reg. Sess. (Cal. 2023) (mandatory GHG emissions disclosures in California); *Corporate Sustainability Reporting*, EURO. COMM'N (Dec. 9, 2025), https://finance.ec.europa.eu/capital-markets-union-and-financial-markets/company-reporting-and-auditing/company-reporting/corporate-sustainability-reporting_en [https://perma.cc/K9BA-BNWR]; Council Directive 2022/2464, 2022 O.J. (L 322) (mandatory European Union Corporate Sustainability Reporting Directive); HM GOVERNMENT, ENVIRONMENTAL REPORTING GUIDELINES: INCLUDING STREAMLINED ENERGY AND CARBON REPORTING GUIDANCE 39-44 (2019), https://www.gov.uk/government/publications/environmental-reporting-guidelines-including-mandatory-greenhouse-gas-emissions-reporting-guidance [https://perma.cc/C5H6-JXV5] (describing mandatory reporting under UK Streamlined Energy and Carbon Reporting); *see also China Embarks on a Journey of ESG Disclosure: 2024 Progress and Focus for 2025*, UN ENV'T PROG. (Jan. 7, 2025), https://www.unepfi.org/industries/banking/china-embarks-on-a-journey-of-esg-

500 companies disclose Scope 1 and 2 emissions and almost 70 percent disclose Scope 3 emissions.[83] Although U.S. law firms are not public companies,[84] climate disclosure pressure has also reached private companies and limited liability partnership forms that most major law firms take.[85] Scholars, practitioners, and policymakers increasingly recognize that "private companies' contribution to climate change can be so significant that the exclusive focus on public companies is . . . not warranted."[86] The European Union's Corporate Sustainability Reporting Directive includes both "large companies and listed companies," or publicly-traded companies, and the United Kingdom's Streamlined Energy and Carbon Reporting regulations include large companies and limited liability partnerships.[87]

Many large law firms in the United Kingdom have GHG emissions quantification or reporting,[88] but their calculations do not include the bulk of their contribution to climate change—through the services they provide to clients on GHG-emitting projects and matters. This stands in contrast to other professional service providers with few direct GHG emissions, including financial institutions, that have already quantified or begun to quantify their serviced emissions.[89] Through PCAF, public and

disclosure/ [https://perma.cc/95NP-T79J] (describing how China's three stock exchanges mandated ESG disclosures for major companies starting in 2026).

83. MAGALI A. DELMAS ET AL., UCLA ANDERSON SCHOOL OF MANAGEMENT'S CENTER FOR IMPACT, THE STATE OF CORPORATE SUSTAINABILITY DISCLOSURE: 2025, at 3 (2025), https://www.anderson.ucla.edu/sites/default/files/document/2025-05/2025IMPACT%20State%20of%20Corporate%20Sustainability%20Report.pdf [https://perma.cc/99W8-M6WU].

84. *See* Roberta S. Karmel, *Will Law Firms Go Public?*, 35 U. PA. J. INT'L L. 487, 487-96, 510 (2013) (describing how ABA Model Rule 5.4 and state bar rules of professional conduct prevent non-lawyers from investing in law firms).

85. Alperen A. Gözlügöl & Wolf-Georg Ringe, *Private Companies: The Missing Link on the Path to Net Zero*, 22 J. CORP. L. STUD. 887, 887-89 (2023); *see* Edward S. Adams, *Rethinking the Law Firm Organizational Form and Capitalization Structure*, 78 MO. L. REV. 777, 779-83 (2013) (describing how an increasing number of law firms "partake in attractive limited liability entities such as limited liability companies (LLC) and limited liability partnerships (LLP)"); Lynn Bai & Sarah Harden, *Limited Liability Partnerships: An (Overlooked) Hole in the Shield*, 23 U. PA. J. BUS. L. 863 (2021) ("At least eighty-five percent of the top 350 law firms in the U.S. are formed as LLPs.").

86. Gözlügöl & Ringe, *supra* note 85, at 891.

87. EURO. COMM'N, *supra* note 82; HM GOVERNMENT, *supra* note 82.

88. *See* THE LAW., *supra* note 5, at 5 (surveying the top 75 UK firms by revenue for GHG emissions data and noting only "[f]our firms did not disclose any emissions data").

89. *See The Global GHG Accounting and Reporting Standard for the Financial Industry*, PCAF: PARTNERSHIP FOR CARBON ACCOUNTING FINANCIALS,

private financial institutions have rigorous, industry-wide standards for reporting the GHG emissions they finance, facilitate through capital markets, and insure.[90] Law firms provide equally important services to GHG-emitting industries, yet the legal industry lacks its own advised emissions protocol.

B. *Applying Theories of Disclosure*

Business entities may be motivated to disclose GHG emissions—including through voluntary schemes—for a variety of reasons. Rüdiger Hahn, Daniel Reimsbach, and Frank Schiemann distilled multiple theories of carbon disclosures in a systematic literature review in 2014.[91] This Article draws on four main theories from their review: legitimacy, stakeholder, economic, and institutional theories. First, legitimacy theory posits that business entities disclose as they seek to maintain their social license to operate and legitimize their activities in the eyes of the public. Second, stakeholder theory emphasizes the role of industry stakeholders in demanding disclosure. Third, economic theory contemplates that business entities disclose when the benefits of doing so outweigh the costs, or, more generally, to gain a competitive advantage in the market. Fourth, institutional theory captures how business entities respond to institutional requirements, including proactive responses to anticipated institutional changes. More recent scholarship maps onto these four theories and demonstrates their continued relevance to corporate GHG emissions disclosures.[92]

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https://carbonaccountingfinancials.com/standard [https://perma.cc/RY6V-LXRL] (last visited Apr. 20, 2026) (global protocol for financed, facilitated, and insurance-associated emissions for financial institutions); PURPOSE DISRUPTORS, *supra* note 11 (proposing methodology for quantifying serviced emissions from advertising sector).

90. PCAF, *supra* note 89; *see* PCAF, *supra* note 11 (listing publicly-traded and private commercial banks as participants in PCAF).

91. Hahn, Reimsbach & Schiemann, *supra* note 74, at 85-86.

92. A 2025 article identified that the "most popular theories" of climate disclosures from articles published from 1992 to 2023 include legitimacy, stakeholder, resource-based (one form of economic theory), and institutional theories. Syed Majfujul Alam & Ericka Costa, *Climate Change Disclosure: A Conceptual Framework and Future Research Avenues*, 32 CORP. SOC. RESPONSIBILITY & ENV'T MGMT. 4019, 4024 (2025). Recent law review pieces do not explicitly tackle theories of GHG emissions disclosures, but their analysis can still be mapped onto the Hahn, Reimsbach & Schiemann theories. *See supra* note 74. For example, resonating with stakeholder theory, Lisa Fairfax recently described how "growth in investor and business community pressure has translated into a steady rise in corporate focus on ESG" and "investor demand for ESG has translated into increased corporate disclosure of ESG information." Lisa M. Fairfax, *Dynamic Disclosure: An Exposé on the Mythical Divide Between Voluntary and Mandatory ESG Disclosure*, 101 TEX. L. REV. 273, 284 (2022); *see*

1. *Legitimacy Theory*

Under legitimacy theory, business entities disclose GHG emissions in response to social and political pressure from various actors in society.[93] This theory rests on two interrelated concepts, the "social license to operate" and "social contract," which business entities "invoke . . . to indicate that their activities are considered as legitimate in the eyes of society."[94] Legitimacy theory holds that "the long-term success and survival of a firm is subject to its ability to meet society's expectations" and "comply with [its] specific values, norms and boundaries."[95] Loss of social license to operate could lead to reputational loss, reduced brand loyalty, boycotts, protests, and other outward manifestations that the public no longer accepts the business entity's actions as legitimate.[96] GHG emissions disclosures can "be used to maintain the implicit social contract between a company and society" in response to climate change.[97] This is particularly important for large or high-profile business entities: their high visibility and media exposure increase legitimacy pressure.[98]

Legitimacy theory may explain some of the pressure for advised emissions disclosures in the legal industry, especially for BigLaw firms that are highly visible due to their elite status. They seek to maintain this reputation, including to compete on a global scale

also Dan Esty & Todd Cort, *Toward Enhanced Corporate Sustainability Disclosure: Making ESG Reporting Serve Investor Needs*, 16 VA. L. & BUS. REV. 423, 448 (2022) (describing that "internal dynamics, such as the role of corporate culture and stakeholder networks, also appear critical in the adoption and implementation of sustainability policies"). Aligning with both legitimacy and economic theories, Virginia Harper Ho describes how the "force" of voluntary ESG disclosures, many of which include GHG emissions disclosures, "depends heavily on the 'business case' for corporate responsibility, which includes the reputational costs of failing to respond to the concerns of consumers, NGOs, and media watchdogs." Virginia Harper Ho, *Climate Disclosure Line-Drawing & Securities Regulation*, 56 U.C. DAVIS L. REV. 1875, 1881 (2023).

93. Hahn, Reimsbach & Schiemann, *supra* note 74, at 86.

94. Geert Demuijnck & Björn Fasterling, *The Social License to Operate*, 136 J. BUS. ETHICS 675, 675 (2016); *see also* Hilary A. Sale, *The Corporate Purpose of Social License*, 94 S. CAL. L. REV. 785, 819 n.235 (2021) (describing social license and social contract as interrelated theories).

95. Patrick Velte, *Meta-Analyses on Corporate Social Responsibility (CSR): A Literature Review*, 72 MGMT. REV. Q. 627, 630 (2022).

96. Cristel Antonia Russell, Dale W. Russell & Heather Honea, *Corporate Social Responsibility Failures: How Do Consumers Respond to Corporate Violations of Implied Social Contracts?*, 136 J. BUS. ETHICS 759, 760 (2016).

97. Hahn, Reimsbach & Schiemann, *supra* note 74, at 86.

98. *Id.*

with other firms for clients and talented attorneys.[99] By one account, "elite firms have become desperate to signal their credibility and reputation to three core constituencies: clients and potential clients, other law firms (potential laterals), and law students (potential associates)."[100] To maintain their social license to operate, law firms must satisfy these constituencies—and the general public—as to the legitimacy of their operation.

In addition, more so than other corporate industries, the social license to operate is built into the values of the legal profession as a self-regulating, public profession. The ABA Model Rules "call upon lawyers, as public citizens, to embrace a special responsibility for the quality of justice in the legal profession and in society."[101] Failing to retain public confidence and uphold the public citizen role undermines the legal profession's rationale for self-regulation. The ABA Model Rules state, "[t]he legal profession's relative autonomy carries with it special responsibilities of self-government" including the "responsibility to assure that its regulations are conceived in the public interest."[102] And "[t]o the extent that lawyers meet the obligations of their professional calling, the occasion for government regulation is obviated."[103] As Deborah Rhode aptly put it, "the public itself would not continue to delegate such regulatory authority if the [legal] profession

99. *See* Bruce E. Aronson, *Elite Law Firm Mergers and Reputational Competition*, 40 VAND. J. TRANSNAT'L L. 767, 779 (2007) (analyzing reputational competition among elite law firms for clients, lateral hires, and "new associates from prestigious law schools"); Fred C. Zacharias, *Effects of Reputation on the Legal Profession*, 65 WASH. & LEE L. REV. 173, 173 (2008) (focusing "on lawyers' reputations as a proxy for what clients want, or need, to know about their representatives"); Susan Segal-Horn & Alison Dean, *The Rise of Super-Elite Law Firms: Towards Global Strategies*, 31 SERV. INDUS. J. 195 (2011) (highlighting "super-elite" corporate law firms in global legal industry).

100. Aronson, supra note 99, at 778-79.

101. Etienne C. Toussaint, *The Miseducation of Public Citizens*, 29 GEO. J. ON POVERTY L. & POL'Y 287, 292 (2022); MODEL RULES OF PRO. CONDUCT preamble (A.B.A. 2025); *see also* Rebecca Roiphe, *The Decline of Professionalism*, 29 GEO. J. LEGAL ETHICS 649, 656 (2016) ("The professions, however, 'carry on their work in accordance with rules designed to enforce certain standards both for the better protection of its members and for the better service of the public.'" (quoting R.H. TAWNEY, THE ACQUISITIVE SOCIETY 92 (1920))).

102. MODEL RULES OF PRO. CONDUCT preamble para. 12 (A.B.A. 2025); *see also* Stephen L. Pepper, *The Lawyer's Amoral Ethical Role: A Defense, A Problem, and Some Possibilities*, 11 AM. BAR ASS'N FOUND. RSCH. J. 613, 615-16 (1986) (arguing that self-regulation including "ethical prescriptions that articulate a service orientation" is "quid pro quo" for lawyers' monopoly on legal services).

103. MODEL RULES OF PRO. CONDUCT preamble para. 11 (A.B.A. 2025); *see also* David B. Wilkins, *Who Should Regulate Lawyers?*, 105 HARV. L. REV. 799 (1992) (describing debates on who should enforce lawyers' professional norms).

pursued only its own interests."[104] Overall, legitimacy in the eyes of the public and maintaining public confidence is essential to the legal profession.[105]

Following legitimacy theory, law firms may disclose their advised emissions to maintain public confidence as a profession that self-regulates in the public interest, in turn maintaining their social license to operate. Recent law student protests and calls for climate transparency indicate that law firms may be losing some public confidence regarding their role in climate change—which could motivate them to disclose advised emissions in an attempt to regain this confidence.[106] Protests and boycotts of law firms are relatively rare, but they are not new to the legal industry.[107] But this time, alongside protests and boycotts, there has been a sustained movement for climate disclosure and transparency from law firms. The LSCA Scorecard—now on its sixth annual iteration—illustrates this sustained scrutiny of law firms representing fossil fuel interests.[108] This mirrors recent transparency efforts in another context: law firms making deals with the Trump administration.[109]

104. DEBORAH L. RHODE, IN THE INTERESTS OF JUSTICE: REFORMING THE LEGAL PROFESSION 2 (2000).

105. *See id.* (arguing that the "public as well as the profession has a substantial stake" in addressing challenges facing the legal profession); Kevin Hopkins, *The Politics of Misconduct: Rethinking How We Regulate Lawyer-Politicians*, 57 RUTGERS L. REV. 839, 865-66 (2005) (describing that "[t]he organized bar has contended that public confidence in lawyers is critical for the proper functioning of the legal profession"); MODEL RULES OF PRO. CONDUCT preamble (A.B.A. 2025).

106. *See* WENDEL, *supra* note 47, at 135-38 (describing how "someone today is unlikely to be shunned by polite society for working at a law firm representing ExxonMobil" but "[a]ctivists aim to change this state of affairs"); *supra* notes 50-55 and accompanying text.

107. For example, during apartheid in South Africa, U.S. law students at a dozen top law schools pledged that they would not take jobs with law firms representing the South African government. Rebecca K. Kramnick, *Law Students Won't Represent Apartheid*, THE HARV. CRIMSON (Sept. 25, 1985), https://www.thecrimson.com/article/1985/9/25/law-students-wont-represent-apartheid-plast/ [https://perma.cc/PUG9-BM35]; *see* WENDEL, *supra* note 47, at 135, 149 (explaining how protests against law firms representing fossil fuel interests are part of an "effort to change the social meaning of representing fossil fuel companies, to create a stigma comparable to that attached to cigarette companies in the 1990s or anti-gay businesses more recently").

108. L. STUDENTS FOR CLIMATE ACCOUNTABILITY, *supra* note 55; L. STUDENTS FOR CLIMATE ACCOUNTABILITY, *supra* note 2.

109. Since March 2025, at least nine large law firms have made agreements with the Trump administration to avoid executive orders targeting their firms and being cut off from government contracts and clients who work with the government. *See* Sam Levine, *Trump Says Five More Law Firms Agree to Pro Bono Work to Avoid Punitive Executive Orders*, THE GUARDIAN (Apr. 11, 2025, at 14:08 ET), https://www.theguardian.com/us-news/2025/apr/11/trump-law-firms-pro-bono-deal [https://perma.cc/3SBE-E243];

One organizer stated that efforts to track law firms caving to Trump administration pressure "isn't coming from a negative place or trying to cancel these firms" but to "provide access to information, both to students and other law firms, to show there's a diversity of approaches you can take."[110]

Where lawyers and the public at large disagree about the validity of representing GHG-emitting and fossil fuel projects, disclosure and transparency could emerge as a point of consensus. Under a legitimacy theory, law firms would disclose advised emissions if the legal industry and society demand some level of climate change transparency as part of their social license to operate. Widespread GHG emissions disclosures across other industries may further support legitimacy theory. In a time of climate crisis, the public may expect *all* industries to be accountable in some way for their role in driving global climate change, at least by disclosing that role.

Critics may push back on a legitimacy theory of advised emissions disclosures based on lawyers' rules of professional conduct. Legitimacy theory contemplates a law firm as a business entity that requires some level of corporate social license to operate beyond merely complying with professional obligations of individual lawyers. But one contrary view is that lawyers' and law firms' social license is solely based on following binding legal professional rules. Taking this view would seriously weaken a legitimacy theory of advised emissions disclosures.

In practice, however, there is evidence that a law firm's social license depends on more than bare compliance with professional rules.[111] Some large law firms already have sustainability reporting

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Carrie Johnson, *Trump's Deals with Law Firms Are Like Deals 'Made with a Gun to the Head,' Lawyers Say*, NPR (May 31, 2025, at 05:00 ET), https://www.npr.org/2025/05/31/nx-s1-5406173/trump-deals-law-firms [https://perma.cc/X9M2-SY92].

110. Maria Gracia Santillana Linares, *Law Students Push Back on Firms That Have Capitulated to Trump*, FORBES (Apr. 4, 2025, at 12:38 ET), https://www.forbes.com/sites/mariagraciasantillanalinares/2025/04/04/law-students-push-back-on-firms-that-have-capitulated-to-trump/ [https://perma.cc/UM5N-VANB]; Kathryn Palmer, *Law Students Track Firms That Have 'Caved' and 'Stood Up' to Trump*, INSIDE HIGHER ED (Apr. 28, 2025), https://www.insidehighered.com/news/quick-takes/2025/04/28/students-track-law-firm-responses-trumps-threats [https://perma.cc/24SV-5XYA]. *But see* Daniel Barnes, *Law Students Say They Want to Work for the Firms Standing Up to Trump*, POLITICO (Apr. 11, 2025, at 05:55 ET), https://www.politico.com/news/2025/04/11/law-firms-trump-law-student-recruiting-00007900 (indicating some students are shifting away from working at firms that made agreements with the Trump administration, beyond just transparency efforts).

111. John C. Dernbach, Irma Russell & Matt Bogoshian, *Lawyering to Make a Difference:*

and disclose GHG emissions.[112] Some publicly recognize sustainability and GHG emissions as relevant to their organizational goals. A&O Shearman describes their "goal is to be an integral part of sustainable development and the just transition to net zero, by focusing on our direct and indirect operational impacts on climate, society and nature."[113] Latham & Watkins, "[i]n keeping with [their] commitment to operating the firm in an environmentally conscious manner," has "committed to reducing Scope 1, 2, and 3 GHG emissions."[114] White & Case described that it is "[o]perating responsibly" by "working to understand the risks presented by climate change, reduce [their] environmental impact and devise a strategy to hold [themselves] accountable."[115] Altogether, law firms appear to respond to societal concerns on climate change, beyond merely adhering to binding rules of professional conduct, and the legitimacy theory of advised emissions disclosures remains at play.[116]

Ethics and Leadership for a Sustainable Society, 23 WAKE FOREST J. BUS. & INTELL. PROP. L. 19, 27-29 (2022) (suggesting that "professional and business norms are slowly moving toward recognizing that lawyers are responsible for combating climate disruption and working for a sustainable society").

112. S&W, *supra* note 5; *Carbon Reporting for Law Firms: The View from the Top 50 Law Firms' Survey*, S&W (May 23, 2023), https://www.swgroup.com/insights-events/insights/carbon-reporting-for-law-firms-the-view-from-the-top-50-law-firms-survey [https://perma.cc/J2ZT-EVUC]; *see* THE LAW., *supra* note 5, at 5.

113. *Environmental Sustainability*, A&O SHEARMAN, https://www.aoshearman.com/en/about-us/sustainability [https://perma.cc/GUJ9-U6EU] (last visited Apr. 21, 2026).

114. LATHAM & WATKINS, 2023 ENV'T SUSTAINABILITY REPORT (2024), https://www.lw.com/admin/upload/SiteAttachments/2023-Environmental-Sustainability-Report-Revised.pdf [https://perma.cc/Q7TP-J2Q3].

115. *Operating Responsibly*, WHITE & CASE, https://www.whitecase.com/responsible-business/operating-responsibly/sustainable-operations [https://perma.cc/M4B8-W4NZ] (last visited Jan. 2, 2026).

116. Likewise, society does not exempt law firms from all disclosures or transparency writ large. By law, law firms, like any other entity or individual, must disclose their federal lobbying activity and register as an agent of a foreign principal under Foreign Agents Registration Act (FARA) when the Act's conditions are met. *See Prominent Global Law Firm Agrees to Register as an Agent of a Foreign Principal*, U.S. DEP'T OF JUSTICE, OFF. OF PUB. AFFAIRS (Jan. 17, 2019), https://www.justice.gov/archives/opa/pr/prominent-global-law-firm-agrees-register-agent-foreign-principal [https://perma.cc/7WV5-TGZX] (settlement where Skadden resolved its prior FARA violations and registered under FARA); *see also* Roger C. Cramton et al., *Legal and Ethical Duties of Lawyers After Sarbanes-Oxley*, 49 VILL. L. REV. 725, 785-88 (2004) (describing how the Sarbanes-Oxley Act permits attorneys to report corporate misconduct to the SEC when certain conditions are met). These disclosures reflect how society expects some measure of transparency from law firms.

2. *Stakeholder Theory*

Stakeholder theory contemplates GHG emissions disclosures as a response to pressure for transparency from industry stakeholders.[117] Although related to legitimacy theory, insofar as law firms seek social license to operate from industry stakeholders as well as the general public, stakeholder theory focuses on the loci of stakeholder power to leverage change in the industry.

In other corporate industries, shareholders and investors have demanded GHG emissions disclosures, in part to understand business risks in the medium and long term.[118] Beyond disclosure, some stakeholders have shifted their investments as "a growing number of mainstream investors want greater alignment between their portfolio holdings and their values."[119] The legal industry lacks shareholders and investors but has its own network of stakeholders. Current and potential partners, associates, and clients are all legal industry stakeholders that can influence firms' decision-making processes.[120] As the Law Society Guidance recognized, "advised emissions are coming under increased scrutiny from some clients and stakeholders."[121] Thus far, law students (future associates) have been the most vocal stakeholders for greater climate transparency and accountability in the legal industry.[122] This section examines in more detail internal firm stakeholders (current partners and associates) and clients in the context of the stakeholder theory.

a. *The role of internal firm stakeholders*

Internal law firm stakeholders may be interested in measuring advised emissions to understand and manage risk, including reputational risk, liability risk, and transition risk related to climate

117. Broader conceptions of stakeholder theory look to external stakeholders as well—including the public, policymakers, and government bodies. *See* Hahn, Reimsbach & Schiemann, *supra* note 74, at 86. This Article focuses largely on internal stakeholders, especially decision-makers in the firm.

118. *See* Fisch, *supra* note 81, at 932-33 (describing growing investor interest in sustainability disclosures); Daniel C. Esty & Quentin Karpilow, *Harnessing Investor Interest in Sustainability: The Next Frontier in Environmental Information Regulation*, 36 YALE J. REG. 625, 632 (2019).

119. Esty & Karpilow, *supra* note 118, at 632.

120. *See id.*

121. *Law Society Guidance*, *supra* note 4.

122. *See supra* notes 50-55.

change.[123] First, law firms may quantify advised emissions to understand their potential reputational risk. As described in Part II.A, reputation is vitally important to law firms. Firms engaging in extensive advising for GHG-emitting projects compared to their peers may run a reputational risk in terms of recruiting legal talent and attracting clients who care about climate change.[124] Second, law firms may be interested in their liability risks from GHG-emitting work. As recent scholarship has identified, lawyers may risk running afoul of ethical rules by participating in fossil fuel companies' climate disinformation campaigns, and future greenwashing, misinformation, and climate deception lawsuits could seek to hold law firms liable for advising and supporting fossil fuel greenwashing.[125] Law firms may also face scrutiny for any

123. *See* Andrew B. Schatz, Note, *Regulating Greenhouse Gases by Mandatory Information Disclosure*, 26 VA. ENV'T L.J. 335, 367 (2008) (describing business risks of climate change, including reputational risk).

124. *See* Esty & Karpilow, *supra* note 118, at 632-33.

125. *See* Bustos, *supra* note 23, at 226-28 (noting that "lawyers can share individual responsibility for any illegal activity they facilitate directly"); Lissa Griffin & Katrina F. Kuh, *Professional Responsibility and the Corporate Hoodwink: Using the Climate Disinformation Campaign to Examine the Ethical Responsibilities of Attorneys When Corporate Clients Mislead the Public to Avoid Government Regulation*, *in* ENVIRONMENTAL LAW, DISRUPTED 101, 106 (Keith Hirokawa & Jessica Owley, eds. 2021) ("This chapter serves as a warning for attorneys involved in corporate public disinformation campaigns to proceed with extraordinary caution in light of the risk of violating relevant ethical rules."); Flatt, *supra* note 29, at 577-78 (arguing based on ABA Model Rule 1.6(b)(1) "there are multiple ways in which client activity dealing with greenhouse gases may expose an attorney to ethical breaches if she fails to report these activities in certain circumstances" in addition to "tort liability and onerous financial exposure"); Keith W. Rizzardi, *Sea Level Lies: The Duty to Confront Deniers*, 44 STETSON L. REV. 75, 112 (2014) (arguing "failure to disclose" material facts relevant to third parties about sea level rise "could lead to claims of negligent misrepresentation, if not malpractice"); *see also* Bruce A. Green, *Thoughts About Corporate Lawyers After Reading the Cigarette Papers: Has the "Wise Counselor" Given Way to the "Hired Gun"*?, 51 DEPAUL L. REV. 407, 414-18 (2002) (reviewing the cigarette papers and how "inside and outside counsel made a major and indispensable contribution to the company's campaign to hoodwink the public"); Victor B. Flatt, Do the Wrong Thing – How Attorney Facilitation of Anti-Environment, Social, and Governance Policies May Violate Attorney Ethics (July 21, 2025) (unpublished manuscript) (on file with author), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5211562; *see generally* J. Robert Brown, Jr. & Eli Wald, *Chilling Climate Change Disclosure: The Enabling Role of Corporate Counsel in Management Misstatements of ESG Matters*, 72 DEPAUL L. REV. 585 (2022) (describing potential for corporate lawyers to face consequences for erroneous or false corporate ESG disclosures); Eugene J. Schiltz, *Civil Liability for Aiding and Abetting: Should Lawyers Be "Privileged" to Assist Their Clients' Wrongdoing?*, 29 PACE L. REV. 75, 77-78 & n.11 (2008) (describing example of lawyers being subject to civil aiding and abetting liability). The *Kivalina* climate change litigation raised civil conspiracy claims, seeking to hold defendants accountable for "participation in conspiratorial and other actions intended to further the defendants' abilities to contribute to global warming." Complaint at 1, Native Vill. of

law firm-wide sustainability claims if they continue to facilitate GHG-emitting work.[126] Third, quantifying advised emissions may also help law firms understand their transitional risk during a global transition away from fossil fuels. For example, a law firm with significant advised emissions from coal-fired power plant financing—and particular expertise in this area—may find themselves with "stranded expertise." Akin to stranded assets in the fossil fuel industry,[127] this expertise in coal financing may become obsolete as coal-fired power plants are phased out globally.[128]

Of course, law firms may quantify advised emissions internally but resist disclosure, especially if the firm has higher advised emissions. But some attorneys within the firm may respond to these potential reputational, liability, and transitional risks—as well as economic costs described in Part II.C—by pressing for disclosure and even reductions of advised emissions. This may be especially true for partners and associates who primarily work in renewable energy or other matters involving few GHG emissions. As the concept of advised emissions gains traction, stakeholder theory contemplates groups of attorneys within firms as champions of disclosures.[129] This advocacy may include internal memos calling for advised emissions disclosures or even leaking these memos to the press.[130]

This type of internal organizing has precursors in the legal industry and other professional service provider industries. For example, when Cravath represented Credit Suisse in connection with Nazi gold laundering, twelve associates wrote a memo to the

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Kivalina v. ExxonMobil Corp. et al., No. 4:08-cv-01138 (N.D. Cal. Sept. 30, 2009). This type of claim could include lawyers involved in a conspiracy.

126. For example, the European Commission published a proposal for a Green Claims Directive in 2023 providing minimum requirements for environmental sustainability statements to prevent greenwashing. *See* Ignacio Carreño, *To Address "Greenwashing" and Misleading Environmental Claims, the European Commission Publishes a Proposal on "Green Claims" and Their Substantiation*, 14 EURO. J. RISK REG. 607, 607 (2023).

127. *See* Frederick van der Ploeg & Armon Rezai, *Stranded Assets in the Transition to a Carbon-Free Economy*, 12 ANN. REV. RES. ECON. 281, 281-83, 288-90 (2020).

128. *See also* Esty & Karpilow, *supra* note 118, at 631 (recognizing how emissions "data may reveal production inefficiencies that were previously unknown to corporate management").

129. *See id.* at 632-33 (recognizing that "[r]evelations that a firm has engaged in environmentally harmful activities can damage its reputation and brand name" which in turn may "impede a firm's ability to attract and retain high-quality talent, especially among millennials" who care about working for socially responsible companies).

130. The author is not advocating for leaking such memos but noting it as an advocacy tactic.

partners of the firm stating, "It is our conviction that one cannot represent Credit Suisse in its role as bankers to those who committed genocide and do the justice we are all obliged to do to the victims and survivors of the slaughter."[131] More recently, in the consulting industry, over 1,100 McKinsey employees signed an open letter to the firm's partners, urging the firm to disclose the GHG emissions they enable through consulting services to clients including BP, ExxonMobil, Gazprom, and Saudi Aramco.[132] In addition to internal memoranda, lawyers within firms also have the power to resign and speak out if their firms refuse to engage with advised emissions.[133] To date, some firms are working on developing advised emissions methodology,[134] which may itself indicate that internal firm stakeholders are already pressing for advised emissions disclosures. But extensive internal organizing on advised emissions disclosures has not yet come to light. It remains to be seen whether internal law firm stakeholders will be a driving force for advised emissions disclosures.

131. *See* WENDEL, *supra* note 47, at 2 (quoting Blaine Harden, *When Client, Justice Are "Incompatible,"* WASH. POST (Mar. 13, 1997)).

132. Michael Forsythe & Walt Bogdanich, *At McKinsey, Widespread Furor over Work with Planet's Biggest Polluters*, N.Y. TIMES (Oct. 27, 2021), https://www.nytimes.com/2021/10/27/business/mckinsey-climate-change.html.

133. Outside the climate context, partners and associates have shown willingness to leave their firms and speak out publicly in response to agreements with the Trump administration. *See* Michael S. Schmidt et al., *Karen Dunn and Other Top Lawyers Depart Paul Weiss to Start Firm*, N.Y. TIMES (May 23, 2025), https://www.nytimes.com/2025/05/23/business/karen-dunn-paul-weiss-partners.html; Michael S. Schmidt & Maggie Haberman, *Willkie Farr Partners, Unhappy with the Firm's Deal with Trump, Depart for Cooley*, N.Y. TIMES (June 13, 2025), https://www.nytimes.com/2025/06/13/business/willkie-farr-cooley-trump-deal.html; Staci Zaretsky, *Wall Street's Oldest Biglaw Firm Appoints Co-Managing Partner amid Mass Exits and Merger Rumors*, ABOVE THE LAW (Sept. 29, 2025, at 12:42 PT), https://abovethelaw.com/2025/09/wall-streets-oldest-biglaw-firm-appoints-co-managing-partner-amid-mass-exits-and-merger-rumors/ [https://perma.cc/4EHA-WC43] (reporting over 40 partners leaving Cadwalader Wickersham & Taft from April to September 2025, with "[m]any of these moves . . . reportedly tied to internal dissatisfaction over the firm's controversial agreement with the Trump administration"); Sara Merken, *Law Firm Cadwalader Loses 37-Lawyer Team to Rival Orrick*, REUTERS (Oct. 6, 2025, at 09:35 PT), https://www.reuters.com/legal/transactional/law-firm-cadwalader-loses-37-lawyer-team-rival-orrick-2025-10-06/ [https://perma.cc/375Z-6LZJ]; Dan Roe, *Ex-Associates Say Trump Deals Render Big Law Leaders Unfit for Board Positions, Launch Campaign for Their Removal*, AM. LAW. (May 14, 2025, at 16:37 PT), https://www.law.com/americanlawyer/2025/05/14/ex-associates-say-trump-deals-render-big-law-leaders-unfit-for-board-positions-launch-campaign-for-their-removal [https://perma.cc/6GSL-8E2V].

134. *See* LEGAL CHARTER 1.5, *supra* note 18; DLA PIPER INTERNATIONAL, *supra* note 19.

b. *The role of clients*

Law firm clients, especially large, high-paying clients or groups of clients, have significant stakeholder power in the legal industry. If major clients decided to prioritize working with law firms disclosing advised emissions, that could propel law firms toward disclosure. The Law Society Guidance noted that "advised emissions are coming under increased scrutiny from some clients and stakeholders across a variety of sectors in the context of organisations' climate commitments."[135] Clients are already asking law firms for ESG disclosures, including GHG emissions disclosures, in requests for proposal (RFPs) for legal services.[136] These RFPs could readily incorporate requests for advised emissions disclosures. There is also recent precedent for clients seeking granular data from law firms on diversity metrics.[137]

Examples across the legal industry demonstrate the power of client pressure on law firms. For example, Kirkland & Ellis announced in 2022 that it would no longer take on Second Amendment cases. The New York Times and Wall Street Journal reported that this decision "came after several high-profile clients expressed reservations about the firm's work on gun rights."[138]

135. *Law Society Guidance*, *supra* note 4.

136. Gayatri Joshi, *How Law Firms Calculate Greenhouse Gas Emissions*, THOMSON REUTERS (May 23, 2023), https://www.thomsonreuters.com/en-us/posts/esg/law-firms-calculating-ghg-emissions/ [https://perma.cc/9T52-VF5J] (describing how "[o]ne global law firm recently noted that it had received 50 requests from RFPs to share the firm's Environment, Social & Governance (ESG) information, including carbon emissions, between October 2022 and March 2023"); Stephen Mulrenan, *ESG: Clients Push Law Firms on Commitments*, INT'L BAR ASS'N (Jan. 11, 2024), https://www.ibanet.org/ESG-clients-push-law-firms-on-commitments [https://perma.cc/3NXT-TQHS] (indicating how "ESG factors are a standard element in request for proposals (RFPs) documents in the UK and Europe").

137. *See* Tatyana Monnay, *Companies Drop DEI Rules in Hiring Lawyers, Acceding to Trump*, BLOOMBERG LAW (Apr. 26, 2026, at 02:00 PT), https://news.bloomberglaw.com/business-and-practice/companies-drop-dei-rules-in-hiring-lawyers-acceding-to-trump (describing how, until recently, companies including Microsoft, Amazon, and Meta not only considered diversity data of outside counsel but tied hiring standards or compensation to diversity metrics); *see also ABA Model Diversity Survey*, AM. BAR ASS'N, https://www.americanbar.org/groups/diversity/DiversityCommission/model-diversity-survey/ (last visited Apr. 23, 2026) (providing a "standard for law firms' reporting of their diversity metrics" with reporting offered "free of charge for corporate signatories and stakeholders"); John Kenneth Mawdsley, Lionel Paolella & Rodolphe Durand, *A Rivalry-Based Theory of Gender Diversity*, 44 STRATEGIC MGMT. J. 1254 (2022) (theorizing how U.S. corporate law firms increase gender diversity to attract clients).

138. Andrew Ross Sorkin et al., *After the Gun Ruling*, N.Y. TIMES (June 24, 2022),

More recently, some major clients are shifting away from firms capitulating to the Trump administration. The Wall Street Journal reported that "[a]t least 11 big companies," including Oracle, Morgan Stanley, and Microsoft, "are moving work away from law firms that settled with the [Trump] administration or are giving—or intend to give—more business to firms that have been targeted but refused to strike deals."[139] If major clients direct their efforts toward advised emissions disclosures, that would place strong pressure on firms, vindicating a stakeholder theory.

3. *Economic Theory*

The economic theory of GHG emissions disclosures "suggest[s] that companies voluntarily disclose information to interested actors based on an evaluation of costs and benefits."[140] This section assesses the potential benefits and costs of advised emissions disclosures.

In other corporate industries, GHG emissions disclosures, along with a suite of ESG practices, may draw in potential employees and are designed to "attract consumers that are worried about the planet . . . [making them] more likely to buy the brand if they perceive the company as 'green.'"[141] In the legal industry, law firms may benefit from advised emissions disclosures by appearing more climate-friendly and in turn attracting legal talent and clients.[142]

On the legal talent side, there is a "rising phenomenon" of lawyers turning down a law firm's employment offer if the firm's

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https://www.nytimes.com/2022/06/24/business/dealbook/gun-restrictions-corporate-america.html; Paul Clement & Erin Murphy, *The Law Firm That Got Tired of Winning*, WALL ST. J. (June 23, 2022, at 18:26 ET), https://www.wsj.com/opinion/2nd-amendment-bruen-new-york-gun-case-supreme-court-decision-kirkland-and-ellis-rule-of-law-constitution-11656017031.

139. Erin Mulvaney et al., *The Law Firms That Appeased Trump–and Angered Their Clients*, WALL ST. J. (June 1, 2025, at 21:00 ET), https://www.wsj.com/us-news/law/law-firms-trump-deals-clients-71b3616d.

140. Hahn, Reimsbach & Schiemann, *supra* note 74, at 86. The authors acknowledge multiple "economics-based theories," but focus on their shared concern with benefits and costs of disclosure. *Id.*

141. Barbara Ballan & Jason J. Czarnezki, *Disclosure, Greenwashing, and the Future of ESG Litigation*, 81 WASH. & LEE L. REV. 545, 549 (2024).

142. *See* Tom Lininger, *Green Ethics for Lawyers*, 57 B.C. L. REV. 61, 106-07 (2016) (describing how a potential environmental scorecard with state bar associations could "have an influence on a firm's appeal to prospective employees" and law firms would engage to "project a favorable image to th[e] audience of potential clients").

practice does not align with their beliefs or the firm lacks ESG standards.[143] As one article described, "[t]he younger [legal] talent, they're actually talking about [ESG] more because it's something that really matters to them; it's a moral cause."[144] Among top law firms, these young lawyers and law students could choose a firm that discloses advised emissions—in lieu of a firm refusing to disclose—while making the same or comparable entry-level salary.[145] Law firms may also disclose to avoid reputational harm from refusing to do so. Law students at top law schools have already boycotted and refused to work at law firms working for fossil fuel interests—such as Paul, Weiss representing ExxonMobil and Gibson Dunn representing Chevron.[146] Law students could extend this public criticism to exert reputational and economic pressure on law firms refusing to disclose advised emissions.[147]

Law firms may also disclose advised emissions to attract or retain clients that care about climate change.[148] Firms may disclose to appeal to these clients and indicate that they take advised emissions seriously. Advised emissions disclosures may have particular economic benefits where the law firm is seeking to provide ESG-related legal services.[149] As one deputy general counsel described, "[i]f law firms are going to advise and be successful in advising clients on how to engage in ESG matters, they also need to walk the walk."[150] This is particularly salient as an

143. *See* Tom Parry, *Young Talent: Is the Allure of Big Law Enough to Silence ESG Concerns?*, LAW.COM INT'L (Jan. 18, 2024, at 06:29 PT), https://www.law.com/international-edition/2024/01/18/young-talent-is-the-allure-of-big-law-enough-to-silence-esg-concerns/ [https://perma.cc/7KRK-XWJ2].

144. *Id.*

145. L. STUDENTS FOR CLIMATE ACCOUNTABILITY, *supra* note 55; *see* Staci Zaretsky, *Associate Compensation Scorecard: Biglaw's 2023 Cash Bash*, ABOVE THE LAW (Dec. 1, 2023, at 14:14 PT), https://abovethelaw.com/2023/12/biglaw-raise-bonus-tracker-2023/ [https://perma.cc/3U48-23TA] (showing $225,000 as the industry standard entry-level salary for BigLaw associates in 2023).

146. *See supra* notes 50-55 and accompanying text (describing law students protesting law firms).

147. *See* WENDEL, *supra* note 47, at 132 (describing how public shaming and boycotts aim to "exert economic pressure on perceived wrongdoers").

148. *Law Society Guidance*, *supra* note 4 (recognizing that "advised emissions are coming under increased scrutiny from some clients").

149. Part V.B addresses the recent backlash against ESG in the United States, which may weaken some of the ESG-related economic benefits of advised emissions disclosures.

150. Dylan Jackson & Dan Clark, *GCs: Big Law ESG Practices Must 'Walk the Walk'*, CORP. COUNS. (May 24, 2021, at 05:00 PT), https://www.law.com/corpcounsel/2021/05/24/gcs-big-law-esg-practices-must-walk-the-walk/ [https://perma.cc/7UKF-4VLZ]; Carlos Schiro Greenwald, *Why Law Firms Need*

increasing number of firms develop and expand ESG practice areas—in the United States and internationally.[151] Beyond ESG work, law firms may benefit from disclosure if clients were to require advised emissions data in RFPs or give preference to disclosing firms.[152] By disclosing advised emissions, firms would gain access to these clients. More broadly, a firm may disclose to gain an advantage with climate-conscious clients in a competitive market for legal services.[153] Law firms that are first movers on advised emissions disclosures further stand to receive economic benefits by positioning themselves as climate leaders.[154]

But advised emissions disclosures may come with costs that vary by firm. While disclosures may attract climate-conscious talent and clients, law firms may be concerned that disclosures could cost them other clients who are opposed to disclosures or climate action more broadly. The risk of disgruntled clients may be higher for law firms that work with many GHG-emitting clients. Advised emissions disclosures could also lead to public and stakeholder pressure for law firms to reduce their advised emissions.[155] Firms with higher advised emissions may face greater pressure to reduce those over time, which could translate into reputational cost for

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to Make ESG a Priority, NYSBA (Apr. 8, 2022), https://nysba.org/why-law-firms-need-to-make-esg-a-priority/ [https://perma.cc/LW42-4GD6] (arguing "[c]lients and prospective clients want to see law firms walk the walk" on ESG (quotations omitted)); Todd D. Amaral, Comment, *Conflicting Goals: The Ethics and Accountability of Law Firm Environmental, Social, and Governance (ESG) Policies*, 29 ROGER WILLIAMS U. L. REV. 323, 323-24 (2024); Joshi, *supra* note 136; Mulrenan, *supra* note 136.

151. Jason J. Czarnezki, Joshua Ulan Galperin & Brianna M. Grimes, *Teaching Sustainable Business Law & the Role of ESG Lawyers*, 31 N.Y.U. ENV'T L.J. 285, 286 (2023) (explaining that of the "2022 Am Law 50 law firms, forty-three firms have a practice group or area of focus on environmental, social, and governance (ESG); corporate social responsibility (CSR); or sustainable business," and an "additional six firms highlight ESG on their websites as a key issue, current topic, or industry").

152. *See supra* note 136 (describing clients seeking ESG disclosures in RFPs).

153. This follows a resource-based theory of disclosure, a subset of economic theory, that "suggests that a firm will adopt an increasingly proactive environmental management strategy if it possesses or can acquire resources and transform those into competences instrumental to competitive advantage and higher returns." Charles A. Backman, Alain Verbeke & Robert A. Schulz, *The Drivers of Corporate Climate Change Strategies and Public Policy: A New Resource-Based View Perspective*, 56 BUS. & SOC'Y 545, 548 (2017); Jay Barney, *Firm Resources and Sustained Competitive Advantage*, 17 J. MGMT. 99, 99-101 (1991) (describing the resource-based model).

154. Jackson & Clark, *supra* note 150; Amaral, *supra* note 150, at 323-24. *But see infra* note 316 and accompanying text (describing claims that ESG has retreated and its growth has slowed).

155. *See, e.g.*, Kurilla, *supra* note 52 (describing law student pressure on Paul, Weiss to drop ExxonMobil as a client).

firms unwilling to do so. All to say, advised emissions disclosures would shine a light on firms' involvement in driving climate change—which could reflect poorly on firms with extensive involvement in GHG-emitting work. Finally, as discussed in Part V.B, law firms may be concerned about government scrutiny for advised emissions disclosures, as part of a wider anti-ESG backlash in the United States.

The benefits and costs of advised emissions disclosures will vary across firms. But for law firms with few fossil fuel clients and limited advised emissions—likely some of those receiving an "A" or "B" on LSCA's Scorecard—the benefits of advised emissions disclosures may already outweigh the modest costs. On the other hand, firms with higher advised emissions may face higher costs from disclosure and be less likely to voluntarily disclose based on economic motivations alone.

4. *Institutional Theory*

The institutional theory of GHG emissions disclosures "states that organizations are driven not merely by their aim to maximize profits, but also by the requirements of different institutions" which "lead organizations to progressively adjust their behaviors."[156] In the legal industry, this theory anticipates law firms disclosing advised emissions as bar associations and professional bodies, GHG emissions disclosure protocols and frameworks, government entities, insurers, and other institutions increasingly recognize advised emissions.

This theory may have particular explanatory power in the legal industry because of its professional regulation through bar associations and other professional bodies. The Law Society and IBA have already raised the salience of advised emissions in the legal industry.[157] The Law Society Guidance explicitly contemplates that law firms may "identify[] and measur[e] such [advised] emissions."[158] The IBA has recognized that near-term advised emissions disclosures schemes are "not far-fetched" and "bars need to be aware of such developments so that they can contribute to the debate in preparation for the future."[159]

156. Hahn, Reimsbach & Schiemann, *supra* note 74, at 86.
157. *Law Society Guidance*, *supra* note 4; INT'L BAR ASS'N, *supra* note 25, at 3.
158. *Law Society Guidance*, *supra* note 4.
159. INT'L BAR ASS'N, *supra* note 25, at 3.

Following the Law Society, we may see guidance on advised emissions from other bar associations and legal professional bodies in the coming years—at least internationally if not also in the United States.[160]

Beyond bar associations, global GHG emissions disclosure and reduction frameworks are beginning to recognize advised emissions, bolstering an institutional theory. As of April 2026, two major initiatives are considering updates that would lend institutional credence to advised emissions quantification and disclosures. In November 2025, the Science Based Targets Initiative ("SBTi") released draft updates to their Corporate Net-Zero Standard listing legal services and other professional services "that support fossil fuel extraction, processing, distribution, marketing, sales, or expansion" as part of Scope 3 emissions.[161] If ultimately adopted, this updated standard would lend institutional support for advised emissions quantification. SBTi has global reach—10,000 companies covering over 40 percent of global market capitalization have set targets using their framework,[162] and some law firms already use SBTi standards to set GHG emissions reductions targets.[163]

160. *Law Society Guidance*, *supra* note 4; *see Resolution 111*, AM. BAR ASS'N (2019) (ABA House of Delegates Resolution urging lawyers and U.S. governmental entities to address climate change); John C. Dernbach, Tracy D. Hester & Amy L. Edwards, *ABA Encourages Climate-Conscious Lawyering at COP27*, AM. BAR ASS'N (Mar. 3, 2023), https://www.americanbar.org/groups/environment_energy_resources/resources/trends/2023-march-april/aba-encourages-climate-conscious-lawyering-cop27.

161. SCIENCE BASED TARGETS INITIATIVE, SBTI CORPORATE NET-ZERO STANDARD VERSION 2.0 - DRAFT FOR SECOND PUBLIC CONSULTATION 21, 33, 66 (2025), https://files.sciencebasedtargets.org/production/files/CNZS-V2-Second-Consultation-Draft.pdf [https://perma.cc/B96Y-EVGV].

162. *Corporate Climate Action Momentum Builds as SBTi Reaches 10,000 Companies with Validated Targets*, SCIENCE BASED TARGETS INITIATIVE (Jan. 22, 2026), https://sciencebasedtargets.org/news/sbti-celebrates-10000-company-validations [https://perma.cc/V2DQ-59WY].

163. *See Check a Law Firm's Science Based Targets Initiative Status*, THE CHANCERY LANE PROJECT, https://labs.chancerylaneproject.org/project/sbti-tracker/ [https://perma.cc/4JTM-B57Y] (last visited Apr. 29, 2026) (After clicking on "See all firms," this tool lists 59 law firms with targets validated by SBTi); *Baker McKenzie's Near-Term Science-Based Emissions Reduction Targets Approved by SBTi*, BAKER MCKENZIE (Jan. 16, 2025), https://www.bakermckenzie.com/en/newsroom/2025/01/baker-mckenzies-emissions-targets-approved-by-sbti [https://perma.cc/ZWR2-H63K]; Press Release, Norton Rose Fulbright, Net-zero Targets Approved by the SBTi for Norton Rose Fulbright, Europe, Middle East and Asia (Nov. 2024), https://www.nortonrosefulbright.com/en/news/ea7060a3/net-zero-targets-approved-by-the-sbti-for-norton-rose-fulbright-europe-middle-east-and-asia [https://perma.cc/JC62-2FQM].

GHG Protocol, which "supplies the world's most widely used greenhouse gas accounting standards and guidance,"[164] has proposed a new reporting category including "facilitated emissions" in revisions to its Corporate Value Chain (Scope 3) Accounting and Reporting Standard ("Scope 3 Standard").[165] As described in greater detail in Part V.A.2, these revisions, if ultimately adopted, could support advised emissions disclosures. Altogether, law firms may disclose advised emissions in response to growing institutional recognition of their relevance.[166]

III. ADVISED EMISSIONS AND THE LEGAL PROFESSION

While Part II analyzed law firms as business entities grappling with GHG emissions disclosures, this Part focuses on how an advised emissions framework interacts with the legal profession.[167] Recent scholarship has argued that "climate change requires a transformation in the practice of law,"[168] and we should scrutinize legal ethics and lawyers' professional duties in the face of an urgent

164. *Standards & Guidance*, GREENHOUSE GAS PROTOCOL, https://ghgprotocol.org/standards-guidance [https://perma.cc/X4EC-MKMW] (last visited Apr. 24, 2026).

165. GREENHOUSE GAS PROTOCOL, GREENHOUSE GAS PROTOCOL SCOPE 3 STANDARD REVISIONS PHASE 1 PROGRESS UPDATE MARCH 2026, at 6-8, 26 (2026), https://ghgprotocol.org/sites/default/files/2026-03/S3-Phase1ProgressUpdate-20260331.pdf [https://perma.cc/N5J5-XGQ3].

166. For another example, if law firm insurers begin to view advised emissions as an important risk parameter in deciding whether to insure a firm, that could prompt firms to quantify advised emissions. *See* Hester, *supra* note 21, at 45.

167. This Article assumes that—with proper tailoring—firm-level advised emissions disclosures and reductions could be implemented without violating binding state rules of professional conduct. For example, advised emissions could be disclosed at a sufficient level of generality (firm-wide or sector-wide for different types of GHG-emitting work) to avoid violating professional rules around client confidentiality. *See* MODEL RULES OF PRO. CONDUCT r. 1.6 (A.B.A. 2025) (client confidentiality). Firms already disclose aggregate numbers like their annual revenue, and court documents and publicly-available databases contain detailed information about law firms representing clients in litigation and transactional work. *See* ALM Staff, *The 2025 Am Law 100: Ranked by Gross Revenue*, AM. LAW. (Apr. 15, 2025, at 09:00 PT), https://www.law.com/americanlawyer/2025/04/15/the-2025-am-law-100-ranked-by-gross-revenue [https://perma.cc/Y93T-6JZY] (law firms' gross revenue data); IJGLOBAL, *supra* note 40 (law firms' transactional data by project); *M&A Deal Analytics*, BLOOMBERG LAW, https://www.bloomberglaw.com/external/document/X15EO690000000/m-a-overview-using-m-a-deal-analytics [https://perma.cc/YB74-WX9J]. Of course, any advised emissions framework will need to pay close attention to binding rules of professional conduct and conform to them. *See* Hester, *supra* note 21, at 44 (arguing for lawyer transparency on advised emissions to their clients).

168. Bustos, *supra* note 23, at 164-66.

climate crisis.[169] This Article contributes to this literature by considering how advised emissions disclosures could align with the lawyer's public citizen role.[170] It further describes how an advised emissions framework does not require a blanket rejection of neutrality and non-accountability principles. This reflects how advised emissions disclosures are a more "technocratic" approach to the lawyer's role in climate change—focused on measurement of and transparency about the GHG emissions firms advise rather than an individual lawyer's moral accountability for advising on GHG-emitting matters.[171] However, as this Part explores, an emerging advised emissions framework may contribute to longstanding debates about lawyers' accountability for their choice of clients.[172]

A. *The Lawyer as a "Public Citizen"*

The ABA Model Rules recognize the lawyer's role as a "public citizen having special responsibility for the quality of justice."[173] As part of this role, lawyers are responsible for the "improvement of

169. *See* Dernbach, Russell & Bogoshian, *supra* note 21, at 860 (arguing as the "realities of climate change emerge, the [lawyer's] duty of competence evolves to include what should reasonably be done in these changing circumstances"); Thomas McInerney, *The Legal Profession and Climate Change: A Consideration of the Lawyer's Role and an Investigation into the Possible Existence of Related Duties*, 7 BRISTOL L. REV. 11 (2021); Steven Vaughan, *Existential Ethics: Thinking Hard About Lawyer Responsibility for Clients' Environmental Harms*, 76 CURRENT LEGAL PROBS. 1 (2023) (arguing lawyer neutrality is implausible and incomplete in the context of environmental harms); Richard L. Abel, *Are There Causes and Clients Lawyers Should Not Represent?*, 27 LEGAL ETHICS 99, 105 (2025); *see also* Lininger, *supra* note 142 (discussing possible amendments to the ABA Model Rules to promote environmental health and minimize environmental harm).

170. This Article focuses on the public citizen role as reflected in the ABA Model Rules. Other countries also have conceptions of lawyers' duties to act in the broader public interest. *See SRA Principles*, SOLICITORS REGULATION AUTHORITY, https://www.sra.org.uk/solicitors/standards-regulations/principles/ [https://perma.cc/ZWJ8-X9TP] (last visited Jan. 4, 2026) ("Should the Principles come into conflict, those which safeguard the wider public interest (such as the rule of law, and public confidence in a trustworthy solicitors' profession and a safe and effective market for regulated legal services) take precedence over an individual client's interests.").

171. Bustos, *supra* note 21 (manuscript at 8) (on file with author).

172. *See* Bustos, *supra* note 23, at 216-20; David Luban & W. Bradley Wendel, *Philosophical Legal Ethics: An Affectionate History*, 30 GEO. J. LEGAL ETHICS 337, 351-52 (2017) (describing how the "debates persist" on whether lawyers are morally accountable in any way for their clients).

173. MODEL RULES OF PRO. CONDUCT preamble cmt. 1, 6 (A.B.A. 2025); *see also* Vaughan, *supra* note 169, at 12, 19-20 (describing how the Solicitors Regulation Authority for solicitors in England and Wales also includes a conception of the public interest (citing Solicitors Regulation Authority, Principles (n 53) Introduction)).

the law, access to the legal system, the administration of justice and the quality of service rendered by the legal profession," and should help the bar "regulate itself in the public interest" and "further the public's understanding of and confidence in the rule of law and the justice system."[174] Scholars have lamented how the public citizen role is nebulous and easily lost in the day-to-day churn of client-centric law practice.[175] But that does not render it less fundamental to the profession. The Rules recognize that "legal institutions in a constitutional democracy depend on popular participation and support to maintain their authority."[176]

What does it mean for lawyers to take their public citizen duties seriously in a time of climate crisis? Climate change is an existential threat to the public and may itself undermine the legal system and rule of law that lawyers should aim to protect.[177] The ABA has recognized climate change as an important issue to both the bar and society through its 2019 resolution on climate change.[178] Bar associations around the world have issued climate change resolutions or taken other climate change-related action,

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174. MODEL RULES OF PRO. CONDUCT preamble at cmt. 6 (A.B.A. 2025).

175. *See, e.g.*, Wald, *supra* note 76, at 248-49; Matthew E. Meany, "*Lawyer as Public Citizen" - A Futile Attempt to Close Pandora's Box*, 35 CAMPBELL L. REV. 119, 120 (2012) ("[T]he Rules provide little guidance on what a 'public citizen' is . . ."). Scholars have lamented this lack of focus on the common good and the public in practice. Debra Lyn Bassett, *Redefining the "Public" Profession*, 36 RUTGERS L.J. 721, 721-23 (2005); *see id.* at 723 & n.10 (summarizing extensive literature on "seeming transition of law from a profession to a business"); *see also* Bustos, *supra* note 23, at 222-23 (describing law firms choosing to represent fossil fuel interests primarily for profit, not for some asserted commitment to the profession or the rule of law); Scott L. Cummings, *Lawyers in Backsliding Democracy*, 112 CALIF. L. REV. 513, 547 (2024).

176. MODEL RULES OF PRO. CONDUCT preamble at cmt. 6 (A.B.A. 2025).

177. *Id.*; *see* John C. Dernbach, Irma Russell & Matt Bogoshian, *Advocating for the Future*, 38 ENV'T F. 25, 26 (2021) ("As the climate crisis develops, the profoundly negative effects of climate disruption will increasingly challenge the stability of American democracy, the administration of justice, and the legal system that lawyers are sworn to uphold."); Bustos, *supra* note 23, at 202. For more on the impacts of climate change on the rule of law, *see* Christian Huggel et al., *The Existential Risk Space of Climate Change*, 174 CLIMATIC CHANGE 1 (2022); Peter H. Gleick, *The Implications of Global Climatic Changes for International Security*, 15 CLIMATIC CHANGE 309 (1989) (identifying pathways for climate change leading to international tensions over food, water, and minerals); Kendra Sakaguchi et al., *Climate Wars? A Systematic Review of Empirical Analyses on the Links Between Climate Change and Violent Conflict*, 19 INT'L STUD. REV. 622 (2017); Juliana v. United States, 947 F.3d 1159, 1175-89 (9th Cir. 2020) (Staton, J., dissenting) (describing climate change impacts on the rule of law).

178. *Resolution 111*, AM. BAR ASS'N (2019); *see also* Carol Liao, *Lawyers in a Warming World*, 62 ALBERTA L. REV. 1, 8-19 (2024) (summarizing climate action from law societies and bar associations globally).

"acknowledging that the legal profession has a relevant role to play in addressing climate change locally, nationally, and internationally."[179]

Advised emissions disclosures align with two possible pathways for lawyers to embody the public citizen role with respect to climate change: (1) taking action to combat climate change and associated harms, including through pro-bono service, law reform, and climate leadership and (2) greater transparency and self-regulation in the legal profession on climate change issues.

Some scholars have argued that lawyers have an "obligation to combat climate change" that is "based on the lawyer's responsibility for justice" as a public citizen.[180] As John Dernbach, Irma Russell & Matthew Bogoshian emphasize, "business as usual is no longer defensible" and "lawyers should play a major role in responding to [climate change] threats by working for a more sustainable society."[181] In its 2019 resolution on climate change, the ABA "urg[ed] lawyers to engage in pro bono activities to aid efforts to reduce greenhouse gas emissions and adapt to climate change."[182] Beyond pro bono work, the public citizen role supports greater climate leadership from lawyers.[183] As Dernbach, Bogoshian, and Russell explained, "our ethics norms provide encouragement for lawyers to be leaders of legal reform" including "address[ing] climate disruption and other threats to public well-being."[184] Advised emissions disclosures present one such opportunity for climate leadership—by demonstrating that the legal industry is cognizant of its role in climate change.

179. Liao, *supra* note 178, at 8.

180. Dernbach, Russell & Bogoshian, *supra* note 177, at 25.

181. Dernbach, Russell & Bogoshian, *supra* note 111, at 20; *see* Irma S. Russell, *The Sense of an Ending: Shifting Paradigms in Search of Our Common Future*, 53 U. TOL. L. REV. 301 (2022).

182. *Resolution 111*, AM. BAR ASS'N (2019); Brian Preston, *Climate Conscious Lawyering*, 95 AUS. L.J. 51, 64 (2021) (suggesting that lawyers may "encourage action by the Executive, legislative and judicial branches of government to address the climate crisis" and provide pro bono services to address climate change); *see also* John C. Dernbach, *ABA House of Delegates Reaffirms Support for Sustainable Development in Law Practice*, AM. BAR ASS'N (Aug. 22, 2024), https://www.americanbar.org/groups/environment_energy_resources/resources/trends/2024-sept-oct/aba-house-of-delegates-reaffirms-support/ (describing ABA sustainable development resolutions since 1991, including that the ABA should provide "guidance to assist lawyers to incorporate sustainable development into their practice and pro bono activities").

183. *See* JOHN C. DERNBACH, MATTHEW BOGOSHIAN & IRMA RUSSELL, SUSTAINABILITY ESSENTIALS: A LEADERSHIP GUIDE FOR LAWYERS 43 (2022).

184. *Id.*

Advised emissions disclosures also align with greater transparency and self-regulation in the public interest as a means to vindicate the public citizen role. Scholars have recognized how increased transparency across a range of issues supports lawyers' professional legitimacy.[185] Rhode called for "the bar . . . to become more publicly accountable for its public responsibilities" including "[a]t a minimum . . . more transparency regarding lawyer performance."[186] Scholars have identified how state attorney ethics law and the ABA Model Rules could already accommodate greater climate change and environmental transparency.[187] Building on this scholarship, this Article identifies that advised emissions disclosures align with public interest in greater climate transparency. They may also bolster public confidence that the legal profession is at least considering its role in climate change.[188] Likewise, advised emissions disclosures could reflect self-regulation of the legal profession in the public interest.[189] As the public increasingly expects emissions disclosures from *all* corporate industries, the legal industry could adopt advised emissions disclosures to meet these expectations.[190] With varying views on what is in the public interest and how the legal profession should respond to the existential climate threat, greater climate

185. Cummings, *supra* note 175, at 608-09.

186. Rhode, *supra* note 80, at 1332.

187. *See* Flatt, *supra* note 29, at 569 (suggesting that "many states' attorney ethics laws could be interpreted to require, or at least permit, attorneys to disclose client activity relating to greenhouse gas emissions," if it results in death or substantial bodily harm); Rizzardi, *supra* note 125, at 140 (describing also based on Model Rule 1.6(b) that "society is increasingly poised to hold lawyers accountable for failing to disclose their clients' lies and wrongdoings.").

188. Wendel recognized that law students protesting law firms representing fossil fuel interests may be doing so for greater transparency in the context of lawyers' "obligations to promote public confidence in the administration of justice." WENDEL, *supra* note 47, at 149.

189. *See* Rhode, *supra* note 80, at 1324 (describing "developing and sustaining legal frameworks, including those that govern the profession's own behavior" as one of the "fundamental obligations of the lawyer's civil role"). Other scholars have called for updates to the ABA Model Rules to reflect climate and environmental concerns. J. William Futrell, *Environmental Ethics, Legal Ethics, and Codes of Professional Responsibility*, 27 LOY. L.A. L. REV. 825, 838 (1994) (arguing in order to "earn the right to continue its monopoly in the practice of law and its primary role in the regulation of its members' conduct, the bar has an obligation to adapt its rules of professional responsibility to changing legal schemes and increasing threats to the ecological order"); Lininger, *supra* note 142, at 61 (proposing "a comprehensive set of amendments" to the Model Rules "to establish not only opportunities, but also obligations, for lawyers to promote environmental health").

190. *See supra* notes 10-12, 81-83 and accompanying text (describing GHG emissions disclosures across other industries).

transparency would be a modest step.[191]

B. *Neutrality and Non-Accountability*

As the concept of advised emissions has gained traction in recent years, it has faced criticisms based on principles of neutrality and non-accountability.[192] But we do not need to fully abandon these principles to accommodate advised emissions disclosures and even reductions. Even so, an emerging advised emissions framework may open up conversations about how these principles apply to law firms' choice to represent wealthy corporate clients on GHG-emitting civil matters in a time of climate crisis. We should embrace these conversations and the opportunity to interrogate these principles. As an important note, the discussion below focuses on the choice of clients and matters rather than the quality of representation therein.[193]

Neutrality and non-accountability have long stood as principles of the legal profession.[194] These principles are part of the "standard

191. Vaughan, *supra* note 169, at 20 (describing the "uncertain and contested nature of public interests" (quoting Maria Lee, *The Public Interest in Private Nuisance: Collectives and Communities in Tort*, 74 CAMBRIDGE L.J. 329, 329 (2015))). *Cf.* Abel, *supra* note 169, at 104 (responding to the "irreducible subjectivity of value preferences" in liberal pluralism by saying that "some ideas deserve to be cancelled because they are simply wrong").

192. *See, e.g.*, Jonathan Goldsmith, *A Dilemma on Climate Advice for Lawyers*, THE L. SOC'Y GAZETTE (Apr. 8, 2025), https://www.lawgazette.co.uk/commentary-and-opinion/a-dilemma-on-climate-advice-for-lawyers/5122945.article [https://perma.cc/SE5V-YZ78] (identifying "several significant problems with advised emissions" including that "bars are vehemently against their introduction, for understandable reasons, particularly because they are based on identification of the lawyer with the client's interest"); *see also* Mary Or, *Law Society of England and Wales' Climate Change Guidance for Lawyers Met with Mixed Reactions*, AUSTRALASIAN LAWYER (Apr. 25, 2023), https://www.thelawyermag.com/au/news/general/law-society-of-england-and-wales-climate-change-guidance-for-lawyers-met-with-mixed-reactions/443789 [https://perma.cc/9VLF-VEVZ] (describing "criticisms" of the Law Society Guidance on advised emissions as "being overly political and creating a two-tiered legal system condemning polluters as 'bad' clients").

193. An advised emissions framework does not necessarily target the substance of the legal advice provided to clients after the representation and its scope has been set. *Cf.* Hester, *supra* note 21, at 44-45 (describing "important ethical consequences for how law firms incorporate advised emissions and climate goals *into their client relationships* and professional services," especially where "a law firm's climate commitments temper its legal advice to the client"). Future work could address how advised emissions disclosures and reductions interact with legal professional norms and principles *within* representation, including competence, loyalty, and primacy of the client. But this is beyond the scope of this particular Article. For more on climate competent lawyering, *see* Dernbach, Russell & Bogoshian, *supra* note 21; Preston, *supra* note 182.

194. *See* Gerald J. Postema, *Moral Responsibility in Professional Ethics*, 55 N.Y.U. L. REV.

conception" of the lawyer's professional role as that of a neutral partisan, "refrain[ing] from moral judgment over the lawful ends of the client."[195] As David Luban & W. Bradley Wendel summarize:

> The standard conception . . . generally lists three principles: (1) partisanship (zealously pursuing the client's lawful interests); (2) neutrality (not taking sides regarding the moral merits of the client's ends); and (3) nonaccountability (being exempt from moral criticism for having helped another act immorally).[196]

Following this conception, "the lawyer need not consider, nor may he be held responsible for, the consequences of his professional activities."[197] The ABA Model Rules further endorse the standard conception: "[a] lawyer's representation of a client . . . does not constitute an endorsement of the client's political, economic, social or moral views or activities."[198] It elaborates in commentary that "[l]egal representation should not be denied to people . . . whose cause is controversial or the subject of popular disapproval" and "[b]y the same token, representing a client does not constitute approval of the client's views or activities."[199] To be sure, while the Model Rules lend support to the standard conception, lawyers in the United States do not have a "legally enforceable obligation" to represent any particular civil client or civil matter.[200]

Advised emissions disclosures, and even advised emissions reductions, do not require us to completely abandon values of neutrality and non-accountability.[201] Law firms may choose to

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63 (1980).

195. Melissa Mortazavi, *The Cost of Avoidance: Pluralism, Neutrality, and the Foundations of Modern Legal Ethics*, 42 FLA. ST. U. L. REV. 151, 171 (2014); Postema, *supra* note 194, at 73; William H. Simon, *The Ideology of Advocacy: Procedural Justice and Professional Ethics*, 1978 WIS. L. REV. 29 (1978).

196. Luban & Wendel, *supra* note 172, at 343; Mortazavi, *supra* note 195, at 172; *see also* Bustos, *supra* note 23, at 187-91 (discussing neutrality, non-accountability, and ABA Model Rule 2.1); MODEL RULES OF PRO. CONDUCT r. 1.2(b) (A.B.A. 2025).

197. Postema, *supra* note 194, at 73.

198. MODEL RULES OF PRO. CONDUCT r. 1.2(b) (A.B.A. 2025).

199. *Id.* at r. 1.2, cmt. 5.

200. W. Bradley Wendel, *Institutional and Individual Justification in Legal Ethics: The Problem of Client Selection*, 34 HOFSTRA L. REV. 987, 993-94 (2006).

201. By some conceptions, the principle of neutrality focuses centrally on the lawyer's relationship with the client only *after* the lawyer has chosen to represent them. *See* Postema, *supra* note 194, at 73 (defining neutrality as "*once he has accepted the client's case*, the lawyer must represent the client, or pursue the client's objectives, regardless of the lawyer's opinion of the client's character and reputation, and the moral merits of the client's objectives"); DARE, *supra* note 22, at 74 (describing that the principle of neutrality "says that the lawyer must not allow their own view of the moral merits of the client's objectives or character to affect the diligence or zealousness with which they pursue the client's lawful

disclose their advised emissions for reasons not grounded in moral judgment of clients' GHG-emitting work or of lawyers taking on those clients and matters. They may disclose advised emissions for economic and financial reasons—gaining an edge in recruiting lawyers, signing clients that prefer or demand such disclosures, and gaining a competitive advantage in the legal market.[202] For some firms, it may simply make good business sense to disclose. Law firms may also choose to reduce their advised emissions, taking on fewer GHG-emitting matters, for similar economic reasons or to reduce various forms of risk associated with GHG-emitting and fossil fuel work.[203] Law firms may also decline new fossil fuel work to free themselves from conflicts of interest in taking on future lawsuits against those same fossil fuel companies.

We do not stop law firms from specializing in substantive areas, listing their areas of expertise on their website, and distinguishing themselves among competitors. Law firms regularly choose their clients for financial reasons and economic gain. They identify services or industries where they have a competitive advantage and limit how many pro bono clients to take on, presumably, to the extent reputational and other benefits of pro bono work outweigh the cost of lost billable hours to paying clients. Most lawyers would not balk at a firm choosing their practice areas or industries based on economic motives or limiting their pro bono work to a small percentage of their total work for financial reasons.[204] But when a law firm decides to disclose or limit their fossil fuel and other GHG-emitting matters because they perceive that the economic benefits of doing so outweigh the costs, critiques grounded in neutrality and non-accountability emerge. BigLaw firms in particular already largely refuse to take on an entire category of clients—people who

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objectives"). By other conceptions, neutrality has at least some bearing on client selection. *See* Simon, *supra* note 195, at 36 (describing that the principle of neutrality means the "lawyer is expected to represent people who seek his help regardless of his opinion of the justice of their ends"); Wendel, *supra* note 200, at 1008-09 (describing how "too much latitude for the exercise of moral discretion" in the client selection context "may undermine certain professional commitments, such as the principle of neutrality, which requires the lawyer to refrain from exercising judgment concerning the moral merits of the client's character or objectives").

202. *See supra* Part II.B.3.

203. *See supra* Part II.B.2 (discussing potential risks of continuing to take on GHG-emitting matters).

204. *See* L. STUDENTS FOR CLIMATE ACCOUNTABILITY, *supra* note 28, at 5 ("No Vault 100 firm dedicates more than 11 [percent] of its billable hours to pro bono clients, and most dedicate substantially less." (citations omitted)).

cannot pay their high fees—for financial reasons.[205] A firm disclosing or reducing advised emissions for financial reasons, including to gain reputational and economic advantage in the legal services market, should not merit greater scrutiny.

In addition, law firms may disclose or reduce advised emissions in response to client demands. As described in Part II.B.2, a stakeholder theory of advised emissions disclosures anticipates law firms as responsive to client demands for disclosure. A client determines the parameters of their engagement with legal services. They can choose to only hire law firms that have disclosed or committed to reducing their advised emissions.[206] A law firm does not have to endorse the client's moral commitment to climate change to represent them, but they must meet the client's disclosure and other requirements to secure their business. Non-lawyer clients are not bound by legal professional principles.[207] Clients are entitled to their climate change-related preferences and to seek representation that aligns.

For law students and lawyers choosing their employer, they may choose a law firm with limited GHG-emitting work without morally rebuking other lawyers for taking on this work. Even though a lawyer may find it morally permissible for *someone* to represent a fossil fuel or GHG-emitting matter, that lawyer may not want to spend their time doing so and may factor that into choosing employment. This may mean declining to work at a firm representing GHG-emitting matters where they could be pulled in to represent at any point. As Wendel noted, there is a "substantial gap between a moral *permission* to represent a particular client or industry and a moral *obligation* to represent any given client."[208] In this gap, lawyers make choices on where they choose to work, spend their time, and specialize.[209] Altogether, advised emissions

205. Of course, the exclusion of all but the wealthiest individuals and corporate entities from BigLaw's legal services is also worth interrogating but beyond the scope of this Article.

206. *See* Pepper, *supra* note 102, at 614 ("As long as what lawyer and client do is lawful, it is the client who is morally accountable."); *see also* Judith A. McMorrow & Luke M. Scheuer, *The Moral Responsibility of the Corporate Lawyer*, 60 CATH. U. L. REV. 275, 277 (2011) (describing that "the client sets the objectives of the representation").

207. *See* W. Bradley Wendel, *Lawyer Shaming*, 2022 U. ILL. L. REV. 175, 196 (2022) (describing that "nonlawyer observers are not bound by rules of professional conduct for lawyers").

208. W. BRADLEY WENDEL, LAWYERS AND FIDELITY TO THE LAW 153 (2010).

209. *See* Wendel, *supra* note 200, at 1014 (acknowledging that a "morally decent rulebook" for lawyers "may need to contain some provision permitting specialization and

disclosures provide data to inform a lawyer choosing that they do not wish to work on GHG-emitting matters—aside from any moral rebuke of lawyers who do choose to advise on these matters.

In sum, an advised emissions framework does not require lawyers to completely cast aside neutrality and non-accountability principles. But this Article anticipates that the legal profession will continue to grapple with lawyers' accountability for their client choices as an advised emissions framework emerges. This is in part because advised emissions disclosures could provide data to fuel moral critiques of law firms continuing to take on GHG-emitting matters. This Article thus anticipates disputes around neutrality and non-accountability in the context of an advised emissions framework. It joins the chorus of legal scholars calling for a critical assessment of these principles and what they purport to achieve in the legal profession.

Among scholars, there is considerable pushback to the standard conception and its principles of neutrality and non-accountability.[210] Rhode, for example, argued that lawyers must "accept personal responsibility for the moral consequences of their professional actions" and "should make decisions as advocates in the same way that morally reflective individuals make any ethical decision."[211] She further pressed, "[t]he avoidance of ethical responsibility is ultimately corrosive for lawyers, clients, and the legal framework on which they depend."[212] Legal ethics scholars including William Simon, Richard Wasserstrom, David Luban, and W. Bradley Wendel have further critiqued the standard conception.[213] More recently, in the climate change context,

cause lawyering"). Wendel would ask a lawyer declining to take on a client to situate that choice "in terms of considerations that can plausibly be located within the legal system" such as "substantive equality." WENDEL, *supra* note 208, at 154. In the climate context, for one justification situated in values of the legal profession, a lawyer could explain that they will not advise on GHG-emitting projects because they contribute to climate change undermining the rule of law. *See supra* note 177 and accompanying text (noting the impacts of climate change on the rule of law and legal system).

210. RHODE, *supra* note 104; William H. Simon, *Ethical Discretion in Lawyering*, 101 HARV. L. REV. 1083, 1090 (1988); *see also* W. Bradley Wendel, *Lawyers and Butlers: The Remains of Amoral Ethics*, 9 GEO. J. LEGAL ETHICS 161, 174-77 (1995) (summarizing William Simon's work on how the lawyer's professional role is not separate from ordinary morality); Luban & Wendel, *supra* note 172, at 341-46.

211. RHODE, *supra* note 104, at 66-67.

212. *Id.* at 64.

213. *See* Luban & Wendel, *supra* note 172, at 341-46; Richard Wasserstrom, *Lawyers as Professionals: Some Moral Issues*, 5 HUM. RTS. 1 (1975); Simon, *supra* note 195; WENDEL, *supra* note 47, at 4 ("One of the main arguments in this book is that the Principle of

Camila Bustos has argued that, "by hiding under foundational legal principles such as 'access to justice' and invoking concepts of 'neutrality' and 'moral nonaccountability' in the context of climate disaster, lawyers are distorting key principles to shield themselves from accountability."[214]

In the face of sharp criticism,[215] why does the legal profession continue to hold so tightly to neutrality and non-accountability principles in practice,[216] even in the selection of GHG-emitting clients?[217] One reason could be to ensure "[l]egal representation should not be denied to people" merely because their "cause is controversial or the subject of popular disapproval."[218] The logic is that separating individual or personal moral judgments from professional role morality will ensure even the most reprehensible, unsympathetic individuals receive civil representation.[219] Since there is no constitutional right to representation in civil cases, and professional codes of conduct do not require a lawyer to take on any civil client that comes their way, this framing may be these clients' only hope.[220]

Nonaccountability is wrong and should be discarded from our thinking about lawyers' ethics.").

214. Bustos, *supra* note 23, at 228.

215. *See* Luban & Wendel, *supra* note 172, at 341-46 (critiques of the standard conception).

216. For more on how corporate lawyers view ethics and norms in practice, *see* Vaughan & Oakley, *supra* note 39, at 73.

217. This Article focuses on client and matter selection, rather than the lawyer's actions once client representation is established. For more on legal ethics during representation, *see* WILLIAM H. SIMON, THE PRACTICE OF JUSTICE: A THEORY OF LAWYERS' ETHICS 138 (1998) (arguing "[l]awyers should take those actions that, considering the relevant circumstances of the particular case, seem likely to promote justice"); Pepper, *supra* note 102, at 619-20 (arguing for the importance of the lawyer's amoral role during representation, not focusing on client selection—"the moral content of what is distributed—the ethical nature of the lawyer-client relationship once established—is the subject of this essay" while "[t]he distribution of access to . . . legal services . . . is a different subject").

218. MODEL RULES OF PRO. CONDUCT r. 1.2, cmt. 5 (A.B.A. 2025).

219. *See* Postema, *supra* note 194, at 64-66; WENDEL, *supra* note 208, at 20-26 (describing separation between "ordinary" morality and professional morality); Wendel, *supra* note 200, at 995 (describing how non-accountability may prevent "unpopular clients" from being "left to face the power of the hostile state on their own, without the assistance of a lawyer"); Stephen Jones, *A Lawyer's Ethical Duty to Represent the Unpopular Client*, 1 CHAPMAN L. REV. 105, 106 (1998) (describing how shaming criminal lawyers for their client choice could "scare off lawyers from standing by the unpopular and degraded").

220. *See* Wendel, *supra* note 207, at 192 (identifying that court appointments typically only happen in criminal cases and "where lawyers have voluntarily added their name to the roll of lawyers in that jurisdiction who are willing to accept court appointments"); Bustos, *supra* note 23, at 281.

But this concern does not appear to bear out in the context of wealthy, corporate clients. Even the most unpopular corporate clients have little trouble securing representation if they can pay lucrative sums.[221] It is unlikely that even advised emissions reductions by some law firms would deprive GHG-emitting companies of representation across the board.[222] It is even less clear how advised emissions disclosures—that is, transparency alone—would prevent them from obtaining *any* representation.

Other scholars have claimed the standard conception derives from the lawyer's role in the adversarial system, representing their client in a tribunal with a neutral judge or decision-maker.[223] Per this argument, the standard conception protects the adversarial system, which is the "best way to find the truth" and "defend the individual's rights."[224] More broadly, scholars have described an "institutional justification for the legal system" which "generally assumes that actors must adopt a stance of moral neutrality toward clients and their ends, so that the system can perform its service of resolving disputes and facilitating peaceful coexistence."[225]

But the adversarial system is rife with inequity. It is a place where wealthy individuals and corporations can pay for access and lawyering that spins laws in their favor.[226] And the "truth-seeking

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221. *See* WENDEL, *supra* note 208, at 152; Bustos, *supra* note 23, at 220-23 n.303 (contending it is "virtually impossible" that a fossil fuel company could not find some firm to represent them given the lucrative compensation they offer).

222. *See* Bustos, *supra* note 23, at 220-23; McMorrow & Scheuer, *supra* note 206, at 308 (arguing "even if there were widespread disapproval of nonaccountability in the legal profession, most attorneys would still accept the same clients as long as those clients were able to pay").

223. *See, e.g.*, DAVID LUBAN, LAWYERS & JUSTICE: AN ETHICAL STUDY 51-55 (1988); MONROE H. FREEDMAN, LAWYERS' ETHICS IN AN ADVERSARY SYSTEM (1975); Luban & Wendel, *supra* note 172, at 350 (describing a "third defense of the standard conception, which has its origins in the adversarial structure of adjudication").

224. Luban & Wendel, *supra* note 172, at 350; *see* DANIEL MARKOVITS, A MODERN LEGAL ETHICS 171-211 (2008) (describing lawyers' role in legitimating adjudication).

225. Wendel, *supra* note 200, at 991; *see* Luban & Wendel, *supra* note 172, at 353, 359 (explaining a justification of the standard conception based on lawyers' role in the "institutional settlement," in a pluralist society, facilitating access to law and "legal institutions for the peaceful and orderly resolution of conflicts").

226. *See* Bustos, *supra* note 23, at 222; RHODE, *supra* note 104, at 55-56 (describing unequal resources between parties in the adversarial system where "[i]n law, as in life, the haves generally come out ahead"); *see also* Helen Hershkoff & Luke Norris, *The Oligarchic Courthouse: Jurisdiction, Corporate Power, and Democratic Decline*, 122 MICH. L. REV. 1, 1 (2023) (describing corporations using "jurisdictional maneuvers" to "wear[] out less-resourced parties, circumvent[] hearings on the merits, and insulat[e] themselves from laws that seek to govern their behavior").

justification for the adversary system breaks down in the presence of the kind of wealth disparities that exist in the real world," where parties are unequally represented based on their financial circumstances.[227] Scholars have further expressed skepticism with justifying the standard conception based on legal institutions producing just outcomes. "If the institutions produce fair outcomes with a high degree of regularity, lawyers may be warranted in shunting off responsibility for their actions," but "numerous impediments prevent the efficient operation of institutions to correct injustices."[228]

Furthermore, any justification for the standard conception grounded in the adversarial system is weakened outside that context.[229] Murray Schwartz, for example, identified that "while the advocate may claim to be insulated from moral accountability because of the necessary implications of the adversary system, the nonadvocate may not make that claim."[230] For advised emissions, law firms regularly advise on GHG-emitting matters outside the adversarial system, including through transactional work to finance GHG-emitting projects for corporate clients.[231]

The arguments for the standard conception appear even weaker in corporate representation than they are for representation of an individual person.[232] A core justification for the standard conception is that "lawyers enhance their clients' autonomy before the law," that is, "[a]n autonomous person chooses her own ends" and "[t]he lawyer's role is to assist clients in doing what they have every right to do."[233] As Wendel describes,

227. Wendel, *supra* note 210, at 169; Luban & Wendel, *supra* note 172, at 351 ("The problem with the adversary system excuse is that it is only as good as the adversary system, which is an imperfect truth-seeker and rights-defender.").

228. Wendel, *supra* note 210, at 171 (citing Deborah L. Rhode, *Ethical Perspectives on Legal Practice*, 37 STAN. L. REV. 589, 602-03 (1985)).

229. Even with the flaws of the adversarial justification, it may prompt us to consider whether litigation should be treated differently than non-litigation work (e.g., transactional work) in an advised emissions framework.

230. Murray L. Schwartz, *The Professionalism and Accountability of Lawyers*, 60 CALIF. L. REV. 669, 671 (1978); McMorrow & Scheuer, *supra* note 206, at 278; *see also* Richard Wasserstrom, *Lawyers as Professionals: Some Moral Issues*, 5 HUM. RTS. 1, 12 (1975) (distinguishing the justifiable "amoral behavior of the *criminal* defense lawyer" from other lawyering contexts).

231. *See* McMorrow & Scheuer, *supra* note 206, at 285-86 (describing transactional work without a neutral arbiter and outside the adversarial system).

232. *Id.* at 278.

233. Luban & Wendel, *supra* note 172, at 347.

"[i]n a morally pluralistic society, it is highly likely that lawyers and clients will disagree on the morality of either the client's goals or the tactics to be used to achieve those ends."[234] The standard conception would defer to the client's morality, obviating the lawyer's morality.[235] But, "if the basis for neutrality is respect for the individual as an autonomous moral person, it is harder to see how that applies where the client is a company, a legal fiction without human dignity."[236] Other scholars agree that "traditional arguments in favor of nonaccountability are not easily applied to corporate-transactional work" because business entities lack the sort of moral decision-making capability a lawyer defers to when adopting a non-accountability framing.[237] As Luban and Wendel summarize, "[i]t seems, then, that the autonomy argument" for the standard conception "is weak when the client is an organization."[238] This may weaken the case for neutrality and non-accountability when representing corporate clients.

Ultimately, this Article maintains that an advised emissions framework does not require a wholesale rejection of neutrality and non-accountability. But this Article agrees with other scholars that we should scrutinize the value of neutrality and non-accountability principles—especially as applied to civil representation of wealthy, corporate clients on GHG-emitting matters.[239] At least, we should consider a "more nuanced assessment of the permissibility and meaning" of representing clients on varying types of GHG-emitting matters.[240]

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234. W. Bradley Wendel, *Public Values and Professional Responsibility*, 75 NOTRE DAME L. REV. 1, 6 (1999).

235. *See id.*

236. Vaughan, *supra* note 169, at 8; *see also* McMorrow & Scheuer, *supra* note 206, at 278 ("[B]ecause for-profit corporations are legal fictions treated as individuals for some purposes of the law, but are not autonomous moral actors capable of free will or autonomous responsible citizenship, they lack many of the key characteristics that justify an attorney's suspension of moral judgment.").

237. McMorrow & Scheuer, *supra* note 206, at 278.

238. Luban & Wendel, *supra* note 172, at 350.

239. *See* Bustos, *supra* note 23, at 219; Wendel, *supra* note 207, at 217 (describing "complicating the neatness of the usual analysis of lawyers' client-selection decisions"); *see also* WENDEL, *supra* note 47, at 245 (arguing that "vigorous debate about the morality of representing antisocial clients" is "an important part of the connective tissue that links professions and the broader community they serve").

240. WENDEL, *supra* note 47, at 4; *see* Bustos, *supra* note 23, at 215 (describing that "[n]ot all situations where counsel advises a client have the same implications for the climate and democracy" and "[i]t would be an oversimplification to apply the same treatment to a lawyer representing an individual facing criminal penalties under an

IV. ADVISED EMISSIONS METHODOLOGY

This Part provides initial methodological considerations for developing an advised emissions methodology for the legal industry. To govern an emerging advised emissions framework, this Part recommends a legal industry working group to develop the methodology and a non-profit organization to house the methodology and monitor future disclosures. This Part thus serves as a starting point for methodology drafting and discussion, acknowledging the wide variety of services that law firms perform for GHG-emitting projects and industries.

A. *Existing Methodologies*

To date, there is one white paper that has suggested a formula for quantifying advised emissions.[241] This paper proposes quantifying advised emissions at the client level rather than for each matter. It proposes calculating advised emissions based on the emissions of a client multiplied by an attribution factor—a portion of those client emissions to attribute to the law firm—and multiplied by a transition factor indicating the extent to which the client's sector is transitioning away from fossil fuels.[242] The formula calculates the attribution factor by dividing legal fees billed to the client per year by the client opex, or operating expenses annually.[243]

environmental statute, a lawyer arranging a merger between two energy companies, and a lawyer defending a fossil fuel company in civil litigation against a tort lawsuit brought on behalf of a municipality").

241. GINGELL, *supra* note 4, at 11-13.

242. *Id.* at 11-14; *see infra* Figure 1.

243. GINGELL, *supra* note 4, at 11-14.

$$A^e = E^C \times A^f \times T^f$$

$$A^f = \frac{F^b}{O_\rho}$$

Where:

A^e : Advised Emissions
A^f : Attribution Factor
E^C : Emissions of Client
T^f : Transition Factor
F^b : Fees Billed to Client/yr
O_ρ : Opex of Client (or client division)/yr.

Att: Gingell/Oxygen House

Figure 1: Gingell White Paper Advised Emissions Formula (2023).[244]

Other service provider industries, such as financial institutions and advertising, have developed methodologies for quantifying their serviced emissions. As Tracy Hester summarizes, "methods in other service industries look to economic proxies: if the service leads to an increase in economic activity worth a certain value, the provider should multiply that economic value by an emission factor to impute GHGs from that activity."[245] As applied to the legal industry, "[i]f a law firm's advice enables a project that generates $1 million worth of economic value, and an emission factor assumes 1,000 tons of GHGs result from $1 million of economic activity, that law firm has attributable serviced emissions of 1,000 tons."[246] As Hester points out, the economic value of a client's project may be difficult to quantify.[247]

B. *Initial Methodological Considerations*

This Subpart proposes initial considerations for quantifying advised emissions. Developing a full methodology will be a detailed, technical process, best suited for a working group of stakeholders and experts.[248] This Subpart, however, identifies

244. *Id.* at 11.

245. Hester, *supra* note 21, at 42; *see also* PURPOSE DISRUPTORS, *supra* note 11 (calculating "advertised emissions" by multiplying "the amount spent on advertising by the return on investment to get the uplift in revenue" and then multiplying uplift in revenue by the "GHG emissions per unit of output").

246. Hester, *supra* note 21, at 42.

247. *Id.*

248. *See infra* Part IV.D (recommending working group to develop methodology).

some key principles and outlines three tiers of matters, starting with the highest priority for inclusion in the methodology. These considerations could guide a working group as they develop a rigorous, industry-wide advised emissions methodology.

1. *Principles for Quantifying Advised Emissions*

First, an advised emissions methodology should aim for a comparative metric of law firms' contribution to climate change through the GHG emissions they advise.[249] This is a type of "entity GHG accounting," which "aims to determine *accountability* and *responsibility*" for "contributions to climate change," "[r]ather than yield one comprehensive sum of global emissions" from all actors, here, law firms.[250] An advised emissions methodology is instead concerned with "assign[ing] responsibility for all emissions within each" law firm's "*zone of influence*, representing the sources they would be well-positioned to play a role in reducing."[251] At times, this may result in double counting of emissions where multiple firms advise on a GHG-emitting matter.[252] And even if there is some imprecision in the advised emissions calculation, it will still provide a meaningful relative metric among law firms, so long as the imprecision is not systematically biased.[253]

Second, advised emissions should be calculated at the matter level, even though it will likely pose a heavier administrative burden than calculating at the client level.[254] Although he presents a client-level formula, Matthew Gingell acknowledges that matter-level advised emissions calculations are more precise, calling for development of a "Matter Attribution Tool" that "accurately measures the lifetime carbon effect of legal advice at a matter (transaction) level."[255] Matter-level advised emissions calculations have distinct advantages over client-level calculations. They would be a more accurate measure of a firm's involvement in advising

249. Hester, *supra* note 21, at 45 ("The metric that matters is comparative rankings.").

250. Leehi Yona, *Emissions Omissions: Greenhouse Gas Accounting Gaps*, 49 HARV. ENV'T L. REV. 597, 605 (2025).

251. *Id.* at 608.

252. *See id.* at 608 & n.46, 641.

253. *See* Hester, *supra* note 21, at 45 ("If all legal firms are graded on a curve, a consistent application of emission-attribution factors—even if imprecise—can still highlight relative differences among counselors.").

254. *See* GINGELL, *supra* note 4, at 11 (describing how some client companies already report their total GHG emissions at the company-level in the United Kingdom).

255. *See id.* at 3, 8, 11, 14-15.

GHG emissions. In addition, law firms may be concerned about being unfairly scrutinized for advising low-GHG-emitting projects (such as a renewable energy development) for overall high-emitting clients (like ExxonMobil). Matter-level advised emissions calculations would alleviate this concern. Matter-level calculations would also reduce the need for a transition factor based on the client's industry in the calculations.[256]

It is not unreasonably burdensome to aim for matter-level advised emissions calculations. Once a methodology is settled, calculating advised emissions for the firm is fundamentally no more complex than accounting services, client intake, conflicts checks and screening, due diligence, case management, and other processes that law firms already conduct.[257] As Hester notes, law firms could "include . . . data requirements in their client retention letters and scope of services agreements" to obtain GHG emissions data to calculate advised emissions.[258] Some law firms already quantify their GHG emissions (not yet including advised emissions),[259] using consulting services to support their calculation efforts.[260] Altogether, advised emissions quantification could be integrated in law firms' existing GHG emissions quantification or other administrative processes. A new legal technology or software product could also relieve much of the administrative burden of matter-level quantification.

Third, an advised emissions methodology should focus on quantifying advised emissions, not "avoided emissions."[261] Firms

256. GINGELL, *supra* note 4, at 11-14. A client transition factor may still be appropriate in some cases, such as law firms' lobbying work for fossil fuel companies and high emitters. *See* L. STUDENTS FOR CLIMATE ACCOUNTABILITY, *supra* note 2. The transition factor could reflect the "carbon intensity of the client's sector and whether that sector is driving the transition or maintaining the status quo." GINGELL, *supra* note 4, at 12-13.

257. *See, e.g.*, *Legal Client Intake Software and Forms*, CLIO, https://www.clio.com/features/online-intake-forms [https://perma.cc/XL3P-9RPD] (last visited July 28, 2025) (describing software for creating custom intake system).

258. Hester, *supra* note 21, at 44. GHG-emitting clients may be subject to their own GHG emissions disclosure requirements and have estimates of the GHG emissions of their current and planned projects they could include on client intake forms.

259. *See supra* note 5 (describing law firms calculating their GHG emissions).

260. *See, e.g.*, CARBON INTELLIGENCE & LEGAL SUSTAINABILITY ALLIANCE, SCOPE 3 EMISSIONS: THE GUIDE FOR LAW FIRMS 23 (2023), https://legalsustainabilityalliance.com/wp-content/uploads/2023/11/Scope-3-Emissions-The-Guide-for-Law-Firms.pdf [https://perma.cc/DWJ3-PAWU] (describing sharing data confidentially with consultants to calculate law firm Scope 3 emissions).

261. STEPHEN RUSSELL, WORLD RESOURCES INSTITUTE, ESTIMATING AND REPORTING AVOIDED EMISSIONS (2019), https://ghgprotocol.org/sites/default/files/2023-

could separately quantify and report any avoided emissions resulting from their legal services: emissions that would have been emitted but were avoided because of their work, such as advising a renewable energy project.[262] Reporting avoided emissions separately aligns with current international standards for corporate GHG emissions reporting. The widely-accepted GHG Protocol Scope 3 Standard does not currently include "avoided emissions" in its Scope 3 emissions calculations: "[a]ny estimates of avoided emissions must be reported separately from a company's scope 1, scope 2, and scope 3 emissions, rather than included or deducted from the scope 3 inventory."[263] In advised emissions accounting, law firms would not subtract avoided emissions—for renewable energy work or other GHG-reducing work—from advised emissions for GHG-emitting work.[264]

2. *Tiers of Matters*

This Article outlines three tiers of matters to serve as a starting point for advised emissions methodology conversations.[265] Ideally, an advised emissions methodology would cover legal services on all types of GHG-emitting matters.[266] But an initial methodology could start with matters that are most clearly indispensable for GHG-emitting project construction and operation—what this

03/18_WP_Comparative-Emissions_final.pdf [https://perma.cc/2XZ8-4SW3].

262. *See* Laura Draucker, *Do We Need a Standard to Calculate "Avoided Emissions"?*, GREENHOUSE GAS PROTOCOL (Nov. 5, 2013), https://ghgprotocol.org/blog/do-we-need-standard-calculate-%E2%80%9Cavoided-emissions%E2%80%9D [https://perma.cc/3AW7-W8UB] ("Companies can play a key role in developing and promoting products and services that avoid emissions – either by enabling emission reductions or by providing a low-emission version of existing products.").

263. *See* GHG PROTOCOL, SCOPE 3 STANDARD, *supra* note 9, at 107.

264. More broadly, future research should scrutinize net-zero approaches in the context of advised emissions. *See What Is Net Zero?*, OXFORD NET ZERO, https://netzeroclimate.org/what-is-net-zero-2/ [https://perma.cc/4Q7X-3BX8] (last visited Apr. 21, 2026); Bustos, *supra* note 21 (manuscript at 11 & nn.65-66) (on file with author) (describing how net-zero approaches have been criticized for "justify[ing] continued work on carbon intensive projects" that have localized pollution impacts as well as contributing to GHG emissions); Shelley Welton, *Neutralizing the Atmosphere*, 132 YALE L.J. 171, 171 (2022) (describing how "concerns are mounting" with the net-zero paradigm, including concerns based on racial and economic justice issues).

265. *See* Table 1 (summarizing tiers). Future articles or white papers could outline a methodology in greater detail, based on these initial considerations.

266. As a general note, if the precise GHG emissions associated with a matter are not available, the advised emissions methodology could include tables of estimates for different types of GHG-emitting matters, based on available data. These tables could ease the matter-level quantification process.

Article calls "Tier 1" matters. As described below, Tier 1 could include select transactional work, permitting, and litigation. This Article agrees with Hester that it is "likely that advised emissions reporting will appear first in transactional practices that involve carbon-intensive industries," in part because "[t]hese transactions will offer the most-ready metrics and highest impacts to gauge emissions consequences from legal advice."[267]

Advised emissions calculations for Tier 1 matters could be based on a fundamental premise: without Tier 1 matters, fossil fuel and other GHG-emitting projects would not be constructed or lawfully operate. They would not produce GHG emissions because they would not exist or operate. An advised emissions methodology could attribute the lifecycle emissions of that GHG-emitting project to the law firm advising on the Tier 1 matter.

Project finance and permitting are prime examples of Tier 1 matters. Project finance ensures a GHG-emitting project has the capital and financing it needs for construction and operation.[268] Permitting, on the other hand, ensures that a GHG-emitting project has all the required governmental authorizations to operate. For example, a Liquefied Natural Gas (LNG) import or export facility in the United States requires numerous permits, licenses, and authorizations to operate under the Clean Air Act and Clean Water Act and from the Federal Energy Regulatory Commission, among other requirements.[269] Altogether, project finance and permitting are indispensable—the GHG-emitting project would not be constructed or operate without them. Tier 1 would also likely include some litigation that is essential to the construction or continued operation of GHG-emitting projects.[270]

Tier 2, on the other hand, would include matters that are less clearly indispensable to the construction and operation of individual GHG-emitting projects but still facilitate some GHG

267. Hester, *supra* note 21, at 45.

268. *See generally* JOHN DEWAR, INTERNATIONAL PROJECT FINANCE: LAW AND PRACTICE (2011) (describing legal issues and legal services in project finance transactions).

269. *See* U.S. ENV'T PROT. AGENCY, EPA'S LIQUEFIED NATURAL GAS REGULATORY ROADMAP i-iv (2006), https://www.epa.gov/sites/default/files/2015-08/documents/lng_regulatory_roadmap.pdf [https://perma.cc/4B9M-XCDT] (describing permits and authorizations for LNG import facility).

270. For example, in the Dakota Access Pipeline litigation, Norton Rose Fulbright represented the company to ensure the pipeline's continued construction. L. STUDENTS FOR CLIMATE ACCOUNTABILITY, *supra* note 28, at 15 (detailing involvement of firms in litigation to uphold the pipeline's permits).

emissions. For example, some litigation on behalf of fossil fuel companies—especially more general anti-regulatory litigation—would likely fall in this Tier, along with lobbying for GHG-emitting industries. Matters from this Tier would be added to the methodology as an expert working group determines how to calculate the GHG emissions associated with each particular type of matter.

For one example of a Tier 2 matter, public fossil fuel companies sometimes sell GHG-emitting assets to private companies.[271] If these assets were operating before the sale and will continue to operate after, the sale is not indispensable to their construction or operation. An advised emissions methodology is therefore unlikely to attribute the entire lifecycle GHG emissions of the already-operating fossil fuel assets to the law firm advising solely on this type of sale. Instead, it would aim to include the GHG emissions facilitated by the sale. As a Sabin Center report recently identified, for the majority of asset sales they reviewed, emissions intensity increased in the year or years following the sale.[272] The matter-level advised emissions for a law firm advising on this type of sale could reflect the increase in GHG emissions from the facility after the sale.

Tier 3 includes matters that likely would not be quantified in an advised emissions methodology. There are some matters where GHG emissions are too attenuated to justify counting them. For example, many employment disputes—no matter how egregious or unsavory—would likely be too attenuated from GHG emissions to be worth including.

271. JACK ARNOLD ET AL., COLUMBIA CENTER ON SUSTAINABLE INVESTMENT & SABIN CENTER FOR CLIMATE CHANGE LAW, TRANSFERRED EMISSIONS ARE STILL EMISSIONS: WHY FOSSIL FUEL ASSET SALES NEED ENHANCED TRANSPARENCY AND CARBON ACCOUNTING 5-6, 36, 45 (2023), https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=1013&context=sustainable_investment [https://perma.cc/7YWK-5LLR].

272. *Id.* at 45.

Table 1: Tiers of Matters for Advised Emissions Methodology

Tier	Example Matters	Description	Advised Emissions Calculation
Tier 1	For GHG-emitting projects: project finance, permitting,[273] some essential litigation, including where relief requested allows GHG-emitting project to continue to operate or be constructed	Matters most clearly indispensable to GHG-emitting project construction or operation	Attribute lifecycle GHG emissions of project to the law firm
Tier 2	Some litigation not essential to GHG-emitting project construction or operation; some mergers and acquisitions and other transactions of GHG-emitting assets; lobbying for GHG-emitting clients[274]	Matters that are less clearly indispensable to the construction and operation of individual GHG-emitting projects but still facilitate GHG emissions	Apply a factor or calculation based on matter type to attribute some GHG emissions to the law firm
Tier 3	Work for GHG-emitting company employees in individual capacity; most employment disputes; criminal charges against GHG-emitting company employees or leadership	Matters likely too attenuated from GHG emissions to count	Likely do not include in advised emissions calculation

273. Tier 1 could also include permits for certain high-emitting agricultural projects, such as Concentrated Animal Feeding Operations (CAFOs). In 2017, agriculture, including animal agriculture, was responsible for 8.4 percent of total U.S. GHG emissions. *See* U.S. ENV'T PROT. AGENCY, INVENTORY OF U.S. GREENHOUSE GAS EMISSIONS AND SINKS 1990-2017, ES-20-21 (2019).

274. Emissions associated with lobbying may be particularly difficult to quantify but an advised emissions calculation could involve attributing a portion of the lobbying client's GHG emissions to the law firm. *See* L. STUDENTS FOR CLIMATE ACCOUNTABILITY, *supra* note 28, at 13-14 (describing law firm lobbying for the fossil fuel industry).

3. *Multiple Firms and Apportionment*

This section briefly anticipates a key issue in advised emissions methodology: when there are multiple law firms advising on a single aspect of a GHG-emitting project, should the methodology divide up the GHG emissions across the firms advising? This section does not claim to fully resolve apportionment issues but provides initial considerations.[275]

As a starting point, an advised emissions methodology could opt to not apportion GHG emissions among multiple firms advising on a single aspect of a GHG-emitting project. Consider an illustrative example. Two firms advise on a single permit for a GHG-emitting facility. Firm A provides 60 hours of advising, and Firm B provides 5 hours of advising. For permitting (a Tier 1 matter), each firm would count the lifecycle emissions of the GHG-emitting facility toward their advised emissions total—regardless of the number of hours spent. As described above, double counting the emissions of the facility does not undermine the methodology's key purpose: to quantify a firm's involvement in servicing GHG emissions, rather than generate a total across all firms. This double counting is particularly defensible where it is difficult to determine the relative importance of any firm's advising on the matter.[276]

Firm B may balk at this prospect. Should they really have to count all those GHG emissions when they only provided a few hours of advising? In theory, apportionment could be done by billable hours or total compensation the firm received, compared to other firms involved. But even though Firm B provided only a few hours of advising compared to Firm A, what if those few hours were particularly crucial to obtaining the permit? Compensation metrics alone may fall short for similar reasons, as they are often based on billable hours. And even if one firm charged more per hour on average (e.g., more partners advising than junior associates), it is difficult to say across the board that more expensive services are more important to securing the permit.

And apportionment methods may suffer from significant data availability hurdles. Law firms calculating their advised emissions

275. The methodology will also have to grapple with attributing GHG emissions to a law firm that provides multiple services—e.g., both permitting and project finance—for one GHG-emitting project.

276. In Scope 3 accounting more broadly, GHG Protocol recognizes that "[i]n certain cases, two or more companies may account for the same emission within scope 3." GHG PROTOCOL, SCOPE 3 STANDARD, *supra* note 9, at 27.

may not have data about the other firms advising on a particular aspect of a GHG-emitting project. Even if they can identify other firms working on the project, they may not have access to those firms' billable hour and revenue figures to calculate any apportionment. Apportionment introduces a potential coordination problem that could complicate calculations. This is not to say apportionment is *never* appropriate; rather, if used, it should be based on a clear principle and consider data availability.

C. *Example of Quantifying Advised Emissions in Practice*

Consider a simplified hypothetical example of quantifying advised emissions in practice. The hypothetical firm Miller & Miller LLP identified two high-emitting matters they advised on in the last five years. They advised on (1) the project financing for units 5 and 6 of the Tanjung Jati-B coal-fired power plant[277] and (2) permitting for a new liquefied natural gas (LNG) export terminal in Louisiana. They were the only firm to advise on these matters. These are both Tier 1 matters without which the projects would not have been constructed or able to operate. The advised emissions methodology attributes the lifecycle emissions of each project to the firm. For this hypothetical, the lifecycle emissions are (1) 80 million metric tons of CO_2 equivalent for the coal-fired power plant and (2) 20 million metric tons of CO_2 equivalent for the LNG export terminal.[278] Miller & Miller's total advised emissions are equal to the sum: 100 million metric tons of CO_2 equivalent. Miller & Miller would disclose this advised emissions number in aggregate to ensure client confidentiality on any non-public deals or matters. For law firms with a greater number of GHG-emitting matters, they may disclose advised emissions by industry or the type of matter (for example, coal versus natural gas or financing separate from permitting)—where there is sufficient aggregation to avoid confidentiality concerns.

D. *Next Steps*

This Article provides initial guidance on key methodological considerations for quantifying advised emissions. Ultimately, advised emissions methodology should be standardized across the

277. *See supra* Part I.A.

278. These are hypothetical numbers for illustration purposes and not precise estimates of lifecycle emissions for these project examples.

legal industry, avoiding a situation where each firm has a unique methodology.[279] A global, industry-wide methodology and reporting standard will ensure comparability across firms' advised emissions calculations, reduce costs associated with each firm developing an individualized methodology, and provide uniformity and consistency for law firms operating in multiple jurisdictions. Like the financial industry, the legal industry should consider harmonizing any advised emissions framework with GHG Protocol's Scope 3 Standard, to promote consistent advised emissions disclosures across the legal industry.[280]

This Article recommends convening a legal industry-wide working group on advised emissions methodology and forming a non-profit organization to house the methodology and monitor disclosures. While initial law firm-led efforts like Legal Charter 1.5 show promise,[281] the working group should ultimately include a broader range of stakeholders and experts—law firms, GHG emissions disclosure experts, consultants, experts on legal ethics and climate change, and non-profit organizations. The working group should also include members of bar associations and legal professional bodies from different countries, including the American Bar Association, the Law Society, and others. The goal is to ensure a rigorous but practical methodology for advised emissions quantification that is also sufficiently ambitious to be meaningful.

A non-profit should be established to monitor advised emissions disclosures and methodology updates. This non-profit organization would maintain independence from the law firms disclosing their advised emissions. It would house the methodology, convene stakeholders for methodology updates and feedback, develop guides for quantification and disclosure, and otherwise support the implementation of advised emissions disclosures.

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279. *See* Fairfax, *supra* note 92, at 277 (describing how the dissatisfaction with voluntary ESG disclosures has in part stemmed from "the lack of comparability" with disclosures made by different companies "in different formats using different terminology and different metrics").

280. *See* PCAF, *supra* note 89 (describing how PCAF's standard "has been reviewed by the GHG Protocol and is in conformance with the requirements set forth in the Corporate Value Chain (Scope 3) Accounting and Reporting Standard, for Category 15 investment activities").

281. *See* LEGAL CHARTER 1.5, *supra* note 18.

V. IMPLEMENTATION

This Part anticipates possible pathways for advised emissions disclosures and describes how bar association resolutions and updates to GHG Protocol's Scope 3 Standard could support advised emissions disclosures. It then considers the potential effects on the legal industry. It reflects on how advised emissions disclosures may lead to advised emissions reductions and reshape the legal industry over time.

A. *Disclosure Pathways and Support for Disclosure*

Advised emissions disclosures are likely to start with voluntary, firm-led efforts.[282] This Subpart considers how bar association resolutions and emerging updates to GHG Protocol's Scope 3 Standard could support advised emissions disclosure efforts. It then considers California's emerging disclosure framework and whether it could support mandatory advised emissions disclosures.[283]

1. *Bar Association Resolutions*

Bar associations globally could provide substantial support for advised emissions disclosures by issuing resolutions raising awareness about the significance of advised emissions and acknowledging that law firms may begin to disclose them. The IBA could support and inform these resolutions by issuing further guidance or reports on advised emissions.[284]

Like the Law Society Guidance, bar association resolutions could recognize that for "lawyers, the most significant GHG emissions associated with [their] organization[s] are likely to be

282. *See supra* notes 18-19 and accompanying text (describing voluntary law firm efforts to develop an advised emissions methodology).

283. The U.S. Securities and Exchange Commission could be another pathway for mandatory advised emissions disclosures, but this Article does not explore this possibility because the SEC is unlikely to consider advised emissions in the near term. Even under the Biden administration, the proposed SEC climate disclosure rule did not require companies to disclose Scope 3 emissions and would have thus been unlikely to require any advised emissions disclosures. *See* The Enhancement and Standardization of Climate-Related Disclosures for Investors, 89 Fed. Reg. 21668, 21675 (Mar. 28, 2024); GREENHOUSE GAS PROTOCOL, TECHNICAL GUIDANCE FOR CALCULATING SCOPE 3 EMISSIONS 6-10 (2013), https://ghgprotocol.org/sites/default/files/standards/Scope3_Calculation_Guidance_0.pdf [https://perma.cc/2PA6-98CE].

284. INT'L BAR ASS'N, *supra* note 25; INT'L BAR ASS'N, *supra* note 71.

emissions associated with the matters upon which they advise" and inform lawyers that they "should be aware of and monitor" increasing scrutiny on advised emissions.[285] They could also go further to recognize that lawyers may measure advised emissions and lawyers may "choose to decline to advise on matters that are incompatible with the 1.5°C goal, or for clients actively working against that goal if it conflicts with [their] values or [their] firm's stated objectives."[286] Resolutions could also recognize that "[c]limate-related issues may be valid considerations in determining whether to act" to represent a given client.[287]

In the United States, the ABA could issue an advised emissions resolution to build on their existing climate change and sustainable development resolutions.[288] This could be a short or limited resolution on advised emissions with a more detailed report on the issue to guide lawyers and law firms.[289] Likewise, state and local bar associations in the United States could issue resolutions or prepare reports on advised emissions to inform their members.

2. *GHG Protocol Scope 3 Standard Revisions*

Updates to GHG Protocol's Scope 3 Standard to recognize facilitated emissions could lend institutional support for advised emissions disclosures.[290] GHG Protocol is a non-profit organization that "establishes comprehensive global standardized frameworks to measure and manage greenhouse gas (GHG) emissions from private and public sector operations, value chains and mitigation actions."[291] GHG Protocol has reporting standards for Scope 1, 2, and 3 emissions.[292] Advised emissions would likely be considered part of Scope 3, as the GHG emissions occur

285. *Law Society Guidance*, *supra* note 4.

286. *Id.*

287. *Id.*

288. *See Resolution 111*, AM. BAR ASS'N (2019); Dernbach, *supra* note 182 (describing multiple ABA sustainable development resolutions).

289. *See, e.g.*, *Resolution 111*, AM. BAR ASS'N (2019) (short climate resolution with more detailed report).

290. This section reflects ideas and details from the author's co-authored policy paper. *See* MCGIVERN ET AL., *supra* note 9.

291. *About Us*, GREENHOUSE GAS PROTOCOL, https://ghgprotocol.org/about-us [https://perma.cc/MFT2-MKMA] (last visited July 28, 2025).

292. *See* CORPORATE ACCOUNTING STANDARD, *supra* note 9, at 25; GREENHOUSE GAS PROTOCOL, *supra* note 164.

downstream of legal services sold.[293]

GHG Protocol's Scope 3 Standard may already support advised emissions disclosures and development of an associated advised emissions framework.[294] GHG Protocol's Scope 3 Standard includes a disclosure category, Category 11, for the use of sold products, including "emissions from the use of goods *and services* sold by the reporting company in the reporting year."[295] In principle, Category 11 could include legal services sold by law firms for GHG-emitting projects, at least on an optional reporting basis.[296] The Scope 3 Standard may also support advised emissions disclosures as part of "[a]ny scope 3 activities not captured by the list of scope 3 categories" that "may be reported separately," and on a voluntary basis under Chapter 11.[297] But, thus far, the Scope 3 Standard does not explicitly mention or provide guidance on quantifying advised emissions.

Forthcoming revisions to the Scope 3 Standard may provide further grounding for advised emissions disclosures. In March 2026, GHG Protocol released a progress update with a proposal for a new reporting category that includes "facilitated emissions."[298] This new category, Category 16, would support optional disclosure of "emissions generated by third-party activities from which the reporting company earns direct, transactional income but never buys, sells, or owns the activity."[299] More specifically, this would include emissions from a "third-party activity, product, or emitting source that: (a) is enabled, initiated, or influenced by a reporting company's services, products, and/or infrastructure, (b) where the reporting company does not own or directly operate the facilitated activity at any point in its lifecycle and (c) from which the reporting company generates transactionally recorded economic value."[300] While the progress update does not specifically list legal services or advised emissions,[301] its language is likely broad enough

293. *See* GREENHOUSE GAS PROTOCOL, *supra* note 283, at 6-10 (describing and providing examples of upstream and downstream Scope 3 emissions).

294. *See* MCGIVERN ET AL., *supra* note 9, at 5-6 (arguing that there are existing footholds in GHG Protocol's Scope 3 standard for quantifying serviced emissions).

295. GHG PROTOCOL, SCOPE 3 STANDARD, *supra* note 9, at 48 (emphasis added).

296. MCGIVERN ET AL., *supra* note 9, at 5.

297. GHG PROTOCOL, SCOPE 3 STANDARD, *supra* note 9, at 31.

298. GREENHOUSE GAS PROTOCOL, *supra* note 165, at 6-8.

299. *Id.* at 8.

300. *Id.* at 54-55.

301. *See id.* at 110-26 (failing to specifically mention advised emissions or legal

to include them. It notes that facilitated emissions derive from "any and all facilitated activities, across any industry (not simply the finance industry)" and further recognizes that facilitated emissions reporting may be tied to "industry- or sector-specific standards."[302] Overall, proposed Category 16 could serve as a hook for the development of a legal industry-specific advised emissions disclosure standard.[303]

Whether based on existing Category 11 or Chapter 11 or the proposed Category 16, an expert working group could develop a detailed reporting standard for advised emissions that aligns with GHG Protocol's Scope 3 Standard. This would be akin to PCAF's Global GHG Accounting and Reporting Standard for the Financial Industry, which aligns with GHG Protocol's Scope 3 Standard, Category 15 (investment activities).[304] In sum, developing an advised emissions framework that connects to GHG Protocol's Scope 3 Standard would lend support for advised emissions disclosures.

3. *California Disclosure Rules*

Advised emissions disclosures are likely to begin with voluntary efforts. However, state disclosure laws could provide a pathway for mandatory advised emissions disclosures from at least some law firms.[305] In 2023, California passed S.B. 253, the Climate Corporate Data Accountability Act.[306] This Act requires business entities doing business in California with a total annual revenue of over $1 billion to disclose their GHG emissions.[307] These "reporting entities" must report Scope 1 and 2 emissions starting in 2026 and

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services but noting that the "list of other facilitated activities is not exhaustive").

302. *Id.* at 54, 72.

303. *See* MCGIVERN ET AL., *supra* note 9.

304. *The Global GHG Accounting and Reporting Standard for the Financial Industry*, GREENHOUSE GAS PROTOCOL, https://ghgprotocol.org/global-ghg-accounting-and-reporting-standard-financial-industry [https://perma.cc/JX98-VWAZ] (last visited July 28, 2025); PCAF, *supra* note 89.

305. This section focuses on California because the state has already passed legislation requiring GHG emissions disclosures. Other states, however, are considering similar laws. *See* Susan Milligan, *California and Other States Move to Regulate Emissions Disclosure*, HARV. BUS. SCHOOL, INST. BUS. GLOB. SOC'Y (Dec. 1, 2025), https://www.hbs.edu/bigs/states-regulate-emissions-disclosure [https://perma.cc/Q3MU-2SWD]. The New York State Senate, for example, passed the Climate Corporate Data Accountability Act. S. 9072A, 2025-2026 Reg. Sess. (N.Y. 2026).

306. S.B. 253, 2023-2024 Reg. Sess. (Cal. 2023).

307. *Id.*

Scope 3 emissions starting in 2027.[308] Under California Air Resources Board (CARB)'s initial draft regulations, it appears at least some major U.S. law firms are reporting entities that will be required to disclose GHG emissions.[309] The Am Law 100 reports that, in 2024, 58 law firms in the United States had gross annual revenue of $1 billion or more.[310] Many of these firms appear to do business in California.[311]

It is uncertain whether California's disclosure regime will include advised emissions disclosures. As of April 2026, CARB has not yet promulgated or issued draft regulations defining Scope 3 emissions in detail.[312] The Act defines Scope 3 emissions as "indirect upstream and downstream greenhouse gas emissions . . . from sources that the reporting entity does not own or directly control and may include, but are not limited to, purchased goods and services, business travel, employee commutes, and processing and use of sold products."[313] The Act also states a "reporting entity shall . . . measure and report its emissions of [GHGs] in conformance with the Greenhouse Gas Protocol standards and guidance, including the Greenhouse Gas Protocol Corporate Accounting and Reporting Standard and the Greenhouse Gas Protocol Corporate Value Chain (Scope 3) Accounting and Reporting Standard."[314]

CARB could promulgate regulations to include advised

308. *Id.* For a description of Scope 1 and Scope 2 emissions, *see* Read & Shine, *supra* note 7.

309. *See* Alisa White & Camila Bustos, Comment on Proposed California Corporate Greenhouse Gas Reporting and Climate-Related Financial Risk Disclosure Initial Regulation (Feb. 9, 2026), https://scs-public.s3-us-gov-west-1.amazonaws.com/env_production/oid377/did200184/pid_213090/assets/attachments/27862/ae0finag6my_document.pdf?v=42051 [https://perma.cc/VH66-ZEPQ].

310. ALM Staff, *supra* note 167.

311. *See* California Air Resources Board, Proposed California Corporate Greenhouse Gas Reporting and Climate-Related Financial Risk Disclosure Initial Regulation, § 96072(a)(8) (Dec. 2025), https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2025/sb253-261/reg%20text.pdf [https://perma.cc/8F6Z-B8AZ]; White & Bustos, *supra* note 309.

312. *See* Kenneth J. Markowitz et al., CARB's SB 253 Workshop: Initial Reporting and the Road to Scope 3, AKIN (Mar. 31, 2026), https://www.akingump.com/en/insights/blogs/speaking-sustainability/carbs-sb-253-workshop-initial-reporting-and-the-road-to-scope-3 (describing how CARB's March 2026 workshop "focused largely on potential future rulemakings, particularly with respect to Scope 3 emissions").

313. S.B. 253, 2023-2024 Reg. Sess. (Cal. 2023).

314. *Id.*

emissions as part of Scope 3 emissions reporting. As described above, GHG Protocol's Scope 3 Standard may already support advised emissions disclosures, and upcoming revisions may provide further support by directly referencing facilitated emissions. While the California regulatory framework is still emerging, it could potentially include advised emissions disclosures.[315]

B. *ESG Headwinds*

Although the concept of advised emissions has gained traction internationally, it may face anti-ESG backlash in the United States.[316] While law firms should be aware of this backlash, interest in advised emissions disclosures has emerged even as the term "ESG" has waned in popularity. Sustained international interest in an advised emissions framework may further insulate it from U.S. anti-ESG movements. As such, law firms should not discount the possibility of an advised emissions framework simply because ESG has come under recent scrutiny.

Advised emissions disclosures fall under the broader umbrella of ESG.[317] ESG refers to obligations businesses have to society beyond generating profit—including to the environment, workers, communities, and society at large—and accompanying reporting on fulfilling those obligations.[318] ESG has been "one of the most notable trends in corporate governance, management, and

315. Although not the focus of this Article, other countries and the European Union could also consider incorporating advised emissions into mandatory Scope 3 emissions reporting. *See* EURO. COMM'N, *supra* note 82.

316. Taylor Nchako & Lisa Benjamin, *ESG Backlash in the United States–Investor Concerns or "Red Scare"?*, 5 J. L. & POL. ECON. 268 (2025) (describing recent ESG backlash); Bustos, *supra* note 21 (manuscript at 3-4) (on file with author) (describing possible reversal of ESG trend of the past decade); Flatt, *supra* note 125.

317. *See* Amaral, *supra* note 150, at 323-34; Roger E. Barton, *As Corporate Clients Emphasize ESG, Law Firms Should Be Leading the Pack*, REUTERS (Dec. 10, 2021, at 09:10 PT), https://www.reuters.com/legal/legalindustry/corporate-clients-emphasize-esg-law-firms-should-be-leading-pack-2021-12-10/; Czarnezki, Galperin & Grimes, *supra* note 151, at 286-88 (describing the rise of ESG and sustainable business practices in BigLaw firms); Esty & Karpilow, *supra* note 118, at 671 (describing "[g]reenhouse gas emissions and energy efficiency" as "common core issues" for reporting across industries "as nearly all companies have an energy and carbon footprint that exposes them to policy and market shifts toward decarbonization"); Fairfax, *supra* note 92, at 281-82.

318. *See* Maggie Pahl, Michael Hamersky & Jason J. Czarnezki, *Multinational Asset Management Firms & ESG Disclosure Management*, 20 N.Y.U. J. L. & BUS. 577, 580 (2024) (explaining ESG reporting and metrics); Fairfax, *supra* note 92, at 275-79.

investment of the past two decades."[319] Since the term was coined in a 2004 United Nations report, "trillions of dollars have flowed into ESG-labeled investment products, companies are implementing ESG strategies, and regulators are designing ESG policies."[320] In recent years, over 90 percent of large global companies engaged in at least some ESG or sustainability reporting, up from 91 percent in 2019 to 98 percent in 2023.[321]

As ESG has gained prominence, it has also garnered backlash that has intensified in the United States in recent years.[322] More than twenty-six states have passed legislation limiting consideration of ESG factors in pension funds and government financing for local entities, and other states have used executive orders against ESG.[323] In a press release, Florida's Executive Office of the Governor described its "measures to protect Florida's investments from woke . . . (ESG)," including resolutions and introducing legislation responding to "woke corporate elites [that] continue to institute ESG practices in an effort to promote a radical agenda at a cost to everyday consumers."[324] In ongoing surveying, young investors appeared bullish on ESG in 2022 but support declined starkly by 2024.[325] In practice, large companies appear to be

319. Elizabeth Pollman, *The Making and Meaning of ESG*, 14 HARV. BUS. L. REV. 403, 403 (2024); *see also* EURO. COMM'N, *supra* note 82 (corporate sustainability reporting in the European Union); HM GOVERNMENT, *supra* note 82 (corporate sustainability reporting in the United Kingdom); S.B. 253, 2023-2024 Reg. Sess. (Cal. 2023) (California's GHG emissions disclosure law).

320. Pollman, *supra* note 319, at 405; The Global Compact, *Who Cares Wins: Connecting Financial Markets to a Changing World* (United Nations 2004); *see* John C. Dernbach, *State ESG Laws: An Analysis and Evaluation*, *in* THE OXFORD HANDBOOK OF CLIMATE CHANGE AND PRIVATE LAW (Douglas Kysar & Ernest Lim eds., forthcoming 2026) (manuscript at 1, 5) (on file with author) (describing how "use of ESG has exploded" in the past two decades).

321. INT'L FED'N OF ACCTS. & ASS'N OF INT'L CERTIFIED PRO. ACCTS., THE STATE OF PLAY: SUSTAINABILITY DISCLOSURE AND ASSURANCE 3 (2025), https://ifacweb.blob.core.windows.net/publicfiles/2025-05/IFAC-State-of-Play-Sustainability-2019-2023.pdf [https://perma.cc/U4NJ-KS35].

322. *See* Dernbach, *supra* note 320 (manuscript at 6-14) (on file with author) (tracing federal rollback of ESG-related regulations and state anti-ESG laws).

323. *See* Flatt, *supra* note 125 (manuscript at 2) (on file with author).

324. Press Release, Exec. Off. of the Governor (Fla.), Governor Ron DeSantis Further Prohibits Woke ESG Considerations from State Investments (Jan. 17, 2023), https://www.flgov.com/eog/news/press/2023/governor-ron-desantis-further-prohibits-woke-esg-considerations-state-investments [https://perma.cc/L8FY-BMQ4].

325. *See* Alexander Gelfand, *Young Investors' Support for ESG Dropped Dramatically in 2024*, STAN. GRAD. SCH. OF BUS. (Jan. 15, 2025), https://www.gsb.stanford.edu/insights/young-investors-support-esg-dropped-dramatically-2024 [https://perma.cc/5B4H-5K4E].

continuing sustainability reporting and programs in high percentages, even as use of the term "ESG" has declined.[326]

This backlash could affect an emerging advised emissions framework in several ways. U.S.-based law firms may fear being labeled "woke" for disclosing or reducing advised emissions—especially those firms that are first movers or leaders on advised emissions disclosures. This could weaken an economic theory of advised emissions disclosures—posing a reputational and economic cost to balance against any economic benefits of disclosure. As Part II.B describes, there remain economic benefits associated with advised emissions disclosures that, at least for some firms, may outweigh the risk of being labeled as "woke" by some actors. Anti-ESG efforts in the United States may also weaken an institutional theory of advised emissions disclosures as government actors threaten or sue organizations that engage with ESG rather than institutionally supporting disclosures.[327] In recent years, states have sued financial institutions for antitrust violations based on their net-zero goals, and U.S. Senators have written to law firms about their ESG practices, stating that firms have a "duty to fully inform clients of the risks they incur by participating in climate cartels and other ill-advised ESG schemes."[328] It is worth noting that antitrust suits appear to have focused on banks' net-zero goals, not disclosure of GHG emissions alone.[329] But even the threat of

326. *Last Year, Just 25% of Big Companies Used "ESG" in Their Report Titles. The Slowdown Continues in 2025*, PR NEWSWIRE (Apr. 29, 2025), https://www.prnewswire.com/news-releases/last-year-just-25-of-big-companies-used-esg-in-their-report-titles-the-slowdown-continues-in-2025-302441386 [https://perma.cc/9V76-86JQ]; Neil Hawkins & Kelly Cooper, *Are Companies Actually Scaling Back Their Climate Commitments*?, HARV. BUS. REV. (Sept. 23, 2025), https://hbr.org/2025/09/are-companies-actually-scaling-back-their-climate-commitments [https://perma.cc/EFW2-5MK5] (describing a recent study from April 2024 to May 2025 identifying that, among 75 global companies, 85 percent "have maintained or expanded their sustainability programs" while "only 16% have publicly reaffirmed those commitments").

327. *See* Nicole A. Veno et al., *Climate and Antitrust*, 37 GEO. ENV'T L. REV. 267, 268 (2025); Nchako & Benjamin, *supra* note 316 (describing ESG backlash in states and by investors).

328. Tom Cotton et al., *ESG Letters to Law Firms* (Nov. 3, 2022), https://www.grassley.senate.gov/imo/media/doc/cotton_grassley_et_altolawfirmsesgcollusion.pdf [https://perma.cc/473M-U5CB]; Complaint, *Texas v. BlackRock, Inc.*, No. 6:24-cv-00437 (E.D. Tex. Nov. 27, 2024).

329. In November 2024, Texas and ten other states filed suit against BlackRock, State Street, and Vanguard Group, claiming their public commitments for "all assets under management to achieve net zero emissions by 2050 or sooner" and "their common commitment to this scheme by joining the Net Zero Asset Managers Initiative" violated Section 7 of the Clayton Act, Section 1 of the Sherman Act, and state antitrust laws.

antitrust litigation may deter U.S. law firms from advised emissions disclosures.

As a whole, however, it is unlikely that recent anti-ESG backlash will make an enduring dent in two decades of ESG growth.[330] Companies may shy away from the term "ESG," but that does not mean companies are ignoring environmental, social, and governance goals, especially in light of reporting frameworks in the European Union and United Kingdom.[331] Even in the United States, the epicenter of ESG backlash, some states require consideration of ESG in managing state funds and others have directed state employee retirement funds to divest from some fossil fuel assets.[332] California is pushing forward with its GHG emissions disclosure law.[333] In 2025, Colorado, New Jersey, and Illinois legislatures introduced bills akin to California's disclosure law.[334] And in February 2026, the New York State Senate passed the Climate Corporate Data Accountability Act, which has similar requirements to California's S.B. 253.[335]

Although there remain some state-level ESG efforts in the United States, an advised emissions framework would likely need a foothold internationally to weather the anti-ESG storm.[336] This follows the trend of the broader ESG movement continuing internationally, even as U.S. backlash has intensified.[337] Following

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Complaint at 1, 3, 39-40, *Texas v. BlackRock, Inc.*, No. 6:24-cv-00437 (E.D. Tex. Nov. 27, 2024); *see* Amelia Miazad, *From Zero-Sum to Net-Zero Antitrust*, 56 U.C. DAVIS L. REV. 2067, 2091-94 (2023) (describing that antitrust has been used to attack carbon reduction targets and ESG considerations more broadly); *see generally* Veno et al., *supra* note 327 (arguing that most climate agreements, which often focus on reducing greenhouse gas emissions, are unlikely to violate U.S. antitrust laws).

330. *See* Mary Foley, *Reports of the Death of ESG Are Greatly Exaggerated*, Forbes (Mar. 6, 2024), https://www.forbes.com/sites/maryfoley/2024/03/06/reports-of-the-death-of-esg-are-greatly-exaggerated/ [https://perma.cc/ZS32-CW6P]; Dernbach, *supra* note 320 (manuscript at 20) (on file with author) (describing state anti-ESG laws are "highly unlikely to change the overall trajectory" of corporate commitments to reduce GHG emissions).

331. *See* EURO. COMM'N, *supra* note 82; HM GOVERNMENT, *supra* note 82.

332. Dernbach, *supra* note 320 (manuscript at 15-17) (on file with author).

333. S.B. 253, 2023-2024 Reg. Sess. (Cal. 2023); *see supra* Part V.A.3.

334. H.B. 1119, 75th Reg. Sess. (Colo. 2025); S.B. 4117, 221st Reg. Sess. (N.J. 2025); H.B. 3673, 104th Reg. Sess. (Ill. 2025).

335. S. 9072A, 2025-2026 Reg. Sess. (N.Y. 2026); Zoya Mirza, *New York Senate Passes Bill Targeting Corporate Climate Disclosures*, ESG DIVE (Feb. 13, 2026), https://www.esgdive.com/news/new-york-senate-passes-bill-targeting-corporate-climate-disclosures/812236/ [https://perma.cc/PD77-5F6X].

336. *But see supra* Part V.A.3 (describing California GHG emissions disclosure laws and how advised emissions disclosures could be included).

337. Bustos, *supra* note 21 (manuscript at 4) (on file with author) (describing how

the 2023 Law Society Guidance and recent IBA publications, interest in an advised emissions framework continues internationally.[338] Likewise, in March 2026, GHG Protocol proposed Scope 3 Standard revisions including optional reporting of facilitated emissions,[339] lending global institutional support to future development of an advised emissions framework. Overall, while law firms should be aware of anti-ESG movements, ESG has endured for over two decades and appears to be continuing on a global scale. It is unlikely that ESG backlash centered in the United States will fully quash increasing global interest in an advised emissions framework.

C. *Reshaping the Legal Industry*

At this early stage, it is difficult to predict how widespread advised emissions disclosures could reshape the legal industry in the future. This Subpart therefore provides initial thoughts on how advised emissions disclosures could lead to advised emissions reductions and changes in the legal industry. It draws on recent examples of shifting client and employment patterns in the legal industry and law firms' responses to reputational risks.

To start, it is worth noting that law firms that wish to reduce their advised emissions in the near term can do so, even before the development of an advised emissions methodology or widespread advised emissions disclosures. Lawyers in the United States are not required to represent any particular client in civil matters,[340] and it is therefore within law firms' power to decline to take on certain types of new clients or matters. Law firms can—on an individualized basis—reduce the number of GHG-emitting matters they take on to reduce their advised emissions in the near term. For example, a law firm may decide to no longer advise on coal-fired power plant financing transactions or permitting for oil and gas pipelines.[341]

"outside the United States, the momentum towards ESG might endure"); *Japan Strives to Sustain ESG Investment amid Global Retreat*, THE JAPAN TIMES (Dec. 31, 2025), https://www.japantimes.co.jp/business/2025/12/31/economy/esg-investment-retreat-japan-striving [https://perma.cc/2CK8-3JGN]; Dernbach, *supra* note 320 (manuscript at 21) (on file with author) (describing how the EU's share of corporate ESG and climate change commitments is slated to grow in the coming years and the small but growing ESG markets in Australia, Canada, and Japan).

338. *See, e.g.*, *Law Society Guidance*, supra note 4; INT'L BAR ASS'N, *supra* note 71.

339. GREENHOUSE GAS PROTOCOL, *supra* note 165, at 6-8.

340. *See* Wendel, *supra* note 207, at 192.

341. Classifying matters is an important initial step for any firm seeking to reduce its

The former would align with the International Energy Agency's 2021 report that there should be "no further final investment decisions for new unabated coal plants" if the world is to reach net-zero emissions by 2050.[342] Declining certain types of fossil fuel matters is a readily administrable way to reduce near-term advised emissions.

Longer term, widespread advised emissions disclosures could drive at least some firms to commit to reducing their advised emissions over time. Based on advised emissions disclosures, clients and legal talent may shift toward firms with lower advised emissions—based on their climate values or seeing fossil fuel work as risky.[343] And if the shift in legal talent leads to higher quality legal services at those firms, even clients with little interest in climate change issues may shift their business there as well.

Ultimately, shifting client retention and employment patterns could split firms into three categories with different strategies on advised emissions reductions. First, firms with low to no advised emissions may commit to keeping their advised emissions low, to gain further advantage. Second, firms with moderate levels of advised emissions may commit to reducing those over time to continue to attract or retain climate-conscious clients and talent, even if they have GHG-emitting work in the near term. Third, firms with the highest levels of advised emissions may be less likely to reduce them, as such a significant portion of their revenue comes from GHG-emitting matters. They may perceive a shift away from GHG-emitting matters as so economically infeasible that it is not worth undertaking.

It remains to be seen if these changes will play out in the future.

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advised emissions. Any matter classification toolkit should include at least two or three categories of work ranging from some GHG emissions to greater GHG emissions. The recent Legal Charter 1.5 toolkit is lacking in this regard because it includes one category for all matters that "may have more than a minimal negative impact on climate." LEGAL CHARTER 1.5, CLASSIFYING MATTERS FOR CLIMATE IMPACT: LEGAL CHARTER 1.5 MATTER CLASSIFICATION TOOL 5 (2025), https://legalcharter1point5.com/wp-content/uploads/2025/03/Matter-Classification-Toolkit.pdf [https://perma.cc/4RRT-26CF].

342. IEA, *supra* note 38; *see Net Zero by 2050: A Roadmap for the Global Energy Sector*, IEA (May 18, 2021), https://www.iea.org/reports/net-zero-by-2050 [https://perma.cc/AE3X-ZBDB] (describing the need for "phasing out all unabated coal and oil power plants by 2040" to achieve net-zero GHG emissions).

343. *See supra* Part II.B.2 (describing different business risks for law firms from GHG-emitting work); *supra* notes 143-47 and accompanying text (describing law students and young lawyers seeking to align their work with their climate values).

But recent examples in other contexts have demonstrated lawyers' and clients' willingness to choose their law firm based on firm policies and clientele. And there are examples of law firms shifting away from clients based on reputational risks. These examples illustrate the pathways through which future advised emissions disclosures and reductions could shape the legal industry.

Recently, partners and associates have left law firms that made deals with the Trump administration to prevent executive orders targeting the firms.[344] Some associates have spoken out publicly about how their firms wrongfully capitulated to the administration.[345] By analogy in the advised emissions context, partners and associates may choose to leave firms with high advised emissions that will not commit to reducing these emissions, either to align their work with their climate values or as GHG-emitting work begins to harm the firm's reputation. Conversely, if there are only a few partners doing GHG-emitting work at firms that would otherwise have low advised emissions, they may be pressured to leave or transition away from that work—if the firm seeks to position itself as climate-friendly and avoid reputational and economic costs associated with GHG-emitting work.

Clients have also shown appetite to pressure their law firms. In recent examples, clients have placed pressure on firms to drop unsavory clients and are aiming to leave firms capitulating to the Trump administration.[346] To date, the author has not found a public example of a high-profile client dropping its legal representation because of that firm's advising on GHG-emitting matters. But a recent social media post illuminates conversations that are starting to happen within client spaces, away from the public eye. At a recent Natural Resources Defense Council (NRDC) Action Fund members meeting, someone asked NRDC why they are represented by Simpson Thacher.[347] NRDC is an

344. *See supra* note 133; Michael S. Schmidt et al., *Two Big Law Firms Said to Be Doing Free Work for Trump Administration*, N.Y. TIMES (Aug. 20, 2025), https://www.nytimes.com/2025/08/20/us/politics/law-firms-free-work-trump-administration.html; Editorial Bd., *Law Firms Benefit from Fighting Trump Attacks. Those Who Caved Suffer.*, WASH. POST (June 14, 2025), https://www.washingtonpost.com/opinions/2025/06/14/law-firms-trump-appeal/.

345. *See* Roe, *supra* note 133.

346. *See supra* notes 138-39.

347. Joanna Smith (@jooltman.bsky.social), X (June 12, 2024, at 18:33 PT), https://x.com/jooltman/status/1801065282456195208?s=46&t=VTIrqPId5xc8VF7APFNIWw [https://perma.cc/E4Z9-FFC3].

environmental non-profit organization, committed to addressing climate change, and Simpson Thacher has received an "F" rating on every LSCA Scorecard since its inception.[348] In the 2025 Scorecard, for example, they received an "F" for facilitating over 112 billion dollars of fossil fuel transactions from 2020 to 2024.[349] The question lingers: why would NRDC work with a law firm that is enabling the very climate change harms that NRDC seeks to address? This is one possible future facing the legal industry—increased scrutiny and questions from clients about advised emissions. In a world of advised emissions disclosures, clients seeking to align with the Paris Agreement or other climate goals or values may move away from law firms that will not disclose or limit their advised emissions.

Law firms have also shown willingness to decline new matters and even withdraw from existing representation based on reputational cost. In 2022, numerous law firms including White & Case, Debevoise & Plimpton, and Latham & Watkins withdrew from representing Russian clients in the wake of Russia's invasion of and war in Ukraine.[350] While this was partially to comply with sanctions,[351] some firms went beyond compliance to declare they would not take on new Russian clients and wind down their work in Russia, subject to professional obligations.[352] One firm, Ashurst,

348. *See* L. STUDENTS FOR CLIMATE ACCOUNTABILITY, *supra* note 55 (reviewing each annual Scorecard); *About NRDC*, NRDC, https://www.nrdc.org/about [https://perma.cc/7G3A-YQHH] (last visited Apr. 21, 2026).

349. L. STUDENTS FOR CLIMATE ACCOUNTABILITY, LSCA 2025 SCORECARD DATA (PUBLIC) (2025), https://www.ls4ca.org/scorecard (using "2025 Scorecard Dataset" download and filtering on "Simpson Thacher").

350. *See* Roy Strom, *Big Law Firms Withdraw from Sberbank as VTB Finds New Attorneys*, BLOOMBERG LAW (June 3, 2022, at 08:04 PT), https://news.bloomberglaw.com/business-and-practice/big-law-firms-withdraw-from-sberbank-as-vtb-finds-new-attorneys; L. STUDENTS FOR CLIMATE ACCOUNTABILITY, BRIEFING: LAW FIRMS AND FOSSIL FUELS—THE HEART OF PUTIN'S WAR MACHINE (Mar. 10, 2022), https://www.ls4ca.org/s/LSCALawFirmsRussiaBriefingMarch102022.pdf [https://perma.cc/V5MM-F9JQ].

351. Jacqueline Thomsen, *Law Firms Cut Russian Client Ties as International Sanctions Spread*, REUTERS (Mar. 1, 2022, at 02:12 PT), https://www.reuters.com/legal/legalindustry/law-firms-cut-ties-with-russian-clients-sanctions-bite-2022-03-01/.

352. *See* L. STUDENTS FOR CLIMATE ACCOUNTABILITY, *supra* note 350 (summarizing law firm policies on representation of Russian clients after Russia's invasion of Ukraine); Harvard Law School Center on the Legal Profession, *Economic Exits*, THE PRACTICE (July/August 2022), https://clp.law.harvard.edu/knowledge-hub/magazine/issues/lawyers-during-conflict/economic-exits/ [https://perma.cc/QKB9-HHTT] (describing how, as of spring 2022, 10 firms

declared, "[w]e have taken a policy decision to not act for any new or existing Russian clients . . . whether or not they are subject to sanctions," explaining that "[o]ur business purpose and values define who we are and why we exist, and we will seek to exercise our voice and our collective commercial power and influence to support the rule of law and the values that we all hold dear."[353] Work with Russia threatened firms' reputation and values.[354] If fossil fuel work becomes similarly toxic, firms may shift their work accordingly. In February 2026, six years after law students first called on Paul, Weiss to drop ExxonMobil as a client, the firm withdrew from representing them in several climate change lawsuits by state and local governments.[355] While Paul, Weiss declined to comment on why they withdrew, it demonstrates that even "[l]ongtime Exxon lawyers" may withdraw representation, including, potentially, based on the reputational cost of fossil fuel work.[356]

Such shifts in the legal industry could ultimately impact the social license of fossil fuel companies themselves. That law firms are choosing to reduce GHG-emitting work could increase the perception of fossil fuel and other GHG-emitting projects as risky investments. Large, multinational law firms in particular provide unparalleled access to capital, markets, and credibility for projects that may otherwise be seen as too risky.[357] These firms declining to represent even some types of fossil fuel work or some matters could sufficiently increase the risk and uncertainty in these projects such that they are less likely to be built at all—even if another, less prestigious law firm steps in to represent.[358] This may provide a

announced they would decline new work and withdraw from existing work in Russia and more than 10 additional firms "made more limited commitments").

353. *See, e.g.*, Ashurst, LINKEDIN (Mar. 7, 2022), https://www.linkedin.com/posts/ashurst_all-of-us-at-ashurst-are-united-with-governments-activity-6906526146318405632-TlI-/ [https://perma.cc/UM73-6VY9].

354. *See supra* notes 49-56 and accompanying text (describing law student protests and scrutiny on law firms' involvement in climate change).

355. Lesley Clark, *Longtime Exxon Lawyers Retreat from Oil Company's Climate Cases*, E&E NEWS (Feb. 9, 2026, at 06:54 ET), https://www.eenews.net/articles/longtime-exxon-lawyers-retreat-from-oil-companys-climate-cases/ [https://perma.cc/L9NM-A2T9].

356. *Id.*

357. *See* Flood, *supra* note 3, at 30, 37-38, 40, 55-57 (describing law firms' "management of uncertainty and stabilization of expectations" in international business transactions).

358. *See* Bustos, *supra* note 23, at 222 (acknowledging the "common retort" of "well, if not me, then someone else would represent [fossil fuel companies]").

further incentive for energy companies to shift away from fossil fuel projects, as their risks are reflected in yet another market—the one for legal services. Of course, it would be worth examining in practice the extent to which advised emissions reductions undermine the social license of GHG-emitting industries.[359]

CONCLUSION

The goal of this Article is to help the legal industry prepare for the possibility of an advised emissions framework. Legal professional bodies outside the United States have already recognized the relevance of advised emissions and some law firms are developing an advised emissions methodology. International GHG emissions quantification protocols and frameworks could soon incorporate advised emissions. Law firms' current and prospective clients and employees may soon ask them to disclose their advised emissions. This Article tackles this emerging advised emissions landscape and provides a theoretical understanding for why law firms—as business entities—may be motivated to disclose advised emissions. It also turns the lens to the legal profession. As this Article describes, an advised emissions framework is not wholly incompatible with existing legal professional principles of neutrality and non-accountability but may prompt us to scrutinize them in a time of climate upheaval. Advised emissions disclosures further present an opportunity for lawyers to step into their role as public citizens. This Article is ultimately a call to action: for the legal industry to confront the difficult theoretical, methodological, and implementation questions in an emerging advised emissions framework. The call for climate transparency is growing louder, and we have the opportunity and obligation to develop a worthy answer.

359. *See* Annie Brett, *Rethinking Environmental Disclosure*, 112 CAL. L. REV. 1535, 1535-36 (2024) (arguing that information-forcing environmental regulation "largely fails to achieve its environmental goals" including failing to ensure behavioral change).