

## Diversity in Practice *the 2009 recession*

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In a recent conversation with the chair of a firm's diversity committee, I listened patiently as the partner bemoaned his firm's inability to work on diversity issues because of budgetary cutbacks. I responded by telling him that budgets did not create diversity, people did. After he got over his initial surprise and anger at my response, he got around to asking me what I meant. When I told him that diversity and inclusion were, at their core, about human interactions and the relationships that were forged across differences, we were able to generate several ideas of what his firm could do to raise awareness on diversity, build relationships across differences and create a more inclusive culture that did not strain his budget at all.

Since I had his attention, I took the discussion a step further and asked him how involved he had been with his firm's layoff/firing decisions. He quickly assured me that although he had not been that involved, he had faith that the reduction in workforce decisions were being made neutrally and without bias. I asked him to think about the possibility that a neutral process can often reveal latent bias that has gone unnoticed for months or even years.

The decision to reduce a workforce involves an examination and analysis of who is worth keeping and who is not worth keeping at that point in time. This analysis can be conducted with objective criteria and unbiased tools. The analysis is like a mirror that is objectively reflecting back what is in front of it; *it is what it is*. A commitment to diversity and inclusion, however, require that you question that reflection and ask, *why is it what it is?* Are there more women and minorities clustered in the pool of people who are not worth keeping right now, and if so, why? Are there more women and minorities bereft of sponsors at the highest level who are fighting for them as necessary to the workplace, and if so, why? How did the people who are not worth keeping get that way? Could we have done something differently to make the reflection different?

A true commitment to diversity and inclusion requires us to move past the objectivity of the reflection in the mirror and question the subjectivity of why reality looks the way it does.

Layoffs are an inevitable consequence in any economic downturn. It is a difficult and painful decision for most employers to lay off employees. Integrating diversity and inclusion into this arduous process is not only complicated, but it is an act of courage in an environment of fear and insecurity.

Although there has been no comprehensive statistical analysis on the impact of diversity, the blogosphere is ripe with anecdotal evidence that many of the layoff casualties have indeed been women and minorities. My informal fact gathering suggests that there is at least some truth to the anecdotes. I have also heard from dozens of lawyers (many of them women and minorities) who were not “laid off,” but were “let go” – the former connected to economic necessity and the latter connected to subjective performance evaluations. In addition, I have heard from many female lawyers that they were being encouraged to transition into “contract status” temporarily in order to keep their jobs. A full statistical picture of the impact of the layoffs, the let gos and the status changes will probably not be available until 2010, but the anecdotes preview trends that run quite contrary to diversity.

As the right hand of a law firm focuses on layoffs, let gos, and status changes, the left hand of that firm wonders how it can possibly continue its work on diversity and inclusion with a decimated budget. Finding ways for the right hand and the left hand to work together is an act of courage because it adds tremendous complexity into an already difficult and painful process. It is also an act of courage because it asks employers to look beyond the safety of diversity initiatives, program sponsorships, and cocktail receptions to the history that created the present. Were the opportunities available to the women and minorities the same as available to the white men? Were they mentored in the same way? Were they given the benefit of the doubt, invested in, and nurtured along the way in their careers? Could the failure to thrive be due to neglect instead of capacity?

In a controversial speech in February, Attorney General Eric Holder called us “a nation of cowards” when it comes to talking about race. Many applauded him for his candor; others bristled at his word choice. I see his words as merely reflecting the inherent challenges we continue to face in talking about differences as we journey towards diversity and inclusion.

Diversity and inclusion have always arrived in the wake of courageous acts. Will diversity be one of the values that counters our fears in this recession or will our fears create a recession of the diversity we have accomplished thus far? The choice we make today will create the reflection that stares back at us when our fears recede.