

## [ DIVERSE pursuits ]

# DIVERSITY AND INCLUSION: NOT JUST ABOUT NUMBERS

by PAULINE E. HIGGINS

“**D**o not put your faith in what statistics say until you have carefully considered what they do not say.”

— William W. Watt

It's clear from the fascination with numbers and rankings that Americans use such metrics as one way to determine their own collective worth — examples include everything from the *Fortune* 500 to March Madness to the “best” lawyer listings.

It's not a new phenomenon. Historians find evidence that the first mathematical computations appeared between 3500 and 3000 B.C. in a form dear to many in the legal profession: commercial transactions, deeds of sale, contracts, interest calculations and inventory controls. The Sumerian number symbols are probably older than any other elements of ancient writing.

One necessary component of all this arithmetic is human beings' ability to recognize that tally marks — whether referring to objects or to people — share a perceived form or size but are in fact distinct from one another. But in studying the cultural origins of counting, Dr. Chris Moir of the University of South Australia notes an inevitable risk in a paper titled “The Fundamentals of Mathematics.”

“Counting means to assign each object in a group a label,” he writes. “That is, counting may be thought of as placing each object within the group in a one-to-one correspondence with a label.”

This illustrates one of the conundrums in enhancing diversity and inclusion in the workplace. Relying solely on

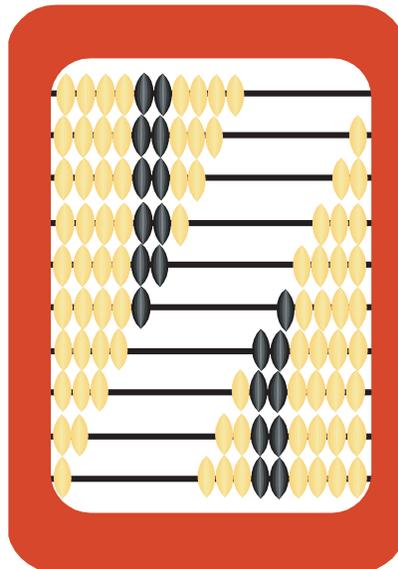
the number of tally marks a firm chalks up in each racial/gender group category to measure those efforts inherently leads to a mind-set unable to see — or take advantage of — the benefits that diversity and inclusion offer. For example, if firm management believes that every African-American female in her 30s with a law degree, as one person in a particular group, shares the same goals, needs, beliefs, attitudes, motivations and opinions about anything, management would be sadly mistaken.

However, much of the legal profession's focus on diversity and inclusion relies on the surface simplicity of numbers or percentages: How many representatives of each category of people are there in a firm? All too often this set of numbers is the sole concern of whoever is ranking, rating and analyzing a firm's retention rate.

While I agree that those numbers do matter and that they do tell a story, meeting numerical targets should not form an absolute means to an end. The well-publicized efforts by many to promote a diversity report card based solely on limited categories of employment numbers submitted by major firms is particularly disheartening. It is a process of cut, paste and rank. The goals and objectives are laudable. But firms and monitoring groups must embrace a total-package concept,

which includes but is not limited to percentages, when evaluating a firm's diversity and inclusion.

As a committed lawyer and firm manager with the dual role of ranking and being ranked, I would appreciate the chance to discuss improvements in the survey tools with the groups involved. Since the diversity scorecards and similar approaches to measuring diversity and inclusion focus only on a narrow set of numbers, it's not surprising



that these tally marks often are the sole concern of many firms, large and small. Many of those sitting on a diversity and inclusion committee or involved in firm marketing or recruitment can quote those high-level statistics. But, I suggest that other numerical measurements and verifiable investment in human assets within the firms are equally, if not more, important in effectively promoting diversity and inclusion. Here are just a few:

- How is accountability for outcomes related to diversity and inclusion tracked? Is accountability on the managing partner's radar?

- After the firm wins kudos for employing the highest number of associates of color and women, what transpires? Inclusion? Assimilation? Equitable distribution of work? Mentoring?

- Are minorities and women heading an office or a practice group and on the firm's management committee?

- Are there partners in the firm who have a flexible arrangement, yet are productive and command a high level of respect within the firm?

- Has the firm exhibited its commitment to all associates? Is it developing the skills of all associates? If so, how? Who monitors the process and results?

- How many senior-level attorneys actively mentor associates and new attorneys?

- How many group and individual forums and networking groups does the firm offer throughout the year to help newer attorneys deal with the pressures of the profession, better understand the firm's expectations and create an atmosphere of mutual support?

- From how many law schools, including historically black law schools, is the firm actively recruiting? Has that number expanded in recent years?

- How many attitudinal assessments does the firm conduct each year among the firm's attorneys and support staff — from every demographic — regarding work and work-life balance, micro-inequities, intra-firm communication and other important workplace issues? What initiatives have resulted from those findings?

## Moving Forward

So, where should lawyers and their firms go from where

they are now? Can they change their current practices and enhance the focus on achieving results? The profession's efforts to enhance diversity and inclusion are too important to be reduced to a set of self-limiting numbers. Those efforts may succeed or fail for reasons too complex to be cut and pasted into a report.

Of course, as a society Americans are partial to the quick fix and the quick summation. They depend on an ability to be in touch with anyone, anywhere, instantaneously. They expect their eyeglasses created, pizza delivered and news of the day processed in 30 minutes or less. They rely on the numbers of stars to judge the quality of a book, restaurant or movie, rather than risk their own time or evaluate the experience for themselves.

Perhaps it's not surprising that lawyers view diversity and inclusion in a similar light. If the legal profession and those who evaluate a firm's success on diversity issues are only concerned with how many of each, why should a firm go beyond those benchmarks in measuring its effectiveness? The answer to that question is critical, because if lawyers don't move beyond simple benchmarks, efforts to truly diversify the profession will fail.

Lawyers must do a better job at communicating to law students, the media, clients and one another that enhancing diversity and inclusion is not all about the numbers. It's not just about how many. It's about a culture that values the opinions of and invests in each individual, that shares an expectation of meaningful work at every stage of one's career, and that exhibits a willingness to find new and better ways to serve clients and attract talent. It is really about the war for talent, and we must endeavor to get the talent regardless of how it is packaged. 



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