

[DIVERSE PURSUITS]

SUBTLE DISCRIMINATION THAT RUINS RETENTION

by PAULINE E. HIGGINS

Lawyers who have spent any time over the past several years following the TV phenomenon known as “American Idol” are familiar with the backhanded compliments and blistering criticisms rendered by Simon Cowell. As one of the three judges of the sometimes adept and often inept singers on the program, the caustic Cowell is renowned for his brutally frank assessments of contestants’ talent or lack thereof. Cowell’s most potent remarks often are preceded by a phrase that is now such a part of his repertoire that it became the title of his autobiography: “I Don’t Mean to Be Rude, But . . .”

The phrase is a rhetorical crutch Cowell uses to soften the sting of his candor. It may be prompted by a convoluted sense of duty to make critical comments that some might consider offensive, so he asks for forgiveness in advance to perhaps mitigate the offense. As a result, Cowell’s persona and the bluntness of his approach is praised and condemned by tens of millions of viewers.

Removed from the unreality of a reality show, I doubt that this style of communication is routinely seen around most lawyers’ firms or in most business environments. Lawyers pride themselves on having become more sensitive, sophisticated and, dare I say, politically correct in their language. They are more aware of the strategic and business imperatives for a diverse work force, the lifestyle demands of younger generations, and the liabilities of unlawful harassment and discrimination. Above all, lawyers don’t mean to be rude, but . . .

Words actually play a small role in telling others true opinions. There are more subtle and yet unbelievably powerful means and ways that people communicate bias, disapproval and lingering prejudices across virtually every workplace.

More than 25 years ago, a professor at the Massachusetts Institute of Technology developed a term for her research into why some people feel valued in their professions and social interac-

tions, while others do not. Dr. Mary Rowe uncovered patterns of discrimination that covertly and often “subconsciously” exclude a person who is different and interfere with a person’s self-esteem. Such behavior wreaks havoc with people’s minds and feelings, but those impacted may not be able to put their fingers on why they feel this way.

Rowe dubbed these indirect and quiet offenses “microinequities.” Microinequities are the subtle putdowns and snubs that can creep into daily interactions. These often indirect or unconscious offenses can severely damage relationships and demoralize a talented employee. A continuing pattern of dismissive gestures

or sarcastic tones will create a disconnect between an outward support of diversity and inclusion and instead support a perception that the exclusive status quo remains in place.

Stephen Young, in his book “Micromessaging: Why Great Leadership is Beyond Words,” outlines several examples of microinequities as well as some of the positive microaffirmations. Here are some examples of frequently cited microinequities:

- Dismissing the idea of one person only to embrace it when paraphrased by another.
- Going out to lunch with certain people more frequently than others.
- Not saying “good morning,” or greeting some people but not others, especially when the selective greetings are made to some members of a group conversing before one’s entrance.
- Checking one’s PDA device or otherwise multitasking while speaking to a person (in person or via teleconference), which becomes worse when that person can hear the ongoing typing.
- Addressing some colleagues, publicly, by chummy nicknames and others more formally.
- Despite earlier corrections, mispronouncing the name of an individual or confusing the names of two individuals even after numerous corrections.
- Ridiculing accents or peculiar speech patterns.
- Continually interrupting certain employees or completing sentences for people.
- The selective rolling of the eyes, depending on the source of



the idea, or the crossing of arms whenever particular persons are speaking or presenting.

- Whispering during a presentation or in the presence of a group.
- Continuous condescending tones by persons in real or imagined authority.
- Ongoing exclusion of a valued member of the team that goes unchecked, because no one else will challenge the systematic exclusion (i.e., managing through fear).

Send a Message

The offender may not intend to be rude, but whether the offense is conscious or unconscious is truly immaterial. The unfortunate fact is that people can communicate these types of negative and disrespectful messages every day, particularly from the senior level to the junior level of attorneys and staff in a firm. The combined effect undermines an individual's self-confidence while killing the benefits of productivity, creativity, teamwork and retention.

These forms of subtle discrimination can be difficult to guard against and overcome, because they come in an infinite variety of forms and pop up in unpredictable ways. The targets often do not know how to deal effectively with these slights without seeming petty or overly sensitive. In a profession that traditionally considers rugged individualism and toughness desirable, no one wants others to view him as a whiner.

The result, however, can be an undue amount of stress, dissatisfaction and a lack of positive motivation for these individuals, predominantly women and ethnic minorities. Is it any wonder that these groups, the most attractive from the standpoint of diversity and inclusion efforts, are also among the most difficult to retain?

A dedicated and sincere process of macromentoring can be the most effective remedy for microinequities. By providing opportunities and inspiration, by giving a sense of history, by offering consistent coaching and feedback, a mentor can help individuals move through and beyond the negative effects of microinequities. A mentor's gestures of caring and graceful acts of listening are really microaffirmations that empower others with the confidence and skills to address the acts of subtle discrimination that they may be experiencing or delivering.

There are opportunities for leaders at all levels to take advantage of the microaffirmations that improve performance, improve morale and inspire others to learn, thrive and grow in their emotionally intelligent interactions with others. This is the gateway toward retention.

Here are just a few types of microaffirmations:

- *Solicit opinions:* Find opportunities to say "I'd like your opinion about . . ." and send a message that you value the thoughts and perspectives of others.
- *Connect on a personal level:* Take a few minutes to engage in a nonbusiness conversation with a colleague, an act that can build self-esteem and often results in heightened loyalty and commitment.
- *Respond in the form of a question:* When you have a negative reaction to a colleague's statement or suggestion, lead your response with a question, not a statement.
- *Attribute/credit ideas:* Acknowledge the owner of an idea, but avoid using "he," "she" or "the idea" when commenting; rather, use

the individual's name.

- *Monitor facial expressions:* Be conscious of facial expressions while listening to a colleague, since most people communicate microinequities through their facial expressions.
- *Actively listen:* Sending a clear message of being attentive to the speaker enhances the quality of the message being delivered.
- *Draw in participation:* When addressing a group, encourage participation from everyone through routine eye contact and solicitation of opinions.
- *Monitor personal greetings:* Be sensitive to how you greet someone with whom you have a close relationship in the presence of others.
- *Respond constructively to differences:* When responding to someone's comment that you disagree with, demonstrate an understanding of his perspective before offering a different view.
- *Handle interruptions respectfully:* Acknowledge when an interruption has happened while someone is speaking. Politely bring focus back to the original speaker.

The most damaging outcome of microinequities is that firm leaders never really know an individual's unfettered potential, nor the extent that seemingly innocuous gestures and actions may have on that individual. Therefore, if lawyers employ the "Pauline Mathematical Model" (PMM), our firms could journey toward a significant return on human assets and on investment (ROI) through indelible retention. Here's the PMM equation:

$$(\text{Inclusion} + \text{meaningful investment in all human assets} + \text{macromentoring}) - \text{microinequities} = \text{retention and less attrition}$$

As firm leaders know, retention and less attrition produce a positive ROI. The lawyer gains, and the firm gains. That's win-win.

Like the well-known Simon Cowell, lawyers may not mean to be rude. But remember the epigram of an unknown author:

Be careful of your thoughts; they become your words;
Be careful of your words; they become your actions;
Be careful of your actions; they become your habits;
Be careful of your habits; they become character;
Be careful of your character; it becomes your destiny.

All lawyers should ask themselves how they are doing in their environment with respect to micromessaging. Are they giving everyone the opportunity to learn, grow and thrive? If not, why not? If not us, who? If not now, when? **INL**



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