

## **DON'T USE THE ECONOMY AS AN EXCUSE; RETENTION OF WOMEN ATTORNEYS, LAWYERS OF COLOR MUST BE A PRIORITY**

by PAULINE E. HIGGINS

**I**n these difficult economic times, demand for legal services dries up, and a mentality of scarcity prevails at firms. When fearful attorneys hoard projects, the professional development of women and people of color often suffers. But despite a difficult economy, in-house counsel can press firms to develop a culture of diversity and inclusion, ensuring that retention does not suffer as the economy falters.

In a challenging economy, lawyers get frustrated when they have no work. Just like chipmunks prepare for winter by packing their cheeks with nuts, lawyers in a recession tend to stockpile projects and clients, fearful for the very existence of their billable hours. Such scarcity and the accompanying tendency to hoard can lead to an unfortunate survival-of-the-fittest mentality.

This is the case even though, in good times and bad, firms have an obligation to make every effort to recruit, employ, mentor, sponsor, coach, support

and provide work for all their human assets, ensuring each person the opportunity to learn, grow and thrive. These efforts will boost retention.

The purchasers of legal services, as well as the providers, bear responsibility in this area. A multicultural society is here to stay; firms and organizations must embrace that reality. In-house attorneys, particularly those with budgetary authority, must assist outside firms in achieving and maintaining diversity, inclusion and retention. How are in-house attorneys challenging firms to refrain from merely demanding that their lawyers eat what they kill, even when there is no field in which to hunt? What efforts are in-house counsel making to help female lawyers and attorneys of color blossom into billable, fully utilized, retainable and retained, and profitably productive providers of legal services? Firms can hire diverse lawyers in droves, but getting them to stay requires laser-like focus on developing them.

In-house counsel should make every effort to build a diverse and inclusive legal team that represents the entirety of the nation and its communities. Concretely, that means the following:

In-house attorneys should, upon retaining a

firm and throughout the engagement, clearly and unequivocally outline that a diverse and inclusive representation team is required and expected.

A firm's team should reflect the composition of its client's organization, assuming that the organization requesting diversity and inclusion is itself diverse and inclusive.

In-house counsel should require outside firms to use measurement tools, such as a quarterly breakdown of billable hours by ethnicity and gender, and then review those reports and supply feedback to the firm.

Regardless of whether a firm is struggling in the current economic climate, in-house counsel should obtain the firm's plan to meet expectations that the legal teams with which it staffs matters be diverse and inclusive.

In-house counsel should advise outside firms that the client expects an indelible, meaningful and measurable commitment to diversity and inclusion. Communicate that meeting those expectations will provide the firm an edge in competition for the client's business.

The legal market functions in a global community, and all entities, including firms, must mirror the world. An organization that is not cognizant of and does not meet the client's expectations regarding diversity and inclusion looks out of touch, loses out on talent and limits itself by foregoing diverse candidates, fails to serve the client's best interests and should not be engaged. If a firm does not serve the client's best interests, why should in-house lawyers retain it and reward bad behavior?

In-house attorneys must assist in producing

and distributing legal work for diverse persons and women. Otherwise, demands for diverse and inclusive outside legal teams are unreasonable. Lawyers owe a fiduciary duty to serve the best interest of, and get the best legal work for, our clients. Fulfilling this obligation includes pursuing responsible change in legal processes, procedures, duties, focus and responsibilities. Leading in this area requires in-house and outside lawyers to reject the attitude of the hoarding chipmunk. Refuse to give in to a mentality of scarcity that keeps work only for a few, to the detriment of development and retention of women and people of color. **INL**



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