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Confronting race again

The election of Barack Obama as president has spurred new discussions about the state of race relations in our country. Some observers have suggested that the election of President Obama demonstrates that the United States has moved only inches away from a race-blind meritocracy.

I would not be so foolhardy to suggest that the election of a black president is anything other than a dramatic step forward. But does President Obama's election mean that the diversity "problem" in our law firms is closer to being "fixed"? Having wiped away the tears that I shared with many who watched the inaugural day festivities, I remind myself that in our firms we have a long way to go.

If a true meritocracy now exists, then as I wrote in "Confronting Race" in the July 2007 *Chicago Lawyer*, we would not question whether black lawyers stand on par with white lawyers intellectually. In a meritocracy, skin color would not influence the likelihood that an attorney would be given the opportunity to demonstrate excellence.

Since the publication of "Confronting Race," I have had the privilege of speaking across the country about race and opportunity in large law firms. I have seen how attorneys of all races in different places are seeking to build a more inclusive legal culture.

A few people challenged my premise, insisting that law firms care only about making money and that, as a result, access to opportunity is determined on the basis of merit.

When one looks at the continued underrepresentation of minority attorneys in large firm partnerships, however, it is easy to be discouraged. Although some large firms have hired more attorneys of color, blacks remain grossly underrepresented in partnerships and leadership positions. When it comes to who is representing key clients as lead counsel in

important cases and transactions, it is clear that there is a long way to go.

In July 2007, I challenged firm leaders to take specific steps to move our firms toward a deep-rooted belief in racial equality. I suggested that we measure whether we have made tangible progress on Feb. 12, 2009 — the 200th anniversary of Abraham Lincoln's birth.

Have we made tangible progress? Using some of my recommendations as a point of reference, it is useful to begin with what some large law firms are doing well:

A majority of large law firms now have full-time diversity professionals who make recommendations to senior management. Most large firms have diversity committees consisting of partners and associates and staffed by the firm's diversity professional. In my July 2007 essay, I argued that a firm that values diversity should not delegate that responsibility to a committee. Instead, the managing partner and the principal managing body should assume direct responsibility.

More firms have implemented mentoring programs, and some senior leaders are making more of an effort to mentor and promote minority attorneys and better equip them to survive in a challenging environment.

Because some corporate leaders have made a compelling business case for diversity, law firms are making more of an effort to include diverse attorneys in business pitches.

But we are also falling short.

Attorneys who participate in the pitch ought to be assigned to the work when it comes in the door. There remains a disconnect, which is unfair to the attorneys of color who helped secure the business.

We resist acknowledging our reluctance to assign major responsibility to minority attorneys. Some firms, encouraged by a few courageous general counsel and other in-house

leaders, are tracking the utilization of attorneys of color on major engagements. The data are particularly meaningful when the firm measures the hours billed by minority attorneys who are acting as principal or lead attorneys in important engagements for the firm's top clients. Unfortunately, many firms have attempted to meet diversity targets by staffing minority attorneys in relatively low-profile roles. That is an acceptable practice only if they are given the opportunity to handle higher-profile tasks as they progress.

Few, if any firms, use the compensation system to reward partners who staff attorneys of color on their cases and transactions or who diversify their practice areas.

Although many firms have instituted diversity awareness training programs for attorneys, I am unaware of a single firm that has figured out how to continue conversations about diversity throughout the firm.

We will not be able to stop talking about race until we start talking about it candidly.

We need to talk about where we hire, who we hire, how we conduct our mentorship programs, how we staff cases and transactions, who we select to leadership positions, and how we incentivize behavior that promotes diversity. And we need to look in the mirror and ask whether the culture of our profession and our firms makes it more difficult for minorities to move up the ladder than it is for white attorneys from backgrounds more familiar to leaders in our profession.

We need to develop structures that allow for ongoing dialogue on these topics, in mixed audiences and with agendas that include discussions about the business and strategic objectives of our firms. Your participation is crucial because we cannot implement change until we believe in change. ■

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