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A HOSTILE WORK ENVIRONMENT?

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In the case of *Johnson v. Strive East Harlem Employment Group, et al.*, case number 1:12-cv-0460, jurors awarded \$30,000 in punitive damages and \$250,000 in compensatory damages in a case involving a hostile work environment where an African American supervisor allegedly used a racial slur against an African American subordinate. This is unusual in that it is one of a relatively few examples of such minority-on-minority cases of this nature.

In the case against Rob Carmona and the New York-based employment agency he founded, the argument centered around what many see as a complex and frequently unclear double standard surrounding the "N-word." Namely, the N-word is generally seen as a racial slur when uttered by Whites but can often be used with impunity by African American's themselves.

In this particular instance, a 38-year-old African American woman recorded an incident where Mr. Carmona railed at her about "inappropriate workplace attire" and "unprofessional behavior." During his tirade, Mr. Carmona repeatedly used the N-word. The event took place in March of 2012 where, after seeing her complaints about his behavior repeatedly disregarded, Ms. Johnson decided that recording the abuse was necessary.

She stated "I was offended. I was hurt. I felt disrespected. I was embarrassed." Afterward she retired to the bathroom and cried.

In the verdict, the court ordered Carmona to pay Ms. Johnson \$25,000 and the employment agency to pay another \$5,000.

In his defense, Mr. Carmona stated that the verdict made him realize he needed to "take stock" of how he communicates with those he is seeking to help. "I come from a different time," he said, expressing remorse.

Ms. Johnson remained indignant saying "Now you are sorry?" She went on to note that he had refused to apologize when he had the opportunity during the trial.

In its immediate response to the case, company representatives stated that they were "disappointed by the verdict, as we do not believe it comports with the full facts of the case. Nevertheless, we respect the jury's decision and the judicial process."

In her job, Johnson worked as a Services Coordinator for the employment agency where job seekers, usually from largely poor and predominantly African American communities learn to speak and dress appropriately for a work environment. They also learn how to write resumes and improve their performance in interviews.

The organization's methods were one of "tough love" and "no excuses" which were designed to enhance the "soft skills" of prospective job seekers.

[Continued on page 4]

DIVERSIFYING YOUR TALENT PIPELINE

Increasingly, organizations are taking a closer look at their leadership pipeline and what they see tells them that work needs to be done to increase the gender and ethnic diversity. Achieving the goal of leadership diversity can be exceptionally challenging due to a variety of factors including history, organizational culture, the desire to maximize leadership quality, and simple fear.

The reality is that, for many organizations, the very top rung on the leadership ladder can tend to include many White male incumbents with few females or people of color. Some may see this disparity as indicative of fundamental discrimination in our society or at least in many of the nation's major companies and their boards of directors.

The reality is more complicated. Top leadership roles in an organization can come from two general sources. Leaders can be either "built" or "bought." When an organization "builds" leaders, it typically focuses on the long process of identifying high potential employees and then through many years of training grows them through various levels of leadership until they are ready to take the reins of power.

Like an orchard owner who plants a tree and then must nurture and care for the tree until it is ready to give fruit, this development process can take a long time. Similarly, not all investments ultimately bear fruit. Through voluntary or involuntary attrition, the pool of candidates grows thinner at each leadership level. Many factors drive this attrition and while the reasons may or may not be discriminatory in nature the result can end up looking very much like discrimination.

As noted, the development process can take years, sometimes 20 or even 30 years. As a result, the makeup of today's top leadership "may" simply be a function of the workforce of 20 to 30 years ago. Top leadership in 20 or 30 years, one would presume, is more likely to look like today's workforce.

Of course, an organization can always "buy" leadership from the outside. It should be recognized, however, that even this outside talent had to have been grown by someone. As a result, this may not result in the diversity at the top that one might desire. Where such diverse talent is available, it may often come at a high price as many organizations may be competing for him or her for the same reasons.

So what should a progressive institution do? There is no easy answer but there are positive steps that can be taken that will, over time, give the desired result of creating a highly talented and diverse leadership team that will guide your organization into an increasingly diverse future.

The first step is to assess your talent pipeline to determine where choke points exist where, for whatever reason, diversity tends to diminish. Conduct research to identify--in detail--why this is happening and determine to take steps, where appropriate, to reduce attrition.

Second, examine your leadership development process. Does your organization have a defined model of leadership that identifies specific steps on the leadership ladder? If not, define one. Have you identified how each progressive level differs from the previous level? Have you identified the specific skills that are required at each level and how they differ from each other.

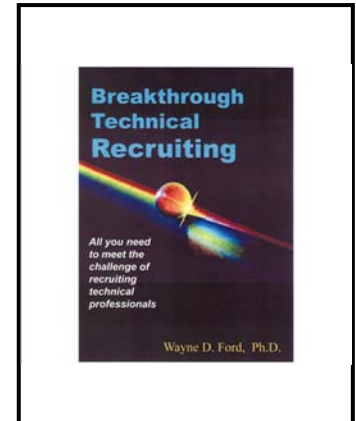
It is well known that there are specific points along the career ladder that tend to trip people up such as moving from *managing self to managing others* (first line supervision) and from *managing others to managing managers* (second level supervision). Many wrongly assume that if you excel at one level you will excel at the other. The reality is that, if an organization does not take the time to prepare those with potential for higher leadership for their new role, the result will be hit-or-miss and many will attrite without achieving the success which they could have.

Third, establish performance measures that are appropriate for each leadership level. A first line supervisor (whose success is primarily related to ensuring production) should not be rated against the same criteria as a business manager whose job is much more related to strategic planning and coordinating functions. Creating a performance assessment process in the context of an actual model of leadership will allow the organization to identify those who are having problems and to address those problems with effective interventions that will help avoid the costly loss of talent and the investment that goes with it.

Finally, in creating a leadership development process that prepares high potential staff for higher leadership, weave diversity into the entire process. Not just as an aside, but make diversity an integral part of the process and monitor how the process is working over time.

Breakthrough Technical Recruiting

The hi-tech industry has started to break lose in the employment arena. Be sure if you are in that industry that you are able to find, screen and hire the right talent to keep your organization moving in the direction you want. This is the guide that will give you that opportunity.



<http://www.management-advantage.com/products/recruit2.htm>

POTPOURRI

■ Construction contractor to pay \$875,000 for hiring discrimination

USDOL announced the federal construction contractor M.C. Dean Inc. has settled allegations that it failed to provide equal employment opportunity to 381 African American, Hispanic, and Asian American workers who applied for jobs at the company's headquarters. Upon review by the OFCCP, it was concluded that the contractor used selection procedures that unfairly kept qualified candidates from securing jobs.

Source:*

<http://www.dol.gov/opa/media/press/ofccp/ofccp20131996.htm>

■ Judge orders Bank of America to pay almost \$2.2 million for hiring discrimination

BofA has been ordered to pay \$2,181,593 in back wages and interest to 1,147 African American job applicants for race-based hiring discrimination at the company's Charlotte facility. The court found that BofA had used unfair and inconsistent selection criteria resulting in the rejection of qualified African American applicants for teller and entry-level clerical and administrative positions. This case provides another example of why employers should conduct valid and comprehensive job analyses for their positions and then ensure that their selection devices and procedures focus solely on those duties as well as knowledge, skills and abilities that are job related, important to performance and required at entry. Further, these selection devices should be administered and scored in a fair and unbiased manner.

Source:*

<http://www.dol.gov/opa/press/ofccp/ofccp20131976.htm>

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A HOSTILE WORK ENVIRONMENT? *(Continued from page 1)*

The organization, founded in 1984 as a non-profit, has expanded significantly over the last 29 years. It now has 25 affiliated offices in the United States, United Kingdom and Israel.

It's not surprising that the jury reached this decision, when one considers how courts have ruled in other cases that involve a hostile work environment; those involving same-sex complaints for example. Further, there have been cases involving minorities harassing other minorities in the workplace.

The take away from this case is that treating people with respect and integrity is the job of everybody all the time. This is especially true at work and even more true if you are a supervisor. It is never acceptable to use terms that are derogatory when referring to race or gender. This is true no matter who is applying them.

This is, of course good advice and if asked, most organizations would say that they concur. However, the fact that these kinds of incidents still occur indicates a need for both vigilance and high-quality ongoing training.

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