ON DIVERSITY, IMPARTIALITY

In a recent President’s Message in Arizona Attorney (January 2013), we were told of the remarkable diversity reflected in the composition of our Board of Governors. But while a delegate from Yuma is a respectable start, we need to do more. A street musician, an Inuit, or maybe a southpaw is still wanting. Because with all that diversity brought to bear on the collective decision-making of our Board as currently constituted, the core values of the State Bar of Arizona nevertheless continue to include “diversity.”

I had thought the concept to have been thoroughly digested by now.

By which I mean the notion that a member of a favored category (some so foggy as to be determinable only by inquiring which self-selected box was checked on the latest census form), is elevated to a superior position by coercive force (as opposed to market force or merit) without regard to (or in defiance of) other objectively better or brighter candidates (who occupy, by definition, unfavored categories), under the indefensible rationale that the person promoted speaks for all his or her favored foggy fellows (who think as one), or will represent them where no one else will, or will contribute ideas that no one else will have, or will enhance the experience and inspire the creativity of everyone around by mere presence, or who requires a “critical mass” of others similarly categorized and elevated not to feel intimidated, or who will, by his or her promotion, redress the colonialist, sexist, racist, etc., misdeeds of our forebears and/or salve the feelings of the paternalistic, patronizing and imperious bureaucrats wielding the coercive force and/or at the least (and at the same time perhaps most importantly), contribute to a more politically correct group photo, all to the everlasting “enrichment” of the polity.

Or some such. Pick your poison. Defining “diversity” is admittedly a murky business. What proponent would want, in the 21st century, to shine analytical rigor and moral clarity on the face of such an disagreeable ambition?

“Diversity” has no business among our core values. But since a mission statement for lawyers with a glaring “Intentionally Omitted” would be a hoot to all but lawyers, let’s substitute a time-tested principle needing no quotation marks and having a much shorter, more understandable and universally revered definition: Impartiality.

Admittedly, returning to first principles will require, for some, a paradigm shift. Impartiality is antithetical to “diversity,” and though lawyers are notorious for taking inconsistent positions, we cannot in good faith cherish both. Peel away the euphemisms and bromides, and “diversity” is inconsistent not only with impartiality, but with honesty, integrity and the human dignity of all involved. At its obvious heart, “diversity” is more than the appearance of impropriety writ large; it is an abuse of power that violates our collective trust.

—Stephen W. Baum
Phoenix