

Victory in discrimination trial no cause to celebrate

By Holly Culhane, Contributing Columnist



The nearly month-long drama that unfolded in a San Francisco courtroom captivated Silicon Valley's attention and exposed -- for all the world to see -- the dark underbelly of one of California's most prestigious industries. And while the defendant company won the legal battle, there is little cause to do a victory dance at the goal post.

The case tarnished the firm's reputation, showing how even some powerful companies still "don't get it" when it comes to workplace diversity and equity.

In 2005, Ellen Pao, a Harvard Business School graduate, was hired by Kleiner Perkins Canfield & Byers, a Menlo Park venture capital firm that provides financing for such giants as Google and Amazon. Pao was first hired as the chief of staff for John Doerr, one of the firm's best known senior partners. She later became an investor.

But Pao's progress in the firm stalled. In a lawsuit she filed in 2012, Pao claimed Kleiner Perkins discriminated against her because of her gender; that the firm retaliated against her because she complained about discrimination; that the firm did not take steps to prevent discrimination; and that it fired her for filing a lawsuit against the firm. Pao asked for \$16 million in compensatory damages and punitive damages.

After deliberating for three days, jurors on March 27 rejected Pao's claims, accepting Kleiner Perkins' contention that Pao was passed over and fired because of poor performance. But the trial testimony was filled with stories of an office affair; a partner showing up in a female colleague's hotel room wearing a bathrobe; and discussions of pornography and erotic poetry.

Pao complained about being assigned secretarial duties and being excluded from all-male business meetings. Notable was a company dinner meeting with former Vice President Al Gore. When Pao demanded to know why she was excluded, she testified a partner told her women "kill the buzz."

The New York Times reported during the trial that a senior Kleiner Perkins' partner rejected the notion that having women and minorities "sitting at the table" during business meetings is important. "I really don't think it was a very big deal to us who sits at a table or who does not."

Headlines of exclusionary behavior in the tech industry, which some women claim is filled with hostile “brogrammers,” are common. Two discrimination lawsuits recently were filed by women against Twitter and Facebook, and industry observers believe more will follow.

But the venture capital industry appears to be even more exclusionary. According to a Babson College study, only 6 percent of the venture capital investors are women. This is down from 10 percent in 1999. And 77 percent of the nation’s venture capital firms have never hired a woman investor.

The goals of both industries -- to be nimble and innovative – doesn’t help. Apple’s Steve Jobs once famously declared that he would rather be a pirate than the member of the navy. And for some firms, this means ignoring accepted practices.

Kleiner Perkins officials contended their firm was too small to have a human resources department. They preferred to operate as a family, without rigid rules for hiring, firing and promoting.

Some takeaways from the Kleiner Perkins trial include:

--No company is too small to justify ignoring HR. Every company must document employee performance, and provide and enforce written policies that give employees a clear understanding of promotional opportunities and company expectations.

--Monitor and eliminate policies, procedures and behaviors that may result in conscious or unconscious biases.

--Embrace diversity. People tend to associate with similar people. For example, if a workforce is comprised primarily by white, older men, likely women and minorities will be overlooked for opportunities. Their performance may lag because of unequal mentoring.

At the very least, this case should give all company owners and managers reason to examine their hiring procedures, review how they deal with employee complaints, and measure just how committed they are to the innovative, fresh and productive ideas that come from a variety of folks “sitting at the table.”

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