



**T**he most pressing issue in employment law, according to Eric Barnum, partner at Schiff Hardin LLP, is how to maintain productivity, profitability and diversity in a lean job market; all while balancing the need for right-sizing companies in a non-discriminatory and non-harassing fashion. “Take the automobile industry and General Motors Co. for example — which is actually doing better now. When you are closing plants, the seniority system of ‘last hired, first fired’ is what employers typically employ. The decision of who to cut often ends up having a disproportionate impact on women and people of color, since seniority typically favors white males,” theorizes Barnum.

Further, some 60-70 percent of operational costs are associated with labor, even more than inventory and infrastructure. “So, the natural tendency is to cut the greatest expense — labor — in the face of declining profits. Where I come in is helping companies remain true to their stated core principles of diversity within legal requirements. My advice to employers is to have in place — on the front end — an objective and thoroughly vetted process for right-sizing your company. This includes determining which divisions and departments and functions are absolutely necessary to get the job done. My advice to employees is to simply stay in high demand by developing a reputation as the go-to person.”

Indispensability is a recurring theme in Barnum’s narrative — punctuated by the rare opportunity to learn, as he puts it, “at the feet of masters.”

**Eric Barnum**  
Partner  
Schiff Hardin LLP

**Specialization:** Employment law and litigation including wrongful discharge discrimination and hostile environment harassment, litigation labor arbitration and analysis of personnel practices and procedures

“Two great African-American partners of another firm served as my mentors. One was just a great trial lawyer; the other a great rainmaker. I learned that you not only had to be a great lawyer, but you also had to understand the business of practicing law. Our business here at Schiff Hardin is to understand our client’s business. I’ve made it a point to learn each client’s industries, objectives and trends and, in return, the clients have been loyal.”

One trend in particular, social media, is steadily making inroads into employment law litigation and discourse.

“There’s an interesting tension that exists between the employers’ need to know and the employees’ right to privacy. Courts are still struggling with where the workday ends and personal time begins.”

But what is considered “settled law” is how social media is being used to broaden the reach of talent and clients that it otherwise could not reach.

“Social media is blowing huge holes in all of those barriers that used to exist. Social networking groups, blogs or forums are usually centered on cultural diversity. You can simply blast a memo that you’re looking for diverse talent and they’ll come to you. If you build it they will come.” **AT**