

Black Women Judges: The Historical Journey of Black Women to the Nation’s Highest Courts

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INTRODUCTION

President Obama's recent nomination of Justice Sonia Sotomayor to the United States Supreme Court sparked much commentary regarding the value of appointing judges from diverse backgrounds to serve on the nation's courts. To what extent does a qualified and diverse judiciary foster public confidence in the courts, grant decision-making power to formerly disenfranchised populations, and ensure judicial impartiality for all? Does diversity have particular importance at the appellate level because judges sit as a panel, hearing and discussing cases as a group in a collegial atmosphere? Have there been

particular historical milestones that have advanced the establishment of a diverse judiciary and served as the critical steps in the journey of black women to the nation's highest courts?

This Article will explore the implications of diversity in the context of collegial decision-making in the appellate courts. This Article also will examine the historical journey of black women to the nation's highest courts. Particular focus will be paid to black women judges who have served and are serving in state and federal appellate courts. What diverse experience or perspective, if any, do black women appellate judges bring to the collegial atmosphere of appellate courts? What impact, if any, do the perspectives and experiences of black women appellate judges have on the overall judicial decision-making process? Has that impact changed in any way in the last thirty years as the number of black women judges at the appellate level has increased?

In 1975, when President Ford appointed Judge Julia Cooper Mack to the District of Columbia Court of Appeals, she stood alone as the only black woman appellate judge in the country. Although she had several contemporary examples of black women judges, including Judge Jane Bolin, the first black woman judge, and Judge Constance Baker Motley, the first federally appointed black woman judge, Judge Mack had no black women who modeled what it meant to be an appellate level judge.

Appellate judges serve a different function than trial judges, where a single judge hears and decides a case. At the appellate level, judges hear cases as a panel and discuss the cases in conferences. As Judge Harry Edwards of the United States Court of Appeals for the District of Columbia Circuit describes it, “[appellate] judges have a common interest, as members of the judiciary, in getting the law right, and . . . as a result, [they] are willing to listen, persuade, and be persuaded, all in an atmosphere of civility and respect.”¹ In such a collegial atmosphere, it is especially important to have diverse perspectives and viewpoints, if, as Judge Edwards put it, judges are to ever “get the law right.”

Because Judge Mack did not have black women appellate judges who preceded her, she built upon the legacy and example of pioneer-

1. Judge Harry T. Edwards, *The Effects of Collegiality on Judicial Decision Making*, 151 U. PA. L. REV. 1639, 1645 (2003). Judge Edwards is a black male judge who was appointed to the United States Court of Appeals for the District of Columbia Circuit in 1980. He served as Chief Judge from 1994 to 2001, and assumed senior status in 2005.

ing black judges and pioneering women judges that came before her. By becoming the first black woman judge in an appellate court, she not only forged the way for the more than thirty black women who now serve on state and federal appellate benches,² but she brought her unique perspective to the appellate collegial decision making process. The opening line of one of Judge Mack's concurring opinions exemplifies what black women judges have to offer our nation's highest courts. Judge Mack wrote, "I find it necessary to say, in my own words, what is and is not at issue here."³ This statement embodies what black women judges bring to the appellate courts: their legal acumen and skill in applying the law to the facts of each case.

The goal of this Article is to give voice to that perspective by looking at the historical journey of black women judges to state and federal appellate courts. Part I of the Article will examine the benefits of diversity and why it is particularly important to strive for diversity on appellate courts. Part II looks historically at the first black judges (who were men), and the first women judges (who were white) who laid the groundwork for black women to sit on state and federal appellate courts. I focus on the historical period from Reconstruction to the present, and note several historical milestones that intersected with the appearance of the first black judges and the first women judges, and ultimately opened the doors to the first black women appellate judges. Part III of this Article takes a more detailed look into the lives of these first black judges and first women judges who broke judicial barriers. Part IV profiles some noteworthy black women judges who have served or are currently serving on appellate courts. It explores their different perspectives by sampling their experiences and backgrounds. Finally, I will conclude by offering my own experience both as a black woman appellate judge and as the daughter in the first mother-daughter judicial pair in the nation.

2. There is not one source that compiles the figures for all black women judges on state courts. The figures used in this article were gathered from sources that track black judges in state courts and women judges in state courts. The primary sources used in this article for black women judges serving on state courts were data compiled by the American Judicature Society's publication, "Diversity of the Bench," available at http://judicialselection.us/judicial_selection/bench_diversity/index.cfm?state=. The figures were confirmed and updated through telephone calls placed to various appellate courts. Appendix A contains a list of the black women currently serving on state intermediate courts and state supreme courts as of October 2009. The figures for black women judges serving in federal courts were readily available at the Federal Judicial Center's "Biographical Directory of Federal Judges," <http://www.fjc.gov/public/home.nsf/hisj>). Appendix B lists black women judges serving on federal appellate courts.

3. *In re R.M.G.*, 454 A.2d 776, 794 (D.C. 1982) (Mack, J., concurring).

I. BENEFITS TO HAVING A DIVERSE APPELLATE JUDICIARY

In 2003, the American Bar Association (ABA) issued a report containing several “enduring principles” that should be emphasized in the judiciary of the twenty-first century. Principal Seven states that “[t]he judicial system should be racially diverse and reflective of the society it serves.”⁴ The report explains that “[g]iven the need for promoting public confidence in the judiciary within segments of the community that have become increasingly suspicious of the courts, efforts to diversify the bench may fairly be regarded as . . . one germane to promoting public confidence.”⁵ The report suggests that the lack of confidence in the courts can be addressed at least in part by increasing the diversity of the judiciary.

The legal community generally recognizes three benefits to diversity: 1) Diversity fosters public confidence in the courts, 2) gives decision-making power to formally disenfranchised populations, and 3) promotes equal justice for all citizens.⁶

Fostering public confidence in the courts is very important. One survey showed that eighty-three percent of white judges believed that blacks are treated fairly in the justice system, while only eighteen percent of black judges agreed.⁷ Diversity in the courts also gives decision-making power to formally disenfranchised populations. It is no surprise that as soon as women gained the right to vote and hold office through the passage of the Nineteenth Amendment in 1920, Florence Ellinwood Allen decided to run for a position on the Court of Common Pleas in Ohio. A woman’s publication reported that Judge Allen “was finally argued into becoming a candidate for the office after the women were enfranchised for she saw in her candidacy an opportunity

4. JUSTICE IN JEOPARDY: REPORT OF THE AM. BAR ASS’N. COMM’N ON THE 21ST CENTURY JUDICIARY 11 (2003), <http://www.abanet.org/judind/jeopardy/pdf/report.pdf>.

5. *Id.*

6. Malia Reddick, Michael J. Nelson, & Rachel Paine Caufield, *Election vs. Selection: Racial and Gender Diversity on State Courts*, 48 A.B.A. JUDGES J. 28, 28 (2009).

7. Sherrilyn A. Ifill, *Racial Diversity on the Bench: Beyond Role Models and Public Confidence*, 57 WASH. & LEE L. REV. 405, 436 (2000) (citing KEVIN L. LYLES, *THE GATEKEEPERS: FEDERAL DISTRICT COURTS IN THE POLITICAL PROCESS* 21, 237 (1997)). If judges, who preside over cases in our nation’s courts, lack confidence in the courts to treat blacks fairly, how much more do the individuals who encounter the judicial system lack confidence in it? In the 1970s, George Crockett Jr., a black judge in Detroit, noted that the lack of confidence in the courts may be due to the dearth of blacks at many stages of law enforcement—from the police and prosecutors, to juries and, ultimately, judges. See George W. Crockett, Jr., *Commentary: Black Judges and the Black Judicial Experience*, 19 WAYNE L. REV. 61, 61-62 (1972).

to do much good, from a woman's point of view."⁸ Almost every woman's organization in Cleveland endorsed Judge Allen.⁹ When she was elected, she won "by the largest popular vote ever given to a candidate for the bench in that county."¹⁰ The electorate, newly composed of women, placed her in this position because they wanted her to represent their interest in the third branch of government. Finally, diversity in the courts also promotes equal justice for all because judges bring their backgrounds and life experiences to bear when applying the facts to the applicable law to render decisions in a given case. Increasing diversity among judges does not guarantee that cases will be decided differently, but instead means that the legal discourse will be more varied in determining "how our laws affect the daily realities of people's lives."¹¹ As University of Maryland School of Law Professor Sherrilyn A. Ifill explains, "[T]he effect of racial diversity on judicial decision-making should not be measured solely by looking at case outcomes in discrimination cases."¹² She argued that "the value of diversity should be measured by its effect on the deliberative process. Even if black and white judges reach the same outcomes, we should value racial diversity if it brings alternative perspectives and analysis to the process and enriches the legal decision-making."¹³

As the United States Supreme Court articulated in *Grutter v. Bollinger*,¹⁴ having a "critical mass" of members from underrepresented groups is not based on "any belief that minorit[ies] [] always (or even consistently) express some characteristic minority viewpoint on any issue."¹⁵ Instead, having a critical mass, or "meaningful representation"¹⁶ is important because "[j]ust as growing up in a particular re-

8. Edith E. Moriarty, *Woman Elected Judge*, WOMAN CITIZEN, July 1921, available at <http://www.law.stanford.edu/library/womenslegalhistory/articles/moriarty.htm>.

9. *Id.*

10. *Id.*

11. This was taken from President Obama's May 1, 2009 speech at a White House press briefing regarding how he would select his nominee to fill the seat vacated by United States Supreme Court Justice David Souter. The full quote said, "I will seek someone who understands that justice isn't about some abstract legal theory or footnote in a casebook; it is also about how our laws affect the daily realities of people's lives." Jesse Lee, *The President's Remarks on Justice Souter*, THE WHITE HOUSE BLOG, <http://www.whitehouse.gov/blog/09/05/01/The-Presidents-Remarks-on-Justice-Souter> (May 1, 2009, 4:23 PM).

12. Ifill, *supra* note 7, at 455.

13. *Id.*

14. 539 U.S. 306 (2003) (ruling that race can be taken into account in law school admissions because having a "critical mass" of members from underrepresented groups is a compelling state interest).

15. *Id.* at 333 (internal quotation marks omitted).

16. *Id.* at 318.

gion or having particular professional experiences is likely to affect an individual's views, so too is one's own, unique experience of being a racial minority in a society, like our own, in which race unfortunately still matters."¹⁷ Arguably this is what President Obama meant when he remarked that he "view[s] the quality of empathy, of understanding and identifying with people's hopes and struggles as an essential ingredient for arriving at just decisions and outcomes."¹⁸ I do not understand President Obama to mean by the quality of "empathy"—nor do I personally believe—that judges should decide cases based on how they "feel." Rather judges should apply legal precedent and analyze legal issues within the context of the law and the facts and circumstances of the particular case before the court on issues that affect every aspect of society.

This is why diversity is especially important on the appellate bench where judges hear and decide cases as part of a panel. As Judge Frank Coffin, a former Chief Judge of the United States Court of Appeals for the First Circuit explains:

The whole idea behind appellate courts is that a collection of different minds is better able to perceive error and to guide the development of the law than is one mind. So the sometimes uncomfortable fact that others are not clones of oneself is to be cherished, not regretted.¹⁹

The collective and collegial nature of the appellate court is particularly enriched by diversity. As Sandra Day O'Connor, the first woman Justice on the United States Supreme Court noted about her interactions with Justice Thurgood Marshall, the first black Justice on the Court:

Although all of us come to the Court with our own personal histories and experiences, Justice Marshall brought a special perspective.

...

At oral arguments and conference meetings, in opinions and dissents, Justice Marshall imparted not only his legal acumen but also his life experiences, constantly pushing and prodding us to respond not only to the persuasiveness of legal argument but also to the power of moral truth.²⁰

17. *Id.* at 333.

18. Lee, *supra* note 11.

19. FRANK M. COFFIN, ON APPEAL: COURTS, LAWYERING, AND JUDGING 220 (1994).

20. Sandra Day O'Connor, *Thurgood Marshall: The Influence of a Raconteur*, 44 STAN. L. REV. 1217, 1217 (1992).

Therefore, the importance of diverse state and federal appellate courts cannot be overstated, due to the collegial nature of the appellate courts. Black women judges in particular bring the diversity of their different perspectives and backgrounds to the decision-making process of appellate courts. The legal discourse that is vital to appellate decision-making is enriched against the backdrop of the diverse personal and professional backgrounds and perspectives brought to bear by the black women judges on an appellate court.

II. PLACING THE FIRST BLACK MALE JUDGES AND FIRST WHITE WOMEN JUDGES INTO HISTORICAL CONTEXT

Diversity on the bench has not always been as valued as it is today. Nearly 165 years ago, all of our nation's courts were presided over by white male judges. However, during critical points in American history, the first black male judges and white women judges began appearing, paving the way ultimately for the first black women judges. Interestingly, these judicial firsts arose out of social and historical conditions that created an environment conducive to major changes in the composition of the judiciary. For example, although the first black judge, Macon Bolling Allen, became a judge in 1847 during slavery, he did so in the social context of the North—in Boston—where blacks were not enslaved. Similarly, he benefited from the abolitionist sentiment that existed in the North. Judge Allen studied the law under an anti-slavery lawyer,²¹ who also sponsored Judge Allen for admission to the courts of Maine.²² Judge Allen was appointed to his judgeship by members of the Whig Party, which had a strong abolitionist element.²³ The first black judge, therefore, appeared during a growing abolitionist movement that sought to establish that blacks were equal to whites in every area, including in their ability to serve as judges. Similarly, the first woman judge, Judge Esther Mae Hobart McQuigg Slack Morris, emerged out of the Women's Suffrage Movement. The

21. Lloyd Duhaime, *Allen Macon 1816-1894*, DUHAMINE.ORG, Nov. 25, 2008, <http://duhaime.org/LegalResources/LawMuseum/LawArticle-467/Allen-Macon-18161894.aspx>.

22. J. CLAY SMITH JR., EMANCIPATION: THE MAKING OF THE BLACK LAWYER 1844-1944, 93 (1993).

23. The Whig party existed from 1834-1854. By 1848, the party had split into the "conscientious" (anti-slavery) and the "cotton" (pro-slavery) Whigs. After the 1852 presidential election, most Southern Whigs joined the Democratic Party and most Northern Whigs joined the newly formed Republican Party. Whig Party: Definitions from Answers.com, <http://www.answers.com/topic/whig-party> (last visited Dec. 1, 2009) (citing to Columbia Encyclopedia).

other “first” black judges and “first” women judges also appeared during critical points in America’s history. This section will explore these historical intersections.

A. Reconstruction: 1865-1877

Reconstruction is the period during the aftermath of the American Civil War between the pro-slavery South and the anti-slavery North, from 1865 to 1877. It is marked by several significant pieces of legislation that extended political, economic, and educational rights to blacks after the legal end to slavery. Reconstruction began with the passage of the Thirteenth Amendment in 1865, which formally ended slavery and gave Congress powers to enact enforcement legislation.²⁴ Also in 1865, the Bureau of Refugees, Freedmen, and Abandoned Lands (“Freedmen’s Bureau”) was established to supervise all relief and educational activities relating to freedmen and refugees.²⁵ The Freedmen’s Bureau also assumed custody of confiscated lands in the former Confederate States.²⁶ The Bureau maintained records, including agreements between freedmen laborers and planters,²⁷ and reports concerning its programs in the states.²⁸

Subsequently, the Fourteenth Amendment of 1868 gave blacks equal rights under the law, and the Fifteenth Amendment of 1870 extended voting rights to black men.²⁹ The Republican-led Congress also enacted the Civil Rights Act of 1875, which declared that all public places should be open to all, regardless of color, and established criminal penalties, fines and established the right to Supreme Court review for violations of the act.³⁰ The Reconstruction period was conducive to producing the first black judges because black men had acquired the right to vote and could elect their own political and judicial representatives. South Carolina in particular, where blacks made up more than sixty percent of the population, had a large black voting

24. Donna A. Barnes & Catherine Connolly, *Repression, the Judicial System, and Political Opportunities for Civil Rights Advocacy During Reconstruction*, 40 Soc. Q. 327, 333 (1999).

25. COMM. ON HOUSE ADMIN. OF THE U.S. HOUSE OF REP., BLACK AMERICANS IN CONGRESS 1870-2007, 21 (2008) [hereinafter BLACK AMERICANS IN CONGRESS].

26. Significant Dates on Black Land Loss and Land Acquisition, <http://www.federation.southerncoop.com/landloss.htm> (last visited Nov. 30, 2009).

27. BLACK AMERICANS IN CONGRESS, *supra* note 25, at 21; Records Relating to Freedmen’s Labor, <http://freedmensbureau.com/labor.htm> (last visited Nov. 30, 2009).

28. The Freedman’s Bureau Online, <http://freedmensbureau.com/> (last visited Nov. 30, 2009).

29. BLACK AMERICANS IN CONGRESS, *supra* note 25, at 21-22.

30. The Civil Rights Bill passed in 1866 guaranteed blacks the right to enter contracts and purchase, sell, and lease property.

population.³¹ In 1870, the very same year that black men obtained the right to vote, Jonathan Jasper Wright, the first black man elected to a state high court, was elected to the South Carolina Supreme Court.

B. End of Reconstruction: 1877

However, this twelve year period of black progress and federal support of issues designed to increase political, educational and economic rights for blacks did not last long. A critical turning point was the disputed 1876 presidential election between the Democratic candidate Samuel Tilden (from New York) and the Republican candidate Rutherford B. Hayes (from Ohio). The election tallies in Florida, Louisiana, and South Carolina were questioned. Congress appointed an election commission composed of five members of the United States House of Representatives, five members from the United States Senate, and five Supreme Court Justices. Hayes won but a compromise was agreed upon behind the scenes. This was known as the Compromise of 1877: Hayes, a northerner, would be recognized by the South if the federal government agreed to no longer intervene in Southern affairs and remove the Federal troops from the South.³² This Compromise of 1877 marked the beginning of the rapid end of the Reconstruction Era. Several Supreme Court decisions began to legally dismantle the political, economic, and educational gains made by blacks during the Reconstruction era.³³ Jim Crow laws³⁴ sprang up to reinforce segregation in all spheres of life. White violence against blacks in the form of lynching increased dramatically. Blacks were effectively blocked from voting through grandfather clauses,³⁵ literacy

31. More than sixty percent of South Carolina's population was black. BLACK AMERICANS IN CONGRESS, *supra* note 25, at 26.

32. Significant Dates on Black Land Loss and Land Acquisition, <http://www.federation.southerncoop.com/landloss.htm> (last visited Nov. 30, 2009).

33. The rights gained by the Fourteenth Amendment were limited by *In re Slaughter-House Cases*, 83 U.S. 36 (1872); the voting rights of the Fifteenth Amendment were limited by *United States v. Cruikshank*, 92 U.S. 542 (1875) and *United States v. Reese*, 92 U.S. 214 (1875); and the federal Ku Klux Klan Acts that protected blacks from hate crimes, were limited by *United States v. Harris*, 106 U.S. 629 (1883). See BLACK AMERICANS IN CONGRESS, *supra* note 25, at 41.

34. Jim Crow was "a system of segregation in the South that was enforced by legal and extralegal means," which included laws against interracial marriage and the sanctioning of white-only and colored-only facilities. BLACK AMERICANS IN CONGRESS, *supra* note 25, at 154.

35. A "grandfather clause" was a provision that exempted descendants of men who voted prior to 1866 from voting restrictions such as literacy tests and poll taxes. It resulted in illiterate and poor whites being allowed to vote, but blacks, whose ancestors were slaves prior to 1866, being disenfranchised.

tests,³⁶ and poll taxes.³⁷ The federal court's failure to enforce the Reconstruction civil rights amendments and legislation stripped blacks of legal avenues to assert their rights. The *Plessy v. Ferguson*³⁸ case, which upheld the doctrine of "separate but equal," was a prime example of the Supreme Court's disposition towards civil rights. This greatly affected the appointment and election of blacks as judges in the courts.

The same year Reconstruction ended, in 1877, Jonathan Jasper Wright was forced to resign from the South Carolina Supreme Court. White Southern opponents lodged accusations against Justice Wright that he accepted bribes in exchange for favorable opinions.³⁹ There would not be another black person to serve on the South Carolina Supreme Court for over a hundred years.⁴⁰ As such, the end of Reconstruction marked a long pause in the judicial firsts of black judges. The next "black judicial first" would not occur until more than sixty years after Reconstruction ended, with the appointment of Judge Jane Bolin, the first black woman judge, to the New York Family Court in 1939, and it would happen in the North, not in the South.

C. The Women's Suffrage Movement: 1800-1920

The Women's Suffrage Movement, which advocated for voting rights for women, provided the social and historical foundation to produce a judicial first for women. The struggle for political, economic and educational equality began in the early 1800s, marked by a growth of women's charitable and volunteer organizations,⁴¹ increased educational opportunities with schools for girls and the first coeducational

36. A "literacy test" was a test given to potential voters as a qualification for voting. Many blacks after slavery were illiterate and unable to pass the test. White potential voters were exempt from the literacy test due to the grandfather clause.

37. A "poll tax" was a tax required as a qualification for voting. Poor blacks were unable to pay the tax, but poor whites were exempted from the tax due to the grandfather clause.

38. 163 U.S. 537, 552 (1896). *Plessy* upheld a legal doctrine, referred to as "separate but equal," that justified segregation of the races. Under this doctrine, separate services, facilities, and public accommodations were allowed as long as the quality of those services, facilities, and public accommodations remained equal.

39. Later scholarship reveals that these accusations were false. See R.H. Woody, *Jonathan Jasper Wright, Associate Justice of the Supreme Court of South Carolina, 1870-77*, 18 J. NEGRO HIST. 114 (1933).

40. Justice Ernest Finney, Jr. was elected to the court in 1985 and became Chief Justice in 1996. Kevin Chappell, *Record Number of Black Chief Justices: Six Jurists Head D.C. and State Supreme Courts*, EBONY, Oct. 1997, at 122, 124, available at http://findarticles.com/p/articles/mi_m1077/is_n12_v52/ai_19836394/.

41. Michael Goldberg, *Breaking New Ground: 1800-1848*, in NO SMALL COURAGE: A HISTORY OF WOMEN IN THE UNITED STATES 179 (Nancy F. Cott ed., 2000).

college (Oberlin College in Ohio in 1833⁴²), the passage of the first Married Woman's Property Act, which gave women very limited property rights, largely in connection with slaves,⁴³ and the first women's rights convention at Seneca Falls, New York in 1848.⁴⁴ The West was a particularly fertile area for women's rights, due to a need to increase the number of women in the Western frontier states. In 1870, Wyoming passed the Female Suffrage Act and became the first state to allow women the right to vote and hold public office, partly in hopes of attracting more families to its territory.⁴⁵ Wyoming immediately took advantage of this newly passed Act by appointing the nation's first woman judge, Esther Mae Hobart McQuigg Slack Morris, to fill a vacancy for the Justice of the Peace in 1870.

D. World War I: 1914-1918 (America entered the war in 1917)

The end of the First World War intersected with the ongoing Women's Suffrage movement to facilitate another judicial first for women. World War I offered many opportunities for women to leave their homes and enter the work force, because many men were being drafted into the war. Suffrage leaders urged women to support the war by taking whatever war work they could. More than 400,000 women joined the workforce during World War I.⁴⁶ Suffrage leaders hoped that women's active involvement in the war effort might help bring about woman's goals for equality.⁴⁷ Women also formed and joined labor unions.⁴⁸ When the war ended and men came home, women were not ready to give up the independence they had gained during the war. They became more vocal about obtaining equal rights and particularly the right to vote. In 1918, suffrage leaders asked

42. E. Susan Barber, *One Hundred Years Toward Suffrage: An Overview*, NAT'L AM. WOMEN SUFFRAGE ASS'N COLLECTION, <http://memory.loc.gov/ammem/naw/nawtime.html> (last visited Nov. 30, 2009).

43. *Id.*

44. Goldberg, *supra* note 41, at 179.

45. Marcy Lynn Karin, Barbara Babcock & Erika Wayne, *Esther Morris and Her Equality State: From Council Bill 70 to Life on the Bench*, Women's Legal History Biography Project, Feb. 28, 2003 at 21, 22 n.91, available at <http://www.law.stanford.edu/library/womenslegalhistory/papers0203/MorrisE-Karin03.pdf> (A later version of this article was published at 46 AM. J. LEGAL HIST. 300 (2004)).

46. GLENDA RILEY, 2 INVENTING THE AMERICAN WOMAN: AN INCLUSIVE HISTORY 346 (3d ed. 2000).

47. *Id.* at 343. A similar agenda was advanced for blacks. It was hoped that by joining the war efforts, blacks would be recognized more as equals. See BLACK AMERICANS IN CONGRESS, *supra* note 25, at 173-74 ("Black Americans furthered their claim for racial equality at home by their contributions on European battlefields and on the home front filling industrial jobs.").

48. *Id.* at 346.

Jeannette Rankin, the first woman elected to Congress⁴⁹ to present the “Anthony” Amendment to Congress, which later became the Nineteenth Amendment of the United States Constitution. It was ratified in 1920 and gave women the right to vote. Women’s involvement during the war and national recognition of women’s right to vote created the perfect environment from which the first woman appellate judge would arise. With women voting nationally for the first time in 1920, Florence Ellinwood Allen was elected judge of the Court of Common Pleas in Ohio and two years later, in 1922, she became the first woman to win a seat on the Ohio Supreme Court. She later also became the first woman to be appointed to the federal bench in 1934, when President Franklin Roosevelt appointed her to the Sixth Circuit of the United States Court of Appeals, where she eventually served as chief judge.

E. Great Migration: 1910-1930

During the Great Migration, which lasted from 1910 to 1930, an estimated 1.6 million blacks migrated from the South to the North, Midwest and West to escape racism and find greater economic opportunities in industrial cities.⁵⁰ The influx of blacks to Northern cities resulted in the first elections of blacks to Congress since the end of Reconstruction.⁵¹ In New York City, Jane Matilda Bolin became the first black woman judge when she was appointed to New York City’s Domestic Relations Court in 1939. Judge Jane Bolin did not migrate from the South. Her family descended from a long line of free blacks that settled in Dutchess County in New York. However, the influx of blacks and the diversity of New York in the 1930s, as a result of the Great Migration, may have attracted Judge Jane Bolin to New York City and away from her father’s successful law practice in upstate New York. She said,

When I am asked why I ever left such a beautiful town as Poughkeepsie I am forced to answer: “Yes, it is physically beautiful, but I hate fascism whether it is practiced by Germans, Japanese, or by

49. Congresswoman Rankin was elected from Montana, a state where women could vote and run for office.

50. The fledging cotton market in the South and the reduction of white workers in the North due to reduction in European immigration and military conscription resulted in an influx of blacks to the North in search of job opportunities. *BLACK AMERICANS IN CONGRESS*, *supra* note 25, at 174.

51. Oscar De Priest of Illinois was elected to the U.S. House of Representatives from a Chicago district in 1928. *Id.* at 236.

Americans and Poughkeepsie is fascist to the extent of deluding itself that there is superiority among human beings by reason solely of color or race or religion.”⁵²

A city like New York, where the mayor, Fiorello LaGuardia openly endorsed black politicians such as Adam Clayton Powell, was more amenable to providing legal and judicial opportunity to a black woman. Mayor Fiorello LaGuardia also appointed Jane Bolin to her judgeship on the New York Domestic Relations Court.

F. World War II: 1939-1945 (America entered the war in 1941)

The social and historical backdrop of World War II also may have precipitated a judicial first for blacks. “During World War II, the [United States] Army had become the nation’s largest minority employer.”⁵³ Prior to World War II, the War department had a policy of segregated service. President Roosevelt felt pressure from black leaders to end this practice. During World War II, President Roosevelt responded to complaints about discrimination against African Americans by issuing Executive Order 8802 in June 1941, directing that Blacks be accepted into job-training programs in defense plants, forbidding discrimination by defense contractors, and establishing a Fair Employment Practices Commission.⁵⁴ He appointed William H. Hastie, who was dean of Howard University School of Law at the time, as a civilian aide to the Secretary of War. When President Truman assumed the presidency after President Roosevelt unexpectedly died while in office, Truman appointed William Hastie to the United States Court of Appeals for the Third Circuit in 1950, making Judge Hastie the first black judge appointed to a federal appeals court.

G. Civil Rights Movement: 1954-1965

When President Truman issued Executive Order 9808 in 1946, establishing a commission to strengthen and safeguard the civil rights of the blacks, he ushered in a new era for civil rights. Many cases were coming before various state courts and the federal courts regarding the unequal treatment of blacks. Ultimately, in the landmark Su-

52. Metropolitan Black Bar Association, The New York City Law Department Honors Judge Jane Bolin Women’s History Month 2006, http://www.mbbany.org/j_bolin_nylaw.htm (last visited Oct. 14, 2009) (on file with author) [hereinafter Jane Bolin Article].

53. Exec. Order No. 9,981: Desegregation of the Armed Forces (1948), <http://www.ourdocuments.gov/doc.php?flash=old&doc=84> [hereinafter *Desegregation of the Armed Forces*].

54. *Id.*

preme Court case of *Brown v. Board of Education of Topeka*,⁵⁵ the Court overruled *Plessy v. Ferguson*⁵⁶ and held that separate was inherently unequal. Blacks began to assert their right to equal treatment through staging boycotts, sit-ins, marches and other forms of protest. It is against the backdrop of the *Brown* case and the Civil Rights Movement that black women judges started to gain more judicial opportunities. President Lyndon B. Johnson appointed Constance Baker Motley, a well-known civil rights lawyer, to the United States District Court for the Southern District of New York in 1966, two years after he signed into law the Civil Rights Act of 1964. Judge Motley worked for the NAACP Legal Defense Fund from 1946 to 1965 and credited her training as a civil rights lawyer as one of the keys to her success. She appreciated her time at the NAACP Legal Defense Fund because it allowed her to “get in on the ground floor of the civil rights revolution.”⁵⁷ She explained:

Because we were a small staff and it was not very fashionable in those days to be working in civil rights, I got an opportunity that few lawyers graduating from Columbia Law School with me would ever have—and that was actually to try major cases, take appeals to the courts of appeals, and argue cases in the United States Supreme Court.⁵⁸

H. Feminist Movement: 1960-1980

As the Civil Rights Era reached its climax, the Feminist Movement was beginning to see some additional gains as well. In 1963, Congress passed the Equal Pay Act, which prohibited discrimination in payment of wages based on sex. Congress also passed the Equal Rights Amendment in 1972, but the amendment did not gain the support of enough states, and therefore was never ratified.⁵⁹ At this intersection of the Civil Rights and Feminist movements, we see the first appointment of black women judges to both state and federal appellate level courts. In 1975, President Ford appointed Judge Julia Cooper Mack to the District of Columbia Court of Appeals.⁶⁰ She

55. 347 U.S. 483, 495 (1954).

56. 163 U.S. 537, 552 (1896).

57. LINN WASHINGTON, *BLACK JUDGES ON JUSTICE: PERSPECTIVES FROM THE BENCH* 135 (1994).

58. *Id.* at 135.

59. RILEY, *supra* note 46, at 537-38.

60. The District of Columbia Court of Appeals, as the highest court for the District of Columbia, is the equivalent of a state supreme court.

became the first black woman to sit on a state appellate level court. Four years later, President Carter appointed Amalya Kearse to the United States Court of Appeals for the Second Circuit. President Carter's intentions regarding the federal judiciary were clear. He stated:

I am determined to nominate judges of the highest quality; our Federal judiciary must be selected on the basis of merit. I am also determined to increase the low representation on the Federal bench of women, Blacks, Hispanics, and other minorities. These goals are within our reach, if we work together cooperatively and recognize the importance our country places in the selection of these new judges.⁶¹

During his four year term from 1977 to 1981, President Carter would go on to appoint thirty-seven black judges and forty women judges to the federal bench, seven of which were black women judges.⁶² However, Amalya Kearse was his only black woman appointee to a federal appellate court.

I. Political Conservatism: 1980-1992

Presidents Ronald Reagan and George H.W. Bush succeeded President Carter; however, they did not embrace or adopt President Carter's idea of a diverse judiciary. Instead, the Reagan Administration's twelve-year period of political conservatism was marked by a backlash against affirmative action and presidential appointments of cabinet members opposed to civil rights.⁶³ Although Presidents Reagan and Bush did not appoint any black women judges to the federal appellate bench from 1980 to 1992, President Reagan appointed Judge Judith Ann Wilson Rogers to the District of Columbia Court of Appeals in 1983.⁶⁴ President Bush also appointed Judge Annice M. Wagner to the same court in 1990. It should be noted, however, that under the District of Columbia Court of Appeals judicial selection process, a

61. The State of the Union Annual Message to the Congress (Jan. 25, 1979), <http://www.presidency.ucsb.edu/ws/index.php?pid=32735&st=black&st1=judiciary> [hereinafter *State of the Union*].

62. Those women are: Norma Holloway Johnson, Amalya Lyle Kearse, Mary Johnson Lowe, Consuelo Bland Marshall, Gabrielle Anne Kirk McDonald, Anna Katherine Johnston Diggs Taylor, Anne Elise Thompson.

63. LEE COKORINOS, *THE ASSAULT ON DIVERSITY: AN ORGANIZED CHALLENGE TO RACIAL AND GENDER JUSTICE* 20-21 (2003).

64. District of Columbia local judges are appointed by the President of the United States.

Judicial Nomination Commission composed of seven members,⁶⁵ recommends three names to the President for each judicial vacancy.⁶⁶ It is not clear whether these Presidents would have selected black women to serve on the District of Columbia's highest court under a different process.

Around the country, other intermediate and state high courts were also bucking the federal trend by appointing or electing black women judges to their intermediate and state high courts. For example, Judge Joan Bernard Armstrong serving in the Louisiana Fourth Circuit Court of Appeal, was elected in 1984. Justice Juanita Kidd Stout was appointed to the Pennsylvania Supreme Court in 1988.⁶⁷ Similarly, Chief Justice Leah Ward Sears, who recently retired, was appointed to the Georgia Supreme Court in 1992. Despite the dearth of appellate appointments at the federal level, the number of black women appellate judges serving at the state level steadily increased.

J. Clinton and Bush Administrations: 1992-2008

The federal appellate judiciary experienced an unprecedented increase in the number of black women judges during the Clinton Administration and the G.W. Bush Administration, to a slightly lesser degree. In 1993, President Clinton promised that he was "committed to giving the American people a federal judiciary marked by excellence, by diversity, and by a concern for the personal security and civil rights of all Americans."⁶⁸ President Clinton went on to make good on this promise by appointing sixty-one blacks and 106 women to the federal courts during his eight-year term. Three of these appointments were of black women judges to the federal appellate courts:

65. "The JNC is composed of seven members—two appointed by the Mayor of the District of Columbia; two by the Board of Governors of the District of Columbia Bar (Unified), one by the Council of the District of Columbia, one by the President of the United States, and one judicial member appointed by the Chief Judge of the United States District Court for the District of Columbia." Judicial Nomination Commission Mission, http://jnc.dc.gov/jnc/cwp/view,a,3,q,494574,jncNav_GID,1482,jncNav,—31322—.asp.

66. D.C. Code § 1-204.33 (2007). For an example of how this nomination process can affect the pool of nominees, see Joseph D. Whitaker & Eugene L. Meyer, *Moving up to the Bench: D.C. Legal System Sees Racial Revolution*, WASH. POST, Apr. 15, 1976, at A1.

67. Brenna Sanchez, *Juanita Kidd Stout*, in 24 CONTEMPORARY BLACK BIOGRAPHY: PROFILES FROM THE INTERNATIONAL BLACK COMMUNITY 161 (Shirelle Phelps ed., 2000). Judge Stout was the first black woman outside the District of Columbia to be appointed to a state's highest court.

68. Clinton's Nomination for the United States District Court Judges (Oct. 22, 1993), <http://www.presidency.ucsb.edu/ws/?pid=46003>.

Johnnie B. Rawlinson (9th Cir.), Judith Ann Wilson Rogers (D.C. Cir.), and Ann Claire Williams (7th Cir.).⁶⁹

The G.W. Bush Administration recognized that diversity was important, but stressed that qualifications were most important. In a 2008 speech, President G.W. Bush stated, “[I promised we] would search from a diverse array of candidates and nominate those who met the highest standards of competence. . . .” His press secretary also stated, “The President operates on the basis of qualifications. And the President believes that in the course of those qualifications, it is healthy to have in all his appointments a group of people who are broadly representative of the country. But the first criteria is and always [sic] be qualifications.”⁷⁰ President G.W. Bush appointed fewer black and women judges than President Clinton, having appointed twenty-three black and seventy-one women judges to federal courts, of which only eight were black women.⁷¹ However, this is substantially more than his Republican predecessors, perhaps indicating broad public acceptance of the notion that a diverse judiciary is important to the fair administration of justice. Two of G.W. Bush’s appointments were black women appellate judges: Janice Rogers Brown (D.C. Cir.) and Allyson Kay Duncan (4th Cir.).⁷²

III. PROFILES OF THE FIRST BLACK JUDGES AND THE FIRST WOMEN JUDGES

The preceding historical overview helps to contextualize the first black male judges and the first white women judges in the social environments from which they emerged. Being the first black judge or the first woman judge, however, carries with it both benefits and burdens. Former Indiana Supreme Court Justice Myra Consetta Selby acknowledged the burden of being the first black woman to sit on the Indiana Supreme Court when she said: “It is always an achievement for there to be a first . . . the barriers can be broken down only when people feel

69. Federal Judges Biographical Database, <http://www.fjc.gov/public/home.nsf/hisj> (last visited Oct. 13, 2009) [hereinafter Federal Judges Database]. This website contains all past and present federal judges and allows users to create a list of judges categorized for race, sex, and nominating president. A search for black women federal judges nominated by President Clinton returned these results.

70. Transcript of May 9, 2001 White House Press Briefing by Ari Fleischer, <http://www.presidency.ucsb.edu/ws/index.php?pid=47522> (last visited Oct. 13, 2009).

71. The eight black women federal judges were, Janice Rogers Brown, Vanessa Lynne Bryant, Marcia G. Cooke, Allyson Kay Duncan, Julie A. Robinson, Mary Stenson Scriven, Sandra L. Townes, Susan Davis Wigenton.

72. Federal Judges Database, *supra* note 69.

comfortable with things they are unaccustomed to. The first is probably the least enviable position, but it is very important.”⁷³ This section tells the “very important” story of the first black judges and the first women judges in the federal and state courts.

A. Genesis

The story of the first black judge begins during slavery. Macon Bolling Allen, the nation’s first black lawyer and the first black judge, was born in Indiana, and moved to Maine in 1835 to study law.⁷⁴ After being admitted to the Maine Bar in 1844, he left for Boston where he was admitted to practice in the municipal court of Boston. His admission to the Boston Bar was talked about in the press, and it is not clear whether the “talk” was solicitous or sarcastic. One newspaper report said:

Mr. Allen is 29 years of age—is a native of Indiana, and his color and physiognomy bespeak a mingled Indian and African extraction, in about equal proportions. He is of medium height and size, and passably good looking. He is indeed a better looking man than two or three White members of the Boston Bar, and it is hardly possible that he can be a worse lawyer than at least six of them, whom we could name.⁷⁵

While Macon Bolling Allen gained the attention of the Boston populous at the time, he did not gain their business. In 1845, he wrote a letter stating:

The prospect of my securing an adequate support . . . is certainly not so good as could be desired. Owing to the peculiar custom of the New England people, and especially Boston people, to sustain those chiefly who are of family and fortune, or who have been long established, this is not regarded as the best place for me who can boast none of the requisite appendages It has been frequently suggested to me that New York, where people greatly differ from our own in this particular I have noted, and with a colored population who themselves, it is reasonable to suppose, have sufficient business which they would give him . . . [could] employ a colored lawyer . . . better than . . . Boston.⁷⁶

73. Suzanne McBride, *Female Justice Marks Another First*, INDIANAPOLIS NEWS, Feb. 1995, at 13.

74. Duhaime, *supra* note 21.

75. SMITH, *supra* note 22, at 94-95.

76. *Id.* at 95 (citing Letter from Macon B. Allen to John Jay (Nov. 26, 1845), in BLACK ABOLITIONIST PAPERS, 1830-1865, at 32 (G.E. Carter & C.P. Ripley eds., 1981)).

After being appointed twice as Justice of the Peace, Macon Bolling Allen decided to leave Boston for South Carolina in 1868.⁷⁷

South Carolina boasts of having the first black lawyer to hold a high state court judicial post. Jonathan Jasper Wright was very popular due to his political presence as a state senator. He was described by a local paper as a “very intelligent, well-spoken colored lawyer.”⁷⁸ The state senate nominated Jonathan Jasper Wright to fill an unexpired term on the South Carolina Supreme Court in 1869, and the following year the legislature elected him to a six-year term. Justice Wright was forced to step down in 1877, the same year that the Reconstruction Era ended.⁷⁹ Justice Wright requested that the legislature try him so that he could have an opportunity to “be cleared of the scandalous imputation sought to be put upon [him],”⁸⁰ but the legislature refused.⁸¹ It would be more than one hundred years after Justice Wright’s death before his reputation would be restored. In 1997, the South Carolina Supreme Court justices unveiled a portrait of Justice Wright in his honor.⁸²

Justice Wright’s resignation and subsequent replacement by a white Justice,⁸³ was symbolic of the overall effect after the end of the Reconstruction Era. The withdrawal of federal troops marked the return of Southern government control to the white southerners and the prompt re-disenfranchisement of African-Americans. The end of the Reconstruction Era also marked the beginning of a long period of absence of blacks in the judiciary.

B. The First Woman Judge

The same year Justice Wright was elected as the first black judge of a state high court, a significant first was taking place for women. In 1870, well before women had the right to vote nationally, Esther Mae Hobart McQuigg Slack Morris became the first woman judge in the country. She was appointed Justice of the Peace in a small town in Wyoming. The then-territory of Wyoming was eager to attract more

77. *Id.* at 215; Duhaime, *supra* note 21; SMITH, *supra* note 22, at 209.

78. *Id.* at 216.

79. *Id.* at 217; Woody, *supra* note 39, at 123-24.

80. Woody, *supra* note 39, at 129 (quoting the Report of the Joint Investigating Committee on Public Frauds).

81. SMITH, *supra* note 22, at 217.

82. South Carolina African American History Calendar, Justice Jonathan Jasper Wright, <http://scafricanamerican.com/honorees/view/2002/12/> (last visited Dec. 1, 2009).

83. Justice Wright was succeeded by a white judge, A.C. Haskell, who was chairman of the Democratic executive committee. Woody, *supra* note 39, at 127.

women settlers, so it passed a bill giving women the right to vote and hold public office.⁸⁴ In protest, the then-Justice of the Peace stepped down from his position, and the governor of the territory appointed the first woman judge to fill the office.⁸⁵

Although she served for less than a year, Judge Morris earned a reputation during her tenure. She was six feet tall, weighed 180 pounds and was described as “mannish.”⁸⁶ Her speech from the bench was more “candid than diplomatic”⁸⁷ and her “powers of conversation, though blunt and often cutting, would have given her a conspicuous position anywhere.”⁸⁸ She had never attended law school or practiced law.⁸⁹ She gave two of her sons clerk positions in her chambers, although they also had no formal legal education.⁹⁰ They had the responsibility of writing her opinions and researching the law.⁹¹ Her chambers were in her own log cabin home.⁹² However, bringing the courtroom to her home had its consequences. Her husband, who opposed her appointment, openly protested her appointment in her court, and she was forced to hold him in contempt. He failed to pay his fine and she jailed him.⁹³

She became known as the “mother of women’s suffrage” after her son referred to her that way in his Cheyenne newspaper.⁹⁴ However, recent scholarship suggests otherwise. When she was asked about the issue of women’s suffrage, Morris allegedly replied that women would do well to leave the matter in the hands of men.⁹⁵ She believed more in the gradual and cooperative approach to women’s rights. She stated that “women can do nothing without the help of men,” and believed that the “elevation of women” should come, but not at the cost of the “downfall of men.”⁹⁶

84. Karin et al., *supra* note 45, at 20-21.

85. *Id.* at 26-27.

86. *Id.* at 32.

87. *Id.*

88. *Id.* at 32 n.138.

89. *Id.* at 35.

90. *Id.* at 32, 35.

91. *Id.* at 31, 35 n.154.

92. *Id.* at 31.

93. *Id.* at 39.

94. History.com, First Woman Judge Dies in Wyoming—History.com This Day in History—4/2/1902, <http://www.history.com/this-day-in-history/first-woman-judge-dies-in-wyoming> (last visited Nov. 18, 2009).

95. *Id.*

96. Karin et al., *supra* note 45, at 50.

Her tenure as a judge came to a quick end. Although she sought re-election when her term expired eight and a half months later, neither political party would nominate her, making her ineligible.⁹⁷ Judge Morris's predecessor, who had stepped down in protest of women being given the right to vote and hold office, ended up being re-elected to the office. Upon leaving office, Judge Morris remarked that her tenure as judge was "a test of woman's ability to hold public office, and I feel that my work has been satisfactory."⁹⁸

The next "first" for women would not come until fifty years later in 1922, after the ratification of the Nineteenth Amendment, granting women the right to vote. Florence Ellinwood Allen holds the distinction of being the first woman elected to a state supreme court. She was elected to the Ohio Supreme Court in 1922. She subsequently became the first woman appointed to a United States Court of Appeals when President Franklin D. Roosevelt appointed her to serve on the Sixth Circuit in 1934.

Judge Allen had strong political ties, one of which was with Eleanor Roosevelt. It was thought that she would be appointed to fill a vacant Supreme Court seat in 1937. However, Franklin Roosevelt appointed Hugo Black, instead.⁹⁹ President Truman also considered Judge Allen for a Supreme Court nomination, but declined due to the negative reactions of the other justices.¹⁰⁰ According to Justice Ruth Bader Ginsburg, in an address she gave before the National Association of Women Judges, "[t]he justices feared that a woman's presence would inhibit their conference deliberations where, with shirt collars open and shoes off, they decided the legal issues of the day."¹⁰¹ The first woman Justice on the Supreme Court, Sandra Day O'Connor, would not be appointed until 1981.

C. The Emergence of Black Women Judges

More than sixty years after the end of Reconstruction, in 1939, this nation saw its first black woman judge. Jane Matilda Bolin came

97. *Id.* at 43.

98. *Id.* at 43-44.

99. John A. Russ IV, *Florence Ellinwood Allen*, Women's Legal History Biography Project, 1997, <http://www.law.stanford.edu/library/womenslegalhistory/papers/AllenF-russ97.pdf>.

100. *Id.*

101. Ruth Bader Ginsburg & Laura W. Brill, *Women in the Federal Judiciary: Three Way Pavers and the Exhilarating Change President Carter Wrought*, 64 *FORDHAM L. REV.* 281, 283 (1995). This article is based on an address presented by Justice Ginsburg at the Annual Conference of the National Association of Women Judges in Atlanta, Georgia on October 7, 1995.

from a family of lawyers. Her father was a single parent and raised Jane and her brother, while successfully operating his own law firm in Poughkeepsie, New York.¹⁰² Her brother also practiced law.¹⁰³ Proud of this family tradition, she never changed her name, even after she married, and also gave the Bolin family name to her son, Yorke Bolin Mizelle.¹⁰⁴ A career counselor advised Jane Bolin to consider teaching rather than practicing law, because “no Black woman would ever make it as a lawyer.”¹⁰⁵ Her father also assumed she would be a teacher.¹⁰⁶ She remembered him telling her, “I don’t like you becoming a lawyer because lawyers have to hear such dirty things sometimes and a woman should not have to hear some of the things a lawyer has to hear.”¹⁰⁷ He finally relented and told her to “make application to the finest law school admitting women.”¹⁰⁸ Little did he know that at the time of their conversation, she had already been accepted at Yale Law School.¹⁰⁹

Jane Matilda Bolin became the first black woman to graduate from Yale Law School in 1931.¹¹⁰ The next year, in 1932, she became the first black woman to be admitted to the New York State Bar.¹¹¹ She began her legal career working as a clerk for her father’s law firm.¹¹² She married a local white attorney in 1933, and moved to New York City where they started a practice together.¹¹³ In 1937,¹¹⁴

102. SMITH, *supra* note 22, at 405.

103. *Id.*

104. *Id.* at 406.

105. Jane Bolin Article, *supra* note 52.

106. *Id.*

107. *Id.*

108. *Id.*

109. Jasmin K. Williams, *Jane Matilda Bolin—A Woman of Firsts*, N.Y. POST, Feb. 9, 2007, at 82, available at http://www.nypost.com/p/classroom_extra/jane_matilda_bolin_woman_of_firsts_CTubVIATyWT1i3JtpQg4H.

110. SMITH, *supra* note 22, at 405.

111. Jane Bolin Article, *supra* note 52.

112. Williams, *supra* note 109.

113. Michel Canaan, 07/22/1939—Jane Bolin Becomes the First Black Woman to Serve as a U.S. Judge, BLACK HISTORY, May 1, 2009, http://www.blackhistory.com/cgi-bin/blog.cgi?blog_id=133098&cid=54&reading=.

114. In 1937, the same year she was appointed Assistant Corporation Counsel, Judge Bolin was elected as the First Vice President of the New York Branch of the NAACP. Judge Bolin remained committed to the local branch of the NAACP, even after she was elected to the NAACP’s national executive committee in 1943. Judge Bolin believed that the NAACP’s national office did not value the commitment of the branches. She particularly resisted the prevailing practice that “the branches should raise money for the national organization and do whatever work they are asked to do by the national organization but are arrogantly overstepping their bounds if they make suggestions or protests to the national office.” She sharply and openly criticized the National Office by writing a letter of resignation that later leaked to the black press. Due to her beliefs, she was eventually removed from the executive committee. Judge

she applied for a position in the New York City Law Department, was hired on the spot, and became the first black woman to be hired as an Assistant Corporation Counsel.¹¹⁵ She clearly remembers the day she interviewed for the position and the racism she faced:

I was interviewed by the First Assistant Corporation Counsel who was from the south of the United States. He was making short shrift of me by telling me there were no vacancies when the Corporation Counsel himself, Mr. Paul Windels, just happened to come in the office. He treated me very cordially, and said that he knew that I was interested in the position on his staff. Thereupon, his assistant interrupted to say “but we have no line for her in the budget.” And Mr. Windels said, “but we do.” And he shook my hand and said, “I welcome you to my staff.”¹¹⁶

She undoubtedly had many more experiences like this, which probably helped formulate her ideas about racial and gender equality. When Mayor Fiorello LaGuardia of New York City appointed Jane Bolin to serve as a judge on New York’s Domestic Relations Court in 1939, he first consulted her husband.¹¹⁷ When asked about what she thought about this, she sarcastically replied, “I can understand now and subsequently I could understand why he did that—was because he wanted to know the character of the man who was my husband. I can’t think of any other reason, can you?”¹¹⁸ In a speech about women’s rights she said,

I am always impatient with those who say “You women have come a long way.” Since I am no gradualist, I think to myself that 150 years is too long a time to come a “long way” in that those gains we have made were never graciously and generously granted. We have had to fight every inch of the way—in the face of sometimes insufferable humiliations.¹¹⁹

When her husband died in 1943, two years after the birth of their son, Judge Bolin, like her father, became a single parent while still maintaining her legal career. Regarding the balance between family

Bolin was later offered another position in the organization, but she declined it and left the NAACP entirely in 1950. See Jacqueline A. McLeod, *Persona Non-Grata: Judge Jane Matilda Bolin and the NAACP, 1930-1950*, AFRO-AMERICANS IN N.Y. LIFE & HISTORY, Jan. 1, 2005, available at [http://www.thefreelibrary.com/Persona non-grata: Judge Jane Matilda Bolin and the NAACP, 1930-1950-a0128705133](http://www.thefreelibrary.com/Persona+non-grata%3A+Judge+Jane+Matilda+Bolin+and+the+NAACP,+1930-1950-a0128705133).

115. Canaan, *supra* note 113; *First Negro Woman Gets City Law Post; Jane Bolin, an Honor Student at Wellesley, Appointed Assistant Corporation Counsel*, N.Y. TIMES, Apr. 8, 1937, at 3.

116. Jane Bolin Article, *supra* note 52.

117. Williams, *supra* note 109.

118. Jane Bolin Article, *supra* note 52.

119. *Id.*

and her career as a judge, she stated, “I don’t think I short-changed anybody but myself . . . I didn’t get all the sleep I needed, and I didn’t get to travel as much as I would have liked, because I felt my first obligation was to my child.”¹²⁰

If Judge Bolin’s first obligation was to her child, her second obligation was to the children of New York City. She said of her career, “I’ve always done the kind of work that I like. Families and children are so important to our society, and to dedicate your life to trying to improve their lives is completely satisfying.”¹²¹ Judge Bolin served on the family court for forty years, having her appointment renewed three more times by the subsequent mayors. In 1979, after reaching age seventy, the mandatory retirement age, Judge Bolin reluctantly resigned from her appointment. It was the same year the first black woman judge, Judge Amalya Lyle Kearse, was appointed to a federal appellate court.

Judge Constance Baker Motley was appointed to the United States District Court for the Southern District of New York in 1966 by President Lyndon B. Johnson. She was the first black woman to be appointed to a federal court.¹²² She became the chief judge of that court in 1982 and a senior judge in 1986. The majority of her legal career, from 1946 to 1965, was spent working for the NAACP’s Legal Defense Fund.

Judge Motley was born in 1921, in New Haven, Connecticut. She was the ninth of twelve children. Her parents were immigrants from the Caribbean island of Nevis. Her father worked as a chef for several Yale University student organizations. She was very active throughout high school. When she was fifteen, she was President of the New Haven NAACP youth council. She was also the secretary for the local NAACP adult council. After she graduated from high school, her family did not have enough money to send her to school, so she became a domestic worker. When she was 18, she gave a speech at a local black social center. The sponsor of the center, a white man, heard this speech and offered to pay for her to go to college. She remembered, “[h]e said he would be glad to pay for my college education and asked me what I wanted to do. I told him I wanted to study

120. Canaan, *supra* note 113.

121. Williams, *supra* note 109.

122. Prior to her appointment to the bench, she was the first woman to be a Manhattan Borough President (1965-66) and the first black woman elected to serve in the New York State Senate (1964-65).

law. He said he didn't know much about women and law, but if that's what I wanted he'd pay for it."¹²³

Judge Motley knew she wanted to be a lawyer very early in her life. She recalled in a 1992 interview:

I guess what sparked my interest in the law when I was growing up more than anything else was the 1938 Lloyd Gaines case¹²⁴. . . . [T]he U.S. Supreme Court ruled that Missouri could not send Blacks to out-of-state law schools in order to prevent them from attending the all-white University of Missouri Law School. It was a major decision. . . . [T]hat was my first encounter with the idea that the Supreme Court could be instrumental in changing the status of Black Americans, and so that really sparked my interest in pursuing the law.¹²⁵

Judge Motley's exposure to black lawyers and judges also influenced her decision to pursue law. She said, "[g]rowing up in New Haven I was aware that Black people could become lawyers and judges."¹²⁶ She recalled two black lawyers who practiced in New Haven. She also knew of black women lawyers, and was aware of Judge Jane Bolin's appointment in New York. She said of these influences, "they were role models for me."¹²⁷

She began her studies at Fisk, and then transferred to New York University after her first year. She graduated from New York University in 1943 with a bachelor's degree in economics. In 1944, she enrolled at Columbia University Law School and graduated in 1946. While interviewing during her third year, she was slighted by a small midtown firm. She had heard they were hiring recent graduates, but when she came for the interview, "a balding middle-aged white man appeared at a door leading to the reception room and closed the door quickly. The receptionist didn't invite me to sit down. We both knew the interview was over before it began."¹²⁸

She immediately turned her sights to another lead. A black classmate told her that there was a law clerk vacancy at the NAACP's Legal Defense and Educational Fund.¹²⁹ She went for the interview and was hired on the spot by Thurgood Marshall.¹³⁰ She recalled, "[h]e

123. WASHINGTON, *supra* note 57, at 136.

124. *Missouri ex rel. Gaines v. Canada*, 305 U.S. 337 (1938).

125. WASHINGTON, *supra* note 57, at 135.

126. *Id.*

127. *Id.*

128. *Id.* at 136.

129. *Id.* at 136-37.

130. *Id.* at 137.

told me he admired black women who had the courage to enter the legal profession.”¹³¹ During her tenure at the NAACP, which lasted from 1946 to 1965, she worked on several important Civil Rights cases, and she worked with several key black attorneys, including Charles Hamilton Houston, who was the dean of Howard University School of Law at the time.

President Johnson nominated her to serve as a federal judge, making her the first black woman judge appointed to the federal bench. She remembers, “I did encounter a few instances of what you might call sexism and racism within the system.”¹³² She was never appointed to any committee by the chief judge of the court of appeals.¹³³ Shortly after her appointment to the federal bench, she attended a school for new federal judges. All the new judges were introduced and all their achievements and accomplishments were related to the audience. When the chairman, who was a judge, introduced Judge Motley, he said that she had served on the boards of the United Church Women and YMCA.¹³⁴ He did not mention her position as a New York State Senator, her election as the President of the Borough of Manhattan, or her many accomplishments with the NAACP. In her defense, a former United States Supreme Court Justice, Tom Clark, took the microphone and said, “Just wait a minute, Mr. Chairman. I would like to say something about Mrs. Motley.”¹³⁵ He went on to relay that she had argued many cases before the Supreme Court.

On another occasion, one party asked that Judge Motley recuse herself in a Title VII discrimination case against women. The case involved discrimination against women in a Wall Street firm. She said, “The firm’s lawyers asked me to recuse myself because I had been discriminated against. I refused. Fortunately, when it got to the court of appeals I was saved from reversal.”¹³⁶

When President Johnson submitted her name for a seat on the United States Court of Appeals for the Second Circuit the opposition was so great that Johnson had to withdraw her name. Judge Motley

131. *Id.*

132. *Id.* at 130.

133. *Id.*

134. *Id.* at 129.

135. *Id.*

136. *Id.* at 143.

said: “This opposition was largely based on my being a woman.” Judge Motley opined,

The opposition was great because I was a woman, I can only guess, since Thurgood had been there and he was Black too. But Lombard and others on the Second Circuit didn’t want any women in this milieu. . . . Their attitude pure and simple, was that a woman had no business being there.¹³⁷

Judge Motley died in 2005 at the age of eighty-four. In a tribute to her life and work, the *New York Times* described her as a “tall, gracious and stately woman whose oft-stated goal was as simple as it was sometimes elusive: dignity for all people.”¹³⁸

D. First Black Woman Judge of a State Appellate Court

The first black woman judge of a state high court was Judge Julia Cooper Mack, a Howard University School of Law alumnus, who served on the District of Columbia Court of Appeals.¹³⁹ She was appointed by President Ford in 1975. In his article about Judge Mack, Professor Derrick Bell, who worked with Judge Mack at the United States Department of Justice, called her “the conscious of the court.”¹⁴⁰ Judge Inez Smith Reid, who served with Judge Mack on the District of Columbia Court of Appeals, described Judge Mack in the following way: “Judge Mack’s characteristic independence is reflected in the first sentence of her concurrence: ‘In joining the disposition . . . , I find it necessary to say in my own words what is, and is not, in issue here.’”¹⁴¹

Judge Julia Cooper Mack was born in Fayetteville, North Carolina in 1920, but her story begins long before that with her unique family history. On her father’s side, her ancestors had always been successful, free blacks. One of her ancestors fought in the Revolutionary War. Another of her ancestors, John Sinclair Leary, studied law at Howard University and was the second black lawyer to be admitted to

137. *Id.* at 124-25.

138. Douglas Martin, *Constance Baker Motley, 84, Civil Rights Trailblazer, Lawmaker and Judge Dies*, N.Y. TIMES, Sept. 29, 2005, at B10.

139. Although the District of Columbia is not a state, the District of Columbia Court of Appeals is considered a “state” court and is the highest court for the District of Columbia.

140. Derrick Bell, *A Gift of Unrequited Justice*, 40 How. L.J. 305, 305 (1997). This essay was submitted as part of a Howard University School of Law symposium in honor of Judge Julia Cooper Mack. For other essays and articles about Judge Mack, see Symposium, *Speaking Truth to Power: The Jurisprudence of Julia Cooper Mack*, 40 How. L.J. 291 (1997).

141. Inez Smith Reid, *The Remarkable Legacy and Legal Journey of the Honorable Julia Cooper Mack*, 8 D.C. L. REV. 303, 349 (2004).

the North Carolina Bar in 1872.¹⁴² Judge Mack's father was a pharmacist and pharmaceutical chemist, and owned several drug stores.¹⁴³ Her mother was a public school teacher.¹⁴⁴ Judge Mack grew up hearing the stories of her family history, and undoubtedly drew pride and strength from these stories.

She graduated from Hampton in 1940, and she taught school before moving, several years later in 1946, to Washington D.C. to work as an admissions clerk at Howard University. While working at Howard University, she was influenced and encouraged to attend law school by several people, including Dr. James Madison Nabrit, Jr., who was a professor at the law school, and George Johnson, who was the dean of the law school at the time.¹⁴⁵ They helped her win a scholarship to help pay for school, and Dr. Nabrit allowed her to work part-time in his office.¹⁴⁶

She became the first black woman attorney for the Department of Justice as well as the first black woman to represent the federal government in argument before the Supreme Court.¹⁴⁷ In 1968, she joined the General Counsel's staff at the Equal Employment Opportunity Commission (EEOC). She gained a lot of recognition in this position. One of her colleagues commented, "Julia Cooper is one of the most brilliant attorneys and skilled administrators I have ever known. She deserves a lion's share of credit for most of the General Counsel's major achievements. She is warm and friendly, a delightful person to have in a position of authority."¹⁴⁸

E. First Black Woman Judge of a Federal Appellate Court

The District of Columbia's legal system would not be alone in the judicial "racial revolution" described by the *Washington Post* upon Judge Mack's nomination to the District of Columbia Court of Appeals. The federal courts would also experience an unprecedented number of appointments of black judges under President Jimmy Carter who promised to "increase the low representation on the Federal bench of women, [B]lack, Hispanics, and other minorities."¹⁴⁹

142. *Id.* at 307; SMITH, *supra* note 22, at 202.

143. *Id.* at 312.

144. *Id.*

145. Bell, *supra* note 140, at 309.

146. Reid, *supra* note 141, at 317.

147. Bell, *supra* note 140, at 309.

148. Reid, *supra* note 141, at 324.

149. State of the Union, *supra* note 61.

President Carter appointed Amalya Kearsse to the United States Court of Appeals for the Second Circuit in 1979, making her the first black woman to sit on a federal appeals court. At forty-two, she was one of the youngest persons to sit on the Second Circuit.¹⁵⁰

The *New York Times* described her as a “person of apparent contradictions.”¹⁵¹ The article went on to say:

She loves physical activity, yet has chosen the contemplative path. Strangers are struck by her reserved demeanor, but those who know her well speak of her warmth. She is enthusiastic about her avocations and is a tournament bridge player, yet her work weeks stretch to 100 hours, leaving her little time for diversion.

Her nomination is a result, in part, of President Carter’s desire to have more blacks and women on the Federal bench; yet Miss Kearsse is not particularly identified with championing women’s causes or those of blacks.¹⁵²

Judge Amalya Kearsse was born in 1937, in Vauxhall, New Jersey. Her father was a postmaster, and her mother practiced medicine & later became an antipoverty official. Judge Kearsse told the *New York Times*, “My father always wanted to be a lawyer. The Depression had a lot to do with why he didn’t. I got a lot of encouragement.”¹⁵³ She attended Wellesley College and majored in philosophy. There, she took a course in international law, which sparked her interest in pursuing a legal career. She said, “I decided I wanted to be a litigator. I can trace that back to a course in international law at Wellesley. There was a moot court, and I found that very enjoyable.”¹⁵⁴

In 1959, she attended University of Michigan Law School and graduated in 1962 near the top of her class. While in law school, she was a research assistant for one of her professors, John Reed, who spoke very highly of her. He said, “Her research for me was of uniformly high quality and met or exceeded all my expectations. She did excellent academic work, yet maintained a very full life including many kinds of activities.” Professor Reed was speaking of the fact that Judge Kearsse was very athletic. He remembered, “She was always the best player on the court” when he invited her to join tennis games with himself and other faculty.¹⁵⁵

150. Tom Goldstein, *Amalya Lyle Kearsse*, N.Y. TIMES, June 25, 1979, at B2.

151. *Id.*

152. *Id.*

153. *Id.*

154. *Id.*

155. *Id.*

Professor Reed was not alone in his praise for Judge Kearsé's mental and athletic abilities. After she graduated, she became a trial lawyer at Hughes, Hubbard & Reed, in New York. In 1969, she became the first female partner of a major Wall Street firm, and at thirty-two, one of the youngest.¹⁵⁶ A senior partner at the firm said, "She became a partner, not because she is a black, but because she is just so damned good—no question about it." Another colleague who worked with Judge Kearsé on a case that went to the Supreme Court said, "I don't know of an appointment that I have been so enthusiastic about in quite some time." Judge Kearsé played on the firm's softball and basketball teams and was described as "agile." She even played tennis with the New York City Mayor David Dinkins, but stopped because she thought she might have to hear an appeal involving the city.¹⁵⁷

In addition to professors and colleagues, Presidents were also impressed by Judge Kearsé. Presidents Reagan, Bush Sr. and Clinton considered Judge Kearsé for the Supreme Court. In 1993, the *Wall Street Journal* wrote an article about her because she was "the lawyers' favorite" for the Supreme Court. The article stated:

Judge Kearsé has won the support of liberals and conservatives because she doesn't fit conventional definitions. She is seen by Republicans as a cautious judge who is well-versed on securities issues, and Democrats note that she isn't afraid to take their side on social issues.¹⁵⁸

Other people have also spoken out about her being a great choice for the Supreme Court. One of her colleagues who felt that she had served with "extraordinary distinction" went so far as to write an editorial in the *New York Times* stating that, "what is needed is an appointment that can unify the country in the assurance that the next Supreme Court nominee is a person of unquestioned excellence. Judge Kearsé is that person."¹⁵⁹ Yale Kamisar, a professor at the University of Michigan, stated in the *American Bar Association Journal*:

156. Lee Katterman, *Amalya Lyle Kearsé: Judge's Robe Cloaks an Individual of Many Talents*, Apr. 1999, <http://www.drda.umich.edu/news/michigangreats/kearse.html>.

157. Jonathan M. Moses, *Judge Kearsé is Colleagues' Pick as Next Supreme Court Justice*, *WALL ST. J.*, June 14, 1993, at B5.

158. *Id.*

159. Jon O. Newman, Op-Ed., *A Replacement for Thomas*, *N.Y. TIMES*, Oct. 10, 1991, at A27.

There are a lot of outstanding persons I would like to see on the Court. Amalya Kearsé is unique because she's the only person whose name is on the lists of both Republicans and Democrats.

She's not really political. She was one of the first black women in a Wall Street firm. She's very bright, open-minded, and judicious."¹⁶⁰

A *New York Times* article said that Judge Kearsé was "viewed coolly by some women's groups, who do not embrace her as a feminist."¹⁶¹ However, in the 1980s she was one of eight candidates put forward by the National Women's Political Caucus for consideration by President Reagan for possible replacement of Justice Potter Stewart.¹⁶² As far as her allegiance to "black issues," the *New Republic*, explained: "Black groups . . . have failed to rally behind Amalya Kearsé of New York because they understand that the reclusive former corporate lawyer is unlikely to be a crusader for the civil rights establishment."¹⁶³

Judge Kearsé was never nominated to the United States Supreme Court. She remained on the United States Court of Appeals for the Second Circuit and assumed senior status in 2002.

IV. PROFILES OF TODAY'S BLACK WOMEN APPELLATE JUDGES

Several black women appellate judges have followed in the footsteps of Julia Cooper Mack and Amalya Kearsé in the thirty years since these first black women were appointed to appellate level courts. In the federal appellate courts, President Carter appointed one black woman judge to the Federal Courts of Appeals, Amalya Kearsé (2nd Cir).¹⁶⁴ President Clinton appointed three black women judges to the federal appellate courts: Johnnie B. Rawlinson (9th Cir.), Judith Ann Wilson Rogers (D.C. Cir.), and Ann Claire Williams (7th Cir.).¹⁶⁵ President George W. Bush appointed two black women to federal appellate courts, Janice Rogers Brown (D.C. Cir.) and Allyson Kay Duncan (4th Cir.).¹⁶⁶ Currently, there are five black women judges

160. Paul Marcotte, *Whom Would You Pick?*, 72 A.B.A. L.J. 34, 36 (1986).

161. Gwen Ifill, *Clinton's Style Means a Slow Process in Picking a Supreme Court Nominee*, N.Y. TIMES, May 5, 1994, at B10.

162. Ellen Dennis French, *Amalya Lyle Kearsé*, in 12 CONTEMPORARY BLACK BIOGRAPHY: PROFILES FROM THE INTERNATIONAL BLACK COMMUNITY 103 (Shirelle Phelps ed., 1996).

163. *The Final Two*, THE NEW REPUBLIC, May 23, 1994, at 9.

164. Federal Judges Database, *supra* note 69.

165. *Id.*

166. *Id.*

actively sitting on the federal appellate bench, representing a mere three percent of federal appellate judges.¹⁶⁷

In the intermediate appellate level state courts and state high courts, even more progress is evident.¹⁶⁸ There are currently six black woman judges sitting on state high courts, which include Chief Justice Peggy A. Quince of Florida, Justice Bernette Joshua Johnson of Louisiana, Justice Patricia Timmons-Goodson of North Carolina, and three judges on the District of Columbia Court of Appeals: Judge Inez Smith Reid, Judge Anna Blackburne-Rigsby¹⁶⁹ and Judge Phyllis D. Thompson. Black women judges represent less than two percent of judges on state courts of last resort.¹⁷⁰

More black women judges are achieving the rank of Chief Judge. In 2009, Leah Ward Sears ended her term as Chief Justice of the Georgia Supreme Court. The District of Columbia Court of Appeals has had two black women chief judges, beginning with Judith Ann Wilson Rogers in 1988¹⁷¹ and Annice Wagner in 1994.¹⁷² The Louisiana Fourth Circuit Court of Appeals is headed by Chief Justice Joan Bernard Armstrong. The Georgia Court of Appeals also has a black woman chief judge, Chief Judge Yvette Miller. The Missouri Court of Appeals for the Eastern District has a black woman serving as chief judge, Chief Judge Nannette A. Baker.

Currently, black women judges represent approximately two percent of the state appellate judiciary.¹⁷³ Out of approximately 319 state high court positions, six are filled with black women judges. Out of approximately 969 state intermediate appellate court positions, twenty-seven are filled with black women. Thirty-six states do not have any black women judges at the appellate level. California has

167. *Id.* As of October 2009, the database showed that there are 159 current active United States Court of Appeals judges.

168. Although the National Association of Women Judges keeps statistics on women judges and the American Bar Association has statistics on black judges in state courts, statistics on black woman judges in state courts was difficult to locate. The number of black women judges on state appellate courts was gathered from a publication by the American Judicature Society (“AJS”), *Diversity of the Bench*, AJS, http://judicialselection.us/judicial_selection/bench_diversity/index.cfm?state= (last visited Dec. 15, 2009). The figures in the AJS publication were based on the American Bar Association’s Directory of Minority Judges of the United States, 4th ed. (2008).

169. The author.

170. There are 319 seats on state courts of last resort. See *Diversity of the Bench*, *supra* note 168.

171. Federal Judges Database, *supra* note 69.

172. Carrie Golus, *Annice Wagner*, in 22 CONTEMPORARY BLACK BIOGRAPHY: PROFILES FROM THE INTERNATIONAL BLACK COMMUNITY 183 (Shirelle Phelps ed., 1999).

173. See Appendix C.

had four black women judges but has not had a black women judge since 2007.

While the number of black women judges at the appellate level has increased from thirty-five years ago, the numbers still remain low if the goal is to have a diverse and representative judiciary. Black women judges bring to the appellate bench the depth of their experiences and backgrounds. To see just how diverse these experiences and backgrounds can be, the next section will explore a few of the black women judges who have served and are currently serving on state and federal appellate courts.

A. Chief Justice Peggy Quince

The Honorable Peggy A. Quince is the first black woman appointed to the Florida Supreme Court, where she has served as Chief Justice since 2008. She was appointed to the Florida Supreme Court in 1998 by then-Governor-elect Jeb Bush and Governor Lawton Chiles. Prior to this appointment, Chief Justice Quince accepted an appointment as a hearing officer in Washington, D.C. (1975), entered private practice in Norfolk, Virginia (1977), opened a law office in Bradenton, Florida (1978), and became an Assistant Attorney General in the Criminal Division of the Attorney General's Office (1980-1993), before she became the first black woman to be appointed to Florida's Second District Court of Appeal in 1993.¹⁷⁴

When Justice Quince was invested as a Supreme Court Justice, she reserved seats for children from her hometown because she wanted them to see the heights that they could achieve.¹⁷⁵ She continues to focus on children now that she is Chief Justice of her court. In an interview with the *St. Petersburg Times*, Chief Justice Quince was asked what area she planned to emphasize during her administration. She stated, "One thing of real interest to me right now concerns our young people who are aging out of foster care. We have a large number of them every year, and many of them are really not prepared to be on their own. We need to explore whatever methods we can find to really address the kind of issues they need to know about when they go out on their own."¹⁷⁶

174. 2006 Margaret Brent Awards, Peggy A. Quince, <http://www.abanet.org/women/bios/quince.pdf> (last visited Dec. 15, 2009).

175. *Id.*

176. Jennifer Liberto, *Turnover Doesn't Bother Chief Justice*, *ST. PETERSBURG TIMES*, June 26, 2008.

Chief Justice Quince has experienced some challenges. She recalls that prior to being a judge, her career as a lawyer had been spent as a criminal lawyer and an appellate lawyer.¹⁷⁷ Most of her other colleagues had civil backgrounds. She also did not have experience as a trial court judge. She worried that her non-traditional path to the appellate bench would be a barrier.¹⁷⁸ However, she realized that criminal law contains many aspects that translate into other areas. Her colleagues seemed to agree that her background lends itself well to being a Florida Supreme Court Justice as shown when they unanimously elected Justice Quince to lead their court as Chief Justice.¹⁷⁹ Another challenge Justice Quince faces is battling with the legislature. For example, when the court ruled that a state statute was unconstitutional, the judges were labeled as “activist judges” who legislate from the bench.

Chief Justice Quince believes she has made the right choice in her decision to pursue the law and become a judge.¹⁸⁰ She was inspired to pursue a legal career by the events of the 1960s and 1970s, including the Kent State killings, college sit-ins and the Vietnam War. Back then—and even after she became a lawyer—Chief Justice Quince did not know any black lawyers or judges. Today, most know Chief Justice Quince as the first black woman to head the Florida Supreme Court or any branch of state government.¹⁸¹ She feels that having black women judges at the appellate level makes a difference. She says, “Just your mere presence makes people stop and listen. Your colleagues may not agree and your perspective may not make a difference in the particular case at issue, but it opens the minds of your colleges to different perspectives.”¹⁸² Chief Justice Quince is proud that she is able to say that she “was at the table and brought a perspective to the table that would not otherwise have had a voice.”¹⁸³

177. The biographical information in this section is based primarily on the author’s telephone interview with Chief Justice Peggy Quince (Dec. 8, 2009).

178. Interview with Peggy Quince, Chief Justice, Florida Supreme Court (Dec. 8, 2009).

179. *History Making Week for Black Americans*, JACKSONVILLE FREE PRESS, Mar. 20, 2008, at 1.

180. Interview with Peggy Quince, *supra* note 178.

181. *History Making Week for Black Americans*, *supra* note 179, at 1.

182. Interview with Chief Justice Peggy Quince, *supra* note 178.

183. *Id.*

B. Honorable Judge Ann Claire Williams

The Honorable Anne Claire Williams was appointed to the United States Court of Appeals for the Seventh Circuit by President Clinton in 1999. She became the first black judge ever appointed to the Seventh Circuit. Prior to her appointment to a federal appeals court, Judge Williams clerked for the Honorable Robert A. Sprecher at the United States Court of Appeals, Seventh Circuit (1975),¹⁸⁴ worked as an Assistant United States Attorney in Chicago, Illinois (1976-1985), became the Deputy Chief of the Criminal Receiving and Appellate Division of the US Attorney's Office (1980-1983),¹⁸⁵ led the Organized Crime Drug Enforcement Task Force as Chief of the Northern Central Region (1983-1985), and was appointed to the United States District Court for the Northern District of Illinois by President Ronald Reagan (1985-1999).

Judge Williams has contributed much to the international legal community. In 2002 and 2003, she led delegations to Ghana to train its judiciary in areas such as judicial ethics, case management, and alternative dispute resolution.¹⁸⁶ In 2007, she led a delegation in Liberia for Lawyers without Borders where she taught advocacy skills to Liberian magistrate judges, prosecutors, and defense attorneys.¹⁸⁷ She has also served as a member of training delegations to the International Criminal Tribunal for Rwanda in Arusha, Tanzania, and the Tribunal for the former Yugoslavia at the Hague, where she taught trial and appellate advocacy courses to prosecutors.¹⁸⁸

C. Chief Judge Nannette Baker

The Honorable Nannette Baker is Chief Judge of the Missouri Court of Appeals for the Eastern District. She was appointed to the Missouri Court of Appeals in 2004, and was retained by election in 2006. She became a circuit judge in St. Louis in 1999. Prior to becoming a judge, she worked in private practice and served as a law clerk

184. She was one of the first two black law clerks in that court. Avon Center for Women and Justice at Cornell Law School, Hon. Ann Claire Williams, <http://www.lawschool.cornell.edu/womenandjustice/aboutus/whoweare/steering/index.cfm> (last visited Feb. 25, 2010) (follow "Hon. Ann Claire Williams" hyperlink).

185. Judge Williams was the first black woman to serve as supervisor in that office. *Id.*

186. *Id.*

187. *Id.*

188. *Id.*

for the Honorable Judge Odell Horton¹⁸⁹ at the United States District Court for the Western District of Tennessee. Before pursuing a legal career, Chief Judge Baker was a journalist for thirteen years.¹⁹⁰ She believes that this prior career “bring[s] the strength of understanding what ordinary people are looking for or what they want from the courts.”¹⁹¹ She also wants to use her former media connections to help the public better understand the role of the appellate courts.¹⁹² She said, “I think it is very important for people to know how we make decisions and what our job entails and to learn more about the third branch of government.”¹⁹³

Chief Judge Baker is called a “consensus-builder” by her colleague on the court, Judge Mary Hoff.¹⁹⁴ Chief Judge Baker is not always certain about how a case should turn out, and admits that “sometimes, during the decision-making process, there is more pondering.”¹⁹⁵ But she says, “that’s what makes the job fun, trying to figure out what the right answer is, in accordance of the law and the facts of the case.”¹⁹⁶

Chief Judge Baker is an example and proponent of diversity. She is the first black woman to preside over a Missouri state court. She understands that she is an inspiration to the black community. She said, “To the African-American community, it’s a positive sign that you see African-Americans in leadership of the court.”¹⁹⁷ She wants to use her position as chief judge and chair of the judicial commissions that select trial judges, to encourage more diverse candidates to apply for judgeships. She explained, “I probably am a little more sensitive to diversity needs than someone who’s not a black woman.” Yet, she keeps a balanced view of diversity and realizes that it encompasses more than race and gender and extends to having a variety of legal

189. Judge Odell Horton was the first black federal judge appointed in Tennessee since Reconstruction.

190. Nannette Baker: The Judge Is a Vol, May 18, 2009, <http://alumnus.tennessee.edu/2009/05/nanette-baker-the-judge-is-a-vol>.

191. William Stage, *Q&A with Judge Nannette Baker*, ST. CHARLES COUNTY BUS. REC., Sept. 3, 2007.

192. Charles Emerick & Kelly Wiese, *A First for Appellate leaders in Missouri*, ST. CHARLES COUNTY BUS. REC., July 1, 2008.

193. Stage, *supra* note 191.

194. Scott Lauck, *Is Mo.’s Groundbreaking System for Choosing Judges Under Attack?*, MISSOURI LAWYERS WEEKLY, Jul. 30, 2007.

195. Stage, *supra* note 191.

196. *Id.*

197. Emerick & Wiese, *supra* note 192. Chief Judge Baker was also referring to the recent appointment of another black judge, Judge Thomas Newton as Chief Judge of the Missouri Court of Appeals Western District. *Id.*

experience.¹⁹⁸ For Chief Judge Baker, she does not see her status as a black woman having a negative effect on her role as a judge. She believes that “once you put the black robe on, lawyers give you a level of respect regardless of your race or gender.”¹⁹⁹

D. Honorable Chief Justice Leah Ward Sears (Ret.)

The Honorable Leah Ward Sears recently retired from her position as Chief Justice of the Georgia Supreme Court. When then-Governor Zell Miller appointed Chief Justice Sears, she became the first woman and the youngest person ever to become a Georgia Supreme Court Justice. In 2005, she became Chief Justice of the court, making her the first black woman Chief Justice of a state high court outside the District of Columbia. Prior to becoming a Georgia Supreme Court Judge, Chief Justice Sears worked as a trial lawyer in private practice (1980-1985). She became a part-time judge in the Atlanta City Traffic Court in 1982, and became a full time judge in the same court in 1985. She then became a judge on the Superior Court of Fulton County (1988-1992). She currently practices as a Partner at Schiff Hardin, LLP, in Atlanta, Georgia.

Chief Justice Sears was also the first woman to win a contested statewide election in Georgia. She notes that her accomplishments as a chief judge and as a black woman have really impacted people of her father’s generation. She stated, “[H]e was shocked at the opportunity that was breaking forth for his daughter. I think, racially, he was surprised. He would really be floored that Barack Obama was elected president. But he would have been equally floored at the progress of this state, not because of my qualifications, but because the people of this state could accept somebody like me as their chief justice.”²⁰⁰ Even United States Supreme Court Justice Clarence Thomas, who attended her investiture as Chief Judge of the Georgia Supreme Court remarked, “I never thought in my lifetime I would be able to witness a black woman as a chief justice of the state of Georgia’s Supreme Court.”²⁰¹

198. Emerick & Wiese, *supra* note 192.

199. Nannette Baker: The Judge Is a Vol, *supra* note 190.

200. Chief Justice Leah Ward Sears, *First Person Leah Ward Sears, Chief Justice of the Georgia Supreme Court*, THE ATLANTA JOURNAL—CONSTITUTION, June 21, 2009, at E.1.

201. Krissah Thompson, *Supreme Court Prospect has Unlikely Ally*, WASH. POST, May 10, 2009.

She has a special concern for families and children involved in the court system. In an address she gave in 2008, Justice Sears stated, “As a judge, I am often frustrated that I must work within a [judicial] system designed only to pick up the pieces after families have fallen apart or failed to come together at the detriment of their children.”²⁰² After retiring from the Georgia Supreme Court, she returned to private practice as a partner at Schiff Hardin, LLP, in Atlanta, Georgia.

E. Honorable Judge Annice Wagner

The Honorable Annice Wagner is a senior judge on the District of Columbia Court of Appeals. In 1994 she was appointed Chief Judge of the District of Columbia Court of Appeals. In an interview with *Ebony Magazine*, Chief Judge Wagner stated, “As chief justice you have an opportunity, working with bench and bar, to improve the court’s approach to administering justice As we become a more diverse society, fairness and access to justice will become even more important issues. An African-American chief judge is in a unique position to address these issues.”²⁰³ Chief Judge Wagner began her career as a lawyer for Houston & Gardner (1964-1973), then became the General Counsel for the National Capital Housing Authority (1973-1975), making her the first woman to serve in this position. She was People’s Counsel for the District of Columbia from 1975-1977 before beginning her judicial career as an Associate Judge in the Superior Court of the District of Columbia (1977-1990). She became a senior judge in 2005.

F. Honorable Judge Judith Ann Wilson Rogers

The Honorable Judith Ann Wilson Rogers is a judge on the United States Court of Appeals for the District of Columbia. She was appointed by President Clinton in 1994, making her the first black woman appointed to that court. She began her legal career in public service. After graduating from Harvard Law School in 1965,²⁰⁴ she clerked at the Juvenile Court of the District of Columbia. She then worked as an Assistant United States Attorney for the District of Columbia (1965-1968), as a Staff Attorney for the San Francisco Neigh-

202. Address by Justice Leah Ward Sears ‘76, Mar. 14, 2008, <http://www.cornell.edu/video/index.cfm?VideoID=246>.

203. Kevin Chappell, *Record Number of Black Chief Justices*, *EBONY*, Oct. 1997, at 122.

204. Judge Ann Wilson Rogers was the first black woman to graduate from Harvard Law School.

borhood Legal Assistance Foundation (1968-1969), as a trial attorney in the Criminal Division of the United States Department of Justice (1969-1971), and then as General Counsel to the Congressional Commission on the Organization of the District Government (1971-1972). She worked in the Office of the Mayor of the District of Columbia, first as the Legislative Program Coordinator for the Office of the Assistant to the Mayor-Commissioner, then as the Special Assistant for Legislation (1972-1979). Prior to becoming a judge, Judge Rogers also worked as Assistant City Administrator for Intergovernmental Relations and served as a Corporation Counsel for the District of Columbia (1979-1983). President Ronald Reagan appointed Judge Rogers to the District of Columbia Court of Appeals in 1983 where she served as the first black woman Chief Judge of that court from 1988 to 1994, before accepting her nomination to the District of Columbia Circuit Court in 1994.

G. Honorable Judge Inez Smith Reid

The Honorable Inez Smith Reid is an Associate Judge on the District of Columbia Court of Appeals. She was appointed by President Clinton in 1995. She faced several challenges in her legal career because she was both a woman and a minority. One of the biggest obstacles Judge Reid faced in her legal career was coping with a male dominated law school.²⁰⁵ Judge Reid attended Yale Law school from 1959 until 1962. She also earned her LLB from Yale Law School in 1962. At law school, there were never more than four women in her class and even fewer minorities. For Judge Reid, the male orientation was very noticeable. First, women law students could not stay in the law school dorms, but were farmed out to the university dorms. Women law students were also “relegated to a separate lounge” that was located in the basement. Additionally, there was a course that women could not enroll in because it was held off-campus at a men’s club that would not allow women to enter. Judge Reid especially remembers one professor who took great pleasure in starting the class by addressing the “gentlemen” of the class, while looking directly at her.²⁰⁶

205. The biographical information in this section is based primarily on the author’s interview with Judge Inez Smith Reid. *See infra* note 206. The Historical Society of the District of Columbia Circuit is interviewing Judge Reid for inclusion in its Oral History Project.

206. Interview with Judge Inez Smith Reid, Associate Judge on the District of Columbia Court of Appeals (Jan. 13, 2010).

Judge Reid remarked that “these obstacles made me more determined to get an education.”²⁰⁷

Judge Reid faced another obstacle when she tried to enter the legal job market. In her third year of law school, the Associate Dean called Judge Reid and her twin brother George Bundy Smith²⁰⁸ into his office. The Dean explained that they probably would not find employment at firms like their other classmates. He suggested that they broaden their job search, so Judge Reid interviewed for government jobs. At one interview, she was turned away because the judge took male clerks one year and female clerks the alternate year. The year Judge Reid interviewed was the “male year,” and so she was not offered a job. At another job interview, she was told that the job would be given to a male graduate at Howard University School of Law because “he needed the job more because he would have to support a family.”

Judge Reid received a grant from the Ford Foundation (supplemented by the Congolese government) to help establish a law library in the Congo (Leopoldville, now Kinshasa) and to serve as a Lecturer in Criminal Law at l’Ecole Nationale de Droit et d’Administration. When she returned to the United States, she decided to pursue a career in education. She started studying for her doctorate at Columbia University in 1965 while she was an Assistant Professor of African Studies and Political Science at the State University of New York at New Paltz, New York. She taught political science at Hunter College in New York City before serving as an Instructor and Associate Professor at Brooklyn College, beginning in 1966. She took a position as an Associate Professor of Political Science at Barnard College, Columbia University in 1971.

In 1976, she turned her attention to pursuing a legal career. She went into government service and became General Counsel for the New York State Executive Department in the Division for Youth (1976-1977), Deputy General Counsel for the United States Department of Health, Education and Welfare (1977-1979), Inspector General of the Environmental Protection Agency (1979-1981), Chief of the Legislation and Opinion Section of the Corporation Counsel of the District of Columbia (1981-1982), Deputy Corporation Counsel in the Legal Counsel Division (1982-1983), and Corporation Counsel for the Dis-

207. *Id.*

208. Judge Inez Smith Reid’s twin brother was an Associate Judge of the New York Court of Appeals from 1992 to 2006. Currently, he is a Partner at Chadbourne & Park, LLP.

trict of Columbia (1983-1985). She returned to academia in 1985 as Visiting Professor of Law, University of West Virginia, before entering private practice of law in 1986.

Judge Reid's mentors include the first black woman federal judge, Judge Constance Baker Motley, and the first black woman judge of a state high court, Judge Julia Cooper Mack. Judge Reid worked for Judge Mack during her summer internships at the NAACP Legal Defense and Education and Educational Fund in 1962, 1963, and 1964. Judge Reid said that Judge Motley "was very dedicated to the concepts of justice and equality." When Judge Reid was appointed to the District of Columbia Court of Appeals, she joined Judge Annice Wagner on the bench, who was her former high school classmate. Judge Reid remembered that Judge Wagner "tendered very valuable advice to me when I joined the bench." Judge Reid was also mentored by Judge Mack, who "took it upon herself to become a good mentor to me." In tribute to Judge Mack, Judge Reid published a law review article chronicling Judge Mack's life and legacy.²⁰⁹

H. Honorable Judge L. Priscilla Hall

The Honorable L. Priscilla Hall was appointed Associate Justice of the Appellate Division, Second Department, of the New York State Supreme Court by Governor David Patterson²¹⁰ in 2009. She began her legal career after graduating from Columbia University School of Law as a corporate attorney for General Electric. She then began her career in public service by becoming Assistant District Attorney in New York County (1974-1979), Inspector General of the New York City department of Employment (1979-1982), Assistant Attorney General, for the New York State Department of Law (1982), and returning as Inspector General of the New York City Human Resources Administration (1982-1986). She commenced her judicial career in 1986 after being appointed judge to New York City Criminal Court (1986-1990). She went on to serve as acting justice to the New York State Supreme Court in Kings County (1990) and as a judge in the New York State Court of Claims (1990-1994). She was then elected Justice of the Second Judicial District of the New York State Supreme Court (1994-2008) and finally appointed as the Administrative Judge

209. See Inez Smith Reid, *The Remarkable Legacy and Legal Journey of the Honorable Julia Cooper Mack*, 8 UDC/DCSL L. REV. 303, 349 (2004).

210. David Patterson is the first black governor of New York. Raymond Hernandez & Jeff Zeleny, *Paterson Says He Will Run, Rejecting Call From Obama*, N.Y. TIMES, Sept. 20, 2009.

of the Kings County Supreme Court in the criminal division (2008-2009).

I. Judge Mary McDade

The Honorable Mary McDade was elected to the Illinois Appellate Court, Third District, in 2002. She became the first black woman elected to the Appellate Court outside of Cook County. Judge McDade began her legal career later in life. She started law school in 1981 at age forty-one and she later described her law school years as “probably the most grueling regimen I have ever undertaken.”²¹¹ After graduating from law school, she clerked for Judge Michael Mihm (1984-1986), at the United States District Court for the Central District of Illinois, in Peoria, Illinois. She then joined Quinn, Johnston, Henderson & Pretorius (1986-2000), where she became a partner in 1991.

Judge McDade was inspired by the accomplishments and activism of her family “who were in the civil rights vanguard when it was life-threatening to be involved and active.”²¹² Her father was a doctor, and he became the first black faculty member hired at the University of Michigan. He was always outspoken about civil rights, and he later became the first black mayor of Ann Arbor, Michigan. Her mother, who had earned a master’s degree, was very active in the NAACP, serving as president of the Ann Arbor Chapter. Following her parents’ example, Judge McDade helped found the University of Michigan chapter of the NAACP in 1960 and was active with the Young Democrats. When she decided to pursue a legal career at the age of forty-one, she was active in her community and was the first black person to be elected to the Peoria Board of Education and the first woman to chair the Eureka College Board of Trustees.

Judge McDade encountered several challenges during her campaign for the Illinois Appellate Court. She recalled, “The prospect of running for office is daunting because of the potential for enormous expenditure of money and, perhaps even more, because unscrupulous office-seekers and their supporters are often wholly unfettered by either truth or decency.”²¹³ Another challenge she encountered during

211. *An Interview with Judge Mary McDade*, THE PEORIA WOMAN, Mar. 2002, available at <http://www.peoriomagazines.com/tpw/2002/mar/interview-judge-mary-mcdade> (last visited Feb. 25, 2010).

212. *Id.*

213. *Id.*

her campaign was that of an uninformed electorate. She was surprised that “many people had never even heard of the appellate court and . . . had no concept of its role in our system of justice.”²¹⁴ She hopes that “women, as relative newcomers to the field, [will] have the vision and ability to raise the standard for political campaigning” and that “we can find a way to remedy the lack of knowledge about the appellate court.”²¹⁵ Looking back on her decision to pursue a career in the law, Judge McDade said, “While I have sometimes lamented the stress and begrudged the hours taken from other things which were important to me, I have never had any serious regrets.”

CONCLUSION

This historical review of black women judges leads me to reflect on my own judicial experiences and my own personal role model. I stand proudly as a daughter of a judge, Judge Laura D. Blackburne and together my mother and I formed the first sitting mother-daughter judicial team in the country.²¹⁶ Like many of the black women mentioned in this Article, my mother is a true public servant. She began her career as a teacher, and then worked in various positions in New York City government, including Assistant to the Mayor John V. Lindsay, before deciding to return to school to study law. She graduated from law school the same year I graduated from high school. Certainly, her choice to pursue her dream of attending law school influenced my decision to enter law school, pursue a legal career, as well as a judicial career and ultimately serve on the District of Columbia Court of Appeals. After law school, my mother headed the Institute for Mediation and Conflict Resolution in New York City. She was then appointed by Mayor David N. Dinkins as Chair of the New York City Housing Authority, the largest public housing authority in the nation. In 1995, she was elected to the New York City Civil Court and in 1999 she was elected to the New York State Supreme Court. One of my proudest moments was when my mother helped to administer my judicial oath when I first became a trial judge on the District of Columbia Superior Court in 2000. She retired in 2006, the same year I was appointed by President Bush to serve on the District of Columbia

214. *Id.*

215. *Id.*

216. *Swearing In Marks First Mother-Daughter Judicial Team Appointed in U.S.*, JET, Sept. 25, 2000, at 4.

Court of Appeals. It was almost as if she symbolically passed the mantle of judicial service on to me.

On the District of Columbia Court of Appeals, I am currently one of three black women judges, and we all bring very different professional backgrounds, life experiences, and judicial voices to the table. Judge Inez Smith Reid graduated from Yale Law School in the 1960s at a time when very few women were attending law school. She worked in private practice, in state and federal government agencies, and in academia before becoming a District of Columbia Court of Appeals Judge. Judge Phyllis Thompson, on the other hand, earned a Master's degree in Religion in the 70s before pursuing a career in the law and graduating from law school in the early 1980s. She worked in private practice and obtained the distinction of being the first black women partner at her law firm, Covington & Burling, LLP, before becoming a Judge on the District of Columbia Court of Appeals. Finally, I completed law school in the late 1980s. I worked in private practice at a large law firm, Hogan and Hartson, LLP, and in local government for the District of Columbia Office of the Corporation Counsel, before beginning a judicial career at the relatively young age of thirty-five. I served as a Magistrate Judge on the Superior Court of the District of Columbia for five years and as a trial judge on the District of Columbia Superior Court for six years before being appointed to serve on the District of Columbia Court of Appeals. Our varied experiences illustrate the necessity of having a "critical mass" of black women on our nation's state and federal appellate courts so that no single black woman feels "isolated or like [a] spokesperson[] for [her] race [and gender]."217

On this historical journey of black women judges to the nation's highest courts, I have made more observations than conclusions. I have noted that black women judges came to the "judicial" table much later than black men (by more than eighty years) and also much later than white women (by almost sixty years). I have seen that being both black and female brings an important additional voice to the deliberative process, but that voice is varied because there is no singular "black woman" perspective.

I have also observed that the court on which I serve has in many ways achieved the type of diversity to which groups such as the Amer-

217. *Grutter v. Bollinger*, 539 U.S. 306, 318-19 (2003) (referring to the testimony of the Dean of the University of Michigan Law School, Jeffrey Lehman, explaining why obtaining a critical mass of minority students was important to the school educational mission).

ican Bar Association aspire. I sit on a court where one-third of the judges are black women, in a jurisdiction (the District of Columbia) where approximately one-third of the population is comprised of black women.²¹⁸ And I have observed that while there have been significant advances in increasing the diversity of judges serving on state and federal courts, appellate courts in other states have not yet met this goal of a diverse judiciary. In the United States, where approximately 8.2% of the population is comprised of black women,²¹⁹ there are still many states and federal jurisdictions that have no black women sitting on the state appellate courts or the federal appellate courts within those states. There are thirty-seven states that do not have any black women judges serving on their intermediate appellate courts or their state high courts. Further, out of the thirteen federal appellate courts, only four currently have black women judges.

Finally, I have noticed that while state and federal organizations track the numbers of black judges as a group, or women judges as a group, few, if any, track the numbers related specifically to black women judges at the intersection of race and gender. This makes it difficult to isolate the numbers of black women judges, which in turn makes it difficult to advocate for steady increases in this subset of judges. I have not yet determined what these observations actually mean. Perhaps, as is my judicial habit, with more deliberation and research, I will be able to form a more precise theory or quantify to a more exacting degree, the value of diversity on our nation's state and federal appellate courts. But for now, I am proud to be a part of the historical legacy and proud to continue on the journey of black women judges on the nation's state and federal courts, optimistic that this journey will continue to enrich the legal discourse and the administration of justice.

218. In 2008, the percentage of black women in the District of Columbia was 29.9%. Interview with Joy Phillips, Associate Director, State Data Center for the D.C. Office of Planning, in Wash., D.C.

219. In 2007, there were 20,629,000 black women living in the United States, representing 8.2% of the population. Interview with Research Librarian, D.C. Public Library, in Wash., D.C. See also U.S. Census Bureau, Population Estimates, <http://www.census.gov/popest/national/asrh/NC-EST2008-asrh.html> (last visited on Feb. 25, 2010) (follow "Annual Estimates of the Black or African American Alone Resident Population by Sex and Age: Excel or CSV" hyperlink).

APPENDIX A:
**Black Women Appellate Judges Currently Serving on
 State Courts**
 (includes intermediate appellate state
 courts and state supreme courts as of October 2009)

	Name	Court	Year Appointed or Elected	Notes
1	Peggy Ann Quince	Florida Supreme Court	1999	First African-American woman to sit on the state's highest court; became Chief Judge in 2008
2	Patricia Timmons-Goodson	North Carolina Supreme Court	2006	First African-American woman to sit and the third woman elected to serve on North Carolina's highest court.
3	Bernette Joshua Johnson	Louisiana Supreme Court	1994	ABA Comm'n on Racial and Ethnic Diversity in the Profession will honor her with a Spirit of Excellence Award in 2010; first African-American woman to serve on the Louisiana Supreme Court.
4	Anna Blackburne-Rigsby	District of Columbia Court of Appeals	2006	First mother-daughter judicial pair in the country (Justice Laura D. Blackburne).
5	Phyllis D. Thompson	District of Columbia Court of Appeals	2006	First black woman partner at Covington & Burling, LLP.
6	Inez Smith Reid	District of Columbia Court of Appeals	1995	
7	Sylvia Rita Cooks	Louisiana Court of Appeal, Third Circuit	1992	First black person to serve as a law clerk for the Louisiana Supreme Court.
8	Joan Bernard Armstrong	Louisiana Court of Appeal, Fourth Circuit	1984	Chief Justice since 2003 (first to serve as chief judge); first black woman judge in her court.

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	Name	Court	Year Appointed or Elected	Notes
9	Felicia Toney Williams	Louisiana Court of Appeal, Second Circuit	1993	Served as Associate Justice of Louisiana Supreme Court <i>Pro Tem</i> from September 1, 1994 through December 28, 1994.
10	Terri Love	Louisiana Court of Appeal, Fourth Circuit	2000	
11	Nikki Ann Clark	Florida Court of Appeals First District	2009	First black and the first woman to serve on Florida's Second Judicial Circuit in Tallahassee.
12	Carole Y. Taylor	Florida Court of Appeals, Fourth District	1998	
13	Karen Fort Hood	Michigan Court of Appeals First District	2002	First black woman to serve on this court.
14	Cynthia Diane Stevens	Michigan Court of Appeals First District	2008	
15	Nathalie Hudson	Minnesota Court of Appeals	2002	
16	Wilhelmina Wright	Minnesota Court of Appeals	2002	
17	Lisa White Hardwick	Missouri Court of Appeals Western District	2001	
18	Nanette Baker	Missouri Court of Appeals Eastern District	2004	Chief Judge; the first black woman to preside over a Missouri state court.
19	Cheryl Lynn Allen	Pennsylvania Superior Court	2007	
20	L. Pricilla Hall	New York Supreme Court, Second Appellate Division	2009	

Black Women Judges

	Name	Court	Year Appointed or Elected	Notes
21	Cheryl Chambers	New York Supreme Court, Second Appellate Division	2008	
22	Wanda G. Bryant	North Carolina Court of Appeals	2001	
23	Cheri Beasley	North Carolina Court of Appeals	2009	First black woman to win election to statewide office in North Carolina without first being appointed by a governor.
24	Judge Paulette Sapp-Peterson	New Jearsey Appellate Division	2006	First black woman judge to be elevated to the appellate division.
25	Shelvin Louise Marie Hall	Illinois Appellate Court, First District	1999	
26	Bertina E. Lampkin	Illinois Appellate Court, First District, 1st Division	2009	
27	Joy Virginia Cunningham	Illinois Appellate Court, First District, 2nd Division	2006	Elected President of the Chicago Bar Association (2004-05), where she became the first black woman to lead the nation's largest municipal Bar Association.
28	Sharon Johnson Coleman	Illinois Appellate Court, First District, 3rd Division	2008	
29	Mary McDade	Illinois Appellate Court, Third District	2000	First black woman elected to the Appellate Court outside of Cook County.

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	Name	Court	Year Appointed or Elected	Notes
30	Denise Clayton	Kentucky Court of Appeals, Fourth Appellate District, Second Division	2007	First black woman appointed to the Kentucky Court of Appeals.
31	Patricia Blackmon	Ohio Court of Appeal, Eighth Appellate District	1996	First black woman elected to any Court of Appeals for the State of Ohio.
32	Melody Stewart	Ohio Court of Appeal, Eighth Appellate District	2006	
33	M. Yvette Miller	Georgia Court of Appeals	1999	First African-American woman to serve as Chief Judge of the Court of Appeals of Georgia in 2008.

APPENDIX B:

Black Women Appellate Judges Currently Serving on Federal Courts (as of October 2009)

	Name	Court	Year Appointed	Notes
1	Judith Ann Wilson Rogers	United States Court of Appeals, D.C. Circuit	1994	First black woman to sit on the Second Circuit.
2	Ann Claire Williams	United States Court of Appeals, 7th Circuit	1999	First black judge on the Seventh Circuit, first black woman judge appointed to the U.S. District Court for the Northern District of Illinois.
3	Johnnie B. Rawlinson	United States Court of Appeals, 9th Circuit	2000	First black woman to sit on the Ninth Circuit.
4	Allyson Kay Duncan	United States Court of Appeals, 4th Circuit	2003	First black woman judge on the Fourth Circuit; First black president of the North Carolina Bar Association (2003).
5	Janice Rogers Brown	United States Court of Appeals, D.C. Circuit	2005	First black woman judge on the California Supreme Court.

Circuits with no Black Women Judges: 9

1st Circuit	8th Circuit
2nd Circuit	10th Circuit
3rd Circuit	11th Circuit
5th Circuit	Federal Circuit
6th Circuit	

APPENDIX C:

**Black Women Judges Currently Serving on Intermediate
Appellate State Courts and State High Courts
(as of October 2009)**

Total on State Supreme Courts (courts of last resort): 6

Total State Supreme Court Seats: 319

Percentage: less than 2% (1.880%)

Numbers by States:

Florida (1)

Louisiana (1)

North Carolina (1)

District of Columbia (3)

Total on State High Courts: 33

Total State Supreme Courts and Courts of Appeals Seats: 1291

Percentage: 2.6% (2.556%)

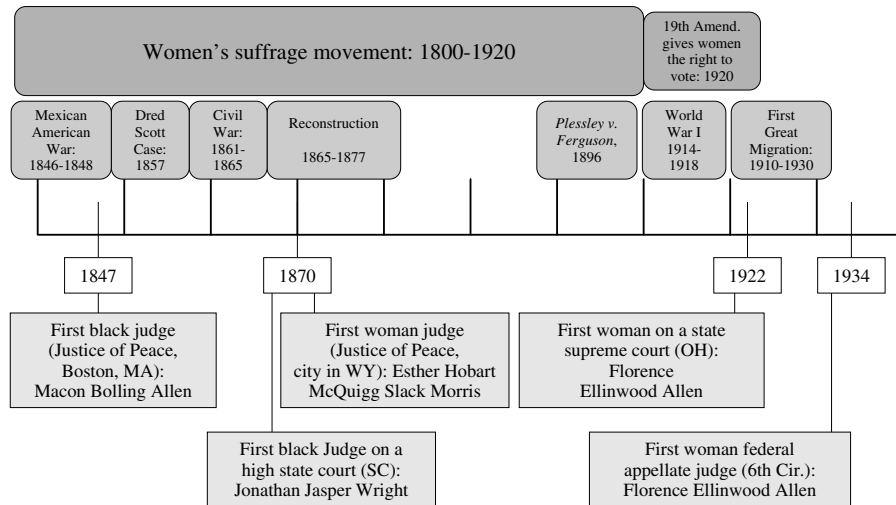
District of Columbia	3	Minnesota	2
Florida	3	Missouri	2
Georgia	2	New Jersey	1
Illinois	5	New York	2
Louisiana	4	North Carolina	3
Kentucky	1	Ohio	2
Michigan	2	Pennsylvania	1

States with no Black Women Judges on State High Courts: 37

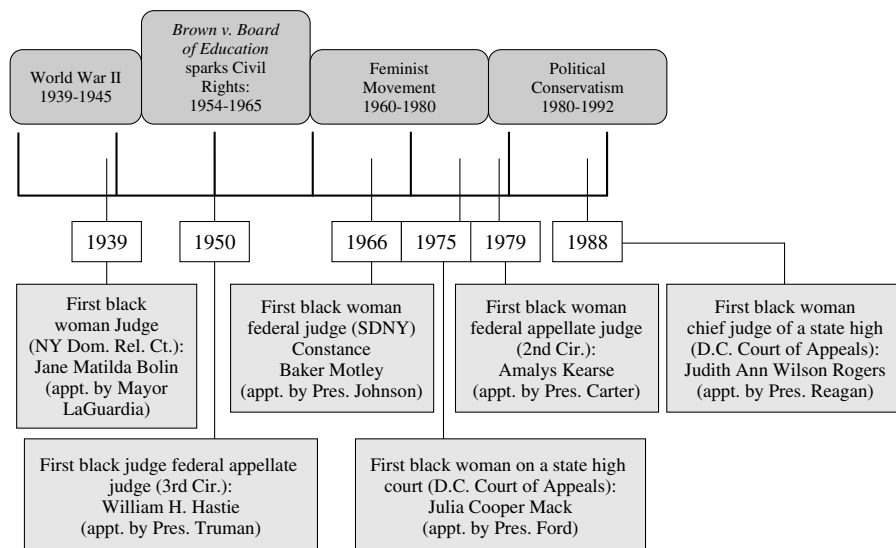
Alabama	Connecticut	Iowa
Alaska	Delaware	Kansas
Arizona	Hawaii	Maine
Arkansas	Idaho	Maryland
California	Indiana	Massachusetts
Colorado		
Mississippi	Oklahoma	Utah
New Mexico	Oregon	Vermont
Montana	Rhode Island	Virginia
Nebraska	South Carolina	Washington
Nevada	South Dakota	West Virginia
New Hampshire	Tennessee	Wisconsin
North Dakota	Texas	Wyoming

APPENDIX D:

Timeline of the Historical Journey of Black Women to the Nation's Highest Courts: 1840-1940



Timeline of the Historical Journey of Black Women to the Nation's Highest Courts: 1940-1990



Timeline of the Historical Journey of Black Women to the Nation's Highest Courts: 1990-2010

