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At first glance, in light of both conscious and unconscious biases imposed against women and attorneys of color due to historically imposed bigotry, rules such as Judge Weinstein's feel inadequate. His rule is an affirmation of these oft-ignored groups, battling issues that are both pervasive and at times overwhelming. Although his revised rule does not expressly state that women and attorneys of color tend to be minimized in terms of courtroom presence, his advocacy for these groups both in and out of his courtroom, coupled with his original rule sheet noting that the decision was taken after the release of "studies of underrepresentation of female attorneys and minorities," makes his motivations clear. Alan Feurer, *A Judge Wants a Bigger Role for Female Lawyers. So He Made a Rule*, N.Y. Times, Aug. 23, 2017, https://nyti.ms/2vZEX7Z. Judge Weinstein clearly intends to be a role model, encouraging female attorneys and attorneys of color in general to take a more prominent and influential position in courtrooms throughout the nation. To do this, however, requires more than just his blessing. Anecdotal evidence suggests that more often than not the "lawyer in charge" is a "traditional" attorney, a Caucasian male who may not be aware of the damaging effects of underrepresentation, or even the prominence of the issue. *See* Shira A. Scheindlin, Op-Ed, *Female Lawyers Can Talk, Too,* N.Y. Times, Aug. 8, 2018, https://nyti.ms2veFe6L (noting that despite the author's 22 years on the federal bench, women were the lead lawyers for private parties barely 20% of the time in New York State's federal and state courts, with little change). *See* Elizabeth J. Cabraser, *Where Are All the Women in the Courtroom?*, Am. Ass'n for Just. 30 (2014) (arguing that male attorneys have a near-monopoly in the courtroom spotlight and thus "have a responsibility to ensure that their successors resemble our diverse society"). The impact

of Judge Weinstein's rule seems to be limited by its optional nature, "the ultimate decision of who speaks on behalf of the client is for the lawyer in charge." Judge Jack B. Weinstein, *Individual Motion Practice of Judge Jack B. Weinstein*, https://img.nyed.uscourts.gov/rules/JBW-MLR.pdf. In light of this, one may be inclined to believe that Judge Weinstein's rule could go farther, particularly by mandating that persons falling in these categories be required to speak in his courtroom. Gender and racial dynamics in courtrooms have not changed to reflect the reality of America today: women and attorneys of color make up much more significant numbers of law school graduates now, as opposed to twenty years ago. Alan Feurer, *A Judge Wants a Bigger Role for Female Lawyers. So He Made a Rule*, N.Y. Times, Aug. 23, 2017, https://nyti.ms/2vZEX7Z. In light of this, why not mandate change?

Although a lack of women and minority lawyers as courtroom leaders has been written about extensively with regard to the State of New York, the issue persists throughout the country. Mitchell J. Katz & Mark A. Berman, N.Y. St. B.A., "If Not Now, When?" (2017), http://www.nysba.org/WomensTaskForceReport.pdf. Despite this, only around twenty of the hundreds of federal judges in the United States have established provisions similar to Judge Weinstein's. Alan Feurer, *A Judge Wants a Bigger Role for Female Lawyers. So He Made a Rule*, N.Y. Times, Aug. 23, 2017, https://nyti.ms/2vZEX7Z. *See T&E Inv. Grp., LLC v. Faulkner*, No. 3:11-CV-1558-P, 2014 WL 11512367, at *2 (N.D. Tex. Sept. 10, 2014). If the rules of these judges were stricter or more widely adopted, perhaps change would be more expedient and satisfying? In responding to this, an important reality must be recognized: there is only so much that individual judges and members of the judiciary as a whole may do in establishing such rules. A perception that these rules do too little is arguably misguided, as the

role of the judiciary, Judge Weinstein included, is not to force attorneys to take a particular route unless permitted by the law. While gender and racial biases in courtrooms are sensitive matters for many, permitting a judge to require any lead attorney to take action simply for diversity's sake puts the legal field in a precarious position. Where do we draw the line? How should more experienced trial attorneys respond when their client specifically requests that they, the more seasoned attorney, advocate on their behalf, presumably in violation of a judge's rule? How do we temper the potential for malpractice suits arising out of allegations that a client was not zealously represented because of these decisions? Ultimately, these rules serve as guidelines.

This should not, however, be seen as a cause for dismay. Because those who are commonly viewed as being at the upper echelons of the legal field- judges- are establishing these rules, it is not beyond the realm of possibility that their words will effectuate real change. Words of caution, directed so apparently at more senior attorneys in the field, will hopefully inspire introspection and recognition that not sharing the knowledge acquired through their years of experience reinforces biases not only implicit in themselves, but their clients. Experienced attorneys may come to learn that fulfilling their moral obligation of preparing their juniors to fill their shoes is not only in the best interest of junior attorneys, but themselves. A desire to handle every trial is misguided, stemming in part from a lack of acknowledgement that organizations are typically built on the backs of more than one attorney. Additionally, such a desire can be interpreted as a failure to recognize that sharing in experiences strengthens the reputations of businesses; stymieing untapped potential is not only to the detriment of budding attorneys, but to them, as well.

It should be emphasized by the judiciary as a whole that women and attorneys of color are not props to be used solely to evoke empathy or soften a client's image; they should not be

used as libraries and databanks, heard only by those who derive immediate benefit from their presence without them enjoying the luxury of being heard by courts. Female and minority attorneys are attorneys more than capable of speaking and conveying brilliant opinions, as well as zealously advocating for their clients. They deserve that opportunity and recognition. In *U.S. v. Virginia*, the Supreme Court acknowledged that the United States should not limit or bind persons simply because of baseless stereotypes. United States v. Virginia, 518 U.S. 515, 565–66, 116 S. Ct. 2264, 2291, 135 L. Ed. 2d 735 (1996). The same principle rings true here and it is up to the judiciary first and foremost to stress this.