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A PERSONAL ESSAY

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## FOREWORD

Gabriella A. Ravida<sup>††</sup>

History books will have much to say about the year 2020. Many stories will focus on the global battle against COVID-19. Others will mark the year as America's racial reckoning—when our country confronted badges and incidents of slavery that have endured despite the Emancipation Proclamation, the Civil Rights Movement, and the presidency of Barack Obama.

In the midst of acknowledging those realities and their deep impact on our journal, the *University of Pennsylvania Law Review* still found time to commemorate an occasion that history books should not overlook. In the year 2020, one hundred years after the Nineteenth Amendment granted women the right to vote, the Editors-in-Chief of the nation's top sixteen law schools' flagship law reviews were all women. The odds of this occurring are slim to none—a 0.0015% chance, to be exact—and such a statistically significant moment reminds us that gender equity in our profession is crucial. This achievement also reveals the underlying truth that diverse leadership in all areas of our field is a prerequisite to building a more just legal system. So, we could not allow this moment to pass without immense gratitude and reflection.

As such, the *University of Pennsylvania Law Review* joined *California Law Review*, *Columbia Law Review*, *Cornell Law Review*, *Duke Law Journal*, *Georgetown Law Journal*, *Harvard Law Review*, *Michigan Law Review*, *New York University Law Review*, *Northwestern University Law Review*, *Stanford Law Review*, *Texas Law Review*, *UCLA Law Review*, *University of Chicago Law Review*, *Virginia Law Review*, and *Yale Law Journal* in publishing fourteen essays written by women in the legal field. The joint publication titled *Women & Law*<sup>1</sup> features esteemed and insightful voices analyzing the advancement of female lawyers to the upper echelons of the public and private sectors and imagines a future where women continue to propel the profession. We encourage you to read all of the essays in the joint publication for knowledge, inspiration, and a laugh or two.

The partner journals also celebrated the moment in early February with a conference in Washington, D.C., aptly named “Honoring the Advancement of Women in Law.” Community members and stakeholders, including Supreme Court Justice, the Honorable Ruth Bader Ginsburg, discussed the

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<sup>††</sup> Editor-in-Chief, Vol. 168, University of Pennsylvania Law Review.

<sup>1</sup> WOMEN & LAW (2020) (joint publication of the top sixteen law reviews), <https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1014&context=womenandlaw> [<https://perma.cc/33HJ-S3UA>].

joint publication, the election of all women Editors-in-Chief, and what comes next as we hope to turn this moment into more progress for women in the law.

The *University of Pennsylvania Law Review* was proud to join this effort and privileged to work with the Honorable Nitza I. Quiñones Alejandro of the U.S. District Court for the Eastern District of Pennsylvania as the journal's contributing author to *Women & Law*. The following essay details her path to the bench, which featured highs and lows, but most importantly, lessons on blazing a trail in this profession on one's own terms. We are forever grateful to Judge Quiñones for trusting us with her story, and we are delighted to include "A Personal Essay" in *Women & Law* and within the pages of our publication.

There are also many people to thank for making this effort a reality—Allison Vélez, Brian Watson, Duke Law School, *Duke Law Journal*, Farrah Bara, Mary Jane Dumankaya, Grace Greene, Alicia Lai, Kellen McCoy, Brianna A. Messina, Monica M. Murphy, Hannah Pugh, and Jessica L. Teng. This has been a collaborative project from start to finish.

As I reflect on the meaning of this moment during my tenure as Editor-in-Chief, I am humbled, perplexed, and inspired. The surprise and joy in witnessing sixteen women elected to this role was moving. But this time has also left me questioning how our particular institution can use this moment to generate more progress—in publishing the voices of more young scholars, women, and people of color within our pages; in dedicating our resources to members of the community who share our zip code but not our privileges; and in making our journal membership a more racially diverse reflection of our law school.

So, in celebrating how far we have come, we adopt the "contagious optimism" Judge Quiñones expresses in this essay. Encouraged by her words, we enter the future with wisdom, motivation, and a deep dedication to legal scholarship and leadership that shapes the world.

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## A PERSONAL ESSAY, BY NITZA I. QUIÑONES ALEJANDRO

Amidst the string of hearings and trials that normally fill my schedule, I finally sat down with my law clerk for the few-hour niche of time we had set aside to interview potential summer interns. Tired from the long day, when I asked the last law student if she had any questions for us, I hoped she would keep her response short and sweet. She paused for a moment, then shyly asked, “So, how did you get to be a federal judge?” With a loaded question like that, I had two possible responses: a canned response about how careers are full of twists and turns, how hard work and persistence pay off, etc., or an honest answer. The former never entered my mind. My exhaustion vanished and, in one moment, years of memories flashed through my head. I smiled and told her, “I never expected to be where I am today.”

\* \* \*

I was born in Puerto Rico, the daughter of a First Sergeant in the United States Army and a homemaker. I grew up on a series of military bases, attended the finest schools, and was surrounded by a community of military families. I recognize now how fortunate I was to have grown up in a world where the only apparent distinction between individuals was military rank. Throughout my adolescence, I never would have predicted that someday it would matter in my professional and social interactions that I was a woman, that I was Latina, or that I was gay.

My decision to go to law school was not part of a grand plan. When I graduated from college, where I had studied business and statistics, I was eager to join the workforce. My excitement to begin applying for accounting jobs was surprisingly met with disapproval from my mother. As I was looking into job openings and daydreaming about becoming a working professional, my mother eventually expressed her disapproval: “Yo esperaba más de ti.” *I expected more of you.* Her words stung. Here I was, twenty-one years old, about to graduate from college with honors at the top of my class and, rather than praise, I was met with disappointment. To provide context, I am the youngest of three children and, at that time, my sister was pursuing a master’s degree in urban planning and my brother was in dental school. From my mother’s perspective, my siblings had blazed the trail towards higher education, and I needed to follow it.

In hindsight, I realize there were countless other young women facing a similar conversation with their mothers, but who were instead chastised for wishing to pursue a career at all, as opposed to becoming a homemaker. I now know I was fortunate that my mother’s disappointment stemmed from her desire to see me pursue something more—like an advanced degree—to break

through glass ceilings in the world's most elite professions, rather than from a desire to see me fulfill traditional gender roles. The sting of my mother's disapproval, while painful at the time, successfully guilted me into applying for graduate studies—a decision that would lay the groundwork for a career I would treasure for the rest of my life.

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In my class at the University of Puerto Rico School of Law, there were approximately twenty-five women and one hundred men. While this statistical disparity certainly did not surprise me, the divide I felt most prominently was not between genders, but rather between the students who came from families of lawyers and those of us who would be first-generation attorneys. This professional disparity was not only significant numerically, but also significant in its practical effects. Those of us who weren't fulfilling a legacy were unfamiliar with the jargon that permeates the legal world, did not know the logistics of how court systems worked, and certainly did not know how to network without any personal connections in the field. I unexpectedly found myself in a discrete minority and, because of that classification, I felt disadvantaged.

During my first semester of law school, I genuinely contemplated dropping out. Between the academic difficulties (like receiving the first "D" of my life) and the practical challenges, it was hard for me to see a successful future on that path. My mother's words, however, haunted me: "Yo esperaba más de ti." Failure was not an option in the Quiñones Alejandro family. What would my family think of me if I gave up now?

I decided to be pragmatic about my future. I would remain in law school for at least one more semester—in order to give things a chance to improve, and so that I could say I completed a full year of study—and I would get a job. In fulfillment of this brilliant plan, I got a part-time job at a legal services clinic in San Juan. It was at that tiny office, surrounded by an overworked attorney and desperate clients, that a spark ignited within me. I felt, for the first time, that I was where I was meant to be.

Working at the clinic was my first opportunity to have hands-on experience helping people. I was not doing any of the "fancy" lawyering that the supervising attorney was, but even in doing research, writing assignments, and logistical tasks, I felt the impact of the gratitude that our clients expressed so vehemently. Tasks as simple as helping to fill out forms, scheduling meetings, or taking notes during interviews were met with deep appreciation from the clients. I remember thinking, "If this is the kind of impact I already have, imagine what I could do if I finished law school . . . imagine what I could do with that education, degree, and experience under my belt. I could

really help people.” Inspired with that sense of purpose, I embraced the challenge of completing law school, eager for the opportunities I hoped would follow.

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The canned answer I could have given to the internship candidate would not have been a dishonest one. Careers *are* full of twists and turns. Hard work and persistence *do* often pay off, and they certainly have for me. The problem with the canned answer was not its veracity, but that it condenses dozens of life experiences into generic, cliché phrases, and in so doing, those experiences lose their cogency. It is more beneficial to elaborate on and share such experiences than to condense them into nondescript phrases. The salient moments that come to mind when I am asked to reflect on my career collectively convey this sentiment: one can be competitive without being aggressive, and determined without being unyielding. The stories that follow illustrate some of those moments.

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After graduation, I followed my passion for public service to the mainland United States and took a position at Community Legal Services of Philadelphia (“CLS”). After two rewarding and fulfilling years at CLS, I transitioned to my first federal job as an attorney advisor at the Social Security Administration (“SSA”) in Philadelphia. While working at the SSA, I was contacted by the Department of Veterans Affairs (“VA”) about an opportunity to join their team. I was excited by the chance to expand my legal experience and, having grown up in military communities as the daughter of an army veteran, I was thrilled at the idea of serving the veteran community. I would be the first female attorney in that office, a perspective the agency was itching to obtain and one I was keen to provide. My eagerness hit a wall, though, when it came time to discuss salary. In my current position at the SSA, my federal pay scale level was GS-11,<sup>2</sup> and within a few weeks, I would be promoted to a GS-12. The VA offered me this great, exciting position at the not-so-great, not-so-exciting pay scale level of a GS-9, which was two levels below my current level and three levels below what I was about to obtain at the SSA. I was shocked. They had seemed so positive and intent on

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2 Most federal government employees’ salaries are governed by the General Schedule (“GS”)—a national pay scale comprised of levels and steps that determines an employee’s salary according to various criteria, such as level of education, years of experience and government service, and level of difficulty of the position. Each federal agency classifies its positions within the GS.

hiring me throughout the interview process at the VA, but that was not the message of their offer.

At that moment, I had three options: 1) decline the offer, 2) accept the offer at the reduced pay grade, or 3) demand a higher salary. I knew what I was worth, and I knew that I would be a valuable addition to their team. I went with the first option. While I was honestly offended by their offer, I did not want to respond with anger or a sense of entitlement and demand more money. It was not the actual dollar amount that was so offensive; rather, it was the fact that they expected me to keep nodding and smiling when they casually shifted the tone from “Welcome aboard!” to “This is such a great opportunity for you, you shouldn’t mind taking a pay cut!” I do not know what actually motivated that offer, but the message it sent was clear—they thought they could get me for less than I was worth. I could not imagine that they would have made such a proposal to a man. If they were not going to respect my qualifications, then that was not a workplace I wanted to join.

When I politely declined the offer, they made a second offer to bring me in as a GS-11. I stood my ground. I told them that unless I would be paid at the level I was about to obtain at the SSA, I would not accept their offer. I did not raise my voice, I did not lecture them on how demeaning their initial offer was, I did not tell them I was worth more, and I did not ask the question at the forefront of my mind: would you have dared treat a male attorney the same way? They came back after I had said, “No, thank you” to the GS-11 offer, asking me to reconsider, and this time I concisely explained why I was again declining. I knew that they likely would not ask again, that there probably would not be another counteroffer, and that I was potentially turning down a wonderful opportunity, but I decided that I had to be firm. A few days later, I received a call offering me the position at the GS-12 level. I am thankful for that call because it enabled me to slide my foot in the door of another men’s club, to broaden my practice area, and to spend years doing a job I loved, serving a community I was passionate about. But I am also thankful that I found the strength to say no, twice, when the opportunity was attractive but the offer was unfair. Before even setting foot in the office, I had sent a clear message: I know my worth.

\* \* \*

In 1990, six vacancies opened up on the Philadelphia Court of Common Pleas. For one of the most diverse cities in the country, Philly’s judiciary did not look much like its citizens. The Hispanic Bar Association of Pennsylvania (“HBA”) was one of a few organizations that set out to change that disparity. Determined to get Hispanic representation on the bench, the leaders of the HBA met with Governor Robert P. Casey’s representatives and expressed

their mission. Governor Casey agreed to consider an HBA-recommended candidate for a nomination, as long as the individual went through the established nomination process.

When the leadership of the HBA met to identify a potential candidate to recommend, I never thought that I would be that candidate. There were many reasons why other attorneys would have been great choices, but as we discussed potential candidates, it became clear that there were just as many challenges that would make it difficult for most of my colleagues to run. For me, running would require resigning my position at the VA, which meant living without any income. However, I realized this was an invaluable, albeit unexpected, opportunity to expand my commitment to government service, while simultaneously helping nudge the door open for others in the Latino legal community. So I volunteered to run, with the full support of the HBA behind me.

After being scrutinized and vetted by the Governor's nomination committee and the Philadelphia Bar Association, Governor Casey announced my nomination at a banquet held by ASPIRA, a nonprofit organization dedicated to Hispanic education. My delight and excitement were short-lived, though, as I learned that the Pennsylvania Senate was refusing to confirm me. The explanation I received was two-fold: 1) no one knew who I was and 2) I had not done anything for the Democratic party. I was frustrated. I had been a federal employee for most of my legal career—I was a political unknown because the law required as much.<sup>3</sup> As a career government employee, my priority had always been serving the community around me, not serving a political party. I took several deep breaths and decided that my aspirations were more important than the reasons offered to oppose me. I would run despite the Senate's doubts. I chose to view the explanation as motivation, rather than fighting words. I was not going to make a scene about the Senate refusing to confirm the first Hispanic nominee, I was just going to win the election instead.

The victory I hoped for would not just be for me. It would be for the HBA, for Hispanics, for Philadelphians, and for women. Which is why I refused when my advisors suggested I abbreviate my name on the ballot. They suggested that, rather than use my full given name, "Nitza I. Quiñones Alejandro," I should eliminate "Quiñones" and run only as "Nitza I. Alejandro." Why? Because Alejandro sounded more Italian, more white. My advisors believed strangers would be more inclined to vote for me if I seemed less Latina. That logic was unacceptable. I was not trying to get elected at all costs, and certainly not at the cost of sacrificing my identity. In Puerto Rico,

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<sup>3</sup> The Hatch Act prohibits federal employees from participating in certain partisan political activities. 5 U.S.C. § 7321 *et seq.*

it is tradition for children to take the last names of both parents, honoring both their father and mother. While changing my name may have been a strategically sound political suggestion, it was not a suggestion I was willing to take; that was not the way I wanted to win. I was a proud member of the Latino community, and that was how I would run.

My decision to run unconfirmed and unendorsed was further hindered by the fact that I knew nothing about campaigning. I did a lot of research and surrounded myself with strong, intelligent friends who were eager to help run my campaign, but I was constantly reminded of my disadvantage. In Philadelphia, the city is divided up into political wards. A huge part of campaigning for city offices is visiting the various wards, speaking to the people, and promoting oneself. Since I had no party support or stamp of approval from the Senate, and little finances, I was completely disconnected from any official communications about these essential events. When and where were the ward meetings? How much time would I get to speak? Did I have to register to speak ahead of time? I did not have the answers to these questions, but every endorsed candidate did.

Whenever I could find such a meeting, I would show up. Most of the time, the organizers were either, at best, surprised, or at worst, annoyed, to see me. My lack of political affiliation meant I spoke last, after every other candidate had shared a similar message—justice and impartiality are important, and they are the best candidate for the job. Thirty-two of us were running for sixteen judicial seats. Only five candidates, including myself, were women. While we were technically adversaries vying for a few precious spots, in my mind, we were colleagues first and foremost. I was disappointed to realize that not all of the candidates shared my view, but I found a friend in a man who, at the end of each ward meeting, would whisper to me the date and location of the next one. That small act of discrete kindness, from a member of the in-club to an outsider like me, has stuck with me all these years.

After all of the campaigning, the election results spoke for themselves. All five female candidates not only won seats on the bench, but had five of the six highest vote totals of all candidates. I was overjoyed to have won, but I also felt a deep satisfaction that so many qualified, impressive women were taking this step alongside me. Sometimes progress happens one step at a time, but sometimes it happens in five powerful strides at once.

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I learned a great deal during the campaign and election process, but nothing could have quite prepared me for the weight of responsibility that I felt once I actually began working as a judge on the Philadelphia Court of Common Pleas. I do not think of myself as a “powerful” person, but I

remember when I took the bench for the first time, I instantly became starkly aware of the immense power that we judges have—not only the power to resolve disputes and determine the fates of the accused, but also to give shape to the laws that govern us. From that first day, I knew that with that power came the immense responsibility to get things right.

The disadvantages I had faced as a candidate without political connections quickly faded, replaced only by my lack of judicial experience. I was initially assigned to the criminal division. Having never practiced criminal law, my knowledge of the practice area was basically equivalent to what I had learned in law school. Obviously, that needed to change. So, I studied. I read the entire criminal bench book, cover to cover, before my first day in the courtroom. I knew I had done everything I could to prepare, but that did not stop my heart from nearly beating out of my chest when I first put on my black robe, entered the courtroom, and took my place in front of a room full of lawyers, defendants, witnesses, and members of the public, all on their feet with their eyes on me. I survived, of course, and the nerves subsided after that first day, but the weight of the awesome responsibility and my obligation to be prepared, attentive, and impartial endures to this day.

The responsibilities of the position itself were not—and are not—the only pressure that I felt. As the first female Hispanic judge in the Commonwealth of Pennsylvania, I feared that any failure or mistake of mine, however small, would be held, not just against me, but also against other Hispanic attorneys who aspired to be judges in the future. For fear that my shortcomings would impede others' chances in the future, I could not give anyone a reason to say the Hispanic judge could not cut it. In my mind, I had to be better, smarter, more consistent, and more thorough than my peers. Whether that pressure actually existed outside of my own head, I do not know. But for me, the pressure was very real.

While I experienced no disrespect or condescension from my fellow judges while on the state bench, I could not say the same for every attorney that appeared in front of me. In particular, some of the more seasoned attorneys occasionally sought to take advantage of newer judges. During one of my first civil trials, a well-known local attorney asked to conduct a re-re-direct examination. Opposing counsel objected to this third round of interrogation as not permitted by the applicable rules, which I knew to be correct. I called counsel to side bar and placed the Pennsylvania Rules of Civil Procedure in front of the attorney seeking the additional line of questioning. "Counsel," I said, "find the rule that allows you to do re-re-direct, and I'll let you do it." "Ahh, I know I can do it," he said, with more grumbling. "I'll appeal you to the Superior Court!" In response to his angry threats and foot stomping, I calmly told him that he had the right to appeal my decision and

I asked again for him to show me where in the book this supposed rule was written. He could not, but continued to argue with me. After a moment, I said it was time to return to the courtroom. “The objection is sustained,” I announced for the record. As I was leaving court that day, another experienced attorney, who later became a federal judge, approached me and whispered, “I’m proud of you.” As he turned away, I smiled, because I was proud of me, too.

I quickly learned to command the respect of the attorneys in my courtroom with similar small gestures. When counsel would get combative in my courtroom, I would interrupt—not with a gavel or exclamation of my own—but with a story of my mother. I would say that when I was a child, my mother always said, “En mi casa, nadie levanta la voz más alta que la mía.” *In my home, no one raises their voice above mine.* Then I would say, “This is my courtroom.” That, often, was enough.

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After years of service as a state court judge, I decided to pursue my aspiration of a federal judicial appointment. I loved being a judge and I felt that my years on the state bench and fifteen years of experience as a federal employee made me ideally suited for the federal bench. After a few unsuccessful attempts, I applied for consideration again in 2012. At that time, I—like many people in this country—was riding the wave of excitement that rippled from the election of our first minority president, President Barack Obama. His landmark victory was an inspirational moment for positive social change. For the first time, it felt safe enough, or maybe I felt brave enough, to explicitly disclose my sexual orientation to the nomination committee.

I like to think I never hid the fact that I was gay. For years I had been myself with my closest friends and select colleagues, but I certainly did not wear it on my sleeve or shout it from the rooftops. I was comfortable with who I was, and that felt like enough. Frankly, I did not think it was anyone else’s business. I knew, though, that many people I interacted with professionally had no idea. That was about to change.

I had not been living in active fear of people treating me differently if they knew that I was gay, but in the new social climate, for the first time, I was okay with being a part of the narrative of acceptance—a small, quiet part. I was not a crusader. Although I did not plan to make speeches or march in a parade, I thought that maybe the sheer fact that a gay woman could obtain a position like a federal judgeship would be another sign to this country that times were changing, and that our differences do not have to separate or preclude us.

One morning in November 2012, months after my decision to share my sexual orientation with the nomination committee, I was sitting at the kitchen table enjoying my morning coffee and perusing the newspaper with my kittens, Diego and Frida, when my phone rang. It was a dear friend and colleague who sat with me on the state court. “Congratulations!” she yelled. I had no idea what she was talking about. “You got the nomination! It’s in the paper.” I looked down at the black and white pages in my hands. Somehow, when flipping through the paper, I had missed it. But there it was. I had been nominated. This was really happening.

Seven months later, after a drawn-out confirmation process, another slew of articles hit with news of my confirmation. While the public announcements were exciting, the headlines shocked me. In big, bold, black letters: “A Philadelphia Judge Will Become the First Openly Lesbian Latina in the Post.” I was speechless. But, in my head, I thought, “Well . . . I guess I’m out to the whole world now.”

When discussing the moments I learned of my nomination and confirmation with others, people always assume I must have been so excited, thrilled, proud, or happy. While I did eventually experience all of those emotions, they were not the first feelings to surface. My name was in print—tiny print—below the much larger print labeling me as a Latina lesbian. What about my twenty-one years on the state bench? My thirty-five years as a public servant? My accomplishments and hard work? Those were the things that had motivated me to seek a federal appointment. Those were the things that qualified me to join the federal bench. Yet those facts were absent from the headlines, which relegated my accomplishments and qualifications to three immutable characteristics. While I was, and always will be, proud of the fact that I am Latina, gay, and a woman, I had never defined myself by any of those characteristics. The visual juxtaposition of those adjectives and any words referring to my merits was jolting. In the story of my life, I viewed those traits as facts to be mentioned somewhere in the narrative, but not in the title, not as a headline.

In the following days, while I scrambled to manage the reactions of the members of my family and of my partner’s family who had not already known that we were gay or a couple, it finally began to sink in that this was really happening. As the excitement and happiness grew, the shock of the form of the announcement wore off. I knew that regardless of the headlines, I had earned this moment through a lifetime of hard work.

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Everyone is nervous when they start a new job. New people, new office, new responsibilities. On top of all the normal nerves, though, I had some

extra jitters when I took the federal bench. The headline was out there. Before I could actually meet my new colleagues, a newspaper had made a first impression for me. I wondered how I would be received, especially because some members of the federal bench, like me, belong to an older generation. Soon enough, though, my anxieties were put to rest.

Shortly after I made the transition to the federal bench, I attended our District's Judicial Retreat with my partner, Jenny. It certainly helped calm my nerves that Jenny can make friends anywhere she goes, but what really relaxed me was seeing how sincerely interested my new colleagues were in getting to know us—*both* of us. At one point in the evening, another judge's wife suddenly said, "You two just look so nice together, let me take your picture!" I sort of giggled as she whipped out a camera and Jenny leaned into me for the photo. Days later, she sent me a framed copy of that photo with a note welcoming me into this federal family. That photo sits on my desk at work. When I look at it, I see us happy. I see unspoken acceptance. It still brings a smile to my face when I remember the relief I felt when I was warmly welcomed to a bench that does not look very much like me.

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When I reflect on my career, as I was prompted to by the curious internship candidate, I feel fortunate to have seen such an evolution of acceptance and equality in the legal profession. The world we work in today feels so different from the world in which I spent the first formative years of my career—a world in which I never imagined I would become a federal judge. I delight in the victories, big and small, that have opened the door to this profession a little wider for women, Latinos, ethnic and racial minorities, and people of different sexual orientations. Nevertheless, the other side of the door remains fairly homogenous. When a new judge joins the bench in District Court, the sitting judges come together to attend the new judge's investiture. We don our equalizing black robes and gather together to welcome the new addition. At these events, I look around at our group and I become acutely aware that there are so few women and so few people of color among us—of the thirty District Court judges in the Eastern District of Pennsylvania, only six are women, and only seven are ethnic or racial minorities. But this recurring realization does not dishearten me. Rather, I am optimistic that my bench, and the judiciaries, law offices, and state bars across the country, will continue to diversify. As I answered the young, aspiring female attorney sitting in front of me during that interview, and as I share these stories now, I hope that my optimism is contagious. I hope that learning of my challenges and successes left that young woman, and will leave

future generations, excited about how far we have come and the potential that lies ahead. I, for one, cannot wait to see what comes next.