Does Familiarity Breed Contempt? Interracial Interactions, Racial Polarization, and Hiring Decisions in the Federal Judiciary

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Background/Importance

Segregation in Neighborhoods and Workplaces

- Firms (Charles & Guryan 2008),
- Residential (Abramovitz & Smith 2021)

Contact Hypothesis (Allport 1954): Personal interactions reduce prejudice if:

- of equal status
- toward common goals
- with support of authority, law or custom

Does professional interaction reduce prejudice or change decisions?

Hard to study! Choice of interactions create obvious endogeneity

- Experimental Evidence Mousa (2020); (Lowe 2021)

- Quasi-Experimental Evidence (Boisjoly et. al., 2006); (Dahl, Kotsadam, & Rooth, 2021)

- Extremely limited evidence of effect of professional interactions with "out-groups" on established professionals

Our Approach: Federal Appellate Courts

Federal Judiciary: District Court → **Appellate Court** → *Supreme Court*

Useful Characteristics of Federal Appellate Courts:

- Work done in **groups**:
  - Judges **Randomly Assigned** to panels.
  - Cases heard in panels (usually of 3)
  - Case records are public
- Clerks hired by **Individuals:**
  - Mentee/Apprentice Role
  - Typically graduates of top law programs
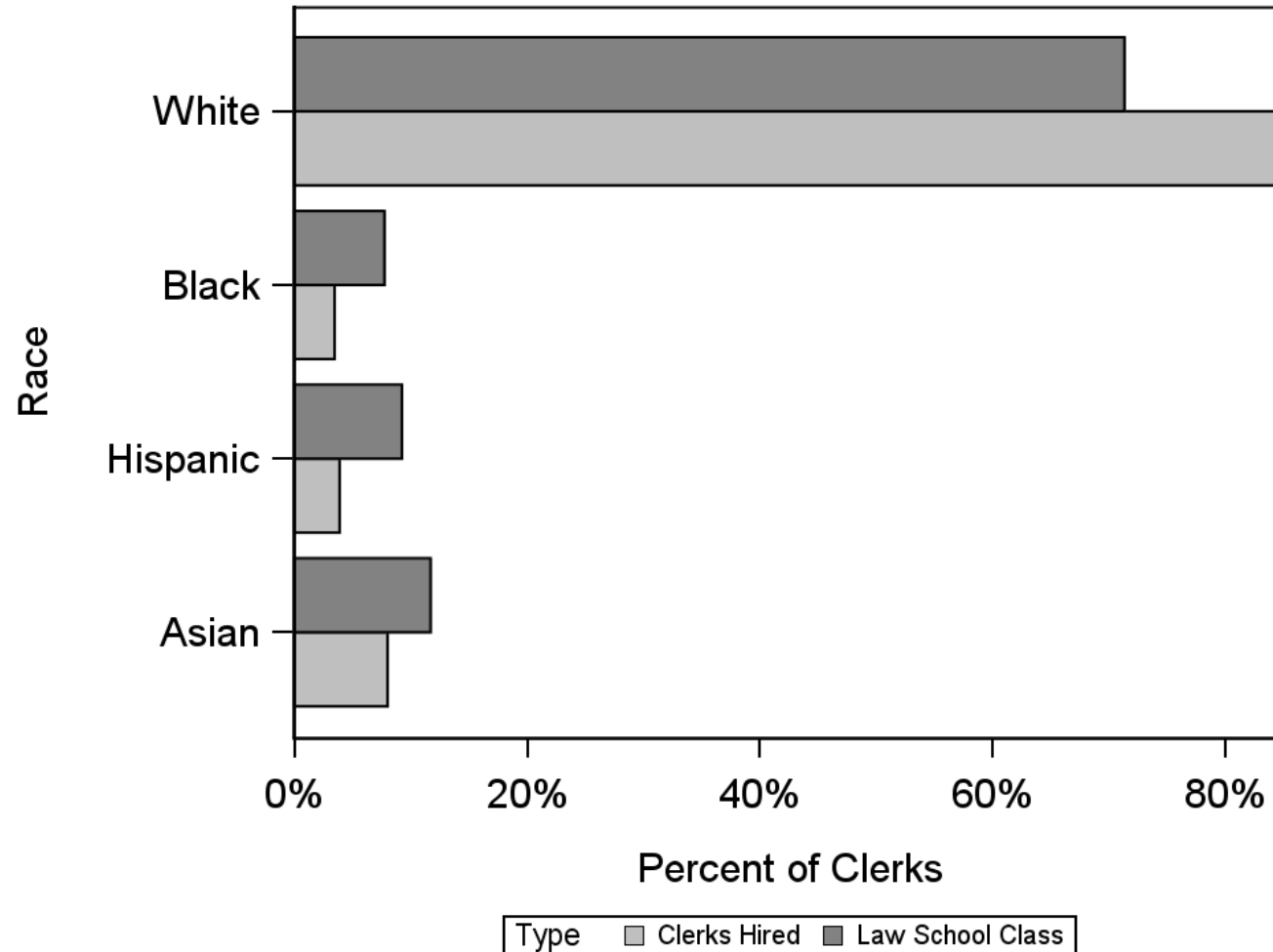
Racial Distribution of Clerks by Judge Race

Judge Race	%Non-White	%Hispanic	%Black	%Asian	#Obs
White	12.7%	3.1%	2.0%	7.5%	1724
Hispanic	23.1%	**12.1%**	3.3%	7.7%	129
Black	27.0%	4.4%	**10.7%**	11.9%	197
Asian	36.3%	7.0%	6.4%	**22.9%**	32

Nonwhites Underrepresented Relative to Law Schools Classes

Our question: Are judges more likely to hire non-white clerks after hearing cases with non-white colleagues?

Contrasting Results for Gender Race

Previous Paper:

- 1 SD increase in interactions with female judges **increases** probability of hiring female clerk by 7 ppts (~10%)
- Consistent with changes in preferences/beliefs

This paper:

- 1 SD increase in interactions with nonwhite judges **reduces** the probability of hiring a nonwhite clerk by 1.5 ppts (~12%)
- Consistent with mechanism of reduced effort to recruit non-white candidates
  - Negative Effect not driven by cases featuring inter-racial disagreement or opposing political views
  - Positive effect of hearing racially salient cases
  - Evidence that recruiting non-white candidates is difficult

Contribution

The Agenda:

- First to examine causal effects of ordinary workplace interactions on established professionals

- Appellate Court clerkships are important!

This Paper:

- Professional interactions with out-groups do not always produce diversity in hiring.

- Suggests that interactions most likely to have positive effects when pipeline is strong & recruitment is easy

Data

- Court Cases: Leagle.com (2004-2023, ~50,000 cases)
  - Scraped published cases heard by any appellate court
  - Judge Names, decision date, each judge's vote
  - Case Content
  - Other info (amicus briefs, citations, length, etc)
- Hiring Decisions: Leadership Connect (2007-2023, ~1400 Judges, 5000 Clerks)
  - Information on judges & clerks in federal judiciary
  - Year hired is 2 years before first appear in Judge's chambers
- Judge Characteristics: Biography of Article III Judges
  - Age, race, gender ABA qualification score etc.
- Clerk Race assigned using naïve Bayesian approach using first name, surname, and (for 15% of clerks) images.

Method: Stacked OLS Regression

- Judges assigned to cases at random conditional on circuit and year

$$Hire_{r,j,c,t+1} = \boldsymbol{\beta Inf_{r,j,c,t}} + \delta X_{j,t} + \gamma N_{j,t+1} + \theta_{r,c,t} + \omega_j + \varepsilon_{r,j,c,t}$$

Judge j, court c, year t, race group r

- $Hire_{r,j,c,t+1}$: hired at least on clerk of race "r" in year t+1
- $\boldsymbol{Inf_{r,j,c,t}}$: % of interacting judges who were race "r"
- $N_{j,t+1}$: Number of clerks hired in year t+1
- $X_{j,t}$: Judge Age, Experience, Conservatism (quadratic); Race, political party, % of current clerks female.

Balance Test for Random Assignment to Panels

| Dep Var: Fraction of Co-Panelists of Race X	White Judges
Age	0.0003* (0.0003)
Years on current court	0.0003* (0.0003)
Ideology score	-0.0039*** (0.0017)
Republican	-0.0031** (0.0016)
Senior Status	0.0014 (0.0019)
% of current staff White	0.0028 (0.0041)
Female	0.001 (0.0017)
F-Stat (P-val)	**1.0543** **(0.3948)**
Observations	5172
Indep. Var Mean	0.0565

Main Findings

Effect of Serving with Non-White Judges on Hiring Decisions

Dep Var: Probability of hiring any clerk of race "X" in next year	(1)	(2)	(3)	(4)	(5)
Fraction of Co-Panelists of Race X	-0.1255** (0.0666)	-0.1183** (0.0667)	-0.1293** (0.0666)	**-0.1922*** (0.0675)**	-0.2047*** (0.0668)
Number of clerks hired				0.0400*** (0.0046)	0.0382*** (0.0048)
% of current staff Race X					0.0300** (0.0219)
Court by year fixed effects	Yes	Yes	Yes	Yes	Yes
Judge Characteristics		Yes	Yes		
Judge Fixed Effects				Yes	Yes
Observations	5172	5172	5172	5172	4872
Dependent variable mean	0.114656	0.114656	0.114656	0.114656	0.116585

Effect of Serving with Non-White Judges on Hiring Decisions: By Race

Dep Var: Probability of hiring any clerk of race "X" in next year	(1)	(2)	(3)
Panel A: Hispanic			
Fraction of Co-Panelists Hispanic	-0.1259*	-0.1176*	**-0.1780****
	(0.1015)	(0.1018)	**(0.1003)**
Observations	1724	1724	1724
Dependent variable mean	0.0905	0.0905	0.0905
Panel B: Black			
Fraction of Co-Panelists Black	-0.0766*	-0.0804*	**-0.1196****
	(0.0751)	(0.0779)	**(0.0861)**
Observations	1724	1724	1724
Dependent variable mean	0.059165	0.059165	0.059165
Panel C: Asian			
Fraction of Co-Panelists of Asian	-0.3382*	-0.4778**	**-0.4547****
	(0.3258)	(0.3260)	**(0.2961)**
Observations	1724	1724	1724
Dependent variable mean	0.194316	0.194316	0.194316
Court by year fixed effects	Yes	Yes	Yes
Judge Characteristics		Yes	
Judge Fixed Effects			Yes
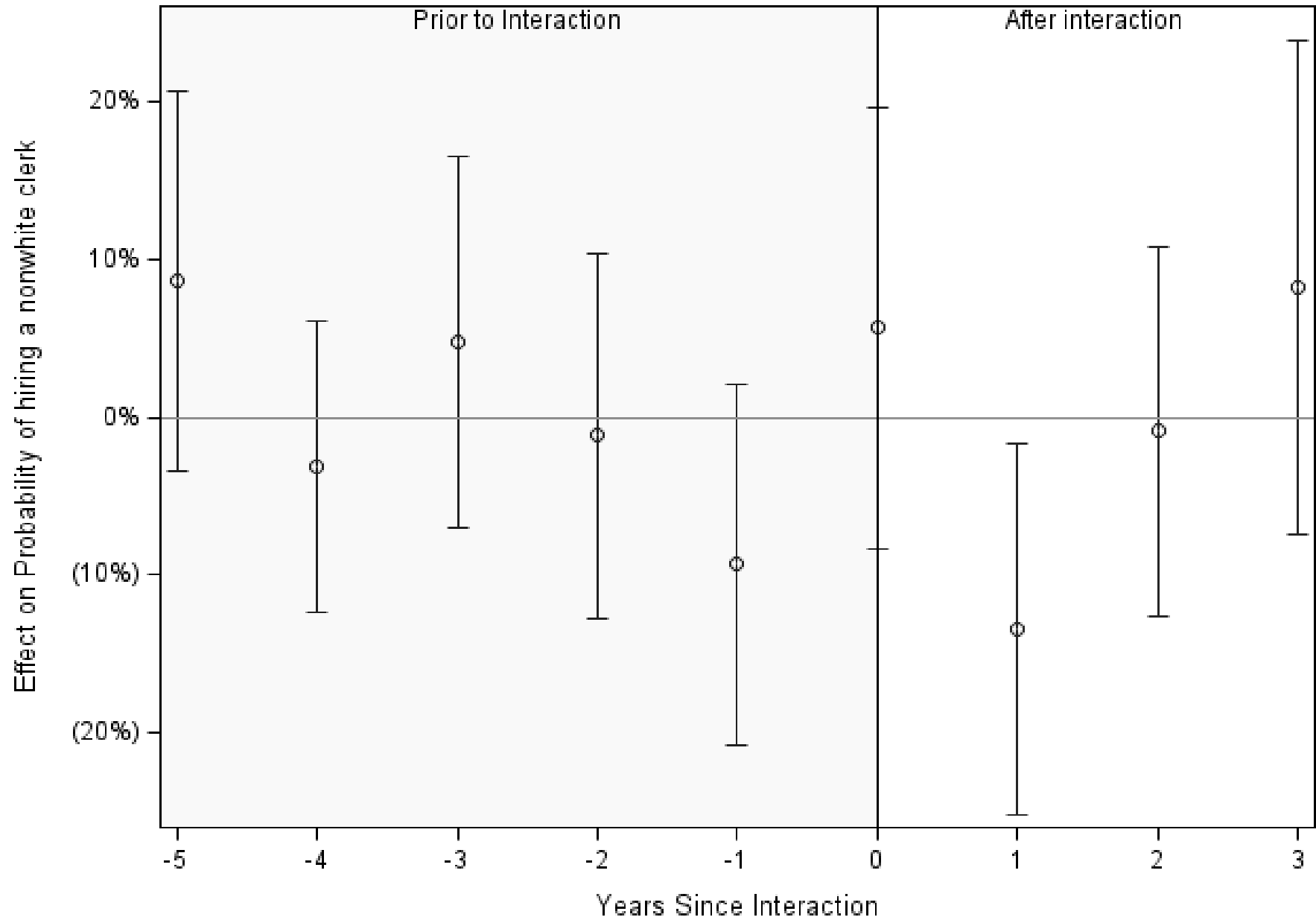
Mechanisms

A Simple Model of Judge Hiring Preference

- Hypothesis: Judges care about diversity of all clerks in circuit F_C, own search effort $S_{r,j}$, and perceived clerk ability $A_{r,j}$. Choose race of hire $H_{r,j}$

$$U_{c,j}(H_{r,j}) = A_{r,j}(H_{r,j}) - S_{r,j}(H_{r,j}) + h(|F_{r,c}^* - F_{r,c}(H_{r,j})|)$$

$$U_{c,j}(H_j) = A_{r,j}(H_{r,j}) - S_{r,j}(H_{r,j}) + h\left(\left|F_{r,c}^* - \left(\sum_{C,i \neq j} E_j[H_{r,i}] + H_{r,j}\right)\right|\right)$$

- Interactions affect ideal level of diversity, search effort, and perceived hiring diversity of other judges:

$$U_{c,j}(H_{r,j}) = A_j(H_{r,j}, I_{r,j}) - S_j(H_j, I_{r,j}) + h\left(\left|F_c^*(I_{r,j}) - \left(\sum_{C,i \neq j} E_j[H_{r,i}|I_{r,j}] + H_{r,j}\right)\right|\right)$$

Why A Negative Effect

1. Partisanship: $\dfrac{\partial F_c^*(I_j)}{\partial I_j} < 0$

2. Negative Learning: $\dfrac{\partial A_j(H_j)}{\partial I_j} < 0$

3. Preferences for Diversity:

$$\dfrac{\partial E_j[H_i|I_j]}{\partial I_j} > 0, \dfrac{\partial F_c^*(I_j)}{\partial I_i} > 0, \dfrac{\partial S_j(H_j,I_j)}{\partial I_j} < 0$$

- Nonwhite judges more likely to be Democrats
- Nonwhite clerks politically left of white clerks who work for the same judge
- Interactions could increase salience of ideological conflict

HYPOTHESIS:

- Negative effect largest on Republican Judges & from cross-partisan interactions
- Largest on racially salient cases

Effect by Same Party as Interacting Judge

Dep Var: Probability of hiring any clerk of race X in next year

Panel A: Republican Judges	(1)	(2)	(3)
Frac co-panelists race X	-0.2449***	-0.2394***	**-0.3001*****
	(0.0622)	(0.0621)	**(0.0636)**
Frac co-panelists race X & Republican	0.3289***	0.3138***	**0.2906****
	(0.1451)	(0.1444)	**(0.1443)**
Observations	3186	3186	3186
Dependent Variable Mean	0.0979	0.0979	0.0979
Panel B: Democratic Judges	(1)	(2)	(3)
Frac co-panelists race X	0.0709	0.0623	**0.0294**
	(0.1444)	(0.1437)	**(0.1454)**
Frac co-panelists race X & Democrat	-0.3375**	-0.3251**	**-0.3200****
	(0.1771)	(0.1770)	**(0.1818)**
Court by Year FE	X	X	X
Judge Characteristics		X	
Judge FE			X
Observations	1986	1986	1986
Dependent Variable Mean	0.1415	0.1415	0.1415

Effect of Hearing Cases with Inter-Racial Disagreement on Hiring Decisions

Dep Var: Probability of hiring any clerk of race "X" in next year	(1)	(2)	(3)
Fraction of Co-Panelists of Race X	-0.1557** (0.1043)	-0.1522** (0.1040)	**-0.2561*** (0.1054)**
Fraction of Cases on Racially Salient Topics	0.0996* (0.0898)	0.1267** (0.0880)	**0.1191** (0.0853)**
Fraction of Co-Panelists of Race X on Racially Salient Cases	0.0302 (0.0581)	0.0302 (0.0577)	**0.0329 (0.0582)**
Court by year fixed effects	Yes	Yes	Yes
Judge Characteristics		Yes	
Judge Fixed Effects			Yes
Observations	4086	4086	4086
Dependent variable mean	0.11674	0.11674	0.11674

Why A Negative Effect

1. Partisanship: $\frac{\partial F_c^*(I_j)}{\partial I_j} < 0$

2. Negative Learning: $\frac{\partial A_j(H_j)}{\partial I_j} < 0$

3. Preferences for Diversity:

$$\frac{\partial E_j[H_i|I_j]}{\partial I_j} > 0, \frac{\partial F_c^*(I_j)}{\partial I_i} > 0, \frac{\partial S_j(H_j,I_j)}{\partial I_j} < 0$$

- White judges could be disappointed in quality or nature of legal reasoning by nonwhite colleagues

HYPOTHESIS:

- Negative effect from cases featuring dissent

Effect of Hearing Cases with Inter-Racial Disagreement on Hiring Decisions

Dep Var: Probability of hiring any clerk of race "X" in next year	(1)	(2)	(3)
Fraction of Co-Panelists of Race X	-0.1399*** (0.0674)	-0.1499*** (0.0674)	**-0.2215*** (0.0672)**
Fraction of Cases Featuring Inter-Racial Disagreement	0.7700** (0.5101)	0.7369** (0.5036)	**0.5661* (0.5276)**
Court by year fixed effects	Yes	Yes	Yes
Judge Characteristics		Yes	
Judge Fixed Effects			Yes
Observations	5172	5172	5172
Dependent variable mean	0.114656	0.114656	0.114656

Preferences for Diversity

- Negative effect: interacting with nonwhite judges increases $\sum_{C, i \neq j} E_j[H_i | I_j]$
- Positive effects: Increases $A_j(H_j)$, $F_c^*(I_j)$, decreases $S_j(H_j, I_j)$

Hypotheses: Strongest effects for:

- Routine, non-racially salient Cases: Affects perceived diversity, doesn't affect preferences for diversity YES: Positive Effect of Dissent Cases, Racially salient Cases
- Same-Party Interactions: Same hiring pool. SOMEWHAT: Democrats & Republicans React to Democrats

Requirement/Assumption:

- Search Cost is greater for non-white clerks
- Test: Hiring of non-white clerks positively affected by referral networks

Preferences for Diversity
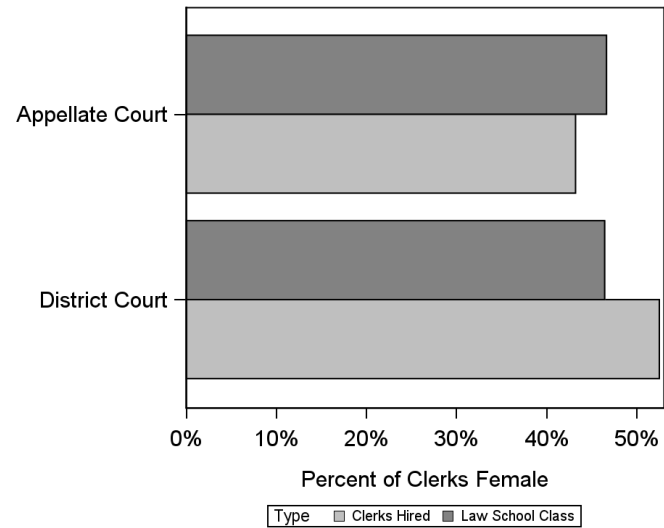
Hypotheses: Strongest effects for:

- Routine, non-racially salient Cases: Affects perceived diversity, doesn't affect preferences for diversity

- Same-Party Interactions: Same hiring pool

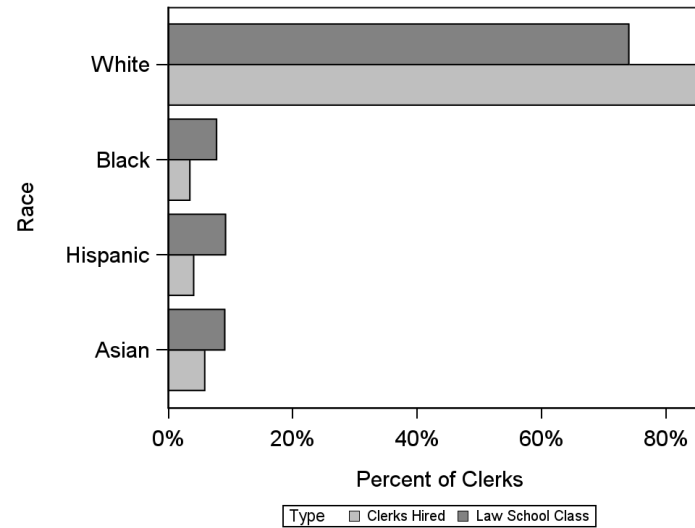- Judges who care about diversity

Requirement/Assumption:

- Search Cost is greater for non-white clerks

- Test: Hiring of non-white clerks positively affected by referral networks

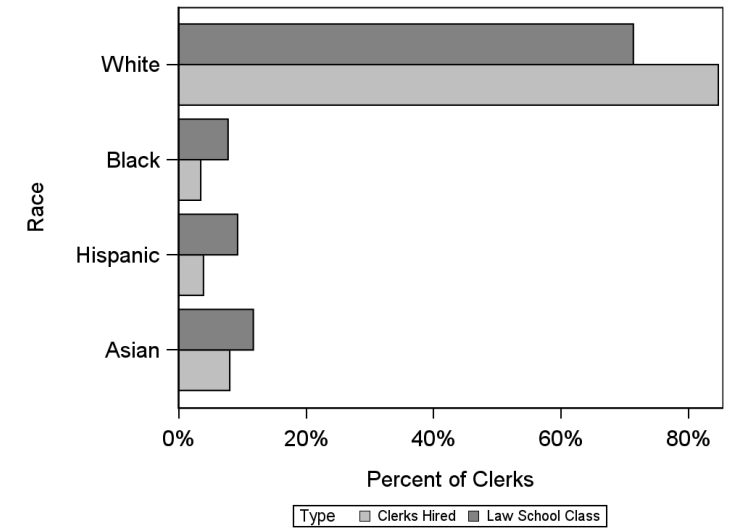# Nonwhites Underrepresented Relative to Law Schools Classes

Relationship between Current Staff & Hiring Rate Across Years to Current Hire

Dep Var: Probability of hiring any clerk of race "X" in next year	(1)	(2)	(3)
Panel A: Hispanic			
Fraction of **Current Staff** Hispanic	0.0863**	0.0844**	**0.0831****
	(0.0533)	(0.0535)	**(0.0530)**
Fraction of Hires Hispanic in **all other years**	0.1606*	0.1346	**0.1219**
	(0.1780)	(0.1792)	**(0.1824)**
Observations	1625	1625	1625
Dependent variable mean	0.0328	0.0328	0.0328
Panel B: Black			
Fraction of **Current Staff** Black	0.0132	-0.0052	**-0.0110**
	(0.0969)	(0.0937)	**(0.0938)**
Fraction of Hires Black in **all other years**	0.0041	0.0063	**0.0082**
	(0.0303)	(0.0310)	**(0.0311)**
Observations	1625	1625	1625
Dependent variable mean	0.020996	0.020996	0.020996
Panel C: Asian			
Fraction of **Current Staff** Asian	0.1687**	0.1288**	**0.1186****
	(0.0857)	(0.0890)	**(0.0875)**
Fraction of Hires Asian in **all other years**	0.0764***	0.0770***	**0.0758****
	(0.0366)	(0.0365)	**(0.0362)**
Observations	1625	1625	1625
Dependent variable mean	0.075306	0.075306	0.075306
Court by year fixed effects	Yes	Yes	Yes
Judge Characteristics		Yes	Yes
Number of Hires			Yes

Effect of Hearing Cases with Judges with Diverse Staff

Dep Var: Probability of hiring any clerk of race "X" in next year	(1)	(2)	(3)
Fraction of Co-Panelists of Race X	-0.1721*** (0.0473)	-0.1688*** (0.0473)	-0.2299*** (0.0483)
Fraction of Cases with Co-Panelist with at least one clerk of Race X	0.0820*** (0.0302)	0.0841*** (0.0302)	**0.0859*** (0.0303)**
Court by year fixed effects	Yes	Yes	Yes
Judge Characteristics		Yes	
Judge Fixed Effects			Yes
Observations	5163	5163	5163
Dependent variable mean	0.1147	0.1147	0.1147

Conclusions

- Inter-group contact does not always lead to diversity-enhancing decisions!

- Interactions change multiple beliefs and attitudes, with contrasting effects

- Contact most likely to lead to diversity-enhancing decisions when few barriers or costs to making those decisions and/or when personal prejudice is key limiting factor

THANK YOU!!

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Appendix

Assignment of Race to Clerks

- Data include first & last name, not racial self-identification

- Impute race through naïve Bayesian approach, using last name as prior:

$$P(R|S,F) = \frac{\textcolor{red}{P(R|S)} * \textcolor{blue}{P(F|R)}}{\sum_R \textcolor{red}{P(R|S)} * \textcolor{blue}{P(F|R)}}$$

Where R=Clerk Race, S=Surname, F=First Name

$\textcolor{red}{P(R|S)}$=% with surname S of race R (From Census)

$\textcolor{blue}{P(F|R)}$=% of race R with first name F (From Mortgage Applications)

Example: Wendell Alford

	White	Hispanic	Black	Asian
Wendell	8.5 / 100k	1.1 / 100k	66.1 / 100k	7.2 / 100k
Alford	66%	2%	30%	1%
Probability:	22%	0%	77%	0%

- Naïve: Does not consider racial composition of clerks or of population.
- 40X as many White as Black clerks, 4.5X as many White as Black People

Combination with Image Data

- For 15% of clerks, we have color pictures of faces
  - Use "deepface" algorithm to estimate probability that face is Middle Eastern, White, Latino, Black, South Asian, or East Asian
  - Combine White + Middle Eastern, South Asian + East Asian
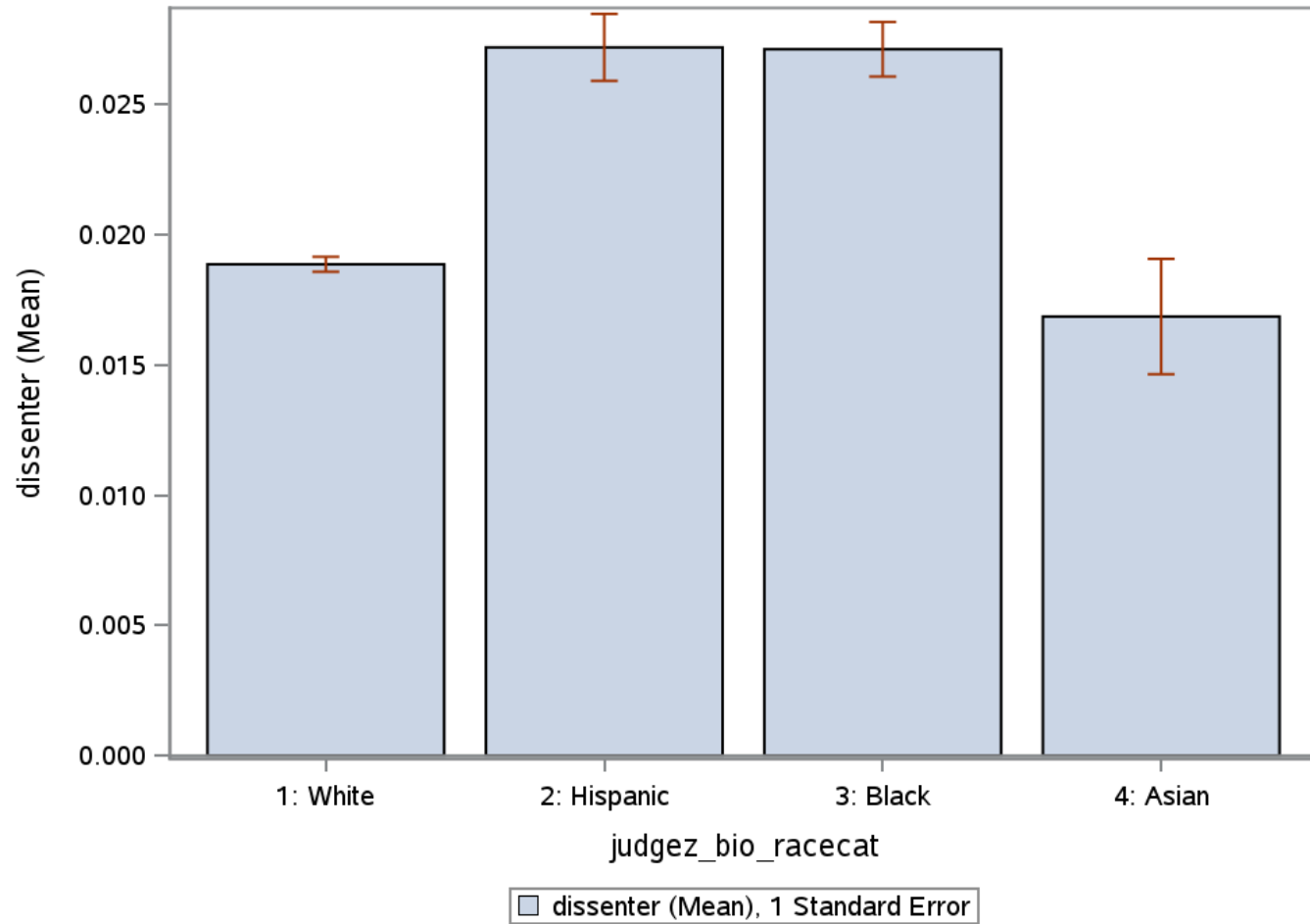- Bayesian combination with name probability:

$$P(R|S,F,I) = \frac{P(R|S,F) * P(I|R)}{\sum_R P(R|S,F) * P(I|R)}$$

- Exception: if Latino most probable based on name, do not use image

Precision of Clerk Race Assignment

Clerk Assigned Race	P. White	P. Hispanic	P. Black	P. Asian	#Obs
White	**87.8%**	2.5%	7.5%	2.3%	9298
Hispanic	14.8%	**71.8%**	6.5%	6.9%	462
Black	28.0%	6.9%	**59.1%**	6.0%	386
Asian	10.0%	2.4%	2.8%	**84.7%**	983

Rate of Dissent by Judge Race

Ideology of Clerks by Race & Party