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RESEARCH ARTICLE

Racism on Trial in U.S. Symphony Orchestras

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Abstract

This essay examines how racial discrimination operates under the surface and through the guise of preserving musical excellence, as exemplified through the 1969 lawsuit filed by double bassist Arthur Davis and cellist Earl Madison charging the New York Philharmonic with racial discrimination in hiring practices. Analyzing the narratives that emerged during the 1969 hearings around artistic merit, racial discrimination, and screened auditions, I argue that the New York Philharmonic weaponized musical excellence as a pure entity abstracted from race and other social categories in order to claim that its sanctity required protection from societal charges of discrimination. Notably, these same legal arguments were used in a subsequent case in which timpanist Elayne Jones charged the San Francisco Symphony with discrimination on the basis of race and sex following her tenure denial in 1974. Placing these two cases in conversation not only illuminates the tenacity and power of discriminatory ideas and practices in U.S. orchestras, but it also demonstrates how the experience of fighting legal battles reverberated personally and professionally for Black classical musicians. These lawsuits exacted a significant toll on Davis, Madison, and Jones, each of whom was sacrificed at the altar of change that, decades later, has yet to come.

In a 1947 *New York Times* essay, conductor Leonard Bernstein described the challenges confronting the "Negro in music," lamenting that "there is not a single Negro musician employed in any of the major symphony orchestras."[1] A well-known supporter of leftist and progressive causes, Bernstein championed the inclusion of African American classical musicians in the orchestral space. At the same time, however, he felt that orchestras were limited in what they could do to remedy what was ultimately "a social, not a musical problem." In his view, the absence of Black musicians in U.S. symphony orchestras stemmed from long-standing societal inequities, *not* from discriminatory orchestral practices. Moreover, he believed that addressing "extra-musical" concerns such as combating racism would sully a symphony orchestra's primary obligation: To perform music at the highest level. Musical excellence, according to this formulation, not only existed outside the "social problem" of race, it required safeguarding against the potential artistic compromise that could result from attempting to respond to such external pressures.

As the civil rights movement placed pressure on a range of workplaces to address discriminatory employment practices, U.S. symphony orchestras continued to remain insulated, bolstered by long-standing convictions that music and politics occupied separate spheres. In practice, however, orchestras weaponized beliefs about the need to maintain artistic standards as a means to defend and legitimize the whiteness of their workplaces. As Amyas Ames, then President of the New York Philharmonic, articulated in a 1969 letter to subscribers, "the Philharmonic is not a racist institution. … It has been and will be our policy to do everything in our power to work for and find qualified black

[1]"The Negro in Music: Problems He Has to Face In Getting a Start" by Leonard Bernstein, *New York Times*, November 2, 1947, Black Musicians, Newspaper Articles, November 2, 1947–September 2, 1977, Folder 011-03-28, Executive Records, New York Philharmonic Shelby White & Leon Levy Digital Archives. https://archives.nyphil.org/index.php/artifact/047fa96d-67eb-4f3a-bd3d-fd839e123d79-0.1

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musicians. … But in the interest of the arts, we must fight for excellence."[2] Under pressure at the time to defend why the New York Philharmonic only had one Black member out of 106 musicians in the orchestra, Ames, like Bernstein, blamed societal causes for the "regrettable" situation while absolving the Philharmonic from any practice of discrimination. Hiring a musician based on any other criteria besides musical ability would, simply, betray an orchestra's main mission.

For Black classical musicians, however, such lofty pronouncements about the sanctity of musical excellence, the desire to hire qualified Black musicians, and the absence of racism clashed with the "iron curtain of discrimination" that obstructed their pursuit of an orchestral career.[3] Indeed, the subjectivity of artistic judgment and discretion served, in double bassist Lucille Dixon's estimation, as a proxy for racial discrimination, functioning to keep "all but a few token blacks out of symphony orchestras."[4] Recognizing the insufficiency of simply working on their craft and striving toward greater artistic excellence, Black classical musicians pursued a range of strategies to challenge their exclusion in the orchestral space. Among their varied efforts, however, perhaps no strategy brought more light to how systemic racism operates in U.S. orchestras than Black musicians' endeavors to seek remedy for racist practices through the court system—and perhaps no legacy more clearly illuminates the work ahead of us still.

This essay examines how racism operates under the surface and through the guise of preserving musical excellence, as exemplified through the 1969 lawsuit filed by double bassist Arthur Davis (1934–2007) and cellist Earl Madison (b. 1945) charging the New York Philharmonic with racial discrimination in hiring practices. Analyzing narratives that emerged during the 1969 hearings regarding artistic merit, racism, and "blind" auditions (auditions held behind a screen to conceal the applicant's identity), I show how the defendants weaponized musical excellence as a pure entity abstracted from race and other social categories, claiming that its sanctity required legal protection from societal charges of discrimination.[5] Notably, these same arguments were used in a subsequent case in which timpanist Elayne Jones (1928–2022) charged the San Francisco Symphony with racial and sexual discrimination following her tenure denial in 1974. Placing these two cases in conversation not only illuminates the tenacity and power of discriminatory ideas and practices in U.S. orchestras, but it also demonstrates how the experience of fighting legal battles that were eventually lost reverberated personally and professionally for Black classical musicians. These lawsuits exacted a significant toll on Davis, Madison, and Jones, each of whom was sacrificed at the altar of change that, decades later, has yet to come.

Although the New York and San Francisco cases did not yield the results desired by Davis, Madison, and Jones, the publicity they generated nevertheless made previously hidden practices in major symphony orchestras visible to the public. By placing scrutiny on how orchestras hired and promoted its members, Black classical musicians sought to show how discrimination enters into the purportedly unmediated space of listening and musical evaluation. Indeed, the lawsuits placed on trial what Jennifer Lynn Stoever calls the "listening ear"—a "descriptor for how the dominant culture exerts pressure on individual listening practices to conform to the sonic color line's norms."[6] The "listening ear" naturalizes the whiteness of symphony orchestras, reifying and reproducing prevailing beliefs between race and certain sounds.

[2]"Report to Subscribers," by Amyas Ames, Human Rights Commission, January 1, 1967–April 11, 1973, Folder 013-02-15, Operations/Orchestra Services Records, New York Philharmonic Shelby White & Leon Levy Digital Archives, 131–32. https://archives.nyphil.org/index.php/artifact/a17a9644-fdff-4da0-816e-d4d4a66a30ac-0.1

[3]Quote from the summary of "Job Status of the Negro Professional Musician in the New York Metropolitan Area," by Douglas G. Pugh, Urban League of Greater New York, 1958–62, November 21, 1958–September 23, 1969, Folder 013-03-01, Orchestra Personnel Records, New York Philharmonic Shelby White & Leon Levy Digital Archives, 8. https://archives.nyphil.org/index.php/artifact/8dc07a62-d8b5-43a8-8193-b13daf645825-0.1

[4]Lucille Dixon, "Is it 'Artistic Judgment' or is it Discrimination?" *New York Times*, August 1, 1971.

[5]"Blind auditions remain the common term for auditions held behind a screen to preserve the anonymity of the candidate and the phrase used by many. It is worth noting the ableism contained within that term, as incisively detailed by William Cheng in *Loving Music Till it Hurts* (New York: Oxford University Press, 2020), 63–64. In this article, when I use the term "blind audition," it is in reference to musicians or written sources that explicitly use this term.

[6]Jennifer Lynn Stoever, *The Sonic Color Line: Race and the Cultural Politics of Listening* (New York: New York University Press, 2016), 7.

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The arguments forwarded by the complainants in both lawsuits illuminate what scholars including Naomi André, Nina Eidsheim, Stoever, Kira Thurman, and Mina Yang, among others, have aptly underscored: There is no "pure" mode of listening.[7] Elsewhere, I have explored how listeners tune their ears differently based on pre-existing racialized beliefs that are then validated through purportedly impartial assessments of musical ability.[8] The sonic color line placed Black classical musicians outside of expected correlations between sight and sound, a dissonance which, as Eidsheim powerfully demonstrates in the case of Black opera singers, led listeners to modulate what they heard to existing expectations, stereotypes, and desires about blackness.[9] Racialized listening practices similarly bound race to the sounds an instrument produces, supporting the explicit and implicit racism Black instrumentalists faced in their pursuit of an orchestral career.

In their lawsuit, Davis and Madison, supported by a network of Black classical musicians who testified on their behalf, fought to interrupt the self-affirming loop perpetuating the perception of Black musicians as inferior to their white counterparts and thus undeserving of inclusion into U.S. orchestras. Placing into the public record incidents of racial hostility, unequal treatment, personal slights, and blatant discrimination, they asserted that racialized beliefs do not simply vanish at the moment of musical assessment. Many Black musicians testified that only a screen shielding their identity during the audition process would allow for an unbiased assessment of their musical ability. However, the broader scope of their collected testimony highlighted how systemic racism impacted more than just the audition process itself.

This essay draws on Matthew Johnson's examination of the repertoires elite universities use to sustain exclusion to show how symphony orchestras, in a similar manner, defended and rationalized their whiteness by invoking a discourse of "racial innocence."[10] After all, as Sara Ahmed points out, the elite institution functions as a metaphorical brick wall crushing those seeking to enact structural change.[11] According to leaders at the New York Philharmonic and the San Francisco Symphony, the causes of and remedies for racial disparities within their organization lay outside the scope of an orchestra's core mission to uphold musical excellence. Rather than the perpetrators of racial discrimination, both orchestras positioned themselves as the "victim" of societal ills, much like Black classical musicians themselves.[12] By surfacing some of the mechanisms used by elite institutions to legitimize exclusion, these lawsuits allow us to better understand why transformative change consistently gets stymied within institutional spaces. The lawsuits filed by Davis, Madison, and Jones made visible both the contours of the "impenetrable wall of racial prejudice" that hindered Black musicians *and* the strategies that the New York Philharmonic and the San Francisco Symphony used to disavow the existence of those barriers altogether.[13]

Black Musical Activism Leading Up to the 1969 Hearings

In 1969, the New York City Commission on Human Rights took up the case brought to them by Davis and Madison charging racial discrimination in the New York Philharmonic's hiring processes of both

[7]See Nina Sun Eidsheim, *The Race of Sound: Listening, Timbre, and Vocality in African American Music* (Durham: Duke University Press, 2019); Stoever, *The Sonic Color Line*; Kira Thurman, "Performing Lieder, Hearing Race," *Journal of the American Musicological Society* 72, no. 3 (Fall 2019): 825–65; and Mina Yang, *Planet Beethoven: Classical Music at the Turn of the Millennium* (Middletown: Wesleyan University Press, 2014).

[8]Grace Wang, *Soundtracks of Asian America: Navigating Race through Musical Performance* (Durham: Duke University Press, 2015), 13.

[9]Eidsheim, *The Race of Sound*, 4.

[10]Matthew Johnson, *Undermining Racial Justice: How One University Embraced Inclusion and Inequality* (Ithaca: Cornell University Press, 2020), 2–3.

[11]Sara Ahmed, *On Being Included: Racism and Diversity in Institutional Life* (Durham: Duke University Press, 2012), 26.

[12]Here, I draw again from Johnson, who analyzes how University of Michigan administrators framed the university as a "victim" rather than perpetrator of institutional racism. See Johnson, *Undermining Racial Justice*, 2.

[13]Quote from "Support Committee for Elayne Jones, Tympanist" Letter, April 27, 1977, Elayne Jones's personal archive. Jones gave me full access to her personal collection of photos, letters, recordings, and media clippings. Her collection has since been acquired by the Stanford Music Library collection.

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full-time players and substitutes and extras (players who are hired as needed and not permanent members of the orchestra). Although the lawsuit centered on the New York Philharmonic specifically, it served broadly as a public referendum on racial discrimination in U.S. symphony orchestras, particularly at the elite level. Statistics painted a stark picture. There were only two Black musicians out of the approximately 500 musicians in the nation's five leading orchestras.[14]

Davis and Madison built on a legacy of resistance when they levied formal charges of discrimination against the New York Philharmonic. Many of the Black instrumentalists who testified in the case had previously engaged in diverse strategies to contest their exclusion from U.S. orchestras, including media advocacy; instigating a 1958 Urban League of Greater New York report documenting "discrimination and segregation by the music world"; and the formation of the Symphony of the New World in 1964, a racially integrated orchestra anchored in the principles of racial equality.[15] These efforts underscore how some of the few opportunities opened up to Black orchestral musicians testifying in the case were spurred by grassroots efforts agitating for change and they provide critical context for the 1969 lawsuit.[16]

Buoyed by civil rights activism in the 1950s and 1960s, African American classical musicians renewed their efforts to challenge the near total segregation of the classical orchestral field. New York City served as a center for much of this activism—a major musical hub that, notably, did not have a segregated music union. As Alfred Brown, Elayne Jones, and Harry Smyles wrote in a 1956 letter to *New York Times* music critic Howard Taubman, Jim Crow policies severely limited where Black classical musicians could gain valuable professional experience; at the same time, even cities like New York City offered Black musicians "almost nothing in symphonic work."[17] Nor did it shield them fully from the impact of segregated unions and concert halls. For example, while on tour with New York City Opera in Chicago in the 1950s, Jones encountered a segregated union structure that placed her beyond its bounds. The white union de facto represented classical musicians, whereas the Black union de facto represented jazz: "I was the first Black person who came in with a white group. … Well [the white union] didn't know what to do. They had to have a big meeting. Who should I pay my work dues to?"[18] In the end, Jones was furious at paying her traveling dues to the white union that held domain over opera and the symphony. In St. Louis, she encountered a

[14]Robert Weitz, deputy general counsel for the Commission on Human Rights, cited this figure in the opening statement for the hearings. Many testifying in the 1969 case referenced the New York Philharmonic as part of the "Big Five" (a term that can feel outdated today but that refers to the New York Philharmonic, the Boston Symphony Orchestra, the Chicago Symphony Orchestra, the Philadelphia Orchestra, and the Cleveland Orchestra). Volume I: Human Rights Commission Hearings, Testimony of Moseley, July 30, 1969–July 30, 1969, Folder 679-01-01, Executive Records, New York Philharmonic Shelby White & Leon Levy Digital Archives, 48. https://archives.nyphil.org/index.php/artifact/f893ef42-1d43-4eb3-aec8-a76009f46ffc-0.1. It is worth noting that the percentage of African Americans in American orchestras remains persistently low. A survey conducted in 1974 revealed that African American musicians made up less than 1 percent of orchestras in the United States. See Dick Campbell, "Symphony Orchestras: A Bad Scene," *The Crisis*, January 1975, 12–17. In the most recent study (released in 2023) by the League of American Orchestras, that figure rose to just 2.4 percent. See Cuyler Consulting, LLC, "Racial/Ethnic and Gender Diversity in the Orchestra Field in 2023," *League of American Orchestras*, June 2023. https://americanorchestras.org/racial-ethnic-and-gender-diversity-in-the-orchestra-field-in-2023/

[15]"Job Status of the Negro Professional Musician in the New York Metropolitan Area," 14.

[16]The examples I give by no means paint a full picture of the range of activism Black musicians engaged in during the years leading up to the 1969 lawsuits. It is also critical to note that their efforts built on the advocacy and activism of earlier musicians. Indeed, many of the concerns articulated by Black musicians during the 1969 hearings find resonance in William Grant Still's 1950 article "Fifty Years of Progress in Music," in which he outlines the challenges Black classical musicians face. These included but were not limited to the double standards and stereotyped presumptions placed on Black musicians; racial barriers that prevented Black musicians from gaining professional experience and opportunities; and the challenges represented by segregated unions. William Grant Still, "Fifty Years of Progress in Music," *Pittsburgh Courier*, November 11, 1950.

[17]"Letter to Taubman." Barbara Steinberg, daughter of Benjamin Steinberg (one of the founders of the Symphony of the New World and its first conductor), emailed me a photograph of the letter Alfred Brown, Elayne Jones, and Harry Smyles wrote to Howard Taubman. Barbara Steinberg, email to the author, July 28, 2020.

[18]Unless otherwise cited, all quotations from Elayne Jones come from interviews by the author. These two stories, which Jones recounted often, also appear in her self-published memoir and in media interviews, including the Percussive Arts Society (PAS) article written to accompany her inclusion into the PAS 2019 Hall of Fame. See Lauren Vogel Weiss, "Elayne Jones," *Percussive Arts Society*. https://www.pas.org/about/hall-of-fame/elayne-jones (accessed March 29, 2024).

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"different but similar kind of problem." Jim Crow laws not only forced her to obtain separate lodging from her orchestral colleagues but also led New York City Opera to replace their lead singer, African American soprano Camilla Williams, with a white substitute and to keep Jones hidden from audience view. Black classical musicians carried experiences such as these into their fight against some of the field's most imposing institutions.

Brown, Jones, and Smyles engaged in a broad letter-writing campaign to music critics and orchestra administrators who they felt might be sympathetic to their cause. They hoped to challenge prevailing perceptions that African Americans were unqualified and/or disinterested in classical music. They felt the impact of these beliefs in their own experiences and were aware of peers (past and present) who turned to genres like jazz or left the music field entirely. In pressing for greater media coverage, Brown, Jones, and Smyles expressed faith that the general public would voice their disapproval—as they did in other professions like baseball—if only they understood the "neglect of Negroes in symphony orchestras."[19]

Alongside this advocacy work, Black classical musicians sought to collect data on the challenges facing Black musicians. Smyles and Jones testified in the 1969 hearings how they, alongside Brown, brought the issue of discrimination in music employment to Douglas Pugh at the Urban League of Greater New York. In a 1958 report titled "Job Status of the Negro Professional Musician in the New York Metropolitan Area," the Urban League summarized the dire situation faced by Black musicians: Contrary to popular perception, "competent, qualified Negro professionals have had to contend, hopelessly, with an iron curtain of discrimination, barring them from any opportunity to build a career in their chosen field."[20] However, although racism spanned all music industries, the report emphasized that "the most glaring examples of race and color discrimination exist at the five major classical orchestras in New York."[21] Hiring processes, as well as the music union's "hands off" approach to addressing discrimination, contributed to this bleak outlook. The report also contained an appendix listing the qualifications of Black musicians residing in the New York City area, aiming to pre-empt the "time worn but important question: 'Is the Negro musician competent or qualified to play in a symphony orchestra?'"[22] The report thus placed pressure on New York music institutions to confront discrimination and challenged widespread beliefs that qualified Black classical musicians did not exist.

Jones herself believed the report to be responsible for the New York Philharmonic's decision to hire their first Black orchestral musician. Just days after the public release of the Urban League's findings, she received a call inquiring whether she could perform as a substitute with the orchestra. Recalling the exhilaration she felt playing with the Philharmonic, Jones credited both her dogged pursuit of craft *and* the collective struggle on behalf of Black musicians: "I couldn't forget that my being [at the New York Philharmonic] wasn't only due to my ability but to the struggles that called for an end to racism in the orchestra."[23] Put differently, she understood her musical opportunities and political work as necessarily entwined.

The Philharmonic's institutional records, however, suggest that the timing of Jones's hiring may have been coincidental. According to a memo titled "History of the Society," the personnel manager had already planned to call Jones (referred to by her married name, Kaufman) to perform as a

[19]Quote from "Letter to Taubman." The music critic Howard Taubman did go on to write a feature-length article highlighting the challenges that well-credentialed Black musicians faced in their pursuit of an orchestral career. See "An Even Break: Negro Instrumentalists Ask for Chance to Earn Way into Major Ensembles" by Howard Taubman, *New York Times*, April 22, 1956. 1955–56 Scrapbook, Extra Materials, May 1, 1955–April 30, 1956, Folder 555-067-03, Communications/Public Relations Records, New York Philharmonic Shelby White & Leon Levy Digital Archives, 55. https://archives.nyphil.org/index.php/artifact/d15f8482-3cc5-4e37-bac1-388bf8dd5ec2-0.1. For other mainstream media coverage emerging from the public advocacy of Brown, Jones, and Smyles, see "The Negro and the North: Segregation is Illegal, Yet He Encounters a Great Deal of Discrimination," *Life*, March 11, 1957. The *Life* article featured Smyles as a representative example of the challenges faced by African American musicians in classical music.

[20]"Job Status of the Negro Professional Musician in the New York Metropolitan Area," 8.

[21]"Job Status of the Negro Professional Musician in the New York Metropolitan Area," 2.

[22]"Job Status of the Negro Professional Musician," 8.

[23]Elayne Jones, *Little Lady with a Big Drum* (Alamo, CA: Alive Book Publishing, 2019), 253.

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substitute when the "unfortunate Urban League Report" appeared in newspapers.[24] It was in spite of the timing and the potential of seeming pressured by external forces, the memo suggests, that the orchestra decided to move forward with engaging Jones. Such moments of dissonance in the narratives offered by Black musicians and Philharmonic members and administrators proliferated in the 1969 hearings, highlighting how divergent perspectives shift how we record and remember this history. Nevertheless, regardless of the interpretations placed on Jones's hiring, two facts remain undisputed. She was, as recorded in the Philharmonic archives, the "first Negro orchestral musician to perform with the New York Philharmonic Orchestra."[25] Moreover, the orchestra did not hire Jones again in the intervening 11 years leading up to the lawsuit. These facts—and the different interpretations of them—remained significant given the scrutiny placed on processes that the orchestra used to hire substitutes and extra players.

Concurrent with their work to contest inequitable hiring practices, Black classical musicians also sought to increase opportunities for orchestral experience. Building on earlier efforts, including interracial orchestras formed by conductors like Dean Dixon and Everett Lee, a group of fourteen musicians (two white and twelve African American) founded the Symphony of the New World in 1964. Notably, Lee, who went on to become a central figure within this new professional orchestra, had himself been dissuaded from pursuing an orchestral career as a violinist during the 1940s after being told by Artur Rodziński (then the music director of the New York Philharmonic) that no conductor would hire a person of color.[26] Many of the orchestra's founding members shared similar experiences. Drawing inspiration from Antonín Dvořák's Symphony of the New World, which incorporated Native American and African American melodies into its rendering of American musical culture, they envisioned a "new world" rooted in the principle and practice of racial integration. The orchestra also included women and Asians in its vision.[27] Many of the orchestra's founders testified in the 1969 lawsuit.

In his support of the Symphony of the New World, Bernstein wrote that "most important of all, of course, is the sociological impetus behind the project—a truly integrated orchestra."[28] The orchestra provided critical experience for classically trained Black instrumentalists, allowing younger generations to see spaces of inclusion in a field virtually closed to them. At the same time, however, Bernstein's statement highlights a central question debated during the hearings: Did the Symphony of the New World's significance stem from its "sociological impetus" or its artistic excellence—and were these two aspects compatible?[29] For those testifying on behalf of Madison and Davis, the orchestra demonstrated the existence of highly qualified Black musicians. Philharmonic members, however, dismissed the Symphony of the New World as a "training orchestra" whose musicians fell far short of the standard required to play in their orchestra.

The range of activities that Black instrumentalists engaged in to create professional pathways for themselves highlights the extent to which pursuing a professional orchestral career entailed more

[24]"History of the Society," Urban League of Greater New York, 1958–62, November 21, 1958–September 23, 1969, Folder 013-03-01, Orchestra Personnel Records, New York Philharmonic Shelby White & Leon Levy Digital Archives, 35. https://archives.nyphil.org/index.php/artifact/8dc07a62-d8b5-43a8-8193-b13daf645825-0.1

[25]"History of the Society," 35.

[26]Carol Oja, *Bernstein Meets Broadway: Collaborative Art in a Time of War* (New York: Oxford University Press, 2014), 193. As Oja notes, Everett Lee's decision to turn to conducting after receiving such advice underscores the remarkable resilience with which he pursued his music career. Lee's Cosmopolitan Symphony formed one of the inspirations for the Symphony of the New World.

[27]Howard Klein highlighted in his review of the orchestra's opening concert that its members included "52 white musicians, 36 Negroes, and 7 Orientals. Also 30 women, which made the orchestra even more remarkable in its integration." Howard Klein, "3-Race Ensemble in Concert Debut," *New York Times*, May 7, 1965.

[28]Letter from Bernstein to Donald L. Engle, director of the Martha Baird Rockefeller Fund for Music, director of the Martha Baird Rockefeller Fund for Music, October 15, 1965, Barbara Steinberg collection, quoted in Edward Berger, *Softly, with Feeling: Joe Wilder and the Breaking of Barriers in American Music* (Philadelphia: Temple University Press, 2014), 179.

[29]This was also a point of contention among the founders of the orchestra as well, with some musicians viewing it as a "training ground" to provide Black musicians with the orchestral experience necessary to win a successful audition and others as an established professional orchestra of its own. See Berger, *Softly, with Feeling*, 178.

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than just the pursuit of musical excellence. Black musicians engaged in additional labor, including media advocacy, agitating in the political sphere, and forging their own spaces of belonging. For Davis, Madison, and Jones, bringing their complaints to the courts built directly on this legacy of challenging the structural racism that limited their professional prospects.

Litigating Racial Discrimination in the 1969 Human Rights Commission Case

Davis and Madison were both accomplished musicians when they filed their case against the New York Philharmonic with the Human Rights Commission. Madison, who came from a musical family in Chicago, had been a soloist with Chicago-area orchestras during his youth. At the age of twenty, he secured a full-time cello position with the Pittsburgh Symphony Orchestra, but resigned from that position shortly before the hearings began.[30] Davis, a conservatory-trained bassist, worked in both jazz and classical music. Although the repeated rebukes he encountered in classical music led him to pursue a career in jazz, he remained dedicated to challenging racial barriers in the symphonic realm. He was also one of the founding members of the Symphony of the New World.

The hearings for the lawsuit took place over the course of ten sessions between June 30 and October 20, 1969. Prominent musicians and administrators testified on topics ranging from the efficacy of screens during auditions, the assessment of musical excellence, and the existence of racism at the New York Philharmonic specifically and the classical music field broadly. After a lengthy deliberation, the commission issued a mixed verdict on November 16, 1970. It found a pattern of preference toward the students of current orchestra members in its hiring of substitutes and extras but no discrimination in audition practices.[31] Acknowledging Davis and Madison to be "well-qualified" symphonic musicians who demonstrated "courage in coming forward despite possible risk to their musical careers," the commission nonetheless emphasized that at issue was their "quality of musicianship as heard by [the] respondent's auditioners compared with their competitors at the time of their auditions." The commission granted the New York Philharmonic discretion over issues like musical judgments, asserting that "the right of artistic discretion is a fundamental civil liberty and must be preserved." The complainants had failed, in the commission's estimation, to show that the respondent had "abused its artistic discretion."[32]

Like other symphony orchestras at the time, the New York Philharmonic had an almost exclusively white and male workforce.[33] No one disputed that the Philharmonic hired few Black musicians in any capacity. It was the reason for this disparity that lay at the heart of the hearings. As each side offered their competing explanations, the wide-ranging testimony generated amplified how an individual's race impacted beliefs about musical assessment and, more fundamentally, what constitutes racial discrimination. Reading through the pages of testimony from white Philharmonic musicians and administrators, a circular logic emerges where simply claiming they did not discriminate functioned as evidence that discrimination did not occur. Some musicians went a step further, arguing that racism and other forms of prejudice simply did not exist in the classical music field. Evidence of this viewpoint is captured most concisely by oboist Harold Gomberg, who offered: "There is an old saying that art has no

[30]The Pittsburgh Symphony had, as Berger writes, a relatively "progressive record in hiring African American musicians" for its time. In 1965, Black violinist Paul Ross joined the orchestra; the following year, keyboardist Patricia Prattis Jennis joined, becoming the first African American woman to be hired for a full contract by a major U.S. symphony orchestra. See Berger, *Softly, with Feeling*, 198.

[31]The verdict read as follows: "First, we find that the Philharmonic has engaged in a pattern and practice of discrimination with respect to the hiring of substitute and extra musicians, and that the complainants are within the class affected by this pattern and practice. Secondly, we find no discrimination on the part of the respondent against these complainants with respect to their applications for permanent employment." City of New York Commission on Human Rights: Decision and Order (Madison/Davis) 1969, July 30, 1969–May 14, 1971, Folder 013-01-32, Executive Records, New York Philharmonic Shelby White & Leon Levy Digital Archives, 2. https://archives.nyphil.org/index.php/artifact/7d6efaf9-3b70-4b13-a4d7-82f249a0a353-0.1

[32]City of New York Commission on Human Rights, 3.

[33]Orchestras at the time were largely segregated both by race and gender. The New York Philharmonic admitted its first full-time female member in 1966, bassist Orin O'Brien, in 1966. In 1971, that figure grew to five white women (out of approximately 100) in the New York Philharmonic. Most of these women were hired after the 1969 lawsuit.

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brothers. It has no sex. It has no feeling for color, race, or creed. We have all operated on this concept."[34] Drawing on familiar defenses of art's transcendence, Gomberg suggested that musicians' shared sense of identity and mission eclipsed any other forms of difference.

The idea that classical music encompassed a rarefied space that transcends such mundanities as race underscores the colorblind fantasies that naturalized the whiteness of the field. Indeed, sociologist Eduardo Bonilla-Silva notes how colorblind ideologies function as a mode of racism to keep racialized regimes intact.[35] For denying the existence of race allows the status quo to flourish, evading structural inequalities and shifting blame to alleged individual shortcomings. Moreover, the championing of colorblindness implies, as Osagie Obasogi puts it, that "nonrecognition of race leads to racial equality."[36] By deflecting any discussion of race, colorblind racism made irrelevant both the lived experience of Black classical musicians and the necessity for institutional change. Gomberg's steadfast belief in the universalizing power of classical music forwarded a viewpoint reflective of the Philharmonic's general ethos that not engaging in racial discrimination simply entailed following a strict code of etiquette—that is, denouncing explicit bigotry and avoiding any mention of race to the point of dismissing its very existence.

Although a colorblind logic threads through the testimony of nearly every musician testifying for the Philharmonic, two prominent music leaders most dramatically illustrate the contradictions inherent in this concept: William Schuman, then president of Lincoln Center for the Performing Arts and former president of the Juilliard School (1945–61), and Leonard Bernstein, the orchestra's music director at the time of complainants' auditions. Self-avowed supporters of civil rights, both men wielded tremendous influence as elite gatekeepers, even if they did not categorize themselves as such.

Brought to the stand to defend the Philharmonic's leadership, including Bernstein, Schuman insisted that the New York Philharmonic "does not discriminate."[37] Echoing Gomberg, he asserted that artists' singular commitment to musical excellence above all else meant that "discrimination in the arts, especially in music, has not set pace with discrimination in other fields." As Schuman explained, "artists are not that way, basically."[38] He vociferously defended his longtime friend and colleague, Bernstein, who he characterized as a pillar of musical integrity. He found claims that the Philharmonic acted in a discriminatory fashion under Bernstein's leadership to be preposterous. Viewing Bernstein and the Philharmonic through the same lens, his testimony suggests that an institution—much like an individual—engages in discrimination through prejudicial behavior based on skin color rather than through the maintenance and protection of power. This perspective may also explain why so much of the Philharmonic's defense rested on the racial attitudes of individual musicians and administrators, who took the stand to testify that they did not discriminate against Black people.

A well-regarded composer and arts administrator, Schuman also categorized himself and the institutions that he led as free of racism, a self-assessment that enabled him to attest so confidently to Bernstein's views and actions at the Philharmonic. As evidence, he pointed to actions he took at Juilliard, such as eliminating any questions about an applicant's race in the school's application process: "I felt as a person in terms of my own social position, to ask this question was to imply a criteria for admission, which should not have been a criterion for anything."[39] Although he did not believe discrimination to be an existing problem, he wanted to disavow any insinuation that race factored

[34]Volume IX: Human Rights Commission Hearings, Testimony of Mensch, Gomberg, Nadien, and Rosenberger, October 18, 1969–October 18, 1969, Folder 679-01-09, Executive Records, New York Philharmonic Shelby White & Leon Levy Digital Archives, 54. https://archives.nyphil.org/index.php/artifact/384c981f-267e-46e7-b9e3-b136a7c34c3c-0.1

[35]Eduardo Bonilla-Silva, *Racism without Racists: Color-Blind Racism and the Persistence of Racial Inequality in America* (Lanham: Rowman & Littlefield Publishers, Inc., 2014).

[36]Osagie Obasogie, *Blinded by Sight: Seeing Race through the Eyes of the Blind* (Stanford: Stanford University Press, 2014), 137.

[37]Volume VIII: Human Rights Commission Hearings, Testimony of Schuman, Baker, Munroe, Chambers, O'Brien, Brennand and Schaeffer, October 17, 1969–October 17, 1969, Folder 679-01-08, Executive Records, New York Philharmonic Shelby White & Leon Levy Digital Archives, 38. https://archives.nyphil.org/index.php/artifact/a3ef062b-86c5-4589-95fa-98f2b351879d-0.1

[38]Volume VIII: Human Rights Commission Hearings, 16.

[39]At the same time, visual clues of an applicant's race would be revealed in their performance audition. Schuman was also uncertain whether photographs were discontinued in the application process. Regardless, if photographs continued to be

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into admission. Schuman's testimony suggests that simply acknowledging the existence of racial difference would itself be racist. Such an understanding, as Matthew Johnson incisively shows in his case study of the University of Michigan, allowed elite universities to institutionalize exclusion even while claiming a desire to remedy discrimination.[40] Schuman's testimony that making race irrelevant represents an effective strategy to counter racial discrimination in admissions—a stance that was repeated in the Philharmonic's defense of their hiring practices—surfaces the embeddedness of colorblind racism within elite music institutions.

Indeed, by this same logic, Juilliard did not engage in any affirmative efforts to recruit or increase the number of Black students. Such actions would, in Schuman's view, be discriminatory against African Americans. As he puts it, "I consider it anti-black to choose musicians because they are black. You must choose the best musician that you can find and the color of the skin is not a criteria." Characterizing race-conscious hiring and admissions policies as harmful to its beneficiaries, Schuman used a tactic still weaponized by opponents of affirmative action today.

Nevertheless, contradictions emerged within Schuman's testimony that musical institutions should be colorblind for the benefit of Black musicians. Curiously, he added that "when [Black] students came to the school everyone bent over backwards to show them, to help them, considering for the reasons that we all understand."[41] It would appear that the pursuit of musical excellence occurred in a realm of racelessness where recognition of racial difference was effectively absent except, apparently, in those patronizing moments when "everyone bent over backwards" to help Black students. Moreover, although Schuman suggested that music institutions generally did not racially discriminate, he acknowledged the existence of other vectors of discrimination. For example, he singled out Elayne Jones as an outstanding Black instrumentalist who would nonetheless face obstacles: "I remember when she graduated and I said to her, 'You have a problem. You are a woman.' I thought that was her problem."[42] Gender discrimination, not under investigation during the hearings, appeared to elude the transcendence that race enjoyed in Schuman's depiction of classical music—and which Jones herself brought to the fore in her subsequent lawsuit against the San Francisco Symphony. Indeed, the contradictions in Schuman's testimony reveal the inherent instability of the logic that by not attending to difference, institutional inequalities would simply cease to exist.

With its hiring practices under scrutiny, the New York Philharmonic called upon witnesses to defend Bernstein and the Philharmonic leadership beyond their general dispositions toward race and racism. Questions emerged, for example, about the efficacy of holding auditions behind a screen—a practice that the orchestra did not use at the time. Black musicians testified that only a screen uncoupling the racialized body of the musician from the sound produced by their instrument would interrupt racial bias in the moment of evaluation. The covert racism in the listening practices of audition committees served, in their view, as a primary impediment to the fair assessment of Black orchestral candidates. On this issue, Schuman relied on the oft-cited defense that the visual, coupled with the aural, represented a critical component of musical evaluation. The visual aspects of music making included, in his view, "everything except the color of the skin."[43] Schuman believed that musicians simply compartmentalized irrelevant data like skin color while tuning into relevant visual clues such as the handling of an instrument. Bernstein himself testified that the New York Philharmonic had already experimented with screens to see if they might increase "objectivity" in the audition

requested, however, Schuman emphasized that they would not have been used in a discriminatory fashion. Volume VIII: Human Rights Commission Hearings, 29–31.

[40]I draw from Johnson, who writes in *Undermining Racial Justice* that the idea that acknowledging race would itself be a form of racism is grounded in beliefs of racial liberalism emerging in the post-World War II period: "racial liberals saw racism as one of the great social problems in the United States that threatened American democracy. Within universities, they imagined a world without formal barriers designed to limit or exclude African Americans. In their eyes, eliminating race as an important institutional category was fundamental to this process. … Questions about race suggested prima facie evidence of discrimination," 27–28.

[41]Volume VIII: Human Rights Commission Hearings, 37.

[42]Volume VIII: Human Rights Commission Hearings, 24.

[43]Volume VIII: Human Rights Commission Hearings, 71.

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process (an experiment he clarified as not being linked to discrimination) and had found them to be unsatisfactory. Similar to Schuman, he believed screens eliminated intangible qualities necessary to evaluate musical excellence.[44]

Like most music directors at the time, Bernstein held final say in hiring full-time members, making his testimony critical to understanding how orchestras assess the qualifications of candidates. Taking the stand, the conductor cited his earlier 1947 *New York Times* piece to establish both his long-standing commitment to civil rights *and* a symphony orchestra's primary obligation to hire the best qualified players. Reiterating the separation of these two realms, he bluntly stated: "The New York Philharmonic is not in the social rearmament business."[45] In other words, regardless of his political commitments in the social realm, his primary obligation as a music director remained seeking musical excellence without consideration of race or other social attributes. That he deemed none of the eight Black applicants in the past 5 years (including Madison and Davis) qualified to join the orchestra represented, in his view, a "societal" shortcoming that the Philharmonic could not remedy. Drawing on a discourse of "racial innocence" and professing the same colorblind philosophy espoused by Schuman, Bernstein positioned the New York Philharmonic as the victim of intersecting societal ills that contributed to the lack of qualified Black musicians, rather than the offender of exclusionary practices in and beyond its audition processes.[46]

Nevertheless, as with Schuman's testimony, fractures also emerged in Bernstein's colorblind logic. Like Schuman, he gestured to moments in which he "bent over backwards" for Black musicians. For example, Bernstein noted a policy of advancing Black candidates to the final round, regardless of their earlier performance. This ensured that he heard any Black candidate who auditioned, as conductors do not typically sit in on preliminary rounds. He pointed to Madison's advancement to the finals in one of his auditions, despite not passing the preliminaries, as one such "case of leaning over backwards."[47] For this reason, although vague on specific details about the playing of Davis and Madison, he was confident they were judged on merit alone. Curiously, no other Philharmonic personnel testifying in the case claimed familiarity with Bernstein's policy.[48]

Although Bernstein's general defense rested on claims that he and other committee members judged candidates solely on their musical playing, articulating the precise qualities that comprised "musical excellence" proved challenging. Responding to questions about how he evaluated musical ability, Bernstein's language turned to the ineffable—feeling, knowing, and intuition:

> Some of the qualities that one is looking for, again, are elusive, difficult to describe and can be grouped, I suppose under the categorical word "musicality." That musicality means many things, but it is something again which is sensed rather than describable. …there are antennae that musicians have in judging one another which can tell them about the other musician's musicality, and this cannot be reduced to a standardized examination.[49]

Thus, although scoring sheets used during auditions might suggest some level of standardization, Bernstein believed that their value lay more in refreshing one's memory about a player than in any objective measure about musicianship. His musical antennae sought, as he puts it, an assemblage of traits that eluded quantification.

[44]Volume VI: Human Rights Commission Hearings, Testimony of Bernstein, September 29, 1969–September 29, 1969, Folder 679-01-06, Executive Records, New York Philharmonic Shelby White & Leon Levy Digital Archives, 46. https://archives.nyphil.org/index.php/artifact/b9dcfa41-0472-4839-8357-07255dbc0a5e-0.1

[45]Volume VI: Human Rights Commission Hearings, 46.

[46]Johnson, *Undermining Racial Justice*, 2–3.

[47]Johnson, *Undermining Racial Justice*, 67.

[48]Madison later questioned whether such a policy may have been instituted after the lawsuit. His 1967 audition for the New York Philharmonic, which Bernstein assessed, did not actually have a preliminary round. See Berger, *Softly, with Feeling*, 200.

[49]Volume VI: Human Rights Commission Hearings, Testimony of Bernstein, 36. One significant outlier at the time was the San Francisco Symphony, which gave orchestra members an equal voice in audition and tenure decisions as the music director and used an elaborate system of screens in their preliminary rounds.

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In this way, Bernstein's testimony forwarded a circular logic that empowered only the music director (assisted by select advisors within the institution) as capable of choosing who could join their ranks. In his estimation, neither the candidates themselves, nor outsiders to the orchestra, understood the specific needs of the New York Philharmonic: "A conductor is the only one who knows what his given orchestra needs."[50] For this reason, he dismissed claims made from musicians outside the Philharmonic that Madison and Davis were qualified to join the orchestra. He also rejected the complainants' self-assessment, noting that the psychological stress of an audition exacerbated any objectivity that they—or any candidate—might have about their audition performance.[51] Thus, in response to questions about the "hostile" or "degrading" audition atmosphere described by Madison and Davis—a cornerstone facet of the lawsuit—Bernstein turned the focus back on the musicians themselves. He acknowledged sympathetically how nerves and anxiety could contribute to such perceptions, particularly for Black candidates. However, he affirmed unequivocally that everything asked of Madison and Davis during their auditions aligned with standard practice. The subjectivity of the category "musical excellence," coupled with the towering musical authority and discretion held by Bernstein, created few avenues for the complainants to establish that discrimination entered into their audition process.

Notably, musical deficiencies appeared much easier for Bernstein and other Philharmonic members to identify. One after another, they testified that Madison and Davis were on the "lower scale" of applicants, detailing shortcomings ranging from sight reading to intonation. Such weaknesses can, on the one hand, seem like objective criteria. On the other, it is impossible to know whether Madison and Davis played "out-of-tune" according to the strict conventions of classical music making or whether the "listening ear," to draw again from Stoever's term for the dominant listening practices that drive the sonic color line, resolved the perceived mismatch between sight and sound by simply hearing the playing of Madison or Davis as off-pitch.[52] Listening is an interior practice, making proof of racial bias nearly impossible, especially when listeners do not perceive themselves to be engaging in discrimination.

Although Bernstein's role in hiring did not extend to substitutes and extras—the personnel manager, in consultation with section leaders, handled those decisions—his perspective on the hiring of Black musicians in these roles tells a similar story. Under questioning, for example, Bernstein vouched for the musical abilities of Elayne Jones, testifying: "I'm an admirer of her playing and I'm very fond of her."[53] He did not connect her engagement as the Philharmonic's first Black orchestral musician to the scathing Urban League report released shortly before her hire. Rather, Bernstein saw her musical playing as the reason for her selection as a substitute. Conversely, when reflecting on why she was not hired subsequently by the orchestra, he attributed it to external factors of her own making, including her busy schedule.[54]

Unsurprisingly, Bernstein's understanding of Jones's experience differs from her own. As she testified, in the intervening 11 years between performing as a substitute and the time of the hearings, the only call for work with the New York Philharmonic came just days before her taking the stand.

[50]Volume VI: Human Rights Commission Hearings, 31–32.

[51]Volume VI: Human Rights Commission Hearings, 55.

[52]Stoever, *The Sonic Color Line*, 7. I also draw from Nina Eidsheim's analysis of timbral discrimination in Black opera singers in *The Race of Sound*. As Eidsheim writes, "a culturally derived system of race renders a given vibrational field attached to a person as a *white voice,* a *black voice*—that is, 'in tune' with expected correlations between skin color and vocal timbre—or someone who *sounds white or black*, meaning that the vocalization did not correspond to (was 'out of tune' with) the ways in which the person as a whole was taxonomized," 4.

[53]Volume VI: Human Rights Commission Hearings, 78.

[54]Many other Philharmonic members also spoke highly of Jones's playing, attributing extramusical reasons for not hiring her again. For instance, Walter Rosenberger, principal percussionist with the New York Philharmonic at the time, mentioned her compacted schedule, her being pregnant or having just had a child, and her reputation as a specialist on timpani (rather than percussion). Significantly, neither he nor any other musician suggested that Jones did not perform well during her 1958 engagement as a substitute player. Volume IX: Human Rights Commission Hearings, Testimony of Mensch, Gomberg, Nadien, and Rosenberger, October 18, 1969–October 18, 1969, Folder 679-01-09, Executive Records, New York Philharmonic Shelby White & Leon Levy Digital Archives, 110–13. https://archives.nyphil.org/index.php/artifact/384c981f-267e-46e7-b9e3-b136a7c34c3c-0.1

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She attributed this to the "old school" stance of the former personnel director, who even called student percussionists for substitute work rather than experienced Black musicians.[55] From her perspective, this was racial bias in action. Questioned about a letter she wrote to the Philharmonic, dated August 12, 1969, requesting that she be considered for substitute or extra work, Jones explained: "I heard there was a change of personnel manager. And I happen to know that the present contractor is a man that is younger, and perhaps, I felt, being he was younger, his attitude would be a little different."[56] She linked the "older" attitudes of the previous contractor to the lack of employment opportunities offered to her and other seasoned Black musicians.

The contradictions between the narratives offered by Bernstein and Jones point to the divergent understandings that white and Black musicians brought to the hearings specifically and their music making generally.[57] Musical leaders like Bernstein and Schuman, whose bodies conformed seamlessly with the white male establishment of classical music, appeared to enjoy music-making experiences that harmonized with core beliefs that classical music represented a site of refuge from societal problems. The perception of elite music institutions as colorblind spaces unified by artists' singular pursuit of musical excellence allowed them to claim, presumably in good faith, that they evaluated musical ability without regard to race and other factors. Put differently, the colorblind racism fueling the sonic color line allowed, as Stoever notes in a different context, even "progressive whites a method of continuing to perceive race and enact discrimination without *seeming* to do so (or, for some, without perceiving or consciously recognizing it), while making it more difficult for people of color and antiracist advocates to prove the continued existence of racial violence and institutional inequity."[58] As the testimony of Black musicians made clear, the colorblind fantasies woven through the testimony of Schuman, Bernstein, and other Philharmonic members held little resemblance to their own musical experiences. Placed outside of classical music's universalizing embrace, symphony orchestras represented a site of systemic exclusion. However, Madison and Davis faced an uphill battle proving institutional racism given dominant beliefs that the New York Philharmonic was—and should remain—a resplendent space of societal reprieve.

Collectively, the testimony of Black musicians offered a powerful counternarrative to the institutional voice that diminished their lived experiences, making explicit the assumptions, practices, and structures of feeling dictating who belongs in an orchestra. Their testimony demonstrated how American orchestras reproduced a culture of white supremacy through purportedly nonracialized means, including judgments about quality, experience, and musical excellence; complaints about attitude, professionalism, and interpersonal sociability; and closed networks for sharing resources and hiring opportunities. Moreover, and quite significantly, it placed into the public record examples of how anti-Black racism fed the segregationist culture of U.S. symphony orchestras, naturalizing the scarce presence of African Americans in the field.

Amidst testimony rife with illustrative examples of discrimination within orchestral spaces, the testimonies of Earl Madison, Harry Smyles, and Ortiz Walton provide specific insights into the formal and informal barriers faced by Black orchestral musicians. Just 24 years old during the hearings, Madison was no stranger to workplace discrimination, despite being in the early stages of his professional career. He inserted into his testimony incidents where he understood "extra-musical" criteria entering into processes of hiring and evaluation, despite objections raised by the defense about the relevance of alleged discrimination outside of the specific context of the New York Philharmonic.

[55]Volume IX: Human Rights Commission Hearings, 189. Jones's letter to James Chambers can be found at Human Rights Commission 1969: Auditions and Contributions to Black Organizations, November 21, 1958–November 19, 1969, Folder 013-01-27, Executive Records, New York Philharmonic Shelby White & Leon Levy Digital Archives. https://archives.nyphil.org/index.php/artifact/55b349eb-3c6e-440c-be18-170edc00feb5-0.1

[56]Volume III: Human Rights Commission Hearings, Testimony of Madison, Hammond, King, Steinberg, and Jones, September 24, 1969–September 24, 1969, Folder 679-01-03, Executive Records, New York Philharmonic Shelby White & Leon Levy Digital Archives, 186. https://archives.nyphil.org/index.php/artifact/353ec200-0036-4f01-b7f7-47ff3d07cb56-0.1

[57]The one exception is the testimony of André Watts, a young African American pianist, who testified to experiencing no racial discrimination during his guest solo engagements with the New York Philharmonic.

[58]Stoever, *The Sonic Color Line*, 231–32.

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Madison spoke, for instance, of complaints he received about his seat posture during rehearsals while at the Pittsburgh Symphony—an attempt, in his view, to embarrass him publicly. However, not all of his experiences were thus open to interpretation. About his audition experience for the Chicago Symphony, he testified being told the following by the music director: "He said I was eminently qualified and thought I played well, but he couldn't hire a 'Negro' because he wouldn't be able to fire me at the end of the season if he wanted to."[59] Madison later learned that his appointment, though accepted by the audition committee had, in an unprecedented fashion, been vetoed by the board of trustees who "did not want the image of a Negro in the orchestra."[60] He brought these incidents to the attention of the Urban League of Pittsburgh and the American Federation of Musicians union local in Chicago.

The consistency with which Black classical musicians encountered humiliation, hostility, paternalism, and inequitable treatment led Madison to contextualize his prior experiences as part of a broader pattern of institutional racism in and beyond the New York Philharmonic. The accumulated impact of such moments functioned, in his estimation, to discipline Black musicians who dared to breach their designated place in society by aspiring to "play in the ranks of the sublime New York Philharmonic." Although orchestras did not explicitly ban Black musicians, Madison noted how they used implicit means to achieve the same goal: "As a musician, I realize that these white-establishment institutions which are unwilling to disavow lily-white exclusory policies are going to use the excuse you're not qualified."[61] The subjective category of being "not qualified" functioned as a palatable replacement for blatantly racist language and policies while simultaneously allowing these elite institutions to maintain their "racial innocence." As Madison puts it, "we're dealing at a high level here. This is not a factory job."[62] Although slurs and derogatory comments did occur, the slippery guise of covert racism could feel even more insidious. Perpetuated through hostile looks, "paternalistic" niceness, and the general feeling of being unwanted, covert racism, like the elusive category musical excellence, was difficult to quantify and prove.

Although Madison rejected the Philharmonic's position that "there is no racism" in the classical music world, he stopped short of accusing Bernstein of outright racial discrimination. Instead, he condemned the conductor for his equally damaging inaction. By not taking any steps to counter an exclusionary environment, Madison perceived Bernstein as protecting and further entrenching the status quo: "It's institutional racism. [Bernstein] has done nothing and … it makes him just as responsible for a ready situation as if he had just said: 'I don't want any of these people there.'"[63] Framing inaction as a driver of racism, Madison's testimony offered a more capacious understanding than the Philharmonic's defendants of how institutional racism manifests in symphony orchestras.

Taking the stand, oboist Harry Smyles's testimony similarly challenged key beliefs forwarded by the defense—that a lack of qualified players accounted for the small pool of Black candidates for orchestral positions; that Black musicians had no interest in symphonic work; and that audition committees evaluated candidates solely on ability. A well-regarded oboist, Smyles himself no longer participated in auditions, despite his earlier enthusiasm to audition for every opening he heard—it simply felt "foolish" to continue participating in a process riddled with inequality.[64] He echoed beliefs held by other Black musicians about the necessity of screens, arguing that screens should be used in every round, including the finals. In principle, he agreed with Bernstein and other witnesses that sight did matter for assessing musicians. However, he believed that the visual acted as a deterrent to *fair* musical assessment: "Sight can do a lot, particularly to what the ear hears. Therefore, I think the screen method is the

[59]Volume III: Human Rights Commission Hearings, 46.

[60]"Earl Madison, interviews by the author, May 2012," cited in Berger, *Softly, with Feeling*, 199.

[61]Volume III: Human Rights Commission Hearings, 53.

[62]Volume III: Human Rights Commission Hearings, 75.

[63]Volume III: Human Rights Commission Hearings, 78. Madison's words resonate with Ibram X. Kendi's belief that "there is no neutrality in the racism struggle. … One either allows racial inequalities to persevere, as a racist, or confronts racial inequities, as an antiracist"; Ibram X. Kendi, *How to be an Antiracist* (New York: Random House, 2019), 9.

[64]Volume IV: Human Rights Commission Hearings, Testimony of Rosen, Davis, Jones, Porter, Dietrich, Smyles, Dixon, and Miller., September 25, 1969–September 25, 1969, Folder 679-01-04, Executive Records, New York Philharmonic Shelby White & Leon Levy Digital Archives, 189. https://archives.nyphil.org/index.php/artifact/c30091db-2b8b-44c9-8e0a-75e53625f57e-0.1

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most democratic way to choose musicians…the vision would be excluded and you would be forced to concentrate on the content of the player."[65] Smyles's testimony that sight actively *does* something to what the "ear hears" powerfully illustrates how Black classical musicians perceived the impact of racialized listening practices.[66] When questioned why the Symphony of the New World, where he served as personnel manager, did not use screens in their audition processes, Smyles's response was simple: The orchestra did not discriminate thus making screens unnecessary. Moreover, screens would interfere with the orchestra's mission to address existing racial and gender bias, deterring them from *affirmatively* hiring Black musicians, women, and other racial minorities. The Symphony of the New World established, in his view, the existence of a pool of qualified Black musicians interested in symphonic work, but whose playing had yet to be evaluated fairly given existing audition processes.

The testimony of Ortiz Walton, the first Black musician hired by one of the nation's five leading orchestras, offers additional insight into the racial dynamics of elite orchestras. As double bassist with the Boston Symphony from 1957 to 1962, Walton described enduring continual harassment and hostility from his fellow musicians. He remained on probation throughout his entire tenure, testifying that "throughout all this time I was avoided, like I had the plague, by all the members of the Boston Symphony. All kinds of different things of this nature went on, which would lead me to believe that a symphony orchestra was no place where they want to have a black man play."[67] Walton further added: "[Boston Symphony] is supposed to be one of the most noble cultural institutions in this country, and this is how they treat a black man once he gets in."[68] His experiences foreshadowed that of Jones at the San Francisco Symphony.

News of Walton's experience traveled fast. As Jonathan Rosen, one of the complainants' lawyers argued, "the law no longer permits an institution to have a sign that says 'Black need not apply.' But it is obvious that experiences of the first black musician with a major symphony travel through black musical circles very rapidly."[69] Walton understood the discrimination he faced at the Boston Symphony to be well known among other Black classical musicians, including his friend Arthur Davis. Moreover like the complainants, he did not view the hostilities levied against him as isolated incidents or the result of personal shortcomings. Rather, they encompassed a broader pattern of racial discrimination well understood by Black classical musicians but so contrary to the experience of white orchestral musicians so as to feel implausible.

For Madison and Davis, having the full weight of an elite institution's considerable resources wielded against them in the lawsuit came at a high personal and professional cost. Reflecting on the profound impact of hearing hours of testimony denigrating his musical abilities, particularly so early in his career, Madison noted: "It was the height of profound humiliation. It affected my self-esteem tremendously, it affected my playing. … What else could they say except that your playing is lacking? There was nothing else for them to say in order to prove that they weren't racist."[70] He refused to speak of the lawsuit in subsequent years. Davis, meanwhile, left the music field for a decade after being "whitelisted" following the hearings.[71] He eventually returned to both jazz and classical music performance after receiving a Ph.D. in psychology from New York University in 1981.[72]

[65]Volume IV: Human Rights Commission Hearings, 181.

[66]Controlled experiments demonstrate this to be the case. Eidsheim, for instance, cites a linguistics study in which listeners assessed the intelligibility of the same recorded voice differently based on the perceived race of the speaker (Asian or white). Eidsheim, *The Race of Sound*, 34. Relatedly, a music education study showed how undergraduate music majors ranked the same choral performance in classical music or spirituals differently based on the perceived race of the conductors (African American or white), cited in Wang, *Soundtracks of Asian America*, 13–14. Studies such as these show how visual cues—and the ideologies and expectations attached to them—impact what a listener hears.

[67]Volume II: Human Rights Commission Hearings, Testimony of Moseley and Walton, August 1, 1969–August 1, 1969, Folder 679-01-02, Executive Records, New York Philharmonic Shelby White & Leon Levy Digital Archives, 118. https://archives.nyphil.org/index.php/artifact/7d3ad292-17c4-41ad-9c37-47a3da17c638-0.1

[68]Volume II: Human Rights Commission Hearings, 119.

[69]Volume II: Human Rights Commission Hearings, 113.

[70]Earl Madison, interviews by the author, May 2012," cited in Berger, *Softly, with Feeling*, 204.

[71]Notably, Madison's website contains no mention of the New York Philharmonic lawsuit. See earlmadison.net.

[72]Berger, *Softly, with Feeling*, 187.

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However unlike Madison, Davis spoke frequently about the case in the ensuing years. He did not want the case to be forgotten.

Although Madison and Davis did not receive the results they desired and paid a high price for their efforts, the hearings did place into the public record previously opaque processes about hiring and auditions, as well as internal discussions about the use of screens in auditions. Furthermore, although the defense attempted to interrupt and object when Black classical musicians shared more broadly their experiences of discrimination in the classical music field, arguing that such moments did not pertain to the specific case against the New York Philharmonic, their accumulated testimony surfaced a broader narrative of systemic exclusion. In a cultural field framed by dominant institutions as abstracted from politics and identity, the testimony of these Black musicians provided a powerful counternarrative that continues to resonate today.

Stories from the 1969 hearings and beyond encompass a powerful repository of experiential knowledge held by Black classical musicians that is largely overlooked and marginalized in institutional narratives. After all, how could the testimony of Black classical musicians—mostly freelancers without permanent orchestra positions—hold more weight than the beliefs of such esteemed music leaders as Schuman and Bernstein? As the 1969 lawsuit demonstrates, the testimony offered by Black musicians clashed with prevailing views held by white musical leaders about the lack of racism in themselves, in symphony orchestras, and in the classical music field itself. More palatable narratives, such as society's shortcomings, disinterest among African Americans, and the absence of qualified players, aligned more seamlessly to maintain the status quo and deflect blame and remedy outward. Unfortunately, these more palatable narratives continue to persist and continue to make invisible the lived histories and experiences of musicians like Madison and Davis. As Aaron Flagg, a leading voice in efforts to diversify orchestras, writes: "the history of discrimination in America's classical music field, particularly in orchestras, is not discussed or studied or commonly known because it is painful, embarrassing, and contrary to how we want to view ourselves."[73] These silences are woven into the evidence collected and the interpretations that continue to circulate as historical truth.[74]

Beyond New York: Elayne Jones and the San Francisco Symphony

In 1974, the two opposing worldviews used to explain the virtual absence of African American musicians in U.S. symphony orchestras collided once again, this time in Elayne Jones's lawsuit accusing the San Francisco Symphony and the Musicians Union Local 6 of racial and sexual discrimination. Once more, the courts found the testimony of Black musicians insufficient to support claims of employment discrimination. Moreover yet again, the defense drew on discourses of colorblindness and meritocracy, echoing claims from the 1969 case that individual deficiencies rather than institutional racism accounted for the exclusion of people of color. Indeed, the defense waged by the New York Philharmonic maligning the musical abilities of Madison and Davis served as an ominous precursor to Jones's own legal battle in San Francisco.

When Jones won the timpani position at the San Francisco Symphony, she became the first Black principal player in a major symphony orchestra.[75] She believed that she would be held to a higher bar

[73]Aaron Flagg, "Anti-Black Discrimination in American Orchestras," *Symphony: The Magazine of the League of American Orchestras*, August 13, 2020. https://symphony.org/features/anti-black-discrimination-in-american-orchestras/. Flagg is co-chair of diversity, equity, and inclusion (DEI) at the League of American Orchestras, the umbrella organization for all orchestras in North America, as well as a faculty member at the Juilliard School of Music.

[74]Historians of women and gender, among other fields, have long explored these questions of how we remember, what counts as evidence, whose interpretations are accepted, and how to read absences in the archive. See, for instance, Sherna Gluck, *Women's Words: The Feminist Practice of Oral History* (New York: Routledge, 1991) and Ellen Hartigan-O'Connor and Lisa G. Materson, eds., *The Oxford Handbook of American Women's and Gender History* (Oxford: Oxford University Press, 2018).

[75]Jones's lawsuit, media coverage, and other literature cite her as the first Black musician to win a principal position in a major symphony orchestra (a historic marker she herself claimed and took enormous pride in). I have also seen Patricia Prattis Jennings, hired as principal keyboard in 1966 with Pittsburgh Symphony Orchestra, credited as the "first" African American principal player. Regardless, the fact remains that in 1972 (and in the present) there are few Black principal players in any U.S. symphony orchestra.

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of excellence as an African American woman. After all, she had been a witness in the 1969 New York Philharmonic hearings and was no stranger to the many overt and covert ways that orchestras discriminated against Black musicians. However, Jones was certain that she had exceeded expectations for tenure. Her tenure denial thus came as an enormous personal shock. In 1974, she filed a lawsuit alleging racial and sexual discrimination. She initially dropped the lawsuit when an agreement was reached for a tenure revote the following year, but sued once again after receiving a second negative vote. Despite her efforts, the case was eventually dismissed in 1977.

Although Jones's lawsuit dealt with processes of tenure, it also shed light on audition practices that had long allowed discrimination to thrive in orchestras. Her tenure denial occurred during a period when the San Francisco Symphony had begun shifting sole discretion away from the music director, giving orchestra members equal voice in matters of hiring and promotion. Jerry Spain, President of Musicians Union Local 6, noted in his sworn deposition that San Francisco Symphony musicians had gone on strike in 1967 to enact formal audition processes that would include their participation. Auditions prior had, as Spain elaborated, been based on the "random selection of the conductor…[whose] proclivity for discriminating against women was well known."[76] Musicians also demanded that a screen be used during preliminary rounds and that the chosen candidate be hired: "The key was that the candidates be anonymous so that musical performance would be the only basis upon which a player was hired. We also demanded that the winner of the audition must be hired. In the past…when management found out who the winner was—a local woman in particular—they refused to offer the position." By emphasizing how members of the San Francisco Symphony even went on strike to challenge discriminatory hiring practices, Spain positioned the orchestra as "an example of what can be done under a nondiscriminatory hiring procedure."[77] He highlighted how these new processes had already increased the number of women hired at the San Francisco Symphony. In 1974, the orchestra included twenty-two women out of approximately one hundred, purportedly the highest number of women in any major symphony orchestra worldwide.[78] Having addressed past discriminatory practices, Spain suggested the San Francisco Symphony represented an exemplary model for other orchestras to follow.

Significantly, the expanded role of orchestral members in hiring processes also extended to tenure decisions. If a candidate did not reach a certain threshold of points by the Players Committee (the group of orchestra members who vote on tenure), the conductor would not have the opportunity to provide input.[79] In theory, giving orchestral members a greater voice in hiring and promotion decisions created a more democratized process of distributing power within the organization. In practice, however, Jones came to understand this new structure as allowing existing biases and antagonisms within the orchestra's membership to be weaponized through the purportedly colorblind mantle of musical excellence. In her 1975 affidavit, she provided multiple examples of how racism, sexism, interpersonal conflict, and jealousy entered into purportedly neutral processes of musical evaluation. She further suggested that racial bias fueled the orchestra's vote to curtail the decision-making power given to Seiji Ozawa, its Japanese music director. There were, at the time, few non-European conductors at the helm of any U.S. orchestra.[80]

[76]"Affidavit of Jerry J. Spain," Elayne Jones vs. Musicians Union and S.F.S.A. 1974–76 Folder, San Francisco Symphony Archives.

[77]"Affidavit of Jerry J. Spain."

[78]An oft-cited sociological paper found that the implementation of screened auditions eventually led to an almost 50 percent increase in the representation of women in U.S. orchestras. See Claudia Goldin and Cecilia Rouse, "Orchestrating Impartiality: The Impact of 'Blind' Auditions on Female Musicians," *American Economic Review* 90, no. 4 (September 2000): 715–41.

[79]For this reason, Jones's defense argued that the low points on the vote that she received for tenure (with some committee members giving her just 1 point out of a possible 100 points) violated contractual rules that voting should be based solely on artistic merit. This insultingly low vote ensured that the conductor Seiji Ozawa would not have a voice in Jones's tenure decision. Indeed, Ozawa's initial reaction to the tenure decisions of Jones and Nakagawa suggested his disagreement with those votes. "Notes of Meeting Held on May 15, 1974," Elayne Jones vs. Musicians Union and S.F.S.A. 1974–76 Folder, San Francisco Symphony Archives. As noted in "Report to the 1974 ICSOM Convention from the San Francisco Symphony's Players' Committee," 1974–76 Folder, San Francisco Symphony Archives.

[80]Jones noted in her 1975 affidavit that only two orchestras in the United States failed to grant total decision-making power to their music director—the San Francisco Symphony and the Los Angeles Philharmonic, both were led by non-European conductors, Seiji Ozawa and Zubin Mehta, respectively.

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Just as it had in New York, the defense in Jones's case rested on the sanctity of musical excellence and the need to preserve artistic discretion in evaluating its own members. For the San Francisco Symphony to prevail, it had to show that its tenure decisions were made on the basis of artistic merit alone and that their votes followed union procedures. Like the earlier case, members of the San Francisco Symphony denied that race impacted their vote, pointing instead to various musical deficiencies in Jones's playing. As further evidence of the Players Committee's integrity, Spain revealed that its members proceeded with their negative vote despite privately expressing concerns to him; they were worried that denying tenure to the orchestra's only two nonwhite players might have adverse consequences. Ryohei Nakagawa, a principal bassoonist of Japanese descent, also received a negative tenure vote the same year as Jones. Echoing Schuman's testimony in the New York Philharmonic case, Spain suggested that retaining Jones or Nakagawa, despite their alleged musical deficiencies, would have, itself, been racist. That the two musicians who were denied tenure were also among the few people of color in the orchestra at the time was simply incidental.

Extending the resonance of the 1969 case, Jones's lawsuit highlights the resilience and personal sacrifices of musicians at the forefront of integrating the white world of U.S. American orchestras. Her tenure battle underscored how orchestras continued to weaponize musical excellence through a colorblind logic that delegitimized (and continues to delegitimize) the lived experiences of marginalized groups. A seventeen-page handwritten letter to Jones, dotted with smiley faces, from Peg (Margaret Luchessi, then a percussionist with the San Francisco Symphony) gives texture to how this dynamic played out in interpersonal relationships and the workplace culture navigated by Jones. In her letter, Luchessi disavowed that race or gender played any role in her colleagues' negative tenure decision, pointing instead to Jones's musical shortcomings. If difference mattered at all, Luchessi believed that it benefited minoritized groups:

> Throughout this whole thing, you have continued to believe what you told me shortly right when the decision was made "public"—that you were convinced the "all male all white" committee had denied you tenure because you are a black woman. As part of my desire to be completely honest with you in this letter, I must say this is simply NOT TRUE. As one of the fiddle players said to me "the only person who thinks of Elayne Jones as a 'black woman' is Elayne Jones." You were accepted into the orchestra as a person and a timpanist. Being a woman here has never been a drawback in the S.F. orchestra. … As for being black, it could only be an asset, rather than a liability, for the S.F. orch is more liberal than conservative, and even "conservatives"—like I guess me —know that a more "integrated" personnel would better reflect our society's profile! … This is a day and age where being a minority—black, "chicano," female—is in our favor! I feel certain no one in the orchestra "voted" against you for that reason nor did the committee tolerate any comments in that decision. I know you'll find this hard to face because of your variety of experiences, but I'm really trying to give you the truth as I see it! … You wanted honesty…I hope you accept it in the affectionate context in which it is sent.[81]

The growing sense of white disenfranchisement in a postcivil rights era—already perceptible in testimony offered by witnesses for the Philharmonic in 1969—finds its full expression in Luchessi's letter. Her candor, offered in an "affectionate context," underscores the chasm separating the musical and life experiences, as well as the resulting perspectives, that white and Black musicians drew upon when presenting their arguments. Refuting and willfully ignorant of the intersectional challenges that Jones faced, Luchessi reverted, instead, to dominant understandings of the colorblindness of musical assessment and the musicians themselves. Similar to Davis and Madison, part of the difficulty Jones encountered trying to prove racism stemmed from long-standing beliefs separating politics from the distilled performance of "the music itself" as well as the prevailing perception that the whiteness of symphony orchestras was incidental rather than instrumental to the assessment of musical excellence.

Understanding how the hostile racial culture of symphony orchestras produces the absence of Black classical musicians shifts attention back to practices and values of the classical music field itself. Carol Oja

[81]"Letter from Peg," n.d., Elayne Jones, personal archive. Underlining in original.

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observes how "racial bias is insidious and slippery to track. Yet when a whole segment of the population is denied access to a particular area of employment, the resulting exclusions are not so subtle."[82] Indeed, the contours of this exclusion are blatant considering the many Black classical musicians who left for more welcoming spaces. Conductors Dean Dixon and Everett Lee went to Europe to pursue their professional aspirations. Kira Thurman wonderfully details the rich network of Black classical musicians—from well-known singers like Marion Anderson and Roland Hayes to lesser known instrumentalists like members of the Jiménez trio—who traveled to Germany and Central Europe and discovered less a racial paradise than a differently fraught musical terrain to navigate their Blackness.[83] Testimony from the 1969 hearings itself surfaces the many Black classically trained musicians—from Lucille Dixon to Julius Miller, Joe Wilder, and Arthur Davis—who turned to jazz despite the vastly different musical modalities represented by these genres. Finally, entirely unaccounted for are those who might have imagined pursuing a professional orchestral career if not for the systemic racism of the field.

For Jones, who pursued musical excellence in tandem with social justice throughout her career, contesting her negative tenure decision felt like her only option. As she wrote at the time:

> I have spent my entire life training as a tympanist. … I have proven all the so-called "limitations" on blacks to be non-existent and have overcome every obstacle placed in my path. The only choice left to me is to stay and fight this through. … If I was denied my job on grounds of racism, running will not cure that sickness. Nor will running help to break down the barriers excluding blacks from Symphony orchestras. The only way to end this vicious circle is to stop running and stay to face the music.[84]

The decision to "stay and fight" came at a high personal cost, however. The lawsuit dragged on until 1977 before being dismissed. Like Madison and Davis, she could not find remedy through the courts. In a letter to supporters of her legal battle, Jones urged: "I hope that the people of this progressive and cosmopolitan community will not leave the resolution of this problem exclusively to the courts but will help to resolve what is not only a legal but also a political and social problem."[85] Although she believed she would prevail in court, she, too, seemed to recognize the limits of the law.

Jones contemplated leaving the music field altogether after losing her legal battle but, in the end, continued with the San Francisco Opera (tenured) until her retirement in 1998. Living in San Francisco and playing with the opera, she continued to encounter many of her former San Francisco Symphony colleagues. The toll of these events stayed with her. When I asked Jones, over four decades later, how she got past her unsuccessful tenure and legal battle, she paused before choking up and replying: "I don't think I have." For Jones, as with Davis and Madison, it is impossible to separate her musical experiences from the broader history of racial segregation in the nation or to disentangle the anti-Black racism embedded in a musical field that accrues cultural prestige through its association with whiteness. Rather than helping to dismantle the "impenetrable wall of prejudice" shored up by music institutions like the New York Philharmonic and the San Francisco Symphony, these lawsuits fortified these barriers. They did so by legitimizing discrimination under the guise of universalism and the preservation of musical excellence.

Building on a Legacy: Revisiting the Question of Screen Auditions

In the end, the significance of these lawsuits may lie less in the results they produced than in the visibility they brought to hiring practices and the culture of symphony orchestras. Reflecting on the afterlife of the New York Philharmonic case, Aaron Flagg observed:

[82]Oja, *Bernstein Meets Broadway*, 218.

[83]See Kira Thurman, *Singing Like Germans, Black Musicians in the Land of Bach, Beethoven, and Brahms* (Ithaca: Cornell University Press, 2021).

[84]"Statement of Elayne Jones," April 27, 1977 which also included a request for tax deductible contributions to offset legal fees. Jones's personal archive.

[85]"Statement of Elayne Jones."

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> It was one of the first times that this hiring process within orchestras, which is viewed as kind of a holy grail—very quiet, very subjective as to whether you're worthy or not to be among us—was really brought into question and brought into light. … And it really brought to light a continual concern about symphony orchestras in the country—how inclusive they are, how open and transparent their processes are and really questioned for the first time this absolute knowledge of what greatness is.[86]

In this way, the lawsuits created a legacy to build on for ongoing efforts to create change.[87] By way of closing, then, I return to a subject from the 1969 hearings that remains a topic of ongoing debate: The practice of screened auditions.

Although the 1969 lawsuit did not find the New York Philharmonic's audition practices to be discriminatory, the orchestra did standardize the use of screens by 1979.[88] Indeed, the use of screens became standard for nearly every major U.S. orchestra during the 1970s. Much has been written about how screened auditions have led to a nearly 50 percent increase in women orchestral players and how other industries might emulate such anonymizing practices.[89] However, critiques about their effectiveness—both in their implementation and the ideologies upon which they are built—have percolated since their inception. As many orchestral musicians readily note, contrary to popular perception, auditions are not actually "blind." In reality, orchestras filter applicants through a prescreening, allow well-credentialed candidates to bypass preliminary rounds, hold invite-only auditions, and/or hire after holding trial periods with the orchestra.[90] Moreover, most orchestras do not use a screen during the final round—a process that Weston Sprott, an outspoken advocate for racial equity

[86]Flagg, interview with the author, June 9, 2022.

[87]Conversations about how to challenge the white supremacist culture of classical music became particularly "supercharged" in the mainstream press following the murder of George Floyd in 2020. See, e.g., Michael Andor Brodeur, "That sound you're hearing is classical music's long overdue reckoning with racism," *Washington Post*, July 16, 2020. https://www.washingtonpost.com/lifestyle/style/that-sound-youre-hearing-is-classical-musics-long-overdue-reckoning-with-racism/2020/07/15/1b883e76-c49c-11ea-b037-f9711f89ee46_story.html; "Black Artists on How to Change Classical Music," interviews by Zachary Woolfe and Joshua Barone, *New York Times*, July 16, 2020. https://www.nytimes.com/2020/07/16/arts/music/black-classical-music-opera.html; Alex Ross, "Black Scholars Confront White Supremacy in Classical Music," *New Yorker*, September 21, 2020. https://www.newyorker.com/magazine/2020/09/21/black-scholars-confront-white-supremacy-in-classical-music; and Anne Midgette, "Fleeing the Gilded Cage," *Deceptive Cadence from Classical NPR*, December 14, 2021. https://www.npr.org/sections/deceptivecadence/2021/12/14/1063035430/opera-singers-pandemic-covid-shutdown-career-freedom. The post-George Floyd spate of publicity in mainstream presses should not, however, suggest that these debates had not been occurring for decades. Indeed, Weston Sprott suggests that the process of "forgetting" the advocacy and activism of earlier musicians is part of how the classical music field maintains exclusion, leading musicians of color to constantly reinvent the wheel and feel like they are the "first" to introduce certain ideas. Weston Sprott, interview with the author, June 9, 2022. Sprott, an outspoken advocate for racial equity and diversity, is a trombonist with the Metropolitan Opera Orchestra and Dean of Juilliard Pre-College. For a few public-facing articles that illustrate how these debates had been occurring in classical music performance, administration, and musicology prior to 2020, see, e.g., Aubrey Bergauer, "A Public Commitment to Diversity," *Medium*, November 1, 2017. https://aubreybergauer.medium.com/a-public-commitment-to-diversity-60f1023c4fa; Douglas Shadle, "Systemic Discrimination: The Burden of Sameness in American Orchestras," *I Care If You Listen*, February 8, 2018. https://icareifyoulisten.com/2018/02/systemic-discrimination-burden-sameness-american-orchestras/; and Shea Scruggs and Weston Sprott, "Advancing Inclusion," *Allegro* 119, no. 6 (June 2019). https://www.local802afm.org/allegro/articles/advancing-inclusion/

[88]Gabryel Smith, Director of Archives and Exhibitions at the New York Philharmonic, confirmed this in an email to the author, August 20, 2021.

[89]Malcolm Gladwell's section on screened auditions in *Blink* (New York: Little, Brown and Company, 2005), 245–54, among other writings, helped popularize the now widely cited sociological findings by Goldin and Rouse pointing to the increase in the hiring of women following the use of screens in auditions.

[90]See, for instance, the discussion with Black orchestral musicians in "Rethinking Blind Auditions," moderated by Afa Dworkin, *Symphony*, Spring 2021. https://symphony.org/features/rethinking-blind-auditions/; and "Musicians on How to Bring Racial Equity to Auditions," interviews by Zachary Woolfe and Joshua Barone, *New York Times*, September 10, 2020. https://www.nytimes.com/2020/09/10/arts/music/diversity-orchestra-auditions.html (in particular, the section written by Weston Sprott, Alex Laing, Joy Payton-Stevens, and Titus Underwood about the myth of "blind" audition practices). In my interview with Weston Sprott, he noted that the section penned by him and other Black orchestral musicians stemmed from criticisms they shared about an earlier article calling for the end of blind auditions. The article to which he refers is Anthony Tommasini, "To Make Orchestras More Diverse, End Blind Auditions," *New York Times*, July 16, 2020. https://www.nytimes.com/2020/07/16/arts/music/blind-auditions-orchestras-race.html. I have heard many other orchestral musicians and administrators (from a

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in classical music, calls "discrimination delayed."[91] As he and other Black orchestral musicians bluntly state: "The reason there aren't more Black artists in orchestras isn't blind auditions. The reason is racism."[92] In other words, screens deflect and defer attention away from the systemic racism producing the absence of Black artists in orchestras.

Notably, musicians such as Elayne Jones—who advocated and worked for the implementation of screens—did not believe that orchestras adopted screens to address anti-Black racism. Rather, she attributed their widespread acceptance to the fact that informal audition practices and the cronyism of conductors impacted more than just Black musicians: "If the white musicians were not being affected we would never have been able to get up the screen." Jones expressed deep disappointment that, in the end, "everybody got the advantage of playing behind the screen except the people that it was set up for." Moreover, although she continued to believe in the necessity of screens, her own career points to their fundamental inadequacy to produce institutional change. Screens represent, at best, a limited measure of reform—materially manifesting the belief that colorblindness and meritocracy lights the path forward toward greater equality. However, as William Cheng reminds us, "meritocracy's relentless focus on individual effort and ability does little to address the systemic racism that sustains inequities in the orchestral field. A commitment to racial justice is also necessary."[93] Such a commitment can, in fact, make screens unnecessary—as Smyles suggested in his testimony about the Symphony of the New World. Other orchestras, including the Chicago Sinfonietta (founded by Paul Freeman in 1987) and The Dream Unfinished (founded in 2014) carry the same impulse of the Symphony of the New World into the contemporary moment.[94]

At the time of this writing, the New York Philharmonic has only one permanent Black member: Principal clarinetist Anthony McGill. The San Francisco Symphony has none. Reflecting on the current state of orchestras, McGill pressed for different solutions. "Screens have been upheld as a panacea that will solve the orchestral field," he noted, "[but] if Black musicians don't come to the audition, have we really solved the problem? Or should we be asking different questions? Looking for different solutions?"[95] The limitations of screens lay, in his view, not just in their inability to change the representation of Black musicians but also in the institutional complacency they invite. McGill's critique recalls Sara Ahmed's argument in "How Not To Do Things With Words": That institutional policies and statements can "become a way of not doing something by appearing to do something."[96] In this case, the meticulous labor to set up screens for an audition can feel like a replacement for actually working toward a more equitable orchestral workplace.[97]

Indeed, although lauded as an instrument of equality, screens have done nothing to change the existing culture of orchestras. As McGill elaborates:

> If there were screens before you got the job, there are no screens after. And then you're left to the devices like do people like you or not. Then it can become about a lot of other things that are less likely to be documented, reported, proven as far as discrimination or abuse or harassment. To play in an orchestra and play together with someone, you have to blend with people and play

variety of backgrounds) make similar critiques about the dissonance between public perceptions of (and writing about) blind auditions and their actual implementation.

[91]Sprott, interview with the author.

[92]"Musicians on How to Bring Racial Equity to Auditions," interviews by Woolfe and Barone.

[93]Cheng, *Loving Music Till it Hurts*, 69.

[94]For more about Chicago Sinfonietta and The Dream Unfinished, see https://chicagosinfonietta.org/ and https://thedreamunfinished.org/

[95]Anthony McGill, interview with the author, June 8, 2022.

[96]Sara Ahmed, "How Not To Do Things with Words," *Wagadu: A Journal of Transnational Women's and Gender Studies* 16 (2016): 1–10.

[97]Ensuring anonymity in the early rounds of auditions entails a detailed and meticulous process. The setup for an orchestra audition that I witnessed involved rolling out and taping a carpet onto the stage (to minimize the possibility of detecting differences in gait), flanking the hallways with large black screens (with candidates and committee members entering and exiting through different entrances), and placing large screens on the stage or audience. Candidates cannot speak during their audition. Musicians have told me that they dare not cough or even clear their throat during an audition.

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> exactly with them in orchestras. It's like a team that needs to function. But inherently in that same breath, what if you don't like the person that got the job and you're on the tenure committee. Then that's going to negatively affect the result of that tenure vote.[98]

His words echo those of Elayne Jones, who reflected that "getting the job is one thing but staying there is a problem." It resonates with the testimony of Ortiz Walton, whose experiences at the Boston Symphony led him to leave the classical music field entirely. McGill describes the empowerment he has gained learning about the struggles and resilience upon which he and other Black musicians are building—a history notably absent in his music training. As he puts it, "where do you get confidence? Sometimes it's from the legacy that came before you."[99]

McGill, along with Afa Dworkin (President of Sphinx, an organization dedicated to developing Black and Latinx talent in classical music), called for a "reimagined approach that may offer orchestras a passport toward community citizenship."[100] Within this new framework, assessing the "greatness" of an orchestral musician could involve criteria beyond what an audition, screened or otherwise, can measure. For if the goal of an orchestra entails more than just playing music at a high level, but also engaging with and reflecting the community it serves, then other skills might be relevant. Sprott echoed that sentiment, urging orchestras to reflect more capaciously about their core mission: "The first thing that each orchestra should do is reimagine what we want our orchestra to be about. What do we want our membership to look like? What does our community look like? And what different ways can an orchestra serve a community? And then those things would drive what the job description and as a result, what the interview or audition process would look like."[101] He viewed simply debating the efficacy of screened auditions as limiting the scope of and imagination for transformative change.

The lawsuits from New York and San Francisco weaponized musical excellence as an apolitical entity, arguing that its sanctity required protection from societal charges of discrimination. Many of the Black classical musicians who testified in these lawsuits have since passed, most recently Elayne Jones in December 2022. We can honor their legacy by re-energizing our collective efforts to make visible and continue the work they began, narrating new stories and understandings about U.S. symphony orchestras and elite cultural institutions that begin at the intersectional starting point from which these Black musicians pursued their music making.

Competing interests. None.

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[98]McGill, interview with the author.
[99]McGill, interview with the author.
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