

2019

When Does Big Law Work?

Abraham Cable

UC Hastings College of the Law, cablea@uchastings.edu

Follow this and additional works at: https://repository.uchastings.edu/faculty_scholarship

Recommended Citation

Abraham Cable, *When Does Big Law Work?*, 102 *Marq. L. Rev.* 876 (2019).

Available at: https://repository.uchastings.edu/faculty_scholarship/1722

This Article is brought to you for free and open access by UC Hastings Scholarship Repository. It has been accepted for inclusion in Faculty Scholarship by an authorized administrator of UC Hastings Scholarship Repository. For more information, please contact wangangela@uchastings.edu.

WHEN DOES BIG LAW WORK?

ABRAHAM J.B. CABLE*

Law firms have grown from hundreds of lawyers to thousands of lawyers, and the conventional wisdom is that this trend fuels dissatisfaction among lawyers. This Article scrutinizes that conventional wisdom based on interviews with lawyers who joined large firms through law-firm mergers. These lawyers offer a valuable perspective on firm size because they made abrupt changes from small to large firms. Though some interviewees echoed the conventional wisdom, others suggested that larger firm size has limited or even positive effects on professional satisfaction. In one counter-narrative, large law firms are relatively diffuse organizations that have limited influence over individual lawyers. In another counter-narrative, large law firms helpfully insulate lawyers from the business risks of smaller firms. I offer a framework to explain these varied experiences. The framework highlights the importance of: seniority, practice-area compatibility, local office attributes, and the manner and rate of firm growth. These new perspectives can inform future research and improve advice to law students and lawyers.

I. INTRODUCTION	876
II. EXISTING LITERATURE	879
A. The Tournament Model	879
B. Survey Research.....	881
C. Historical Critiques.	883
D. The Synthesis (Conventional Wisdom)	885
E. Gaps in the Literature	887
III. THE STUDY.....	888
A. Study Design.....	889
B. Primary Observation: Three Narratives	891
1. Dissatisfaction: Confirming Conventional Wisdom.....	892
a. Small-Firm Nostalgia.....	892
b. The Move to Big Law	894
2. Indifference: A Profession of Lawyers, Not Firms.....	897
3. Contentment: Safety in Numbers.....	899
a. Large Firms as Risk Pooling.....	899
b. Outsourcing Firm Administration.....	902
C. An Explanatory Framework	903
1. Seniority.....	904

2. Practice-Area Compatibility	906
3. Importance of the Local Office.....	907
4. Growing Pains.....	909
IV. IMPLICATIONS & NEXT STEPS.....	910
A. Future Research.....	910
B. Career Advice.....	911
V. CONCLUSION	913

I. INTRODUCTION

Every year, thousands of lawyers find their practices transplanted to new firms through law-firm mergers.¹ In many cases, the change in practice environment is abrupt and dramatic—a lawyer formerly practicing with fewer than ten other lawyers must navigate a national or international firm of thousands of lawyers.² Some lawyers chose this change in venue as leaders of the acquired firm, but other lawyers had the decision made for them.³ In either event, these lawyers practiced in a small firm one day and in a large firm the next, with career goals, practice area, client base, and professional background held constant.

These mergers are part of a broader trend in the legal profession. Large national law firms (sometimes referred to as “big law”) are getting considerably bigger. When today’s senior partners graduated from law school, a large firm might have consisted of 100 lawyers operating primarily in a local market.⁴ Today, nearly a quarter of Am Law 100 firms have over 1,000 lawyers, with

* Professor of Law, University of California Hastings College of the Law. I received valuable comments on early drafts from Ben Depoorter, Dave Owen, Morris Ratner, Joan C. Williams, and participants in the UC Hastings 10-10 Faculty Workshops.

1. See ALTMAN WEIL MERGERLINE, 2017 MERGERS & ACQUISITIONS (2017) (reporting 102 acquisitions with an average firm size of 27 lawyers in 2017).

2. *E.g.*, *infra* Section III.A (providing an example of a merger between a 35-lawyer firm and a 1,000-lawyer firm).

3. *E.g.*, *infra* note 175 (citing examples of associates who chose small firms intentionally and then learned their firms would merge with larger firms).

4. See David L. Chambers, *Satisfaction in the Practice of Law: Findings from a Long-Term Study of Attorneys’ Careers* 1 (Univ. of Mich., Pub. Law Research Paper No. 330, 2013). Chambers writes:

[In the late 1960s,] the overwhelming majority of Michigan graduates and law-school graduates in general began their careers in solo practice or in very small law firms. Few firms with more than one hundred lawyers even existed. [Forty years later], more than half of Michigan students started their careers in firms of more than two hundred, and many started in firms of over a thousand.

Id.

six firms reporting over 2,000 lawyers.⁵ Researchers consider this consolidation a “transformative change” in the legal profession.⁶

The conventional wisdom within the legal academy is that the change is for the worse. The large-firm environment has been associated with both professional dissatisfaction and an erosion of important professional values, and the prevailing advice to lawyers and law students is that they ought to avoid or seek to change big law to the extent possible.⁷ A heavily cited article appearing in the *Vanderbilt Law Review* puts it plainly by advising graduating law students to: “Seek alternatives to private practice—and especially to big firm practice.”⁸

But, what if law firm scale does not matter much to individual lawyers? What if the legal profession is, at bottom, a profession of individual lawyers and not firms (reminiscent of the old adage that clients “hire lawyers not firms”⁹)? Perhaps more provocatively, what if large firms actually mitigate pressures of modern law practice? In a world of intense competition and empowered clients, smaller firms might face severe business risks and fundamental questions of viability.

In this Article, I probe the conventional wisdom by collecting testimonies from lawyers who joined large firms through law-firm mergers. What I found was that acquired lawyers had experiences that were far more varied than the conventional wisdom would suggest. While some lawyers essentially confirmed the existing literature’s apprehension about big law—reporting intense focus on profitability, a loss of professional autonomy, and a difficult environment for professional development¹⁰—at least two counter-narratives emerged. In one counter-narrative, firm size did not profoundly affect lawyers. Law firms appeared as diffuse organizations, and individual lawyers or offices remained the crucial power centers of the firm.¹¹ In another counter-narrative, firm setting did matter, but the move to a larger firm *alleviated* professional

5. See *The Am Law 100 at a Glance*, AM. LAW., May 2017, at 58, 58–64.

6. See Terry K. Adams & David L. Chambers, *Starting Out: Changing Patterns of First Jobs for Michigan Law School Graduates*, L. QUADRANGLE, Fall 2009, at 23, 25–26.

7. See *infra* Section II (reviewing the existing literature on law firm size).

8. Patrick J. Schiltz, *On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession*, 52 VAND. L. REV. 871, 938 (1999).

9. Mark Herrmann, *Inside Straight: Hiring Law Firms or Lawyers?*, ABOVE THE LAW (Apr. 21, 2011, 11:18 AM), <http://abovethelaw.com/2011/04/inside-straight-hiring-law-firms-or-lawyers/> [<https://perma.cc/GH45-HXHY>] (“At every conference, and in many articles, people pose the question: ‘As a client, do you hire law firms, or do you hire lawyers?’ The clients dutifully respond that they hire lawyers, not firms.”).

10. See *infra* Sections III.B.1 and III.C.1.

11. See *infra* Section III.B.2.

anxieties. Large law firms helped lawyers pool business risk and relieved lawyers of burdensome administrative obligations.¹²

I offer four hypotheses to explain these disparate experiences. First, interviewees suggested that seniority matters. The challenges of large-firm settings—including a heavy reliance on economic metrics of performance—affect young lawyers more than they affect established lawyers.¹³ Second, the economics of individual practice areas greatly influence compatibility with large firms. Some practice areas benefit substantially from national-firm resources, while other practice areas are more localized and clash with firm economics.¹⁴ Third, interviewees suggested that attributes of the local office matter. With some firms failing to bridge geographic divides between offices, the size, culture, and influence of local offices help define lawyers' experiences.¹⁵ Fourth, extraordinary firm growth—through mergers or lateral hiring—places stress on firms that may adversely affect lawyers' professional experiences.¹⁶

This Article is an exploratory study. It is an effort to generate “grounded theory” that can improve on a conventional wisdom prone to simplistic interpretations of existing evidence.¹⁷ The hypotheses I offer will require confirmation in future research, so I offer suggestions to guide those efforts.¹⁸ In the meantime, law students and lawyers must make career decisions based on the best information currently available, so I also offer suggestions for putting this Article's observations to practical use.¹⁹

This Article proceeds in three sections. In Section II, I provide an overview of existing literature relating to law-firm size, and I identify gaps in existing theory. In Section III, I describe my methodology, my primary observation (including some support for the conventional wisdom but also two prominent counter-narratives), and my hypotheses for explaining the varied outcomes. In Section IV, I consider how the interviews might guide future research and improve career counseling.

12. See *infra* Section III.B.3.

13. See *infra* Section III.C.1 (asserting that junior lawyers are especially affected by negative aspects of the large-firm environment).

14. See *infra* Section III.C.2 (identifying practice areas that are less compatible with large firms).

15. See *infra* Section III.C.3 (discussing the difficulties of managing lawyers remotely).

16. See *infra* Section III.C.4 (discussing integration problems at rapidly expanding firms).

17. See *infra* text accompanying notes 99–103 (distinguishing exploratory research methods from confirmatory research methods).

18. See *infra* Section IV.A (providing recommendations for future survey and qualitative research).

19. See *infra* Section IV.B (making recommendations for career counseling).

II. EXISTING LITERATURE

At least three distinct literatures grapple with the effects of firm size on lawyers: (1) economic analyses of law-firm growth, (2) survey research measuring professional satisfaction across practice settings, and (3) historical critiques of the law-firm environment. These three literatures have been synthesized into a conventional wisdom that takes a dim view of large law firms. In this section, I briefly summarize key works²⁰ and identify theoretical gaps that this Article seeks to fill.

A. *The Tournament Model*

Legal scholarship includes a prominent economic model of law firm size. Specifically, Mark Galanter and Thomas Palay observe the steady growth of a “tournament” model of law firm organization in *Tournament of Lawyers: The Transformation of the Big Law Firm* published in 1991.²¹ Honed largely by New York law firms in the 1960s and 70s,²² this model is characterized by aggressive hiring of highly credentialed associates,²³ high starting salaries,²⁴ a high proportion of associates to partners,²⁵ and a difficult but credible path to partnership.²⁶

20. I have chosen the “key works” based largely on the extent to which they focus on the factors relevant to this Article: firm size and satisfaction. By choosing to discuss these works, I do not mean to deny the importance of other contributions to the literature analyzing law firms. For insightful sociological perspectives (that influenced the authors I discuss below), see generally ROBERT L. NELSON, *PARTNERS WITH POWER, THE SOCIAL TRANSFORMATION OF THE LARGE LAW FIRM* (1988) and JOHN P. HEINZ & EDWARD O. LAUMANN, *CHICAGO LAWYERS: THE SOCIAL STRUCTURE OF THE BAR* (1982). For an influential economic analysis of large firms, see generally Ronald J. Gilson & Robert H. Mnookin, *Sharing Among the Human Capitalists: An Economic Inquiry into the Corporate Law Firm and How Partners Split Profits*, 37 *STAN. L. REV.* 313 (1985). For analysis of how the law-firm environment affects women and minorities in particular, see generally JOAN C. WILLIAMS & VETA T. RICHARDSON, *NEW MILLENNIUM, SAME GLASS CEILING? THE IMPACT OF LAW FIRM COMPENSATION SYSTEMS ON WOMEN* 10 (2010), at <https://worklifelaw.org/publications/SameGlassCeiling.pdf> [<https://perma.cc/8UG6-RS8U>] (considering how various compensation systems affect female partners) and David B. Wilkins, *Partners Without Power? A Preliminary Look at Black Partners in Corporate Law Firms*, 2 *J. INST. FOR STUDY LEGAL ETHICS* 15 (1999).

21. See MARC GALANTER & THOMAS PALAY, *TOURNAMENT OF LAWYERS: THE TRANSFORMATION OF THE BIG LAW FIRM* 3 (1991).

22. Though the tournament model has its roots in earlier periods, Galanter and Palay suggest that its features became most recognizable when, in 1968, the firm of Cravath, Swaine, and Moore broke an implicit agreement among firms to pay associates a “going rate.” See *id.* at 55–57.

23. See *id.* (describing hiring practices).

24. See *id.* (describing starting salaries).

25. See *id.* at 59–62 (describing the concept of “leverage”).

26. See *id.* at 62–66 (describing promotion and partnership at large firms).

According to Galanter and Palay, the logic of the tournament model compels growth.²⁷ By their account, law-firm organization is best explained as an attempt to maximize the human capital of individual equity partners.²⁸ To achieve this goal, a partner's human capital must be paired with multiple associates.²⁹ Attracting sufficient numbers of associates requires minting sufficient numbers of new partners each year so that associates will stay in the "tournament."³⁰ Completing the pyramid scheme, each of these newly minted partners must then be paired with multiple new associates.³¹

In a 2008 refresh of the original thesis, Galanter teams with William Henderson to update the model to account for changes in law firm organization over recent decades.³² The update is in part a victory lap in confirming that the predicted growth of partnerships occurred.³³ It is also a refinement of the tournament model. Acknowledging that increasing numbers of lawyers occupy non-equity (but senior) positions in firms, Galanter and Henderson nonetheless maintain that the "equity core" of the original tournament model persists.³⁴

The thrust of the tournament model is descriptive rather than normative. Its primary contribution has been predicting big law's growth trajectory and providing a common vocabulary for describing law firm organization.³⁵

But Galanter and Palay do take a moment to express concern about the effects of law-firm growth on the profession. In the introduction to *Tournament of Lawyers* they warn:

Growth changes the nature of the firm. Informality recedes; collegiality gives way; notions of public service and independence are marginalized; the imperative of growth collides with notions of dignified passivity in obtaining business. Eventually, the firm faces the necessity of either reorganizing to support ever-larger increments of growth or

27. *See id.* at 77–120 (attempting to explain and model the growth of large firms).

28. *See id.* at 88–93 (asserting that law firms are organized principally to share human capital).

29. *See id.* at 92–93 (discussing how lawyers share "surplus" human capital).

30. *See id.* at 106 ("The integrity of the firm's compensation package depends upon the associate's ability to observe the promotion percentage.").

31. *See id.* at 107.

32. *See generally* Marc Galanter & William Henderson, *The Elastic Tournament: A Second Transformation of the Big Law Firm*, 60 STAN. L. REV. 1867 (2008) (describing the original tournament model and recent changes).

33. *See id.* at 1867 ("[O]ur findings corroborate some of the core theoretical insights of *Tournament of Lawyers*.")

34. *See id.* at 1882–1906 (describing an updated "elastic tournament model").

35. *See id.* at 1871 n.14 (citing a "lively and provocative literature" based on the tournament model).

reorganizing to suppress growth. Either way, collegiality, independence, and public service are likely to be jeopardized.³⁶

Similarly, Galanter and Henderson's 2008 offering is mostly a descriptive update, but also expresses concern about the effects of continued law-firm growth on minority lawyers, female lawyers, and millennials.³⁷

B. Survey Research

Law schools, bar groups, and other researchers have surveyed lawyers regarding the effects of practice setting on job satisfaction. A 2011 article by Jerome Organ reviews more than forty such studies of varying quality.³⁸

According to Organ, these studies show in the aggregate that “[lawyers] in the public sector and in public interest work generally [report] greater satisfaction than those in private practice, *particularly those in larger firms.*”³⁹ Organ cited four studies published in 2000 or later in support of the proposition.⁴⁰ Two of the studies showed lower levels of satisfaction for lawyers in private practice than for lawyers in other practice settings, but without further differentiating between large and small firms.⁴¹ The third was

36. GALANTER & PALAY, *supra* note 21, at 3.

37. *See* Galanter & Henderson, *supra* note 32, at 1906–28.

38. *See generally* Jerome M. Organ, *What Do We Know About the Satisfaction/Dissatisfaction of Lawyers? A Meta-Analysis of Research on Lawyer Satisfaction and Well-Being*, 8 U. ST. THOMAS L.J. 225 (2011) (analyzing lawyer satisfaction surveys conducted from 1984–2010).

39. *See id.* at 273 (emphasis added).

40. *See id.* at 265 nn.204–05. In the interest of brevity, I have not summarized pre-2000 surveys discussed by Organ.

41. First, Organ cited a study of University of Michigan Law School graduates published in 2000. *See id.* at 265 n.204. The study focused primarily on minority graduates but also included information on non-minority graduates. *See* Richard O. Lempert et al., *Michigan's Minority Graduates in Practice: The River Runs Through Law School*, 25 L. & SOC. INQUIRY 395, 444–45 (2000). In general, those in private practice were less likely to report that they were satisfied with their jobs than attorneys in “government” or “business.” *See id.* For example, among 1990s graduates, 63.2% of minority lawyers and 71.7% of white lawyers in private practice reported being satisfied with their jobs, while 85.4% of minority lawyers and 87% of white lawyers in government jobs reported being satisfied with their jobs. *See id.* Second, Organ cited a study that focused largely on the relationship between personality type and job satisfaction but also collected data on legal specialization and firm size. *See* Organ, *supra* note 38, at 265 n.204. Across all job settings (military, legal aid, public defender, legal department, government, private practice, judicial clerkship, and missing cases), respondents reported satisfaction levels ranging from 22 to 18.73. *See* Lawrence R. Richard, *Psychological Type and Job Satisfaction Among Practicing Lawyers in the United States*, 29 CAP. U. L. REV. 979, 1058 (2002). Lawyers in private practice reported an average score of 18.74, towards the bottom across all job settings. *See id.*

a study of Yale Law School graduates published in 2008.⁴² On a seven-point scale, lawyers working in small or medium size firms reported an average satisfaction score of 4.47 and lawyers in large firms reported an average satisfaction score of 4.05.⁴³ In contrast, respondents working in the categories of judiciary, academic, government, and public interest reported average satisfaction scores of 5.79 or higher.⁴⁴ Fourth, Organ cited the After the JD project, a nationwide longitudinal study of lawyers who entered the profession in 2000.⁴⁵ That study asked respondents about both an overall measure of satisfaction and specific “dimensions” of satisfaction.⁴⁶ Reports from that study published in 2004 and 2008 showed that large firm lawyers were the least satisfied among respondents on a dimension of satisfaction referred to as “job setting.”⁴⁷

While these results sound indicting of large law firms, there is some ambiguity in these findings. In the After the JD study, lawyers practicing in large firms may have averaged lower scores on the job-setting dimension, but those lawyers averaged higher scores than small-firm lawyers on other dimensions.⁴⁸ Importantly, respondents in large firms reported higher levels of *overall* satisfaction than small-firm lawyers (i.e., they were more likely than lawyers in smaller firms to report being extremely or moderately satisfied with their decisions to become lawyers).⁴⁹

42. See generally Deborah J. Cantrell et al., *Walking the Path of the Law: How Law Graduates Navigate Career Choices and Tolerate Jobs that Fail to Meet Expectations*, 14 CARDOZO J.L. & GENDER 267 (2008).

43. See *id.* at 298.

44. See *id.*

45. See Organ, *supra* note 38, at 249 n.123.

46. See RONIT DINOVTZER ET AL., NALP FOUND. FOR LAW CAREER RESEARCH & EDUC. & AM. BAR FOUND., AFTER THE JD: FIRST RESULTS OF A NATIONAL STUDY OF LEGAL CAREERS 50 (2004) [hereinafter AFTER THE JD I].

47. See *id.*; RONIT DINOVTZER ET AL., NALP FOUND. FOR LAW CAREER RESEARCH & EDUC. & AM. BAR FOUND., AFTER THE JD II: SECOND RESULTS FROM A NATIONAL STUDY OF LEGAL CAREERS 50 (2009) [hereinafter AFTER THE JD II].

48. In *After the JD I*, large-firm lawyers reported higher levels of satisfaction on the “power track” and “social index” measures, but lower levels of satisfaction on the “job setting” and “substance of work” measures. See AFTER THE JD I, *supra* note 46, at 50. In *After the JD II*, larger-firm lawyers reported higher levels of satisfaction on the “power track,” “social index,” and “work substance” measures and lower levels of satisfaction on the “job setting” measure. AFTER THE JD II, *supra* note 47, at 50.

49. See RONIT DINOVTZER ET AL., NALP FOUND. FOR LAW CAREER RESEARCH & EDUC. & AM. BAR FOUND., AFTER THE JD III: THIRD RESULTS FROM A NATIONAL STUDY OF LEGAL CAREERS 52 (2014) [hereinafter AFTER THE JD III].

Survey data reported since Organ's article has been similarly ambiguous. A study of Michigan Law School graduates published in 2013 reported that, among survey respondents who had practiced law for five years, "the very large firm lawyers were the least satisfied with their careers overall among all settings."⁵⁰ But the most recent report from the After the JD study, published in 2014, once again found that large-firm lawyers reported higher overall satisfaction than lawyers in smaller firms.⁵¹ In addition, a study of Indiana lawyers overseen by William Henderson and published in 2015 showed large-firm lawyers as more satisfied than small-firm lawyers across most dimensions of satisfaction, including the feeling that "young people should pursue a legal career" and that "work is professionally satisfying."⁵²

In short, the survey data does not definitively answer whether firm size is correlated with professional dissatisfaction, and it certainly does not tell us a compelling story of *how* firm size affects dissatisfaction.

C. Historical Critiques

Others make historical arguments that modern practice environments frustrate public-regarding ideals of the profession. Robert Gordon, for example, suggests that practice setting prevents corporate lawyers from serving the common good through civic service and participation in law-reform efforts.⁵³ According to Gordon, corporate lawyers once enjoyed relative independence from their corporate clients and used their positions to positively influence client conduct and engage in law-reform efforts.⁵⁴ Corporate attorneys, for example, served as architects of New Deal regulation.⁵⁵ Nineteenth century corporate lawyers regularly held high-profile and time-consuming civic posts.⁵⁶ Gordon suggests this ideal has eroded in part due to

50. See Chambers, *supra* note 4, at 24.

51. See AFTER THE JD III, *supra* note 49, at 52.

52. See William Henderson, *Practicing Law in Indiana: Breaking Down the Survey*, IND. LAW., Nov. 18, 2015, at 10.

53. See Robert W. Gordon, *The Independence of Lawyers*, 68 B.U. L. REV. 1, 48–66 (1988)

54. See *id.* (discussing historical and current conditions for lawyer independence).

55. See Robert W. Gordon, *Corporate Law Practice as a Public Calling*, 49 MD. L. REV. 255, 269–74 (1990) (describing corporate lawyers who participated in Progressive reform efforts while also serving as corporate lawyers).

56. See Gordon, *supra* note 53, at 59 ("Until the late nineteenth century, private practice was for most lawyers simply not a full time occupation, but rather an adjunct to participation in politics and advocacy of public causes.").

“the current conditions of practice.”⁵⁷ The result, according to Gordon, is a loss of stature and purpose that affects the profession’s morale.⁵⁸

Gordon’s analysis is replete with references to “big” and “large” firms.⁵⁹ But he does not squarely attribute professional decline to firm size in particular. Instead, he points to a cluster of attributes commonly associated with, but not necessarily exclusive to, big law: billable hours requirements,⁶⁰ business development expectations,⁶¹ requirements for promotion to partner,⁶² attitudes toward pro bono work,⁶³ high starting associate salaries,⁶⁴ and hyper-specialization.⁶⁵

Similarly, Anthony Kronman argues in *The Lost Lawyer: Failing Ideals of the Legal Profession* that lawyers increasingly fall short of a “lawyer-statesman” ideal that once guided the profession, causing a “crisis of morale.”⁶⁶ Kronman identifies a wide range of factors to explain the profession’s asserted demise, including changes in legal education, changes in the court system, and “the explosive growth of the country’s leading law firms.”⁶⁷

Kronman, more than Gordon, explicitly discusses increasing firm size. He includes a lengthy summary of the tournament model and recounts evidence gathered by Galanter and Palay.⁶⁸ But there is ultimately some question regarding how central firm size, in particular, is to his analysis. He explains his focus on large firms in largely practical terms—they have outsized influence on the profession as standard bearers.⁶⁹ And many developments emphasized by Kronman—such as specialization,⁷⁰ lawyer mobility,⁷¹ growing corporate

57. Gordon, *supra* note 55, at 256.

58. See Gordon, *supra* note 53, at 48–66; Gordon, *supra* note 55, at 270–74.

59. See Gordon, *supra* note 53, at 51–63.

60. See *id.* at 60.

61. See *id.*

62. See *id.*

63. See *id.* at 60–61.

64. See *id.* at 60.

65. See Gordon, *supra* note 55, at 256; Gordon, *supra* note 53, at 60–63.

66. ANTHONY T. KRONMAN, *THE LOST LAWYER: FAILING IDEALS OF THE LEGAL PROFESSION* 2–3 (1993).

67. *Id.* at 4.

68. See *id.* at 273–83.

69. See *id.* at 272–73.

70. See *id.* at 276–77.

71. See *id.* at 277–78.

legal departments,⁷² and long workdays⁷³—may or may not be products of increasing firm size.

D. *The Synthesis (Conventional Wisdom)*

There is a long history of hand wringing over the size of law firms. Galanter and Palay note that by the 1930s large firms were already pejoratively referred to as “law factories” by prominent academics and jurists.⁷⁴

In contemporary scholarship, Patrick Schiltz most sharply and explicitly associates professional decline and law-firm size. His 1999 essay in the *Vanderbilt Law Review* draws on the literatures described above⁷⁵ and his personal experience to suggest that the large-firm environment makes new lawyers both “unhappy” and “unethical.”⁷⁶ Schiltz warns graduating law students:

You may do better than I did, but don't count on it. No matter how pure your intentions—no matter how firm your resolve—when you go [to] work at a big firm, the culture will seep in. I grew up in a lower middle class neighborhood. I literally never met anyone who could be characterized as wealthy. I almost never talked about money or thought about money. That all changed when I started practicing law, despite my best intentions. Slowly, imperceptibly, the things that I cared about and the way that I thought about others and the way that I thought about myself changed. I got sucked into playing the game, and even today, three years after leaving the big firm, I still find myself playing the game at times. If you go to a big firm intending to stay for only a couple years, the job you choose may be temporary, but the way it affects you may not.⁷⁷

72. *See id.* at 283–91.

73. *See id.* at 300–14.

74. *See* GALANTER & PALAY, *supra* note 21, at 16–17 (referring to statements by A. A. Berle and Harlan Fiske Stone).

75. *See* Schiltz, *supra* note 8, at 872. The influence of the literatures described above on Schiltz are clear by scanning Schiltz's footnotes. Schiltz cites Galanter and Palay at notes 1, 120, 136, 171, 184, 188, 193, 211, 258, 293, 305, 343, 346, 369, and 370. He cites Kronman at notes 127, 172, 193, and 303. He cites Gordon at notes 125, 232, 247, 251, 253, 256, 269, 274, 297, and 384. He also makes extensive use of survey research, though it is of an older generation than the particular studies I describe above. *See id.* at 881–88. In a response to Schiltz's article, Galanter and Palay expressed skepticism about Schiltz's analysis. *See generally* Marc S. Galanter & Thomas M. Palay, *Large Law Firm Misery: It's the Tournament, Not the Money*, 52 VAND. L. REV. 953 (1999).

76. *See* Schiltz, *supra* note 8, at 872.

77. *Id.* at 938.

For Schiltz, the implications are straightforward: law students should avoid large firms and seek smaller firms in smaller markets.⁷⁸

Schiltz's critique of large firms is more strident and direct than the literatures from which it draws. As discussed above, the tournament model is essentially descriptive.⁷⁹ The survey research is, on the whole, ambiguous.⁸⁰ The historical critiques are somewhat hazy on whether the alleged professional decline is a large-firm problem in particular.⁸¹

In fact, on a close reading of Schiltz's work, one can find numerous qualifications to his strong rhetoric. He acknowledges that some small firms act like large firms and that small firms have some inherent drawbacks.⁸² He encourages students to think about differences among large firms because they are not all the same.⁸³ He recognizes some ambiguity in the survey data.⁸⁴ But in the end, he is unapologetic about trying to make a strong and decisive point (he uses the word "hyperbole"),⁸⁵ even if his sound bites obscure his more nuanced moments.

This sharp critique of large firms has especially resonated with legal scholars and other commentators. In his thorough review of lawyer-satisfaction literature, Jerome Organ questions Schiltz's evidence but nonetheless concludes that "the Schiltz article came to represent . . . the 'conventional wisdom' or the 'accepted truth' about the dissatisfaction of lawyers—particularly big-firm lawyers—that was already manifest in the media in the 1990s and has held sway for the last decade."⁸⁶

Schiltz's critique has been cited hundreds of times in law reviews.⁸⁷ It continues to be cited and reproduced in legal ethics texts assigned to law

78. See *id.* at 940–41.

79. See *supra* Section II.A.

80. See *supra* Section II.B.

81. See *supra* Section II.C.

82. See Schiltz, *supra* note 8, at 940.

83. See *id.* at 941 ("[B]ig firms are not alike. Some are better than others.").

84. See Patrick J. Schiltz, *Provoking Introspection: A Reply to Galanter & Palay, Hull, Kelly, Lesnick, McLaughlin, Pepper, and Traynor*, 52 VAND. L. REV. 1033, 1046–50 (1999) (responding to critiques by Kathleen Hull in a symposium issue dedicated to the original Schiltz piece).

85. See *id.* at 1035 ("In order to engage the reader's attention and emotions . . . I have occasionally used sarcasm and slang and humor and personal experience and, yes, hyperbole.").

86. Organ, *supra* note 38, at 239–44 (describing persuasive critiques of the Schiltz article by Kathleen Hull); see also John S. Dzienkowski, *The Future of Big Law: Alternative Legal Service Providers to Corporate Clients*, 82 FORDHAM L. REV. 2995, 2997 n.13 (2014) (describing Schiltz's piece as "one of the leading articles on dissatisfaction of lawyers working in large firms").

87. See Organ, *supra* note 38, at 244 n.91 (reporting that the article had been cited over 250 times as of December 2010).

students in their mandatory legal ethics courses.⁸⁸ And it is made available to lawyers on websites of bar organizations and other lawyer-support groups.⁸⁹ In short, if a participant in the legal community encounters the literature on lawyer satisfaction and firm size, it is likely Schiltz's strong rhetoric will be front and center.

E. Gaps in the Literature

Despite some important contributions noted above, the literature as a whole has significant gaps regarding how firm size affects lawyer satisfaction.

First, the tournament model and historical critiques lack comparators. Neither discusses small or medium firms at any length, and legal scholarship in general has little to say about small or medium firms.⁹⁰ A focus on large firms is understandable based on their influence and visibility, but it obfuscates whether the dynamics those scholars observe are functions of firm size or more general conditions of practice such as the emergence of professionalized management, increasing multijurisdictional competition, and increasing sophistication of corporate clients in purchasing legal services. Moreover, even if many features of today's legal profession do derive from increasing firm size, it is difficult to assess the full implications for lawyers without some sense of smaller-firm alternatives and their drawbacks.

Second, existing research omits important variation among firms and lawyers. Realistically, firms are not defined solely by size and presumably differ in culture, management system, specialization, and economic arrangements. Lawyers also differ—not only in seniority and basic demographics—but also by practice-area expertise. Litigators may share little in common with transactional lawyers, and there is presumably substantial

88. See, e.g., NATHAN M. CRYSTAL, *PROFESSIONAL RESPONSIBILITY: PROBLEMS OF PRACTICE AND THE PROFESSION* 619 (3d ed. 2004); RICHARD ZITRIN, CAROL M. LANGFORD & LIZ RYAN COLE, *LEGAL ETHICS IN THE PRACTICE OF LAW* 74–79 (4th ed. 2013).

89. See, e.g., *Professionalism & Ethics*, COLO. ATT'Y MENTORING PROGRAM, <http://coloradomentoring.org/mentoring-resources/professionalism-ethics/> [https://perma.cc/Q36U-ZUS5] (last visited July 30, 2018); Vartges Saroyan, *Should You Go to Law School?*, AM. B. ASS'N, https://www.americanbar.org/groups/young_lawyers/publications/tyl/topics/mentoring/should_you_go_to_law_school.html [https://perma.cc/F5U2-BGT6] (last visited July 30, 2018).

90. For an empirical study focusing on ethical considerations at small firms, see generally Leslie C. Levin, *The Ethical World of Solo and Small Law Firm Practitioners*, 41 HOUS. L. REV. 309 (2004).

variation within those broad categories as well.⁹¹ Yet the existing literature rarely focuses on these differences among firms and lawyers.⁹²

For Galanter, Palay, and Henderson, suppressing that variation is intentional. They purposefully created a model that accentuates similarities in firm structure.⁹³ Models, of course, are an important step in building theory. But models also gloss over nuance that should be re-introduced as research evolves.⁹⁴

In the survey literature, the rationale for omitting so much important variation is less obvious. Surveys crudely sort firms into simplistic categories such as “law firm (251+ lawyers).”⁹⁵ They rarely collect even basic information on practice-area expertise beyond “private practice.”⁹⁶

In sum, the relationship between firm size and professional satisfaction is under-theorized, despite a strong conventional wisdom. This Article seeks to address that gap.

III. THE STUDY

In this study, I probed the effects of law firm size by interviewing lawyers who transitioned from smaller firm settings to larger firm settings through law-firm mergers. In recent years, there have been a significant number of such

91. See Elizabeth Chambliss, *Measuring Law Firm Culture*, 52 *STUD. L., POL. & SOC'Y* 1, 10 (2010) (“[T]here are important differences between litigation and transactional work, as well as between different types of litigation and transactional work.”). Chambliss advocates for increased “firm-level data,” meaning thick descriptions of individual firms to understand how different groups of lawyers interact. *See id.* at 18.

92. For a qualitative study that focuses on a particular practice area (litigation), see generally Kimberly Kirkland, *Ethics in Large Law Firms: The Principle of Pragmatism*, 35 *U. MEM. L. REV.* 631 (2005) (studying how the large-firm setting affects the ethical consciousness of lawyers and focusing on litigators in particular).

93. See GALANTER & PALAY, *supra* note 21, at 1–2 (describing the choice to overlook variation among firms to provide a useful, if “blurry,” “portrait”). An alternative reading of Galanter and Palay is that they advance a “convergence thesis” that large firms are becoming increasingly alike. See Michael J. Kelly, *Thinking About the Business of Practicing Law*, 52 *VAND. L. REV.* 985, 986–87 (1999) (critiquing the convergence thesis).

94. A prominent example in legal scholarship is the rational actor model and subsequent refinement by the field of behavioral economics. See generally Christine Jolls et al., *A Behavioral Approach to Law and Economics*, 50 *STAN. L. REV.* 1471 (1998).

95. E.g., AFTER THE JD II, *supra* note 47, at 70 (classifying firms by lawyer count).

96. For example, only one of the surveys discussed in this Article sought even the most basic information about the types of work performed by lawyers or firms. See Richard, *supra* note 41 at 1055–58 (collecting data on lawyers’ substantive areas of specialization (e.g., real estate, litigation, etc.)).

mergers.⁹⁷ They are one way in which law firms expand into new markets and practice areas.

Lawyers who join large firms by mergers have a valuable perspective for several reasons. First, these lawyers have knowledge of both practice environments. Second, focusing on these lawyers helps isolate the issue of firm size. Lawyers in acquired firms presumably practice in areas similar to their larger-firm counterparts and for similar client bases,⁹⁸ so the absorption of these lawyers into a large firm by merger is akin to a natural experiment for testing the effect of firm size on similarly situated lawyers. Finally, some of these lawyers did not initiate the mergers (they may have been associates or not among the partners spearheading the merger). For this reason, they might not feel compelled to justify their career choices in the way that other large-firm lawyers might.

As reported more fully in Sections III.B & C below, the study produced several useful observations. A primary insight was that the experiences of lawyers in large firms are more varied than the conventional wisdom would suggest. Though some interviewees expressed sentiments consistent with the conventional wisdom, important counter-narratives with more neutral or positive views of the large-firm environment emerged. Building on this key insight, I hypothesize that seniority, practice-area compatibility, local-office attributes, and manner and rate of firm expansion are key drivers of satisfaction at large firms. Together, these hypotheses constitute a new framework for understanding the relationship between firm size and professional satisfaction.

A. Study Design

This is an exploratory study. The purpose of an exploratory study is to generate “grounded theory” with the understanding that any observations will require additional confirmation in future research.⁹⁹ Exploratory studies are distinguished from the confirmatory studies that constitute the bulk of empirical research.¹⁰⁰ Although it is important to be sensitive to methodological considerations in exploratory research, representativeness is often “less than perfect”¹⁰¹ and sample size may be smaller than one would expect in

97. See Jennifer Smith, *A Tough Case for Law Firm Mergers*, WALL ST. J., Apr. 13, 2014 (“There were 88 mergers of law firms in the U.S. last year—the most since legal consulting firm Altman Weil Inc. began tracking such deals in 2007.”).

98. Otherwise, they would not be candidates for acquisition by a large firm.

99. See ROBERT A. STEBBINS, *EXPLORATORY RESEARCH IN THE SOCIAL SCIENCES* 1–9 (2001) (defining exploratory research).

100. See *id.* at 9–12 (distinguishing exploratory research from confirmatory research).

101. *Id.* at 27.

confirmatory research.¹⁰² Exploratory studies are appropriate where existing theoretical frameworks do not exist, are in need of updating, or have substantial gaps.¹⁰³

In this study, I conducted semi-structured interviews with nineteen lawyers who described eleven unique mergers. The largest number of interviewees for a particular merger was five. I had a single interviewee for six of the mergers.

The acquired (small) firms ranged from seven to 200 lawyers. The acquiring (large) firms ranged from 500 to 1,200 lawyers. In each case, firm size at least tripled as a result of the merger. In most cases, the merger resulted in a much greater increase in firm size (from thirty-five to 1,000 lawyers, for example).

The mergers spanned a long time period. Although I had originally intended to limit the interviews to mergers occurring after 2008, I found it challenging to locate sufficient interview subjects within those parameters, as described further below. In the end, the earliest merger occurred in 2001 and the most recent merger occurred in 2016. About half of the mergers occurred before 2008 and about half in 2008 or later.

Eight of the interviewees were associates at the time of the merger. Eleven were partners at the time of the merger. Of the associates, three (just under half) remained at the combined firm at the time of the interview. Of the partners, seven (over half) remained at the combined firm at the time of the interview.

I located interview subjects by reviewing lists of mergers produced by law-firm consultants and asking social and professional acquaintances if they knew attorneys in the relevant firms.¹⁰⁴ I then asked each interviewee for referrals to other lawyers from the acquired firm (a “snowball” sampling technique).¹⁰⁵

It was more challenging than expected to locate willing interviewees in this manner. As a group, the potential interview subjects are busy professionals. In addition, the interviewees are still part of professional networks that include other members of the pre- and post-merger firms. This might have dissuaded some potential interviewees from “going on record” or making introductions for this study.

102. *See id.* at 30–41 (providing examples of exploratory studies with 12 to 60 interviews).

103. *See id.* at 9 (discussing when exploratory research is appropriate).

104. The consulting firm Altman Weil, Inc. publishes annual lists of law firm mergers. The lists are available at: ALTMAN WEIL MERGERLINE, <http://www.altmanweil.com/mergerline> [<https://perma.cc/XLN2-4AWK>] (last visited Mar. 11, 2019).

105. *See* ROBERT S. WEISS, LEARNING FROM STRANGERS: THE ART AND METHOD OF QUALITATIVE INTERVIEW STUDIES 25 (1994) (describing snowball sampling methods).

Every research method has weaknesses. In this case, the sample size was relatively small (though not exceptionally so for exploratory research)¹⁰⁶ and one can debate how representative the interviewees are of large-firm lawyers in general.

Regarding sample size, I felt that I reached a point of “theoretical saturation”¹⁰⁷ at nineteen interviews. At that point in the research, the themes that I report in the subsections below were sufficiently vivid for purposes of generating useful hypotheses.

I do not claim that the lawyers I interviewed are representative of the legal profession in general. Presumably there was something about them or their firms that someone perceived as especially compatible with large-firm practice. In a sense, that was the point of the research project—to seek out lawyers who were otherwise similarly situated to large-firm lawyers but who initially practiced in a different organizational setting. The interviewees are best viewed as representative of lawyers with practice profiles (credentials, clients, and practice area expertise) eligible for participation in large firms. Even within this population of potential large-firm lawyers, there is something distinctive about these lawyers—their integration into a firm by merger—that might set them apart.

In the end, I believe the methodological advantages of the study outweigh these concerns. If one wants to develop a theory of law firm size rooted in the experiences of actual lawyers, it makes sense to talk with lawyers with experience in both settings. These lawyers are best situated to disentangle firm size from broader industry factors, such as client demands, increasing competitiveness, and technological changes. In the end, future research will be required to confirm the generalizability of my hypotheses. In Section IV, I make recommendations to guide those future efforts.

B. Primary Observation: Three Narratives

I start by reporting a core observation: outcomes for these lawyers were more varied than the conventional wisdom suggests. At least three distinct narratives emerged from the interviews. They included (1) dissatisfaction as a result of the mergers stemming at least in part from the size of the combined firm, (2) relative indifference to law firm size, and (3) positive reactions to the merger stemming at least in part from the size of the combined firm.

106. See *supra* note 102 and accompanying text.

107. See STEBBINS, *supra* note 99, at 27 (quoting BARNEY G. GLASER & ANSELM L. STRAUSS, *THE DISCOVERY OF GROUNDED THEORY: STRATEGIES FOR QUALITATIVE RESEARCH* 60 (1967)). Theoretical saturation is the point at which a researcher believes no further useful categorizations can be made by collecting additional samples. See GLASER & STRAUSS, *supra*, at 60–62.

Although some lawyers fell squarely in one narrative, other lawyers displayed ambivalence and echoed more than one of these accounts. For example, a lawyer might report that his or her practice was helped or unaffected by the merger, but might also report that the merger was hard on other constituencies in ways that echo the conventional wisdom. Accordingly, the narratives are best understood as prominent themes rather than discrete categories into which individual lawyers can be neatly sorted.

1. Dissatisfaction: Confirming Conventional Wisdom

The statements of some lawyers essentially confirmed the conventional wisdom. These lawyers spoke nostalgically about their small-firm experience and less glowingly about their large firms. While some amount of post-merger dissatisfaction might be attributable to integration problems or general market trends, firm size also seemed to play a role.

a. Small-Firm Nostalgia

Having chosen to practice in small firms,¹⁰⁸ it may not be surprising that interviewees had favorable things to say about that practice setting. In particular, interviewees described their small firms as close-knit organizations with strong culture.

Several interviewees described their smaller firms as having a “family” atmosphere. The term implied strong personal relationships and consensus in firm administration. One interviewee explained that in a smaller firm “you know people” like “neighbors.” In this environment, “you didn’t do anything that really made anybody unhappy because you knew them and you knew their families.”¹⁰⁹ In some cases, even intricate and sensitive decisions, such as compensation, were administered collaboratively.¹¹⁰ In other cases, even associates were consulted about decisions formally reserved to partners, such as the decision to merge with a larger firm or take on a controversial client.¹¹¹

108. See *infra* note 175 and accompanying text (reporting that lawyers targeted smaller firms in which they felt they would obtain greater experience). But see Interview with Lawyer 8, at 5 (“I had interviewed with large firms throughout the interview process, and I had no problem whatsoever working in a large firm. I didn’t really have a preference.”).

109. Interview with Lawyer 7, at 5.

110. See Interview with Lawyer 10, at 3 (describing a distinctive compensation system based on partner voting).

111. See Interview with Lawyer 13, at 4 (reporting that associates were asked to elect a representative to participate in merger due diligence and negotiations).

In this close-knit environment, smaller firms developed strong culture in the form of shared values and practices.¹¹² For example, multiple interviewees described their small firms as having a distinctively strong commitment to high professional standards. Interviewees reported that their smaller firms particularly valued elite academic credentials, such as prestigious judicial clerkships.¹¹³ These recruiting practices reflected a broader emphasis on intellectual achievement and high professional standards (being “good lawyers”).¹¹⁴

In some cases, this shared commitment to high professional standards was as important to the firm as profitability.¹¹⁵ One interviewee explained:

Virtually every one that was there had come from a top five or top 10 law school, was on law review, [had completed clerkships], top of their class. [They were] a bunch of eggheads in a way. [T]he partners really weren’t all that interested in making a lot of money which is odd in this day and age, but it was more like people who loved the law type of

112. The term “culture” can be hard to define when applied to a business organization. See John Coleman, *Six Components of a Great Corporate Culture*, HARV. BUS. REV. (May 6, 2013), <https://hbr.org/2013/05/six-components-of-culture> [<https://perma.cc/U8U4-QNL4>] (identifying the following six components of corporate culture: vision, values, practices, people, narrative, and place). I use the term to mean shared values and practices. For a more technical description of the concept of culture, see Chambliss, *supra* note 91, at 11–18.

113. See Interview with Lawyer 3, at 1 (“We had had many, for instance, US Supreme Court clerks.”); Interview with Lawyer 5, at 1 (“[W]e thought of ourselves as pretty elite; we had three or four or five court clerks and had a great esprit de corps.”); Interview with Lawyer 6, at 1 (“[The firm] attracted an unusually large number of former judicial law clerks.”); Interview with Lawyer 8, at 1 (“It recruited from what I would just call the ‘fanciest’ law schools and the top of the class. . . . [I]t would be very, very hard for somebody who didn’t have those credentials to work there.”); Interview with Lawyer 11, at 1 (describing the firm as “brainy” and reporting that it hired a lot of Supreme Court clerks).

114. Interview with Lawyer 1, at 1 (stating that lawyers at the firm cared about being “good lawyers”); Interview with Lawyer 7, at 1 (stating that everybody who was a “good lawyer” could make partner); Interview with Lawyer 8, at 2 (stating that the firm valued “[s]pending that extra 100 hours” to make the work product “ideal rather than something that’s just very good and done in an efficient way”); Interview with Lawyer 10, at 10 (stating that the firm valued doing interesting work and enjoying the practice of law).

115. Interview with Lawyer 1, at 1 (reporting that the firm was “filled with very intelligent people that cared about being amazing lawyers”); Interview with Lawyer 2, at 1 (“It had the Supreme Court clerks who worked there and stuff like that; they became partners there and that kind of helped set its tone a little bit.”); Interview with Lawyer 6, at 1-2 (“It was somewhat, I guess I’d say academic, and there was an unusually large number of people that would come there for a few years and then go into academia”); Interview with Lawyer 8, at 1 (“It had a reputations being very academic in nature. A lot of people would come to the firm intending to go into academics afterwards, and a lot of them in fact did that.”).

thing.¹¹⁶

Consistent with these priorities, some of the smaller firms invested heavily in associate training¹¹⁷ and evaluated associates holistically for promotion—focusing on overall development as a lawyer and quality of work product more than profitability metrics. For example, one interviewee stated that, when making partnership decisions at the smaller firm, “the true measure of your success was, are you invested in making this place better” and not “who works the most.”¹¹⁸

To be clear, the paragraphs above do not perfectly describe life at every, or any single, small firm. At a certain level of detail, firms had idiosyncratic founding visions, management structures, and business models. Moreover, interviewees ultimately identified offsetting disadvantages of small firms that I will develop in sections below. Nonetheless, a critical mass of interviewees identified the essential elements described above—a close-knit workplace with strong culture and shared values. And so this composite sketch of small-firm life can serve as one useful starting place for exploring the effects of increasing firm size.

b. The Move to Big Law

By some accounts, the favorable institutional features described above were diluted or absent after a merger. Though individual large firms varied in important ways, interviewees identified important common threads. Specifically, the personal connections between lawyers weakened in larger firms, resulting in less distinct culture and a greater emphasis on profitability metrics. These observations are consistent with the conventional wisdom.¹¹⁹

116. Interview with Lawyer 7, at 1; *see also* Interview with Lawyer 5, at 1 (describing the firm’s goal as “being the smartest people in the room”); Interview with Lawyer 8, at 1 (describing the firm’s commitment to elite credentials and stating it was “good for the overall level of intelligence of the firm,” but may not have led to lawyers who were “business savvy”).

117. *See* Interview with Lawyer 13, at 5 (“[I]t was very, very focused on training . . . some of the partners were more like professors in some ways than partners.”).

118. Interview with Lawyer 1, at 2; *see also* Interview with Lawyer 8, at 3 (describing partnership criteria based on “legal merit” and ability to service long-term clients, rather than on “the business case”); Interview with Lawyer 16, at 2 (explaining that partnership determination were made through “touch and feel” in a holistic review process rather than a metric-driven system).

119. *See* Galanter & Henderson, *supra* note 32, at 1898 (noting that geographically dispersed firms may have more full-time managers but, paradoxically, less ability to cultivate firm culture).

In contrast to the familial feel of small firms, many interviewees described larger firms as having more hierarchy and “bureaucracy.”¹²⁰ Interviewees explained that firm governance involved more layers of authority and more complex committee structures.¹²¹ Even basic reimbursement policies became more complex.¹²² The presence of non-lawyer personnel was another indication of more elaborate and professionalized management.¹²³

In some cases, this more hierarchical approach seemed to replace the shared values and culture found in smaller firms. Though some interviewees claimed that their larger and smaller firms had compatible cultures,¹²⁴ other interviewees struggled to identify any discernable culture at their larger firm.¹²⁵

Many interviewees described their larger firms as squarely focused on profitability. They used terms like “hard-nosed,”¹²⁶ “bottom-line driven,”¹²⁷ and “really . . . interested in the money.”¹²⁸ This focus manifested in partnership determinations and compensation decisions, which were based on

120. See Interview with Lawyer 1, at 11 (describing the larger firm as “more rules-based” and discussing forms and procedures); Interview with Lawyer 15, at 10 (“[C]learly at the larger firm there is more bureaucracy.”).

121. See Interview with Lawyer 2, at 15 (describing associate and affinity group committees); Interview with Lawyer 16, at 2 (reporting that the larger firm was not as “nimble” and had multiple levels of decision-making).

122. See Interview with Lawyer 15, at 10 (describing “more rigid” expense accounting and reimbursement policies).

123. See Interview with Lawyer 3, at 7 (describing “professional” staff, but suggesting they have limited decision-making authority); Interview with Lawyer 6, at 10–11 (“[A]t the old firm, there were very few non-lawyer management types, certainly not management types that had much impact on lawyers. At the new firm, there’s significantly more . . . non-practicing lawyers in management and administrative roles.”).

124. See Interview with Lawyer 2, at 11 (“[T]he culture does matter more than I would have guessed and it was actually a pretty decent fit.”); Interview with Lawyer 5, at 6 (“I don’t think there is a particular cultural difference now.”); Interview with Lawyer 10, at 9 (“I was very pleasantly surprised, you know, going to my first partner conference after the merger immediately, thinking these people are just like the people I’ve practiced law with all my life.”); Interview with Lawyer 14, at 9 (describing a “no a**hole policy” at the new firm and its positive effect on firm culture); Interview with Lawyer 16, at 2 (describing a larger firm as being a good culture firm even if some people had “sharp elbows”).

125. See Interview with Lawyer 13, at 11 (reporting that there was no distinct culture at the larger firm and that it “just seemed like a collection of people that did their own thing”).

126. Interview with Lawyer 2, at 11.

127. Interview with Lawyer 5, at 7.

128. Interview with Lawyer 7, at 8–9.

profitability metrics (such as billable hours and business development) rather than more holistic criteria.¹²⁹

It was not always clear whether negative attributes of larger firms were really a product of firm size and scope. More than one interviewee reported that smaller firms had also been changing over time. For example, interviewees noted that partnership tracks had lengthened at most firms, large or small.¹³⁰ Several interviewees attributed these changes to an increasingly competitive market, which I will discuss in more detail in subsections below.

But interviewees also explained how law firm size did explain some of the perceived differences post-merger. It can be hard for a large firm to reach consensus on what constitutes good performance, and to evaluate when the chosen criteria has been met, when decision-makers do not regularly work with the majority of the lawyers they are evaluating.¹³¹ As one interviewee put it, larger firms may “default” to profitability metrics because more subjective evaluations of performance become difficult absent personal interaction.¹³²

Given the circumstances described above, it may not be surprising that many interviewees reported high attrition rates after the merger.¹³³ While a certain number of departures would have been expected even without a merger, there was a sense among interviewees that the merger in particular was to blame for some lawyers leaving.¹³⁴

129. See *infra* text accompanying notes 132 and 172 (describing compensation and promotion policies at large firms).

130. See Interview with Lawyer 3, at 1 (reporting that partnership tracks had been lengthening at “almost all firms”); Interview with Lawyer 10, at 1–2 (reporting that partnership tracks had been getting longer); Interview with Lawyer 12, at 5 (reporting that the firm’s lengthening partnership track was “following a general trend in the market”).

131. For example, one interviewee explained how the shared values held by lawyers at his smaller firm had helped with compensation decisions:

[I]f people just worked for money, it would really be easy to motivate and manage people. There are other things that people work for and the compensation program has to reward and incentivize; the two primary goals. And if everyone shares those objectives, and again, not to say there weren’t outliers at times, but most people doing a conscientious job about it will do it correctly.

Interview with Lawyer 15, at 3.

132. See Interview with Lawyer 16, at 2.

133. See Interview with Lawyer 2, at 17 (describing an “exodus of people” at the time of the merger); Interview with Lawyer 8, at 5–6 (reporting that only two associates from the former firm remained at the larger firm); Interview with Lawyer 11, at 2 (reporting that, within two years of the merger, about half of the smaller firm lawyers left the big firm, and that all but five left by fifteen years after the merger); Interview with Lawyer 18, at 4 (stating that only about 5% of the smaller firm attorneys remained at the larger firm).

134. See Interview with Lawyer 5, at 4–5 (stating that a “terrific” group of senior associates left “because of the merger”).

In sum, a segment of the interviewees explained that merging with a larger firm negatively affected their professional lives, and the size of the firm was at least one reason why.

2. Indifference: A Profession of Lawyers, Not Firms

In contrast to the conventional wisdom, some interviewees suggested that organizational features of law firms did not greatly affect their professional lives.

First, some conditions of practice that are commonly associated with “big law” were present in smaller firms too. For example, most interviewees described working just as many hours, if not more, in their smaller firms. One interviewee explained, “[W]e worked pretty hard at the old firm and . . . sometimes there were folks who didn’t work at the same energy and they didn’t tend to stay around too long.”¹³⁵ In addition, most of these firms tried to remain competitive with starting salaries at national firms in order to recruit the most talented associates.¹³⁶ The smaller firms also served largely national client bases—going head to head with large firms to win business and impress clients.¹³⁷ Notably, very few interviewees expressed any desire for greater work-life balance—the smaller firms were not what might be called

135. Interview with Lawyer 15, at 3–4; *see also* Interview with Lawyer 2, at 7 (reporting that “[w]orkload was basically about the same” at the smaller and larger firms); Interview with Lawyer 10, at 4 (“[M]ost people were billing over 2,000 hours and some were probably billing more like 2,800 hours.”); Interview with Lawyer 13, at 2 (“People worked really hard, I mean it wasn’t uncommon for people to bill 2,200 to 2,400 hours or more a year.”); Interview with Lawyer 14, at 3 (“[T]he workload of the old firm was sort of consistent with what I would find elsewhere.”).

136. *See* Interview with Lawyer 2, at 6 (reporting that the smaller firm partners tried to match larger firm associate compensation to maintain themselves as “heavy hitters”); Interview with Lawyer 4, at 2 (reporting that compensation was “top of market”); Interview with Lawyer 13, at 2 (reporting that associate compensation was “always the same as the big firm level and in fact for a while . . . it was actually a little bit higher”); Interview with Lawyer 14, at 2 (reporting that “compensation was competitive as far as I could tell”). Despite these competitive base salaries, some interviewees did report lower annual bonus opportunities at their smaller firms. *See* Interview with Lawyer 2, at 6; Interview with Lawyer 4, at 2.

137. *See* Interview with Lawyer 4, at 1 (describing “a relatively small firm doing big, big firm work”); Interview with Lawyer 6, at 1 (reporting that the smaller firm had “almost exclusively national clients” and not “a whole lot of \$500,000-type disputes”); Interview with Lawyer 10, at 2 (describing national clients); Interview with Lawyer 13, at 1 (describing the smaller firm’s matters as “high-stakes IP and also antitrust litigation”); Interview with Lawyer 15, at 4 (reporting that the firm’s litigation department had “national and international clients”).

“lifestyle firms.”¹³⁸ These lawyers were primarily interested in working on “the most interesting, most important, most demanding cases.”¹³⁹

Second, interviewees described some large firms as relatively weak or diffuse organizations. For example, interviewees stated that some large firms mostly failed in their efforts to foster interoffice staffing and cross-selling. Though proponents of the mergers often cited such inter-office cooperation as a major benefit of merging,¹⁴⁰ individual lawyers’ workflows remained largely siloed in local offices. As one lawyer explained:

[Y]ou had partners from the old firm who continued to run it like the old firm and didn’t want to have cross-office staffing because they didn’t know X, Y, Z associate from D.C. or New York . . . and had no way to tell if they were good or not and didn’t really want to work with them.¹⁴¹

With formal managers having limited ability to influence individual lawyer activities,¹⁴² individual rainmakers continued to be the firms’ real centers of power.¹⁴³ As one interviewee put it, the result was a collection of local “fiefdoms” rather than a fully integrated firm.¹⁴⁴

Perhaps it should not be surprising that law-firm setting plays a relatively minor role for some lawyers. In economic jargon, hierarchical management is associated with particularly complex production challenges.¹⁴⁵ A loose

138. See Interview with Lawyer 2, at 7 (“[I]t wasn’t like a lifestyle firm.”).

139. Interview with Lawyer 3, at 7.

140. In the jargon of law firm management, one goal of these mergers was to create a larger “platform” for servicing clients and attracting work. See Interview with Lawyer 15, at 8 (describing being excited about the merger because it would create a new “platform and opportunity for growth”); Interview with Lawyer 18, at 2–3 (describing one goal of the merger as creating a “larger platform”).

141. Interview with Lawyer 2, at 17; see also Interview with Lawyer 4, at 6 (“[E]verybody was still in the same office, working with the same people.”); Interview with Lawyer 7, at 10 (stating that the smaller firm still generates its own work); Interview with Lawyer 8, at 7 (reporting that “a lot of my work remained the same” after the merger); Interview with Lawyer 11, at 2 (“Workflows did not change that much.”); Interview with Lawyer 12, at 6 (reporting little “crosspollination”); Interview with Lawyer 15, at 11 (“No there is not much cross-selling”); Interview with Lawyer 16, at 2 (describing cross-selling and collaboration across offices as “overblown”).

142. See Interview with Lawyer 18, at 5–6 (describing “authoritarian” emails from management and stating that “lawyers just don’t take that really well, particularly people who are more senior and have done this for a while”).

143. See Interview with Lawyer 7, at 7–8 (“I have enough business that no one can f*** with me.”); Interview with Lawyer 18, at 5–6 (“[T]he most powerful with the biggest book of business from the biggest city . . . were probably getting listened to.”).

144. See Interview with Lawyer 18, at 5–6.

145. See Margaret M. Blair & Lynn A. Stout, *A Team Production Theory of Corporate Law*, 85 VA. L. REV. 247, 276–80 (1999).

affiliation of actors might struggle to manufacture products on a large scale, develop and market a sophisticated technology, or carry out a disciplined branding or marketing campaign.¹⁴⁶ In these settings, the cost of bureaucracy is justified.¹⁴⁷

But the indifference narrative described in this subpart calls into question how much “team production” really goes on at law firms. Lawyers may often work independently or in small groups with less coordination than hoped for. And so, relatively informal centers of power (the local rainmaker) may persist, despite the trappings of professionalized and centralized management. Put another way, lawyers may feel that firms are increasingly hierarchical, but the hierarchy might be somewhat superficial and law firms may in fact be relatively de-centralized compared to corporate America at large.

In sum, law-firm setting may not always have the significance we think it does. It is possible that some lawyers combine, separate, and recombine in a variety of configurations without fundamentally altering their practice.

3. Contentment: Safety in Numbers

Perhaps my most provocative finding was a set of lawyers who put the conventional wisdom on its head. For these lawyers, the law firm environment was an important determinant of professional satisfaction. But contrary to the conventional wisdom, the large-firm environment mitigated, rather than produced, professional anxiety.

a. Large Firms as Risk Pooling

The starting point for this counter-narrative is a fuller understanding of small law firms. Despite some of the favorable descriptions of small firms above, it is clear that small firms carry some big business risks.

These risks surfaced when I asked lawyers about the stated reasons for the mergers. A number of lawyers cited “succession” problems as founding partners or lawyers with key client relationships neared retirement age.¹⁴⁸ For

146. *See id.*

147. *See id.* at 265–76 (discussing how “mediating hierarchies” solve incentive problems associated with team production).

148. *See* Interview with Lawyer 2, at 3 (stating that the smaller firm was unsuccessful in implementing a “long-term succession plan”); Interview with Lawyer 3, at 7 (“[W]e had a somewhat aging partnership and it wasn’t completely clear where the next generation was going to come from.”); Interview with Lawyer 4, at 4–5 (describing a perception that “as [the] older generation left, there wasn’t a way to make it work”); Interview with Lawyer 8, at 2 (“The 70 somethings are running the cases still, rather than the 40 and 50 somethings.”); Interview with Lawyer 15, at 6 (“[W]e had succession issues.”).

example, one interviewee explained that the smaller firm's initial founders handed down business to "a generation of people, who by the time of the merger were in their . . . mid to late 60s."¹⁴⁹ According to the interviewee, that generation of lawyers had "expanded the base of business from those clients but never really expanded the client base."¹⁵⁰ The result was a firm oriented towards helping service existing clients but with limited experience with new client development, creating a concern that "when those older guys retired the firm would fall apart because those clients might not stay with the firm and then the firm would have no business."¹⁵¹

In addition to succession problems, smaller firms sometimes lacked diversification in practice areas or clients. For example, one interviewee described anxiety stemming from the smaller firm's dependence on a particular kind of large litigation matter:

[T]here would be some one-off very large pieces of litigation that would keep a lot of people busy, and each time one of those was resolved, there would always be some concern, what's gonna fill the void? Every time, something else would, in fact, fill the void, but there was concern that that might not always happen. Being dependent on just a few large clients where those large clients change every few years meant that we had some risk.¹⁵²

Other interviewees reported that their smaller firms were especially affected by economic downturn in the early 2000s due to their narrow focuses on a particular area of practice or geography.¹⁵³

Finally, a number of lawyers described a changing client preference for large "brand name" firms. These lawyers reported that clients in every local market had increasing choice of firms for high-stakes legal work,¹⁵⁴ and clients

149. Interview with Lawyer 7, at 5–6.

150. *Id.*

151. *Id.*

152. Interview with Lawyer 6, at 5.

153. *See* Interview with Lawyer 5, at 3 (suggesting that the firm did "less well than our competitors" after the dot-com bubble); Interview with Lawyer 12, at 3 (suggesting that smaller firms were more affected by recession than larger firms); Interview with Lawyer 16, at 1 (discussing the firm's challenges following the dot-com bubble due to its practice area focus).

154. *See* Interview with Lawyer 3, at 8 (discussing the increasing number of Am Law 100 firms operating in the smaller firm's local market); Interview with Lawyer 5, at 4 (reporting "more competition, increasing numbers of major firms putting down their stakes" in the local market); Interview with Lawyer 15, at 5 (discussing the expansion of East Coast law firms into West Coast cities).

were increasingly apprehensive to pick a small firm that lacked the same name-recognition as larger competitors.¹⁵⁵ As one interviewee explained:

I think the industry had changed. I think that a Fortune 100 company 20 or 25 years ago with some big piece of litigation was more willing to go to a litigation boutique There's this view that if you're the general counsel of some enormous company, and some enormous shareholders class action lawsuit gets filed against you, if you hire Skadden and things don't go well, no one's ever gonna blame you for having [hired] Skadden[.] If you hire some litigation boutique . . . and things don't go well, you may get second guessed.¹⁵⁶

In sum, more than one interviewee questioned the overall “viability” of their smaller firm.¹⁵⁷

With these small-firm risks in mind, the decision to merge with a larger firm can be understood as a flight to safety. In a larger firm, a single partner or client defection would seem less likely to present existential threats to firm viability.¹⁵⁸ And a larger firm, with diverse practice areas and geographic markets, might be better positioned than a smaller firm to withstand a downturn in a particular market or practice area.¹⁵⁹

Relatedly, joining a national firm provided the brand name and resources expected by large corporate clients.¹⁶⁰ For lawyers who highly valued working on the largest and highest profile matters, remaining competitive for that work was an important determinant of professional satisfaction.

155. See Interview with Lawyer 10, at 5 (speculating that clients “wanted a brand name” so they wouldn't “be criticized”); Interview with Lawyer 12, at 3 (stating that client work was “going to the firms with the bigger reputation in that type of work”).

156. Interview with Lawyer 6, at 5–6.

157. See Interview with Lawyer 2, at 18 (stating that the “old firm wasn't really financially viable in the long run”); Interview with Lawyer 5, at 3 (stating that “there was sort of a general skepticism about the viability of a firm like ours”); see also Interview with Lawyer 6, at 5 (“At some point, management started saying, look, our kind of firm isn't part of the future.”); Interview with Lawyer 12, at 1 (“I think the smaller firms felt like they might be in danger of having to take some kind of drastic action, whether it's shutting their doors or something else.”); Interview with Lawyer 18, at 2–3 (reporting that the smaller firm lawyers were told by management that “We must [merge] to survive”).

158. See Gilson & Mnookin, *supra* note 20, at 321–29 (discussing benefits from diversification at large law firms).

159. One interviewee, for example, explained how a firm with a balance between transactional and litigation work might be able to smooth the ups and downs of the mergers and acquisitions market. See Interview with Lawyer 6, at 13 (analogizing transactional and litigation departments to equity and fixed-income investments).

160. See Interview with Lawyer 15, at 8 (stating that the lawyer was excited about the merger because it “provided a great platform” to expand into new markets).

b. Outsourcing Firm Administration

For some interviewees, the large-firm apparatus also appeared to insulate the practice of law from the business of law. Some lawyers seemed mostly happy ceding decision making to centralized and professional management. As one interviewee stated in regards to firm management: "I don't care whether . . . it's done by someone in [my city] or someone . . . at firm headquarters as long as it's done efficiently."¹⁶¹

Other interviewees expressed relief that larger firms employed non-lawyers to perform business functions. One interviewee emphasized the superior IT support at the larger firm:

[The smaller firm] was an old-fashioned kind of firm. We didn't even have a network If you and I were writing a brief together, I would have a draft and then I would email it to you, then you'd work on it, and you'd email it back to me and hopefully somebody would store the file version on their hard drive somewhere. Really, the computer systems and the sophistication of the computers is the biggest thing in my mind that separates the old firm from the new firm.¹⁶²

Another interviewee spoke about the advantages of having other types of administrative support:

[The new firm has] non-lawyer professionals that do a lot of things that I would have never thought to rely on people to do. Like . . . keep track of when your clients' bills aren't paid, in a nice way nudging them to pay, and answering a questionnaire, putting together responses to requests or proposals for work and things like that, and I actually really like that now.¹⁶³

While improved IT support and help with collections may sound trivial individually, the broader point is that a professionalized management structure can be professionally liberating.¹⁶⁴ At least one interviewee cited increased administrative support as a primary driver of the merger.¹⁶⁵

161. Interview with Lawyer 5, at 8.

162. Interview with Lawyer 8, at 4–5.

163. Interview with Lawyer 7, at 8.

164. See Interview with Lawyer 8, at 10 (discussing how administrative personnel free lawyers from coordinating some aspects of recruiting); Interview with Lawyer 11, at 2 (describing "new resources" at the new firm such as better technology).

165. See Interview with Lawyer 15, at 7. This lawyer explained:

[A]t the smaller firm our managing partner and Chair had full time practice and we were large enough to dedicate a lawyer full time to those roles and they just put [in] an extraordinary amount of effort [A]t larger firms, you have

Similar themes surfaced in discussions of service partners at large law firms. By “service partners” I mean lawyers who reach partner status at a firm, but contribute mostly expertise rather than selling legal services (rainmaking). One interviewee explained:

At the larger firm, there was room for service partners. [Being a service partner is] not as comfortable a place in the large firm and maybe you can grow out of it, you know, grow into larger things, but it’s a place to start and it’s a long-term position.¹⁶⁶

As the quote above suggests, status as a service partner has drawbacks. As one interviewee colorfully stated, “I doubt the firm exists where you are not better off landing the whale than helping people take the blubber off.”¹⁶⁷ But for those disinclined towards firm management and business development, the tradeoff may be worth it.

While it is possible to be a service partner at a smaller firm, it stands to reason that a service partner at a smaller firm would have fewer sources of work and could be more severely affected by a single departing rainmaker. For some lawyers, then, the large-firm environment may provide relief from the heavy burdens of client development, albeit with diminished stature in the firm.

In sum, lawyers in certain practice areas face intense competition for what they perceive as the most professionally satisfying work. In some ways, this competition is more directly felt in a small firm and may lead to existential questions of the firm’s viability. At the least, a small and leanly staffed firm requires all participants to bear the burdens of firm management. Some lawyers would happily give up some autonomy and suffer some bureaucracy in order to pool risk and offload administrative tasks.

C. An Explanatory Framework

Collectively, the interviewees reported a complex relationship between firm size and professional satisfaction. While some interviewees echoed the conventional wisdom,¹⁶⁸ others provided more neutral or favorable accounts of the large-firm setting.¹⁶⁹ Together with the ambiguity of the survey data described in Section II, these results caution against the straightforward causal

managing partners and management assistants where that’s all that they do. We couldn’t do that as a smaller firm.

Id.

166. Interview with Lawyer 4, at 9; *see also* Interview with Lawyer 14, at 4–5 (“By supporting other partners throughout the firm and working on national clients, . . . I realized that I had . . . developed this expertise in a practice area, but had no direct clients of my own.”).

167. Interview with Lawyer 17, at 7–8.

168. *See supra* Section III.B.1.

169. *See supra* Sections III.B.2 and III.B.3.

connection between firm size and dissatisfaction suggested by the conventional wisdom.

This Section presents a series of hypotheses for explaining the varied experiences of large-firm lawyers. The hypotheses focus on the effects of: (1) seniority, (2) the compatibility of the lawyer's legal specialization ("practice area") with large-firm economics, (3) geographic dispersion within a firm, and (4) the stress that extraordinary expansion places on firms and lawyers. Together, these hypotheses constitute a conceptual framework for understanding the relationship between firm size and professional satisfaction.

1. Seniority

Some differences between smaller and larger firms were particularly salient for associates facing evaluation for promotion to partner. This hypothesis that the current large-firm environment is more difficult for developing lawyers is consistent with the conventional wisdom and some survey data.¹⁷⁰ But it warrants elaboration here because it was noticeable in the interviewees' testimonies.

Interviewees explained that the criteria for making partner in larger firms was more focused on "numbers" such as billable hours, realization rates, and business development.¹⁷¹ One interviewee explained:

[Y]ou are no longer one of 10 people in your class, you're one of 300 people in your class, and so . . . if I ever do want to become a partner how am I going to attract people in [other] offices who have never worked with me, who don't know me, but they are making the decision of whether I am going to be partner or not? And so . . . your hours matter because it's not just the people that you see every day that are judging your performances, it's just these people that have no idea other than your numbers and you have to impress.¹⁷²

170. For example, Schiltz specifically addresses his article to law students and focuses largely on associate issues. See Schiltz, *supra* note 8, at 872 (starting the piece with "Dear Law Student"). For an entertaining presentation of evidence regarding associate dissatisfaction, see generally William D. Henderson & David Zaring, *Young Associates in Trouble*, 105 MICH. L. REV. 1087, 1096–1102 (2007).

171. See Interview with Lawyer 2, at 14 (describing the evaluation criteria as more "quantified" and having "a little bit less forgiveness if you don't hit a certain hard number"); Interview with Lawyer 7, at 11 ("[T]he big difference between the two firms in terms of evaluating people for partner is that what they call here the business case is more important than your skills."); Interview with Lawyer 16, at 2 (describing the large firm's partnership evaluation process as "metrics driven").

172. Interview with Lawyer 1, at 9.

Interviewees also reported that it took longer to make partner at a larger firm,¹⁷³ and that the probability of making partner was lower at a larger firm.¹⁷⁴

By some accounts, day-to-day workflows also changed in ways that adversely affected associates' development as lawyers. Several interviewees explained that they had chosen to work at small firms because they hoped to get more experience earlier in their careers.¹⁷⁵ With larger firms taking on larger matters and trying to staff matters across offices, associates felt that their work assignments at large firms provided less meaningful experience. One interviewee explained:

[T]he selling point [for the smaller firm] . . . was that if you went to this firm, you would get meaningful experience, year one, which is kind of hard to come by in large firms [At the small firm,] you will have interesting cases and you will have meaningful engagement with them in your first year. You're not just going to be spending it doing doc review . . . [and] legal research and memos behind the scene. You're going to be drafting pretty independently. You're going to be running things on your own in your first year.¹⁷⁶

To an extent, lawyers with mature practices were insulated from these concerns. As one senior lawyer bluntly put it, "I have enough business that no one can f*** with me."¹⁷⁷

On the other hand, the role of seniority should not be overstated. Just under half of the interviewees who were associates at the time of the merger remained at the larger firm at the time of the interview. And at least one interviewee discussed "de-equitizations" (demotions from partnership status) at the larger firm, suggesting that even senior lawyers could not rest on their laurels in today's legal profession.¹⁷⁸

173. See Interview with Lawyer 2, at 13 (describing a ten-year partnership track at the larger firm); Interview with Lawyer 8, at 8 (describing a partnership track that is in effect an eleven-year track because associates are first elevated to non-equity partner and then equity partner).

174. See Interview with Lawyer 2, at 13 (stating that the larger firm had a "more restrictive idea" of who should be a partner); Interview with Lawyer 5, at 3 (reporting that at the larger firm an associate's chances of becoming a partner "were small" even if they were "terrific associates"); Interview with Lawyer 7, at 1 (reporting that anyone who "stayed long enough" and was a "decent lawyer" would make partner at the smaller firm).

175. See Interview with Lawyer 1, at 5 (describing a desire to work at a locally based law firm to obtain exposure to local clients and gain experience on smaller matters); Interview with Lawyer 13, at 2 (reporting that the lawyer selected the firm because of compensation and "because it was a smaller firm, they gave their associate a greater degree of responsibility early on").

176. Interview with Lawyer 2, at 8.

177. Interview with Lawyer 7, at 7-8.

178. See Interview with Lawyer 16, at 2 (reporting that the larger firm went through a "de-equitization" process).

2. Practice-Area Compatibility

According to these interviews, the large-firm environment is not equally compatible with all practice areas found in large firms. For example, one interviewee explained how a sophisticated but localized real estate practice was difficult to integrate into a larger firm. The interviewee humorously recounted how clients reacted to marketing materials featuring the new firm's global reach:

We would receive emails that would be . . . "For general distribution to your client list." And I would read them and I would try to think of anyone I could send them to. [I] was trying really hard to make this work so I think, "I'll send this out and see what they say." And half the time they send me back a sort of kidding email about, "Oh, gosh. Well, if I'm ever in [Burundi] I'll keep you guys in mind." I mean it just wasn't my client base.¹⁷⁹

This interviewee was not alone in describing a strained fit between practice area and firm environment. Interviewees cited estate planning, patent prosecution, and certain regulatory work as practice areas that were either especially rate sensitive or insufficiently "leveraged" (i.e., they did not occupy enough associate time) for large firms.¹⁸⁰ While firms may maintain these practice areas to provide full service to clients and generate "cross-selling" opportunities, individual lawyers in these practice areas potentially faced professional frustrations such as a diminished client base,¹⁸¹ mid-career re-tooling,¹⁸² or diminished status as a service partner.¹⁸³

Based on these accounts, we might think of different practice areas as lying along a continuum with a large firm being essential on one end of the continuum and large-firm economics being totally incompatible on the other end.¹⁸⁴ Several practice areas, such as the examples described above, fall somewhere in the middle. For lawyers in these practice areas, smaller firms might also be

179. Interview with Lawyer 18, at 8. I have changed the name of the city to assist with confidentiality.

180. See Interview with Lawyer 9, at 17–18 (discussing regulatory work); Interview with Lawyer 17, at 9–10 (discussing estate planning and patent prosecution).

181. See Interview with Lawyer 19, at 1–2 (discussing loss of certain estate planning clients due to firm economics).

182. See Interview with Lawyer 9, at 16–18 (discussing the need to change practice focus to accommodate the larger firm's cost structure).

183. See Interview with Lawyer 17, at 9–10 (discussing the difficulty of being a service partner at large firm).

184. See *supra* text accompanying notes 154–156 (discussing client preferences for large firms).

viable, or even superior, and the large-firm setting may come to represent professional frustration, unhelpful bureaucracy, and diluted culture.

For researchers, at least two implications follow. First, certain practice areas are likely to be over-represented in any study of large-firm lawyers because firms will ultimately migrate towards the most compatible specialties. Those practice areas may have stress-inducing features besides firm size, such as intense competition, demanding corporate clients, and high financial stakes. To the extent researchers find a correlation between firm size and dissatisfaction, it may be that these other features, and not firm size, are the driving factor.

Second, firm size may explain some degree of professional dissatisfaction, but disproportionately in certain practice groups. In other words, the conventional wisdom might ring true for a large-firm lawyer specializing in estate planning or patent prosecution, but it may fail to capture important benefits of a large firm for a lawyer specializing in corporate debt offerings. Accordingly, understanding any observed dissatisfaction in large firms requires attention to the interaction of both firm size and the economics of individual practice areas.

3. Importance of the Local Office

A national brand might appeal to some clients, but firms vary in their ability to actually operate as a cohesive national organization.¹⁸⁵ As described above, workflows often remained siloed in local offices despite a firm's best intentions to facilitate interoffice collaboration.¹⁸⁶ Effectively, management power sometimes resided in local "fiefdoms" regardless of formal management structures.¹⁸⁷ Accordingly, the local office, rather than the larger firm apparatus, largely defined the experiences of some interviewees.

It is possible that these experiences are not representative of large firms in general. Because these lawyers joined their larger firms through a merger, the new lawyers were already a cohesive group that might have been relatively more difficult to integrate into the larger firm. As one interviewee explained:

[E]ven though we were being swallowed up by [a] larger firm, locally in [our market] we were doing the swallowing. Something like 10, 15 folks from the new firm moved over into our offices at the old firm. And so it felt from [our] perspective that very little had changed in a way. Because everybody was

185. *See supra* Section III.B.2.

186. *See supra* Section III.B.2.

187. *See supra* Section III.B.2.

still in the same office, working with the same people every day.¹⁸⁸

But there were also indications that geographic dispersion created more fundamental challenges that transcended merger integration problems. For example, one interviewee described the (sometimes unsuccessful) efforts that large firms make to bridge geographic divides:

[I]n the old days . . . everyone was [in the] conference room sitting around eating sandwiches over lunch and talking in the same room. Those days are bygone. [T]rying to capture that same esprit de corps is . . . challenging when it's being done in . . . virtual meeting situations. . . . Bigger firms do try to institutionalize [personal relationships across offices] but I would say it's not the same.¹⁸⁹

Another lawyer explained that his firm spent large amounts on annual retreats to build better relationships across the firm, but "obviously the people who are down the hall from me . . . I know a whole lot better than the people . . . in Silicon Valley or whatever. I just think proximity is very important."¹⁹⁰

If attributes of the local office significantly define lawyers' experiences, this factor could cut either way in terms of professional satisfaction. On the one hand, practicing in a collegial office with a positive culture can approximate some of the more desirable attributes of a small firm, and being near decision makers (whether formal management or influential rainmakers) can mitigate the impersonal quality some interviewees ascribed to large firms. On the other hand, geographic distance between offices can undermine some of the business case for practicing in a large firm and can accentuate impersonal qualities of a large firm. Consistent with this less favorable outcome, one interviewee concluded:

[In the future,] I would never go to a firm where I wasn't in the main office. One of the things I don't like is not being in the main office where decisions are made and you're not close to people who might be handing out cases and work. You don't hear about stuff until too late.¹⁹¹

188. Interview with Lawyer 4, at 6.

189. Interview with Lawyer 18, at 14.

190. Interview with Lawyer 7, at 11–12. For discussion of the continuing importance of proximity in the general economy, see Abraham J. B. Cable, *Incubator Cities: Tomorrow's Economy, Yesterday's Start-Ups*, 2 MICH. J. PRIV. EQUITY & VENTURE CAP. L. 195, 212–17 (2013) (discussing the geographic clustering of economic activity and describing the work of Richard Florida, Edward Glaeser, and Michael Porter).

191. Interview with Lawyer 7, at 12.

In short, just as large-firm lawyers vary in seniority and practice-area specialization, they vary in local setting. And several interviewees suggested that this local flavor is key to understanding their large-firm experiences.

4. Growing Pains

According to the tournament model, large firms tend to grow organically as associates are promoted to partner.¹⁹² In other words, growth is expected and arguably healthy.

But the interviews highlighted how a certain kind of rapid growth incorporating large numbers of lawyers through a merger sometimes posed integration problems that destabilized firms. For example, one interviewee described how a firm that grew by thousands of lawyers through successive mergers struggled to achieve even basic integration:

It was like, “Well, you guys are going to continue on your parallel system until we figure out how to merge you into us.” [O]ur phone systems weren’t brought together for, say, six months. Which sounds like a short period of time now, but at that time it was really weird not to be able to do an extension dial to one of your partners that you were trying to work with, and to not be in the same document management system and things like that.¹⁹³

Interviewees described other integration problems as well. Lawyers spent time and energy on transitional committees.¹⁹⁴ Without significant roots in the new firm, rainmakers sometimes exited the new firms quickly.¹⁹⁵ Local billing rates did not always mesh well.¹⁹⁶

More than one of the acquiring large firms ultimately failed. While these failures might not have been a direct result of integration issues, they might have added to these firms’ problems.¹⁹⁷

In short, interviewees suggested that in some circumstances getting big (not being big) drives professional anxiety.

192. *See supra* Section II.A (summarizing the tournament model).

193. Interview with Lawyer 18, at 10–11.

194. *E.g.*, Interview with Lawyer 1, at 10.

195. *E.g.*, Interview with Lawyer 18, at 8 (stating that rainmakers pushed for the merger and then “left anyways”).

196. *E.g.*, *id.* at 4–5 (discussing discrepancies in local billing rates).

197. For an example of how rapid growth can de-stabilize a firm, see generally Milton C. Regan, Jr., *Taxes and Death: The Rise and Demise of an American Law Firm*, in 52 *STUDIES IN LAW, POLITICS, AND SOCIETY: LAW FIRMS, LEGAL CULTURE, AND LEGAL PRACTICE* 107, 107–44 (2010) (describing the failure of a “regional firm with national ambitions” that became involved in illegal tax shelters as a growth strategy).

IV. IMPLICATIONS & NEXT STEPS

This Section makes concrete suggestions for future confirmatory research. Recognizing that such research will take time, it also makes suggestions for how this Article's preliminary observations can immediately improve career advice to law students and lawyers.

A. Future Research

Despite some well-chronicled methodological objections to career-satisfaction surveys,¹⁹⁸ legal scholars and bar groups are likely to keep generating them. In order to test hypotheses of the type offered here and avoid simplistic interpretations of results, researchers will need to collect new kinds of information.

While the surveys discussed in Section II above have produced important insights by collecting basic demographic information about race, gender, and seniority, they have often been surprisingly inattentive to variations in practice area and practice environment *within* the very broad category of "large firm." Accordingly, future surveys would benefit from:

1. Collecting information on respondent practice areas, such as general litigation, transactional, bankruptcy, and intellectual property.
2. Collecting additional information on respondents' local offices, such as size compared to the overall firm and its geographic distance from firm management.
3. Setting a more limited scope, such as surveying a particular practice area or firm type, so the survey instrument can be more specifically tailored to relevant information.

The bottom line is that researchers will gain little insight from additional surveys reporting aggregate satisfaction (even if assiduously measured to the second decimal point) for an impossibly broad segment of the legal profession. But surveys that engage with the variables most likely to affect professional satisfaction can confirm and improve understanding.

Research methods other than surveys can also help unpack the complicated relationship between firm size and professional satisfaction. For example, case studies of rapidly growing firms might assist in understanding the firm-wide stresses that growth entails. In a similar vein, Milt Regan profitably used case-

198. See generally David. L. Chambers, *Overstating the Satisfaction of Lawyers*, 39 L. & SOC. INQUIRY 313 (2014) (raising methodological objections to career satisfaction surveys, such as the difficulty of interpreting results reported on Likert scales and nonresponse bias).

study methods to illustrate how rapid expansion of a firm contributes to ethical shortcomings among lawyers.¹⁹⁹

Additional semi-structured interviews could also confirm and refine the hypotheses offered in this Article.²⁰⁰ Such projects could be broader in scope—interviewing a cultivated sample of large-firm lawyers across a range of different practice areas and local office environments—to test whether the experiences of lawyers involved in mergers are generalizable to the larger population of big-firm lawyers.

Narrower qualitative studies might also provide fresh insight. Micro studies of particular practice areas could further disentangle the relationship between practice area economics and firm economics. As one interviewee stated:

I'm . . . a big believer that . . . almost every practice is a different business from other practices. If [you are in] patent prosecution, it's going to look like one thing. If you're a startup lawyer, it's going to look like another thing. If you're doing M&A for the Fortune 500 on the buy side, it's going to look like [another thing]—they're all kind of different businesses.²⁰¹

In short, understanding the practice of law at the level lawyers actually experience it is vital for developing a grounded theory of the large law firm.

B. Career Advice

Although this Article critiques the conventional wisdom, it is hard to blame those, like Patrick Schiltz,²⁰² who offered their honest opinions based on imperfect evidence. Law students and lawyers must make career decisions in real time, and they cannot wait for researchers to complete an elaborate research agenda.

In that spirit, this Section identifies lines of inquiry for evaluating a large firm. These are not bright line rules—the calculus for any career decision is complex. But considering the following might at least provide helpful structure for making a difficult and important decision.

1. *Consider career stage.* Section III.C.1 above emphasized the importance of seniority. A large firm is not necessarily a bad place to start a career. The experience may be a valuable credential for other opportunities, and an introduction to an important professional network. But junior lawyers

199. See Regan, *supra* note 197 and accompanying text.

200. For examples of existing qualitative research of law firm organization, see NELSON, *supra* note 20, Chambliss, *supra* note 91, Kirkland, *supra* note 92, and Smith *supra* note 97.

201. Interview with Lawyer 17, at 1.

202. For an overview of Schiltz's work, see Section II.D above.

should also know that unattractive attributes of large firms can be particularly hard on them. Focus on performance metrics and remoteness from decision-makers affect all lawyers, but these negative attributes of the large-firm environment loom especially large for those facing a partnership determination that can feel career defining. In addition, a large firm's high degree of specialization, use of leverage, and tendency towards large matters can pose challenges for gaining well-rounded experience as a junior lawyer. New lawyers should think critically about what they ultimately want from the firm, because the path to equity partnership is difficult and the skills learned at a large firm are not always easily transferable to other settings.

2. *Look for practice-area compatibility.* Section III.C.2 above emphasized the importance of compatibility between practice area and firm. For established lawyers, who have already made significant investments in particular areas of expertise, such compatibility is paramount. Unfortunately, it is difficult to generalize what makes for a good fit. But one can identify potential yellow flags that might cause some concern: (a) a high concentration of service partners or non-equity partners in the particular practice area at the specific firm under consideration or more generally at large firms, (b) localized clientele for whom national-firm rates (driven by the high overhead of maintaining a national scope) represent a large increase over local competitors, and (c) practice areas that are new to the firm or that previously defected from the firm.

3. *Focus on the local office.* Section III.C.3 discussed the importance of proximity and the challenges of working across distant offices. While the brand-name recognition and resources of a national firm might be advantages in winning work, the attributes of the local office might be more important than firm-wide characteristics when it comes to matters of internal firm management. Accordingly, a lawyer considering a large firm should scrutinize the local office—its capabilities, culture, and proximity to formal and informal power centers—and understand that some touted advantages of a larger “platform” may not fully materialize.

4. *Consider how the firm is growing.* Section III.C.4 above discussed the stress that expansion through mergers can generate. Logically, one would expect that large numbers of lateral hires (even absent a formal merger) would have similar effects. When considering a firm, then, one might consider the rate and manner of the firm's growth compared to its competitors. If the firm is expanding rapidly through mergers and lateral hires, that might justify asking questions about how the firm is handling integration.

V. CONCLUSION

The conventional wisdom—that increasing firm size adversely affects lawyers—may be right in some cases. But in these interviews, at least two counter-narratives emerged: indifference to large firms and satisfaction with large firms compared to the alternatives. The presence of these counter-narratives, together with the ambiguity of existing survey data, warrant new hypothesizing about the relationship between firm size and lawyer satisfaction. The evidence from these interviews suggests that seniority, practice-area compatibility, attributes of the local office, and the manner of firm expansion drive satisfaction at large firms.

For the legal profession, the stakes are high. The conventional wisdom sometimes operationalizes existing research through blunt advice to graduating law students. If that existing research crudely filters lawyers by firm size measured by lawyer count, it may be prone to simplistic interpretations. While it is hard to fault those who venture to give advice based on the best evidence available, we should ultimately strive to understand not just *whether* firm size and lawyer dissatisfaction are correlated, but also *how* they relate. From a more nuanced understanding of that relationship, we might eventually be able to give our students and graduates more useful advice about important career choices.