**Law practice in America: Workplace culture and professional satisfaction**

**(from the Fifth Edition (2020) of Ethical Problems in the Practice of Law)**

**1. History and growth of American law firms**

The American legal profession today is larger and more diverse than ever. Although many different kinds of people are lawyers, much social stratification remains. In addition, serious questions have been raised about whether the profession meets the needs either of most of its members or of large segments of the public. As a result, the legal profession is currently undergoing major structural changes, which are described later in this chapter.

Perhaps because large firms have grown so dramatically, many people erroneously think that most lawyers work for large corporate firms. In fact, a majority of the 1.3 million American lawyers do not work in multi-lawyer law firms at all; they work alone, for the government, or in some other capacity. As of 2016, 75 percent of American lawyers were in private practice, and half of those in private practice worked by themselves, in “solo” practices. Another 14 percent worked in law firms of two to five lawyers. Lawyers in private practice were distributed as follows.

Distribution of lawyers in private law firms, by firm size, 2016[[1]](#footnote-1)

|  |  |
| --- | --- |
| Size of firm | Percentage of lawyerswho work in firms of this size |
| 1 | 49% |
| 2-5 | 14% |
| 6-10 | 6% |
| 11-20 | 6% |
| 21-50 | 6% |
| 51-100 | 4% |
| 101+ | 16% |

Where a lawyer works and what type of work a lawyer seems to be determined at least in part by who the lawyer is — not just ability and interest but race, sex, religion, socioeconomic background, and so on. John P. Heinz, a law professor, and Edward O. Laumann, a sociologist, published an important study of Chicago lawyers in 1982.[[2]](#footnote-2) The researchers believed that Chicago lawyers were typical of lawyers in other major American cities in terms of social stratification.[[3]](#footnote-3) They found that lawyers in private practice were divided into two very different professions. There was one large group of wealthy lawyers in large firms, mostly drawn from 12 “elite” and “prestige” law schools, who mainly represented corporations. A slightly smaller group consisted of much less wealthy lawyers, drawn mainly from regional and local law schools, who primarily represented individual clients. Heinz and Laumann explain:

[M]uch of the differentiation within the legal profession is secondary to one fundamental distinction — the distinction between lawyers who represent large organizations (corporations, labor unions, or government), and those who represent individuals. The two kinds of law practice are the hemispheres of the profession. Most lawyers reside exclusively in one hemisphere or the other and seldom, if ever, cross the equator. . . . [Also, in doctrinal areas that the adversary system divides into opposing fields, such as environmental plaintiffs vs. environmental defense,] the side of the case that characteristically represents corporate clients is consistently assigned higher prestige [in the estimation of the public] than is the side that more often represents individuals. . . . This suggests the thesis that prestige within law is acquired by association, that it is “reflected glory” derived from the power possessed by the lawyers’ clients. . . .

The patterns were divided into readily identifiable . . . networks, one area being composed disproportionately of WASPs who serve the largest corporate clients and another having a great preponderance of Catholics who do trial work for individuals and smaller businesses. . . .

Any profession will surely include disparate parts, but we doubt that any other is so sharply bifurcated as the bar. . . . The two sectors of the legal profession . . . include different lawyers, with different social origins, who were trained at different law schools, serve different sorts of clients, practice in different office environments, are differentially likely to litigate (when and if they litigate) in different forums, have somewhat different values, associate with different circles of acquaintances, and rest their claims to professionalism on different sorts of social power. . . . Only in the most formal of senses, then, do the two types of lawyers constitute one profession.[[4]](#footnote-4)

Heinz and Laumann updated their study in a book published in 2005, using data collected 20 years after the original study. During that 20-year period, the size of the profession had doubled, and women flocked into the profession for the first time.[[5]](#footnote-5) The new data showed that by 1995, the two hemispheres were no longer approximately equal in size. By then, 64 percent of all lawyers’ services (up from 53 percent) were delivered to corporations and other large organizations while only 29 percent of lawyers’ services were provided to individuals and small businesses.[[6]](#footnote-6) Inequality in the profession increased, as the income differential between the top quartile and the bottom quartile went from a sixfold to a tenfold difference over the 20-year period.[[7]](#footnote-7) In addition, the authors described a “middle group of [seven] fields [such as income tax work]” in which some lawyers represented both business and individual clients.[[8]](#footnote-8) Also, Heinz and Laumann concluded that specialization among lawyers had greatly increased. As a result of this and other factors, there are

several reasons to suppose that Chicago lawyers might be less cohesive in the 1990s than they were in the 1970s, and urban lawyers may now have become subdivided into smaller clusters. But the division between the two classes of clients — between large organizations, on the one hand, and individuals and small businesses, on the other — endures. . . . We think it unlikely that the present organizational structures provide enough interchange among the specialties to produce a bar that functions as a community of shared fate and common purpose.[[9]](#footnote-9)

There is massive income inequality within the private sector of the legal profession.[[10]](#footnote-10) Lawyers at large corporate firms earn much more than those is solo or small firm practice. There is a big gap in salaries for entry-level lawyers. New lawyers in private practice fall into two income groups: those earning between $45,000 and $65,000 and those earning $175,000 to $190,000.[[11]](#footnote-11) The lawyers who reported the highest starting salaries were those who worked at the largest firms, those with more than 700 lawyers. [[12]](#footnote-12)

 a. Large firms

Some law students aspire to work in large law firms because of the high salaries[[13]](#footnote-13) and bonuses and because the big-firm jobs are prestigious. Many law students believe that high-status or high-income jobs will provide future happiness.[[14]](#footnote-14) Many students also expect that large firms offer superior training or mentoring. This used to be the norm and may still be the case at some firms, but — as Professor Asimow reports in the article excerpted below — the economic pressure of private practice has greatly reduced the amount of time that partners spend doing training or mentoring. Also, many law graduates seek positions in large firms so that they can repay their enormous student loans in the years after graduation.[[15]](#footnote-15)

Are there reasons to be wary of large-firm practice?

Several writers suggest that the financial rewards of large firm practice are outweighed by some of the downsides. Some large firms tend to exploit associates and unwittingly to deprive them of the normal benefits of living in families or society. In some firms, cutthroat competition among associates undermines morale.[[16]](#footnote-16) Professor Michael Asimow focuses, in particular, on the exceedingly long hours that the large firms require,[[17]](#footnote-17) and on the stressful and sometimes unfair competition for promotion within the firms.

Michael Asimow, Embodiment of Evil: Law Firms in the Movies

48 UCLA L. Rev. 1339, 1376-1380 (2001)

[Professor Asimow is professor of law emeritus at UCLA Law School. From 1965 to 1967, before beginning his teaching career, he practiced at a Los Angeles law firm that at the time had 17 lawyers. In this article, he investigates whether the negative portrayal of large law firms in many movies reflects the reality of life within those institutions.]

Numerous statistical studies [indicate] that big firm lawyers earn the most money, work the most hours, and they are the least satisfied with their work. . . . It appears that the biggest culprits are the killingly long hours of work combined with arbitrary work demands, a lack of autonomy, and poor inter-personal communications between associates and partners. Many associates feel they are working in nicely decorated sweatshops. Billable hours have become the raison d’etre of law firm existence. High numbers of billable hours are essential to maximize the benefits of leverage for equity partners as well as to pay for the sharply increased levels of associates’ compensation. Consequently, associates must bill very high hours to receive bonuses and to be considered for advancement to partnership. Even partners (at least non-rainmaking partners) must maintain high rates of billable hours or risk being pruned.

In order to bill 2000 hours a year, most lawyers need to be physically present at the office for close to 3000 hours.[[18]](#footnote-18) Given a thirty-minute commute each way, a 3000-hour work year requires the lawyer to be out of the house and away from family or friends around eleven hours per day, six days a week, fifty weeks a year. That means leaving home at 8:00, returning at 7:00, Monday to Saturday. Want to work half day on Saturday? Then return home at 8:30 or 9:00 during the week or work Sundays. In any event, there will be many late-nighters or Sundays at work; time demands are erratic and unpredictable and can change on an hourly basis. If the firm requires associates (or the associates drive themselves) to bill 2400 hours per year, which is not unusual, add on at least another two hours per day, six days a week. The destructive consequences on personal health and on family or relationships from working anything like these kinds of hours are painfully obvious. They are particularly unbearable for lawyers with child-care responsibilities. Many lawyers report that they see only their offices, their cars, and their beds. There is little time for a personal life, let alone a lifestyle.

Not every law firm associate feels exploited by the long hours. Many young lawyers in big firms believe that long hours at work are an acceptable tradeoff for the stunningly high compensation they receive, especially given the crushing levels of debt that burden most law school graduates. Many believe that young lawyers in smaller firms or young people in other professions (such as medicine) work just as hard but get paid much less.

Traditionally, big firms offered additional payoffs beyond generous compensation and lavish fringe benefits. For example, at large law firms, associates can do interesting and challenging work of a sort that small firm lawyers may never encounter. Big firms are supposed to offer excellent training and mentoring. . . . There is the sense that big firm lawyers will work as part of a team; good friends and colleagues will toil together. Those associates who want to depart or who are not made partners could count on the firm to provide them with excellent lateral mobility. They could move to partnership at a smaller firm or an in-house position with the firm’s clients.

However, these traditional benefits of big firm practice appear to be withering away in the contemporary environment. Every possible minute of every working day must translate directly into billable hours and money, so partners at many firms do not have time to provide training and mentoring to all or most of their young associates, even assuming they have the inclination and the skills to do so. Because clients will not pay for time spent on training, mentoring, or tag-alongs, such time becomes nonbillable. Firms may only provide training and mentoring to associates perceived as running on the partnership track. Colleagueship seems elusive in the stressful, intensely competitive, totally exhausting environment of the big firms. Some firms provide excellent training and maintain a more traditional, friendly, and supportive atmosphere for their associates. Others, concerned with high attrition rates, have tried to improve associate lifestyle with casual dress codes or tolerating work from home. Nevertheless, the accounts available to us indicate that the work life of many associates in big city megafirms is quite miserable.

[cartoon, p.859 of Lerman/Schrag 4E (ISBN 9781454863045) (“And that’s when he realized…”)]

Another traditional element of associate life in big firms was the tournament of partnership.[[19]](#footnote-19) As described by Galanter and Palay, the rules of this tournament are assumed to be fair and transparent. The winners of the tournament could anticipate a lavishly rewarded and highly secure law firm partnership. The losers would at least understand that they had lost out in a fair competition.

Tournament theory, however, is in need of significant modification. Wilkins and Gulati[[20]](#footnote-20) explain that law firms engage in a system of tracking the most promising associates based on the quality of work during their early associate years. They also give preference to associates [who] graduated from the better law schools or who have the best connections. Those fortunate enough to be placed on the partnership track receive most of the interesting work. The boring but necessary work is allocated to those identified as probable losers in the partnership competition. Because of such favoritism, associates perceive that the rules of the tournament are opaque. They soon realize that success depends less on hard work and dedication and more on nurturing relationships with senior lawyers.

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Why do large law firms require lawyers to work such long hours?

One theory is that law firms get into “bidding wars” for a small number of highly credentialed law school graduates. This means they have to pay really high salaries. To generate the income needed to pay such salaries and to generate profits to pay lavish partner salaries, they encourage or require lawyers to bill vast numbers of hours per year. The following passage by Judge Schiltz, from the same article that we excerpted in Chapter 9, explains this phenomenon. We recommend the full article to law students considering the pros and cons of different types of law practice.

Patrick J. Schiltz, On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession

52 Vand. L. Rev. 871, 898-903 (1999)

[To be able to pay ever-increasing salaries to associates and partners, firms] have only one option: They have to bill more hours. The market for lawyers’ services has become intensely competitive. As the number of lawyers has soared, competition for clients has become ferocious. . . . Raising billing rates to pay for spiraling salaries is simply not much of an option for most firms. As a result, firms get the extra money to pay for the spiraling salaries in the only way they can: They bill more hours. Everyone has to work harder to pay for the higher salaries. . . .

I am leaving out one wrinkle — an important wrinkle that you should know about if you are contemplating joining a large law firm (or a firm that acts like a large law firm). The partners of a big firm have a third option for making more money. This option involves what big firm partners euphemistically refer to as “leverage.” I like to call it “the skim.” Richard Abel calls it “exploitation.”[[21]](#footnote-21) The person being exploited is you. . . .

At some firms, profits per partner approach or exceed $2 million per year, meaning that some partners are paid more than $2 million (because profits are not divided equally among partners). Not one of these highly paid partners could personally generate the billings necessary to produce such an income. Even a partner billing 2000 hours per year at $500 per hour, “both of which figures [according to Professor Abel] lie at the outer limits of physical and economic possibility,” would generate only $1 million in revenue, “a good proportion of which would be consumed by overhead.” So how can big firm partners take home double or triple or quadruple the revenue they generate? They can do so because partner compensation reflects not only the revenue that partners themselves generate, but also “the surplus value law firms extract from associates.” Alex Johnson puts the point more dramatically: “The blood and sweat of new associates line the pockets of the senior members of the firm.” . . .

Basically, what happens is that big firms “buy associates’ time ‘wholesale and sell it retail.’ ” Here is how it works: As a new associate in a large firm, you will be paid about one-third of what you bring into the firm. If you bill, say, 2000 hours at $100 per hour, you will generate $200,000 in revenue for your firm. About a third of that — $70,000 or so — will be paid to you. Another third will go toward paying the expenses of the firm. And the final third will go into the pockets of the firm’s partners. Firms make money off associates. That is why it’s in the interests of big firms to hire lots of associates and to make very few of them partners. The more associates there are, the more profits for the partners to split, and the fewer partners there are, the bigger each partner’s share.

After you make partner (if you make partner — your chances will likely be about one in ten), you will still be exploited, although somewhat less. You may take home 40 percent or so of what you bring into the firm as a junior partner. Your take will gradually increase with your seniority. At some point, you will reach equilibrium — that is, you will take home roughly what you bring into the firm, minus your share of the firm’s overhead. And, if you stick with it long enough, some day you will reach Big Firm Nirvana: You will take home more than you bring into the firm (minus your share of overhead). You will become the exploiter instead of the exploited.

It should not surprise you that, generally speaking, the bigger the firm, the more the leverage. . . . As a result of the disparity in leverage between big and small firms, partners in big firms make dramatically more money than partners in small firms. . . . The stark relationship between firm size and partnership compensation cannot be explained by differences in hourly rates, hours billed, or quality of legal services. Rather, it results from the skim.

This, then, is life in the big firm: It is in the interests of clients that senior partners work inhuman hours, year after year, and constantly be anxious about retaining their business. And it is in the interests of senior partners that junior partners work inhuman hours, year after year, and constantly be anxious about retaining old clients and attracting new clients. And it is in the interests of junior partners that senior associates work inhuman hours, year after year, and constantly be anxious about retaining old clients and attracting new clients and making partner. And most of all, it is in everyone’s interests that the newest members of the profession — the junior associates — be willing to work inhuman hours, year after year, and constantly be anxious about everything — about retaining old clients and attracting new clients and making partner and keeping up their billable hours. The result? Long hours, large salaries, and one of the unhealthiest and unhappiest professions on earth.

Are Asimow and Schiltz overstating the negative aspects of large firms?

When first published, Schiltz’s article in particular “received considerable attention and some notoriety,” but since then, “Schiltz’s thesis has become increasingly less controversial.”[[22]](#footnote-22) Some proponents of large-firm practice point out that whatever their flaws, large firms offer excellent (albeit expensive) representation for their clients. But some associates join Asimow and Schiltz in their condemnation of what firms do to the personalities of their employees. Consider this account by a former associate:

To make the life bearable, you found yourself spending a lot of money. After a particularly long and dreary project, or a humiliating interaction with someone of higher rank, I would often slip out to buy myself a little present, perhaps another Ferragamo tie. It’s a way of reminding yourself that despite your misery you are a highly paid professional: you may feel like a serf, but you can afford to spend $80 on a beautiful strip of silk. This becomes a way of life. Some people eat chocolate to make themselves feel better; lawyers buy stuff. As they claw their way up the ladder, they buy more and more. Before they know it, they cannot imagine living without an enormous salary. For a young, single associate this means making up for the unpredictability or lack of a social life by spending freely on your few free evenings. I took taxis everywhere without a thought. I dined at the most expensive restaurants in town because, dammit, it was the only real perk of the job. Lawyers pulling 100-hour weeks have more money than time. So, when we got to take our vacations, we just threw down our gold cards in front of the travel agent and didn’t even look at the bill. Most of us had expensive apartments. Again the thinking was, if my life is going to be so awful, at least I’ll have a decent place to come home to. I tried not to think about how little time I spent in my pad, with its great views and empty fridge.[[23]](#footnote-23)

b. Small firms

Large firms have received more research attention than small firms, so we know less about the benefits and burdens of working as a lawyer in a small law firm. Small firms tend to concentrate on certain kinds of legal work. Some legal work, particularly family law and immigration law, is done almost exclusively in small firms.[[24]](#footnote-24) A survey of small-firm lawyers in Minnesota in 2007, for example, found that 18 percent practiced primarily in the field of family law; 14 percent did probate and trust work; and 14 percent concentrated primarily on real estate transactions.[[25]](#footnote-25)

1. Salaries and attrition

The compensation scales are lower at most small firms than at large firms. But attrition rates of new associates are high in firms of all sizes. About 44 percent of associates leave their firms within three years.[[26]](#footnote-26) Only about a third of associates’ departures are desired by the firms in question.[[27]](#footnote-27)

2. Setting one’s own schedule

Relatively little has been written about lawyers’ work lives in small firms. The principal work is sociologist Carroll Seron’s book, The Business of Practicing Law.[[28]](#footnote-28) Seron’s study is based on in-depth interviews with 102 lawyers in firms ranging from 1 to 15 lawyers in the New York metropolitan area.[[29]](#footnote-29) Seron looked at several aspects of small-firm practice, including how professional life in these firms affected the lawyers and their families. She learned that lawyers in small firms, like those in large firms, struggle to find enough time for personal and family time. As one male lawyer reported:

Professor Carroll Seron

My typical day when I first started practicing. . . . I’d be up at eight o’clock. I’d go into the court here in Hauppage [about 75 miles from Manhattan]. Cover the calendar. Drive into the city, because you had to drive; you can’t take the trains. . . . I’d be home at two-thirty in the morning. . . . [I hardly] saw the kids in the first five years of practice. . . . Sometimes I wondered how I had kids in the first five years. After that when [I moved my practice to my hometown] I was coming home after a twelve-hour day. It was great. [Now I work] twelve-, fourteen-hour day[s with] no commuting [though my wife cares for the home and my four children, and I bring home a briefcase of work that I may or may not do when I get home].[[30]](#footnote-30)

Many small-firm lawyers reported that they were satisfied with their professional lives, despite 12- to 14-hour workdays, because a small-firm lawyer “can set [her] own hours — even if those hours turn out to be extremely demanding.”[[31]](#footnote-31) But Seron’s interviews reveal that married male lawyers can put in those long workdays because their wives do nearly all the housework and child care. More than two thirds of the married men in these firms worked “expanded” professional hours, and nearly all of those respondents did less than equal child rearing.[[32]](#footnote-32) Seron concludes that “work committed males” in small firms selected careers that “offered an opportunity to work independently and to set one’s own hours,” but that they “enjoy a support system that permits them to bring this same mind-set to the task demands at home.”[[33]](#footnote-33)

By contrast, among the married female lawyers who worked expanded hours, their husbands did not take over at home. More than two thirds of these women did most of the housework.[[34]](#footnote-34) Seron concluded that a “female commitment to professionalism . . . includes overtime at the workplace in conjunction with a full-time job at home as well as affective demands to care for a family’s well being.”[[35]](#footnote-35)

Not surprisingly, the small-firm attorneys who were least stressed by the conflicting demands of home and work were those who were not married or living with partners. They too had very long workdays, “but they did not convey a rushed or harried quality” and they built relaxation into their days. One single woman lawyer reported, for example, that “she does have time for ‘personal things’ — reading, watching TV, working in the garden, ...”[[36]](#footnote-36)

3. Bringing in business

Small-firm lawyers always have to think about bringing in business. As one lawyer explained to Seron, “In any small firm . . . you join what I call the animal clubs. You join the Elks. . . . In my case it was the Jaycees and the B’nai Brith and the local Democratic Party.” One purpose of this activity is to get client referrals from other professionals. Another lawyer told Seron, “I do more socializing with people who might send me referrals, such as accountants [than with former clients, who are also a source of referrals]. . . . I [get a third of my referrals from other attorneys because] lots of attorneys don’t want to handle matrimonial work.” As Seron puts it, “club activities are an extension of some friendship networks for men and, in turn, evolve into client-getting resources.”[[37]](#footnote-37)

4. Other features of small-firm life

Lawyers in small firms tend to spend more time with clients than do large-firm lawyers. The lawyers in Seron’s study emphasized the importance of social skills in their work. One reported, “It’s definitely business and social acumen as opposed to legal knowledge [that makes a difference with clients]. It’s not legal knowledge. It’s people.”[[38]](#footnote-38) In a practice that depends on personal relationships, clients make demands on the lawyers’ time. Some clients call often to insist that their lawyers “be more aggressive and move the case, . . . keep an eye on the bottom line, or . . . sympathize with the emotional turmoil caused by a legal battle.” Clients also increasingly insist on speedy results at a low price.[[39]](#footnote-39) The lawyers’ days are “driven by the demands of clients who want the work done, are scared, or have questions that compel answers.”[[40]](#footnote-40)

Unlike their counterparts in large law firms, most lawyers in small firms do not have fixed hourly rates. Instead, they negotiate a fee individually with each client. Often the client’s ability to pay affects the lawyer’s decision about how much to charge.[[41]](#footnote-41)

5. Rural practice

In contrast to the vagaries of employment opportunities in urban and suburban centers, where the vast majority of lawyers live and work, there is a great need for lawyers in rural areas.[[42]](#footnote-42) This demand for lawyers has become even more acute as older lawyers retire. Often there are few or no new lawyers to take their places. South Dakota has instituted a straightforward program with some success: lawyers who practice in rural communities receive $13,288 per year for five years [[43]](#footnote-43) Rural practice may offer other advantages in addition to need for lawyers. The cost of living is lower in many rural areas, and housing is more affordable. Some people find a greater sense of community in smaller towns. Life may be less stressful, and a lawyer may have closer personal relationships with clients.[[44]](#footnote-44)

6. Gender patterns in small firms

Apparently gender-related hiring patterns affect women in small firms as they do in large firms. A careful sociological study found that women move more frequently out of both large law firms and solo/small firms than out of government practice and internal counsel positions, and that this greater attrition from private firms was probably associated with the “competing demands of practice and family.” It turned out that “work-family tension had a significant negative effect on the odds of making partner [in a firm], but only for women. … [H]aving children significantly increases the odds of being a partner in a law firm, but separate models for men and women reveal that this is significant and positive only for men.”[[45]](#footnote-45)

7.  Small firms and the Internet

The Internet is changing the nature of small-firm practice. At many firms, lawyers work at home and communicate with clients and with other lawyers through e-mail. About a third of all lawyers work from home at least a quarter of the time.[[46]](#footnote-46) This allows lawyers to be available to children and other family members, and allows those lawyers more personal time and flexibility, which they do not have if they spend 50 or more hours a week at the office.

The telecommuting lawyer may experience some professional disadvantages, however. Professor Levin notes that “the abbreviated and immediate nature of e-mail communication discourages more nuanced discussion about client matters and more expansive advice giving. . . . Virtual firms reduce the opportunities for strong mentoring relationships [and] opportunities to convey a clear and consistent ethical culture.”[[47]](#footnote-47) No doubt the loss of daily direct contact with colleagues would result in some loss in relationship and communication. Even when lawyers practically live at the office, however, they don’t talk to each other nearly as much as they once did because of pressure to bill so many efficient hours. Furthermore, it is possible that some lawyers’ interactions might be more thorough, careful, and nuanced by e-mail than in person. Some people think more clearly when they are writing, so a written exchange might produce higher-quality ideas than an oral one. In any event, the Internet undoubtedly is having a massive impact on the structure and quality of twenty-first-century law practice. It may be too early to see all that might be lost or gained by this.

c. Law firms in periods of economic recession

Law firms, like other businesses, are much affected by downturns in the economy. Jobs dry up, firms lay off lawyers, clients spend less on legal services. For people entering the legal profession, it is helpful to be aware of these phenomena.

In 2019, some economic forecasters anticipate another recession.[[48]](#footnote-48) Mark Cohen, CEO of Legal Mosaic, a consulting firm, urges that the institutions that will thrive in the future will be those that are able to embrace all the forces that are “reshaping the legal industry.”[[49]](#footnote-49)Cohen predicts that the next downturn
“will be harsh on those [large] firms that have failed to differentiate and to embrace a client-centered approach predicated on measurable results, efficiency, value, cost-effectiveness, proactivity, collaboration and transparency.” He criticizes law firms that “continue to pursue a short-term strategy focused on preserving PPP [profits per partner] at all costs.”[[50]](#footnote-50)

Because recessions are inevitable, it is useful to consider the events of the 2008 recession and their impact on the legal profession as a source of insight about how best to navigate economic downturns in the future. In 2008, lending institutions had provided subprime mortgages to vast numbers of buyers who really could not afford to buy homes. Because they owned mortgages that would never be repaid, banks that bought portfolios of mortgages appeared to be more solvent than they were. Companies that evaluated the risk of bonds issued by financial institutions and large corporations overrated those obligations. They failed to recognize that the financial health of these institutions depended on consumer spending, and that the mortgage crisis would reduce consumer spending.

The bubble burst, a worldwide economic crisis ensued, and the American economy suffered its greatest blows since the Great Depression of the 1930s. Bear Stearns, a global investment company went out of business. Lehman Brothers, a major investment bank, declared bankruptcy. Bank of America hurriedly bought Merrill Lynch. In two years, European and American banks lost about a trillion dollars in “toxic assets.” Congress enacted the Troubled Assets Relief Program, authorizing the government to restore investor confidence by buying or insuring up to $700 billion worth of risky mortgages or other securities. The U.S. government had to bail out the country’s leading automaker, General Motors.[[51]](#footnote-51)

The bailout measures did not forestall a prolonged global recession. Many Americans lost their homes through foreclosures and their purchasing power declined. Businesses reduced output, laid off employees, and reduced their purchases of services, including legal services. Unemployment in the U.S. climbed to over 10 percent.

The recession accelerated trends in large firms that had begun several years earlier. Major clients had become less loyal to firms that had represented them for years, shopped for different types of services from numerous firms, negotiated fees, scrutinized bills more carefully, and transferred some work from their law firms to their own legal departments. Law firms were already under pressure to economize. When the recession arrived, many firms laid off both partners and associates and started hiring fewer associates than in the past. In February 2009, law firms fired 1,100 lawyers in two days.[[52]](#footnote-52) The largest 200 firms in the U.S. laid off an estimated 11,000 lawyers between early 2008 and September 2010.[[53]](#footnote-53) The recession delivered a terrible blow to many lawyers and many law firms. Large law firms “took a more substantial hit” than small firms because the smaller firms had lower overhead costs and lower rates that gave them a competitive advantage. Their fields of practice depended less on a booming economy. Large firms found that the demand for big litigation and legal work on large transactions declined.[[54]](#footnote-54) From 2014 to 2019, however, revenues of large firms went up steadily[[55]](#footnote-55) and law firm hiring increased.[[56]](#footnote-56)

3. Government and nonprofit organizations

About 12 percent of graduating lawyers go to work for governments (not including judicial clerkships), and about 7 percent take jobs with nonprofit organizations.[[57]](#footnote-57) The percentage of women and men going into government is about equal, but twice as many women as men take jobs in nonprofit organizations.[[58]](#footnote-58) Because government and nonprofit jobs are so varied, it is not possible to describe the working conditions of lawyers in any depth. There are, however, several narrative accounts written by public sector lawyers.[[59]](#footnote-59) These stories suggest that some lawyers obtain immense, daily satisfaction from legal work. Most of these stories involve lawyers who care about a cause or a particular type of client or work setting and who are willing to trade money for professional fulfillment. Here are two narratives from lawyers about their experience in public service positions.[[60]](#footnote-60)

[At the National Center for Youth Law,] I represent [clients who are 9 to 13 years old] in legal guardianship proceedings and assist in getting the financial support and social services that their relatives need to care for them. Such assistance can often mean the difference between a stable home with a relative or a long struggle in a foster home. . . . There has not been a day that I have regretted not working at a large, private law firm. It is nice that I do not need to find 2,100 billable hours somewhere under a stack of trade secret documents. Admittedly, I do not own the house I live in; I have not bought that Mercedes yet; I may never make $150,000 a year. On the other hand, I have not missed a loan payment; I still eat like a pig; and, damn, I’m happy. It is hard to believe that I wake up each morning and get paid for doing what I do.[[61]](#footnote-61)

Fresh from graduating and not yet sworn in to any bar, I began [my career] in the Tax Division, Criminal Enforcement Section [of the U.S. Department of Justice]. [As soon as I finished some work on my first case,] I was pulled onto a special . . . task force where the Criminal Division responded frantically to Congressional subpoenas and weighing executive privilege claims in a highly politicized atmosphere. And then I got sworn into the bar. A couple of weeks later I had my first trial while on detail to the Domestic Violence and Sex Offense Unit of the D.C. United States Attorney’s office. With a caseload of over 200 matters, the trials came fast and furious. Early on I tried a child abuse case. . . . I am not sure if anything will compare to the feeling of winning this misdemeanor case: receiving the thanks of the children (including my own hand-drawn picture of Barney), their mother and grandmother, the defense attorney storming out saying “I never lose,” and the competitive thrill of advocacy. . . . I took this job in part because of a belief in an ethic of public sacrifice over private gain. As it turns out, sacrifice has not been part of the equation as my nascent career has exceeded not only my expectations of working in the ominous “real world” but also, in truth, my imagination.[[62]](#footnote-62)

Lawyers in government and nonprofit organizations tend to be very satisfied with their career choices, even though they earn significantly less money than their private sector counterparts. One reason is that they experience great satisfaction from serving people who need their help. In addition, lawyers in these organizations find mutual affection, camaraderie, and support from a wider network of public service professionals. Public interest lawyers are given much more responsibility early in their careers, they have more opportunities to be creative, and their work lives involve more fun.

A law student interested in learning more about public interest careers might start with the immense online library of materials about those careers maintained by Harvard Law School.[[63]](#footnote-63) Another useful starting place is an essay by one of the authors about the pleasures of working in a public interest law firm.[[64]](#footnote-64) Chapter 14 also explains programs designed to financially support students who choose to pursue public interest careers.

**4. Professional satisfaction**

What do empirical studies show about law firm associates’ satisfaction?

A study based on survey research, published in 2015, found that attorneys working in firms of 100 or more lawyers were “not as happy as the public service lawyers [in the survey] even though they were better compensated. As billable hours increased, pay went up markedly, but happiness actually went down. These lawyers drank more too.”[[65]](#footnote-65)

The report confirmed earlier studies showing that despite having the highest incomes, associates working in large firms are less satisfied than their counterparts in small firms, government, legal services, or nonprofit organizations.[[66]](#footnote-66) In 2013, Forbes concluded from a survey that associates in law firms had the “unhappiest job” in the nation,[[67]](#footnote-67) although at the most elite firms, senior associates appeared more satisfied — perhaps because they had adjusted to the “new normal.”[[68]](#footnote-68)

 The data from surveys of larger populations of lawyers (not just those in large firms) are mixed. Professors Dinovitzer and Garth found, based on a nationwide sample of lawyers who had graduated 5 years earlier, that “[f]or lawyers working in private law firms, the pattern is clear: the larger the firm, the lower the expressions of career satisfaction, with satisfaction decreasing as firm size increases.”[[69]](#footnote-69) On the other hand, Professors Milan Markovic and Gabriele Plickert found, on the basis of a survey of more than 11,000 lawyers in Texas, that “firm size does not affect lawyers’ career dissatisfaction.”[[70]](#footnote-70) They did find that a much higher proportion of lawyers in private practice expressed dissatisfaction with their careers than did lawyers working for governmental agencies or non-profit organizations.[[71]](#footnote-71)

Are small-firm lawyers happier than large-firm lawyers?

The data are mixed. A major longitudinal study of lawyers who started practicing in 2000 concluded that “[t]he smaller the law firm, the more likely it is that new attorneys will report relatively high satisfaction with the work that they do.”[[72]](#footnote-72) But a study of the same lawyers in 2007 found that women in small firms were more satisfied with their decision to become lawyers than women in large firms, while men in large firms were slightly more satisfied than men in small firms.[[73]](#footnote-73)

Why do the lawyers earning the most money have the lowest levels of career satisfaction?

No one knows for sure. Research suggests that those who are most materialistic are least likely to be satisfied with what they acquire, because they always want more.[[74]](#footnote-74) Even within the legal profession, the data suggest that those who are less focused on wealth and status tend to be happier. Ronit Dinovitzer and Bryant Garth discovered that even within large firms, lawyers who had gone to fourth-tier law schools (measured by the U.S. News & World Report index) were twice as likely to be very satisfied (49 percent) as those who had gone to the top-ten-rated law schools (26 percent). The authors concluded that “graduates of top-tier schools have all the advantages, but the data suggest that they do not necessarily appreciate them” because they “are on a fast track and are there by choice, which is reflected in their valuing prestige and mobility versus lifestyle. . . . [But some regret other nonlaw] options they could have pursued.” By contrast, those who went to somewhat lower ranked law schools, most of whom work at smaller firms for much less money than their top-ten counterparts, are “grateful for the opportunities they have, [and] when compared to graduates of the tiers above them, they are more committed to their employers, network more, and are more satisfied with their decision to become a lawyer.” And those in the lowest tier, earning the least money, “reject the long hours associated with working in a large firm [but] report high levels of satisfaction with their job setting . . . making virtues out of necessities. . . . [They are] well aware of the boost that the law degree gave to their careers. They believe that they are lucky [to have jobs as lawyers].”[[75]](#footnote-75)

If newer lawyers in large firms are unhappy, are the partners happier?

Recent literature suggests that senior lawyers in large firms are not much better off than the junior lawyers, despite earning vastly more money. Lawyers in law firms used to spend their whole careers at the firms at which they started. Their partnerships were lifelong relationships. While earnings of partners often varied based on clients brought in and productivity, there was less income inequality and status hierarchy among partners than is the case now.

 Incomes of partners in large firms have risen very rapidly. At the 100 largest firms, average profits of equity partners doubled between 2004 and 2019. But fewer partners are equity partners. In 2000, 78 percent of the partners at these firms were equity partners, but by 2018, the figure dropped to 56 percent.[[76]](#footnote-76)

**FOR EXAMPLE:** At Kirkland and Ellis, the world’s highest-grossing firm in 2019, 400 partners had a retreat at a resort. They learned that each of them that year would earn between $1.75 million and $15 million that year. But 560 other Kirkland partners were not invited to this party. These non-equity partners would earn at most $800,000 for the year. The income spread between the highest and lowest partners was 43-to-1.[[77]](#footnote-77)

 Partners in law firms often move from one firm to another to increase their incomes. Clients often follow. The relationships among the partners and between lawyers and clients are less stable than they once were. While once there was a “tightknit camaraderie” among biglaw partners, now there is “a focus on data. ... Firms closely track how many billable hours each lawyer has logged, which clients are late on payment, and how many hours an assignment usually takes.” The pressure that used to be put on associates has extended up the hierarchy. “Becoming a partner, the industry saying goes, is like winning a pie-eating contest only to find that the prize is more pie.”[[78]](#footnote-78) Being a partner in a large firm is not a source of great happiness for many partners. Elliott Portnoy, the “global chief executive” of Denton’s, the world’s largest firm (10,000 lawyers in 78 countries), told a Wall Street Journal reporter that “If you get partners in their private moments to talk about their ambitions for their children, I would be very surprised if many would articulate partnership in a large firm.”[[79]](#footnote-79)

 Firms used to promote associates to “real” partnership within seven years. Now some firms take ten years or more to promote associates, and there are more steps between associate and equity partner. Some firms ask associates to serve a year as “counsel” before moving on to partnership. And, as mentioned above, a growing number of partnerships are non-equity positions.[[80]](#footnote-80) Associates now do “more job-hopping, which is less conducive to a system that requires paying dues at one firm for years until making partner.”[[81]](#footnote-81)

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2. . John P. Heinz & Edward O. Laumann, Chicago Lawyers: The Social Structure of the Bar (1982). The book is based on data collected in 1975. [↑](#footnote-ref-2)
3. . Id. at 28. [↑](#footnote-ref-3)
4. . Id. at 319, 331, 354, 379, 384. Heinz and Laumann found that 45 percent of the securities lawyers in Chicago had gone to law school at Chicago, Columbia, Harvard, Michigan, Stanford, or Yale, while only 8 percent of personal injury plaintiffs’ lawyers, 4 percent of criminal defense lawyers, and none of the prosecutors had attended these schools. Id. at 113. [↑](#footnote-ref-4)
5. . John P. Heinz, Robert L. Nelson, Rebecca L. Sandefur & Edward O. Laumann, Urban Lawyers: The New Social Structure of the Bar 29 (2005). The authors realized that the questionnaire that they used in their original study did not sufficiently divide some areas of law, such as tax work, into corporate or personal representation, an error they corrected in the 1995 survey instrument. [↑](#footnote-ref-5)
6. . Id. at 43. [↑](#footnote-ref-6)
7. . See id. at 160-161. [↑](#footnote-ref-7)
8. . Id. at 40. The fields in this middle group were personal tax, plaintiffs’ environmental work, municipal law, residential real estate, personal civil litigation, probate, and civil rights. John P. Heinz, Edward O. Laumann, Robert L. Nelson & Ethan Michelson, The Changing Character of Lawyers’ Work: Chicago in 1975 and 1995, 32 Law & Soc’y Rev. 751, 763-764 (1998). [↑](#footnote-ref-8)
9. . Id. at 772, 774. . [↑](#footnote-ref-9)
10. Inequality between the private and public sectors in the legal profession is even greater. In 2018, the median starting salary for prosecutors was $56,200, and for civil legal aid lawyers it was $48,000. NALP, New Public Service Attorney Salary Figures from NALP show slow growth since 2004 (2018), <https://perma.cc/49D7-B8DN>. Geography also matters. Lawyers earn the most, on average, near San Jose, California, and much less in many rural areas. See Rachel M. Zahorsky, What America’s Lawyers Earn, A.B.A. J., Mar. 1, 2011. [↑](#footnote-ref-10)
11. NALP, Findings from the 2017 Associate Salary Survey (2017), <https://perma.cc/7FQ3-7HCS>. [↑](#footnote-ref-11)
12. . NALP, Salary Distribution Curves — Class of 2017, https://perma.cc/Z9YH-JNU3. [↑](#footnote-ref-12)
13. . A 2018 survey of partners at the largest 200 law firms revealed that equity partners averaged $1.13 million per year. Jeffrey A. Lowe, Major, Lindsey, & Africa 2018 Partner Compensation Study, <https://perma.cc/7HHM-D7NR>. The same study found that male partners had earnings 53 percent higher than female partners. [↑](#footnote-ref-13)
14. . These students may be in for a big disappointment. See Lisa G. Lerman, Greed Among American Lawyers, 30 Okla. City U. L. Rev. 611 (2005). [↑](#footnote-ref-14)
15. . By academic year 2018-19, the average debt of recent graduates of the nation’s private law schools exceeded $130,000, not counting any undergraduate debt. Law School Transparency, Law School Costs (2018), <https://perma.cc/5LHT-HHWZ>. For graduates of state law schools, the average debt load (excluding undergraduate debt) was just under $90,000. Id. [↑](#footnote-ref-15)
16. . “Some people are of the mindset that if you get rid of the other associates around you, you have a better chance of making partner,” reported a Chicago lawyer, who said that “associate backstabbing was rampant” at his former firm. Stephanie Francis Ward, Betrayals of the Trade, A.B.A. J., Aug. 2003, at 34 (also reporting some associates try to steal other associates’ clients; e.g., male associates invite female associates’ male clients to go on all-male hunting trips). [↑](#footnote-ref-16)
17. . Law firms regularly raise the number of hours that they demand from their associates, but they almost never lower them. One survey found that between 1999 and 2000, 28 percent of very large law firms raised their billable hour targets, while not a single firm reduced them. NALP Found. for Research & Educ., Beyond the Bidding Wars: A Survey of Associate Attrition, Departure Destinations, and Workplace Incentives 35 (2000). [↑](#footnote-ref-17)
18. . [Asimow’s footnote 165.] By general consensus, most lawyers need to work (or at least be away from home) about three hours to bill two, given the substantial non-billable claims on their time such as client development, associate recruiting, bar association activity, personal calls or errands, keeping up with the law, training, lunch or coffee breaks, schmoozing with colleagues, and so on [citing studies]. [↑](#footnote-ref-18)
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24. .Major, Lindsey & Africa, Law Firm Practice Area Summary (2017), https://perma.cc/AM5H-4XJK. [↑](#footnote-ref-24)
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29. . Carroll Seron, The Business of Practicing Law (1996). Seron seems to have written the only sociological book about small-firm lawyers, but several handbooks for small-firm and solo practitioners have been written, including Carolyn Elefant, Solo by Choice: How to Be the Lawyer You Always Wanted to Be (2008); K. William Gibson, Flying Solo: A Survival Guide for the Solo and Small Firm Lawyer (4th ed. 2005); and Ann M. Guinn, Minding Your Own Business: The Solo and Small Firm Lawyer’s Guide to a Profitable Practice (2010). [↑](#footnote-ref-29)
30. . Seron, supra n. 29, at 31. [↑](#footnote-ref-30)
31. . Id. [↑](#footnote-ref-31)
32. . Id. at 33. In fact, among the 30 married male respondents who worked expanded hours, 13 of their spouses did all of the housework and child care. Id. at 34. [↑](#footnote-ref-32)
33. . Id. at 36. [↑](#footnote-ref-33)
34. . Id. at 34. Only four women in the study had children and worked expanded hours. Two of them did all of the child care. Id. [↑](#footnote-ref-34)
35. . Id. at 38. [↑](#footnote-ref-35)
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37. . Id. at 52-55. Seron reports that female attorneys are less likely to view business-getting as part of their jobs. Id. at 56. [↑](#footnote-ref-37)
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