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## ***Young Associates in Trouble***

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## YOUNG ASSOCIATES IN TROUBLE

*David Zaring & William D. Henderson*

### BOOK REVIEW ESSAY

*In the Shadow of the Law.* By Kermit Roosevelt. New York: Farrar, Straus and Giroux. 2005. Pp. 346. \$24.

*Utterly Monkey: A Novel.* By Nick Laird. London & New York: Harper Perennial. 2005. Pp. 344. \$13.95.

Two recent novels portray the substantively unhappy and morally unfulfilling lives of young associates who work long hours in large, elite law firms. As it turns out, their search for love, happiness, and moral purpose is largely in vain. In the rarefied atmosphere of both fictitious firms, the best and the brightest while away their best years doing document reviews, drafting due diligence memoranda that no one will read, and otherwise presiding over legal matters with lots of zeros but precious little intrinsic interest. If this is what large law firm practice is like, the reader is bound to ask why large law firm jobs are so coveted. Is it really all about money?

In this review essay, we compare Kermit Roosevelt's and Nick Laird's bleak portrayals with findings from a unique dataset on law firm profitability, prestige, hours worked, and various measures of several associate satisfactions. We also mine the findings of several empirical studies that track the experience of lawyers over time. We observe that higher firm profitability is associated with higher salaries, bonuses, and prestige. Yet, higher profits also have a statistically significant relationship with longer hours, a less family-friendly workplace, less interesting work, less opportunity to work with partners, less associate training, less communication regarding partnership, and a higher reported likelihood of leaving the firm within the next two years. Nonetheless, graduates from the nation's most elite law schools tend to gravitate toward the most profitable and prestigious (and most grueling) law firms. The attraction of the most elite firms may be superior outplacement options. Or perhaps, as both novels intimate, it may stem from a reluctance to make hard life choices.

The available empirical evidence suggests that success within the elite law firm environment often entails a difficult array of personal and professional trade-offs. Although we find our empirical data to be informative, the novel may be a particularly effective vehicle for examining the rather existential nature of these choices. Thus, we suspect that the accounts drawn by Roosevelt and Laird will resonate with many elite, large law firm lawyers.

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## YOUNG ASSOCIATES IN TROUBLE

Large law firms have reputations as being tough places to work,<sup>1</sup> and the larger, the tougher the firm.<sup>2</sup> Yet, notwithstanding the grueling hours and the shrinking prospects of ever making partners,<sup>3</sup> these firms perennially attract a large proportion of the nation's top law school graduates. These young lawyers could go anywhere, but choose to work at big law firms. Why do they do so, if these firms are as bad as people seem to think they are?

To be sure, the most prestigious law firms offer substantial compensation, a shot at a highly lucrative partnership position, and résumé value that will potentially open a wide array of doors upon one's departure. Indeed, it might seem perfectly rational that many young attorneys would be willing to work grueling hours and place their personal lives on hold in exchange for a brighter post-firm future.

But perhaps it is not. Perhaps it is a path-dependent choice that turns on the failure to make a choice, and to settle, by default, into an unhappy, difficult life of work.

Two recent novels about the lives of young associates in large, prestigious law firms take this second view. Kermit Roosevelt's *In the Shadow of the Law* and Nick Laird's *Utterly Monkey* make a grim case for the prospect of practicing law in capacious office buildings at the center of large, interesting cities. Both novels star young associates in trouble, associates who dislike their jobs, disagree with their clients, and who rarely get home at a decent hour. As did John Grisham's *The Firm*,<sup>4</sup>

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1. See, e.g., Patrick J. Schiltz, *Legal Ethics In Decline: The Elite Law Firm, The Elite Law School, And The Moral Formation Of The Novice Attorney*, 82 MINN. L. REV. 705, 724–26 (1998) (stating that “the life of . . . a new attorney who is about to begin work at a large law firm” entails an “unrelenting pressure to bill hours” that leaves little room for “what gives the lives of most people joy and meaning”); Alex M. Johnson, Jr., *Think Like A Lawyer, Work Like A Machine: The Dissonance Between Law School And Law Practice*, 64 S. CAL. L. REV. 1231, 1231, 1243 (1991) (noting associate dissatisfaction due to “billing incredible hours” in practice areas “increasingly narrow in focus”). Anonymous Lawyer, the daily blog written by a (fictitious) hiring partner at a major firm, is perhaps the most widely read negative caricature of big firm life. See JEREMY BLACHMAN, ANONYMOUS LAWYER (2006); see also Sara Rimer, *The Revealed Soul of the Soulless Lawyer*, N.Y. TIMES, Dec. 26, 2004, at \_\_\_ (outing the author of the popular blog, which “chronicles the soulless, billable-hours-obsessed partners, the overworked BlackBerry-dependent associates and the wrecked families that are the dark underside of life at his large firm in Los Angeles”).

2. RONIT DINOVTZET ET AL., AFTER THE JD: FIRST RESULTS OF A NATIONAL STUDY OF LEGAL CAREERS 33 (2004) [hereafter AFTER THE J.D.] (in a large national sample of young lawyers, reporting that about 20% were working more than 60 hours per week and were “most likely to be working in the largest firms,” particularly in the largest cities such as New York).

3. Cf. *The Cabill Way*, AM. LAW., July 2003, at \_\_\_ (reporting observation of former senior attorney at Cahill Gordon & Reindel, where PPP in 2002 was a staggering \$1.85 million, that “[y]our chance of making partner is a little bit better than winning the lottery, but not much”).

4. JOHN GRISHAM, *THE FIRM* (Bantam 1996).

and Cameron Stracher's *Double Billing*,<sup>5</sup> these novels suggest that the best course for the young lawyer is to avoid practicing law at a big sophisticated law firm at all costs.<sup>6</sup>

In this review, we consider the stories that these writers tell about law firm life, and compare them to the actual data that may be gleaned from the operations of law firms. Drawing upon financial information and associate satisfaction surveys conducted by *The American Lawyer*, we created a new dataset to explore the relationship between money and various indices of job satisfaction. To gain insight on how lawyers view their lives and working conditions before and after the partnership decision, we also mine the findings of several important longitudinal studies of lawyers and their job satisfaction over time.

Some of this empirical evidence suggests that many young associates have good, compensation and outplacement-related reasons for enduring grueling work conditions at fancy law firms.<sup>7</sup> But Laird and Roosevelt suggest that over-achieving law students have ended up at their place of employment by privileging the external measures of professional success and resisting the possibility that less celebrated career options will open the door to other important and ultimately more satisfying facets of life.<sup>8</sup> By eliding hard choices, these lawyers end up in unhappy, unfulfilling environments without really knowing how they got there, disempowered and alienated from their work. And ironically, their wealth and prestige still make them the object of envy. This is the existential crux of both novels.

Are Laird and Roosevelt correctly indicting firms and those that join them? We are, in the end, unwilling to reject their critiques. Our ambition here is to review their fictitious accounts and assemble the empirical facts so that young lawyers, when they decide where they would like to work, can reflect on what trade-offs they may or may not be willing to make.

## I. BIG LAWSUITS IN WASHINGTON

*In the Shadow of the Law* examines what kind of people might be willing to work at a law firm, and what kind probably shouldn't. The setting is Morgan Siler, a large,

5. CAMERON STRACHER, *DOUBLE BILLING: A YOUNG LAWYER'S TALE OF GREED, SEX, LIES, AND THE PURSUIT OF A SWIVEL CHAIR* (1998).

6. Nor are novelists the only critiques of firm life. *See, e.g.*, SOL M. LINOWITZ, *BETRAYED PROFESSION: LAWYERS AT THE END OF THE TWENTIETH CENTURY* (1994) (arguing that lawyers have lost their roles as public-spirited keepers of the general good); ANTHONY T. KRONMAN, *THE LOST LAWYER: FAILING IDEALS OF THE LEGAL PROFESSION* 1 (1993) (detailing the reasons why the American legal profession "now stands in danger of losing its soul"); MARY ANN GLENDON, *A NATION UNDER LAWYERS: HOW THE CRISIS IN THE LEGAL PROFESSION IS TRANSFORMING AMERICAN SOCIETY* 14 (1994) ("American Lawyers, wealthier and more powerful than their counterparts anywhere else in the world, are in the grip of a great sadness.").

7. Even critics of corporate legal practice recognize that they can assist with outplacement. *See, e.g.*, RICHARD KAHLBERG, *BROKEN CONTRACT* 182 (noting that "people don't go straight to a senate staff; they practice law for a few years and go over at a higher level.").

8. In *Broken Contract*, Kahlenberg explores the process that resulted in 95% of his Harvard Law School classmates joining corporate law firms. "Each of us faced tough moral choices . . . but we had to take some responsibility for our actions. No one was forcing us to go to firms." KAHLBERG, *supra* 7, at 95.

prestigious white shoe firm in Washington, D.C. Roosevelt has created Morgan Siler to star in a sociological novel, a study of law firm life through the lens of fiction, bookended by four chapters of a legal thriller.

The book begins with the arrest of Wayne Harper, a “big soft man,” with a “face empty of expression,” eyes “a pale, vacant blue,” and an extraordinarily limited vocabulary, for murder (Roosevelt, p. 4). Meanwhile, in Texas, a chemical plant explodes, with its workers reported to be first “dancing,” then “falling down,” and finally, “sort of twitching” (Roosevelt, p. 6). Did Harper kill someone? Should the corporate owners of the chemical plant be liable for the deaths and injuries caused by the explosion?

Morgan Siler is the firm charged with handling both cases, and both are resolved satisfyingly—the murder rather thrillingly—in the final three chapters of the novel. In between, the progress of the cases takes a back seat to what the way they are litigated says about big, sophisticated firm practice. By structuring the plot around two cases, one in which the firm wears a black hat and tries to prevent a corporate client from paying out in a terrible toxic tort case, and one in which it wears a white hat in trying to get a defendant off of death row, Roosevelt acknowledges that big firm legal practice can be diverse, both substantively and morally. But Morgan Siler damages the lawyers who stay at the firm too long.

Roosevelt proceeds by examining the inner lives and outward conduct of a vast number of voices. The lawyer with the fewest regrets is Peter Morgan, who transformed his father’s successful Washington-gray-eminence-enterprise into an increasingly bottom-line-oriented undertaking. Harold Fineman is his lieutenant, a litigator who has abandoned any moral qualms in a quest for discipline and effectiveness—he is “like a shark,” he tells himself, (Roosevelt, p. 324), and “life is a competition” (Roosevelt, p. 47). Morgan Siler’s other partners concoct dubious, liability-avoiding security deals, and one feels so guilty about his work that he suffers an early heart attack and devotes himself, to the displeasure of the firm’s leadership to pro bono work.

The two characters drawn with the most sympathy are Mark Clayton and Katja Phillips, two young associates who recently joined the firm. Mark struggles with his inability to attain any sense of mastery (or competence, for that matter) over a steady stream of banal litigation assignments. Mark already doubts his career choice.<sup>9</sup> In contrast, Katja Phillips is a highly adaptive young lawyer who methodically completes her work and safeguards her personal time. Katja wants to be *more* than a successful, productive lawyer, but she is increasingly unsure that the firm will permit her to do right and avoid wrong.

Two other associates, Ryan Grady and Walker Elliot, adapt to the firm in different ways. Grady ducks responsibility, bills fraudulently, and generally schemes to make himself look good at the expense of others. For Walker Elliot, who recently finished a clerkship with the Supreme Court, Morgan Siler is a lucrative way station that provides few challenges worthy of his talents. Elliot’s credentials get him special

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<sup>9</sup> Mark familiarly concludes that “Law is what you do when you have no other plans.” (p. 240).

treatment from the partners, and he returns the favor by occasionally dashing off, in an hour or two, brilliant legal arguments that carry the day. Yet, when he is needed most, he disappears, turning down assignments so that he can prepare to leave the firm to teach.<sup>10</sup>

Many of these lawyers work to get Harper off death row—it turns out he didn't do it. They also try to get the chemical plant owners off the liability hook—it turns out that they were evil, did do it, and that the most noble associates turn on them and disclose the liability-avoiding financial chicanery to their victims. The book concludes with justice being meted out, and is somewhat implausibly rah-rah, but it was nice to see the plots picked back up and resolved engagingly.

The material in between struck us as plausible accounts of litigation in a big firm. There are plenty of meetings, discovery conducted in warehouses, oral arguments, a judicial opinion, depositions, and disputes with opposing counsel. Each of these regular big firm occurrences are novelized with scrupulous accuracy, and though they slow the narrative, they do render a carefully done—if grim—picture of associate life.<sup>11</sup>

At the end of the novel, though, the only main characters left at Morgan Siler are the monstrous Peter Morgan—and he loses his charming wife in the process—and the conniving Ryan Grady. Roosevelt appears to be interested in the ability of lawyers to act morally, and his novel suggests that big firm work may be incompatible with moral choices. Moral acts such as turning over evidence that will establish the liability of the corporate owners of the chemical plant that exploded, require departure from the firm.

It is a dark view of big law, even though Roosevelt leavens it with a favorable outcome in the pro bono defense of Wayne Harper, an outcome that probably would not have been possible without the expenditure of the firm's resources and talent. Even then, those resources are grudgingly allocated by Peter Morgan, and that victory depends upon the sacrifice of one lawyer to end his affiliation with the firm.

One could even call *In the Shadow of the Law* 346 pages of tragedy, followed by three chapters of a happy ending. After all, those who stay at the firm cannot, in the end, change—a “new life eluded [them] and was now beyond [their] grasp” (Roosevelt, p. 250).

But Roosevelt himself might characterize the novel as more epic than tragic. He has said that he used a “mythic structure” for his thriller, with “a reluctant hero who is summoned away from the ordinary world and called on to do great things, and . . .

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10. We were admittedly troubled by the fact that someone like Walker would do very well on the academic job market. Apparently, large law firms are not the only morally suspect institution in Roosevelt's crosshairs.

11. As one associate laments, “when work occupies eighty percent of your waking hours, the rest of your life is bound to wither. There were no hobbies to turn to, no friends to rouse on short notice for a movie or a couple of beers.” (240). Another complains that “[t]he A students end up working for the B students. Who had told her that? And why hadn't she listened?” (28). And another compares firm life unfavorably to pumping water back into the sea, which at least offers “a sense of accomplishment. (40).

archetypal figures who help or hinder him—an old wise man, a shapeshifting trickster, a dark shadow.”<sup>12</sup> Because he appears to believe, in almost Jungian fashion, that all myth stories are pretty similar, “you can more or less map the characters from *In the Shadow of the Law* onto the characters of *Star Wars*.”<sup>13</sup>

*Star Wars* is a fun model for a novel, and it is worth noting that *In the Shadow of the Law* has its share of clever allusions and dry wit. For example, in *Henry VI Part 2*, a rebel suggested that “the first thing we do, let’s kill all the lawyers.”<sup>14</sup> Early in *Shadow*, after the explosion in the chemical plant, one of the company executives says “That’s the first thing you do. You call all the lawyers.” (7) Entertaining, sure, but our considered reaction to the book was that the world it portrayed was rather more Kafkaesque than English Renaissance. Roosevelt’s storyline suggests that elite law firms exact a heavy toll of compromise and lost opportunities on the talented who find, in the end, that they are surprised about what they gave up. And the regret both is unbearable<sup>15</sup> and, the longer the stay at the firm, unavoidable.<sup>16</sup>

## II. FEAR AND LOATHING IN LONDON AND ULSTER

*Utterly Monkey*, like *In the Shadow of the Law*, posits that a lawyer who works for a large firm is “wasting his life,” (Laird, p. 292), and must be “an unhappy person” (Laird, p. 291). The book follows a fish out of water format, in which the protagonist, Danny Williams, an up-from-the-vaguely-mean-but-very-protestant-streets of Northern Ireland tries to survive both a Magic Circle<sup>17</sup> London law firm and the nogoodnik loyalist circles into which some of his childhood acquaintances have drifted. Laird’s story is one in which a hero, in an existential crisis, saves his future by dramatically leaving his job, and his story about firms is one that again depicts them as both morally bankrupt and harsh work assigners.

It’s the loyalists who most drive the plot, as they first lose, and then find, 50,000 ill-gotten pounds, which are then exchanged for explosives powerful enough to do

12. Kermit Roosevelt, *In the Shadow of the Law*, [http://www.isthatlegal.org/archives/2006/07/in\\_the\\_shadow\\_o.html](http://www.isthatlegal.org/archives/2006/07/in_the_shadow_o.html) (July 6, 2006).

13. Specifically, Mark is Luke Skywalker, though he “does not end up having the mysterious powers of a Jedi Knight.” Walker Eliot—the name Walker is a Star Wars joke—is the potential Jedi. Peter Morgan, the managing partner of the firm, “is the Emperor, who turns the firm into a soulless profit-fixated place and tempts the other characters towards the dark side.” Harold Fineman is Darth Vader—he’s given in to the dark side, though towards the end he tries to recover his lost humanity.” Wallace Finn, the old partner who runs the pro bono program “is either Yoda or Obi-Wan Kenobi—a sage with hidden powers of his own.” Roosevelt notes that several other Star Wars alter egos. See Roosevelt, *supra* note 12.

14. William Shakespeare, *The Second Part of King Henry the Sixth*, act 2, sc. 2.

15. As one associate asks himself “what will I regret in twenty years? . . . All of this, probably. Right now I do.” (66)

16. Another associate who tries to compartmentalize work life and non work life concludes that it may be impossible to avoid the one bleeding into the other: “we grow into our masks, . . . we become who we impersonate.” Roosevelt, p. 82.

17 The Magic Circle is comprised of five British law firms that rival the elite Wall Street firms for international corporate work. See Vivia Chen, *Big Stage, Bit Players*, AM. LAW. June 2005, at 101 (“It’s no secret that Magic Circle firms fancied themselves the equal of most white-shoe New York firms.”).



serious damage to the center of a British city. The question then becomes: which sort of city? One in Ulster, with Catholics in it, or one in England, to underscore the anger felt by the protestant betrayal of the peace process? The resolution of the bombing angle turns on whether Danny and his most downtrodden Ulster friend will find a way to save the day by stopping their vilest acquaintances from accomplishing a very evil deed.

This stop-the-bombers plot is reasonably engaging, but it is life at Monk & Turner—and the way it got its hooks into Danny—that we found most interesting. Danny’s associateship offers “good money. Bad hours,” and wasn’t begun with a particularly compelling exercise of free will (Laird, p. 9). Success at secondary school begat success at the university which begat law school and work at a very large law. The firm “felt to Danny like just another institution in a long line of places where you got told what to do, and did it” (Laird, p. 28).

What he gets told to do is something that Laird characterizes as a combination of tedious and unlovely. The matter that takes Danny back to Northern Ireland requires him and a young romantic interest to do due diligence on a water utility takeover. It meant that:

“they’d sit in a dark hallway somewhere, being brought boxes of documents by surly admin staff, admin staff who would make it clear they knew Danny and Ellen work[ed] for the company trying to buy them and sack them. They’d spend hours looking through contracts for onerous undertakings that could influence [their client’s] decision to buy. . . . Danny knew he would draft a detailed and lengthy due diligence report that would weigh, in unusually elegant language, any abnormal and arduous clauses in all of Ulster Water’s contracts . . . . And that it would not be read by anyone.”

(Laird p. 64).

This sort of boring but demanding work is nothing new to Danny. He has covered a dispute between “a crisp bag manufacturer and the company that manufactured crisp bags” dry enough to turn him on to anti-depressants, and a case “involving suing the Bulgarian Government for renegeing on promised subsidies for a hydro-electric power station,” that forced him to miss his grandmother’s funeral.<sup>18</sup> There are so many unhappy aspects to Danny’s big firm London associateship that it is difficult to figure out why he has lasted so long. For his troubles he has obtained a paid-up flat within bicycling distance of work—in our estimation, pretty small beer.

In this miasma of bad things, two problems in particular seem to be central to Laird’s critique of the law firm: the problem of hierarchy and the problem of the black hat. As Danny spends more time at Ulster Water, which is based in Northern Ireland, he gets away from the firm, and closer to his roots. The result is more

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18. P. 38 By contrast, in somewhat Tolstoyan adoration of the peasantry, the people who clean the law firm’s offices “bustle about” more contentedly. P. 277. They pity the lawyers they work for, who, in the case of the protagonist, “suffer the curious guilt of accepting pity from someone paid to empty his bin, and somehow who’d fled from hurricanes, earthquakes, poverty, and war.” (277).

disillusionment. When it turns out that employees of Ulster Water knew his father, Danny realizes that he doesn't "want to have this conversation" (Laird, p. 174). When he returns to London to complete the paperwork Danny finds himself unable to finish, dreading the moment when his client "would bid, UW would be taken over, and the bloodbath would begin" (Laird, p. 279).

Danny's guilt is compounded by his growing anger at his supervising partners. Laird portrays them as slave-drivers who approach all things with a "mordant edge" caused by "having too much money and too little time." (Laird, p. 280). The worst partner turns out to have had a brief affair with his love interest, which drives Danny mad with "the injustice of it, of her and that smarmy vicious twat, that *ancient twat*" (Laird, p. 251). The combination of unbearable supervision and morally bankrupt work drives Danny to finish a bottle of Irish whiskey, make off with the client's takeover bid for Ulster Water, and throw it into the Thames, where "the wind caught it, and broke it up into a stream of frantic doves" (Laird, p. 293).

This is pretty writing, but pure wish fulfillment. To Laird's credit, Danny's act of resistance is a futile one—the evil, affair-having boss gets a replacement bid submitted in time. But, perhaps to his disrepute, his bad client loses the auction for Ulster Water in the end to a white knight from Japan that apparently wants to grow water production in Ulster. A happy ending for the Northern Irish workers, and for Danny as well, who makes up with Ellen, gets fired from the firm, and ends the book whisking her away for dinner.

It all makes for a conventional, but reasonably engaging caper novel/associate *roman a clef*. But it is not perfect literature. Laird tries to combine a number of stories into the book, and in the end, gives up on most of them; the bomb plot in particular very much concludes with a fizzle. Still, the picture of Magic Circle life is etched in acid, and Laird's achievement is to pair a descriptive story about firm drudgery with other stories—a romance, a thriller—designed to make the sad story of associate life end in a cheerful episode of redemption. The conclusion is compatible with Roosevelt's—firm life is something into which young lawyers find themselves for no good reason, and the correct move is the fleeing of it.

### III. THE FICTIONAL CHOICE FOR YOUNG LAWYERS

So how do these reports from fiction jibe with the realities of large law firm practice? We were certainly convinced that the hours would be long, and the day to day work lives of many young associates would be dull. Years ago, elite British firms were viewed as distinctly more humane employers, with billable hour requirements in the 1,400 to 1,800 range, compared to 2,000 for U.S. firms.<sup>19</sup> But there are ample reports that even in London, elite U.K. firms are becoming more like their U.S.

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19 See, e.g., Anna Snider, *The British are Coming*, N.Y.L.J., Sept. 24, 1999, at 24 (noting that attorneys in elite British firms typically bill between 1,400 and 1,600 hours per year, which allows "a life outside of your job"); Bradford W. Hildebrandt, *International Branching*, N.Y.L.J., Oct. 9, 1990, at 4 (suggesting that billable hour norm in London is 1,500 hours per year versus 2,000 in New York City).

counterparts.<sup>20</sup> Depending upon your vantage point, the grueling work demands of elite large law firms may be adequately offset, in both the short and long run, by high compensation and the permanent résumé value conferred by elite law firm employment.<sup>21</sup>

And while leaving a law firm is something that the associates in both novels do with an exclamation point, we suspect that non-fictitious associates join prestigious and profitable firms with a different exit strategy in mind.<sup>22</sup> Although many associates report that the best part of their firm jobs are the leaving of them, we think that the way they leave—to attractive employment opportunities generated by the contacts made and experience gained at the firms at which they toil—may be part of the point of joining the firm in the first place.

One other feature of both novels that we found unconvincing, though perhaps excusable as a consequence of the need for plot, was the central place of the lack of moral choice for associates. Both Danny in *Utterly Monkey*, and the good young associates, Katja and Mark in *In the Shadow of the Law*, transform themselves at the end of the novel by betraying their clients, at the cost of their jobs.<sup>23</sup> We doubt that the chief complaint of associates at fancy law firms is that they are working for the bad guys, and that the road to salvation depends on abandoning their clients and turning to lawyering for the better guys. Big firms do not simply work for injustice. Contract disputes between companies, say, or regulatory compliance efforts, don't particularly feature bad guys. And putatively good guy lawyers have to deal with lying plaintiffs, unsavory cooperating witnesses, sexually harassing heads of public interest organizations, and the like. We suspect that young associates and law students, with

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20 See, e.g., Claire Smith, *The Increasingly Competitive London Legal Landscape*, Vault, May 4, 2006 (noting a “paradigm shift” in London since the mid-90s, marked by “an increasing focus on the dreaded billable hours” and that annual targets of 2,000 hours are now common); Carey Bertolet & Joanna Joplin, *Tale of Two Cities*, BCG Attorney Search (attorney recruiting firm discussing two Magic Circle firms in which young associates regularly billed 2,000+ hours per year).

21. The 2006 Vault Guide outline the benefits of working for a prestigious law firm:

Why does law firm prestige matter? . . . Working for an esteemed law firm means being exposed to a greater variety and volume of work, as well as more prominent and high-profile cases and deals. . . . Most importantly, working for a preeminent firm will give you instant credibility in the job market and will mark you as someone to be taken seriously throughout your career.

BRIAN DALTON, VAULT GUIDE TO THE TOPS 100 LAW FIRMS, 2006 EDITION 1 (2005)

22. See, e.g., Elizabeth Goldberg, *Exit Strategy*, AM. LAW., Aug. 2006, at\_\_ (“As one Allen & Overy associate explains, ‘I view it as a contract. I need the salary, the experience, the name on my résumé. In exchange, [the firm] needs cheap labor, manpower, and our complete availability. As long as I am not a free rider and the firm meets its obligations, it is a good deal. When I am ready to go, I go.’”).

23. The fact that client betrayal is more likely to cost one one's job in the corporate context has been noted by David Wilkins. See David B. Wilkins, *Who Should Regulate Lawyers?* 105 HARV. L. REV. 799, 872 (1992) (“[C]orporate clients, with their superior ability to monitor and control lawyer conduct, have the power both to press their lawyers to act in ways that jeopardize systemic norms. . . .”).

all the resources of Internet sites,<sup>24</sup> books,<sup>25</sup> and other scuttlebutt at their disposal, know this.<sup>26</sup>

Moreover, the novels' associates all quit after violating ethical obligations that could drive them from legal practice forever. Needlessly turning over bad facts on behalf of your clients, let alone throwing its takeover bid into a river, are the stuff of disciplinary proceedings. Laird and Roosevelt both portrayed worlds in which zealous advocacy<sup>27</sup> was inconsistent with larger questions of right and wrong, and where bar disciplinary committees occupied a hazy space far away from the denouement of the novels. They find this bedrock principle of legal representation morally uninteresting, but we suspect that many lawyers charged with the representation of ignoble clients find it to be a consolation.

We think large law firm associates are more likely to be concerned with the time-management complaints and work-family trade-offs than the nature of the work they do. Our data, consist with earlier studies,<sup>28</sup> suggest that the most profitable and prestigious firms require the longest work weeks.<sup>29</sup> Moreover, there is some empirical evidence that those who remain at firms – senior associates and partners, rather than the junior lawyers who are the protagonists of both novels – are no more likely to strike a better balance as the years grind on.<sup>30</sup>

Both novels suggest that this disappointment may be tied to the institutionalization of the firm. Laird characterizes Monks & Turners as a vast lumbering enterprise that no longer has any consciousness of the human lives that generates its profits. Following a chronology that mirrors the analysis of Anthony Kronman's *The Lost Lawyer*,<sup>31</sup> Roosevelt casts Morgan Siler as the endpoint of multi-decade transition from artisanal vocation, where lawyers offered business and legal advice with an eye toward the collective good, to industrial ones where they perform alienating, assembly-line work.

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24. See e.g., Greedy Associates, <http://www.greedyassociates.com/>, and AutoAdmit.com [http://www.xoxobth.com/?forum\\_id=2](http://www.xoxobth.com/?forum_id=2).

25. See, e.g., sources cited in note 6, *supra*.

26. Though plaintiffs' lawyers do report some rewarding aspects of their practice. See Joanne Martin & Stephen Daniels, *The Making of A Plaintiffs' Lawyer: The Demographics of the Plaintiff's Bar in Texas*, Presented at 2006 Law & Society Annual Meeting, at 21–22 (reporting survey data among plaintiffs' lawyer that decision to continue doing contingency work was motivated more by desire to “serv[e] individual clients” and “serv[e] the public interest” than financial rewards).

27. “Zealous advocacy” is, of course, the baseline for professional responsibility. See, e.g., MODEL RULES OF PROFESSIONAL RESPONSIBILITY, Preamble ¶ 9 (2006) (noting that ethical duties “include the lawyer’s obligation zealously to protect and pursue a client’s legitimate interests, within the bounds of the law . . .”).

28. *ABA Young Lawyers Division Survey: Career Satisfaction* 15 tbl. 13 (2002) (reporting that 46.8% of respondents in law firms of more than 200 lawyers worked 60 or more hours per week and showing a sharp drop off among lawyers working in smaller firms); *After the J.D.*, *supra* note 2, at 36 tbl. 4.1 (reporting similar patterns).

29. See Part IV.A, *infra*.

30. See Part IV.B, *infra*.

31. See note 6, *supra*.

None of Roosevelt's and Laird's associates arrive at their firms bright-eyed, eager, and ready to do justice. Instead, they simply find themselves in high-end corporate practice, and the disillusionment they experience as they continue to do their work is more assumed than shown by the novels. Associates in Laird's and Roosevelt's worlds arrive pre-disillusioned. And perhaps the assumption is a fair one, as associates do not arrive at firms uninformed about the expectations on them—though they may underestimate their ability to handle the demands on their time and the constraints thus imposed on their personal lives.

#### IV. EMPIRICAL DATA ON LIFE WITHIN LARGE LAW FIRMS

Both Laird and Roosevelt portray large law firm life as a seemingly endless marathon of work that steals away the spiritual health and vitality of young lawyers. It is likely that many readers—especially law firm partners charged with recruitment—will conclude that these fictionalized accounts are overwrought caricatures. They have a compelling case. For those who believe that the supply and demand curves reflect the preferences of market participants, there appears to be ample data that young lawyers with the most options generally prefer large law firms.<sup>32</sup>

If we assume that aspiring lawyers are rational actors, what, specifically, is the attraction of these firms? It could be that Laird and Roosevelt are just wrong in portraying law firms as dehumanizing places to work. Luckily, data is available to evaluate their portrayals of law firm life. We will not—indeed we cannot—disprove the rational story about the decision to work in a large, elite law firm. But the ineluctable nature of the trade-offs is sobering. In Section A, we document that it is, in fact, tough to be a large law firm associate; and highly profitable and prestigious firms tend to have the worst working conditions. In Section B, we briefly compare our associate data to accounts drawn from more experienced lawyers of lives in firms; those that remain at firms also report job dissatisfaction, although interestingly, they may make their peace with it by adopting more corporate and business-oriented worldviews than their peers outside the legal profession.

##### A. Associate Working Conditions

The most comprehensive summary of working conditions in large U.S. law firms is the annual Midlevel Associate Survey compiled by *The American Lawyer* magazine.<sup>33</sup> The scope of the survey covers a wide array of topics that bear on (a) associate development and satisfaction,<sup>34</sup> (b) quality and allocation of work,<sup>35</sup> (c)

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32. See, e.g., Table 3, *infra*, and accompanying text.

33. These results, which are based on responses from third, fourth, and fifth year associates, are typically published in the October edition. See, e.g., Chloë Gladstone, *Nearly 6,000 Midlevels Responded to this Year's Survey*, AM LAW., Oct. 2005, at 121 [hereafter *2005 Midlevel Survey*]; Rosemarie Clancy, *Midlevel Associates Survey: How It's Done*, AM. LAW., Oct. 2004, at \_\_\_ [hereafter *2004 Midlevel Survey*] Spreadsheet versions of these surveys are available from ALM Research Online. See [www.almresearchonline.com](http://www.almresearchonline.com).

34. Rating the firm on a 1 to 5 scale (5 being the highest score), this category includes (1) how interesting the work is; (2) how satisfying the work is; (3) benefits and compensation; (4) associate

hours and compensation,<sup>36</sup> (d) firm culture,<sup>37</sup> and (e) partners and firm management.<sup>38</sup> In 2005 survey, the magazine received responses from 5,854 third, fourth, and fifth year associates at 185 large law firms.<sup>39</sup> The 2004 survey was comparable in size and scope.<sup>40</sup> To better understand the market dynamics of large law firm life, we combined the 2004 and 2005 Midlevel associate data with additional data on law firm profitability (from the 2004 and 2005 Am Law 200)<sup>41</sup> and prestige (from the annual Vault 100 survey).<sup>42</sup> Table 1 provides a breakdown of some the key variables in our dataset.

**Table 1. Summary of 2005 Mid-Level Associate Sample**

Variable	Mean	25%	Median	75th %	Valid N
Total attorneys	559	298	454	665	N=145
Profits per Partner	\$896,135	\$555,000	\$775,000	\$1,085,000	N=141
Avg. associate salary	\$143,228	\$125,406	\$149,758	\$163,289	N=159
Avg. assoc bonus	\$17,160	\$7,861	\$14,233	\$22,640	N=159
Avg. hours bill per week	44.6	42.5	44.3	46.4	N=159
Avg. hours worked per week	56.0	54.2	55.9	57.0	N=159

As we parsed the data, we were startled by the clear and unambiguous direction of the relationships. In a nutshell, virtually every measure reflecting desirable working conditions or enlightened management was either (a) strongly negatively correlated with profitability and prestige or (b) statistically irrelevant to the bottom-

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relations; (5) training and guidance; (6) openness on firm finances; (7) communication toward partnership; (8) realistic billable hours; (9) attitude toward pro bono; (10) likelihood of staying two years; (11) overall rating as a place to work. See *id.*

35. Using the same 1 to 5 scale as discussed in note 34, this category includes (1) methods for assigning work; (2) distribution of work; (3) quality of work assigned; (4) quantity of work assigned; (5) level of responsibility; (6) amount of client contact; (7) fairness of evaluations. See *id.*

36. This category includes (1) average hours worked per week; (2) average hours worked per week; (3) average salary; and (4) average bonus. See *id.*

37. This category includes (1) morale this year over last; (2) collegiality; (3) competitiveness, (4) dedication to diversity; (5) family friendliness; and (6) self-esteem (firm's prestige). See *id.*

38. Using a 1 to 5 scale, this category includes (1) opportunities to work with partners, and (2) opportunities to socialize with partners. See *id.*

39. See *2005 Midlevel Survey*, *supra* note 33, at 121. The overall response rate among associates was 41 percent. To be included in the published Midlevel ratings (which we relied upon for this study for both 2004 and 2005), Am Law must have received at least 10 completed questionnaires from firm associates.

40. See *2004 Midlevel Survey*, *supra* note 33, at \_\_\_ (reporting 4,334 responses from 181 participating firms, a total response rate of 44 percent, and that 148 firms had the requisite 10 responses to be included in the published rankings).

41. This information was compiled from the July (Am Law 100) and August (Am Law 101–200) issues of *The American Lawyer*.

42. In this dataset, we use data from the 2005 Vault Guide, which is based on 2004 survey results. See BROOK MOSHAN GESSER, ET AL., 2005 VAULT GUIDE TO THE TOP 100 LAW FIRMS 17 (2004). It is worth noting that PPP and Vault prestige are strongly but not perfectly correlated with each other (.689,  $p < .000$ ,  $n = 82$ ).

line. For example, even after controlling for differential firm response rates,<sup>43</sup> associate evaluations of the family friendliness of the firm and its openness regarding its finances were negatively correlated with firm prestige and even more strongly negatively correlated with firm profitability. Associate evaluations of the interest or satisfaction offered by their work were irrelevant to the profitability or prestige of their firms. Similarly, several other variables measuring working conditions, training and guidance, and social values (such as commitment to pro bono and workforce diversity) had no measurable effect on the firm profits.

Table 2 summarizes Pearson correlation coefficients between profitability/prestige and several other key variables from the Midlevel survey.

**Table 2. Pearson Correlations on Profits/Prestige and Firm Characteristics\***

Category	Variable	2005 Am Law PPP (n=120)		2005 Vault Prestige (n=75)	
		R	p value	R	P value
<i>Compensation</i>	Combined Salary and Bonus	<b>0.631</b>	0.000	<b>0.556</b>	0.000
	Average salary	<b>0.585</b>	0.000	<b>0.493</b>	0.000
	Average bonus	<b>0.542</b>	0.000	<b>0.501</b>	0.000
<i>Workload</i>	Average hours bill per week	<b>0.668</b>	0.000	<b>0.626</b>	0.000
	Average hours worked per week	<b>0.624</b>	0.000	<b>0.567</b>	0.000
	Quantity of work assigned	<b>-0.388</b>	0.000	-0.225	0.051
	Realistic billable hours	<b>-0.310</b>	0.000	0.033	0.774
<i>Working Conditions</i>	Communication re: partnership	<b>-0.495</b>	0.000	<b>-0.334</b>	0.003
	Openness re: finances	<b>-0.452</b>	0.000	<b>-0.299</b>	0.009
	Opportunities to socialize w/partners	<b>-0.313</b>	0.001	-0.137	0.239
	Opportunities to work w/partners	<b>-0.181</b>	0.050	-0.062	0.597
	Family-friendliness	<b>-0.299</b>	0.001	-0.050	0.668
	Partner-associate relations	<b>-0.246</b>	0.007	-0.041	0.728
	Training and guidance	<b>-0.187</b>	0.043	0.105	0.369
	How interesting the work is	<b>-0.232</b>	0.011	0.100	0.390
	How satisfying the work is	<b>-0.320</b>	0.000	0.014	0.905
<i>Social Values</i>	Level of responsibility	0.096	0.301	0.192	0.096
	Attitude toward pro bono	-0.091	0.328	0.120	0.301
	Dedication to diversity	-0.115	0.215	0.077	0.510

\*Controlling for firm response rate, log of # of respondents

**Bold** = significant at  $p < .05$  level

One of the most important insights that flow from the data is that large law firms cannot be drawn as a single, oppressive monolith. Indeed, there is significant variation of working conditions among large firms, and young lawyers who prefer

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43 Higher firm response rates were mildly correlated with more desirable work conditions for associates. Therefore, all our analyses controlled for firm response rates. We also added the natural log of the number of firm respondents as a control variable on the theory that amount of new information gradually trails off as the absolute size of the sample increases.

better working conditions can (and probably should) gravitate toward the less prestigious and profitable portion of the hierarchy.

Yet, if there is such a thing as a work/life tradeoff, we can assess its relative appeal by examining where graduates of the most highly ranked law schools—the alter egos of Mark Clayton (Penn), Katja Phillips (Michigan), and Walker Elliot (Yale)—choose to begin their careers. Once again, the results are unambiguous. Using a summary of the 2005 associate hiring patterns by law school for the 250 largest law firms in the country (NLJ 250), we broke down the data by law school rank (as ranked by U.S. News & World Report) and law firm prestige (as ranked by Vault). Among the 5,486 new large associates, 30.2% (1,656) attended a Top 10 law school. Yet, at the Top 10 most prestigious firms, the proportion of elite law school graduates increases to 58.5 percent. Thus, as shown in Table 3, associates from Top 10 law schools, who admittedly earn higher salaries and bonuses, tend to favor firms with longer hours and a less family friendly work environment.<sup>44</sup>

**Table 3. Mean Attributes of Law Firms, Top 10 & Non-Top 10 Large Firms**

Variable	Top 10 Firm (N=10)	Other Large Firms (N=149)
% 2005 associates from Top 10 school**	58.5%	27.7%
Profits per Partner**	\$1,977,000	\$813,626
Average hours worked per week*	61.57	55.58
Combined Salary and Bonus**	\$204,028	\$157,458
Firm Prestige (Am Law)**	4.85	3.99
Family-friendliness**	3.30	3.70
How interesting the work is	4.07	4.00
How satisfying the work is	3.80	3.85
Likelihood of staying two years**	3.26	3.70
Openness re: finances**	2.74	3.46
Communication re: partnership**	2.55	3.02
Overall rating as a place to work	4.02	4.06
Training and guidance	3.46	3.57

\*\*Means for two groups are statistically different at  $p < .01$

From the perspective of associates, money may be one of the primary tradeoffs for the harsh work conditions. As shown in Tables 2 and 3, salaries tend to be higher in elite firms. If an associate manages to make equity partner at a top Wall

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44. Relying on data from the After the J.D. Project, Ronit Dinowitzer and Bryant Garth argue that the relative dissatisfaction among graduates of elite law schools (defined as Top 10 in U.S. News & World Report) flows from the relative social and familial privilege of students who attend these schools. See Ronit Dinowitzer & Bryant Garth, *Lawyer Satisfaction in the Process of Structuring Legal Careers*, 41 *LAW & SOC'Y REV.* \_\_\_ (forthcoming 2007). While there may be something to that claim, the data presented here suggests that (a) elite graduates tend to choose firms with more grueling work conditions, and (b) they are compensated for this tradeoff.



Street law firm, his or her annual draw could easily exceed \$2 million.<sup>45</sup> Employment at prestigious law firms also confers substantial future outplacement options<sup>46</sup> in the event an associate wants to opt of the “promotion-to-partnership tournament.”<sup>47</sup> Vanity may also play a role. Young associates arguably derive hedonic benefits from separating themselves from their less accomplished peers. Certainly, many rational young associates are willing to endure personal hardships for money, self-image, and the preservation of future career options.

Yet, in one passage of *In the Shadow of the Law*, Roosevelt’s attractive protagonist, Katja Phillips, raises the specter of buyer’s remorse. After a long day of document review in a godforsaken part of east Texas, Katja shares a drink with Mark Clayton, and asks:

[I]s this really what it’s all about? Working harder for less freedom? You give up half your life to get good grades so you can get that top firm job, then as a reward you get to give up the other half. And then if you’re lucky someday you bail out and go work as in-house counsel to some corporation so you can get a little bit of it back. Who told us that this was what we really wanted?

(Roosevelt, p. 229).

Although money and prestige are clearly part of the centrifugal force that holds together the large law firm sector, a purely materialistic explanation has a hollow ring. Many of our former classmates and students now work in these practice settings, and few of them struck us as solely concerned with money and prestige. We speculated that dynamics within large law firms inevitably reflect other more human values, such as interest level of work, professional development as a lawyer, and work/family balance.

At the law firm level, we theorized that most large law firms will hew relatively closely to an economic model that maximizes law firm profits. The reason is simple: If the firm management places too much emphasis on social or “lifestyle” goals, powerful partners are free to exit the firm in pursuit of an environment that will permit them to maximize the value of their book of business.<sup>48</sup> Indeed, in recent years, the large scale defections of key partners have caused the collapse of many formerly large and prominent firms.<sup>49</sup> Therefore, acknowledging that the labor of young

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45. In our sample, eight firms had PPP in excess of \$2 million per year. In comparison, the median in our dataset was a paltry \$775,000.

46. See note 21, *supra*.

47. See MARC GALANTER & THOMAS PALAY, *TOURNAMENT OF LAWYERS: THE TRANSFORMATION OF THE BIG LAW FIRM* 100–02 (1991) (theorizing how the prestige and profits conferred by partnership entices young associates to engage in a grueling and uncertain “promotion-to-partnership tournament”).

48. See, e.g., ROBERT L. NELSON, *PARTNERS WITH POWER: SOCIAL TRANSFORMATION OF THE LARGE LAW FIRM* 5 (1988) (concluding, after a detailed sociological fieldwork in four large Chicago firms, that “power in the firm remains inextricably tied to ‘control of client’”).

49. See, e.g., WILLIAM G. JOHNSTON, *INTERNATIONAL, INC., ANATOMY OF LAW FIRM FAILURES* 14–16 & Exh. A (2004) (reporting that partner defections were catalyst events in numerous large law firm dissolutions between 1998 and 2004). *see also* Jonathan D. Glater, *Law Firm That Opened Borders Is*

associates is an essential ingredient of high profits per partner, the most relevant question becomes what firm attributes contribute to, or constrain, law firm profits.

To explore this issue, we specified a linear regression model (summarized in Table 4) in which the dependent variable was profits per partner from the 2004 Am Law 200.<sup>50</sup> The independent variables fall into four categories that would likely influence profits: (1) geographic market, because some markets contain more high-end non commodity work;<sup>51</sup> (2) attorney to partner leverage, (3) firm prestige, because some clients are willing to pay premium rates for high-stakes matters; and (4) the financial incentives, working conditions, and attitudes of mid-level associates. In general, we theorized that labor market for law firm associates would reveal a rationality that went beyond pecuniary gain—that, at some point, money could no longer compensate for personal sacrifice.

**Table 4. OLS Regression, Dependent Variable is PPP from 2004 Am Law 200**

Variable	B	Std. Error	Beta	P value
(Constant)	-\$932,408	\$598,338		0.122
% Lawyers in NYC/Global Cities	\$367,792	\$101,139	0.260	0.000
Attorney/Partner Leverage	\$64,405	\$22,820	0.153	0.006
Firm Prestige (Am Law Midlevel)	\$297,123	\$63,520	0.298	0.000
Avg. Hours Billed per Week	\$28,057	\$10,661	0.188	0.010
Average Bonus (\$1,000)	\$10,271	\$4,192	0.155	0.016
Level of Responsibility Score	\$368,024	\$102,123	0.214	0.000
Interest Level of Work Score	-\$453,166	\$143,736	-0.233	0.002
Likelihood of Staying Two Years	-\$211,781	\$81,855	-0.211	0.011
Family Friendliness Score	\$2,795	\$70,213	-0.003	0.968
Training and Guidance Score	-\$141,325	\$94,057	-0.112	0.136
Amount of Feedback Score	\$101,892	\$108,523	0.072	0.350
<b>N</b>	<b>119</b>			
<b>Adj. R<sup>2</sup></b>	<b>0.765</b>			

*Closing Up Shop*, N.Y. Times, Aug. 30, 2005, at \_\_\_ (“Coudert Brothers, international trailblazer that is more than 150 years old, is breaking itself apart after years of weak earnings caused in part by spreading itself too thin overseas”); Heidi Moore, *Testa Hurwitz to Disband*, THE DEAL, Jan. 18, 2005, at \_\_\_ (reporting that 280 lawyer Am Law 200 firm voted to disband “after failing to find a merger partner following 10 major partner defections during [the previous month]”). Jan Hoffman, *Oldest Law Firm Is Courty, Loyal and Defunct*, N.Y. TIMES, Oct. 2, 1994 at 33 (describing the collapse of the New York firm Lord Day & Lord, Barrett Smith).

50. Because of the availability of important control variables, we model profitability utilizing data from 2004.

51. An earlier study by one of the authors provides a detailed analysis of the relationship between geographic location of lawyer and firm profitability. See William D. Henderson, *An Empirical Study of Single-Tier versus Two-Tier Partnership in the Am Law 200*, 84 N.C. L. REV. 1691, 1719–22 (2006) (noting strong correlation between firm profits and the proportion of firm lawyers in New York City and several non-U.S. global cities and theorizing that these markets contain large concentrations of high-end non-commodity legal work).

The data, however, did not support our relatively sanguine view. As shown in Table 4, geographic market, leverage, firm prestige, and billable hours are all associated with higher firm profits. And larger bonuses and delegation of responsibility to associates also appear to help the bottom line. Yet, after controlling for all the variables in the model, interesting work appeared to be a strong drag on profits (a one point higher score on the 1 to 5 Midlevel scale was associated with a \$453,000 drop in PPP). Thus, it appears that steering associates into highly specialized and repetitive (read: boring) niche practice may be a lucrative management strategy. Similarly, law firms seem to prosper when associates report a high likelihood of leaving the firm in the near future. Further, the results of model suggest that there is no relationship between firm profits and the providing associates with feedback, training and guidance, or a family friendly work environment.<sup>52</sup> In short, if a firm is sufficiently prestigious, it appears that it can safely gravitate toward the sweatshop model.

**Table 5. OLS Regression Model of Likelihood of Staying with Firm for Two Years**

Variable	B	Std. Error	Beta	P value
(Constant)	0.936	0.723		0.198
Interest Level of Work	0.448	0.162	0.235	0.007
Quality of Work	0.290	0.154	0.165	0.063
Avg. Hours Worked per Week	-0.029	0.011	-0.188	0.007
Family Friendliness	0.249	0.065	0.241	0.000
Ratio of Non-Equity to Equity Partners	0.156	0.066	0.123	0.020
Communication Re Partnership	0.205	0.055	0.262	0.000
Combined Salary & Bonus	0.000	0.000	-0.094	0.136
<b>N</b>	<b>116</b>			
<b>Adj. R<sup>2</sup></b>	<b>0.714</b>			

Another way to examine the market dynamics of large law firms is to focus on factors that affect a young associate decision to leave the firm.<sup>53</sup> In the linear regression model summarized in Table 5, the dependent variable is likelihood an associate will stay at the firm for two years. Here, we observe various competing values, such as “quality” of firm work, which could positively affect an associate’s future outplacement options, and “interest level” of work, which could strengthen an associate’s commitment to the firm. After controlling for the other firm attributes, both factors are statistically significant in our model. Contrary to views of some

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52. In fact, the relatively low p-value for associate training and guidance suggest that it may *negatively* affect profits.

53 Here, we make the assumption that associates who report a lower likelihood of remaining at the firm for two years are, in fact, more likely to exit the firm. The After the JD Project, which asks respondents a similar question, contains a similar ambiguity. Future AJD research will shed light on this issue.

commentators,<sup>54</sup> a substantial number of mid-level associates also care about partnership. Associates are more likely to stay at firms with higher ratios of non-equity to equity partners, presumably because of more liberal promotion standards and/or the appeal of service partnership track.<sup>55</sup> Associates also report a higher likelihood of staying at the firm when they receive more information on their prospects for promotion.

Finally, the results in Table 5 support the intuition that young lawyers care about lives outside the firm. After controlling for a multitude of factors, longer work weeks and lower measures of family friendliness remain important factors that increase the likelihood that an associate will leave the firm. Further, additional compensation, at least at the amounts offered by large U.S. law firms, had no statistically significant relationship to a lawyers' desire to remain with the firm. Rather, the economic carrot appears to be higher earnings at some point in the future. In summary, young associates appear to balance multiple economic and non-economic factors as they weigh their loyalties to the firm.

### B. *Growing into Partnership*

Do partners experience firm life differently than do associates? The descriptions for large law firms in *Utterly Monkey* and *In the Shadow of the Law* are seen through the eyes of young associates in the prime of their youth. Danny William, Mark Clayton, and Katja Phillips all resolve their inner conflicts by leaving their firms. Although they relinquish the income, status and security of a prestigious law firm, the reader is invited to celebrate their departures as profoundly liberating experiences that will unlock the doors to self-determination and personal happiness.

These conclusions are bolstered by the lives of several partners in both novels, who embody a dire road not taken. Indeed, Danny Williams is pulled into the Ulster Water matter because a more senior lawyer, Scott Aktins, had come home to discover that this wife had moved to back to Australia, having “left a factual note on his pillow telling him that they had spent a total of two hours together in the last five weeks, aside for sleeping in the same bed, and that she was going home to Melbourne.” (p. 37). Similarly, *In the Shadow of the Law* deftly describes the marriages that are neglected or forsaken by the partners in order to build a premier law firm.

Although large law firms are clearly the most remunerative practice settings, other empirical studies have documented a negative relationship between lawyer income and job satisfaction<sup>56</sup> and work/family balance.<sup>57</sup> Similar to the protagonists

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54. See, e.g., Kevin A. Kordana, *Law Firms and Associate Careers: Tournament Theory Versus the Production-Imperative Model*, 104 YALE L. J. 1907, 1923–33 (1995) (arguing that associates are attracted to large firms for a combination of high pay and the development of general human capital skills rather than the opportunity to become a partner).

55. See Henderson, *supra* note 51, at 1712, 1724–25 (discussing how law firms use nonequity partnership to retain quality associates and that relative prestige and security of “service partners”, who focus on legal work rather than rainmaking, may be very appealing to many lawyers).

56. See, e.g., Kenneth G. Dau-Schmidt & Kaushik Mukhopadhyaya, *The Fruits of Our Labors: An Empirical Study of Income and Job Satisfaction Across the Legal Profession*, 49 J. LEG. EDUC. 342, 346–47 &

in *Utterly Monkey* and *In the Shadow of the Law*, lawyers in large law firms must ask themselves whether the money and prestige are sufficient compensation for the longer hours and the time away from their family. Longitudinal data on the attitudes of large law firm lawyers five and fifteen years into their careers—i.e., the time period that reflects views before and after the partnership decision—tells a more sobering story. Among Indiana Law graduates in large (> 50 attorneys) law firms, those fifteen years into their careers reported *lower* job satisfaction and family/work balance than their associate counterparts; further, this trend was most pronounced among attorneys in the largest law firms (>150 lawyers).<sup>58</sup> Similarly, in a sample of Michigan Law alumni, job satisfaction was lowest at statistically significant levels for fifteen-year attorneys working in large law firms.<sup>59</sup>

In essence, the most likely outcome for lawyers who remain in large law firms is higher incomes and social prestige. There is little or no prospect that the hours will improve, or the job satisfaction, or the ability to balance work and family commitments.

Yet, among a good chunk of professionals who have worked their way into the upper echelons of the legal profession, letting go of external measures of success can be difficult. Laird's and Roosevelt's thoughtful novels raise the possibility that there are high personal costs for those who hang on too long. These insights flashed through the mind of Katja Phillips as she attended the funeral of Harold Fineman, a middle-aged lawyer who died friendless and alone and at the top of the profession. The entire Morgan Siler partnership turned out for the affair, marching two by two in the "Morgan walk" to pay their final respects for their fallen partner.<sup>60</sup> Yet, there was "[n]o wife, no children, just lawyers in their dark suits and Harold's secretary, her tears suggesting an unglimped devotion." (Roosevelt, p. 337). There is a lesson here, thought Katja, "This is what happens to the risk adverse." (Roosevelt, p. 338).

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tbls. 1–2 (1999) (noting among a large sample of Michigan Law alumni, that "the high-earning practitioners in large private practices report the lowest job satisfaction").

57. See, e.g., Kenneth G. Dau-Schmidt, *The Pride of Indiana: An Empirical Study of the Law School Experience and Careers of Indiana University School of Law—Bloomington Alumni*, 81 IND. L. J. 1427, 1460–62 (2006) (reporting among Indiana Law alumni significantly lower work/family balance satisfaction for practitioners working in large (50 to 150 lawyers) and super large (> 150) firms).

58. In the Indiana data, corporate counsel positions, which are often viewed as the best escape route out of large firms, reported only marginally higher scores. See *id.* In contrast, the Michigan data reported significantly higher satisfaction for business counsel. See Dau-Schmidt & Mukhopadhyaya, *supra* note 347 tbl. 2. This may be explained by the systematically different career trajectories of Michigan or Indiana alumni, which reflect different starting and ending points, or the fact that the Michigan data was collected in the 1992 to 1996 time periods compared to the 2000 to 2004 for Indiana alumni.

59. See Dau-Schmidt & Mukhopadhyaya, *supra* note 347 tbl. 2.

60. Here, an allusion is being made to the "Cravath Walk", which is the "solemn procession of Cravath [Swaine & Moore] partners walking two by two into their partner's funeral." In the early years, the procession was done "in letterhead order." See Karen Dillon, *Brand Names at the Brink*, AM.LAWYER, May/June 1995, at 5 (noting the "solemn procession of Cravath [Swaine & Moore] partners walking two by two into their partner's funeral.").

Although focused on associates, both *Utterly Monkey and In the Shadow of the Law* with their unhappy, mean, and overworked partners, imply a difficult choice: you can succeed as a partner, or you can succeed as a human being, but you may not be able to do both. If this is true, then elite large law firms may disproportionately attract lawyers who, after a lifetime of impressive academic success, tend to minimize or underestimate the possibility of failure.

This is not to say that we take Roosevelt and Laird—or the data—to suggest that partners and associates might only stay in their jobs by falling for some vaguely Marxist false consciousness about what the job entails. But we do think that there may be functional, interest-oriented explanations for why the profession fails to focus on issues of reality of personal and personal tradeoffs. Law schools have little incentive to probe the issue, as the upward spiral in associate pay justifies the substantial educational debt incurred by aspiring lawyers. Indeed, law school administrators, who are charged with maximizing their institution's prestige for past and future graduates, need to be solicitous of financially successful alumni who work in large firms. In the transition to practice, lawyers who depend upon a steady influx of law school graduates are unlikely to bare their souls during the recruitment process. Further, devotion to one's job confers substantial benefits in the future, such as financial security for one's spouse and children.<sup>61</sup> From the vantage point of a middle-aged partner, it is impossible to know with certainty whether one has made the optimal trade-offs. And if, on some measure, they turn out to be “wrong”—in this context, a profoundly existential concept—lawyers are better equipped than most to explain away their choices.

The stories written by Laird and Roosevelt suggest that lawyers who work for large corporate clients are likely to construct a worldview that justifies the legal and economic outcomes they help produce.<sup>62</sup> In fact, there is some empirical support for this characterization. In a recently published large-scale study,<sup>63</sup> four prominent social scientists compared the political and social attitudes of Chicago lawyers in 1975 and 1995.<sup>64</sup> They showed that over time, the lawyers became (a) less supportive of government intervention for the poor, disadvantaged and unemployed; (b) less supportive of equal access to healthcare; (c) less supportive of organized labor; and (d) less concerned about concentrations of power in the hands of a few companies.<sup>65</sup> Although political values generally moved to the right during this time period, the

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61. Indeed, the success of Morgan Siler made it possible for Peter Morgan's daughter, Julie, to pursue public interest law upon graduating from Yale Law School. It remains ambiguous whether Julie's elite social stature, by virtue of her father's wealth, is a benefit conferred on Julie rather than Peter.

62. In one passage, Danny Williams reflects that lawyers “always allow themselves the casuistry of arguing that everyone is entitled to participate in the legal process. . . . And this is true. . . . [But] the best lawyers only work for the richest. The trick for your conscience is to put on lawyers gloves before you dirty your hands.” Laird, pp. 109–10.

63. See JOHN P. HEINZ, ET AL., *URBAN LAWYERS: THE NEW SOCIAL STRUCTURE OF THE BAR* (2005).

64. Both surveys were based on random sample of approximately 800 practicing lawyers.

65. *Id.* at 181–85 & fig. 8.2.

shift on economic policy was much more pronounced for lawyers than the general public.<sup>66</sup>

The simplest explanation, as the authors note, is the change in composition of lawyer clients due to the dramatic growth in the corporate law sector. Between 1975 and 1995, the proportion of Chicago lawyers working primarily for corporate clients increased from 53 to 64 percent, with a corresponding drop in legal effort expended on individuals (40 to 29 percent).<sup>67</sup> Multiple regression analysis on both the 1975 and 1995 samples revealed that after controlling for personal characteristics, such as age, race, religion, and gender, lawyers working for corporate clients tended to hold more conservative economic views. In contrast, the composition of one's clients had no predictive relationship to social values, such as affirmative action and abortion.<sup>68</sup>

#### CONCLUSION

In this essay, we have used *Utterly Monkey* and *In the Shadow of the Law* as windows into the world of law firm life. Both stories tell a dark story about life at sophisticated legal workplaces. But the lawyers who join and work for these firms are well-educated, well-informed, and mobile professionals. We assumed that such exquisitely rational actors must have had some good reasons for joining firms. Perhaps the lifestyle isn't so bad, really, or maybe it's worth it.

But our data suggests that firm life is no picnic, and that it can be even less picnic-like the more prestigious and profitable the outfit. Those firms appear to benefit financially from steering associates into uninteresting tasks, working them hard, and offering few non-financial amenities that affect work-life balance. Firms may persuade associates to stay longer by requiring shorter hours from them, being family friendly, and by offering more likely promotion to partnership. But it is unclear that profit-maximizing firms—or, more accurately, firms seeking to retain rainmaking partners—would be likely to do so.

We are unwilling to dismiss out of hand the rational actor hypothesis of the decision to join law firms. Prestigious firms feature high compensation and low retention. Young lawyers may decide to join these firms for the money, spend a few years enduring Rooseveltian levels of suffering while they pay off their loans and acquire handsome apartments in the large cities in which they'll be living, and then leave.

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66. Drawing on national survey data of the general population, the authors note that in 1975, 78 percent of the public agreed with assertion that too much power is consolidated in the hands of a few large companies, compared to 58 percent of Chicago lawyers. However, when the same question was posed in 1995, 75 percent of the general public held this position (-3 percent) compared to 31 percent of Chicago lawyers (-27 percent).

67. *Id.* at 41–44, & tbl. 2.1.

68. *Id.* The authors later conclude, “When lawyers are free to pursue their own inclinations, they are, perhaps, likely to divide along lines much like those of other educated elites. When their clients’ interest are at stake, however, lawyers can usually be counted upon to identify with those interests.” *Id.* at 200. See also NELSON, *supra* note 48, at 5 (noting that “my research indicates that through the process of advocating the interests of clients, large-firm attorneys come to strongly identify with them”).

But both books, when compared with the data, made us, as law professors, wonder if there was something law schools should be doing to prepare their students for future firm life. In *Utterly Monkey*, Danny's legal education is barely worthy of mention. But the professors alluded to in Roosevelt's novel provide their students with unhelpful advice (indeed, academia was their escape route) and, in all likelihood, would enthusiastically recruit Walker Elliot, a smart lawyer, but no role model, into their ranks.

It strikes us that much of the preparation for the day to day of law firm survival comes from internet message boards, peer education, and scuttlebutt, rather than from the classroom, or perhaps even the career services office. Is this a failure of legal education?

Law professors now write novels about lawyers and analyze surveys of lawyers and law firms using basic tools of social science. In both cases, the goal is to explain what law firm life is really like. Perhaps the teaching part of legal education should develop similar aspirations.<sup>69</sup>

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<sup>69</sup> Some members of the legal academy have provided us with a good start on these issues. See, e.g., John M. Conley, *How Bad Is It Out There?: Teaching and Learning About the State of the Legal Profession in North Carolina*, 82 N.C. L. REV. 1943 (2004); David B. Wilkins, *The Professional Responsibility of Professional Schools to Study and Teach About the Profession*, 49 J. LEG. EDUC. 76 (1999).