Moving Away from "Up or Out": Determinants of Permanent Employment in Law Firms

Elizabeth H. Gorman

Large law firms are increasingly moving away from the "up or out" organizational model by employing lawyers on a permanent basis under a variety of titles, a trend with important consequences for the structure of lawyers' career opportunities. Some firms, however, have moved farther in this direction than others. Using data from a nationwide sample of law firm establishments, this study investigates factors that lead firms to implement permanent employment arrangements. The results show that firms that are more exposed to new features of the changing legal environment make greater use of permanent employees. Permanent employment arrangements are more common in law firms where work is more complex, ties to clients are weaker, and lawyers place less emphasis on collegiality. Effects are stronger for lawyers with nontraditional titles such as "senior attorney" and "senior counsel" than for permanent associates, suggesting that firms employ two distinct categories of permanent nonpartner lawyers.

Since the early 1980s, large law firms have increasingly implemented permanent employment arrangements alongside traditional probationary ones (Bower 1989; Buchholz 1995; Galanter & Palay 1991:37–76; Heintz & Markham-Bugbee 1986; Wren & Glascock 1991).[1] Some permanent employees hold titles that clearly indicate the permanent nature of their employment,

I am grateful to Aage Sørensen, Peter Marsden, George Baker, Ruth Aguilera-Vaques, John Dencker, Jody Hoffer Gittell, Paul Lawrence, Rakesh Khurana, and Leigh Weiss for their valuable comments on earlier drafts and to John Heinz and Edward Laumann for generously making available a portion of their data. Support for this research was provided by a National Science Foundation Dissertation Improvement Grant (No. SBR-9811144), a Harvard University Graduate Society Term-Time Dissertation Research Fellowship, and a Harvard University Graduate Society Dissertation Completion Fellowship. Address correspondence to Elizabeth H. Gorman, Department of Sociology, William James Hall, Harvard University, Cambridge MA 02138 (e-mail: <gorman@wjh.harvard.edu>).

[1] The term *permanent* is used here, as it is in most of the existing literature on employment, to denote employment arrangements that involve no fixed time limit. Such employment does not generally involve an enforceable guarantee of lifelong job security; legally, employment is "at will" and can be terminated at any time by either employer or employee. In practice, however, employers rarely terminate such open-ended relationships except for clear employee malfeasance or economic necessity (McPherson & Winston 1988).

Law & Society Review, Volume 33, Number 3 (1999)

such as "senior attorney," "principal attorney," "counsel," "of counsel," "senior counsel," and "special counsel."[2] Other permanent employees hold the title "associate," as probationary employees do; they are referred to informally as "permanent associates."[3] Permanent employees may be former probationary associates of the firm who have been rejected for partnership, or they may have been hired directly into their current positions. In some firms, permanent employees remain eligible for possible promotion to partnership; in others, they do not. Even if they do remain eligible, they have no guarantee of consideration, and no fixed time period within which it must occur.

This new pattern represents a marked departure from the employment model that was dominant in large law firms for much of the twentieth century.[4] Under traditional "up-or-out" arrangements, associates are employed on a probationary basis for a fixed period, usually between 6 and 10 years from law school graduation. Through on-the-job training, associates are expected to develop practical skills that are not taught in law school. Upon the expiration of the probationary period, firm partners consider the associate for admission to the firm's partnership. If the associate is "passed over," or rejected, he or she is expected to leave the firm within a reasonable period of time.

The spread of permanent employment arrangements has important consequences for lawyers' careers, the organization of legal practice, and the cohesion of the bar. Some lawyers are likely to welcome the opportunity for permanent employment, emphasizing the relative security of such positions and the freedom they offer to focus on law practice rather than on management or client development. Others are likely to view a permanent-employee position as a signal of career failure. Whether viewed positively or negatively, permanent-employee positions necessarily rank below partners in status and authority, and they

[2] Traditionally, the title "of counsel" was given to retired partners who maintained an active affiliation with their firms. In recent decades, however, "of counsel" and other titles including "counsel" have been increasingly used to designate lawyers who are permanent employees (Buchholz 1995; Wren & Glascock 1991).

[3] Permanent employment arrangements can also be implemented through a "two-tier partnership." In a two-tier partnership, only the upper-tier partners are true partners with equity interests and voting rights. Although lawyers in the lower tier are held out to the public as partners, they are in effect employees: they receive a salary and do not share in profits or vote on firm governance. Such "nonequity partners" may work under either probationary or permanent employment arrangements. In the former case, the lower tier constitutes a second up-or-out phase, usually lasting 2 or 3 years.

[4] In a sense, the use of permanent employment is a return to an even older pattern. In the nineteenth and early twentieth centuries, firms employed lawyers under open-ended, long-term employment arrangements. Lawyers often began their employment with extensive amounts of prior experience and remained employed for varying periods without a fixed time limit. New York's Cravath, Swaine, and Moore is usually credited with being the first to recruit new lawyers directly from law school into probationary employment relationships, beginning around 1910. Other firms gradually adopted this practice, and by the 1950s it was widespread (Galanter & Palay 1991; Nelson 1988:71–72; Smigel 1969).

thus conflict with lingering professional norms of autonomy and formal equality among professional colleagues (Freidson 1984; Hall 1968; Goode 1957). Permanent-employee positions also add a layer of hierarchy within large firms, thus advancing the bureaucratization of the organizational settings in which law is practiced. In addition, as part of the proliferation of status distinctions among lawyers, permanent employment arrangements contribute to the growing stratification of the bar.

Despite a general increase in the use of permanent employment, law firms vary considerably in the extent to which they have created permanent positions. Which firms make greater use of permanent employment? Organizational theory directs us to look in organizations' environments for factors that influence their structures and practices. Important changes have occurred in the legal environment during the same period that has witnessed changes in firms' employment practices. I begin by examining three changes that have attracted a great deal of scholarly and journalistic commentary: the increase in the complexity of legal work, the weakening of ties between law firms and clients, and the fading of social norms of collegiality. I then propose that these factors be treated as variables that can explain cross-sectional variation in firms' use of permanent employment. I argue that firms that have been more heavily exposed to these new features of the legal environment—firms where work is more complex, ties to clients are weaker, and lawyers place less emphasis on collegiality—make greater use of permanent employees. I test this argument using a nationwide sample of law firms.

The Changing Environment of Law Firms

Legal Work

In the 1950s and 1960s, corporations turned to their law firms for legal guidance on day-to-day, routine business activities, such as commercial contracts and bank loans (Galanter & Palay 1991:36; Klaw 1958; Kronman 1993:276–77, 283–84). Firms with a major bank as a client usually established banking departments that processed loan agreements and operated almost as a unit of the bank (Smigel 1969:225, 233). Corporate clients also turned to lawyers for their social contacts and perceived general knowledge of business and politics (Hoffman 1973:40, 41; Mayer 1966:56; Smigel 1969:5–6). Although the dispensing of general business advice bolstered the image of the lawyer as a "wise counselor" (Kronman 1993), it called for practical wisdom and experience rather than analytical skill or knowledge of the law.[5]

[5] Indeed, Paul Cravath, the founder of one of Wall Street's leading firms, once advised a group of law students that "brilliant intellectual powers are not essential" for the successful practice of law (Klaw 1958:192).

Beginning in the 1970s, several factors combined to bring about a substantial increase in the complexity and knowledge-intensity of large law firms' work. The sheer amount of law and law-related information grew dramatically, fed by increases in federal and state statutes, regulations, and administrative and judicial decisions and by an expansion in the amount of legal commentary offered by law journals and newsletters (Galanter & Palay 1991:41–42). Technological advances—such as electronic legal databases, overnight delivery services, and the Internet—have made all this information more easily and rapidly available. As new types of actors and controversies have arisen, the variety of issues regulated by law has increased. Perhaps most important, corporate clients now direct most of their routine work to their in-house legal departments (Hoffman 1982:27; Kronman 1993:284; Nelson 1988:57–59, 61). They turn to outside counsel only when they encounter an unusually complex problem requiring special expertise, such as a major lawsuit, a large public offering of securities, or a merger (Glendon 1994:34; Lisagor & Lipsius 1988:231, 284–85; Kronman 1993:276, 284). Such complex problems have become more frequent as corporate clients' have become increasingly willing to engage in litigation, hostile takeovers, and other forms of adversarial and transactional behavior involving high stakes (Galanter & Palay 1991:51; Hoffman 1982:183–84).

Client Relationships

At the middle of the twentieth century, large firms' relationships with their clients tended to be strong and enduring (Galanter & Palay 1991:34). Clients rarely shifted from one firm to another, and new generations of corporate managers were often content to pass along their legal business to the new partners of the same law firm that had served the company in the past (Hoffman 1973:72; Klaw 1958). Indeed, the scarcity of information about large law firms made it difficult for clients to compare alternative legal service providers. Clients' delegation of routine work to outside counsel also played a part, leading both client and firm to invest heavily in knowledge specific to their relationship. For many large clients, the cost of re-creating this relationship with a new firm was seen as prohibitive.[6] The revenues associated with client ties were also stable and predictable. Many corporate clients paid their lawyers a fixed annual "retainer" fee that was expected to cover the firm's services for the year (Mayer 1966:25). Moreover, in a prosperous economy, untroubled by

[6] This was especially true for banks. One observer noted, "Law firms' banking departments are so large, their personnel so expert in the often arcane affairs of their one client that it's virtually impossible for a bank—even if it chose—to switch to another firm. No other could handle the load, at least not for several years" (Hoffman 1973: 76).

global competition, corporate clients were disinclined to question law firms' bills (Klaw 1958; Mayer 1966:337).

In recent decades, ties between law firms and their clients have become less close (Galanter & Palay 1991:49–50). When clients retain outside lawyers only episodically to handle special problems, clients and lawyers interact less frequently (Kronman 1993:276–77). Moreover, as sophisticated corporate legal departments have assumed responsibility for directing and monitoring the work of outside lawyers, the importance of trust between clients and firms has diminished (Nelson 1988:57–59). Guided by in-house lawyers, corporations have become more willing to shop around for quality and price in outside legal services (Glendon 1994:25; Hoffman 1982:28; Kronman 1993:276), creating a much more competitive business environment for large law firms (Abel 1989:184; Hoffman 1982:26–27; Nelson 1988:57–59). Indeed, large-firm failures, once unthinkable, began to occur in the 1980s and 1990s (Abel 1989:186; Glendon 1994:22, 77).

Social Norms

At midcentury, behavior in large law firms was governed by a clear set of social norms revolving around the concept of collegiality (Nelson 1988:72, 78–79; Mayer 1966:336–37). Partners at large firms valued the sense of community that arose from personal relations among equals (Glendon 1994:26; Pollock 1990:69, 199). Partnership was viewed as a lifelong commitment involving mutual dependence among lawyers with different talents and specialties (Glendon 1994:23). Indeed, firms sometimes refused to assess the relative profitability of different areas of legal practice, fearing that such information would lead to "unprofessional" status and power distinctions among lawyers (Nelson 1988:78–79). Decisions concerning firm policies and actions were reached through consensus, and powerful partners often made an effort to obscure their leadership roles (ibid., pp. 72, 212–13; Pollock 1990:21).

In the 1970s and 1980s, a new set of values began to challenge the older ideal of collegiality. In particular, many large-firm lawyers began to place a candid emphasis on financial success (Kronman 1993:291). Money became important not solely for the material comforts it could bring, but as a way of "keeping score," of identifying the most successful lawyers and firms (Glendon 1994:31). Lawyers—including partners—who did not produce at expected levels began to find that old loyalties mattered little as their compensation was reduced or their firm affiliations terminated (Abel 1989:185; Galanter & Palay 1991:67–68; Glendon 1994:26). Although some lawyers applaud the new culture as refreshingly honest, others are dismayed by what they perceive as increasing commercialization and declining professionalism (Ga-

lanter & Palay 1991:68; Nelson & Trubek 1992:2). Many lawyers find that the decline of collegiality has made large firm work less enjoyable. For example, in Pollock's (1990:239) study of a large New York City firm adjusting to its changing environment, partners described their "'more competitive, more aggressive, and less collegial'" firm as "'no longer as satisfying or pleasing or comfortable . . . as it was in the old days.'"

From Changes to Variables: Impacts on the Use of Permanent Employment

Law firms are differentially exposed to general environmental trends. Work complexity, the strength of client relationships, and the collegiality of social norms vary across firms. It is reasonable to think that variation in these factors may be associated with variation in the use of permanent employment arrangements. Prior research has shown that the knowledge and skill involved in an organization's work influences the duration of its employment relationships (Davis-Blake & Uzzi 1993; Uzzi & Barsness 1998). The nature of client ties shapes firms' organizational structures (Nelson 1988:86–124; Eccles & Crane 1988:179–201), which in turn are likely to affect employment practices. Organizational norms and values also play important roles in determining employment arrangements (Simons & Ingram 1997).

Work Complexity

The complexity of legal work varies across areas of practice. Legal work is more difficult and challenging when it requires specialized knowledge, or in other words, dense knowledge relating to a narrow topic with little application to other topics. Knowledge in a particular practice area of law is more specialized when it involves a greater number of classifications and rules unique to that practice area. A second dimension of complexity is the extent to which legal work requires the exercise of professional judgment. Professional judgment involves a kind of tacit knowledge, embedded in experience rather than articulated in rules (Jamous & Peloille 1970; Larson 1977; Wilensky 1964). In legal practice, professional judgment comes into play when a statute or court decision is not clear on its face and cannot be applied directly to the case at hand. The lawyer must then engage in a process of legal reasoning, drawing on his or her familiarity with prior cases and judicial modes of logic to predict how a court would rule. A third element of complexity is the extent to which work calls for skill in communicating with others, such as in advising clients or negotiating with other parties.[7]

[7] These three aspects of work complexity loosely correspond to the three central professional tasks identified by Abbott (1988:40–52). Abbott labels the first of these tasks

Law firms with more complex work are likely to need more lawyers with high levels of experience and skill. Firms can, of course, respond to this need by increasing the ratio of partners to associates, but the severe financial disadvantages of this course of action are likely to lead them to search for an alternative.[8] Probationary associates do not provide a satisfactory solution. Law school teaches abstract legal rules and the process of legal reasoning, but provides little or no training in dealing with the messy reality of clients and their problems. In firms with more complex work, a longer-than-average period may be required before associates are able to function at the required level of skill. Junior lawyers may not be willing to remain in a probationary status for the necessary time. Associate attrition is, indeed, a problem for many large law firms (Schroeder 1998). If a high proportion of probationary employees leave before the expiration of the partnership track period, a firm may find it has few skilled employees. To avoid this outcome, it may be necessary for firms to offer lawyers permanent employment arrangements (see Shepherd 1999).

Even if a firm could be assured of a steady supply of senior associates, there is a second point to consider. Associates usually spend only 1 or 2 years functioning at a high skill level before they become partners or—in most cases—leave the firm. Firms with more complex work have a special interest, however, in maintaining long-term employment relationships. Over time, an employer and its employees make "match-specific" investments in their relationship. Employees develop skills relating to their organization's specific production processes (Becker 1975; Williamson 1981). They also learn to navigate within their firm's culture, and they build networks of ties to others who can provide information and help (Eccles & Crane 1988). Their skills, knowledge, and social ties enable long-term employees to function more effectively than new employees, making them more valuable to the firm. The firm, for its part, becomes familiar with long-term employees' strengths, weaknesses, and personality traits. As a result, the firm is better able to assign such employees to tasks and teams where they will be most productive.

In the legal context, such match-specific investments should be especially valuable in firms where work is complex and highly

"diagnosis" (locating the case at hand in the professional classification system and identifying the applicable rule), the second "inference" (the process of reasoning about a case when the applicable rule is indeterminate), and the third "treatment" (determining and carrying out a course of action to remedy the problem, often with the cooperation of others).

[8] As owners of equity interests, partners share in their firms' profits and losses. The principal component of law firm profit consists of revenues obtained by selling the work of employed lawyers, which generally greatly exceed their costs in salaries and overhead (Maister 1993:8–9; Nelson 1988:77). Thus, the larger the number of employees and the smaller the number of partners, the greater the profit accruing to each partner, in a phenomenon known in the legal profession as "leverage."

knowledge-intensive. For both firms and lawyers, the relevant knowledge takes longer, and thus is more costly, to acquire when work is more complex. Lawyers must learn a greater variety of skills and customs and must form ties to a greater number of people. Firms find it more difficult to monitor and evaluate employee performance (see Baron et al. 1986; Sørensen 1994). Moreover, when work is more challenging, match-specific investments are likely to have a greater impact on lawyers' productivity. Match-specific investments by both employee and firm facilitate rapid, accurate communication and promote interpersonal trust. As Kanter (1977:52–53, 57) points out, smooth communication and trust are especially vital when work involves high levels of uncertainty and discretion, as it does in a large securities offering or antitrust action, for example. Finally, more complex work tends to involve higher stakes for clients and firms, and thus individual productivity is likely to have more significant consequences. With a deadline looming for registering a major securities offering, it can be crucial for a lawyer to know which tax partner can answer a last-minute question or to be on good terms with the firm's most reliable messenger. This reasoning leads to the following hypotheses:

Hypothesis 1a: Firms where work involves more specialized knowledge make greater use of permanent employees than other firms.

Hypothesis 1b: Firms where work involves more professional judgment make greater use of permanent employees than other firms.

Hypothesis 1c: Firms where work requires greater negotiating and advising skill make greater use of permanent employees than other firms.

Client Relationships

Two factors contribute to the strength of a law firm's client relationships: their stability over time and the average proportion of the firm's business associated with each client. In a stable, enduring relationship, a client sends a regular flow of work to the firm over a long period. Transitory relationships, in contrast, typically involve a single engagement for an unusual problem that may or may not recur. Even longstanding relationships may not be strong, however, if the firm has a large number of clients and each one represents only a small fraction of the firm's revenues. The two dimensions should interact: the stability of a client relationship matters more when that client is the source of a large volume of business, and the amount of business brought to the firm by a client matters more when the firm's relationship with that client is enduring rather than transitory.

When a law firm's client relationships are strong, firms are likely to develop a client-based division of labor. Relatively small work groups, consisting of junior lawyers working under the supervision of one or more senior partners, serve the needs of a limited number of clients. The senior partners cultivate the relationship with the client, and the work group handles the full range of the clients' legal problems (Heinz et al. 1998). This form of organization is likely to be more efficient for the law firm, which makes a considerable investment in client-specific knowledge: the client's structure and history, its personnel and their political dynamics, its industry, and its customer and supplier markets. When a law firm's client relationships are weak, on the other hand, firms are likely to develop specialized departments defined by legal skills and tasks, such as tax, litigation, real estate, and securities. When a client retains the firm for an engagement requiring multiple skills, the firm assembles a temporary team of lawyers drawn from these departments (Kronman 1993:289). This more bureaucratic form of organization is likely to be more efficient, because it facilitates the development of the cutting-edge substantive expertise that tenuously attached clients expect when they retain a firm for an unusual problem. Moreover, if client business volume is small, the firm's investment in client-specific knowledge is likely to be minimal; if the client approaches the firm with a massive but temporary crisis, the firm's investment can be billed to the client at steep rates.

Pfeffer and Baron (1988) have argued that task-based, bureaucratic organizational structures tend to go hand in hand with permanent employment arrangements. In this view, permanent employment arrangements are part of a larger employment system that also encompasses task-based roles, hierarchical structures for coordination and control, and internal labor markets. This view is supported by empirical studies finding that more bureaucratically structured organizations make less use of short-term or contingent employment, and, implicitly, greater use of permanent employment (Davis-Blake & Uzzi 1993; Kalleberg & Schmidt 1996). This reasoning leads to the following hypotheses:

Hypothesis 2a: Firms with more enduring client relationships make less use of permanent employees than other firms.

Hypothesis 2b: Firms whose client relationships involve a larger business volume make less use of permanent employees than other firms.

Hypothesis 2c: The two dimensions of client relationships interact so that the effect of each is stronger when the level of the other is greater.

Collegiality Norms

Traditionally, collegiality has been an important value among lawyers and other professionals, amounting to an ideology about the way professional firms ought to be organized (Freidson & Rhea 1963; Hall 1968; Nelson 1988:205–8, 211–14; Wallace 1995; Scott 1965). The collegial mode of organization centers on the possession and use of knowledge or skill (Parsons & Platt 1973:127–29; Sciulli 1986; Waters 1989). In a collegial organization, all members have control over their own work, all are formally equal in status, and all participate in organizational governance (Freidson & Rhea 1963; Waters 1989). Only apprentices, who have not yet met the required standard of expertise, are subject to limitations on autonomy, equality, and participation (Goode 1957). The collegial mode of organization is consonant with traditional professional values, which include individual autonomy and formal equality among colleagues (Freidson 1984; Freidson 1986:159; Hall 1968; Mintzberg 1993:195; Scott 1966; Goode 1957). Firms vary, however, in the strength of their commitment to the collegial ideal.

Permanent employment relationships cannot be easily reconciled with norms of collegiality. Lawyers who are permanent employees are subject to the supervision of partners and thus are not fully autonomous. Permanent employees are not the status equals of partners, nor do they participate to the same extent in organizational governance. The disadvantaged situation of permanent employees, unlike that of associates, cannot be justified on the ground of professional immaturity. Most permanent employees are experienced lawyers, and the few who are not are generally ineligible for the training that might qualify them for partnership. Organizations that adhere more strongly to an ideology are less likely to make use of practices inconsistent with that ideology (Simons & Ingram 1997). Thus, firms that place a high value on collegiality should be less comfortable with permanent employment arrangements. This argument leads to the following hypothesis:

Hypothesis 3: Firms that value collegiality more highly make less use of permanent employees than other firms.

Research Methods

Sample and Data

The sample I use is drawn from the 1996–1997 *National Directory of Legal Employers* prepared by the National Association for Law Placement (the *NALP Directory*). The National Association for Law Placement is a nonprofit organization established to provide information concerning legal employment to law schools

and their students, and the *NALP Directory* is widely used by law school placement offices. The unit of analysis is the establishment, which can be a single-office law firm or an office of a larger firm with multiple locations. The *NALP Directory* contains information on more than 900 establishments. My theoretical population consists of large law firms that primarily serve large corporate clients. Although the sample is not a probability sample, it is a "dense" sample that includes a high percentage of units in the population (see Drabek et al. 1982). I excluded establishments affiliated with firms of fewer than 30 lawyers, because such small firms are likely to belong to a different population, the "hemisphere" of the bar that serves individual and small-business clients (Heinz & Laumann 1982). I also excluded establishments of fewer than five lawyers because the employment patterns in very small offices are likely to be idiosyncratic.

The 1996–1997 edition of the *NALP Directory* is also the source of most of the data. The NALP conducts an annual survey of law firm establishments, requesting extensive quantitative data as well as a narrative statement describing the establishment. For the 1996–1997 edition, the NALP asked participating establishments to provide information accurate as of February 1, 1996.[9] The number of establishment lawyers in permanent-employee positions was obtained from the 1996 edition of the *Martindale-Hubbell Law Directory*, a widely used directory listing virtually every law office in the United States, together with names, titles, and brief biographies of individual attorneys. Information published in the 1996 edition was collected over staggered deadlines during the second half of 1995.[10]

Dependent Variables

To measure the number of permanent employees in each establishment, I began by counting the number of lawyers with titles other than "partner" or "associate" listed by each establishment in *Martindale-Hubbell.* Although titles including "counsel" are now commonly used to designate permanent employees (Buchholz 1995; Wren & Glascock 1991), they are still sometimes given to retired partners. I used the following guidelines to exclude retired partners. Some firms provided sufficient biographical information to permit me to determine which "counsel" were and were not retired partners. Others listed retired partners under a separate title, such as "retired partners" or "emeritus partners"; in that case, I concluded that lawyers with a "counsel"

[9] Data from the *NALP Directory* have been used in other published research (Wholey 1985).

[10] Personal communication from Martindale-Hubbell Customer Relations, 21 November 1996. Data from *Martindale-Hubbell* have been used in other published research (Ely 1994; Merritt et al. 1993; Wholey 1985).

title were not retired partners. Where neither of these conditions applied, I excluded "counsel" who were 65 years of age or older as of February 1996 as well as individuals whose names indicated that they had been "name partners" in their firms.

I obtained the number of "permanent associates" in each establishment by counting the number of lawyers listed as associates in *Martindale-Hubbell* who had been out of law school for 3 or more years beyond the expiration of the establishment's probationary "partnership track" period. Establishments' partnership track periods are listed in the *NALP Directory*. The 3-year margin was intended to avoid counting associates who might be given a second chance at consideration for partnership as well as those who had been passed over but had not yet found another position. The number of permanent associates is missing for 133 establishments that either did not list their associates at all in *Martindale-Hubbell* or listed only their names, without biographical information. It seems unlikely that these missing values cause sample selection bias in the results. Sample selection bias occurs when, in effect, (1) selection into the sample is a function of some variable z; (2) the dependent variable in the analysis is a function of z as well as of x_1, x_2, and so on; (3) z is omitted from the equation estimating the dependent variable; and (4) z is correlated with one or more of the included x variables (Stolzenberg & Relles 1997). It seems likely that establishment size is the primary systematic determinant of establishments' decision to minimize or omit the listing of their associates in *Martindale-Hubbell*—establishments with hundreds of lawyers may simply want to economize on space in the directory—and establishment size is controlled here.[11] Any other factors that might influence establishments' *Martindale-Hubbell* listing preferences are unlikely to affect the number of their permanent associates.[12]

To assess the intensity of use of permanent employment arrangements, I examine the numbers of permanent employees as percentages of the total number of lawyers (including partners) and as percentages of the number of employed lawyers (excluding partners). In my view, the second modeling approach probably more accurately reflects the decision process that occurs in

[11] Establishments with missing data on permanent associates are indeed larger, on average (t-test for difference of means, $p < .000$).

[12] Ideally, an analysis of law firms' use of permanent employees would also examine those "nonequity partners" who maintain permanent employment relationships with their firms (see n. 3 above). Unfortunately, no adequate measure of such individuals is available. No establishment in my sample distinguished between equity and nonequity partners in its *Martindale-Hubbell* listing. *The American Lawyer*, a widely read magazine aimed at the legal profession, publishes an annual survey that includes numbers of nonequity partners, but only at the firmwide level and only for the 100 U.S. firms with the largest gross revenues. Even if an establishment-level measure of the number of nonequity partners were available, it would be impossible to distinguish individuals whose employment arrangements are permanent from those whose arrangements are probationary.

law firms. Due to the importance of leverage for firm profitability, it is likely that firms first—at least roughly—determine the relative proportions of partners and employees. Once the approximate size of the employee component has been fixed, firms decide how many of those employees will be employed on a probationary or permanent basis. If this view is correct, it makes sense to model the number of permanent employees as a percentage of employees, excluding partners, and to include a measure of leverage as an independent variable.

Independent Variables

I use measures that tap the three aspects of work complexity discussed above: the extent to which an establishment's work requires specialized knowledge, professional judgment, and skill in negotiating and advising. The measures used here are based on the answers of respondents practicing in each of 42 fields to three questions included a 1995 survey of a random sample of practicing lawyers in the Chicago area conducted by John Heinz and Edward Laumann (see Heinz et al. 1997; Heinz et al. 1998), replicating their well-known earlier study of Chicago lawyers (Heinz & Laumann 1982) (see Table 1). For each field, Heinz and Laumann calculated the percentage of respondents who answered with a "1" or a "2" on a five-point Likert-type scale. I transformed these field-level measures into establishment-level measures as follows. In the *NALP Directory*, each establishment lists its primary practice areas and the number of its lawyers practicing in each area. I collected data on up to 20 practice areas per estab-

Table 1. Text of Questions from Heinz and Laumann 1995 Survey Used for Work Complexity Measures

Specialized knowledge						
The area of law in which I work is so highly specialized that it demands I concentrate in just this one area.	1	2	3	4	5	The nature of my legal practice is such that I can handle a range of problems covering quite a number of different areas of legal practice.
Professional judgment						
The type and content of my practice is such that even an educated layman couldn't really understand or prepare the documents.	1	2	3	4	5	A paraprofessional could be trained to handle many of the procedures and documents in my area of law.
Negotiating and advising skill						
My specialty and type of practice require skills in negotiating and advising clients, rather than detailed concern with technical rules.	1	2	3	4	5	My area demands skills in handling technical procedures rather than skills in negotiating and advising clients.

lishment. For each practice area in each establishment, I identified the most similar of the 42 fields listed by Heinz and Laumann and assigned to that practice area the appropriate field-level measures. I then weighted each practice area score by the percentage of establishment lawyers practicing in that area and summed the weighted scores to obtain a weighted average measure for the establishment.

Although my data do not contain measures of the strength of establishments' actual client relationships, I obtained estimates by using field-level measures provided by the Heinz and Laumann 1995 survey. The survey asked respondents practicing in each of 42 fields to indicate the percentage of their clients with whom their relationships had lasted for 3 or more years. A field-level measure of the stability of client relationships is provided by the mean percentage reported in each field. The survey also asked respondents to indicate the total number of clients for whom they had performed services in the previous year. The median number of clients reported by practitioners in each field provides a field-level measure of number of clients per lawyer, and the reciprocal of this number (transformed into a percentage) provides a field-level measure of the median percentage of time and revenues associated with each client. Field-level measures for both client stability and client business volume were translated into estimated establishment-level measures by weighting each practice area score by the percentage of establishment lawyers practicing in that area and summing the weighted scores. To avoid multicollinearity when the cross product of these variables is included in the model, both variables are centered around their means.[13]

In the *NALP Directory*, establishments provide a narrative statement describing their legal practices, administrative policies, and organizational values. I measured the strength of an establishment's commitment to collegiality by a dichotomous variable indicating whether or not the establishment represented itself in its narrative statement as valuing collegiality and striving to maintain collegial social arrangements. In coding the data, I attempted to capture the substance of a firm's statement, regardless of the presence or absence of the terms *collegial* or *collegiality*. Although the narrative statements typically attempt to present the organization in a positive light, they are surprisingly diverse in content and emphasis. If the narrative statements reflected primarily a public relations effort rather than the extent of an establishment's actual preference for collegiality, we might expect a coding of "1" for a high percentage of establishments. In

[13] Supplementary analyses (not shown) including dummy variables representing practice areas indicated that the observed effects of the work-complexity and client-relationship variables were not attributable to correlations between them and specific practice areas.

fact, only 20% of establishments were coded "1" on this variable. Moreover, the collegiality measure is negatively associated with the presence of formal departments, the presence of a two-tier partnership, the employee-to-partner ratio, and status as a branch office, as one would expect if the measure is indeed capturing the construct of interest.

Control Variables

In addition to the predictors discussed above, the models contain two sets of control variables. The first set includes characteristics of the establishment's environment that can reasonably be viewed as exogenous; in other words, they do not mediate between the predictors of interest and the outcome variables. One of these is the market-clearing starting salary for entry-level associates in the establishment's city. In labor markets where associate salaries are higher than in other areas, establishments may be tempted to substitute permanent employees for associates. Establishments located in such cities may also perform more complex work, leading to a risk of bias if mean salary is not controlled. I measure this variable using the mean of the associate starting salaries reported by establishments in each city. Legal establishments are also located in cultural environments characterized by varying degrees of institutionalization of traditional organizational practices. I expect that establishments in the South, in particular, may feel institutional pressures to conform to traditional practices. Such institutional pressures may be correlated with, yet distinct from, an establishment's own preference for collegiality, creating a potential for bias if this dummy variable is omitted.[14]

The second set of control variables includes establishment characteristics that may well be at least partly determined by the predictors of interest here. Establishment size is measured as the average of the total number of lawyers reported in the *NALP Directory* and the total count of lawyers listed in *Martindale-Hubbell* (Cronbach's alpha = 0.92).[15] Establishment growth is measured with a series of dummy variables based on quartiles of the distribution of the difference between establishment size in 1995 and establishment size in 1996, as a percentage of size in 1995. Establishments in the first quartile shrank by more than 4% between 1995 and 1996. Establishments in the second quartile changed by −4% to 2%, those in the third quartile grew by 2% to 9%, and those in the fourth quartile grew by more than 9%. Establishments that did not exist in 1995 formed a fifth category coded as new sites.

[14] The "South" consists of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia.

[15] For establishments that did not list associates in *Martindale-Hubbell,* the *NALP Directory* figure alone is used.

In the legal profession, law offices that limit their practices to particular specialty areas are known as "boutiques." An establishment was coded as a boutique if all or almost all its fields of practice, as listed in the *NALP Directory*, fell within a single specialty area. A proxy measure of establishment prestige is provided by an establishment's judicial clerk hires (the percentage of 1995 entering associates who joined the establishment following a judicial clerkship). Because such clerkships are prestigious and seen as valuable training, they are highly competitive and tend to be filled by the more successful and talented law students. More prestigious establishments, in turn, are able to attract greater numbers of judicial clerks. Establishments were coded as a single site, a headquarters office, or a branch office based on information provided in the *NALP Directory*. Finally, partners' leverage is measured by the percentage of establishment lawyers who are nonpartner employees.[16]

Analytic Strategy

I begin by estimating the effects of the predictors on the use of all permanent employees, regardless of title. There are, however, reasons to expect that the predicted effects are stronger for "senior attorneys," "senior counsel," and so forth (henceforth referred to collectively as "senior attorneys") than for "permanent associates." Because the "associate" title traditionally connotes a junior, probationary lawyer, it obscures the permanent nature of these positions. Permanent associates may appear to represent idiosyncratic exceptions to the general rule of probationary employment, rather than reflecting a policy of using permanent employees. The use of permanent associates thus does not create as clear a conflict with collegial principles as does the use of senior attorneys, and the anticipated negative effect of preference for collegiality may accordingly be weaker with respect to them. In addition, skilled lawyers may be unwilling to accept a title that traditionally carries less prestige than other titles, and firms with complex work may find it difficult to use permanent associates to meet their needs for skilled labor. As a result, the expected positive effect of work complexity should be weaker for them.

For each dependent variable, I estimate a pair of models. The first model includes the predictors of theoretical interest here and the two exogenous control variables, region and the prevailing salary for entry-level associates in the establishment's city. The second model in each pair adds establishment characteristics that are likely to be partly determined by the predictors of theoretical interest, but also partly determined by other factors. Neither model is a perfect representation of the process generat-

[16] This measure is preferable to the ratio of employees to partners because the functional form of its relationship to the dependent variables is more nearly linear.

ing the outcome. The establishment characteristics added in the second model should be viewed in part as controls and in part as intervening variables mediating the effects of preference for collegiality, knowledge intensity, and strength of client relationships. Insofar as they act as controls, their presence in the model reduces bias in the effects of the key predictors; but insofar as they act as mediating variables, their presence hides indirect effects that should be attributed to those predictors. In my view, the first model probably provides the more accurate picture of the causal process.

I analyzed the effects of the independent variables on the dependent variables by estimating tobit regression models. The tobit model is premised on the existence of a latent continuous variable y^* that is assumed to be a linear function of the independent variables. This latent variable is only partially reflected in the observed variable y. That is, y accurately reflects y^* if y^* is greater than a threshold value τ. If y^* is less than or equal to τ, however, it is said to be "censored" and the observed variable y takes the value c, which may or may not be equal to τ. In other words, y and y^* are linked by the following measurement model:

$$y = y^* \text{ if } y^* > \tau$$
$$y = c \text{ if } y^* \leq \tau$$

The tobit model is estimated using maximum likelihood estimation. Uncensored observations are treated in the same way as in maximum likelihood estimation of the standard linear regression model. For censored observations, the probability of being censored is used as the likelihood. (See Long 1997:187–216, for a full discussion of the tobit model and its estimation.)

The tobit model is often an appropriate choice when the dependent variable is a percentage (ibid., pp. 212–13). The observed percentage can be understood as an indicator of an actor's latent propensity to engage in a certain kind of behavior. Here, the observed percentage of an establishment's employees in senior attorney or permanent associate positions can be understood as an indicator of the establishment's latent propensity to use such employment arrangements. When that propensity rises above a certain threshold, the observed percentage accurately reflects the latent variable. When the propensity falls below that threshold, however, the observed percentage is zero, even though some such establishments may be more negatively disposed toward such arrangements than others.[17] If this conceptual understanding of the situation is correct, the standard linear regression model yields biased estimates (ibid., pp. 201–3). The

[17] Proportions and percentages may be censored from above as well as from below. In that case, a two-limit tobit model is appropriate (Long 1997:212–13). Here, neither dependent variable reaches the 100% level, so there is no reason to be concerned about upper-limit censoring.

standard linear regression model is also inappropriate for many percentage dependent variables because their distributions are far from normal. Here, these distributions are highly skewed: 10% of establishments have no permanent employees at all, 31% have no permanent "associates," and 21% have no "senior attorneys."[18] An important advantage of the tobit model is that its coefficients can be interpreted in the same way as coefficients from the standard linear regression model.[19]

Results

Descriptive statistics are presented in Table 2. In Table 3, the number of permanent employees is modeled as a percentage of all lawyers. The first pair of models examines the combined use of all categories of permanent employees. In Model 1, the effects of all three work complexity variables are in the expected direction, but only negotiating and advising skill reaches significance at the 5% level in two-tailed tests; professional judgment is significant at the 10% level. Client stability and client business volume both have significant negative effects, as anticipated. Each effect appears to become more negative as the value of the other variable increases, as expected, but the interaction effect does not attain statistical significance. Establishments that place a high value on collegiality make significantly less use of permanent employees, as predicted. A strong preference for collegiality reduces the percentage of an establishment's lawyers who are permanent employees by about 1.6 percentage points, which is a fairly sizable effect, given a mean of about 8%. In Model 2, the effect of negotiating and advising skill is reduced and becomes insignificant. The effect of client stability also falls in magnitude and loses significance at the 5% level. The effect of preference for collegiality is reduced somewhat, but it remains sizable and significant.

The remaining two pairs of models analyze senior attorneys and permanent associates separately. The difference between the two sets of results is striking; the predicted effects are much stronger for senior attorneys than for permanent associates. Looking first at Model 1, the effects of all three work complexity variables are positive and attain varying levels of statistical signifi-

[18] These percentages are based on the samples used in the relevant analyses; thus, the first two percentages are based on the smaller sample with nonmissing values on permanent "associates."

[19] An alternative choice for modeling the intensity of an establishment's use of a certain kind of employment relationship is the ordered logistic model (see Uzzi & Barsness 1998). The ordered logistic model and the tobit model are similar in that both rely on the assumption of a continuous latent variable. Here, use of the ordered logistic model would have required collapsing the dependent variables into ordinal categories. I chose the tobit model over the ordered logistic model because it makes use of more of the available information and because its results are more readily interpretable. The patterns of results from supplemental analyses using the ordered logistic model (not shown) were very similar to those shown here.

Table 2. Descriptive Statistics

Variable	Mean/Proportion	S.D.
Dependent variables		
All permanent/lawyers	7.78%	5.95
Senior attorneys/lawyers	5.22%	5.28
Permanent associates/lawyers	2.74%	3.39
All permanent/employees	5.23%	10.53
Senior attorneys/employees	9.91%	9.35
Permanent associates/employees	5.39%	6.25
Predictors		
Collegiality	0.20	0.40
Specialized knowledge	41.55	7.70
Professional judgment	62.73	5.52
Negotiating and advising skill	45.36	6.07
Client stability	51.09	3.72
Client business volume	4.32	0.84
Control variables		
City mean starting salary (in thousands of U.S. dollars)	64.92	9.95
South	.11	.32
Establishment size	82.69	72.93
Growth in 1st quartile (less than −4%)	.25	.43
Growth in 2d quartile (−4% to 2%)	.25	.43
Growth in 3d quartile (2% to 9%)	.25	.43
Growth in 4th quartile (above 9%)	.25	.43
New site	.01	.10
Boutique	.11	.31
Single-site firm	.13	.34
Headquarters office	.41	.49
Branch office	.46	.50
New hires who completed clerkships	16.44%	23.08%
Leverage (% employees)	51.66%	12.55

NOTE: Figures are based on the sample used in the analysis of senior attorneys (n = 873), except that the permanent associate and combined permanent employee measures are based on the subsample with nonmissing values on those variables (n = 740).

cance for senior attorneys. In the case of permanent associates, the only significant effect—for professional judgment—has a negative, rather than a positive, sign. The opposite effects for the two groups explain the lack of significance of this variable when senior attorneys and permanent associates are combined. These results are consistent with my conjecture that firms with more complex, knowledge-intensive work find it more difficult to use permanent associates to meet their needs for high-skilled labor. Client stability, client business volume, and their interaction all have significant effects for senior attorneys, but not for permanent associates. The effect of a strong preference for collegiality attains statistical significance for senior attorneys, but for permanent associates—although it is in the expected direction—the effect is small and not significant. This result is consistent with my conjecture that law firms can more easily avoid acknowledgment of the conflict between permanent employment and collegial norms in the case of permanent associates. The pattern of results for the two categories of permanent employees remains largely

Table 3. Tobit Models of Permanent Employees, as a Percentage of All Lawyers

Variable	All Titles		Senior Attorneys		Permanent Associates	
	Model 1	Model 2	Model 1	Model 2	Model 1	Model 2
Specialized knowledge	.047	.043	.070*	.070*	.014	.008
	(.042)	(.041)	(.039)	(.039)	(.031)	(.031)
Professional judgment	.106*	.099	.223****	.203****	−.119***	−.102**
	(.063)	(.062)	(.058)	(.057)	(.047)	(.047)
Negotiating and advising skill	.114**	.069	.134***	.083	−.026	−.023
	(.057)	(.057)	(.052)	(.052)	(.042)	(.043)
Client stability	−.219**	−.155*	−.368****	−.271***	−.043	−.034
	(.094)	(.094)	(.090)	(.090)	(.070)	(.072)
Client business volume	−.753**	−.767**	−.689**	−.543*	−.399	−.402
	(.323)	(.324)	(.300)	(.302)	(.248)	(.254)
Client stability × client business volume	−.077	−.080	−.104*	−.096**	.059	.051
	(.053)	(.051)	(.047)	(.046)	(.042)	(.041)
Collegiality	−1.558***	−1.227**	−1.403***	−1.216**	−.369	−.271
	(.591)	(.584)	(.548)	(.540)	(.436)	(.440)
Environmental controls						
City mean starting salary (in thousands of U.S. dollars)	.082***	.096****	.079****	.088****	.034*	.039*
	(.027)	(.028)	(.025)	(.025)	(.020)	(.021)
South	−2.326***	−2.672***	−2.103***	−2.395****	−1.029*	−.974
	(.752)	(.732)	(.745)	(.725)	(.561)	(.558)*
Establishment controls						
Establishment size		−.007		−.001		−.002
		(.005)		(.004)		(.004)
Growth in 2d quartile (−4% to 2%)		.148		−.073		.823*
		(.656)		(.601)		(.496)
Growth in 3d quartile (2% to 9%)		−1.018		−.966		.424
		(.661)		(.601)		(.499)

Table 3. Continued

Variable	All Titles		Senior Attorneys		Permanent Associates	
	Model 1	Model 2	Model 1	Model 2	Model 1	Model 2
Growth in 4th quartile (above 9%)		−1.358**		−1.125*		.044
		(.673)		(.622)		(.511)
New site		−7.351***		−9.262****		−1.267
		(2.442)		(2.692)		(1.887)
Boutique		−2.085**		−3.096****		−.046
		(.870)		(.807)		(.655)
Headquarters office		1.312		1.658**		−.138
		(.749)		(.709)		(.561)
Branch office		2.415****		2.518****		−.093
		(.750)		(.709)		(.564)
Judicial clerks as percent of new hires		−.015		.009		−.021***
		(.010)		(.009)		(.008)
Constant	−10.997*	−9.144	−23.637****	−21.188****	7.927*	6.829
	(6.483)	(6.423)	(6.032)	(6.012)	(4.799)	(4.868)
Log likelihood	−2253.07	−2232.93	−2399.59	−2374.25	−1674.11	−1667.87
N	740	740	873	873	740	740

NOTE: Standard errors are in parentheses.
* $p < .10$ ** $p < .05$ *** $p < .01$ **** $p < .001$

the same when establishment characteristics are added in Model 2, except that negotiating and advising skill loses significance in the case of senior attorneys.

In Table 4, the number of permanent employees is modeled as a percentage of employed lawyers, excluding partners. As discussed above, this modeling strategy probably more accurately reflects the actual decision process in most law firms. The effects of most of the key predictors are more statistically significant here than in Table 3. Again, the first pair of models analyzes the combined use of all types of permanent employees. In Model 1, all three work complexity variables have positive effects, as predicted, and specialized knowledge and negotiating and advising skill are significant at the 5% level. Both client relationship variables have significant negative effects, as does their interaction, consistent with my expectation. The effect of a strong preference for collegiality is again significantly negative, as anticipated. A strong preference for collegiality reduces the percentage of an establishment's employees who are permanent employees by about 2.3 percentage points, in relation to a mean of about 15%. The effect of leverage—measured by the proportion of lawyers who are employees—is positive and significant; when establishments have a larger employee component, more of those employees are permanent. The results remain largely the same when establishment characteristics are entered in Model 2, except that the effect of negotiating and advising skill is reduced and loses statistical significance.

The remaining two pairs of models again analyze senior attorneys and permanent associates separately, this time as percentages of the establishment's professional employees. Again, the predicted effects are much stronger for senior attorneys than for permanent associates. In Model 1, the effects of all three work complexity variables are positive and significant, as predicted, for senior attorneys; again, for permanent associates, professional judgment is significant in the opposite direction, and the other dimensions are not significant. As expected, client stability and client business volume both have significant negative effects, as does their interaction, for senior attorneys; for permanent associates, only client business volume has the expected significant negative effect. There is a large, significant negative effect of preference for collegiality in the case of senior attorneys; for permanent associates, the effect is negative but much smaller and not significant. The influence of leverage is positive and significant for both categories of permanent employees.

The effects of some of the control variables are worthy of note. The mean starting associate salary in an establishment's city has a marked positive effect on permanent employees as a proportion of *all* establishment lawyers, including partners (Table 3), but no effect on permanent employees as a proportion of em-

Table 4. Tobit Models of Permanent Employees, as a Percentage of Employee Lawyers

Variable	All Titles		Senior Attorneys		Permanent Associates	
	Model 1	Model 2	Model 1	Model 2	Model 1	Model 2
Specialized knowledge	.184**	.178**	.207***	.202***	.072	.068
	(.074)	(.074)	(.070)	(.070)	(.057)	(.058)
Professional judgment	.152	.134	.366****	.324***	−.232***	−.206**
	(.110)	(.109)	(.103)	(.102)	(.086)	(.087)
Negotiating and advising skill	.205**	.123	.223**	.141	−.045	−.044
	(.100)	(.101)	(.092)	(.092)	(.078)	(.079)
Client stability	−.406**	−.282*	−.577****	−.424***	.022	−.001
	(.165)	(.167)	(.157)	(.159)	(.128)	(.132)
Client business volume	−2.194****	−2.015****	−1.981****	−1.567***	−1.122**	−1.080*
	(.572)	(.577)	(.536)	(.541)	(.463)	(.476)
Client stability × client business volume	−.218**	−.221**	−.296****	−.275****	−.101	−.087
	(.093)	(.091)	(.083)	(.082)	(.078)	(.077)
Collegiality	−2.316**	−2.293**	−1.940**	−2.034**	−.501	−.494
	(1.047)	(1.039)	(.975)	(.966)	(.804)	(.812)
Environmental controls						
City mean starting salary (in thousands of U.S. dollars)	−.013	.054	.016	.058	−.011	.004
	(.050)	(.053)	(.044)	(.046)	(.039)	(.040)
South	−4.688****	−5.459****	−3.833***	−4.135****	−2.338**	−2.191**
	(1.328)	(1.493)	(1.321)	(1.296)	(1.033)	(1.032)
Establishment controls						
Establishment size		−.020**		−.009		−.007
		(.009)		(.007)		(.007)
Growth in 2d quartile (−4% to 2%)		−.246		−.450		1.127
		(1.166)		(1.074)		(.917)
Growth in 3d quartile (2% to 9%)		−2.385**		−2.226**		.655
		(1.175)		(1.075)		(.922)

Table 4. Continued

Variable	All Titles		Senior Attorneys		Permanent Associates	
	Model 1	Model 2	Model 1	Model 2	Model 1	Model 2
Growth in 4th quartile (above 9%)		−2.995**		−2.630**		.205
		(1.198)		(1.114)		(.945)
New site		−14.265****		−15.907****		−4.132
		(4.376)		(4.764)		(3.595)
Boutique		−5.230****		−6.113****		−.740
		(1.557)		(1.447)		(1.219)
Headquarters office		1.774		2.649**		−.158
		(1.336)		(1.279)		(1.039)
Branch office		.824		1.497		−1.581
		(1.384)		(1.326)		(1.083)
Judicial clerks as percent of new hires		−.022		.016		−.035*
		(.018)		(.017)		(.014)
Leverage	.115***	.124****	.102***	.112***	.049*	.066**
	(.038)	(.039)	(.034)	(.036)	(.029)	(.031)
Constant	−15.800	−11.926	−38.938****	−34.710****	15.958*	14.108
	(11.485)	(11.459)	(10.634)	(10.692)	(8.903)	(9.065)
Log likelihood	−2634.79	−2616.23	−2799.26	−2776.37	−1987.43	−1980.48
N	740	740	873	873	740	740

NOTE: Standard errors are in parentheses.
* $p < .10$ ** $p < .05$ *** $p < .01$ **** $p < .001$

ployed (nonpartner) lawyers (Table 4), suggesting that the effect of labor costs operates primarily on the ratio of partners to employees, rather than on the relative numbers of permanent and probationary employees. Establishment size has no effect on any of the dependent measures, which is not surprising, given that the dependent measures are percentages that already take size into account. Permanent employees are less likely to be found in rapidly growing and newly founded establishments. They are also scarcer in boutique establishments that focus on a particular area of legal practice. They are more often found in firms with multiple offices than in single-site firms, and especially in the branch offices of multisite firms.

Discussion

The increasing prevalence of permanent employment arrangements in large law firms raises questions about the determinants of firms' use of permanent employees. Starting from the premise that organizations shape their employment practices in response to environmental forces, I examined three major recent changes in the environment surrounding large law firms—the increasing complexity of work, the attenuation of client relationships, and the weakening of social norms of collegiality—and developed hypotheses about their effects on the use of permanent employed lawyers. Tobit analyses tested these hypotheses on a nationwide sample of law firm establishments.

Four major conclusions can be drawn from the results. First, the results indicate that firms with more complex and challenging work than other firms make greater use of permanent employees. Three dimensions of work complexity were examined—the specialized nature of the knowledge involved, the amount of professional judgment required, and the need for skill in advising and negotiating with others—and, on balance, each of these dimensions increased firms' use of permanent employment. This finding is consistent with the argument that firms with more complex work need more lawyers with high levels of skill and find that they need to offer permanent employment to attract or retain those lawyers. It is also consistent with the view that firms with more challenging work rely more heavily on the development of "match-specific" in-depth knowledge by each party to the employment relationship and consequently place a greater premium on long-term employment arrangements.

Second, law firms that enjoy stronger ties to their clients than other firms make less use of permanent employees. Both the duration of the relationship and the proportion of the firm's time devoted to the client are important. This finding is consistent with the argument that firms with weaker client relationships are more likely to adopt a task-based, bureaucratic division of labor,

which in turn tends to foster the use of permanent employment arrangements.

Third, law firms that place a higher value on collegiality than other firms are more reluctant to make use of permanent employees. Permanent employment arrangements are incompatible with traditional collegial norms, which hold that professional colleagues should have autonomy over their own work, enjoy formally equal status, and participate in organizational governance.

Finally, the results suggest that law firms employ two distinct categories of permanent lawyers: experienced lawyers with nontraditional titles such as "senior attorney" and "senior counsel," on the one hand, and permanent associates, on the other. The effects of the key predictors are larger in magnitude and attain higher levels of statistical significance in the case of the first group. There is even a clear *negative* association between one aspect of work complexity—professional judgment—and the use of permanent associates.

Because the sample used in this study is limited to medium-sized and large law firms, the findings here are not necessarily generalizable to small firms. Heinz and Laumann (1982; Heinz et al. 1998) offer considerable evidence that small firms inhabit a different "hemisphere" of the bar than larger firms. Small firms tend to practice in areas related to the concerns of individuals and small businesses and draw their clientele from local connections. Larger firms, in contrast, serve the legal needs of large corporations and look to a regional, national, or international client base. The extensive differences between small and large firms are likely to be reflected in different employment practices.

On the whole, although permanent lawyers are often well rewarded in terms of pay and job security, the results here hint at less desirable aspects of their work experience. Senior attorneys appear to practice in complex, challenging areas of law, but this is not the case for permanent associates, whose work appears to be more routine. Both types of permanent lawyers are likely to be found in firms with more tenuous client relationships than other firms, due to more rapid client turnover or the smaller size of client matters, which implies that they have fewer opportunities to build ties to client personnel or to develop the overall understanding of the client's situation necessary to participate in broad, strategic decisionmaking. Kronman (1993) argues that the lawyer's role is shrinking; whereas lawyers once deliberated with clients about ends, they now merely provide technical expertise about means. Permanent employees, in particular, seem likely to be experiencing this narrowing of the scope of their work, and with it a loss of intrinsic interest and meaning. Nor is unfulfilling work likely to be offset by rewarding relationships with colleagues, as permanent lawyers tend to work in firms where norms of collegiality have faded.

From an organizational point of view, permanent employment arrangements seem to reflect a further step in the trend, noted by Nelson (1988), toward the bureaucratization of large law firms. Whereas the ideal-typical model of professional organization involves the concentration of multiple tasks and skills within one individual trained to coordinate and control his or her own work, the bureaucratic model involves the vertical and horizontal division of tasks among different workers (Scott 1966). Permanent nonpartner positions contribute to vertical differentiation by creating an additional layer of hierarchy between partners and probationary associates. They increase horizontal differentiation as well, insofar as permanent employees specialize in relatively narrow tasks and areas of law (for example, "blue sky" work or employee benefits law). Permanent positions mesh easily with other aspects of firm bureaucratization, such as formal departments, full-time managerial positions, and the use of nonlawyer personnel to handle administrative and marketing functions.

Permanent employment arrangements also contribute to the growing stratification of the bar, a trend taking place both across law firms and within them. Across firms, there is an increasing social separation of lawyers who practice in different specialties and serve different clients (Heinz et al. 1998). Within firms, there is growing inequality along the dimensions of earnings, status, and power. At midcentury, it was relatively easy for large-firm associates to accept their disadvantaged status, due to "the knowledge that . . . associates whose work was of high quality would in due course become partners" (Glendon 1994:21). As partnership prospects have grown increasingly remote and permanent employment arrangements have proliferated, however, the gulf between owners and employees appears to be widening. Further research could profitably examine other aspects of this within-firm stratification, such as differentiation among partners, processes of training and promotion, and the use of temporary and contract lawyers.

References

Abel, Richard (1989) *American Lawyers*. New York: Oxford Univ. Press.

Abbott, Andrew (1988) *The System of Professions: An Essay on the Division of Expert Labor*. Chicago: Univ. of Chicago Press.

Baron, James N., Alison Davis-Blake, & William T. Bielby (1986) "The Structure of Opportunity: How Promotion Ladders Vary within and among Organizations," 31 *Administrative Science Q.* 248–73.

Becker, Gary (1975) *Human Capital*. 2d ed. New York: National Bureau of Economic Research.

Bower, Ward (1989) "Rethinking Law Firm Organization—The New Pyramid," *ABA J.*, April, pp. 90–94.

Buchholz, Barbara (1995) "Of Counsel: It's Not Just for Retiring, Anymore," *ABA J.*, October, pp. 70–74.

Davis-Blake, Alison, & Brian Uzzi (1993) "Determinants of Employment Externalization: A Study of Temporary Workers and Independent Contractors," 38 *Administrative Science Q.* 195–223.

Drabek, Thomas, Rita Braito, Cynthia Cook, James Powell, & David Rogers (1982) "Selecting Samples of Organizations: Central Issues and Emergent Trends," 25 *Pacific Sociological Rev.* 377–400.

Eccles, Robert, & Dwight Crane (1988) *Doing Deals: Investment Banks at Work.* Boston: Harvard Business School Press.

Ely, Robin J. (1994) "The Effects of Organizational Demographics and Social Identity on Relationships among Professional Women," 39 *Administrative Science Q.* 203–38.

Freidson, Eliot (1984) "The Changing Nature of Professional Control," 10 *Annual Rev. of Sociology* 1–20.

——— (1986) *Professional Powers.* Chicago: Univ. of Chicago Press.

Freidson, Eliot, & Buford Rhea (1963) "Processes of Control in a Company of Equals," 11 *Social Problems* 119–31.

Galanter, Marc, & Thomas Palay (1991) *Tournament of Lawyers: The Transformation of the Big Law Firms.* Chicago: Univ. of Chicago Press.

Glendon, Mary Ann (1994) *A Nation under Lawyers: How the Crisis in the Legal Profession is Transforming American Society.* New York: Farrar, Straus and Giroux.

Goode, William J. (1957) "Community within a Community: The Professions," 22 *American Sociological Rev.* 194–99.

Hall, Richard H. (1968) "Professionalization and Bureaucratization," 33 *American Sociological Rev.* 92–104.

Heintz, B., & N. Markham-Bugbee (1986) *Two-Tier Partnership and Other Alternatives: Five Approaches.* Chicago: American Bar Association.

Heinz, John P., & Edward O. Laumann (1982) *Chicago Lawyers: The Social Structure of the Bar.* Chicago: Russell Sage Foundation and American Bar Foundation.

Heinz, John P., & Edward O. Laumann, with Robert L. Nelson & Paul S. Schnorr (1997) "The Constituencies of Elite Urban Lawyers," 31 *Law & Society Rev.* 441–72.

Heinz, John P., Robert L. Nelson, Edward O. Laumann, & Ethan Michelson (1998) "The Changing Character of Lawyers' Work: Chicago in 1975 and 1995," 32 *Law & Society Rev.* 751–75.

Hoffman, Paul (1973) *Lions in the Street: The Inside Story of the Great Wall Street Firms.* New York: Saturday Review Press.

——— (1982) *Lions of the Eighties: The Inside Story of the Powerhouse Law Firms.* Garden City, NY: Doubleday.

Jamous, H., & B. Peloille (1970) "Changes in the French University-Hospital System," in J. A. Jackson, ed., *Professions and Professionalization.* Cambridge: Cambridge Univ. Press.

Kalleberg, Arne, & Kathryn Schmidt (1996) "Contingent Employment in Organizations: Part-Time, Temporary, and Subcontracting Relations," in A. L. Kalleberg, D. Knoke, P. V. Marsden, & J. L. Spaeth, eds., *Organizations in America: Analyzing Their Structures and Human Resource Practices.* Thousand Oaks, CA: Sage Publications.

Kanter, Rosabeth Moss (1977) *Men and Women of the Corporation.* New York: Basic Books.

Klaw, Spencer (1958) "The Wall Street Lawyers," 57 *Fortune*, February, pp. 140–44, 192–98, 202.

Kronman, Anthony (1993) *The Lost Lawyer: The Failing Ideals of the Legal Profession.* Cambridge: Harvard Univ. Press.

Larson, Magali Sarfatti (1977) *The Rise of Professionalism.* Berkeley: Univ. of California Press.

Lisagor, Nancy, & Frank Lipsius (1988) *A Law unto Itself: The Untold Story of the Law Firm Sullivan & Cromwell.* New York: William Morrow & Co.

Long, J. Scott (1997) *Regression Models for Categorical and Limited Dependent Variables.* Thousand Oaks, CA: Sage Publications.

Maister, David (1993) *Managing the Professional Service Firm.* New York: Free Press.

Mayer, Martin. (1966) *The Lawyers.* New York: Harper and Row.

McPherson, Michael S., & Gordon C. Winston (1988) "The Economics of Academic Tenure: A Relational Perspective," in D. Breneman and T. Youn, eds., *Academic Labor Markets and Careers.* New York: Falmer Press.

Merritt, Deborah J., Barbara F. Reskin, & Michelle Fondell (1993) "Family, Place, and Career: The Gender Paradox in Law School Hiring," 1993 *Wisconsin Law Rev.* 395–463.

Mintzberg, Henry (1993) *Structure in Fives: Designing Effective Organizations.* Englewood Cliffs, NJ: Prentice Hall.

Nelson, Robert L. (1988) *Partners with Power: The Social Transformation of the Large Law Firm.* Berkeley: Univ. of California Press.

Nelson, Robert L., & David M. Trubek (1992) "Introduction: New Problems and New Paradigms in Studies of the Legal Profession," in R. L. Nelson & D. M. Trubek, eds., *Lawyers' Ideals/Lawyers' Practices: Transformations in the American Legal Profession.* Ithaca, NY: Cornell Univ. Press.

Parsons, Talcott, & Gerald Platt (1973) *The American University.* Cambridge: Harvard Univ. Press.

Pfeffer, Jeffrey, & James N. Baron (1988) "Taking the Workers Back Out: Recent Trends in the Structuring of Employment," 10 *Research in Organizational Behavior* 257–303.

Pollock, Joan E. (1990) *Turks and Brahmins: Upheaval at Milbank, Tweed.* New York: Simon and Schuster.

Schroeder, Jim (1998) "Slowing the Revolving Door: How Three Firms Are Winning the War against Associate Attrition," *The American Lawyer,* October, pp. 5–7.

Sciulli, David (1986) "Voluntaristic Action as a Distinct Concept: Theoretical Foundations of Societal Constitutionalism," 51 *American Sociological Rev.* 743–66.

Scott, W. Richard (1965) "Reactions to Supervision in a Heteronomous Professional Organization," 10 *Administrative Science Q.* 65–81.

——— (1966) "Professionals in Bureaucracies—Areas of Conflict," in H. Vollmer & D. Mills, eds., *Professionalization.* Englewood Cliffs, NJ: Prentice Hall.

Shepherd, Ritchenya (1999) "One Way to Keep Associates . . . ," *National Law J.,* 24 May, p. A13.

Simons, Tal, & Paul Ingram (1997) "Organization and Ideology: Kibbutzim and Hired Labor, 1951–1965," 42 *Administrative Science Q.* 784–813.

Smigel, Erwin O. (1969) *The Wall Street Lawyer: Professional Organization Man?* Bloomington: Indiana Univ. Press.

Sørensen, Aage (1994) "Firms, Wages, and Incentives," in R. Swedberg & N. Smelser, eds., *Handbook of Economic Sociology.* Princeton, NJ: Princeton Univ. Press.

Stolzenberg, Ross M., & Daniel A. Relles (1997) "Tools for Intuition about Sample Selection Bias and Its Correction," 62 *American Sociological Rev.* 494–507.

Uzzi, Brian, & Zoe Barsness (1998) "Contingent Employment in British Establishments: Organizational Determinants of the Use of Fixed-Term Hires and Part-Time Workers," 76 *Social Forces* 967–1007.

Wallace, Jean (1995) "Corporatist Control and Organizational Commitment among Professionals: The Case of Lawyers Working in Law Firms," 73 *Social Forces* 811–39.

Waters, Malcolm (1989) "Collegiality, Bureaucratization, and Professionalization: A Weberian Analysis," 94 *American J. of Sociology* 945–72.
Wholey, D. R. (1985) "Determinants of Internal Labor Markets in Large Law Firms," 30 *Administrative Science Q.* 318–35.
Wilensky, Harold (1964) "The Professionalization of Everyone?" 70 *American J. of Sociology* 137–58.
Williamson, Oliver (1981) "The Economics of Organization: The Transaction Cost Approach," 87 *American J. of Sociology* 548–77.
Wren, Harold G., & Beverly J. Glascock (1991) *The Of Counsel Agreement: A Guide for Law Firm and Practitioner.* Chicago: American Bar Association.