Black Partner in a National Law Firm Not so long ago, lawyers who worked in large law firms confidently believed in a seamless and mutually reinforcing connection between public service and professional success. By the 1960s, every law firm of note boasted a great eminence - or "ornament," as one respondent who began his career in a large firm during this period derisively put it - whose service in government, civic organizations, or bar association activity added luster to the firm's masthead and stature to its client meetings, recruiting dinners, and public events. Coleman, who initially could not get a job with a law firm in his native Philadelphia, even after graduating first in his class at Harvard Law School and clerking for Justice Frankfurter, was a successful partner in a mid-tier Philadelphia law firm by the time President Ford called him to public service. A founding member of the ABA's Minority Partners in Majority Law Firms, Charleston's duties soon brought him into contact with the kind of powerful establishment lawyers who had always participated in ABA activities. I conclude with a few thoughts about what the Brown generation of black corporate lawyers' efforts to integrate public service and private practice can teach us about the likely relationship between these two worlds in the new millennium.
Today such rapturous claims about the easy congruence between doing good and doing well sound increasingly antiquated. To be sure, one should always be suspicious of accountants of a halcyon "golden age" where lawyers cared nothing for profits and selflessly committed themselves to the public good. Nevertheless, many signs point to the elite bar's declining commitment to public service.

Lawyers in top firms, for example, currently devote a mere three percent of their total billable hours to pro bono work. Even more depressingly, this paltry sum represents an improvement over the corporate bar's performance during the bull market for legal services in the 1990s - an improvement that appears to have more to do with the bursting of the tech bubble than any renewed commitment to public service.

The news with respect to the traditional connection between the corporate bar and government service appears equally depressing. At the entry level, law graduates are less likely to begin their careers in government. This appears especially true for graduates from top law schools, who presumably have the most offers from law firms and other private sector employers. Anecdotal evidence also suggests that those who have entered corporate practice in the last thirty years may hesitate more than their golden age predecessors before interrupting their careers for public service. As one veteran of the revolving door explains, lawyers considering taking a break from private practice for a stint in government service worry much more than they did in the past about disrupting the "ongoing relationships with clients." This is especially true for lawyers considering positions where they will not "specialize or gain a new set of marketable skills." In the assessment of a prominent law firm recruiter, law firms are increasingly setting a "fairly high bar" for hiring former government lawyers, looking beyond titles for "high-profile lawyers with proven records in private practice as well." Such attitudes will only magnify the perception among many law firm partners and associates that a temporary stint in public service could be hazardous to their careers.

Indeed, there is a widespread perception that elite lawyers have withdrawn from virtually all forms of public service. Many lawyers report a general decline in participation by lawyers from leading firms in bar association activity. Law reform organizations such as the American Law Institute also report declining participation - and what may be worse, increasing partisanship. And even the Chief Justice of the United States has opined that the legal profession has abandoned its traditional role of "serving on zoning boards, charity boards, and the like." Even if overall volunteer work by lawyers remains strong, few would deny that partners and associates feel tremendous pressure to spend virtually all of their waking hours billing time to paying clients.

In the eyes of most observers, the cause of this demise is simple: money. For the bar's harshest critics, corporate lawyers are simply filled with a rapacious greed that will not allow them to forego even an hour's worth of time that could be billed out at obscene rates to their corporate patrons. But even those more inclined to view the bar with sympathy reluctantly conclude that a globally competitive marketplace in which lawyers routinely work 2500 hours a year on client matters leaves little time - and almost no energy - to engage in public service. Young associates especially feel themselves caught in the crossfire. Although many continue to have strong commitments to pro bono and public service, the crushing demands associated with meeting the expectations of partners and clients, and the perilous uncertainty of building a successful career in the turbulent world of large law firm practice, appear to make these idealistic commitments a luxury that these bleary-eyed young lawyers simply can no longer afford.

There is clearly truth in this standard account. The huge increases in partner compensation over the last twenty years have raised the opportunity costs for senior lawyers to engage in public service, just as escalating hourly billing targets make the prospect of spending even more time at the office doing pro bono or civic work singularly unappealing for even the most public-spirited associate. Worse yet, many associates fear that public service may be dangerous to their careers. At best, partners appear not to care about time spent on public service projects. At worst, such projects risk alienating partners and clients by challenging preconceived ideas or the accepted order. Given the increasing concern over "positional" or "business" conflicts, it is small wonder that even firms with active pro bono practices tend to shy away from representing environmental groups or consumer class actions in favor of devoting their pro bono energies to welfare hearings and death penalty appeals. Even government service is often discounted today as time that could be better spent developing the increasingly specialized skills required for high powered corporate practice - including the all important skill of developing a "book of business."

Indeed, even when law schools and law firms seek to encourage public service, their exhortations paradoxically seem just as likely to marginalize public commitments as they are to promote them. Although most law schools now have special advisers who counsel students on public interest jobs, these programs typically are separated both physically and culturally from the "normal" interviewing process. This separation reinforces the common student view that public service and private practice are polar opposites, if not mortal enemies.
students who end up working in private practice, as most will, doubt whether their law firm employers will see any value in public work. Similarly, those law firms that claim to value public service often do so by emphasizing that such work is a "professional duty" and an important means for young lawyers to "give back" to their communities - characterizations that encourage young lawyers to view such work as fundamentally different in kind from the revenue-generating activities at the core of the firm's business. n24

Nevertheless, without denying the power of these imposing structural and cultural obstacles, in this Address I will argue that the conventional wisdom that public service is a luxury that lawyers in a competitive marketplace can no longer afford is, like the more general claim that there is a sharp distinction between "public interest" and "private practice," misleading at best, and at worst, a trap that paradoxically keeps many public-spirited young lawyers from carving out successful careers in the private sector. Sophisticated lawyers have always used public service as a means of advancing their private careers. n25 If anything, the current competitiveness of the market has only magnified the importance of this connection - especially for lawyers who face heightened obstacles to succeeding inside law firms by conventional means. n26 Although engaging in public service is [8] certainly not without risks, the risks of not cultivating an "external" persona, in the words of the epigraph that begins this piece, are just as significant.

I make this claim based on an extensive examination of the careers of the first generation of black lawyers to enter corporate law firms in the half-century following the U.S. Supreme Court's decision in Brown v. Board of Education. n27 In the course of this work, I discovered that the black lawyers I interviewed engaged in a significant amount of public service. n28 From the perspective of the conventional wisdom, this result appears counterintuitive. Given that black lawyers in corporate firms plausibly have to work harder than their white peers to demonstrate their value to partners and clients, one might predict that these especially vulnerable lawyers would stay away from public service work in today's competitive environment. In fact, the opposite appears to be true. Although there are no definitive statistics documenting the public service activities of black corporate lawyers relative to their peers, what data we do have suggests that black lawyers do at least as much public service work as their white counterparts in corporate firms - and may do significantly more.

As we celebrate Brown's half century, it is tempting to explain this anomaly on the ground that black lawyers who enter corporate practice have an especially strong inclination to use their legal skills to promote the public good. My interviews provide some support for this thesis. Thurgood Marshall's towering legacy inspired many in the post-Brown generation to go to law school and to commit themselves to the ideal of achieving social justice through law. For many in the black corporate bar, this ideal remains important even as they work to build their careers in an arena quite different from the full-time civil rights practice where Marshall and his mentor Charles Hamilton Houston first forged the image of black lawyers as "social engineers for justice." n29

My interviews also reveal, however, that a preexisting motivation toward public service is only one part of the story - and, at least for purposes of evaluating the prevailing wisdom that elite lawyers can no longer afford to participate in public service, arguably not the most important part. Like their white classmates, the black students who went to law school following [*9] Brown were interested in being successful as much as they hoped to contribute to the struggle for racial justice. Indeed, for many, obtaining professional success was itself an important contribution to the black equality struggle in a world in which corporate law, like most other aspects of American society, remained rigidly segregated. At a minimum, this complex mix of motivations underscores that a complete understanding of black corporate lawyers' engagement with public service must address how this work has - or has not - helped these aspiring professionals build stable and successful careers in addition to whatever effect it has had on their commitment to work for racial justice. Broadening our focus to account for these career-related implications, I submit, can teach us a great deal about the continuing relevance of the age-old maxim that lawyers "do well by doing good," as well as help us to see how race continues to affect the structure of opportunity for black lawyers almost fifty years after Brown.

The remainder of this Address proceeds in four parts. Part II presents the evidence that black lawyers appear to do more public service than their white peers and examines the limitations of traditional arguments that seek to explain this difference on the ground that black lawyers have an especially strong commitment to use their legal services for the public good. Part III then explores why black corporate lawyers might be drawn to public service as a means of enhancing their careers in private practice. In addition to the psychic rewards of knowing that one is "doing good," public service has always offered lawyers a variety of benefits that can also help them "do well" in private practice. These benefits can be grouped into three broad categories: experience, visibility, and contacts. Given that black lawyers often have difficulty obtaining these three essential goods inside law firms, it is not surprising that they have often turned to public service as a means of gaining the career-enhancing opportunities that they have been denied in the private sector.
Part IV examines how black lawyers have attempted to extract the career benefits of public service in four areas: government employment; civic and community participation; bar associations; and pro bono work. In each of these arenas, race has affected both the options black lawyers pursue and the degree to which this work has benefited their private careers. Part V concludes by discussing what black lawyers' experiences in each of these areas can teach us about the future role of public service in the careers of twenty-first century corporate lawyers - and about how this role may in turn influence the future of race, [*10] careers, and public service in Brown's second half-century.

II. Of Thurgood Marshall, Perry Mason, and the Suit

Empirical evidence from an array of sources suggests - although it certainly does not prove - that black lawyers are more likely to engage in public service of a variety of kinds than the profession as a whole. For example, a comprehensive study of University of Michigan graduates found that minority graduates in private practice performed an average of 121 hours per year of uncompensated legal service compared to 98 hours performed by white graduates. Indeed, the Michigan survey found that minority graduates from the 1970s performed significantly more pro bono work than any other group, averaging 137 hours per year. Given the demographic makeup of Michigan's classes during this period, the overwhelming majority of these graduates are black. n32 Similarly, in our study of black Harvard Law School graduates, we found that those in private practice spent an average of 133 hours a year doing pro bono work for individuals or organizations and other uncompensated legal work. n33 Although we do not have figures for white Harvard Law School graduates, this number compares favorably to the Michigan statistics and dwarfs the best estimate for the average among all lawyers of approximately twenty-five hours per year. n34

Black lawyers also appear to be especially active in civic and community organizations. In our survey, sixty-three percent of the black Harvard graduates had served on the governing board of a nonprofit organization, including 81% of those who graduated in the 1970s. Although lawyers in private practice were less likely to have held such a position than those in other sectors (most notably academics), more than half (56%) of black Harvard graduates in law firms and other private workplaces have assumed leadership roles in civic or community organizations. This percentage appears to be appreciably higher than the percentage of private practitioners occupying such positions in the bar as a whole. n37

There is also evidence that black lawyers may be more likely than average to spend part of their careers in government service. n38 Government has always been the most important employment sector for black lawyers. Long before large law firms and other private employers opened their doors to the black bar in the late 1960s, those blacks who could not make it as solo practitioners often sought refuge in federal, state, or local jobs. Sadly, all too often the government jobs that these early pioneers were offered utilized few if any of their legal skills. Prior to Brown, many a black law school graduate regretfully came to the conclusion that working at the post office was preferable to trying to eke out a living as a lawyer in private practice. A few, however, managed to land jobs in the emerging government law offices that were sprouting up in Washington and across the country in the 1940s and 1950s to service the legal needs of the new administrative state.

Notwithstanding the tremendous gains that have been made by black lawyers in the last half-century, this disparate employment pattern remains. In 1998, only 40% of all black law graduates entered some form of private practice as compared to 57% of whites. Of the remaining 60% of black graduates, almost half (or 26% of the total) took jobs in the public sector. Even black graduates of elite law schools are more likely to start their careers in public jobs. At Harvard Law School, for example, 8% of black graduates from the 1990s took government jobs - significantly lower than the 20% of black Harvard graduates who entered the public sector from the 1970s cohort, but significantly higher than the 3% of all Harvard graduates in the 1990s who took similar jobs. Other elite law schools report a similar overrepresentation of blacks and other minorities in public sector employment.

A similar, although less dramatic, pattern emerges with respect to public interest careers. Nine percent of black Harvard graduates in our study began their careers in public interest or legal services organizations. This percentage is consistent across the cohorts of graduates from the 1970s, 1980s, and 1990s. This figure is higher than the national average for all black law school graduates (5% in 1998), which in turn is higher than the average for all Harvard graduates (3% in 1998) and for law graduates as a whole (3% in 1991). Given these trends, we should not be surprised to see public employment figure prominently in the careers of black corporate lawyers. My interview data confirms this intuition.

One can begin to get a sense of this connection by observing how many black corporate lawyers have actually worked in government at some point during their careers. Just over 7% of the black lawyers in my sample were working...
in government at the time I interviewed them. This fact is significant in and of itself given that all of the lawyers I interviewed had spent some significant time working in corporate law jobs. However, when one broadens the focus to look at all the jobs held by the lawyers in my sample, nearly 40% have worked in some form of government job during the course of their careers. n51 Black women were especially likely to have followed this route. Nearly half (48%) of the black women in my sample have held government jobs at some point in their careers, as compared to 40% of black men.

These percentages are consistent with other evidence concerning the importance of public sector employment in the careers of black corporate lawyers. For example, in a prior study of all of the identifiably black partners in the 1992-1993 Directory of Minority Partners in Majority/Corporate Law Firms, published by the ABA, Mitu Gulati and I found that 37% had worked in government before becoming partners. n52 This trend was especially strong with respect to black partners who were not graduates of elite law schools. Forty-five percent of black partners in this category worked in government before reaching their current position. n53 Indeed, of the black Harvard graduates in our study who initially began their careers in public sector or public interest jobs, nearly 25% were currently employed in private practice (typically with a large law firm) as of the time they were surveyed in 2000, while an additional 8% were working in corporate legal departments. n54 Black men were particularly likely to follow this career trajectory. n55 The reverse is also true. Fifteen percent of the black Harvard law school graduates who started out in private practice (once again, typically with a large law firm) were currently working in government or public interest jobs as of 2000. n56 Clearly, the revolving door has been in full swing for the new generation of black corporate lawyers.

As I indicated at the outset, none of this proves that black lawyers are more involved in public service than the bar as a whole. Nor is it my intention to do so. n57 My point is simply that the evidence cited above suggests that black corporate lawyers devote no less time to public service than their white peers and that they may spend appreciably more.

Given the conventional wisdom about the pitfalls of public service, even this relatively modest claim is surprising. Black lawyers comprise a tiny percentage of the lawyers in large law firms - and an even smaller percentage of law firm partners. n58 Although there is disagreement about the causes of this persistent underrepresentation, few would deny that black lawyers face heightened obstacles to getting hired by elite firms and, if they are hired, in being promoted to partnership. n59 Given these obstacles, and the prevailing wisdom that public service is a luxury that busy lawyers can no longer afford in a competitive marketplace, one might expect black lawyers in law firms to do significantly less public service work than their white peers. At a minimum, one would expect that the black lawyers who engage in public service would be less successful in building careers in law firms than those who eschew this option. Yet, the evidence presented above suggests, although once again certainly does not prove, the opposite conclusion. Indeed, black partners appear especially likely to have worked in public service jobs before assuming their current positions.

It is tempting to explain this apparent anomaly on the basis of black lawyers' greater commitment to public service. After all, the current generation of black lawyers are the lineal descendants of Thurgood Marshall and Charles Hamilton Houston, whose heroic litigation campaign in Brown both created the modern public interest law movement and stands as a constant reminder of the debt that today's black attorneys owe to the civil rights struggles of the past. n60 Pundits in both the popular and scholarly press often rely on this connection in criticizing black lawyers who are perceived as failing to advance the struggle for racial justice. n61 But even scholars such as myself who reject the strong version of the "sell out" critique nevertheless contend that Marshall's and Houston's descendants should feel obligated to devote at least some of their legal skills toward advancing the interests of the black community. n62 Given these historic and contemporary connections, it seems natural that black corporate lawyers would gravitate toward public service.

There is clearly support for this thesis. In our survey of black Harvard graduates, for example, one-quarter of all respondents stated that they intended to enter government or some other public interest career when they went to law school. n63 Even more tellingly, 40% claimed that they intended to work in a substantive area serving black interests or clients. n64 And one would be hard pressed to attend a meeting of a black student group or bar association where the topic of the obligations of black lawyers to give back to their community was not prominently featured. n65

Nevertheless, one should be skeptical of explanations that place too much weight on black lawyers' special interest in or commitment to public service. Arguments that ascribe beliefs or interests to groups risk essentializing racial identity, especially when such assertions are based on little more than generalizations about a common history of racial oppression. n66 Moreover, as Vickie Schultz has argued in a related context, there is a long and odious history of employers advancing the "lack of interest" defense to explain the underrepresentation of women and minorities in
A workable, high-status jobs. n67 Anecdotal evidence suggests that managing partners in law firms have been known to explain their lack of progress in hiring and promoting black lawyers on similar grounds. n68 At a minimum, these reports underscore the danger of being too anxious to ascribe a public service orientation to black lawyers. Indeed, one suspects that it is precisely because law firm partners appear eager to embrace this stereotype that the conventional reports underscore the danger of being too anxious to ascribe a public service orientation to black lawyers. Indeed, one
explain their lack of progress in hiring and promoting black lawyers on similar grounds. n68 At a minimum, these reports underscore the danger of being too anxious to ascribe a public service orientation to black lawyers. Indeed, one
so much currency among today's black law students.

But even if one believes, as the Harvard data suggests, that many black lawyers hope to use their legal skills to advance the cause of racial justice, it does not necessarily follow that they are willing to do so at the expense of their aspirations to succeed in private practice. As a preliminary matter, given the small number of blacks who have penetrated the upper echelons of corporate America, many black lawyers believe that succeeding in private practice is in and of itself an important contribution to social justice. n69 Those who share this belief seem unlikely to participate in public service if they think it will hurt their chances for success in the private arena. n70 Moreover, even those [*17] black lawyers who want an engagement with the struggle for racial justice that goes beyond merely breaking barriers and becoming a role model for others to follow are likely to seek ways of contributing to this cause that also further - or at a minimum do not unduly damage - their private practice careers. This dual motivation seems likely to influence both the nature of the public service that black lawyers engage in and the timing and manner in which they undertake these commitments.

My interview data underscores this complex mix of motivations and incentives. When I began this project, I assumed that the first generation of black corporate lawyers, most of whom grew up in the immediate aftermath of the Brown decision, were inspired to become lawyers by Thurgood Marshall's example. Not surprisingly, many of those I interviewed echoed this theme. n71 But Marshall's influence on the Brown generation of aspiring black lawyers was rivaled by another American icon of the 1950s and 1960s: Perry Mason. Mason, of course, was also a crusader for justice (albeit in a world that was still remarkably devoid of blacks). Some of the lawyers I interviewed admired him for just this reason. n72 But for many others, it was not Perry Mason's advocacy on behalf of the helpless individual facing the awesome power of the state that caught their attention. It was his suit.

The first generation of black lawyers to enter corporate practice came disproportionately from working class backgrounds. Among black Harvard graduates from the 1970s, for example, almost half had parents who worked in blue-collar jobs. n73 Many of those in the remaining half came from families where one or both parents were office workers or low-level civil servants. Although the percentage of black students from similar backgrounds has declined with each succeeding cohort, almost a third of black graduates from the 1990s still hail from working- [*18] class roots. n74

My interview data echoes this pattern. More than a third of the black lawyers I interviewed came from families in which the father held a blue-collar job. Another third came from families that owned "mom and pop" businesses or where one or both parents worked in the military or in a low-level white-collar position in business or government. Even those from "professional families" were likely to be in that category because one or both of their parents were elementary or high school teachers.

In short, the first wave of black lawyers to integrate corporate law firms is, to borrow a phrase from Professor Henry Louis Gates, Jr., a "crossover" generation. n75 They are a generation of kids whose parents never really had a chance at the American Dream. Their fathers and mothers did not wear suits to work. They wore overalls or uniforms, or a shirt and tie at best. These were hard working people who enjoyed none of the comforts of professional income or status. By virtue of Thurgood Marshall's historic efforts and their own tireless dedication, the children of this pre-Brown generation of black Americans now had a chance of obtaining these markers of middle class success - things many of them had seen only on television or in fleeting moments when the one black lawyer or doctor in the neighborhood drove up to church in his new Cadillac and was greeted in reverent tones by his fellow parishioners as "lawyer Smith" or "Doctor Jones." n76 Crossing over to this heretofore unobtainable place - a place where people wore suits, worked downtown, could live anywhere they wanted, and, most of all, were treated with respect - was as much a goal of the civil rights movement for this generation as any abstract idea about saving the race. n77 It was this desire for middle class respectability, along with a general sense about the [19] connection between the law and social change, that persuaded so many of the bright young black women and men in this crossover generation to pursue careers in law and to enter corporate law practice once they got there. As one respondent wryly put it when reporting his role models for becoming a lawyer: "Thurgood Marshall, because he vividly demonstrated how to use the law to help your people. And Perry Mason [because he] demonstrated ... that you could have a livelihood, you could have your own office, apparently make money and never lose a case!" n78 Any credible account of the motivations or intentions that these lawyers have brought with them to corporate America must account for this strong desire for success.
Of course, in wanting to be successful while at the same time remaining true to their ideals, the Brown generation of black corporate lawyers is no different than legions of lawyers throughout history who have sought to combine doing well and doing good. This is precisely why explanations that focus on the special attributes of black lawyers tend to miss the mark. Too often, those who seek to understand issues involving race see their task as identifying something uniquely "racial" in either the problem or its solution. With respect to diversity issues in law firms, for example, the questions that are typically posed are: Why are black lawyers failing to succeed in firms, and how can we help them to do better in the future? In my own work, I have asked related but different questions: What does it take for any lawyer to succeed in today's large law firms, and how might race exacerbate these general tensions? Notwithstanding the tendency of commentators in both the public and scholarly arenas to talk about blacks and whites as though they live in separate worlds, the most important forces that shape the goals, outlook, and opportunities of black Americans are the same as those for whites. n79 This is especially true in the economic arena where blacks and whites increasingly work together (although often far from equally) in the same institutions.

Black corporate lawyers largely have gone to the same law schools and entered the same institutions as their white peers. It is therefore logical to assume that they are looking for the same kinds of rewards from their careers and have many of the same ideas about how to go about achieving those objectives. Since time immemorial, corporate lawyers have used public service as a stepping stone to success in private practice. n80 To make this claim is not to assert that these lawyer-statesmen of the past were motivated only by self-interest. As Bob Gordon has persuasively argued, there is a long and storied tradition of corporate lawyers pursuing public service projects at great personal sacrifice and, at least on occasion, against the wishes of powerful clients. n81 What is also true, however, is that these lawyers recognized, or came to recognize, that such work could also benefit their careers. It is this latter claim that tends to be lost in both the hagiography of the past and the panicked assessments of our present condition. Black lawyers, as I argue below, are no different. They too are drawn to public service for many reasons. But just like their white peers, they hope that in addition to the very real psychic rewards they receive from doing good, that participating in public service will also help them to do well in their private careers.

Acknowledging this parallel between the motivations of today's black corporate lawyers and the lawyer-statesmen of the past, however, does not mean that race is irrelevant to the decisions that this new generation has made about public service. To the contrary, race is likely to affect both the kinds of public service available to black lawyers and the career-related benefits that these lawyers receive from engaging in the public service options they are most likely to encounter or pursue. To understand why, we must look more closely at the kinds of career-enhancing benefits corporate lawyers receive from public service and how race is likely to affect these benefits.

III. Private Benefits of Public Service in Black and White

Doing good, as the old saying goes, is undoubtedly its own reward. But in addition to knowing that they are contributing to the public good, lawyers who engage in public service also may receive three important career-enhancing benefits from their good works: experience, visibility, and contacts. These benefits, it should be clear, are valuable to every lawyer. Given the extent to which race continues to magnify the obstacles confronting black lawyers, however, there are good reasons to suspect that these career-enhancing benefits of public service are especially valuable to them. n82

A. Experience

It is axiomatic that to be successful in a large law firm, lawyers need to gain experience. The fact that firms have traditionally hired associates directly out of law school might seem to obviate the old saw that you need to have experience in order to get experience. This typical hiring pattern, however, just accentuates the importance of acquiring training and experience once a lawyer joins a firm. Law schools (we hope!) do a reasonable job of teaching students how to "think like a lawyer." They do almost nothing to train students to actually be lawyers - especially lawyers who will work on complex matters for corporate clients as opposed to the legal services work that constitutes the bulk of most clinical programs. n83 Associates, therefore, must learn these skills on the job.

Getting access to the developmental opportunities that can teach these skills has always been difficult. Senior lawyers who have experience are, by definition, busy tending to the needs of clients. Clients, for their part, often do not want inexperienced lawyers taking major responsibility for important matters. And firms have always had an incentive to divide up work in the manner that best maximizes the firms' interest in processing work efficiently and profitably, as opposed to the manner that best promotes the training of junior lawyers. It is not surprising, therefore, that young
lawyers have always looked for ways to gain experience outside of the traditional work assignment process. Many have found such opportunities in public service.

Public service potentially offers young lawyers a variety of valuable experiences. Government law offices, for example, cannot afford to divide up work the way large firms typically do. Lawyers working in these settings consequently get responsibility for major matters more quickly than their counterparts in firms. n84 Similarly, pro bono cases tend to be smaller and the clients for whom they are done less discriminating (or, what may amount to the same thing, less powerful), therefore giving the lawyers who work on these matters greater responsibility and authority. n85 Even civic work and bar association activity offer valuable experience to young lawyers, for example, by teaching them how to run meetings, giving them platforms to develop and present their ideas, and giving them responsibility for important decisions. n86

Today's competitive environment renders these kinds of experiences even more valuable for lawyers seeking to build successful careers in private practice. Gaining access to training and mentoring opportunities in contemporary elite law firms is even more difficult than it was for lawyers during the so-called golden age. Law firms are bigger, more highly leveraged, and more bottom-line driven than ever before. n87 Partners have strong incentives to concentrate their scarce training time on the few associates who they think will stay at the firm long enough to repay the partners' investment by becoming senior associates or junior partners. Those who are not lucky enough to get on this "training track" risk being fed a steady diet of necessary but ultimately repetitive "paperwork" - work that is unlikely to provide them with the experience and training that they will need to become partners or to move laterally to another firm or an in-house counsel position. n88

Black lawyers are especially likely to find themselves on the paperwork track. Empirical and anecdotal evidence suggest that blacks have an even harder time gaining access to good work and training opportunities than their white peers. n89 These problems are compounded by pervasive myths about black intellectual inferiority and the existence of widespread affirmative action in both law school admissions and law firm recruiting. Clients, unfortunately, are likely to share many of these preconceptions and are therefore less likely to select black attorneys for important work. And even when clients do not actually hold these beliefs, partners may presume that they do and therefore refrain from giving black lawyers significant responsibility for major matters. Black women are likely to face even greater obstacles. In addition to all of the issues confronting black men, black women also must battle the common perception that because of family obligations they, like white women, will reduce the total number of hours that they will commit to the firm.

As a result of these heightened obstacles, black lawyers have strong incentives for seeking other alternatives for obtaining the kind of experience that they are too often denied in the normal course of their working relationships. This is especially true because black lawyers know that in addition to gaining the requisite experience, they must also find ways to signal competence to skeptical partners, clients, and potential future employers.

B. Visibility

If experience is the essential nutrient that allows an associate to make a successful transformation from promising law student to plausible partnership candidate, then visibility is the sunlight that allows this metamorphosis to take place. As an old friend told me as I began working on this project, for a lawyer to succeed in a large law firm two things must happen: the lawyer must do good work for important clients of the firm and he or she must be seen as doing good work for important clients of the firm. Without visibility - and visibility by the right people - all the experience in the world is for naught.

Lawyers have always understood this essential truth. Even before the days of TV advertisements and American Lawyer profiles, savvy attorneys looked for ways to trumpet their experience and skills. Public service has always provided an attractive platform. Eighteenth-and early nineteenth-century lawyers engaged in public debates and ran for office, in part, as a means of showcasing their oratorical skills. n90 As counseling replaced oration as the foundation of elite law practice in the nineteenth century, corporate lawyers sought out leadership positions in the public commissions, bar associations, and law reform organizations that began building the legal system after the Civil War. n91 And with the advent of the New Deal, the revolving door between Wall Street (and K Street and LaSalle Street) and the federal government began swinging in earnest. n92 A quick examination of the post-government careers of the lawyers who served in high-level administrative positions demonstrates that these lawyer-statesmen received as much career benefit from their time in public service as the chroniclers of that so-called golden era suggest that the government received from them. n93 By the 1960s, every law firm of note boasted a great eminence - or "ornament," as one respondent who began his career in a large firm during this period derisively put it n94 - whose service in
government, civic organizations, or bar association activity added luster to the firm's masthead and stature to its client meetings, recruiting dinners, and public events. In return, the lawyers who occupied these positions received high status, comfortable financial rewards, and a ready platform from which to reenter public life whenever the opportunity next presented itself.

Today's competitive corporate legal marketplace places a premium on visibility. There are now more than one hundred [*25] thousand lawyers working in hundreds of large firms vying for the business of an increasingly discriminating and fickle corporate clientele. n95 Distinguishing oneself from the pack is therefore both more important and more difficult than ever before.

Indeed, one can make a plausible argument that the competition for legal services has taken on some of the qualities of a "winner-take-all" market in which a few players at the top of the pecking order are able to appropriate larger and larger shares of the total revenues. n96 Thus, the trend has been for the biggest firms to grow the fastest in an effort to reproduce their brands over an ever wider array of substantive matters and geographic locations. n97 Visibility, both of the brand and of its value, is essential to this strategy. At the same time, firms that are not sufficiently visible risk not only losing clients to those who are, but "star" partners as well, as these highly visible assets seek a more visible platform from which to project their own image onto the marketplace. The net result, as we have repeatedly seen in recent years, is to throw low-visibility firms into a death spiral in which client and partner defections quickly cascade to the point where the firm as an ongoing entity is no longer viable. n98 Individual partners and associates with no visible stature or reputation of their own often find it difficult to climb out of these legal black holes. n99

Once again, black lawyers especially need this kind of exposure and validation. Black lawyers often report feeling invisible in law firms, their contributions ignored or overlooked. Firms sometimes inadvertently confirm this view. In a recent [*26] lawsuit involving a black lawyer who sued a large law firm for race discrimination, for example, the defendant acknowledged that the plaintiff had unintentionally "fallen between the cracks" and was not considered when important assignments were handed out. n100 Given this dynamic, it is not surprising that many black lawyers believe that they need more credentials or other visible indicia of merit than their white peers to receive comparable opportunities. Available evidence suggests that these fears are warranted. Thus, the blacks hired by large law firms tend to come from law schools at the very top of the educational hierarchy, with a remarkable percentage graduating from either Harvard or Yale. n101 Although these elite credentials undoubtedly help black lawyers once they are hired, n102 persistent beliefs about the existence of widespread affirmative action at prestigious academic institutions leads even highly credentialed black lawyers to believe that they need additional proof that they are not, as one white partner put it, "unqualified" products of affirmative action "polished up" to look like Harvard lawyers if they hope to succeed. n103 Public service, with its promise of visibility and prestige, offers a potentially attractive method for achieving this objective.

[*27]  
C. Contacts

Experience and visibility may help a young lawyer become a partner in a large law firm, but contacts are ultimately what will allow him or her to be a successful partner in these competitive organizations. n104 Although the term "partner" invokes reassuring connotations of equality, it is now clear that some partners are substantially more equal than others. Many law firms now have two-tiered partnerships, where only members of the top tier share in profits and decisionmaking. n105 But even firms that have not moved in this direction make substantial distinctions among partners. Gone, for the most part, are the "lockstep" compensation systems that typified law firms in the golden age. n106 Instead, firms now tie partnership compensation explicitly to the revenue individual partners generate for the firm. n107 Partners who make the biggest contribution to the bottom line also tend to have significant influence over firm management. n108 Not surprisingly, all of these developments have placed a premium on developing, managing, and exploiting client relationships. And as many have noted, the key to becoming a successful "rainmaker" is connections. n109

Public service has always been a potent source of important connections. Lawyers who work in high-level positions inside regulatory agencies establish relationships with politicians and career bureaucrats that are of enormous potential value to private clients seeking to procure government business or avoid government regulation. Civic and charitable boards are often filled with CEOs and community leaders whose companies and organizations generate exactly the kind of lucrative legal work that makes corporate lawyers drool. Even bar association activity and pro bono work offer the
potential for networking with other lawyers who may one day be in a position to refer business. One cannot help but imagine that Professor Smigel's Wall Street lawyers in the "golden age" were well aware of these benefits. n110

[*28] As valuable as the connections that come from public service were in the 1960s, however, the changes in the market for corporate legal services alluded to above have made these relationships even more important today. Much of the huge increase in the demand for corporate legal services during the last thirty years has been fueled by the tremendous growth in government regulation. n111 Lawyers with valuable connections inside this regulatory apparatus are arguably more valuable than they have ever been. Moreover, government itself has become an important consumer of private legal services, increasing the potential benefits for those with connections to officials in charge of parceling out this work to private firms. With respect to private clients, the steady erosion of the kind of long-term relationships between companies and their outside counsel that characterized the golden age has made it even more important for partners to exploit every conceivable opportunity for interacting with and impressing corporate leaders. Given the risk that unproductive partners will be "pushed off the edge of the iceberg," it is not too much of an exaggeration to suggest that finding and taking advantage of these kinds of opportunities is now a matter of professional life or death. n112

As with experience and visibility, there are good reasons to suspect that black lawyers have an especially strong need to establish these kinds of connections. As one black partner ruefully noted:

We don't sit in the corporate boardrooms, and our mothers and fathers don't sit in the corporate boardrooms. We're not members of the $40,000-a-head country club and neither are our mothers and our fathers. We're just not naturally networked - because of the history of our country, quite frankly - into the kinds of business opportunities or avenues that our white counterparts are networked into. n113

Available evidence reinforces this pessimistic assessment. As I indicated above, both black Harvard graduates and the black lawyers in my sample are frequently from working class backgrounds. n114 Moreover, as opponents of the "class-not-race" turn in affirmative action discourse are quick to point out, even blacks who come from middle class and professional families [*29] often have not been exposed to the same opportunities and experiences as whites from families with equal income but greater wealth. n115 And even when middle class blacks have mingled with the future power elite, they have not always taken advantage of the opportunity. For complex reasons having to do with hostility from other students, comfort level, pride, insecurity, and understandable survival skills, the generation of black students that integrated elite colleges and law schools in the years following Brown often had little social interaction with their white peers. n116 As a result, few in this crossover generation emerged with lasting relationships with classmates who would go on to become leaders in corporate America. As one respondent put it:

[The biggest mistake of my educational career was that] I spent too much time with the other African-American students instead of meeting a lot of my white colleagues. I would have been better off doing that... . Now if ... somebody asked me what I would recommend for them to do and they were in college, I would say ... spend a lot of time with everybody ... . Contacts and relationships [are] what is most important [and] the more the merrier. And you shouldn't allow yourself to be segregated or put in any ... particular pigeon hole. I have good friends from all different backgrounds in college, but I wish I'd spent more time [with whites]. n117

Having failed to make these connections when they had the chance - and now understanding just how important having such connections can be - many in this post-Brown generation now look to public service as a means of making connections with those in a position to support their fledgling careers.

In sum, there are good reasons to suspect that black lawyers have an even greater need for the experience, visibility, and connections that public service potentially brings than their equally pressed but less disadvantaged white peers. It is not surprising, therefore, that these more vulnerable lawyers appear to seek out public service opportunities at a greater rate than other lawyers. Given that so much of their heightened interest in public service is tied to the disadvantages of race, however, we [*30] should also not be surprised to see race play an important role in determining whether black corporate lawyers actually receive the benefits that public service potentially brings. To examine this question, we must first look more closely at the kinds of public service in which black lawyers tend to engage and the benefits (in terms of experience, visibility, and contacts) that these kinds of service are likely to generate.

IV. Building an External Persona
To note that public service can be beneficial to a career in private practice does not necessarily imply that all public service provides these career-enhancing benefits in equal measure. The amount of experience, visibility, and contacts that a lawyer takes away from public service work will depend upon many factors, including the nature of the position, the lawyer's area of expertise, the aggressiveness with which the lawyer pursues various opportunities, and, of course, luck. Nevertheless, certain kinds of public service are more likely to produce particular benefits than others - just as certain lawyers are more likely to be able to take advantage of particular public service options. As it does for virtually everything else in their lives, race has played an important role in structuring both the kind of public service black lawyers undertake and the benefits that they receive. One can see this connection in each of the four major types of public service that corporate lawyers typically undertake: government employment, community and civic participation, bar association activity, and pro bono work. The following four subparts address each in turn.

A. Government Service

Government service has always been a potent source of each of the three principle benefits of public service. A stint in a high-level government position can provide a lawyer with valuable experience to sell to private clients, visibility and stature from being seen as someone who is in charge of important decisions, and a slew of contacts with high-ranking government officials and the private actors with whom they deal. Whether one realizes these potential benefits - and whether they translate into private success - depends, however, upon the nature of the position. Although government positions come in all shapes and sizes, two dimensions appear particularly important: whether the job is on the federal level or in state or local government and [*31] whether it involves litigation or transactional work. n118 The black lawyers in my sample have tended to be on the wrong side of both of these divides.

1. Secretary of State or Commissioner of Streets and Sanitation? When admiring observers wax eloquently about government positions that have been held by corporate lawyers, they tend to concentrate almost exclusively on service in the federal government. Men like Thurman Arnold, John Jay McCloy, Lloyd Garrison, and Adlai Stevenson (who once famously quipped when he and so many of his partners went into the Kennedy Administration that he regretted having but one law firm to give to his country) are routinely trotted out as exemplars of the corporate bar's deep and long-standing commitment to government service. n119 Indeed, so many corporate lawyers have held leading positions in the foreign policy establishment - including McCloy, John Foster Dulles, Dean Rusk, William Rogers, Cyrus Vance, and Warren Christopher - that many a bright law student has been persuaded that joining a large law firm is the quickest route to being appointed Secretary of State. n120

One measure of how much progress has been made since Brown is that one can now find a small number of black lawyers who have gained access to these elite opportunities. Lawyers such as William Coleman (former U.S. Secretary of Transportation), Deval Patrick (former U.S. Assistant Attorney General in charge of the Civil Rights Division), and, most recently, Eric Holder (former U.S. Deputy Attorney General), have not only served in high-level positions, but have managed to translate their national stature into prominent and lucrative positions in the corporate sector. Coleman, who initially could not get a job with a law firm in his native Philadelphia, even after graduating first in his class at Harvard Law School and clerking for Justice Frankfurter, was a successful partner in a mid-tier Philadelphia law firm by the time President Ford called him to public service. n121 After [*32] leaving government, he was brought on by O'Melveny and Meyers, one of the nation's largest and most profitable firms, to open and manage their Washington, D.C. office. Patrick and Holder made similarly advantageous moves after leaving office. n122 Within a few years of stepping down from his government position, Patrick, who had been a partner in a mid-tier Boston firm, was selected to be the general counsel of Texaco following the company's well-publicized race discrimination problems. n123 He then served as the general counsel of Coca-Cola for three years and was one of the highest paid lawyers in America. n124 Holder, a career government employee and former U.S. Attorney for the District of Columbia, is now a partner at Covington & Burling, one of the nation's oldest - and best connected - Washington law firms. n125

Although a few black lawyers have joined the pantheon of these traditional "lawyer-statesmen," most of those who have sought to translate public employment into private gain have attempted to do so from far less Olympian heights. Most government jobs, of course, are not even at the federal level, let alone in the rarified air in which Coleman, Patrick, and Holder were privileged to operate. Instead, the overwhelming majority of government work is done at the state and local levels. It is to these more mundane positions that the revolving door for black lawyers tends to swing. Among the fifty lawyers in my sample who have spent some time in government service during their careers, for example, twenty-eight (56%) worked exclusively at the state or local level. Only sixteen (32%) held exclusively federal jobs, with the rest having experience in both sectors. Significantly, most of those in the latter two categories held
relatively junior positions (for example, as front-line prosecutors) as opposed to the high level policy positions conjured up by the image of the lawyer-statesman. n126

[*33] The reasons for this imbalance are not hard to discern. One of the salient developments in the post-Brown era has been the rise in black political power. This power has been most apparent at the local level. Major cities such as Atlanta, Chicago, Cleveland, Dallas, Detroit, Houston, Los Angeles, New York, and Philadelphia have all elected black mayors in recent years. n127 In several other jurisdictions, blacks hold key elected positions, and even when they do not, black voters frequently constitute a force to be reckoned with by politicians at the state and local level. In the time-honored tradition of American politics, this new political clout has created many opportunities for black lawyers in important legal and policy positions. These positions, however, offer a mix of experience, visibility, and contacts for aspiring corporate lawyers that differ in important respects from what lawyer-statesmen might expect to receive from serving in federal jobs.

Harold Washington's election as Mayor of Chicago in 1983 is a case in point. n128 Many black lawyers donated both time and money to Washington's campaign. n129 They did so for reasons that underscore the complex connection between their commitment to social justice and their ambition to succeed. For many - especially in the early days when the chance that Washington would actually win seemed remote - participating in the campaign was more a matter of loyalty and pride than of strategic calculation. n130 Indeed, for those lawyers who already had careers tied to government largesse, the smart move was to back the incumbent. n131 As these lawyers know all too well, loyalty to [*34] those currently in power is the key to success. Not surprisingly, therefore, a majority of Chicago's most politically connected black lawyers publicly supported Washington's opponent. In the words of one such lawyer with strong ties to the political organization of Richard J. Daley which had run Chicago for years: "My cousin could run for mayor but I'm going to support Daley!" n132

With victory, however, came the potential for opportunity. Washington made it clear that he intended to shake up business-as-usual in Chicago, and he wasted little time in making good on his promises. He quickly installed his own people in leadership positions throughout the city. For black lawyers, the most important of these appointments was his decision to turn Marshall James, a black solo-practitioner and son of a domestic and a meat butcher from the stockyards, into the city's highest ranking legal officer. n133 Washington charged James with "professionalizing" the Corporate Counsel's office by replacing the ward bosses and party hacks who had come to populate the office and ensuring that his administration's general mandate of making certain that blacks and other minorities received their fair share of city business and jobs was extended to legal services.

James pursued this charge with a vengeance. Within a year, James and other senior black officials had lured dozens of black lawyers from positions in private practice - often at large law firms - to join the Corporate Counsel's office.

Albert Ward's story is typical. n134 Like James, Ward came from a blue-collar background. But unlike James, who was born in the generation before Brown and whose career (up to Washington's election) was typical of black lawyers of his day, Ward was a child of the Brown generation and was able to take advantage of all of the opportunities that this historic decision brought in its wake. A graduate of an Ivy League college and law school, Ward was a newly minted income partner at a mid-sized but prominent Chicago law firm when he received a call from a [*35] black friend from law school with a senior position in Washington's Administration asking whether he might be interested in becoming the head of the real estate division in the Corporate Counsel's office.

Although he was intrigued by both the position and the chance to work for Chicago's first black mayor, Ward hesitated before saying yes. Compared to many in the first wave of black lawyers to integrate corporate law firms, Ward's situation was relatively good. He worked in a department where he received good work and training. More importantly, Ward had developed a strong relationship with a partner in the department who acted as his mentor and who had guided him through the partnership process. When Ward raised the idea of taking a leave from the firm and going into government, his mentor discouraged him from doing so, suggesting that time spent away from the firm would hurt his career.

Notwithstanding these reservations, Ward decided to take the position. Although he did not think that working for the city would help him develop clients, he did see it as an important opportunity to sharpen his substantive skills and to gain visibility from running something important.

[What] I expected to get from [working for the city] was a knowledge base. I was going to learn more about the municipal end of real estate. And I was also going to get a chance to teach, because I knew that one of the reasons why he wanted me to come over is that a lot of their stuff, the most significant stuff, they were farming out, and they wanted
to build in-house capacity. And so I knew that I would learn about condemnation and zoning, which I didn't know anything about. And I would have an opportunity to teach about transactional mortgage practice and real estate contracts and, you know, all that type of stuff, leasing, which they were farming out to law firms. So that's the way I looked at it... I thought I'd come back with value, but it would be a knowledge-based value. n135

After two years in city government, however, Ward ended up with all three: experience, visibility, and important contacts with city officials and business leaders that ripened into client relationships once he returned to his old law firm. As he put it, "I got much more than I expected. I expected a [lot of] knowledge ... I did not expect to come out of here with a lot of contacts, but I wound up getting a lot of contacts." n136 In the year [*36] after he returned, Ward brought in a major piece of business from the city. Even more surprisingly, private sector clients began to call him to handle their interactions with the city on complex real estate matters. His law firm was quick to see Ward's new potential as a rainmaker. In short order, the firm sent out glossy announcements heralding Ward's return. Privately, Ward was told that the firm saw him as the "franchise player" in the real estate department. In recognition of his accomplishments and value to the firm, Ward was promoted to equity partner. The future, in short, appeared golden.

And then Harold Washington died. n137 It was, as Ward ruefully recalled more than a decade later, as if "the ground ... caved in and everything fell apart." n138 After a pitched internal battle between the old and new guard of Chicago's black community, Richard M. Daley, the son of Chicago's long-time Irish patriarch, was elected mayor in 1989. n139 Suddenly, Ward's contacts in city government became far less valuable - making Ward far less valuable in the eyes of his partners.

For three years, Ward struggled to reintegrate himself into the firm and regain his old luster. The process proved even more difficult than he expected. At City Hall, not only was he no longer on the inside, he was considered one of the enemy. n140 Worse yet, his firm seemed to consider him an outsider as well. By the early 1990s, the real estate market in Chicago and around the country was in a perilous slump. There was precious little work for any lawyer in the department - let alone one who many of his colleagues saw as having been unfairly placed on a pedestal over his peers for work done outside the firm.

Even Ward's mentor turned a cold shoulder. Although the two remained close, the character of their relationship changed after Ward's return. Before he joined the Washington Administration, Ward rarely discussed racial issues with his mentor or anyone else at the firm. Like many black lawyers, he preferred to keep his head down and work toward partnership, hoping that by downplaying race, he would reduce its ability to harm his career. n141 But working in a black administration [*37] emboldened him to point out the firm's lack of progress on diversity. His mentor found all this talk about race hard to take. In a telling conversation, he told Ward: "When [you] left to go to the city, [you were] a good lawyer, and when [you] came back, all of a sudden [you were] a black lawyer." n142 To which Ward responded, "I've always been a black lawyer. I just didn't choose to share it before." n143

At the same time, the clients Ward could still bring in were less attractive to the firm than they might have been if Washington had remained in power. Many of the deals he was able to attract were now too small for the firm's billing structure. The firm might have been willing to subsidize some of this work if they saw Ward as an up-and-coming rainmaker who could develop these matters into more substantial relationships with important clients. n144 The fact that the firm no longer saw Ward in this light meant that they were less likely to make this kind of investment. Similarly, when one of the few black lawyers who made the transition from Washington's Administration to Daley's offered to give Ward an important piece of city business - to be billed at the firm's standard rates - Ward was told that the work would conflict with the business that a more senior partner was developing with another client. Conflicts, of course, can stymie any lawyer's business development. As Susan Shapiro has persuasively documented, however, when a firm is forced to: [*38] choose between partners who both want to pursue attractive but potentially conflicting clients, it is almost always the more powerful partner who prevails. n145 After Washington's demise, Ward was in an especially vulnerable position to fight this battle.

Three years after Washington's death, Ward resigned his partnership and joined a small minority firm attempting to break into the corporate legal market. He now works as a solo practitioner, specializing in representing banks doing transactions under the aegis of the Community Reinvestment Act.

Albert Ward's example underscores the inherent danger for any corporate lawyer of pursuing a client development strategy based on political contacts developed through public service. When the political fortunes change, lawyers who were once part of the inner circle can quickly find themselves on the outside of important business opportunities. The risks for black lawyers, however, appear to be especially severe. Unlike their well-connected white counterparts, black
corporate lawyers are unlikely to be viewed as the kind of indispensable inside players that any mayor or other comparable government official would feel compelled to employ. For all of his efforts at redistribution, for example, Harold Washington did not take city business away from certain well-established white lawyers who were widely thought to be too prominent - and too powerful - to be excluded from city work. When Washington died, however, few black lawyers were accorded this same presumption. n146 Instead, like Ward, their prior experience was too often dismissed as little more than patronage.

Indeed, my interviews suggest that city business is a double-edged sword even in the best of times. As another respondent pointed out, municipal work (often in the form of bond deals) is often considered "the step child" at many law firms. n147 Government clients frequently demand lower billing rates and require firms to go through elaborate contracting procedures. Even when they are paying full freight, public sector clients don't command the cachet - or the potential for "premium billing" - associated with corporate clients. The respondent quoted above, a [*39] black senior associate working in the Chicago office of a major New York firm, soon found out just how much of a limitation these conditions can be when a friend and senior member of Harold Washington's Administration tried to steer a large piece of municipal bond work to her firm. Instead of viewing the work as an indication of her potential to become a rainmaker, the firm made it clear that even if the business came in, it would not "count" toward demonstrating her ability to develop client relationships that would help her advance to partner. As the managing partner told her in no uncertain terms, the firm simply did not consider itself the kind of firm that did city business.

This is not an isolated case. In interviews in Atlanta, Chicago, Detroit, New York, and San Francisco, I discovered that one can usefully divide large firms into those whose business is closely tied to local or regional interests and those whose clients are (or, what may be even worse, those who want their clients to be) predominately national or international in character. Firms in the former category welcome black lawyers with connections in local and state government. Those in the latter category often do not - with some even expressing outright hostility toward anything that might create the impression that the firm is the type of institution that curries favor with local politicians. Ironically, black lawyers have always tended to work for exactly the kind of large national firms that frequently consider themselves to be in this second group. n148 Although these firms can provide blacks with many advantages, they are also among the most difficult from which to build successful practices on the basis of the career-enhancing benefits of government service. The practice areas within which many black lawyers pursue government service often accentuate this effect.

2. The Litigation Trap. The type of work that a lawyer does in government can be just as important to his or her future career prospects as whether that work is done on the federal or state level. Although there are many ways to categorize the myriad kinds of work that lawyers in government service perform, one important divide concerns whether the job primarily involves litigation or transactional work.

Both litigation and transactional jobs offer important career benefits for lawyers seeking success in large law firms. As Marc Galanter and Thomas Palay have ably documented, much of the [*40] "litigation explosion" in the 1970s and 1980s was fueled by a spectacular increase in the amount of business-to-business litigation - litigation in which both sides are likely to be represented by large law firms. n149 Add to that the dramatic increase in the number and accessibility of "rights" and "entitlements" that can potentially be enforced against corporations - antidiscrimination law, environmental law, securities regulation, and health and safety legislation - and it is not surprising that the litigation departments of most large law firms have swelled tremendously since the golden age, when disputes were more likely to be settled with a handshake and litigation referred to "lesser" (often Jewish) firms. n150

Notwithstanding this growth, however, for more than a century transactional work has been the heart of large law firm practice. As early as 1870, the lawyers who created the model of the large law firm came to realize, in the words of Clarence Seward whose firm was one of the predecessors for Cravath Swaine & Moore, that "the legal engineering of corporate consolidations, railroad reorganizations and security issues, out of which bankers and market operators were realizing large profits, afforded more lucrative fees [than litigation]." n151 Over the next several decades, as Robert Gordon has aptly described, "[c]orporate lawyers invented for themselves liaison roles in building or rebuilding the financial structures of American corporations that ensured the prosperity of the largest New York City law firms and came to seem indispensable to their clients." n152

Today, this structuring and facilitating role continues to constitute the lion's share of elite law firm work and, what is more important, firm profits. Litigators make up just a third of the lawyers in a typical large law firm. n153 Moreover, the unquestioned engine of growth and profitability for most law firms during the last two decades has been transactional work, especially in the area of [*41] mergers and acquisitions. n154 Although the recent recession has
undoubtedly shifted some of the focus back toward litigation (and bankruptcy work as well), corporate clients seem certain to continue their quest to contain litigation costs - for example, by pressing for flat or capped fees, shifting work to captive or lower-status firms, or opting for arbitration and other less expensive forms of dispute resolution - to a degree that these institutions appear less willing or able to do in the transactional arena.

In addition to being a smaller and less stable part of large law firm practice, litigation is also a difficult place for a young lawyer to gain experience, recognition, and contact with clients. On the typical case handled by a large law firm, there is a substantial amount of routine low-visibility work that has to be done. Because the teams tend to be big, it is more difficult for partners to get any real sense of the quality of junior associates. Moreover, because clients tend to want "name" litigators arguing their cases, litigation associates have less opportunity to develop their skills and signal their quality to partners and potential clients. As a result, litigation has traditionally been one of the hardest areas for associates to make partner. n155

Black lawyers appear to be disproportionately concentrated in litigation departments. This is especially true for black lawyers in the first generation to enter legal practice after Brown. For example, 56% of all of the identifiable black partners listed in the ABA's 1992-1993 directory of minority partners in majority law firms listed litigation as their primary area of practice. n156 Similarly, a survey of black graduates from the Harvard Law School classes of 1981 to 1982 uncovered that more than 50% of these lawyers considered themselves litigators. n157 Other studies have reached a similar conclusion regarding the concentration of blacks and other minorities in litigation. n158

Many factors undoubtedly contribute to this overconcentration. Historically, litigation has been the field of law most accessible to [*42] first generation lawyers. n159 Given the attention paid to litigation in most law school curricula, it is also the area where many outsiders may feel the most comfortable. n160 Moreover, to the extent that black law students believe that they need additional signals to overcome the presumption in the hiring market that they are merely unqualified recipients of affirmative action, many of those most readily available - moot court, clerkships, clinical placements - are litigation focused. Indeed, even before the O.J. Simpson trial made Johnny Cochran's rhetorical prowess a part of American folklore, common stereotypes about the black oral tradition and proclivity for showmanship gave aspiring black lawyers reason to believe that whites might accept that they could become talented litigators. Finally, litigation is the field traditionally associated with efforts like Thurgood Marshall's (or Perry Mason's) to achieve social justice through law. To the extent that Marshall and Mason were role models for blacks entering the profession in the 1970s and 1980s, it is not surprising that many were drawn to litigation.

Having embarked on this career path, however, black lawyers must find ways to overcome the inherent difficulty of building a successful litigation career. Not surprisingly, many have come to the conclusion that a few years working in a prosecutor's office, especially at the federal level, might be just what they need to get the experience, visibility, and contacts that they are not receiving at their law firms.

Angela Dawson is a case in point. Dawson's role model for becoming a lawyer was neither Thurgood Marshall nor Perry Mason. It was her father, who practiced in a two-person firm with his brother in a mid-size city and worked on, as Dawson put it, "anything that walked through the door." n161 By the time she was accepted to Harvard Law School, however, Dawson had caught the social activism bug and wanted to follow in Marshall's footsteps by working for the NAACP or a legal aid office. The idea of working at a large law firm didn't appeal to her at all. After three years at Harvard and two years of clerking for a federal district court judge, [*43] Dawson's focus shifted once again - this time from Marshall to Mason. Excited by her clinical placement in law school and what she saw as a law clerk, Dawson now wanted to be a criminal defense lawyer, preferably working for a private firm. She therefore applied to every law firm that had a significant criminal defense practice. She did not receive a single offer.

Frustrated, Dawson turned her attention to finding a government job and was eventually hired into the U.S. Attorney's office. In seven years, she had worked her way up to the position of supervisor. Although she got terrific trial experience, she found that neither she nor any of the other handful of black assistants were given any of the high profile white collar cases. Instead, she was fed a steady diet of sophisticated drug cases - a typical career path for minorities in the U.S. Attorney's office that she believes continues to this day. n162 Moreover, at some point she realized that no matter how well she performed, the office was not ready for a black person or a woman - let alone a black woman - to be promoted to Chief of Staff. She therefore decided to once again test the waters in the private firm market.

This time, Dawson received a much warmer reception than she had the first time around. Several large law firms expressed interest in her for the purpose of beefing up their white collar defense practice. Her search was also made appreciably easier by the large "former assistant's club" of ex-AUSAs who had signed on with virtually every major law
firm in and around the city under circumstances very similar to her own. Nevertheless, her marketability was hindered by her lack of experience in high-profile white collar investigations. As she ruefully noted years later:

If you come out and you're going to go into a big law firm, they don't give a [expletive] if you've done drug cases, even if you're doing relatively complex ones that are financial ... . Their corporate clients aren't going to get arrested ... [for] selling dope to the West Side. They're not gang bangers so they don't care that you put a bunch of gang bangers in jail. What they want to know is do you have some experience with RICO and how many - how many ... white collar [or] tax cases you did.

As a result, Dawson did not get offers from firms with the best white collar practices. Instead, she joined a firm that had built its reputation on tax and banking work, but which was now attempting to take advantage of the increase in corporate prosecutions in the 1980s by developing a white collar criminal defense practice.

The move was a disaster. Brought in as an income partner, Dawson later recalled that she did not have a clue about what she was doing. She knew almost no one other than the partner who brought her in. It was, she later recalled, "like being at a cocktail party where you don't know anyone and just go around making small talk." When the partner who brought her in failed to generate enough business to keep her busy, she ended up wandering around the firm "from office to office, begging for work." The firm did nothing to help her develop business, and the few litigators who were busy already had relationships with other firm lawyers. After less than a year, she begged friends in the state's attorney's office to give her a job - "any job." They obliged and she returned to government, this time at the state level as the head of a major division of the state attorney's office.

Four years later, Dawson was back in the job market looking to move to a private law firm. Once again, her high-profile government position and strong litigation skills attracted the attention of a number of firms - and the former assistant's club continued to open many doors. Although the fact that the bulk of her experience was in narcotics made some firms hesitate, her prominence and strong trial credentials tipped the balance in her favor. Learning from her past experience, Dawson chose a firm with a more substantial litigation practice and a larger number of former AUSAs who could help ease her transition. As before, she was brought in as an income partner with the promise that if she developed a practice she would be promoted to full partnership.

By the time I interviewed her a year later, the strategy seemed to be working - to a point. The new firm was much more supportive than the old one, and her contacts from both her federal and state government jobs had been good about referring business. Although she was getting a fairly steady diet of white collar defense work, the complex civil cases that were the heart of the firm's litigation practice were harder to come by. Moreover, the work she did for large institutional clients was routine - the kind of work for which other, more established partners received most of the credit. Generating new business was even more difficult. And when she was offered a lead role in an important commercial case, the firm turned the business away on the ground that it would conflict with the interests of one of the firm's important clients.

Two years after our interview, Dawson left private practice again. This time, however, she did not head back to government. Instead, she took an in-house position, becoming the deputy general counsel in a large corporation. Two years after that she was appointed general counsel of a larger corporate entity.

Dawson's story highlights both the benefits and the pitfalls of using a stint in a prosecutor's office as the springboard to a successful career as a litigator in a large law firm. On one hand, the experience, visibility, and contacts that she received during her years in government continually opened doors that had previously been shut to her. At the same time, those doors led to places where it took much more than being an experienced litigator with connections to other lawyers in the white collar criminal defense field to survive. Ironically, what ultimately made her successful in securing a prominent and highly paid position as the general counsel to a large corporation was another skill that she developed in government that was completely unappreciated by her law firm suitors. When leaving her senior position with the state's attorney's office, Dawson stated, "[I] marketed myself [exclusively] as a litigator because my management skills are useless in a large law firm." In all probability, it was exactly these skills that appealed to her corporate employer - skills that allowed her to escape the litigation trap.

B. Civic Participation

Lawyers in large law firms have long prided themselves on their civic engagements. As one rapturous account in the early 1960s proclaims: "You will find a Wall Street lawyer in practically every good work in New York, and you'll find
that the boards rely on them to a great extent." n169 Although lawyers undoubtedly participate in civic and community organizations for many noble reasons, the fact that certain of these organizations have also [*46] tended to attract participation and support from high-level corporate executives and other wealthy individuals has also added to the benefits of service. n170 Just as government jobs run the gamut from secretary of state to state district attorney, however, not every act of civic virtue produces the same career payoff.

Long before law students disenchanted with the establishment in the 1960s put the concept of pro bono work for the poor on the agenda of most large law firms, these organizations had a long tradition of donating time and money to prominent civic, cultural, and community activities such as the symphony, art museums, and the historical society. n171 There corporate lawyers joined equally prominent industrialists, bankers, and scions of wealthy families in charting the course of the city's great cultural oracles. n172 Along with the wood-paneled dining rooms of private clubs (where these boards often met) and the manicured fairways of the finest country clubs (which often served as venues for fundraising), these august civic organizations functioned as fertile arenas for relationship building for members of the social and economic elite.

Once again, it is a measure of how far we have come in the last half century that some blacks have been let into these exclusive circles. Winston McGovern is typical of these success stories. McGovern is one of the early pioneers of the post-Brown generation. n173 Born in 1941, McGovern was the first black student to integrate the leading public high school in his home state of Kentucky, among the first black students to enter Indiana University in 1959, the first black manager ever hired by Dow Chemical in 1965, and one of thirteen black students to enroll at the University of Michigan Law School in 1969 - at the time, the largest cohort of black students in the school's history. By the time he arrived in Ann Arbor, McGovern knew he wanted to be a corporate lawyer. It was not that he had no social conscience. Like most of the other black lawyers in his generation, McGovern debated devoting his career to helping other blacks by doing criminal law or public interest work. But in the end, he wanted to [*47] be one of those "tall, gray-haired, gentlemen who walk about with little pearls on their pinky and begin to make big deals happen." n174 Three years later, he got his wish when he became the first black lawyer hired by a prominent large law firm in a major city and was assigned to the corporate department. n175

Five years later, McGovern was a partner specializing in public offerings and mergers. n176 It was only then that McGovern realized that making partner was the beginning rather than the end of the competition. Throughout the 1970s, McGovern's firm, like so many others, began to undergo a seismic shift. Gone were the days when "seven heavy hitting partners ... carried most of the revenue load" and the rest were expected to just service the partners' accounts. n177 Instead, his firm instituted a regime in which "you didn't survive unless you had the "Big C,' for clients." n178

So off McGovern went in search of clients. Naturally, the first place he looked was among the institutional clients from whom he was already doing significant work. McGovern had always enjoyed good relationships with these clients as an associate. But he soon found that some of the same people with whom he had worked for years became more "standoffish" once he became a partner and wanted more responsibility. n179 After a lifetime of fighting the battles associated with being "the first," McGovern found himself too tired to try "to reform their beliefs." n180 "I know how to move on," he said. n181 And move on he did - in a quite unexpected direction.

Even before he was elected partner, McGovern had been asked by one of the firm's lawyers to serve on a small nonprofit board in the environmental area. He eventually became its chairman. In 1980, another member of that board who had been impressed with his work invited him to serve on the board of the local hospital in the upscale suburban community where McGovern lived. He was, once again, the first black to be so [*48] honored. McGovern took the position primarily as a means of pushing for the hospital to better serve the needs of the suburb's growing working-class black community. He soon discovered, however, that there were thirty top CEOs from prominent institutions around the city also affiliated with the institution. Although by this time McGovern understood the unstated rule that business was never discussed at board meetings, he made sure to take every opportunity to showcase his experience and good judgment on board committees.

The payoff exceeded his highest hopes. Within a few years, McGovern began receiving phone calls from other board members seeking to retain him or his firm. Unlike the firm's institutional clients, with whom he had worked only as a junior lawyer, these CEOs saw him as an equal, able to handle important responsibilities. McGovern also began to be invited to join other prominent nonprofit boards, including the Historical Society and Research Park boards. These new assignments brought him into contact with other prominent business, political, and community leaders.

Years later, as he gazed around his corner office decorated with dozens of "tombstones" symbolizing the many deals in which he had been involved over the years, McGovern credited much of his success in attracting corporate
institutions, civil rights organizations, and community economic development groups. Black lawyers have long played a role in the community - in part to prove that I wasn't selling out. n185

White associates didn't have that pressure. I got involved in a huge number of community responsibilities. n186 Only later did he discover that his peers were "moving in a completely different direction." n187 Shortly thereafter, it was he who was moving out of the firm.

For someone who, in his own words, "had no clue about how the firm worked," the consequences of all these extra demands were sadly predictable. While his white classmates were busy "making relationships and making themselves valuable" to the firm, he frantically worked to meet his billing targets while fulfilling his extensive community responsibilities. n188 The respondent's view that this was the "near universal view of black professionals" n184 was confirmed many times over during my interviews. In the minds of many respondents, leading charitable organizations do not receive the pressure put on for-profit businesses by politicians and activists. Instead, the good works in poor and minority communities by nonprofits such as hospitals and social service organizations shield these institutions from criticism. But these good works, according to several sources, are the extent of many nonprofits' commitment to diversity. Blacks are either to be "treated" as patients or "trotted out" as symbols at gala fundraisers. The business of nonprofits - both the legal business that the charitable institution requires to run its own operations (which often can be quite substantial) and the business that subtly changes hands after meetings and during social events - has largely stayed in the hands of the established white professionals who have always benefited from these connections.

There are, however, other civic organizations that have always turned to black lawyers for support - sometimes too much support. These are, of course, the civic organs of the black community itself: churches, hospitals, educational institutions, civil rights organizations, and community economic development groups. Black lawyers have long played an important leadership role in black civil society. As the Brown generation began to graduate from elite law schools and integrate the all-white world of corporate law practice, these men and women were often asked to continue this important tradition. These offers were flattering to young lawyers anxious to find some way to connect themselves to the struggles that influenced many to come to law school. But they were also draining. As one of the first black associates at any major law firm in a southern city reflected,

I felt tremendous pressure as the first black lawyer downtown to serve on community boards and other things to try to bring downtown money into the community. White associates didn't have that pressure. I got involved in a huge number of things - in part to prove that I wasn't selling out. n185

[1] For someone who, in his own words, "had no clue about how the firm worked," the consequences of all these extra demands were sadly predictable. While his white classmates were busy "making relationships and making themselves valuable" to the firm, he frantically worked to meet his billing targets while fulfilling his extensive community responsibilities. n186 Only later did he discover that his peers were "moving in a completely different direction." n187 Shortly thereafter, it was he who was moving out of the firm.

Notwithstanding these very real dangers, however, the overwhelming sentiment of the black lawyers I interviewed, whether currently working in large law firms, all black corporate boutiques, in-house legal departments, or government law offices, was that maintaining strong ties to black community organizations was a key factor in their success. As one typical respondent put it: "One of the important things ... for an African-American lawyer is ... to be cognizant of your community ... . Some of the strongest support [for my career] has come from the black community." n188

This support often comes in surprising ways. Consider the case of Earl Langly. n189 Langly operates one of the oldest and most successful black-owned law firms in the country. The firm specializes in condemnation work, representing both city agencies and private developers. Although many attribute his success to his long-standing relationship with major political figures, Langly himself emphasizes his commitment and deep connections to the city's black community organizations. It is not that these organizations directly generate business. Most, as he notes, "can't afford you." n190 Even where compensation might be forthcoming - for example, when the mayor asks him to serve on a community board funded by the city - Langly often waives his salary in order to make it clear to the mayor and others...
that he is not serving for financial gain. Nevertheless, Langly attends community events practically every night, and
gives to almost every cause in order to keep his roots in the black community strong - just in case he needs them.

This investment, Langly assures me with a smile, has paid handsome dividends. To illustrate his point, Langly tells
me about an incident that happened a few years earlier involving a [*51] case that required him to take an unpopular
stand on behalf of a municipal client. The press was hounding him daily. Langly feared that notwithstanding all of his
impressive political connections, the easiest thing for the mayor to do would be to cut Langly off and feed him to the
wolves in order to take the heat off the administration. As he sat in his office one evening contemplating his fate, the
phone rang. It was the pastor of the largest black church in the city where Langly spent many Sundays. After expressing
her sympathy for his troubles, the minister politely asked Langly whether he would like her "to put 10,000 people on a
corner saying we love you?" n191 Langly reported to me that he politely declined, but, with his best British
understatement, went on to note that "it's awful nice when the clients know that you can [mobilize that kind of support],
because it always makes them know it's a lot better to get along [with me] than not to get along [with me]." n192

Some black lawyers have gone so far as to make a career out of skillfully managing the often yawning gap between
the black and white worlds. A leadership role in an important black community organization has often served as the
perfect springboard. Vernon Jordan is undoubtedly the most famous example of this strategy. Jordan, with the assistance
of friend and powerbroker Robert Strauss, parlayed his long-time presidency of the Urban League into one of the most
successful corporate law careers in recent memory. n193 Even before he became President Clinton's unofficial "first
friend," Jordan developed a well-deserved reputation as a skillful - and apparently discrete - intermediary. Jordan has
built a career around linking his many connections in the corporate world, developed through pursuing the Urban
League's agenda of job creation and economic development, his deep political ties with Democratic politicians needing
to court the black vote, and his enormous credibility in the black community, built up through years as a highly visible
civil rights leader. n194 Hugh Price, who eventually succeeded Jordan at the Urban League, has recently attempted to
pursue a similar strategy by joining Piper Rudnick, a rapidly expanding [*52] law firm with national ambitions, as a
"Senior Advisor." n195 In Price's case, Piper Rudnick makes no bones that Price is being hired expressly for his abilities
as an intermediary. n196 Although a 1966 graduate of Yale Law School, Price will not be practicing law at his new firm -
from most accounts, neither did Vernon Jordan. n197 Instead, the firm will look to Price to provide "introductions for
the firm to major figures in the business and non-profit worlds" from his substantial rolodex built up over years of
working with major corporations (including Verizon and Sears, where he serves on the board of directors) and serving
on major nonprofit boards, such as the Rockefeller Foundation and the Mayo Clinic. n198

Needless to say, few black lawyers will amass as many cross-cultural contacts as Jordan or Price. To borrow an
analogy from the previous subpart on government employment, serving as the head of a national civil rights
organization - especially one such as the National Urban League, whose express mission is to work with corporate
America - is the equivalent of being appointed Secretary of State. It is nice work if you can get it, but few will.
Consistent with the concentration of black lawyers in state and local government jobs noted above, n199 for most black
lawyers, the go-between strategy has meant bridging two sets of relationships that increasingly are at the heart of local
politics. The first involves bridging the growing social and economic gap between black politicians and the emerging
black professional class upon whom these political leaders increasingly depend upon for financial support. The second
involves connecting these same black leaders with the white business community that these black politicians must learn
to work with if they are to accomplish their political goals.

The key to the first of these relationships is simple: money. Black politicians need money to run their campaigns
and will reward those lawyers who support them politically by awarding them city business. This symbiotic relationship
has been especially important for black lawyers seeking to tap into the potentially lucrative municipal bond business.
Several of the black lawyers in my sample - and virtually all of the lawyers in small black corporate firms - specialize in
municipal bond [*53] market. As the founder of one of the largest and most successful minority firms bluntly stated,

I've always said that for firms like ours, the real engine of growth to get us started was the public sector. For majority
firms it's the opposite. The private sector was their engine of growth and then they branched into the public work. We
were doing it the other way around. n200

But to participate in that engine, black lawyers must pay to play. As one respondent described, "We gave more money
to these political guys than you can imagine." n201 Moreover, to ensure that they were not tied too directly to any
particular candidate, he and his partners gave money to everyone. Indeed, he officially remained an independent so that
he would be eligible to receive deals from both Democratic and Republican administrations. In addition to facilitating
the respondent's ability to get business directly, this status also helped him to act as a matchmaker between whoever was in power at the moment (especially black politicians) and the large law firms that traditionally worked on city business.

When black mayors such as Coleman Young and Harold Washington came to power, they immediately began demanding that black firms, including law firms, receive their fair share of city work. Although these policies increased demand for minority law firms, they also posed a potential problem. Most black law firms, especially in the early days, were not equipped to handle significant city business. Not surprisingly, few were in the "Red Book," which lists firms qualified to be lead counsel on a bond deal, because few had been given a chance to play such a role in previous years. As a result, the easiest way to bring minority firms into deals was through a "joint venture" arrangement between a minority firm and an established firm with the capacity to do the deal.

In the early days, black politicians simply requested that established firms find minority partners, leaving it up to the firms to find a minority law firm and divvy up the work. This often resulted in the worst forms of tokenism in which the minority firm was simply used as a figurehead - albeit a well-paid figurehead - and not given any meaningful responsibility for doing the work. As one respondent put it, "If they could get you to just take the money and not show up, they'd be happy to give it to you." Some black lawyers complained bitterly about this arrangement. In response to these criticisms, a handful of more aggressive black politicians reversed the normal relationship and hired the minority firm as primary counsel, leaving the newcomers to select their "joint venture" partners from among the city's established firms. This new arrangement created an important new role for black lawyers as powerful intermediaries.

The following example illustrates both the potential and the pitfalls of being such an intermediary. Tony Dennis has spent the bulk of his career plying the waters at the intersection of public power and private wealth. He has done so both as a lawyer in a large law firm and as a principal in his own black corporate firm. It was in the latter role that he experienced the value of being a go-between when a Republican was unexpectedly elected as state treasurer. Most of the large firms that had traditionally handled the state's bond business had misjudged the election and backed the Democratic incumbent. As a result, the new treasurer was interested in finding new counsel. Through a contact, Dennis was invited to make a presentation on behalf of his firm. Much to his surprise, the new treasurer selected him as lead bond counsel on the condition that he joint venture the representation with a larger firm.

When news spread of the firm's selection - the first minority firm in the country to occupy such a prestigious and potentially lucrative role - Dennis' firm was besieged by suitors anxious to become joint venture partners. Dennis chose a firm with extensive experience in sophisticated bond work and a long-standing connection to Democratic politics. The partner at the large firm with whom Dennis worked was especially grateful for being brought back into the relationship because he knew that his firm's political ties would have precluded it from getting any work from a Republican administration. In addition to working closely with Dennis and helping him to learn the intricacies of sophisticated deals in the area, the partner also returned the favor by referring other matters to Dennis's firm.

Four years later, however, the good times came to a close. The Republican state treasurer decided to launch a quixotic campaign for higher office - and lost. He was replaced by a Democrat who quickly reestablished ties with the firms that had been frozen out of state bond work by his predecessor, including the large firm that Dennis had brought in as co-counsel. Although Dennis's former joint venture partner continued to bring Dennis in on small matters, it was soon clear that the firm, which now had its own means of direct access, no longer needed Dennis as a go-between - and, unlike when Dennis was in the same position, it certainly did not need to bring in another firm to demonstrate its competence to the new Democratic treasurer.

The go-between strategy is, therefore, an inherently risky one, especially when combined with the always-volatile realm of politics. As a result, black lawyers have strong incentives to look for more secure places from which to take advantage of their credentials as intermediaries. Some have found opportunities in a surprising place: the organized bar.

C. Bar Associations

In 1870, a group of elite New York lawyers organized the Association of the Bar of the City of New York (ABCNY), the nation's first bar association. Over the next eight years, similar organizations were formed by elite lawyers in Cleveland (1873), Chicago and St. Louis (1874), and Boston (1877). Finally, in 1878, a small group of prominent lawyers meeting in Saratoga Springs, New York formed the American Bar Association (ABA).
It should come as no surprise that the elite groups that formed these associations included no black lawyers - or, indeed, anyone other than white, Anglo-Saxon, Protestant men of means. n209 Moreover, when blacks tried to join they were emphatically turned back. In 1912, for example, the ABA discovered that it had inadvertently admitted three black lawyers, one of whom, William Henry Lewis, was both a Harvard [*56] Law graduate and one of the highest ranking officials in the Department of Justice. n210 The ABA took immediate action to have the three lawyers expelled. n211 When this attempt failed, largely because Attorney General George Wickersham threatened to resign his own membership if Wilson was denied his, n212 the Association adopted a resolution requiring all prospective members to reveal their race on their membership applications. n213 In case future black applicants might mistake the disclosure requirement for a mere record keeping matter, the resolution expressly stated that "it has never been contemplated that members of the colored race should become members of this Association." n214 In response to this exclusion, black lawyers created their own bar organization, called The National Bar Association (NBA) in 1925. n215 Similar organizations soon sprouted up in major cities around the country.

By the 1930s there were two completely separate networks of bar organizations: one for whites only (ironically, as such racially exclusionary organizations were often titled, called "American"), and one for blacks (which, like black organizations in other fields, could only hope to be "National"). n216 It was only when the ABA heard the beating of Brown's wings in 1943 that it formally lifted its color bar - and only then over the opposition of several state organizations. n217 Even then, many blacks refused to join the ABA and other mainstream bar organizations - organizations that did little to welcome black members and in some cases did everything in their power short of outright bans to make sure that blacks would not join. n218

[*57] In the last decade, much of this history has been reversed. Since the mid-1980s, the ABA and other mainstream bar organizations have gone from being bastions of exclusivity and conservatism to leaders of the charge for diversity in the profession - often under the leadership of black lawyers. n219 During this same period, black bar organizations have also been radically transformed - often at the behest of the new generation of black corporate lawyers. n220 As a result, black lawyers have begun to participate in bar association activities of all kinds in greater numbers. Whether they will receive the same benefits as their blue-blooded predecessors, however, is a more complex question.

1. The "Browning" of the ABA. When Brown was decided in 1954, there were only a handful of black lawyers who actively participated in the ABA. When this historic decision turns fifty years old this year, the venerable lawyers' organization will be headed by a black president. n221 Dennis Archer has a resume that would make even the most elite nineteenth-century Brahman turn Celtic green with envy: Former Justice of the Michigan Supreme Court, former Mayor of Detroit and Chairman of the National League of Cities, and current managing partner of one of Detroit's largest law firms. n222 By the time the ABA gets around to discussing the historical significance of the Supreme Court's mandate in Brown II that desegregation take place "with all deliberate speed," n223 it will have boldly signaled the speed of its own progress when Robert Grey, Archer's successor and the second black lawyer to head the organization, gavels the annual meeting open in 2005. n224

Nor are Archer and Gray alone. According to a recent report, there are five blacks currently serving as presidents of state bar organizations (six if you count the U.S. Virgin Islands) and five more (once again, six if you include the U.S. Virgin Islands) who [*58] are waiting in the wings as presidents-elect. n225 Included in this list are some of the largest bar organizations in the country, including Maryland, Michigan, New Jersey, New York, and Pennsylvania. n226 If you add jurisdictions such as California, Massachusetts, Boston, Chicago, the District of Columbia, New York City, and San Francisco, where blacks have headed state or city bar organizations in the recent past, it is clear that the days in which "colored lawyers" were deemed unfit for membership - let alone leadership - are long gone. n227

This new generation of bar leaders has changed more than the hue of the presidential suite. They have also placed improving the status of the black bar squarely at the forefront of the organized bar's agenda. Dennis Archer has been a pioneer in this effort. Long before he assumed his current position as ABA president, Archer began pressuring the organization to put its weight behind efforts to increase diversity in the bar. In 1986, Archer spearheaded the ABA's adoption of Goal IX, committing the organization to develop programs to increase the number of minority lawyers. n228 Two years later, Archer launched a major initiative expressly designed to accomplish this goal. n229 Significantly, the initiative did not address the target of the bar's first effort to improve diversity - the Council for Legal Education Opportunity - which sought "to encourage and assist qualified persons from minority groups to enter law school and the legal profession." n230 Instead, Archer sought directly to increase the income and status of minority lawyers by encouraging corporations to give some of their legal work to minority law firms. n231 As originally conceived, the program, titled the "Minority Counsel Demonstration Program," targeted a select number of minority law firms with the
capacity to do corporate work. The ABA organized a series of meetings between lawyers from these firms and the chief legal officers of six corporations who, at Archer's urging, had agreed to give a portion of their company's work to firms that they met through the program.

Initially, the program was a smashing success. The fifteen minority firms that were initially included each received a substantial (relative to their overall size and profitability) amount of legal work from the participating corporations and quickly grew in both size and stature. By the end of the first few years, several of these firms were among the largest and most prestigious minority law firms in the country.

It was precisely this success, however, that ultimately led to the program's downfall. Once it was clear that there was real money to be made, everyone wanted to participate. The first to demand entry were other minority firms who claimed that they were just as competent as those that had been selected. The minority partners in majority firms were soon knocking on the door as well. They, too, needed access to corporate work to survive - especially in an environment in which the old collegiality of "one for all and all for one" of the golden age was rapidly being replaced by an ethos in which you "eat what you kill," and partners who don't "kill," don't eat.

Given its status as an organization open to all lawyers, it was hard for the ABA to refuse these requests. After a series of bitter meetings in which the minority firms accused the minority partners at majority firms of seeking to subvert the initiative by redirecting work back to the same big firms that had always had the business (albeit with some credit going to minority partners), the ABA decided to drop any pretense of exclusivity (as well as the word "Demonstration" from the title) and open the program to all minority lawyers. At the same time, several state and local bar organizations, often acting under the leadership of the newly emerging generation of black bar presidents, created similar programs designed to encourage corporations in their jurisdictions to hire minority lawyers.

The results of this dramatic expansion were sadly predictable. What the program gained in breadth was lost in depth. Although some black lawyers continued to benefit, most felt, in the words of a partner at a small black law firm that had participated in the program from the beginning, that as the program went from trying to create a "black corporate elite" to one that was open to "every minority lawyer in the world," it generated less and less in the way of real opportunities for business development or relationship building. Black partners in large law firms were even more critical. Although crediting the program with some initial success, many believed that the effort degenerated into a mere formality in which corporations sent the same letter "requesting information" and precious little else. As one typical respondent disgustedly proclaimed, "It is totally useless as far as black partners or black associates in major firms are concerned. The only thing it's done is to encourage the corporations and other major institutions to spin off and siphon off some pissy ass collection effort or something else to a minority lawyer."

If black lawyers' efforts to use the ABA and other mainstream bar organizations to foster diversity by stimulating the demand for minority lawyers foundered because the bar ultimately lacked the power to exclude, then the parallel efforts by many of these same lawyers to use the bar as a means of encouraging law firms to adopt "goals and timetables" for hiring and promoting minority lawyers stand as a potent reminder that the bar has little ability to force inclusion either. In 1989, the Bar Association of San Francisco, under the leadership of its first black president, pushed through an initiative requesting area law firms to agree to a goal that minority lawyers would comprise 15% of all associates and 5% of all partners by 1995. Five years later, these percentages were to rise to 25% and 10%, respectively. In the next few years, bar associations in several other jurisdictions, including Los Angeles and New York, adopted similar goals, often at the urging of black bar presidents.

In their first few years, these goals and timetables appear to have increased the hiring and retention of minority lawyers in general, and black lawyers in particular. As the target dates grew closer, and the required percentages grew higher, however, momentum stalled. San Francisco's experience was typical. After proudly proclaiming in 1998 that most firms had met the initial targets during the bull market of the mid-1990s, the bar quietly allowed the 2000 deadline and its more ambitious goals to pass without even so much as an acknowledgment that the recession and lack of advancement of minority lawyers had rendered the optimistic promises made five years before largely illusory.

Although no official reason was given for the failure to issue the promised report, the initiative appears to have befallen the fate of many bar programs - especially those sponsored by traditional outsiders. At the outset, the San Francisco bar's leadership was firmly committed to putting the organization's prestige behind its goals. As the years passed, however, the black lawyers who put the goals in place rotated off the bar's leadership and were replaced by others whose commitment to the project was less strong. At the same time, firm leaders, who had been happy to sign the goals when their fulfillment was a distant prospect, became less enthusiastic as the cold reality of either making promotions or reporting failure loomed closer on the horizon. The combination of these predictable developments meant
that the program was left without a strong constituency willing to risk antagonizing the managing partners of large law firms upon whom the bar traditionally depends to press its agenda forward. In the end, the bar president serving in the year the final report on the goals was supposed to be issued decided instead to dedicate her presidency to the plight of Afghan women. n247

[*62] The fact that black lawyers failed to achieve some of the lofty goals of the innovative programs they shepherded through traditional bar organizations during the last decade should not be taken to mean that they failed to benefit from bar participation in more traditional ways. Being president of a major bar organization has always been an important way of increasing one's visibility and contacts within the profession. The new cadre of black bar leaders is well aware of these advantages.

Howard Donaldson's experience is typical, although his pedigree decidedly is not. n248 Unlike the lawyer-statesmen who started the bar organization that he eventually headed, Donaldson does not come from an elite background. The son of a boilermaker and a maid, Donaldson grew up in an all-black neighborhood and attended urban Catholic schools through college. He was then swept up in the first wave of affirmative action, graduating from a top ten law school in 1973. After graduation, Donaldson did what many of these early pioneers did: he went to work for the government, taking a job in the state's attorney's office doing appellate litigation.

Four years later he was ready to move into private practice. Private practice, however, was not ready for him. Although his stint in government had given him one of the promised advantages of public service - good experience - it had also cast him as a typical black lawyer whose only government experience was of the kind that large law firms did not yet need. As Donaldson later reflected, even though he might have been able to get a job with a big firm straight out of law school, he couldn't even get an interview from his position in the state's attorney's office: "I was tracked without knowing it." n249

Turned away by the big firms, Donaldson once again followed his predecessors in the black bar into a series of small partnerships, eventually landing in what is still one of the most common practice settings for black lawyers - solo practice. After a few years, he had parlayed his appellate experience at the state attorney's office into a fairly stable practice doing appellate work for other black solo practitioners who only wanted to try cases. When a black mayor was elected a few years later, Donaldson was able to expand his practice by adding some high profile cases for the city to his portfolio of business.

But it was Donaldson's participation in the organized bar that really launched his career. Donaldson was first attracted to the bar when he opened his own office and realized that he no [*63] longer had anyone to turn to for advice or support. The bar offers "camaraderie through practice groups" that can make a big difference to solo practitioners. n250 It didn't take long, however, before bar leaders took note of his participation. As he put it years later, there were "very few blacks [participating] because of the history of exclusion, so when people spotted me they just picked me up and put me on the leadership track." n251 For his part, Donaldson thought that increasing his participation would "make me a better lawyer." n252 What he also came to realize was that it would teach him "how life functions in white America." n253

The importance of acquiring this kind of knowledge was dramatically brought home to Donaldson in the course of a major lawsuit he was trying on behalf of the new black mayor. On the recommendation of a white lawyer who had worked for the city for several years, Donaldson hired a private investigator to handle some sensitive matters. He subsequently discovered that the investigator had handed over his files to the other side, which was represented by a law firm with whom the investigator had a long-standing relationship. As Donaldson ruefully reflected, the experience taught him that he was "too isolated" in his largely all-black world and that he needed to become more involved in white institutions like the bar in order to understand how the power structure really worked. n254

He has not been disappointed. As Donaldson quickly rose through the organization, he learned that the bar was really made up of many different constituencies - corporate lawyers, personal injury lawyers, government lawyers, lawyers from various racial, ethnic, and religious groups - and that the relations among these groups were often as hostile and adversarial as the relations between blacks and whites. Echoing a theme that I heard throughout my interviews, Donaldson learned that blacks were wrong to think that "whites were just cutting off their legs because they are black - they're cutting each others' legs off, and it has nothing to do with race!" n255 Moreover, the experience taught him that the competition among these groups for "a seat at the table" also created an opportunity for anyone who could bring the various groups together - or at least keep tensions among them to an acceptable level. n256 Donaldson [*64] dedicated himself to becoming that person. He made the goal of his year as bar president to "move power between these different constituencies in a way that allowed them all to trust each other and to work together." n257 As
he explained, "Each group depended upon me to understand them. I went to Catholic schools. I know how white Catholics think... I live in the black community. My wife is black. My kid goes to a black school." n258

Needless to say, the role of the go-between was not an easy one. Unlike white lawyers, who have traditionally been bar leaders, Donaldson realized that he, like other blacks in positions of power, "had no constituency":

You're put in the position in part because you're black... [To] the whites who elevate you, you are not their constituency... And blacks, on the other hand are like, "Well, that's the white bar association. So we don't trust you because you are over there with them." And yet both groups come to you when they are in trouble... A lot of times... I filter information from both groups. The... bar needed to have... somebody who was like them, but black, [to] be the bar president. Because whites and blacks were... talking past each other. n259

According to Donaldson, the best you can do is to "try to be fair. That's why I'm tired." n260

It is also why his practice went "down nearly eighty percent" during his presidential year. n261 By all accounts, running a major bar organization has become nearly a full time job. But, he said with a smile, "The publicity is amazing." n262 Being bar president "gives you... high visibility [and] good judgment about how you handle hot button issues." "The challenge," he concluded, "is to make something of it." n263

One possibility is to move to a major law firm. As a direct result of the exposure that came with being bar president, Donaldson received several offers from leading law firms to come in laterally as a partner. But when he asked one of the most prestigious firms in the city how many black partners were currently at the firm, the managing partner sheepishly replied "none" - to which Donaldson responded: "And I have no desire to [*65] be the first." n264

Instead, Donaldson plans to use his visibility and contacts from his bar year to further consolidate his role as a valuable intermediary between the black and white worlds. He believes that it will be easier for him to play this role from his current position - with one foot firmly planted as a traditional solo practitioner in the soul of the black bar, and the other, hopefully now equally well grounded by virtue of his bar experience in the corridors of elite power - than it would be for him to try to transform himself into a successful powerbroker at a big law firm. To be sure, there are advantages to going the big firm route. As Donaldson noted with a chuckle: "[Making money just by] bringing in the case? [This has to be] the all-time great lawyer concept!" n265 But "I don't want to worry about having enough business to be powerful [in such a setting]." n266 As he ruefully concluded with a smile, "I'm the bar president, but that doesn't mean that I have the business to go along with it." n267

2. Reimagining the Black Bar. If the rewards for black lawyers assuming leadership positions in the mainstream bar are uncertain, then it should come as no surprise that the cost-benefit calculus is even more complex for those who choose to participate in black bar organizations. Nevertheless, notwithstanding the many limitations of, and tensions within, these organizations, some in the new black corporate bar have found ways to use their participation in black bar organizations to their advantage.

When the first wave of black lawyers began entering large law firms in the late 1960s and early 1970s, a significant number were drawn to traditional black bar organizations. For many of these lawyers, the black bar was the only place where they could meet and spend time with lawyers who looked like themselves. As one typical respondent who moved to Atlanta to clerk for a federal judge and then joined a large law firm put it: "I was very active in the black bar when I first moved to Atlanta. It was a great vehicle for meeting black lawyers." n268 Although the black bar organizations helped with the isolation for these early pioneers (many of whom were not only the sole black lawyer at their firms but one of only a tiny handful working downtown), [*66] they rarely provided much in the way of career support. As the lawyer quoted above remarked: "The black bar was very supportive, but it never generated any business for me." n269

It is not surprising that the new generation of black corporate lawyers did not turn to traditional black bar organizations for career support - at least not in the early years. These organizations were still dominated by the type of lawyers for whom they were founded: solo practitioners serving a clientele made up almost exclusively of black individuals and small black businesses. They often met (at 5:30 p.m.) in areas where black lawyers traditionally practiced - in Chicago, for example, on the city's south side - that were far in distance, and even further in spirit, from the downtown skyscrapers where the major law firms and their new minority members made their homes. The gulf between the lawyers who built and maintained these traditional black organizations, and those beginning their careers in the canyons of LaSalle Street, was almost as wide as the cultural and symbolic distance between these latter lawyers and the white partners who ran the organizations in which they worked.
Such distance inevitably spawned tensions. For black lawyers who worked in small firms and low-level government positions, the blacks in large law firms acted like "they were smarter than everybody else." n270 For their part, the new black corporate warriors felt that black solo practitioners "resented people in white firms" and played the "I'm blacker-than-thou crap." n271 Eventually, many black corporate lawyers of the pioneer generation stopped participating in black bar activities. Those who followed these first movers into large law firms frequently never joined at all.

However, the need for community and solidarity remained. Frustrated with traditional black bar organizations and still alienated from the mainstream bar, the new generation of black corporate lawyers turned to a tried and true strategy. They started organizations of their own. With names like "The Chicago Committee on Minorities in Large Law Firms," n272 "The Black Women Lawyers' Association of Greater Chicago," n273 or simply "The Black Partners," enterprising groups of black lawyers [*67] created new bar organizations that directly addressed their needs. Ironically, mainstream bar organizations contributed to this trend. In an effort to make itself more attractive to the new black corporate elite, the ABA's Commission on Minorities created two new organizations: The Minority Partners in Majority Firms and the Minority In-House Counsel Association. Both organizations soon developed lives of their own that existed largely outside of the ABA's formal structure.

At first, the needs addressed by these new bar organizations were primarily social. As one of those present at the birth of the Chicago Committee put it, the organization "just started out as a few people putting on a cocktail party ... I didn't see [them] out there fighting for the rights of minorities on a daily basis." n274 Some, like the Black Partners in New York City, have retained this focus, convening only when another black lawyer is elevated to partnership. Others, however, gradually became more overtly political. Not surprisingly, the focus of the political action undertaken by these new black, or, in some cases, "minority," n275 bar organizations was the self-interest of the black corporate bar. Formally, this meant panels and programs directed toward convincing firms to hire, retain, train, and promote more minority lawyers. Informally, those who participated worked to increase their visibility and contacts both within the growing cadre of minority corporate lawyers and, less obviously, with the white managing partners and general counsel who increasingly interacted with these new organizations on a regular basis.

Ben Earls and John Charleston exemplify the potential of each of these two strategies. After becoming disenchanted with the Chicago Committee's emphasis on social events, Earls became active in the leadership of the organization while he was still an associate. n276 While planning an event on the retention of minority lawyers, he confessed to a black partner from a rival firm that he was feeling increasingly frustrated and ignored at his firm. The partner replied that he would be happy to see if his own firm might be interested in recruiting a talented mid-level black lawyer like Earls. The fact that the partner could report something about Earls's working style and habits based on their [*68] interaction on the Committee helped close the deal, and Earls subsequently moved to the black partner's firm.

John Charleston's story underscores the fact that the leaders of the new black bar organizations made valuable contacts with powerful white lawyers as well. n277 A founding member of the ABA's Minority Partners in Majority Law Firms, Charleston's duties soon brought him into contact with the kind of powerful establishment lawyers who had always participated in ABA activities. One of these was the general counsel of a major medical supply company. The company subsequently became Charleston's client, making him the only partner in his firm - a branch office of an aggressively expanding national firm - to control a Fortune 500 client.

By the time he accomplished this feat, however, Charleston was already a veteran of tapping the career-enhancing potential of bar organizations. Unlike most of his contemporaries in large firms, Charleston never stopped participating in his local black bar organization, eventually becoming the organization's first president from a major law firm. He did so, in part, because for him the black bar was "a refuge" from his otherwise cold and uninviting professional environment. n278 He also realized something that many of his peers did not. While the lawyers who belonged to traditional black bar organizations may not have had much to offer the new generation of black corporate lawyers, the black judges and politicians who regularly participated in these groups surely did. As a budding litigator, Charleston had the opportunity to get to know black judges and politicians "personally, in a way that my white colleagues wouldn't have a chance to get to know them." n279 These connections proved invaluable as Charleston built first a legal and then a political career, and finally a career that plies the intersection between the two. As he said with a chuckle: "Everyone has their own hand to play. Some guys have the hand of being a member of the country club and having grown up with the person that becomes the CEO. I didn't have that network [so I used the one I had]." n280

Indeed, partly in response to bridge builders like Charleston, and partly in response to competition from the new black corporate bar organizations, many traditional black bar associations have redirected a good part of their energy to
serving the needs of the aspiring black corporate elite. Shortly [*69] after the ABA launched the Minority Counsel Demonstration Project, the NBA debuted its own initiative. n281 The program was open to all from the start and served as a vehicle for bringing into the fold corporate lawyers who might not otherwise have joined the traditional black bar organization. n282 Similarly, when a black woman partner from a large firm became head of the Cook County Bar Association, the nation's oldest black bar organization, she used her presidency to forge a rapprochement between that organization, the Chicago Committee for Minorities in Large Law Firms, and the Black Women's Bar Association around issues of increasing diversity in the profession. n283

With this newfound agenda came increased visibility and prestige for the black lawyers who led these traditional organizations. Sam Wrightfield is a case in point. Wrightfield took a circuitous route to becoming a partner in a large law firm - a route through which he often exploited the experience, visibility, and contacts gained in government service and community organizations. n284 When he graduated from a good, but not elite, Northeastern law school in the early 1980s, Wrightfield wanted to secure a job with a large law firm. The law firms, however, were not interested in him. Instead, he took a job at the Attorney General's office to hone his trial skills. With a few years of experience under his belt and fearing he would be “stamped” if he stayed in government too long, Wrightfield once again tested the large law firm market. This time his experience allowed him to "make some headway" before "the door ... shut." n285

After a brief stint in a minority law firm, Wrightfield returned to government where, over the next decade, he held an array of jobs with steadily increasing visibility and responsibility, including Deputy Corporate Counsel for the first black mayor of a major city. By the time he was ready to finally leave government, there were many law firms expressing interest in him. This time, however, it was Wrightfield who wasn't interested, deciding instead to try his hand at starting his own minority corporate firm. The gambit worked for the first few years. But when the economy slowed and the bills began to mount, Wrightfield agreed [*70] to merge his small firm with a mid-sized corporate firm. After almost two decades of wandering in the desert, he had finally arrived at the promise land. Now he had to figure out how to eat.

Bar organizations were a major part of his strategy. In his early years, Wrightfield joined the state bar organization "to jump-start my development as a lawyer." n286 By the early 1990s, he was a member of the state bar's board of delegates and executive committee, making him one of only a handful of black lawyers to hold leadership positions in the state's mainstream bar. Although the connections he has made in this organization have been helpful to his career, it is his work in the black bar that surprisingly has proved pivotal in his new life as a partner in a mid-sized law firm.

It didn't start out that way. Wrightfield, like many of his peers, got involved in the black bar "just because I know the history of black lawyers." n287 For many years, that is all it was: a vehicle for showing his commitment to the black community and deepening his relationships with black lawyers. Shortly after assuming his new position, however, Wrightfield was asked to run for the organization's presidency. His friends all told him he would be crazy to do it. Not only would the job be enormously time-consuming when he could least afford any distractions, but it also had the potential to draw him into controversies and force him to take positions that were likely to be unpopular with his new partners. Against this sage advice, Wrightfield nevertheless decided to take on the job - mostly, as he later admitted, out of a sense of obligation. He quickly discovered that in many respects, his friends had been right: "It destroys your practice." n288 "I see why big firm lawyers don't participate in bar activity," he said with a smile, "I know I'm taking an enormous risk." n289

As it turns out, however, the risk was not a foolish one. Being the president of a bar organization - even a black bar organization - confers upon the occupant both visibility and stature. Even small things get magnified and create potential value. As Wrightfield explains:

I write this article today and it's just a president's message. But it will pop up on the Lawyer's Weekly page with my picture in about two weeks - which seventy percent of my colleagues will never have. [It] forces them to look at that value ... . It creates a little resentment, [but] the firm [*71] understands that it gives them some credibility in the sense that I am here. I am creating some visibility for the firm. n290

This visibility also produces contacts - and the appearance of having contacts that comes from heightened stature. Wrightfield's prior government service already gave him a leg up in this regard: "Every one of my partners asks me at some point and time, "Do you know somebody here, or can you do this?" Thinking I'm like a guy in government. And I'll know somebody." n291
Now that he is bar president, however, the circle of people with whom his partners see him as having important contacts has expanded even further. As the president of a bar organization - albeit a black one that few of his partners either know or care about - Wrightfield is invited to all of the functions attended by the presidents of the mainstream bar organizations. And these events tend to attract other leading lawyers and businessmen. The result has been a dramatic improvement in the way Wrightfield's partners look at him and assess his value to themselves and the firm:

Every couple of weeks one of the partners comes up and says, "I went out to such-and-such [important event] and I ran into so-and-so [important business leader or prominent lawyer] who said they knew you." [This] reaffirms your existence in the firm. They see your value and they trade off you. n292

Once again, it is important to note that the strategy is not without risk. Not every law firm will see the value in participating in black bar activities, especially in the early years before a lawyer has the opportunity to obtain a leadership position. Worse yet, the focus by many new minority bar associations on what firm leaders may regard as little more than identity politics may create a backlash among partners who fear that their black associates will become distracted from their work or, even worse, radicalized by the experience. Even if these fears are exaggerated, the fact that they appear plausible is often all that is needed to keep black lawyers from participating in the activities of the new minority bar associations. The following comment by the organizer of a conference designed to encourage minority in-house lawyers to see themselves as "stakeholders" with a responsibility to improve the status of minority lawyers working in firms typifies this concern:

[*72]

[Many minority in-house lawyers did not come to the conference out of] fear of how it would resonate with their company ... In fact, a [senior black in-house lawyer] said that not only would he not attend, but he would encourage all black lawyers in his department not to come because this conference had ... less to do with professional development and had more to do with personal development - if you can understand that distinction. There were zero lawyers from [a certain major corporation] even though the conference was in [that corporation's] home city. n293

Paradoxically, the structure of many of the new generation of bar organizations suggests the opposite danger. Several of these organizations are funded directly by contributions from the very law firms and legal departments that they seek to reform. As a result, firms have influence over what these organizations say and do. As one leader in such an organization reported, sponsoring law firms were "upset" when his organization put on a program that was critical of the hiring efforts of large law firms. n294 Although he was able to smooth things over, it definitely made him and the other members of his team think twice about the kind of issues that the organization would confront and, more importantly, the way that it would confront them.

By the same token, such organizations also devote substantial resources to providing services directly to and for firms. As one former president of such an organization put it, "we do a lot of services for the firms," including putting on programming, training associates and partners, and helping to market individual firms and firm life in general to law students. n295 Although many of these activities also serve the interests of minority lawyers, they underscore the fact that these groups have more than one important constituency. Black lawyers active in these groups must be careful to look out for the interests - and manage the perceptions - of firms as well as the interests of the minority lawyers they seek to serve. The balancing act required of lawyers who seek to leverage the career-enhancing benefits of pro bono representation is often even more complex.

[*73]

D. Pro Bono Work

Few phrases are more often invoked - and less often defined - than pro bono work. By some definitions, virtually everything that a lawyer does beyond working for paying clients is considered to be pro bono work. n296 Others argue for a much more narrow definition that focuses on providing legal services to those who cannot afford them, thereby excluding work for "friends of the symphony" or service on community boards. n297 In 1993, the ABA endorsed this latter definition, urging lawyers to "provide a substantial majority of the fifty hours of legal services without fee ... to ... persons of limited means" or organizations serving such persons. n298 "Any additional services," the Rules go on to state, should be delivered to public interest organizations, legal services organizations, or legal reform. n299 As the ABA Rules make clear, delivering pro bono services of this kind is a professional responsibility of every lawyer. n300
Given this endorsement, and because we have already examined much of the more general civic and community work done by corporate lawyers, n301 for present purposes I will use the ABA's definition.

The elite corporate bar can justly claim some credit for establishing pro bono service as a professional obligation and for ensuring that lawyers take it seriously. Elihu Root, one of the most important corporate lawyers in the early decades of the twentieth century and a leader of the organized bar, spent a good deal of his time and energy ensuring that the corporate bar acknowledged and acted upon its obligation to provide legal services to the poor. n302 Similarly, Louis Brandeis - who, before assuming his seat on the Supreme Court, pioneered the model of the large law firm in Boston n303 - made a point of combining his thriving corporate practice with a substantial number of "public" cases on behalf of individuals and groups, often at little or no fee. n304 "Some men buy diamonds and rare works of art," Brandeis [*74] famously recounted, "my luxury is to invest my surplus effort, beyond that required for the proper support of my family, to the pleasure of taking up a problem and solving or helping to solve it for the people without receiving any compensation." n305 Before moving to the bench in 1916, Brandeis indulged his "luxury" in a wide range of matters, including representing a citizens' group opposed to the New Haven railroad merger, lobbying for reform of the insurance industry, and fighting for sliding scale gas rates for low income customers. n306

Although the elite bar continues to pledge its allegiance to the concept of pro bono work, often in the same flowery tones Brandeis used, a competing set of justifications has recently gained prominence. Bryant Garth captures this alternative justification in his review of a recently published book entitled The Law Firm and the Public Good:

Why should individuals participate [in pro bono work]? Here, Katzmann and others make a case that doing so is in the "enlightened self-interest" of individual lawyers and law firms.

Pro bono work by corporate lawyers, according to the contributors, helps build skills, enhance professional satisfaction, construct a professional identity and reputation, and foster professional achievement. Law firms, in addition, can build distinction and reputation through pro bono activity.

Indeed, it appears that pro bono activity is becoming part of the competition for clients and star graduates. Law firms increasingly must have high-profile and well-regarded pro bono programs as a part of the competition between law firms. n307

As Garth goes on to caution, "once the firms begin to compete" in this fashion, "we can expect transformations to occur." n308

Black lawyers endorse both of these alternative justifications. For many, doing pro bono work is primarily a matter of personal fulfillment. One respondent described his work for Chicago Volunteer Lawyers as "the only aspect of law [*75] where I felt like I was doing something for somebody on a personal level." n309 Or in the words of a lawyer who devotes substantial time to helping small black businesses, "it is my obligation as a lawyer and as a Christian to do this work." n310 Other black lawyers view pro bono work (along with serving on community boards) as a means of maintaining their connections to the black community. As one black partner, who had recently joined a large firm after running a successful black corporate firm, bluntly stated, "[Pro bono and community work are important for maintaining my] community persona now that I'm in a big firm - so they know I'm a stand up guy. I'm doing other things that carry some weight." n311

Consistent with more recent claims that ground pro bono work in the "enlightened self-interest" of lawyers and firms, black lawyers have discovered that these activities can also "carry weight" with partners and clients. Weldon Templer's career is indicative of the career-enhancing value that can reside in pro bono work. n312 Templer, like many in his generation, was the first in his family to go to college. He therefore had no idea what kind of lawyer he wanted to be when he enrolled at Harvard Law School in the early 1970s. His only role models "were the civil rights lawyers who opened the doors for us, [but] now we were supposed to do something else." n313 When all of his classmates started talking about going to large law firms, however, he decided that joining such an institution was what he needed to do. After clerking for a year, Templer joined a mid-sized firm where his judge had previously been a partner.
Templer began doing pro bono work from the moment he arrived, initially out of a sense of obligation. It didn't take long, however, for him to realize that the cases assigned to him contained opportunities as well. He later recounted the value of working on appointed criminal cases under the Criminal Justice Act (CJA) during his early years in practice: "As a young lawyer I started out doing CJA work to get trial experience. Partners didn't care so long as I got their work done on time. It proved to be an extraordinary experience. But I worked crazy hours." n314

As an example, Templer described a case on behalf of the Nation of Islam that he was originally assigned under CJA. The case developed into a major matter and garnered significant publicity. Templer won both the case and a substantial amount of respect from his partners and the local legal community for his trial skills. Twenty years later, Templer still credits this case for helping to launch his career as a trial lawyer.

Not every pro bono representation, however, produces such beneficial consequences - especially when the client is as controversial as the Nation of Islam. Charlene Grant also "started doing pro bono work from the moment [she] arrived at the firm." n315 She quickly found out, however, that pro bono work was fine as long as she represented "acceptable" clients such as welfare claimants or civic or women's organizations. It was, however, a different story when she tried to do work for less mainstream causes. Notwithstanding her firm's public image as one of the most public-spirited firms in the city, Grant's partners were less than pleased when she began doing legal work for militant gay and lesbian organizations in the mid-1980s. Grant recalled that one of her partner's went so far as to "try to change the pro bono policy so I couldn't represent Queer Nation." n317 Although the effort did not succeed, Grant realized that the handwriting was on the wall and that she would have to curb not only her own pro bono efforts, but her criticism of the firm's failure to live up to its professed ideals, if she was going to succeed.

Any doubt about this fact was brought home with exquisite clarity when Grant asked the head of her group for more work so that she could develop her skills and become successful in the firm. The partner bluntly responded that if Grant wanted more work, she had to start "behaving better" and stop speaking out against the "corporatization of the firm." n318 The partner made it quite clear to Grant that, "I'm not going to invite a skunk to my party. If you are on my team, you have to do so all the way ... I'm here to make money." n319

Grant felt sick to her stomach. But she reflected that "at least I didn't have to guess about the tradeoffs." n320 Faced with such a stark choice, Grant dramatically reduced her pro bono commitments, dropped her representation of controversial causes, and ended her criticism of the firm. Two years later she made partner, becoming the first black woman to attain that status in the firm's history. Having made what she considers a "pact with the devil," however, Grant no longer had any illusions about the elite bar's commitment to public service. n321 "Pro bono is bullshit," she declares with a sigh. n322 "[Now I just] do what I'm told - but I never believe." n323

Sometimes the problem is business-related rather than personal. Kevin Winslow also did a lot of pro bono work during his tenure as an associate with a large law firm in the late 1970s. n324 At one point he was approached by the National Council of Black Lawyers regarding the case of an elderly black resident who had been shot by the local police. When he approached the firm about bringing the case into the firm as a pro bono matter, he was told in no uncertain terms that the firm represented the city in many capacities, although not in tort cases of this kind, and that the firm - and Winslow - should have nothing to do with any case in which the city was a defendant. Several other respondents reported that firms were growing increasingly sensitive about "positional conflicts." n325 Even when such concerns are not expressed directly, the fact that black lawyers know that firms worry about such matters can create a substantial chilling effect on their willingness to take on pro bono matters and other related activities. n326

In addition, black lawyers have to be concerned that the pro bono matters that they do take on may not generate the kind of positive feedback that justifies the risk and effort of doing this work. Notwithstanding the rhetoric by firms that pro bono cases serve as good "training vehicles" for young associates, n327 this work is often not supervised closely by partners. Thus, even a good job frequently goes unnoticed. Should the case become a serious problem for the firm, however, it is the associate who is likely to be blamed. Moreover, as Grant's example dramatically underscores, black lawyers who do significant amounts of pro bono work risk being viewed as uninterested in the firm's paying clients, further reducing the probability that a partner will see the black associate as one worth investing the partner's scarce time in training.

Notwithstanding these risks, however, some black lawyers have been able to create synergies between their pro bono work and their work for paying clients. Sometimes these synergies emerge in surprising ways. Cole Jordan is yet another black lawyer who told his law firm that he wanted to do pro bono and "started doing it right from the start." n329 Over the years, Jordan developed a specialty in handling death penalty cases, eventually becoming one of the most respected lawyers in the country handling such matters from inside a large law firm. During the merger mania of the...
1980s, Jordan, who was a commercial litigator by day, found himself being dragged into the unfamiliar world of takeover litigation. Much to his surprise, he discovered that defending companies from hostile bids was "just like [litigating] death penalty cases," including fighting simultaneously on multiple fronts and facing the grim prospect that losing could be fatal to the client. n330 From many years of experience, Jordan instinctively knew how to operate in this chaotic environment and to help his clients cut through the noise and identify the key issues that would help them succeed and survive. He eventually became his firm's most successful takeover defense lawyer.

More often, however, black lawyers have benefited from pro bono work through the same combination of experience, visibility, and contacts that make all public service potentially career-enhancing. Tucker Williams has accomplished this seamless blending of public and private work as well as any black lawyer in the country. n331 One of the deans of the black corporate bar, Williams has a long and distinguished record of public service, including important work as a government official, service on countless nonprofit and community boards, leadership [*79] positions in the bar, and an active and varied pro bono practice. Inspired to pursue a career in law by the accomplishments of Houston and Marshall, it never occurred to Williams that he would not be active in public service just because he happened to also work at a large law firm. At the same time, Williams confessed that it "never crossed my mind that I wouldn't work as hard at the firm [just because I was spending time on public service]." n332 For Williams, public service and private practice were simply two sides of the same coin of professional excellence. What he discovered over time was that by rubbing both sides simultaneously, he could increase his wealth in both arenas.

Two examples illustrate this point. In the first, Williams explained how his efforts to meet a high-level government official on behalf of an important private client had been continually rebuffed - until, that is, he received an unexpected call from the official's deputy, inviting him to a meeting with the deputy and his boss. Williams was delighted and went to the meeting prepared to argue his client's case. When he arrived, however, it quickly became apparent that he had been summoned to discuss an amicus brief that Williams was writing pro bono in an important civil rights case in which the government was also involved. Not missing a beat, Williams discussed strategy in the civil rights case for an hour before casually saying "since we're all together, there's another matter I'd like to discuss." n333 He then proceeded to make his pitch on behalf of his private client. As he recalled with a chuckle, "Now it was their turn to be surprised, but I walked out with everything I asked for!" n334

The second example shows how the reverse can also be true. In this matter, Williams was asked by his firm to represent a developer who had a notorious history of attempting to keep blacks out of his developments. Much to his colleagues' surprise, Williams agreed to take the case and eventually won an impressive victory. He then turned around and used his position of trust with the client to broker a deal between the developer and civil rights leaders to end his client's discriminatory practices. "I never would have been able to do that if I hadn't helped him win his case," Williams maintains. n335 Moreover, after he was done, Williams reflected that the "client thought I was a [*80] genius for helping him to avoid being in the position of having to defend his segregationist policies." n336

To be sure, few black lawyers have been able to blend pro bono representation and private practice as seamlessly and effectively as Williams. Far too many have had experiences that are more like Grant's failures than like Williams's successes. Pro bono work, like all forms of public service, is a mixed and risky undertaking. But so is trying to succeed with only an "inside" persona. I conclude with a few thoughts about what the Brown generation of black corporate lawyers' efforts to integrate public service and private practice can teach us about the likely relationship between these two worlds in the new millennium.

V. Conclusion: Race, Public Service, and the Global Marketplace

Making any prediction about the legal profession these days is risky business. Much about the profession is in a state of flux, especially with respect to the corporate sector. Globalization, consolidation, disintermediation - a fancy word for cutting out middle men, such as lawyers, who currently stand between information and those who need it - and a host of other "-ations" stand ready to render virtually any prediction out of date, and to give anyone foolish enough to offer such prognostications the fool's reputation he or she deserves.

With this caution in mind, the first thing to be said about the experiences recounted above is that they very well may not reflect the tradeoffs likely to confront lawyers, black or white, starting out in practice today. Virtually all of the lawyers in my sample began their careers in an era that was, by almost any definition, kinder and gentler - and more solicitous to public service - than the one we live in today. As the Brown generation entered the profession, the noblesse oblige era of golden age professionalism was still a vivid memory, if not quite a lived reality. By the time today's "hip-
hop" generation began moving into large law firms in the mid-1990s, even the memory of these supposed halcyon days had lost its luster and had been shoved aside in fear of antagonizing the jealous worshipers of the bottom line.

Current developments seem likely to exacerbate this trend. The recent demise of several prominent regional firms - often as a result of the departure of partners dissatisfied with the firm's profitability - appear destined to cause firm leaders to focus even [*81] more intensely on maximizing revenues. n337 Even assuming, as we have seen, that lawyers can demonstrate that public service produces long-term benefits to the bottom line, the rise of short-term thinking among firm managers may make many firms unwilling to make the investment of time and money necessary for these strategies to pay off. The frenzied lateral market for associates and partners will undoubtedly reinforce this reticence as firm leaders legitimately worry that they won't be the ones to recoup the gains even if a given lawyer's public service strategy ultimately succeeds.

Even profitable firms committed to public service may find themselves gobbled up by larger firms that do not share their goals. In a poignant example, a black lawyer with a sterling record of public service and a well-deserved reputation as one of the leading business developers in his firm pointedly told me: "We struggle to make more money so that we can maintain our culture of public service. We have to stay a top firm or our best people will leave. The more money you make, the more pro bono. If profits are down, people will complain." n338

Four years later, this profitable and nationally ranked firm had merged with a much larger firm with a reputation for expanding by squeezing out "unnecessary costs" and pushing all revenues through to the bottom line. Although the black partner's firm got its name in the combined entity, it remains to be seen whether its culture of public service will be retained as well.

The prospect of a spate of global mergers may strain whatever remains of the noblesse oblige tradition of U.S. law firms even further. The large English solicitor firms that constitute the most likely cross-border merger partners for U.S. firms share surprisingly little of their American cousins' history of engagement in public service. n339 That tradition was reserved for the more socially elite and prestigious barristers. The "magic circle" firms that now rule much of the global market for legal services were thus allowed to skip this aspect of golden age professionalism and turn directly into bureaucratically organized and profit-driven businesses. Should these goliaths ever succeed in cracking the American market, they may very well seek to impose their less public-regarding definition of the lawyer's role on their new colonists as well.

[*82] Finally, it is not at all clear that the "hip-hop" generation has the same commitment to public service as do older members of the bar. As a lawyer who entered the bar in the 1950s glumly noted:

It used to be that in the "60s, if you didn't have a significant public interest component, you were not going to get one of the bright students. That all changed. It's changed so much here ... . You get very few law students [who] have an interest in public interest [work]. That's a disappointment, but you've got to continue to do what you think is important. n340

Although such nostalgic reports should always be taken with a grain of salt, a Gen Xer from the same firm confirmed the partner's assessment that the institution is a "disaster on public service and pro bono, particularly on the corporate side." n341 As corporate practice once again becomes the engine of firm profitability and corporations desperately seek to contain their litigation budgets through "bake-offs" n342 and capped fees, this "disaster" is likely to spread throughout the entire firm.

And yet it seems hard to believe that either public service or the attempt to profit from it will soon disappear from the American legal profession. Lawyers, just like any other sophisticated service provider in today's globalized and multidisciplinary marketplace, must find ways to distinguish themselves from the many other professionals who offer sophisticated advising services to multinational corporations at the intersection of law, business, and competitive strategy. At the same time, the profession must continue to find ways to motivate bright young men and women to go to law school - and to work in law firms once they graduate. The historic connection between the elite bar and public service seems likely to continue to be a cornerstone of both of these efforts.

Two of the profession's primary competitive advantages over potential interlopers such as accounts and strategic consultants are its relative freedom from external regulation n343 and its close [*83] connection to government power. n344 Both of these advantages depend upon lawyers - especially elite lawyers - being able to demonstrate a credible commitment to public service. As the government's response to the recent series of corporate scandals underscores, such sacred cows as self-regulation and the attorney-client privilege are likely to come under great pressure if lawyers lose
their reputation as a "public profession" dedicated to the public interest. n345 Similarly, clients are likely to go elsewhere to look for inside information and access unless large law firms continue to provide lawyers with significant experience inside the administrative state. Finally, young people who see little difference between the norms of law and business might easily survey the less stringent educational requirements and higher income stream associated with the latter course and cast their lot directly with the capitalists as opposed to with their handmaidens in law.

When faced with similar challenges, other groups within the profession have used public service as a means of burnishing their images and increasing their appeal. Consider, for example, what Robert Rosen calls "the inside counsel movement." n346 As Rosen explains, lawyers who worked in-house were traditionally viewed as having significantly less status within the profession than their brethren in large law firms. n347 One way these lawyers have sought to improve their image has been to assiduously court a reputation as being devoted to professionalism and public service. n348 In the 1980s, in-house lawyers began popping up on bar committees and law reform organizations. n349 By the 1990s, some in-house legal departments instituted formal pro bono policies for their lawyers. n350 As we enter the new century, a few general counsel have even begun to proclaim their commitment to public service by saying that they will take a law firm's pro bono record into consideration in making hiring decisions in the same way that several general counsel currently claim to do with regard to a firm's diversity record. n351 Even if these last threats prove largely illusory, as often has been the case in the diversity area, the fact remains that in-house counsel have moved closer to the old model of public service professionalism in recent years - even as they continue to drive their law firms and their own lawyers to ruthlessly cut costs. Lawyers who work for the big accounting firms, at least before their recent self-immolation in the Enron scandal, were pursuing a similar strategy. Even the English firms appear to want to be viewed as committed to public service - particularly in the wake of the now infamous "Clifford Chance Memo" in which U.S. associates of the trans-Atlantic firm Clifford Chance Rogers & Wells excoriated the firm for, inter alia, not being sufficiently supportive of pro bono work. n352

Indeed, in light of Marc Galanter's work about the "graying" of the legal profession, the very competitiveness of the twenty-first century large law firms will place a premium on lawyers developing the kind of external persona that can land them jobs in their fifties. n353 As Galanter reports, when the bulk of baby boomers turn fifty-five they are likely to face an increasingly chilly reception from their younger (and hungrier) partners. n354 In England, this situation has already resulted in mandatory retirements by ages that are less than the speed limit on most U.S. urban expressways. Thanks to the Age Discrimination in Employment Act, n355 we are unlikely to see formal policies of this kind adopted by U.S. firms. But informally, the process of weeding out "unproductive" - and often older - partners is well underway. n356 Many of these partners will need to find something else to do, especially those who have failed to sock away sufficient money for retirement. As Galanter suggests, some of these involuntary retirees will want to turn to public service to fill their unexpectedly long golden years. This is only likely to be a serious option, however, for those who have laid the groundwork earlier in their careers. As Warren Christopher remarked during a recent talk at Harvard Law School, as Secretary of State he was besieged by resumes from successful partners in law firms who had never done any public service but who now wanted a job in the State Department. n357 Although he found it the saddest thing he had ever seen, Christopher made clear that there was nothing he could do for these bright, but narrow, "inside" overachievers. n358

Finally, whatever the typical corporate lawyer's need for engagement with public service in the coming years, it remains likely that black corporate lawyers will continue to have a special need for the career-related benefits such service can provide - just as they will undoubtedly continue to suffer disproportionately from the risks, especially those risks tied to race, that public service also tends to produce. The progress of integrating the corporate bar continues to move at a snail's pace. Indeed, by some measures we are moving backwards. The percentage of black law students has leveled off in recent years. n359 The same is true of the percentage of black associates in law firms, n360 with some firms suffering significant declines in the number of black associates in recent years. n361 Those who remain will face a host of challenges to carving out successful careers, including: increased leverage; two-tiered partnerships; even more draconian billing and business generation requirements; and age-old stereotypes. Anything that offers a potential way around (or through) these potent obstacles is worth pursuing. Notwithstanding all of the cautionary notes in this and previous parts, public service has - and will likely continue - to fit that bill.

If black lawyers have learned anything from their half-century attempt to make it in the American mainstream, it is that simply removing de jure barriers to black participation is not sufficient to produce real equality. In the early days of the civil rights movement, the emphasis was on opening up the doors of elite law firms to black lawyers. But once the first wave of pioneers succeeded in securing one of these coveted positions, they soon discovered that one could be "inside" the firm and yet still be on the "outside" of the informal network of relationships and information that it takes to
succeed in these institutions. At its core, law is a relationship business. Indeed, scholars who study careers are increasingly suggesting that relationships are crucial in many business settings. To succeed, young lawyers must develop relationships with partners who will train them, peers who will support them and give them access to valuable information, and clients who will trust them to work on their matters. Making partner only intensifies the value of accumulating this kind of "relationship capital" as partners compete for their survival in the external market for new clients, the internal market for referrals from existing clients, and the internal labor market for the services of scarce and valuable senior associates.

In theory, the firm ought to be the place where all of these relationships are created and nourished. Indeed, in the prevailing economic account, this is exactly why lawyers group themselves into firms in the first place. As Galanter and Palay argue, law firms provide an efficient means for senior lawyers to maximize the value of their relationships with clients (by employing young lawyers who can expand the number of clients they can service beyond what they could accomplish if working alone) and for junior lawyers to develop relationships with senior lawyers who can train them and introduce them to clients. For black lawyers, however, this hypothetical bargain has never worked very well in practice. For the reasons discussed in Part III, black associates and partners have found it difficult to get access to important developmental relationships and to tap into the informal informational and referral networks that bring professional success. Instead, they have tended to look outside of the firm - to bar organizations, community and fraternal groups, and friendship networks - to gather needed information and support. Public service, as we have seen, has proven to be an important avenue for creating and nurturing these crucial external networks.

Changes in the structure of corporate law firms are likely to make external networks even more important than they are today. By almost any measure, the law firm is a much less stable and coherent organizational entity than it was during the period when the Brown generation of black corporate lawyers began entering these institutions. Given increasing size, lateral mobility, and a steady stream of mergers and dissolutions, corporate lawyers in Brown's second half-century are destined to lead careers of the kind that scholars of organizational behavior refer to as "boundaryless." Like other workers, especially those in knowledge industries, today's corporate lawyers should expect to change jobs frequently and to be challenged continually to demonstrate their value to employers and clients. Those who hope to prosper in this new environment will have to look outside of existing firm hierarchies to find the support, status, and access to information and opportunities that it will take to survive the inevitable disruptions and transitions that are certain to characterize this increasing harsh competitive reality. As with all of the other trends identified above, black lawyers are likely to find their careers more volatile than most.

Ironically, the very fact that black lawyers have often found themselves standing outside of traditional firm-centered relationships is likely to give them an edge in coping with this new reality. Out of necessity, many of today's black corporate lawyers have formed close ties with black peers outside of their organizations. These external networks, as we saw from the manner in which Ben Earls obtained his new job, can provide valuable information and career support. In addition, black lawyers often forge bonds with other blacks within the organization - for example, black secretaries or messengers - that transcend or even invert traditional organizational hierarchies. Once again, as any busy lawyer can attest, these relationships often bring valuable information about organizational norms and practices that are indispensable to professional success. At the same time, black lawyers must work constantly to form relationships with the white men and women who hold the key to their success. As a result, they are often strategically placed to act as liaisons between these often distant worlds.

Scholars who study social networks argue that the ones that are the most valuable are those that are "rich" in what Professor Ronald S. Burt calls "structural holes." As Professor Burt describes, a structural hole is the distance between discrete social networks where information typically flows. Individuals who have networks of relationships that span multiple groups, groups who often have little contact with each other, stand a better chance of both receiving information about new opportunities and of being thought of as someone worthy of being given an opportunity by those in a position to influence important decisions. Black corporate lawyers quite literally live in exactly this kind of vortex between the largely white world of corporate power and the traditionally black world where most were born and raised - and in which many still spend a great deal of their time. As the examples of Tony Dennis, Howard Donaldson, and, of course, Vernon Jordan, underscore, some black lawyers have been able to exploit this position to build successful careers as intermediaries. As blacks gain more political, social, and economic power, this strategy is likely to become even more important and viable in the future than it has been in the past. But even black lawyers who do not seek to become "go-betweens," lawyers like Winston McGovern or Sam Wrightfield, will find the access to information and opportunities that arise from being positioned between the black and white worlds valuable - albeit, undoubtedly stressful - in an increasingly turbulent economy.
In the last analysis, the black lawyer quoted in the epigraph to this essay captures both the hope and the complexity of the modern connection between public service and private practice. As he told me toward the end of our interview:

[Public service] helps you develop your business, but it also helps you keep your sense of your own self. A lot of people live internally at the firm - totally. [But] you've got to balance the two. Right now, I'm probably not balancing as much, mine is [too] external. But there's value. An external persona gives you opportunity. If you're locked in the law firm, you're not making contacts. You're not growing. You're not developing - I don't care what they say. Because, ultimately, you also have to go do business with these same contacts.

Experience, visibility, and contacts are essential ingredients to a successful legal career. As long as public service potentially offers these essential goods, it too will be an important part of a plausible long-term strategy for achieving success in private practice. To be sure, lawyers, especially black lawyers, who employ this strategy will face increasing pressure to justify their public service in financial bottom line terms - just as diversity advocates in this arena feel pressure to move from justifications based on the old idea that integrating law firms is "the right thing to do" to the modern claim that "diversity is good for business." And, as Bryant Garth suggests, employing these new economic justifications is likely to have important consequences for both lawyers and firms with respect to the kinds of public service lawyers are willing to undertake and the manner in which law firms regard these efforts. To cite only one example, many critics complain that law reform organizations such as the American Law Institute have become completely captured by lawyers seeking to advance the partisan interests of their clients.

Indeed, to the extent that public service is justified solely, or even primarily, in terms of its connection to private success, one can legitimately ask whether having lawyers assume leadership positions in such activity continues to serve the cause of social justice. As the philosopher Richard Wasserstrom worried almost thirty years ago while reflecting on the fact that so many lawyers were involved in Watergate, professional training and socialization creates the danger that lawyers will import their penchant for instrumentalism and manipulation into everything that they do. To the extent that lawyers treat public service as just another means to build their private careers, they may very well seek out such opportunities for all of the wrong reasons and abuse their positions of trust once they succeed in finding them.

Footnotes:

1. Interview No. 6, at 144 (Nov. 12, 1998). A word about the interviews. Between 1997 and 2002, I conducted 175 in-depth interviews with lawyers in connection with a forthcoming book on the development of the black corporate bar entitled The Black Bar: The Legacy of Brown v. Board of Education and the Future of Race and the American Legal Profession (forthcoming 2005). The interviews were conducted under strict promises of confidentiality. As a result, respondents are identified only by the number they were assigned and the date the interviews were conducted.

n3. Id. at 165-66 (describing "public partners" as those who "bring in business partially because of their public reputations - for example, Thomas E. Dewey").


n6. Greg Winter, Legal Firms Cutting Back on Free Services for Poor, N.Y. Times, Aug. 17, 2000, at A1 (linking the increase in billable hours after 1992 to declines in pro bono work).

n7. Between 1987 and 1998, the percentage of all law graduates who began their career in government declined from 34.9% to 30.1%. See Elizabeth Chambliss, Miles to Go 2000: Progress of Minorities in the Legal Profession 6 tbl.13 (2000). Interestingly, most of this decline is the result of a significant decrease in the number of minorities entering this sector. See id. (noting that the percentage of minority lawyers whose initial employment was in government declined from 22.3% to 17.1% over this period). Nevertheless, minorities remain overrepresented among those who begin their careers in government. See id. (reporting that whites entered government at 12.6% in 1987 and 13.0% in 1990). I return to the fact that blacks remain overrepresented in government employment below. Refer to note 44-46 infra and accompanying text.

n8. For example, Richard O. Lempert, David L. Chambers, and Terry K. Adams report that the percentage of University of Michigan minority graduates entering government declined from 29.7% for the 1970s cohort to 15.8% for the cohort graduating during the 1990s. See Richard O. Lempert et al., Michigan's Minority Graduates in Practice: The River Runs Through Law School, 25 Law & Soc. Inquiry 395, 424 tbl.10 (2000). Similarly, in a study of black Harvard Law School graduates, we found (consistent with the national statistics cited above) a significant difference between the percentage of black graduates from the 1970s who entered government straight out of law school (20%) and the percentage from the 1990s' cohort (8%) who did the same. David B. Wilkins et al., Harvard Law School: Report on the State of Black Alumni 1869-2000, at 34 (2002) (reporting the results of a survey of 656 black Harvard Law School graduates conducted in the summer and fall of 2000).

n9. Marie Beaudette, Return Engagements: As President Bush's First Term Enters the Homestretch, Top Government Lawyers Are Returning to Private Practice in Droves, Legal Times, Oct. 20, 2003 (quoting Bradford Berenson, a former White House Counsel, who has returned to Sidley, Austin, Brown & Wood where he had been a partner before going to government).

n10. Id.

n11. Id. (quoting Avery Ellis of Mestel & Co., which recruits lawyers for large law firms).

n12. See Winter, supra note 6.

n13. See, e.g., Darryl Van Duch, Tough Times: Bar Associations Face Declining Member Rolls: Suburban and Specialized Bar Groups Catering to the Young Pick Up Slack, Nat'l L.J., Jan. 15, 1996, at A1 (noting that "the ABA and [other] large voluntary bar associations are being challenged to show their relevance" and that "many big firm lawyers in big cities no longer see the point of paying for programs and services outside their
specialty”); Richard L. Abel, American Lawyers 290 (1989) [hereinafter Abel, American Lawyers] (reporting that ABA membership dropped from 51% of all lawyers to 46% between 1980 and 1984); Theodore Schneyer, Professionalism as Politics: The Making of a Modern Legal Ethics Code, in Lawyers' Ideals/Lawyers' Practices: Transformations in the American Legal Profession 95, 106 (Robert L. Nelson et al. eds., 1992) (noting that the ABA has never commanded more than 50% participation by American lawyers, but that in recent years a proliferation of specialty bar associations have drained the organization of loyalty and resources).

n14. For a critique of both the declining authority and increasing partisanship of the American Law Institute, see generally Alex Elson, The Case for an In-Depth Study of the American Law Institute, 23 Law & Soc. Inquiry 625 (1998), Monroe H. Freedman, Caveat Lector: Conflicts of Interest of ALI Members in Drafting the Restatements, 26 Hofstra L. Rev. 641 (1998), and Charles W. Wolfram, Bismarck's Sausages and the ALI's Restatements, 26 Hofstra L. Rev. 817 (1998).


n16. See id. at 605 (reporting that among Chicago lawyers, the overall participation rate in volunteer work was 77% in 1975 and 70% in 1995). Significantly, the participation rate for lawyers in law firms with more than two hundred lawyers (66%) was only slightly below that of the bar as a whole. Id. at 608. Although the Chicago lawyers data provides an important cautionary note to the prevailing wisdom about elite lawyers' disengagement with public service, it should be noted that the purpose of that study was to assess lawyers' participation in "voluntary associations" (including, for example, participation in dining and fitness clubs) as opposed to their engagement with the kind of public service (i.e., government employment, bar association activity, and pro bono work) that I am considering here. Having said that, Heinz and his collaborators found that Chicago lawyers' participation in civic organizations had increased from 21% to 25% between 1975 and 1995, and that those who participated in such organizations were actually significantly more likely to hold leadership positions in the latter year than in the former. Id. at 611, 619. As the researchers note, these and other similar findings in their study cast doubt on some of the more hyperbolic claims made in support of the traditional wisdom that lawyers are no longer interested in public service. Id. at 622-36.

n17. See, e.g., Deborah L. Rhode, The Professionalism Problem, 39 Wm. & Mary L. Rev. 283, 297-98, 300 (1998) (noting a reduction in public service among lawyers and that three-quarters of the bar members surveyed believe that lawyers are increasingly money conscious).

n18. See, e.g., Patrick J. Schiltz, On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession, 52 Vand. L. Rev. 871, 903-06 (1999) (asserting that many lawyers are unwilling to reduce working hours for even a minimal reduction in earnings and a large increase in quality of life).

n19. See, e.g., Anthony T. Kronman, The Lost Lawyer: Failing Ideals of the Legal Profession 303-04 (1993) (demonstrating how an increase of 400 billable hours annually, from 1600 to 2000, eliminates time that could be spent with family or with civic organizations).

n20. See William C. Kelly, Jr., Reflections on Lawyer Morale and Public Service in an Age of Diminishing Expectations, in The Law Firm and the Public Good 90, 95-96 (Robert A. Katzmann ed., 1995) (describing the accumulation of day-to-day pressures on both junior and senior lawyers). Kelly then argues that associates and firms nevertheless have important reasons for engaging in pro bono activities, such as visibility to the client and
the broader community, immediacy of the legal work, and boosts to morale. Id. at 98-99. I return to these arguments below.


n22. See generally John S. Dzienkowski, Positional Conflicts of Interest, 71 Tex. L. Rev. 457 (1993) (examining the positional conflicts of interest problem and offering a proposal for resolving it).


n24. See Nadine Strossen, Pro Bono Legal Work: For the Good of Not Only the Public, but Also the Lawyer and the Legal Profession, 91 Mich. L. Rev. 2122, 2141-42 (1993) (noting this danger and urging law schools to resist it by underscoring the value of pro bono work to careers).

n25. Refer to Part III infra (detailing the private benefits of public service).

n26. Heinz and his collaborators make a similar point about participation in voluntary associations:

Whatever changes have occurred in the organizational arrangements of law practice or in the degree of pressure imposed by the bottom line, many of these motivations for participation in community activities will not have changed. Indeed, the pressures ... might conceivably have increased the value to lawyers of such activity - both for the recruitment of potential clients and for the acquisition of contacts that might permit them to achieve their goals more effectively or efficiently.

Heinz et al., supra note 15, at 599.


n28. Refer to notes 30-57 infra and accompanying text (discussing the relevant statistics).


n30. Lempert et al., supra note 8, at 456.

n31. Id.

that in the mid-1970s, approximately twenty-five African-American students were enrolled per class, while other minority students did not begin to enroll until the late 1970s).

n33. See Wilkins et al., supra note 8, at 47.

n34. See Deborah L. Rhode, Access to Justice, 69 Fordham L. Rev. 1785, 1810 (2001). Estimates for lawyers in large law firms, where most of the black Harvard graduates in our sample were employed, are also dismal. According to the Judicial Council of California, lawyers at the nation's one hundred most financially successful law firms spent an average of eight minutes per day (or about 36 hours per year) on pro bono activities. See id. (citing Press Release, Judicial Council of California, Chief Justice Urges More Lawyers to Donate Time to Pro Bono Efforts (Sept. 16, 2000); Aric Press, Eight Minutes, Am. Law., July 2000, at 13, 13).

n35. See Wilkins et al., supra note 8, at 47.

n36. Id.

n37. In 1975, 32% of Chicago lawyers claimed to hold leadership positions, while in 1995 only 17% did. Heinz et al., supra note 15, at 605.


n40. See id.

n41. See, e.g., George Joseph Hylton, The African-American Lawyer, the First Generation: Virginia as a Case Study, 56 U. Pitt. L. Rev. 107, 139-41 (1994) (discussing the extremely low wages paid to black attorneys in the early years and noting that one lawyer even left practice to work at the post office).

n42. See id. at 141-42 (discussing the few jobs found by black lawyers during that period).

n43. See Nat'l Ass'n of Law Placement, Jobs & J.D.'s: Employment and Salaries of New Law School Graduates: Class of 1998, at 49 (1999) [hereinafter NALP Report]. As the NALP data makes clear, blacks also lag behind Asian, Hispanic, and Native American graduates, who enter private practice at rates that are more comparable to the rates for whites than for blacks. See id. (reporting that Asians, Hispanics, and Native Americans enter private practice or the corporate sector at 71.7%, 66.7%, and 66.0%, respectively, and that 70.0% of whites and 56.8% of blacks enter these same areas).

n44. Id. (indicating that 5.1% of total black graduates entered the public interest sector and 21.5% entered the government sector).
n45. Wilkins et al., supra note 8, at 34.

n46. For example, the University of Michigan Law School reports that minority graduates in the 1990s (the majority of whom were black) entered public service at a rate of almost 16%, as compared to 3% for whites. See Lempert et al., supra note 8, at 424.

n47. Wilkins et al., supra note 8, at 34.

n48. Id.

n49. Id. at 34-35.


n51. An additional 3% spent part of their careers in either academics or in public interest organizations.


n53. Id. at 625 tbl.6.

n54. See Wilkins et al., supra note 8, at 40.

n55. Id. (reporting that 29% of black men who began their careers in government or public interest jobs were currently working in private practice, as compared to 20% of women). An additional 3% of men moved from public service to business. No women made this transition. Id.

n56. See id. at 38 fig.4 (illustrating that among those who started in private practice, 10% had moved to government and 5% had moved to public interest or legal services).

n57. Given the lack of comparable data about white Harvard graduates, for example, it is impossible to tell whether the fact that black Harvard lawyers do more public service on average is a function of their race, their elite status, or some combination of the two. Similarly, to my knowledge there is no study of the careers of white corporate lawyers that is comparable to my work on black lawyers in this sector of the bar.

n58. As of 2000, black lawyers comprised 3.5% of the associates - and only 1.3% of the equity partners - in the nation's 250 largest law firms. Arthur S. Hayes, Asians Increase at Big Firms, but Overall Minority Numbers Are Flat in NLJ 250 Survey, Nat'l L.J., Dec. 18, 2000, at A1.
n59. Refer to note 82 infra.


n62. See, e.g., David B. Wilkins, Two Paths to the Mountaintop? The Role of Legal Education in Shaping the Values of Black Corporate Lawyers, 45 Stan. L. Rev. 1981, 1984 (1993) [hereinafter Wilkins, Two Paths] (urging "black corporate lawyers to recognize that they have moral obligations running to the black community that must be balanced against other legitimate professional duties and personal commitments").

n63. Wilkins et al., supra note 8, at 31. Once again, it bears repeating that we do not have similar evidence about the career intentions of white Harvard Law School graduates.

n64. Id.

n65. See Wilkins, Two Paths, supra note 62, at 1984 n.13 (stating that the title of the Harvard Black Law Student Association's career conference in 1993 was aptly titled "Many Paths, One Goal: Reconciling Various Strategies to Our Common Struggle"); see also Wilkins et al., supra note 8, at 50 tbl.26 (reporting that the overwhelming majority of black Harvard graduates strongly agreed with the proposition that black lawyers have an obligation to use their legal skills to further the interests of the black community).

n66. The canonical text on this point is by my colleague Professor Randall Kennedy. See generally Randall L. Kennedy, Racial Critiques of Legal Academia, 102 Harv. L. Rev. 1745 (1989).

n67. See Vickie Schultz, Telling Stories About Women and Work: Judicial Interpretations of Sex Segregation in the Workplace in Title VII Cases Raising the Lack of Interest Argument, 103 Harv. L. Rev. 1749, 1753 (1990) (citing, for example, a 1988 case in which "the judge credited various explanations for women's 'lack of interest' in commission sales, all of which rested on conventional images of women as "feminine' and nurturing, unsuited for the vicious competition in the male-dominated world of commission selling" (citation omitted)). One particularly glaring example of this tendency in the area of race is Justice O'Connor's suggestion in Croson that blacks may be underrepresented in the construction industry because they are uninterested in these high-paying jobs. See City of Richmond v. J.A. Croson Co., 488 U.S. 469, 503 (1989) ("Blacks may be disproportionately attracted to industries other than construction.").
n68. See, e.g., Comm. on Minority Employment, Bar Ass'n of S.F., 1993 Interim Report: Goals and Timetables for Minority Hiring and Advancement 17 [hereinafter S.F. Report] ("There was some sentiment expressed by a few managing partners, although not stated by any minority respondent, that minorities don't like litigation or prefer to work in pro bono offices or other employment where their work is more in sync with what managers perceive to be their personal politics."); 1 Report of the New York State Judicial Commission on Minorities 83 (1991) (suggesting that interviewers assume that blacks are not interested "in private or business practice and prefer to work in government or other public service").

n69. As one respondent who always wanted to be a corporate lawyer put it: "I wanted to be different. I didn't want everyone to think that blacks could only do public interest. And that's not to put that down, it's just we're competent to do whatever the hell we want to do." Interview No. 77, at 15 (Aug. 6, 1997).

n70. Indeed, for some lawyers in my sample, making money and being powerful and successful was their primary motivation for going to law school. One respondent who decided at the age of sixteen that she was going "to be successful and to have power," stated that she went to law school only to "get a degree, get a job, and make a lot of money." Interview No. 87, at 55, 79 (July 15 & 19, 1998).

n71. The following statement is typical: "[You] couldn't grow up in that period without a sense of aspiration to engage in the social engineering that was sort of the description of the leaders of the previous generation. The Houstons and the Marshalls." Interview No. 93, at 21 (Sept. 30, 1998).

n72. "[There were] no professionals in the family ... . My mother was a big fan - I know this sounds terrible! - of Perry Mason, and he was the only lawyer I knew." Interview No. 142, at 4 (Aug. 11, 1999). "I admired him because he was a "champion of the innocent."" Id.

n73. Wilkins et al., supra note 8, at 28.

n74. Id.


n76. See Interview No. 15, at 7 (June 23, 1997) ("There was a lawyer who went to my church from the time I was a little kid, and I remember him. He used to drive a big car, and I thought that was good!"); Interview No. 103, at 10 (Nov. 4, 1998) ("I knew about black lawyers because a black lawyer closed on my parents' house in 1966 and he was fancy!"). As a result, the respondent has always been impressed with "seeing people in, you know, suits. Dressed up." Id.

n77. As one respondent who grew up idolizing Thurgood Marshall stated when asked why he did not become a civil rights lawyer: "I thought that struggle was over. I thought direct civil rights work would no longer be necessary, and that we would be able to emerge as executive vice-presidents of banks and insurance companies." Interview No. 121, at 3 (Oct. 26, 1999). Or as another bluntly said when explaining why he wanted to be like Perry Mason: "The guy wore suits [while my dad was] busting his ass [on a grocery truck]." Interview No. 9, at 5 (July 28, 1997).
n78. Interview No. 143, at 4 (Aug. 11, 1999).

n79. Orlando Patterson makes this point very eloquently in his critique of Andrew Hacker's "two Americas" thesis. See Orlando Patterson, The Ordeal of Integration: Progress and Resentment in America's "Racial" Crisis 85-87 (1997). For an insightful argument that the problems black Americans encounter are best understood as symptoms of pervasive problems that confront all Americans, see generally Lani Guinier & Gerald Torres, The Miner's Canary: Enlisting Race, Resisting Power, Transforming Democracy (2002).

n80. Refer to notes 2-16 supra and accompanying text.


n82. I have written extensively about how changes in large law firms have affected associates' careers in general and the career opportunities of black lawyers in particular. I present only a summary outline here. Those interested in a more extensive examination of these issues should see generally David B. Wilkins, On Being Good and Black, 112 Harv. L. Rev. 1924 (1999) [hereinafter Wilkins, On Being Good and Black] (reviewing Paul M. Barrett, The Good Black: A True Story of Race in America (1999)) (examining the role of the relationship between race and the incentive structure of large law firms in the careers of black lawyers); Wilkins & Gulati, Black Corporate Lawyers, supra note 52 (providing a "preliminary account of how corporate firms recruit and retain lawyers and why these practices may adversely affect the employment prospects of black lawyers"); David B. Wilkins & G. Mitu Gulati, Reconceiving the Tournament of Lawyers: Tracking, Seeding, and Information Control in the Internal Labor Markets of Elite Law Firms, 84 Va. L. Rev. 1581 (1998) [hereinafter Wilkins & Gulati, Reconceiving the Tournament of Lawyers] (criticizing the traditional tournament theory model and proposing an alternative multiround tournament model to analyze the complex aspects of the practices of large law firms).


n84. The flip side of the fact that lawyers in government gain valuable experience more quickly than their counterparts in firms is the crushing caseloads under which many government lawyers are forced to practice. This is one of the reasons, as I discuss below, that large law firms sometimes hesitate before hiring former government lawyers - especially those coming from state and local offices where caseload issues are often especially severe. Whether the combination of quick experience, low supervision, and high caseloads that characterizes many government law offices is optimal for achieving the mission these offices are designed to serve is, to say the least, an important question, but one that is outside the scope of the present inquiry.

n85. See Donald W. Hoagland, Community Service Makes Better Lawyers, in The Law Firm and the Public Good, supra note 20, at 104, 114-16 (listing the ways in which pro bono work can improve lawyers' abilities and law firm performance). Once again, for present purposes I make no comment about the desirability of this state of affairs.
n86. See Edwin L. Noel et al., Community Service as Pro Bono Work, in The Law Firm and the Public Good, supra note 20, at 138, 142 (describing the value of lawyers serving in leadership positions in community organizations).


n88. See Wilkins & Gulati, Black Corporate Lawyers, supra note 52, at 537-42 (arguing that firms informally place associates on different career tracks); Wilkins & Gulati, Reconceiving the Tournament of Lawyers, supra note 82, at 1624-25 (discussing the growing importance of lateral hiring in associates' career decisions).

n89. Wilkins & Gulati, Black Corporate Lawyers, supra note 52, at 569 (citing studies of cross-racial and cross-gender mentoring relationships in the workplace demonstrating that white men feel more comfortable in working relationships with people who are like themselves).


n92. See Abel, American Lawyers, supra note 13, at 168 (describing the revolving door between government and private practice).

n93. See Smigel, supra note 2, at 128-32 (describing the government experiences of Wall Street lawyers both prior to joining and after leaving a private firm).

n94. Interview No. 226 (Apr. 5, 2004).


n99. Jennifer Myers, Recession: A Grim Toll on Firms: As Corporate Work Plunges, Firms Cut Associates and Get Tough on Partner Promotions, Legal Times, Dec. 10, 2001, at 1 (reporting that senior associates without connections or business are more likely to be laid off and face a tough time in the lateral marketplace).

n100. See Mungin v. Katten Muchin & Zavis, 116 F.3d 1549, 1556-57 (D.C. Cir. 1997); see also Barrett, supra note 82, at 119-20 (chronicling the Mungin litigation); Wilkins, On Being Good and Black, supra note 82, at 1935 (reviewing The Good Black).

n101. For example, in a study of associate hiring in 1995, we concluded that 51% of black lawyers hired by New York law firms were graduates of Harvard, Yale, or Columbia - a percentage substantially higher than the percentage of nonblacks from these three schools. Wilkins & Gulati, Black Corporate Lawyers, supra note 52, at 561, 622 tbl.3. A similar pattern emerges when we turn our attention to black partners. In a study of minority partners in majority firms in 1993, fully 47% of all identifiably black partners graduated from either Harvard or Yale - a percentage that is higher than the percentage of graduates of these two schools in all but the most elite law firms. See id. at 625 tbl.6.


n103. See Barrett, supra note 82, at 55 (internal quotation marks omitted). In their classic study of minorities who break through the glass ceiling in large corporations, David Thomas and John Gabarro discovered a similar pattern. See David A. Thomas & John J. Gabarro, Breaking Through: The Making of Minority Executives in Corporate America 106-08 (1999). The fact that so many black partners have spent time in government before reaching the law firm equivalent of the executive suite, as opposed to the typical pattern of starting at a firm and being promoted through the ranks to partnership, suggests that these new entrants also need additional time to prove themselves. Given that most law firms continue to employ some form of "up or out system," however, black lawyers hoping to reach the holy grail of partnership must accumulate the additional credentials they need of the firm. See Wilkins & Gulati, Reconceiving the Tournament of Lawyers, supra note 82, at 1627-34 (describing the surprising persistence of the traditional features of the "promotion partnership tournament" in large law firms).


n105. See Myers, supra note 99 (noting that many Washington, D.C. firms have recently moved to a two-tiered partnership system).

n107. Id.


n109. See Myers, supra note 99.

n110. Refer to note 93 supra.

n111. See Galanter & Palay, supra note 87, at 115.


n114. Refer to notes 73-78 supra and accompanying text.

n115. See Michael C. Dawson, Behind the Mule: Race and Class in African-American Politics 29-34 (1994) (discussing the differences between middle class blacks and whites).

n116. See Beverly Daniel Tatum, "Why Are All the Black Kids Sitting Together in the Cafeteria?": And Other Conversations about Race 75-80 (1997) (providing an interesting examination of the underlying causes of this phenomenon).

n117. Interview No. 26, at 9-10 (June 16, 1997).

n118. My interviews also suggest a third important distinction: whether the position is part time or full time. Given that most of the lawyers in my sample who had part-time government jobs were working on the state or local level, I treat these questions as part of the larger inquiry into federal versus state and local jobs.

n119. Kronman's "lawyer-statesmen," for example, are drawn almost exclusively from this elite level. See Kronman, supra note 19, at 3, 11-12.

n120. See Smigel, supra note 2, at 11 (reviewing the special relationship between Wall Street lawyers and the foreign policy establishment).

n122. See America's Top Black Lawyers, Black Enterprise, Nov. 2003, at 121, 128, 146 (briefly describing Patrick's and Holder's careers).

n123. Twyman, supra note 121, at 128.

n124. See id.; see also Kenneth N. Gillpin, Executive Quits as Turmoil Continues at Coke, N.Y. Times, Apr. 13, 2004, http://www.nytimes.com/2004/04/13/business/13coke.html (reporting that Patrick's resignation was in part the result of a disagreement between Patrick and Coke of his settling a class-action racial discrimination lawsuit filed by black employees).

n125. See Twyman, supra note 121, at 146.

n126. See also Vanessa Blum, An Inside Look at DOJ Lawyer Diversity, Legal Times, Oct. 28, 2003 (describing a recent study reporting that "the relatively high level of diversity among attorneys [at DOJ] declines sharply in the department's senior management ranks, leaving minorities and - to a lesser extent - women underrepresented"), available at http://www.law.com/jsp/article.jsp?id=1067014203039.

n127. Chambliss, supra note 7, at 14; Wilkins, Partners Without Power?, supra note 104, at 35.

n128. See Wilkins, Partners Without Power?, supra note 104, at 35-36.

n129. See id.

n130. See Interview No. 61 (May 10, 1997) (describing how hard black lawyers worked for Washington and how surprised they were that he won). Black lawyers in other cities expressed similar feelings about black politicians running for mayor in their jurisdictions. See Interview No. 153, at 23 (Feb. 28, 2000) (working for Mayor Dinkins "was like a mission" for blacks in New York).


n132. Interview No. 133, at 13 (Oct. 27, 1999). Even among this savvy group, however, many voted with both their hearts and their heads by covertly supporting Washington's campaign even as they pledged their formal allegiance to Byrne. In one particularly graphic story, a well connected black lawyer who formally supported Byrne used his influence with former colleagues in the police department (where he had been a
supervisor before going to law school) to quell a story about a potentially embarrassing incident in Washington's past during the campaign. See Interview No. 54, at 38-39 (July 17, 1997).

n133. Interview No. 15, supra note 76, at 1. I have given this respondent, and the others that follow, fictitious names to preserve confidentiality. All other aspects of their lives and careers are as they were told to me during the interview.

n134. Interview No. 16 (June 12, 1997).

n135. Id.

n136. Id.


n138. Interview No. 16, supra note 134.


n140. As another respondent reported, the Daleys are especially likely to ostracize political opponents, dividing the world up into "[the] Jets and the Sharks." "[You are either] on our team or you're not." Interview No. 72, at 52 (May 16, 1997).

n141. For an extreme example of what I have elsewhere dubbed a "racial comfort strategy," see Barrett, supra note 82, at 133-34 (describing how Lawrence Mungin consistently downplayed race in order to avoid being stereotyped as a "complaining black"). I examine the limitations of this strategy in Wilkins, On Being Good and Black, supra note 82, at 1965-68. It should be noted that Ward never carried this strategy to the lengths that Mungin took it.

n142. Interview No. 16, supra note 134.

n143. Id. Notwithstanding this comment, Ward does not blame his mentor for failing to understand his racial awakening or for not supporting him more as his career started to unravel at the firm. To Ward, it just showed that his mentor could not understand what it meant to be black and could only treat him as an "honorary white." Id. As for the work, Ward simply said: "I'm a partner now and I have to learn to support myself." Id. For an analysis of the manner in which mentors and proteges sometimes mutually agree to deny or suppress racial issues, see generally David A. Thomas, Racial Dynamics in Cross-Race Developmental Relationships, 38 Admin. Sci. Q. 169 (1993).

n144. Although Ward's failure to bring this work into his law firm highlights the danger of the local politics strategy, the fact that he had it at all is a testament to the importance of public service. Much of Ward's business
came to him through the Community Reinvestment Act (CRA), a program to encourage banks to invest in
minority neighborhoods. See David Rohde, Banks Discover the South Bronx: Forced to Open, Branches Profit
and Refute Stereotype, N.Y. Times, Apr. 16, 1997, at B1. Most of the CRA work Ward brought to the firm came
through a senior loan officer at a major bank who Ward met in a civic leadership group called Leadership
Chicago. This work, along with the city work described above, continues to form the backbone of Ward's
practice as a solo practitioner.

n145. See Susan P. Shapiro, Tangled Loyalties: Conflict of Interest in Legal Practice 362 (2002).

n146. A few black lawyers were able to make the transition to the Daley administration. Once again, it is a
testament to how far we have come - and to the shifting demographics of the American electorate - that even a
small number of black lawyers can now be counted among this elite number.

n147. Interview No. 65, at 39 (May 24, 1997).

n148. See, e.g., U.S. Equal Employment Opportunity Comm'n, Diversity in Law Firms 16-17, 21 (2003),
http://www.eeoc.gov/stats/reports/diversitylaw/lawfirms.pdf (discussing the disproportionate concentration of
minority lawyers in firms with over five hundred lawyers).

n149. See Galanter & Palay, supra note 87, at 43-44.

n150. See id. at 40-44, 51-52 (discussing the increasing occurrence of the corporate defendant); Stewart
(discussing the tendency of corporations in the 1960s to settle their disputes without resorting to the courts).


n153. See Elizabeth Chambliss, Organizational Determinants of Law Firm Integration, 46 Am. U. L. Rev.
669, 709 tbl.8, 723 (1997) (finding that litigation constituted 30% of work in a sample of firms); Wilkins &
Gulati, Black Corporate Lawyers, supra note 52, at 577 n.309 (examining the practices of four law firms and
finding that in only one - Paul Weiss, a firm known primarily for its litigation practice - did litigators constitute
over 40% of all lawyers with the others averaging 32%).

n154. See Myers, supra note 99 (describing how the drop in transactional work during this recession
dramatically cut profits and produced widespread layoffs).

n155. See Robert L. Nelson, Partners with Power: The Social Transformation of the Large Law Firm 153-
55 (1988) (discussing and giving reasons for the finding that nearly one-third of litigation associates leave firms
before achieving partner status).

n156. See Wilkins & Gulati, Black Corporate Lawyers, supra note 52, at 577.
n157. Id. at 618 tbl.1.

n158. See John P. Heinz & Edward O. Laumann, Chicago Lawyers: The Social Structure of the Bar 158-60 (1982) (finding that nonwhites who attend less prestigious law schools are less likely to practice in a wealth-oriented field such as corporate and financial law).

n159. See id. at 331-32 (discussing the concentration of religious and ethnic minorities in litigation).

n160. As one respondent who now runs her own business stated in explaining why she was initially drawn to litigation:

And litigation was what I felt [comfortable with], and probably a lot of other people ... in law school ... felt comfortable with. That was something, I got it, litigation, I can handle that. I did well in anything related to that, to litigation, in school. I handled it, I did well with that. And that's where I thought I wanted to be. I want to be a trial lawyer. So that's what I did, for about three or four years.

Interview No. 61, supra note 130, at 36-37.

n161. Interview No. 92, at 4 (May 19, 1997).

n162. Id. at 24 ("White collar cases are that office's bread and butter. It's what made the people that came out of that office. So the fact that there ... were never any women or minority lead lawyers on those cases was a problem."). As Dawson goes to on to say with exasperation, "It should bug the hell out of the U.S. Attorney that he doesn't have any white collar cases headed by a minority - but it doesn't." Id. at 49. This is an example of the power of stereotypes to determine what seems "unusual" and therefore in need of explanation or justification. See Glenn C. Loury, The Anatomy of Racial Inequality 23-29 (2002) (explaining the theory and logic of "self-confirming racial stereotypes").

n163. Interview No. 92, supra note 161, at 30.

n164. Id. at 33.

n165. Id. at 64.

n166. Id. at 60.

n167. Id. at 62.

n168. Id. at 47.

n169. Smigel, supra note 2, at 10 (internal quotation marks omitted).
n170. See Heinz et al., supra note 15, at 599 (noting that community participation can bring lawyers "into contact with potential clients or with officeholders who are in the position to advance their interests").

n171. Professor Smigel, for example, reports that a large number of Wall Street lawyers have chaired the boards of cultural organizations such as the New York Metropolitan Museum of Art, the Metropolitan Opera, and the New York Public Library. See Smigel, supra note 2, at 10-11.

n172. See id. (discussing the influence Wall Street lawyers exert over society through their service on charitable and cultural volunteer boards).

n173. Interview No. 53, at 3 (June 3, 1997).

n174. Id. at 19.

n175. In a pattern typical of the first wave of black lawyers to integrate elite firms in the 1970s, McGovern was one of five black associates hired by five separate law firms that same year, all of whom were the first to integrate their respective workplaces. Apparently, no one firm wanted to risk going it alone.

n176. As he told me with obvious pride, he was one of only a handful of lawyers in his firm's one hundred year history who had made it to the promised land in less than six years.

n177. Id. at 28.

n178. Id. at 33.

n179. Id. at 30.

n180. Id.

n181. Id.

n182. Id. at 43-44.

n183. Interview No. 18, at 11-12 (July 9, 1997).

n184. Id. at 12.

n185. Interview No. 143, supra note 78, at 17.
n186. Id. at 11.

n187. Id.

n188. Interview No. 16, supra note 134, at 54.

n189. Interview No. 133, supra note 132, at 125.

n190. Id. at 24.

n191. Id.

n192. Id. A black lawyer who left a large law firm to take a job as the election commissioner tells a similar story about a friend from high school who was a community organizer and led demonstrations to support her when she was under attack in the press. Interview No. 72, supra note 140, at 49.

n193. See Clinton's Mr. Inside, Vanity Fair, Mar. 1993, at 172, 209-10 (describing Mr. Jordan's career).

n194. See id. at 174, 208-09.


n196. Id.

n197. Id.; Clinton's Mr. Inside, supra note 193, at 209-10.

n198. Lin, supra note 195, at 1.

n199. Refer to Part IV.A.1 supra.

n200. Interview No. 93, supra note 71, at 39.


n202. Id. at 38.
n203. Others were simply happy to get a paycheck.

n204. Interview No. 165, supra note 201.

n205. Beginning in the mid-1990s, the political go-between strategy adopted by Dennis and many other black lawyers became even riskier. In a series of regulations and professional rules, the SEC and other regulatory bodies (including the ABA) began to crack down on the "pay-to-play" system by severely restricting the ability of investment bankers and lawyers to make campaign contributions to local political officials. See Jon B. Jordan, The Regulation of "Pay-to-Play" and the Influence of Political Contributions in the Municipal Securities Industry, 1999 Colum. Bus. L. Rev. 489, 502-10, 566-77 (describing the SEC's rule and the attempt by the ABA to adopt a similar prohibition); John Council, ABA Takes Aim at Pay-to-Play, UPL Critics Say Ban on Campaign Giving Hinders Free Speech, Nat'l L.J., Feb. 28, 2000, at A5 (describing the ABA's adoption of an amendment to ABA Model Rule 7.6 outlawing pay-to-play). Several respondents told me that these rule changes have severely undermined the ability of small minority firms such as Dennis's to compete for municipal bond business. See Benjamin Weiser, In the Minority, and Mad; Black-Owned Investment Firms Say SEC's "Pay to Play" Curbs Are Unfair, Wash. Post, Jan. 29, 1995, at H1 (reporting similar criticisms of the SEC's crackdown leveled by black-owned investment banking firms).

n206. Abel, American Lawyers, supra note 13, at 45 (chronicling the history of the organized bar).

n207. Id. at 44-45.

n208. Id. at 45; J. Clay Smith, Jr., Emancipation: The Making of the Black Lawyer 1844-1944, at 541 (1993).

n209. See Smith, supra note 208, at 541.

n210. Id. at 541-42. The other two were not slouches either. Butler Roland Wilson was a graduate of Boston University Law School and a respected practitioner in Boston, and William R. Morris was one of the first black lawyers admitted to practice in Minnesota. Id.

n211. Id. at 542.

n212. Id.

n213. Although Wickersham's actions in the Lewis case were commendable, his conduct elsewhere reveals that he was not above the nativist prejudice that dominated the elite bar. In the early 1920s, Wickersham led the fight for higher admissions standards for the bar by warning of a "pestiferous horde" of lawyers whose English "is of the most imperfect character" and whose foreign background renders them "without ... the faintest comprehension of the nature of our institutions, or their history and development." Jerold S. Auerbach, Unequal Justice: Lawyers and Social Change in Modern America 121 (1976).
n214. Smith, supra note 208, at 543.

n215. Id. at 556.

n216. Abel, American Lawyers, supra note 13, at 108.

n217. Smith, supra note 208, at 543-45 (disclosing, for example, the Dallas Bar Association's opposition to the ABA's admission of blacks in 1943).

n218. See Abel, American Lawyers, supra note 13, at 108 (reporting statistics indicating that even after the ABA's color bar was lifted, black lawyers disproportionately joined black bar associations in sufficient numbers to "evidence ... the racial disunity of the profession"); Auerbach, supra note 213, at 216 (noting that an attorney in Atlanta "reported the futility of trying to enroll Georgians in the association if additional blacks were admitted").


n220. Refer to Part IV.C.2 infra.


n222. Id.


n224. See Deslongchamps, supra note 219.

n225. Id.

n226. Id.

n227. See, e.g., Smith, supra note 208, at 545 (recounting that during the 1940s the Dallas Bar opposed black membership on the ground that admitting blacks was an affront to the dignity of the bar).

n228. American Bar Association, Association Goals, at http://www.abanet.org/about/goals.html (last visited Jan. 9, 2004) ("Goal IX. To promote full and equal participation in the legal profession by minorities, women and persons with disabilities.").


n231. See Minority Program Report, supra note 229.

n232. Id.

n233. Id.

n234. Id.

n235. These demands were sometimes quite forcefully made. For example, one lawyer I interviewed confronted Dennis Archer in an ABA meeting with over three hundred lawyers present and flatly stated that if he wasn't allowed into the program he would sue! Interview No. 54, supra note 132, at 50.

n236. Minority Program Report, supra note 229.

n237. See S.F. Report, supra note 68, at 5-6 (describing a similar program in California).

n238. Interview No. 54, supra note 132, at 50-52.

n239. See Minority Program Report, supra note 229, at 15 (reporting that fifteen large firms participating in the program experienced a 50% increase in the number of minority associates and a 57% increase in the number of minority partners during the first three years of the program).


n242. See S.F. Report, supra note 68, at 1.

n243. Id.

n245. See S.F. Report, supra note 68, at 8 (reporting increases in San Francisco); Adams, supra note 244 (reporting increases in New York).

n246. See Adams, supra note 244 (reporting changes in percentages of minority associates at firms, indicating a slowing of the increase in minority associates on staff at the twenty-five largest firms in New York City).


n248. Interview No. 50 (June 12, 1997).

n249. Id. at 19.

n250. Id. at 30.

n251. Id.

n252. Id.

n253. Id. at 45-46.

n254. Id. at 29.

n255. Id. at 50.

n256. Id. at 57.

n257. Id. at 7.

n258. Id. at 57.

n259. Id. at 51.
n260. Id. at 57.

n261. Id.

n262. Id.

n263. Id. at 47-49.

n264. Id. at 31.

n265. Id. at 40.

n266. Id.

n267. Id.


n269. Id.

n270. Interview No. 40, at 48 (July 28, 1997).

n271. Interview No. 115, at 29 (Nov. 11, 1999).


n274. Interview No. 60, at 24 (May 18, 1997).

n275. In keeping with the move from "civil rights" to "affirmative action" to "diversity," several of the new bar organizations were careful to indicate, often through their names, that they were interested in the concerns of all minority lawyers in corporate firms. Without questioning the sincerity of this concern, in my experience, these new organizations were started almost exclusively by black lawyers and remain dominated by Marshall's and Houston's decedents to this day.
n276. Interview No. 60, supra note 274.


n278. Id. at 12.

n279. Id.

n280. Id.

n281. The NBA's program actually preceded the ABA's decision to open its program to allcomers, although not to the Demonstration Project itself.

n282. As one black partner in a mid-sized firm acknowledged, he didn't start going to NBA meetings until it launched its corporate initiative, but has since snagged three major clients from the program and has become a loyal member. Interview No. 71, at 81-83 (June 24, 1998).

n283. See Interview No. 64, at 23-24 (May 16, 1997).

n284. Interview No. 6, supra note 1, at 51-52.

n285. Id.

n286. Id. at 77.

n287. Id.

n288. Id. at 142.

n289. Id.

n290. Id. at 144.

n291. Id.

n292. Id. at 145.
n293. Interview No. 101, at 64 (Dec. 11, 1998).

n294. Interview No. 60, supra note 274, at 27.


n296. See Robert L. Haig & Anthony P. Cassino, Pro Bono: A Proud Tradition, N.Y. St. B.J., May/June 1997, at 38 (discussing various definitions of "pro bono").

n297. See id. (noting that the New York State Bar Association does not include community board membership in its definition of "pro bono").


n299. Id. R. 6.1(b).

n300. Id. R. 6.1 cmt. 1.

n301. Refer to Part IV.B supra.


n305. Id. at 1478 (quoting Brandeis); see also Phillipa Strum, The Legacy of Louis Dembitz Brandeis, People's Attorney, 81 Am. Jewish Hist. 406 (1994) (recounting the legal career of Louis Brandeis).

n306. Spillenger, supra note 304, at 1480-82.


n308. Id.
n309. Interview No. 34, at 27 (June 9, 1997).

n310. Interview No. 38, at 64 (June 26, 1997).

n311. Interview No. 167, at 47 (May 2-3, 2000).

n312. Interview No. 166 (May 1, 2000).

n313. Id. at 4.

n314. Id. at 7.

n315. Interview No. 57, at 16 (May 13, 1997).

n316. Id.

n317. Id. at 20.

n318. Id. at 18.

n319. Id.

n320. Id.

n321. Id. at 19.

n322. Id.

n323. Id.

n324. Interview No. 128, at 22 (Nov. 9, 1999).

n325. See Model Rules of Prof'l Conduct R. 1.7 annot. (2003) (describing positional conflicts as a problem that "can arise when a lawyer's advocacy of a client's legal position in one case could be detrimental to the interests of a second client in another case"). Although the Model Rules do not expressly prohibit conflicts of this kind, lawyers nevertheless often feel pressure to avoid taking any position that might offend the interests of one of the firm's major clients.
n326. For example, one associate was "afraid that people in the firm would tell me that I couldn't write in a particular area, for fear I would take a position that was contrary to what their clients were taking." Interview No. 38, at 55 (June 26, 1997). It was only after he confided his fears to a partner with whom he had become close that he discovered his concern over the firm's reaction to what he might write was exaggerated. Given that many black lawyers do not have partners whom they would trust in such circumstances, it is likely that many would simply abandon what they perceived to be a controversial project without ever discovering that the partners would be more supportive than they imagined.


n328. Refer to text accompanying notes 315-23 supra (relating Grant's experience).

n329. Interview No. 160, at 17 (Feb. 7, 2002).

n330. Id. at 26.

n331. Interview No. 88 (Oct. 15, 1998).

n332. Id. at 36-37.

n333. Id. at 43.

n334. Id.

n335. Id. at 41.

n336. Id.

n337. Refer to note 98 supra.


n340. Interview No. 109, supra note 240, at 47.

n342. A "bake-off" is a series of presentations from prospective service providers affording the prospective client an opportunity to interview them and choose one. See Fred A. Little, Preparation of the Registration Statement, in Securities Law for Nonsecurities Lawyers 119, 122 (ALI-ABA Course of Study, Aug. 14, 1997) (referring to the bake-off as a "beauty contest" and describing its role in the selection of financial underwriters).

n343. See David B. Wilkins, Who Should Regulate Lawyers?, 105 Harv. L. Rev. 799, 802-04 (1992) (describing and critiquing the legal profession's traditional claim that it should be free from external regulation).


n347. Id. at 486-88 (chronicling inside counsel's raise from "second class citizenship" and the "tutelage of outside firms").

n348. Id. at 486.

n349. Id.


n351. See, e.g., Roundtable Discussion on Volunteerism, Hous. Law., Nov-Dec. 2002, at 10, 19 (quoting an associate general counsel from J.P. Morgan Chase who explains that her company looks at prospective law firms' civic participation and commitment to diversity before making hiring decisions).

n352. See Memorandum from the Associates at Clifford Chance Rogers & Wells, to the Firm's Leadership (Oct. 15, 2002) (on file with Author). For fallout from the memo, see generally Brenda Sandburg, Clifford Works on Repairing Image, Recorder, Oct. 29, 2002 (noting that the large billable hours requirement had the effect of reducing or eliminating associates' opportunities to do pro bono work).

n353. See Marc Galanter, "Old and in the Way": The Coming Demographic Transformation of the Legal Profession and Its Implications for the Provision of Legal Services, 1999 Wis. L. Rev. 1081, 1101 (noting that lawyers over fifty are at risk for becoming "involuntary retirees").
n354. See id.


n356. Indeed, the EEOC recently filed a charge against Sidley, Austin, Brown & Wood, charging that the lay off or demotion of some thirty partners - a majority of whom happened to be older than fifty - constituted illegal age discrimination. See EEOC v. Sidley, Austin, Brown & Wood, 315 F.3d 696, 698 (7th Cir. 2003); see also Nathan Koppel, Sidley Austin Faces the Fire: Demotion of 32 Partners Has Spurred a Potentially Wide-Ranging Employment Case, Legal Times, Jan. 6, 2003.


n358. Id.

n359. In 1976 to 1977, black law students accounted for 4.9% of law students. Chambliss, supra note 7, at 3 tbl.4. In 1997 to 1998, black law students accounted for 7.3%, which was approximately the same percentage (7.2%) as in 1993 to 1994. Id.


n361. For example, a recent study of the diversity history of eighteen Los Angeles area law offices concluded that the percentage of black associates in these firms declined from 2.7% to 1.6% with respect to associates and 3.4% to 2.5% with respect to partners between 2000 and 2003. See Managing Partners Diversity Roundtable, Program and Materials (Sept. 12, 2003) (unpublished manuscript on file with author); see also generally Benjamin Temchine, Diversity Adversity: Economy Impacts Firm's Diversity Efforts, The Recorder, June 23, 2003 (reporting how several California firms lost ground on diversity during the downsizing that accompanied the recent recession), available at http://www.law.com/jsp/article.jsp?id=1055463677749.

n362. See Monica A. Giggins & David A. Thomas, Mentoring, Mobility, and Organizational Attachment in the Careers of Lawyers: A Longitudinal Study (1997) (unpublished manuscript on file with author) (finding that the structure and content of an individual lawyer's portfolio of relationships affect both early-career intentions to remain at a firm and occupational mobility).


n365. See generally Wilkins, Partners Without Power?, supra note 104.

n366. See Galanter & Palay, supra note 87, at 93-98.

n367. Thomas and Gabarro describe this process with respect to minority executives who break through glass ceiling in corporate America. See generally Thomas & Gabarro, supra note 103.


n369. As I have noted before, black corporate lawyers are like birds sitting on the end of a branch blowing in a storm. Although the winds of change have increased the risks for all corporate lawyers, the marginal position of most black associates and partners makes them especially likely to fall off. See Wilkins, On Being Good and Black, supra note 82, at 1972-73.

n370. See David Thomas & Monica Higgins, Mentoring and the Boundaryless Career: Lessons from the Minority Experience, in The Boundaryless Career, supra note 368, at 268, 268-81 (describing similar advantages for minority executives).


n373. It is significant to note, for example, that one of the principle arguments advanced by the sixty-five corporations who filed a brief supporting affirmative action in the Supreme Court case involving the University of Michigan (Grutter v. Bollinger, 123 S. Ct. 2325 (2003), and Gratz v. Bollinger, 123 S. Ct. 2411 (2003)) was that corporations need to develop a diverse managerial corps to supervise the growing number of minority workers. See David B. Wilkins, From "Separate Is Inherently Unequal" to "Diversity is Good for Business": The Rise of Market-Based Diversity Arguments and the Fate of the Black Corporate Bar, 117 Harv. L. Rev. 1548, 1583-86 (2004) [hereinafter Wilkins, Market-Based Diversity Arguments] (discussing these "managerial" arguments for why diversity is good for business).

n374. Refer to text accompanying note 1 supra.

n375. Interview No. 6, supra note 1, at 148.

n376. I explore this shift in detail in Wilkins, Market-Based Diversity Arguments, supra note 373.

n377. Refer to note 14 supra.
n378. Richard Wasserstrom, Lawyers as Professionals: Some Moral Issues, 5 Hum. Rts. 1, 1-3, 11-15 (1975) (arguing that even if the lawyers in Watergate were not, strictly speaking, functioning as lawyers, "it was natural, if not unavoidable, that they would continue to play that role even when they were somewhat removed from the specific institutional milieu in which that way of thinking and acting is arguably fitting and appropriate").

n379. Indeed, some may even seek to acquire private power and wealth for the purpose of translating it into public power and control over a community or its agenda. The rash of millionaires running for public office in recent years suggests that this is a very real danger. See, e.g., Profile: Michael Bloomberg, BBC News, at http://news.bbc.co.uk/1/hi/world/americas/1640778.stm (Jan. 1, 2002) (noting that Michael Bloomberg spent forty-one million dollars of his own money on his New York City mayoral campaign, which was more money than all of the other candidates combined).