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## ARTICLE

# RETHINKING CULTURE: ORGANIZED PRO BONO AND THE EXTERNAL SOURCES OF LAW FIRM CULTURE

STEVEN A. BOUTCHER\*

### I. INTRODUCTION

Over the past few decades, the practice of *pro bono publico*<sup>1</sup> has undergone widespread changes across the American legal profession. Indeed, the profession has seemingly responded to the longstanding critique that American lawyers too often ignore their professional responsibility to provide the poor and other marginalized groups equal access to justice.<sup>2</sup> The current wave of organized pro bono is arguably concentrated within the elite bar, emanating from elite law schools and large law firms.<sup>3</sup> While organized pro bono appears to be centrally located in the context of large firms, solo and small firm lawyers also do a significant amount of pro bono

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1. Literally translated from Latin, “pro bono publico” means “for the public good.” Although this term denotes a broader set of activities that are in the public interest, the American Bar Association, under Model Rule 6.1, defines pro bono as free or reduced legal services to the poor and other marginalized groups and individuals. MODEL RULES OF PROF’L CONDUCT R. 6.1 (2010), available at [http://www.americanbar.org/groups/professional\\_responsibility/publications/model\\_rules\\_of\\_professional\\_conduct/rule\\_6\\_1\\_voluntary\\_pro\\_bono\\_publico\\_service.html](http://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_6_1_voluntary_pro_bono_publico_service.html). For the remainder of this essay, I use the common shorthand of “pro bono.”

2. See, e.g., DEBORAH L. RHODE, ACCESS TO JUSTICE 19–23 (2004) (laying out ways the legal profession can change to achieve equal justice for those who cannot afford legal services); SOL M. LINOWITZ & MARTIN MAYER, THE BETRAYED PROFESSION: LAWYERING AT THE END OF THE TWENTIETH CENTURY 145, 152–56, 202–06 (1994) (describing the achievements of bar organizations, lawyers, and firms in pro bono work and encouraging more efforts).

3. See Scott L. Cummings, *The Politics of Pro Bono*, 52 UCLA L. REV. 1, 33 (2004); Steven A. Boutcher, *The Institutionalization of Pro Bono in Large Law Firms: Trends and Variation Across the AmLaw 200*, in PRIVATE LAWYERS AND THE PUBLIC INTEREST: THE EVOLVING ROLE OF PRO BONO IN THE LEGAL PROFESSION 135, 137–40 (Robert Granfield & Lynn Mather eds., 2009); Robert Granfield, *Institutionalizing Public Service in Law School*, 54 BUFF. L. REV. 1355, 1396 (2007).

work, although much of this work occurs under the radar or is simply not counted.<sup>4</sup>

In this article, I focus on the organization of pro bono practice across large law firms through the lens of law firm culture. Specifically, I ask what role law firm culture plays in the current wave of organized pro bono. What constitutes law firm culture and where does it come from? Is law firm culture purely an isolated system that operates within the discrete boundaries of each individual firm? Alternatively, is a firm's culture tied to factors external to any particular firm structure? Too often, scholars attribute organizational culture to a variety of factors found within the discrete boundaries of an individual organization. Drawing from neo-institutional theory in sociology, however, I argue that much of what shapes the activities of law firms is derived from external forces, and is not solely explained by internal cultures.<sup>5</sup> To address these issues, I draw on a variety of literature, including organizational behavior, sociology, and legal scholarship. These sources assist in understanding what defines law firm culture, how it is formed and sustained, and how culture structures show actors within, and across, organizations come to understand their activities. Additionally, I focus on defining a set of mechanisms that have led to the recent shift in pro bono practices in large firms.

American lawyers have historically been exhorted to provide free assistance to those who could not afford legal services.<sup>6</sup> In turn, pro bono legal services were delivered idiosyncratically, dependent upon the altruistic behavior of individual lawyers. Indeed, for many lawyers working in large firms, providing pro bono assistance often required devoting their time outside of billable work and away from the firm. Nevertheless, exceptionally committed individuals managed to find the time and the opportunities to pursue pro bono on their own.

Over the past two decades, however, the organization of pro bono has undergone dramatic changes in large firms. Pro bono programs have emerged across many large firms, becoming full-fledged, organized depart-

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4. See, e.g., CARROLL SERON, *THE BUSINESS OF PRACTICING LAW: THE WORK LIVES OF SOLO AND SMALL-FIRM ATTORNEYS* 130–31 (1996); Leslie C. Levin, *Pro Bono and Low Bono in the Solo and Small Law Firm Context*, in *PRIVATE LAWYERS AND THE PUBLIC INTEREST: THE EVOLVING ROLE OF PRO BONO IN THE LEGAL PROFESSION* 155, 155 (Robert Granfield & Lynn Mather eds., 2009). See generally Phillip R. Lochner, *The No Fee and Low Fee Legal Practice of Private Attorneys*, 9 *LAW & SOC'Y R.* 431 (1975) (presenting a study of private attorneys charging lesser fees than they would normally charge and explaining how clients find the attorneys, the motivation behind the work, and the quality and type of work).

5. See, e.g., John W. Meyer & Brian Rowan, *Institutionalized Organizations: Formal Structure as Myth and Ceremony*, 83 *AM. J. OF SOC.* 340, 343 (1977) (arguing that the formal structure of organizations is based partly on external sources, such as public opinion, laws, and prestige); *THE NEW INSTITUTIONALISM IN ORGANIZATIONAL ANALYSIS* 11–15 (Walter W. Powell & Paul J. DiMaggio eds., 1991) (describing the difference between neo-institutionalism and the sociological tradition).

6. See RHODE, *supra* note 2, at 50–53.

ments, which are increasingly headed by a pro bono coordinator or manager. For instance, in one survey, the *Pro Bono Institute* found that a manager oversaw the pro bono program in ninety-six percent of the firms it surveyed.<sup>7</sup> In a more recent study of pro bono programs, Scott Cummings and Deborah Rhode found that among seventy-eight firms, there were a total of ninety-one pro bono coordinator positions (representing a total of sixty-one percent of the total firms surveyed).<sup>8</sup>

The emergence of organized programs and coordinators has significantly affected the pro bono services that firms are able to offer. The pro bono coordinator organizes the daily operation of the firm's pro bono program, which streamlines and routinizes the relationship between the firm, its pro bono lawyers, and their client organizations.<sup>9</sup> Recent research also shows that firms with coordinators have higher participation rates in terms of the total hours committed to pro bono.<sup>10</sup>

The organization of pro bono in large firms parallels a growth in professional organizations devoted to pro bono. For example, the *American Bar Association's* (ABA) *Center for Pro Bono*, the *Pro Bono Institute* (PBI), *Probono.net*, and the *National Association for Legal Career Professionals* (NALP) all monitor pro bono participation at large firms.<sup>11</sup> Additionally, nonprofit organizations and bar associations routinely recognize and give awards to law firms and individual lawyers for their pro bono service. Moreover, both the legal and popular press regularly report on the pro bono work of large firms. For instance, *American Lawyer* annually ranks the *AmLaw 200* firms on their pro bono participation and publishes a pro bono issue focusing on some of the cases that firms have undertaken.

All of these developments appear to mark the rise of a pro bono movement that spans large firms, law schools, professional groups, bar associations, and nonprofit client organizations, leading some observers to claim

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7. PRO BONO INSTITUTE, 2007 LAW FIRM PRO BONO STAFFING AND SALARY SURVEY 4 (2007).

8. Scott L. Cummings & Deborah L. Rhode, *Managing Pro Bono: Doing Well by Doing Better*, 78 *FORDHAM L. REV.* 2357, 2373 n.77 (2010). The percentage may be lower than in the Pro Bono Institute survey due to the inclusion of a larger number of firms.

9. *Id.* at 2420–21.

10. See, e.g., Steven A. Boutcher, *From Policy to Practice: Assessing the Effect of Large Law Firm Pro Bono Structure on Pro Bono Commitment*, 52 *STUD. L. POL. & SOC'Y* 145, 155 (2010) (arguing that “law firms that have a pro bono coordinator (either full or part time) commit more time to pro bono compared to firms that have no coordinator (48.1 hours compared to 32.1 hours)”).

11. Standing Comm. on Pro Bono & Pub. Serv. and the Ctr. for Pro Bono, *Mission*, AMERICAN BAR ASSOCIATION, [http://www.americanbar.org/groups/probono\\_public\\_service/about\\_us.html](http://www.americanbar.org/groups/probono_public_service/about_us.html) (last visited Apr. 7, 2011); *Mission*, PRO BONO INSTITUTE, <http://www.probonoinst.org/about-us/mission.html> (last visited Apr. 7, 2011); *Mission*, PROBONO.NET, <http://www.probono.net/about/item.Mission> (last visited Apr. 7, 2011); *Mission*, THE ASSOCIATION FOR LEGAL CAREER PROFESSIONALS, <http://www.nalp.org/mission> (last visited Apr. 7, 2011).

that we are currently in an era of institutionalized pro bono.<sup>12</sup> In noting this dramatic shift, Scott Cummings observes,

Whereas pro bono had traditionally been provided informally—frequently by solo and small-firm practitioners who conferred free services as a matter of individual largesse—by the end of the 1990s pro bono was regimented and organized, distributed through a network of structures designed to facilitate the mass provision of free services by law firm volunteers acting out of professional duty.<sup>13</sup>

The shift from individualized and altruistic service to organized, bureaucratic departmentalization raises questions about the role of law firm culture in creating and sustaining the current pro bono wave. Often, pro bono is discussed in relation to a firm's particular culture. I argue that it is shortsighted to think about a law firm's pro bono behavior as completely contained within boundaries of a particular firm. To do so ignores the broader, external forces that shape law firm behavior. Moreover, thinking about pro bono cultures as distinctive firm cultures under-socializes the firm relative to its peers. Firms are competitive actors that move in tandem with their peers, often emulating aspects of other firms.<sup>14</sup> Finally, the emergence of pro bono programs and coordinators occurring simultaneously across a large segment of the bar raises questions about the applicability of law firm culture as an explanatory variable for understanding the diffusion of a widespread practice.

In this article, I attempt to address some of these questions through in-depth interviews from a sample of pro bono coordinators across the United States. The discussion below builds off of a larger study where I examined the rise of organized pro bono across the largest firms in the United States—the field commonly referred to as the *American Lawyer* (AmLaw) firms.<sup>15</sup> In that project, I examined both quantitative and qualitative data in order to understand the causes and consequences of institutionalized pro bono. In my interviews, I focused on the processes and mechanisms that led firms to organize their programs and how they compared their pro bono programs to peer firms. The data used for this article constitutes only a small fraction of the interview data I collected in the larger project.<sup>16</sup> My

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12. Cummings, *supra* note 3, at 41; Boutcher, *supra* note 3, at 138–40.

13. Cummings, *supra* note 3, at 4.

14. An example of this can be seen with the salary wars between large firms in the late 1960s when firms competed for associates by raising their salaries in an attempt to attract the best talent. See MARC GALANTER & THOMAS PALAY, *TOURNAMENT OF LAWYERS: THE TRANSFORMATION OF THE BIG LAW FIRM* 24 (1991).

15. See Steven A. Boutcher, *The Institutionalization of Pro Bono Publico in Large Law Firms: An Analysis of the Causes and Consequences of Large Firm Pro Bono Programs* (2010) (unpublished Ph.D. dissertation, Dep't of Sociology, Univ. of Cal. Irvine) (on file with author).

16. *Id.*

purpose in this article is to highlight several mechanisms driving the organization of pro bono in large firms.

The remaining sections of this article are organized as follows: First, I discuss some of the literature on organizational culture and how it relates to a discussion of law firm culture. Although the concept of law firm culture is often ambiguous and unclear, I focus on how current scholarship in law and organizational behavior has tried to define the concept. I then briefly discuss my methodological approach in interviewing pro bono coordinators for this study. Following my discussion of the research strategy, I illustrate several mechanisms that help explain the rise of organized pro bono. While far from exhaustive, the mechanisms I illuminate demonstrate the importance of external pressures for driving law firm behavior. Finally, I conclude with a discussion about the role of culture in understanding organized pro bono specifically and law firm behavior more generally.

## II. WHAT IS LAW FIRM CULTURE?

### A. *Defining Law Firm Culture*

The concept of *law firm culture* is everywhere, yet it often escapes clear definition. In part, this is due to the varied ways that scholars employ the term and the loose conceptualizations that exist in the literature. Often, it is very unclear what firm culture consists of, which leads some scholars to raise the question, “What is not culture?”<sup>17</sup> Indeed, the concept of law firm culture is so ambiguous that it is in danger of soaking up anything of analytic utility for scholars studying legal practice in firms.

Most literature on law firm culture typically originates from one of two disciplinary homes—legal academics on one side, and social science and management studies on the other.<sup>18</sup> For instance, Elizabeth Chambliss describes legal scholars as “insiders” who typically view large firms in a negative light, and the social scientists and management scholars as “outsiders” who focus more systematically on organizational culture but without a narrow, substantive focus on law firms.<sup>19</sup> Notwithstanding the various disciplinary origins, the concept of law firm culture has been applied in very different ways. For instance, in an article about female advancement in large firms, Catherine Alman MacDonagh and Marcie Borgal Shunk report that a recent survey of female attorneys found that

[m]ore than 40% of female lawyers suggest that various organizational and institutional barriers inhibit their ability to be successful at sales. Research, however, reveals that firm culture as a

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17. See, e.g., JOANNE MARTIN, ORGANIZATIONAL CULTURE: MAPPING THE TERRAIN 5 (2002) (addressing the question of the scope of culture in organizations); Elizabeth Chambliss, *Measuring Law Firm Culture*, 52 STUD. L. POL. & SOC’Y 1, 3 (2010) (quoting Joanne Martin’s question).

18. Chambliss, *supra* note 17.

19. *Id.*

deterrent to success can be overcome through training, determination and teamwork. While it is likely true that firm culture actually does hinder business development more than it helps, it is also true that the most successful women rainmakers are finding ways to circumnavigate these obstacles . . . . True rainmakers recognize firm culture as the deterrent that it is and are able to find creative and innovative ways to work against the grain.<sup>20</sup>

This example demonstrates the often-ambiguous conceptualization of law firm culture. What exactly is firm culture here? On one hand, it could be that the authors are describing culture as the *organizational and institutional barriers* that inhibit women from becoming rainmakers within their law firms. Under this conceptualization, the barriers to success are imposed structurally, materializing as the norms and values that shape the outcomes of female lawyers. On the other hand, culture could refer to the ways that successful lawyers are able to find *ways to circumnavigate* their firms' organizational barriers. In this view, culture refers to the ability of female lawyers to learn how to "play the game" in order to advance professionally within their particular firm.

In the end, MacDonagh and Shunk leave it up to the reader to come to his or her own conclusions about what law firm culture means in this context. Most likely, the authors indiscriminately used the term, not meaning for an academic to come along and deconstruct what they may or may not have meant. Nonetheless, this example points to two ways that scholars often conceptualize culture. Firm culture can refer to the structural aspects of the organization, which shapes individual behavior. This could include the formal policies and structures built into the firm. Culture can also refer to the taken-for-granted understandings of organizational behavior. In other words, culture refers to the shared understanding among lawyers about "how things are *really* done in this firm."

These two perspectives of culture reflect two processes that shape how a lawyer comes to understand "how things are done" in his or her particular firm. The first process is more formal and structural, reflecting a top-down system where culture exists "out there" and is communicated to the individual lawyer through socialization.<sup>21</sup> Under this perspective, a firm hires a

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20. Catherine Alman MacDonagh & Marcie Borgal Shunk, *Sales and Service Strategies: Law Firm Culture and the Effect on Women Rainmakers*, *MARKETING L. FIRM*, Apr. 2007, at 1, 3 (reporting results from Catherine Alman MacDonagh et al., *Women Lawyers Studies Executive Summary*, LEGAL SALES & SERVICE ORG., <http://www.legalsales.org/pdf/LSSOsWomenLawyersStudiesExecutiveSummarySeptember20091.pdf> (last visited Jan. 25, 2011)).

21. I use the terms "top-down" and "bottom-up" to refer to the different ways that culture structures activity within the firm. By "top-down" I mean to suggest that culture exists outside of the individual and affects human action through the internalization of structural forces (e.g., professional or organizational norms). By "bottom-up" I mean to suggest that culture is created through the interactions of individuals within the organization. This suggests a more organic and interactional process. These two processes are meant as heuristic devices, however, because culture, in reality, probably consists of the two processes interacting in tandem.

lawyer and goes through the process of formally socializing him or her into the policies and procedures of the firm. The second process is more bottom-up. In this process, organizational members learn about “how things really work” through a secondary socialization. In the example above, successful female attorneys had to learn to play a different game—one that circumvents the formal structure of the firm—if they want to advance.

In many respects, most definitions of firm culture undoubtedly include both top-down and bottom-up processes. Indeed, culture is a dynamic process that changes constantly over time. Moreover, there often exists a gap between the top-down, formal practices of a firm and the bottom-up behavior of individuals. Formal organizational structures can exist alongside a separate set of learned behaviors. In the example above, this could mean that a firm has a formal procedure for advancement within the firm, but individual attorneys have learned that they must circumvent the formal process in order to be successful. Thus, the formal policies can be divorced from what occurs in practice.<sup>22</sup>

How, therefore, do we define firm culture when it includes multiple dynamics and layers of activity? Firm culture is an evasive concept that is difficult to define, yet scholars of organizational behavior tend to conceptualize organizational culture as a multi-layered construct oriented around three sets of factors: assumptions and beliefs, norms and values, and artifacts.<sup>23</sup> According to Charles Pouncy, whereas beliefs are the conscious thoughts of organizational members, which are easily articulated and shared, assumptions “are ideas and information that exist at an unconscious level, both with respect to the organization and with respect to the organization’s members.”<sup>24</sup> Thus, assumptions are so taken for granted by organizational members that they are difficult to change. Values consist of the moral standards shared by organizational members that “demonstrate the organization’s view of what is and is not important.”<sup>25</sup> Similar to assumptions, norms are often invisible but become observable through the actions of individuals, which help define what types of behavior are acceptable and which are not.<sup>26</sup> Finally, artifacts are the visible and most observable components of firm culture. According to Pouncy, “Artifacts are the visible objects, behavior patterns, turns of speech, etc., that result from the

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22. Organizational scholars often refer to the disconnect between policy and practice as decoupling. See, e.g., James D. Westphal & Edward J. Zajac, *Decoupling Policy from Practice: The Case of Stock Repurchase Programs*, 46 ADMIN. SCI. Q. 202, 202–28 (2001); see also Boucher, *supra* note 10.

23. See, e.g., Charles R. P. Pouncy, *The Rational Rogue: Neoclassical Economic Ideology in the Regulation of the Financial Professional*, 26 VT. L. REV. 263, 349 (2002); JOANN KEYTON, COMMUNICATION AND ORGANIZATIONAL CULTURE: A KEY TO UNDERSTANDING WORK EXPERIENCES 35 (2d ed. 2005).

24. Pouncy, *supra* note 23, at 348.

25. *Id.* at 349.

26. *Id.*

externalization of the organization's assumptions, beliefs, values and norms into everyday behavior."<sup>27</sup> These three levels of culture are not mutually exclusive and, in practice, coexist at any given time.

Not all elements of culture are readily observable. Artifacts may be the most observable components of a firm's culture, but they are also the farthest removed from the more unconscious, taken-for-granted elements of culture, which potentially have the most power in shaping individual behavior. As Pouncy argues, "Although artifacts are the most available indicators of culture, they are also highly ambiguous because of their distance from the cultural core, i.e., the organization's assumptions and beliefs."<sup>28</sup>

In a slightly different articulation, Douglas Richmond defines law firm culture as "the system of beliefs that members share about the goals and values that are important to them and about the behavior that is appropriate to attain those goals and live those values."<sup>29</sup> It is not entirely clear, however, where these goals and values originate. Are law firm goals simply shaped by the internal desires of a firm's membership, or even a shared history? Or, do law firms soak in broader goals and values that are created outside any particular firm? Organizational theory points to both. Much research has focused on culture as a distinctive system maintained by individuals within a firm—indicating how individuals come to share a common socialization and a shared understanding of a firm's history. An alternative body of scholarship, however, points to the external origins of organizational culture. I briefly discuss each of these below.

### B. Law Firm Culture as Distinctive Systems

Although scholars do not always agree on how to define law firm culture, there is a general consensus that at least it is something distinctive to each particular firm.<sup>30</sup> If we think of law firms as unique organizations with discrete boundaries, then it makes sense to think about firm culture in reference to a set of internal characteristics of law firms. For instance, some commentators point to factors including cohesion, collegiality, and trust as the raw material of a firm's culture.<sup>31</sup> Similarly, legal scholars and organizational behavior scholars examine law firm culture as a locally bounded and sustained system operating within the boundaries of the firm.<sup>32</sup> These local cultures constitute individual behavior within the firm, and are in turn

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27. *Id.*

28. *Id.* at 350.

29. Douglas R. Richmond, *Law Firm Partners as Their Brothers' Keepers*, 96 Ky. L.J. 231, 272 (2008).

30. See MARTIN, *supra* note 17.

31. See, e.g., Timothy L. Fort, *Getting That Culture Thing*, NAT'L L.J., Feb. 5, 2007; Peter D. Zeughhauser, *Ties That Bind*, AM. LAW., Dec. 2008.

32. See, e.g., Chambliss, *supra* note 17, at 2.

shaped by the actions of those individuals. Thus, in this view, law firm culture is a self-perpetuating system.

Often, law firm culture is discussed in relation to how it leads to disintegration within the firm.<sup>33</sup> For instance, the example about female rainmakers above demonstrates how internal cultures can inhibit the integration and success of individuals in the firm. This scenario is far from isolated. Several scholars have pointed to how law firm cultures are currently under threat by the increase in lateral hires between firms.<sup>34</sup> Often, these hires are seen as threatening the cohesion of a law firm by corrupting the “good” culture of the firm by bringing “bad” qualities from a rival firm. In his study on professionalism in large firms, Austin Sarat argues that “[m]any of the partners with whom we spoke noted the significance of laterals in explaining changes in, and the weakening of, the culture of the large law firm. One partner described the situation in his firm as the following: ‘It is now the internal culture versus the outside invaders.’”<sup>35</sup> Similarly, in her study of defense partners, Carla Messikomer demonstrates that partners discussed the hiring of laterals as a key mechanism threatening the “firm’s cultural cohesion.”<sup>36</sup> Messikomer notes: “The implicit assumption was that firms to which they personally belonged were inherently ‘pure,’ and that the ‘laterals,’ who were immigrant-like strangers, brought with them ‘dangerous’ and ‘foreign’ elements that could ‘pollute’ the ‘purity’ of the culture of the firm they were entering.”<sup>37</sup> These examples not only demonstrate that scholars often use the concept of culture as a way to understand why firm cohesion disintegrates, but they also illustrate the idea that cultures exist as internal systems, which are extremely fragile to outside corruption by intruders.

Scholars have argued that the weakening of law firm culture is partly due to the dramatic growth of large firms over the past several decades.<sup>38</sup> As firms grew in size and expanded into national and global markets, the “glue” that connected the lawyers together as a unit increasingly disappeared.<sup>39</sup> Mark Galanter and William Henderson argue that culture inevitably “becomes weaker as law firm partnerships become larger and more

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33. *Id.* Chambliss argues that the legal ethics research focuses almost exclusively on cultural disintegration and decline: “The basic plot is that law firm culture used to be strong and collegial and good, with lots of mentoring and sharing of clients and strong social ties among partners. Then firm growth and competition came along and ruined it all. This narrative of professional decline is characteristic of traditional legal ethics scholarship.” *Id.* at 8.

34. See Marc Galanter & William Henderson, *The Elastic Tournament: The Second Transformation of the Big Law Firm*, 60 STAN. L. REV. 1867, 1871 (2008).

35. Austin Sarat, *Enactments of Professionalism: A Study of Judges’ and Lawyers’ Accounts of Ethics and Civility in Litigation*, 67 FORDHAM L. REV. 809, 826 (1998).

36. Carla Messikomer, *Ambivalence, Contradiction, and Ambiguity: The Everyday Ethics of Defense Litigators*, 67 FORDHAM L. REV. 739, 756 (1998).

37. *Id.*

38. See, e.g., Sarat, *supra* note 35, at 809, 817.

39. Galanter & Henderson, *supra* note 34, at 1898.

geographically dispersed.”<sup>40</sup> One reason attributed for the disintegration of a firm’s cultural cohesion is due to the temporal distance from the founding of the firm. For instance, John Conley argues that founders endow their firms with their personal values, which carry on after the founders leave the firm.<sup>41</sup> As more time goes by, however, “the founders can become merely names attached to nothing at all.”<sup>42</sup> Conley describes this process as the “founder effect,” where the founders exert direct cultural control over the firm. After they depart, the “firm’s cultural direction is up for grabs, with factions of existing lawyers . . . all competing for dominance.”<sup>43</sup>

Thus, law firm culture is often defined as something that is distinctive to a particular firm and constantly under threat. Not all outside factors negatively affect law firm culture. As I will demonstrate, the recent wave of organized pro bono is largely driven by external factors acting upon firms. Certainly, unique cultures exist across individual firms; for instance, some firms might be more collegial than others, or some firms might have stronger mentorship and diversity programs. External pressures can also affect the integration of firm culture. Often, external actors influence law firms to adopt policies or push for new programs—translating this on the ground can distinguish firms from each other. Thus, I argue that in addition to examining culture as something unique to any particular law firm, legal scholars should also examine the external sources of law firm culture.

### C. Law Firm Culture as an Externally Derived System

Although it is convenient to think about law firms as distinct organizations with their own unique goals and values, often external actors and pressures push individual firms to reorient their policies and goals. Within organizational theory, a large body of research focuses on the external determinants of organizational behavior, with a special emphasis on organizational fields as the locus of action.<sup>44</sup> Studying organizations as a field has the virtue of drawing attention to a broader set of actors and activities that

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40. *Id.*

41. John M. Conley, *How Bad Is It Out There? Teaching and Learning About the State of the Legal Profession in North Carolina*, 82 N.C. L. REV. 1943, 1970 (2004).

42. *Id.* at 2007.

43. *Id.* Although legal ethics scholars tend to focus on firm culture as an internal system seemingly defined by disintegration, law firm consultants and strategists also tend to focus on internal firm dynamics for building stronger, cohesive cultures. For instance, Freeman suggests that firms should focus on their internal habits and routines in order to create desirable organizational changes. See David H. Freeman, *Making Organizational Changes Stick*, COUNSEL, July 2006, at 13. See also Zeughauser, *supra* note 31, at 71.

44. Paul J. DiMaggio & Walter W. Powell, *The Iron Cage Revisited: Institutional Isomorphism and Collective Rationality in Organizational Fields*, 48 AM. SOC. REV. 147, 148 (1983). DiMaggio and Powell define organizational field as the aggregation of a set of organizations that “constitute a recognized area of institutional life.” *Id.* DiMaggio and Powell further argue that studying the organizational field as the unit of analysis has the virtue of drawing attention to the “totality of relevant actors” rather than studying the variance of individual firms. *Id.*

are important for understanding organizational life. Paul DiMaggio and Walter Powell argue that “[t]he virtue of this unit of analysis is that it directs our attention not simply to competing firms . . . but to the totality of relevant actors.”<sup>45</sup> If we only study organizations as discrete units, then we risk missing important exogenous factors that might help us fully understand why organizations behave as they do. Moreover, the concept of law firm culture as a distinctive system inherently leads us to study law firms as heterogeneous actors when, in many respects, they are often more similar.

Neo-institutionalist scholars view organizations as porous actors soaking in various aspects of the external environment that they inhabit.<sup>46</sup> A common finding is that organizations often emulate their peers.<sup>47</sup> Neo-institutionalists highlight the tendency for organizational mimicry across different organizations that inhabit a common field.<sup>48</sup> The tendency has been to analyze why organizations tend to look structurally similar rather than different.<sup>49</sup> For example, policy innovations will begin to diffuse across organizations so that it becomes increasingly difficult to differentiate between firms. Sociologist Marc Suchman notes that “as growth and bureaucratization dilute the culture-building force of intrafirm interaction, intra-professional reflections become an increasingly important source of self-identity.”<sup>50</sup> Thus, from this perspective, much of what gets labeled law firm culture is increasingly exogenous in its origination.

### III. RESEARCH METHODS AND DESIGN

The data collected for this paper came from interviews with pro bono coordinators throughout the United States. These interviews provided valuable insights into how pro bono programs operate across various large-firm contexts. I included firms in five different metropolitan areas: New York City, Washington D.C., Chicago, Los Angeles, and San Francisco. To en-

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45. *Id.*

46. See, e.g., W. Richard Scott & Gerald F. Davis, ORGANIZATIONS AND ORGANIZING: RATIONAL, NATURAL, AND OPEN SYSTEMS PERSPECTIVES 103–06 (2007); W. Richard Scott, INSTITUTIONS AND ORGANIZATIONS: IDEAS AND INTERESTS 42–44 (3d ed. 2008).

47. See, e.g., DiMaggio & Powell, *supra* note 44, at 150.

48. *Id.* at 148.

49. This process is heightened under conditions of ambiguity. For example, when directives for goal compliance are unclear, organizations will often look to their peers and model their implementation strategies similarly. Under these conditions, organizational practices are likely to diffuse across individual organizational boundaries. See Lauren Edelman, *Legal Environments and Organizational Governance: The Expansion of Due Process in the American Workplace*, 95 AM. J. SOC. 1401, 1415 (1990) (using the example of private industry borrowing employee grievance procedures from the public sphere when implementing civil rights protections); Ryken Grattet & Valerie Jenness, *The Reconstitution of Law in Local Settings: Agency Discretion, Ambiguity, and a Surplus of Law in the Policing of Hate Crime*, 39 LAW & SOC’Y REV. 893, 926–27 (2005).

50. Mark C. Suchman, *Working Without a Net: The Sociology of Legal Ethics in Corporate Litigation*, 67 FORDHAM L. REV. 837, 868 (1998).

sure confidentiality, I do not disclose the name of any firm or individual in the quotes below.

As mentioned, this study comes out of a larger project focused on the causes and consequences of institutionalized pro bono.<sup>51</sup> In the larger study, I interviewed a total of twenty-three pro bono coordinators across the country. I conducted additional interviews with individuals who coordinated pro bono activities in different professional bar associations, and one interview with a former coordinator at a large firm who no longer practices law. In sum, I conducted a total of twenty-eight interviews. These interviews were semi-structured and face-to-face. I created an interview schedule with a list of questions, but allowed the conversation to naturally flow from the points that were raised in discussion. Most interviews averaged an hour and a half.

I selected the pro bono coordinators based on a mixture of sampling strategies, including purposive and snowball strategies.<sup>52</sup> Initially, I used my own personal networks to contact potential coordinators. Through these initial contacts, I constructed a list of other coordinators in a particular city, sometimes relying on coordinators to recruit their colleagues to speak with me. Because my interview sample is not random and was constructed, in part, through some of the coordinators' personal networks, we should be careful not to generalize my discussions with the whole universe of pro bono coordinators across large firms. I believe my strategy is appropriate, however, since my purposes were to gain information on the patterns of pro bono behavior across multiple contexts and to determine how these coordinators construct a shared meaning of pro bono.

With the interviewee's approval, I recorded the interview, which was then transcribed and coded using a qualitative coding program. I developed a codebook through a two-step process. First, I read through the transcriptions of a subset of interviews and constructed an exhaustive list of codes. These codes stemmed from theoretical concepts in the literature and also from the data itself. This strategy resembles the ethnographic methodology of grounded theory.<sup>53</sup> After reading a few of my interviews and after I felt

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51. See Boutcher, *supra* note 3, at 136–37.

52. Purposive sampling generally refers to the strategy of focusing on a subset of a larger population. In this case, I did not know, or have access to, the whole population of pro bono coordinators at large firms. Thus, I focused on those that I could find public information on in order to reach out and recruit for my study. Snowball sampling refers to the strategy of having your contacts refer you to other potential recruits. For more information on different interviewing sampling strategies in social scientific research, see ROYCE A. SINGLETON, JR. ET AL., *APPROACHES TO SOCIAL RESEARCH* 138–65 (2d ed. 1999); JOHN W. CRESWELL, *QUALITATIVE INQUIRY & RESEARCH DESIGN: CHOOSING AMONG FIVE APPROACHES* 125–29 (2d ed. 2007).

53. There is some debate as to what exactly constitutes grounded theory methodology. Some approaches argue that the codes should only emerge from the data itself without any preconceived theoretical constructs shaping the interpretation of the data. In doing so, theory is developed from the data without any reliance on existing theory. This study, however, relied on a mix of already existing theoretical constructs in addition to allowing codes to emerge from the data. For a discussion of grounded ethnographic methods, see ANSELM L. STRAUSS, *QUALITATIVE ANALYSIS FOR*

that I had exhausted my construction of codes, I uploaded all of my transcribed interviews into *Atlas.ti*, which is a qualitative data management and coding software program. I then created my codebook inside the program with the list of codes that I noted through my initial read-through of the interviews. After coding each interview, I extracted the codes from sections of the interviews according to the different concepts and categories of inquiry I was interested in.

My discussion below relies on a small portion of my interview data to discuss the role of external forces that have impacted the rise in pro bono activity across large firms. The quotes below are meant to be more illustrative rather than systematic in their representation. The quotes I included, however, are not isolated responses based on just the experiences of one coordinator. My objective in using illustrative quotes is to highlight what I think is a broader set of factors acting on most of the firms in my sample.<sup>54</sup>

#### IV. THE SOURCES OF ORGANIZED PRO BONO

Based on my prior discussion of the literature, two different sources drive firms to rationalize their pro bono practices. First, a law firm's desire for a distinctive law firm culture might be an important factor in why law firms began to organize their pro bono programs. Certainly, some firms have a long history of public service, which gets institutionalized within the pro bono structures of the firm. A second set of factors originates from outside of any firm's particular history or culture. In this view, exogenous factors are incorporated by law firm members, which can change both the values and beliefs of individual lawyers, but can also affect the types of organizational structures that are constructed inside the firm. The pro bono coordinators I interviewed often mentioned both factors. Although some coordinators mentioned their firm's historic and distinctive culture to public service, they would, however, often quickly turn to a discussion of exogenous factors, illustrating that multiple forces are important to explain the recent shift in pro bono practice.

##### A. *Distinctive Firm Culture*

When I asked pro bono coordinators why their firms did pro bono, several of them initially offered an account about their firms' cultural legacy. Many times the coordinator would tout the firm's strong tradition of public service and state that pro bono is a core value of the firm—stemming from the commitment of the firm's founders. For example, as one coordinator expressed to me:

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SOCIAL SCIENTISTS 22–39 (1987); KATHY CHARMAZ, *CONSTRUCTING GROUNDED THEORY: A PRACTICAL GUIDE THROUGH QUALITATIVE ANALYSIS* (2006).

54. For a more robust analysis of the interview data, see Boutcher, *supra* note 3, at 146–50.

I wasn't here at the time so this is really history that was told to me and why I thought that this would be the place for me to come is that when they thought about what their core values were, [pro bono] was one of their core values that they wanted to spend a lot of time on.<sup>55</sup>

Thus, pro bono coordinators are quick to point out that pro bono is a historic, core value of the firm, but it is often at the level of socialization. Pro bono as an organizational value is one aspect of the socialization that law firm members get when hired—even if the espoused value is not completely supported by the numbers. Indeed, after telling me that her firm had a core value of doing pro bono, this coordinator stated that before 2002 her firm was not doing much pro bono—less than one percent of the overall billable hours went toward pro bono.<sup>56</sup>

It is not uncommon for lawyers to discuss behavior in terms of their firm's distinctive culture, though their perception may vary based on the lawyer's status within the firm. For instance, in his study of litigation attorneys in large firms, Austin Sarat found that partners expressed that their firm has a distinctive culture more often than associates. As Sarat notes,

most partners nonetheless continue to believe that firms have distinctive cultures, and that those cultures function well in socializing their members . . . Associates, however . . . were less ready to concede that firm culture existed and expressed greater uncertainty about the socialization and social control roles of the firms in which they worked.<sup>57</sup>

Nonetheless, culture remains an abstract concept that is routinely mentioned, but rarely defined.

The pro bono coordinators I interviewed could not easily point to any specific elements of their firm culture in explaining why their firm organized its pro bono program. A common factor mentioned, however, was the public service commitment of law firm founders. It is true that lawyers who had a strong commitment to public service founded many large firms across the United States.<sup>58</sup> These individuals were advocates for public service within their firms that carried on long after their departures. Although this is a compelling argument, it cannot explain the recent and dramatic increase in pro bono participation within any particular firm or across the field of large law firms. If many firms have a long history of pro bono, then why have participation rates soared in the past couple decades? Have firms simply rediscovered their long histories of public service? I argue that more

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55. Personal interview with coordinator DS35.

56. *Id.*

57. Sarat, *supra* note 35, at 824.

58. See Cynthia Fuchs Epstein, *Issues Entrepreneurs: Charisma, Charisma-Producing Events, and the Shaping of Pro Bono Practice in Large Law Firms*, in PRIVATE LAWYERS AND THE PUBLIC INTEREST: THE EVOLVING ROLE OF PRO BONO IN THE LEGAL PROFESSION 211, 216–23 (Robert Granfield & Lynn Mather eds., 2009).

recent factors might better explain why firms have shifted their pro bono practices.<sup>59</sup>

## B. External Factors

Although pro bono coordinators expressed that their firms had strong, distinctive cultures for doing pro bono, they also pointed to more recent, external factors for why their firms have moved toward more organized pro bono practices. Here, I focus on three external factors that facilitated the recent organization of pro bono practice. These factors include the recruitment of law students, the desire to attract clients, and the advent of national pro bono ranking systems.<sup>60</sup>

### 1. Law Student Recruitment

The exponential growth of large firms over the last few decades has led to increased competition for top recruits from elite law schools, which has expanded the market for pro bono programs within law firms.<sup>61</sup> As Stephen Daniels and Joanne Martin note, “At the heart of every law firm and its success are personnel—the legal talent. Among the top firms there is a sense of intense competition in attracting the best law school graduates and lateral hires, and then there is the challenge of keeping that top talent once hired.”<sup>62</sup> This has resulted in fierce competition between large firms to acquire the scarce resource of “top law students.”<sup>63</sup> Pro bono has become

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59. It is entirely possible that some firms were always strong public service leaders among their peers. I do not discount that some firms were founded with strong norms about pro bono service. To the best of my knowledge, however, no data exists to systematically test whether some founders were more important than others in facilitating participation.

60. These are not meant to be an exhaustive list of factors. The pro bono coordinators I spoke with often mentioned other factors (e.g., declining government funding to legal services organizations) that they believed to be relevant. Although other factors might be potentially important explanations for the rise of organized pro bono, the three I focus on here were among the most often cited by the pro bono coordinators I interviewed.

61. Firms grew exponentially over the course of the second half of the twentieth century. For instance, in their study of the emergence of the large firm, Marc Galanter and Thomas Palay report that in the late 1950s, there were only thirty-eight firms with more than fifty lawyers, and by 1985 the number had jumped to 508 firms. In 2008, the average size of the AmLaw 200 was 557 lawyers. GALANTER & PALAY, *supra* note 14, at 46.

62. Stephen Daniels & Joanne Martin, *Legal Services for the Poor: Access, Self-Interest, and Pro Bono*, 12 SOC. CRIME L. & DEVIANCE 145, 154 (2009).

63. See Peter D. Sherer & Kyungmook Lee, *Institutional Change in Large Law Firms: A Resource Dependency and Institutional Perspective*, 45 ACAD. MGMT. J. 102, 105–08 (2002). Although intense competition for top recruits seemingly drove law firms to offer lavish benefits in order to competitively recruit, it is unclear how the economic recession of 2008 and 2009 has affected this process. As firms continue to lay off associates, defer recent hires, and reduce their recruitment classes, pro bono might be less important to the student than just getting a job offer, especially when many of their peers are not getting offers. Thus, although advocates of pro bono argue that pro bono is an important recruitment tool to get top students, there is no strong evidence that it actually affects the recruitment outcomes of law firms. Recent evidence does support the idea that elite students are motivated, in part, by the pro bono opportunities when looking for their ideal jobs, but it is unknown to what extent their desires actually shape their decisions.

one tool law firms use to gain an edge in recruitment over their competitors. Whatever edge a firm might have perceived itself to have, however, was lost once organized pro bono began to diffuse across the field. Thus, it is increasingly rare for a firm to truly claim to have a competitive edge compared to its peers. As one coordinator noted,

When things got more competitive in the '90s, I think that's when other firms said, "Okay, how can we make ourselves more competitive? Students are asking about pro bono; we need to do that." I think it was a convergence of them seeing that it might give them a competitive edge. So now, to be a player and to really be in there, you have to have a good pro bono program. It's just seen as an essential part of marketing to incoming associates.<sup>64</sup>

Organizing a program became an effective, and relatively cheap, way to demonstrate to desirable recruits that the firm was performing interesting pro bono work. During the recruitment process, many firms included the pro bono coordinator in student interviews. For instance, if specific recruits mentioned a strong preference to work on pro bono cases, the coordinator would meet with those students to talk about such opportunities at the firm. Recruiters would turn to the pro bono program and coordinator as an effective mechanism for getting desirable recruits interested in their firm. One coordinator expressed that this is strategic, in part, because recruits struggled in discussions involving deeper legal issues focused on substantive practice areas. As one coordinator expressed to me,

Law students are totally ignorant of the way that law firms work and what's going to happen. They have zero idea. But they understand the idea that pro bono means giving back and it kind of became a litmus test that, in particular, you could easily fail . . . if you had a shitty program. And, so, firms were falling all over one another, and you could go into an interview and you can't talk to them about securitization issues because the law students will glaze over. They don't know what the hell that is. You talk in there about representing a poor bastard on death row in Alabama. They get it. They understand that. You can talk about that stuff. And, you can brag like crazy about it. You can't brag like crazy that we were like the third ranked IP litigation group according to whatever magazine. No one cares about that. They don't know what the hell that means.<sup>65</sup>

If law firm recruiters used pro bono as an important tool for gaining a competitive edge in recruiting desirable students, then one would expect the firm to be clear about how its pro bono practice is distinctive from other firms. With the institutionalization of pro bono across large firms, however, firms have found it increasingly difficult to distinguish their program from

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64. Personal interview with coordinator DS12.

65. Personal interview with coordinator DS310.

others. For example, when asked about how he describes his firm's pro bono program to a potential recruit, one coordinator responded, "I tell them we have a unique culture and you pray they don't ask you."<sup>66</sup>

Thus, a major mechanism for organizing pro bono within the firm is to capture the scarce resource of top recruits from elite schools. Many of these students are told to ask about a firm's pro bono program during interviews and this has led, in part, to the firms having to come up with something to talk about. As the quotes above indicate, a pro bono program is a must if firms want to effectively recruit top talent. Although firms believe that there is a potential competitive edge to having a robust program, it is not entirely clear if it really matters in the recruitment process. Students might ask about it, but it might not affect their decision on where to take a job. Nonetheless, the perception that students really care about pro bono is enough for many firms to push for organized programs.

## 2. *Law Firm Clients*

Law firm leaders not only feel pressure from law students, but they also feel it from their clients, who increasingly want to know about a firm's pro bono work when evaluating which firm to award business to through their request for proposal (RFP) process. Attracting clients has increasingly become very important due to the changing nature of the law firm's relationship with clients. Traditionally, law firms had longstanding relationships with their corporate clients—often performing most of the legal work for a particular client.<sup>67</sup> As clients began organizing their internal legal practices, and as law firm specialization took off, clients began to farm out pieces of work to different firms rather than working with just one firm.<sup>68</sup> Hence, clients gained much more freedom to choose which firms to work with, and this has altered the firm-client relationship. Since clients now possess more leverage in the relationship, they evaluate social factors, including pro bono and diversity, when deciding to which firm to award legal work. One coordinator tied this relationship to the increasing competition for legal work:

[The rise of pro bono] is tied to the elements of competitiveness in our industry. I think that the legal industry used to be differentiated either because you were a boutique firm and you had a particular legal specialty. You were a health care practice, you were a tax practice, you were a private client practice, and you got clients based on your legal expertise that they couldn't get else-

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66. Personal interview with coordinator DS34.

67. MILTON C. REGAN JR., *THE FALL OF A WALL STREET LAWYER: EAT WHAT YOU KILL* 24 (2004).

68. See John P. Heinz, Robert L. Nelson & Edward O. Laumann, *The Scale of Justice: Observations on the Transformation of Urban Law Practice*, 27 ANN. REV. SOC. 337, 346 (2001).

where. And, it also used to be the kind of old world—you also got clients by relationships . . . and that’s changed.<sup>69</sup>

The dislodging of client loyalty to a particular firm created the impetus for firm leaders to search for ways to differentiate themselves from other firms in order to attract new business. Many pro bono coordinators expressed that most law firms are similar in the types of legal services they offer, which makes it extremely difficult to attract business solely based on the quality of legal services. The coordinator mentioned above who connected the competition for business went on to talk about the relationship between the market for legal services and the social factors of the law firm:

How do you attract clients? How do you get market share?. . . For some corporations, they’re looking at different things now. What is important to them as an organization?. . . And, so I think you’re seeing means of differentiating ourselves . . . . I think you saw that with the diversity wave. All of a sudden diversity was important. We really want to diversify our corporations, our businesses and our law firms. So those corporations that really had a big pull in the market decided diversity was their issue and then that made diversity be law firms’ issue because they started asking the questions in all RFPs. What are your diversity numbers? And then you started losing business or not getting new business, specifically not because you weren’t good tax lawyers or litigators if that’s what they needed, but because you didn’t have the right diversity numbers. So then there’s a big focus on diversity. I think the same thing is happening here where there’s been a phenomenon of corporate social responsibility.<sup>70</sup>

Thus, the increased competition for business, coupled with the lack of differentiation between law firms, has led corporate legal departments to look to other factors when deciding where to award business. Interestingly, it remains an open empirical question whether firms with better pro bono or diversity numbers actually receive more business from corporate clients. Nonetheless, it appears as if firms have internalized the belief that it cannot hurt to put up a good front, just in case.<sup>71</sup>

### 3. *The “A-List” and the Pro Bono Rankings*

During my interviews, many pro bono coordinators spoke about the importance of being on “the list.” Most often the list refers to being on the A-List, which is published by *American Lawyer*.<sup>72</sup> The A-List ranks the top

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69. Personal interview with coordinator DS35.

70. *Id.*

71. In fact, several coordinators expressed some skepticism about the relationship between pro bono and the amount of business they were awarded. Although skeptical, these coordinators did believe that having no program could be an issue for the firm in the RFP process.

72. The *American Lawyer* “A-List” rankings started in 2002. In order to be included, a firm had to be on the AmLaw 100 or the AmLaw 200 surveys. The full formula for a firm’s composite

twenty law firms based on a composite score, which sums the scores of four different surveys on pro bono, revenue, attorney satisfaction, and the overall diversity of the firm.<sup>73</sup> Pro bono coordinators repeatedly stated that being on the A-List is an important signal because the A-List is widely disseminated and draws public attention to the firm. Often the coordinators stated that the firms' management perceived that their clients were aware of the firm rankings, and they believed that this affected how clients picked where to award business. As one coordinator noted,

[T]he decision of which firm to award business to is usually made by the general counsel. The general counsel usually came from some firm. So, often the decision is not an objective analysis of which firm is better. It's usually their previous firm that has a leg up. Or, if they hate their previous firm, has a huge leg down. So the decision is not made just on a cool numbers basis. And, now that there's sort of a cool factor to pro bono, or there's sort of a currency to it, you want to, and you're going to have to report who you chose. Well if you can say, "I chose this firm because I worked there," or "I chose it because I had a case against them and they're good." Are they hugely better? Are their rates incredibly lower? No. But they're top-ten, they're on the A-List, they're on the *AmLaw* A-List. It just gives credibility to a decision that in some ways is completely subjective.<sup>74</sup>

Pro bono coordinators do not believe that being on the A-List is the only tool for generating business from clients. They also referred to being on the list as a way of conferring a sort of legitimacy to the firm—signaling to clients, recruits, peer firms, and the broader legal profession that they are a good firm. In many respects, A-List status, or high rankings in pro bono participation, demonstrates that large firms are still very oriented toward professionalism and not just profit-seeking businesses. Being on the list sends a strong signal, showing that the firm takes seriously the mission to help those most in need.

In my interviews, the coordinators regularly referred to an imaginary list of the qualities that firms should and should not have, and that these qualities helped differentiate between good and bad firms. Being on the list of firms that do a lot of pro bono was considered a good quality and the rankings helped demonstrate that. Coordinators expressed the desire of not being perceived as a bad firm in a city with a strong pro bono culture,

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ranking score is: A-List score = (revenue per lawyer score x 2) + (pro bono score x 2) + associate satisfaction score + diversity score. The top twenty firms are included in the published A-List rankings. For a full discussion of *American Lawyer's* methodology, see *The American Lawyer, Our Methodology: How We Determine the A-List Scores*, AMERICANLAWYER.COM (July 1, 2010), <http://www.law.com/jsp/tal/PubArticleTAL.jsp?id=1202462903758>.

73. *Id.*

74. Personal interview with coordinator DS38.

especially when their peers already perform a lot of pro bono. As one coordinator expressed,

I don't want to give the impression that a driving factor of doing pro bono is to get on the A-List, but you certainly want to be on every list, no matter who's doing it, of things that are good about law firms. Just as you don't want to be on the list of percentage of lawyers who leave. Nobody wants to be on that list. You do want to be on the list of percentage of lawyers who do pro bono . . . . If you're not on the list of doing it, man, in this town, you're a black sheep because everybody does it. And you don't want to be there. You just don't want to not be on the key list.<sup>75</sup>

Although most of the coordinators mentioned the desire to be on the A-List, they also recognized that most firms do not make it onto the "top twenty" list. Indeed, some coordinators even mentioned that their firm does not even try to compete with others for the top spots—acknowledging that pro bono is only one of four factors considered in making the A-List. Others, however, suggested that their firm leadership made a strategic decision to make pro bono more of a priority with the intent of trying to move up in the rankings—recognizing that pro bono is often the easiest factor to tweak. Nonetheless, understanding that their firm may never become the highest-ranking pro bono firm did not stop them from pushing to formalize their programs and increase their participation rates.

## V. CONCLUSION

In this article, I illustrated that the desire to recruit effectively, the pressure to attract clients, and the rise of external ranking systems all act as strong motivators leading law firms to reorganize their internal pro bono practices and raise their participation rates. In doing so, I sought to show that the current wave of institutionalized pro bono across this segment of the profession is, in part, driven by forces external to any individual law firm. Although I have only focused on three factors, the pro bono coordinators mentioned others. For example, the decline in federal funding for legal services and the rise of non-profit pro bono organizations, such as the *Pro Bono Institute*, have also played an important role in shifting the organization of pro bono. Although I focus on the external sources driving the recent changes in organized pro bono, I do not mean to suggest that internal firm characteristics are meaningless. On the contrary, the external factors are only important if firms are willing to respond to them, and not every firm has done so. Some firms have resisted hiring a pro bono coordinator or focusing on increasing their pro bono participation, which raises a question about what is happening internally that leads some firms to respond to external pressures and others to ignore them.

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75. Personal interview with coordinator DS13.

Additionally, by focusing on external mechanisms, I aim to challenge, or at least nuance, the argument that law firms are isolated organizations with distinguishable cultures. In this respect, my discussion of pro bono is meant to be one illustration implicating a broader theoretical argument, which might be useful for explaining different aspects of law firm behavior. My view of the law firm also encourages scholars to understand firms relative to their peers within the same organizational environment. When we view firms as occupying just one unit within a broader field of firms, we begin to see much more similarity across organizational boundaries—something that is entirely missed when we look at law firm behavior through the lens of law firm culture.