

# The Changing Character of the Lawyer-Client Relationship

## Evidence from Two Chicago Surveys<sup>o</sup>

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## 1 Introduction

Changes in the organization of legal practice in the United States both reflect and influence more general changes in the organization of the American business firm. The past thirty years have witnessed the emergence of the hostile takeover, accelerated rates of corporate mergers, and a concomitant expansion in the scale and scope of the firm — in short, a massive growth in organizational size as well as a rapid expansion into national and international markets.

Law firms have not been immune to these general trends. On the contrary, law firms have been very responsive to these changes in the business environment. The client base of the American legal profession has changed dramatically over the past three decades, and, consequently, so too has the nature of the lawyer-client relationship. With the explosive growth of demand for corporate legal services and a much more modest increase in personal-client demand, the solo practitioner and the small-firm lawyer have watched their relative shares of the

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markets shrink and have proven weak competitors in the growing corporate-client market. The result has been eroding revenue and rising client turnover in the personal client segment of the bar. Meanwhile, even among large firms traditionally serving corporate clients, the personalistic, relational character of the lawyer-client tie has given way to what is often termed “transactional” work.

Perhaps the most important reason for this shift in the nature of the lawyer-client relationship is intensified competition among lawyers caused by the phenomenal expansion in the number of lawyers. The need to cut costs and remain competitive has brought forth institutional, normative, and organizational innovations in the practice of law. And these innovations, in turn, have reshaped the lawyer-client relationship. With respect to organizational innovations, we will focus attention on the tremendous growth in the size of law firms and on the increasing use of the *associate*, the lowest professional position in the pecking order within these large law firms. In terms of institutional and normative innovations, we will focus attention on the declining importance of personal ties to clients and the increasing significance of relatively anonymous transactions in which lawyer and client meet through advertising or competitive bidding.

In short, we will show how changing legal needs and heightened competition between law firms have altered the organization of legal practice and reshaped the lawyer-client relationship. With unique data on lawyers in Chicago gathered from surveys conducted in 1975 (cf. Heinz & Laumann 1982) and 1995, we are in a position to examine the extent and causes of changes in law firm organization and in the lawyer-client relationship over a watershed time period.

## 2 Trends and Issues

For the nation as a whole, between 1970 and 1991 the volume of lawyers increased by 127 percent, meaning a lawyer/population increase of 1:572 to 1:313 (Curran & Carson 1994). According to U.S. census data, the number of lawyers in metropolitan Chicago (Cook, DuPage, Kane, Lake, McHenry & Will Counties) in 1970, 1980, and 1990 respectively was 15,400, 25,500, and 35,790. Assuming linear growth, this means an exact doubling of the bar between 1975 and 1995 (from 20,466 to 40,856) (U.S. Dept. of Commerce, Bureau of the Census 1971, 198?, 1995).

The growing volume of lawyers helped fuel growth of the large law firm. Between 1975 and 1985, large firms in the United States grew at a rate of 8 percent per year (Galanter & Palay 1991: 46). Between 1968 and 1987, the mean size of the twenty largest law firms in the country approximately quadrupled. Between 1975 and 1987, mean and median firm size nearly tripled among the 200 largest law firms (from a mean of 82 and a median of 68 in 1975 to a mean

of 233 and a median of 205 in 1987) (Abel 1989: 183, 312, Table 46). As the growth rates of large law firms have been accelerating, so, too, has the large law firm's share of the total market for legal services. As we will see, the effect has been to squeeze the smaller firm and the solo practitioner. In Chicago the staff of law firms of four or fewer employees dropped from 30 to 21 percent of the Chicago bar between 1975 and 1995. Meanwhile, those in firms with 50 or more employees increased from 30 to 39 percent in the same time period (Sandefur 1999). For the nation as a whole, the proportion of lawyers in firms of one to three dropped from 74.3 to 37.6 percent of all lawyers between 1947 and 1980 (Abel 1989: 180).

Law firms have tenure systems in many ways analogous to those of universities. Young lawyers are hired as *associates* for a contractual probation period, after which they have the opportunity for promotion to *partner*. But the similarity between law firms and universities ends here. While associates usually earn fixed salaries, hourly wages, or task-dependent compensation, partners with equity ownership in the firm typically earn a share of total firm proceeds. The promotion-to-partner system in its current form and its "up-or-out rule" has been firmly in place for many decades (Smigel 1969; Nelson 1992: 735).

Associates in private practice are by far the fastest growing part of the bar. The proportion of all private-practice lawyers in the position of associate more than doubled between 1948 and 1980, from 5 to 13 percent (Abel 1989: 300, Table 37c). Between 1951 and 1980, the ratio of all associates to partners grew from 0.21:1 to 0.36:1. In the state of Illinois, associates as a proportion of all private-practice lawyers increased from 20 to 33 percent between 1975 and 1982, while the share of partners declined slightly from 48 to 46 percent (Abel 1989: 190-1). Not only does the associate/partner ratio increase with firm size, but ratio differentials between large and small firms have widened over time (Abel 1989: 191).

There is considerable debate on the nature and causes of the relationship between the number of associates and firm growth. According to Galanter & Palay's (1991) tournament approach, assuming a certain number of associates per partner and a fixed promotion rate, associates beget more associates, generating self-perpetuating geometric growth in lawyer recruitment into large firms. According to this approach, under conditions that make monitoring labor problematic, the promotion-to-partner tournament, by guaranteeing a certain but limited number of promotions to partner, serves the function of minimizing shirking and motivating associates to work hard, and, as a consequence, produces the exponentially expanding large law firm.

An alternative explanation for the relationship between associates and large-firm growth might be called the demand model. According to this demand-centered approach, the tremendous growth in demand for corporate legal counsel stimulated the growth of the large law firm, which already had a competitive

advantage in securing business clients (Nelson 1988, 1992). That is, large law firms were better able to capture the growing market for corporate legal counsel. As Sander & Williams (1992: 411) put it, "If the demand for corporate legal services jumps, existing corporate law firms have an inside edge on capturing that demand. The easiest way to do so is to hire associates." Unlike the tournament approach of Galanter & Palay (1991), this demand-centered approach is sensitive to the law firm's economic environment.

A third and final explanation for the role associates play in the growth of the large law firm comes from Kordana's (1995) production-imperative model. According to this model, the nature of the work carried out by lawyers determines the number of associates utilized per partner. Work requiring massive research and paperwork tends to be that in which associate labor is utilized most intensively. The bulk of the legal work behind a corporate merger or a large litigation matter requires "document discovery (reviewing documents to be sent to opposing counsel in response to discovery requests and removing privileged material, reviewing documents received pursuant to demands for the production of documents) and exhaustive legal research on the myriad issues involved in or potentially relevant to the dispute" (Kordana 1995: 1924-5). Compared to the amount of intensive paperwork required, there is relatively little strategic or client management work on large litigation matters. To cut costs and stay competitive, large teams of associates and other subordinate legal workers such as paralegals are hired to perform these labor-intensive paperwork tasks, with partners supervising and performing the limited strategy and client management tasks. Thus, the non-lawyer staff of law firms has multiplied even faster than the number of lawyers. While, as we saw earlier, the volume of lawyers have doubled in Chicago between 1975 and 1995, the volume of all law firm staff (which includes paralegals, secretaries, office managers, typists, and other subordinates) in the same six counties of Chicago grew even faster, expanding 168 percent between 1975 and 1995 (from 15,033 to 40,343) (Sandefur 1999).

The demand model and the production-imperative model both focus on the changing structure of legal needs as a primary determinant of the changing organization of legal work. Kordana (1995) attaches special significance to large litigation matters. The basic idea, in a nutshell, is that litigation work promotes the utilization of associate and other subordinate labor. This is of particular importance given the dramatic increase in the volume of business litigation work between 1975 and 1995. According to estimates from our Chicago surveys, the volume of business litigation increased approximately sevenfold between 1975 and 1995 (Heinz et al. 1998: 766).

There is no doubt that the associate has been a major player in the transformation of the law firm over the past few decades. A weakness of Galanter & Palay's (1991) tournament model, however, is that the process by which the promotion-to-partner tournament expands the scale of law firms occurs inde-

pendently of any outside source of support for this expansion; the tournament is an internal growth engine. While the nature of law firms' internal labor markets is no doubt important, our view is closer to that of Nelson and Kordana — that the changing external structure of demand, particularly with respect to litigation work, has stimulated the expanding associate class of lawyers.

Associates in large firms often work on multiple accounts and do little, if any, client management. They work intensively on narrow, highly specialized paperwork tasks. In the past associates typically rotated between partners, trying out and getting a taste of numerous fields of law, thus becoming well-rounded before choosing an area of specialty. But over the past few decades, lawyers have started specializing earlier and earlier (Chicago lawyer interviews, 4/26/99). “The growth in the amount and complexity of law and in the nature of legal transactions meant that generalists had to become specialists, that specialists had to narrow their focus still further, and that firms had to retain more specialists to solve a widening range of problems” (Caplan 1993: 75).

The reason associates in large law firms are doing less client management and more intensive, specialized paperwork is simple: this is a more cost-effective way to organize the delivery of large-scale, labor-intensive legal services such as litigation work. “Law partnerships maintain the promotion-to-partner tournament, not because it is the only way to arrange these exchanges, but because it is an effective surplus-producing mechanism” (Nelson 1992: 746-7). According to Abel (1989: 192, 201), the rate at which associate labor is billed to clients is typically three times greater than the rate at which it is remunerated by the firm, and the difference is pocketed by the firm and its partners. Consequently, the income gap between associates and partners is widening (Abel 1989: 196). The competitive pressures that promoted the increasing utilization of associate labor as a cost-cutting, surplus-producing mechanism have therefore also led to a lengthening of associate tenure before consideration for promotion, lower promotion rates, and the creation of new dead-end classes of lawyers — the permanent associate and the nonequity partner, for example (Abel 1989: 195).

As we can see, the large law firm, with its responsiveness to competitive pressures and adoption of measures to streamline and rationalize operations, increasingly resembles the corporate clients it represents. Law firms can no longer depend on the client loyalty of past days. As business firms are acquired, merge, and expand, long-term loyalty is simply less feasible. “The marketplace served by large firms today is far more volatile than it used to be, when lawyers and clients remained loyal to a firm forever” (Abel 1989: 200). As Nelson (1992: 745-6) puts it:

*About a decade ago corporate law firms began to mimic the aggressive entrepreneurialism of the corporate and financial actors they repre-*

*sented. In a corporate environment that did not value institutional loyalty, traditionally oriented law firms risked looking flabby or out-of-touch. A new set of managerial ideologies appeared inside law firms that emphasized strategic planning and the economic rationalization of the internal operations of firms.*

Abel (1989: 196) calls this a process of growing “structural homology between large law firms and the corporations they serve.” In short, the lawyer-client relationship has been changing radically. The general shift is one from *relational* to *transactional* legal practice. Transactional work is characterized by prioritizing price over loyalty; the long-term, exclusive lawyer-client relationship is being eclipsed by the one-off relationship.

As a heuristic device this dichotomy between relationalism and transactionalism captures the fundamental transformation that has taken place. However, it is not an empirical description; it should be seen less as a dichotomy and more as a continuum. Under “transactionalism,” lawyers and clients still strive to establish and maintain relationships, even if they are fleeting compared to the lawyer-client relationships of the past.

The shift in the legal profession from a relational orientation to a transactional orientation mirrors a similar shift that has occurred in investment banking. The “relationship paradox” is what Eccles & Crane (1988) call the phenomenon that has emerged with the decline of the one-bank relationship and the rise of multiple-bank relationships. Union Carbide’s formerly exclusive relationship with Morgan Stanley giving way to the addition of First Boston, and General Motors’ move from working with a single bank (also Morgan Stanley) to working with sixteen banks in the early 1980s are cited by Eccles & Crane (1988: 40, 53) as archetypal examples. In explaining this sea change, we see the same set of usual suspects: shrinking profit margins caused by heightened competition and the threat of mergers, which, in turn, brought forth larger firm size, geographical dispersion, greater specialization, and new management styles. Anti-competitive taboos gave way to competitive innovations.

The willingness of customers to do business with more than one investment bank has created opportunities for firms to attack the customer bases of their competitors. Through aggressive pricing and innovative ideas, an investment bank can improve its competitive position. In the past, firms were more passive and their competitive positions were largely a function of the frequency and types of deals their customers did over a period of time. Several investment bankers we talked to recalled that in the past because it was considered ungentlemanly to initiate business with one’s own customers, let alone approach a competitor’s, they waited for the telephone to ring... People in firms and companies we talked to described the change by saying that the investment banking

business had shifted the emphasis from relationships to transactions. (Eccles & Crane 1988: 54-5)

The legal profession has undergone a similar transformation. As we will see in greater detail below, the traditionally anti-competitive rules governing lawyers have been greatly relaxed. The ban against advertising has been repealed, competitive bidding has become standard practice, and solicitation of clients is widely accepted (if still not officially recognized). Innovations that were once shunned are now deemed acceptable. The single-lawyer relationship has also given way to the multiple-lawyer relationship. Servicing all the legal needs of a client is no longer guaranteed; law firms are increasingly competing on job-by-job basis.

Where price overrides relational fidelity, cost pressures bring forth organizational innovations; desperate times call for desperate measures. Legal work is increasingly billed by the transaction — by the piece — and not by the hour. Under this increasingly common method of transactional billing, law firms are pressed to keep costs down by hiring and closely monitoring the highly specialized surplus-generating associates and other subordinate employees (Sandefur & Laumann 1999: 12).

When it comes to explaining the changing character of the lawyer-client relationship, increasing specialization, the increasing intensification of legal work, and the growing relative numbers of associates and other subordinates, perhaps too much weight has been attached to the absolute size of the law firm; undue weight may be attached to the mega-firm. Perhaps the nature of the work the firm performs is at least as important as the firm's size. Or perhaps firm scale is no more important than the adoption of a managerial ideology promoting cost-cutting measures to maximize profits at the expense of diminished loyalty to clients. We may very well find these relationships not just in the largest firms, but also in firms of different types and sizes.

It is instructive to consider the example of one of the first and perhaps the archetypal American law firm organized around transactional principles, Skadden, Arps, Slate, Meagher & Flom. The firm was founded in 1948 by Marshall Skadden, Leslie Arps, and John Slate. William Meagher joined as a full equity partner in the same year. Joe Flom was the firm's first associate, hired later in 1948. By 1967, the firm had 18 lawyers. There were 818 lawyers by 1987 (Abel 1989: 184). Currently there are about 1,300 lawyers in the firm. The major take-off period for the firm was the late 1970s; the firm's growth was fueled by the corporate "takeover era," roughly 1975 to 1988, the period that saw the rise of the hostile takeover (Caplan 1993: 66). Hirsch (1986) chronicles how the hostile takeover, stigmatized as "deviant" in its early stages of development in the 1960s, ultimately became widely adopted as a normatively acceptable innovation by the early 1970s.

Skadden was one of the first law firms to specialize in proxy contests and takeovers. Breaking the rules that had traditionally governed lawyer-client ties, Skadden was significantly responsible for “the breakup of exclusive ties between companies and law firms: Skadden’s success as a specialist fed the demand for its counsel from companies; and law firms that once hired Skadden on behalf of longtime clients jumped in to compete as specialists themselves, accelerating the erosion of long-standing relationships” (Caplan 1993: 71).

In Skadden’s first two decades, the established law firms with which it hoped to compete often succeeded as a result of continuing relationships with longtime clients. In many instances, it was possible to identify which firm handled the legal business of a big corporation by learning the affiliation of the most notable lawyer on its board of directors. Skadden couldn’t compete on those terms (“Small firms just didn’t crash the party,” Jim Freund said), because they started without a similar set of clients. Instead, they developed a speciality in proxy and takeover work, and the capacity (through the overwork of their lawyers) to handle intensive jobs... By the mid-seventies, many corporations decided to save money by expanding their legal staffs and doing on their own much of the work that they had previously farmed out to law firms. Instead of relying on one firm for specialized counsel, corporations shopped for lawyers who seemed best suited to a project and firms increasingly competed for one-time jobs. In the aggregate, this was known as transactional work. It called for the kind of specialization and service that Skadden had developed as a way of survival. (Caplan 1993: 70)

The case of Skadden, Arps, Slate, Meagher & Flom illustrates all the major changes and organizational innovations we have described: the erosion of exclusive, long-term lawyer-client relationships, the increasingly transactional, short-term nature of legal representation, the growing competition between firms for corporate clients, and the intensification of effort within law firms. Furthermore, this case shows that the story about the rise of transactional lawyer-client relations is not only about scale, but also about specialization in labor-intensive areas of law. To compete successfully requires leveraging cheap labor and serving the highest bidder, not remaining loyal to a set of long-term clients.

As legal representation becomes increasingly transactional, lawyer-client matching mechanisms — the channels through which individuals and businesses find lawyers — have also become increasingly transactional. We can see this in the relatively recent emergence and widespread incidence of lawyer advertising and competitive bidding for legal work. In the original *Canons of Professional Ethics* adopted by the American Bar Association (ABA) in 1908 (Schneyer 1992), lawyers were told that solicitation and advertising were antithetical to virtuous and dignified professional behavior (Abel 1989: 119-22). Under this prohibition, the ABA alleged that success as a lawyer was (or at least *should* be) a function of professional integrity and reputation (Auerbach 1988 [1976];

Schurman 1988 [1968]). These rules were established in a prior era of the small-town lawyer who enjoyed relatively stable demand for legal services and little competition (Rhode 1988 [1986]). However, in the wake of the demand-structure shifts and heightened competitive pressures described earlier, a critical mass of lawyers exerted pressure to repeal the ban on advertising (Abel 1989: 120). In a landmark Supreme Court case in 1977 (*Bates et al. v. State Bar of Arizona*), lawyer advertising was legalized (Schneyer 1992: 104). (For a more detailed case history, see Seron 1996: 161n2.) Thus, while advertising was prohibited at the time of our first survey of Chicago lawyers, it was permitted both by state law and by the ABA's 1983 *Model Rules* (Redlich 1984: 15; Canon 2-9; 171-3, Rule 7.2) by the time of our second survey.

Competitive bidding also developed between the two surveys. When the questionnaire for the first survey was developed and pretested in 1974, there was no awareness of lawyers bidding competitively for legal work. But by the early 1990s bidding had emerged and grown as an innovation to deal with market pressures.

Meanwhile, client referrals appear to be of declining significance. Referrals from other clients remain a common source of clientele in the personal-client sector of the bar dominated by the solo practitioner and the small-firm lawyer (Curran & Spalding 1988 [1977]; Seron 1996; Daniels & Martin 1997). According to a national survey conducted in 1993 (Miethe 1995), of all respondents indicating having hired a lawyer for a personal matter in the past five years, 74 percent said the lawyer had been recommended by a friend or relative, and 76 percent said they, in turn, if asked for a referral, would recommend the lawyer to another friend. But as the market for corporate legal counsel grows and demand for individual legal services flags, especially in urban areas, the importance of personalistic client referrals relative to the more transactional matching mechanisms of advertising and competitive bidding has diminished, especially in the larger firms.

As we have already suggested, the changing market for legal services in American cities has severely squeezed small firms while promoting rapid growth of the large, corporate practice. Since growth and profits come from hiring associates to perform the labor-intensive tasks required to solve corporate legal problems, it should be no surprise that small-scale operations have a competitive disadvantage in securing lucrative business accounts. In general, large firms, thanks to their economies of scale, have successfully captured this market and small-firm lawyers have been left to compete in a shrinking personal client market. But, as we have already seen, scale is only one part of the story. Skadden, Arps, Slate, Meagher & Flom is an example of how intensification and specialization can allow smaller firms to succeed and grow. In the end, it is clear that the very forces that have promoted the increasing use of associate labor have also contributed to the demise of small-scale legal practice; ecological changes in the

American city work in favor of the firm concentrating on business clients and militate against the solo practitioner and the small firm.

Over the past three decades urban areas have simultaneously become centers of commerce and of concentrated residential poverty. Between 1975 and 1994, the population of the City of Chicago declined by 11.9 percent (from 3.10 to 2.73 million). This was primarily a matter of population redistribution to suburban locales, for the population of Chicago's Metropolitan Statistical Area (MSA) increased by 9.3 percent in the same period (7.02 to 7.67 million) (U.S. Bureau of the Census 1978; Slater & Hall 1996). And the population remaining in the city became increasingly marginal economically. While in 1969 median family income in Chicago's MSA was 16.5 percent higher than median family income in the City of Chicago, by 1989 this gap had more than doubled to 38.0 percent, indicating that the economic gulf separating city and suburbs widened substantially. Similarly, while the percentage of families in the Chicago MSA below the official poverty line increased by 26.5 percent between 1970 and 1989, the increase in the City of Chicago during the same time period was 72.4 percent, almost three times greater (U.S. Bureau of the Census 1978; Slater & Hall 1996). Over this time period, American cities also increasingly served as a center for commercial activity and middle-class employment. Thus, a major trend during the period of time spanned by the Chicago Lawyers surveys is the emergence and aggravation of disjuncture between *functional* and *demographic* changes in the urban environment. The function of cities has been increasingly oriented towards corporate commerce and finance, while demographically the trend has been a growing concentration of poor, unskilled residents under-qualified to work in these corporate settings (Bradbury et al. 1982; Kasarda 1985).

This ecological transformation has promoted the growth of the large law firm and starved the solo practitioner and small firm. Nationally, between 1972 and 1992 receipts from individual clients dropped from 52.2 percent to 39.6 percent of total receipts (Heinz et al. 1998: 767n23). Meanwhile, in the same time period, receipts from legal services as a percentage of total business receipts in the City of Chicago increased by 80 percent (U.S. Bureau of the Census 1978; Slater & Hall 1996). According to our Chicago surveys, the share of total legal effort devoted to the corporate client sector increased from 53 percent to 64 percent, while the share of total legal effort devoted to the personal/small business sector declined from 40 to 29 percent between 1975 and 1995 (Heinz et al. 1998: 767).

This process is what Abel (1989: 179) calls "the eclipse of the paradigm of the independent lawyer." Demand for the kinds of services small-scale law offices provide has declined and will continue to decline (Abel 1989: 181). Consequently, we find a 32 percent (about \$37,000) drop in mean income between 1975 and 1995 among solo practitioners. Meanwhile, incomes in the largest

firm-size category increased by 26 percent (about \$44,500): 21 percent (about \$14,500) for associates and a much greater 33 percent (about \$85,000) for partners (Sandefur & Laumann 1999).

To sum up thus far, the changing structure of demand for legal work has intensified competition and has squeezed certain segments of the bar while favoring other segments of the bar. In both cases, at both the top and the bottom of the bar, the result has been increasingly transient, transactional, one-off lawyer-client relationships. Among larger firms, a more “corporate” managerial ideology focussed on organizational rationality and maximizing the bottom line has emerged. Large firms “leverage” associates for the extraction of profits in handling increasingly transactional work. Solo practitioners and small-firm lawyers, on the other hand, unable to compete for large corporate clients and watching their individual clients disappear, are also experiencing a serious erosion to the stability of their relationships with clients.

### **3 Hypotheses**

On the basis of the foregoing account of major changes in the urban bar over the past several decades, we derive the following hypotheses about the effects of the changing structure of demand on the character of lawyer-client relations:

- H<sub>1</sub>: Solo practitioners and small-firm lawyers have suffered from eroding client volume and from a relative incapacity to compete for the more lucrative business clients. As the population of middle-class personal clients on whom solo practitioners and small-firm lawyers have traditionally concentrated their efforts have become relatively scarce, and as the demand for business legal services have become increasingly absorbed by other segments of the bar, lawyers without the competitive advantages of scale and without the ability to intensify by using subordinate labor have watched the volume and stability of their clients diminish.
  
- H<sub>2</sub>: Owing to rising business demand in general and rising demand for litigation work in particular, the utilization of subordinates (especially associates) in law firms has become far more prevalent. Furthermore, there is a cause-and-effect relationship here: the increased use of associates is an organizational innovation to lower the cost of producing labor-intensive legal products and thereby to enhance competitiveness. Thus, we expect to see an association between litigation work and the relative utilization of associate labor.

- H<sub>3</sub>: The importance attached to long-term lawyer-client relationships diminishes as the importance of cost increases. In other words, the lawyer-client relationship becomes increasingly transactional over time. Fewer efforts are made to woo and court clients. Lawyers cannot count on client referrals to bring new long-term clients. Rather, the use of impersonal, anonymous, cost-driven matching mechanisms are of increasing significance over time and tend to promote shorter relationships.
- H<sub>4</sub>: As associates are given narrow and highly labor-intensive tasks, they tend to do relatively little client management. This is particularly true in larger operations where hierarchical lines and a division of labor are more clear and well established.

To summarize the thrust of our hypotheses, there are two main points to emphasize: First, we expect that competition and a heightened sensitivity to profits promoting the use of associates leads to transactional relationships with clients, particularly in the largest firms where associates are more likely to work in large teams on specialized paperwork tasks and to have minimal client contact. Second, we are hypothesizing increased turnover at both the top and at the bottom of the bar; we expect both poles of the bar to exhibit significantly increased client turnover. However, this heightened client turnover is for very different reasons at each pole. At the bottom pole, it is due to competition in the face of a diminished supply of individual clients. At the top pole, on the other hand, it is due to emergent transactionalism brought forth by cost-cutting pressures. In short, although we expect relatively rapid client turnover at both poles, each pole represents a very different phenomenon: at the bottom pole it reflects a shrinking personal client base population beyond the control of lawyers serving this market, and at the top pole it is an active response, for it reflects organizational innovations adopted to maximize efficiency and profits.

## 4 Data and Methods

We use data from two surveys of the Chicago bar, the first conducted in 1975 (N=777) (cf. Heinz & Laumann 1982) and the follow-up in 1994-95 (N=788). In 1975 the sampling frame consisted of two directories of lawyers, Martindale-Hubbell and Sullivan's. In 1995, our sample was drawn from the official registration list of lawyers maintained by the Illinois Attorney Registration and Disciplinary Commission. Lawyers with City of Chicago addresses (within the municipal boundaries, and thereby excluding suburban lawyers) were randomly selected. Various checks performed to assess comparability showed no evidence

of a systematic difference in the character of the samples yielded by these different sampling frames.

Since we are interested only in the components of the bar that are independent of their clients (i.e., that are not employees of the client), we limit the scope of our attention here to active private-practice lawyers, i.e., solo practitioners and firm lawyers. Corporate house counsel and government lawyers (including judges, public defenders, and criminal prosecutors) are excluded. We also exclude law professors, retired and unemployed lawyers, and lawyers working as executives or entrepreneurs. Thus, the total number of observations available in both 1975 and 1995 is 517. However, missing data on our variables of interest reduces the number of usable observations to 468 in 1975 and 482 in 1995; all the findings presented in this paper are calculated from these restricted samples.

Our primary dependent variable is lawyer-client durability. This is operationalized as the “percentage of clients represented for 3 years or more.” This is not an ideal measurement of lawyer-client durability, for it does not allow us to identify lawyers who tend to maintain relationships for much longer periods of time. In other words, insofar as the duration of a modal business litigation case might be several years, then a better cut-off point for a “durable relationship” might be five or ten years rather than three. Nevertheless, our measurement should serve the purposes at hand in at least a highly suggestive way.

One of our primary independent variables is practice setting. We hypothesized above that the changing character of lawyer-client durability varies systematically between solo practitioners and lawyers in firms of different sizes. Our measurement of firm size in 1995 is the number of lawyers in all firm locations, including all branch offices. (Our 1975 survey, conducted before the branch office phenomenon became widespread, contained a single measurement of law firm size.) Although the sampling unit was the individual lawyer, in 1995 we are able to identify multiple respondents within single firms. In cases where these multiple respondents disagreed on the size of their firm, we took the mode of all responses as the “true” value. Where there was no modal response (i.e., where each response was unique or where there was a tie), we took the mean of minimum and maximum values as the “true” firm size. In 1975, since we cannot identify the firms of more than a small handful of respondents, firm size is accepted at face-value for the majority of respondents. We created a categorical variable containing solo practitioners and lawyers belonging to law firms of various sizes. Rather than create our firm size categories arbitrarily, we did so empirically on the basis of natural critical points in the median level of lawyer-client durability across firm size. We will show these critical points in the next section.

Another independent variable at the center of our hypotheses is hierarchical rank, whether the lawyer is an associate or a partner. We are interested in the relative numbers of associates; we want to aggregate numbers of associates rela-

tive to partners. We hypothesized earlier that associates are mobilized in greater numbers to handle the intensive paperwork tasks typical of large litigation cases. We therefore expect the associate/partner ratio to rise as concentration on litigation rises. As we are interested in examining lawyers in firms of different sizes, the ideal unit of aggregation is the firm. However, since the firm-specific number of associates and partners was not on the 1975 questionnaire, we are forced to rely on aggregations by firm-size *category*, not *firms*. In other words, our associate/partner ratios are not firm-specific; rather, we simply aggregated associates in our sample belonging to firms of different sizes and divided each total by the total number of partners in our sample belonging to the same firm-size categories.

Although we do not analyze firm-specific associate/partner ratios, we do analyze firm-specific rates at which associates are promoted to partner. The proportion of associates who make partner also reflects the intensive use of associate labor. Recall that as law firms increasingly rely on associate labor as a means of minimizing cost and maximizing profits, promotion-to-partner rates have declined (Abel 1989: 195). As with firm size, we calculated the “true” firm promotion-to-partner rate as the mode of all responses from the same firm. And, again, in the case of ties or disagreement among all respondents from the same firm, we took the mean of minimum and maximum values as the “true” promotion rate.

In addition to the aggregate measures described in the foregoing, we are also interested in analyzing individual-level rank, the effect of being an associate on lawyer-client durability, and whether and how this effect varies by firm size. Likewise, in addition to examining aggregate levels of concentration on litigation work, we also test the effect of individual-level litigation specialization on individual-level lawyer-client relational durability.

To test the extent to which transactional principles have emerged and spread to govern lawyer-client relations, we employ independent variables that capture both the significance of forums for courting and building personal relationships with clients and the significance of various lawyer-client matching mechanisms. With respect to forums for courting and building personal relationships with clients, country clubs (relatively exclusive social clubs with golf courses, clubhouses, restaurants, and other facilities) have traditionally served this function. We therefore analyze the effects of country club membership. Inviting clients to spend an afternoon or evening at the country club has been a typical way to establish and further strengthen long-standing, recurrent relations with clients. We expect that this was more significant in 1975 than in 1995.

With respect to the changing effects of various lawyer-client matching mechanisms, we include three relevant variables: (1) the frequency of clients arriving by way of referrals from other clients (a *relational* means), (2) the frequency of clients arriving by way of advertising (a *transactional* means), and (3) the frequency of clients arriving by way of competitive bidding (a *transactional*

means). The question was posed as follows in 1995: "Now let's think about the new clients that you serve that have come to the firm within the last 3 years. Please indicate how often these new clients came through each of the means listed on item 8." And the means listed on item 8 analyzed here were "Referred by past or present clients," "Advertising," and "Competitive bidding." The responses categories for each item were "Often," "Sometimes," "Seldom," and "Never." This question wording is slightly different from that used in 1975. In the first survey, the question was posed simply as follows: "Could you now indicate what percentage of your new clients you get by each of the means listed on CARD 1?" Card 1, among other means, included "Referred by past or present clients." The response was an open ended percentage rather than a closed-ended category. Owing to these differences in question wording, an assessment of the extent of change in the prevalence of client referrals is somewhat problematic. However, an assessment of the changing *effect* of client referrals on lawyer-client durability is more defensible. We expect the effect of the relational matching mechanisms to be greater in 1975 than in 1995. Similarly, we expect the effect of the two transactional principles to be strong in 1995.

Country-club membership and clients referring other clients, the other indicator of relationalism, were included in both 1975 and 1995 surveys. In both years country-club membership includes active members and leaders (and excludes inactive members). The transactionalism measures, however, were included only in the 1995 survey. We created a dummy variable for each year: in 1975, the measure is whether respondents received at least 50 percent of their clients through referrals from other clients; in 1995, the variable is whether clients were obtained over the previous three years through such referrals "often" or "sometimes." Our indicators of transactionalism are also dummy variables. The variable for advertising is whether respondents' clients over the previous year had arrived via advertising "often" or "sometimes." The dummy variable for competitive bidding is whether respondents' clients over the previous year had ever arrived via this channel.

Descriptives (means, standard deviations, and ranges) for selected variables are presented in Table 1.

## **5 Findings**

Our survey data reflect the more general changes described earlier in this paper. The two decades spanned by the data saw a decline in the relative numbers of solo practitioners and small-firm lawyers and the tremendous production of associates. Between 1975 and 1995, solo practitioners as a proportion of the Chicago private-practice bar dropped from 28.6 percent to 19.1 percent. At the same time, small-firm lawyers (lawyers in firms with less than ten lawyers) de-

clined from 35.0 percent to 20.5 percent of the private-practice bar (see Table 1). In other words, the proportion of the private-practice bar contained within firms with ten or more lawyers increased from 36.4 percent in 1975 to 60.4 percent in 1995. When we account for the fact that the Chicago bar roughly doubled in this time period, these trends are even more dramatic. The segment of the bar with lawyers in firms of ten or more grew almost three times faster than the segment of the bar with lawyers in firms of less than ten: while the smaller-scale portion of the bar grew by a factor of 1.2 between 1975 and 1995, the larger-scale portion expanded by a factor of 3.3. Finally, associates as a proportion of the private-practice bar increased from 25.4 percent in 1975 to 35.6 percent of the private-practice bar in 1995. Over these two decades, the ratio of associates to partners in the bar as a whole increased from .604:1 to .835:1.

Paralleling a relative drop in the volume of lawyers in small-scale legal outfits has been the failure of these lawyers to benefit from the growing demand for business legal services. On the contrary, they have been forced to serve the stagnant personal-client market. While the overall average proportion of effort devoted to *business* clients increased 12 percent, it actually dropped 8 percent for solo practitioners (Table 2). Among lawyers in firms with less than 35 lawyers there was no change. Likewise, while the overall average proportion of effort devoted to *individual* clients dropped 36 percent, this decline was only 10 percent among solo practitioners (Table 2). Among lawyers in firms with less than 35 lawyers the drop was 17 percent, less than half the overall average decline.

As lawyers in small-scale operations are scrambling for a static or shrinking personal-client market, lawyer-client durability is accordingly plummeting. While the overall average proportion of clients represented for three or more years dropped by 5 percentage points between 1975 and 1995, the drop was a full 13 percentage points for solo practitioners (Table 2). This drop can be seen visually in Figure 1. This figure shows median lawyer-client durability by firm size for both 1975 and 1995. What first stands out is the dramatic drop at both ends of the firm-size spectrum: between 1975 and 1995, although lawyer-client durability remained virtually identical in the 5-205 lawyer firm-size range, durability plummets in firms with fewer than five and greater than 205 lawyers (the largest firm size in 1975). This is as we hypothesized. What also stands out is the consistent dip in both years among lawyers in mid-sized firms of approximately 35 to 65 lawyers. Thus, not only is there a general inverted U-shaped curve (in 1995) for relational durability, with the lowest levels of durability manifest at both firm-size poles, but there is also a kink in the middle of the firm-size distribution in both years. Our firm size categories were calculated on the basis of the critical points manifest in Figure 1. We created six size groups above the solo practitioner category: 2-9, 10-34, 35-64, 65-205, 206-349, and 350-1,600 lawyers. The two largest categories apply to 1995 only.

**TABLE 1. Variable Descriptives**

Variable	1975				1995			
	Mean	Std. Dev.	Min.	Max.	Mean	Std. Dev.	Min.	Max.
% clients represented for 3+ years.....	55.731	34.909	0	100	50.911	36.318	0	100
# clients represented over past 12 months.....	120.284	164.200	4	950	66.108	94.445	1	999
age.....	44.066	14.151	25	88	41.376	10.906	25	79
% income from ('75) or time on ('95) business clients...	58.754	37.148	0	100	65.755	36.729	0	100
at least 25% legal effort on civil litigation.....	.096	.295	0	1	.338	.474	0	1
solo practitioner.....	.286	.453	0	1	.191	.393	0	1
firm: 2-9 lawyers.....	.350	.478	0	1	.205	.404	0	1
firm: 10-34 lawyers.....	.154	.361	0	1	.170	.376	0	1
firm: 35-64 lawyers.....	.066	.249	0	1	.050	.218	0	1
firm: 65-205 lawyers.....	.143	.351	0	1	.160	.367	0	1
firm: 206-349 lawyers.....					.091	.288	0	1
firm: 350-1600 lawyers.....					.133	.340	0	1
associate.....	.254	.436	0	1	.346	.476	0	1
partner.....	.421	.494	0	1	.415	.493	0	1
other position.....	.038	.193	0	1	.048	.213	0	1
associate x largest firm ('75: 65-205; '95: 350-1600) ...	.062	.241	0	1	.069	.253	0	1
member country club.....	.284	.452	0	1	.301	.459	0	1
clients referred by other clients .....	.538	.499	0	1	.454	.498	0	1
clients via advertising.....					.073	.260	0	1
clients via competitive bidding.....					.290	.454	0	1
N.....	468				482			

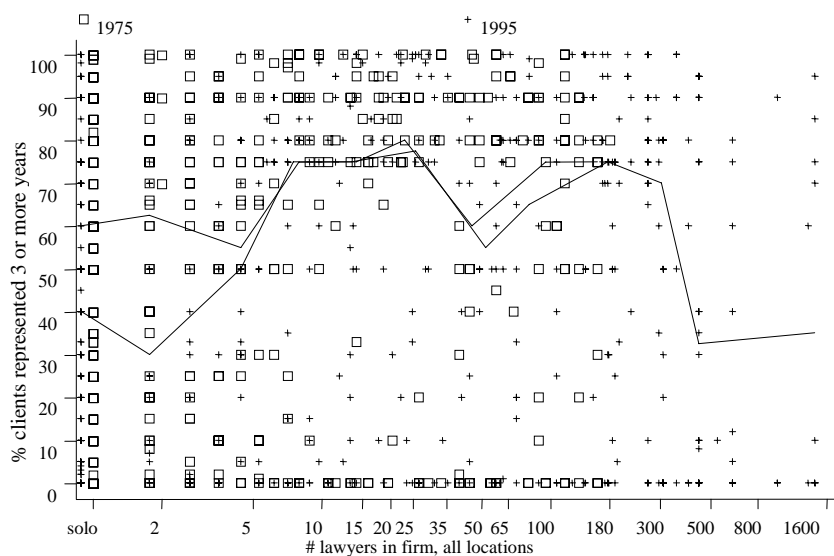
Note: "Clients referred by other clients" is a dummy variable meaning 50% or more of all clients were referred by other clients in 1975, and meaning clients were referred by other clients "often" or "sometimes" in 1995. "Frequency clients obtained via advertising" "often" or "sometimes." And "frequency clients obtained via competitive bidding" means "often," "sometimes," and "seldom."

An examination of lawyer-client matching mechanisms suggests an overall drop in the prevalence of *relational* matching and the emergence and development of *transactional* matching. We cannot measure with certainty whether or how much the prevalence of relational lawyer-client matching mechanisms has declined because the question wording changed between the two surveys. However, it appears that “often” or “sometimes” in 1995 roughly equals “at least 50 percent” in 1975. Among the five firm-size groups common to both years, the points are extremely similar (Figure 2). Indeed, the two lines are correlated at  $R=.91$  ( $p<.05$ ). We can also see from Figure 2 that the incidence of client referrals drops off sharply among firms with more than 205 lawyers. The average proportion of clients arriving via client referrals drops from 33 percent in the 35-64 lawyer group and 44 percent in the 65-205 group to 25 percent in the 206-349 category and 27 percent in the 350-1,600 category. And the overall average difference between the two years — 54 percent in 1975 and 45 percent in 1995 (see Table 1) — is statistically significant at  $p<.01$ .

**TABLE 2.** *Changing Character of Clients by Practice Setting, 1975 and 1995*

	Total Number of Clients Last Year		% Clients Represented 3+ Years		% Clients Businesses		% Clients Individuals	
	1975 Mean	1995 Mean	1975 Mean	1995 Mean	1975 Mean	1995 Mean	1975 Mean	1995 Mean
solo practitioner	139	82**	55	42**	39	36	62	56
firm: 2-9	174	100**	52	49	48	47	52	46
firm: 10-34	59	83#	64	60	79	72	21	22
firm: 35-64	37	43	52	45	82	81	19	12
firm: 65-205	56	34#	59	60	91	87	9	9
firm: 206-349		34		61		86		5
firm: 350-1600		38		41		85		8
Grand Mean	120	66**	56	51*	59	66**	42	27
N	468	482	468	482	468	482	468	482

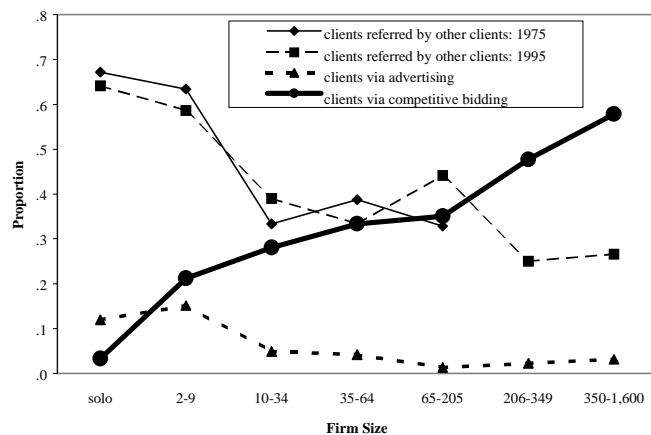
Note: # p<.10 \* p<.05 \*\* p<.01, two-sample mean comparison t-test assuming unequal variances. Five points common across both years are correlated at R=.797 for "Total Number of Clients," R=.826 for "% Clients Represented 3+ Years," R=.994 for "% Clients Businesses," and R=.998 for "% Clients Individuals." "% Clients Businesses" refers to the percentage of total legal income from business clients in 1975 and to the percentage of total legal time devoted to business clients in 1995. Likewise, "% Clients Individuals" refers to the percentage of total legal income from personal clients in 1975 and to the percentage of total legal time devoted to personal clients in 1995.

**FIGURE 1.** *Median Lawyer-Client Durability by Firm Size; 1975 and 1995*

Not only do we have evidence suggesting that relational lawyer-client matching has been on the decline, but our data also show the popularity of transactional matching mechanisms in 1995. For the private-practice bar as a whole, an overall average of 7 percent of lawyers “sometimes” or “often” were matched with their clients via advertising. The use of advertising varied greatly by firm size, with a high of 12 percent and 15 percent among lawyers in solo practice and in firms with 2-9 lawyers and a low of 1 percent to 3 percent among lawyers in the largest firms (Figure 2). The reverse pattern is seen in the case of competitive bidding. An average of 29 percent of private-practice lawyers found their clients via competitive bidding at some point or another (not “never”) and 17 percent had clients arrive through this channel “sometimes” or “often.” As with advertising, the prevalence of this means of matching varies dramatically by firm size, with only 3 percent of solo practitioners and 21 percent of those in firms of 2-9 lawyers reporting some the use of this channel. Meanwhile, 48 and 58 percent respectively of respondents in firms of 206-349 and 350-1,600 lawyers reported use of competitive bidding (Figure 2).

This section thus far has been devoted to descriptive findings of some major changes and innovations in the Chicago private-practice bar. Now we turn to inferential analyses aimed at explaining some of these changes. The evidence

**FIGURE 2.** Relational and Transactional Lawyer-Client Matching Mechanisms by Firm Size

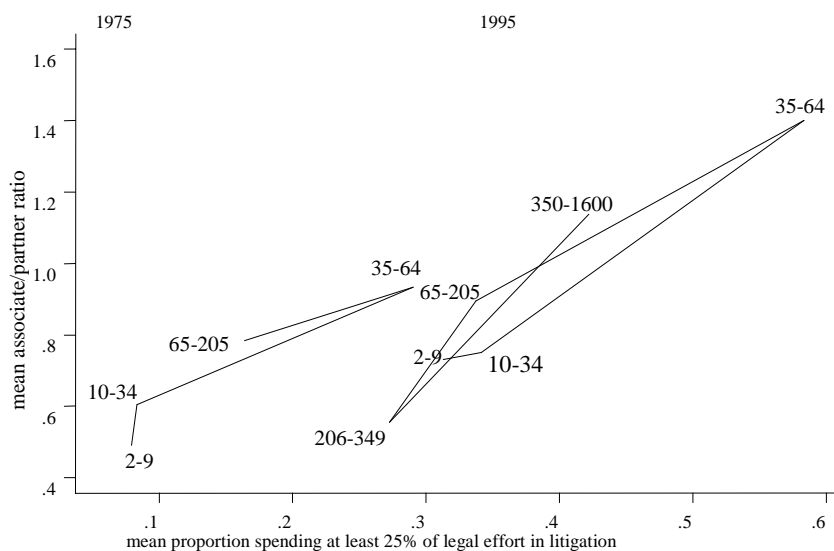


Note: N=468; 1995: N=482. “Clients referred by other clients” in 1975 refers to the proportion of lawyers with at least 50% of their clientele arriving by way of referrals from other clients, and in 1995 refers to the proportion of clients arriving by way of referrals from other clients “often” or “sometimes.” Among the five points common to both years, the two lines are correlated at  $R=.91$  ( $p<.05$ ). “Clients via advertising” applies to 1995 only, and refers to the proportion of lawyers whose clients arrive via advertising “often” or “sometimes.” Finally, “clients via competitive bidding” also applies to 1995 only, and refers to clients arriving “often,” “sometimes,” and “seldom” (i.e., not “never”) via this channel.

from our surveys supports the relationship between intensive paperwork and the mobilization of associates posited by the demand model.

Figure 3 displays 1975 and 1995 plots of associate/partner ratios by average levels of specialization in litigation. The first thing we notice in this figure is the huge increase in litigation. We also notice an apparent rise in associate/partner ratios. Second, we clearly see that greater specialization in litigation is strongly associated with higher associate/partner ratios. These relationships are correlated at greater than  $R=.95$ . Finally, we notice that the scatterplot points do not follow a rank-order of firm-size. Our data show that in both 1975 and 1995 the 35-64 lawyer firm size category was the most specialized in litigation (29 and 58 percent spending at least 25 percent of their legal effort on litigation cases in each respective year) and had the highest associate/partner ratios (.93:1 and 1.40:1 in each respective year). Looking only at the four firm-size categories common to both years, the order is identical in both years: 2-9 → 10-34 → 65-

**FIGURE 3.** Associate/Partner Ratio (“Partner Leverage”) by Concentration of Legal Effort in Civil Litigation



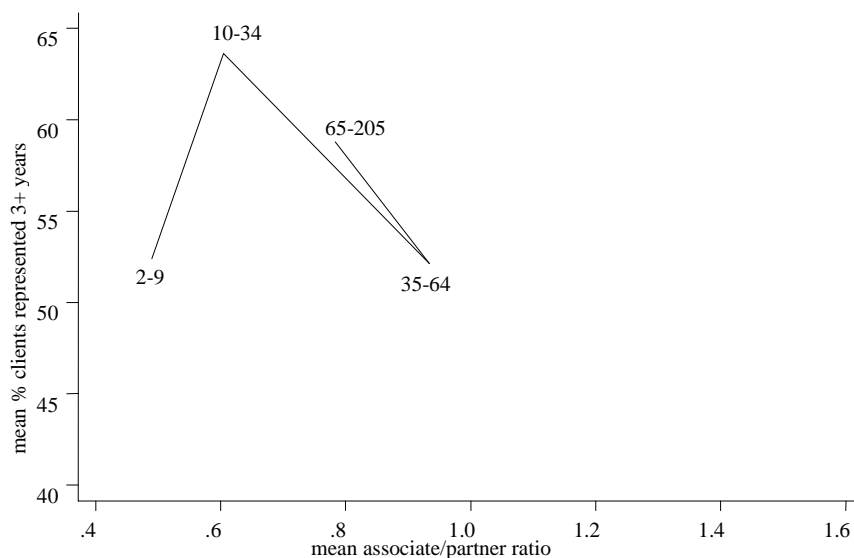
Note: N=468; 1995: N=482. The four points for 1975 are correlated at  $R = .951$  ( $p < .05$ ); the six points for 1995 are correlated at  $R = .964$  ( $p < .01$ ).

205 → 35-64. In 1995, the 206-349 lawyer category is the lowest on both axes (with 27 percent of lawyers specialized in litigation and an associate/partner ratio of .55:1). Meanwhile, the largest firm-size category, 350-1,600 lawyers, is the second-highest on both axes: 42.2 percent of lawyers specialized in litigation and an associate/partner ratio of 1.14:1. Thus, the 35-64 lawyer firm more closely resembles the mega-firm than it does other small- and mid-sized firms.

In short, there is strong support for our hypotheses about the mechanisms promoting partners' leveraging associates. The leveraging of associates is strongly associated with litigation practice. However, it is also clear that this is not exclusively a story about the large law firm. In both years, it appears to be in the 35-64 lawyer category where the greatest concentration of effort on litigation cases occurs and where associates are leveraged to the greatest extent. At the same time, it also appears that the least concentration of effort in litigation and the lowest associate/partner ratio is among lawyers in much larger firms in the 206-349 lawyer category.

The data also support the hypothesis that a greater utilization of associate labor undermines the durability of lawyer-client relations. In 1975 the relationship holds only for those in firms with at least ten lawyers ( $R = -.99$ ,

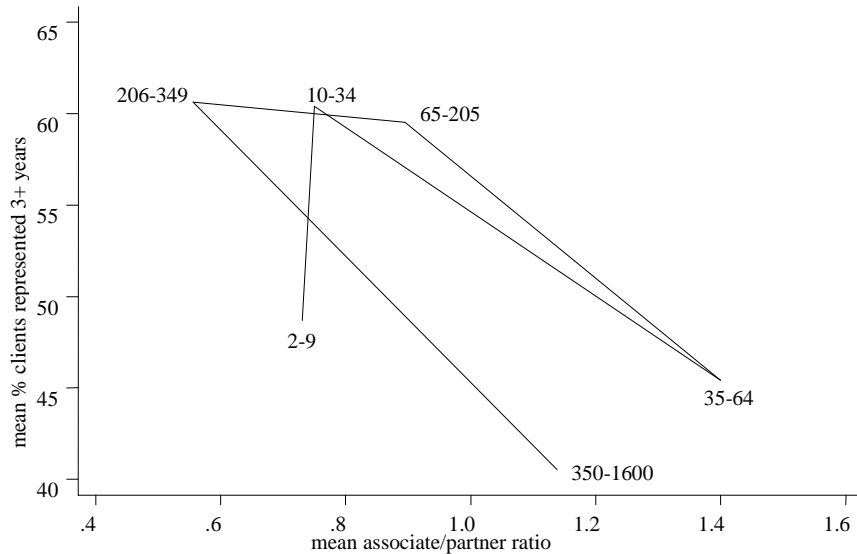
**FIGURE 4.** *Lawyer-Client Durability by Associate/Partner Ratio (“Partner Leverage”), 1975 (N=468).*



$p < .09$ ) (Figure 4). But by 1995, with the addition of much larger firms, the relationship is much clearer. The relationship between associate/partner ratio and lawyer-client durability in 1995 is correlated at  $R = -.72$  ( $p < .11$ ) for all firm sizes, and correlated at  $R = -.84$  ( $p < .08$ ) when the smallest firm size (2-9 lawyers) is ignored (Figure 5). Again, as with the previous analysis, the scatterplot points do not follow firm-size order. Among mid-sized firm categories common to both years, the scatterplot order is 10-34 → 65-205 → 35-64. Furthermore, the 35-64 size category again most closely resembles the mega-firm of 350-1, 600 lawyers. And, as also seen in the previous analysis, lawyers in the 206-349 lawyer firm-size category, exhibiting the highest levels of lawyer-client durability and the lowest associate/partner ratio, resemble small-firm lawyers more closely than their large-firm counterparts. Despite the ordering, the hypothesized negative relationship between associate/partner ratios and the durability of lawyer-client relations finds strong support.

Another indicator for the utilization of associate labor as a means to cut costs and maximize surplus extraction is the rate at which associates are promoted to partner. That is, longer associate tenures — i.e., associates being held back from being promoted to partner for longer periods of times — or a

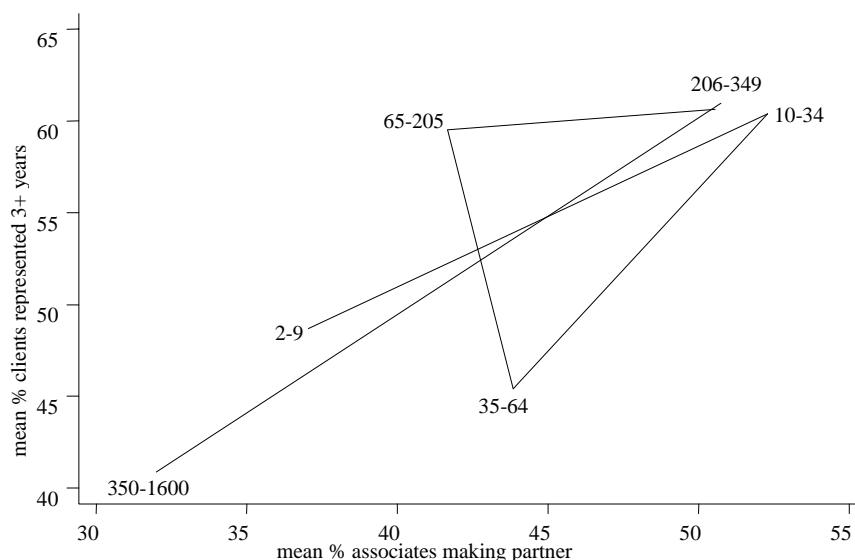
**FIGURE 5.** *Lawyer-Client Durability by Associate/Partner Ratio (“Partner Leverage”), 1995*



Note: N=482. These six points are correlated at  $R=-.722$  ( $p<.106$ )

greater number of permanent associates is another indicator of the intensification of legal practice. This firm-level information is available for 1995 only. Figure 6 shows a strong positive correlation between promotion-to-partner rates and lawyer-client durability. In other words, consistent with our hypotheses, lower promotion rates go hand-in-hand with lower lawyer-client durability. And, as we should now expect, the order of the scatterplot points does not follow firm-size order. It is not surprising that the lowest average promotion-to-partner rate (32 percent) and the lowest average proportion of long-term clients (41 percent) are both among the largest firms. But it is less intuitive that the smallest firms and the 35-64 lawyer firm-size group would also exhibit extremely low promotion rates (37 and 44 percent respectively) and low average proportions of long-term clients (49 and 45 percent respectively). Meanwhile, the highest points on both axes are occupied by the 10-34 lawyer and 260-349 lawyer firm-size categories, with 52 and 51 percent promotion rates respectively and 60 and 61 percent long-term clientele respectively (Figure 6). Higher promotion rates and greater client management appear to occur in tandem.

**FIGURE 6.** *Lawyer-Client Durability by Promotion-to-Partner Rates, 1995*



Note: These six points were calculated from information on 149 law firms and 482 individual lawyers, and are correlated at  $R = .803$  ( $p < .05$ ).

It is significant that the patterns yielded by promotion-to-partner rates corroborate the patterns shown by associate/partner ratios. Since associate/partner ratios are calculated by aggregating sample respondents in firm-size groups, the skeptic of Figures 4 and 5 might interpret the bivariate relationship between associate/partner ratio and lawyer-client durability as spurious, with age being the true driving force. The skeptic might contend that a greater share of junior lawyers, who tend to be younger and to have fewer long-term clients, pushes up the associate/partner ratio and pushes down the volume of long-term clientele, and that this relationship would likely disappear when controlling for age. However, this problem is remedied by analyzing promotion-to-partner rates: our promotion-to-partner rates are firm-specific, not person-specific, so the rate does not change according to individual characteristics. (Indeed, there is no evidence that firm-specific promotion rates vary according to position, age, or any other personal characteristic.) We will see further support for our hypotheses in results from individual-level multivariate analyses, where we revisit some of the above relationships with a full arsenal of statistical controls.

Now we move beyond bivariate scatterplots of aggregate data and into a more rigorous individual-level multivariate analysis. In this analysis, we identify

the determinants of individual-level lawyer-client relational durability: the percentage of clients represented for at least three years. On the basis of our hypotheses, we introduce four main sets of independent variables: (1) firm size, (2) the character of the legal work performed by the lawyer, (3) the hierarchical rank or position the lawyer, and (4) lawyer-client matching mechanisms used by the lawyer. Our OLS regression models are presented in Table 3.

Recall the dip in lawyer-client durability we observed in Figure 1 among respondents in the 35-64 lawyer firm-size group. We can see from Models 1-3 in both 1975 and 1995 that this drop is statistically significant. Before we control for hierarchical rank (i.e., before we consider whether or not the respondent is an associate), compared to the 10-34 lawyer firm-size category, lawyer-client durability in the 35-64 lawyer firm-size category averages about 13 percentage points lower in 1975 and 14 percentage points lower in 1995. Once we control for hierarchical rank and age, however, this gap shrinks to 8 and 9 percentage points in 1975 and 1995, respectively, a difference that is no longer statistically significant. As we saw in Figure 3, this firm-size group contains a relatively high proportion of associates (who on average are considerably younger than partners), which contributes to lower average lawyer-client relational durability.

Also recall the decline among solo practitioners in lawyer-client durability observed in Figure 1. This drop also appears in our regression results. It is also apparent that the effect of being a solo practitioner on lawyer-client durability is suppressed by age. Solo practitioners on average are older than any other type of lawyer. While the overall average age of lawyers in 1975 was 44, and the average age of associates and partners was 32 and 46, respectively, the average age of solo practitioners was 51. In 1995 the overall average was 41 and associates and partners averaged 33 and 46, respectively, while the average age of solo practitioners was 47. Once we hold age constant by introducing it into Model 4, the effect on lawyer-client durability of being a solo practitioner increases dramatically to -14 percentage points in 1975 and to -24 percentage points in 1995 (Model 4). This large decline in durability among solo practitioners between 1975 and 1995 is as we hypothesized. There is no evidence, however, that lawyers in small firms suffered a decline in durability between 1975 and 1995.

Turning to the character of legal work, we see that a greater concentration of effort on business clients tends to increase lawyer-client durability. In 1975, each 10 percent increase in income from business clients increased the proportion of long-term clients an average of 3.2 percentage points, while in 1995 each 10 percent increase in time devoted to business clients increased the proportion of long-term clients an average of 2.0 percentage points (see Model 4 for each year).

**TABLE 3. Determinants of Lawyer-Client Durability (% Clients Represented Three or More Years), OLS Regression Coefficients**

Variable	1975				1995			
	Model 1	Model 2	Model 3	Model 4	Model 1	Model 2	Model 3	Model 4
age.....				.838**				1.115**
% income from ('75) or time on ('95) business clients ...	.348**	.348**	.365**	.324**	.177**	.189**	.205**	.197**
at least 25% legal effort on civil litigation.....		-2.105	-1.694	.589		-6.282#	-6.805*	-6.397*
solo practitioner.....	4.616	4.566	.483	-14.432**	-12.311*	-12.285*	-14.884**	-24.489**
firm: 2-9 lawyers.....	-1.194	-1.168	-4.843	-7.539#	-7.339	-7.172	-7.084	-7.594
firm: 35-64 lawyers.....	-12.494#	-12.064#	-13.000#	-7.686	-16.465*	-15.123#	-14.292#	-9.368
firm: 65-205 lawyers.....	-9.013	-8.847	-9.017	-5.910	-3.328	-3.613	-4.251	-.938
firm: 206-349 lawyers.....					-2.040	-2.720	-2.156	-4.575
firm: 350-1600 lawyers.....					-21.989**	-21.717**	-18.214**	-3.477
firm: 10-34 (cf.)								
associate.....				-15.459**				-10.200*
Associate × largest firm (350-1600) .....								-22.165**
other position.....				-14.513*				-8.751
partner (cf.)								
member country club.....				7.592*				4.106
frequency clients referred by other clients.....			14.378**	11.506**			2.578	1.930
frequency clients obtained via advertising.....							-17.170**	-10.722#
frequency clients obtained via competitive bidding.....							-8.921*	-6.209#
intercept.....	35.873**	36.034**	29.926**	2.571	47.424**	48.778**	52.744**	10.013
adjusted R <sup>2</sup> .....	.096	.094	.131	.321	.058	.063	.088	.296
N.....	482							

Note: # p<.10 \* p<.05 \*\* p<.01

“Clients referred by other clients” is a dummy variable meaning 50% or more of all clients were referred by other clients in 1975, and meaning clients were referred by other clients “often” or “sometimes” in 1995. “Frequency clients obtained via advertising” “often” or “sometimes.” And “frequency clients obtained via competitive bidding” means “often,” “sometimes,” and “seldom.” “Cf.” means “comparison group” for categorical variables. Thus, the practice setting variable coefficients (*solo practitioner* and the firm size variables) and the coefficients for *associates* and *other position* should all be interpreted with respect to *partners* in *firms with 10-34 lawyers*. Missing values form a separate category (coefficients not shown) for *referred by other clients*, *obtained via advertising*, and *obtained via competitive bidding* in the 1995 models. Total client volume was also included in the models, but is not shown above (coefficients were not statistically significant in any model).

Specialization in litigation, however, has a somewhat different effect. First of all, how much effort a lawyer devoted to litigation work in 1975 had absolutely no effect on his or her percentage of long-term clients. This is not particularly surprising given that the push towards intensification and transactionalism was still in its infancy in the early- to mid-1970s. By 1995, however, when the transition was more complete, litigation had a significant negative effect on the proportion of clientele represented for at least three years. All else being equal, lawyers with at least 25 percent of their time devoted to litigation work had an average of 6.4 percent fewer long-term clients (Model 4). This finding is as hypothesized.

The regression models also reveal the importance of hierarchical rank within the firms. Compared to partners, associates have a significantly lower average percentage of long-term clientele, even when holding age constant (Model 4). In 1975 the proportion of long-term clients represented by associates averaged 15 percentage points less than the proportion represented by partners. Recall that we hypothesized greater leverage of associate labor in larger firms; we expected less client management among associates in the larger firms. There is no evidence of any difference in durability among associates in firms of different sizes in 1975. In 1995, however, associates in the largest firms appeared to have significantly lower levels of client durability than their counterparts in other firm-size categories. Overall, compared to partners, associates in 1995 averaged 10 percent fewer long-term clients. Associates in the largest firms (firms with 350-1,600 lawyers) had an additional 22 percent fewer long-term clients, or a total of 32 percent fewer long-term clients compared to the reference group, partners in the 10-34 lawyer firm-size category. More specifically, the coefficient for our interaction term, *associates*  $\times$  *largest firm (350-1,600)*, is -22, which is added to the baseline coefficient of -10 for *associate*. There is no evidence, however, that associates in any other firm-size category had significantly lower levels of relational durability (i.e., no other firm-size interaction term was statistically significant).

Comparing predicted outcomes from our regression models (i.e.,  $\hat{Y}$ ) is more intuitively meaningful than comparing relative changes (i.e., our regression coefficients). We calculate predicted outcomes based on the final model (Model 4) for 1975 and 1995 presented in Table 3. The predicted outcomes are presented in Figure 7. These predictions were calculated by multiplying all coefficients by sample mean values, with the exception of the coefficient for the particular variable of interest. (See the note below Figure 7 for more methodological details.) The first point to note is that once we hold all variables in Model 4 constant at sample means, there is absolutely no change between 1975 and 1995 in lawyer-client durability. That is, the difference between the 1975 raw mean of 51 percent and the 1995 raw mean of 56 percent — a difference that is statistically significant at  $p < .05$  — is attributable entirely to changes in average age,

firm size, hierarchical rank, and so on that evolved between 1975 and 1995. Once we hold these values constant at sample means, the predicted percentage of clients represented for three or more years is 56 percent in both years (Figure 7).

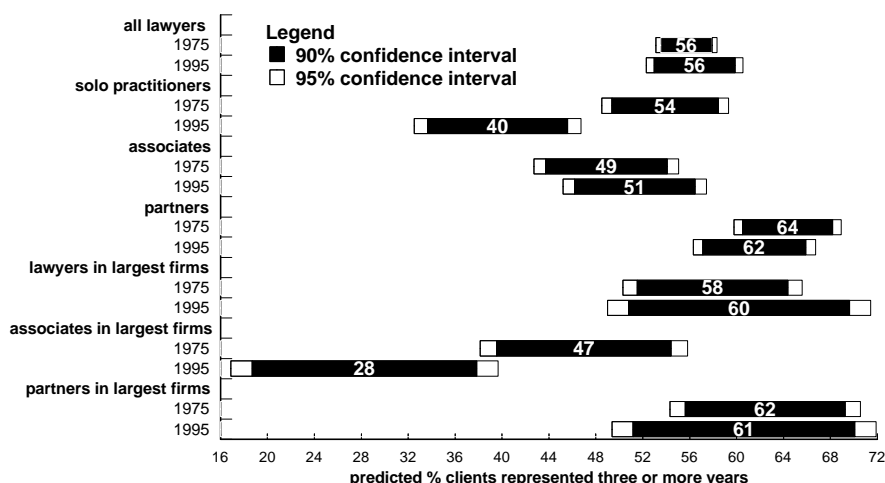
Our predicted outcomes also reveal that the drop in relational durability among solo practitioners and among associates in the largest firms is statistically significant. While Model 4 from 1975 predicts an average 54 percent long-term clients among solo practitioners, the predicted outcome from 1995's model 4 is 40 percent, a difference that is significant at  $p < .05$ . Similarly, the predicted number of long-term clients among associates in the largest firms is 47 percent in 1975 and 28 percent in 1995, a decline of statistical significance at  $p < .10$  (Figure 7). This bipolar, inverted U-shaped curve of lawyer-client durability by firm size and rank is precisely as we hypothesized.

Finally, we turn to the question of relationalism and transactionalism. There is strong evidence of the declining significance of relationalism. While, as we expected, country-club membership significantly increased lawyer-client durability in 1975 at a time when the country club served as a site for bonding with clients, solidifying relationships, and doing deals, by 1995 country-club membership had no effect on the durability of lawyer-client relations. Furthermore, the effect of client referrals also declined between 1975 and 1995. In 1975, having at least 50 percent of one's clientele arrive via referrals from other clients increased one's percentage of long-term clientele by an average of 12 percent (Table 3). By 1995, having clients arrive via referrals from other clients "sometimes" or "often" increased average durability by only 2 percent, an amount not significantly greater than zero.

While the significance of relationalism declined between 1975 and 1995, the significance of transactionalism was felt by 1995. By 1995, having clients arrive via advertising "sometimes" or "often" reduced the percentage of long-term clients an average of 11 percent. At the same time, having clients arrive via competitive bidding at least occasionally eroded the percentage of long-term clients an average of 6 percent. Both of these effects are statistically significant at  $p < .10$  in Model 4.

## **6 Summary and Conclusions**

In this paper, we have assembled evidence at aggregate and individual levels to paint a picture of where and why the durability of lawyer-client relations changed in Chicago's private-practice bar between 1975 and 1995. We have focussed attention on several organizational innovations that developed in the face of a doubling of the number of lawyers in Chicago and in the face of Chicago's simultaneous ecological transformation that greatly expanded the corporate market for legal services and only modestly, at best, increased demand

**TABLE 7.** *Predicted Lawyer-Client Durability (% Clients Represented Three or More Years)*

Note: The above means were predicted from 1975 and 1995 regression Model 4 in Table 3. That is, these means for control age, clientele, litigation work, practice setting, rank, client volume, and client referral method. In making the above calculations, all control variables, with the exception of particular variable of interest, were held constant at sample means (as presented in Table 1). For example, for “all lawyers,” all control variables were held constant at their sample means. In the case of predicting “solo practitioners,” *solo practitioner* was given a value of 1, the firm size variables were all given values of 0, and all remaining variables were held constant at their sample means. Similarly, in predicting partners, *associate* and *other position* were both given values of 0 (since *partner* is our omitted reference group), and all remaining variables were held constant at their sample means. In predicting lawyers in the largest firms, *firm: 65-205* was given a value of 1 for the 1975 model and *firm: 350-1600* was given a value of 1 for the 1995 model, other practice setting variables were given values of 0, and all remaining variables were held constant at their sample means. Finally, in predicting associates in the largest firms, *firm: 65-205* was given a value of 1 for the 1975 model and *firm: 350-1600* was given a value of 1 for the 1995 model, *associate* was given a value of 1, *other position* and the other practice setting variables were given values of 0, and all remaining variables were held constant at their sample means. See the Technical Appendix for how confidence intervals were calculated.

for personal legal services. The upshot from the boom in the production of lawyers, geographical dispersion, and declining loyalty on the part of clients was more aggressive competition throughout the bar. The ensuing innovations adopted in the face of this competition include growth in the size of firms, rising levels of specialization, a new managerial ideology with a bottom-line orientation, and the increasing utilization and increasingly intensive utilization of associates and other subordinates. The exclusive lawyer-client relationship went by the wayside and was gradually replaced by transactionalism — an overriding

orientation toward the transaction, not the relationship — hence the knocking down of anti-competitive barriers and the rapid adoption of advertising and bidding for work. These changes are not unique to the legal profession, but reflect more general changes in corporate America as a whole.

The erosion of the durability of relations between lawyers and their clients has been only modest for the bar as a whole, but has been much greater in selected segments of the bar. And this erosion has occurred precisely where we expected it to occur. Those who have experienced significant declines in long-term clientele are solo practitioners and associates in the largest law firms. Solo practitioners, who tend to concentrate on servicing the legal needs of individual clients, have languished as large portions of their staple client markets have moved to the suburbs and as they prove ineffective competitors in the corporate market for legal services. With respect to associates in large firms, on the other hand, rising turnover is consistent with the story of associates in large firms working as teams intensively on paperwork tasks, divorced almost completely from client management.

At the aggregate level, we found significant positive associations between litigation and the use of associates, between the use of associates and client turnover, and between promotion-to-partner rates and client durability. At the individual level we also found a significant negative association between specialization in litigation and lawyer-client durability. The effect of being an associate on durability (controlling for age and other potentially confounding factors) was also negative and significant.

Under conditions of heightened competition, law firms are more focussed on cutting costs, and do so by hiring more associates and keeping them as associates for longer periods of time. But this is not all firms do to compete. They also search for new clients more actively and aggressively than in the past. Advertising is on the rise, especially among smaller firms. And bidding for work is also prevalent, especially among larger firms. And the effect of these more anonymous, transactional matching mechanisms is to significantly erode the durability of the lawyer-client relationship.

Our conclusion is that when it comes to explaining transactionalism and its trappings, the significance of the large law firm is great indeed. The use of associate labor on specialized and labor-intensive work such as litigation is high in the largest law firms. Lawyer-client durability is lowest among these mega-firm associates. And the prevalence of bidding for work is greatest in the largest firms. However, we also conclude that this story is not limited to the mega-firm. While certainly significant, perhaps too much has been made of the mega-firm. We agree with Nelson (1992) that the new efficiency-oriented managerial ideology is not limited to the large firm, but has diffused throughout the bar. Our aggregated data suggest that the demand for work of a certain character drives organizational structure independently of firm size. There is pay-off from leverag-

ing surplus-generating associate labor not merely in the largest firms, but wherever there is specialized, labor-intensive work to be done. In these dimensions, the 35-64 lawyer firm most closely resembles the largest firms in Chicago in both 1975 and 1995. On the basis of our individual-level data, however, it appears that only in the mega-firm, where associates work on larger teams under a clearer division of labor, have associates been significantly detached from client management.

If not conclusive, our findings are highly suggestive. Greater efforts to analyze organization-level and individual-level data systematically and simultaneously should be made in future research.

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## Technical Appendix

The following is the STATA syntax used to calculate the confidence intervals presented in Figure 7. Before the following commands were executed, 14 observations — the seven cases of interest for each year presented in Figure 7 — were appended to the bottom of our working data set (and assigned id values of 1000001-1000014). Except for our particular variables of interest, which were assigned values of 1, these 14 observations were assigned variable values equal to the sample means presented in Table 1. See the note under Figure 7 for more details.

```
***** CI calculations

#delimit ;
reg cli3yrs age clibus lit25 solo size2 size4 size5 assoc other clients cli-
clid orgclub if flag2==1&year==1&posmiss==0; /* 1975 MODEL 4 IN TABLE 3 */
#delimit cr

predict yhat75,index
predict err75,stdp
gen lb75_95=yhat75 - invnorm(0.975)*err75 /* 1975 LOWER BOUND OF 95% CI */
gen ub75_95=yhat75 + invnorm(0.975)*err75 /* 1975 UPPER BOUND OF 95% CI */
gen lb75_90=yhat75 - invnorm(0.95)*err75 /* 1975 LOWER BOUND OF 90% CI */
gen ub75_90=yhat75 + invnorm(0.95)*err75 /* 1975 UPPER BOUND OF 90% CI */

#delimit ;
xi: reg cli3yrs age clibus lit25 solo size2 size4-size6 i.size7*i.assoc
other clients clicli cliclim cliads cliadsm clibids clibidism orgclub if
flag2==1&year==2&posmiss==0&sizecat~=. ; /* 1995 MODEL 4 IN TABLE 3 */
#delimit cr

predict yhat95,index
predict err95,stdp
gen lb95_95=yhat95 - invnorm(0.975)*err95 /* 1995 LOWER BOUND OF 95% CI */
gen ub95_95=yhat95 + invnorm(0.975)*err95 /* 1995 UPPER BOUND OF 95% CI */
gen lb95_90=yhat95 - invnorm(0.95)*err95 /* 1995 LOWER BOUND OF 90% CI */
gen ub95_90=yhat95 + invnorm(0.95)*err95 /* 1995 UPPER BOUND OF 90% CI */

gen yhat=yhat75 if year==1
replace yhat=yhat95 if year==2
gen lb95=lb75_95 if year==1
replace lb95=lb95_95 if year==2
```

```
gen ub95=ub75_95 if year==1
replace ub95=ub95_95 if year==2
gen lb90=lb75_90 if year==1
replace lb90=lb95_90 if year==2
gen ub90=ub75_90 if year==1
replace ub90=ub95_90 if year==2

sort id

list item lb95 lb90 yhat ub90 ub95 if id>1000000,noobs
```